CURRENT PERIODICAL SERIES

PUBLICATION NO: 2575

TITLE: FEDERAL REGISTER
(Includes the Code of Federal Regulations and Index)

VOLUME: 44

ISSUES: 149 - 155

Pages: 45115 - 47028

DATE: August 1 - 9, 1979
Reel 4 of 18

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MICROFILMED – 1980

federal register

index

January–August 1979

Volume 44—Numbers 1–171

Pages 1–51548



INDEX

This INDEX is based on a consolidation of contents entries appearing in the January-August issues of the FEDERAL REGISTER together with broad references. It is published monthly and is cumulated for 12 months.

A general index to the entire Code of Federal Regulations, the CFR INDEX, is revised as of July 1 each year.

Numerical Finding Aids. The LSA, a cumulative list of CFR sections affected, is published monthly and is cumulated for 12 months, keyed to the revision dates of the various CFR volumes.

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This publication was prepared under the editorial direction of Martha B. Girard, assisted by Ruth Pontius, with Nan Shaver Whalen and Roy Nanovic as Chief Editors.

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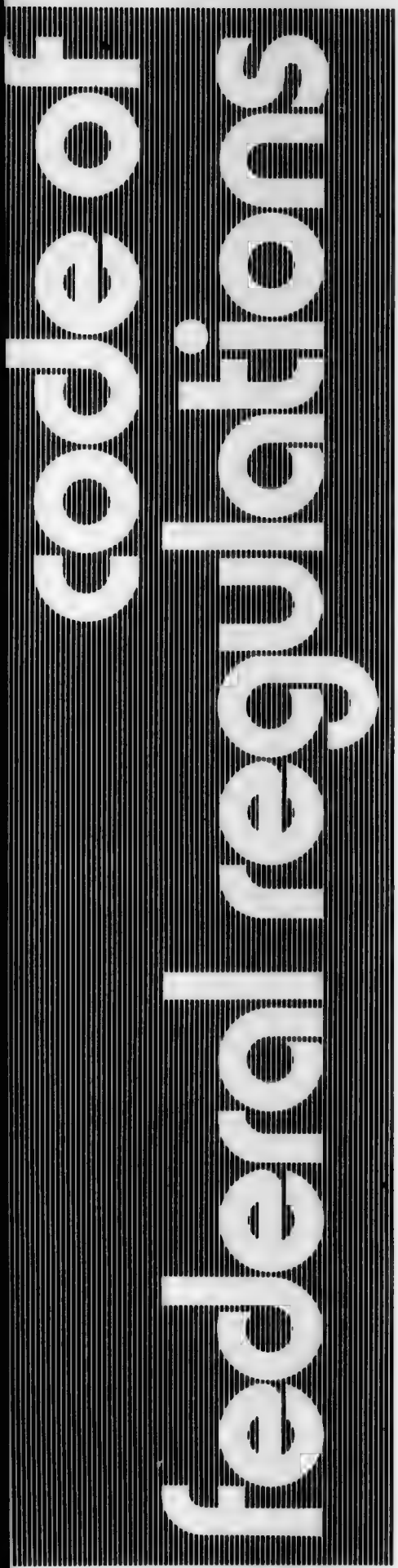
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INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Ernest J. Galdi, Acting Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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21.329 Introductory text and (a) amended; (g) added 15650
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373.2 (b)(2), (3), and (4) amended; interim ---- 17989
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377.6 (d)(1)(iii), (9) and (e)(8) revised; (d)(1)(iv) redesignated as (d)(1)(vi); new (d)(1)(iv) and (v) added ---- 44
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378.7 Redesignated from 378.6; interim ---- 17989
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1303 Heading revised	792
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1.11 Amended 37202
1.13 Revised 37202
1.37 Existing text designated as (a); (b) added 25434
9.12 Added 34936
15.00 (f), (g), (h), and (i) added 33846
15.03 (b) table corrected 32209
17.00 (c) added 25434
(d) added 33846
17.04 Added 25434
18.00 (h) added 33846
18.01 (a), (b), and (c) revised 33846
140.14 Added 33677
170 Added 20651

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200.19b Revised 50834
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200.30–3 (d) redesignated as (e); new (d) added 22716
(a)(28) added 26067
(a)(29) added 28318
(a)(30) added 29644
(a)(31) added 30681
(a)(32) added 46793
200.30–4 (a)(6) added 22716
(a)(7) added 50835
200.30–6 (a) through (e) redesignated as (b) through (f); new (a) added 21566
(f) redesignated as (g); new (f) added 22716
200.410 (a) revised 32366
200.550—200.554 (Subpart K) Added 41176
200.735–8 (e) corrected; footnote 10 correctly designated as 11; authority citation correctly added 19186
201.20 (a)(1)(xii) and (xiii) revised; (a)(1)(xiv) added 41177
201.27 Heading revised 35207
201.28 Added 35207
202.3 (a) amended 21567
202.5 (b) revised; (f) added 50835
202.6 (b) revised; (c) added 35208
203.2 Revised 50835
210.3–16 (f)(1) revised 45612
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210.4–01 Revised 19386
210.5–02 Amended 45612
210.5–04 (d) amended 45613
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230.122 Revised 50836
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230.255 (a) and (d) revised 33365
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239.28 Added 21567
239.90 Form 1–A amended 33365
240.0–4 Revised 50836
240.3a40–1 Added 28318
Effective date corrected 36027
240.3b–6 Added 38815
240.12f–7 Removed 19387
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240.12h–4 Revised 46449
240.13e–3 Added 46741
240.13e–4 Added 49410
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240.13e–101 Added 49412
240.14a–9 Note amended 38815
240.16b–7 (c) amended 19386
240.15c3–1 (a) introductory text, (e), and (f) revised 34885
240.15c3–1b Revised 34886
240.15c3–1d (b)(6)(iii), (7), (8), (10)(ii)(B), and (c)(2), (5), and (7) revised 34887
240.17a–3 (a)(14) revised 31503
240.17f–1 Revised 31503
240.17f–2(T) Removed 19387
240.17Ac2–1(T) Removed 19387
240.206d–1 Removed 21214
249.310 Form 10–K amended 21577
249.323 Form 12g–4 amended 46449

249.325 Form 13F amended 39387
Form 13F corrected 43264
249.333 Form 15d–6 amended 46449
249.617 Form X–17A–5 amended 34889
249.1200 Revised 31504
249a.6d–1 Removed 21214
249a.6d–4a2 Removed 21214
250.103A Added 38815
250.104 (c) revised 50836
259.101 Form U–1 amended 41177
260.0–6 Revised 50836
260.0–11 Added 38815
261 Interpretative releases 26739
270.10f–3 Revised 36153
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270.14a–3 Added 29646
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270.17a–6 (a) revised; (b) removed; (c) redesignated as (b) 48658
270.17e–1 Removed 37204
Added 37203
270.19b–1 (c) redesignated as (e); new (c) and (d) added 29647
(c)(1)(i) corrected 40064
270.22c–1 Revised 29647
(b) revised 48660
270.24f–2 (b)(1) revised 19387
271 Interpretative releases 21008
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274.106 Form N–1Q amended 36154
Technical correction 43264
275.204–2 (a)(15) added 42130
275.206(4)–3 Added 42130
275.206A–1(T) Removed 19387
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279.3 Correctly added 21008
300.300—300.307 Undesignated center heading added 21211
300.300 Added 21211
300.301 Added 21211
300.302 Added 21212
300.303 Added 21212
300.304 Added 21212
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1.1 (f)(23) added 46451
1.7 (b) amended 46454
(d) amended 46451
1.18 (e) revised 34940
(f) amended 34941
1.30 (c)(1) and (3) amended 34941
1.42 Added; interim 48173
1.43 Added; interim 48174
2.1 (a)(1)(i)(C), (D), (H), and (vii)(F) removed 34941
3.5 (f)(9) added 20077
(f)(1) introductory text and (iv) revised 24829
(f)(1)(iv) revised 30329
(a)(18), (g)(4), (5), and (10) removed; (a)(19) amended 46451
Heading, (b)(6)(v), (f)(1) introductory text, (i) and (iv), (2) introductory text, (3), (4), (5), (7), and (8), and (g)(3), (11), (12), (14), (20), and (21) revised 46452
(b)(6)(vi) and (7), (f)(1)(vi) through (x), (2)(i), (ii), and (iii). and (10), (g)(22) through (36), (h) and (i) added 46452
35.2 Authority citation corrected 20077
(e) amended 46454
35.3 Authority citation corrected 20077

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35.22 (d) amended	26068
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104 Reconsideration extended	34471
141 Reconsideration extended	34471
154.38 (d)(5)(iv) amended	26068
154.94 (h)(1), (2)(iii), (8), Appendix A and Exhibit A amended; (h)(2)(i) revised; (h)(4)(iii) added	19389
(h)(8) and (i)(3) amended	26855
(h)(7), (8), and (i) petitions denied	30681
(h)(8) and (i)(3) revised; (j) added	38837
(h)(8), (i)(3), (j)(1)(i), (v), and (vi), (2), (3), (4), and (5)(i) revised	48176
157.5—157.22 Undesignated center heading designated as Subpart A and revised	24829
157.7 (b) introductory text and (4) revised	30332
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1.190-2 Added	43271
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1.213-1 (f) revised	50337
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1.214A Removed	50337
1.214A-1 Heading revised; (a)(1) amended	50337
1.214A-2 (c)(1) amended	50337
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1.354-1 (b) amended	26869
1.356 Removed	26869
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1.358 Removed	26869
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1.372 Removed	26870
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1.374 Removed	26870
1.374-2 Amended	26870
1.374-4 Added	26870
1.401-12 (a) and (c)(2)(iii) amended; (c)(1)(i) revised; (c)(2)(iv) and (n) added	23520
1.401-13 (f) added	47053
1.401(a)-12 Added	48195

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1.401(e)-1 Added	47053
1.401(e)-2 Added	47053
1.401(e)-3 Added	47053
1.401(e)-4 Added	47053
1.401(e)-5 Added	47055
1.401(e)-6 Added	47056
1.404(e)-1 (i) added	47056
1.404(e)-1A Added	47056
1.414(g)-1 Added	27657
1.414(l)-1 Added	48195
1.458-10 Added	33398
1.511 Removed	42681
1.511-2 (a)(3)(iii) amended	42681
1.512(b) Removed	42681
1.512(b)-1 (d) redesignated as (d)(1); (d)(2) added; (j)(1) introductory text and (iii), and (l)(5) amended	42681
1.514(b) Removed	42681
1.514(b)-1 (b)(2)(ii) and (3) amended	42681
1.593-6A (b)(5)(vi) amended	31177
1.596-1 (c) added	40496
1.642(c)-5 (a)(5)(vi) revised	42682
1.663(c)-3 (e) revised	42682
1.861 Removed	46457
1.861-1 (a)(4) added	46457
1.861-9 Added	46457
1.862 Removed	46459
1.862-2 (c) added	46459
1.901-1 (f) revised	47058
1.911 Removed	27080
1.911-1 Removed	27080
1.911-2 Removed	27080
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1.1033(a)-2 Nomenclature change; heading revised; (a) amended; paragraph following (c)(3)(ii) added	31013
1.1033(a)-3 Removed; new 1.1033(a)-3 redesignated from 1.1033(b)-1 and amended	31013
1.1033(a)-4 Removed	31013
1.1033(b) Removed	31013
1.1033(b)-1 Redesignated as 1.1033(a)-3 and amended; new 1.1033(b)-1 redesignated from 1.1033(c)-1 and amended	31013
1.1033(c) Removed	31013
1.1033(c)-1 Redesignated as 1.1033(b)-1 and amended; new 1.1033(c)-1 redesignated from 1.1033(d)-1 and amended	31013
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1.1033(d)-1 Redesignated as 1.1033(c)-1 and amended; new 1.1033(d)-1 redesignated from 1.1033(e)-1	31013
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1.1033(e)-1 Redesignated as 1.1033(d)-1; new 1.1033(e)-1 redesignated from 1.1033(f)-1 and amended	31013
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1.1033(g) Removed	31013
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1.1502-5 (a), (b)(1) and (2), and (c) revised; (b)(3) redesignated as (b)(5) and amended; new (b)(3) and (4) added	46840
1.1502-26 (a) revised	40497
1.1502-32 (b)(2)(iii)(*a*) amended; (d)(6) revised; (d)(11) added	46841
1.1502-42 Revised	46841
1.6012-3 (a)(2) revised	20079
1.6042-4 (c)(1) amended	31012
1.6049-3 (c)(1)(i) amended	31012
1.6052-1 (a)(1)(i) amended; (a)(2) revised	28800
1.6052-2 (e) revised	28800
1.6060-1 Revised	49451
1.6107-1 (b) amended	49452
1.6695-1 (e) revised	49452
1.6696-1 Added	27985
5.44B-1 Added	19190
5.51-1 Added	19191
5b.911-1 Added	27080
5b.911-2 Added	27080
5b.911-3 Added	27081
5b.911-4 Added	27081
5b.911-5 Added	27082

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5b.913–2 Added	27083
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5b.913–4 Added	27084
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5b.913–12 Added	27089
5b.913–13 Added	27089
7.190–1—7.190–3 Removed	43273
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20.2053–3 (c)(3) revised	23525
31.3402(m) Removed	50337
38 Added	27090
44.6091 Removed	40498
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48.4216(b)–1 Added	23824
48.4216(b)–2 Added	23825
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48.4216(b)–3 Added	23825
48.4216(b)–4 Added	23826
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138.4041(k)–1 Added	35218
138.4081(c)–1 Added	35218
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301.6331 Removed	27987
301.6331–1 (a)(1) revised; (a)(4)(i), (ii), and (iii) amended; (c) removed	27987
301.6331–2 Added	27988
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301.6332–1 (b)(1) revised	27988
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301.6334–1 (a) introductory text and (8) heading revised; (a)(9) added	27988
301.6334–2 Added	27988
301.6334–3 Added	27989
301.6334–4 Added	27989
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301.7701–13 Heading and (a) revised	28661
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178.115 (e) added	32367
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201.529 (a) amended	39390

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0.50 (a) amended 43468
(h) added 46272
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0.131 Revised 43468
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9.7 Nomenclature change 48675
55 Appendix amended 43719
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13 Removed 49673
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Chapter V—Wage and Hour Division, Department of Labor

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Chapter XII—Federal Mediation and Conciliation Service

1420 Added 42683

Chapter XIV—Equal Employment Opportunity Commission

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1601.74 Revised 47058, 48971
1613.216 (c) added 40499
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1613.801—1613.806 (Subpart H) Added; interim 50541
1627 Added; regulations transferred from Part 850 38459

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1910.1000 Table Z–1 partial stay of effective date rescinded 41427

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2610 Appendix B amended 42180
2618 Added 42185
2618.51 Corrected 47059
2618.58 (c) corrected 47059

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2700.36 (c) corrected 41178
2700.54 Heading, (a)(2) and (6) corrected 41178
2700.55 (a) corrected 41178
2700.58 (b) and (d) corrected 41178
2700.61 Corrected 41178
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55.19 Amended 48519
55.19–78 Corrected 50571
56 Authority citation revised 48535
56.2 Amended 48542
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56.15 Amended 48524
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56.19 Amended 48525
56.19–78 Corrected 50571
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57 Authority citation revised 48535
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57.12 Amended 48531
57.13 Amended 48532
57.14 Amended 48532
57.15 Amended 48533
57.16 Amended 48533
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57.19 Amended 48534
57.20 Amended 48535
57.21 Amended 48535
57.21–28 Correctly reinstated 44156
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736.4 (a) corrected 49685
741.4 (b) and (d) corrected 49685
741.13 (c)(1) corrected 49685
741.14 (e) corrected 49685
741.17 Introductory text corrected 49685
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786.17 (a)(2) corrected 49686
786.19 (c) corrected 49686
786.21 (a)(1) introductory text and (i), (a)(2)(i) introductory text and (A), and (ii) corrected 49686
786.27 Introductory text and (b)(2) corrected 49686
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161.402 (b)(1), (2), and (3)(i) revised	47933
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7.20 (b) added 44493
7.29 (c) added 44157
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3.263 (d) and cross reference amended 45936
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3.273 Added 45937
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3.276 Added 45938
3.277 Added 45938
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3.450 (a)(1)(i) and (g) amended; (a)(1)(ii), (2), (c), and (e) revised; (h) removed 45939
3.451 Revised 45940
3.452 (a) and (c) revised 45940

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3.454 Introductory text, (b) and (c) revised; (a) amended; (d) added 45940
3.458 (b), (c), (e), (f)(1), (2), and (g) amended 45940
3.459 (a) and (b) amended 45940
3.460 Introductory text amended; revised; (c) added 45940
3.501 (i)(2) revised 45941
3.551 (a) through (d) revised; (f) amended 45941
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3.556 Amended 45942
3.656 (a) introductory text and (d) revised 45942
3.657 Heading and text amended 45942
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35.925–15 Effective date corrected 39340
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35.928–1 (f) designation reserved effective date corrected 39340
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52.370 (c)(10) added 44499
52.420 (c)(11) added 44497
52.620 (c)(11) added 46274
52.672 (d) added 44498
52.1020 (c)(9) designation corrected 38843
52.1120 (c)(24) added 41180
52.1126 (c) revised 41180
52.1220 (c)(13) added 50601
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52.1570 (c)(21) correctly designated 38455
52.1601 (b) corrected 38471
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52.1881 (b)(12)(iv) and (v), (16)(i), (32)(ii), (34)(xii) and (xiii), (35)(v), (39)(iv)(D), (viii)(F), and (xiv), (40)(vii), (58)(vi) and (ix), and (60)(iii) revised; (b)(23)(xxi), (38)(ix), (58)(x), and (65)(i) added; (b) (60) (iv) removed 47770
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73.125	Revised	△6727
73.127	Removed	△33071
73.142	(j) added	53736
73.153	Revised	△36037
73.154	Heading revised	△36037
73.183	(a) revised	△36037
73.184	Heading revised	△36037
73.188	(m) revised	△36037
73.189	Heading revised	△36038
73.202	(b) table amended	49003, 53742, 54098, 56236, 58091, 58092, 59069, 59070, 59383, 60162
	(b) table amended	△1737, 3707, 4488, 5137, 6721, 22079, 22741, 22742, 24289, 24556, 25231–25235, 37509, 38848, 42691, 42692, 42696, 43280, 44158–44161, 45395, 45626, 45627, 47092, 47937
73.204	Revised	45845
73.213	(a) introductory text revised	△36038
73.220	Added	45845
73.242	(a) removed	△36038
73.250	Revised	53736
73.253	(a)(2) revised	53736
73.254	Heading revised; (a) removed; (b) and (c) redesignated as (a) and (b); new (a) introductory text revised	53736
73.255	Revised	53736
73.256	Revised	53736
73.257	Revised	53737
	(a)(1) and (d) introductory text revised	△22739
73.261	Revised	45845
73.263	Revised	45845
73.264	Revised	45845
73.265	(c) and introductory texts of (d) and (e) revised	△1736
73.271	Revised	45845
73.273	Revised	53737
73.274	Revised	53737
	(a) revised	△22739
73.275	(c) added	53737
	(b) removed	△36038
73.310	(a) amended	△36038
73.276	Revised	45845
73.281	Revised	45845
73.282	Revised	45845
73.283	Revised	45845
73.284	Revised	45845
73.285	Revised	45845
73.286	Revised	45845
73.293	(a)(2) revised; (b)(3) note removed; (b)(4) and (d) added	53737
73.295	Heading, (a), and (f) introductory text revised	53737
73.297	(a) revised	53738
73.298	Revised	45845
73.300	Revised	45845
73.301	Revised	△6727
73.310	(a) amended	△36038
73.316	(i) revised; (k) and (l) removed	53738
73.317	(a)(1) and (4) revised	△36038
73.321	Removed	53738
73.330	Removed	53738
73.332	(b)(2) and (f)(4) revised; (c) removed	△36038
73.342	(j) added	53738
73.504	Heading revised	45845
73.508	Existing text designated as (a); (b) and (c) added	53738
73.512	(d) revised	△3416
	(d) comment time extended	△21021
	(a)(1) revised	△48226
73.513	Revised	53738
73.542	(j) added	53738
73.550	Revised	53738
73.553	(a)(2) revised	53738
73.554	(a) and (b) removed; (c) and (d) redesignated as (a) and (b); new (a) introductory text revised	53738
73.555	Revised	53739
73.556	Revised	53739
73.557	Revised	53739
	(a)(1) and (d) introductory text revised	△22739
73.561	Amended	45845
	(a) revised	△3416
	(a) comment time extended	△21021
73.563	Revised	45845
73.564	Revised	45845

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73.565	(c) and introductory texts of (d) and (f) revised; (e) removed	△1737
73.571	Revised	45846
73.572	Revised	53739
73.573	(c) added	53739
	(b) removed	△36038
73.574	Revised	45846
73.581	Revised	45846
73.582	Revised	45846
73.583	Revised	45846
73.584	Revised	45846
73.585	Revised	45846
73.586	Revised	45846
73.591	Removed	△33071
73.593	(a)(2) revised; (b)(3) note removed; (b)(4) and (d) added	53739
73.595	Heading, (a), and (f) introductory text revised	53740
73.596	(a) revised	53740
73.597	Revised	45846
73.598	Revised	45846
73.599	Revised	△6727
73.606	(b) table amended 46974, 57604	
	(b) table amended	△1738, 7961, 20432, 22743, 24556, 24557, 25237, 30096, 30097, 42693, 42694, 44162, 47093, 47936, 50345, 50346
73.608	Revised	45846
73.622	Removed	△33071
73.623	Revised	45846
73.637	Revised	53740
73.638	Revised	53740
73.639	Revised	53740
	(c) introductory text and (1), and (d) introductory text revised; (d)(3) added	△22739
73.640	Revised	53740
73.643	(b) note removed	53742
73.651	Revised	45846
73.653	Added	45846
73.660	Revised	45846
73.665	Revised	45846
73.667	Revised	45846
73.669	Revised	45846
73.670	Revised	45846
73.671	Revised	45846
73.672	Revised	45846
73.673	Revised	45846
73.674	Revised	45846
73.675	Revised	45846
73.676	(a)(10) removed; (c) revised	△36038
73.677	(a)(10) removed	53740
	Heading revised	△36038
73.678	Revised	45846
73.679	Revised	45846
73.680	Revised	△6727
73.681	Amended	△36039
73.682	(a)(5) revised	△36039
73.683	Revised	△36039
73.684	(b) and (c) revised	△36039
73.685	(h)(2) revised	53740
	(i) removed	△22740
73.687	(b)(1) and (4) revised	△36040
73.694	(a) removed; (b)(2) and (3) revised	△36040
73.699	Heading, figure 6 note 6 and figure 7 note 6 revised; figure 6 note 18 added	△36040
73.711	(c)(2) corrected	51790
73.793	Revised	△6727
73.913	(c) added	△38485
73.933	(b)(9) amended	△39181
73.1010	Revised	△38485
73.1030	(b)(2) corrected	51790
73.1202	Revised	△38846
73.1207	Revised	△36040
73.1225	Added	45846
	(c)(2)(iii) and (3) correctly designated	50683
73.1226	Added	45847
	(c) corrected	50683
73.1230	Added	45847
73.1250	Added	45847
73.1550	Added	45848
73.1650	Added	45849
73.1660	Added	53740
73.1665	Added	53741
73.1670	Added	53741
	(a)(4) and (c) introductory text revised	△22740
73.1675	Added	53741
	(b) revised; (c) added	△22740
73.1680	Added	53741
	(b) introductory text revised	△22740
73.1700—73.1800	Undesignated center heading added	45849
73.1700	Added	45849
73.1705	Added	45849
73.1710	Added	45849
73.1715	Added	45849
73.1720	Added	45849
73.1725	Added	45849
73.1730	Added	45850
73.1735	Added	45850
73.1740	Added	45850
73.1745	Added	45850
73.1750	Added	45850
73.1800	Added	45850
73.1810	Added	45851

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73.1820	Added	45854
	(a)(2)(i) introductory text revised	△1738
73.1830	Added	45855
73.1840	Added	45856
73.1850	Added	45856
73.1910	Added	45856
73.1920	Added	45856
	(b) revised	△45956
73.1930	Added	45856
73.1940	(g) and (h) added	45856
	(g)(1)(ii) and (iii) revised	55769
73.2080	Added	△6727
73.3500	Added	△38486
73.3511—73.3550	Undesignated center heading added	△38486
73.3511	Added	△38486
73.3512	Added	△38486
73.3513	Added	△38487
73.3514	Added	△38487
73.3516	Added	△38487
73.3517	Added	△38487
73.3518	Added	△38487
73.3519	Added	△38488
73.3520	Added	△38488
73.3522	Added	△38488
	(a)(2) and (b)(2) corrected; Note 1 added	△40311
73.3525	Added	△38488
73.3526	Added	△38489
73.3527	Added	△38492
73.3533	Added	△38494
73.3534	Added	△38495
73.3536	Added	△38495
73.3537	Added	△38495
73.3538	Added	△38495
73.3539	Added	△38495
73.3540	Added	△38496
73.3541	Added	△38496
73.3542	Added	△38496
73.3543	Added	△38496
73.3544	Added	△38497
73.3545	Added	△38497
73.3547	Added	△38497
73.3548	Added	△38497
73.3549	Added	△38497
73.3550	Added	△38498
73.3561—73.3587	Undesignated center heading added	△38499
73.3561	Added	△38499
73.3562	Added	△38499
73.3564	Added	△38499
	(c) corrected	△40311
73.3566	Added	△38499
73.3568	Added	△38499
73.3569	Added	△38499
73.3570	Added	△38500
73.3571	Added	△38501
	(a)(3) and (d) removed; (a) introductory text, (1), and (c) corrected	△40311
73.3572	Added	△38502
	(c) corrected	△40311
73.3573	Added	△38503
	(d) corrected	△40312
73.3574	Added	△38504
73.3578	Added	△38504
73.3580	Added	△38504
73.3584	Added	△38506
	(a) corrected	△40890
73.3587	Added	△38507
73.3591—73.3605	Undesignated center heading added	△38507
73.3591	Added	△38507
	(b) corrected	△40312
73.3592	Added	△38507
73.3593	Added	△38508
73.3594	Added	△38508
73.3597	Added	△38509
73.3598	Added	△38510
73.3599	Added	△38511
73.3601	Added	△38511
73.3603	Added	△38511
73.3605	Added	△38511
73.3610—73.3613	Undesignated center heading added	△38511
73.3610	Added	△38511
73.3611	Added	△38511
73.3612	Added	△38511
73.3613	Added	△38512
73.3615	Added	△38513
73.4000—73.4275	Undesignated heading added	△36387
73.4000	Added	△36387
73.4005	Added	△36388
73.4010	Added	△36388
73.4015	Added	△36388
73.4020	Added	△36388
73.4025	Added	△36388
73.4030	Added	△36388
73.4035	Added	△36388
73.4040	Added	△36388
73.4045	Added	△36388
73.4050	Added	△36388
73.4055	Added	△36388
73.4060	Added	△36388
73.4065	Added	△36388
73.4070	Added	△36388
73.4075	Added	△36388
73.4080	Added	△36388
73.4085	Added	△36388
73.4090	Added	△36388
73.4095	Added	△36388
73.4100	Added	△36388
73.4105	Added	△36388
73.4110	Added	△36388
73.4115	Added	△36388
73.4120	Added	△36388
73.4125	Added	△36388
73.4130	Added	△36388
73.4135	Added	△36388
73.4140	Added	△36388
73.4145	Added	△36388
73.4150	Added	△36388
73.4155	Added	△36388
73.4160	Added	△36389
73.4165	Added	△36389
73.4170	Added	△36389
73.4175	Added	△36389
73.4180	Added	△36389
73.4185	Added	△36389
73.4190	Added	△36389
73.4195	Added	△36389
73.4200	Added	△36389
73.4205	Added	△36389
73.4210	Added	△36389
73.4215	Added	△36389
73.4220	Added	△36389
73.4225	Added	△36389
73.4230	Added	△36389
73.4235	Added	△36389
73.4240	Added	△36389
73.4245	Added	△36389
73.4250	Added	△36389
73.4255	Added	△36389
73.4260	Added	△36389
73.4265	Added	△36389
73.4270	Added	△36389
73.4275	Added	△36389
74	Technical correction	△34133
74.12	(c)(2) corrected	51790
74.404	Removed	△16401
74.405	Removed	△16401
74.467	(b) revised	△36041
74.482	(d) added	△36041
74.601	(d) revised	△32381
74.602	(a) introductory text and table revised; (h) amended	△32381
74.631	(g) revised; (h) added	△32381
74.632	(e) revised	△32382
74.665	(a), (b) and (c) revised	△36041
74.682	(a) introductory text revised	△36041
74.1203	Technical correction	47975
76.7	(i) removed	49008
76.10—76.29	(Subpart B) Heading revised	49008
76.10	Removed	49008
76.11	Removed	49008
76.12	Added	49008
76.13	Removed	49008
76.14	Added	49008
76.16	Removed	49008
76.17	Added	49008
76.18	Removed	49008
76.20	Removed	49008
76.25	Removed	49008
76.27	Removed	49008
76.29	(a) amended; (b)(7) revised	49008
76.57	(c) and (d) amended	49008
76.59	(d)(1) through (4) amended	49009
76.61	(e)(1) through (4) amended	49009
76.65	(a) revised	49009
76.209	(c) revised	△45956
76.305	(a)(9) added; (c) amended	49009
	(a)(7) and (c) amended	53753
76.311	Revised	53753
76.400	Note amended	49009
76.403	FCC Form 326 amended	51795
78	Technical correction	△34133
78.11	(a) revised	△32382
78.18	(a), (b), and (d) revised; (m) added	△32382
78.19	(e)(2) revised	52246
78.101	(a) revised	△32383
81.3	(n) revised	△38849
81.24	(h) amended	△39181
81.33	Revised	△3290
81.35	Revised	△31651
81.36	Heading and (a) revised	△31651
81.37	Revised	△31651
81.42	(b)(2) revised	△31651
81.61	Revised	60276
81.104	(b) and (d) revised	△8872
81.132	(a) table amended	△8872
81.134	(c)(1) table, (e) and (g) revised	△8872
81.190	Heading revised; (a) amended	△12195
81.191	(c)(1) revised	△8872
81.201—81.225	(Subpart H) Heading revised	△12195
81.206	Table amended	△45396
81.209	(a) table amended	52246
81.216	Removed	△12195
81.217	Removed	△12195
81.223	(b) removed	△12195
81.224	(b) removed	△12195
81.225	Removed	△12195
81.303	(b) amended	△16402

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81.304 (c) revised; (d) removed △8872
(b)(22) amended △16402
(b)(22) table amended △45396
81.357 (b)(4) added △36043
81.360 (a)(1)(v) revised △8872
81.706 Added △33071
83.2 (i) revised △3290
83.3 (r) added △3290
(j) revised △38849
83.6 (h) added 45365
83.20—83.74 (Subpart B) Revised △3290
83.24 (c) amended △39181
83.27 (c) amended △39181
83.38 (c) redesignated as (d) and revised; new (c) added △25238
83.39 (c) added △8877
83.48 (a) amended △39181
83.58 Removed △8878
83.59 Removed △8878
83.62—83.75 (Subpart C) Removed △3295
83.104 (i) removed △8872
(a)(4) and footnote 1 added △29078
83.106 (a) revised △8872
(a) revised; eff. 1-1-80 △18506
(b) revised; (c) added △36974
83.132 (a) table amended △8873
(a)(2)(i) revised; eff. 1-1-80 △18506
83.134 (f) revised; footnote 5 added △29078
(i) amended △45396
83.139 (c) introductory text and (3) revised; (c)(4) added; eff. 1-1-80 △18506
83.145 Heading revised △45396
83.155 (d) revised; eff. 1-1-80 △18506
83.156 (b) revised; eff. 1-1-80 △18506
83.186 Introductory text revised △3295
83.201 (b) revised △8873
83.202 (a) revised; eff. 1-1-80 △18506
83.203 (a) revised; eff. 1-1-80 △18507
83.224 Introductory text and (a) revised △36975
83.233 Table amended 56236
Revised △8873
Table amended △16402
83.242 (b) revised △8873
83.248 (a) revised △8873
83.249 (d) revised △8873
83.301 Removed △3295
83.351 (a) table amended; (b)(64) added 45365
(c)(3)(i) revised; note removed 51791
(c)(2) revised; (d) added; eff. 1-1-80 △18507
(a) table amended; (b)(53), (77), and (78) added △29075
(a) table, (b)(53), (77), and (78) effective date corrected △ 32383
(a) table amended △45627
83.352 Heading revised 56236
83.359 Table amended 45365
(a) introductory text revised; (a) table amended; (b)(6) added △29075
(a) introductory text and table and (b)(6) effective date corrected △32383
(b) introdctory text and (2) revised △45627
83.361 (b)(4) added △36043
83.363 (c) table amended △45396
83.364 (c) revised △3295
83.365 (a)(4) revised △8873
(a)(4) revised; eff. 1-1-80 △18507
83.405 (b) removed △17182
83.441—83.480 (Subpart R) Heading revised; eff. 1-1-80 △18507
83.442 Revised; eff. 1-1-80 △18507
83.443 Heading, (a), and (b) introductory text revised; (c) added; eff. 1-1-80 △18507
83.445 Added; eff. 1-1-80 △18507
83.484 (a) and (d)(2) revised △8873
(d)(2) revised; eff. 1-1-80 △18508
83.488 (a) revised △8874
83.499 (b)(2) revised; (b)(3) added △45397
83.514 (a)(1) revised △8874
83.517 (a) and (c)(2) revised △8874
(a) and (c)(2) revised; eff. 1-1-80 △18508
(a) and (c)(2) revised; eff. 1-1-80 △29073
83.519 (a) revised △8874
(a) revised; eff. 1-1-80 △29073
83.536 (b) introductory text and (1) amended △45397
83.542 (c)(3) corrected △21022
83.554 (a)(1)(i)(*a*) and (*b*) revised 52492
83.555 (c)(2)(ii) removed △17182
83.556 (c) removed △17182
83.536 Introductory text, (a) and (b) revised △4674
83.539 Revised △4674
83.542 (b) revised △4674

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83.554 (a)(1)(i)(*b*) amended △45397
83.811 (b)(2) amended △45397
83.835 Added △8877
87.31 (f)(2) revised 52246
(g) amended △39181
87.58 Added 60276
87.67 (b)(2) removed; (b)(1) redesignated as (b) △7961
87.181 Amended △4491
87.183 (j)(3) introductory text revised; footnote 1 added △29076
(j)(3) introductory text and footnote 1 effective date corrected △32383
(j)(2) and (3)(ii) revised △45628
87.195 (f) amended; (g) added △4491
87.201 (c) and (d) amended △4492
87.251 (a) revised; (b) through (e) redesignated as (d) through (g); new (b) and (c) added 56899
87.253 (a)(3) and (b) revised 56899
87.257 (d)(5) added 56899
(d)(6) added △18977
87.431 Revised △18977
87.432 Revised △18977
87.433 Revised △18977
87.437 Revised △18977
87.439 Revised △18977
87.501 (h)(1) revised; footnote 1 added △18026
87.506 Added △18026
87.513 (h) and (i) revised △4489
89 Removed and consolidated in new Part 90 54791
90 Added 54791
90.7 Amended △29070
90.17 (b) table corrected; (c)(9) correctly added △32215
(b) corrected △50602
90.19 (d) corrected △50602
90.21 (b) corrected △50602
90.23 (b) corrected △50602
90.25 (b) table corrected △32215, 50602
90.53 (a) table corrected △32216
90.55 Corrected △32216
Suspended in part △49692
Corrected △50602
90.61 Corrected △32216, 50602
90.63 (c) table, (d)(10) and (20) corrected △32216
(c) table corrected △50602
90.65 (a), (b) table, and (c)(24) and (33) corrected; (c)(17) correctly removed △32216
(a), (b), (c)(1), and (d)(1) corrected △50602
90.67 (b) table, (c)(17) and (23) corrected; (c)(28) and (29) correctly added △32216
90.69 (c)(9) corrected △32217
90.71 (c)(7) corrected △32217
90.73 (c) table, (d)(24), and (g) corrected; (d)(28) correctly added △32217
(c) table corrected △50602
90.75 (b) table, (d)(4), and (f) corrected △32217
90.79 (c) table, (d)(2), and (7) corrected △32217
(c) table and (d)(9) corrected △50602
90.81 (d)(10) and (f)(3) corrected △32217
(f)(3) corrected △50603
90.87 Corrected △50603
90.89 (a) and (c)(16) corrected △32218
90.91 (c)(17) corrected △32218
90.93 (b) table and (c)(2) corrected; (c)(11) correctly added △32218
90.103 (b) table corrected; (c)(22), (23), and (24) correctly added △32218
90.117 Revised △29070
Corrected △40310
90.119 (a) and (b) revised △29070
90.127 (c) and (d) added 59071
(c)(3) revised △27995
90.129 (l) effective date postponed △4492
90.135 (a)(6), (b)(3) and (4) revised; (b)(5), (6) and (7) added 59071
(b)(3) revised △29070
90.138 Corrected △32218
90.155 Revised 59071
90.175 (d)(4) and (10) corrected △32218
(a)(2), (b)(1), and (e)(10) corrected △50603
90.181 (b) corrected △32218, 50603
90.183 (e) corrected △32218
Introductory text corrected △50603
90.203 (a) and (b)(5) corrected △32219
90.205 (b) table footnote 7 corrected △32219
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173.26 Heading and (a) revised	56044
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173.34 (e)(10) amended	△3708
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173.50—173.114 (Subpart C) Heading revised	△31182
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Highlights

45123 **Community Funds** SBA expands sources and amounts which may be injected into local development companies; effective 6-1-79

45116 **Mobile Homes** FHLBB liberalizes its regulations in order to make loans more available and affordable; effective 8-31-79

45247 **National Fire Codes** GSA/OFR request proposals from the public to assist in amending existing safety standards

45246 **National Fire Codes** GSA/OFR request comments on techincal report; comments by 10-5-79

45298 **Unlawful Trade Practices** Treasury/ATF proposes rules prohibited by the Federal Alcohol Administration; comments by 10-30-79 (Part III of this issue)

45141 **Truth in Lending** FRS proposes a rule on calculation and disclosure of annual percentage rates; comments by 10-15-79

45240 **Data Collection** EPA identifies certain activities to be undertaken during the next six-month period for specific industrial point source categories

45120 **Licenses** SBA adopts rules on small business investment companies; effective 8-1-79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202–523–5240

Highlights

45316 **Abandoned Mines** Interior/SMRE publishes notice of decision to establish guidelines; comments by 8–31–79 (Part IV of this issue)

45178 **Improving Government Regulations** Federal Trade Commission issues proposed semiannual agenda

45296 **Improving Government Regulations** Justice/Civil Rights Division publishes semiannual agenda (Part II of this issue)

45326 **Improving Government Regulations** Treasury/Secretary, ATF, Customs, and RSO publish proposed semiannual agendas (4 documents) Part VI of this issue

45342 **Improving Government Regulations** HUD issues proposal on significant regulations under development or review (Part VII of this issue)

45320 **Feeder Cattle** USDA/AMS revises official U.S. standards for grades; effective 9–2–79 (Part V of this issue)

45131 **Pesticide Program** EPA adds certain uses of additional active ingredients under the optional procedure classification; effective 8–1–79

45218 **Pesticide Use Restrictions** EPA solicits comments from registrants, users, and other interested parties; comments by 10–1–79

45352 **Retail Sales of Motor Gasoline** DOE/ERA adopts amendments to the refiner reseller-retailer, and retail price rules (Part VIII of this issue)

45292 **Sunshine Act Meetings**

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45296 **Part II, Justice/Civil Rights Division**
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Rules and Regulations

Federal Register
Vol. 44, No. 149
Wednesday, August 1, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

Tobacco Loan Program; 1979 Crop Grade Loan Rates—Flue-Cured Tobacco

Correction

In FR Doc. 79–21199, appearing at page 40275 in the issue of Tuesday, July 10, 1979, make the following changes:

On page 40275, third column, the 14th and 18th entries under the heading "Loan rate" should read "124" and "126" respectively.

BILLING CODE 1505-01-M

Farmers Home Administration

7 CFR Part 1806

[FmHA Instructions 426.1]

Real Property Insurance; Amendment To Increase Deductible

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding real property insurance by increasing the maximum limitation in the loss deductible clause from $300 to $500. This action is taken to conform agency regulations to insurance industry requirements.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: The Multiple Housing Management and Support Division, Gem Middlebrooks, Loan Specialist, telephone 202–447–7207.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends § 1806.2(d)(1)(iii) of Subpart A, Part 1806, Subchapter A, Chapter XVIII, Title 7 in the Code of Federal Regulations. This action is taken because current FmHA regulations do not meet insurance industry standards and this causes problems for FmHA borrowers.

It is the policy of this Department that rules relating to public property, loans, grant, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since this change is a result of an increase in the amount of the loss deductible clause by the insurance companies in certain areas of the country and to delay a change in FmHA regulations would be contrary to the public interest.

This determination has been made by Paul R. Conn, Director Multiple Housing Management and Support.

Therefore § 1806.2(d)(1)(iii) is amended to read as follows:

§ 1806.2 Companies and policies.

* * * * *

(d) *Policy restrictions.*

(1)* * *

* * * * * *

(iii) *Loss Deductible Clause.* This clause generally provides that loss to each building to the extent of the limitation is not recoverable. The company is liable only for loss to each building in excess of such limitation stated in the clause. This clause may be accepted where the limitation does not exceed $150, or one percent of the insurance coverage whichever is greater. In no case, however, may the limitation on any one building exceed $500.00.

* * * * *

This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Statement

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Implementing Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250.

Authorities: 7 U.S.C. 1989; 42 U.S.C. 1480; Sec. 10, Pub. L. 93–357, 88 Stat. 392; 5 U.S.C. 301; 42 U.S.C. 2942; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegation of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.

Dated: July 18, 1979.

W. J. Nagle,
Acting Administrator, Farmers Home Administration.

[FR Doc. 79–23805 Filed 7–31–79; 8:45 am]
BILLING CODE 3410-07-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit by Federal Reserve Banks; Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Change in discount rates.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

Pursuant to the authority of 5 U.S.C. Sec. 553 (b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that in view of emerging economic and financial consideration, these amendments must be adopted immediately.

EFFECTIVE DATE: The changes were effective on the date specified below.

FOR FURTHER INFORMATION CONTACT: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3257).

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of:	Rate	Effective
Boston	10	July 20, 1979
New York	10	July 20, 1979
Philadelphia	10	July 20, 1979
Cleveland	10	July 20, 1979
Richmond	10	July 20, 1979
Atlanta	10	July 20, 1979
Chicago	10	July 20, 1979
St. Louis	10	July 20, 1979
Minneapolis	10	July 20, 1979
Kansas City	10	July 20, 1979
Dallas	10	July 20, 1979
San Francisco	10	July 20, 1979

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of:	Rate	Effective
Boston	10½	July 20, 1979
New York	10½	July 20, 1979
Philadelphia	10½	July 20, 1979
Cleveland	10½	July 20, 1979
Richmond	10½	July 20, 1979
Atlanta	10½	July 20, 1979
Chicago	10½	July 20, 1979
St. Louis	10½	July 20, 1979
Minneapolis	10½	July 20, 1979
Kansas City	10½	July 20, 1979
Dallas	10½	July 20, 1979
San Francisco	10½	July 20, 1979

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

Federal Reserve Bank of:	Rate	Effective
Boston	11	July 20, 1979
New York	11	July 20, 1979
Philadelphia	11	July 20, 1979
Cleveland	11	July 20, 1979
Richmond	11	July 20, 1979
Atlanta	11	July 20, 1979
Chicago	11	July 20, 1979
St. Louis	11	July 20, 1979
Minneapolis	11	July 20, 1979
Kansas City	11	July 20, 1979
Dallas	11	July 20, 1979
San Francisco	11	July 20, 1979

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of:	Rate	Effective
Boston	13	July 20, 1979
New York	13	July 20, 1979
Philadelphia	13	July 20, 1979
Cleveland	13	July 20, 1979
Richmond	13	July 20, 1979
Atlanta	13	July 20, 1979
Chicago	13	July 20, 1979
St. Louis	13	July 20, 1979
Minneapolis	13	July 20, 1979
Kansas City	13	July 20, 1979
Dallas	13	July 20, 1979
San Francisco	13	July 20, 1979

(12 U.S.C. 248(i). Interprets or applies (12 U.S.C. 357))

By order of the Board of Governors, July 23, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-23676 Filed 7-31-79; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 545

[No. 79-400]

Mobile Home Loans

July 26, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final amendments.

SUMMARY: These amendments, which cover mobile home lending by Federal savings and loan associations, are intended to make mobile home loans more available and affordable to consumers. Changes to accomplish this purpose include: (1) Increasing Federal associations' mobile home lending authority from 10 to 20 percent of their assets; (2) liberalizing participation interest requirements and the list of eligible sellers of these interests; (3) permitting mobile home loans for terms up to 20 years and up to 90 percent of the buyer's total costs for the mobile home; and (4) increasing authority for service corporation activity.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION, PLEASE CONTACT: Patricia C. Trask, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Telephone number (202) 377-6442.

SUPPLEMENTARY INFORMATION: On May 3, 1979, the Federal Home Loan Bank Board adopted FHLBB Resolution No. 79-280 (43 FR 26892-26893, dated May 8, 1979), which proposed to liberalize its mobile home loan regulations. The Bank Board recognized that the high cost of home ownership has excluded many families from the housing market for site-built homes. As mobile homes have become an increasingly attractive alternative because of their improved construction and durability in recent years, the Bank Board believes that liberalization of its regulations will help to accommodate the public need for lower cost housing.

Public comments were received from 150 respondents; 21 letters were from individuals and the remainder from persons associated with the savings and loan and mobile home industries. Reaction to the Bank Board's initial request that commenters refer to specific paragraph letter and number to aid analysis of comments was very favorable and contributed significantly to shortening the time required for summary and analysis. On the basis of the comments and other available information, the Bank Board hereby adopts final amendments to its mobile home regulations substantially as proposed, with modifications as discussed below.

General Comments

Respondents overwhelmingly supported liberalization of the mobile home lending requirements, contending that mobile homes, like site-built homes, have become increasingly more expensive, and require longer loan maturities and higher loan-to-value ratios to enable purchasers to afford monthly loan repayments, especially for double-wide units. Several commenters objected to the proposal on the grounds that mobile homes are poor investments because they are subject to depreciation, and, consequently, expanded lending authority would encourage imprudent lending practices. The Bank Board is not persuaded on either of these points; the mobile home product has improved in recent years, making sound housing opportunities available to lower-income homeseekers, and increased lending latitude will merely enable associations to develop appropriate underwriting policies.

Regulations as Adopted and Discussion of Public Comments

§ 545.7-6 *Mobile Home Financing*

Paragraph (a)—Definitions. This paragraph contains definitions of "mobile home," "mobile home chattel paper," and "manufacturer's invoice price." No changes were made from the proposal. However, the Bank Board

notes, in response to questions raised, that manufacturers' invoices must be itemized so that associations may know what equipment, accessories and other options are to be considered security for the loan. It is recommended that associations retain a copy of the invoice in the loan file.

Paragraph (b)—General Lending Authority. The proposed increase in lending authority from 10 to 20 percent of an association's assets was supported by most commenters; several suggested lifting the limit entirely: (1) To parallel site-built lending authority, and (2) to avoid a discriminatory effect on lower-income homebuyers who may in some areas be restricted to mobile homes as the only affordable housing. The Bank Board has determined to adopt the 20 percent limitation as proposed. This action doubles the present lending authority. Research indicates that few associations are lending up to the current limit, and review of experience under the increased authority is reasonable before considering further expansion of this loan category, which is limited because mobile home lending still carries higher risk for associations.

It is noted that in areas where mobile homes are considered realty rather than personalty, a loan on a mobile home is a real estate loan and may be made under an association's regular lending authority. Thus, there is an additional source of loans for mobile homes.

Finally, questions were asked about the conditions under which combination mobile-home-and-lot loans would qualify as loans on improved real estate. If the mobile home is considered personalty (for example, if it is taxed as personalty), then the loan cannot be made under an association's real estate lending authority. As a related issue, Federal associations may not buy such combination loans as described even though they may be VA-guaranteed or FHA-insured. However, securities which are backed by these and other mobile home loans may be purchased pursuant to Federals' authority to invest in government securities.

Paragraph (d)—Inventory Financing. A number of questions were raised by commenters regarding the proposed appraisal requirement for inventory financing of loans on used mobile homes. While problems with valuation guides, as an alternative to appraisals, were acknowledged because they may not reflect individual conditions of units or local market activity, there was considerable concern about appropriate appraisal techniques. A number of commenters suggested that appraisals, or in some cases complete appraisals, may not be appropriate for all types of mobile home loans, and in other cases may unduly delay loan approval. Upon reconsideration, the Bank Board has determined to allow associations to use their own discretion in choosing valuation techniques, and the regulatory language of § 545.7-6 (c) and (d) has been modified accordingly.

All commenters addressing loans to dealers on new mobile homes favored the proposed inclusion of freight charges (included in the term "manufacturer's invoice price" as defined in § 545.7-6(a)(3)). Several, however, recommended excluding dealer-installed equipment on the grounds that it is removable and not covered under manufacturers' repurchase agreements. One respondent noted the confusion created by referring to "furnishings, equipment, and accessories" in the definition of invoice price, and the additional reference to "equipment" in the inventory financing provisions for new and used mobile homes. The Bank Board notes that the former reference was to manufacturer-installed items and the latter to those installed by dealers, and believes that this distinction is sufficiently stated in the regulatory provisions. With regard to dealer-installed equipment, the Bank Board has determined to allow such equipment to be financed in order to increase practical opportunities for mobile home ownership; however, loan losses will be scrutinized to see if additional risk or abuses occur due to the availability of this financing.

Paragraph (e)—Retail Lending. Some respondents suggested amending the proposed requirement that the mobile home be maintained as a residence of the owner or beneficial owner, or an owner's relative. Some described the increased risks which occur with non-owner-occupied homes; others cited the need for moderately priced rental units and the ability to sell repossessed units to investors at market prices, and recommended various limitations on sales to investors. The Bank Board has adopted the ownership requirements as proposed. Regarding a more restrictive underwriting program it is noted that associations may choose to limit loans to owner-occupants. With respect to a more expanded range of borrowers, this regulatory amendment is intended to encourage homeownership, rather than accommodate commercial lending.

Clarification was requested regarding the requirement that the mobile home be located at a mobile-home park or "other semi-permanent site". The provision has been clarified to refer to "permanent or semi-permanent site".

Most commenters favored the proposed extension of loan terms to a maximum of 20 years (from 12-15 years for new units, and shorter terms for used units). Several did object on the grounds of questionable durability of such units. The Bank Board has retained this provision as proposed, in the expectation that associations will determine loan maturities on an individual basis, using the 20-year term as a maximum in appropriate cases.

Substantial comment was received on the loan-amount provisions in § 545.7-6(e)(iv). Most commenters favored the proposed liberalization of loans to 90 percent of buyer's costs, although several objected because of the possibility of inflated sales prices and "front-end loading" of related fees. Additionally, clarification was requested regading the phrase "buyer's total costs," commenters noting that items which are not security for the loan may be included in the financed amount. The Bank Board has not modified this provision because it believes that sales-price-versus-value is always an issue in home sales, to be determined by the marketplace, and notes that associations will be required to use sound underwriting practices to determine acceptability of the security interest just as is done with other types of loans.

A number of negative responses were received regarding the three-year limitation on financed insurance premiums. Commenters argued that such a limitation: restricts consumer options; may result in unrenewed coverage after the third year; may adversely affect buyers who could not afford insurance without long-term financing or would have to finance it elsewhere; would affect profits of associations and dealers; and may result in association loss of mobile home business to other lenders who can finance such insurance. Also, some repondents argued that financing of credit life insurance would be foreclosed under this limit because it is written for the term of the loan.

The Bank Board is not persuaded that the thrust of this provision should be changed. Of special concern is the fact that these premiums are financed over the term of the entire loan when, as in the case of hazard coverage, the security is unprotected against loss at the end of the policy term, which is generally no longer than seven years under state insurance regulations. At the end of this period, the mobile home owner is still obligated to pay insurance premiums, with interest, on an expired policy, as well as purchase a new policy for continuing coverage. Additional factors

which were considered are the difficulties experienced by lenders and insureds when the mobile home is sold or the insured decides to cancel coverage in favor of insurance with another carrier.

The Bank Board therefore believes that the three-year premium restriction is reasonably formulated to accommodate financing of insurance premiums without disadvantaging any of the parties to the sales and financing transaction.

However, the language has been clarified to refer specifically to the types of insurance which may be financed. In weighing all considerations, the Bank Board has concluded that only insurance essential to protect all parties should be included in the loan financing package and capitalized over the loan term. Vendor's single interest (which, among other things, covers transit and missing contents losses) and physical damage coverage may therefore be financed. Credit life or other coverage may not be financed, but associations may, of course, escrow funds for these premiums if the buyer chooses to purchase such coverage.

§ 545.7-7(a) *Purchase of Participation Interests*

Paragraph (a) increased Federals' authority to invest in participation interests from 10 to 20% of assets. Those who commented on this provision favored the proposed liberalization. One respondent recommended that VA and FHA loans be deleted from this paragraph entirely on the basis that associations should not be limited to buying participations from FSLIC- and FDIC-insured entities when they can buy whole packages of such loans from any seller. Another writer saw the exclusion of all other sellers as discriminating against Federal credit unions, mortgage companies and other sellers of participation interests.

The proposed regulations provided that Federal associations could only purchase mobile home loan participations from FDIC- and FSLIC-insured institutions and their service corporations. This was done in order to assure adequate oversight of loan origination and servicing, which must be retained by the seller. In some instances, a buyer of a participation interest may only purchase a small percentage of the package, e.g., 10%; if loan servicing is poor, the buyer may not be able to have an unreliable seller correct the situation. Thus, the limitation to Federally-insured institutions and service corporations provides oversight authority which enables correction of these problems. Therefore, the provision has been amended to include Federally-insured credit unions and their service corporations.

Paragraph (a)(2) requires a participation-interest seller to retain at least a 25 percent interest in the chattel paper. Four of the six comments on this provision favored adoption, but for different reasons. One respondent stated that sellers of chattel paper should retain at least 25% in view of the new 90% loan-to-value ratio because there is greatly increased possibility for loan losses. Another supported the liberalization on the ground that it provides greater flexibility and further helps balance the disporportionate demands upon institutions in states or regions which have more mobile homes.

Two respondents argued that the retainage should be lowered to 10%. One reasoned that those few associations which have sufficient expertise to generate and service such loans must do a volume operation to be profitable, and thus need more flexibility in cash flow. The second respondent argued that lowering the retainage to 10% would provide equality between mobile home loan participation requirements and those for conventionally-built homes.

The proposed decrease, which reduces retainage from 50% to 25%, is significant and should provide the flexibility mentioned as well as assure that participation sellers generate good quality loans and maintain proper service operations. The provision is therefore adopted in modified form to clarify the Bank Board's intent that sellers must retain 25 percent of each loan rather than 25 percent of the loan package; this is to preclude sales to Federals of problem loans while sellers retain those which are soundly underwritten.

Paragraph (a)(3), requiring that the mobile home securing the chattel paper is located within 100 miles of the seller's office, was unchanged in the proposal from the Bank Board's current rule. Two commenters strongly urged establishing minimum requirements for operating an office. Lack of standards could encourage abuses, as reported by respondents, such as some service offices existing only as a post office box or an answering service. Suggestion was made for a requirement that offices be maintained and staffed to provide proper loan service. In light of the expansion of the seller category and other liberalizations, the Bank Board has modified the provision to provide for proper maintenance of service offices.

Service Corporation Activity

Three changes to the proposal were recommended which would expand the role of service corporations in mobile home lending and servicing activities. These are as follows:

(1) The proposal provides that a Federal association may make or buy a whole mobile home loan only if the mobile home security is located in the association's regular lending area (generally, the state where its home office is located). The respondent suggested that a Federal should also be permitted to buy non-local whole loans, if it is buying them from its own service corporation and if the security property is located within 100 miles of an office of that service corporation.

The effect of this suggested changed would be two-fold: it would allow Federals to invest in mobile home loans located anywhere in the country (since service corporations may be established anywhere), and would remove the 25-percent retainage requirement for chattel paper sold by service corporations to their parent associations.

(2) The proposal provides that a Federal association may only buy a participation interest from a seller which itself retains servicing responsibility for the loan; if the seller is a service corporation, it would provide servicing. The respondent suggested that, if the seller is an FSLIC- or FDIC-insured institution, the institution be permitted to have its service corporation provide the servicing.

The effect of this suggested change would be to allow Federals to buy mobile home loan participations anywhere in the country with the servicing being provided by the seller-institution's (perhaps geographically distant) service corporation.

(3) The proposal provides that a Federal association may only buy a participation if the mobile home security is located within 100 miles of an office of the seller. The respondent suggested that the security should also be permitted to be located within 100 miles of an office of the seller's service corporation which is providing the servicing.

The effect of this suggested change would be to allow Federals to buy mobile home loan participations where the location of the security property might be far removed from the seller's regular lending area.

Taken together, the recommended changes would allow Federals to buy nationwide whole loan packages from their own service corporations, and nationwide participations serviced and based near seller's service corporations, without the service corporations being required to retain any of the investment. (It is noted that, with regard to participations sold to Federals by institutions who themselves bought from their service corporations, the institutions re-selling the loans must retain 25 percent of each loan in the package.)

Arguments for such expanded authority are that (1) it would encourage the flow of funds to capital-deficit areas which need mobile home financing; (2) it would help create a secondary market for mobile home loans; (3) participation retainage and restricted locality are unnecessary in the case of parent association/service corporation dealings because there is management control; and (4) originating and servicing mobile home loans are appropriate activities for service corporations. Arguments against such expansion are that (1) increased authority involves the possibility of increased risk; (2) the mobile home loan industry has had problems in the past, related to high-volume production of loans by companies that did not retain an interest in the loans; and (3) the proposed liberalization of lending authority is quite substantial and experience under it should be reviewed before further steps are taken.

On balance, the Bank Board has determined to allow the recommended expansions in order to make mobile home loans more available to consumers. It believes that past problems may be related to the fact that associations were not allowed to purchase such loans from their own service corporations, and thus had less control over origination and servicing practices. It also notes that problem mobile home loans (net slow loan ratio) were less than two percent on an industry average at the end of 1976. The Bank Board believes that the recommended approach, allowing whole loan purchases from a Federal's own service corporation and participation purchases from other sellers who (even if their service corporations originate, service, and are the only entities located near the security property) are required to retain 25 percent of the loans sold, is a reasonable method of increasing the flow of funds without unduly increasing the risk.

However, the Bank Board intends to monitor closely the experience of Federals using the expanded purchasing authority. In addition, a safeguard has been imposed. The final amendment provides that, unless a waiver is specifically granted by the Board, a Federal may not sell any mobile home loans or participations in such loans if problem loans constitute more than five percent of its total mobile home loan portfolio. The Bank Board believes that such a restriction will result in careful underwriting, sound management of origination and servicing practices; whether done directly by associations or their service corporations, and careful purchasing programs from other institutions or their service corporations. The Bank Board notes as a precedent for this limitation its current provision in 12 CFR 563.9 precluding sales of nationwide loan participations by insured institutions with problem loans in excess of four percent. The additional leverage of 5 percent for mobile home loans is in recognition of the particular nature of mobile home lending, the fact that this is a new activity for many associations, and the new expansion of service corporation authority.

PART 545—OPERATIONS

Accordingly, the Bank Board hereby amends 12 CFR Part 545 by revising §§ 545.7-6, 545.7-7(a), and 545.7-8, to read as set forth below.

1. Revise § 545.7-6 to read as follows:

§ 545.7-6 Mobile home financing.

(a) *Definitions used in this part*—

(1) "Mobile home"—a movable dwelling (for occupancy on land) made of one or more units, and having minimum width of 10 feet, minimum area of 400 square feet, and year-round living facilities for one family, including permanent provision for cooking, eating, sleeping, and sanitation.

(2) "Mobile home chattel paper"—a document evidencing a loan secured by a first lien on one or more mobile homes and equipment installed or to be installed therein.

(3) "Manufacturer's invoice price"—a manufacturer's itemized charges, shown on its invoice, for a specifically identified mobile home, furnishings, equipment, and accessories installed by the manufacturer, and freight.

(b) *General investment authority.* A Federal association whose board of directors has adopted a mobile home financing plan may invest in mobile home chattel paper by making or buying whole loans or installment sales contracts on mobile homes: *Provided,* That total investment made under this section may not exceed 20 percent of an association's assets.

(c) *Sound investment practices.* Appraisals or other generally accepted systems of valuation of used mobile homes shall substantiate the term to maturity of loans made. Chattel paper shall have provisions to protect the association, specifically regarding insurance, taxes, other governmental levies, and maintenance and repairs, and may include any other protection provision which is lawful and appropriate. The association may pay taxes or other governmental levies, and insurance premiums or other similar charges to protect its security interest, and may, when lawful, add such payments to the debt evidenced by the chattel paper. The association shall seasonably perfect its security interest. The association is responsible for current knowledge of regulations and requirements pertaining to Federal insurance and guarantee programs for mobile home loans in which it invests, including portfolio limitations on coverage, and is expected to make underwriting decisions as carefully for such loans as for conventional loans.

(d) *Inventory financing.* An association may invest in mobile home chattel paper which finances a mobile home dealer's acquisition of inventory if:

(1) The inventory is held for sale by the dealer in its ordinary course of business in the association's regular lending area;

(2) The loan evidenced by the chattel paper is the dealer's obligation; and

(3) The loan amount does not exceed the following:

(i) For new mobile homes, 100 percent of manufacturer's invoice price for each mobile home and equipment to be installed by the dealer;

(ii) For used mobile homes, 75 percent of appraised market value or other generally accepted valuation of each mobile home, including installed equipment.

(e) *Retail financing*—(1) *Insured/Guaranteed Loans.* An association may invest in retail mobile home chattel paper which is insured or guaranteed under the National Housing Act or Chapter 37 of Title 38, United States Code, as amended, or which has a commitment for such insurance or guarantee, if satisfactory local servicing of that paper is arranged.

(2) *Conventional Loans.* An association may invest in conventional retail mobile home chattel paper if:

(i) The mobile home is to be maintained as a residence of the owner (or beneficial owner), or an owner's relative;

(ii) The mobile home is located at a mobile home park or other permanent or semi-permanent site in the association's regular lending area or within 100 miles of an office of the association's service

corporation if the association purchased the loan from such service corporation when the investment is made, or within 90 days thereafter;

(iii) The loan is payable in substantially equal monthly installments over 20 years or less; and

(iv) The loan amount (excluding time-price differential or interest, however computed) does not exceed 90 percent of buyer's total costs, including freight, itemized set-up charges, sales or other taxes, and filing or recording fees imposed by law. Insurance premiums may be financed for customary physical damage insurance and vendor's single interest coverage on the mobile home for an initial policy term not to exceed three years; no other insurance may be financed and included in buyer's total costs.

2. Revise paragraph (a) of § 545.7–7 to read as follows:

§ 545.7–7 Purchase of participation interests in mobile home chattel paper.

(a) *General.* A Federal association may buy, within the 20 percent-of-assets limit in § 545.7–6(b), a participation interest in retail mobile home chattel paper which meets all requirements of § 545.7–6(e) (1) or (2) (except the lending area restriction in paragraph (e)(2)(ii)), if:

(1) The seller of the participation interest is an institution whose accounts or deposits are insured by the Federal Savings and Loan Insurance Corporation, the Federal Deposit Insurance Corporation, or the National Credit Union Administration, or a service corporation thereof, and the seller remains responsible for servicing the chattel paper, either directly, or through a service corporation in the case of an institution seller;

(2) The seller retains at least a 25 percent interest in each document evidencing a loan secured by the chattel paper;

(3) The chattel paper is secured by a mobile home located, or to be located within 90 days thereafter, at a mobile home park or other permanent or semi-permanent site within 100 miles of any office of the seller or the seller's service corporation which is servicing the chattel paper; *provided,* that such office is maintained and staffed to properly service loans sold.

* * * * *

3. Designate existing text of § 545.7–8 as paragraph (a), and add new paragraph (b) as follows:

§ 545.7–8 Sale of mobile home chattel paper.

* * * * *

(b) No association may sell mobile home loans or participations in such loans if, at the close of its most recent semi-annual period, it has mobile-home-loan scheduled items (other than assets acquired in a supervisory merger) in excess of 5 percent of its total mobile-home-loan portfolio: *Provided,* That an association may apply to the Board for waiver of this restriction.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 79–23698 Filed 7–31–79; 8:45 am]
BILLING CODE 6720–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

[Rev. 5, Amdt. 17]

Small Business Investment Company Provisions

AGENCY: Small Business Administration.

ACTION: Final rules.

SUMMARY: These regulations effectuate provisions of Pub. L. 95–507, 92 Stat. 1757, October 24, 1978, that affect Small Business Investment Companies (SBICs). Two of Pub. L. 95–507's amendments to the Small Business Investment Act (Act), 15 U.S.C. 661, *et seq.*, apply to all SBICs, whether licensed under section 301(c) or under section 301(d) of the Act: (1) No SBIC license may be issued on or after October 1, 1979, to any applicant unless it has a minimum private capitalization of $500,000; (2) in addition to investments presently permitted for funds not reasonably needed by an SBIC for its day-to-day operations, an SBIC may purchase certificates of deposit issued by, or maintain a savings account in, a financial institution insured by the Federal Savings and Loan Insurance Corporation, in amounts in excess of the insurance limit. Other provisions of Pub. L. 95–507 amending the Act affect only those SBICs licensed under the authority of section 301(d). These amendments (1) permit section 301(d) Licensees to be organized in the form of limited partnerships; (2) authorize SBA to purchase nonvoting 3 percent cumulative Preferred Securities in increased amounts from corporate section 301(d) Licensees; (3) eliminate SBA's authority to require section 301(d) Licensees that had sold Preferred Securities to SBA before October 24, 1978, to repay the "dividend subsidy" before dividends may be paid, or other distribution made, to other equity investors in the Licensee. The "dividend subsidy" is the difference between dividends paid by the Licensee at the annual 3 percent rate and the amount the Licensee would have paid had it instead sold SBA 15 year debentures bearing interest at the rate in effect on the date of sale, determined pursuant to sec. 303(b) of the Act; and (4) relieve section 301(d) Licensees that have sold debentures to SBA bearing a subsidized rate of interest from any obligation to repay the "interest subsidy"—the difference between the subsidized rate (determined pursuant to sec. 317 of the Act) and the rate determined at the date of sale pursuant to sec. 303(b) of the Act.

EFFECTIVE DATE: These rules are effective as of August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. McNeish, Deputy Associate Administrator for Investment, 202–653–6848.

SUPPLEMENTARY INFORMATION: Prior to October 24, 1978, limited partnerships could obtain a license only under the authority of section 301(c) of the Act; section 301(d) Licenses could be issued only to corporations. Pub. L. 95–507 authorized SBA to issue licenses under the authority of section 301(d) to limited partnerships. The first two amendments reflect this broadening of SBA's authority and are self-explanatory.

The third amendment to the regulations makes three changes in § 107.101(d), two of which reflect a statutory change in the minimum private capitalization required of all applicants for an SBIC license.

Sections 107.101(d) (i) and (2) have been amended to reflect the fact that on and after October 1, 1979, SBA will have no authority to issue a License to any applicant whose private capitalization is less than $500,000. This qualification applies also to applications filed before October 1, 1979; there will be no grandfather rights for applicants who have filed before October 1, 1979, regardless of the reasons underlying SBA's failure to issue a License before that date. No exceptions may be made.

Section 107.101(d)(2) has also been amended to delete language that applied only with respect to funds paid into or irrevocably committed to a Licensee before July 5, 1973. This deletion is of an editorial nature, with no effect on the substantive rights of any existing Licensee.

The fourth amendment applies only to section 301(d) Licensees. In addition to

changes of a purely editorial nature, § 107.205 has been revised to reflect changes in the Act.

Section 107.205 is revised to relieve a section 301(d) Licensee of any obligation to repay the dividend or interest subsidy, as the case may be. Of course, any such repayment obligation would exist only in the case of a section 301(d) Licensee that had sold Preferred Securities or subsidized interest rate debentures to SBA before October 24, 1978. Licensees and applicants for a license whose Articles of Incorporation make provision for repayment of the dividend and/or interest subsidy will not be required to amend the Articles of Incorporation solely to eliminate reference to the dividend and/or interest subsidy.

Section 107.205(d) is amended to make two significant changes with respect to the purchase of Preferred Securities from a corporate section 301(d) Licensee. It should be noted that Pub. L. 95–507 now confers upon SBA authority to purchase from any corporate 301(d) Licensee—but only from a corporate Licensee—Preferred Securities in an amount up to 100 percent of the Licensee's Private Capital. Prior to the effective date of Pub. L. 95–507 (October 24, 1978), SBA could purchase from a Licensee licensed on or before October 13, 1971, and having Private Capital of less than $300,000, Preferred Securities in an amount no greater than the amount of Private Capital contributed after October 13, 1971; and in the case of a Licensee licensed after October 13, 1971, and having a Private Capital of less than $500,000, SBA's purchase of Preferred Securities could not exceed the difference between $300,000 and $500,000. SBA could purchase Preferred Securities in the amount of 100 percent of Private Capital only if the Licensee's Private Capital was $500,000 or more.

Subject to certain restrictions set forth in Pub. L. 95–507 and implemented in proposed § 107.205(d)(2), SBA has been further authorized to purchase Preferred Securities in amounts in excess of 100 percent of Private Capital, but not to exceed 200 percent of Private Capital, from any Licensee licensed on or before October 13, 1971 (regardless of the amount of such Licensee's Private Capital), and from any Licensee with a Private Capital of $500,000 or more.

However, the amount of Preferred Securities purchased by SBA in excess of 100 percent of any Licensee's Private Capital may not exceed the amount of the Licensee's funds invested in or legally committed to the "Qualified Investments" enumerated in § 107.205(d)(2). The "Qualified Investments" set forth in this section are those set forth in section 101 of Pub. L. 95–507 under the statutory definition of "equity securities". The regulation uses the term "Qualified Investments" in order to avoid confusion with the term "Equity Securities" as it is used in § 107.302(b) of the regulations. The regulation adds to the statutory language, language intended to make it clear (1) that no Licensee may, through the purchase of Qualified Investments, engage in any business, either directly or as a holding company, other than that of a section 301(d) SBIC or risk liability as a general partner in business; and (2) that Congress listed subordinated debt instruments among "equity securities" in recognition of the fact that subordination is intended to encourage other lenders to extend financing, and not merely to afford a priority to all other creditors, particularly creditors, who are supplier or consultant associates of the Licensee.

Since SBA's authority to purchase Preferred Securities in excess of 100 percent of Private Capital is limited to the amount of the Licensee's Qualified Investment Portfolio, SBA has included a requirement that a Licensee maintain its Qualified Investment Portfolio at that level. The requirement is similar to that imposed with respect to leverage in excess of 300 percent of Private Capital, as set forth in § 107.202(d) of the regulations.

SBA is also authorized to require any Licensee offering Preferred Securities in excess of 100 percent of its Private Capital to demonstrate a need therefor, to insure that SBA funds disbursed to Licensees are, to the maximum degree possible, used to finance Small Concerns.

Section 107.205(c) has been redesignated as § 107.205(f) and revised to clarify certain points. SBA will not permit exchange or conversion of the debentures of any Licensee into Preferred Securities if the transaction would cause SBA to hold Preferred Securities in greater amounts than authorized by statute or applicable regulation. Nor is it intended to permit the exchange or conversion of debentures for Preferred Stock as a method of refinancing debentures in default, or avoiding payment of accrued interest due SBA.

The fifth amendment broadens the coverage of § 107.808 to include "active funds" as well as "idle funds" and reflects the intent of Pub. L. 95–507 to eliminate unnecessary distinction between banks insured by the Federal Deposit Insurance Corporation (FDIC) and savings and loan institutions insured by the Fedeal Savings and Loan Insurance Corporation (FSLIC).

As amended § 107.808 requires that all funds of any Licensee, except funds invested in Small Concerns, or in obligations of, or guaranteed by, the United States, or held in a petty cash fund not exceeding $500, be deposited in an institution insured by either FDIC or FSLIC. This requirement applies to funds reasonably needed for the day-to-day operations of the Licensee—"active funds"— as well as funds not so needed. Hence, no funds of an SBIC may be deposited in any institution not subject to the supervision provided by either FDIC or FSLIC. Since the intent of Section 102 of Pub. L. 95–507 was to eliminate unnecessary distinctions between FDIC-insured and FSLIC-insured institutions, SBA will allow each Licensee to decide whether to maintain a checking account in a commercial bank, or to deposit its "active funds" in a savings account from which it can readily withdraw funds by means of negotiable orders of withdrawal. For the same reason—elimination of unnecessary distinctions between banks and savings and loan institutions—Licensees are authorized to invest idle funds in certificates of deposit (maturing in not more than one year) issued by any institution insured by FDIC or FSLIC or in a time savings account in any such institution, subject to a withdrawal limitation not to exceed one year.

One comment was received with respect to the requirement in § 107.101(d)(2) that Licensees licensed on or after October 1, 1979 have not less than $500,000 in private paid-in capital and paid-in surplus. This requirement is mandated by Pub. L. 95–507, which raised the statutory minimum private capitalization required for issuance of a License from $150,000 to $500,000, effective October 1, 1979. SBA has consistently interpreted § 302(a) of the Small Business Investment Act, as amended, to require every applicant for a License to have not less than the statutory minimum of private funds in its paid-in capital and paid-in surplus. The Congress has never amended § 102 of the Small Business Investment Act, which states that the policy of the Act is "to stimulate and supplement the flow of private equity capital and long-term loan funds" to small business and expressly provides "That this policy shall be carried out in such manner as to insure the maximum participation of private financing sources."

Objection was also expressed concerning the requirement that a Licensee that has sold Preferred

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Securities to SBA in an amount in excess of 100 percent of its Private Capital maintain its portfolio of Qualified Investments at a level equal to that by which the amount of Preferred Securities sold to SBA exceeds 100 percent of its Private Capital. While SBA acknowledges that this requirement may be burdensome to certain Licensees, Congress made "second tier" Preferred Securities leverage available only to those Licensees willing to provide equity and subordinated debt financing available to small business. It would be inconsistent with Congressional intent to permit Licensees that had sold "second tier" Preferred Securities to SBA to cease, for any significant period thereafter, to serve as a source of equity and subordinated debt financing to small business. The regulation as proposed and adopted makes provision for a Licensee's temporary retention of excess "second tier" Preferred Securities leverage.

The proposed regulations published on April 10, 1979 (44 FR 21293) are adopted without change.

Pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 661, *et. seq.*, and Pub. L. 95–507, 92 Stat. 1757, October 24, 1978, Part 107, Chapter I of Title 13, Code of Federal Regulations is amended as follows:

1. Section 107.3 is amended as follows:

§ 107.3 Definition of terms.

* * * * *

Section 301(d) Licensee. "Section 301(d) Licensee" means a Licensee organized under a State business or nonprofit corporation statute, or a limited partnership organized pursuant to § 107.4 and licensed pursuant to Section 301(d) of the Act, the investment policy of which is limited to making investments solely in small concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantage.

2. Section 107.4(a) is amended as follows:

§ 107.4 Limited partnership SBIC.

(a) *General.* A limited partnership organized under State law solely for the purpose of performing the functions and conducting the activities contemplated under the Act may apply for a license pursuant to Section 301(c) or Section 301(d) of the Act.

3. Section 107.101(d) is amended to read as follows:

§ 107.101 Operational requirements.

* * * * *

(d) *Minimum Capital*—(1) *General.* Every Licensee shall have:

(i) Private Capital of at least $150,000 (For consideration for issuance of Licensee's securities see § 107.805(a)): *Provided, however,* That Private Capital of at least $500,000 shall be required for licensing on or after October 1, 1979; and

(ii) Taking additional resources into account, adequate to assure a reasonable prospect that it will be operated soundly and profitably, and managed actively and prudently in accordance with the Act and regulations. No exceptions to the $500,000 requirement may be granted for any reason whatsoever, including the filing of an application before October 1, 1979.

(2) *Nonprivate funds for licensees.* (i) A Licensee may include nonprivate funds (e.g., funds granted under Title VII of the Community Services Act of 1974, as amended) in its Private Capital for purposes of sections 302(a), 303(c), and 306 of the Act: *Provided, however,* That the minimum capital of $150,000 ($500,000 on or after October 1, 1979) specified by section 302(a)(1) of the Act may not include nonprivate funds and that for leverage purposes nonprivate funds will be included in Private Capital only to the extent that private funds totaling at least ten percent of the nonprivate funds are also included.

(ii) For purposes of this paragraph (d)(2), "nonprivate funds" shall mean funds obtained, directly or indirectly, from another agency or department of the Federal Government or from any State or subdivision thereof, except as limited by Pub. L. 92–512 (commonly known as the General Revenue Sharing Act) and regulations of the Treasury Department, 31 CFR Part 51.

4. Section 107.205 is amended as follows:

§ 107.205 Leverage for Section 301(d) Licensees.

(a) *General.* SBA may provide leverage to any section 301(d) Licensee through the purchase or guaranty of debentures, or to a Section 301(d) Licensee organized as a corporation, through the purchase of nonvoting preferred stock (or nonvoting preferred securities other than stock, but only if applicable law precludes the issuance of nonvoting preferred stock) pursuant to application filed under § 107.201(a)(2).

(b) *Charter Requirements for Leveraging.* No leverage will be extended to any section 301(d) Licensee unless the following matters are appropriately provided for in the Licensee's Charter.

(1) *Investment Policy.* Statement of Investment Policy in conformity with section 301(d) of the Act.

(2) *Prior SBA approval to amend charter.* The charter shall not be amended without SBA's prior written approval.

(3) *Additional charter requirements for nonvoting preferred Securities Leverage.* No nonvoting preferred securities may be purchased by SBA from any corporate section 301(d) Licensee unless its charter makes appropriate provision for the following additional matters:

(i) *Payment of dividends to SBA.* Subject to the sound discretion of the board of directors, SBA shall be paid from retained earnings an annual three percent dividends on the par value of its preferred securities. Such dividends shall be payable before any amount shall be set aside for or paid to any other class of stock, and shall be preferred and cumulative, so that in the event SBA has received less than three percent in any fiscal year, such dividends shall be payable on a preferred basis from subsequent retained earnings without interest thereon. Before any declaration of dividends or any distribution (other than to SBA), all dividends accumulated and unpaid on preferred securities issued to SBA shall be paid.

(ii) *Redemption rights.* A section 301(d) Licensee shall be entitled at its option to redeem in whole or in part preferred securities purchased by SBA, on any dividend date (after giving SBA at least thirty days' written notice) by paying SBA the par value of such securities, but not less than $50,000 par value in any one transaction, and any dividends accumulated and unpaid to the date of redemption.

(iii) *Redemption, liquidation, or distribution of assets.* Before any redemption of securities not purchased by SBA, or liquidation in whole or in part, or any distribution of assets to other stockholders, SBA shall be paid any amounts due pursuant to paragraph (b)(3)(i) of this section, and the par value of its preferred securities: *Provided, however,* That such par value need not be paid to SBA before the distribution of ordinary dividends from retained earnings.

(c) *Sale of debentures to SBA.* Debentures purchased by SBA but not debentures guaranteed by SBA pursuant to section 303(c) of the Act, shall be entitled to a reduced interest rate determined according to Section 317 of the Act. Such debentures shall specify the interest rates prescribed by sections 317 and 303(b) of the Act, together with the dates between which each applies. With respect to payment of interest SBA shall have the same priority as applies to debentures purchased or guaranteed under section 303(b) of the Act.

(d) *Preferred Securities Leverage in Excess of 100 percent*—(1) *General.* Subject to the following restrictions, SBA is authorized to purchase preferred securities in amounts in excess of 100 percent of Private Capital, but not in excess of 200 percent of Private Capital:

(i) From any corporate section 301(d) Licensee licensed on or before October 13, 1971; or

(ii) From any corporate section 301(d) Licensee licensed after October 13, 1971, and having Private Capital of $500,000 or more. SBA has no authority to purchase preferred securities in excess of 100 percent of Private Capital from any corporate section 301(d) Licensee licensed after October 13, 1971, if the Private Capital of such Licensee is less than $500,000.

(2) *Qualified Investments.* In no event shall the amount of preferred securities purchased by SBA in excess of 100 percent of Private Capital exceed the amount of the Licensee's funds invested in, or legally committed to, Qualified Investments. As used herein, "Qualified Investments" means, subject to §§ 107.302 and 107.901, stock of any class (including preferred stock) or limited partnership interests in eligible small concerns, or shares of any eligible syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint venture for profit; or unsecured debt instruments which are subordinated by their terms to all other borrowings (as distinquished from all other debts and obligations) of the issuer.

(3) *Maintenance of Qualified Investment Portfolio.* Any Licensee that has sold preferred securities to SBA in excess of 100 percent of its Private Capital shall maintain its portfolio of Qualified Investments at not less than the amount of such preferred securities. If, as of the end of its fiscal year, the amount of such Licensee's Qualified Investments is less than the amount required by this paragraph (d)(3), of this section, the Licensee shall be deemed in violation of these regulations unless Licensee redeems promptly such excess securities, or unless SBA shall authorize temporarily a lesser amount of Qualified Investments. Such authorization may be granted in appropriate cases such as prepayment or revaluation of Qualified Investments.

(4) *Need for funds.* SBA may require any Licensee offering preferred securities in excess of 100 percent of its Private Capital to demonstrate a need for such funds.

(e) *SBA approval required to increase salaries.* Without prior written SBA approval, a section 301(d) Licensee may not increase the aggregate amount of salaries or other compensation of officers, directors, or employees beyond the amount previously approved by SBA. In applying this provision, compensation to officers, directors, or employees of a wholly-owned corporation shall be deemed paid by Licensee.

(f) *Exchange of outstanding debentures for Preferred Stock.* Subject to the conditions applicable to the issuance of preferred securities to SBA, a section 301(d) Licensee may, in SBA's discretion, retire debentures against issuance of preferred securities to SBA. A section 301(d) Licensee proposing to exchange its outstanding debentures shall be required to pay SBA all unpaid interest accruing to the date of the exchange.

(g) *State law.* SBA does not intend that provisions of this section not mandated by the Act shall supersede existing State law. Whenever a party claims that a conflict exists, it shall submit an opinion of independent counsel, citing authorities, for SBA's resolution of the issues involved.

5. Section 107.808 is amended as follows:

§ 107.808 Deposits and investment of Idle Funds.

Except as hereinafter set forth, all funds of a Licensee shall be deposited without delay in an account in a financial institution insured by the Federal Deposit Insurance Corporation (FDIC) or by the Federal Savings and Loan Insurance Corporation (FSLIC). Funds of a Licensee not invested in Small Concerns and not reasonably needed for its day-to-day operations shall be invested in (a) direct obligations of, or obligations guaranteed as to principal and interest by, the United States; or (b) in certificates of deposit maturing within one year or less, issued by an institution insured by the FDIC or FSLIC; or (c) deposited in a savings account subject to a withdrawal restriction not to exceed one year in any institution insured by the FDIC or FSLIC: *Provided, however,* That a Licensee may maintain a petty cash fund of up to $500.

(Catalog of Federal Domestic Assistance Program No. 59.011. Small Business Investment Companies)

Dated: July 26, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-23754 Filed 7-31-79; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 108

[Rev. 4; Amdt. 8]

Loans to State and Local Development Companies; Participation by Development Companies

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: In order to assist small business development, local development companies need community support to enable such companies to marshall the planning, economic, and financial capabilities of the community. Pursuant to recently enacted legislation, the Small Business Administration (SBA), by this regulation will expand the sources and amounts of community funds which may be injected into local development companies.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Alan B. Abraham, Financial Analyst, Neighborhood Business Revitalization, Small Business Administration, Washington, D.C. 20416, 202–653–6375.

SUPPLEMENTARY INFORMATION: Pub. L. 95–507, section 112 amended Section 502 of the Small Business Investment Act of 1958, as amended, by adding at the end of paragraph (4) thereof the following new sentence: "Community injection funds may be derived, in whole or in part, from (A) State or local governments; (B) banks or other financial institutions; (C) foundations or other not-for-profit institutions: or (D) a small business concern (or its owners, stockholders, or affiliates) receiving assistance through bodies authorized under this title."

On March 2, 1979, a notice of proposed rule making was published in the **Federal Register** (44 FR 11787), implementing the legislation by expanding the sources and amounts of community funds which may be injected into local development companies (LDC). Interested parties were given an opportunity to submit comments by May 2, 1979. The comments, while generally supportive of the regulation, expressed the need to clarify the circumstances under which a small business concern (SBC) may provide more than 25 percent of the LDC's injection. This rule adopts the regulation as proposed while clarifying such circumstances.

The regulation, as revised, states the circumstances under which an SBC may provide more than the previously authorized amount of the LDC's injection. For example, an SBC would be able to provide more than 25 percent of the development company's injection if the proposed project consists of four or more SBC's which are located in a target area, or in an area of socially and economically disadvantaged groups, or when the SBC's have been dislocated by Federal or State construction, urban renewal or similar activity.

The regulation also sets forth the conditions under which funds contributed or loaned by State or local governments, banks or other financial institutions, or SBC's (or their owner, stockholders, or affiliates) may be considered to be the LDC's paid-in capital. For example, such payments may not be conditioned on the granting of voting rights or stock options, among other things.

Accordingly, pursuant to authority contained in Section 308(c) of the Small Business Investment Act of 1958 (SBI Act), 15 U.S.C. 687, as amended Part 108 of Title 13, CFR, is amended as follows:

1. Section 108.502 is revised to read as follows:

§ 108.502 Statutory provisions.

The relevant statutory provisions will be found at 15 U.S.C. 696.

2. Section 108.502–1 is amended by redesignating present paragraph (e) as (e)(1) and adding new subparagraphs to read as follows:

§ 108.502–1 Section 502 loans.

* * * * *

(e) *Participation by the development company.* * * *

(2) Paid-in capital may also be derived, by way of example and not of limitation, from money contributed to the development company by State or local governments, banks or other financial institutions, or the small business concern (or its owners, stockholders or affiliates) receiving assistance from the local development company.

(3) Contributions or loans to a local development company from any source may not be conditioned on the granting of voting rights, stock options, or any other type of pecuniary interest in or control of the development company or the small business concern being assisted.

(4) A small business concern (its owners, stockholders, affiliates or associates) or anyone with pecuniary interest in the project may provide more than 25 percent of the development company's required injection provided that the development company, (i) has demonstrated a broad base of community participation and a depth of organization which assures continued operation, (ii) has participated in two or more projects and, (iii) is unable to raise funds from other sources. Upon compliance with these circumstances, a small business concern may provide up to 100 percent of the development company's injection. The local development company and the lender or SBA must determine that furnishing an increased share of the injection will not adversely affect the working capital position of such small business concern.

(5) A small business concern may also provide more than 25 percent of the development company's required injection when the development company's proposed project involves multiple small business concerns (four or more) which are located in a target area (neighborhood revitalization, etc.) or an area of socially and economically disadvantaged groups or when the small business concerns have been dislocated by Federal or State construction, urban renewal or similar causes.

Dated: July 25, 1979.

(Catalog of Domestic Assistance Programs No. 59.013 State and Local Development Company Loans)

A. Vernon Weaver

Administrator.

[FR Doc. 79–23755 Filed 7–31–79; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Big Cypress National Preserve, Florida; Establishment of Special Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The regulations set forth below are necessary to implement the provisions of the Act of October 11, 1974 (88 Stat. 1258, 16 U.S.C. 698f et seq.), establishing Big Cypress National Preserve. The Act requires the Secretary of the Interior to publish such rules and regulations as he deems necessary and appropriate to limit or control the use of Federal lands and waters with respect to: Motorized vehicles; exploration for and extraction of oil, gas, and other minerals; grazing; draining or constructing of works or structures which alter the natural water courses; agriculture; hunting, fishing, and trapping; new construction of any kind; and such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of the Act.

Since Congress provided that the above uses, nontraditional in units of the National Park System, may be permitted when they do not interfere with the natural and historic significance of the area, it is necessary to exempt Big Cypress National Preserve from many of the restrictions now imposed by the general regulations governing the operation and use of the National Park System. The publication of these special regulations will modify the application of the general regulations and eliminate any conflict between the administrative regulations found in Parts 1 through 6 of Title 36 of the Code of Federal Regulations and the Act of October 11, 1974 (88 Stat. 1258) establishing Big Cypress National Preserve.

These regulations do not address the benefits provided to the Miccosukee and Seminole Indian Tribes "to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve." These Tribal prerogatives, preserved by legislation, are currently under study and will be the subject of a separate Notice of Rulemaking.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Miele, Management Assistant, Everglades National Park, telephone: (305) 247–6211, Ext. 234 or Mr. Irvin L. Mortenson, Park Manager, Big Cypress National Preserve, telephone: (813) 262–1066.

Background

The Act of October 11, 1974 (88 Stat. 1258, 16 U.S.C. 698f et seq.), establishing the Big Cypress National Preserve provides in part, that "Such lands shall be administered * * * in a manner which will assure their natural and ecological integrity in perpetuity in accordance with the provisions of this Act, and with the provisions of the Act of August 25, 1916 * * *". Section 4(b) of the Act, requires, in pertinent part, that the Secretary shall publish such other rules and regulations as he deems necessary and appropriate to limit or control the use of Federal lands and waters with respect to:

(1) Motorized vehicles.

(2) Exploration for and extraction of oil, gas, and other minerals.

(3) Grazing.

(4) Draining or constructing of works or structures which alter the natural water courses.

(5) Agriculture.

(6) Hunting, fishing, and trapping.

(7) New construction of any kind.

(8) Such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of the Act.

Lands managed by the National Park Service are subject to the relevant provisions of Title 16 of the United States Code and Title 36 of the Code of Federal Regulations. The regulations contained in Chapter One of Title 36 of the Code of Federal Regulations prescribe conditions for the proper use, management, and protection of the National Park System. The "general regulations" contained in Parts 1 through 6 and 8 through 10 of Chapter One apply to the federally owned or controlled lands within the Big Cypress National Preserve by virtue of its being part of the National Park System. Certain general regulations are inconsistent with the requirements of the Act of October 11, 1974, relating to hunting, off-road vehicle use and certain special resource uses such as the exploration and extraction of oil, gas and other minerals, grazing and agriculture. In addition, certain general regulations appear inappropriate for the special access needs of persons using or traversing preserve lands. These special regulations will provide relief from or otherwise modify the restrictions now imposed by Parts 1 through 6 of Title 36 of the Code of Federal Regulations.

Public Participation

The National Park Service began active public involvement in the development of these special regulations in 1976 with the preparation of an environmental assessment. This assessment was prepared after numerous public workshops and the analysis of written and oral comments. On December 5 and 6, 1978, public meetings were held in Homestead and Naples, respectively. National Park Service personnel were available prior to, during and after the public meetings to receive comments and discuss the proposed regulations.

A Notice of Proposed Rulemaking was published on January 29, 1979 (44 FR 5660). This proposed rulemaking identified the scope and intent of the proposed regulations and invited public comments, suggestions or objections. The public comment period began on January 30, 1979, and ended on March 30, 1979. Comments received after the closing date were reviewed and are included in this summary.

The National Park Service received a total of 375 written and oral comments. In addition, two petitions were received containing 4,515 and 1,350 signatures, many of which were duplications. The Service acknowledged in writing comments from 45 State and Federal legislators, and 260 other individuals. Nine people wrote 40 letters to Congressional Representatives and the National Park Service. One person wrote 10, and another wrote six identical letters. Three other individuals wrote four identical letters, and four others wrote three identical letters. Numerous comments were received that were not relevant to the rulemaking process or did not comment on the regulations.

The following businesses, organized groups, associations, or government agencies submitted comments: Florida Trail Association, Inc., Coalition of Concerned Citizens for Big Cypress Preserve, Madison Terminal Corporation, Sunniland Pipe Line Company, Inc., Everglades Conservation and Sportsmen Club, Inc., Florida Wildlife Federation, Greater Miami Shell Club, Southern Everglades Coon Hunters and Conservation Association, Florida Audubon Society, Izaak Walton League, Collier Company, Royal Bees, Inc., Florida Game and Fresh Water Fish Commission, Unified Sportsmen of Florida, National Audubon Society, Florida Four Weel Drive Association, American Hiking Society, Airboat and Halftrack Conservation Club of Palm Beach County, The Wildlife Conservation League of Palm Beach County, and the Florida Department of Transportation.

Analysis of Comments and Modification of Proposed Regulations

The majority of the public comments received indicated a preference for a particular type of use or activity on preserve lands or recommended that all or most of the ongoing public activities within the preserve should be allowed to continue. Generally, these comments were limited to a general statement of support or opposition for a particular land management issue. A few of the public comments, however, were more detailed and provided a substantive analysis of the factors supporting a preferred approach. The National Park Service has carefully considered the comments received and has adopted several suggestions. The following is a brief overview of some of the comments received.

1. *Additional public hearings.* A petition containing 4,515 signatures was submitted by the Coalition of Concerned Citizens for the Big Cypress Preserve stating, "We the citizens wish to reopen the public hearings regarding the traditional use of camps, buggies, and the proposed rules and regulations regarding the Big Cypress Preserve."

The Act of October 11, 1974, establishing the Big Cypress National Preserve provides for some traditional uses of the preserve when they do not conflict with the natural and historic significance of the area. These uses were discussed at four public workshops between 1976 and 1978, and two public meetings. Both written and oral comments have been received. The Federal rulemaking process has been followed to allow the public ample opportunity to make and submit statements. Therefore, additional public hearings will not be held for the regulations as set forth below. However, the public will be afforded an opportunity to review and comment on future revisions or additions to these regulations.

2. *Preparation of an Environmental Impact Statement.* Twenty-six comments asked for the preparation of an Environmental Impact Statement. Most of these comments were directed toward the regulations causing an impact on the quality of the human environment.

The regulations and guidelines governing the preparation of Environmental Impact Statements (EIS) are found in Part 1500 of Title 40 of the Code of Federal Regulations. Section 1500.1 requires:

That all Federal agencies, to the fullest extent possible, direct their policies, plans and programs to protect and enhance environmental quality. Agencies are required to view their actions in a manner calculated to encourage productive and enjoyable harmony between man and his environment, to promote efforts preventing or eliminating damage to the environment and biosphere and stimulating the health and welfare of man, and to enrich the understanding of the ecological systems and natural resources important to the Nation. The objective of section 102(2)(C) of the Act and of these guidelines is to assist agencies in implementing these policies. This requires agencies to build into their decisionmaking process, beginning at the earliest possible point, an appropriate and careful consideration of the environmental aspects of proposed action in order that adverse environmental effects may be avoided or minimized and environmental quality previously lost may be restored.

The National Park Service began this rulemaking process in 1975. Since that

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time numerous studies, meetings and forums have been used in the preparation of an environmental assessment. The assessment considers the nature of the resources, available alternatives, their impacts, mitigating values, adverse effects, a description of the alternative selected as the proposed action, and additional considerations that provide a basis for the conclusion that an Environmental Statement is not needed. These special regulations are designed to avoid, minimize, or control adverse impacts and to restore environmental quality to Big Cypress National Preserve. Rather than introduce programs or activities that would result in undesirable environmental consequences, these regulations serve to control many of the previously unrestricted uses that were causing adverse environmental effects. Since economic and social effects are not intended by themselves to require an EIS and the environmental assessment process did not indicate significant environmental impact, an Environmental Impact Statement will not be prepared.

3. *Hunting.* Numerous comments were directed toward hunting activities. A petition containing 1,359 signatures asked that a Bob Cat, Fox, and Raccoon hunting season be established. The petition also requested a Deer hound training and conditioning season. Twenty-four persons asked to use dogs year-round. Three wanted raccoon hunting to be continued, and two wanted no trapping in the Preserve. One commenter wanted additional and stricter hunting regulations. One wanted the State to manage hunting while another thought that the State enforcement activities should be monitored. Five commenters wanted the allowance of tree stands, another wanted to restrict the use of firearms to hunting season only. Another commenter wanted to allow permanent residents the use of guns and dogs year-round.

In accordance with the Act of October 11, 1974, hunting and fishing regulations are developed in consultation between the National Park Service and the Florida Game and Fresh Water Fish Commission. There is a mutual agreement between the National Park Service and the Florida Game and Fresh Water Fish Commission to manage the preserve as a Cooperative Wildlife Management Area Unit governed by Florida Regulations 16E–802.

Public hearings are held annually and rules are published each season by the Florida Game and Fresh Water Fish Commission. The comments received by the public concerning hunting and fishing activities within the Wildlife Management Areas of the preserve are reviewed and considered by the two agencies prior to the development of annual hunting and fishing rules. By this method, hunting and fishing regulations can be addressed more flexibly and effectively under the agreement already in force with the Florida Game and Fresh Water Fish Commission.

4. *Snail Collection.* Ten commenters asked to collect tree snails (Liguus Fasciatus). Comments from three expert conchologists indicate that collecting snails in the preserve will not adversely affect the snail population. Some of these commenters also suggested a limit and a season, October 1 to May 31. Snail collecting has been discussed with the State and will be permitted under Game Management Area rules. Section 7.86(e) has been appropriately amended to authorize the gathering of snails.

5. *Hog Hunting.* Two commenters wanted hogs restocked or released. This request was not adopted as restocking exotic species is contrary to National Park Service policy.

6. *Motorized Vehicles.* Numerous comments were received relative to motorized vehicles. Sixty-six were against any limits on vehicles. Several of these included objections to proposal (3)(i)(C), which prohibited riding outside a motorized vehicle. Nine said that the present use of vehicles does not damage the preserve. Nine others wanted vehicles limited, and one said damage was apparent. One said that vehicle damage can't be helped while another said more detailed investigation is needed. Nineteen said that oil and gas exploratory vehicles cause the most damage. Four found the proposed regulations too vague. Fifty-one objected to paragraph (3)(i)(D) which prohibits the towing of a person on skiis, sleds, parachutes, etc. Fifteen objected to spark arrestors and lights. One did not want both Federal and State permits. One commenter wanted to add the words, "and removal" to paragraph (3)(i)(B) because they were not sure that the word "extraction" would include the removal of oil and gas after extraction. Two wanted the words "likely to cause" removed from paragraph (3)(i)(B). One wanted to mark trails for vehicles and close them alternatively each two years.

Some comments were directed to vehicle track and tire tread, weight and size restriction, etc. These comments were not pertinent to the proposal because sub-paragraph (3)(ii)(A) Vehicle Limitations and Equipment, has been reserved pending the result of research now in progress to determine if limitations are needed.

Several of the comments are adopted and changes have been made in the motorized vehicle regulations as follows:

The proposal (3)(i)(A) to require vehicle permits after December 21, 1979, has been changed to read, "December 31, 1980." This is due to the probability of not being able to implement the program of registering all vehicles before the next hunting season. The regulation is necessary to gather information on vehicles used in the preserve. Public notice will be given as to when and where permits will be available.

The proposal (3)(i)(B) has been changed to add the words, "and removal."

The proposal (3)(i)(C) has been deleted. The provisions of 36 CFR 4.14 provides for the prohibition of reckless or careless driving. This should provide adequate protection for vehicle passengers.

The proposal (3)(i)(D) is also deleted. These activities are found to be adequately regulated by provisions of 36 CFR 2.31 and 2.36.

The suggestion to delete the words, "or likely to cause" from subparagraph (3)(i)(B) was not adopted. This wording is necessary to comply with the provisions of E.O. 11644, as amended, to prevent damage from occurring to public lands.

The wording of subparagraph (2)(ii) has been changed to read, "Areas closed to motorized vehicles." Several commented that the previously proposed reading was confusing and misleading. The new wording does not change the meaning of the regulation.

The suggestion to withdraw the requirement of spark arrestors was not adopted because this regulation *may* be required during dry periods to prevent fires. The only other alternative would be to close the area to motorized vehicles during very high fire danger periods.

The comments suggesting the deletion of the requirement of lights on motorized vehicles was not adopted in the interest of safety.

Nineteen comments addressed damage caused by oil and gas exploratory vehicles. These activities are covered by 36 CFR Chapter I, Part 9, which became effective January 9, 1979. These regulations adequately control such activities.

Numerous comments were received concerning the regulations which allow the Superintendent to temporarily or permanently close an area. One wanted any closure to be on a need basis. Six wanted to remove the broad language originally proposed in (2)(i)(D). One wanted a 90-day public notice and comment period. Three wanted more specific timeframes on temporary or permanent closing. Fourteen wanted the Superintendent to cousult with the Florida Game and Fresh Water Fish Commission before closing an area. Four wanted more public hearings on closures, while two protested the hearings. Three concurred with the closed areas. Eight wanted more protection for the Florida Trail; one wanted more specific crossing of the Florida Trail.

The comments relating to consultation with the State on closures are adopted. Subparagraph (2)(i)(D) has been changed to (2)(iii) and provides for consultation with the Execution Director, Florida Game and Fresh Water Fish Commission on both temporary and permanent closures.

Provisions of (2)(iii) insures that any closure will be made only on an as needed basis, therefore, no change is necessary to satisfy the comments relating to this subject.

The six comments suggesting removal of the broad language in (2)(i)(D) as originally proposed were not adopted. New subparagraph (2)(iii) is quite explicit as to how a determination must be made in order to close an area either temporarily or permanently. Also the Superintendent is required to consider all factors to conform with the criteria of E.O. 11644 (37 FR 2877), as amended.

The comment asking for a 90-day public notice and comment period was not adopted. Except where another statute requires a longer notice, the public will be given a minimum of 30 calendar days to comment on legislative rules as provided in 43 CFR Part 14. Even though a minimum 30-day period is prescribed, the National Park Service occasionally provides for a 60-day period for comments. The benefits to public participation which might be gained by extending the normal comment period would be offset by the delay and public uncertainty which a longer period would entail.

The comments concerning more specific timeframes for temporary closures were not adopted. It is not feasible to establish a timeframe because the nature of emergencies varies widely. The regulation on closures provides for consultation with the Executive Director of the Florida Game and Fresh Water Fish Commission, compliance with E.O. 11644, as amended, and a published notice for permanent closures, thereby assuring protection against arbitrary action by the National Park Service.

The comments requesting greater protection and more specific crossings for the Florida Trail have not been adopted. If it is demonstrated that further protection appears necessary, this need can be addressed in later amendments to these rules.

Two individuals and two sportsmen groups wanted the Loop area left open to motorized vehicles. Five conservation groups want it closed. The reason for the closing the area between the Loop Road (State Road 94) and the Tamiami Trail (U.S. Highway 41) to motorized vehicles is that both of these groups representing a number of individuals have expressed their interest in having part of the Big Cypress maintained as a pristine area for hikers and still hunters, free from the presence of dogs and recreational vehicles. This is a fragile, natural area that represents less then ten percent of the preserve. Preserving it for a large number of users interested in these pursuits is considered a reasonable response. Therefore, no change has been made in the regulation (2)(ii).

7. *Camps.* Fifteen commenters want to continue use of camps on property not owned by the camp owners. Three wanted them to be subject to a 25-year or life tenure as provided in the Act for exempt property. One wanted a five-year permit. Two agreed with the phase out rules as proposed.

Since the Act did not provide for the retention of camps on lands owned by the Federal Government, the phase-out procedure provides the most equitable solution. Therefore, only minor clarifying changes were made in (b) Camp Structures.

8. *Aircraft: Designated Landing Sites.* Three commenters wanted airstrips to remain. Four wanted them regulated by the Federal Aviation Administration (FAA). Two wanted the airstrips to be subject to the same cut-off dates as camps.

The National Park Service believes that the airstrips provide a valid low impact method of access to those persons holding camp permits. Therefore, in the majority of cases the permits for airstrip use will be subject to the same cutoff date as the permit for the use and occupancy of camp structures. The FAA does not license or regulate private airstrips. Therefore, no change is made in (c)(1). Three commenters wanted to allow the use of helicopters for all preserve users. Helicopters are considered in the same category as other aircraft and can be used at permitted airstrips in the same manner as fixed wing aircraft.

9. *Watershed Protection.* Two commenters stated that more monitoring of the water was needed. This is currently being done by the National Park Service. Five commenters wanted the Turner River and Alligator Alley Canals dammed. These comments cannot be reduced to regulations. Before considering any proposal to alter existing water flows, the Service will need additional research in excess of the present levels.

Remedial action is planned on the I–75 problem. The Florida Department of Transportation (FDOT) has received approval to locate the future extension of I–75 across south Florida by upgrading the present Alligator Alley (SR 84). They recognize the deficiencies in the structural design of Alligator Alley which has served to inhibit natural sheetlow drainage in this area of Florida. Accordingly, corridor location approval for this section of I–75 was granted by the Federal Highway Administration subject to a concurrent commitment by FDOT to correct those drainage deficiencies.The objective is to restore, as nearly as practical, natural drainage and water distribution patterns to the north and south of the roadway. Further consideration of Watershed Protection will be discussed when the reserved section (d)(1) is proposed.

Two commenters wanted a ban on the use of agricultural chemicals in the preserve. There are no large scale agricultural pursuits within the preserve. Graziers have to comply with a range management plan which does not allow the use of agricultural chemicals. Therefore, until research indicates that there is a need for regulation, (d)(1) will remain (Reserved) and (d)(2) will remain unchanged.

10. *Grazing.* Two commenters wanted to restrict the area to that being presently grazed. This is being done and no expansion will be permitted. One commenter wanted to ban the use of agricultural chemicals by graziers. This also is done under the range improvement plan which is required by the grazing permit. Therefore, no changes were made in (f) Grazing.

11. *Firefighting Plows.* Five commented on the damage done by firefighting, especially by the large plows that are used by the Florida Forest Service. The National Park Service does not use plows or bulldozers for fire control and has requested that the State refrain from this practice within the preserve. A regulation is not needed to control this activity.

12. *Exotic plants.* Two persons wanted camp permittees to remove exotic plants, and one wanted the

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National Park Service to remove them. It is Park Service policy to remove exotic species. The National Park Service has an on-going research program to study the best methods of removing them. It is known that improper removal of some exotics can lead to their uncontrollable spread. Therefore, no action is comtemplated pending the outcome of the study.

13. *Future Rulemaking.* Two commenters wanted notices of proposed rulemaking to be published in the local newspapers. In addition to publishing notices of intent to propose rulemaking in the **Federal Register**, the National Park Service also sends press releases to the local newpapers, directly notifies interested parties, including State and local governments, and holds open conferences (workshops) or public hearings. Any future need for regulations will also follow this process.

14. *Agriculture.* Two commenters wanted beekeeping permits. Permits would be available only to beekeepers who can demonstrate a legal former use. Since there is no basis for permits at this time, a regulation is not needed.

Native American Rights

The regulations do not address the benefits provided to the Miccosukee and Seminole Indian Tribes by the Big Cypress Preserve Establishment Act (16 U.S.C. 698f et. seq., 88 Stat. 1258). The Act provides that members of the Seminole Tribe of Florida shall be permitted, subject to reasonable regulations established by the Secretary, to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve, including hunting, fishing and trapping on a subsistence basis and traditional tribal ceremonies. These Tribal prerogatives, preserved by legislation, are now under study and will be the subject of a separate notice of rulemaking.

Drafting Information

The following National Park Service personnel were the primary authors of these regulations: John M. Good, Superintendent, Everglades National Park; Jack E. Stark, former Superintendent, Everglades National Park; Claude W. McClain, Assistant Superintendent, Everglades National Park; Ralph E. Miele, Management Assistant, Everglades National Park; Irvin L. Mortenson, Park Manager, Big Cypress National Preserve; and Michael V. Finley, Division of Ranger Activities and Protection, Washington, D.C.

Impact Analysis

The National Park Service has determined that these rules are not significant and do not require a regulatory analysis under Executive Order 12044; nor is it a major Federal action significantly affecting the quality of the human environment which would require preparation of an Environmental Impact Statement.

The regulations will limit and control certain activities which heretofore have been unrestricted and, since they will phase out some adverse uses of the preserve lands, they have little potential for causing a significant environmental impact.

An Environmental Assessment and Review of the Assessment are on file and available for inspection upon request at the Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Georgia 30349, and at the Superintendent's Office, Headquarters Building, Everglades National Park.

The assessment considers the nature of the resources, available alternatives, their impacts, mitigating values, adverse effects, a description of the alternative selected as the proposed action, and additional considerations that provide a basis for the conclusion that an Environmental Statement is not needed.

Effective Date

The regulations found in 36 CFR Parts 1 through 4 currently prohibit the landing of aircraft and the use of offroad vehicles in Big Cypress National Preserve. In order to provide relief from these restrictions and to adequately provide public safety, the National Park Service had determined that immediate implementation of these regulations is necessary. Therefore it is deemed both unnecessary and contrary to the public interest to delay the effective date for 30 days after this publication.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. 3); Act of October 11, 1974 (88 Stat. 1260, 16 U.S.C. 698i); 245 DM (27 FR 6395) as amended; National Park Service Order No. 77 (38 FR 7478, as amended).

Daniel J. Tobin, Jr.,

Associate Director, Management and Operations.

In consideration of the foregoing, Part 7 of Title 36 of the Code of Federal Regulations is amended by the addition of a new § 7.86 to read as follows:

§ 7.86 Big Cypress National Preserve.

(a) *Motorized Vehicles*—(1) *Definitions.* (i) The term "motorized vehicle" means automobiles, trucks, glades or swamp buggies, airboats, amphibious or air cushion vehicles or any other device propelled by a motor and designed, modified for or capable of cross country travel on or immediately over land, water, marsh, swampland or other terrain, except boats which are driven by a propeller in the water.

(ii) The term "operator" means any person who operates, drives, controls or has charge of a motorized vehicle.

(iii) The term "Preserve lands" means all federally owned or controlled lands and waters administered by the National Park Service within the boundaries of the Preserve.

(2) *Travel in Preserve areas.* (i) Unless closed or restricted by action of the Superintendent under sub-paragraph (iii), the following areas, which are shown on a map numbered BC–91–001, dated November 1975, and available for public inspection at the office of the Superintendent, are open to motorized vehicles:

(A) The area south and west of Loop Road (State Road #94)

(B) The area north of Tamiami Trail.

(ii) The following areas which are shown on a map numbered BC–91–001, dated November 1975, and available for public inspection at the office of the Superintendent, are closed to motorized vehicles:

(A) The areas between the Loop Road (State Hwy. #94) and the Tamiami Trail (U.S. Hwy. #41), except that the Superintendent may issue a permit to provide for reasonable access by legal residents or to provide access by authorized oil and gas companies.

(B) Big Cypress Florida Trail, Section 1, One marked main hiking trail, from Tamiami Trail to Alligator Alley; and the two marked loop trails are closed to the use of all motorized vehicles, except that vehicles may cross the trails.

(iii) The Superintendent may temporarily or permanently close or restrict the use of any areas and routes otherwise designated for use of motor vehicles, or close or restrict such areas or routes to the use of particular types of motor vehicles by the posting of appropriate signs, or by marking on a map which shall be available for public inspection at the office of the Superintendent, or both. In determining whether to close or restrict the uses of the areas or routes under this paragraph, the Superintendent shall be guided by the criteria contained in Sections 3 and 4 of E.O. 11644 (37 FR 2877) as amended, and shall also consider factors such as

other visitor uses, safety, wildlife management, noise, erosion, geography, vegetation, resource protection, and other management considerations. Prior to making a temporary or permanent closure the Superintendent shall consult with the executive director of the Florida Game and Fresh Water Fish Commission. Prior to instituting a permanent closure of an area or route, notice of such intention shall be published in the **Federal Register** and the public shall be provided a period of 30 days to comment.

(3) *Operations, Limitations and Equipment.*—(i) *Vehicle operation.* (A) Motorized vehicle permits shall be required after December 21, 1980.

(B) Motorized vehicles shall not be operated in a manner causing, or likely to cause, significant damage to or disturbance of the soil, wildlife habitat, improvements, cultural, or vegetative resources. Cutting, grading, filling or ditching to establish new trails or to improve old trails is prohibited, except under written permit where necessary in the exploration for, extraction or removal of oil and gas.

(ii) Vehicle Limitations and Equipment.

(A) [Reserved]

(B) The Superintendent, by the posting of appropriate signs or by marking on a map, which shall be available for public inspection at the office of the Superintendent, may require during dry periods, that a motorized vehicle or a particular class of motorized vehicle, operated off established roads and parking areas, shall be equipped with a spark arrestor that meets Standard 5100–1a of the Forest Service, U.S. Department of Agriculture, or the 80 percent efficiency level when determined by the appropriate Society of Automotive Engineers (SAE) Standard.

(C) A motorized vehicle, except an airboat, when operated off of established roads and parking areas during the period from one-half hour after sunset to one-half hour before sunrise, shall display at least one forward-facing white headlight and one red lighted taillight each of which shall be visible for a distance of 500 feet in their respective directions under clear atmospheric conditions.

(D) Airboats and amphibious vehicles shall fly a safety flag at least 10 inches wide by 12 inches long at a minimum height of 10 feet above the bottom of the vehicle or boat, and shall display one white light aft visible for 360° at a distance of 500 feet when running during the period from one-half hour before sunset to one-half hour after sunrise.

(b) *Camp Structures.* (1) Buildings or other structures on lands not owned by claimants to these structures existing prior to the effective date of these regulations, may be occupied and used by said claimants pursuant to a nonrenewable, nontransferrable permit. This use shall be for a maximum term of five (5) years from the date of Federal acquisition for preserve purposes of the land upon which the structures are situated or five years from the effective date of these regulations, whichever occurs first: *Provided, however,* That the claimant to the structures by application:

(i) Reasonably demonstrates by affadivit, bill of sale or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(ii) Submits a sketch and photograph of the cabin or structure and a map showing its geographic location;

(iii) Agrees to vacate or remove the structure from the preserve upon the expiration of the permit, and

(iv) Acknowledges in the permit that he/she has no interest in the real property.

(2) Structures built after the effective date of these regulations will be removed upon acquisition by the Federal Government of the lands upon which the structures are situated.

(3) Structures that are razed or destroyed by fire or storm, or deteriorate structurally to the point of being unsafe or uninhabitable shall not be rebuilt and the permit shall be cancelled. This shall not be deemed to prohibit routine maintenance or upkeep on an existing structure.

(4) The National Park Service reserves the right to full and unrestricted use of the lands under permit including, but not limited to, such purposes as managed hunting programs executed in accordance with applicable State Game and Fish laws and regulations, use of existing roads and trails, and unrestricted public access.

(c) *Aircraft: Designated Landing Sites.* (1) Except as provided below, aircraft may be landed in the preserve only at improved landing strips for which a permit has been issued and which were in existence and in usable condition at the time the lands were acquired for preserve purposes, or the effective date of these regulations, whichever occurs first. A permit may be issued to the former land owner or airstrip user upon application to the Superintendent. The application shall include a sketch showing location; a copy of the airstrip license, if any; a description of the size of strip, type of landing surface, height of obstructions, special markings; and a list of the camps served.

(2) A map showing the locations, size, and limitations of each airstrip designated under a permit shall be available for public inspection at the office of the Superintendent.

(3) Rotorcraft used for purposes of oil and gas exploration or extraction, as provided for in Part 9 Subpart B of this chapter, may be operated only in accordance with an approved operating plan or a permit issued by the Superintendent.

(d) *Watershed Protection.* (1) [Reserved]

(2) The provisions of all Federal and Florida statutes pertaining to protection of waters and watersheds are applicable to the lands and waters of the Preserve.

(e) *Hunting, Fishing, Trapping and Gathering.* (1) Hunting, fishing and trapping are permitted in accordance with the general regulations found in Parts 1 and 2 of this chapter and applicable Florida law governing Cooperative Wildlife Management Areas.

(2) The Superintendent may permit the gathering or collecting by hand and for personal use only of the following:

(i) Tree snails (Liguus Fasciatus)

(ii) [Reserved]

Provided, however, That under conditions where it is found that significant adverse impact on park resources, wildlife populations or visitor enjoyment of resources will result, the Superintendent shall prohibit the gathering, or otherwise restrict the collecting of these items. Portions of a park area in which restrictions apply shall be designated on a map which shall be available for public inspection at the office of the Superintendent, or by the posting of appropriate signs, or both.

(f) *Grazing.* (1) Grazing privileges shall be available under permit to owners or lessees who were actually using land within the Preserve for grazing purposes on October 11, 1974, or who elected to request a permit at the time the land was acquired for preserve purposes (See 36 CFR 5.16).

(2) Such permit may be renewed during the lifetime of the permittee or his spouse.

(3) The breach of any of the terms or conditions of the permit or the regulations applicable thereto shall be grounds for termination, suspension or denial of grazing privileges.

(4) Except as provided below, failure to use land under permit for grazing or to renew the permit shall automatically terminate the permit and grazing privileges. The Superintendent may issue a nonuse permit on an annual

basis not to exceed three consecutive years, except that nonuse beyond this time may be permitted if necessitated by reasons clearly outside the control of the permittee.

(5) Annual fees based on Departmental regulations (43 CFR 4125.1–1 (m)) will be charged for all livestock grazing upon preserve lands.

(6) Each permittee shall comply with the range management plan approved by the Superintendent for the area under permit.

(7) State laws and regulations relating to fencing, sanitation and branding are applicable to graziers using preserve lands.

(8) The National Park Service reserves the right to full and unrestricted use of the lands under permit including, but not limited to, such purposes as managed hunting programs executed in accordance with applicable State Game and Fish laws and regulations, use of existing roads and trails, unrestricted public access, and the right to revoke the permit if the activity is causing or will cause considerable adverse effect on the soil, vegetation, watershed or wildlife habitat.

(9) Corporations formed by owners or lessees who were actually using lands within the preserve for grazing purposes on October 11, 1974, may be issued annual permits for a period not to exceed twenty-five (25) years from the date of acquisition for preserve purposes.

[FR Doc. 79-23818 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-70-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 304

Cost of Living Adjustment for Compulsory Royalty Rates Paid by Non-Commercial Broadcasting

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Tribunal announces that the cost of living adjustment to be applied to the compulsory royalty rates paid by non-commercial broadcasting for the use of certain copyrighted works is 10.8%.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT: Douglas Coulter, Chairman, Copyright Royalty Tribunal, 202–653–5175.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 8, 1978 (43 FR 25068) the Copyright Royalty Tribunal published a final rule announcing the terms and rates of royalty payments to be paid by non-commercial broadcasting for the use of certain copyrighted works. In that rule § 304.10 stated that:

(a) On August 1, 1979 the CRT shall publish in the **Federal Register** a notice of the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) from the first Index published subsequent to the effective date of this schedule of royalty payments to the last Index published prior to August 1, 1979.

(b) On the same date of the notices published pursuant to paragraph (a), the CRT shall publish in the **Federal Register** a revised schedule of rates which shall adjust those royalty amounts established in dollar amounts according to the change in the cost of living determined as provided in paragraph (a). Such royalty rates shall be fixed at the nearest dollar.

(c) The adjusted schedule of rates shall become effective thirty days after publication in the **Federal Register.**

Accordingly, it is announced that the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) from the first Index published subsequent to June 8, 1978 to the last Index published prior to August 1, 1979, is 10.8%. (Last year's May Index was published June 30, 1979 and was 193.3; and this year's May Index was published June 26, 1979 and was 214.1.) The rates published in the **Federal Register** on June 8, 1978 (43 FR 25068) are revised as shown below.

37 CFR Part 304 is amended as follows:

§ 304.3 [Amended]

1. Section 304.3(a) is amended by deleting the figure "$1,250,000" and inserting "$1,385,000."

2. Section 304.3(d) is amended by deleting the figure "$4,000" and inserting "$4,432."

§ 304.4 [Amended]

3. Section 304.4(a) is amended by deleting the paragraph containing dollar amounts and inserting the following:

For the performance of such a work in a feature presentation of PBS	$111
For the performance of such a work as background or theme music in a PBS program	28
For the performance of such a work in a feature presentation of NPR	11
For the performance of such a work as background or theme music in a NPR program	3
For the performance of such a work in a feature presentation of a station of PBS	39
For the performance of such a work as background or theme music in a program of a station of PBS	11
For the performance of such a work in a feature presentation of a station of NPR	6
For the performance of such a work as background or theme music in a program of a station of NPR	2

§ 304.5 [Amended]

4. Section 304.5(c) is amended by deleting the paragraphs containing dollar amounts and inserting the following:

For all such compositions in the repertory of ASCAP, annually	$100
For all such compositions in the repertory of BMI, annually	100
For all such compositions in the repertory of SESAC, annually	22
For the performance of any other such composition	1

§ 304.6 [Amended]

5(a). Section 304.6(c)(1) is amended by deleting the paragraphs containing dollar amounts and inserting the following:

For all such compositions in the repertory of ASCAP, annually	$200
For all such compositions in the repertory of BMI, annually	200
For all such compositions in the repertory of SESAC	45
For the performance of any other such composition	1

(b) Section 304.6(c)(2) is amended by deleting the paragraphs containing dollar amounts and inserting the following:

For all such compositions in the repertory of ASCAP, annually	$500
For all such compositions in the repertory of BMI, annually	500
For the performance of any other such composition	1

6. In § 304.7(b)(1)–(4) the paragraphs containing the dollar amounts are deleted and the following inserted in lieu:

§ 304.7 Recording rights, rates and terms.

* * * * *

(b) *Royalty rate.*

(1) * * *

Feature	$55.00
Feature (concert) (per minute)	17.00
Background	26.00
Theme: Single program or first series program	28.00
Other series program	11.00

(2) * * *

Feature	$11.00
Feature (concert) (per ½ hour)	17.00
Background and theme	3.00

(3) * * *

Feature	$22.00
Feature (concert) (per minute)	6.00
Background	11.00
Theme: Single program or first series program	11.00
Other series program	6.00

(4) * * *

Feature	$6.00
Feature (concert) (per ½ hour)	6.00
Background and theme	2.00

* * * * *

7. Section 304.8(b)(1) is revised to read as follows:

§ 304.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.

* * * * *

(b) *Royalty rate.* (1) The following schedule of rates shall apply to the use of works within the scope of this section:

For such uses in a PBS distributed program:

For a feature display of a work	$33
For background and montage display	17
For use of a work for program identification or for thematic use	66
For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule	22

For such uses in other than PBS distributed programs:

For a featured display of a work	$22
For background and montage display	11
For use of a work for program identification or for thematic use	45
For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule	11

* * * * *

Douglas Coulter,

Chairman, Copyright Royalty Tribunal.

[FR Doc. 79-23727 Filed 7-31-79; 8:45 am]

BILLING CODE 1410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1

[FRL 1276-1]

Statement of Organization and General Information; Amendment

Correction

In FR Doc. 79–22229 appearing on page 41778 in the issue of July 18, 1979, in the third column, the amendment for § 1.25 should read as follows:

§ 1.25 [Amended]

In Subpart B, § 1.25(c) is amended by changing "Office of Federal Activities" to the "Office of Environmental Review".

BILLING CODE 1505-01-M

40 CFR Part 162

[FRL 1264-8; OPP-30017C]

Regulations for the Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act; Pesticide Use Restrictions

AGENCY: Environmental Protection Agency, Office of Pesticide Programs.

ACTION: Final rule.

SUMMARY: This final rule amends 40 CFR 162.31 by adding certain uses of additional active ingredients which the Agency has classified for restricted use under the optional procedures of 40 CFR 162.30.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Walter Waldrop (TS–770), Office of Pesticide Programs, Environmental Protection Agency, 499 South Capitol Street, S.W., Marfair Building, 3rd Floor, Washington, D.C. 20460 (202–472–9403).

SUPPLEMENTAL INFORMATION: On January 9, 1979, notice was published in the **Federal Register** (44 FR 1991) of a proposal to amend 40 CFR 162.31 by adding certain uses of additional active ingredients which the Agency proposed to classify for restricted use under the optional procedures of 40 CFR 162.30. The purpose of that notice was to notify the public and solicit comments on the proposed use restrictions.

It is important to note that this regulation only classifies uses for restricted use. If a use is not classified for restricted use by this regulation, it does not mean that it is classified for general use under Section 3 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA); it merely means that the use has not yet been classified for either general use or restricted use. The Agency is not classifying uses for general use by regulation primarily because such a decision requires an evaluation of chronic data. Review of chronic data has not been a part of classification by regulation since much of that data has yet to be generated and submitted to the Agency.

The Agency has also indicated that certain uses and/or formulations are "under evaluation". It has applied this term to those uses/formulations that are still under active review for purposes of classification by regulation. The practical effect of a use/formulation being designated "under evaluation" is the same as that of "unclassified", i.e. such use/formulation will still be generally available to all consumers. Further, any use/formulation that is "under evaluation" would require no action on the part of any potentially affected registrant. A final classification determination of those uses/formulations which are "under evaluation" *may* be made through these optional classification-by-regulation procedures or may be deferred until the time of reregistration.

Any product use classified for restricted use under these regulations is limited to use by or under the direct supervision of a certified applicator.

Registrants of pesticide products with uses classified for restricted use by this final rule must comply with the requirements of 40 CFR 162.30 within the deadlines specified in those regulations.

Four public comments were received on the proposed regulation. Two comments were of a general nature and two comments related to specific proposed restricted use classification decisions. One general comment was from the United States Department of the Interior and expressed agreement with the proposed restrictions; the second general comment urged additional requirements for applicators pertaining to recordkeeping and liability insurance. One comment concerning a specific classification decision objected to the proposed restriction of the granular formulation of carbofuran for use on rice. In summary, the registrant cited an absence of reported incidents as support for not classifying the rice use as restricted. However, the Agency has reviewed certain other data that shows that field mortality of both aquatic and avian organisms has occurred from the use of carbofuran in rice fields. Therefore, in order to afford the registrant an opportunity to review and comment on this other data, the Agency is reproposing the classification for restricted use of the carbofuran use on rice in the proposed regulation that is being issued simultaneously with this final regulation. The second comment concerning a specific classification decision objected to the proposed restriction of the indoor (greenhouse) uses of endosulfan. Independent of this objection the Agency has decided to withdraw all proposed endosulfan restrictions because studies are currently under consideration relating to the ability of test animals to metabolize endosulfan. This may result in changes in some of the proposed restrictions since many of these restrictions are

based on residues expected to be found in mammalian feed. Since these studies potentially may pertain to a large number of products, the Agency determined that it was appropriate to withdraw all the proposed endosulfan restrictions and to evaluate the test results before making a final decision. Any uses of endosulfan that warrant restriction will be re-proposed at a later date.

Regulatory Analysis

The Agency has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under Executive Order 12044.

Evaluation Plan

Section 2(d)(8) of Executive Order 12044 requires that each new significant regulation have a plan for evaluating its effectiveness. All restricted use classification decisions promulgated under this final rulemaking will be reviewed by the Agency at the time of reregistration as part of the overall risk-benefit analysis to be undertaken at that time. For a discussion of the difference between that overall risk-benefit analysis, and the incremental risk-benefit analysis performed under the Optional Procedures of 40 CFR 162.30, see the preamble to the Optional Procedures at 42 FR 44170.

Statutory Review

The U.S. Department of Agriculture has reviewed the final regulation in accordance with Section 25(a) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and concurs with its publication in the **Federal Register.** The FIFRA Scientific Advisory Panel reviewed the final regulation in accordance with Section 25(d) of FIFRA and unanimously concurred with its publication in the **Federal Register.**

(Secs. 3, 25(a), Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 136 et seq.))

Dated: July 26, 1979.

Barbara Blum,

Administrator.

Section 162.31 is amended by alphabetically inserting the following items in the table and by revising the word "Classification" in the table heading to read "Classification [2]" as follows:

§ 162.31 Pesticide use classification.

The following uses of pesticide products containing the active ingredients specified below have been classified for restricted use and are limited to use by or under the direct supervision of a certified applicator.

Active ingredient	Formulation	Use pattern	Classification [1]	Criteria influencing restriction
•	•	•	•	•
Carbofuran	All concentrate suspensions and wettable powders 40% and greater.	All uses	Restricted	Acute inhalation toxicity.
	All granular formulations	Rice	Under evaluation	
	All granular and fertilizer formulations	All uses except rice	Under evaluation	
Chlorfenvinphos	All concentrate solutions or emulsifiable concentrates 21% and greater.	All uses (domestic and non-domestic)	Restricted	Acute dermal toxicity.
Clonitralid	All wettable powders 70% and greater	All uses	Restricted	Acute inhalation toxicity.
	All granulars and wettable powders	Molluscide uses	Restricted	Effects on aquatic organisms.
	Pressurized sprays 0.55% and less	Hospital antiseptics	Unclassified	
•	•	•	•	•
Dioxathion	All concentrate solutions or emulsifiable concentrates [2] greater than 30%.	All uses	Restricted	Acute dermal toxicity.
	Concentrate solutions or emulsifiable concentrates [2] 30% and less and wettable powders 25% and less.	Livestock and Agricultural uses (non-domestic uses only).	Unclassified	
	All solutions [2] 3% and greater	Domestic uses	Restricted	Acute dermal toxicity.
	2.5% solution [2] with toxaphene and malathion	All uses	Under evaluation	
Disulfoton	All emulsifiable concentrates 65% and greater, all emulsifiable concentrates and concentrate solutions 21% and greater with fensulfothion 43% and greater, all emulsifiable concentrates 32% and greater in combination with 32% fensulfothion and greater.	All uses	Restricted	Acute dermal toxicity. Acute inhalation toxicity.
	Non-aqueous solution 95% and greater	Commercial seed treatment	Restricted	Acute dermal toxicity.
	Granular formulations 10% and greater	Indoor uses (greenhouse)	Restricted	Acute inhalation toxicity.
	All granular and fertilizer formulations including cartridge injection.	All uses except indoor greenhouses	Under evaluation	
•	•	•	•	•
Ethoprop	Emulsifiable concentrates 40% and greater	All uses	Restricted	Acute dermal toxicity.
	All granular and fertilizer formulations	All uses	Under evaluation	
•	•	•	•	•
Fenamiphos	Emulsifiable concentrates 35% and greater	All uses	Restricted	Acute dermal toxicity.
	All granular formulations	All uses	Under evaluation	
Fensulfothion	Concentrate solutions 63% and greater, all emulsifiable concentrates and concentrate solutions 43% and greater with disulfoton 21% and greater, all emulsifiable concentrates 32% and greater in combination with disulfoton 32% and greater.	All uses	Restricted	Acute dermal toxicity. Acute inhalation toxicity.
	Granular formulations 10% and greater	Indoor uses (greenhouse)	Restricted	Acute inhalation toxicity.
	All granular and fertilizer formulations	All uses except indoor greenhouses	Under evaluation	
•	•	•	•	•
Fonofos	Emulsifiable concentrates 44% and greater	All uses	Restricted	Acute dermal toxicity.
	Emulsifiable concentrates 12.6% and less with pebulate 50.3% and less.	Tobacco	Unclassified	
	All granular and fertilizer formulations	All uses	Under evaluation	
•	•	•	•	•
Monocrotophos	Liquid formulations 19% and greater	All uses	Restricted	Residue effects on avian species. Residue effects on mammalian species.

Active ingredient	Formulation	Use pattern	Classification [1]	Criteria influencing restriction
	Liquid formulations 55% and greater	All uses	Restricted	Acute dermal toxicity. Residue effects on avian species. Residue effects on mammalian species.
•	•	•	•	•
Phorate	Liquid formulations 65% and greater	All uses	Restricted	Acute dermal toxicity. Residue effects on avian species (applies to foliar applications only). Residue effects on mammalian species (applies to foliar application only).
	All granular formulations	Rice	Restricted	Effects on aquatic organisms.
	All granular and fertilizer formulations	All uses except rice	Under evaluation	
Phosacetim	Baits 0.1% and greater	All uses	Restricted	Hazard to non-target species. Residues effects on mammalian species. Residue effects on avian species.
Phosphamidon	Liquid formulations 75% and greater	All uses	Restricted	Acute dermal toxicity. Residue effects on mammalian species. Residue effects on avian species.
	Dust formulations 1.5% and greater	All uses	Restricted	Residue effects on avian species. Residue effects on mammalian species.
•	•	•	•	•

[1] "Under evaluation" means no classification decision has been made and the use/formulation in question is still under active review within EPA.
[2] Percentages given are the total of dioxathion plus related compounds.

[FR Doc. 79-23613 Filed 7-31-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5675

[ES-2430]

Arkansas; Public Land Order 4228; Correction

AGENCY: Bureau of Land Management (Interior).

ACTION: To correct final rule.

SUMMARY: Public Land Order 4228 of June 14, 1967, which erroneously excluded certain lands from the Ouachita National Forest is corrected insofar as it affects section 30, T. 1 N., R. 19 W., and section 17, T. 1 S., R. 19 W., Fifth Principal Meridian, Arkansas.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Jeff O. Holdren (301) 427-7373.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

The description of the lands appearing in paragraph 3 of Public Land Order 4228 of June 14, 1967, appearing in 32 F.R. 8808-8809 of the issue of June 21, 1967, adjusting the boundary of the Ouachita National Forest is hereby corrected by changing secs. 8 to 36 inclusive, T. 1 N., R. 19 W., to read secs. 8 to 29 inclusive; sec. 30, all except the SW¼NE¼, SE¼NW¼, NW¼SE¼; secs. 31 to 36 inclusive, and by changing the land described as entire township, T. 1 S., R. 19 W., to read secs. 1 to 16 inclusive; all sec. 17 except NW¼NE¼; secs. 18 to 36 inclusive.

Guy R. Martin,

Assistant Secretary of the Interior.

July 25, 1979.

[FR Doc. 79-23639 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5676

[OR-16882]

Oregon; Revocation of National Forest Administrative Site Withdrawal

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This public land order revokes a previous withdrawal of lands withdrawn as an administrative site located in the Wallowa-Whitman National Forest. The order opens these lands to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Louis B. Bellesi, 202-343-6731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2743, it is ordered as follows:

1. Secretarial Order of April 29, 1909, which withdrew the national forest land described below for use as an administrative site, is hereby revoked:

Willamette Meridian, Wallowa-Whitman National Forest

Flat Lake Ranger Station

T. 2 S., R. 35 E.,
Sec. 21, SE¼SE¼;
Sec. 28, NE¼NE¼.

The area described contains 80 acres in Umatilla County.

2. At 10 a.m., on August 31, 1979, the lands described above shall be open to such forms of disposition as may by law be made of national forest lands.

Guy R. Martin,

Assistant Secretary of the Interior.

July 25, 1979.

[FR Doc. 79-23719 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-5671]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202 (a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alabama	Tuscaloosa	Tuscaloosa, city of	010203–A	Apr. 5, 1973, emergency, Feb. 1, 1979, regular, Aug. 1, 1979, suspended.	Oct. 24, 1975	Aug. 1, 1979.
California	Stanislaus	Patterson, city of	060390–B	Jan. 16, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 3, 1975 Sept. 26, 1975	Do.
Colorado	Weld	Milliken, town of	080187–B	July 23, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 17, 1974 Mar. 12, 1976	Do.
Do	Boulder	Nederland, town of	080255–A	May 2, 1977, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Aug. 22, 1975	Do.
Connecticut	Hartford	Canton, town of	090135–B	Mar. 2, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Aug. 2, 1979 Dec. 2, 1976	Do.
Georgia	Baldwin	Milledgeville, city of	130006–C	Nov. 15, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 31, 1974 Apr. 30, 1976	Do.
Idaho	Shoshone	Mullan, city of	160115–B	May 13, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Dec. 26, 1973 Mar. 26, 1974	Do.
Illinois	Macon	Decatur, city of	170429–C	July 29, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 24, 1974 Sept. 12, 1975 Oct. 1, 1976	Do.
Do	McHenry	Marengo, city of	170482–A	June 27, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	July 30, 1976	Do.
Do	Cook	Midlothian, village of	170127–B	July 30, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Mar. 22, 1974 Apr. 2, 1976	Do.
Do	Will	Mokena, village of	170705–B	June 12, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Apr. 5, 1974 June 4, 1976	Do.
Do	Cook	Prospect Heights, city of	170919–C	Apr. 5, 1977, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 12, 1978 July 28, 1978	Do.
Indiana	Elkhart	Goshen, city of	180058–B	Mar. 30, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Nov. 26, 1973 June 4, 1976	Do.
Do	Clark	Jeffersonville, city of	180027–B	June 20, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	June 14, 1974 Dec. 26, 1975	Do.
Kansas	Leavenworth	Linwood, city of	200191–B	May 1, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Sept. 6, 1974 June 4, 1976	Do.
Massachusetts	Middlesex	Stow, town of	250216–B	Oct. 1, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Oct. 18, 1974 Dec. 6, 1977	Do.
Michigan	Macomb	Clinton, township of	260121–B	Feb. 9, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Oct. 12, 1973 July 2, 1976	Do.
Do	St. Clair	Marine City, city of	260200–B	Jan. 28, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 3, 1974 Mar. 5, 1976	Do.
Do	Macomb	St. Clair Shores, city of	260127–B	Dec. 1, 1972, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	June 28, 1974 July 30, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Minnesota	Fillmore	Preston, city of	270129–C	Jan. 10, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 10, 1974 June 11, 1976 Jan. 21, 1977	Do.
Do	Washington	St. Mary's Point, city of	275247–B	Mar. 19, 1971, emergency, Feb. 25, 1972, regular, Aug. 1, 1979, suspended.	Feb. 26, 1972	Do.
Do	....do	Stillwater, city of	275249–A	Nov. 5, 1971, emergency, May 16, 1973, regular, Aug. 1, 1979, suspended.	Mar. 16, 1973	Do.
Do	Hennepin	Woodland, city of	270189–B	June 11, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 31, 1974 Oct. 24, 1975	Do.
Mississippi	Washington	Greenville, city of	280179–B	Apr. 10, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Nov. 16, 1973 May 21, 1976	Do.
Do	Pike	McComb, city of	280132–A	July 16, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Apr. 11, 1975	Do.
Missouri	St. Louis	Berkeley, city of	290335–B	Nov. 15, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Dec. 24, 1976	Do.
Do	Dent	Salem, city of	290120–B	Aug. 9, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Mar. 1, 1974 Feb. 13, 1976	Do.
Nebraska	Burt	Tekamah, city of	310024–C	Oct. 23, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Mar. 15, 1974 Dec. 12, 1975 Feb. 4, 1977	Do.
New Jersey	Monmouth	Bradley Beach, borough of	340289–B	June 25, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Dec. 26, 1973 Feb. 6, 1976	Do.
Do	Essex	Millburn, township of	340187–B	July 23, 1971, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Apr. 27, 1973 Sept. 24, 1976	Do.
Do	Burlington	Mt. Holly, township of	340106–B	Mar. 17, 1972, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Apr. 20, 1973 Nov. 19, 1976	Do.
Do	Monmouth	Shrewsbury, borough of	340326–B	July 3, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	June 7, 1974 Oct. 24, 1975	Do.
New York	Erie	Tonwanda, city of	360259–A	Aug. 21, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Aug. 1, 1979	Do.
Ohio	Franklin	Hilliard, city of	390175–B	Apr. 10, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	June 7, 1974 May 21, 1975	Do.
Do	Ashtabula	Jefferson, village of	390014–A	July 23, 1976, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Aug. 6, 1975	Do.
Do	Lake	Mentor-on-the-Lake, city of	390318–A	Nov. 26, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	July 11, 1975	Do.
Pennsylvania	Delaware	Chester, city of	420404–B	Dec. 10, 1971, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Mar. 2, 1973 Aug. 6, 1976	Do.
Do	Fayette	Everson, borough of	420462–B	July 2, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	July 26, 1974	Do.
Do	Columbia	Franklin, township of	420343–B	May 29, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Jan. 9, 1974 Nov. 14, 1975	Do.
Do	....do	Hemlock, township of	420344–B	June 6, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Sept. 13, 1974 June 11, 1976	Do.
Do	Northumberland	Herndon, borough of	420735–B	Dec. 6, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Jan. 23, 1974 May 21, 1976	Do.
Do	....do	Lower Augusta, township of	421017–B	Jan. 26, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 17, 1974 Jan. 9, 1976	Do.
Do	Columbia	Montour, township of	421002–B	Nov. 2, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Apr. 5, 1974 Apr. 15, 1977	Do.
Do	Allegheny	Monroeville, borough of	420054–B	May 23, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	July 26, 1974 May 28, 1976	Do.
Do	Columbia	Orangeville, borough of	420345–A	June 11, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Jan. 24, 1975	Do.
Do	Allegheny	South Versailles, township of	421281–B	Aug. 7, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Aug. 2, 1974 July 2, 1976	Do.
Do	Union	Union, township of	420634–B	July 5, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Dec. 26, 1973 June 24, 1977	Do.
Do	Allegheny	Wilmerding, borough of	420091–B	Nov. 16, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 3, 1974 May 21, 1976	Do.
Tennessee	Hamilton	Unincorporated areas	470071–C	Mar. 3, 1972, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Aug. 1, 1979	Do.
Vermont	Addison	Shoreham, town of	500171–A	May 5, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Feb. 7, 1975	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Virginia	Fairfax	Herndon, town of	510052-B	May 21, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	June 14, 1974 Apr. 9, 1976	Do.
Do		Norfolk, city of	510104-B	Aug. 15, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Oct. 18, 1974 July 2, 1976	Do.
Do	Fauquier	Warrenton, town of	510057-B	Mar. 18, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 31, 1974 Oct. 24, 1975	Do.
Washington	Franklin	Rahlotus, town of	530045-A	Dec. 31, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Dec. 13, 1974	Do.
Do	Pacific	Long Beach, town of	530128-C	Sept. 27, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	May 24, 1974 Jan. 9, 1976 May 25, 1976	Do.
West Virginia	Monongalia	Morgantown, city of	540141-B	Jan. 23, 1975, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Aug. 2, 1974 Dec. 31, 1976	Do.
Do	Preston	Rowlesburg, town of	540163-B	Nov. 8, 1974, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Feb. 1, 1974 Apr. 23, 1976	Do.
Wisconsin	Sauk	Baraboo, city of	550392-B	June 1, 1973, emergency, Aug. 1, 1979, regular, Aug. 1, 1979, suspended.	Dec. 17, 1973 Sept. 10, 1976	Do.

[1] Certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 16, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23379 Filed 7-31-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 65

[Docket No. 5669]

Notice of Communities With No Special Hazard Areas for the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with No Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh St., S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1–4 family dwelling is $.25 per $100 of coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.01 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is $.05 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

The entry reads as follows:

§ 65.8 List of communities with no special flood hazard areas.

State	County	Community name	Date of conversion to regular program
California	San Mateo	City of Daly City	July 31, 1979.
Iowa	Warren	City of Indianola	July 31, 1979.
Ohio	Cuyahoga	City of University Heights	July 31, 1979.
Oklahoma	Oklahoma	City of Bethany	July 31, 1979.
Pennsylvania	York	Borough of West York	July 31, 1979.
South Carolina	Oconee	Town of Westminster	July 31, 1979.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23377 Filed 7-31-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 65

[Docket No. 5670]

Notice of Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the forseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh St., S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood Insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program.The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

The entry reads as follows:

§ 65.9 List of communities with minimal flood hazard areas.

State	County	Community name	Date of conversion to regular program
New York	Niagara	Town of Royalton	July 6, 1979
Missouri	New Madrid	City of Howardville	July 10, 1979
South Dakota	Minnehaha	City of Brandon	July 10, 1979
New York	Essex	Town of North Elba	July 20, 1979
Utah	Garfield	Town of Hatch	July 24, 1979
Utah	Sevier	City of Monroe	July 24, 1979
New York	West Chester	Village of Buchanan	July 27, 1979
New York	Orange	Town of Minisink	July 27, 1979

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23378 Filed 7-31-79; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF HEALTH, EDUCATIONAL, AND WELFARE

Office of Child Support Enforcement

45 CFR Part 302

Child Support Enforcement Program; State Plan Requirements; Bonding of Employees and Handling of Cash Receipts

Correction

In FR Doc. 79–15451 appearing at page 28802 in the issue for Thursday, May 17, 1979, make the following correction: On page 28803, in the first column, in § 302.19(a), in the 6th line, replace the word "form" with the word "from".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Ouray National Wildlife Refuge, Utah, to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to big game hunting of Ouray National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Archery deer season, August 18 through September 3, 1979, inclusive.

FOR FURTHER INFORMATION CONTACT: Refuge Manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, Utah 84078, telephone: 801–789–0351.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

Public hunting of deer is permitted on the Ouray National Wildlife Refuge, Utah, except in those areas designated by signs as closed to hunting. These areas, comprising 9,500 acres, are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1311 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Big game hunting shall be in accordance with all applicable State regulations, subject to the following conditions.

1. Hunting on Indian lands east of Green River, as posted, is permitted to enrolled members of the Ute Indian Tribe only.

2. Every deer killed must be checked out at refuge headquarters before hunters leave the area.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of

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the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Ouray National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Herbert G. Troester,

Refuge Manager, Ouray National Wildlife Refuge, Vernal, Utah.

July 17, 1979

[FR Doc. 79-23710 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register

Vol. 44, No. 149

Wednesday, August 1, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

[10 CFR Part 903]

Power Marketing Rates; Proposed Power and Transmission Rate Adjustment Procedures

AGENCY: Department of Energy.

ACTION: Notice of Supplemental Public Hearing.

SUMMARY: By notice of Proposed Rulemaking and Public Hearing issued on June 28, 1979, and published in the **Federal Register** on July 5, 1979, (44 FR 39184), the Department of Energy provided an opportunity for oral presentation of views to be held at 10:00 a.m. July 27, 1979, in Washington, DC, on proposed power and transmission rate adjustment procedures. Because several persons have submitted requests to appear, the hearing shall convene as scheduled. However, several others who have indicated a desire to participate are unable to attend due to conflicts in their schedules. Because of the importance of this Rulemaking Procedure, it has been decided to hold a supplemental hearing on August 17, 1979, for those interested persons who are unable to participate in the hearing scheduled for July 27, 1979.

DATE: Opportunity for supplemental oral presentation of views will be provided at 10:00 a.m., August 17, 1979, in Room 3000A, 12th and Pennsylvania Avenue, NW., Washington, DC 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Braxdale, Office of Power Marketing Coordination, Resource Applications, Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, DC 20461, (202) 633-8338.

Richard K. Pelz, Office of General Counsel, Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, DC 20461, (202) 633-9341.

Issued in Washington, DC, July 26, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

[FR Doc. 79-23690 Filed 7-31-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z; Docket No. R-0239]

Truth in Lending; Calculation and Disclosure of Annual Percentage Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board solicits comment on specific revisions in the requirements of Regulation Z with regard to the degree of accuracy and treatment of payment schedule variations in the calculation and disclosure of the annual percentage rate as well as other credit terms. These revisions, which are set forth below, would take the form of amendments to §§ 226.5 and 226.8 of the Regulation, expansion of Supplement I to Regulation Z, and adjustment of Volume I of the Board's Annual Percentage Rate Tables. The issues addressed by this notice were the subject of a prior proposal published by the Board in January, 1979 (44 FR 1116, January 4, 1979). That publication described certain problems, together with possible alternative solutions, and invited comment on the existing annual percentage rate provisions. Following analysis of the comments received on the revisions proposed below, the Board will publish final regulatory amendments.

DATE: Comment must be received on or before October 15, 1979.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: Delores S. Smith, Section Chief (202-452-2412), Ellen Maland, Attorney (202-452-3867), or Margaret Stewart, Attorney (202-452-2412), Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On January 4, 1979, the Board solicited comment on the requirements of Regulation Z with regard to the calculation and disclosure of annual percentage rates (44 FR 1116). The annual percentage rate, which constitutes one of the most important disclosures required by the Truth in Lending Act, is intended to provide a uniform standard to be used by consumers in comparing credit sources. It measures the cost of credit for a given transaction by expressing in percentage terms the relationship between the amount financed and the finance charge.

The Truth in Lending Act requires the Board to prescribe rules regarding calculation and disclosure of the annual percentage rate. To accommodate the great variety in the credit industry and to alleviate the difficulties experienced by creditors in adjusting to a totally new calculation procedure, Regulation Z as originally drafted permitted numerous variations in computation methods. The Board's January proposal focused on five specific issues which the Board believes contribute to a lack of uniformity in the annual percentage rates permissible under the regulation. Those issues related to the degree of accuracy required in calculating and disclosing the annual percentage rate and the treatment of irregularities in payment amounts and periods.

A review of this matter is appropriate for three reasons. First, increased enforcement activities by the federal agencies, particularly the adoption of uniform enforcement guidelines for Regulation Z (44 FR 1221), have focused the attention of both regulators and creditors on the numerous annual percentage rate computation methods now permitted. Second, the decade since adoption of Regulation Z has seen an increase in the level of knowledge in the credit industry and in the sophistication of the calculation tools available to creditors, which may obviate the need for the numerous options originally allowed to facilitate compliance. Third, a thorough review of the annual percentage rate provisions is consistent with current efforts by Congress and the Board to clarify the requirements of the Truth in Lending Act. Because of the impact which changes in the annual percentage rate provisions could have throughout the entire credit industry, the Board in its January proposal requested comment on

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the problems identified and a number of alternative solutions, prior to proposing any specific regulatory changes.

The Board is mindful of the costs of regulatory change in the area of annual percentage rate determination, which may require an investment in calculation tools. In assessing the economic impact of the amendments, the Board welcomes comment on the extent to which the changes proposed below may increase or decrease the costs of compliance with Regulation Z. The Board particularly solicits information regarding the following issues: (1) the types and numbers of calculation tools used in various segments of the credit industry; (2) any changes in those calculation tools which would be necessitated by the proposed amendments; and (3) the amount of time needed by creditors and calculation tool producers to adjust their procedures and equipment to the proposed revisions, if adopted.

Issues Addressed

More than 300 comments were received in response to the Board's proposal. The great majority of the comments were from financial institutions or their representatives; many of them addressed only one or two of the five issues on which comments were solicited. Discussed below are the five issues which the January proposal addressed, the nature of the comments received on that issue and a summary of the action which the Board now proposes to take with regard to that issue.

1. *Tolerance.* The regulation currently requires that the annual percentage rate for credit transactions be disclosed either as an exact figure or rounded to the nearest ¼ of 1 percentage point. As an alternative, the Board proposed a uniform tolerance and requested comment on what degree of tolerance should be permitted, the factors to be considered in applying the tolerance, and the continued need for special rules which countenance greater inaccuracy in certain types of transactions.

A great majority of the commenters addressing this issue favored a fixed ⅛ of 1 percentage point tolerance in either direction from the exact annual percentage rate. The comments as a whole provided very little support for distinctions in the amount of tolerance based on such factors as the type of credit involved, the term of the transaction or the calculation tool employed by the creditor. For example, only eight commenters indicated a need for different tolerances for open end and closed end credit, while just 10 commenters supported distinctions based on the computation tools used. The Board now proposes to specify a fixed tolerance of ⅛ of 1 percentage point, to be applied without regard to type of transaction or other factors.

In discussing this issue, the Board also invited comment on two current provisions which permit creditors using certain methods to assess finance charges to disclose annual percentage rates which may not meet the general accuracy requirements of the regulation. These provisions are contained in § 226.5(c)(2)(iv) and Board Interpretation § 226.502.

Section 226.5(c)(2)(iv) relates to the application of a single finance charge to all balances within a specified range of balances. Under this provision, a creditor may understate the annual percentage rate by up to 8% of the actual rate, by disclosing for all such balances the annual percentage rate computed on the median balance within that range. Interpretation § 226.502 permits creditors applying a single add-on rate to all transactions up to 60 months in length to disclose the same annual percentage rate for all those transactions, although the actual annual percentage rate varies according to the length of the transaction. Of the 47 commenters addressing this issue, 41 indicated that no special treatment should be accorded these types of transactions.

The Board now requests comment on two alternative courses of action with regard to these provisions. First, the Board may retain either or both of these rules in a limited form, as set forth below in § 226.5(a). Second, the Board may rescind these provisions entirely if the comments indicate no further need for them.

2. *Number of Decimal Places.* The Board's January proposal requested comment on whether the regulation should specify the number of decimal places to be used in calculating and disclosing the annual percentage rate. The Board stated that it was considering adoption of a rule that would require disclosure of an annual percentage rate rounded to two decimal places for all transactions and disclosure of an exact periodic rate on open end credit disclosures. Of the 112 commenters addressing the issue, 87 favored disclosure of an annual percentage rate to two places. Only 16 commenters addressed the proposal that open end periodic rates be disclosed exactly, and they were evenly divided on the need for such a rule.

In the Board's view, specification of the exact number of decimal places is unnecessary, since creditors can judge for themselves the degree of precision needed to meet the accuracy requirements of the regulation. The Board now proposes to specify the number of decimal places only with respect to disclosure of the periodic rate in open end credit, because this rate is more sensitive to the effects of rounding or truncating decimal places.

3. *Ignoring Irregularities.* The Board requested comment regarding the current minor irregularities provisions which permit creditors to disregard certain variations in payment amounts and periods in order to simplify calculation of the annual percentage rate and finance charge. Use of these provisions necessarily produces inaccurate disclosures, and the Board proposed four alternatives to the present rules: (1) eliminate them entirely; (2) restrict their use to cases where the resulting inaccuracy produces an overstatement; (3) retain the provisions with only editorial changes; or (4) add a new provision to cover certain payment schedule irregularities not now addressed.

Most commenters strongly urged the Board to retain the current minor irregularities provisions in some form. Twenty-three commenters favored their deletion while nine commenters expressed support for revising the provisions to permit only overstatements.

The fourth alternative addresses two business practices which may produce slight payment schedule variations—rounding of payment amounts to whole cents and changing the dates of scheduled payments and advances which fall on a Saturday, Sunday or holiday. Sixty-four commenters expressed support for this option, either in addition to or in substitution for the current provisions. The Board now proposes to amend Regulation Z to permit all creditors in closed end credit transactions to disregard the effects of these two practices in making disclosures. In addition, the Board proposes to adopt a special rule to simplify calculation and disclosure of the finance charge and other credit terms by creditors in closed end credit transactions assessing finance charges on a simple interest basis. Both of these provisions would apply to all credit terms, not merely the annual percentage rate.

With regard to the current minor irregularities provisions applicable to the annual percentage rate, the Board is considering three alternative courses of action: (1) eliminate § 226.5(d) and Interpretation § 226.503, (2) permit a relatively large degree of overstatement and a much narrower tolerance for understatements, or (3) retain both provisions with only editorial and organizational changes.

With regard to Interpretation § 226.505, which addresses minor irregularities in calculation and disclosure of the finance charge in certain simple interest transactions, the Board proposes to replace it with a provision in § 226.8 allowing shorter than regular first periods to be disregarded.

4. *Accounting for Irregularities.* The Board requested comment on a proposal to specify a uniform method for determining the number of odd days in an irregular interval and relating that number to a regular period. The regulation currently specifies no particular method for accounting for intervals between advances or payments which are longer or shorter than the regular unit period for the transaction. The 90 comments on this issue were almost evenly divided on whether uniformty is necessary. Those opposed indicated that the variation produced by the use of different counting methods were not significant enough to warrant regulation, and also expressed a belief that requiring a specific method would eliminate the payment schedule flexibility which consumers desire.

The Board believes that a uniform approach for counting odd days is warranted, since a uniform method would materially simplify application of Supplement I to transactions involving odd periods and would facilitate verification of annual percentage rates in enforcement procedures. The Board proposes to revise Supplement I of Regulation Z to specify a method for determining the length of an irregular period. Creditors would not be required to use this method in counting odd days, so long as the manner in which they account for irregularities produces a rate within the tolerance limits of the regulation.

5. *Reliance on Charts and Tables.* The regulation currently provides that an annual percentage rate or finance charge error that results from an error in a chart or table used by the creditor does not violate Regulation Z. The Board requested comment on two alternative provisions: (1) rescind the provision entirely, making creditors liable for finance charge and annual percentage rate errors without regard to the source of those errors, or (2) extend the provision to apply not only to users of erroneous charts or tables but also to creditors using faulty software or faulty calculators. The great majority addressing this issue favored extending the protection of this provision to creditors using any computation tool. The Board proposes to retain this provision and extend its application to creditors using calculators or computers which have faulty hardware. Because of the diffiiculty of tracing errors in software and the extent to which software is under the control of the creditor, the Board does not believe that this protection should be further extended to such errors. As an alternative, the Board may eliminate this provision, if further analysis indicates it is unnecessary.

Discussion of Proposed Revisions

In order to implement revisions in the provisions relating to calculation and disclosure of the annual percentage rate and other credit terms, the Board proposes to substantially amend § 226.5, add new paragraphs (r) and (s) to § 226.8, and revise Supplement I to Regulation Z and Volume I of the Board's Annual Percentage Rate Tables. The text of all of these revisions is set forth following a discussion of the proposed changes. The Board emphasizes that if these proposal are adopted, an extended period will be provided for creditors and manufacturers of computation tools to adjust to the new provisions.

1. *Section 226.5.* The Board proposes to revise the current § 226.5 relating to calculation and disclosure of the annual percentage rate, as set forth below in the section captioned "TEXT OF PROPOSED AMENDMENTS." The Board wished to draw particular attention to the following aspects of these provisions:

(1) For closed end credit, a fixed tolerance of ⅛ of 1 percentage point in either direction from the annual percentage rate as determined according to Supplement I is substituted for the current rule requiring disclosure of either an exact rate or a rate rounded to the nearest ¼ of 1 percentage point. For example, where the annual percentage rate is determined to be 10⅛%, a disclosed annual percentage rate from 10% to 10¼%, or the decimal equivalent, would be deemed to comply with the regulation. See proposed § 226.5(a)(1) below.

(2) Section 226.5(d) and Interpretation § 226.503 of the current regulation permit creditors to ignore certain payment schedule irregularities for the purpose of determining the annual percentage rate. Use of these provisions necessarily produces distortion, the degree of inaccuracy varying with the degree of the irregularity, the rate, and the term. The most common irregularity is a first period which is either longer or shorter than the regular period for the transaction. For example, on a 12-payment loan with a contract rate of 9%, the true annual percentage rate is 9.49% if the first period is only 20 days long and 8.15% if the first period is 50 days long. In both cases the annual percentage rate may be disclosed as 9% under the current minor irregularities provisions—an understatement of .49% and an overstatement of .85%, respectively. The Board is considering three alternative proposals and specifically solicits comments on each of them:

Option 1—Eliminate the current provisions and require creditors to disclose a rate which meets the general standard of accuracy of ⅛ of 1 percentage point in either direction from the accurate annual percentage rate. If this alternative is adopted, creditors could ignore slight irregularities in payment amounts and periods only if the resulting annual percentage rate falls within this tolerance. Creditors could also account for the irregularities by making an adjustment of the rate, such as that described in the proposed appendix to Volume I of the Board's Annual Percentage Rate Tables.

Option 2—Continue the current approach and simply improve the regulatory language. If the Board decides that the current provisions regarding minor irregularities best meet the needs of creditors and consumers, the Board would consolidate the present § 226.5(d) and Interpretation § 226.503 and clarify them through editorial revisions. The Board solicits comment on specific improvements which might be made in the current provisions.

Option 3—Replace the current provisions with a rule which permits a larger degree of overstatement where the first period or first payment is irregular. Under this rule, creditors could treat as regular an initial period which is up to two days shorter or 30 days longer than a regular period. For example, a creditor in a transaction payable monthly could consider a first period which is from 28 to 60 days long to be a 30-day period for purposes of computing and disclosing the annual percentage rate. In addition, this rule would permit an initial payment which is smaller than regular to be treated as regular. The general rule proposed in § 226.5(a)(1) regarding the degree of accuracy required may in some cases allow a creditor to ignore a larger degree of irregularity than that described in this special rule and still remain within the

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proposed ⅛ of 1 percentage point tolerance. The creditor could rely on whichever of these provisions provides more flexibility in dealing with these irregularities.

In the Board's view, competitive pressures would minimize the deliberate use of such permissible overstatements, and such overstatements are less harmful than understatements. However, it must also be noted that any variation from the exact annual percentage rate may tend to impair the consumer's ability to comparison-shop for credit. The Board specifically solicits comment on the extent to which this disadvantage to consumers may be balanced by the need for special treatment in these situations.

This option, if adopted by the Board, would be implemented by § 226.5(a)(5), set forth below.

(3) For transactions in which the finance charge is determined solely by application of a simple interest rate, the Board proposes to permit only shorter than normal first periods to be treated as regular. If this approach were adopted, Interpretation § 226.505 would be deleted and replaced by § 226.8(r)(2).

(4) The regulation currently discusses two methods of rate calculation, the U.S. Rule and the actuarial method. The U.S. Rule differs from the actuarial method in two respects. First, interest which is unpaid at the end of the regular payment period is not compounded by addition of the deficiency to the principal of the obligation. Second, in a payment period longer than the regular period, interest is calculated on a "simple" basis for the entire period. The regulation continues to recognize explicitly these two methods. The proposed tolerance of ⅛ of 1 percentage point would be measured from whichever of these calculation methods is being used, even though application of these two methods may produce slight variations in the resulting annual percentage rate. It must be emphasized that creditors are not limited to the use of these two methods. The regulation does not specify the way in which creditors must calculate their rates, but rather what methods will be used in measuring the accuracy of those rates. See proposed § 226.5(a)(1) and proposed Supplement I.

(5) The current § 226.5(c)(2)(iv) permits creditors to understate the true annual percentage rate by as much as 8% of that rate, where a single finance charge is applied to all balances within a specified range of balances. The creditor in such cases is permitted to disclose for all such balances the annual percentage rate computed on the median balance within that range. The Board is considering two alternative courses of action: (1) retain this provision, but limit its availability to transactions involving orders by mail or telephone, and only for purposes of disclosing the annual percentage rate in the catalogue or other printed material in which the credit terms are initially set forth; and (2) eliminate the exception entirely, on the grounds that it is no longer needed. The Board requests comments on these options. See proposed § 226.5(a)(4) below, which would implement the first alternative.

(6) Interpretation § 226.502 currently permits creditors applying a single add-on rate to all transactions up to 60 months in length to disclose the same annual percentage for all those transactions. Creditors utilizing this provisions must disclose the highest of those annual percentage rates, which results in an overstatement for other maturities. In view of the fact that the distortion is greatest in transactions with maturities shorter than nine months, the Board proposes to limit the availability of this provision to transactions which range in length from nine to 60 months. However, as an alternative to limiting the provision in this fashion, the Board also solicits comment on whether it could be eliminated entirely. See proposed § 226.5(a)(3) below, which would implement the first alternative.

(7) As discussed above, the Board is considering a revision of the present § 226.5(c)(3), which relates to the use of faulty calculation tools, to extend its application to errors resulting from calculators and computers. In view of the increasing use of calculators and computers in the credit industry, it may not be appropriate to limit the protection afforded by § 226.5(c)(3) solely to users of charts and tables. However, the Board recognizes that there may be greater difficulty in confirming errors in calculators and computers than in printed material such as charts and tables. Therefore, if this provision is retained and extended to calculators and computers, the Board is considering limiting the extension to the "hardware" or physical components which are beyond the control of the creditor. Proposed § 226.5(c), as set forth below, reflects this alternative. The Board requests comment on any practical difficulties inherent in drawing a distinction between errors arising from hardware and those arising from software. As an alternative, the Board may also consider deleting this provision entirely, if further analysis indicates that its protection is no longer warranted.

(8) Section 226.5(e) of the current regulation permits very limited use of the constant ratio method in exceptional instances where the creditor has no alternative to using a method other than the actuarial method or the U.S. Rule. The constant ratio method is a means of approximating the annual percentage rate by assuming that each payment in the credit transaction is composed of the same amount of interest and principal. While this method is relatively simple to use, it may produce an extremely inaccurate annual percentage rate in regular transactions with longer terms or higher rates. In transactions involving payment schedule irregularities, application of this method tends to produce extremely distorted rates. The comments on the Board's January proposal do not indicate any use of this method in the credit industry. The Board therefore proposes to rescind § 226.5(e).

(9) The provisions relating to open end credit would be essentially unchanged from the current requirements of § 226.5(a), except for the addition of language permitting a fixed ⅛ of 1 percentage point tolerance analogous to that proposed for closed end credit transactions. See proposed § 226.5(b)(1) below.

2. *Section 226.8.* Most exceptions and special rules involving annual percentage rate determination are based on the assumption that creditors have no difficulty in computing the amount of the finance charge, which must then be converted to an annual percentage rate. However, the information available to the Board indicates that a growing segment of the credit industry is using a simple interest basis to compute the finance charge. Under this approach, a rate is applied to an outstanding balance for the actual number of days elapsing between payments. For these creditors, the difficulty is ordinarily not in calculating the annual percentage rate, which, in the absence of other finance charges, is the same as the interest rate, but in determining the dollar amount of the finance charge. This difficulty arises from the fact that the dollar amount will vary according to the month in which the loan commences, because of the variations in the length of the months.

Irregularities in the first period in a transaction of this type produce similar difficulties, because the length of the first period determines how much of the initial payment will be attributed to interest. This in turn affects the rate at which the principal of the loan is reduced, and thus the amount of the final payment and of the total finance charge.

To alleviate the first difficulty described above, the Board proposes to permit creditors assessing finance charges solely by application of a simple interest rate to treat all months as having the same number of days, provided the finance charge so calculated is marked as an estimate.

With regard to irregularities in the first period for these types of transactions, the Board is considering adoption of a provision permitting only overstatements. Under this approach, a first period of any length less than a regular period could be treated as regular and any resulting payment irregularities disregarded in disclosing the finance charge, schedule of payments and total of payments. This provision would replace Interpretation § 226.505.

These provisions would be implemented by proposed § 226.8(r) (Certain simple interest obligations), set forth below. It should be noted that the exceptions would not be available if the finance charge in such transactions includes charges other than amounts attributable to a simple interest rate.

In all types of transactions, two common and necessary business practices produce very slight payment schedule irregularities affecting the amount of several required disclosures under the Truth in Lending Act. One variation arises from the fact that payments must be collected in whole cents rather than in fractions of pennies. For example, the rounding of payments to whole cents may produce a difference between the final payment and all other payments. The other variation arises from the need to change the dates of scheduled payments and/or advances because the scheduled date occurs on a Saturday, Sunday or holiday. The variations arising from these practices may have a slight impact not only on the annual percentage rate but on certain non-rate disclosures such as the finance charge, the total of payments and the schedule of payments. Therefore, the Board proposes to adopt a provision permitting the effects of these two practices to be disregarded by all creditors, regardless of the method used to assess interest, in making the required Truth in Lending disclosures. Section 226.8 of Regulation Z would be amended by the addition of a new paragraph (s) as set forth below.

The Board believes that the difficulties described above arise only in closed end credit transactions and therefore proposes to limit proposed paragraphs (r) and (s) to such transactions. However, the Board solicits comment on whether these provisions should also apply to open end credit transactions.

3. *Supplement I.* Supplement I, which is incorporated by reference in Regulation Z, sets forth the technical equations and instructions for determining the annual percentage rate. As currently written, the material is based on the use of the actuarial method, although the regulation specifically sanctions the use of both this method and the U.S. Rule. The U.S. Rule approach is more commonly used by credit unions. In order to make Supplement I more comprehensive the Board proposes three revisions. First, it would be expanded to include explanations and equations for determining the annual percentage rate in accordance with the U.S. Rule. Second, the Supplement would specify a uniform method for measuring periods which are longer or shorter than the regular unit period for a transaction. Third, the number and variety of examples in Supplement I would be expanded in order to illustrate the application of the formulas in Supplement I to various types of transactions. Set forth below is the text of the proposed Supplement I equations and explanations, together with examples for representative types of transactions.

4. *Volume I of Board's Tables.* The Board's Annual Percentage Rate Tables, which are based on the formulas in Supplement I, provide creditors with a calculation tool which, when used in accordance with the instructions, produces an annual percentage rate complying with the regulation. When used for a regular transaction, that is, one involving equal payment amounts and periods, Volume I provides a simple means of calculating an annual percentage rate accurate to within the nearest ¼ of 1 percentage point. Using the adjustments set forth in Appendix A of the Tables, creditors may also utilize Volume I for transactions with certain irregularities in the first period and/or in the first and last payments. These adjustments may produce inaccuracies beyond the proposed tolerance, but their use is specifically sanctioned by the regulation to accommodate these irregularities.

In order to facilitate the use of the Tables while at the same time increasing the accuracy of the annual percentage rate obtained thereby, the Board proposes four major revisions in Volume I. First, Appendix A of the Tables would be amended in such a way that the adjustments needed to accommodate certain irregularities would produce a more accurate annual percentage rate in many transactions and reduce the possibility of understatement. Second, the general rate tables in Volume I, which are currently printed in ¼ of 1 percentage point columns, would be reprinted in ⅛ of 1 percentage point intervals. Third, the introductory material accompanying Volume I would be expanded in order to provide a further explanation of the scope of the volume, the types of transactions to which it applies and instructions for use of the volume. Fourth, Appendices B, C and D would be deleted. Appendix B relates to determination of the finance charge. The Board believes that this appendix is not appropriate for Volume I, which was designed as a tool for calculation of the annual percentage rate only. Portions of Appendix C would be incorporated into an expanded introduction to Volume I. Appendix D, which discusses the degree of inaccuracy resulting from use of the adjustments in the current Appendix A, will no longer be applicable if the proposed revisions to Appendix A are adopted.

The Board wishes to emphasize that, if adopted, the changes in Volume I would not materially affect the manner in which it is used for regular transactions. Similarly, the procedures called for by the new Appendix to provide greater accuracy in annual percentage rates for irregular transactions should not materially increase the complexity of the adjustments. Following the text of the proposed amendments, set forth below, is the text of the revised Appendix to Volume I, together with the special factor table to be used in making adjustments.

Text of Proposed Amendments

In consideration of the comments received and its own analysis, and pursuant to the authority granted in 15 U.S.C. § 1604, the Board now proposes to delete 12 CFR §§ 226.502, 226.503 and 226.505 and to amend 12 CFR Part 226 to read as follows:

§ 226.5 Determination of annual percentage rate.

(a) *Credit other than open end.* (1) *General rule.* The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate, which relates the amount and timing of value received by the consumer to the amount and timing of payments made. The correct annual percentage rate shall be that rate determined in accordance with either the actuarial method or the United States Rule method. Explanations, equations and technical

instructions for determining the annual percentage rate in accordance with these methods are set forth in Supplement I, which is incorporated in this Part by reference. An annual percentage rate shall be considered accurate if it is not more than one-eighth of one percentage point below or above the annual percentage rate determined in accordance with Supplement I.

(2) *Computation tools.* (i) The Regulation Z Annual Percentage Rate Tables produced by the Board may be used to determine the annual perentage rate, and any such rate determined from these tables in accordance with the instructions contained therein will comply with the requirements of this section. Volume I of the tables applies to single advance transactions involving up to 480 monthly payments or 104 weekly payments. It may be used for regular transactions, as well as transactions with any of the following variations: an odd first period, an odd first payment and an odd final payment. Volume II applies to transactions involving multiple advances and any type of payment or period irregularity.

(ii) Creditors may use any other computation tool in determining the annual percentage rate so long as the annual percentage rate so determined equals the annual percentage rate determined in accordance with Supplement I, within the degree of accuracy set forth in paragraph (a)(1) of this section.

(iii) Supplement I and Volumes I and II may be obtained from any Federal Reserve Bank or from the Board in Washington, D.C. 20551.

(3) *Single add-on rate transactions.* If a single add-on rate is applied to all transactions within a range of maturities from 9 to 60 months and if all payments are equal in amount and period, a single annual percentage rate may be disclosed for all such transactions, provided that it is the highest annual percentage rate for any such transaction.

(4) *Certain transactions involving ranges of balances.* For purposes of disclosing the annual percentage rate required by § 226.8(g) (Orders by mail or telephone), if the same finance charge is imposed on all balances within a specified range of balances, the annual percentage rate computed for the median balance may be disclosed for all of the balances. However, if the annual percentage rate computed for the median balance understates the annual percentage rate computed for the lowest balance by more than 8% of the latter rate, the annual percentage rate shall be computed on whatever lower balance will produce an annual percentage rate which does not result in an understatement of more than 8% of the rate determined on the lowest balance.

(5) *Payment schedule irregularities. In calculating and disclosing the annual percentage rate, a creditor may treat as regular the following irregularities in the payment schedule:*

(i) a period between the date on which the finance charge begins to accrue and the date of the first scheduled payment which is not more than 2 days shorter or 30 days longer than a regular period; and

(ii) an initial payment which is less than other payments.

(b) *Open end credit.* (1) *General rule.* The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate, computed in accordance with paragraph (b)(2) or (b)(3) of this section, as applicable. An annual percentage rate shall be considered accurate if it is not more than ⅛ of 1 percentage point below or above the annual percentage rate determined in accordance with this section.

(2) *Annual percentage rate in advertising and initial disclosures.* Where one or more periodic rates may be used to compute the finance charge, the annual percentage rate to be disclosed pursuant to § 226.7(a)(4) and § 226.10(c)(4) shall be computed by multiplying each such periodic rate by the number of periods in a year.

(3) *Annual percentage rate in periodic statements.* (i) The annual percentage rate to be disclosed pursuant to § 226.7(b)(1)(v) shall be determined by multiplying each periodic rate that may be used to compute the finance charge by the number of periods in a year.

(ii) The annual percentage rate to be disclosed pursuant to § 226.7(b)(1)(vi) shall be determined in accordance with one of the following methods, as applicable:

(A) Where the finance charge is exclusively the product of the application of one or more periodic rates

(*1*) by multiplying each periodic rate by the number of periods in a year; or

(*2*) at the creditor's option, if the finance charge is the result of the application of two or more periodic rates, by dividing the total finance charge for the billing cycle by the sum of the balances to which the periodic rates were applied and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year.

(B) Where the creditor imposes all periodic finance charges in amounts based on specified ranges or brackets of balances, the periodic rate shall be determined by dividing the amount of the finance charge for the period by the amount of the median balance within the range or bracket of balances to which it is applicable, and the annual percentage rate shall be determined by multiplying that periodic rate (expressed as a percentage) by the number of periods in a year. However, if the annual percentage rate computed for the median balance understates the annual percentage rate computed for the lowest balance by more than 8% of the latter rate, the annual percentage rate shall be computed on whatever lower balance will produce an annual percentage rate which does not result in an understatement of more than 8% of the rate determined on the lowest balance.

(C) Where the finance charge imposed during the billing cycle is or includes

(*1*) any minimum, fixed or other charge not due to the application of a periodic rate, other than a charge with respect to any specific transaction during the billing cycle, by dividing the total finance charge for the billing cycle by the amount of the balance(s) to which applicable and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year; or

(*2*) any charge with respect to any specific transaction during the billing cycle (even if the total finance charge also includes any other minimum, fixed or other charge not due to the application of a periodic rate), by dividing the total finance charge imposed during the billing cycle by the total of all balances and other amounts on which any finance charge was imposed during the billing cycle without duplication and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year,* except that the annual percentage rate shall not be less than the largest rate determined by multiplying each periodic rate imposed during the billing cycle by the number of periods in a year; or

(*3*) any minimum, fixed or other charge not due to the application of a periodic rate and the total finance charge imposed during the billing cycle does not exceed 50 cents for a monthly or longer billing cycle, or the pro rata part of 50 cents for a billing cycle shorter than monthly, at the creditor's option, by multiplying each applicable periodic rate by the number of periods in a year, notwithstanding the provisions of paragraph (b)(3)(ii)(C) (I) and (II) of this section.

(c) *Errors in calculation tools.* An error in disclosure of the annual percentage rate or finance charge shall not, in itself, be considered a violation of this Part if

* [Footnote would be unchanged.]

(1) the error resulted from a corresponding error in a chart or table or in the physical component of a calculator or computer used in good faith by the creditor, and

(2) upon discovery of the error, the creditor promptly

(i) discontinues use of that calculation tool for disclosure purposes, and

(ii) notifies the Board in writing of the error in the calculation tool.

* * * * *

§ 226. 8 Credit other than open end—Specific disclosures.

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(r) *Certain simple interest obligations.* If the finance charge of an obligation is calculated solely by applying a simple interest rate to a blance for the actual number of days elapsing between payments or between advances and payments, the creditor may, at its option, take advantage of either or both of the following provisions in determining and disclosing the amount of the finance charge and other credit terms:

(1) Variations resuting from the differing number of days in months need not be taken into account, provided any finance charge disclosed purusant to this provision is labelled as an estimate.

(2) Where the obligation is otherwise repayable in installments scheduled at equal periods, the interval between the date on which the finance charge begins to accrue and the date of the first scheduled payment may be treated as regular, provided that the length of this interval is less than a regular period.

(s) *Certain payment schedule variations.* In making calculations and disclosures, the creditor need not take into account the effects of the following:

(1) The fact that payments must be collected in whole cents; and

(2) The fact that the dates of scheduled payments and advances must be changed because the scheduled date falls on a Saturday, Sunday, or holiday.

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Supplement I to Regulation Z

Rules for Determining the Annual Percentage Rate for Other than Open End Credit Transactions Pursuant to § 226.5(a) of Regulation Z

I. Introduction

Section 226.5(a) of Regulation Z provides that the annual percentage rate for other than open end credit transactions shall be determined in accordance with either the actuarial method or the United States Rule method. This supplement contains an explaination of these methods as well as equations, instructions and examples of how these methods apply to single advance and multiple advance transactions and transactions involving required deposit balances (as defined in § 226.8(e) of the regulation).

Actuarial Method. Under the actuarial method, at the end of each unit-period (or fractional unit-period) the unpaid balance of the amount financed shall be increased by the finance charge accrued during such period and shall be decreased by the total payment (if any) made at the end of such period. The determination of unit-periods and fractional unit-periods shall be consistent with the definitions and rules in Sections II(C) and II(D) and the general equation in Section II(H).

United States Rule Method. Under the United States Rule method, at the end of each payment period, the unpaid balance of the amount financed shall be increased by the finance charge accrued during such payment period and shall be decreased by the payment made at the end of such payment period. If the payment is less than the finance charge accrued, the adjustment of the unpaid balance of the amount financed shall be postponed until the end of the next payment period. If at that time the sum of the two payments is still less than the total accrued finance charge for the two payment periods, the adjustment of the unpaid balance of the amount financed shall be postponed still another payment period, and so forth. In all cases, however, the time interval between the date of consummation and the first addition of accrued finance charge to the unpaid balance of the amount financed, or between successive additions of accrued finance charge to the unpaid balance of the amount financed, shall not exceed 1 year.

II. Actuarial Method

(A) *General rule.* The annual percentage rate shall be the nominal annual percentage rate determined by multiplying the unit-period rate by the number of unit-periods in a year.

(B) *Term of the transaction.* The term of the transaction begins on the date of its consummation, except that if the finance charge or any portion of it is earned beginning on some other date, the term begins on that other date. The term ends on the date the last payment is due, except that if an advance is scheduled after that date, the term ends on the later date. For computation purposes, the length of the term shall be equal to the time interval between any point in time on the beginning date to the same point in time on the ending date.

(C) *Definitions of time intervals.* (1) A period is the interval of time between advances or between payments and includes the interval of time between the date the finance charge begins to be earned and the date of the first advance thereafter or the date of the first payment thereafter, as applicable.

(2) A common period is any period that occurs more than once in a transaction.

(3) A standard interval of time is a day, week, semimonth, month, or a multiple of a week or a month up to, but not exceeding, 1 year.

(4) All months shall be considered equal. Full months shall be measured from any point in time on a given date of a given month to the same point in time on the same date of another month. If a series of payments (or advances) is scheduled for the last day of each month, months shall be measured from the last day of the given month to the last day of another month. If payments (or advances) are scheduled for the 29th or 30th of each month, the last day of February shall be used when applicable.

(D) *Unit-period.* (1) In all transactions other than a single advance, single payment transaction, the unit-period shall be that common period, not to exceed 1 year, that occurs most frequently in the transaction, except that

(a) If 2 or more common periods occur with equal frequency, the smaller of such common periods shall be the unit-period; or

(b) If there is no common period in the transaction, the unit-period shall be that period which is the average of all periods rounded to the nearest whole standard interval of time. If the average is equally near 2 standard intervals of time, the lower shall be the unit-period.

(2) In a single advance, single payment transaction, the unit-period shall be the term of the transaction, but shall not exceed 1 year.

(E) *Number of unit-periods between 2 given dates.* (1) The number of days between 2 dates shall be the number of 24-hour intervals between any point in time on the first date to the same point in time on the second date.

(2) If the unit-period is a month, the number of full unit-periods between 2 dates shall be the number of months measured back from the later date. The remaining fraction of a unit-period shall be the number of days measured forward from the earlier date to the beginning of the first full unit-period, divided by 30. If the unit-period is a month, there are 12 unit-periods per year.

(3) If the unit-period is a semimonth or a multiple of a month not exceeding 11 months, the number of days between 2 dates shall be 30 times the number of full months measured back from the later date, plus the number of remaining days. The number of full unit-periods and the remaining fraction of a unit-period shall be determined by dividing such number of days by 15 in the case of a semimonthly unit-period or by the appropriate multiple of 30 in the case of a multimonthly unit-period. If the unit-period is a semimonth, the number of unit-periods per year shall be 24. If the number of unit-periods is a multiple of a month, the number of unit-periods per year shall be 12 divided by the number of months per unit-period.

(4) If the unit-period is a day, a week, or a multiple of a week, the number of full unit-periods and the remaining fraction of a unit-period shall be determined by dividing the number of days between the 2 given dates by the number of days per unit-period. If the unit-period is a day, the number of unit-periods per year shall be 365. If the unit-period is a week or a multiple of a week, the number of unit-periods per year shall be 52 divided by the number of weeks per unit-period.

(5) If the unit-period is a year, the number of full unit-periods between 2 dates shall be

the number of full years (each equal to 12 months) measured back from the later date. The remaining fraction of a unit-period shall be:

(a) The remaining number of months divided by 12 if the remaining interval is equal to a whole number of months, or

(b) The remaining number of days divided by 365 if the remaining interval is *not* equal to a whole number of months.

(6) In a single advance, single payment transaction in which the term is less than a year and is equal to a whole number of months, the number to unit-periods in the term shall be 1, and the number of unit-periods per year shall be 12 divided by the number of months in the term.

(7) In a single advance, single payment transaction in which the term is less than a year and is *not* equal to a whole number of months, the number of unit-periods in the term shall be 1, and the number of unit-periods per year shall be 365 divided by the number of days in ther term.

(F) *Percentage rate for fraction of a unit-period.* The percentage rate of finance charge for a fraction (less than 1) of a unit-period shall be equal to such fraction multiplied by the percentage rate of finance charge per unit-period.

(G) *Symbols.* The symbols used to express the terms of a transaction in the equation set forth in Section (H) are defined as follows:

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A_k = The amount of the kth advance.

q_k = The number of full unit-periods from the beginning of the term of the transaction to the kth advance.

e_k = The fraction of a unit-period in the time interval from the beginning of the term of the transaction to the kth advance.

m = The number of advances.

P_j = The amount of the jth payment.

t_j = The number of full unit-periods from the beginning of the term of the transaction to the jth payment.

f_j = The fraction of a unit-period in the time interval from the beginning of the term of the transaction to the jth payment.

n = The number of payments.

i = The percentage rate of finance charge per unit-period.

Symbols used in the examples shown in this supplement are defined as follows:

$\ddot{a}_{\overline{x}|}$ = The present value of 1 per unit-period for x unit-periods, first payment due immediately.

$$= 1 + \frac{1}{(1+i)} + \frac{1}{(1+i)^2} + \ldots\ldots\ldots + \frac{1}{(1+i)^x}$$

w = The number of unit-periods per year.

I = wi x 100 = The nominal annual percentage rate.

(H) General equation. The following equation sets forth the relationship among the terms of a transaction:

$$\frac{A_1}{(1+e_1 i)(1+i)^{q_1}} + \frac{A_2}{(1+e_2 i)(1+i)^{q_2}} + \ldots + \frac{A_m}{(1+e_m i)(1+i)^{q_m}} =$$

$$\frac{P_1}{(1+f_1 i)(1+i)^{t_1}} + \frac{P_2}{(1+f_2 i)(1+i)^{t_2}} + \ldots + \frac{P_n}{(1+f_n i)(1+i)^{t_n}}$$

(I) Solution of general equation by iteration process. The general equation in Section (H), when applied to a simple transaction in which a loan of $1000 is repaid by 36 monthly payments of $33.61 each, takes the special form:

$$A = \frac{33.61\ \ddot{a}\overline{36}|}{(1+i)}$$

Step 1: Let I_1 = estimated annual percentage rate = 12.50 %

Evaluate expression for A, letting $i = I_1/(100w)$ = .010416667

Result (referred to as A') = 1004.674391

Step 2: Let $I_2 = I_1 + .1$ = 12.60 %

Evaluate expression for A, letting $i = I_2/(100w)$ = .010500000

Result (referred to as A'') = 1003.235366

Step 3: Interpolate for I (annual percentage rate):

$$I = I_1 + .1\ \frac{(A - A')}{(A''-A')}$$

$$= 12.50 + .1\ \frac{(1000.000000 - 1004.674391)}{(1003.235366 - 1004.674391)} = 12.82483042\ \%$$

Step 4: First iteration, let I_1 = 12.82483042 % and repeat

Steps 1, 2, and 3 obtaining a new I = 12.82557859 %

Second iteration, let I_1 = 12.82557859 % and repeat

Steps 1, 2, and 3 obtaining a new I = 12.82557529 %

In this case, no further iterations are required to obtain the annual percentage rate correct to two decimal places, 12.83%.

When the iteration approach is used, it is expected that calculators or computers will be programmed to carry all available decimals throughout the calculation and that enough iterations will be performed to make virtually certain that the annual percentage rate obtained, when rounded to two decimals, is correct.

Annual percentage rates in the examples below were obtained by using a 10 digit programmable calculator and the iteration procedure described above.

(J) Single advance transaction, with or without an odd first period, and otherwise regular. The general equation in Section (H) can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^{t}}\left(P\ \ddot{a}\overline{n}|\right)$$

Example (J)(1): Monthly payments (regular first period)

Amount advanced (A) = $5000. Payment (P) = $230.
Number of payments (n) = 24
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f= 0)
Annual percentage rate (I) = wi = 9.69 %

Example (J)(2): Monthly payments (long first period)

Amount advanced (A) = $6000. Payment (P) = $200.
Number of payments (n) = 36.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 2-10-78. First payment, 4-1-78.
From 3-1-78 through 4-1-78 = 1 unit-period. (t = 1)
From 2-10-78 through 3-1-78 = 19 days. (f = 19/30)
Annual percentage rate (I) = wi = 11.82%

Example (J)(3): Semimonthly payments (short first period)

Amount advanced (A) = $5000. Payment (P) = $219.17.
Number of payments (n) = 24.
Unit-period = 1/2 month. Unit-periods per year (w) = 24.
Advance, 2-23-78. First payment, 3-1-78. Payments made on 1st and 16th of each month.
From 2-23-78 through 3-1-78 = 6 days. (t = 0; f = 6/15)
Annual percentage rate (I) = wi = 10.34 %

Example (J)(4): Quarterly payments (long first period)

Amount advanced (A) = $10,000. Payment (P) = $385.
Number of payments (n) = 40.
Unit-period = 3 months. Unit-periods per year (w) = 4.
Advance, 5-23-78. First payment, 10-1-78.
From 7-1-78 through 10-1-78 = 1 unit-period. (t = 1)
From 6-1-78 through 7-1-78 = 1 month = 30 days. From 5-23-78 through 6-1-78 = 9 days. (f = 39/90)
Annual percentage rate (I) = wi = 8.97 %

Example (J)(5): Weekly payments (long first period)

Amount advanced (A) = $500. Payment (P) = $17.60.
Number of payments (n) = 30.
Unit-period = 1 week. Unit-periods per year (w) = 52.
Advance, 3-20-78. First payment, 4-21-78.
From 3-24-78 through 4-21-78 = 4 unit-periods. (t = 4)
From 3-20-78 through 3-24-78 = 4 days. (f = 4/7)
Annual percentage rate (I) = wi = 14.96 %

(K) Single advance transaction, with an odd first payment, with or without an odd first period, and otherwise regular. The general equation in Section (H) can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^{t}} \left[P_1 + \frac{P\,\ddot{a}_{\overline{n-1}|}}{(1+i)} \right]$$

Example (K)(1): Monthly payments (regular first period and irregular first payment)

Amount advanced (A) = $5000. First payment $\left(P_1\right)$ = $250.
Regular payment (P) = $230. Number of payments (n) = 24.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = 10.08 %

Example (K)(2): Payments every 4 weeks (long first period and irregular first payment)

Amount advanced (A) = $400. First payment $\left(P_1\right)$ = $39.50
Regular payment (P) = $38.31. Number of payments (n) = 12.
Unit-period = 4 weeks. Unit-periods per year (w) = 52/4 = 13.
Advance, 3-18-78. First payment, 4-20-78.
From 3-23-78 through 4-20-78 = 1 unit-period. (t = 1)
From 3-18-78 through 3-23-78 = 5 days. (f = 5/28)
Annual percentage rate (I) = wi = 28.50%

(L) Single advance transaction, with an odd final payment, with or without an odd first period, and otherwise regular. The general equation in Section (H) can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^{t}} \left[P\ddot{a}_{\overline{n-1}|} + \frac{Pn}{(1+i)^{n-1}} \right]$$

Example (L)(1): Monthly payments (regular first period and irregular final payment).

Amount advanced (A) = $5000. Regular payment (P) = $230.
Final payment $\left(P_n\right)$ = $280. Number of payments (n) = 24.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.

From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = 10.50%

Example (L)(2): Payments every 2 weeks (short first period and irregular final payment)

Amount advanced (A) = $200. Regular payment (P) = $9.50.
Final payment $\left(\begin{matrix} P \\ n \end{matrix}\right)$ = $176.83. Number of payments (n) = 20.
Unit-period = 2 weeks. Unit-periods per year (w) = 52/2 = 26.
Advance, 4-3-78. First payment, 4-11-78.
From 4-3-78 through 4-11-78 = 8 days. (t = 0; f = 8/14).
Annual percentage rate (I) = wi = 12.22%

(M) Single advance transaction, with an odd first payment, odd final payment, with or without an odd first period, and otherwise regular.

The general equation in Section (H) can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^{t}} \left[\begin{matrix} P \\ 1 \end{matrix} + \frac{P\ a\overline{\ \ }_{n-2}}{(1+i)} + \frac{P_n}{(1+i)^{n-1}} \right]$$

Example (M)(1): Monthly payments (regular first period, irregular first payment, and irregular final payment)

Amount advanced (A) = $5000. First payment $\left(\begin{matrix} P \\ 1 \end{matrix}\right)$ = $250.
Regular payment (P) = $230. Final payment $\left(\begin{matrix} P \\ n \end{matrix}\right)$ = $280.
Number of payments (n) = 24. Unit-period = 1 month.
Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = 10.90%

Example (M)(2): Payments every two months (short first period, irregular first payment, and irregular final payment)

Amount advanced (A) = $5000. First payment $\left(\begin{matrix} P \\ 1 \end{matrix}\right)$ = $449.36.
Regular payment (P) = $465. Final payment $\left(\begin{matrix} P \\ n \end{matrix}\right)$ = $200.
Number of payments (n) = 20. Unit-period = 2 months.
Unit-periods per year (w) = 12/2 = 6
Advance, 1-10-78. First payment, 3-1-78.
From 2-1-78 through 3-1-78 = 1 month. From 1-10-78 through 2-1-78 = 22 days. (t = 0; f = 52/60)
Annual percentage rate (I) = wi = 7.30%

(N) Single advance, single payment transaction.

The general equation in Section (H) can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage special conditions. Form 4 requires the use of the iteration procedure of Section (I) and can be used for all single advance, single payment transactions regardless of term.

Form 1 - Term less than 1 year:

$$I = 100w\left(\frac{P}{A} - 1\right)$$

Form 2 - Term more than 1 year but less than 2 years:

$$I = \frac{50}{f}\left\{\left[(1+f)^2 + 4f\left(\frac{P}{A} - 1\right)\right]^{1/2} - (1+f)\right\}$$

Form 3 - Term equal to exactly a year or exact multiple of a year.

$$I = 100\left[\left(\frac{P}{A}\right)^{1/t} - 1\right]$$

Form 4 - Special form for iteration procedure (no restriction on term)

$$A = \frac{P}{(1+fi)(1+i)^{t}}$$

Example (N)(1): Single advance, single payment (term of less than 1 year, measured in days)

Amount advanced (A) = $1000. Payment (P) = $1080.
Unit-period = 255 days. Unit-period per year (w) = 365/255.
Advance, 1-3-78. Payment, 9-15-78.
From 1-3-78 through 9-15-78 = 255 days. (t = 0; f = 0)
Annual percentage rate (I) = wi = 11.45%. (Use Form 1 or 4.)

Example (N)(2): Single advance, single payment (term of less than 1 year; measured in exact calendar months)

Amount advanced (A) = $1000. Payment (P) = $1044.
Unit-period = 6 months. Unit-periods per year (w) = 2.
Advance, 7-15-78. Payment, 1-15-79.
From 7-15-78 through 1-15-79 = 6 mos. (t = 1; f = 0)
Annual percentage rate (I) = wi = 8.80%. (Use Form 1 or 4.)

Example (N)(3): Single advance, single payment (term of more than 1 year but less than 2 years, fraction measured in exact months)

Amount advanced (A) = $1000. Payment (P) = $1135.19.
Unit-period = 1 year. Unit-periods per year (w) = 1.
Advance, 7-17-78. Payment, 1-17-80.
From 1-17-79 through 1-17-80 = 1 unit period. (t = 1)
From 7-17-78 through 1-17-79 = 6 mos. (f = 6/12)
Annual percentage rate (I) = wi = 8.76%. (Use Form 2 or 4.)

(O) Complex single advance transaction.

Example (O)(1): Skipped payment loan (payments every 4 weeks)

A loan of $2135 is advanced on 1-25-78. It is to be repaid by 24 payments of $100 each. Payments are due every 4 weeks beginning 2-20-78. However, in those months in which 2 payments would be due, only the first of the two payments is made and the following payment is delayed by 2 weeks to place it in the next month.
Unit-period = 4 weeks. Unit periods per year (w) = 52/4 = 13.
From 1-25-78 through 2-20-78 = 26 days. ($t = 0; f = 26/28$)
$\quad\quad\quad

Example (O)(3): Graduated payment mortgage

A loan of $39,688.56 (net) on 4-10-78 is to be repaid by 360 monthly payments beginning 6-1-78. Payments are the same for 12 months at a time as follows:

Year	Monthly payment	Year	Monthly payment	Year	Monthly payment
1	$291.81	11	$385.76	21	$380.43
2	300.18	12	385.42	22	379.60
3	308.78	13	385.03	23	378.68
4	317.61	14	384.62	24	377.69
5	326.65	15	384.17	25	376.60
6	335.92	16	383.67	26	375.42
7	345.42	17	383.13	27	374.13
8	355.15	18	382.54	28	372.72
9	365.12	19	381.90	29	371.18
10	375.33	20	381.20	30	369.50

Unit-period = 1 month. Unit-periods per year (w) = 12.
From 5-1-78 through 6-1-78 = 1 unit-period. (t = 1)
From 4-10-78 through 5-1-78 = 21 days. (f = 21/30)

The general equation in Section (H) can be written in the special form:

$$39{,}638.56 = \frac{\ddot{a}_{\overline{12}|}}{(1+(21/30)i)(1+i)} \left[291.81 + \frac{300.18}{(1+i)^{12}} + \frac{308.78}{(1+i)^{24}} + \ldots + \frac{369.50}{(1+i)^{348}} \right]$$

Annual percentage rate (I) = wi = 9.80%

(P) Multiple advance transactions.

Example (P)(1): Construction loan

Three advances of $20,000 each are made on 4-10-79, 6-12-79, and 9-18-79. Repayment is by 240 monthly payments of $612.36 each beginning 12-10-79.

Unit-period = 1 month. Unit-periods per year (w) = 12.
From 4-10-79 through 6-12-79 = (2+2/30) unit-periods.
From 4-10-79 through 9-18-79 = (5+8/30) unit-periods.
From 4-10-79 through 12-10-79 = (8) unit-periods.

The general equation in Section (H) is changed to the single advance mode by treating the 2nd and 3rd advances as negative payments:

$$20{,}000 = \frac{612.36\,\ddot{a}_{\overline{240}|}}{(1+i)^{8}} - \frac{20{,}000}{(1+(2/30)i)(1+i)^{2}} - \frac{20{,}000}{(1+(8/30)i)(1+i)^{5}}$$

Annual percentage rate (I) = wi = 10.25%

Example (P)(2): Student loan

A student loan consists of 8 advances: $1800 on 9-5-78, 9-5-79, 9-5-80, and 9-5-81; plus $1000 on 1-5-79, 1-5-80, 1-5-81, and 1-5-82. The borrower is to make 50 monthly payments of $240 each beginning 7-1-78 (prior to first advance).

Unit-period = 1 month. Unit-periods per year (w) = 12.

Zero point is date of first payment since it precedes first advance.

From 7-1-78 to 9-5-78 = (2 + 4/30) unit-periods.
" " " 9-5-79 = (14 + 4/30) "
" " " 9-5-80 = (26 + 4/30) "
" " " 9-5-81 = (38 + 4/30) "
" " " 1-5-79 = (6 + 4/30) "
" " " 1-5-80 = (18 + 4/30) "
" " " 1-5-81 = (30 + 4/30) "
" " " 1-5-82 = (42 = 4/30) "

Since the zero point is date of first payment, the general equation in Section (H) is written in the single advance form below by treating the first payment as a negative advance and the 8 advances as negative payments:

$$-240 = \frac{240\,\ddot{a}_{\overline{49}|}}{(1+i)} - \frac{1800}{1+(4/30)i}\left[\frac{1}{(1+i)^{2}} + \frac{1}{(1+i)^{14}} + \frac{1}{(1+i)^{26}} + \frac{1}{(1+i)^{38}}\right] - \frac{1000}{1+(4/30)i}\left[\frac{1}{(1+i)^{6}} + \frac{1}{(1+i)^{18}} + \frac{1}{(1+i)^{30}} + \frac{1}{(1+i)^{42}}\right]$$

Annual percentage rate (I) = wi = 32.04%

(Q) Transaction involving required deposit balance.

Example (Q)(1): Required constant deposit balance.

Creditor advances $1000 on 4-12-79 and requires borrower to maintain a deposit balance of $200 throughout the 12 month loan. The loan is to be repaid by 12 equal monthly payments of $90 each beginning 5-12-79. The deposit balance will be released on 4-12-80.

Unit-period = 1 month. Unit-periods per year (w) = 12.
From 4-12-79 through 5-12-79 = 1 unit-period.
From 4-12-79 through 4-12-80 = 12 unit-periods.

The general equation in Section (H) can be written as:

$$800 + \frac{200}{(1+i)^{12}} = \frac{90\,\ddot{a}_{\overline{12}|}}{(1+i)}$$

or for iteration solution as:

$$800 = \frac{90\,\ddot{a}_{\overline{12}|}}{(1+i)} - \frac{200}{(1+i)^{12}}$$

Annual percentage rate (I) = wi = 22.23%

Example (Q)(2): Required periodic deposits into a restricted account

Creditor advances $1000 on 6-15-79. Borrower is required to make 12 monthly payments of $110 each beginning 7-15-79, of which $20 is to be deposited into an account. The account will be released to the borrower at time of final payment on 6-15-80.

Unit-period = 1 month. Unit-periods per year (w) = 12.
From 6-15-79 through 7-15-79 = 1 unit-period.

The general equation in Section (H) can be written as:

$$1000 + \frac{240}{(1+i)^{12}} = \frac{110\,\ddot{a}_{\overline{12}|}}{(1+i)}$$

or for iteration solution as:

$$1000 = \frac{110\,\ddot{a}_{\overline{12}|}}{(1+i)} - \frac{240}{(1+i)^{12}}$$

Annual percentage rate (I) = wi = 17.79%

III. UNITED STATES RULE METHOD

(A) General rule. The annual percentage rate shall be the nominal annual percentage rate determined by multiplying the daily rate by 365, the number of days in a year.

(B) Term of the transaction. The term of the transaction begins on the date of its consummation, except that if the finance charge or any portion of it is earned beginning on some other date, the term begins on that other date. The term ends on the date the last payment is due, except that if an advance is scheduled after that date, the term ends on the later date. For computation purposes, the length of the term shall be equal to the time interval between any point in time on the beginning date to the same point in time on the ending date.

(C) Symbols. The symbols used to express the terms of a transaction in the equation set forth in Section (D) are defined as follows:

A_k = The amount of the kth advance.

g_j = The number of days in the jth payment period.

h_k = The number of days from date of the kth advance to date of next payment.

n = The number of payments.

i = The percentage rate of finance charge per day.

I = 365i = The nominal annual percentage rate.

(D) General equation. The following equation sets forth the relationship among the terms of a transaction:

$$A_1 = \frac{P_1}{(1+g_1 i)} + \frac{P_2}{(1+g_1 i)(1+g_2 i)} + \frac{P_3}{(1+g_1 i)(1+g_2 i)(1+g_3 i)} + \cdots + \frac{P_n}{(1+g_1 i)(1+g_2 i)\cdots(1+g_n i)}$$

If there are multiple advances, and the kth advance occurs in the jth payment period, the jth term on the right hand side of the equation can take the form:

$$\frac{P_j - A_k (1+h_k i)}{(1+g_1 i)(1+g_2 i)\cdots(1+g_j i)}$$

Alternatively, the kth advance can be shown on the left-hand side of the equation as follows:

$$\frac{A_k (1+h_k i)}{(1+g_1 i)(1+g_2 i)\cdots(1+g_j i)}$$

(E) Single advance transaction with equal payments. A loan of $500.16 is made on 1-15-79. Six monthly payments of $86.27 each are due on 2-15-79, 3-15-79, etc. through 6-15-79.

The general equation takes the form:

$$\$500.16 = \frac{\$86.27}{(1+31i)} + \frac{\$86.27}{(1+31i)(1+28i)} + \cdots + \frac{\$86.27}{(1+31i)(1+28i)(1+31i)(1+30i)(1+31i)(1+30i)}$$

Using an iteration process of the type shown in Section II(I), the annual percentage rate, I, is found to be 12.00%.

[Note: If the above transaction had run from 7-15-79 through 1-15-80, the APR would have been 11.76%.]

(F) Single advance transaction with long first period and large final payment. A real estate loan for $50,000 is made on 1-15-79. Four monthly payments of $438.56 are made on 3-15-79, 4-15-79, 5-15-79, and 6-15-79 plus a balloon payment of $50,733.59 on 7-15-79.

Because the first payment is not sufficient to pay the accrued finance charge on the $50,000 balance, it is combined with the second payment and the equation takes the form:

$$\$50,000 = \frac{\$877.12}{(1+90i)} + \frac{\$438.56}{(1+90i)(1+30i)} + \frac{\$438.56}{(1+90i)(1+30i)(1+31i)} + \frac{\$50,733.59}{(1+90i)(1+30i)(1+31i)(1+30i)}$$

Using an iteration process of the type shown in Section II(I), the annual percentage rate, I, is found to be 10.00%.

(G) Multiple advance transaction with long first period and large final payment. The first advance of a real estate loan is made in the amount of $25,000 on 1-15-79. A second advance of $25,000 is made on 4-1-79. Four

payments of $438.72 each are made monthly on 3-15-79 through 6-15-79, followed by a balloon of $50,198.98 on 7-15-79.

Since the second advance occurs in the second payment period, it is combined with the second payment and the equation takes the form:

$$\$25{,}000 = \frac{\$438.72}{(1+59i)} + \frac{\$438.72 - \$25{,}000(1+14i)}{(1+59i)(1+31i)} -$$

$$+ \frac{\$438.72}{(1+59i)(1+31i)(1+30i)} + \frac{\$438.72}{(1+59i)(1+31i)(1+30i)(1+31i)}$$

$$+ \frac{\$50{,}198.98}{(1+59i)(1+31i)(1+30i)(1+31i)(1+30i)}$$

Using an iteration process of the type shown in Section II(I), the annual percentage rate, I, is found to be 10.00%.

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VOLUME I OF BOARD'S APR TABLES

APPENDIX

FINDING THE ANNUAL PERCENTAGE RATE FOR CERTAIN IRREGULAR TRANSACTIONS

This appendix provides a method of determining the annual percentage rate for certain irregular transactions. It can be used for single advance transactions in which all payment periods and payment amounts are equal except for one or more of the following irregularities:

A first payment period that is shorter than the regular period or is no more than 3 times longer than the regular period.

A first payment amount that is smaller than the regular payment or is no more than 3 times larger than the regular payment.

A final payment amount that is smaller than the regular payment or is no more than 20 times larger than the regular payment.

INSTRUCTIONS

Step 1 - Adjust for large first payment and compute FC/100

If the first payment is larger than the regular payment:

a. Reduce the amount financed by the excess of the first payment over the regular payment.

b. Treat the first payment as regular.

Find the finance charge per $100 of amount financed (FC/100) by multiplying the finance charge by 100 and dividing by the amount financed, or by the reduced amount financed from (a) above when applicable.

If there are no other irregularities, determine the APR from the rate tables as usual.

Step 2 - Adjust for odd final payment and/or small first payment

If the amount of the final payment is different from the amount of the first payment (as adjusted by Step 1 when applicable), increase or decrease the number of payments by the following:

$$\frac{(\text{Amt. of final pmt.} - \text{Amt. of first pmt.}) \times (\text{No. of pmts.} - 1)}{(\text{Amount Financed}^{1/} + \text{Finance Charge})} = \text{Adjustment to number of payments}$$

If there are no other irregularities, go to Step 4.

Step 3 - Adjust for odd first period

If the first payment period is longer or shorter than a regular period, increase or decrease the number of payments (or the adjusted number of payments resulting from Step 2 when applicable) by the following:

1/ As adjusted by Step 1 when applicable.

[Long days (+)or short days (-)] X [Factor from Factor Table] =

Adjustment to number of payments

To get the factor from the Factor Table, find the payment line in the left-hand column which is equal to the number of payments in the transaction (or to the nearest whole number to the adjusted number of payments if Step 2 was used). Then select a rate from the top row of the Factor Table which is closest to the estimated rate. 2/

Note that it may be necessary to repeat Steps 3 and 4 if the appropriate rate column is not selected the first time. (See Step 5 below.)

Step 4 - Adjust the finance charge per $100 of amount financed (FC/100)

If the number of payments was adjusted in Step 2 or 3, determine the adjusted finance charge per $100 of the amount financed in the following formula:

$$FC/100 \times \frac{\text{(Adjusted no. of pmts. rounded to nearest whole number)}}{\text{(Adjusted number of payments)}} = \text{Adjusted FC/100}$$

If the adjusted number of payments (unrounded) is less than 12, however, use the following formula:

$$FC/100 \times \frac{\text{(Adjusted no. of pmts. rounded to nearest whole number)} + 1}{\text{(Adjusted number of payments)} + 1} = \text{Adjusted FC/100}$$

2/If a better basis is not available for estimating the rate, use the APR from the rate tables which corresponds to the number of payments (adjusted by Step 2 when applicable) and the FC/100 from Step 1.

Step 5 - Find APR from rate tables

Determine the APR from the rate tables using the adjusted number of payments rounded to the nearest whole number and the adjusted FC/100. If the APR so determined varies from the Factor Table rate column selected in Step 3 by more than 5 percentage points, Steps 3 and 4 must be repeated using the rate column closest to the rate initially determined.

EXAMPLE 1 - ODD FIRST PERIOD

Amount Financed	$1000
Finance Charge	118.64
First Period	1 month and 20 days
24 payments of $46.61 each	

Step 1 - Adjust for large first payment and compute FC/100

Adjustment for large first payment not applicable

$$FC/100 = \frac{118.64 \times 100}{1000} = 11.86$$

Step 2 - Adjust for odd final payment and/or small first payment

Not applicable

Step 3 - Adjust for odd first period

In the Factor Table, select the rate column closest to the estimated rate 3/ and find the factor .0690 on the 24 payment line.

No. of odd days	x	Factor from Factor Table	=	Adjustment to no. of pmts.
+ 20	x	.0690	=	1.38
				+24.00
Adjusted no. of pmts.			=	25.38

3/An estimated rate of 11% can be determined from the rate tables by using a FC/100 of 11.86 and 24 payments; the nearest column on the Factor Table is 10%.

Step 4 - Adjust the FC/100

$$11.86 \times \frac{25}{25.38} = 11.68 = \text{Adjusted FC/100}$$

Step 5 - Find APR from rate tables

Using 25 payments and a FC/100 of 11.68, APR = 10.50%

EXAMPLE 2 - ODD FIRST PERIOD AND LARGE FIRST PAYMENT

Amount Financed	$1000
Finance Charge	100
First Period	20 days
24 Payments:	
First	$65
Regular	45

Step 1 - Adjust for large first payment and compute FC/100

1000 - (65-45) = 980 = Adjusted amount financed

$$FC/100 = \frac{100 \times 100}{980} = 10.20$$

Step 2 - Adjust for odd final payment and/or small first payment

Not applicable

Step 3 - Adjust for odd first period

In the Factor Table, select the rate column closest to the estimated rate [4/] and find the factor .0690 on the 24 payment line.

No. of odd days	x	Factor from Factor Table	=	Adjustment to no. of pmts.
- 10	x	.0690	=	-.69
				+24.00
Adjusted no. of pmts.			=	23.31

4/ An estimated rate of 9.50% can be determined from the rate tables by using a FC/100 of 10.20 and 24 payments. The nearest column on the Factor Table is 10%.

Step 4 - Adjust the FC/100

$$10.20 \times \frac{23}{23.31} = 10.06 = \text{Adjusted FC/100}$$

Step 5 - Find APR from rate tables

Using 23 payments and a FC/100 of 10.06, the APR = 9.75%

EXAMPLE 3 - ODD FIRST PERIOD, LARGE FIRST PAYMENT AND LARGE FINAL PAYMENT

Amount Financed	$5000
Finance Charge	1698.85
First Period	1 month and 20 days
30 Payments:	
First	$ 394.05
Regular	131.35
Final	2627.00

Step 1 - Adjust for large first payment and compute FC/100

5000 - (394.05 - 131.35) = 4737.30 = Adjusted amount financed

$$FC/100 = \frac{1698.85 \times 100}{4737.30} = 35.86$$

Step 2 - Adjust for odd final payment

$$\frac{(2627 - 131.35) \times 29}{(4737.30 + 1698.85)} = \text{Adjustment to no. of pmts.}$$

$$\frac{2494.65 \times 29}{2136.15} = 11.24$$

$$+ 30.00$$

$$41.24 = \text{Adjusted no. of pmts.}$$

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Step 3 - Adjust for odd first period

In the Factor Table, select the rate column closest to the estimated rate*/ and find the factor .0729 on the 41 payment line.

No. of odd days	x	Factor from Factor Table	=	Adjustment to no. of pmts.
+ 20	x	.0752	=	- 1.50

No. of pmts. from Step 2 = +41.24
Adjusted no. of pmts. = 42.74

Step 4 - Adjust the FC/100

$$35.86 \times \frac{43}{42.74} = 36.08 = \text{Adjusted FC/100}$$

Step 5 - Find APR from rate tables

Using 43 payments and a FC/100 of 36.08, APR = 17.75%

*/An estimated rate of 18.50% can be determined from the rate tables by using a FC/100 of 35.86 and 41 payments. The nearest column on the Factor Table is 20%.

FACTOR TABLE

Odd First Period Adjustment Factors

No. of pmts.	0%	5%	10%	15%	20%	25%	30%	35%	40%	45%	50%	55%	60%
2	.0667	.0668	.0669	.0670	.0671	.0672	.0674	.0675	.0676	.0677	.0678	.0679	.0680
3	.0667	.0668	.0670	.0672	.0673	.0675	.0676	.0678	.0680	.0681	.0683	.0685	.0686
4	.0667	.0669	.0671	.0673	.0675	.0677	.0679	.0681	.0683	.0686	.0688	.0690	.0692
5	.0667	.0669	.0672	.0674	.0677	.0679	.0682	.0685	.0687	.0690	.0693	.0695	.0698
6	.0667	.0670	.0673	.0676	.0679	.0682	.0685	.0688	.0691	.0694	.0697	.0701	.0704
7	.0667	.0670	.0674	.0677	.0681	.0684	.0688	.0691	.0695	.0699	.0702	.0706	.0710
8	.0667	.0671	.0675	.0679	.0683	.0687	.0691	.0695	.0699	.0703	.0708	.0712	.0716
9	.0667	.0671	.0676	.0680	.0685	.0689	.0694	.0698	.0703	.0708	.0713	.0717	.0722
10	.0667	.0672	.0676	.0681	.0686	.0692	.0697	.0702	.0707	.0712	.0718	.0723	.0729
11	.0667	.0672	.0677	.0683	.0688	.0694	.0700	.0705	.0711	.0717	.0723	.0729	.0735
12	.0667	.0672	.0678	.0684	.0690	.0697	.0703	.0709	.0715	.0722	.0728	.0735	.0742
13	.0667	.0673	.0679	.0686	.0692	.0699	.0706	.0713	.0720	.0727	.0734	.0741	.0748
14	.0667	.0673	.0680	.0687	.0694	.0702	.0709	.0716	.0724	.0731	.0739	.0747	.0755
15	.0667	.0674	.0681	.0689	.0696	.0704	.0712	.0720	.0728	.0736	.0745	.0753	.0762
16	.0667	.0674	.0682	.0690	.0698	.0707	.0715	.0724	.0732	.0741	.0750	.0759	.0769
17	.0667	.0675	.0683	.0692	.0700	.0709	.0718	.0727	.0737	.0746	.0756	.0766	.0776
18	.0667	.0675	.0684	.0693	.0702	.0712	.0721	.0731	.0741	.0751	.0762	.0772	.0783
19	.0667	.0676	.0685	.0695	.0704	.0714	.0725	.0735	.0746	.0756	.0767	.0779	.0790
20	.0667	.0676	.0686	.0696	.0706	.0717	.0728	.0739	.0750	.0762	.0773	.0785	.0797
21	.0667	.0677	.0687	.0698	.0709	.0720	.0731	.0743	.0755	.0767	.0779	.0792	.0805
22	.0667	.0677	.0688	.0699	.0711	.0722	.0734	.0747	.0759	.0772	.0785	.0799	.0812
23	.0667	.0678	.0689	.0701	.0713	.0725	.0738	.0751	.0764	.0777	.0791	.0806	.0820
24	.0667	.0678	.0690	.0702	.0715	.0728	.0741	.0755	.0768	.0783	.0797	.0812	.0828
25	.0667	.0679	.0691	.0704	.0717	.0730	.0744	.0759	.0773	.0788	.0804	.0819	.0836
26	.0667	.0679	.0692	.0705	.0719	.0733	.0748	.0763	.0778	.0794	.0810	.0827	.0844
27	.0667	.0680	.0693	.0707	.0721	.0736	.0751	.0767	.0783	.0799	.0816	.0834	.0852
28	.0667	.0680	.0694	.0708	.0723	.0739	.0754	.0771	.0788	.0805	.0823	.0841	.0860
29	.0667	.0681	.0695	.0710	.0725	.0741	.0758	.0775	.0792	.0811	.0829	.0848	.0868
30	.0667	.0681	.0696	.0711	.0728	.0744	.0761	.0779	.0797	.0816	.0836	.0856	.0876

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No. of pmts.	0%	5%	10%	15%	20%	25%	30%	35%	40%	45%	50%	55%	60%
31	.0667	.0682	.0697	.0713	.0730	.0747	.0765	.0783	.0802	.0822	.0842	.0863	.0885
32	.0667	.0682	.0698	.0715	.0732	.0750	.0768	.0788	.0807	.0828	.0849	.0871	.0893
33	.0667	.0683	.0699	.0716	.0734	.0753	.0772	.0792	.0813	.0834	.0856	.0879	.0902
34	.0667	.0683	.0700	.0718	.0736	.0755	.0775	.0796	.0818	.0840	.0863	.0886	.0911
35	.0667	.0683	.0701	.0719	.0738	.0758	.0779	.0801	.0823	.0846	.0870	.0894	.0920
36	.0667	.0684	.0702	.0721	.0741	.0761	.0783	.0805	.0828	.0852	.0877	.0902	.0929
37	.0667	.0684	.0703	.0723	.0743	.0764	.0786	.0809	.0833	.0858	.0884	.0910	.0938
38	.0667	.0685	.0704	.0724	.0745	.0767	.0790	.0814	.0839	.0864	.0891	.0919	.0947
39	.0667	.0685	.0705	.0726	.0747	.0770	.0794	.0818	.0844	.0871	.0898	.0927	.0956
40	.0667	.0686	.0706	.0727	.0750	.0773	.0797	.0823	.0849	.0877	.0906	.0935	.0966
41	.0667	.0686	.0707	.0729	.0752	.0776	.0801	.0827	.0855	.0883	.0913	.0944	.0975
42	.0667	.0687	.0708	.0731	.0754	.0779	.0805	.0832	.0860	.0890	.0920	.0952	.0985
43	.0667	.0687	.0709	.0732	.0757	.0782	.0809	.0837	.0866	.0896	.0928	.0961	.0995
44	.0667	.0688	.0710	.0734	.0759	.0785	.0813	.0841	.0871	.0903	.0936	.0969	.1004
45	.0667	.0688	.0711	.0736	.0761	.0788	.0816	.0846	.0877	.0909	.0943	.0978	.1014
46	.0667	.0689	.0712	.0737	.0764	.0791	.0820	.0851	.0883	.0916	.0951	.0987	.1024
47	.0667	.0689	.0713	.0739	.0766	.0794	.0824	.0856	.0888	.0923	.0959	.0996	.1035
48	.0667	.0690	.0714	.0741	.0768	.0797	.0828	.0860	.0894	.0930	.0967	.1005	.1045
49	.0667	.0690	.0716	.0742	.0771	.0801	.0832	.0865	.0900	.0937	.0974	.1014	.1055
50	.0667	.0691	.0717	.0744	.0773	.0804	.0836	.0870	.0906	.0943	.0983	.1023	.1065
51	.0667	.0691	.0718	.0746	.0775	.0807	.0840	.0875	.0912	.0950	.0991	.1033	.1076
52	.0667	.0692	.0719	.0747	.0778	.0810	.0844	.0880	.0918	.0957	.0999	.1042	.1087
53	.0667	.0692	.0720	.0749	.0780	.0813	.0848	.0885	.0924	.0965	.1007	.1051	.1097
54	.0667	.0693	.0721	.0751	.0783	.0816	.0852	.0890	.0930	.0972	.1015	.1061	.1108
55	.0667	.0693	.0722	.0752	.0785	.0820	.0856	.0895	.0936	.0979	.1024	.1071	.1119
56	.0667	.0694	.0723	.0754	.0787	.0823	.0861	.0900	.0942	.0986	.1032	.1080	.1130
57	.0667	.0694	.0724	.0756	.0790	.0826	.0865	.0905	.0948	.0994	.1041	.1090	.1141
58	.0667	.0695	.0725	.0758	.0792	.0830	.0869	.0911	.0955	.1001	.1049	.1100	.1152
59	.0667	.0695	.0726	.0759	.0795	.0833	.0873	.0916	.0961	.1008	.1058	.1110	.1164
60	.0667	.0696	.0727	.0761	.0797	.0836	.0877	.0921	.0967	.1016	.1067	.1120	.1175

No of pmts.	0%	5%	10%	15%	20%	25%	30%	35%	40%
61	.0667	.0696	.0728	.0763	.0800	.0840	.0882	.0926	.0974
62	.0667	.0697	.0729	.0765	.0802	.0843	.0886	.0932	.0980
63	.0667	.0697	.0731	.0766	.0805	.0846	.0890	.0937	.0987
64	.0667	.0698	.0732	.0768	.0808	.0850	.0895	.0943	.0993
65	.0667	.0698	.0733	.0770	.0810	.0853	.0899	.0948	.1000
66	.0667	.0699	.0734	.0772	.0813	.0857	.0903	.0953	.1006
67	.0667	.0699	.0735	.0774	.0815	.0860	.0908	.0959	.1013
68	.0667	.0700	.0736	.0775	.0818	.0863	.0912	.0964	.1020
69	.0667	.0700	.0737	.0777	.0820	.0867	.0917	.0970	.1026
70	.0667	.0701	.0738	.0779	.0823	.0870	.0921	.0976	.1033
71	.0667	.0701	.0739	.0781	.0826	.0874	.0926	.0981	.1040
72	.0667	.0702	.0740	.0783	.0828	.0878	.0931	.0987	.1047
73	.0667	.0702	.0742	.0784	.0831	.0881	.0935	.0993	.1054
74	.0667	.0703	.0743	.0786	.0834	.0885	.0940	.0999	.1061
75	.0667	.0703	.0744	.0788	.0836	.0888	.0944	.1004	.1068
76	.0667	.0704	.0745	.0790	.0839	.0892	.0949	.1010	.1075
77	.0667	.0704	.0746	.0792	.0842	.0896	.0954	.1016	.1082
78	.0667	.0705	.0747	.0794	.0844	.0899	.0959	.1022	.1089
79	.0667	.0705	.0748	.0796	.0847	.0903	.0963	.1028	.1097
80	.0667	.0706	.0750	.0797	.0850	.0907	.0968	.1034	.1104
81	.0667	.0706	.0751	.0799	.0853	.0910	.0973	.1040	.1111
82	.0667	.0707	.0752	.0801	.0855	.0914	.0978	.1046	.1119
83	.0667	.0708	.0753	.0803	.0858	.0918	.0983	.1052	.1126
84	.0667	.0708	.0754	.0805	.0861	.0922	.0987	.1058	.1133
85	.0667	.0709	.0755	.0807	.0864	.0925	.0992	.1064	.1141
86	.0667	.0709	.0756	.0809	.0866	.0929	.0997	.1070	.1148
87	.0667	.0710	.0758	.0811	.0869	.0933	.1002	.1077	.1156
88	.0667	.0710	.0759	.0813	.0872	.0937	.1007	.1083	.1163
89	.0667	.0711	.0760	.0815	.0875	.0941	.1012	.1089	.1171
90	.0667	.0711	.0761	.0817	.0878	.0945	.1017	.1096	.1179

No. of pmts.	0%	5%	10%	15%	20%	25%	30%	35%	40%
91	.0667	.0712	.0762	.0818	.0881	.0949	.1022	.1102	.1187
92	.0667	.0712	.0763	.0820	.0883	.0953	.1028	.1108	.1194
93	.0667	.0713	.0765	.0822	.0886	.0957	.1033	.1115	.1202
94	.0667	.0713	.0766	.0824	.0889	.0960	.1038	.1121	.1210
95	.0667	.0714	.0767	.0826	.0892	.0964	.1043	.1128	.1218
96	.0667	.0714	.0768	.0828	.0895	.0968	.1048	.1134	.1226
97	.0667	.0715	.0769	.0830	.0898	.0972	.1053	.1141	.1234
98	.0667	.0715	.0770	.0832	.0901	.0977	.1059	.1147	.1242
99	.0667	.0716	.0772	.0834	.0904	.0981	.1064	.1154	.1250
100	.0667	.0716	.0773	.0836	.0907	.0985	.1069	.1161	.1258
101	.0667	.0717	.0774	.0838	.0910	.0989	.1075	.1167	.1266
102	.0667	.0717	.0775	.0840	.0913	.0993	.1080	.1174	.1274
103	.0667	.0718	.0776	.0842	.0916	.0997	.1085	.1181	.1282
104	.0667	.0719	.0778	.0844	.0919	.1001	.1091	.1188	.1291
105	.0667	.0719	.0779	.0846	.0922	.1005	.1096	.1194	.1299
106	.0667	.0720	.0780	.0849	.0925	.1009	.1102	.1201	.1307
107	.0667	.0720	.0781	.0851	.0928	.1014	.1107	.1208	.1316
108	.0667	.0721	.0783	.0853	.0931	.1018	.1113	.1215	.1324
109	.0667	.0721	.0784	.0855	.0934	.1022	.1118	.1222	.1333
110	.0667	.0722	.0785	.0857	.0937	.1026	.1124	.1229	.1341
111	.0667	.0722	.0786	.0859	.0940	.1031	.1129	.1236	.1350
112	.0667	.0723	.0787	.0861	.0944	.1035	.1135	.1243	.1358
113	.0667	.0723	.0789	.0863	.0947	.1039	.1141	.1250	.1367
114	.0667	.0724	.0790	.0865	.0950	.1044	.1146	.1257	.1375
115	.0667	.0724	.0791	.0867	.0953	.1048	.1152	.1264	.1384
116	.0667	.0725	.0792	.0869	.0956	.1052	.1158	.1271	.1393
117	.0667	.0726	.0794	.0872	.0959	.1057	.1163	.1279	.1401
118	.0667	.0726	.0795	.0874	.0962	.1061	.1169	.1286	.1410
119	.0667	.0727	.0796	.0876	.0966	.1066	.1175	.1293	.1419
120	.0667	.0727	.0797	.0878	.0969	.1070	.1181	.1300	.1428

BILLING CODE 6210-01-C

To aid in the consideration of these matters by the Board, interested persons are invited to submit relevant data, views, comments or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 15, 1979, and should include the docket number R-0239. The material submitted will be made available for public inspection and copying, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

By order of the Board of Governors, July 24, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-23546 Filed 7-31-79; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 509, 509a, 550, and 566]

[No. 79-402]

General Regulations of the Federal Home Loan Bank Board; Proposed Amendments Concerning Supervisory Authority

July 26, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: In implementation of Title I of Pub. L. 95-630, the Federal Home Loan Bank Board proposes to revise its regulations pertaining to: (1) Removals, suspensions, and prohibitions in cases where officers, directors or employees of institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, or other persons participating in the institutions' affairs, are charged with or are convicted of a crime; and (2) application of rules of practice and procedure regarding APA adjudicative proceedings to new powers included in Title I. The agency also proposes to take this opportunity to revise, simplify, and update some of its APA hearing rules and delete unnecessary regulatory provisions.

COMMENTS MUST BE RECEIVED BY: August 31, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION, PLEASE CONTACT: Larry M. Berkow, Associate General Counsel, Federal Home Loan Bank Board (202-377-6430).

SUPPLEMENTARY INFORMATION: Title I of Pub. L. 95-630, the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("Act") expanded the supervisory authority of the Federal Home Loan Bank Board ("Bank Board") in a number of areas. The Bank Board believes that its statutory supervisory authority, set forth in subsection 5(d) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(d)), and sections 407 and 408 of the National Housing Act of 1934, as amended (12 U.S.C. 1730 and 1731), including the amendments thereto set forth in Title I of the Act, is self-explanatory and self-executing, and the Bank Board is therefore proposing to delete Parts 550 and 566 (12 CFR Parts 550 and 566), which merely track that statutory language, from its regulations. However, § 566.5 of the Bank Board's Insurance Regulations, which pertains to informal hearings in regard to suspensions, removal or prohibitions of officers, directors, employees or other persons participating in the affairs of an FSLIC insured institution, would be retained, with modifications consistent with the Act's requirements; it would be redesignated as a new Part 509a and more appropriately located in the regulations setting forth adjudicative procedures.

Procedural Changes

The Bank Board proposes amending a number of sections in Part 509, pertaining to rules of practice and procedure in adjudications. Section 509.1 would be amended by addition of new paragraphs (f) and (g), applying our APA hearing rules to the (1) assessment of civil money penalties and (2) termination of certain activities, pursuant to the Bank Board's new authority under the Act.

Paragraph 509.2(c) would be updated by substituting "administrative law judge" for "hearing officer". Paragraph 509.3(a) would be amended by deleting provision for non-attorney representatives at hearings, in recognition of the lack of use of this provision in the past, and to assure adequate protection of parties at hearings. A sentence would be added to § 509.4 providing for amendments to notices of proceedings.

Paragraph 509.6(e) would be amended to provide for postponement or other changes in the scheduling of hearings by the presiding officer without requiring Bank Board approval or agreement by the parties, because it is in the public interest to expedite proceedings.

Section 509.8 would be amended in two places: in paragraph (a), a requirement that persons taking depositions have the "power to administer oaths" would be deleted in order to avoid later questions of the validity of the proceedings and to eliminate the required presence at depositions of additional persons such as notaries. Paragraph (b) would be amended by deleting a reference to the Bank Board, rather than to the presiding officer, with regard to applications to take depositions, in order to avoid burdening the Bank Board and because such applications are more appropriately handled by the presiding officer.

Paragraph 509.11(a) would be amended by allowing submission of proposed findings and conclusions by parties directly after the close of the hearing, rather than waiting for notice of filing and transmission of the record to the Bank Board in Washington.

Changes in Rules on Hearings Relating To Removals, Suspensions, and Prohibitions Where a Crime Is Charged or Proven

Present § 566.5 would be simplified, restructured, shortened, and amended in conformance with the provisions of Title I, and would be redesignated as a new Part 509a located in the Bank Board's regulations pertaining to adjudicative procedures. Application of removal, suspension, and prohibition procedures would be expanded to include coverage of service corporation affiliates, savings and loan holding companies and savings and loan holding company subsidiaries.

The regulations would be amended to provide specifically that a notice or order of removal, suspension, or prohibition shall indicate the basis for such action. The present regulation (§ 566.5(a)(2)(i)) allows affected parties the opportunity to request a hearing at which to present evidence generally that the sanction "should not continue in effect"; the proposed language, in conformance with Title I, would provide that parties show that continued service or participation in company affairs does not, and is not likely to, pose a threat to the interests of the company's depositors or threaten to impair public confidence in the company.

"Hearing" would be amended to "informal hearing" to emphasize that formal adjudicatory procedures shall not apply. The 30-day period after receipt of request, during which time a hearing must be held under the present regulation, could be extended at the

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request of an affected party under the proposed regulations.

In determining relevant considerations to removals, suspensions and prohibitions, three changes would be made in conformance with Title I: (1) The present felony/misdemeanor language would be replaced by "a crime puinishable by a term exceeding one year under State or Federal law"; (2) the present consideration of whether the affected party's continued presence would constitute a possible danger to the safety and soundness of the institution, wold be replaced by considering whether that presence would pose a threat to depositors; and (3) deletion of a present reference to erosion of confidence in the savings and loan system generally, rather than confidence in a particular company, as a result of the party retaining his/her position in the company.

In conformance with Title I, the period for decision by the Board would be changed to a flat 60-day period rather than the present 30 day period which may be extended to 60 days.

Because the proposed amendments are required implementation of Title I and concern procedural changes needed to promptly and properly process current matters before the Bank Board, the Bank Board has determined that it is sufficient to the public interest to allow a 30 day comment period.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 509, add new Part 509a, and delete Parts 550 and 566, as set forth below.

PART 509—RULES OF PRACTICE AND PROCEDURE: ADJUDICATIONS UNDER ADMINISTRATIVE PROCEDURE ACT

1. Amend § 509.1 by deleting the word "and" after paragraph (d), substituting a semi-colon for the period at the end of paragraph (e), and adding new paragraphs (f) and (g), to read as follows:

§ 509.1 Scope of regulations.

This part prescribes rules of practice and procedure applicable to adjudicative proceedings as to which hearings are provided by the following statutory provisisons:

* * * * *

(f) Hearings under paragraph (d)(3)(C) of section 407 of the National Housing Act, as amended (12 U.S.C. 1730(k)(3)(C)), paragraph (j)(4)(C) of section 408 of the National Housing Act, as amended (12 U.S.C. 1730a(j)(4)(C)), and paragraph (d)(8)(B)(iii) of section 5 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(d)(8)(B)(iii)), to determine whether and/or to what extend civil penalties should be assessed against institutions, affiliate service corporations, savings and loan holding companies, subsidiaries thereof and/or related officials in violation of any order issued under the Board's cease-and-desist authority or any provision of Section 408 of the National Housing Act of 1933, as amended (12 U.S.C. 1730(a) et seq.) or any regulation (See Parts 583 and 584 of these regulations) or order issued pursuant thereto; and

(g) Hearings under paragraph (h)(5)(A) of section 408 of the National Housing Act, as amended (12 U.S.C. § 1730(h)(5)(A)), to determine whether to terminate certain activities by savings and loan holding companies or to terminate ownership or control of a noninsured savings and loan holding company subsidiary.

§ 509.2 [Amended]

2. Amend paragraph (c) of § 509.2 by deleting the words "a hearing examiner" and substituting therefor the words "an administrative law judge".

§ 509.3 [Amended]

3. Amend paragraph (a) of § 509.3 by deleting the second sentence, and revising the third sentence to read as follows: "Attorneys representing parties, witnesses or others in any proceeding provided for in this Part shall file a written notice of appearance with the Secretary, or with the presiding officer."

§ 509.4 [Amended]

4. Amend § 509.4 by adding the following sentence to the text thereof: "The matters of the fact and law alleged in a notice may be amended by the Board at any stage of the proceedings, and such amended notice may require an answer from the party or parties served and may set a new hearing date."

5. Amend § 509.6 by deleting the third sentence in paragraph (d) thereof, and revising the first and second sentences in paragraph (e) thereof, to read as follows:

§ 509.6 Conduct of hearings.

* * * * *

(e) *Continuances and changes or extensions of time and changes of place of hearing.* Prior to the appointment of a presiding officer and after the filing of a recommended decision pursuant to § 509.11, the Board, except as otherwise expressly provided by law, may by the notice of hearing or subsequent order provide time limits different from those specified in this part, and the Board, may, on its own initiative on for good cause shown, change or extend any time limit prescribed by these rules or the notice of hearing, or change the time and place for beginning any hearing hereunder. The preceding officer may, as permitted by law, change the time for beginning any hearing, continue or adjourn a hearing from time to time and change the location of the hearing * * *

6. Amend § 509.8 by amending the first two sentences of paragraph (a) and the first sentence of paragraph (b) thereof, to read as follows:

§ 509.8 Depositions.

(a) *Upon order of the presiding officer.* In connection with any hearing provided for in Parts 509a or 565, or § 583.26 of this Chapter, the presiding officer, by subpena or subpena duces tecum, may order evidence to be taken by oral deposition at any stage of any proceeding. Such deposition may be taken before the presiding officer or before any person designated by the presiding officer * * *

(b) *Application and order to take oral deposition.* Any party desiring to take the oral deposition of a witness, in connection with any hearing provided for in Parts 509a or 565, or in § 583.26 of this Chapter, shall make application in writing to the presiding officer, setting forth the reasons * * *

7. Amend the first sentence of § 509.11(a) to read as follows:

§ 509.11 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions by parties.* Each party shall have a period of 15 days after the close of the hearing or such further time as the presiding officer for good cause shall allow to file with the presiding officer proposed findings and conclusions, which may be accompanied by a brief in support thereof * * *

* * * * *

8. Add a new Part 509a, to read as follows:

PART 509a—REMOVALS, SUSPENSIONS, AND PROHIBITIONS WHERE A CRIME IS CHARGED OR PROVEN

Sec.
509a.1 Scope.
509a.2 Notice and opportunity for informal hearing.
509a.3 Informal hearing
509a.4 Waiver of hearing.
509a.5 Default of party.
509a.6 Relevant considerations.
509a.7 Decision of Board.

Authority: Pub. L. 95-630; sec. 17, 47 Stat. 736, as amended; sec. 5, 48 Stat. 132, as amended; secs. 402, 403, 407, 408, 48 Stat. 1256, 1257, 1260, and 1261, as amended; 12 U.S.C. 1437, 1464, 1725, 1726, 1730, 1731. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.

§ 509a.1 Scope.

The rules in this part apply to informal hearings afforded to any officer, director or other person participating in the conduct of the affairs of an insured institution, affiliate service corporation, savings and loan holding company or any subsidiary of a savings and loan holding company, and who has been suspended or removed from office or prohibited from further participating in the affairs of the institution, corporation, or subsidiary by a notice or order served by the Board upon grounds set forth in section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) or seciton 5(d)(4) of the Home Owner's Loan Act (12 U.S.C. 1464(d)(4)).

§ 509a.2 Notice and opportunity for informal hearing.

(a) The Board may serve a notice of suspension, order of removal and/or order of prohibition upon a director, officer or other person participating in the conduct of the affairs of an insured institution, affiliate service corporation, savings and loan holding company or any subsidiary of a savings and loan holding company. A copy of such notice and/or order shall be served upon the institution, corporation or subsidiary. Upon receipt of the notice, the concerned party shall immediately cease service to the company or participation in its affairs. Any notice or order shall indicate the basis for suspension, removal or prohibition and shall inform the individual of the right to request in writing, within 30 days of being served with such notice or order, an opportunity to show at an informal hearing that continued service to or participation in the conduct of the affairs of the institution, corporation or subsidiary, does not, or is not likely to, pose a threat to the interests of the company's depositors or threaten to impair public confidence in the company.

(b) A request for a hearing shall state with particularity the relief desired and the grounds therefor, and shall include supporting evidence, when available. Two copies of such request and supporting evidence shall be filed with the Secretary to the Federal Home Loan Bank Board.

§ 509a.3 Informal hearing.

(a) Upon receipt of a request for hearing, the Board shall notify the parties of the time and place fixed for hearing and shall designate one or more agency employees to preside.

(b) The hearing shall be scheduled to be held no later than 30 days from the date when a request for hearing is received unless the time is extended at the request of a party afforded a hearing.

(c) A party may appear personally or through counsel to submit relevant written materials and oral argument thereon.

(d) Members of the staff of the Federal Home Loan Bank Board's Office of the General Counsel also may attend the hearing and participate therein as a party. Formal rules of evidence shall not apply to the hearing, nor shall the adjudicative provisions of the Administrative Procedure Act (5 U.S.C. 556) apply. The proceedings shall be recorded and a transcript furnished to a party upon request and after payment of the cost thereof. Witnesses may be presented, within specified time limits, if a list of such witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn, unless specifically requested by either party or the presiding officer. The presiding officer may ask questions of any witness and each party shall have an opportunity to cross-examine any witness presented by an opposing party. Upon the request of either the concerned party of a representative of the Office of the General Counsel, the record shall remain open for a period of five (5) business days following the hearing, during which time the parties may make any additional submissions to the record. Thereafter, the record shall be closed.

§ 509a.4 Waiver of hearing.

The concerned party may, in writing, waive an oral hearing and instead elect to have the matter determined by the Board on the basis of written submissions.

§ 509a.5 Default of party.

If the concerned party fails to request a hearing, or fails to appear at a hearing, either in person or by attorney, or fails to submit a written argument where a hearing has been waived pursuant to § 509a.4, the suspension, removal or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until such removal, suspension, or prohibition is terminated by the Board.

§ 509a.6 Relevant considerations.

(a) In determining whether removal, suspension, or prohibition should be imposed or retained under this section, the Board will consider the following:

(1) Whether the alleged offense: (i) Is a crime punishable by a term exceeding one year under State or Federal law, and (ii) involved dishonesty or a breach of trust;

(2) Whether continued presence of the concerned party in his position may pose a threat to the interests of the institution's depositors because of: (i) The nature and extent of the party's participation in the affairs of the insured institution, or, (ii) the nature and the offense with which the party has been charged; and

(3) Whether there is cause to believe that the continued presence of the concerned party may threaten to impair public confidence in the integrity, safety, or soundness of the institution, corporation or subsidiary, if the party is permitted to retain such position.

(b) The Board may also consider any other factors which, in a specific case, appear relevant to continuation of a suspension or prohibition order, such as whether the individual is covered by the company's fidelity bond and, if so, whether the bonding company is likely to revoke the bond or coverage under the bond will be affected as a result of the charge.

§ 509a.7 Decision of Board.

(a) Within 60 days following the hearing or submission of written argument in lieu of a hearing, the Board shall notify the parties whether the suspension, removal and/or prohibition will be continued, terminated, or otherwise modified. Such notification shall contain a statement of the basis for the decision, if adverse to the concerned party. A removal or prohibition order remains in effect until terminated by the Board. A suspension and/or prohibition remains in effect until the criminal charge is finally disposed of or until terminated by the Board.

(b) The Board is deciding upon any suspension will not consider the ultimate question of the guilt or innocence of the individual with respect to the criminal charge which is outstanding. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting removal proceedings pursuant to section 5(d)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(4)).

PART 550—CEASE-AND-DESIST AND SUSPENSION AND REMOVAL ORDERS [RESCINDED]

9. Rescind Part 550 of the Rules and Regulations of the Federal Savings and Loan System.

PART 566—CEASE-AND-DESIST AND SUSPENSION AND REMOVAL ORDERS [RESCINDED]

10. Rescind Part 566 of the Rules and Regulations for Insurance of Accounts.

(Pub. L. 95–630; Sec. 17, 47 Stat. 736, as amended; sec. 5, 48 Stat. 132, as amended; secs. 402, 403, 407, 408, 48 Stat. 1256, 1257, 1260, and 1261, as amended; (12 U.S.C. 1437, 1464, 1725, 1726, 1730, 1731). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 79-23699 Filed 7-31-79; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

[16 CFR Ch. I]

Semiannual Agenda of Reports and Regulations

AGENCY: Federal Trade Commission.

ACTION: Notice of Semiannual Agenda.

SUMMARY: The following agenda of reports and regulations, prepared by the Office of Policy Planning of the FTC, is published voluntarily by the Federal Trade Commission in connection with Executive Order 12044, issued by the President on March 24, 1978. The agenda has been divided into four categories: (A) The general subject matter of reports expected to be made public within the next six months, (B) The general subject matter of internal rules of operating procedures upon which the Commission is expected to take action within the next six months, (C) A list of investigations that have recently resulted or are expected to result within the next six months in recommendations to the Commission for proposed rules or reports, and (D) A list of rules already proposed by the Commission with target dates for completion of significant steps in their development. Each item on the list includes the name and telephone number of a person to contact for further information.

It should be noted that these lists are based on projections at the time of this publication of the subject matter and timing of future Commission action. Discovery of new information, changes in circumstances or personnel, and changes in the law may alter the projected dates of matters listed in this document. All matters are subject to review and approval by the Commission.

FOR FURTHER INFORMATION CONTACT: For further information about any specific item in the agenda, call or write the "contact person" indicated.

A. Reports Expected To Be Made Public

1. The Development and Structure of the U.S. Electric Lamp Industry

This report is an industry study of electric lamp manufacturing. It discusses the technology of lamp production, and investigates market structure, business conduct, economic performance, and their interrelationships in the industry.

Contact: Rober P. Rogers, (202) 632–4916, Bureau of Economics

2. Brand Performance in the Cigarette Industry and the Advantage of Early Entry

This report examines the importance of rank and timing of "entry" on subsequent brand "success" in consumer product submarkets.

Contact: Ira T. Whitten, (202) 254–7775, Bureau of Economics

3. Grocery Retailing Concentration in Metropolitan Areas, Economic Census Years, 1954–1972

This is a statistical report describing changing patterns of seller concentration in food retailing within individual urban markets over the period 1954–1972.

Contact: Russell C. Parker, (202) 254–7686, Bureau of Economics

4. Consumer Reaction to Government Provision of Information: The Impact of Health Information on Nicotine and Tobacco Consumption

This report is an econometric study of the impact of health warning information on the cigarette smoking behavior of individuals.

Contact: R. Dennis Murphy, (202) 632–5100, Bureau of Economics

5. Analysis of the Ban on Intra-Major Ventures in OCS Petroleum Lease Sales

This study analyzes the impact of the Department of Interior ban on joint ventures on the outer continental shelf by the largest oil companies. It compares the number of bids, size of partners and concentration in bidding and in the winning bids before and after the joint venture took place. It also considers the probable effect of changing the definition of which firms are included in the joint venture ban.

Contact: Keith B. Anderson, (202) 254–7720, Bureau of Economics.

6. Competition in the Nuclear Fuel Industry

This study describes the competitive structure of the uranium supply industry. It will analyze the economics of uranium supply, including concentration levels and conditions of entry. It will also discuss the impact of interfuel competition on uranium supply.

Contact: Keith B. Anderson, (202) 254–7720, Bureau of Economics

7. Professional Advertising: An Empirical Study of the Relationship Between Advertising and the Price and Quality of Optometric Services

This study empirically investigates the question of whether the price and quality of professional services are associated with advertising and commercial practice. It focuses on optometry, a licensed profession for which considerable variation among the states concerning restrictions on advertising and professional practice has existed for some time.

Contact: Ronald S. Bond, (202) 254–7690, Bureau of Economics

8. The Effects of Restrictions on U.S. Imports: Five Case Studies and Theory

The study develops a methodology to estimate the costs and benefits of restrictions on U.S. imports. That methodology is employed to theoretically rank the welfare costs of different restrictions (tariffs, quotas, orderly marketing agreements, tariff-quotas, and proportionally distributed quotas) on U.S. imports.

Five products were selected for detailed examination: citizen's band radios, color televisions, sugar, nonrubber footwear and textiles. The costs and benefits of the recently applied trade restrictions on each of these products were estimated. The costs of a trade restriction were measured by the inefficiency ("deadweight") losses and by costs to consumers; the benefits were the reduced adjustment costs of otherwise displaced employees. With the exception of color televisions, the costs significantly outweighed the benefits. In the color television case, the orderly marketing agreement was sufficiently circumvented so that it was not restrictive; thus there were virtually no costs or benefits.

Contact: David G. Tarr, (202) 254–7690, Bureau of Economics

9. Competition in the Petroleum Industry

This study examines the effect of Federal regulation of petroleum product prices and Federal regulation of product allocation on the structure and performance of the domestic petroleum industry.

Contact: Keith B. Anderson, (202) 254–7720, Bureau of Economics

10. Bank Influence Over Behavior of non-Financial Corporations

This is an empirical study of bank control (equity control and creditor influence) over non-financial corporations, and its impact on their rates of merger activity.

Contact: Donald T. Sant, (202) 254–7690, Bureau of Economics

11. Cost Control by Health Insurers

This study examines the efficiency of a proposed antitrust exemption which would allow commercial health insurers to engage in joint efforts to effect cost control in the health industry. The study also evaluates alternative ways in which rising health care costs can be controlled.

The methodology of the study consists of multiple regression analysis of the Blue Cross plans as well as in-depth analysis of the cost control efforts of both a large and a small third party payer.

Contact: Bob Brogan, (202) 254–7680, Bureau of Economics

12. The Effect of Medical Control of Blue Shield Plans

This study will provide an estimate of the effect that physician control of Blue Shield has on procedure prices and other aspects of Blue Shield performance such as plan efficiency. Several definitions of "medical control" are being tested separately to permit a determination of which types and degrees of control have the greatest effects on prices and costs. The objective of this study is to estimate the benefits that can be expected to accrue if various specified gradations of medical control were to be eliminated.

Contract: Michael Klass, (202) 254–7770, Bureau of Economics

13. Unavailability of Advertised Specials (16 CFR 424)

A report examining the impact of the Commission's trade regulation rule governing retail food store advertising and market practices.

Contact: Ken Bernhardt, (202) 724–1878, Bureau of Consumer Protection

14. Warranties (15 U.S.C. § 2301)

A report gathering base line data with which to examine the impact of regulations issued under the Magnuson-Moss Warranty Act.

Contact: Ken Bernhardt, (202) 724–1878, Bureau of Consumer Protection

15. *Cigarettes*

Report on the results of testing cigarettes for tar, and nicotine levels. Report may also include carbon monoxide levels for the cigarettes tested.

Contact: Jane Dolkart, (202) 724–1490, Bureau of Consumer Protection

16. Affirmative Disclosures

A report assessing the effectiveness of recent (since 1970) affirmative disclosure remedies.

Contact: Kenneth Bernhardt, (202) 724–1878

17. Appliance Energy Labeling

A study to gather data on consumer purchasing patterns for appliances and on promotional practices of appliance marketers.

Contact: Andrew I. Wolf, (202) 724–1878, Bureau of Consumer Protection

18. STP Corrective Ad

A study assessing the effectiveness of a public notice remedy.

Contact: Lawrence Hodapp, (202) 523–3950, Bureau of Consumer Protection

19. Children's Advertising Endorsements

A report examining the effects of celebrity endorsements in toy advertisements on children's perceptions and product preferences.

Contact: Louise Jung, (202) 724–1481, Bureau of Consumer Protection

20. Eyeglasses Duplicating Study

A study assessing the ability of opticians to duplicate lenses without a prescription.

Contact: Gary Hailey, (202) 523–3428, Bureau of Consumer Protection

21. Third Annual Report to Congress Pursuant to Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976

A report describing and assessing operation of the premerger notification program implemented pursuant to § 7A of the Clayton Act, 15 U.S.C. § 18a.

Contact: Malcolm R. Pfunder, (202) 523–3622, Bureau of Competition

B. Internal Rules or Procedures Upon Which the Commission Is Expected To Take Action

1. Penalties for Violation of Appliance Labeling Requirements

The Commission is expected to consider procedures for the assessment of civil penalties for violations of the provisions of the Energy Policy and Conservation Act pertaining to labeling and advertising of consumer appliances and any rules promulgated by the Commission thereunder.

Contact: Jonathan W. Cuneo or Toby G. Singer, (202) 523–3970 or (202) 523–3785, Office of General Counsel

2. Standards of Conduct for Attorneys Practicing Before the Commission

The Commission is expected to publish for comment a proposed amendment to its rules that will clarify the standards of ethical conduct expected of lawyers who practice before the Commission and will set out in more detail the procedure to be followed when there is an allegation that a lawyer has not conformed to those standards.

Contact: Oliver J. Trytell, (202) 523–3479, Office of General Counsel

3. Procedures for Requesting Confidential Treatment of Information Submitted to the Commission

The Commission is expected to publish final rules which will announce procedures for persons requested or required to submit information to the Commission to obtain confidential treatment of that information. This proposal has previously been published for comment. Final action has been delayed by the need to take account of the possible impact on the proposal of several recent court decisions.

Contact: Barry Rubin, (202) 523–3520, Office of General Counsel

4. Restrictions on Practice Before the Commission by Former Members and Employees

This rulemaking appeared in the previous agenda. It has been delayed pending Congressional action on amendments to the Ethics in Government Act and action by the D.C. Court of Appeals on proposed amendments to the Code of Professional Responsibility.

Contact: Jack Schwartz, (202) 523–3615, Office of General Counsel

5. Statements of Financial Interests

The Commission is expected to consider amendments to the Rules of

Practice, conforming with the Ethics in Government Act, dealing with disclosures of financial interests filed by Commission employees.

Contact: Sophie Krasik, (202) 523–3866, Office of General Counsel

C. Investigations Which Have Resulted or May Result in a Recommendation to the Commission for a Rule or Report

1. Written Warranties

An investigation into simplifying warranty advertising, making warranties readable, and improving warranty disclosures.

Contact: Rachel Miller, (202) 523–0425, Bureau of Consumer Protection

2. Eyeglasses II

An investigation of private and State restrictions on ownership of and operations of ophthalmic good dispensaries.

Contact: Christine Latsey, (202) 523–3432, Bureau of Consumer Protection

3. Dental Laboratories Investigation

An investigation of restrictions on the ability of denture laboratories to provide dental care directly to the public.

Contact: Ann Grover, (415) 556–1270, San Francisco Regional Office

4. Equal Credit Opportunity Act

Commission consideration of proposed guidelines on agency enforcement of the Equal Credit Opportunity Act concerning the practices of real estate brokers who arrange credit incident to the sale of property.

Contact: Scott Morris, (202) 724–1144, Bureau of Consumer Protection

5. Dentists and Dental Hygienists

An investigation of private and public restrictions on the delivery of dental services in the United States.

Contact: Harrison Shepard, (415) 556–1270, San Francisco Regional Office

6. Public Accounting Profession

An investigation of private and State restrictions on advertising, solicitation and delivery of services by accountants.

Contact: John M. Peterson, (312) 353–8522, Chicago Regional Office

7. Oil Company Ownership of Petroleum Pipelines

Investigation of competitive effect of oil company ownership and control of petroleum pipelines and advisability of promulgation of a Commission rule prohibiting or restricting such ownership or control.

Contact: Rhett R. Krulla, (202) 724–1428, Bureau of Competition

8. Blue Shield

Following an investigation of the extent, impact, and legality of medical participating in the control of Blue Shield and other medical prepayment plans, the staff in April, 1979, forwarded to the Commission a report concluding that there is reason to believe that some forms of such participation violate Section 5 of the FTC Act. The report recommended that the Commission institute rulemaking proceedings as a means of resolving these issues. The Commission has not yet acted on this recommendation, though the staff's report has been made public because of its relation to a separate adjudicative proceeding. Within the next six months, the Commission is expected to determine whether to institute rulemaking proceedings, in which case the Commission would authorize official publication of the staff report and issue a notice of proposed rulemaking.

Contact: Walter T. Winslow, (202) 724–1341, Bureau of Competition

D. Target Dates for the Development of Rules Already Proposed

1. Funeral Industry Practices (40 FR 39901; Aug. 29, 1975)

Promulgation of Trade Regulation Rule on Funeral Industry Practices, publication of Statement of Basis and Purpose, and publication of proposed Compliance Guidelines, on or before December 20, 1979.

Contact: Michael Rodemeyer, (202) 523–3652, Bureau of Consumer Protection

2. Credit Practices (40 FR 16347; April 11, 1974)

Publication of staff report on or before October 31, 1979. End of post-record comment period on or before December 31, 1979.

Contact: David H. Williams, (202) 724–1100, Bureau of Consumer Protection

3. Amendment to Preservation of Consumers' Claims and Defenses (40 FR 53530; Nov. 18, 1975)

Oral presentation before the Commission and Commission consideration of the amendment on or before October 31, 1979.

Contact: Sarah Jane Hughes, (202) 724–1567, Bureau of Consumer Protection

4. Amendment to Games of Chance in Retailing and Gasoline Industries (43 FR 48654; Oct. 19, 1978)

Publication of staff report on or before August 31, 1979. Publication of Presiding Officer's report on or before September 30, 1979. End of post-record comment period on or before October 31, 1979.

Contact: Noble F. Jones, (216) 552–4207, Cleveland Regional Office

5. Advertising and Labeling of Protein Supplements (40 FR 41144; Sept. 5, 1975; 41 FR 22593; June 4, 1976)

Publication of staff report on or before July 31, 1979. End of post-record comment period on or before September 30, 1979.

Contact: Karen Chandler, (414) 556–1270, San Francisco Regional Office

6. Used Motor Vehicle Sales (41 FR 1089; Jan. 6, 1976)

Oral presentation before the Commission during September, 1979, if determined necessary by the Commission. Commission consideration of the rule on or before October 15, 1979.

Contact: Bernard J. Phillips, (202) 523–1670, Bureau of Consumer Protection

7. Reasonable Duties Under A Full Warranty (42 FR 39223; Aug. 3, 1977)

Publication of staff report on or before September 30, 1979.

Contact: Jeffery M. Karp, (202) 523–1753, Bureau of Consumer Protection

8. Standards and Certification (43 FR 57269; Dec. 7, 1978)

Public hearings completed in San Francisco. Public hearings commencing on June 25, 1979 in Washington, D.C. and ending in September. Written rebuttal comments accepted after the close of public hearings.

Contact: Robert J. Schroeder, (202) 523–3936, Bureau of Consumer Protection

9. Mobile Home Sales and Service (40 FR 28334; May 29, 1975)

Publication of Presiding Officer's Report on or before September 15, 1979.

Contact: Arthur B. Levin, (202) 523–3827, Bureau of Consumer Protection

10. Disclosure Requirements and Prohibitions Concerning Franchise and Business Opportunity Ventures (16 CFR 436)

Final rule to become effective on October 21, 1979, and final compliance guidelines to be published on or before that date.

Contact: John Tifford, (202) 523–1753, Bureau of Consumer Protection

11. Children's Television Advertising (43 FR 17967; Apr. 27, 1978)

Designation of disputed issues by the Commission within 90 days after it has the participation of no fewer than 3 Commissioners.

Contact: Susan Elliott, (202) 724–1456, Bureau of Consumer Protection

12. Labeling and Advertising of Residential Thermal Insulation Materials (42 FR 29678; Nov. 18, 1977)

Promulgation and publication of Statement of Basis and Purpose on or before August 31, 1979.

Contact: Paul J. Petruccelli, (202) 724–1508, Bureau of Consumer Protection

13. Appliance Labeling (43 FR 21806; July 21, 1978)

Promulgation and publication of Statement of Basis and Purpose on or before October 30, 1979.

Contact: Andrew Wolf, (202) 724–1453, Bureau of Consumer Protection

14. Amendments to the Care Labeling of Textile Wearing Apparel (41 FR 3747; Jan. 26, 1976)

Oral presentation before the Commission on July 18, 1979. Commission consideration of the rule on or before August 1, 1979.

Contact: Earl Johnson, (202) 724–1362, Bureau of Consumer Protection

15. Disclosure Requirements and Prohibitions Concerning the Flammability of Plastics (39 FR 28292; Aug. 6, 1974)

Commission consideration of whether to terminate this proceeding on or before November 15, 1979.

Contact: Kent C. Howerton, (202) 724–1516, Bureau of Consumer Protection

16. Food Advertising (Phase I) (39 FR 39842; Nov. 11, 1974; 41 FR 8980; Mar. 19, 1976)

Oral presentation before the Commission during October, 1979, if determined necessary by the Commission. Commission consideration of the rule on or before October 31, 1979.

Contact: Judith A. Neibrief, (202) 724–1496, Bureau of Consumer Protection

17. Food Advertising Options (39 FR 39842; Nov. 11, 1974; 41 FR 8980; Mar. 19, 1976)

Commission consideration of staff recommendation on options in food advertising.

Contact: Judith A. Neibrief, (202) 724–1496, Bureau of Consumer Protection

18. Over-the-Counter Drugs (41 FR 39768; Sept. 16, 1976)

End of post record comment period on or before July 31, 1979.

Contact: Joel Brewer, (202) 724–1530, Bureau of Consumer Protection

19. Advertising for Over-the-Counter Antacids (41 FR 14534; Apr. 16, 1976)

Publication of Presiding Officer's Report on or before November 1, 1979.

Contact: Joel Brewer, (202) 724–1530, Bureau of Consumer Protection

20. Hearing Aid Industry (40 FR 26646; Jan. 24, 1975)

Oral presentation before the Commission during September, 1979, if determined necessary by the Commission. Commisssion consideration of the rule on or before October 15, 1979.

Contact: Robert Patterson, (202) 724–1497, Bureau of Consumer Protection

By the Commission, dated July 1979.

Carol M. Thomas,

Secretary.

[FR Doc. 79-23668 Filed 7-31-79; 8:45 am]

BILLING CODE 6750-01-M

[16 CFR Part 13]

[Docket No. 9089]

Atlantic Richfield Co.; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Los Angeles, Calif. integrated energy company, engaged in various other activities, including those related to copper, to timely divest its interest in the Heddleston copper and molybednum mineral property located in Lewis and Clark County, Montana; its Ann Mason copper mineral property and Bear copper mineral property, located in Lyon County, Nevada; its entire voting stock interest in the Inspiration Consolidated Copper Company; and its joint venture interest in the Anamax Mining Company, a Pima County, Arizona integrated copper company. Each of the divestitures would have to be an "Eligible Person," and upon company's failure to divest these interests within specified time periods, divestiture authority would be transferred to a trustee, who will be given three years to obtain fair value for the properties and assets. The order would also provide for arbitration should any dispute regarding the terms of the order arise between Atlantic Richfield and the Commission or trustee.

DATE: Comments must be received on or before September 30, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523–3601.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

Agreement Containing Consent Order

The Federal Trade Commission ("Commission") having issued an Amended Complaint concerning the acquisition by the Atlantic Richfield Company ("Atlantic Richfield") of The Anaconda Company ("Anaconda"), and it now appears that Atlantic Richfield is willing to enter into an Agreement containing the attached Consent Order ("Order"),

It is hereby agreed by and between Atlantic Richfield by its duly authorized officers and its attorneys and counsel for the Commission, in accordance with the Commission's Rule governing consent order procedures, that:

1. Atlantic Richfield is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with

an office and principal place of business located at 515 South Flower Street, Los Angeles, California 90071.

2. Atlantic Richfield has been served with a copy of the Amended Complaint issued by the Commission charging it with a violation of Section 7 of the Clayton Act, as amended (15 U.S.C. 18), and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. 45), and has filed an Answer to said Amended Complaint denying such charges.

3. Atlantic Richfield admits all the jurisdictional facts set forth in the Amended Complaint.

4. Atlantic Richfield waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the Order is inappropriate, improper, or inadequate, in which event it may take such action as it may consider appropriate.

6. This Agreement is for settlement purposes only, entered into without trial or adjudication of any issue of fact or law herein, and without the taking of any evidence or testimony, and does not constitute any evidence or any admission by Atlantic Richfield that the law has been violated as alleged in the Amended Complaint issued by the Commission.

7. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's rules, the Commission may, without further notice to Atlantic Richfield, (i) issue its decision containing the following Order in disposition of the proceeding, and (ii) make information public in respect thereto. When so entered the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to Atlantic Richfield's address, as stated in this Agreement, shall constitute service. Atlantic Richfield waives any rights it may have to any other manner of service. The Amended Complaint may be used in construing the terms of this Order and no agreement, understanding, representation, or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order. Should the proposed Order not become final on or before September 30, 1979, Atlantic Richfield may, on the giving of thirty (30) days written notice to the Commission, withdraw its consent to such Order and its acceptance of this Agreement. It is expressly agreed that should the Commission reject, alter, modify or otherwise change any portion of the proposed Order, or should Atlantic Richfield withdraw its consent and acceptance in accordance with the preceding sentence, Atlantic Richfield shall be relieved of all undertakings, commitments and other provisions contained in this Agreement and proposed Order and may litigate fully and without limitation or prejudice all claims alleged in the Amended Complaint and/or otherwise incidental to this proceeding as provided by law as if this Agreement had never existed.

8. Atlantic Richfield has read the Order contemplated hereby. It understands that once the Order has been issued, it will be required to file one or more compliance reports setting forth the manner and form in which it intends to comply, is complying or has complied with the Order. Atlantic Richfield further understands that it may be liable for civil penalties in the amounts provided by law for each violation of the Order after it becomes final.

Order

For purposes of this Order, the following definitions shall apply:

(a) "Respondent" means Atlantic Richfield Company, a corporation, and its subsidiaries, successors and assigns.

(b) The term "Subsidiary" with respect to any Person named herein means any corporation in which such named Person owns fifty percent (50%) or more of the outstanding securities having ordinary voting power to elect a majority of the Board of Directors of such corporation (whether or not any other class of security has or might have voting powers by reason of the happening of a contingency).

(c) "Person" means any individual, corporation (including subsidiaries thereof), partnership, joint venture, trust, unincorporated association or organization, or government or agency or political subdivision thereof, or other business or legal entity, other than Respondent.

(d) "Copper Company" means any Person having Operating Copper Properties within the Restricted Area whose combined average annual copper mine production for the five years immediately preceding an acquisition or Joint Venture which may be subject to the provisions of Paragraphs VIII, IX or X of this Order exceeded 10,000 short tons of recovered copper, excepting any such Person which has ceased production of copper from all of its Operating Copper Properties within the Restricted Area for more than two years prior to an acquisition or Joint Venture which may be subject to the provisions of Paragraphs VIII, IX or X of this Order.

(e) "The Copper Market" shall consist of all primary production from mines in the United States, as reported by the American Bureau of Metal Statistics for the most recent calendar year for which statistics have been published prior to the date of an acquisition or Joint Venture which may be subject to the provisions of Paragraphs VIII, IX or X of this Order.

(f) "Operating Copper Property" means any deposit which at the time of an acquisition or Joint Venture which may be subject to the provisions of Paragraphs VIII, IX or X of this Order is being mined and (i) which is being operated primarily for the purpose of recovering copper contained in the ore being mined, (ii) for which the dollar value of copper recovered exceeds the dollar value of each other mineral recovered except as provided in Paragraph IX, or (iii) which is producing, as a by-product or co-product of other mine production, copper at an average annual rate of 20,000 short tons or more of recovered copper after adjustment in each year for production lost as a result of strikes or other labor interruptions. Operating Copper Properties shall also include:

(1) Any deposit, which would otherwise be an Operating Copper Property, except that its operation has been suspended or discontinued for less than two years prior to an acquisition or Joint Venture which may be subject to the provisions of Paragraphs VIII, IX or X of this Order or whose operations were suspended as a consequence of or in connection with the contemplated acquisition of such deposit by Respondent.

(2) Any Non-Operating Copper Property which at the time of an acquisition or Joint Venture which may be subject to the provisions of Paragraphs VIII, IX or X of this Order is under active mine development and is scheduled by its owner or owners to enter into production within five years.

(g) "Non-Operating Copper Property" means any deposit for which its owner or owners contemplate at the time of an acquisition or Joint Venture which may be subject to the provisions of Paragraphs VIII, IX or X of this Order (i) that any operation would be primarily for the recovery of copper, (ii) that the dollar value of copper recovered would exceed the dollar value of each other mineral to be recovered except as provided in Paragraph IX, or (iii) that any operation would produce, as a by-product or co-product of its mine production, copper at an average annual rate of 20,000 short tons or more of recovered copper.

(h) "Eligible Person" means all Persons other than those specifically classified as Ineligible Persons in definition "I".

(i) "Ineligible Person" means the following corporations and their respective subsidiaries: Kennecott Copper Corp., Phelps-Dodge Corporation, ASARCO Inc., Newmont Mining Corp., AMAX, Inc. ("Amax"), Pennzoil Company, Cyprus Mines Corp., Cities Service Company, Noranda Mines Ltd., INCO Ltd., the Anglo American Group and any other Person having more than five perent (5%) of the Copper Market for the calendar year immediately preceding (i) an attempt by such Person to acquire a property or interest to be divested under the provisions of Paragraphs I through V of this Order, or (ii) an attempt by such Person to enter into a Joint Venture with Respondent which may be subject to the provisions of Paragraphs IX and X of this Order. The "Anglo American Group" means the Anglo-American Corporation of South Africa, Limited, Charter Consolidated Ltd., De Beers Consolidated Mines Ltd., Hudson Bay Mining and Smelting Co., Limited, Minerals and Resources Corporation Ltd., Anglo-American Corporation of Canada Limited, and Inspiration Consolidated Copper Company and their respective subsidiaries.

(j) "Divest" means any act by which Respondent sells, transfers, conveys or relinquishes ownership, possessory interest and control in a property subject to this Order.

(k) "Fair Value" means such considerations, taking into account all terms and conditions of transfer and payment therefor, that would be exchanged between a willing buyer and a willing seller for the transfer of a property, where neither buyer nor seller was under any constraints or impediments, including any obligation on the part of the seller to transfer the property within a specified period, whether or not that fact were known to the buyer.

(l) "Joint Venture" means a joint business undertaking by two or more Persons, for the purpose of carrying out a particular objective or objectives, pursuant to an agreement which provides for (i) joint contributions to capital, which may include tangible and intangible assets, (ii) sharing of profits or production in kind, and (iii) a mutual right to control, provided, however, that this definition shall not include any venture in which respondent presently participates, and provided further, that a holder of a right to a Deferred Compensation Interest shall not for that reason be a participant in a Joint Venture.

(m) "Restricted Area" means the United States, including Puerto Rico.

(n) "Deferred Compensation Interest" means any promise of deferred payment, including any royalty, carried interest, production payment or other interest that is not coupled with a right to participate in the operation or management of a property, except to the extent necessary to protect the holder's Deferred Compensation Interest upon default or where actions by the purchaser or operator threatened destruction of, or substantial harm to, the holder's Interest. Payment to the holder of a Deferred Compensation Interest may include cash or production in kind. Payment to Respondent with respect to a Referred Compensation Interest shall not exceed either (i) ten percent (10%) of production in kind, (ii) ten percent (10%) of gross proceeds, (iii) ten percent (10%) of net profits, or (iv) ten percent (10%) of net smelter returns resulting from the operation of a property subject to such Interest.

(o) "Major Change of Condition" means an involuntary reduction in Respondent's domestic production of copper whereby its total domestic copper mine production in any calendar year fails to exceed 110,000 short tons or recovered copper and it appears that such reduced level of production (absent any act permitted by Paragraph XI) is unlikely to be materially increased above 110,000 short tons of recovered copper, annual production, for a two-year period following such year of initial reduction. Such involuntary reduction means:

(i) Acts of God including fire, flood and earthquakes, unexpected variations or changes in the technical characteristics of ore deposits, rebellion, riot, civil unrest or war, whether declared or not;

(ii) changes in operating, raw materials, transportation or other costs beyond the direct control of Respondent; or

(iii) The action or inaction of any federal, state or local government entity, including without limitation actions promulgating, modifying or refusing to modify environmental, health, safety or other regulations.

as a result of which, continued operations at previous levels at any copper property or facility, including any concentrator, smelter or refinery of Respondent, would result in net operating losses as measured by the difference between actual or expected operating revenues and actual or expected cash costs of production, along with any actual or expected capital charges directly related to the involuntary reduction, for the affected properties and facilities. Further, Respondent's copper mine production in any year shall be adjusted by the amount of production lost through any strike or other labor interruption (whether legal or illegal, authorized or unauthorized), as measured by the actual production in the previous year for the period corresponding to the period of strike or labor interruption (unless a strike or labor interruption was in effect during such prior period, in which case the measurement shall be based on the next closest year during which there was no strike or labor interruption during the corresponding period): *Provided*, That if an involuntary reduction, as defined herein, occures prior to a strike or labor interruption, the production lost as a result of strike or labor interruption shall be measured by the prior year's production adjusted downward by the effect of the involuntary reduction.

(p) "Catastrophic Change of Condition" means a Major Change of Condition whereby Respondent's total domestic copper mine production in any calendar year fails to exceed 80,000 short tons of recovered copper.

(q) "Limitation Period" means the period commencing at the Effective Date of this Order and terminating on the fifth anniversary of such date: *Provided, however*, That: (i) Should Respondent fail to divest four of the five properties

subject to Paragraphs I through V within two calendar years of the Effective Date of this Order, the Limitation Period shall be extended day for day by the time in excess of two calendar years from such Effectice Date taken by Respondent to divest the fourth property which is ultimately divested, and (ii) the Limitation Period shall be extended day for day by the time in excess of four calendar years from such Effective Date taken by Respondent to divest the fifth property which is ultimately divested (with any additional time resulting from the operation of clauses (i) and (ii) to be calculated concurrently rather than consecutively): *And, provided further,* That in no event shall the Limitation Period extend beyond the tenth anniversary of the Effective Date of this Order.

(r) "Anamax" means Anamax Mining Company, a partnership organized under the laws of the State of Arizona between the Anaconda Company and Amax Arizona, Inc., a subsidary of Amax.

(s) "Effective Date" means the day on which this Order becomes final by service upon Respondent by the Commission.

I

It is ordered, That within three years of the Effective Date of this Order, Respondent shall divest its entire interest in the Heddleston property which shall include all fee lands, patented mining claims, unpatented mining claims, leases, and other interests, including water rights appurtenant thereto, located in the following legal subdivisions situated in Lewis and Clark County, State of Montana, to wit:

Township 14 North, Range 6 West, Montana Principal Meridian
Sections 16 to 22, inclusive; 27 to 29, inclusive; and 31 to 34, inclusive.
Township 15 North, Range 7 West, Montana Principal Meridian
Sections 20 to 22, inclusive; 27 and 28.

to an Eligible Person: *Provided, however,* That Respondent may continue to hold a Deferred Compensation Interest. Should Respondent, after diligent efforts, fail to divest the Heddleston property at Fair Value within the specified three-year period, it shall transfer authority to divest the property to a Trustee as provided in Paragraph XII.

II

It is further ordered, That within four years of the Effective Date of this Order, Respondent shall divest its entire interest in the Ann Mason property which shall include all fee lands, patented mining claims, unpatented mining claims, leases and other interests, including water rights appurtenant thereto, located in the following legal subdivisions situated in Lyon County, State of Nevada, to wit:

Township 13 North, Range 24 East, Mount Diablo Base and Meridian
Section 10: SE¼
Section 11: S½
Section 12: SW¼
Section 13: W½
Section 14: All
Section 15: E½
Section 22: NE¼
Section 23: N½
Section 24: NW¼

to an Eligible Person: *Provided, however,* That Respondent may continue to hold a Deferred Compensation Interest. For purposes of this Paragraph II, Amax and its subsidiaries shall be considered Eligible Persons if, with respect to the divestiture of the Respondent's interest in Amax provided in Paragraph V, Respondent shall have obtained from Amax or its subsidiaries and/or Anamax substantially the entire Helvetia Property, as described in Paragraph V(2), subject to the retention by Anamax or Amax or its subsidiaries of a Deferred Compensation Interest in a magnitude not to exceed that set forth in the last sentence of definition "n." Should Respondent, after diligent efforts, fail to divest the Ann Mason property at a Fair Value within such four year period, it shall transfer authority to divest the property to a Trustee as provided in Paragraph XII.

III

It is further ordered, That within four years of the Effective Date of this Order, Respondent shall divest its entire interest in the Bear property which shall include all fee lands, patented mining claims, unpatented mining claims, leases and other interests, including water rights appurtenant thereto, located in the following legal subdivisions situated in Lyon County, State of Nevada, to wit:

Township 14, North, Range 25 East, Mount Diablo B.M.
Section 33: E½ SW¼, W½ SE¼, S½ NE¼ SE¼
Township 13 North, Range 25 East, Mount Diablo B.M.
Section 3: SW¼ NW¼, N½ NW¼ SW¼
Section 4: NE¼, E½ E½ NW¼, N½ N½, SE¼

to an Eligible Person: *Provided, however,* That Respondent may continue to hold a Deferred Compensation Interest. For purposes of this Paragraph III, Amax and its subsidiaries shall be considered Eligible Persons if, with respect to the divestiture of the Respondent's interest in Anamax provided in Paragraph V, Respondent shall have obtained from Amax or its subsidiaries and/or Anamax substantially the entire Helvetia Property, as described in Paragraph V(2), subject to the retention by Anamax or Amax or its subsidiaries of a Deferred Compensation Interest in a magnitude not to exceed that set forth in the last sentence of definition "n." Should Respondent, after diligent efforts, be unable to divest the Bear property at Fair Value within such four year period, it shall transfer authority to divest the property to a Trustee as provided in Paragraph XII.

IV

It is further ordered, That within one year of the Effective Date of this Order, Respondent shall divest its entire voting stock interest (including any common or preferred stock which it may own at the time of disposition) in Inspiration Consolidated Copper Company, or any successor thereto, to an Eligible Person. For purposes of this Paragraph IV, the Anglo-American Group shall be considered to be an Eligible Person. Should Inspiration Consolidated Copper Company, or any successor thereto, fail or refuse to redeem for any reason, including lack of capital or earned surplus sufficient to permit lawful redemption, the common or preferred stock held by Respondent at the time such stock is tendered for redemption, Respondent shall have an additional two years to dispose of its interest. Should Respondent, after diligent efforts, fail to divest its interest in Inspiration Consolidated Copper Company or any successor thereto at Fair Value within the specified additional two year period, Respondent shall transfer authority to divest its interest to a Trustee as provided in Paragraph XII. Fair Value for purposes of this Paragraph IV shall be defined to be any consideration equal to or greater than $33 a share, or the equivalent thereto after adjustment for any stock dividends or stock splits which may occur after March 1, 1979.

V

It is further ordered, That within five years of the Effective Date of this Order, Respondent shall Divest its interest in Anamax to an Eligible Person. Anamax is engaged in the mining of copper in Pima County, Arizona, from the Twin Buttes Mine and the Palo Verde Mine, the latter mine operated by the Eisenhower Mining Company, a partnership with Asarco, Inc. Anamax's current annual production capacity from the two mines is 120,000 tons of recovered copper, including 35,000 tons of electrowon refined copper, and Anamax intends to produce uranium from copper ores. For purposes of this Paragraph V Amax and its subsidiaries shall be considered to be Eligible Persons.

Provided, however, that notwithstanding the foregoing:

(1) It is intended that the divestiture of Respondent's interest in Anamax is to be accomplished in such a manner as to avoid a termination of the Anamax partnership for federal income tax purposes. It is recognized that under Section 708(b)(1)(B) of the Internal Revenue Code, and the pertinent Treasury Regulations, the partnership will be treated as having terminated for tax purposes in the event that there is a sale or exchange of 50% or more of partnership capital and profits within a twelve month period; such a tax termination would potentially generate severe adverse tax consequences. In order to avoid such a termination, Respondent shall not be required to divest its entire interest in Anamax on condition that:

(a) Respondent shall, in any event, divest at least so much of its interest in Anamax as to constitute a divestiture of a 45% interest in the capital of Anamax (as the term "capital" is used in Section 708 of the Internal Revenue Code of 1954 in its present form or as hereafter amended or in any corresponding provision of any subsequent federal tax law): *Provided,* That notwithstanding any other provision of this Order said divestiture shall include, for purposes of the 45% divestiture requirement, divestiture by way of a total or partial liquidation of Respondent's interest in Anamax as provided in subparagraph (2) or a total or partial reallocation of Respondent's interests within Anamax as provided in subparagraphs (3) and (4) and/or a sale, exchange, transfer or other disposition of such interests or any combination of the foregoing;

(b) In complying with its obligations under this subparagraph (1), Respondent shall first propose a divestiture which will reduce its interest in Anamax to an interest which shall not exceed an interest reasonably adequate to prevent a termination of the Anamax partnership for federal tax purposes, provided, for purposes of this subparagraph (1)(b), said divestiture shall include divestiture by way of a total or partial liquidation of Respondent's interest in Anamax as provided in subparagraph (2) or a total or partial reallocation of Respondent's interest within Anamax as provided in subparagraphs (3) and (4) and/or a sale, exchange, transfer or other disposition of such interests or any combination of the foregoing. Respondent may then seek a ruling from the Internal Revenue Service to the effect that the divestiture proposed under this subparagraph (1)(b) will not cause a termination of Anamax for purposes of such Section 708 in its present form or as hereafter amended or under any corresponding provision of any subsequent federal tax law. Should the Internal Revenue Service decline to issue such ruling or fail to issue such ruling within a period of seven months after the ruling is requested, Respondent shall effect a divestiture pursuant to subparagraph (1)(a).

(c) Thirty (30) days prior to filing any request for such ruling as is described under subparagraph (1)(b) above, Respondent shall provide a copy of such request to the Commission, and the Commission thereafter will have twenty (20) days in which to submit the question of Respondent's compliance with subparagraph (1)(b) above to arbitration pursuant to Paragraph XIX or pursuant to such other procedure as the Commission and Respondent may then agree to. Any arbitration held under this subparagraph (1)(c) shall be solely for the purpose of determining whether Respondent's proposed divestiture, as set forth in the request for ruling, constitutes a reasonable effort to comply with the provisions of subparagraph (1)(b). The arbitrator shall be required to render his decision within seventy-five (75) days of the date the Commission shall submit the proposed divestiture to arbitration; should the arbitrator decide in Respondent's favor or fail to issue a final decision within such seventy-five (75) day period, Respondent shall be entitled to go forward with the proposed divestiture, which shall be deemed to be in compliance with the provisions of subparagraph (1)(b);

(d) If the Commission believes that a ruling requested under subparagraph (1)(b) should be issued, Respondent will not object to the Commission's submission of such views to the Internal Revenue Service; and

(e) Respondent's remaining non-divested interest in Anamax, whether retained pursuant to subparagraph (1)(a) or (1)(b), but excluding any interest retained or received by Respondent as provided in subparagraphs (2), (3) and (4), shall be arranged so that Respondent will receive cash or other monetary consideration, rather than take copper in kind, in connection with Anamax's continued operations: *Provided,* That such arrangement shall not be required if Respondent (i) seeks the concurrence of Anamax and any partner or partners therein and fails to receive such concurrence within eight months after such concurrence is requested, or (ii) seeks a ruling from the Internal Revenue Service, and the Service declines or fails to issue a ruling within eight months after such ruling is requested, that such arrangement, combined with any other changes in Respondent's interest in Anamax, will not cause a termination of Anamax for purposes of Section 708 of the Internal Revenue Code of 1954 in its present form or as hereafter amended or in any corresponding provision of any subsequent federal tax law.

(2) Notwithstanding anything in subparagraph (1) or otherwise contained in this Order, Respondent may receive from Anamax in total or partial liquidation of or in exchange for Respondent's interest therein (a) all or a portion of Anamax's interest in any one or more of the properties in the following townships situated in Pima County, State of Arizona, including East Helvetia, West Helvetia, Empire Ranch and Cienega Ranch (the "Helvetia Property"), to wit:

Township 18 South, Ranges 15, 16, 17 and 18 East,
Township 19 South, Ranges 15, 16, 17 and 18 East,
Township 20 South, Ranges 17 and 18 East, all Gila and Salt River Base and Meridian,

which property is presently owned or controlled by Anamax, and/or (b) current or deferred cash payments from Anamax (any deferred cash payments may be evidenced by Anamax's promissory note or notes).

(3) Nothing in subparagraph (1) or otherwise contained in this Order shall preclude Respondent from effecting the divestiture of its interests in Anamax through a reallocation of partnership interests within Anamax as a result of which Respondent retains or increases an interest in the Helvetia Property, which may be held within, and be owned by, the Anamax partnership, in which Respondent may have an interest: *Provided,* That Respondent's interests in other partnership capital (other than that subject to this subparagraph (3)) shall not exceed the amounts permitted by subparagraph (1): *And further provided,* That any management rights which may be held by Respondent in Anamax, attributable to an interest held under this subparagraph (3), shall be limited to the Helvetia Property, and do not permit Respondent to participate in

the active management or control of those other portions of Anamax divested pursuant to this Paragraph V.

(4) Notwithstanding anything in subparagraph (1) or otherwise contained in this Order, Respondent may retain, as a partner in Anamax or otherwise, the right to take in kind, or the right to sell, any minerals produced by Anamax other than uranium and copper (except that this exclusion shall not apply to uranium and copper produced as a consequence of the operation of the Helvetia Property, as provided under subparagraph (3), or as a consequence of the provisions of subparagraph (1)(e)).

Provided further, Respondent shall use its best efforts to maintain in force to the time of divestiture contemplated by this Paragraph V those provisions in the Partnership Agreement, as presently amended, which provide that should Respondent's interest in Anamax be reduced to less than 45%, it shall cease to be entitled to equal participation in the management of the partnership and, further, that should its interest be reduced to less than 20%, such remaining interest may, under certain circumstances, be purchased at the option of Amax.

Provided further, That Respondent shall not make any voluntary contribution to Anamax which would have the effect of increasing its percentage partnership interest in Anamax, provided that Respondent shall remain free to make any contributions necessary to meet its obligations pursuant to the Partnership Agreement, as amended, any production payment agreement in effect on the Effective Date of this Order or the mining plan in effect on the Effective Date of this Order or any successor mining plan adopted under the Partnership Agreement, as amended: *Provided,* That the implementation of any such successor plan shall not increase Respondent's percentage partnership interest in Anamax.

And provided further, That should Respondent, after diligent efforts, be unable to divest its interest in Anamax, as provided by this Paragraph V at Fair Value within such five year period, it shall transfer authority to divest such interest, to the extent required by this Paragraph V, to a Trustee as provided in Paragraph XII.

VI

It is further ordered, That Respondent, as part of its compliance with provisions in Paragraphs I, II, III and V, shall undertake reasonable steps to advertise the availability for acquisition of the properties subject to said respective paragraphs. In discharge of this obligation, Respondent shall advertise each property, so long as it has not been divested, twice yearly in *Engineering and Mining Journal, Mining Congress Journal, Mining Engineering, London Mining Journal,* and *The Wall Street Journal.* Such advertisements shall contain a description of the property offered at least as detailed as the description contained in this Order, and shall refer inquiring persons to an employee of Respondent active in Respondent's efforts to sell such property, giving his address and telephone number. In addition, Respondent shall within 30 days of the Effective Date of this Order mail a description of each property, including the information set forth above, to no less than 50 Eligible Persons engaged in mining within the United States. Respondent agrees that it will negotiate in good faith with all Persons seeking to acquire any of the properties subject to Paragraphs I, II, III and V who are Eligible Persons, who appear to be genuinely interested in acquiring such property for their use or on behalf of an Eligible Person, and who demonstrate to Respondent their financial ability to accomplish purchase at Fair Value. Respondent shall make available to such *bona fide* prospective purchasers, to the extent it has the legal right to do so, access to factual data, including drill hole locations, logs and assay reports, and will permit escorted on-site inspections of the properties, subject to Respondent having obtained written agreement that such Person will hold confidential any information disclosed, will use such information solely for the purpose of evaluating the property and will not use such information for any business or competitive purpose. With respect to Anamax, Respondent will use its best efforts to obtain the consent of Amax or its subsidiaries to the disclosure of factual data to prospective purchasers consistent with the provisions of the preceding sentence. Respondent shall not be required to deal with Persons purporting to act as agents for certain unknown or unspecified buyers whether or not such Persons state they intend to collect a commission or other consideration from Respondent.

VII

It is further ordered, That with respect to the divestitures required by Paragraphs I, II, III and V, this Order shall not be deemed to prohibit Respondent (i) from accepting a Deferred Compensation Interest or (ii) from retaining, accepting and enforcing a promissory note, mortgage, deed of trust, lien or other similar interest, not to exceed 25 years in duration, that is not coupled with a right to participate in the operation or management of the property, except upon default or where actions by the purchaser or operator threaten destruction of, or substantial harm to, such interest or interests of Respondent and then only to the extent necessary to protect such interests, for the purpose of securing to Respondent payment of the price agreed upon by Respondent and the purchaser in connection with each divestiture; *Provided, however,* That if Respondent by enforcement or settlement of such interest, or for any other reason, regains direct or indirect ownership or control of any of the divested assets, properties, rights and privileges, tangible and intangible, Respondent shall, consistent with the provisions of this Order, redivest such ownership or control as expeditiously as possible, but in no event beyond two years of the time of reacquisition; provided further, that should Respondent fail to redivest any such reacquired ownership or control within two years as specified in this Paragraph VII, Respondent shall transfer authority to divest the property to a Trustee as provided in Paragraph XII.

VIII

It is further ordered, That during the Limitation Period Respondent shall not acquire, through purchase, lease or other such transaction which would confer upon Respondent ownership or control or possessory interest, any Operating Copper Property within the Restricted Area from any Copper Company, without the prior approval of the Commission; however, this restriction shall not apply to any acquisition of any ore deposit or deposits in the aggregate of less than 250,000 tons of recoverable copper which (i) is adjacent to or nearby an ore deposit owned or controlled by Respondent prior to such acquisition, (ii) would, in the interests of adopting efficient mining practices, be consolidated with Respondent's deposit for mining purposes and share a common ore concentrator with Respondent's deposit and (iii) does not contain recoverable copper in excess of the amount of recoverable copper in such adjacent or nearby deposits owned or controlled by Respondent immediately prior to the acquisition.

IX

It is further ordered, That during the Limitation Period, Respondent shall not participate in any operating Joint Venture with any Ineligible Person with respect to any Operating Copper Property within the Restricted Area: *Provided further,* That no Joint Venture permitted by this Paragraph IX shall engage in the joint marketing or sale of copper, in whatever form, produced by the Joint Venture.

Provided, however, That nothing in this Paragraph IX or Paragraph X shall prevent Respondent from participating in the State of Alaska during the Limitation Period in (i) any operating Joint Venture with respect to an Operating Copper Property owned or controlled by Respondent prior to the establishment of such Joint Venture or (ii) any Joint Venture engaged in the development or construction of mine facilities with respect to a Non-Operating Copper Property owned or controlled by Respondent prior to the establishment of such Joint Venture, so long as:

(i) No more than a 40 percent (40%) interest in the capital and profits in any such Joint Venture is held, singly or in the aggregate, by Ineligible Persons;

(ii) Neither Kennecott Copper Corp., Phelps-Dodge Corporation, Newmont Mining Corp. nor Asarco Inc. participates in any such Joint Venture; and

(iii) Any such Joint Venture shall not engage in the joint marketing or sale of copper, in whatever form, produced by such Joint Venture.

Provided further, That nothing in this Paragraph IX or in Paragraph X shall prevent Respondent from participating in the State of Alaska during the Limitation Period in (i) any operating Joint Venture with respect to an Operating Copper Property owned or controlled by a Person other than Respondent prior to the establishment of such Joint Venture, or (ii) any Joint Venture engaged in the development or construction of mine facilities with respect to a Non-Operating Copper Property owned or controlled by a Person other than Respondent prior to the establishement of such Joint Venture so long as:

(i) Respondent holds no more than a 40 percent (40%) interest in the capital and profits in any such Joint Venture;

(ii) No more than two Ineligible Persons may participate with Respondent in any such Joint Venture; and

(iii) Any such Joint Venture shall not engage in the joint marketing or sale of copper, in whatever form, produced by such Joint Venture.

And provided further, That for purposes of this Paragraph IX and Paragraphs VIII and X with respect to ore deposits in the State of Alaska, clause (ii) in definition "f" shall read "(ii) for which the dollar value of copper recovered exceeds the dollar value of all other minerals recovered" and clause (ii) in definition "g" shall read "(ii) that the dollar value of copper recovered would exceed the dollar value of all other minerals to be recovered"; definitions "f" and "g" shall in all other respects remain unchanged.

X

It is further ordered, That during the Limitation Period, Respondent shall not participate in any Joint Venture engaged in the development or construction of mine facilities with any Ineligible Person with respect to any Non-Operating Copper Property within the Restricted Area: *Provided further,* That no Joint Venture permitted by this Paragraph X shall engage in the joint marketing or sale of copper, in whatever form, subsequently produced by the Joint Venture.

Provided further, That nothing contained in Paragraphs VIII, IX and X shall prevent Respondent, in the interest of adopting efficient mining practices at a specific mining property, from acquiring or receiving, or in turn transferring or delivering, or swapping, copper deposits, ore, or concentrates from, to, or with another Copper Company or Companies owning or operating a copper property adjacent to or overlapping copper properties of Respondent: *Provided, however,* That such transactions shall involve no more of the respective adjacent or overlapping copper properties than is reasonably necessary to such purpose.

XI

It is further ordered, That in the event of a Major Change of Condition, Respondent shall be entitled within the Limitation Period to make one acquisition or to enter into one Joint Venture which would otherwise be prohibited by Paragraphs VIII, IX or X: *Provided,* That such acquisition or Respondent's share of such Joint Venture shall not increase Respondent's total domestic copper mine production above 145,000 short tons of recovered copper a year: *And further provided,* That no Joint Venture permitted by this Paragraph XI shall engage in the joint marketing or sale of copper, in whatever form, subsequently produced by the Joint Venture. In the event of a Catastrophic Change of Condition, Respondent shall be entitled to make one such acquisition or enter into one such Joint Venture without limitation as to size.

XII

It is further ordered, That should it be necessary to appoint a Trustee with respect to a property subject to Paragraphs I through V, such Trustee shall be appointed by agreement of Respondent and the Commission, acting through the Director of the Bureau of Competition or such other person as the Commission may designate. If they are unable to agree, then each shall nominate a representative, who along with a third person appointed under the Commercial Rules of the American Arbitration Association, shall select the Trustee by majority vote. The Trustee shall be charged to attempt diligently to effect divestiture at Fair Value within three years from the date of his appointment. Should the Trustee not have divested the property within such three year period, he shall divest it within one year at the best price he is reasonably able to obtain. The functions and obligations of the Trustee are set forth in Appendix I. Nothing shall prevent Respondent from divesting a property after the appointment of a Trustee.

XIII

It is further ordered, That Respondent may not divest more than two of the properties subject to Paragraphs I through V to any one Eligible Person, including the subsidiaries of such Person, without the prior approval of the Commission, except that Amax and its subsidiaries may purchase the properties subject to Paragraphs II, III and V consistent with the provisions of said Paragraphs.

XIV

It is further ordered, That nothing in this Order shall prohibit:

(1) Acquisition by Respondent of all or part of the securities or assets of its subsidiaries.

(2) Formation of subsidiaries by Respondent and the transfer thereto of assets of Respondent or of other subsidiaries.

XV

It is further ordered, That Respondent may apply for relief to the Commission upon the occurrence of any change subsequent to the Effective Date of this Order which substantially alters the competitive situation in the copper industry or which materially affects the copper operations of the Respondent.

XVI

It is further ordered, That jurisdiction is retained by the Commission for the purpose of enabling the parties to this

Order to apply to it at any time for such future Orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions hereof; *Provided, however,* That in no event shall the provisions of this Order be enlarged or extended to require Respondent to divest properties or interests other than those specified in Paragraphs I, II, III, IV and V or to limit or otherwise restrict Respondent's activities other than as set forth in Paragraphs VIII, IX and X. Any order of the Commission construing or declining to construe or modifying or declining to modify any of the provisions of this Order shall be appealable, to the extent provided by statute, to any court of any competent jurisdiction.

XVII

It is further ordered, That pending any divestiture required by this Order, Respondent shall not knowingly cause or permit the deterioration of the assets and properties specified in Paragraphs I, II, III and V in any manner that impairs the marketability of any such assets and properties. Respondent may, but shall not be required to, make capital expenditures for the improvement of any such assets and properties to an extent consistent with other provisions of this Order.

XVIII

It is further ordered, That in addition to the requirements of Paragraphs I through V concerning the divestitures ordered therein, none of the stock, assets, properties, rights, privileges or interests of whatever nature, tangible or intangible, ordered to be divested shall be sold or transferred, directly or indirectly, to any Person who is at the time of the divestiture an officer, director, employee or agent of, or under the control or direction of, Respondent, or to any person who owns or controls, directly or indirectly, more than one percent (1%) of the outstanding shares of the capital stock of Respondent.

XIX

It is further ordered, That any dispute between Respondent on the one hand and the Commission or the Trustee on the other hand arising under Paragraphs I through XII shall be resolved at the option of Respondent, the Commission or the Trustee by arbitration undertaken pursuant to the Commerical Rules of the American Arbitration Association.

XX

It is further ordered, That within sixty (60) days from the Effective Date of this Order, and three times annually thereafter, until it has fully complied with Paragraphs I through V of this Order, Respondent shall submit a verified report in writing to the Commission setting forth in reasonable detail the manner and form in which it intends to comply, is complying or has complied therewith. All such reports shall include: (a) a specification of the steps taken by Respondent to make public its desire to divest the properties specified in Paragraphs I through V, (b) a list of all Persons or organizations to whom notice of divestiture has been given, and (c) a summary of all negotiations undertaken, giving the identity and address of all interested persons or organizations and indicating whether the negotiations are concluded or are still underway; *Provided, however,* That Respondent may delete from the report the identity of persons it has negotiated with if, in its business judgment, the disclosure of such information as a consequence of a request or suit by any Person or any committee or subcommittee thereof would hinder its efforts to divest any property subject to Paragraphs I through V at Fair Value. In each case, Respondent will make available for inspection in Washington, D.C., a complete copy of its report containing such deleted information which may be reviewed by, but not copied by, personnel from the Commission. Upon request from the Commission, Respondent will make available such additional information relating to any specified negotiation which is reasonably necessary to enable the Commission to review Respondent's efforts to comply with the provisions of Paragraphs I through V of this Order; *Provided, however,* Respondent may limit disclosure of confidential or proprietary information in accord with the procedures set forth in the preceding sentence.

XXI

It is further ordered, That Respondent shall notify the Commission at least thirty (30) days prior to any change in its corporate structure (such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other proposed change in the corporation) which may affect compliance obligations arising out of this Order.

XXII

It is further ordered, That for so long as the Limitation Period is in effect, Respondent shall notify the Commission at least sixty (60) days in advance of (i) any acquisition by it of any Operating Copper Property or Non-Operating Copper Property within the Restricted Area from any Copper Company, or (ii) any participation by it in any operating Joint Venture with respect to any Operating Copper Property within the Restricted Area, or (iii) any participation by it in any Joint Venture engaged in the development or construction of mine facilities with respect to any Non-Operating Copper Property within the Restricted Area. If any such acquisition or Joint Venture is to be undertaken pursuant to any Major Change of Condition or Catastrophic Change of Condition, Respondent shall provide at the time of notification above, a description of such Major Change of Condition or Catastrophic Change of Condition.

XXIII

It is further ordered, That Respondent shall, upon written request of the Secretary of the Commission or the Director of the Bureau of Competition of the Commission made to Respondent at its principal office for the purpose of securing compliance with this Order, and for no other purpose, permit duly authorized representatives of the Commission, subject to any legally recognized privilege:

(1) Reasonable access during the office hours of Respondent, which may have counsel present, to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in Respondent's possession or control which relate materially and substantially to any matter contained in this Order.

(2) An opportunity, subject to the reasonable convenience of Respondent, to interview officers or employees of Respondent, who may have counsel present, regarding such matters.

The foregoing provision shall not be interpreted to provide any access for the Commission to records relating to any of the business activities of the Respondent other than its copper operations subject to this Order.

XXIV

It is further ordered, That no acquisition, Joint Venture or other act or transaction to which Respondent is a party shall be deemed immune or exempt from the provisions of the antitrust laws by reason of anything contained in this Order.

Appendix I—Outline of Trustee Agreement

It is agreed between the Commission and Respondent that should it be necessary to appoint a Trustee pursuant to the provisions of Paragraph XII of the Order with respect to any of the properties to be divested, Respondent shall at that time transfer to the Trustee authority to divest such property, which authority shall be embodied in a written Trustee Agreement containing provisions setting forth the functions and duties of the Trustee consistent with the following undertakings:

1. Respondent will compensate the Trustee for the reasonable value of his services necessary to effect the divestiture of a property subject to Paragraphs I through V of the Order.

2. Respondent will reimburse the Trustee for such expenditures and other obligations incurred by the Trustee which are reasonably related to the effort of the Trustee to divest the particular property for which he has been appointed. Such expenses may include, without limitation, the costs of travel reasonably necessary to view and inspect the property to be divested, to meet with the employees of Respondent who are knowledgeable with respect to the property, to visit the offices of potential purchasers of the property for the purpose of conferring with respect to the sale of the property and to defray the costs of travel of certain potential purchasers judged by the Trustee to be seriously interested in the property. It shall also pay reasonable costs for secretarial and other clerical support along with the cost of advertising and other promotional material as may be necessary to apprise potential buyers of the availability of the property and its basic characteristics.

3. Respondent agrees that it will provide to the Trustee appointed with respect to each property such access to its books and records as may reasonably be necessary to enable the Trustee to form an understanding of the nature and potential of said property and to enable Trustee to prepare materials designed to facilitate the sale of the property. This right of access shall not include access to materials which of their nature are privileged, including without limitation tax returns and related schedules, unless Respondent voluntarily elects to make such information available, and shall, in no case, entitle the Trustee access to information consisting of or reflecting attorney-client communications or attorney work product, whether with respect to this matter, FTC Docket 9089, or otherwise. It is acknowledged that Respondent is under certain contractual obligations with respect to the Anamax property which limit its ability to disclose information to persons other than the partners in said venture. With respect to such partnership, Respondent agrees to use its best efforts to secure the consent of Amax or any other partner or partners in Anamax as may be necessary to make relevant information available to the Trustee.

4. Respondent will empower the Trustee to reveal certain information respecting the properties to be sold to potential purchasers so that they may evaluate the properties being offered. In the case of Respondent's interest in Anamax, Respondent further undertakes to employ its best efforts to secure the consent of Amax or any other partner or partners therein as to the disclosure of such relevant or useful information. With respect to such information designated by the Respondent as proprietary or confidential, the Trustee shall secure an agreement whereby each person to whom disclosure is made agrees to hold confidential any information disclosed and undertakes to use the information solely for the purpose of evaluating the property and not to employ it for any business or competitive purpose.

5. Respondent will make available to the Trustee its employees who have knowledge as to the history, characteristics and potential of the property whose sale is subject to the control of the Trustee so that the Trustee may ascertain such facts as are reasonably related to his efforts to divest the property. The Trustee shall give reasonable notice to the Respondent of any request for access to its personnel who, at the sole election of Respondent, may be accompanied by attorneys representing the Respondent at any interview with the Trustee. Such undertaking shall in the case of Anamax be subject to the limitations set forth in Paragraph 3.

6. In those instances in which it is necessary, the Trustee will be authorized to retain independent legal counsel, accountants and other persons knowledgeable in the mining industry for purposes of discharging the functions set forth above. Respondent will reimburse the Trustee for all expenses reasonably and necessarily so incurred up to a maximum of —— per annum. It is acknowledged that because of the special complexities inherent in the Anamax partnership, greater use of such outside assistance may be necessary, and Respondent will reimburse Trustee for all reasonable and necessary charges up to a maximum of —— a year.

7. The Trustee shall be charged to exercise such care and diligence as a prudent businessman would exercise in the conduct of his own affairs in undertaking to divest the property for which he has been appointed. He shall endeavor diligently to divest the property mindful of the interest of the Commission in securing compliance with the Order and the interest of the Respondent in receiving Fair Value for its property. Any agreement or proposed agreement for the divestiture of a property shall recite that it is subject to the terms of the Consent Order, including this Appendix, and may be suspended or cancelled as provided by the Consent Order including this Appendix.

8. Sixty (60) days prior to entering into any agreement or other arrangement with respect to the divestiture of a property, the Trustee will be required to give notice of the proposed divestiture to Respondent and the Director of the Bureau of Competition, which notice shall consist of the full text of the agreement and all appendices, exhibits and other attachments thereto.

9. Within the foregoing sixty (60) day period, Respondent and the Commission, acting through the Director of the Bureau of Competition or such other person as the Commission may designate, may challenge the proposed divestiture on the grounds, respectively, that the proposed sale or other transfer is not at Fair Value or does not conform with the provisions of the Order. Should such a challenge arise, the Trustee shall immediately notify the potential purchaser, informing him of the existence of the dispute and suspending the sale subject to resolution under Paragraph XIX of the Order. Should a proceeding under Paragraph XIX of the Order result in a determination that the proposed divestiture is not at Fair Value or is contrary to the terms of the Order, the Trustee shall promptly notify the proposed purchaser and cancel the transaction.

10. Respondent will cooperate with Trustee to provide all evidence of transfer, consents and related documents as may be necessary to divest any property approved for sale pursuant to the provisions of Paragraph 9.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted an agreement to a proposed consent order from Atlantic Richfield Company ("Atlantic Richfield").

The proposed consent order ("Order") has been placed on the public record for 60 days for reception of comments by interested persons. Comments received during this time will become part of the public record. After 60 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The initial complaint against Atlantic Richfield, issued on October 13, 1976, charged the company with violation of Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act on the grounds that Atlantic Richfield's then-proposed acquisition of the Anaconda Company ("Anaconda") would eliminate three forms of competition:

(1) Actual competition between Atlantic Richfield and Anaconda in the production and sale of uranium oxide;

(2) Potential competition between Atlantic Richfield and producers of uranium oxide, including Anaconda;

(3) Potential competition between Atlantic Richfield and producers of copper, including Anaconda, in copper mine production and in the production and sale of refined copper.

At the time the initial complaint was issued, Atlantic Richfield was, in addition to being a petroleum company, a producer of uranium oxide through a joint venture operating in Clay West, Texas, with Niagara Mohawk Power Company and United States Steel Corporation. Atlantic Richfield had also been involved in copper-related activities that indicated the possibility

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of the company's eventual entry into copper mining and refining. Anaconda was both a producer of uranium oxide and a miner and refiner of copper.

On November 2, 1976, a hearing was held in the United States District Court for the Eastern District of Virginia on the Commission's motion for a preliminary injunction against the merger pending completion of the Commission's administrative lawsuit. On the same day, Atlantic Richfield announced a plan to sell its interest in the Clay West uranium joint venture to Niagara Mohawk and United States Steel. Later that day the district court denied the Commission's motion. The sale of Atlantic Richfield's Clay West interest was consummated on December 6, 1976. Thereafter, on January 12, 1977, the United States Court of Appeals for the Fourth Circuit affirmed the judgment of the district court, and the merger was consummated later that same day. An amended complaint was issued on March 11, 1977, to reflect the consummation of merger.

Following extensive discovery of facts by both parties, and as the case neared commencement of trial, attorneys for the Commission's Bureau of Competition and for Atlantic Richfield entered into settlement negotiations in September, 1978. The attorneys for the two parties entered into a settlement agreement on February 15, 1979 after five months of intensive negotiation. The agreement and the consent order incorporated therein have been accepted subject to final approval by the Commission and are now being placed on the public record for comment.

Divestitures. Paragraphs I through V of the Order require, respectively, the divestiture of Atlantic Richfield's Heddleston copper and molybdenum mineral property, its Ann Mason copper mineral property, its Bear copper mineral property, its 20 percent stock holding in Inspiration Consolidated Copper Company and its 50 percent joint venture interests in the Anamax Mining Company, a copper miner and producer of copper concentrate and electrowon refined grade copper and planned producer of uranium through by-product operations. Anamax operates the Twin Butte copper mine near Tucson, Arizona and is a partner in the Eisenhower Mining Company, which operates the Palo Verde copper mine, also near Tucson. Each of the divestitures must be to an "Eligible Person," which is defined as anyone other than (a) 11 named major domestic and Canadian producers of copper, and (b) an entity that accounts for five percent or more of copper mine production in the United States at the time of a planned divestiture. The requirement that divestitures be limited to such Eligible Persons promotes competition by enabling new entrants or current smaller producers to acquire the properties.

The time allowed for Atlantic Richfield to accomplish divestiture ranges from a minimum of one year for the Inspiration stock to five years for the Anamax interest. During such periods, Atlantic Richfield has the opportunity to seek Fair Value for the properties and assets, that is, a price that is unaffected by the fact that the sale is required by a Commission order. The periods allowed for divestiture of the non-stock assets are longer than those specified in typical Commission orders because the sale (and purchase) of mineral properties is a much more specialized, complicated task than is usually involved in asset sales. Evaluations of mineral properties typically require extensive drilling, at substantial cost, and may take many months or even years. The sale of the Anamax interest may be particularly complicated because Atlantic Richfield's present partner, AMAX, Inc., has a right of first refusal. This may deter prospective purchasers from committing the substantial sum of money and time required to evaluate the property.

If Atlantic Richfield does not divest within those time periods, authority to divest will be transferred automatically to a divestiture trustee (see Paragraph XII of the Order). The trustee will be allowed three years to attempt to obtain Fair Value for the properties and assets transferred to him. If divestiture is not accomplished within that time, the property involved must be sold within one additional year at the best price obtainable. The provision for a divestiture trustee creates an incentive for Atlantic Richfield to accomplish divestiture expeditiously on its own. Another incentive for prompt divestiture is the provision that the acquisition ban and joint venture restrictions (see below) will be extended if divestiture is not accomplished within specified periods that are shorter than the maximum permitted by the Order (see the definition of "Limitation Period").

In divesting the properties, Atlantic Richfield may retain a "Deferred Compensation Interest," which refers to a class of payment arrangements that entitle the seller to receive compensation on a deferred basis from the output, revenues or profits of the mining property that is being sold. Such payment interests are used commonly in the mining industry to facilitate sales by reducing the buyer's initial cash outlay, and hence the risk, and making payment contingent to some extent on the success of the property. Atlantic Richfield also may retain a security interest in the properties (see Paragraph VII). Neither Deferred Compensation Interests nor security interests give Atlantic Richfield a right to participate in the management or control of the property except in extraordinary circumstances in which the actions of the purchaser or its operator threaten serious harm to Atlantic Richfield's interests. Aside from Deferred Compensation Interests, and a partial exception for the Anamax interest, the divestitures must be absolute.

Paragraph V of the Order provides that Atlantic Richfield need not divest its entire interest in Anamax if total divestiture would result in substantial adverse tax consequences. This could occur because Atlantic Richfield's current interest in Anamax exceeds 50 percent and the Internal Revenue Service would regard the divesture of more than a 50 percent interest as a "termination" of a partnership for federal tax purposes. The Order permits Atlantic Richfield several options to structure the divesture in a manner that would avoid unnecessary tax loses. One such option would allow Atlantic Richfield to receive, as a condition of sale, all or part of the partnership's interest in the Helvetia mineral property as a means of reducing Atlantic Richfield's interest in the partnership below 50 percent; all or substantially all of Atlantic Richfield's remaining interest in Anamax could then be sold without triggering a tax loss. Another option would permit Atlantic Richfield to agree with AMAX to a restructuring of the partnership to the effect that Atlantic Richfield would have control only over the Helvetia property while AMAX would have control over of Anamax's other assets, which includes the producing properties at Twin Buttes and Palo Verde. Atlantic Richfield may seek a revenue ruling from the IRS to ensure that a proposed plan of divestiture will not cause substantial tax liabilities.

In any event, however, Atlantic Richfield must divest at least a 45 percent interest in Anamax, which would leave Atlantic Richfield with no effective operating control over the partnership's producing properties. In addition, the Order prohibits Atlantic Richfield from increasing its percentage interest in Anamax and also from attempting to modify the partnership agreement to give itself more control. Thus, in practical effect, divestiture would be complete.

The divestitures are further subject to the restriction in Paragraph XIII that Atlantic Richfield may not divest more than two of the properties to any one Eligible Person, except that AMAX may acquire Atlantic Richfield's interest in Anamax plus the Ann Mason and Bear properties on condition that AMAX relinquish all or substantially all of the Helvetia property to Atlantic Richfield (see Paragraphs II, III). Such an agreement with AMAX would enable AMAX to become a more substantial producer and also remove the Helvetia property from a joint venture relationship. In addition Paragraph XVIII provides that Atlantic Richfield may not divest to any person who is an officer, director, employee or agent of Atlantic Richfield or otherwise under its control or direction, or to any person who owns more than one percent of the outstanding stock of Atlantic Richfield.

Paragraph VI sets forth specific steps that Atlantic Richfield must undertake in its efforts to divest the properties. Thus, it must advertise in leading trade publications, mail notices to 50 companies (other than Ineligible Persons) engaged in mining, negotiate in good faith with bona fide prospective purchasers and provide such prospective purchasers with factual data regarding the properties. Paragraph XVII provides that pending the divestitures, Atlantic Richfield may not knowingly cause to permit the deterioration of the assets and properties to be divested.

Acquisition Ban and Joint Venture Restrictions. In addition to the divestitures, Atlantic Richfield is subject to an acquisition ban and joint venture restrictions. Paragraphs VIII provides that Atlantic Richfield may not acquire during the "Limitation Period" any currently producing or near-producing copper property from any Copper Company with in the Restricted Area. The definition of "Copper Company" contains a size criterion that permits Atlantic Richfield to acquire producing properties from small firms that may not have sufficient resources to become significant competitors. The "Restricted Area" is defined as the United States plus Puerto Rico, although a partial exception is allowed for Alaska on the ground that the high costs and difficult operating conditions associated with Alaskan mining require operating flexibility and justify lesser restrictions on Atlantic Richfield's activities in that State.

The acquisition ban contains an exception for modes-sized properties (less than 250,000 tons of recoverable copper) where acquisition by Atlantic Richfield for purposes of consolidating it with an adjacent or nearby property already belonging to Atlantic Richfield would result in mining efficiencies. Because of the size limitation and the specific requirements of Paragraph VIII, the exception is expected to have limited application and should be beneficial to competition within the industry by promoting efficiency.

Paragraphs IX and X provide, in part, respectively, that Atlantic Richfield may not participate with any Ineligible Person in any operating joint venture with respect to any Operating Copper Property or in any Joint Venture engaged in the development or construction of mine facilities. Atlantic Richfield is not barred from joint venturing with Eligible Persons on the ground that such companies may be able to benefit from association with Atlantic Richfield's financial resources and technical capabilities. Any such permissible joint venture may not, however, engage in the joint marketing or sale of copper.

Paragraph IX also contains a partial exemption for joint ventures in Alaska because the high cost of Alaskan mineral operations appears to warrant joint venture operations to a greater extent in that State than appears to be the case in the lower 48 States. With respect to Alaskan mineral properties owned or controlled by Atlantic Richfield before entering into a joint venture, Atlantic Richfield may not relinquish more than a 40 percent interest to Ineligible Persons either singly or in the aggregate, and Kennecott Copper Corporation, Phelps Dodge Corporation, Newmont Mining Corporation and ASARCO Inc. may not be participants in any event. This enables Atlantic Richfield to obtain financing from other copper companies for the development of Alaskan properties but prevents excessive sharing of control among major copper companies. With respect to Alaskan mineral properties owned or controlled by other firms, Atlantic Richfield may participate in a joint venture to an extent not exceeding a 40 percent interest provided that no more than two Ineligible Persons may participate with Atlantic Richfield. This provision enables Atlantic Richfield to gain access to more copper but it does not allow Atlantic Richfield to gain control of properties discovered by others.

Paragraph X provides in addition that neither the acquisition ban nor the joint venture restrictions prevent Atlantic Richfield from "swapping" copper deposits, ore or concentrates with a copper company that owns a deposit that overlaps or adjoins an Atlantic Richfield deposit where the purpose of the agrement is to engage in cooperative mining of the two properties in the interest of adopting efficient mining practices. The agreement, however, may not include the joint marketing of the output from the cooperative mining operation. Such cooperative mining transactions generally do not affect the relative levels of output of the companies involved and, in light of the mining efficiencies expected, are considered beneficial.

Paragraph XI provides that the acquisition ban or joint venture restriction may be suspended on a one-time basis upon the occurrence of a "Major Change of Condition" or a "Catastrophic Change of Condition" that seriously reduces Atlantic Richfield's cooper output for reasons beyond its reasonable control. Factors that may initiate a change of condition include acts of God, substantial changes in costs and the action or inaction of governmental entities. The change must be such that production at prior levels would result in operating losses and no economically-justified corrective measures could be taken to restore production to prior levels within two years after the initial year of reduced output.

If production falls to or below 110,000 tons of recovered copper per year as a result of a Major Change of Condition, Atlantic Richfield may acquire one copper property or participate in one joint venture so long as the additional copper does not cause Atlantic Richfield's output to exceed 145,000 tons per year, which was approximately Atlantic Richfield's output in 1978. If a Catastrophic Change of Condition occurs, reducing output to or below 80,000 tons of recovered copper per year, Atlantic Richfield may make one acquisition or participate in one joint venture regardless of size. The purpose of Paragraph XI is to enable Atlantic Richfield to maintain sufficient output to remain as viable a competitor in the copper industry as Anaconda was at the time of the acquisition.

Paragraph XIX provides that any dispute between Atlantic Richfield and the Commission or the divestiture trustee arising under the provisions relating to divestitures, acquisition bans and joint venture restrictions (Paragraphs I–XII) shall be submitted to arbitration under the Commercial Rules of the American Arbitration Association. The purpose of the arbitration provision is to facilitate prompt, professional resolution of disputes that involve purely commercial issues rather than substantive issues of antitrust law or policy.

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Reporting and Notice Requirements. Paragraph XX provides that Atlantic Richfield must submit to the Commission three times annually a written report setting forth in reasonable detail the manner in which it has complied and will comply with the Order. Paragraph XXI requires Atlantic Richfield to notify the Commission at least 30 days prior to any change in its corporate structure that may affect its compliance obligations. Paragraph XXII requires Atlantic Richfield to notify the Commission at least 60 days in advance of any acquisition of a copper property or participation in a copper joint venture. Paragraph XXIII requires Atlantic Richfield to give Commission personnel access to corporate records and personnel for purposes of securing compliance with the Order.

Modification of the Order. Paragraphs XV and XVI simply preserve Atlantic Richfield's ordinary rights of appeal. Paragraph XV provides that Atlantic Richfield may apply to the commission for a modification of the Order upon the occurence of a material change relating to competitive conditions in the copper industry or to Atlantic Richfield's copper operations. Paragraph XVI provides that the Commission will retain jurisdiction for the purpose of re-opening the settlement proceedings provided that no provisions of the Order may be enlarged or extended against Atlantic Richfield. Paragraph XVI also provides that any order of the Commission construing or declining to construe or modifying or declining to modify any of the provisions of the consent order shall be appealable to the extent provided by law.

No Antitrust Immunity or Exemptions. Paragraph XXIV acts as a safeguard against any unanticipated complications attributable to the Order. It provides that no acquisition, joint venture or other act or transaction to which Atlantic Richfield is a party pursuant to the Order will be regarded as immune or exempt from the antitrust laws by reason of anything contained in the Order. This provision enables the Commission to scrutinize, and challenge if necessary, any transaction involving Atlantic Richfield that arises from the Order.

Competitive Impact of the Order. The divestiture of Atlantic Richfield's interest in the Anamax Mining Company eliminates a significant joint venture relationship and presents an opportunity for AMAX to become an independent domestic producer of copper. The divestiture of the Inspiration stock similarly eliminates a significant horizontal relationship. The divestiture of the three undeveloped copper mineral properties is expected to have at least two significant effects. First, it gives a purchaser of one or more of the properties an opportunity to become a more significant copper firm in the future. Second, it is expected to encourage Atlantic Richfield to explore for new deposits to replace the divested properties. Such exploration for and discovery of new reserves is a vital element of competition in the industry. The combination of more competition and greater copper availability is expected to have a beneficial influence on copper prices.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to consitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 79-23756 Filed 7-31-79; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

Financial Early Warning System; Proposed Rule

Correction

In FR Doc. 79-22154, appearing at page 41830 in the issue of Wednesday, July 18, 1979, the date given in the 10th line of column one on page 41831 should be, "September 17, 1979".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 601]

[LR-206-78]

Residential Energy Credit; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to residential energy credit.

DATES: The public hearing will be held on September 12, 1979, beginning at 10 a.m. Outlines of oral comments must be delivered or mailed by August 29, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-206-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 44C of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, May 23, 1979 at page 29923 (44 FR 29923).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by August 29, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79-23618 Filed 7-31-79; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 953]

Fraud and Violations of Public Trust in Contract, Acquisition, and Other Matters

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to revise Part 953 of 32 CFR, Fraud and Violations Acquisition, and Other Matters. The revision clarifies the criteria for reporting fraud and violations of public trust and updates terminology. It applies to all Air Force members involved with contracts or the acquisition process and the Air Force Office of Special Investigations. Interested persons are invited to participate in this rulemaking by submitting comments to the contact person listed below.

DATE: Comments must be received on or before August 31, 1979.

ADDRESS: Comments should be addressed to Contract and Acquisitions Branch, Directorate of Fraud Investigations, Forrestal Bldg., Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Major Martin J. Connolly, 202-693-6540.

The legal authority for this part is 10 U.S.C. 8012. The revised part is proposed to read as follows:

Subchapter O—Special Investigation

Part 953—Fraud and Violations of Public Trust in Contract, Acquisition, and Other Matters.

Sec.

953.1 Purpose.
953.2 Fraud and violations of public trust.
953.3 Reporting responsibilities.
953.4 Investigative responsibilities.

§ 953.1 Purpose.

This part assigns responsibilities and prescribes procedures for reporting and investigating suspected fraud and violations of public trust—in Air Force contract, acquisition, and other matters—and of Air Force Standards of Conduct. The part applies to all Air Force members involved with contracts or the acquisition process and the Air Force Office of Special Investigations.

Note.—All of the personally identifiable records established under the provisions of this regulation are affected by the Privacy Act of 1974 (5 U.S.C. 552a). The authority for establishing and maintaining records concerning these matters is 44 U.S.C. 3101. Records established in accordance with this regulation are maintained in Air Force System F 124-10 07YLNGAC Criminal Records. The description of this system of records, its uses and contents have been published in the **Federal Register** in accordance with the Privacy Act. The Secretary of the Air Force has exempted this system of records from certain provisions of the Privacy Act in accordance with 5 U.S.C. 552a(j)(2). (See AFR 12-35.)

§ 953.2 Fraud and violations of public trust.

(a) Fraud against the Air Force in acquiring, using, and disposing of resources may occur in two basic forms. First, individuals or companies outside of the Air Force who are performing contracts in support of Air Force needs may independently attempt to defraud the Air Force. This form of fraud may include false billings, willful diversion or misuse of Government property, willful delivery of nonconforming supplies, and collusive bidding. The second form of fraud involves violations of public trust wherein Air Force personnel (military or civilian), either independently or in concert with individuals or companies outside of the Air Force, may attempt to use their positions of public trust for personal gain at the expense of the Air Force. Violations of public trust may include collusion, favoritism, bribery, offering, soliciting or accepting gratuities, and conflicts of interest.

(b) The public trust in the integrity of Air Force contract, acquisition, disposal, and all other business transactions is of the utmost importance and must be maintained. All Air Force personnel (military and civilian) who have reason to believe fraud or violations of public trust have been or are being committed, must promptly report all information within their knowledge or belief to the responsible Air Force authorities. Violations of the standards of conduct, as defined in Part 920 of this chapter, also will be reported and investigated in the same manner as fraud and violations of public trust.

§ 953.3 Reporting responsibilities.

The prompt reporting of any indications of fraud or violations of public trust mentioned in § 953.2 is extremely important.

(a) All personnel who have information leading to the belief that any of the violations referred to in § 953.2 have been or may be committed, must report all such information to the nearest Air Force Office of Special Investigations (AFOSI) activity or to the commander having:

(1) Immediate jurisdiction over the Air Force personnel allegedly involved; or

(2) Administrative responsibility for the contract(s) involved.

(b) The commander who receives information that shows possible fraud or violations of public trust as described in § 953.2, must promptly refer the matter to the nearest AFOSI activity for investigation.

(c) All personnel are required to prevent the disclosure of such information to unauthorized persons. Unauthorized or premature disclosure could compromise any subsequent investigation or could damage, without cause, the reputation of persons ultimately determined as innocent of wrongdoing.

(d) Fraudulent activities often appear on the surface as administrative or managerial irregularities; therefore, an individual should never assume the responsibility for deciding the significance of the information under consideration. Any question of fault on the part of any individual or company is resolved by reporting the information.

§ 953.4 Investigative responsibilities.

(a) Within the Air Force jurisdiction, AFOSI investigates all suspected fraud in Air Force contract, acquisition, disposal transactions, and other matters when requested by the appropriate commander. The AFOSI forwards initial, interim, and final reports of investigation to the commander concerned, for information and necessary action. In some cases, AFOSI coordinates investigations conducted outside the U.S. with host country authorities, as provided for in the Status of Forces Agreement or related agreements.

(b) AFOSI refers some cases in these categories to the Department of Justice (including the Federal Bureau of Investigation) and coordinates Air Force investigations with all interested Government agencies. Air Force commanders must not refer allegations or complaints on such matters either to the local or the national office of the Department of Justice (or the Federal Bureau of Investigation); however, they must cooperate fully with representatives of the Department of Justice, when requested.

(c) The AFOSI district serving the commander concerned (see § 953.3(a)), informs the commander when information of the type covered by this part is furnished directly to any echelon of the AFOSI, and informs the commander of the nature of the information so the commander can

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determine if an investigation should be requested.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-23716 Filed 7-31-79; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1287-4]

Approval and Promulgation of Implementation Plans; Georgia: Plan Revision Relating to Georgia Power Plant Bowen

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: EPA today proposes approval action on a State Implementation Plan (SIP) revision submittal made by the Georgia Environmental Protection Division in accordance with the requirements of Section 110 of the Clean Air Act. The revision to Georgia's SIP involving an Order for Georgia Power's Plant Bowen was transmitted to EPA May 16, 1979, and was subjected to a public hearing on December 20, 1978.

The plant is at present in compliance with applicable State and Federal air quality standards. The SIP revision specifies that a correlated opacity will be used to assure continued compliance. The correlated opacity was determined through a series of stack tests in which opacity and mass emission rate were measured simultaneously. It has been determined that 25% opacity for Units 1 and 2 will assure compliance with the mass emission limit. EPA has reviewed the data establishing the correlated opacity and found it to be acceptable. EPA proposes to approve the SIP revison.

DATES: To be considered, comments must be submitted on or before August 31, 1979.

ADDRESSES: Written comments should be addressed to Harriet Smith of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30308.

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, S.W., Atlanta, Georgia, 30334.

FOR FURTHER INFORMAITON CONTACT:

Harriet Smith Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30308, Telephone: 404/881-3286 (FTS 257-3286).

Dated: July 23 1979.

John C. White,

Regional Administrator.

[FR Doc. 79-23767 Filed 7-31-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1286-1]

Proposed Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On January 19, 1979, the State of Maryland submitted a revised State Implementation Plan (SIP) to EPA. This revised SIP was for those areas designated as not attaining the National Ambient Air Quality Standards. The plan addresses attainment of the Total Suspended Particulate, Ozone, and Carbon Monoxide standards. The revisions are intended to satisfy the requirements of Part D of Title I of the Clean Air Act as amended.

The requirements for an approvable nonattainment SIP are described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372 [1979]), and are not repeated today. This notice describes the nature of the Maryland submittals, EPA's evaluation to date, and discusses any deficiencies with respect to the requirements of Section 110 and Part D of Title I of the Clean Air Act found by EPA's review to date.

DATE: Comments must be submitted on or before August 31, 1979. On April 19, 1979, the Regional Administrator, EPA, Region III, published a Notice of Availability (44 FR 23263 [1979]) of the revised Maryland Implementation Plan (SIP) for public inspection. The Regional Administrator believes that the additional 30 days now being afforded the public to comment will be sufficient. However, in the event the Regional Administrator receives a request for additional time to submit comments, he will consider granting an extension of the present comment period for up to an additional 30 days.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: Edward A. Vollberg.

Maryland Department of Health & Mental Hygiene, Environmental Health Administration, Air Quality Programs, 201 W. Preston Street, Baltimore, Maryland 21201. ATTN: George P. Ferreri.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

For the transportation portions of the plans:

Public Information Center, Metropolitan Washington Council of Governments, 1225 Connecticut Avenue, N.W., Washington, D.C. 20036.

Regional Planning Council, 2225 North Charles Street, Baltimore, Maryland 21218.

All comments should be directed to:

Mr. Howard Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: AH300MD.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward A. Vollberg (3AH11), U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone: 215-597-8179.

SUPPLEMENTARY INFORMATION:

Introduction

On March 3, 1978 (43 FR 8962 [1978]), and on September 12, 1978 (43 FR 40502 [1978]), the Administrator of the Environmental Protection Agency (EPA), in accordance with Section 107 of the Clean Air Act, as amended, designated the Maryland portion of the National Capital Interstate Air Quality Control Region (AQCR), the Metropolitan Baltimore Intrastate AQCR, and the Cumberland-Keyser Interstate AQCR as nonattainment areas for ozone and designated certain selected areas within these Air Quality Control Regions as nonattainment areas for particulate matter and carbon monoxide.

As a result, Maryland was obliged to revise its SIP by January 1, 1979 to meet the requirements of Part D of Title I of the Clean Air Act, as amended. The Governor of Maryland submitted the revised SIP on January 19, 1979.

On April 19, 1979 (44 FR 23263 [1979]), EPA published a Notice of Availability of the Maryland SIP revision and invited the public to inspect the plan. As of yet, no public comments have been received.

EPA has reviewed the SIP revision with respect to the requirements and criteria described or referenced in the **Federal Register** notice published on April 4, 1979 (44 FR 20372 [1979]). This notice to which interested persons may refer is entitled "State Implementation Plan; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas," and is incorporated herein by reference.

The Maryland plan submitted to EPA on January 19, 1979 must be read in conjunction with earlier submittals published as final rules in the **Federal Register** on March 13, 1979 (44 FR 14555 [1979]). Some of the regulations in the January proposal refer to or depend for their meaning on earlier proposed regulations. Maryland has informed us that with regard to regulations concerning urban hydrocarbon emissions, there may be some conflict between earlier submittals, adopted as final regulations in the **Federal Register** on March 13, 1979 (44 FR 14555 [1979]). To the extent there is such a conflict, Maryland proposes the regulations submitted in January will govern; there may not, in fact, be any conflict, however, and Maryland will shortly clarify this question. Maryland will also provide a clear statement of the relation between the January submittal and the regulations published as final on March 13, 1979.

Background

In accordance with Section 110 and Part D of Title I of the Clean Air Act, the State of Maryland, on January 19, 1979, submitted revisions to its implementation plan for the designated nonattainment areas.

EPA designated the Metropolitan Baltimore Intrastate and the National Capital Interstate AQCR's as nonattainment areas for ozone. The high-density traffic areas of the two regions were designated as nonattainment areas for carbon monoxide.

A portion of the Metropolitan Baltimore Intrastate AQCR was designated as nonattainment for total suspended particulates (TSP). The Metropolitan Baltimore Intrastate AQCR is composed of Baltimore City and the counties of Anne Arundel, Baltimore, Carroll, Harford and Howard. The Maryland portion of the National Capital Interstate AQCR includes Montgomery and Prince Georges Counties.

In addition to the two major metropolitan areas, the Maryland portion of the Cumberland-Keyser Interstate AQCR also contains areas designated by EPA as nonattainment.

Hagerstown and Cumberland were both designated as nonattainment areas for carbon monoxide. The SIP for meeting the CO standard in these cities indicates that the Federal Motor Vehicle Control Program alone will be sufficient.

Election District No. 8 (Luke and Westernport) was designated nonattainment for TSP; however, no SIP revision was submitted for this area. The State has been in continuous dialogue with EPA concerning this designation and has requested that the area be considered as unclassified. EPA proposed changing the designation to unclassified on April 23, 1979 (44 FR 23885 [1979]).

Likewise, no revision was submitted for the Cumberland-Keyser AQCR which EPA designated as nonattainment for ozone. Here the State contends transported oxidants caused the air quality violations and that control measures would be ineffective in this predominantly rural area. Furthermore, the AQCR contains no major stationary sources of volatile organic compounds for which EPA control technology guidelines have been published. Therefore, no stationary source controls are necessary at this time. However, EPA has noted that new source review regulations in accordance with Section 173 of the Act are required but were not developed for Cumberland-Keyser AQCR.

In accordance with Section 174 of the Clean Air Act, designated local and regional agencies prepared portions of the SIP. The Metropolitan Washington Council of Governments (COG) was responsible for the transportation element of the SIP and the stationary source control development for the Washington area, while the Regional Planning Council (RPC) was responsible for the transportation elements for the Baltimore region. The Maryland Department of Transportation (MDOT) assisted the Section 174 agencies in preparing the transportation portions of the SIP, and in developing a motor vehicle inspection and maintenance (I/M) program. The Maryland Department of Health and Mental Hygiene developed the stationary source controls for the Baltimore area and coordinated the entire plan development.

For the Washington area transportation measures, COG obtained commitments from its member jurisdictions to implement the following measures by 1982: 1. Incentives for high occupancy vehicles such as park-and-ride lots, improved rail transit, carpooling, vanpooling, preferential parking for ridesharing vehicles, and bus service improvements; 2. Measures to reduce congestion-related emissions, including traffic flow improvements, on-street parking restrictions, reduction of extended idling, encouragement of bicycling, and residential parking permits.

In its examination of transportation measures for the Baltimore area, RPC selected thirteen measures for expeditious implementation. The affected local governments and State agencies have ratified the transportation portion of the SIP except for some reservations raised by Baltimore City concerning parking restrictions and by Harford County concerning the efficiency of a motor vehicle inspection/maintenance program. The Baltimore plan includes measures similar to those selected by COG for the Washington area as well as measures to reduce extended vehicle idling, promote effective land use management, and conduct a vigorous public education program.

Both the Washington and the Baltimore plans recommend the establishment of a vehicle emissions inspection/maintenance program. Enabling legislation for an I/M program was passed by the Maryland legislature on April 9, 1979, and signed into law by the Governor on May 30, 1979.

In this Notice, there are references to the terms "design value" and "rollback." To avoid confusion or misunderstanding, these terms are defined below:

Design Value—the level of existing air quality used as a basis for determining the amount of change of pollutant emissions necessary to attain a desired air quality level.

Rollback—a proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard.

The following are the highlights of the changes made to the Maryland plan.

1. A State-wide regulation governing malfunction of control equipment has been revised to meet EPA requirements.

2. Regulations governing stationary sources in the two metropolitan areas have been revised to make them more specific for several industrial and commercial categories.

3. Emissions of volatile organic compounds, which are oxidant precursors, will be controlled by using applicable "reasonably available control technology" identified in EPA guidelines for controlling volatile organic compound emissions from stationary sources.

In addition to existing regulations, the following activities controlled by the new regulations are solvent metal cleaning, web printing, asphalt paving, solvent disposal and the coating of automobiles, cans, coils, fabrics, large appliances, light-duty trucks, metal furniture, paper and vinyl. In most instances, the regulations require the coating operations to switch to low-solvent coatings. Although EPA did not publish guidelines for the control of web printing, these operations will be required to control emissions as of July 1979 because of numerous complaints concerning odors and visible emissions from these sources.

4. A new regulation will affect new sources that wish to locate within the nonattainment areas. New sources emitting over fifty tons of particulates or volatile organic compounds will not be permitted unless several criteria are met. The new source must meet an emissions limitation specifying the "lowest achievable emission rate." The owner or operator of the new source must certify that other sources owned or operated by him are in compliance with regulations or are under an approved compliance schedule. In addition, emissions from existing sources must be reduced such that when the new source begins operation, reasonable further progress toward attainment of the particulate or ozone standard will be achieved. Before construction of a large source of volatile organic compounds begins, an analysis must be made of alternative sites, sizes, production processes and environmental control techniques. It must be demonstrated that the benefits of the source being constructed significantly outweigh the environmental and social costs of its construction.

5. With respect to carbon monoxide and ozone in the two metropolitan areas, attainment will not be achieved by 1982. Maryland reached this conclusion after first using a linear rollback model to determine from air quality data the percentage emission reductions of carbon monoxide and hydrocarbons from the base year emissions inventory necessary to achieve the NAAQS. These reductions were compared with the anticipated reductions from all contemplated control measures, and a shortfall was determined to exist; consequently, Maryland requested an extension until 1987 to attain standards. The CO standard should be achieved soon after the 1982 deadline as the result of the Federal Motor Vehicle Control Program and the Transportation Control Measures. EPA is considering the State request for an extension for attainment of both the carbon monoxide and ozone standard and will determine the final attainment dates based upon the State submitted support information. Major reductions in emissions of volatile organic compounds are to be accomplished through the enforcement of regulations requiring reasonably available control technology and through implementation of transportation measures now planned or under study for later implementation. The State will submit an amended SIP by July 1, 1982 demonstrating how final attainment of the two standards will be achieved. In the interim, the SIP calls for annual reports to be made to EPA containing updated air quality, regulatory, and emissions inventory information. If reasonable further progress is not being maintained or if attainment is jeopardized, corrective measures should be taken to insure attainment by the desired date.

6. The State proposes to achieve the reductions in particulate emissions needed to attain the primary TSP standard by December 31, 1982, through the application of all reasonably available control technology, the continued enforcement of existing regulations, and the development and enforcement of compliance plans negotiated as a result of the new regulations. There are new regulations included in the plan which will control fugitive particulate emissions from grain handling and unconfined sources by requiring good engineering design and operational practices.

On January 5, 1978, the State submitted to EPA a SIP revision which consisted of newly promulgated steel-making regulations and a compliance schedule for the Bethlehem Steel Corporation, Sparrows Point Plant. Amendments to the SIP revision, reflected in the compliance plan for the Bethlehem Steel Corporation, are to be submitted in the near future. When submitted, these will constitute part of the nonattainment SIP. The State has requested a delay until July 1, 1980, in accordance with Section 110(b) of the Clean Air Act, to plan for the attainment of the secondary NAAQS for TSP. EPA is considering granting the extension.

The following are more detailed comments on Maryland's plan submittals. This notice will indicate those items needing corrections or clarification.

Ozone

As noted above, EPA has designated three nonattainment areas for ozone in Maryland. These areas are the Maryland portion of the National Capital Interstate AQCR, the Metropolitan Baltimore Intrastate AQCR and the Cumberland-Keyser Interstate AQCR.

Plans were submitted for the two metropolitan nonattainment areas. However, a plan was not submitted for the Cumberland-Keyser Interstate AQCR, a rural nonattainment area. In lieu of a plan, Maryland included a statement that there were no major sources, within the eleven applicable VOC source categories, located in this area. While no source controls are required at this time for the Cumberland-Keyser AQCR, the State should adopt new source review provisions in accordance with Section 173 of the Clean Air Act.

The SIP for the two metropolitan areas contains provisions for controlling volatile organic compound (VOC) emissions from stationary and mobile sources. For ozone nonattainment areas, EPA requires the adoption of Reasonably Available Control Technology (RACT) for eleven VOC source categories for which there are Control Technique Guideline documents. Maryland regulates nine of these categories in the SIP. The Maryland SIP does not include regulations for surface coating for insulation of magnet wire and for petroleum refineries, because no sources above the RACT cutoff size within these categories are located in the nonattainment areas.

For a summary and review of the transportation controls included in the Maryland SIP, please refer to the Transportation Control Measures section below.

EPA has evaluated the State of Maryland SIP and has communicated the results of this analysis to the Maryland Department of Health and Mental Hygiene. A meeting attended by EPA, the Maryland Department of Health and Mental Hygiene, the Maryland Department of Transportation, the RPC and COG was held to discuss EPA's comments on the plan.

Presented in the following paragraphs is a discussion of the various elements of the SIP submitted (for attainment of the ozone standard) by the State of Maryland.

Adoption After Reasonable Notice and Hearing

Maryland adopted the regulations in its plan after public hearings on November 9, 21, and 27, 1978, conducted in accordance with Section 110 of the Clean Air Act, and 40 CFR 51.4.

Attainment Date

Maryland does not anticipate achieving the ozone standard by the end of 1982 for either of the metropolitan ozone nonattainment areas, and has requested an extension of the deadline for achieving this standard until the end of 1987. EPA may approve such a request provided Maryland demonstrates that attainment by 1982 is impossible, despite the implementation of RACT for the VOC stationary source categories and the implementation of transportation control measures, including a motor vehicle inspection and maintenance program (I/M). Deficiencies in Maryland's RACT requirements for some categories of VOC sources exist. Maryland is proceeding to remedy these deficiencies, in accordance with EPA guidance.

Control Strategy and Demonstration of Attainment

The Maryland SIP was developed on the basis of the former 0.08 ppm oxidant standard. A commitment to attain the ozone standard by 1987 was provided.

Emission Inventory

Maryland has submitted a 1977 stationary source emission inventory for the Metropolitan Baltimore AQCR. The emission inventory used for the National Capital region was for 1976. The State should provide a 1977 inventory for the National Capital region, in accordance with EPA guidance and to be consistent with the adjacent jurisdictions in the region.

Reasonable Further Progress (RFP)

The RFP presentation in the plan used 6 am–9 am emissions instead of daily (24 hours) values in determining the required ozone reductions. This is deficient because the percent contribution of mobile and stationary sources is different in daily and 6 am–9 am calculations. Background data, including all calculations performed in developing the RFP, were not submitted with the plan. For future emissions from gasoline marketing facilities, Maryland assumed them to be constant in the Baltimore area. The emissions in this category should increase with growth.

EPA asked Maryland to recalculate emissions using daily values, to reassess the gasoline marketing growth assumptions, and to submit these with the relevant background data. Maryland has since provided necessary information to address the above concerns.

Margin for Growth

Maryland has adequately addressed growth factors and estimates.

Preconstruction Review

The growth of major point sources will be governed by pre-construction review regulations. These regulations should meet the requirements of Section 173, a new section of the Clean Air Act. EPA has informed Maryland of its comments on the ozone, carbon monoxide, and the total suspended particulate provisions. See the discussion of total suspended particulates below, applies equally to ozone and carbon monoxide.

RACT as Expeditiously as Practicable

Several sections of the regulations requiring the use of RACT for stationary sources of VOC emissions should be improved. The Control Techniques Guidance (CTG) documents provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTGs, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs. (1) The vapor recovery provisions in Section J(2) of the Maryland regulations do not represent full application of RACT. However, EPA had previously promulgated regulations (38 FR 34252 [1973] and as subsequently amended) which in conjunction with Maryland's rules, are considered to be RACT. In EPA's opinion, it would be preferable for the State to adopt regulations in accordance with the EPA promulgation. (2) Maryland Regulation Section K(10)(c) includes a temperature exemption for use of cutback asphalt. A seasonal exemption is recommended by EPA, for ease of enforcement. In discussion with Maryland, the State indicated that it intends to justify the temperature exemption and the Regulation's enforceability for both public and private uses. If EPA judges that Maryland's Regulation is enforceable, then the Cutback Asphalt Regulation will be acceptable. (3) In the Gasoline Bulk Terminal Regulation [Section J(2)(c)], the cutoff size for terminals built before January 1, 1974 is 40,000 gallons per day instead of 20,000 gallons per day the figure recommended by EPA. Maryland has stated there are no sources in Maryland which fall between these limits and will document this statement. (4) Maryland's cutoff size for fixed-roof storage tanks built January 1, 1973 is 65,000 gallons capacity; EPA's cutoff figure is 40,000 gallons. Maryland has agreed to review this regulation to see if any sources fall between these limits, and to inform EPA of the results of this review in writing. (5) Maryland's State Implementation Plan includes a provision which exempts methyl chloroform (1, 1, 1 trichloroethane) from the definition of "organic material." This volatile organic compound, while not appreciably affecting ambient ozone levels, is potentially harmful. Methyl chloroform has been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity. Furthermore, methyl chloroform is considered one of the slower reacting VOCs which eventually migrates to the stratosphere where it is suspected of contributing to the depletion of the ozone layer. Since stratospheric ozone is the principal absorber of ultraviolet light (UV), the depletion could lead to an increase of UV penetration resulting in a worldwide increase in skin cancer. With the exemption of this compound, some sources, particularly existing degreasers, will be encouraged to utilize methyl chloroform in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in the SIP can only further aggravate the problem by increasing the emissions produced by existing primary degreasers and other sources. EPA is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. EPA does not intend to disapprove the State SIP submittal if, after due consideration, the State chooses to maintain this exemption. However, we are concerned that this policy not be interpreted as encouraging the increased use of this compound for compliance by substitution. EPA does not endorse such approaches. Furthermore, State officials and sources should be advised that there is a strong possibility of future regulatory action to control this compound. Sources which choose to comply by substitution may well be required to install control systems when future regulatory actions are taken.

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I/M, If Necessary, As Expeditiously as Practicable

I/M programs are required in the two metropolitan ozone nonattainment areas. Maryland has proposed an acceptable commitment to implement I/M in these areas and authorizing legislation was signed by the Governor on May 30, 1979. For further information on I/M, refer to the Transportation Control Measures section below.

Transportation Controls, If Necessary, As Expeditiously As Practicable

This topic is covered in the Transportation Control Measures section below.

Enforceability

EPA has the following concerns: (1) Section J(2) should include a definition for "household reactive solvent." (2) The following sections of Maryland's VOC regulations should include a test method for determining compliance with the requirement for 90% collection efficiency: K(2)(b)(iii)(bb), K(3)(b)(ii)(bb), K(4)(b)(ii)(bb), K(5)(b)(ii)(bb), K(6)(b)(ii)(bb), and K(7)(b)(ii)(bb). (3) Generally, EPA does not consider a compliance schedule longer than three years to be expeditious. Several of Maryland's VOC regulations contain a final compliance date beyond July 1982. These compliance schedules should be justified by Maryland as expeditious. (4) Maryland Regulation, [Section K(9)] covering web printing operations will become effective July 1, 1979. When dealing with compliance orders on a case-by-case basis, noncompliance penalties under Section 120 of the Clean Air Act may be applicable to those sources not in compliance by the penalty date specified in the Act. Since sources may be unable to comply with regulations when they become effective, compliance schedules should be included in the regulations to eliminate this problem.

The points listed above should be clarified or revised to enhance the enforceability of the regulations. If regulations are not enforceable, credit cannot be taken for reductions in emissions achieved through implementation of those regulations.

State Commitments and Resources to Implement and Enforce Adopted Measures

The State of Maryland has made an adequate commitment to implement the Maryland regulations in the SIP. However, since the control strategy demonstration depends in part upon EPA-promulgated regulations, EPA recommends that Maryland commit to adopt equivalent State regulations.

State Commitments to Comply With Schedules

EPA has published and will be issuing additional Control Techniques Guideline documents for the control of stationary source categories of VOC's. The State of Maryland has adequately committed itself to develop regulations for all appropriate stationary source categories of VOC subsequent to EPA's issuance of these guidance documents.

Public Involvement and Analysis of Effects

The Metropolitan Washington Council of Government and the Regional Planning Council, both regional planning agencies, assisted Maryland in developing the SIP. These agencies and the State of Maryland provided an acceptable public involvement program.

Transportation Control Measures (For Ozone and Carbon Monoxide) Area Profiles and Commitments

As a result of the ozone and carbon monoxide non-attainment designations described in the introduction of this Notice, a process of consultation among affected local governments lead the then Acting Governor to designate, on March 23, 1978, the Section 174 agencies. These are the Metropolitan Washington Council of Governments for the Maryland portion of the National Capital Interstate Air Quality Control Region and the Regional Planning Council for the Metropolitan Baltimore Intrastate Air Quality Control Region.

National Capital Area

In fulfillment of its responsibilities, COG produced a document dated November 29, 1978 entitled "Washington Metropolitan Air Quality Plan for the Control of Photo-chemical Oxidants and Carbon Monoxide." After notice and public hearing, a final draft of this document was incorporated into the National Capital portion or the Maryland SIP.

COG, using the 1976 emissions inventory and an ozone design value of 0.225 ppm, calculated 64% to be the amount of emissions reduction of volatile organic compounds needed to meet the former 0.08 ppm photochemical oxidant standard in the National Capital area. Despite the application of reasonably available control measures, including the Federal Motor Vehicle Control Program, RACT on the applicable stationary sources, and transportation control measures, the plan estimates that by the end of 1982, there will only be a 24% reduction of emissions instead of the needed 64%.

For carbon monoxide, using its emission inventory, COG conducted an analysis of "hot spots" as well as regionwide emissions. COG concluded from the analysis that the eight-hour CO standard could not be met in 1982.

Thus, for both carbon monoxide and ozone, Maryland requested an extension of the 1982 attainment deadline. Approval of such an extension will necessitate a schedule for the implementation of an inspection and maintenance program for motor vehicles; for the implementation of currently planned transportation control measures; and for the analysis, selection, and adoption of additional appropriate transportation control measures.

This plan was developed using the 0.08 ppm oxidant standard and is subject to revision using the new 0.12 ppm statistical ozone standard promulgated on February 8, 1979. This reassessment, to be done in the 1982 SIP submittal, may alter the amount of emission reduction needed for attainment of the ozone standard.

In preparing the plan, COG recommended 28 transportation measures to the local governments as appropriate for consideration in the 1979 SIP submittal. These measures were selected from an initial list of 70 measures identified as having potential for reducing transportation related emissions.

COG has proposed an analysis of alternatives (of transportation measures), for which it has been funded under Section 175 of the Clean Air Act, to reassess all 70 of the measures for consideration for possible inclusion in the SIP.

Except for the City of Takoma Park, commitments made by local governments in Montgomery and Prince Georges Counties toward the 28 measures recommended are detailed in Appendix "E" of the COG plan. Notable among the commitments are the endorsements for affirmative actions toward the implementation of transportation measures made by the remaining jurisdictions in the following seventeen categories of transportation measures:

1. Continue construction of Metrorail (completion of the present committed 60 miles); endorsed by Montgomery County, Prince Georges County and City of Rockville.

2. Eliminate all day on-street, non-residential parking where appropriate; endorsed by Montgomery County and Prince Georges County.

3. Provide fringe parking lots at selected locations; endorsed by Montgomery County, the City of Gaithersburg, the City of Bowie and Prince Georges County.

4. Provide fringe parking to accomodate deficiencies at Metro stations; endorsed by Montgomery and Prince Georges Counties.

5. Implement carpools and vanpools in both the public and private sectors; endorsed by Montgomery County and the City of Bowie.

6. Reserve convenient parking spaces for carpools/vanpools endorsed by Montgomery County and Prince Georges County.

7. Build additional bicycle lanes and bikeways; endorsed by Montgomery County, the City of Gaithersburg, the City of Bowie, the City of Greenbelt, the City of Rockville and Prince Georges County.

8. Provide and improve regional and local ride-sharing activities; endorsed by Montgomery County and the City of Bowie.

9. Implement fixed route minibus or semi-demand responsive transit; endorsed by Montgomery County, the City of Gaithersburg and the City of Greenbelt.

10. Install additional bicycle storage facilities; endorsed by Montgomery County.

11. Encourage specialized bus service; endorsed by Montgomery County and Prince Georges County.

12. Include Metrobus information with carpool/vanpool information; endorsed by Montgomery County.

13. Develop a coordinated private and public sector parking management policy; endorsed by Montgomery and Prince Georges Counties

14. Provide additional pedestrian facilities and eliminate barriers to pedestrians; endorsed by Montgomery County, the City of Gaithersburg, the City of Rockville, Prince Georges County and the City of Greenbelt.

15. Improve signalization in the region; endorsed by Montgomery County, the City of Gaithersburg and Prince Georges County.

16. Encourage staggered or flexible work hours for the public and private sectors; endorsed by Prince Georges County.

17. Encourage additional corridor studies implementing Transportation System Management elements; endorsed by Montgomery County.

More clarification and justification for the process of selecting or rejecting transportation control measures should be provided. EPA will concur in the rejection of any measure when sufficient evidence is provided justifying such action.

Metropolitan Baltimore Area

As a result of the work program negotiated by the appropriate State agencies, the Regional Planning Council produced a four-volume document entitled "Transportation Control Plan for the Baltimore Region." This plan was transmitted to the then Acting Governor on September 29, 1978 and after notice and public hearing, was incorporated into the Maryland SIP.

Based upon a 1977 emissions inventory provided by Maryland Air Quality Programs and a design value of 0.24 ppm, the Baltimore plan indicated a 67% reduction in volatile organic compound emissions is necessary to meet the former 0.08 ppm oxidant standard. Despite the application of the Federal Motor Vehicle Control Program, RACT on applicable stationary sources, and committed transportation measures, the plan states that the oxidant standard would not be attained by 1982.

For carbon monoxide, using a 1977 emissions inventory provided by Maryland Air Quality Programs and rollback techniques, the plan shows a 29% reduction is necessary to achieve the NAAQS for CO in the Baltimore Central Business District. The plan anticipates that attainment of the CO standard will not occur until 1983.

An extension of the 1982 attainment deadline accordingly has been requested for both ozone and carbon monoxide in the Metropolitan Baltimore Intrastate AQCR, and Maryland has undertaken the concomitant I/M program for motor vehicles as well as the further analysis and implementation of the transportation control measures.

The RPC plan contained a candidate list of twenty eight transportation measures, developed through public and intergovernmental consultation. These measures are described in Volume Two of the plan; commitments to the transportation portion of the plan are detailed in Volume Four. Twelve of the transportation measures are those to be implemented in the near term:

1. *Park-and-Ride Lots.* To the extent funding sources allow, construct 21 park-and-ride lots included in the Transportation Improvement Program for 1978-1981.

Maryland Department of Transportation (MDOT) is committed to construct 300 new park-and-ride spaces per year through 1982.

2. *Improved Rail Transit.* MDOT will construct a rapid-transit line from the Baltimore Central Business District to Reisterstown Road.

MDOT will rehabilitate stations, locomotives and coaches to improve rail service to Washington, D.C. along the Baltimore & Ohio Railroad Lines through Baltimore and Howard Counties.

3. *Carpooling.* Computeride, the Baltimore region's carpool program will attempt to form 1500 new carpools annually through increased public awareness, employer incentives, and carpool matching programs.

4. *Vanpooling.* Vango Inc., the corporation responsible for implementing the vanpool program in Baltimore, will attempt to form at least 50 new vanpools annually.

5. *Preferential Parking for Ridesharing.* The City of Baltimore has agreed to commit 35% of the available off-street parking spaces for carpools with no fewer than 300 spaces available at any one time.

6. *Bus Service Improvements.* MDOT will purchase new buses, and will provide additional maintenance and new bus shelters.

7. *Inspection and Maintenance. Implement an I/M program.*

8. *Traffic Flow Improvements.* Improve signalization in Anne Arundel County, Baltimore City and Baltimore County, and implement other traffic flow improvements to reduce extended idling including the Maryland right-turn-on-red law.

9. *Bicycle Right of Way.* Construct bikeway safety projects.

10. *Residential Permit Parking Program.* Establish a pilot residential permit parking program in the Oakenshawe neighborhood of Baltimore City.

11. *Land Use Management.* Incorporate the following measures into the plan:

A. Maryland Agricultural Land Preservation Program;

B. Anne Arundel County Growth Management Ordinance, Title 13 of Anne Arundel County Code;

C. Baltimore County Bill, No. 12-77;

D. Carroll County Zoning Ordinance Text, Amendment T-43.

12. *Public Education Campaign.* An information program for the widespread dissemination of information promoting air quality control measures has been proposed for funding as authorized by Section 175 of the Clean Air Act.

The only measure of the 28 not included in the submittal was fuel rationing, which the Maryland plan states would be considered only in the regional context of a national program. EPA believes this is an adequate justification for not analyzing the measure at this time. RPC is committed to examining the remaining

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transportation measures, incuding the measures in Section 108(f) of the Clean Air Act, during the alternatives analysis.

All County jurisdictions in the region ratified the transportation portion of the plan for the Metropolitan Baltimore area. However, two jusisdictions had qualifying statements on their endorsement. The Baltimore City Council endorsed the plan and proposed control measures except for the on-street parking restrictions as they apply to Baltimore City. The Harford County Council did not endorse the proposd Motor Vehicle Inspection and Maintenance Program.

General Evaluation of Transportation Control Measures

In reviewing the transportation control components of the Maryland SIP, EPA solicited comments from the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Transportation (DOT).

Comments from HUD to EPA pertained only to the Maryland portion of the National Capital region. In general these comments supported the transporatation control measures as consistent with the objectives of the National Urban Policy.

DOT submitted comments concerning the substance of the plans and the compatibility of scheduling, funding, and implementation of proposed transportation control measures with other ongoing transportation programs. EPA will evaluate these comments along with others before taking final action on the proposed SIP revision.

Presented in the following paragraphs are additional major comments resulting from a general evaluation of both the COG and RPC plans.

1. The designation of the nonattainment areas for ozone is adequate. The definition of the carbon monoxide nonattainment areas of high traffic density in Montgomery, Prince George County, and Baltimore City has been changed as is now specified in a Notice of Proposed Rulemaking published in the **Federal Register** on April 23, 1979 (44 FR 2388 [1979]). EPA does not anticipate that this proposed refinement in the geographic nonattainment areas will affect the outcome of the control strategy demonstrations performed for the 1979 submittal.

2. The hydrocarbon and carbon monoxide mobile source emission inventories used for the Baltimore and Maryland National Capital submittals are adequate.

3. The estimates of emission reduction necessary for attainment of the carbon monoxide and ozone standards described in the plan profiles are adequate in the documentation of assumptions. Growth and modelling procedures demonstrate, that the NAAQS cannot be attained by 1982, in a satisfactory manner.

4. The documentation of the designation process for the certification of COG and RPC as lead planning agencies under Section 174 is adequate. The then Acting Governor of Maryland also designated the National Capital Air Quality Planning Committee of COG as the agency with the lead responsibility for the development of the stationary source plan for photochemical oxidants and carbon monoxide in the Maryland portion of the National Capital Interstate AQCR. The Maryland Department of Health and Mental Hygiene, Air Quality Programs, is the agency responsible for the stationary source portion of the plan in the Metropolitan Baltimore Intrastate AQCR, and is also responsible for overall coordination of the SIP submittal.

5. The identification of tasks and responsibilities for agencies participating in the development of these nonattainment plans is generally adequate. However, the submittals lack a clear description of the project programming process in Maryland and the criteria used for determining conformity of transportation plans and projects with air quality requirements. On May 14, 1979, RPC submitted to EPA an outline of a technical report to be written describing the Maryland project programming process. This is to be forwarded to EPA as supplemental information. Criteria for determining conformity must be developed in accordance with forthcoming DOT and EPA guidance on the subject.

6. The COG Air Quality Plan included an outline for the development of a program for alternatives analysis. The Metropolitan Washington Council of Governments received a Section 175 grant from the Urban Mass Transportation Administration on March 30, 1979, to develop a work program for this comprehensive analysis, and for the completion of the initial tasks necessary for this work. An amendment, to the COG FY 1980 Unified Planning Work Program, detailing the task schedule for the alternatives analysis is anticipated by September 1979. EPA and DOT will review this when submitted.

RPC submitted a detailed work program for the alternatives analysis as part of its Unified Planning Work Program for Fiscal Year 1980. This material is currently being reviewed by EPA and DOT. The work programs are required to ensure the further development of the ozone attainment plan, to be submitted in 1982.

7. A synopsis of the reasonably available transportation measures slated for adoption were portrayed in the Maryland National Capital and Baltimore Area Profiles, above. The details are presented in Appendix "E" of the COG Air Quality Plan and Volume 4 of the Metropolitan Baltimore transportation portion of the plan. These are adequate as the initial steps in the implementation of the transportation measures in the plan. The measures in the plan must include schedules, including interim milestones and commitments by responsible agencies to implement needed measures.

8. Commitments to justify decisions for the nonadoption of measures including difficult to implement, but reasonably available, measures have been made a task item in the Unified Planning Work Programs for both metropolitan areas. The justifications are to be included in the forthcoming alternatives analysis.

9. The process for public interest group and elected official consultation in these plans has been exemplary. In the COG Air Quality Plan and the RPC Transportation Control Plan, interest groups were identified, urged to participate, informed of developments, and requested to comment on drafts of transportation plan proposals. The RPC and COG staffs spent considerable time in consultation with locally elected officials during the plan development and in solicitation of commitments for the plans.

The designated agencies, RPC and COG, made extensive use of their existing committee structures. COG established a steering committee to coordinate the development of the air quality plan. In addition to the committee structure of RPC, a Regional Air Quality Task Force was established that included representatives from government, industry, interest groups, and the public. Public workshops were conducted during the development of both plans.

10. A full identification of financial and other resources necessary to carry out the analysis of alternatives will be accomplished when EPA and DOT complete the review of the Unified Planning Work Program applications for the Urban Air Quality Planning Grants.

11. Public hearings were conducted in accordance with Section 110 of the Clean Air Act and 40 CFR 51.4, in the Maryland portion of the National Capital Interstate AQCR on October 26, 1978 and November 27, 1978, and in the Metropolitan Baltimore Intrastate AQCR on November 21, 1978.

12. Provisions for reporting progress have been included in the RPC Unified Planning Work Program for alternatives analysis that is currently being reviewed by EPA and DOT. COG, in its Air Quality Plan outlined provisions for reporting progress, and these are to be detailed when the work program for the alternatives analysis is submitted to EPA and DOT. Maryland Air Quality Programs is responsible for submitting reports documenting annual incremental emission reductions to demonstrate Reasonable Further Progress. In addition to providing information for these RFP reports, the Section 175 grants will require quarterly reports to be submitted to EPA and the Urban Mass Transportation Administration. This reporting is necessary to determine progress toward attainment.

13. Enabling legislation for a program of motor vehicle inspection and maintenance (Senate Bill 751) passed the Maryland Legislature on April 9, 1979. This bill was signed into law on May 30, 1979, and provides for the commencement of a voluntary I/M program in January 1981, and a mandatory program by January 1, 1982. This will be implemented by regulations and procedures to be proposed by the State on or before October 1, 1979. EPA finds the enabling legislation to be generally adequate, if a comprehensive and detailed regulatory program for the implementation of the I/M program is developed in accordance with the law. The State has made very good progress to date on I/M and is currently working to develop the specific elements of its program including regulations. The I/M portion of the state's SIP, however, does not currently contain an implementation schedule with dates for key interim events specified in EPA's guidance, which is required to make this portion of the plan adequate. The SIP also should include a commitment to require retesting of vehicles initially failing the annual emissions test, along with a commitment to prohibit registration or provide some equally effective mechanism to prevent vehicles not complying with applicable emission requirements from operating on public roads. Finally, the SIP should also include a commitment to the development of I/M emission standards designed to result in 25% reductions in light-duty vehicle exhaust emissions by December 31, 1987.

14. The required commitment to use available grants and funds which will improve public transportation for basic transportation needs appears to be met through the administration of grants by the operating transit agencies in the Baltimore and National Capital metropolitan areas. Notably, the approval of the amended capital assistance grant by DOT on September 29, 1978, for the Washington Metropolitan Area Transit Authority and the commitments made by Maryland in the Interim Capital Contribution Agreement will facilitate the completion of the 60-mile portion of the Metrorail transportation system called for in the plan.

Commitments are also made to transportation needs by the Secretary of the Maryland Department of Transportation on behalf of the Mass Transit Administration, the operating agency for the Metropolitan Baltimore area. These commitments appear adequate at this time.

15. As previously stated, the Unified Planning Work Programs for COG and RPC have subsequently been modified to include air quality planning activities. The COG plan contained a schedule for this modification. RPC submitted a schedule to EPA as supplementary information to its plan on January 30, 1979.

16. The emission reduction estimates are reasonable for the adopted transportation measures.

17. The analysis of economic, environmental, energy, social and welfare effects of the COG and RPC plans is adequate, although cursory, and the opportunity for public comment was provided. However, EPA is requesting that COG and RPC develop an analytical method for assessing these impacts in the alternatives analysis.

18. EPA in its review was concerned about the commitment to the prioritization of projects in the Transportation Improvement Program. A commitment to implement transportation improvements in the Baltimore region for Fiscal Year 1979 was made by the Secretary of the Maryland Department of Transportation. A prioritization of projects in the Maryland National Capital was identified but no commitment for their implementation was made.

Hagerstown and Cumberland (For Carbon Monoxide)

Based on a 1976 emission inventory provided by Maryland Air Quality Programs, the plan estimates a 9% reduction is necessary to meet the 8-hour standard for carbon monoxide in both of these municipalities. Projected emission reductions resulting from implementation of the Federal Motor Vehicle Control Program (FMVCP) by 1982 are 20% for Cumberland and 27% for Hagerstown. EPA requested that Maryland include in its submittal reasonable further progress lines to ensure expeditious attainment of carbon monoxide standards in these two communities. The State submitted these added materials on May 25, 1979, and EPA is reviewing them.

Total Suspended Particulates (TSP)

Description of Submittal

In response to the nonattainment area designations and the requirements of the Clean Air Act as amended, the State of Maryland submitted a revised implementation plan for total suspended particulates (TSP) on January 19, 1979. The plan submitted was designed to attain the primary TSP standard by December 31, 1982, the required attainment date. The State of Maryland has requested an eighteen-month extension to develop a plan to attain the secondary standard for TSP. The State believes that application of RACT above would not allow attainment of the Secondary standards and that fugitive control will also be necessary. Maryland therefore has requested this extension to complete analyses of fugitive dust control measures for non-traditional sources.

The TSP Plan submitted by the State of Maryland on January 19, 1979, included an emissions inventory, a diffusion modeling demonstration, a package of amended regulations, a commitment to an annual incremental reduction in particulate emissions, as well as a commitment and proposal for further study and subsequent adoption of fugitive particulate regulations.

The EPA has reviewed the TSP implementation plan and identified several concerns and questions summarized below. These were discussed with the State, at a meeting on May 7, 1979.

Adoption After Reasonable Notice and Hearing

The State of Maryland held public hearings on the provisions of the SIP on November 21, 1979. The regulations have been promulgated by Maryland following procedures in accordance with the requirements of 40 CFR 51.4

Control Strategy and Demonstration of Attainment

The State submittal contains a diffusion modeling analysis as the basis for demonstrating attainment of the

primary TSP standard. Further, the State clearly demonstrated that a significant contributor to TSP nonattainment is fugitive particulate matter. EPA notes that the model overpredicted pollutant concentrations. Therefore, the State was notified that certain estimates of emission reductions appear too large. This may be the cause of the overprediction. EPA has requested that any appropriate corrections to the emission inventories be made along with subsequent correction of the predicted pollutant concentrations. Maryland has agreed to review the emission inventory and perform a sensitivity analysis of the changed emissions. EPA will review this information when submitted. The State has been asked to submit a more detailed description and a schedule of the work to study and define controls for non-traditional fugitive particulate emissions.

Emission Inventory

The plan submittal presented emission inventories for 1977 and 1982. EPA in a limited review of the inventory identified some discrepancies between EPA-estimated emissions and the SIP values. These were noted and the State was requested to reassess the inventory for accuracy. The State agreed to do so.

Reasonable Further Progress

An adequate presentation of Reasonable Further Progress for TSP was included in the revised SIP.

Margin For Growth

The State has accommodated area source growth by incorporating growth factors in the emission projections used in the attainment demonstration. Growth of major point sources will be accommodated by a case-by-case emission offset provision. EPA in its review found some inconsistencies in the narrative and charts reflecting the development of the growth factors used by the State of Maryland. The State has noted the differences and is making the appropriate corrections.

Reasonably Available Control Technology (RACT)

The plan requires the application of RACT in the primary standard nonattainment area. The State has shown that attainment of the secondary standard would require application of controls more stringent than RACT. Maryland has accordingly requested an eighteen-month extension for plan development, during which time it will identify the mix of traditional RACT and fugitive controls needed for attainment.

Pre-Construction Review

The growth of major point sources will be accommodated by the pre-construction review regulations in the implementation plan. Section 173, a new section of the Clean Air Act, defines the requirements for such regulations. The Maryland regulations, however, do not provide for a review of sources undergoing major modifications. The State has agreed to correct this omission. The method of enforcement of the offset provision is vague. Maryland informed EPA that the enforcement tool would be the operating permit conditions. More clarification is desired concerning the permit mechanism to be used to obtain and enforce the offsets. The Maryland regulation also requires that actual future emissions are to be offset against present allowable emissions, which the State feels may better ensure an air quality benefit. The Act requires that allowable future emissions be offset against allowable present emissions. EPA is reviewing the State's position to determine if it is consistent with the Clean Air Act. Finally, EPA noted that a condition of the Maryland offset provision requires continued further progress on an annual basis. It was not clear how sources which operate on a seasonal basis would be reviewed to assure attainment of the standards. Maryland states that it would examine the short-term emissions limits as well as annual emissions in granting a permit to a source; the most restrictive limit would govern. Such a procedure would satisfy EPA's concern.

Provisions controlling new sources of carbon monoxide must be added for the portions of the State designated as nonattainment areas for carbon monoxide.

Enforceability

EPA, in its comments on the proposed Maryland Plan, has recommended several changes in the regulation language which will enhance the enforceability of the regulations. These relate to the definition of "Total Operating Capacity" for grain drying equipment; the timetable for installing control technology in Regulation 10.18.05.03(d)(5); and the control technology and testing procedures required by the iron and steel industry regulations. With regard to the test procedure, EPA Method 9 was not originally intended for determining visible emissions from fugitive emission points; EPA and the State have agreed to develop a more appropriate test procedure.

Summary of Major Issues

The following is a summary of EPA's concerns:

1. New Source Provisions for the Cumberland-Keyser AQCR and for the carbon monoxide nonattainment areas in the State should be developed and incorporated into the SIP.

2. Test methods are required to determine compliance with the 90% VOC vapor collection efficiency requirement in Section K(2) through K(7) of the Maryland regulations.

3. The compliance plan for the Bethlehem Steel Sparrows Point plant should be submitted and incorporated into the SIP.

General Comments

Section 172(b)(9) of the Act requires an identification and analysis of air quality, health, welfare, economic, energy and social effects of the plan provisions required by Section 172 and a summary of the public comment on such analysis. EPA has noted that this analysis is adequate at this time for the ozone plan; however, a more thorough analysis is to be done in preparing the plan to be sumitted by July 1, 1982. For the total suspended particulate plan, EPA has notified Maryland that such an analysis was not included in the submitted plan. The State informed EPA that Appendix G of the plan contains the economic portion of the required analysis and that it will supplement the Appendix with the remaining information required by Section 172.

Conclusion

The measures proposed today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations of any source will remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while it is moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exceptions to this rule are cases where there are conflicts between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for sources to comply with the new regulations. In these situations, the State may exempt sources from compliance with the pre-existing regulations. Any exemption granted would be reviewed and acted on by EPA either as part of these proposed regulations or as future SIP revisions.

The public is invited to submit to the address stated above comments on whether the proposed amendments to the Maryland air pollution regulations should be approved as a revision of the Maryland State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

A supplement to an April 4, 1979 Notice of Proposed Rulemaking [44 FR 20372 [1979]] was published on July 2, 1979 [44 FR 38583 [1979]] involving, among other things, conditional approval. EPA proposes to approve conditionally the plan where there are minor deficiencies and the State provides assurances that it will submit corrections on a specified schedule. This Notice solicits comment on what items should be conditionally approved. A conditional approval will mean that the restrictions on new major source construction will not apply unless, (1) the State fails to submit, by dates to be scheduled, SIP revisions necessary to remedy the deficiencies or (2) the revisions are not approved by EPA.

The deficiencies in the Maryland Plan that are not corrected may be cause for disapproval of the proposed revisions to the SIP. EPA is aware, however, that the State is undertaking efforts to rectify plan deficiencies.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–7642).

Dated: July 27, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79-23706 Filed 7-31-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1286-7]

Implementation Plan Revision for a Nonattainment Area in the State of Arizona; Receipt/Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt and Availability.

SUMMARY: The purpose of this notice is to announce receipt of a revision to the Arizona State Implementation Plan (SIP) and to invite public comment. A revision to the Nonattainment Area Plan (NAP) for the Maricopa County Urban Planning Area has been received from the Arizona State Department of Health Services. This revision was submitted to EPA in accordance with the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas," and is available for public inspection at the addresses below. A notice of proposed rulemaking discussing this revision will be published in the **Federal Register** at a later date. The period for submittal of public comments will end not less than 60 days from this date and not less than 30 days from the published date of EPA's Notice of Proposed Rulemaking.

ADDRESSES: Copies of the SIP revisions are available for inspectionduring normal business hours at the following locations:

Library, Environmental Protection Agency, Region IX, 215 Fremont Street San Francisco CA 94105.

Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street, S.W., Room 2404, Washington, D.C. 20460.

Arizona State Department of Health Services, 1740 West Adams Street, Phoenix AZ 85007.

Maricopa Association of Governments 1820 West Washington, Phoenix AZ 85007.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street , San Francisco CA 94105, (415) 556-2938.

SUPPLEMENTARY INFORMATION: New provisions of the Clean Air Act, enacted in August 1977, Public Law No. 95-95, require states to revise their SIP's for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962), March 19, 1979 (44 FR 16388) and April 10, 1979 (44 FR 21261). State and local governments were required by January 2, 1979 to develop, adopt, and submit to EPA revisions to their SIP's which provide for attainment of the NAAQS as expeditiously as practicable. The Maricopa County Nonattainment Area has been designated nonattainment for carbon monoxide, photochemical oxidants (ozone), and total suspended particulates.

The Governor's designee submitted a revision to the Maricopa County Urban Planning Area NAP for Carbon Monoxide and Photochemical Oxidants to EPA on July 3, 1979. The initial NAP for Maricopa County was submitted on February 23, 1979 and a notice of proposed rulemaking was published on June 11, 1979 in the **Federal Register** for that portion.

EPA is reviewing this revision for conformance with the requirements of Part D of the Clean Air Act, as amended. Following EPA's review of the revision, a notice of proposed rulemaking will be published in the **Federal Register** that will provide a description of the proposed SIP revisions, summarize the Part D requirements, identify the major issues in the proposed revisions, and suggest corrections. An additional 30 days will be provided for public comments at that time

The intent of this notice is to notify the public that this revision has been formally submitted to EPA for approval, that it is available for public inspection, and that interested persons are encouraged to submit written comments.

Authority: Sections 110, 129, 171 to 178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508, and 7601(a)).

Dated: July 20, 1979.

Clyde B. Eller

Acting Regional Administrator.

[FR Doc. 23802 Filed 7-31-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1289-2]

Approval and Promulgation of Implementation Plans; Texas Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This action proposes approval/disapproval of various revisions to the Texas State Implementation Plan (SIP). The revisions were submitted by the Governor to fulfill the requirements of the Clean Air Act, as amended in August 1977 (the Act), for attainment and maintenance of National Ambient Air Quality Standards. The revisions being acted on today are those relating to the plan requirements for nonattainment areas (Part D of the Act) and include control requirements for hydrocarbons, carbon monoxide, and particulate matter. In reviewing the State submittal, EPA assessed the ability of the plan to meet the requirements of Part D.

While the plan meets the Part D requirements in many respects, there are several deficiencies that the State needs to address before the full SIP approval can be granted by the Administrator of EPA.

DATES: Interested persons are invited to submit comments on this proposed action on or before August 30, 1979.

ADDRESSES: Written comments should be submitted to the address below:

Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, Attn: Jerry Stubberfield.

Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C. 20460.
Texas Air Control Board, 8520 Shoal Creek Boulevard, Austin, Texas 78758.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTARY INFORMATION: Provisions of the 1977 Clean Air Act Amendments (the Act) requires States to revise their State Implementation Plans (SIPs) for all areas that have been designated as not attaining the National Ambient Air Quality Standards (NAAQS). The Act requires that States submit the necessary plan revisions to the EPA by January 1, 1979. The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, Federal Register (44 FR 20372), and will not be restated in this notice.

A supplement to the April 4 notice was published on July 2, 1979, outlining among other things, criteria for conditional approval. EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections by a specific deadline. This notice solicits comments on what items should be conditionally approved, and it solicits comments on the schedule, where specified, in this notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

The Governor of Texas, after adequate notice and public hearing, submitted revisions to Texas' SIP on April 13, 1979. The revisions include provisions for attainment and maintenance of the NAAQS for ozone, carbon monoxide, and particulate matter, in the designated nonattainment areas. These provisions address Part D (Plan Requirements for Nonattainment Areas) of the Act. In addition, the State submittal included provisions relating to other parts of the Act. The overall plan was developed by the Texas Air Control Board (TACB). The action being taken today by EPA is only with respect to Part D requirements. Those SIP provisions relating to requirements of the Act other than Part D will be addressed in a later Federal Register. An evaluation report,[1] which reviews the SIP in detail, is available for inspection by interested parties during normal business hours at the EPA Region 6 office and the other addresses listed above.

A notice of availability of the Texas SIP revisions was published in the Federal Register on May 21, 1979, and interested persons were invited to comment. All comments received under that notice and this proposed rule making will be addressed at the time of final rulemaking.

[1] EPA Review of Texas State Implementation Plan Revision, June 1979.

Part D SIP Requirements

Ozone

In the March 3, 1978 Federal Register, at 43 FR 9037 (with a subsequent revision on September 11, 1978 at 43 FR 40433) the EPA identified fifteen counties in the State of Texas which were not attaining the NAAQS for photochemical oxidants. Subsequent to these designations, the EPA promulgated revisions (44 FR 8218, February 8, 1979) to the standard as follows: (1) the designated pollutant was changed from photochemcial oxidants to ozone, (2) the level of the standard was changed from 0.08 parts per million (ppm) to 0.12 ppm, and (3) the method of determining a violation of the standard was changed. The State reevaluated the air quality data for all designated nonattainment areas in light of the revised standard and determined that concentrations in two of the fifteen counties (McLennan and Travis) no longer exceeded the new standard.

Since the State officially requested redesignation of these areas to attainment status, concurrent with the submittal of these revisions, the plan does not address these counties. The redesignation of these areas will be addressed in a separate Federal Register notice to be published shortly. Therefore, the ozone plan addresses the following areas: Bexar, Dallas, El Paso, Harris, Nueces, and Tarrant Counties which have been identified as urban areas; and Brazoria, Ector, Galveston, Gregg, Jefferson, Orange and Victoria Counties which have been identified as rural areas according to EPA guidelines.

EPA guidance specified that the SIP need not include a specific demonstration of reasonable further progress (RFP) and attainment in the rural areas. Such a demonstration in the urbanized areas, along with the minimum stationary source requirements as defined in the general preamble should assure RFP and attainment in the rural areas by minimizing the pollutants transported from urbanized to rural areas. The ozone control strategy addresses the rural areas only to the extent that the State has committed to apply reasonably available control technology (RACT) requirements for major sources of volatile organic compounds (VOC) covered by the 11 Control Technique Guidelines (CTGs) that EPA issued by January 1978.

For the urban areas, design values were developed in accordance with methods described in the January 1979 EPA document, "Guideline for Interpretation of Ozone Air Quality Standards." The State used the modified version of the linear rollback technique to determine the percent emission reduction required in order to demonstrate attainment of the ozone standard. This method accounts for the transport of ozone or its precursors and naturally occurring ozone. In accordance with EPA guidance, values of 0.10 ppm and 0.06 ppm were chosen by the State to represent the present level of transported ozone, and the future level of transported ozone, respectively.

The control strategy submitted by the State of Texas is based on emission reductions achieved through the application of RACT (to all major stationary sources covered by each CTG document published prior to January 1, 1978), the Federal Motor Vehicle Control Program (FMVCP) and control of new stationary source growth. According to the State, the reductions achieved are sufficient to demonstrate attainment in all urban nonattainment areas, except Harris County, by December 31, 1982.

The ozone control strategy also commits to consider for adoption, additional VOC control methods consistent with CTGs published after January 1, 1978. This does not constitute, in the EPA's opinion, a formal commitment to adopt regulations for future CTG source categories. However, EPA proposes to approve the SIP on the following conditions:

1. The State submits adopted RACT regulations for the following source categories by January 1980:
   a. Vegetable oil processing.
   b. Petroleum refinery leaks.
   c. Gasoline tank truck.
   d. Percholoroethylene dry cleaning.
   e. Pharmaceutical manufacture.
   f. Miscellaneous metal parts and products.
   g. Graphic arts.
   h. Pneumatic rubber tire manufacture.
   i. Flatwood paneling.
   j. Floating roof tanks.
2. The State adopts by January 1981 regulations which control emissions from additional source categories for which EPA issues a new CTG by January 1980.
3. The State demonstrates by certification that there are no sources in the State for a given VOC source category that is not regulated.

Regulation V of the TACB Regulations entitled "Control of Air Pollution from Volatile Organic Compounds," has been revised to include legally enforceable regulations which address the application of RACT for ten of the eleven source categories covered in the CTGs. Since a review, by the State, of all business directories, as well as replies to formal questionnaires mailed to all local air pollution control programs failed to reveal any magnet wire coating operations in the ozone nonattainment areas, no RACT regulation was developed. All sources subject to the provisions of revised Regulation V are to be in compliance on or before December 31, 1982.

Mobile source emission reductions are to be achieved through the FMVCP. EPA's MOBILE 1 computer model was used to calculate vehicle emissions for 1977 and 1982. Input data, such as vehicle miles travelled (VMT), speed, vehicle age and type distribution, etc. were obtained from the Texas Department of Highways and Public Transportation. In addition, the State estimated the projected increase in VMT would be reduced by 5.1 percent for all urban areas, during the period from 1977–1982, based on a report prepared for the Federal Energy Administration which predicted such a decrease due to a doubling in gasoine prices during this period.

However, the basis for the VMT reduction estimates used in the report may not be applicable for urban areas in Texas. EPA will be asking the State to provide additional documentation to justify use of this reduction, and to track changes in VMT as a portion of their RFP reporting requirements.

The following table indicates the percentages of reduction predicted by the TACB to occur by the end of 1982 through the application of these control measures. The required percentages of reduction include an estimated growth rate for area sources. Growth rates were based on estimated population increases with the exception of vehicle emissions growth which reflect increases in VMT. No growth rate was included for stationary sources since the State intends to control new source growth through offsets.

Table 1.—*Anticipated and required reductions*

Nonattainment county	Anticipated reductions by Dec. 31, 1982			Required reductions[2]
	FMVCP (percent)[1]	RACT (percent)	Total	
Bexar	21.4	1.3	22.7	12
Dallas	23.1	4.2	27.3	27
El Paso	14.7	10.7	25.4	20
Harris	12.1	15.7	27.8	60
Nueces	4.8	30.4	35.0	1
Tarrant	19.1	11.0	30.1	30

[1] Percent of 1977 baseline emissions.
[2] Including growth from area sources.

From this table, it can be seen that the predicted cumulative reductions from the FMVCP and the application of RACT will be sufficient to achieve the required percentage of reduction necessary to demonstrate attainment of the ozone standard by December 31, 1982, in all urban nonattainment areas, except in Harris County.

If an area can demonstrate that, despite the implementation of all reasonably available control measures, attainment is not possible by December 31, 1982, an extension may be granted until December 31, 1987. In such a case the following additional measures must be taken:

(1) The application of RACT must be extended to minor sources
(2) The establishment of a program of alternate site analysis and other factors, prior to issuance of a preconstruction permit
(3) The establishment of a schedule for implementation of an inspection/maintenance (I/M) program for vehicle emissions control
(4) The identification and commitment to study tranportation control measures (TCMs), including additional packages of measures
(5) A commitment to establish, expand, or improve public transportation measures
(6) The identification of additional measures needed to provide for attainment by December 31, 1987
(7) An identification and commitment for expeditious implementation of currently planned reasonably available transportation control measures.

Such an extension has been requested for Harris County. The Texas plan addresses the additional requirements for Harris County as follows.

(1) The application of RACT has been extended to minor sources.
(2) The TACB permit application form (Form PI–1) will be amended to require the application to state whether an

analysis of alternatives required by Section 172(b)(11)(A) of the Federal Clean Air Act has been performed for the proposed new source. The TACB has informed EPA that should the application indicate that an analysis has not been performed, the TACB will write to the applicant specifically inquiring whether the analysis has been performed. If the response is still negative the TACB will advise that based on the lack of an analysis, a permit meeting the requirements of the Clean Air Act cannot be issued. The EPA is, therefore, proposing conditional approval of this approach based on the conclusion that the approach will operate to assure that the required analyses will be performed.

(3) Draft I/M legislation was submitted with the SIP. On March 9, 1979, Texas House Bill 726 was introduced into the Texas Legislature which provided for an amendment to the Texas Clean Air Act to require the TACB, in conjunction with the Texas Department of Public Safety and the State Department of Highways and Public Transportation to:

(1) Conduct an I/M pilot program,

(2) Study various feasibility and implementation I/M program options,

(3) Report to the 67th Session of the Texas Legislature concerning these requirements on or before December 1, 1980, and

(4) Prepare for an I/M program in Harris County to allow for full implementation of the program not later than December 31, 1982.

As of the writing of this notice, I/M legislation has passed both the Texas House and Senate and has been signed by the Governor, but has not been submitted as part of the SIP. According to EPA policy, published in the May 19, 1978 **Federal Register** (43 FR 21673), the legal authority for an I/M program must be in place no later than June 30, 1979 (with certain exceptions not applicable to Texas). Since the legislation submitted with the SIP is in draft form, EPA is proposing approval on the following conditions: (a) enacted legislation is substantially the same as the draft included with the SIP; (b) it is submitted as part of the SIP; and (c) necessary changes are made to the SIP to commit to the implementation of the legislation.

(4) On July 24, 1978 the Governor officially designated the Houston-Galveston Area Council (H–GAC) as the lead local planning agency in the Houston area. The TACB and H–GAC entered into a Memorandum of Agreement which assigned primary responsibilities for items related to TCMs. These responsibilities include:

(a) Mobile source emissions inventories.

(b) Transportation control planning, including obtaining legally enforceable ordinances and resolutions.

(c) Monitoring compliance with adopted transportation control plans and reporting on an annual basis to the TACB the status of enforcement and implementations.

The current status of the TCM studies indicates that they are in various degrees of development requiring completion of individual items and packaging of strategies that are technically, socially, and economically acceptable for implementation and inclusion in the 1982 SIP revision for Harris County.

Two of the 18 TCMs, by agreement between the TACB and the H–GAC, have been identified as being the responsibility of the TACB. These include the implementation of an I/M program and a program to control vapor emissions from fuel transfer and storage operations. One of the measures, programs to reduce motor vehicle emissions which are caused by extreme cold start conditions, is not considered applicable because of the semitropical climate in the Houston area.

A number of studies need to be undertaken by the H–GAC in cooperation with other local governmental agencies. These include a study to limit common carriers to portions of the transportation network, an indepth study of staggered work hours, a study of the feasibility of additional tollroads, a broader study of traffic flow improvements including reduction of extended vehicle idling and a study of programs for the conversion of fleet vehicles to cleaner engines or fuels.

Currently under study are programs for improved public transportation including a long range transit element, studies on transit malls as well as pedestrian malls, and a study on bikeways and facilities for recreation which needs to be expanded to study the feasibility of bikeways for work trips.

Other studies are partially completed and are in various degrees of implementation. These include a carpool program in conjunction with exclusive bus and carpool lanes, programs to control on street parking, a program of operating parking facilities as park and ride lots and an employer carpool, vanpool and transit program for employees.

The Memorandum of Agreement between the TACB and the H–GAC constitutes a commitment by the H–GAC to conduct the alternative analysis of the TCMs.

(5) A commitment to improve public transportation was made by the voters of Harris County in a referendum on August 28, 1978 which created a Metropolitan Transit Authority (MTA) and levied a one cents sales tax to implement the MTA's programs. The types of programs to be implemented are indicated in Appendix G of the SIP and include bus fleet modernization and expansion; development of a bus maintenance facility; improved bus service; additional park and ride services; elderly and handicapped services; vanpool and car-share programs; preferential treatments for transit; a transitway development program and an automated guideway/rail transit program.

Appendix G, "Transportation Control Measures: Current Status" is a Houston-Galveston Area Council staff document and therefore has no offical status as a commitment to transit improvements. Since the plan contains no formal commitment to public transportation improvement in Harris County, it remains deficient in this respect. The SIP is conditionally approved on the basis of receiving a submittal (as part of the SIP) of a commitment on or before October 29, 1979.

(6) According to the Texas plan a reduction of approximately 70,300 tons of VOC in Harris County is needed to demonstrate attainment of the ozone standard by December 31, 1987. The TACB has identified several additional measures which will be considered for inclusion and implementation in the 1982 SIP revision. These additional measures along with their potential reductions are shown in the following table:

Table 2.—*Potential Emission Reductions From Additional Control Measures for Harris County*

Additional measures	Tons
Additional CTGs	28,000
2 for 1 Emissions Reduction	18,000
10% Reduction in VMT	5,000
Replacement of RACT and BACT with LAER	10,000
Improvement in Control Technology Assumptions	10,000
Vehicle Inspection and Maintenance Program	10,000
Total	81,000

(7) The SIP does not identify (or include any commitment to implement) any currently planned TCMs having beneficial air quality impacts. EPA proposes to conditionally approve the SIP provided that within 90 days after publication of this notice, the State identify and commit to expeditious implementation of currently planned TCMs which may be included in the Transportation Improvement Plan (TIP).

As previously noted, Regulation V has been revised to include legally enforceable regulations which address the application of RACT to stationary sources covered by the CTGs. The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTGs, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the CTGs. The specific deficiencies are outlined below:

1. Subchapter 131.07.51 pertains to control requirements for the storage of VOCs. Some of the control measures specified do not represent RACT, as discussed in the evaluation report.

2. Subchapter 131.07.54 pertains to the control of VOC emissions from the filling of gasoline storage vessels for motor vehicle dispensing facilities. In the July 21, 1977, **Federal Register** (42 Fed. Reg. 37376), EPA promulgated such regulations for certain areas in the State of Texas. Since the federally promulgated regulations are more restrictive than those of the State's, as noted in the evaluation report, the EPA proposes to disapprove this subchapter for those counties which are covered under the federal promulgation, (i.e., Bexar, Brazoria, Dallas, Harris, Galveston, and Tarrant Counties) until such time as the State develops equivalent regulations.

3. Subchapter 131.07.55.103 pertains to the control of VOC emissions from wastewater separators. It provides an exemption for those separators receiving less than 200 gallons of VOC/day and the exemption for wastewater separators used exclusively in conjunction with the production of crude oil or condensate which is unsupported. State must demonstrate how these exemptions impact upon the reductions achieved for these source categories.

4. Subchapter 131.07.56 pertains to the control of VOC emissions from vacuum producing systems and process unit turnaround in petroleum refineries. It provides an exemption for vacuum producing systems which emit less than 100 pounds/day. The State must provide an evaluation of how this exemption affects the reductions achieved for this source category.

5. Subchapter 131.08.59.101 pertains to the control of VOC emissions from the use of cutback asphalt. The method of control proposed by the State is inconsistent with the RACT requirements for this source category. The State must demonstrate the impact on emissions of reducing the use of cutback asphalt by 92 percent, as specified in this subchapter.

In addition, the application of this regulation must be extended to those nonattainment counties in which the use of cutback asphalt constitutes 100 tons per year or more of VOC emissions on a county-wide basis.

6. Subchapters 131.07.59.102–104 pertain to the control of VOC emissions from degreasing operations. The controls and exemptions specified are not considered as RACT as noted in the evaluation report.

7. Subchapters 131.07.60.101–104 establish emission limitations for surface coating processes. The subsection pertaining to can coating provides for a phase compliance schedule which extends final compliance with the RACT required emission limitations until December 31, 1985. A categorical compliance date beyond December 31, 1982 is not approvable unless supported.

8. The State has not included test procedures for determining compliance with the surface coating or gasoline terminal regulations.

9. Subchapter 131.07.62 addresses VOC exemption status in ozone nonattainment areas. This provision exempts certain compounds from control, cancels previous exemptions granted pursuant to Regulation V, establishes a new mechanism for exempting vent-gas streams, and provides a compliance deadline for previously exempted sources. This provision's allowance for a new compliance date for sources which had been exempted by the procedures established in Regulation V is acceptable as meeting the minimum requirements for EPA approval. These previously exempted sources are not at this time covered by any Control Techniques Guideline (CTG) issued by the Agency. Since EPA believes that States will be able to make more technologically sound decisions in adopting RACT requirements for source categories after publication of CTG, States are permitted to defer adoption of RACT requirements for sources until after the publication of the applicable CTG (if reasonable further progress can otherwise be demonstrated). Therefore, in the absence of a CTG document, any control of these sources is within the State's prerogative, assuming the State can demonstrate that reasonable further progress will be achieved and that attainment will be achieved by 1982 or such later date as is appropriate.

While EPA proposes to approve this provision, it should be noted that the TACB must submit any further exemption under this rule to EPA for approval as a SIP revision before that exemption can become effective under the SIP. In addition, since Subchapter 131.07.62.103 allows until December 31, 1979 for the submittal of a compliance schedule it does not at this time contain compliance schedules in satisfaction of 40 CFR 51.15, EPA proposes to conditionally approve this provision on condition that for all affected sources, compliance schedules meeting the requirements of that section be submitted to EPA for approval no later than March 31, 1980.

10. Subchapter 131.07.62.101 exempts methyl chloroform (1,1,1 trichloroethane) and/or methylene chloride. These volatile organic compounds (VOC), while not appreciably affecting ambient ozone levels, are potentially harmful. Both methyl chloroform and methylene chloride have been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity.

With the exemption of these compounds, some sources, particularly existing degreasers, will be encouraged to utilize methly chloroform in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in the SIP can only further aggravate the problem by increasing the emissions produced by existing primary degreasers and other sources.

The EPA is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. The EPA does not intend to disapprove the State SIP submittal if, after due consideration, the State chooses to maintain these exemptions. However, we are concerned that this policy not be interpreted as encouraging the increased use of these compounds nor compliance by substitution.

The EPA does not endorse such approaches. Furthermore, state officials and sources should be advised that there is a strong possibility of future

regulatory action to control these compounds. Sources which choose to comply by substitution may well be required to install control systems as a consequence of these future regulatory actions.

The State has been advised of EPA's review of Regulation V and has committed to work with EPA to resolve the deficiencies. EPA is proposing conditional approval of Regulation V provided that those portions of the regulations are revised or additional demonstrations in accordance with the requirements set forth above, are submitted within 120 days of the publication of this notice.

Carbon Monoxide

A portion of the City of El Paso which encompasses much of the downtown area was designated as nonattainment for CO. (An exact description of the geographic area is included in the SIP and discussed in the evaluation report). The nonattainent problem has been determined to stem primarily from mobile sources since stationary point sources contribute less than 5 percent to overall CO emissions, as evidenced in the emission inventory.

Violations of only the eight-hour standard have been recorded in the El Paso area, with the highest second-high value being 12 ppm, recorded in 1976 at SAROAD monitor site number 451700027F01. Using this value in the linear rollback equation results in an emission reduction of 25 percent needed to demonstrate attainment of the eight-hour standard.

The control strategy contained in the SIP is based on vehicle emission reductions achieved through the FMVCP. Using EPA's MOBILE 1 computer model, vehicle emissions for 1977 and 1982 were calculated. Input data such as VMT, speed, vehicle age and type distribution, etc., were obtained from the Texas Department of Highways and Public Transportation. Also included is an estimated 5 percent reduction in the increase in VMT between 1977 and 1982 due to an estimated doubling of gasoline prices.

The FMVCP will effect a 29.4% reduction in CO emissions from vehicles by 1982. Therefore, the emission reductions achieved are considered adequate to demonstrate attainment.

Particulate Matter

In the March 3, 1978 **Federal Register**, 25 areas in the State of Texas were identified as not attaining the NAAQS for particulate matter (TSP). (An exact description of the geographic areas designated as nonattainment can be found in the EPA evaluation report.)

Subsequent to these designations, the TACB expressed concern that the nonattainment designations in certain areas had been based on monitors not sited in accordance with guidance proposed by the Standing Air Monitoring Work Group (SAMWG), and that the application of the rural fugitive dust policy (RFDP) to certain areas had been overlooked. In regard to these concerns, EPA reviewed those monitors under question and concluded that three areas (i.e., Eagle Pass, Progresso and McAllen) should be redesignated to attainment on the basis of the RFDP and eight areas (i.e. Texas City, San Antonio, two areas in Harris County, three areas in Fort Worth, and one area in El Paso) should be redesignated to unclassifiable on the basis of improperly sited monitors. On April 6, 1979 the TACB submitted Board Resolution R79–2, which officially requested redesignation of the above mentioned areas. Therefore, no plan development is required for these eleven areas. The redesignation of these areas will be addressed in a separate **Federal Register** notice to be published shortly.

Of the fourteen remaining areas, for which demonstrations of RFP and attainment are still required, the TACB contends that eight of the areas have monitors that are located too close to heavily travelled roads and/or too close to the ground, thereby invalidating the data used to verify attainment or nonattainment in these areas. These areas are as follows: San Benito, Brownsville, Corpus Christi 1,[2] Corpus Christi 2, Dallas 1, Dallas 3, El Paso 4, and El Paso 5.

The control strategy for these eight areas consists solely of relocating the monitors to sites considered by the TACB to be more representative of the ambient air quality within these areas. However, the EPA had, as previously discussed, concluded that these monitors were properly sited. Therefore, the control strategy for these eight areas is inadequate. In order to be approvable, complete and relevant control strategies must be developed and must include as a minimum, emission inventories, design values, required percentages of reduction, and demonstrations of RFP and attainment. In those areas for which it can be demonstrated that there is no significant industrial influence, the linear rollback method may be used in the development of the plan. However, for those areas which are significantly influenced by industrial sources, more sophisticated methods, such as dispersion modelling must be used. Plans should, in general, contain adopted RACT requirements for traditional (industrial) sources, and adopted requirements or schedules for study and subsequent adoption of requirements for nontraditional sources (e.g. unpaved roads, parking lots). However, the State may develop whatever mix of control measures it deems appropriate provided that it demonstrates RFP and attainment as expeditiously as practicable.

This deficiency has been discussed with the State and as a result they have submitted letters to EPA committing to develop revisions to the SIP (on a specified schedule) which will include control strategies for the deficient areas. The State schedule calls for a draft SIP revision supplement for six areas to be complete by August 13, 1979. It is not clear, based upon the areas described in the letters of commitment, if the six areas referenced are commensurate with the eight areas that EPA considers deficient. If these areas are different, EPA will also require that items (1) and (2) listed below also address the two remaining areas. Upon submission of the draft SIP revision supplement to EPA, conditional approval can be granted this part of the SIP, provided it contains; (1) an analysis of the impact of stationary sources on each of the nonattainment areas in question and a reasonable schedule to adopt controls if the analysis shows the stationary sources to have significant impact, and (2) an analysis of the imact of non-traditional sources on the nonattainment areas in question and a reasonable schedule to conduct studies to control the non-traditional sources.

For the remaining six areas, (i.e., of Aldine, Houston 1, Dallas 2, Fort Worth 1, El Paso 1, and El Paso 2) the plan identifies the following sources as the primary causes of nonattainment: wind erosion of arid lands; dirty paved streets and parking lots; unpaved streets, parking lots and, alleys; construction activities; and industrial processes. The overall control strategy for these areas consists of the implementation of revisions to Regulation I, which are to provide for increased enforceability and stringency of control of fugitive dust emissions from materials handling, construction activities, and the use and maintenance of roads, streets, alleys and parking lots.

For the attainment demonstration in these six areas, the State developed an emissions/air quality relationship that is

[2] This notation was used in the Texas SIP to differentiate among the non-attainment areas within one city. For example the two nonattainment areas in Corpus Christi are Corpus Christi 1 and Corpus Christi 2.

not consistent with any EPA guideline for air quality estimates. Basically, the method includes that portion of fugitive dust emissions which cannot be controlled, with the background, (i.e., if Regulation I would reduce 50 percent of the fugitive dust emissions by 85 percent, the other 50 percent are uncontrollable under Regulation I). The EPA cannot fully approve the control strategies for those areas which use this method until the following demonstrations are sumittted by the TACB.

1. A demonstration in the control strategy that the nonattainment area shows no significant industrial influence.

2. A demonstration in the control strategy that the State's method results in at least as stringent reductions as the linear rollback method would require.

In addition to this, a number of problems have been identified with the control strategies for each of these areas. First, an error has been made in the calculation of emissions from unpaved parking lots that affects all but the Fort Worth 1 nonattainment areas. Therefore, the emission inventories and attainment demonstrations must be revised to reflect the corrected figures. This change may affect the ability of the control strategy to demonstrate attainment in some of these areas. Since the remainder of the problems are area specific, the following discussion will address each area individually.

Houston 1

The plan for this area was developed on the basis that only one of six monitors was properly sited. However, the EPA has concluded that two additional monitors in the area were also properly sited and that the design value should be 135 $\mu g/m^3$. The monitor from which the design value was obtained has been shown to be influenced by industrial sources. Therefore, the use of linear rollback is not appropriate. Dispersion modelling must be used in the demonstration.

Dallas 2

The plan contends that the designation for this area should be removed since the monitor is source-oriented. However, the State has demonstrated attainment through control measures for fugitive dust sources implemented under revisions to Regulation I.

Again, the use of linear rollback is inappropriate since the monitor is influenced by industrial sources, and control measures must be developed for the source (in this case, a lead smelter), or dispersion modelling should be used to show that the proposed controls will suffice to demonstrate attainment.

El Paso 1

The plan for this area was developed on the basis that only two of the seven monitors were properly sited. However, the EPA has concluded that in addition to these, three monitors in the area were also properly sited and the design value should be 142 $\mu g/m^3$. The emission inventory indicates that approximately 70 percent of the emissions in this area are from industrial sources. Therefore the use of linear rollback is inappropriate. Dispersion modelling should be used in the demonstration of attainment.

El Paso 2

EPA data indicates that the design value should be 99 $\mu g/m^3$ rather than 92 $\mu g/m^3$ which was used by the State. The demonstration of attainment must be reevaluated using the corrected design value.

As previously discussed, Regulation I has been revised to provide for increased enforceability and stringency of control of fugitive dust emissions form materials handling, construction activities, and the use and maintenance of roads, streets, alleys and parking lots. Other revisions to this regulaiton deal with outdoor burning of municipal solid waste, visible emissions from gas flares, and compliance dates for areas presently designated as nonattainment for TSP and areas designated as such in the future.

The effectiveness of the TSP control strategy presented in the Texas SIP hinges on the ability of the revisions to Rule 131.03.04 to achieve the anticipated reductions. In general, the revisions to Rule 131.03.04 required the following controls.

1. The covering of open-bodied trucks, trailers or railroad cars, when in motion, which could create airborne particulate matter.

2. The use of water, oils or chemicals for controlling dust in demolition and construction operations, and in work performed on roads, streets, alleys or land clearing; and the use of adequate mehtods to minimize airborne particulate matter during sandblasting.

3. The application of asphalt, water, oil or chemicals to unpaved surfaces with specific levels of traffic flow; and the removal of soil or other materials, as necessary, except for sand applied for snow or ice control from paved surfaces.

4. The application of asphalt, water, oil or chemicals to parking surfaces having more than 20 parkings daily.

The use of the term "as necessary" in the section dealing with the removal of material from paved surfaces (i.e., 131.03.04.004(b)), is ambiguous and vague in that it cannot be determined if it refers to the necessity to remove soil from paved roads or to the removal of an amount necessary for achieving attainment of the TSP standards. It also appears that sand used in snow or ice control is totally exempt from this control measure.

In the TSP control strategy, Regulation I is, in general, credited for an 85 percent reduction in emissions from paved and unpaved roads, and parking lots. A reduction of 85 percent can be accepted as reasonable for the control of emissions from paved roads, and the paving of unpaved surfaces. However, Regulation I does not require paving as the sole method of control. The use of water, oil, or chemical treatments are also allowed and generally result in substantially lower control efficiencies, usually on the order of 50 percent. Therefore, EPA feels that the effect of this rule was overestimated in the control strategies. A weighted control efficiency must be used in the development of the corrected control strategies, unless the intent was to require paving of unpaved surfaces as the sole control method.

New Source Review—Section 172(b)(6). In addition to the emission reductions to be affected through the application of RACT, and the FMVCP, the Texas plan also provides for a review of new source growth, based on the requirements of Section 173 of the Act, as reflected in the revisions to Regulation VI. In addition, the EPA's Interpretative Ruling, as revised on January 16, 1979 (44 Fed. Reg. 3274), sets forth several issues that are relevant under Part D. The revisions to Regulation VI have been reviewed in light of these requirements, and the following deficiencies have been identified.

1. Subchapter 131.08.00.003.(a)(18) provides that offsets shall be required in all ozone nonattainment areas designated as such after March 3, 1978, until such time as the TACB adopts regulations and a control strategy providing for attainment in the area. This is in conflict with the Interpretative Ruling in that the Ruling shall apply during the time of plan development and until final approval by the EPA.

2. The definitions of "major source" and "major modification" as specified in Subchapter 131.01.001.(29) and (30) of the General Rules, must be revised so as to be equivalent to the definitions in the

Interpretative Ruling or clarified by the TACB as to their meanings.

3. In Subchapter 131.08.00.003.(a)(14), the use of "significance levels" in allowing exemptions from certain portions of the Interpretative Ruling is only applicable to sources locating at sites where the NAAQS is not actually violated. Requirements for offsets similar to those in subchapter 13.08.00.003.(a)(12) must be established for existing nonattainment areas for pollutants other than ozone.

The EPA is proposing conditional approval of Regulation VI as it pertains to the requirements of Section 173 of the Act provided that the State revise those portions of the regulation in accordance with the requirements set forth above, and submit the revisions within 120 days of publication of this notice. The State may request an alternate schedule for item 2 above if the State feels additional guidance is needed due to the Alabama Power Company vs. Costle Court decision.

Other Part D Requirements

The State has specified that financial and manpower resources available to the State and local air pollution control agencies will be submitted to the EPA at a later date. However, they have stated that resources needed to carry out the provisions of this plan are available for the current (i.e., 1979) fiscal year.

The State has provided evidence of intergovernmental involvement and consultation as required under Section 174 of the Act. These activities resulted in the official designation by the Governor on July 24, 1978 of the following agencies as the lead agencies responsible for development of air quality related transportation plans.

Houston-Galveston Area Council—Metropolitan Planning Organization (MPO) for Harris County.
North Central Texas Council of Governments—MPO for Dallas and Tarrant Counties.
San Antonio—Bexar County Urban Transportation Study Steering Committee—MPO for Bexar County

The State has included a brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions chosen. The State does not presume that the plan will result in attainment, nor does the State attempt to predict its affect on health. The State does feel that the economic impact and energy consumption resulting from the plan will be significant.

The State has provided evidence that the necessary requirements have been adopted in legally enforceable form through Board Order R79-3, adopted on March 30, 1979.

EPA considers the submittal of schedules, adopted regulations, and memorandums of agreement, included in these revisions, to constitute a commitment by the State and other governmental bodies to implement and enforce the provisions of this plan.

This notice is issued under the authority of section 110 and 171 to 178 of the Clean Air Act, as amended, 42 U.S.C. §§ 7410 and 7501 to 7508.

Dated: June 8, 1979.

Adlene Harrison,

Regional Administrator.

[FR Doc. 79-23790 Filed 7-31-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52 and Part 81]

[FRL 1288-3]

Approval and Promulgation of Implementation Plans for Maine; Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: Revisions to the State Implementation Plan (SIP) for the State of Maine were submitted to the Environmental Protection Agency (EPA) on May 1, 1979 by the Governor. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act (the Act) as amended in 1977, "Plan Requirements for Non-Attainment Areas", through the implementation of new measures for controlling emissions and providing for attainment of the National Ambient Air Quality Standards (NAAQS) by the required dates. In addition, the revisions respond to certain other requirements of the Act, including those concerning the Prevention of Significant Deterioration (PSD) of Air Quality. This Notice discusses the Maine submittal and EPA's proposed action.

DATES: EPA invites public comment on these proposed actions, the identified and other relevant issues, the suggested corrections and conditions and generally on whether the Maine SIP revisions should be approved or disapproved. Comments may be submitted to EPA at the address listed below on or before August 31, 1979.

ADDRESSES: Copies of the SIP revisions are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; and the Bureau of Air Quality Control, Department of Environmental Protection, State House, Augusta, Maine 04330.

Copies of EPA guidance pertaining to the requirements of the SIP revisions are available for inspection in Room 1903, JFK Federal Building, Boston, Massachusetts 02203; the Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; and the Bureau of Air Quality Control, Department of Environmental Protection, State House, Augusta, Maine 04330.

Comments should be submitted to Frank J. Civattieri, Chief, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Betsy Horne, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203, 617/223-6883.

SUPPLEMENTARY INFORMATION: On April 4, and on or about July 2, 1979, EPA published the requirements for an approvable non-attainment SIP in the **Federal Register** (44 FR 20372 and 38583). Those publications supplement this proposal by identifying the major requirements that guide EPA's evaluation of State submittals. These criteria are not restated in this Notice but copies of those documents are available at the locations listed in the ADDRESSES section of this Notice.

EPA is hereby proposing to approve certain parts of the Maine submission, to approve others upon the fulfillment of certain stated conditions, and to disapprove another portion. The Agency is hereby proposing to approve:

1. The carbon monoxide control strategies for Bangor and Lewiston;
2. The ozone control strategies for Metropolitan Portland and Central Maine including the regulations in Chapter 111 entitled, Petroleum Liquid Storage Vapor Control, and the regulation in Chapter 112 entitled, Petroleum Liquids Transfer Vapor Recovery;
3. The secondary total suspended particulate (TSP) plans for Bangor/Brewer, Thomaston and Baileyville;
4. The program to prevent significant deterioration (except one subsection);
5. The permit fee program;
6. The stack height regulation.

The Agency is also proposing to approve the folowing attainment status redesignations (under 40 CFR Part 81):

1. Of the Downeast Air Quality Control Region for oxidants from non-atainment to unclassified;
2. Of the Bangor/Brewer area for primary TSP from non-attainment to secondary TSP non-attainment; and
3. Of Rockland and Lewiston/Auburn from non-attainment for the secondary TSP standard to unclassifiable.

EPA is proposing to approve with conditions:

1. The sulfur dioxide (SO_2) attainment plan for Millinocket;
2. The secondary TSP attainment plan for Augusta;
3. The Growth Offset Regulation in Chapter 113 of the State's Regulations;
4. The new source review Emission License Regulation in Chapter 108;
5. The plan to involve the public, local, and state officials in SIP Development; and
6. Resource commitments.

EPA is proposing to disapprove Regulation 108.3(A)(3) as it pertains to the Prevention of Significant Deterioration.

BACKGROUND: On March 3, 1978 (43 FR 8962), pursuant to the requirements of Section 107 of the Act, EPA promulgated lists designating as "non-attainment" areas where the National Ambient Air Quality Standards (NAAQS) were not attained as of August 7, 1977, as "attainment" where the standards had been attained or as "unclassifiable" when insufficient information was available. The designations are made for carbon monoxide, total suspended particulates, sulfur dioxide, nitrogen dioxide and ozone, the air pollutants for which there are national ambient standards.

In Maine, there is statewide attainment for nitrogen dioxide. In the March 3, 1978 **Federal Register** notice, the Bangor/Brewer area was designated non-attainment for the primary total suspended particulate (TSP) standard. This SIP revision requests redesignation for the area to attainment for the primary standard and to non-attainment for the secondary TSP standard. In addition, this revision requests redesignation of Rockland and Lewiston/Auburn from non-attainment for the secondary TSP standard to unclassifiable. The March 3 **Federal Register** notice also designated three Air Quality Control Regions (AQCRs), Metropolitan Portland, Central Maine and Downeast as non-attainment for ozone (formerly oxidants). These SIP revisions request redesignation of the Downeast AQCR to unclassifiable. The 1978 designations of the Lewiston/Auburn and Bangor areas as non-attainment for carbon monoxide remain unchanged as does the non-attainment designation of Millinocket for sulfur dioxide.

On May 29, 1979 EPA published a Notice that the Maine SIP revisions were available for review and invited the public to comment on their approvability. As yet, no comments have been received. EPA has now completed its review of the SIP revisions.

The remainder of this Notice is divided into two parts. The first part describes Maine's non-attainment SIP, the attainment status redesignations and the results of EPA's review. The second part discusses the PSD program, Maine's response to certain general requirements of the Act and EPA's judgment as to whether those requirements have been met.

Pursuant to Part D of the Act, each state must satisfy specific requirements in the areas designated as non-attainment. The SIP must be revised to demonstrate attainment of the NAAQS as expeditiously as practicable, but no later than the end of 1982 (or the end of 1987 for areas with difficult ozone or carbon monoxide problems). In some cases of secondary standard nonattainment, the SIP may provide for an attainment date beyond 1982. These requirements and the major considerations that will guide EPA's evaluation of attainment plans are briefly summarized below. After each item is a citation to the applicable section of the Act and the applicable paragraphs of the Administrator's February 24, 1978 memorandum on "Criteria for Approval of 1979 SIP Revisions" which was published in the **Federal Register** on May 19, 1978 (43 FR 21673).

Requirements for All Part D SIPs:

- demonstrate that both primary and secondary NAAQS will be attained within the non-attainment area as expeditiously as practicable, but for primary NAAQS no later than the following final deadlines: (§ 172(a); ¶¶ 1, 3, 5.)

—for sulfur oxides, particulate matter, and nitrogen dioxide, December 31, 1982.

—for ozone or carbon monoxide, December 31, 1982, except, if the state demonstrates that attainment by December 31, 1982 is impossible despite implementation of all reasonably available measures, December 31, 1987.

- Require reasonable further progress in the period before attainment, including regular, consistent reductions sufficient to assure attainment by the required date. (§ 172(b)(3); ¶ 6.)
- provide for implementation of all reasonably available control measures (RACM) as expeditiously as practicable, insofar as necessary to assure reasonable further progress and attainment by the required date. This includes reasonably available control technology (RACT) for stationary sources and reasonably available transportation control measures (§ 172(b)(2), (8); ¶¶ 4–5.)
- include an accurate, current inventory of emissions that have an impact on the non-attainment area, and provide for annual updates to indicate emissions from existing sources. (§ 172(b)(4); ¶¶ 2, 7–8.)
- expressly quantify the emissions growth allowance, if any, that will be allowed to result from new major sources or major modifications of existing sources, which may not be so large as to jeopardize reasonable further progress or attainment by the required date (§ 172(b)(3) and (5); ¶ 7.)
- require preconstruction review permits for new major sources and major modifications of existing sources, to be issued in accordance with Section 173 of the Act. (§ 172(b)(6); ¶ 9.)
- include the following additional SIP elements: (§ 172(b)(7), (9)–(10); ¶¶ 6, 10–11.)

—identification and commitment of the necessary resources to carry out the Part D provisions of the plan

—evidence of public, local government, and state legislative involvement and consultation in accordance with Section 174 of the Act.

—identification and brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions chosen and the alternatives considered, and a summary of the public comment on the analysis.

—written evidence that the state and other governmental bodies have adopted the necessary requirements in legally enforceable form.

—written evidence that the state and other governmental bodies are committed to implement and enforce the appropriate elements of the SIP.

There are additional requirements for states where carbon monoxide and ozone attainment will not take place prior to 1982. However, since this is not true for Maine the additional requirements do not apply and have not been reproduced here.

These requirements were discussed in a notice in the April 4, 1979 issue of the **Federal Register** (44 FR 20372). A supplement to the April 4 notice was

published on July 2, 1979 (44 FR 38583) including, among other things, a discussion of EPA's intent to conditionally approve a plan where there are minor deficiencies and where a State provides assurance that it will submit corrections by specified deadlines.

This Notice solicits comment on what items should be conditionally approved in the Maine SIP, and solicits comment on deadlines where specified in the Notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

I. Maine's Non-Attainment SIP Revisions

A. *Carbon Monoxide* (CO)

1. *Lewiston.* Within the City of Lewiston an area bounded by and including Main Street, Park Street, Willow Street, and Canal Street has been designated as non-attainment for carbon monoxide (CO).

Description of the Plan: Since there are no significant stationary sources of CO in the area, the control strategy focuses on vehicular controls. The Policy Committee of the Lewiston/Auburn Comprehensive Transportation Study (LACTS), the Department of Environmental Protection (DEP) and the Maine Department of Transportation, are working cooperatively to study and implement controls to attain the CO standard for this area.

The DEP has determined that a 46% reduction in CO emissions is needed to achieve the standard by the end of 1982. The proposed control measures including traffic light synchronization and other traffic flow improvements have been designed to achieve this reduction. The strategy further relies on the Federal Motor Vehicle Emission Control Program (FMVECP) to assure maintenance of the standard and to accommodate growth. Each year as the proposed measures are implemented the DEP will monitor their effectiveness. If it is found that these strategies are less effective than originally anticipated then the Department will reevaluate this plan and develop additional strategies which will be necessary to meet the CO standard by 1982.

Issues: There are no significant issues.

Proposed Action: EPA is proposing approval of this portion of the SIP since it meets the requirements of Part D, except for Sections 172(b) (1), (6), (7), and (9) which will be discussed later in this Notice.

2. *Bangor.* Maine's second CO non-attainment area is located in Bangor and includes the area bounded by and including the Kenduskeag Stream, Franklin Street, Columbia Street, and Water Street.

Description of the Plan: The DEP used the "Traffic" computer program to develop a mobile source inventory as input to the Intersection Midblock Model and the Street Canyon Model. This analysis showed that traffic light signal improvements will result in a reduction of carbon monoxide emissions by 40% which is sufficient to meet standards by 1982.

An existing Memorandum of Understanding between the DEP and the Maine Department of Transportation will assure the required signal improvements are carried out as shown below:

No later than and increment:
July 1, 1979—Commit required funding for renovating the Bangor signalization. Commence preliminary engineering for project.
May 1, 1980—Complete signalization modifications.

Air monitoring will continue during the implementation phase to determine the effectiveness of the strategy. If it is found that this strategy is less effective than originally anticipated, the Department of Environmental Protection will reevaluate the plan and develop additional strategies which are necessary to meet the carbon monoxide standard by 1982. Provision for growth is reliant upon the FMVECP.

Issues: There are no significant issues.

Proposed Action: EPA is proposing approval of this portion of the SIP since it meets the requirements of Part D except Sections 172(b) (1), (6), (7), and (9) which will be discussed later in this Notice.

B. *Ozone* (O_3)

In the March 3, 1978 **Federal Register** (48 FR 8999) EPA announced that three AQCRs in Maine were classified non-attainment for ozone. The Downeast AQCR designation for non-attainment was based on three months of ambient air quality data submitted by the Pittston Company during the preparation of its Environmental Impact Statement in 1974. No other ambient air quality data for this AQCR exists. The three months of data showed violations of the one-hour, 0.08 ppm standard. On Februrary 8, 1979 (43 FR 8202) EPA revised the ambient standard for ozone from 0.08 ppm to 0.12 ppm and revised the methodology for determining compliance with the standard. As a result of these changes the existing ambient data for this AQCR no longer shows violations of the revised standard. Before the area can be redesignated attainment, two years of data showing no violations are necessary. Therefore, the DEP has requested that the non-attainment designation for the Downeast AQCR be changed to unclassified until the DEP has collected the adequate ambient data.

Description of the Plan: The remaining two areas of the State currently designated non-attainment are the Metropolitan Portland AQCR and the Central Maine AQCR. Since Maine is a rural non-attainment state, the control strategy for ozone requires controlling major sources (sources with greater than 100 tons potential emissions) for which EPA has published control technology guidance. The categories of sources affected in Maine are petroleum storage terminals and paper coating operations.

The State has submitted two regulations to control pretroleum storage facilities. These regulations are: Chapter 111, Petroleum Liquid Storage Vapor Control, which requires all owners of fixed roof storage tanks to install floating roofs to reduce the hydrocarbon vapors lost to the atmosphere; and Chapter 112, Petroleum Liquids Transfer Vapor Recovery, which requires bulk gasoline terminals which load tank trucks or trailers and which pump more than 20,000 gallons of gasoline per day to install a vapor control system.

Maine's paper coating requirements affect two sources which were already controlled through the Maine Air Emission License mechanism. These sources are the S.D. Warren Company in Westbrook which is part of the Metropolitan Portland non-attainment AQCR and Eastern Fine Paper, Inc. in Brewer which is located in an unclassified area, but which Maine has chosen to control. The sources are required by the State to control volatile organic compound emissions from their paper coaters by application of best practical treatment but no less than 90% reduction in emissions. The degree of control is consistent with EPA guidance. S.D. Warren is required to have four coaters in compliance by July 1, 1979. Eastern Fine Paper is required to have one coater in compliance by March 1, 1980. The schedule for Eastern Fine Paper issued February 23, 1977 contains interim increments of progress and requires compliance prior to the date for other sources in this category in Region I. This schedule is considered expeditious.

A third source of hydrocarbon emissions which Maine is also controlling is open burning dumps although none are located in non-attainment areas and therefore are not included in Part D requirements. The DEP has issued orders requiring cessation of open burning according to specific compliance schedules.

Through a combination of these controls DEP is able to show reasonable further progress towards attaining the ozone standard by 1982.

Issues: There are no significant issues.

Proposed Action: The Agency is proposing approval of this portion of the SIP. This section of the plan meets the requirements of Part D of the Act with the exception of Sections 172(B) (1), (6), (7), and (9) which will be discussed later in this Notice.

Approval is proposed for the ozone control portion of the SIP including the petroleum storage regulations and the inclusion of the previously negotiated controls for the two paper coating sources.

EPA is also proposing approval under 40 CFR Part 81 of the redesignation for ozone from non-attainment for the Downeast AQCR to unclassifiable.

C. *Sulfur Dixide* (SO_2)

Primary and secondary sulfur dioxide standard violations recorded at two sites in Millinocket in 1977 and 1978 provided a basis for the non-attainment status designation which appeared in the March 3, 1978 **Federal Register.** The principal source of sulfur dioxide emissions in the area is a pulp mill operated by the Great Northern Paper Company. Emissions at the plant result from fuel burning, a magnesium oxide recovery plant, and the sulfite process. Violations in the area have been related to the release and aerodynamic downwash of sulfur dioxide from these three processes.

Description of the Plan: The DEP has issued permit conditions which will require Great Northern Paper to control sulfur dioxide emissions from a standby acid plant by 90%, to control digester relief gas sulfur dioxide emissions by 90%, and to construct two new stacks, one for the magnesium oxide recovery plant and one to replace the four stacks now serving the pulp mill's power boilers. All of these conditions must be met no later than September 1, 1980. Great Northern Paper Company has used a sequential dispersion model and five years of meteorological data to show that under maximum continuous operating conditions the plant will not violate standards with modified stack heights and operating requirements.

Issues: Every two or three weeks the magnesium oxide recovery plant routinely experiences periods of high emissions "upset conditions" lasting for from four to six hours. While sulfur dioxide emissions increase by a factor of six under temporary maximum upset conditions, the modeling submitted for the plant did not assess their ambient air quality impacts. Even if such estimates were prepared it is not clear how predictions, related to such episodes, should be compared against air quality standards.

Proposed Action: The Agency is proposing approval of this portion of the SIP with the condition noted below. Once the specified information is received and approved by EPA, the SO_2 attainment plan will meet the requirements of Part D except for Sections 172(b) (1), (6), (7), and (9) which are discussed later in this Notice.

Approval is conditioned upon receipt by December 31, 1979 of an evaluation, using EPA modeling methods, of the impact of the magnesium oxide recovery stack "upset conditions" showing that NAAQS will not be violated.

D. *Total Suspended Particluates (TSP)*

There are several areas of the state which originally were designated non-attainment for TSP. After a careful review of air quality data the DEP has prepared plans to attain TSP standards before December, 1982.

1. *Bangor/Brewer.* Bangor and Brewer were designated non-attainment for primary TSP standards in the March 3, 1978 **Federal Register.** Particulate emissions from "traditional" sources include fuel burning, solid waste disposal, and industrial processes in the two towns and totalled 320 TPY (tons per year) in 1977. Within a one mile radius of a violating monitor site, however, 1978 "non-traditional" particulate emissions (primarily dust from paved roads) totalled 340 TPY.

Description of the Plan: Intensive special TSP sampling, aerometric data analyses, and EPA approved dispersion modeling form the basis of the plan's control strategy. Dispersion modeling revealed that traditional particulate emissions do not significantly contribute to standards violations in Bangor/Brewer. Further, an analysis of air quality and siting data indicated that Bangor's TSP primary standards violations resulted from the undue and localized influence of traffic on improperly sited monitors. Consequently, the DEP has requested a redesignation from non-attainment for primary to non-attainment for the secondary TSP NAAQS only. DEP's attainment plan for Bangor/Brewer therefore, considers secondary TSP standards attainment at properly sited monitors only. The plan provides for attainment of secondary standards by December, 1980 through a schedule which will evaluate the effectiveness of, and adopt and implement a program of vaccum street sweeping throughout the non-attainment area. Current assessments of the effectiveness of such a program indicate that the plan will attain TSP secondary standards. The plan, however, also commits the DEP to evaluate regulations equivalent to reasonably available control technology for traditional sources in Bangor/Brewer before January 1, 1980 and to adopt such requirements if it can be shown to expedite attainment of ambient standards.

Issues: There are no significant issues.

Proposed Action: The Agency is proposing approval of this portion of the SIP since it meets the requirements of Part D except Sections 172(b) (1), (6), (7) and (9) which are discussed later in this Notice.

Approval is also being proposed under 40 CFR Part 81 of the redesignation of Bangor/Brewer from primary non-attainment to secondary standards non-attainment.

2. *Augusta.* In the March 3, 1978 **Federal Register** the City of Augusta was designated non-attainment for the secondary total suspended particulate standard. In 1977 "traditional" particulate sources in Augusta emitted roughly 220 tons of particulates, while "non-traditional" sources (mostly dust reentrained from paved roads) emitted 700 tons of particulates.

Description of the Plan: The TSP secondary standards attainment plan includes an evaluation of the source categories contributing to standards violations in Augusta. Optical microscopy analyses of samples collected in Augusta suggest that non-traditional sources are the most important contributors to TSP levels when secondary standards violations are recorded. The DEP has also applied an empirical technique to Augusta's emission inventory and found, again, that paved road emissions were the single major cause of standards violations. The DEP has made a commitment to adopt and implement a program of vacuum street sweeping in Augusta, contingent on the successful demonstration of this measure's control effectiveness elsewhere in Maine (Bangor/Brewer). Standards would be attained by December, 1980. Because particulate filter analyses indicated that fuel burning was the second most

important component on TSP samples, the DEP will evaluate the need for additional control of particulates emitted from fuel burning. If regulations equivalent to reasonably available control technology (RACT) are not now in place and additional controls are warranted, the DEP will adopt such requirements for fuel burning sources at a later time.

Issues: While the DEP has demonstrated attainment of standards through a proposal for vacuum street sweeping, no adequately detailed schedule for implementing this measure was submitted. Further, since the timing of the control strategy cannot be assessed, RACT for fuel burning sources may be required to meet all Clean Air Act requirements.

Proposed Action: The Agency is proposing approval of this section of the SIP with the conditions listed below. Once they are received and approved by EPA this portion of the submittal will meet the requirements of Part D except Sections 172(b) (1), (6), (7) and (9) which are discussed later in this Notice.

Approval is conditioned upon receipt of the following information by December 31, 1979:

(1) A more detailed schedule for evaluating, adopting, and implementing a vacuum street sweeping program throughout Augusta.

(2) Definition of RACT for sources in Augusta, an assessment of the impact of sources which do not meet it, and adoption of RACT when and if it will expedite attainment of secondary NAAQS for TSP.

3. *Rockland/Thomaston.* Rockland and Thomaston were designated in the March 3, 1979 **Federal Register** as non-attainment for the secondary total suspended particulate standard. In the non-attainment area, particulate emissions result from fuel-burning, industrial processes, solid waste disposal, and non-traditional particulate emissions in Rockland. The major source of particulate matter in the non-attainment area is a Portland cement plant which emits approximately 110 TPY from the cement kiln and clinker cooler emission points. In addition this plant releases roughly 2300 TPY of particulate as fugitive process and fugitive dust emissions.

Description of the Plan: The DEP has prepared and submitted a plan for Thomaston which will attain secondary NAAQS for TSP no later than November, 1981. No plan was submitted for Rockland because, after a review of air quality and monitor siting data for Rockland, the DEP has concluded that available data are inadequate to determine Rockland's attainment status. In an intensive sampling program only one TSP concentration over the secondary standard has been recorded in Rockland in the last two years. Since this single exceedance was related by optical microscopy to a nearby sand blasting operation and does not itself represent a standards violation, the DEP requested a redesignation of Rockland from secondary non-attainment to unclassifiable.

Issues: There are no significant issues.

Proposed Action: EPA is proposing approval of the Thomaston secondary TSP attainment plan as it meets the requirements of Part D except Sections 172(b)(1), (6), (7) and (9) which will be discussed later in this Notice.

Approval is also proposed under 40 CFR Part 81 of the redesignation of Rockland from secondary standards non-attainment to unclassifiable.

4. *Baileyville.* Baileyville was designated non-attainment for the secondary total suspended particulate standard in the March 3, 1978 **Federal Register.** The principal source of particulates in Baileyville is a kraft pulp mill operated by Georgia-Pacific Corporation. This facility emits 1600 TPY of particulates from fuel burning, 710 TPY from kraft recovery boilers and 260 TPY from smelt tanks and lime kilns.

Description of the Plan: Included in the plan are the results of optical microscopy on violating monitor filters and dispersion modeling for Georgia-Pacific's kraft pulp mill. Filter analyses revealed the presence of significant amounts of materials from the pulp making process. Further, two of the four boilers at the mill (including the largest) are out of compliance with Maine's present fuel burning particulate emission limitations and are operating under a Delayed Compliance Order. Emissions from both boiler stacks are subject to downwash. The attainment plan for Baileyville used dispersion modeling, which included adjustments for downwash, to demonstrate that excess particulate emissions from the two boilers caused the observed secondary standards violations. When the boilers attain compliance with Maine's present particulate emission regulations on June 30, 1979 (as required by the Delayed Compliance Order) secondary TSP NAAQS will also be attained.

Issues: There are no significant issues.

Proposed Action: The Agency is proposing approval, since this portion of the plan meets the requirements of Part D except Sections 172(b)(1), (6), (7) and (9) which are discussed later in this Notice.

5. *Lewistown/Auburn.* Lewistown and Auburn were designated non-attainment for secondary TSP standards in the March 3, 1978 **Federal Register.** Maine is now requesting that Lewistown/Auburn be redesignated from TSP secondary standards non-attainment to unclassifiable. Supporting material accompanying the request related measured TSP secondary standards violations to two temporary construction projects which were in the immediate vicinity of the monitor when violations were observed. The DEP has made a reasonable showing that violations recorded in Lewistown/Auburn in 1977 are not indicative of that area's TSP attainment status.

Issues: There are no significant issues.

Proposed Action: The Agency is proposing approval of this redesignation to unclassifiable under 40 CFR Part 81.

E. New Source Permit Program

To satisfy the requirements of Part D, the SIP must include a preconstruction review program which assures that permits for proposed major sources and major modifications may be issued only if the following requirements of Section 173 of the Act are satisfied:

§ 173(1): The proposed major source or major modification is accommodated by one or both of the following approaches:

(A) There are sufficient case-by-case offsetting emission reductions (offsets) and other emission reductions required under the SIP, so that allowable emissions from all sources when the proposed major source or major modification is to commence operation represent reasonable further progress; or

(B) Emissions resulting from the proposed major source or major modification are accommodated by the emissions growth allowance for major new sources.

§ 173(2): The proposed major source or major modification must comply with the lowest achievable emission rate (LAER) as defined in Section 171(3) of the Act.

§ 173(3): All major sources in the State owned or operated by the owner or operator of the proposed major source or major modfication must be in compliance (or on a schedule for compliance) with emission limitations and standards required by the Act.

§ 173(4): The SIP is being carried out in the non-attainment area where the proposed source is to locate.

In addition, any emission reductions required under Section 173(1)(A) must be legally binding and enforceable before the permit may be issued.

Description Of The Plan: Maine's New Source Review (NSR) regulations for new sources locating in non-attainment areas are found in the regulatory section of the plan in Chapters 106, "Emissions License Regulation", and 113, "Growth Offset Regulations". Maine requires new and modified sources to obtain an air emissions license which is equivalent to a permit and which must be renewed every two years.

Issues: Source Applicability—Subchapters 100.20 and 100.21 of the plan define major emitting sources and modifications, respectively. The Main definition of major emitting source includes any source which emits or has the potential to emit 100 tons per year of any air pollutant. Subchapter 108.10 exempts certain categories of small sources (such as 10 million Btu per hour boilers) from obtaining an emission license. The State has determined that these sources would have less than 100 tons per year potential emissions of any air pollutant.

Geographic Applicability—Subchapters 100.20 and 100.21 apply to sources locating in State-designated non-attainment areas, as well as sources whose emissions may reasonably be expected to affect such areas. The state designation process, which is contained in subchapter 114.1(b) refers to the same redesignation procedures as specified in the Act.

Section 173(1)—The Act permits the state the option of (A) offsetting new emissions on a case-by-case basis at the time of permit approval for each major source, or (B) accommodating projected new emissions through a growth allowance specified in the plan. Both options must result in reasonable further progress (RFP) toward the attainment of the National Ambient Air Quality Standards (NAAQS). Maine has chosen the first option. In order to assure that RFP toward standards attainment will be achieved, subchapter 108.5(A)(1) requires every major source to demonstrate that it has obtained offsets so that the proposed increases from its emissions, in conjunction with all existing emissions, result in a decrease in projected air pollutant concentrations in the non-attainment area. EPA has determined that, with minor regulatory changes, the plan will satisfy section 173(1) of the Act.

Regulation 113 elaborates on the offsetting procedure. Maine has defined the offsets required as air quality impact reductions. The only way to obtain air quality offsets is through emission reductions or through enhanced dispersion of the pollutant emissions. The Act, however, does not allow the use of dispersion techniques to attain standards. Maine has agreed to change Regulation 113 to require that the air quality offsets be consistent with reasonable further progress, which will be defined in accordance with the Act to mean emission reductions. This effectively limits sources to obtaining offsetting emission reductions. Maine has agreed to further document how it intends to administer its air quality offset requirements.

Section 173(2)—Subchapter 108.6(C) applies to new or modified major emitting sources locating in, or whose emissions may reasonably be expected to affect, non-attainment areas, and requires application of lowest achievable emission rate.

Section 173(3)—Subchapter 108.5(A)(2) is equivalent to this requirement since all sources in the State owned or operated by the same source seeking a license must either be in compliance, or on an enforceable schedule for compliance with all applicable State and Federal air pollution control requirements.

Section 173(4)—Maine has no provision requiring that the plan be carried out in the non-attainment area in which the proposed sources would be constructed or modified. EPA's rule on new source restrictions (44 FR 38471 July 2, 1979) explains how EPA would carry out this portion of the Act.

Enforceability—Subchapters 108.5 and 113.2 require that all emission reductions or offsets must be legally enforceable prior to obtaining an air emission license and that they be in effect by start-up and throughout operation of the proposed source.

In the course of reviewing the Maine regulations, EPA discovered certain inadvertent errors and minor deficiencies. The State intends to amend the regulations to correct the following items:

1. Subchapter 100.1 defines "air contaminants," but subchapters 100.20 and 100.21 use the words "air pollutants." These subchapters will be amended to use the term "air contaminants" as necessary.

2. The first line of the last paragraph of subchapter 100.20 will be changed to read "location or modification," not "location of modification."

3. Subchapters 113.1(C) and (E) specify a threshold of 1000 tons per year for carbon monoxide. This threshold will be changed to 100 tons per year in order to be consistent with subchapter 100.20.

4. Subchapter 113.1(F) will be changed by replacing the word "compounds" with the words "volatile organic compounds."

5. Subchapter 113.2 will be amended to define reasonable further progress consistent with the Act, and to require that air quality impact reductions be consistent with reasonable further progress. In addition the State will submit a written explanation of the administration of Chapter 113 and Subchapter 108.5 for inclusion in the SIP narrative.

Proposed Action: The Agency is proposing approval conditioned upon submittal of the above changes by December 31, 1979. If the changes are submitted during the public comment period for this Notice, EPA would consider final unconditioned approval without further public comment. Once these conditions have been met this portion of the plan would meet the requirements of Section 172(b)(6).

F. Resources Committed

Description of the Plan: Maine has not included in its revisions a discussion of the man-years and other resources needed to carry out its proposals.

Issues and Proposed Action: The Agency is proposing approval conditioned upon receipt of the resource commitments by December 31, 1979. Once EPA determines their adequacy the Maine revisions will then meet the requirements of Part D, Section 172(b)(7).

G. Evidence of Public, Local and State Involvement

Description of the Plan: Two areawide transportation planning organizations in conjunction with two State agencies have been designated by the Governor to lead in resolving Maine's transportation related pollution. Two series of workshops on the revisions have been held. More are planned as reasonably available control measure analyses are completed. The State has also worked closely with municipal officials to institute programs for local action to attain secondary TSP standards.

Issues: In the May 1, 1979 submittal the DEP did not include an analysis of identified health, welfare, economic, energy or social effects of the revisions or a summary of public comments on the effects. However, since that date the State has forwarded to EPA a comprehensive draft analysis on these issues. In addition, the revisions do not specify a comprehensive, continuing program of public, local and state involvement in SIP development.

Proposed Action: EPA is proposing to:

1. Approve the participation and involvement efforts to date in the SIP development;

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2. Approve conditionally the analysis of the effects of the revisions based upon the draft submittal and the accompanying letter of intent from the Director of the Bureau of Air Quality Control. This proposed approval is conditioned upon the State's fulfilling its commitment to submit this analysis to public hearing and to forward a summary of the public comments on the effects through the Governor to EPA by December 31, 1979. Assuming the adequacy of the December submittal, EPA would propose to approve that portion of the revisions;

3. Approve the continuing public participation element conditioned upon compliance with grant conditions to be contained in Maine's fiscal year 1980 program grant under Section 105 of the Act. EPA grant guidance to the State requires the DEP to submit by January 1, 1980 a comprehensive plan for public participation. That plan is to identify a skilled public participation staff person in the State air program with overall responsibility for carrying out an effective public participation in program and a commitment of resources to be devoted to that effort.

Once these conditions are satisfied this portion of the SIP will meet the requirements of Section 172(b)(9).

H. Adoption After Notice and Hearing

Description: Public hearings were held November 16, 1978, January 11, 1979, and the week of February 26, 1979, following 30 days public notice. These revisions were adopted by the State on March 28, April 11, and May 9, 1979.

Issues and Proposed Action: There are no significant issues. The Agency is proposing approval since this section meets the requirements of Section 172(b)(1).

II. General SIP Measures

A. Prevention of Significant Deterioration

Sections 160–169 in Part C and Section 110(a)(2)(D) of the Act establish limitations on the deterioration of air quality in those parts of the Nation where the air quality is better than required by National Ambient Air Quality Standards (NAAQS).

The amount of deterioration permitted is quantified by a table of air quality increments which appears in Section 163 of the Act. In effect, increments represent the amount of pollution that can be tolerated by an area without significantly deteriorating the clean air status of the area.

A principal means of protecting the increments is the review and regulation of new growth. At present EPA is operating a Federal permit system designed to protect the increments and will continue to do so until the State adopts an equivalent program. Regulations specifying requirements for approvable State plans are found at 40 CFR, Section 51.24 as published June 19, 1978 (43 FR 26380 to 26388).[1]

Description of the Plan: The Maine regulations pertaining to PSD are found in Chapters 100, "Definition Regulation"; 106, "Emission License Regulation"; 110, "Ambient Air Quality Standards"; 113, "Growth Offset Regulation"; and 114, "Classification of Air Quality Control Regions". In addition, certain narrative portions of the SIP explain these regulations. EPA compared the Maine regulations with the requirements of 40 CFR Section 51.24, and except where noted, has determined that the Maine plan meets these requirements. The detailed review of these requirements is available for public inspection with the other public materials pertaining to this plan at the previously specified locations. Certain aspects of the State plan, including those areas where EPA has assumed the State's intent, as well as deficiencies in the plan are noted.

Issued: Area redesignation—The plan does not contain all the requirements specified in 40 CFR Section 51.24(g) (2) and (3) for redesignation to Class III or Class I areas. The EPA Administrator retains the right to approve State redesignation requests. Therefore, in order for the EPA Administrator to approve such redesignations, the State must submit requests in accordance with the procedures specified in 40 CFR Section 52.21(g).

[1] Many of the regulations were judically challenged in the U.S. Court of Appeals for the District of Columbia Circuit. On June 18, 1979, the Court issued an opinion, *Alabama Power Company v. Costle*, No. 78–1006 (D.C. Circuit, June 18, 1979). The Court upheld in part and remanded in part the Agency's regulations. The Court also provided an opportunity for filing petitions for re-hearing, and specified that its judgment would be stayed until the Court responds to the petitions.

The Court's opinion may affect several aspects of the Maine plan for preventing significant deterioration. However, rather than awaiting the Court's final decision (expected by the end of the summer) the Agency believes it appropriate to proceed with its review of the plan based upon its existing regulations and prior conversations with the State. When the Agency receives a final opinion from the Court, it will advise the State of those changes that are required by the Court's opinion and of those provisions which may be left intact or modified in accordance with the wishes of the State.

As to the non-attainment components of the plan, the Court opinion does not impede the adoption and approval of provisions needed to satisfy the requirements of Part D. EPA will proceed to review these provisions, advising the States and the public of any aspect of the PSD decision that may be relevant to the non-attainment provisions of the Act.

Modifications—The control technology requirements of the Maine plan apply to any modification. The definitional provisions of the plan fail to make clear whether a modification is a net increase of potential emissions or instead any increase ignoring any accompanying emission reductions. Maine has agreed to state in the SIP narrative that its intention is to ignore accompanying emission reductions in determining whether a proposed change would be a modification. Maine has explained that it will regulate new and reconstructed facilities in a manner consistent with EPA's PSD requirements. Specifically, Maine has agreed that reconstructed facilities whose cost exceeds 50% of the capital cost of a comparable new facility will be considered a new facility, and that new facilities will be reviewed for BACT based on their own emissions irrespective of emission reductions occurring elsewhere to the source. Maine has agreed to submit this understanding as an addition to the SIP narrative.

Phased construction—The Maine plan does not provide for BACT review of phased construction sources prior to each phase. In meetings with EPA, Maine has explained that it will not reserve the increment for any source beyond the two year licensing period, and that any source whose construction extends beyond this two year period must renew its license at which time the control technology is also reviewed. EPA's corresponding time limitation of 18 months does not represent a significantly more stringent requirement than the two year limitation contained in the Maine plan. Maine intends to submit this understanding as part of the SIP narrative.

Exemptions from air impact analysis—The Maine plan does not have as a prerequisite to air impact exemptions a requirement of no Class I impact. This will be rectified through a regulatory change. Secondly, the plan exempts sources of temporary particulate emissions from consuming PSD increment. Maine has agreed to explain in the SIP narrative that this exemption will last only so long as Section 163 of the Act would permit. Finally, the Maine plan exempts modified sources with net allowable increased emissions under 50 tons per year from impact analysis; EPA requires a zero net increase in emissions for this exemption. EPA feels that this deviation is insignificant and there for acceptable.

Accumulated emissions—The plan does not define a starting time from which emissions will be accumulated in order to define a modification. Maine has explained that it will consider all emission increases not included in the baseline as cumulative for purposes of defining when a major modification to a source has occurred, and will include this explanation as an addition to the SIP narrative.

Modified emissions—The Maine plan does not specify, but the State has agreed that all modeled emissions will be based on maximum allowable emissions at maximum rated capacity unless otherwise constrained by permit condition, and will include such a statement as part of the SIP narrative.

Air quality models—The Maine plan contains all the EPA requirements specified in 40 CFR Section 51.24(m) for use of EPA models and use of alternative modeling procedures. The Maine plan, however, allows the State Commissioner to approve the use of alternative models. Since under 40 CFR Section 51.24(m)(iv) the Administrator of EPA retains this right, EPA is proposing to disapprove this subsection.

Monitoring and additional impact analysis—Whereas EPA requires these analyses of all major new and modified sources, the Maine plan requires such analyses from "sources whose emissions may have significant impact on the maintenance of the State ambient air quality standards and applicable increments, or will impact a Class I area or will impact an area in which the applicable increment is known to be violated." EPA interprets the Maine regulation as less stringent than the federal requirement. The State does not agree with EPA's interpretation yet it has agreed to make the necessary regulatory change.

Sources in Class I areas—The Maine plan does not specifically provide that the State transmit to EPA a copy of every Class I permit application, or that the State notify EPA of every action related to the consideration of such permits. These actions will be accomplished through EPA reporting requirements specified in Section 105 State Air Program Grants. The plan does not provide a mechanism for Federal Land Manager notification and participation in the PSD process. The State has agreed to notify the Federal Land Manager and the State acknowledges the special rights of the Federal Land Manager in the PSD process. Maine will submit this agreement as an addition to the SIP narrative. In particular, the addition will say that, if the Federal Land Manager shows to the satisfaction of the state that emissions from the proposed source or modification would have an adverse impact on the air quality related values of the Class I area, even though the Class I increment would not be violated, it will deny the permit.

Class I variances—The regulatory portion of the State plan does not contain procedures for Class I variances. The narrative portion of the plan (Section 6.3) references Section 587 of the State air pollution control laws. Section 587 provides that sources may apply for Class I increment variances under the terms and conditions set forth in Section 165(d) of the Act. Maine has agreed to submit the State law as an addition to the SIP narrative.

Public participation—The regulatory portion of the State plan does not contain public participation requirements. The narrative portion of the SIP references Department Regulations for Processing of Applications and Regulations for Hearings on Applications. The State intends to supplement the information in the narrative. The State has orally outlined the following procedure: After receiving a complete application, the State would publish a 30-day advance notice of availability in a newspaper of general local circulation. This notice of availability would give any member of the public the right to view the application, to receive a copy of the State's finding of fact and order (equivalent to EPA's preliminary determination) when completed, upon request, as well as the right to request a public hearing. The Agency has established criteria governing the granting of public hearings. The notice of availability would be mailed to EPA, affected Federal Land Managers, state and local governments, regional planning agencies and affected Indian governing bodies. After reviewing public comments, the air agency would issue a finding of fact and order (which includes information about PSD increment consumption) one week prior to consideration of the license by the Board of Environmental Protection. Any member of the public could appear before the Board to present information, and could petition the Board for reconsideration of a public hearing request. The final action on the application would be taken by the Board. In addition, Board meeting agenda are published in the air agency publication *Environews*. EPA has determined that the State public participation procedures are equivalent to EPA's.

EPA has determined that the State plan satisfactorily meets the PSD requirements of 40 CFR 51.24 with certain exceptions. The deficiencies in the State plan are minor and few in number.

Proposed Action: EPA is proposing to approve the Maine PSD plan [(except Section 108.3(A)(3))] upon receipt of the amendments noted below by December 31, 1979. (This time is necessary to obtain legislative aproval of some of the regulatory changes.) If these amendments and changes raise any substantive issues not discussed in this Notice, EPA will reproppose action to provide adequate opportunity for public comment on the new issues. Otherwise, EPA intends to approve fully this portion of the SIP upon receipt of the completed changes.

The State will amend the following regulations by December 31, 1979:

1. Subchapter 108.3(c)—The words "the maintenance of the State" will be deleted, in order to clarify that Maine's air quality monitoring requirements would be consistent with EPA's.

2. Subchapter 108.3(e)—These exemptions will not apply to sources impacting a Class I area.

3. Subchapter 108.3(e)—The words "this subpart" will be replaced with the words "subpart C."

The State will submit by December 31, 1979 the following as additions to the SIP:

1. Modification.
2. Phased construction.
3. Accumulated emissions.
4. Modified emissions.
5. Sources in Class I areas.
6. Class I variance procedures.
7. Public participation procedures.

EPA is also proposing to disapprove Regulation 108.3(A)(3) pertaining to State approval of alternative models.

B. *Permit Fees*—Section 110(a)(2)(K) requires each state to institute a fee system for those sources applying for a permit to cover the administrative costs of reviewing that application as well as those incurred in monitoring and enforcing the permit conditions.

Maine has had an applicable regulation, No. 130, since 1974 governing fees for air emission licenses. This submittal proposes to add this regulation to Chapter 10 of Maine's existing SIP. The fees are collected annually.

Proposed Action: The Agency is proposing approval.

C. *Consultation*—Section 121 requires a state to provide a satisfactory process for consultation with local governments and federal land managers on the development of the SIP.

Lewiston-Auburn Comprehensive Transportation Study (LACTS) and Portland Area Comprehensive Transportation Study (PACTS) have

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been designated the lead for transportation planning for their areas. The policy committee of these groups is composed of local officials. In addition, any major new source is required to file its air emission license application with the affected community prior to submission of the application to the State. This submittal would also add to Section 9 of Chapter 9 of Maine's existing SIP a requirement that the Department make available to federal land managers all pertinent information on the SIP, pertinent laws, regulations, standards, and any major new source or control strategy.

EPA has recently promulgated regulations governing consultation. Although Maine has met in part the spirit of those requirements in these revisions, the new regulations require Maine to submit a comprehensive SIP revision to meet the provisions of Section 121 by December 18, 1979.

Proposed Action: None at this time.

D. *Stack Height*—Section 123 of the Act requires that the degree of emission limitation may not be affected by stack height in excess of good engineering practice or by dispersion techniques. Maine's Regulation 108.6(D) is consistent with Section 123. EPA has proposed stack height regulations on January 12, 1979 but has not yet promulgated the final regulations.

Proposed Action: EPA is proposing to approve this portion of the SIP.

E. *Interstate Pollution*—Section 126 requires states to identify existing major sources which may signficantly contribute to air pollution levels and provide written notice to nearby states. In addition, it must do the same for any proposed major new stationary sources.

The State of Maine makes no comparable provision in this submittal.

Proposed Action: No action at this time.

F. *Public Notification*—Section 127 requires each state to effect measures for notifying the public on a regular basis of instances or areas in which any primary standard is exceeded and to enhance public awareness of measures which can prevent the standards from being exceeded.

The Maine submittal makes no provision for regular notification to the public of standards exceedances.

Proposed Action: None at this time.

G. *Conflict of Interest*—Section 128 requires that any existing state board which is empowered to approve or enforce permits required under the Act must have as a majority members who represent the public interest. Any members with any potential conflict of interest must disclose that fact.

The Maine submission does not include such provision for its existing Board.

Proposed Action: None at this time.

Interested persons are invited to comment on all elements of the Maine revision and whether it meets the requirements of the Clean Air Act. Comments should be submitted, preferably in triplicate, to the address listed in the front of this notice. Public comments received by (30 days after publication of this notice) will be considered in EPA's final decision on the SIP. EPA believes the available period for comments is adequate because:

(1) The issues involved in the Maine SIP are sufficiently clear to allow comments to be developed in the available thirty day period;

(2) The SIP has been available for inspection and comment since May 1, 1979. EPA's notice of availability published on May 29, 1979 indicated that possibility that the comment period may be less than 60 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after the July 1, 1979, deadline on those sections of the SiP that address the requirements of Part D.

All comments received will be available for inspection at EPA's Region I office Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: July 9, 1979.

William R. Adams, Jr.,

Regional Administrator, Region I.

[Fr Doc. 79-23791 Filed 7-31-79; 8:45 a.m.]

BILLING CODE 6560-01-M

[40 CFR Part 162]

[FRL-1265-1; OPP-30029]

Pesticide Use Restrictions

AGENCY: Environmental Protection Agency, Office of Pesticide Programs.

ACTION: Proposed rule.

SUMMARY: This rule would amend 40 CFR 162.31 by adding uses of active ingredients which the Agency proposes to classify for restricted use under the procedures of 40 CFR 162.30. The purpose of this notice is to solicit comments from registrants, users, and other interested parties on the proposed use restrictions.

DATE: Comments must be received on or before October 1, 1979.

ADDRESS COMMENTS TO: Document Control Officer, Chemical Information Division (TS-793), Room 447, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should be filed in triplicate if possible and bear identifying notation "OPP-30029." All written comments will be available for public inspection from 8:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Walter Waldrop (TS-770), Office of Pesticide Programs, Environmental Protection Agency, 499 South Capitol Street, SW., Marfair Building, 3rd Floor, Washington, D.C. 20460 (202-472-9403).

SUPPLEMENTARY INFORMATION: On September 1, 1977, the agency published final regulations establishing optional procedures for the classification of pesticide used by regulation. At the same time, the Agency also published three related documents. One document proposed regulations establishing procedures for registrants to follow after a use is classified by regulation for restricted use. The second document was a proposed rule listing certain uses of 23 active ingredients to be classified by regulation for restricted use. The third document was an advance notice of proposed rulemaking listing 38 additional active ingredients the Agency planned to consider for purposes of classification by regulation in the immediate future. All four documents were published as a separate part in the **Federal Register** of September 1, 1977 (42 FR 44170, No. 170, Part IV).

On February 9, 1978 (43 FR 5782), the Agency published final regulations establishing procedures to be followed by registrants after a pesticide use is classified by regulation for restricted use and a final regulation classifying certain uses of 23 active ingredients for restricted use.

This proposed rule includes: (a) Uses of thirteen of the 38 active ingredients identified in the September 1, 1977 advance notice of proposed rulemaking, and (b) the granular formulations of eight other active ingredients that previously have had other formulations or use patterns classified (or proposed to be classified) for restricted use. The Agency proposes to classify these uses for restricted use pursuant to the optional procedures of 40 CFR 162.30 and to limit them to use by or under the direct supervision of a certified applicator.

Included with the granular formulations is a proposed restriction of granular formulations of carbofuran for use on rice. This particular use was previously proposed for restricted use on January 9, 1979 (44 FR 1991); however, during the public comment period, the registrant objected to the proposed restriction and submitted new information to the Agency. In summary, the registrant cited an absence of reported incidents as support for not classifying the rice use as restricted.

It is the Agency's belief that a lack of reports of adverse incidents may be due in large part to the poor reporting of wildlife incidents and the relatively minor importance many reporting sources place on wildlife kills as compared to incidents involving human injury. In addition, it is important to emphasize that the Agency is concerned not only with demonstrated adverse effects but with *potential* adverse effects as well, as set forth in the preamble to the Agency's registration, reregistration and classification procedures (40 FR 28242, July 3, 1975). In any event, the Agency has reviewed certain other data that shows that field mortality of both aquatic and avian organisms has occurred from the use of carbofuran in rice fields and consequently believes that this use should be restricted. However, in order to afford the registrant an opportunity to review and comment upon this data, the Agency is reproposing the use of carbofuran on rice as a restricted use.

As a general matter, the optional procedures for classification of pesticide uses by regulation (40 CFR 162.30) provide that a use shall be classified for restricted use if the Administrator determines that the incremental risks of unrestricted use outweigh the incremental benefits of unrestricted use. In making this determination, the regulations direct the Administrator to apply the criteria for classification specified in 40 CFR 162.11(c) (1), (2), and (4). Those criteria, which were previously promulgated through rulemaking as part of the Agency's Registration, Reregistration and Classification Procedures (40 CFR Part 162; 40 FR 28242, July 3, 1975), establish both numerical and categorical standards for assessing the potential hazards of a pesticide in terms of its acute dermal, oral and inhalation toxicity and in terms of its subacute, chronic or delayed toxic effects on man or other nontarget organisms or based upon such other evidence as human epidemiologic data, use history, accident data or monitoring data.

The Agency's toxicologists and environmental specialists first examined available field and laboratory data relating to the acute toxicity of each of the active ingredients and formulations subject to this proposal to determine whether they met the criteria for general use classification as specified in § 162.11(c). In previous classifications by regulation, the Agency's focus with respect to human safety had been on the acute dermal and acute inhalation toxicity properties of the formulations under consideration. With respect to the granular formulations covered by the present proposal, however, the Agency also focused on the acute oral toxicity as a criterion for restricted use for the non-domestic uses. In that regard, § 162.11(c)(2)(ii)(A) provides that a non-domestic use of a previously registered product shall not be a candidate for general use if the formulation meets the criteria of Toxicity Category I; and § 162.10(h)(1) indicates that the acute oral toxicity criterion for Toxicity Category I is an acute oral LD_{50} which is less than or equal to 50 mg/kg. Accordingly, if a granular formulation had an acute oral LD_{50} less than or equal to 50 mg/kg, it was not considered to be a candidate for general use.

In determining to review the oral toxicity of the granular formulations, the Agency was influenced by several factors. First, it was concerned with the potential for inadvertent ingestion exposure to granular formulations by the user during loading, application, equipment calibration, equipment maintenance, and cleaning, and handling of containers during disposal. Second, it was also extremely concerned about the possible accidental ingestion exposure of children, pets and farm animals during storage of the granular formulations. In that regard, the classification criteria of § 162.11(c) generally provide for an extra margin of safety in domestic use situations where children and pets are likely to have access to pesticides. In general, the farm environment is considered to be non-domestic, but obviously children living on the farm, pets, and farm animals often have access to stored pesticides and the Agency believes that this should be considered in assessing the hazard of non-domestic use pesticides. Several cases of farm animals dying from ingesting stored granular pesticides have been reported.

Finally, in assessing the hazards posed by the use of granular formulations, the Agency sought advice from USDA Cooperative Extension Service personnel and State regulatory officials in States where granular formulations are widely used. They confirmed that oral toxicity of granular formulations is a legitimate concern in non-domestic use situations. Specifically, they mentioned the importance of oral toxicity with respect to potential hazards associated with equipment cleaning, maintenance and product storage.

If the Agency review indicated that any uses or formulations under consideration did not meet the general use criteria, the Agency proceeded, in accordance with § 162.11(c)(3), to review sample label and labeling in order to assess its adequacy to prevent unreasonable adverse effects on man or the environment without further regulatory restrictions (including classification for restricted use). If the label and labeling failed to meet the criteria for adequacy, the Agency concluded that a significant risk was associated with the use of the pesticide at issue and that it was a candidate for classification for restricted use.

Finally, the Agency determined whether or not that identified risk of use would be reduced by classification for restricted use and limitation to use by or under the direct supervision of certified applicators. If so, it further determined whether or not the benefits of use would also be reduced by such a restriction. The incremental reductions were then compared, and if the incremental risks of unrestricted use (i.e., those over and above the risks of restricted use) were determined to outweigh the incremental benefits from unrestricted use (i.e., those over and above the benefits of restricted use), the use was proposed to be classified for restricted use.

For each formulation and use pattern of each active ingredient covered by the proposed rule, the Agency has identified the classification criteria of § 162.11(c) which were exceeded so as to require classification for restricted use. The Agency has also, for each active ingredient, compiled a file containing the toxicological and environmental reviews of data, the reviews of label and labeling adequacy, and the incremental risk/benefit analyses which support the proposed classification decisions. Also available are comments from State Lead Agency and Extension Service personnel. These files are available for public inspection from 8:30 a.m. to 4 p.m., Monday through Friday; interested persons should contact Walter Waldrop at the above address and telephone

number to arrange and coordinate such inspections.

It is important to note that this regulation only classifies uses for restricted use. If a use is not classified for restricted use by this regulation, it does not mean that it is classified for general use under Section 3 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA); it merely means that that use has not yet been classified for either general use or restricted use. The Agency is not classifying uses for general use by regulation primarily because such a decision requires an evaluation of chronic data. Review of chronic data has not been a part of classification by regulation since much of that data has yet to be generated and submitted to the Agency.

The Agency has also indicated that certain uses and/or formulations are "under evaluation". It has applied this term to those uses/formulations that are still under active review for purposes of classification by regulation. The practical effect of a use/formulation being designated "under evaluation" is the same as that of "unclassified", i.e. such use/formulation will still be generally available to all consumers. Further, any use/formulation that is "under evaluation" would require no action on the part of any potentially affected registrant. A final classification determination of those uses/formulations which are "under evaluation" *may* be made through these optional classification-by-regulation procedures or may be deferred until the time of reregistration.

Regulatory Analysis

The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under Executive Order 12044.

Evaluation Plan

Section 2(d)(8) of Executive Order 12044 requires that each new significant regulation have a plan for evaluating its effectiveness. All restricted use classification decisions promulgated under this rulemaking will be reviewed by the Agency at the time of reregistration as part of the overall risk-benefit analysis to be undertaken at that time. For a discussion of the difference between that overall risk-benefit analysis, and the incremental risk-benefit analysis performed under the Optional Procedures of 40 CFR 162.30, see the preamble to the Optional Procedures at 42 FR 44170.

Statutory Review

The U.S. Department of Agriculture has reviewed the proposed regulation in accordance with Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and concurs with its publication in the **Federal Register**. The FIFRA Scientific Advisory Panel reviewed the proposed regulation in accordance with Section 25(d) of FIFRA and offered several comments on the proposed rule. These comments and the Agency's response follow.

(1) The Panel believed that the term "unclassified" is confusing and suggested that the Agency provide a clear definition of the term. The preamble to this regulation already contains an explanatory paragraph on this subject.

As a practical matter a use which remains "unclassified" will be generally available to all consumers, since certification would not be required for purchase and use.

(2) It was the opinion of the Panel that there is currently no evidence that granular formulations of pesticides which are adequately incorporated into the soil present a hazard to avian species and that such formulations should not be classified for restricted use. The Agency recognizes that theoretically there should be a reduced hazard to avian species when directions for use call for soil incorporation since exposure to the granules should be minimized. However, it is the Agency's belief that as a practical matter, a significant amount of granules remain on the soil surface or are generally not adequately incorporated into the soil and consequently do present a significant potential hazard to avian species. Accordingly, the Agency has determined to propose restricted use classification for soil incorporated granular formulations and to solicit public comments from the user community, industry and the general public during the formal comment period.

(3) The Panel disagreed with the estimate of potential risk to avian species associated with the turf and citrus uses of cycloheximide. The Agency has reconsidered its position, and has determined that it is appropriate to classify for restricted use only those product uses formulated with concentrations greater than 4% cycloheximide, based on the dermal toxicity of such formulations.

(4) The Panel suggested that the Agency reconsider the trigger for avian oral toxicity for oxamyl granular formulations (10% or more) in view of the data presented at the meeting by the registrant. However, the data cited by the registrant pertained to the *rat* oral LD_{50} and would not directly affect the Agency's determination of potential *avian* hazard since the Agency only uses acute oral LD_{50} test data on representative *avian* species in determining avian hazard. Nevertheless, the data cited at the meeting would affect all the proposed restrictions based on human hazard since the data would place the 10% granular formulation in toxicity category II rather than toxicity category I (acute oral LD_{50}<50 mg/kg).

In light of the fact that the registrant does not currently market the granular formulation in the U.S., the Agency has decided to place all the proposed restrictions of the granular formulations "under evaluation" until the submitted data can be reviewed.

(5) The Panel recommended that the Agency reexamine the rat oral LD_{50} estimate for oxamyl liquid formulations (24% and greater) based on data provided by the registrant at the public meeting. In this regard, the Panel also disagreed with the Agency's reliance upon accident data (discussing a single fatality, apparently as the result of misuse) as the basis for its restriction of the oxamyl 24% liquid formulation. The interpretation and significance of accident data as an indicator of hazard requiring a restricted use classification is by necessity very subjective. However, following the Panel meeting the registrant supplied additional data to the Agency that indicates that the 24% liquid presents an inhalation hazard warranting a restricted use classification. Consequently the Agency will use the inhalation data as the basis for restriction and will not rely upon the accident history. Moreover, because of the time constraints in publishing this regulation and in light of the submission of the inhalation data, the oral toxicity data referred to above will not be further reviewed at this time.

The Scientific Advisory Panel report is published in its entirety below.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Review of Proposed Regulation for Amendment of 40 CFR 162.31 by Adding Uses of Active Ingredients which the Agency Proposes to classify for Restricted Use under the Procedures of 40 CFR 162.30.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel completed review of proposed rulemaking for classification of certain uses of twenty-one additional active ingredients as restricted uses during the twenty-second meeting of the Panel, held in Alexandria, Virginia, during the period May 9–10, 1979.

Maximum public participation was encouraged for discussion of the document under review. During the meeting, public comments wre received from representatives of EPA; the pesticide industry; and the National Agricultural Chemicals Association. Public Notice of the meeting was published in the **Federal Register** on April 23, 1979. In addition, special mailings and telephonic notices were sent to persons who had previously indicated an interest in activities of the Panel.

In consideration of all matters brought out during the meeting and careful review of all documents submitted by the Agency, the Panel unanimously submits the following report:

The FIFRA Scientific Advisory Panel concurs with the document submitted on April 9, 1979, outlining proposed rulemaking for classification of pesticides with the following exceptions and general comments:

1. The term "unclassified" is confusing. It would appear that a clear definition of what the Agency means by "unclassified" would be useful and instructive to all parties.

2. *Granular Formulations.* In the opinion of the Panel there is currently no evidence that granular formulations of pesticides which are adequately incorporated into the soil present a threat to avian species. Therefore, such formulations (soil-incorporated) should not be classified as restricted until an adequate body of scientific data is accumulated to prove otherwise.

3. *Cycloheximide.* The Panel disagrees with the estimate of potential risk for cycloheximide residues on avian species from its use on turf an citrus according to label directions. Because of the small application rate of this compound it does not appear that avian species would be exposed to sufficient amounts of cycloheximide to pose a significant risk.

4. *Oxamyl.* a. The Agency should reconsider the trigger for avian oral toxicity for granulars of 10% or more in view of the data presented at the meeting by DuPont.

b. We recommend the Agency reexamine the rat oral LD 50 estimate for liquid formulations containing active ingredients of 24% or greater. Data supporting oral toxicity as a trigger for restricted status of these formulations was provided by the DuPont Company during the meeting. Also, in regard to liquid formulations of oxamyl, the Panel does not agree that a pesticide or pesticide formulation should be classified as restricted on the basis of a single fatal event which, apparently, was the result of misuse. It was not possible for the Panel to make a reasonable judgment on the potential for human hazard from this chemical without a more complete study of the accident history.

General Comments. In future meetings concerning classification or reclassification of pesticides, the Scientific Advisory Panel requests that more detailed information relative to human morbidity and mortality be provided on pesticides under review.

For the Chairman.

Dated: May 21, 1979.

H. Wade Fowler, Jr., Ph.D.,

Executive Secretary FIFRA Scientific Advisory Panel.

(Sec. 3, 25(a), Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 et seq.))

Dated: July 26, 1979.

Barbara Blum,

Acting Administrator.

It is proposed that 40 CFR 162.31 be amended by alphabetically inserting the following items in the table:

BILLING CODE 6560-01-M

§162.31 Pesticide Use Classification

The following uses of pesticide products containing the active ingredients specified below have been classified for restricted use and are limited to use by or under the direct supervision of a certified applicator.

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION[2]	CRITERIA INFLUENCING RESTRICTION
ALDICARB	Granular formulations 10% and greater	Agricultural Uses	Restricted	Acute oral toxicity Residue effects on avian species
CARBOFURAN	All granular formulations 2% and greater	All non-domestic uses except on pine (plantations and seed orchards) and cottonwood (commercial and nursery plantings)	Restricted	Residue effects on avian species
		Pine and cottonwood as noted above.	Unclassified	
		Rice	Restricted	Residue effects on avian species Effects on aquatic organisms
		Siberian Elm Domestic use	Under Evaluation	
CARBON DISULFIDE	All formulations	Indoor uses (grain fumigation)	Restricted	Other Hazards-Use and accident history
		Control of woodchuck, ground squirrel, prairie dog, and rats	Restricted	Hazard to non-target organisms
		Other outdoor uses	Unclassified	
CHLOROPICRIN	All formulations greater than 2%	All uses	Restricted	Acute inhalation toxicity
	All formulations	Rodent control	Restricted	Hazard to non-target organisms
	All formulations 2% and less	Outdoor uses (other than rodent control)	Unclassified	
CYCLOHEXIMIDE	All formulations greater than 4%	All uses	Restricted	Acute dermal toxicity
	All formulations 0.027% to 4%	All uses	Under evaluation	
	0.027% and less	Domestic uses	Unclassified	
DISULFOTON	Granular formulations 10% and greater	Agricultural uses	Restricted	Acute oral toxicity
	All granular formulations greater than 2%	Agricultural uses except for seed beds and transplant beds	Restricted	Residue effects on avian species

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION[2]	CRITERIA INFLUENCING RESTRICTION
DISULFOTON (Continued)	Granular formulations 5% and greater with ethoprop 10% and greater	All uses	Restricted	Residue effects on avian species Acute dermal toxicity
	Granular and fertilizer formulations 2% and below	All uses (Domestic and non-domestic)	Under evaluation	
	Cartridge injection 2% and below	Domestic use	Unclassified	
DICROTOPHOS	All liquid formulations 8% and greater	All uses	Restricted	Acute dermal toxicity Residue effects on avian species (except for tree injection)
ETHOPROP	Granular and fertilizer formulations 3% and greater	All uses	Restricted	Residue effects on avian species
	Granular formulations 10% and greater with disulfoton 5% and greater	All uses	Restricted	Acute dermal toxicity Residue effects on avian species
EPN	All liquid and dry formulations greater than 4%	All uses	Restricted	Acute dermal toxicity Acute inhalation toxicity Residue effects on avian species
		Aquatic uses	Restricted	Effects on aquatic organisms
	All granular formulations 2% and greater	All uses	Restricted	Residue effects on avian species
FENAMIPHOS	Granular formulations 10% and greater	All uses	Restricted	Residue effects on avian species
	Granular formulations 15% and greater	All uses	Restricted	Acute oral toxicity Residue effects on avian species
FENSULFOTHION	All granular and fertilizer formulations greater than 2%	All uses	Restricted	Acute oral toxicity Residue effects on avian species (except treatment of beds, plant benches and potting soil)
FENTHION	All formulations	Aquatic uses	Restricted	Residue effects on avian species Effects on aquatic organisms
		Ornamental (non-domestic)	Restricted	Residue effects on avian species
		Bird Control	Restricted	Hazard to non-target organisms
	All liquid formulations 70% and greater	All uses	Restricted	Acute dermal toxicity
	All formulations less than 70%	All non-domestic uses on livestock, agricultural premises, food handling establishments, building surfaces	Unclassified	
	All formulations 5% and less	All domestic uses	Unclassified	

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION[2]	CRITERIA INFLUENCING RESTRICTION
FONOFOS	Granular formulations 5% and greater	All uses	Restricted	Residue effects on avian species
	Granular formulations 20% and greater	All uses	Restricted	Acute oral toxicity Residue effects on avian species
	Granular formulations 2% and less	Domestic use	Under evaluation	
METHAMIDOPHOS	Liquid formulations 40% and greater	All uses	Restricted	Acute dermal toxicity Residue effects on avian species
	Dust formulations 2.5% and greater	All uses	Restricted	Residue effects on avian species
METHIDATHION	All formulations	All uses except nursery stock, safflower and sunflower	Restricted	Residue effects on avian species
	All formulations	Nursery stock, safflower and sunflower	Unclassified	
NICOTINE (alkaloid)	Liquid and dry formulations 14% and above	Indoor (greenhouse)	Restricted	Acute inhalation toxicity
	All formulations	Applications to cranberries	Restricted	Effects to aquatic organisms
	Liquid and dry formulations 1.5% and less	All uses (domestic and non-domestic)	Unclassified	
OXAMYL	Granular formulations 10% and greater	All uses	Under evaluation	
	Liquid formulations 24% and greater	All uses	Restricted	Acute inhalation toxicity Residue effects on avian species [applies only to uses on celery (Florida), foliar applications to ornamentals, and foliar treatment to tobacco]
PHORATE	Granular formulations 5% and greater	All uses	Restricted	Acute oral toxicity Acute dermal toxicity Residue effects on avian species
	Fertilizer formulations 1.25% and less	All uses	Under evaluation	
TEMEPHOS	All dry and liquid formulations	Aquatic uses	Restricted	Effects on aquatic organisms
	All liquid formulations	Orchard	Restricted	Residue effects on avian species
	Dog and cat collars 40.7% or less	Domestic use on pets	Unclassified	

[FR Doc. 79-23614 Filed 7-31-79; 8:45 am]
BILLING CODE 6560-01-C

FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 67]

[Docket No. FI-5047]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction to proposed rule for the Town of Merrillville, Lake County, Indiana.

SUMMARY: Under the source of flooding of Chapel Manor Lateral, the elevation for the upstream side of the location Private Drive was incorrectly listed as 625 feet. The correct elevation at this location is 622 feet. Omitted as a location under that same source of flooding was Highland Road, upstream side, with an elevation of 649 feet.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: July 17, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23382 Filed 7-31-79; 8:45 am]
BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5465]

Revision of Proposed Flood Elevation Determinations for the City of Hastings, Dakota County and Washington County, Minn.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hastings, Dakota County and Washington County, Minnesota.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 26904 on May 8, 1979, and in the *Hastings Star* published on or about April 26, 1979 and May 3, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood base (100 year) elevations are available for review at the City Hall, 100 Sibley Street, Hastings, Minnesota. Send comments to: The Honorable, Walter Peterson, Mayor, City of Hastings, City Hall, 100 Sibley Street, Hastings, Minnesota 55033.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872 (in Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5270; 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Hastings, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation (in feet, national geodetic vertical datum
Vermillion River	Just upstream from county Highway 47.	794
	Just downstream from Pleasant Drive.	801
	Western corporate limits	802
Vermillion Slough	Confluence with Vermillion River.	693
	Headwaters at Mississippi River at point of divergence.	694
Mississippi River	Eastern corporate limits	692
	Northwestern corporate limits	694
By Pass Channel	At Peavey Mill Dam	783
	Just upstream of U.S. Highway 61.	784
	Approximately 1600 feet upstream from U.S. Highway 61.	788
	Just downstream from U.S. Highway 47.	793

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: July 20, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23383 Filed 7-31-79; 8:45 am]
BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5252]

Proposed Flood Elevation Determinations for the City of Arnold, Jefferson County, Mo.; Under the National Flood Insurance Program; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44 FR 14572 of the **Federal Register** of March 13, 1979.

EFFECTIVE DATE: March 13, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh St., SW., Washington, D.C. 20410.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Muddy Creek	Just upstream of I-55	456
Meramec River	Just upstream of Interstate 55.	419

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Muddy Creek	Just upstream of Interstate 55.	456
Meramec River	Just upstream of U.S. Route 61-67.	419

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 12, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23384 Filed 7-31-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-4713]

Proposed Flood Elevation Determinations for the City of Bellevue, Sarpy County, Nebr.; Under the National Flood Insurance Program; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44 FR 20211 of the Federal Register of April 4, 1979.

EFFECTIVE DATE: April 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Betz Road Ditch	Just upstream of Harvel Road.	1,075
Squaw Creek	Just upstream of Cornhusker Drive.	1,018

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Betz Road Ditch	About 550 feet upstream of Lincoln Road.	1,075
Squaw Creek	Just upstream of Cornhusker Drive.	1,019

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 17, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23385 Filed 7-31-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. 5672]

Proposed Floodway and Zone Designations for the County of Campbell, Va., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed floodway and zone designations described below.

The proposed floodway and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comments will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed floodway and zone designations are available for review at the Campbell County Offices, Rustburg, Virginia.

Send comments to: Mr. Donald N. Johnston, P.O. Box 100, Rustburg, Virginia 24588.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, 451 Seventh Street, S.W., Room 5270, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed floodway and zone designations for the County of Campbell, Virginia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Zone designations and base (100-year flood elevations, together with the flood plain management measures required § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed floodway and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed determinations are:

A portion of Leesville Lake is designated a floodway.

Portions of the Special Flood Hazard Area along the Roanoke River, Falling River, and the Brookneal Town Reservoir formerly unincorporated areas of Campbell County have been incorporated by the Town of Brookneal.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued June 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23386 Filed 7-31-79; 8:45 am]

BILLING CODE 4210-01-M

[44 CFR Part 67]

[Docket No. FI-5283]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction to proposed rule for the Township of Conestoga, Lancaster County, Pennsylvania.

SUMMARY: Under the source of flooding of Conestoga Creek, the elevation for the location of "Weir Dam—Elevation 195.2 feet" was incorrectly listed as 204 feet. The correct elevation at this location is 207 feet.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, In Alaska and Hawaii call Toll Free Line, (800) 424–9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: July 16, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23683 Filed 7-31-79; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[Gen. Docket No. 78-391; FCC 79-456]

Improvements to UHF Television Reception; Order Setting Deadline for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein sets date for reply comments in *Docket 78-391, Notice of Inquiry, Improvements to UHF Television Reception* (January 17, 1979; 44 FR 3656).

DATE: Reply comments must be filed on or before September 14, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip Gieseler, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION:

In the matter of improvements to UHF television reception.

Adopted: July 23, 1979.

Released: July 25, 1979.

By the Commission: Commissioner Fogarty absent.

1. On December 20, 1979, the Commission adopted *Notice of Inquiry, Improvements to UHF Television Reception*. Deadline for filing initial comments was April 2, 1979, modified on April 12 (FCC 79–220) to May 5, 1979.

2. The *Notice* stated that a date for reply comments would be set after initial comments were received and summarized.

3. Initial comments have been summarized, and are available for inspection in the FCC's Public Information Division.

4. Accordingly, IT IS ORDERED that the deadline for reply comments in the above captioned proceeding be set for September 14, 1979.

5. Action is taken pursuant to Section 4(i) of the Communications Act of 1934, as amended.

FEDERAL COMMUNICATIONS COMMISSION.

William J. Tricarico,

Secretary.

[FR Doc. 79-23741 Filed 7-31-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 652]

Atlantic Surf Clam and Ocean Quahog Fisheries: Approval of Fishery Management Plan Amendments; Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Approval of Fishery Management Plan Amendments; Proposed Rulemaking.

SUMMARY: Amendments to the Fishery Management Plan for the Alantic Surf Clam and Ocean Quahog Fisheries (FMP), submitted by the Mid-Atlantic Fishery Management Council (the Council) to regulate fishing during the period beginning October 1, 1979, and ending on December 31, 1979, are approved by the Assistant Administrator for Fisheries. Regulations to implement these amendments are proposed for public review and comment. The amendments extend the FMP now in effect for a three-month period by establishing the optimum yield and quotas for the fourth quarter of 1979, and extending the moratorium on the entry of additional vessels into the surf clam fishery to December 31, 1979. The amendments also bring the FMP into conformity with processor reporting requirements established by amendments to the Fishery Conservation and Management Act of 1976, as amended (the Act) and create a new procedure for determination and adjustment of allowable surf clam fishing time.

DATES: Comments must be received not later than September 16, 1979.

ADDRESS: Send comments to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235. Mark "Surf Clam Comments" on the outside of the envelope.

FOR FURTHER INFORMATION CONTRACT: Allen E. Peterson Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, telephone (617) 281–3600.

SUPPLEMENTARY INFORMATION: On November 17, 1977, emergency regulations were published in the **Federal Register** implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) (42 FR 59948). Final regulations promulgated on February 17, 1978, (43 FR 6952), specified optimum yield and quarterly quotas for the period through September 30, 1979, and established a moratorium on the entry of new vessels into the surf clam fishery, which was later extended through November 17, 1979.

The Council has submitted to the Assistant Administrator an amendment to the FMP requesting an extension of the management program established in the FMP until December 31, 1979. This is to be accomplished by establishing optimum yields and quotas for both surf clams and ocean quahogs identical to those established for the corresponding three-month period in 1978, and extending the moratorium on the entry or new vessels into the surf clam fishery which would otherwise expire on November 17, 1979. The Council's

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amendment also requires additional record-keeping on the part of the surf clam and ocean quahog processors to provide information necessary for the determination of U.S. capacity to process these species, and contains language assuring the conformance of the FMP with amendments to the Act. Finally, the amendment establishes a new procedure for determination and adjustment of allowable surf clam fishing time. The Council submitted this amendment to allow sufficient time for the preparation and implementation of a significant revision of the FMP which could not be accomplished without the availability of certain information and additional working time that this amendment will allow.

In establishing an optimum yield and appropriate quarterly allocations for surf clams and ocean quahogs, the Council reviewed the available information on the condition of stocks and the industry and determined that appropriate levels for optimum yield and harvest would be those which had been established for previous similar periods in the FMP. Thus, the annual optimum yield of the surf clam fishery is 30,000,000 lbs. of meats landed. For the quahog fishery, the optimum yield is also 30,000,000 lbs. The quarterly surf clam allocation for the fourth quarter of 1979, the effective period of this amendment, is 350,000 bushels. For the ocean quahog fishery, an annual allocation of 3,000,000 bushels for the period January 1, 1979, through December 31, 1979, is established.

The FMP contained provisions for the establishment of a moratorium on the entry of additional vessels into the surf clam fishery. This moratorium was originally instituted for one year but was extended for an additional year on November 17, 1978. There has been considerable controversy among surf clam fishermen and others in the New England area concerning the application of a moratorium in that sector of the fishery. The Council did not modify the substance of the moratorium with this amendment because it believes the issue should receive full consideration in terms of the social, economic, and legal implications. The extension of the moratorium for the period of this amendment is a vital portion of the management program necessary to prevent the influx of additional fishing effort into the fishery which is already overcapitalized. Thus, the current moratorium on the entry of additional vessels into the surf clam fishery is extented to December 31, 1979.

The Act was amended during 1978 to require fishery management plans to specify U.S. capacity to harvest and process regulated species. The Council has taken action to bring the FMP into conformity with this requirement and has incorporated new reporting requirements which will facilitate future analysis of U.S. processing capacity. Responding to public comments, the Council has developed reporting requirements which are not burdensome to industry and which will satisfy fishery management needs. An annual report of processing employment, capacity, payroll, and projected capacity also will be required from all persons who buy surf clams of ocean quahogs from fishing vessels.

The FMP and its implementing regulations assign certain management decisions, including establishment of the allowable weekly surf clam fishing time at the beginning of each calendar quarter, to the Regional Director. Each quarter begins with a 4-day fishing week unless the Regional Director determines before the start of a quarter to set a lower level. It has been shown to be preferable to begin a quarter with fewer than four fishing days per week to avoid closures later in the quarter. The Council has requested that a consultation procedure be developed so that the Regional Director can be provided with information and advice from the public and the Surf Clam Committee of the Council relative to establishing an appropriate level of fishing time.

At the present time, adjustments in allowable fishing time can be made only at specified points during the course of a quarter. Thus, while the capability to identify trends in catch rates and select appropriate levels of allowable fishing time is good, it has not always been always possible to take timely action to adjust fishing time because the regulatory "trigger-point" has not been reached. The Reginal Director will now have the authority to adjust allowable fishing time at any time to avoid prolonged closures of the fishery or significant shortfalls in catch as compared to allocation.

A series of public hearings have been held relative to the Council's amendments. Hearings were held in Norfolk, VA, Tinton Falls, NJ, Newport, RI, and Ocean City, MD. The Council has considered the comments received and revised the amendments as necessary.

These amendments to the FMP are approved by the Assistant Administrator. The resulting changes to be made in the FMP are as follows:

1. Section XI–5 is amended by striking the final sentence of the second paragraph and substituting the following:

Thus appropriate quarterly allocations equivalent to an annual quota of 30 million pounds of meats from the fishery conservation zone are recommended for the period through December 31, 1979.

2. Section XII is amended striking paragraph (a) under the heading "Catch Quotas" and substituting a new paragraph (a) as follows:

(a) Catch quotas for the period from October 1, 1977, to December 31, 1979, for licensed vessels of the United States fishing for surf clams are allocated by quarterly periods, as follows:

	Bushels
(1) Surf Clam:	
Oct. 1, 1977 to Dec. 31, 1977	350,000
Jan. 1, 1978 to Mar. 31, 1978	350,000
Apr. 1, 1978 to June 30, 1978	550,000
July 1, 1978 to Sept. 30, 1978	550,000
Oct. 1, 1978 to Dec. 31, 1978	350,000
Jan. 1, 1979 to Mar. 31, 1977	350,000
Apr. 1, 1979 to June. 30, 1979	550,000
July 1, 1979 to Sept. 30, 1979	550,000
Oct. 1, 1979 to Dec. 31, 1979	350,000
(2) Ocean Quahog: Annual quota	3,000,000

3. Section XII is amended by striking the final paragraph under the heading "Vessel Moratorium" and substituting a new paragraph as follows:

The moratorium shall remain in effect until December 31, 1979, unless the Secretary determines, after consultation with the Council and after a public hearing, that the moratorium should be terminated at an earlier date.

4. Section XI–5 is amended by inserting a new paragraph between the present first and second paragraphs, as follows:

The capacity of U.S. processors to process surf clams and ocean quahogs caught by U.S. fishermen is at least as great as the quotas for these species specified in this plan.

5. Section XII is amended by revising paragraph (a) under the heading "Reports and Records as follows:

(a) Dealers:

(1) All persons who buy who buy surf clams or ocean quahogs from vessels engaged in the surf clam or ocean quahog fisheries shall provide the Regional Director of the National Marine Fisheries Service, on a weekly basis, the following information on forms supplied by the Regional Director:

(a) Dates of purchases,

(b) Number of bushels purchased, by species,

(c) Name and permit number of the vessel from which surf clams or ocean quahogs are landed or received,

(d) Price per bushel, by species,

(e) Mailing address of dealer or processing plant,

(f) Size distributions of surf clams and ocean quahogs purchased, by species, on a percentage basis, and

(g) Meat yield per bushel, by species.

(2) All persons required to submit reports under subparagraph (a)(1) are also required to submit at least the following information to the Regional Director on an annual basis on forms supplied by the Regional Director:

(a) Number of dealer or processing plant employees, by month,

(b) Number of employees processing surf clams and ocean quahogs, by species, by month,

(c) Total payroll of surf clam and ocean quahog processing, by month,

(d) Capacity to process surf clams and ocean quahogs, by species, and

(e) projected capacity to process surf clams and ocean quahogs, by species, for the following year.

If capacity increases or decreases more than ten percent during the year, processors will promptly notify the Regional Director of the change in capacity.

(3) All persons purchasing or receiving any surf clams or ocean quahogs at sea for transport to any port of the United States must maintain and provide to the Regional Director records identical to those required under subparagraphs (a)(1) and (2) of this paragraph.

(4) Additional information may be required annually as part of the application documentation for license.

6. Section XII is amended by revising paragraph (a) under the heading "Effort Restrictions" to read as follows:

(a) Surf clam:

(1) Fishing for surf clams shall be conducted only during the period beginning 12:01 a.m. Monday and ending 11:59 p.m. Thursday. Such fishing is permitted during this period only at the times authorized by the Regional Director.

(2)(i) Prior to beginning of each quarter, the Regional Director, in consultation with the Surf Clam Committee of the Mid-Atlantic Council, shall determine what number of hours per week to allow fishing for surf clams to be conducted throughout the entire quarter so that the allocation for that quarter (as adjusted under section (a)(1) above) is not exceeded.

(2)(ii) If the Regional Director determines during the quarter that quarterly allocation will be (will not be) exceeded, he may reduce (increase) the number of hours per week during which fishing for surf clams is permitted to avoid prolonged vessel tie-up times and fluctuations in the supply of surf clams which would result if the allocations were taken rapidly during the beginning of each quarter (facilitating the catch of the full quarterly allocation).

Errata

The coversheet of the FMP as published on November 25, 1977 (42 FR 60437) contained a misprint in identifying "SURF CLAM AND OCEAN QUAHOG INDUSTRIES". The proper identification is "SURF CLAM AND OCEAN QUAHOG FISHERIES" and hereby corrected.

Note.—The implementation of these amendments by the Assistant Administrator for Fisheries does not constitute a major federal action significantly affecting the quality of the human environment. A statement of negative environmental significance is on file with the Environmental Protection Agency. The Assistant Administrator has determined that this action does not require preparation of a regulatory analysis, nor does it meet the criterial of significance, under E.O. 12044.

Signed at Washington, D.C., this 27th day of July, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

50 CFR Part 652 is proposed to be amended as follows:

1. Strike 652.6(a) and (b) and substitute the following:

§ 652.6 Catch quotas.

Catch quotas for vessels of the United states permitted to fish for surf clams or ocean quahogs are as follows:

(a) *Surf Clams.* October 1, 1979, through December 31, 1979 . . . 350,000 Bushels

(1) If the actual catch of surf clams in any quarter falls more than 5,000 bushels short of the specified quota, the Regional Director shall add the amount of the shortfall to the next succeeding quarterly quota. If the actual catch of surf clams in any quarter exceeds the specified quarterly quota, the Regional Director shall subtract the amount of the excess from the next succeeding quarterly quota.

(2) The Assistant Administrator shall publish a notice in the **Federal Register** whenever the Regional Director adjusts the quarterly quota of surf clams under subparagraph (1) of this paragraph.

(b) *Ocean Quahogs.* January 1, 1979 to December 31, 1979 . . . 3,000,000 Bushels

If necessary, the Regional Director may establish quarterly quotas for ocean quahogs, and, in that event, the Assistant Administrator shall publish a notice of such quarterly quotas in the **Federal Register.**

2. Strike §§652.7(a) (2), (3), and (4) and substitute the following:

§ 652.7 Effort Restriction.

(a) *Surf Claims.* (1) * * *

(2) Prior to the beginning of each quarter specified in § 652.6(a), the Regional Director, in consultation with the Surf Clam Committee of the Mid-Atlantic Council and in consideration of any public comment received concerning the matter, shall determine what level of effort will allow for the continued catch of surf clams throughout the entire quarter. The determination will be based both on the consultations and comments and on historical catch records with emphasis given to the data from the previous completed quarter. Any comments from members of the public concerning the appropriate level of effort for a quarter must be received by the Regional Director 30 days prior to the beginning of that quarter to allow for proper consideration. Each quarterly determination will be made in a timely manner, and published in the **Federal Register.**

(3) If the Regional Director determines during any quarter that the quarterly allocation (as adjusted under § 652.6(a)(1)) of surf clams will be exceeded at the then-current level of fishing effort, he may reduce the number of hours per week during which fishing for surf clams is permitted during that quarter to avoid prolonged closure of the fishery.

(4) If the Regional Director determines during any quarter that the quarterly allocation (as adjusted under § 652.6(a)(1) of surf clams will not be harvested at the then-current level of fishing effort, and that the catch rate has not diminished as a result of a decline in abundance of stocks of surf clams, he may increase the number of hours per week during which fishing for surf clams is permitted during that quarter to facilitate the harvest of the full quarterly allocation.

3. Strike § 652.9(b) and substitute the following:

§ 652.9 Vessel moratorium.

(a) * * *

(b) The moratorium shall remain in effect until December 31, 1979, unless the Secretary determines, after public hearings and consultation with the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils to terminate the moratorium at an earlier date.

4. Strike § 652.13(a)(1) (viii), (ix), and (x), and § 652.13(a)(2) and substitute new §§ 652.13(a) (2) and (3) as follows:

§ 652.13 Reports and Records.

(a) *Dealers.* (1) * * *

(2) All persons required to submit reports under paragraph (a)(1) of this section shall also provide the following information to the Regional Director on an annual basis on forms to be supplied by the Regional Director:

(i) Number of dealer or processing plant employees during each month of the year just ended;

(ii) Number of employees engaged in production of processed surf clam and ocean quahog products, by species, during each month of the year just ended;

(iii) Total payroll of those employees in paragraph (a)(2)(ii) of this section

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during each month of the year just ended;

(iv) Plant capacity to process surf clam and ocean quahog shellstock, or to process surf clam and ocean quahog meats into finished products, by species, and

(v) Projection of paragraph (a)(2)(iv) of this section for the next year.

If the capacity in paragraph (a)(2)(iv) of this section increases or decreases more than ten percent during any year, the processor shall promptly notify the Regional Director of the change in capacity.

(3) All persons purchasing, receiving, or processing surf clams or ocean quahogs at sea for transport to any port of the United States must maintain records identical to those required by paragraphs (a) (1) and (2) of this section and provide those records to the Regional Director on the same frequency basis.

[FR Doc. 79-23769 Filed 7-31-79; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 44, No. 149

Wednesday, August 1, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Turkey Creek Watershed Project, Iowa; Notice of Intent To Not Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Turkey Creek Watershed project, Cass, Adair, Audubon, and Guthrie Counties, Iowa.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William J. Brune, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement include land treatment measures, 9 floodwater retarding dams, and 63 grade stabilization dams.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency.

The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, 515-284-4260. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until August 31, 1979.

Dated: July 24, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-23628 Filed 7-31-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Air United States, et al.; Notice of Hearing

Former Large Irregular Service Investigation, Docket 33361; Application of Air United States (Docket 32411); Application of Holiday Airways, Inc. (Docket 32410); Application of Virgin Islands Air Services, Inc. (Docket 32417); Application of United States Overseas Airlines (Docket 32415); Application of U.S. Air Coach, Inc. (Docket 32416); Application of General Airways (Docket 32531).

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that hearings in the above-entitled proceeding will be held beginning on September 24, 1979, at 9:30 a.m. (local time), in Hearing Room 2, Suite 12100, Federal Building, 11000 Wilshire Boulevard, Los Angeles, California, before me.

Said hearings shall commence immediately following a prehearing conference affecting only the aforesaid applications at 9:30 a.m. at the aforesaid location, the hearings to run in consecutive fashion *provided,* that in the event any particular one of the first five listed applications is concluded on the day initially heard the hearing shall recess to convene with the next consecutively listed application at 9:30 a.m. on the next day, but the sixth hearing shall commence immediately upon completion of the prior one without delay, *provided, further,* that the sequence of hearings may be adjusted by and among the applicants, the judge and other parties present at the aforesaid location during the week of September 24 through September 28 and that, as necessary, any such hearing may be continued from time to time.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., July 27, 1979.

Marvin H. Morse,

Administrative Law Judge.

[FR Doc. 79-23740 Filed 7-31-79; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Arkansas Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arkansas Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 2:00 pm, on August 25, 1979, at the Sam Peck Motor Inn (Old Parts), 625 West Capitol, Little Rock, Arkansas 72201.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is to discuss follow-up on Arkansas Block Grant hearings.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 26, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-23656 Filed 7-31-79; 8:45 am]

BILLING CODE 6335-01-M

Kansas Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kansas Advisory Committee (SAC) of the Commission will convene at 9:00 am and will end at 1:00 pm, on September 29, 1979, at Broadview Motor Hotel, Den

Room, 400 West Douglas, Wichita Kansas 67202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Bldg., Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is plan the State Advisory Committee program activity for FY 1981 and review the committees activity on existing projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 26, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-23655 Filed 7-31-79; 8:45 am]

BILLING CODE 6335-01-M

Massachusetts Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC of the Commission will convene at 4:00 p.m. and will end at 6:00 p.m., on September 5, 1979, at 34½ Beacon Street, Boston Massachusetts 02108.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to develop a program for Massachusetts State Advisory Committee for FY-80.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington. D.C., July 27, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-23653 Filed 7-31-79; 8:45 am]

BILLING CODE 6335-01-M

Nebraska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nebraska Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 1:00 p.m., on September 5, 1979, at the Scottsbluff Inn, La Junta Room, 1901 21st Avenue, Scottsbluff, Nebraska 69391.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to plan the SAC program activity for FY 1981 and identify the committee assignments for the data gathering efforts in the Panhandle study.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 26, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-23654 Filed 7-31-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Seventeen Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from seventeen firms: (1) Valley Knitting Mills, Inc., 14 Doty Road, Haskell, New Jersey 07420, a producer of sweaters (accepted July 13, 1979); (2) Dorst Manufacturing Company, 2100 Reading Road, Cincinnati, Ohio 45202, a producer of jewelry (accepted July 16, 1979); (3) Malden Knitting Mills, Inc., 303 Eastern Avenue, Malden, Massachusetts 02148, a producer of men's and women's sweaters and shirts (accepted July 16, 1979); (4) Collette Manufacturing Company, Building No. 9, DeGraff Street, Amsterdam, New York 12020, a producer of footballs, basketballs, dart board sets and other sporting goods; plus repair kits for pots and pans (accepted July 16, 1979); (5) Toby Fashions, Inc., 613 Palisade Avenue, Union City, New Jersey 07087, a producer of women's coats (accepted July 16, 1979); (6) Standard Beef, Inc., 151 Cedar Avenue, Scranton, Pennsylvania 18505, a processor of meat (accepted July 16, 1979); (7) Peter Berg and Company, Inc., 917 North Fifth Street, Minneapolis, Minnesota 55401, a producer of egg cases and filers (accepted July 17, 1979); (8) Lorraine Handbags, Inc., 79 Essex Street, Boston, Massachusetts 02111, a producer of handbags (accepted July 17, 1979); (9) Goldendale Ranch Meat Company, 1542 South Roosevelt Avenue, Goldendale, Washington 98620, a producer of meat (accepted July 17, 1979); (10) Woodward Foundries, Inc., Penn, Pennsylvania 15675, a producer of iron castings (accepted July 19, 1979); (11) Bogart Industries, Inc., 3614 McCart, Ft. Worth, Texas 76109, a producer of women's jackets, slacks, shorts, blouses and skirts (accepted July 20, 1979); (12) Kepner-Scott Shoe Company, 209 Liberty Street, Orwigsburg, Pennsylvania 17961, a producer of children's footwear (accepted July 23, 1979); (13) Winn-Tenna, Inc., 301 East Roosevelt Dr., Anderson, South Carolina 29624, a producer of CB radio and TV antennas and accessories (accepted July 23, 1979); (14) Pageant Needles, 605 Northern Boulevard, Chinchilla, Pennsylvania 18410, a producer of phonograph needles (accepted July 23, 1979); (15) C.W.C. Industries, Inc., 512 7th Ave., New York, New York 10018, a producer of women's coats (accepted July 23, 1979); (16) Synestructics, Inc., 9400 Lurline Ave., Chatsworth, California 91311, a producer of kites, other toys and play structures (accepted July 23, 1979); and (17) Skottie Electronics, Inc., Line Street, Archbald, Pennsylvania 18403, a producer of electronic capacitors (accepted July 23, 1979). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Charles L. Smith,

Acting Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79-23652 Filed 7-31-79; 8:45 am]

BILLING CODE 3510-24-M

National Oceanic and Atmospheric Administration

Availability of Evaluation Findings for the Oregon, Washington, and Michigan Coastal Management Programs

Section 312 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C.1451 et seq.) requires that the Office of Coastal Zone Management (OCZM) conduct a continuing evaluation of the performance of each coastal State under its Federally approved coastal management program.

On-site evaluations of the Oregon, Washington and Michigan programs were conducted by Office of Coastal Zone Management in February 1979 in Oregon, February-March 1979 in Washington and April 1979 in Michigan.

All three States were found to be adhering to their management programs as a result of which positive results are occurring with respect to resource protection, management of development, increased recreational access and permit simplification.

Notice is hereby given of the availability of these evaluation findings to interested parties. A copy of the written findings made by the Assistant Administrator for Coastal Zone Management for of these States may be obtained on request from: Carol Sondheimer, Chief, Policy and Program Evaluation, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, telephone (202) 634-4245.

Dated: July 13, 1979.

M. P. Snidero,

Acting Assistant Administrator for Administration.

[FR Doc. 79-23629 Filed 7-31-79; 8:45 am]

BILLING CODE 3510-22-M

Notice of Preliminary Determination To Approve Amendment of the Maine Coastal Management Program

The Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA) has received a request from the State of Maine to amend its Coastal Program to include two additional towns, Veazie and Eddington, within the boundary of the program. The towns are located on the Penobscot River.

The boundary of the Maine Program is defined as "all coastal towns and townships on tidewaters, all coastal islands, and the sea to the limits of the State's jurisdiction." While a dam had prevented tidal influence as far upland as Veazie and Eddington, a 35-foot breach in the dam has extended tidal influence to the next upstream dam in Veazie making both towns eligible for inclusion in the Maine Coastal Program. Therefore, this amendment would not constitute a significant change to the program but would allow two additional towns now on tidewaters to be included within the provisions of the defined Maine coastal boundary.

The Assistant Administrator for Coastal Zone Management has reviewed the amendment request and has made a preliminary determination to approve it. The Maine Coastal Program, as changed, will still constitute an approvable program and the procedural requirements of Section 306(c) of the Act will have been met.

The Assistant Administrator has further determined that as the same policies, authorities and environmental impacts upon which the original program was approved are in effect and remain unaltered by this amendment, approval of the proposed change does not constitute a significant Federal action having a significant effect on the environment. Therefore, pursuant to the National Environmental Policy Act of 1969, as amended, an environmental impact statement will not be required by the approval action.

Comments on the preliminary determination to approve Maine's amendment request should be made on or before August 31, 1979. Address comments to: Nancy Carter, Assistant Regional Manager, North Atlantic Region, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, (202) 634-4126.

Dated: July 24, 1979.

R. L. Carnahan,

Deputy Assistant Administrator for Administration.

[FR Doc. 79-23701 Filed 7-31-79; 8:45 am]

BILLING CODE 3510-08-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Bank of Public Works and Services, Inc. (P220).

b. Address: Center of Spectacles, Conventions, and Exhibitions of Acapulco, Mexico, 4455 Costera Miguel Aleman Ave., Acapulco, Mexico.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins (*Tursiops truncatus*) 5. California sea lions (*Zalophus californianus*) 2.

4. Type of Take: Applicant seeks authorization to receive five Atlantic bottlenose dolphins and two California sea lions transported from Marine Animal Productions and to transport these animals back to the U.S.

5. Location of Activity:

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved. Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Services, Department of Commerce, Washington, D.C. 20235, on or before August 31, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All Statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: June 25, 1979.

William Aron,

Director, Office of Marine Mammals/ Endangered Species, National Marine Fisheries Service.

[FR Doc. 79-23761 Filed 7-31-79; 8:45 a.m.]

BILLING CODE 3510-22-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Marine Animal Productions/ Marine Life Inc. (P108D).

b. Address: 150 Debuys Road, Biloxi, Mississippi 39521.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins *(Tursiops truncatus)* 5. California sea lions *(Zalophus californianus)* 2.

4. Type of Take: Tursiops—take from wild/ Zalophus—beached/stranded. Also to transport the animals authorized, or any of the holder's pre-Act or permit animals to Acapulco, Mexico, for display at the Center of Spectacles, Conventions and Exhibitions of Acapulco, Mexico, and to transport the animals back into the U.S.

5. Location of Activity: Tursiops—Gulf of Mexico between Mobile Bay and Mississippi River. Zalophus—California.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspection by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before August 31, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: July 25, 1979.

William Aron,

Director, Office of Marine Mammals/ Endangered Species, National Marine Fisheries Service.

[FR Doc. 79-23762 Filed 7-31-79; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street SW., Washington, DC 20324.

Patent application 913,188: Cabinet Lock Assembly; filed June 6, 1978.

Patent application 916,685: Broadband Helical Antennas; filed June 19, 1978.

Patent application 4,140,002: Impact Sound Stressing Holding Assembly; filed May 2, 1978; patented February 20, 1979; not available NTIS.

Patent 3,986,138: Isothermal Gas Dymanic Laser Nozzle; filed March 29, 1974; patented October 12, 1976.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research/ Code 302, Arlington, VA 22217.

Patent application 6,003,437: A High Energy Fluoroscopic Screen; filed January 15, 1979.

Patent application 949,711: Ellipticized Lens Providing Balanced Astigmatism; filed October 10, 1978.

Patent application 965,806: Free Gyro Motor Drive Circuit; filed December 4, 1978.

Patent application 972,560: Sea Water Pressure Regulator Valve; filed December 22, 1978.

Patent application 974,394: High Pressure Spherical Piston; filed December 29, 1978.

Patent 4,081,480: Vacuum Cleaner for Radioactively Contaminated Particles; filed May 20, 1976; patented December 6, 1977; not available NTIS.

Patent 4,087,063: Parachute Suspension Line Stowage Device; filed June 6, 1977; patented May 2, 1978; not available NTIS.

Patent 4,108,622: Method of Making Miniature Coupling Lens; filed February 22, 1977; patented August 22, 1978; not available NTIS.

Patent 4,110,004: Complex Photodichroic Spatial Filter; filed January 12, 1977; patented August 29, 1978; not available NTIS.

Patent 4,124,671: Method for Strengthening PZT Transducers; filed November 25, 1975; patented November 7, 1978; not available NTIS.

Patent 4,125,837: Dual Notch Fed Electric Microstrip Dipole Antennas; filed October 6, 1977; patented November 14, 1978; not available NTIS.

Patent 4,125,838: Dual Asymmetrically Fed Electric Microstrip Dipole Antennas; filed October 6, 1977; patented November 14, 1978; not available NTIS.

Patent 4,125,839: Dual Diagonally Fed Electric Microstrip Dipole Antennas; filed October 6, 1977; patented November 14, 1978; not available NTIS.

Patent 4,126,806: Intense Ion Bean Producing Reflex Triode; filed September 28, 1977; patented November 21, 1978; not available NTIS.

Patent 4,133,173: Ducted Rockets; filed June 13, 1977; patented January 9, 1979; not available NTIS.

Patent 3,842,772: Semisubmerged Ship With Bow Impact Alleviator; filed July 16, 1973; patented October 22, 1974; not available NTIS.

Patent 4,134,426: Seawater Hydraulic Motor Distributing Valve Based on a Hydrosphere Bearing; filed February 7, 1978; patented January 16, 1979; not available NTIS.

Patent 4,134,843: Deuterated Lubricant; filed March 7, 1977; patented January 16, 1979; not available NTIS.

Patent 4,138,660: Automated Flash-Bang Method and Apparatus for Determining Lighting Stroke Distances; filed September 14, 1977; patented February 6, 1979; not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, DC 20546.

Patent application 6,017,886: PN Lock Indicator for Dithered PN Code Tracking Loop; filed March 6, 1979.

Patent application 6,017,887: Adaptive Polarization Separation Experiments; filed March 6, 1979.

Patent 4,110,683: Apparatus Including a Plurality of Spaced Transformers for Locating Short Circuits in Cables; filed July 8, 1977; patented August 29, 1978; not available NTIS.

Patent 4,136,211: Method of Making Bearing Materials; filed December 13, 1977; patented January 23, 1979; not available NTIS.

Patent 4,137,365: Oxygen Post-Treatment of Plastic Surface Coated with Plasma Polymerized Silicon-Containing Monomers; filed March 21, 1977; patented January 30, 1979; not available NTIS.

[FR Doc. 79-23702 Filed 7-31-79; 8:45 am]

BILLING CODE 3510-04-M

Office of Federal Statistical Policy and Standards

New Standard Reference Period for Federal Government General-Purpose Statistical Index Numbers; 30-Day Comment Period

AGENCY: Office of Federal Statistical Policy and Standards, Department of Commerce.

ACTION: Notice of 30-day public comment period on recommended change in the reference base period for Federal Government General-Purpose Statistical Index Numbers from the year 1967 (Presently used) to the year 1977, and to insert the word "statistical" in the title and appropriate places in the text of the Directive to clarify the applicability of the Directive.

SUMMARY: The reference base period is updated approximately every ten years. The Statistical Policy Coordination Committee (SPCC) has recommended that the reference period be changed to the year 1977. The SPCC is a cabinet level committee that makes recommendations on major statistical policy issues.

Introduction

The Statistical Policy Coordination Committee (SPCC) has recommended that the standard reference base period for Federal Government General Purpose Statistical Index Numbers be revised to the year 1977. The existing base period is 1967. The SPCC is a Cabinet level committee that makes recommendations on major statistical policy issues.

The reference period in index numbers is the year (or years) in production, price or other statistical series that are set equivalent to 100. This makes it relatively easy to compare rates of change among series over the years. For example, using the reference base of 1967 as 100, an index of 135 in 1979 means that the series increased by 35 percent over the 12-year period.

Issues in Updating the Reference Period

The reference period is updated approximately every ten years. This is done to (a) insure that the index is based on a reasonable approximation of the current structure of the economy, and (b) facilitate the visual comprehension of rates of change from a base period that is not too distant in time.

The year 1977 was chosen for two reasons. First, the most recent quinquennial economic census were taken for 1977, and many economic time series are benchmarked to the economic censuses. Second, the continued expansion of the economy in 1977 since the recession of 1974–1975 was relatively balanced with no particularly extreme conditions that would make it unrepresentative of the recent period.

Because of the work involved in developing new compositional "weights" of the product, price or other index components to reflect their relative importance in the new base period, the actual implementation for many series will not occur until 1981. This will also allow adequate time for agencies to announce their implementation schedules well in advance of indexing the series to the new reference period.

Public Comment Period

A 30-day comment period on the recommended change in the reference base period commences with the date of this issue of the **Federal Register.** All comments should be sent in writing to Joseph W. Duncan, Director, Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230. For further information, call Norman Frumkin at (202) 673–7977.

The recommended Directive No. 5 of the Office of Federal Statistical Policy and Standards to reflect the new reference period is given below. The only changes from the existing Directive are the inclusion of the word "Statistical" in the title and replacement of the 1967 with 1977.

Directive No. 5[1]

Standard Reference Base Period For Federal Government General-Purpose Statistical Index Numbers

The year 1977 shall be the standard reference base period for general-purpose statistical index numbers prepared by Federal agencies. This requirement conforms to Government practice of establishing a standard reference base period for use by Federal agencies. The base period is revised approximately every ten years.

1. *Conversion for Earlier Years.* Each index should be converted to the 1977 reference base from the beginning of the index, where practicable.

2. *Weights.* The weight base period for an index should be as close as possible to the reference base period but they do not need to coincide. The relationship between reference and weight base period should be indicated by appropriate description.

Source: Office of Federal Statistical Policy and Standards, U.S. Department of Commerce.

Courtenay M. Slater,

Chief Economist for the Department of Commerce.

[FR Doc. 79-23717 Filed 7-31-79; 8:45 am]

BILLING CODE 3510-07-M

U.S. Travel Service

Travel Advisory Board; Notice of Meeting

On June 25, 1979, notice was given in the **Federal Register** (44 FR, Page 37027), that the Travel Advisory Board would meet on August 14, 1979. Notice is hereby given that the Travel Advisory Board meeting will begin at 9:30 a.m. in Room 4830 of the Main Commerce Building, 14th Street and Constitution Avenue NW., Wasington, D.C. 20230.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended.

[1] Supersedes Directive No. 5 issued May 6, 1976.

Agenda items are as follows:

1. Reorganization of USTS.
2. 1980 Budget.
3. U.S.—Mexico Consultative Mechanism—Tourism Working Group.
4. United States Travel and Tourism Development Corporation—House of Representative Hearings.
5. International Pow Wow—New Orleans—September 1979.
6. U.S.—U.S.S.R. Economic Council—Tourism Subcommittee.
7. Miscellaneous.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements will be allowed.

Rose Marie Beaty, Travel Advisory Board Liaison Officer, of the United States Travel Service, Room 1858, U.S. Department of Commerce, Washington, D.C. 20230, (telephone (202) 377–4746) will respond to public requests for information about the meeting.

Jeanne Westphal,

Acting Assistant Secretary for Tourism.

[FR Doc. 79-23742 Filed 7-31-79; 8:45 a.m.]

BILLING CODE 3510-11-M

Patent and Trademark Office

Public Advisory Committee for Trademark Affairs; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting.

The Public Advisory Committee for Trademark Affairs will meet from 9:30 a.m. until 4:30 p.m. on September 6, 1979 at the Watergate Hotel, 2650 Virginia Avenue, NW., Washington, D.C., 20037, in the Potomac Room.

The Committee was established in 1970 to advise the Patent and Trademark Office on steps which can be taken in order to increase the efficiency and effectiveness of the administration of the Trademark Act and to provide a continuing source of knowledge from the private sector to the government in the field.

The agenda for the meeting is as follows:

(1) Introductory Remarks
(2) Resource Problems
(3) Goals of Trademark Operation
(4) Quality of Office Actions
(5) Filing Increases
(6) Separating Trademark Mail
(7) Use of Paralegals in the Trademark Operation
(8) TRT Implementing Legislation and its Potential Effect on the Trademark Examining Operation
(9) Proposed Trademark Rules Changes
(10) Renewal of Committee Charter

The meeting will be open to public observation; approximately 15 seats will be available for the public on a first come-first served basis. If time permits, oral comments by the public of 3 minutes on each topic within the above agenda will be allowed. To insure proper consideration at the meeting, any comments or suggestions relating to the agenda items should be submitted in writing before August 30. Further comments and suggestions will be accepted after the meeting on any of the matters discusssed.

Copies of the minutes will be available upon request.

Inquiries may be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. Please mark all correspondence to the attention of Committee Control Officer, Patricia M. Davis, Office of Trademark Program Control, Room CP3–11C17. Telephone: 703–557–3881.

Dated: July 27, 1979.

Rene D. Tegtmeyer,

Acting Commissioner of Patents and Trademarks.

Dated: July 27, 1979.

Francis W. Wolek,

Acting Assistant Secretary for Science and Technology.

[FR Doc. 79-23062 Filed 7-31-79; 8:45 am]

BILLING CODE 3510-16-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Thursday, September 20, 1979, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, N.W., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

No meeting has been scheduled for the month of August.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C. July 25, 1979.

Charles H. Atherton,

Secretary.

[FR Doc. 79-23630 Filed 7-31-79; 8:45 am]

BILLING CODE 6330-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Progress Carpet Mills, Inc., and Julian A. Peeples; Provisional Acceptance of Consent Agreement

Correction

In FR Doc. 79–22735 appearing on page 43331 in the issue for July 24, 1979, the heading, as given, is incorrect. The correct heading for this document appears above. Also, correct the **ACTION** line to read as follows: "Provisional Acceptance of Consent Agreement".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Consolidation of DOD Cryptologic Training at Keesler Air Force Base (AFB), Miss.; Finding of No Significant Impact (FONSI)

The following is the FONSI, dated July 5, 1979, for the proposed consolidation of DOD cryptologic training at Keesler AFB, Mississippi.

A. *Description of Proposd Action:* The Department of Defense (DOD) proposes to consolidate cryptologic training activities at Keesler AFB, MS and Corry Station, FL. This consolidation will provide more efficient and economical management of cryptologic training. The proposed action would result in an increase of about 675 military and 60 civilian jobs at Keesler. The estimated population increase in the Keesler area, including dependents and military students, would be approximately 3,600 persons (which include about 1,100 students).

The alternative to this proposal is to take no action and to continue cryptologic training at several DOD installations.

B. *Biophysical Environmental Impact Analysis:* The analysis of potential biophysical environmental impacts is documented in a Formal Environmental Assessment (FEA). The following is a summary of the most important findings in the FEA:

1. *Solid Waste:* Solid waste generation would increase by 2.8% in the area. However, there is more than adequate sanitary landfill space (over 100 years capacity) to accommodate this increase.

2. *Waste Water:* Existing regional wastewater treatment plants have sufficient capacities to treat the 2.8% increase in wastewater generated from this action.

3. *Water:* Water consumption would increase by 2.9%. Adequate water supply exists to accommodate the increase.

4. *Air:* The principal air pollutant increase will be from the addition of approximately 1,800 vehicles (less than 1% of projected number of vehicles in the area) into the area. This increase will not violate any of the National Ambient Air Quality Standards for criteria pollutants in the area.

5. *Secondary Impacts:* The potential for secondary biophysical impacts is not considered to be significant since existing capacity of public facilities and services, schools, hospitals, utilities, fire and police protection, and transportation is available for the increased population. Any increased housing development can be done without significant adverse environmental impact in accord with existing zoning, land-use, and other local regulatory controls.

C. *Finding of No Significant Impact:* After careful review of the FEA, I have concluded that expansion of cryptologic training activities at Keesler AFB will not constitute a major federal action having a significant adverse impact on the quality of the affected environment (Biloxi, Gulfport, and Ocean Springs, Mississippi and vicinity), nor is it likely to be controversial there with regard to its biophysical environmental impacts.

Thus, the requirements of the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) Guidelines, and Air Force Regulation 19–2 have been complied with and a Draft Environmental Impact Statement need not be filed with the US Environmental Protection Agency.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C885, the Pentagon, Washington, DC, 20330, telephone: (202) 697–9297.

Carol M. Rose

Air Force Federal Register Liaison Officer.

[FR Doc. 79-23631 Filed 7-31-79; 8:45 am]

BILLING CODE 3910-61-M

USAF Scientific Advisory Board; Meeting

July 26, 1979.

The USAF Scientific Advisory Board Logistics Cross-Matrix Panel will hold a Summer Seminar at the Armed Forces Staff College, Norfolk Naval Base, Virginia, during the period August 20 through 24, 1979. The meetings will convene at 8:00 a.m. and adjourn at 5:00 p.m. daily.

The Panel will receive briefings and hold classified discussions on the logistics problems perceived by the Air Force pertaining to logistics technology and long-range planning. The meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information, contact the Scientific Advisory Board Secretariat (202) 697–4811.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-23704 Filed 7-31-79; 8:45 am]

BILLING CODE 3910-61-M

DEPARTMENT OF THE ARMY

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) Considering Alternatives for Modification of the Summersville Lake Project, West Virginia

AGENCY: U.S. Army Corps of Engineers, DOD

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The alternatives, including the proposed action, to be considered and presented in a draft feasibility report (Survey Report) and DEIS are formulated to increase or improve water related services through modification of the existing Summersville Lake project.

2. The alternatives presently being considered as a part of the Summersville Lake modification studies are:

a. No action—continue to operate and maintain the existing project assuming that nominal changes will occur without a need for major modification of the project.

b. Modify the project with the additions of a hydro power station at the existing outlet works while maintaining essentially the same operational pattern. Add recreation facilities within the restraints of need and non-Federal participation.

c. Modify the project with the additions of a hydro power station at the existing outlet works with pool adjustments in the interest of recreation, fishing and power. Add recreation facilities within the restraints of need and non-Federal participation.

d. Modify the project with the addition of an outlet works and hydropower station three miles downstream of the existing outlet. A selective withdrawal intake will be considered. Essentially, the same operational patterns as present will be evaluated. Additional recreation facilities will be considered within the constraints of need and non-Federal participation.

e. Modify the project with the addition of an outlet works and a hydro power station three miles downstream of the existing outlet. A selective withdrawal intake will be considered. Pool adjustments will be considered in the interest of recreation, fishing and power. Additional recreation facilities will be considered within the constraints of need and non-Federal participation.

f. An alternative to hydropower development will be discussed which considers load managment and conservation as a response to future needs for electric power.

3. The range of alternatives and impacts considered in the draft survey report and DEIS are to be discussed at a public meeting in Summersville, West Virginia, on 14 August 1979. Following the development of the draft report and DEIS and distribution for public review, a final public meeting is scheduled for September 1980 to review the evaluation of the alternatives and the tentative selected plan. Additional public involvement activities will be held as the need develops during the study.

a. In addition to the Corps of Engineers, other agencies known to have an active interest in the studies are the U.S. Fish and Wildlife, the West Virginia Department of Natural Resources, the National Park Service, The Federal Energy Regulatory Commission, the Southeastern Power Administration, and the U.S. Environmental Protection Agency. Other affected Federal, State, and local agencies and other interested private organizations and parties are invited to provide suggestions, reviews and comments during the study process.

b. Issues to be considered in the DEIS include potential impacts associated with the following construction and/or project operational factors: (1) downstream flow fluctuations; (2) reservoir adjustments or changes; (3) recreation facility adjustments; (4) whitewater boating; (5) tailwater temperature adjustments; (6) aesthetics; (7) conservation of resources; (8) local socio-economic adjustments; and (9) regional energy considerations.

c. In addition to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA), the following environmental review and consultation requirements are applicable: (1) Clean Water Act; (2) Endangered Species Act of 1973; (3) Federal Water Projects Recreation Action Act; (4) Fish and

Wildlife Coordination Act; (5) Historic Sites Act of 1935; (6) National Historic Preservation Act of 1966; (7) Preservation of Historic and Archeological Data Act of 1974; (8) River and Harbor Act of 1899; (9) Wild and Scenic Rivers Act of 1968; (10) Executive Order 11514, Protection and Enhancement of Environmental Quality; (11) Executive Order 11593, Protection and Enhancement of the Cultural Environment; and (12) Advisory Council and Historic Preservation regulations on protection of historic and cultural properties.

4. The scoping process, which invites public and agency contributions, is to be discussed at a public meeting scheduled for 7:00 PM, 14 August 1979, at the Nicholas County High School, Summersville, West Virginia.

5. The DEIS is scheduled for distribution to the public in August 1980.

ADDRESS: Questions about the alternative for modification of the Summersville Lake project and the DEIS can be answered by Sutton Epps, Study Manager, Huntington District, Corps of Engineers, Huntington, West Virginia 25705, Telephone 304–529–5639.

Date 25 July 1979.

F. W. Wanner, Jr.,

LTC, Corps of Engineers, Acting District Engineer.

[FR Doc. 79-23705 Filed 7-31-79; 8:45 am]

BILLING CODE 3710-AC-M

DEPARTMENT OF DEFENSE

Department of the Army

Fort Eustis, Va.; Filing of Environmental Impact Statement

The Army, on July 27, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the ongoing missions at Fort Eustis, Virginia. The alternatives of maintaining, discontinuing, or changing missions at Fort Eustis are analyzed. Copies of the Statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost or reproduction from the Commander, U.S. Army Transportation Center and Fort Eustis, ATTN: Facilities Engineering Directorate, Fort Eustis, Virginia 23604.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone (202) 694–3434.

Dated: July 23, 1979.

Daniel R. Voss,

Acting Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 79-23729 Filed 7-31-79; 8:45 am]

BILLING CODE 3710-08-M

Fort McCoy, Wis.; Filing of Environmental Impact Statement

The Army, on July 27, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the ongoing missions at Fort McCoy, Wisconsin. The alternatives of maintaining, discontinuing, or changing missions at Fort McCoy are analyzed. Copies of the statements have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, Fort McCoy, ATTN: AFZR-FEE, Sparta, Wisconsin 54656, telephone (608) 388-3815.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone (202) 694-3434.

Bruce A. Hildebrand,

Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 79-23730 Filed 7-31-79; 8:45 am]

BILLING CODE 3710-08-M

Fort Belvoir, Va., Ongoing Missions; Filing of Environmental Impact Statement

The Army, on July 27, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the on-going missions at Fort Belvoir, Virginia. the alternatives of maintaining, discontinuing, or changing missions at Fort Belvoir are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, US Army Engineer Center and Fort Belvoir, ATTN: Directorate of Facilities Engineering, Fort Belvoir, VA 22060.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694–3434.

Bruce A. Hildebrand,

Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 79-23728 Filed 7-31-79; 8:45 am]

BILLING CODE 3710-08-M

Fort Lee, Va.; Filing of Environmental Impact Statement

The Army, on July 27, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the ongoing missions at Fort Lee, Virginia. The alternatives of maintaining, discontinuing, or changing missions at Fort Lee are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, US Army Quartermaster Center and Fort Lee, ATTN: Environmental Engineer, Fort Lee, VA 23801.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone (202) 694–3434.

Bruce A. Hildebrand,

Deputy for Environment, Safety, and Occupational Health OASA(IL&FM).

[FR Doc. 79-23731 Filed 7-31-79; 8:45 am]

BILLING CODE 3710-08-M

Ongoing Missions at Forts Richardson, Wainwright, and Greely, Alaska; Filing of Environmental Impact Statements

The Army, on July 27, 1979, provided the Environmental Protection Agency three separate but similar Draft Environmental Impact Statements (DEISs) for the on-going missions at Forts Richardson, Wainwright and Greely, Alaska. The alternatives of maintaining, discontinuing, or changing missions at each fort are analyzed. Copies of the statements have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, 172d Infantry Brigade (Alaska), ATTN: AFZT-FE-EQ, Fort Richardson, Alaska 99505.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694–3434.

Bruce A. Hildebrand,

Deputy for Environment, Safety, and Occupational Health OASA (IL&FM).

[FR Doc. 79-23732 Filed 7-31-79; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Major Rehabilitation of the North and South Jetties at the Nehalem River Entrance, Oregon.

AGENCY: U.S. Army Corps of Engineers (DoD).

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed project involves rebuilding the Nehalem jetties to their original dimensions authorized by the River and Harbor Act of 1912. The project consists of two high tide jetties 700 feet apart at the seaward end. The north jetty was completed in 1918 and is 3,850 feet long. The south jetty was completed in 1915 and is 4,950 feet long, the shoreward 2,385 feet having been constructed by the Port of Nehalem. The two jetties have degraded from a constructed elevation of +12 feet mean lower low water (MLLW) to an elevation of +5 to 6 feet above MLLW.

2. The alternative being actively evaluated is no action.

3. The scoping process will entail submission of a summary of the proposal to affected Federal, state, and local agencies and interested private organizations and parties to afford them the opportunity to comment on the significant issues which should be addressed in the DEIS. It is expected that among these issues will be impacts on aquatic life and land use generated by implementation of the proposal. Further agency and public input will be obtained during preparation of the DEIS and as part of the formal DEIS review process.

4. The DEIS is expected to be available to the public in November 1979.

5. Questions about the proposed action and DEIS can be answered by: District Engineer, U.S. Army Corps of Engineers, Portland District, Attn: NPPEN–PL–3, P.O. Box 2946, Portland, Oreg. 97308.

Dated: July 19, 1979.

J. C. Huetter,

Acting Chief, Engineering Division.

[FR Doc. 79-23706 Filed 7-31-79; 8:45 am]

BILLING CODE 3710-AR-M

DEPARTMENT OF ENERGY

[DOE/EIS-0014]

Mound Facility Miamisburg, Ohio; Availability of Final Environmental Impact Statement

Notice is hereby given that the U.S. Department of Energy (DOE) has issued a final environmental impact statement (EIS), DOE/EIS–0014, Mound Facility, Miamisburg, Ohio. The EIS was prepared pursuant to implementation of the National Environmental Policy Act of 1969 to support DOE's proposal to continue operation of the Mound Facility located in Miamisburg, Montgomery County, Ohio. The EIS assesses the environmental impact associated with current site activities and the continued operation of the Mound Facility in the processing of nuclear weapon components related to national defense. Alternatives evaluated in the EIS include: No change in current activities, completion of plant modifications currently underway, relocation, and termination of operations.

Copies of the EIS are available for public inspection at the following DOE locations:

DOE Public Document Room, Room GA–152, 1000 Independence Avenue, SW., Washington, DC.

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, New Mexico.

Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois.

Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.

Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.

Richland Operations Office, Federal Building, Richland, Washington.

San Francisco Operations Office, 1333 Broadway, Oakland, California.

Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Copies of the EIS have been furnished to those who commented on the draft statement that was issued by the Department of Energy in April 1978. Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the EIS are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, TN 37830 (615–483–8611) extension 34672. The EIS is also available from the National Technical Information Service, Springfield, VA 22161.

Dated at Washington, DC., this 13th day of July 1979.

For the United States Department of Energy.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 79-23680 Filed 7-31-79; 8:45 am]

BILLING CODE 6450-0-M

Economic Regulatory Administration

[ERA Docket No. 79-CERT-062]

Gulf States Utilities Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on July 10, 1979, Gulf States Utilities Corporation (Gulf States), 285 Liberty Street, P.O. Box 2951, Beaumont, Texas, 77704, filed an application for certification of an eligible use of natural gas to displace fuel oil at its Roy S. Nelson Generating Station, Westlake, Louisiana, pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126–A, 2000 M Street, N.W., Washington, D.C., 20461, from 8:30 a.m.—4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Gulf States states that the volume of natural gas for which it requests certification is approximately 40,000 Mcf per day and the eligible sellers are Louisiana Resources Company, One William Center, P.O. Box 3102, Tulsa, Oklahoma, 74101 and Louisiana Intrastate Gas Corporation, P.O. Box 1352, Alexandria, Louisiana, 71301. This natural gas will displace the use of approximately 6,452 barrels of No. 6 fuel oil (.7 percent sulfur) per day at Gulf States' Roy E. Nelson Generating Station and will be transported by United Gas Pipeline Company, 700 Milam Street, P.O. Box 1478, Houston, Texas, 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory

Administration, Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before August 13, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Gulf States and any persons filing comments, and published in the **Federal Register**.

Issued in Washington, D.C., on July 25, 1979.

Paul T. Burke,

Acting Deputy Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79–23744 Filed 7–31–79; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1287–8]

Data Collection Activities

The purpose of this notice is to identify certain data collection activities to be undertaken by the United States Environmental Protection Agency (EPA) during the next six month period (July 1, 1979 through December 31, 1979) for specific industrial point source categories. Prior notification of such data collection activities will alert affected industries that potential data collection instruments are forthcoming and thus enable them to fully participate in EPA's rulemaking activities.

Several data collection activities mentioned in this notice were contained in EPA's **Federal Register** notice of Data Collection Activities dated March 7, 1979. Data collection activities repeated in this **Federal Register** notice did not commence during the previous reporting period (January 1, 1979 through June 30, 1979).

The following list identifies the category and type of data (economic assessment, technical assessment and analytical sampling) to be collected under authority of Section 308 of the Clean Water Act of 1977, in developing effluent limitations guidelines under Sections 301, 304, 306, and 307 of the Act. Included for each industrial category is the name, organizational location and telephone number of the individual most familiar with the described data collection activity. These activities are subject to Office of Management and Budget (OMB) approval in accordance with OMB Clearance No. 158–R–0160 and are published twice yearly in the **Federal Register**. Notification is also a requirement for OMB concurrence under the Federal Reports Act (144 U.S.C. 3501 et seq.).

Dated: July 27, 1979.

Swep T. Daws,

Acting Assistant Administrator for Water and Waste Management.

Survey of coal mining industry (sampling and shipping of mine drainage)

Number of mines in sample: 15.

Estimated reporting hour burden: 150 man-hours per mine.

Point of contact: William Telliard, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460 (202) 426–2726.

Survey of coal mining industry (analysis of mine drainage).

Number of mines in sample: 15.

Estimated reporting hour burden: 50 man-hours per mine.

Point of contact: William Telliard, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460 (202) 426–2726.

Survey of nonferrous metals industry (analytical sampling).

Number of plants in sample: 35.

Estimated reporting hour burden: 20 man-hours per plant.

Point of contact: Patricia E. Williams, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460 (202) 426–2586

Survey of organic chemicals/plastics and synthetic material industry (analytical sampling).

Number of plants in sample: 573 plants total target population—list of product/processes covered in a separate **Federal Register** notice published Summer 1979. Total estimated to be approximately 500.

Estimated reporting hour burden: man-hours estimated as 1,688 per sampling for raw waste load determination or treatment technology survey.

Point of contact: Paul Fahrenthold, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460 (202) 426–2497.

Survey of paint and ink formulation industry (analytical sampling).

Number of plants in sample: 3 (verification sampling).

Estimated reporting hour burden: 2 man-hours per plant.

Point of contact: James R. Berlow, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460 (202) 426–2554.

Survey of pesticides industry: (analytical sampling).

Number of plants in sample: 15 plants for self-monitoring of priority pollutants for 30 days.

Estimated reporting hour burden: 1,200 man-hours per plant.

Point of contact: George M. Jett, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460 (202) 426–2497.

Survey of pulp, paper and paper board industry (analytical sampling).

Number of plants in sample: 20.

Estimated reporting hour burden: 72 man-hours per plant.

Point of contact: Robert W. Dellinger, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460 (202) 426–2497.

Survey of steam electric industry (analytical sampling).

Number of plants in sample: 10.

Estimated reporting hour burden: 20 man-hours per plant.

Point of contact: John W. Lum, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460 (202) 426–7770.

Survey of timber industry (analytical sampling).

Number of plants in sample:

Wood preserving—10
particleboard—3
wet process hardboard—2
log washing—3
insulation board—3
wet storage—10
barking—2
sawmills—2
veneer/plywood—5

Estimated reporting hour burden:

wood preserving—10 man-hours per plant
particleboard—10 man-hours per plant
wet process hardboard—10 per plant
log washing—10 man-hours per plant
insulation board—10 man-hours per plant
wet storage—10 man-hours per plant
barking—10 man-hours per plant
sawmills—10 man-hours per plant
veneer/plywood—10 man-hours per plant

Point of contact: Richard E. Williams, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460 (202) 426–2554.

Survey of adhesives and sealants industry (economic assessment).

Number of plants in sample: 500.

Estimated reporting hour burden: 40 man-hours per plant.

Point of contact: L. Jean Noroian, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Office of Analysis and Evaluation, (WH–586), 401 M Street, S.W., Washington, D.C. 20460 (202) 426–2617.

Survey of auto and other laundries industry (economic assessment).

Number of plants in sample: 1,000.

Estimated reporting hour burden: 24 man-hours per plant.

Point of contact: Emily Hartnell, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Office of Analysis and Evaluation, (WH–586), 401 M Street, S.W., Washington, D.C. 20460.

Survey of battery manufacturing industry (economic assessment).

Number of plants in sample: 100.

Estimated reporting hour burden: 16 man-hours per plant.

Point of contact: Emily Hartnell, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Office of Analysis and Evaluation, (WH–586), 401 M Street, S.W., Washington, D.C. 20460, (202) 755–2484.

Survey of copper forming industry (economic assessment).

Number of plants in sample: 60.

Estimated reporting hour burden: 40 man-hours per plant.

Point of contact: William Webster, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Office of Analysis and Evaluation, (WH–586), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2617.

Survey of electrical and electronic products industry (economic assessment).

Number of plants in sample: 400.

Estimated reporting hour burden: 40 man-hours per plant.

Point of contact: Louis Dupuis, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Office of Analysis and Evaluation, (WH–586), 401 M Street, S.W., Washington, D.C. 20460, (202) 755–7733.

Survey of electroplating industry (economic assessment).

Number of plants in sample: 400.

Estimated reporting hour burden: 40 man-hours per plant.

Point of contact: William Webster, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Office of Analysis and Evaluation, (WH–586), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2617

Survey of pharmaceuticals industry (economic assessment).

Number of plants in sample: 200.

Estimated reporting hour burden: 40 man-hours per plant.

Point of contact: L. Jean Noroian, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Office of Analysis and Evaluation, (WH–586), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2617.

Survey of soaps and detergents industry (economic assessment).

Number of plants in sample: 250.

Estimated reporting hour burden: 40 man-hours per plant.

Point of contact: L. Jean Noroian, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Office of Analysis and Evaluation, (WH–586), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2617.

Survey of nonferrous metals industry (technical assessment).

Number of plants in sample: 100.

Estimated reporting hour burden: 8 man-hours per plant.

Point of contact: Patricia E. Williams, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2586.

Survey of organic chemicals industry (technical assessment).

Number of plants in sample: 573 facilities (plants).

Estimated reporting hour burden: follow-up detailed survey of general questions asked in December, 1977 on treatment technology and process raw waste load. Load varies but 40 are estimated.

Point of contact: Paul Fahrenthold, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

Survey of pesticide formulators & packagers industry (technical assessment).

Number of plants in sample: 200 formulation facilities.

Estimated reporting hour burden: 20 man-hours per formulation facility.

Point of contact: George M. Jett, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

Survey of pesticide industry (technical assessment).

Number of plants in sample: 308 follow-up survey to 40 plants.

Estimated reporting hour burden: 40 man-hours per plant.

Point of contact: George M Jett, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

Survey of pharmaceutical industry (technical assessment).

Number of plants in sample: pharmaceutical manufacturing plants. (approximately 40 plants for long-term data and steam stripping).

Estimated reporting hour burden: 500 man-hours per plant.

Point of contact: Joseph S. Vitale, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

Survey of plastics and synthetic materials industry (technical assessment).

Number of plants in sample: organic chemical/plastics plants/synthetics plants 573.

Estimated reporting hour burden: Follow-up survey of general questions asked in December, 1977 survey. Treatment technology and process raw waste load data will be requested. Load varies but we estimate 40 man-hours per plant.

Point of contact: H. Wise, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

Survey of publicly owned treatment works (POTW's) which receive pesticide waste (technical assessment).

Number of plants in sample: 39 POTW's.

Estimated reporting hour burden: 20 man-hours per POTW.

Point of contact: George M. Jett, U.S. Environmental Protection Agency, Office of Water Planning and Standards,

Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

Survey of pulp, paper and paperboard industry (technical assessment).

Number of mills in sample: 100.

Estimated reporting hour burden: 40 man-hours per mill.

Point of contact: Robert W. Dellinger, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

Survey of pulp, paper and paperboard industry (technical assessment).

Number of mills in sample: 750.

Estimated reporting hour burden: 40 man-hours per mill.

Point of contact: Robert W. Dellinger, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

Survey of pulp, paper and paperboard industry (technical assessment).

Number of mills in sample: 9.

Estimated reporting hour burden: 24 man-hours per mill.

Point of contact: Robert W. Dellinger, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

Survey of pulp, paper and paperboard industry (technical assessment).

Number of mills in sample: 9.

Estimated reporting hour burden: 24 man-hours per mill.

Point of contact: Robert W. Dellinger, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

Survey of soap, detergents, and cleaning preparations, perfumes, cosmetics, and other toilet preparations (technical assessment).

Number of plants in sample: specialty cleaning and sanitation, surface active agents and toilet preparation manufacturing—1,000.

Estimated reporting hour burden: 15 man-hours per plant.

Point of contact: E. H. Forsht, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2582.

Survey of steam electric industry (technical assessment).

Number of plants in sample: 30.

Estimated reporting hour burden: 20 man-hours per plant.

Point of contact: John W. Lum, U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division, (WH–552), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2770.

[FR Doc. 79–23760 Filed 7–31–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1287–5]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held at 9:00 a.m. on August 28 and 29, 1979, at the Sheraton Crabtree Inn, Presidents' Rooms 1 and 2, U.S. Highway 70, Crabtree Valley Shopping Center, Raleigh, North Carolina 27612. The commercial telephone number is (919) 787–7111.

The tentative agenda for the meeting is as follows:

August 28 (Tuesday)

9 a.m.—Ammonium Sulfate Manufacturing Plants, New Source Performance Standards for Particulate Emissions.

1 p.m.—Perchlorlethylene Dry Cleaning Plants, New Source Performance Standards for Percholoroethylene Emissions.

August 29 (Wednesday)

9 a.m.—Perchloroethylene Dry Cleaning Plants (continued if necessary).

10 a.m.—Progress Reports on New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.

12:30 p.m.—Adjourn.

All meetings are open to the public. Anyone wishing to make a presentation should contact Mrs. Mary Jane Clark, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by August 24, 1979. The commercial telephone number is (919) 541–5271, and the FTS number is 629–5271.

Dockets containing material relevant to the ammonium sulfate manufacturing plants (Docket Number A–79–31) and percholoroethylene dry cleaning plants (Docket Number A–79–30) rulemaking are located in the U.S. Environmental Protection Agency Central Docket Section, Room 2903B, 401 M Street, S.W., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

Dated: July 27, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79–23759 Filed 7–31–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing Pursuant to Section 1.572(c) and 1.573(d) of the Commission's Rules

Adopted: July 23, 1979.

Released: July 27, 1979.

By the Chief, Broadcast Facilities Division:

Notice is hereby given pursuant to Sections 1.572(c) and 1.573(d) of the Commission's Rules, that on September 10, 1979, the TV and FM translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to Sections 1.227(b)(1) and 1.591(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 9, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on September 9, 1979.

Any party in interest desiring to file pleadings concerning any pending TV or FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.584(i) of the Rules, which specifies the time for filing and other requirements relating to such pleadings.

Federal Communications Commission

William J. Tricarico,

Secretary.

UHF TV Translator Applications

BPTT–790118IM (new) Onancock, Virginia, County of Accomack. Req: Channel 19, 500–506 MHz 1000 watts. Primary: WYAH–TV, Norfolk Portsmouth-Newport News, Virginia.

BPTT–790118IN (new) Onancock, Virginia, County of Accomack. Req: Channel 25, 536–542 MHz, 1000 watts. Primary: WHRO–TV, Norfolk Portsmouth-Newport News, Virginia.

BPTT–790118IO (new) Onancock, Virginia, County of Accomack. Req: Channel 41, 632–638 MHz, 1000 watts. Primary: WAVY–TV, Norfolk Portsmouth-Newport News, Virginia.

BPTT–790118IP (new) Onancock, Virginia, County of Accomack. Req: Channel 44, 650–656 MHz, 1000 watts. Primary: WTAR–TV, Norfolk Portsmouth-Newport News, Virginia.

BPTT–790118IQ (new) Onancock, Virginia, County of Accomack. Req: Channel 60, 746–752 MHz, 1000 watts. Primary: WVEC–TV, Norfolk Portsmouth-Newport News, Virginia.

BPTT–790201JP (new) Eau Claire, Wisconsin, Hubbard Broadcasting, Inc. Req: Channel 55, 716–722 MHz, 1000 watts. Primary: KSTP–TV, St. Paul, Minnesota.

BPTT–790214ID (new) Delta, Oak City & Lynndyl, Utah, Millard County TV. Req: Channel 68, 794–800 MHz, 100 watts. Primary: KBYU–TV, Provo, Utah.

BPTT–790215IU (new) Spooner, Wisconsin, Hubbard Broadcasting, Inc. Req: Channel 57, 728–734 MHz, 100 watts. Primary: KSTP–TV, St. Paul, Minnesota.

BPTT–790215IV (new) Rice Lake, Wisconsin, Hubbard Broadcasting, Inc. Req: Channel 59, 740–746 MHz, 100 watts. Primary: KSTP–TV, St. Paul, Minnesota.

BPTT–790215IW (new) Ladysmith, Wisconsin, Hubbard Broadcasting, Inc. Req: Channel 63, 764–770 MHz, 100 watts. Primary: KSTP–TV, St. Paul, Minnesota.

BPTT–790215IX (new) Wadena, Minnesota, Hubbard Broadcasting, Inc. Req: Channel 20, 506–512 MHz, 100 watts. Primary: KSTP–TV, St. Paul, Minnesota.

BPTT–790307IK (new) Alexandria, Minnesota, Hubbard Broadcasting, Inc. Req: Channel 24, 530–536 MHz, 1000 watts. Primary: KSTP–TV, St. Paul, Minnesota.

BPTT–790316IC (new) Fenton & Ringsted, Iowa, The Kiwanis Club of Ringsted, Iowa. Req: Channel 56, 722–728 MHz, 20 w. tts. Primary: WHO–TV, Des Moines, Iowa.

BPTT–790330IA (new) Big Timber & Rural Area East of Livingston, Montana, Park Non-Profit TV, Inc. Req: Channel 69, 800–806 MHz, 100 watts. Primary: KTVQ–TV, Billings, Montana.

BPTT–790402IC (new) Starbuck, and all of Pope County, Minnesota Starbuck Area Development Corporation Req: channel 68, 794–800 MHz, 100 watts. Primary: WIRT–TV, Hibbing, Minnesota.

BPTT–790410IA (new) Washington, D.C., Los Cerezos Television Company Req: Channel 56, 722–728 MHz, 1000 watts. Primary: KWEX–TV, San Antonio, Texas.

BPTT–790516IA (new) Livingston & Paradise Valley, Montana, Paradise Valley Television District. Req: Channel 55, 716–722 MHz, 100 watts. Primary: KXLF–TV, Butte, Montana.

BPTT–790516IB (new) Livingston & Paradise Valley, Montana Paradise Valley Television District. Req: Channel 60, 746–752 MHz, 100 watts. Primary: KTVQ–TV, Billings, Montana.

BPTT–790530IA (new) Dallas, Texas, Richard V. Menchach. Req: Channel 55, 716–722 MHz, 1000 watts. Primary: KWEX–TV, San Antonio, Texas.

BPTT–790530IB (new) Detroit, Michigan, Los Cerezos Television Company. Req: Channel 68, 794–800 MHz, 1000 watts. Primary: KWEX–TV, San Antonio, Texas.

VHF TV Translator Applications

BMPTTV–790129LK (K110I) Hudson & Surrounding Rural Area, Wyoming, Riverton-Fremont TV Club, Inc. Req: Change primary TV Station to KTWO–TV, Channel 2, Casper, Wyoming.

BPTTV–780831IK (K06E0) Huntsville, Liberty & Eden, Utah, Ogden Valley TV Repeater Association. Req: Change frequency to Channel 13, 210–216 MHz., increase output power to 10 watts.

BPTTV–790122IK (new) Russell Point Ranch Area, Montana, Russell Point TV. Req: Channel 9, 186–192 MHz, 1 watt. Primary: KTVQ–TV, Billings, Montana.

BPTTV–790129IL (K05FT) Riverton, Arapahoe & Rural Fremont County, Wyoming, Riverton-Fremont TV Club, Inc. Req: Change primary TV Station to KRMA–TV, Channel 6, Denver, Colorado.

BPTTV–790129LM (W10AP) Marion & West Marion, North, Carolina, Wometco Skyway Broadcasting Company. Req: Add Garden Creek & Providence North Carolina to present principal community, increase output power to 10 watts.

BPTTV–790129LJ (new) Rural Area South & West of Prairie City, Oregon, Prairie City Lions Club. Req: Channel 12, 204–210 MHz, 1 watt. Primary: KIVI–TV, Nampa, Idaho.

BPTTV–790130IP (new) Manley Hot Springs, Alaska, Manley Hot Springs Park Association, Incorporated. Req: Channel 6, 82–88 MHz, 1 watt. Primary: KUAC–TV, Fairbanks, Alaska.

BPTTV–790202JS (K05FG) McCall, Idaho, State Board Of Regents Of The University Of Idaho. Req: Add New Meadows, Idaho to present principal community, increase output power to 10 watts.

BPTTV–790213IC (W05AE) Sylva & Addie, North Carolina, Wometco Skyway Broadcasting Company. Req: Add Dillsboro & Cullowhee, North Carolina to present principal community.

BPTTV–790215IT (new) Ketchikan, Alaska, Rainbird Community Broadcasting, Corporation. Req: Channel 9, 186–192 MHz, 100 watts. Primary: KTOO–TV, KUAC–TV, KAKM–TV, KYUK–TV, Juneau, Fairbanks, Anchorage, & Bethel, Alaska.

BPTTV–790312IE (new) Blue Mountain Lake, New York, Blue Mountain Lake Association, Inc. Req: Channel 8, 180–186 MHz, 1 watt. Primary: WMHT–TV, Schenectady, New York.

BPTTV–790312IF (new) Blue Mountain Lake, New York, Blue Mountain Lake Association, Inc. Req: Channel 10, 192–198 MHz, 1 watt. Primary: WCDC–TV, Adams, Massachusetts.

BPTTV–790312IE (new) Blue Mountain Lake, New York, Blue Mountain Lake Association, Inc. Req: Channel 12, 204–210 MHz, 1 watt. Primary: WTVH–TV, Syracuse, New York.

BPTTV–790326IE (new) South Side Of Salmon & Williams Creek, Idaho, Salmon Television Translator District. Req: Channel 7, 174–180 MHz, 1 watt. Primary: KID–TV, Idaho Falls, Idaho.

BPTTV–790413ID (new) Cordova, Alaska, City Of Cordova. Req: Channel 9, 186–192 MHz, 10 watts. Primary: KTVA–TV, KENI–TV, KIMO–TV, KAKM–TV, Anchorage, Alaska, KTOO–TV, Juneau, Alaska.

BPTTV–790521IE (new) Lovell, Wyoming, Duhamel Broadcasting Enterprises. Req: Channel 7, 174–180 MHz, 10 watts. Primary: KSGW–TV, Sheridan, Wyoming.

BPTTV–790521IF (new) Greybull, Wyoming, Duhamel Broadcasting Enterprises. Req: Channel 9, 186–192 MHz, 10 watts. Primary: KSGW–TV, Sheridan, Wyoming.

FM Translator Applications

BPFT–781120IP (K288AC) Richfield & Monroe, Utah, Sevier County. Req: Change frequency to Channel 276–103.1 MHz., change primary Station to KSFI–FM, Channel 262, Salt Lake City, Utah.

BPFT–790201IL (new) Tahoe City, Kings Beach & Incline Village, California, Emerald Broadcasting, Co. Req: Channel 224, 92.7 MHz, 10 watts. Primary: KTHO–FM, South Lake Tahoe, California.

BPFT–790206IC (new) Itaca, New York, Crown Broadcasting Company, Inc. Req: Channel 299, 107.1 MHz, 1 watt. Primary: WNOZ–FM, Cortland, New York.

BPFT–790212IE (new) Rochester, Minnesota, Southern Minnesota Broadcasting, Co. Req: Channel 288, 105.5 MHz, 10 watts. Primary: KROC–FM, Rochester, Minnesota.

BPFT–790222IF (new) Center Point, Mountain Brook & Tarrant City, Alabama, Briarwood Continuing Presbyterian Church. Req: Channel 276, 103.1 MHz, 1 watt. Primary: WMBW–FM, Chattanooga, Tennessee.

BPFT–790222IG (new) Birmingham, Alabama, Briarwood Continuing Presbyterian Church. Req: Channel 276, 103.1 MHz, 1 watt. Primary: WMBW–FM, Chattanooga, Tennessee.

BPFT–790222IH (new) Homewood, Vestavia Hills & Cahaba Heights, Alabama, Briarwood Continuing Presbyterian Church. Req: Channel 205, 88.9 MHz, 1 watt. Primary: WMBW–FM, Chattanooga, Tennessee.

BPFT–790222IP (new) Morgan Hill, California, The Audio House, Inc. Req: Channel 249, 97.7 MHz, 1 watt. Primary: KOME–FM, San Jose, California.

BPFT–790316IB (new) Ely, Minnesota, Minnesota State Board For Community Colleges. Req: Channel 269, 101.7 MHz, 10 watts. Primary: WSCD–FM, Duluth, Minnesota.

BPFT–790320IC (new) Chester, Westwood & Canyon Dam, California, The Almanor TV Club, Inc. Req: Channel 257, 99.3 MHz, 10 watts. Primary: KSNR–FM, Red Bluff, California.

BPFT–790326IF (new) Roundup, Montana, Roundup TV Tax District. Req: Channel 285, 104.9 MHz, 1 watt. Primary: KTDX–FM, Billings, Montana.

BPFT–790326IG (new) Alturas & Termo, California, Northern California Communications Corporation. Req: Channel 269, 101.7 MHz, 10 watts. Primary: KVIP–FM, Redding, California.

BMPFT–790215IY (K296BE) Ukiah, Lakeport & Potter Valley, California Western Translators, Inc. Req: Change frequency to Channel 285–104.9 MHz., delete Lakeport and Potter Valley from principal community and add Hopland, to principal community.

[FR Doc. 79–23697 Filed 7–31–79; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 79-79]

Cummins Engine Co. v. U.S. Lines, Inc.; Notice of Filing of Complaint

Notice is given that a complaint filed by Cummins Engine Company against U.S. Lines, Inc. was served July 25, 1979. The complainant alleges that respondent has assessed rates for the carriage of diesel engine parts in excess of those listed in the proper tariff item in violation of section 18(a) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before January 25, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-23736 Filed 7-31-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-78]

Cummins Engine Co. v. Maersk Lines, Ltd.; Notice of Filing of Complaint

Notice is given that a complaint filed by Cummins Engine Company against Maersk Lines, Ltd. was served July 25, 1979. The complaint alleges that respondent has assessed rates for the carriage of diesel engine parts in excess of those listed in the proper tariff item in violation of section 18(a) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before January 25, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-23739 Filed 7-31-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-77]

Cummins Engine Co. v. Y. S. Line; Filing of Complaint

Notice is given that a complaint filed by Cummins Engine Company against Y. S. Line was served July 25, 1979. Complainant alleges that respondent has assessed rates for carriage of diesel engine parts in excess of those listed in the proper tariff item in violation of section 18(a) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before January 25, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-23692 Filed 7-31-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-75]

Interpool, Ltd., ITEL Corp. (Container Division), and Trans Ocean Leasing Corp. v. Pacific Westbound Conference and Far East Conference and Member Lines; Filing of Complaint

Notice is given that a complaint filed by Interpol Ltd., ITEL Corporation (Container Division) and Trans Ocean Leasing Corporation against the Pacific Westbound Conference and the Far East Conference and Member Lines was served July 24, 1979. Complainants allege that respondents have recently filed amendments to their respective tariffs, in violation of section 15 of the Shipping Act, 1916, the effect of which would be the elimination of the "neutral container system".

Hearing in this matter, if any is held, shall commence on or before January 24, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are geniuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-23691 Filed 7-31-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-76; Agreement No. 57-115]

Pacific Westbound Conference; Notice of Filing of Petition for Declaratory Order

Notice is given that a petition for declaratory order has been filed by Seatrain Pacific Services S.A. asking the Commission to remove uncertainty regarding the action of the Pacific Westbound Conference in adopting Agreement 57-115. Petitioner seeks an order determining that Agreement 57-115, modifying the exercise of the right of independent action, is a substantive modification of the conference agreement, requiring unanimous approval by the conference membership, in accordance with Article 20 of Agreement 57.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 11101 or may inspect the petition at the Commission's Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Participation in this proceeding by persons not named in the petition will be permitted only upon grant of intervention pursuant to Rule 72 of the Commission's Rules of Practice (46 CFR 502.72).

Petitions to intervene shall be accompanied by intervenors' complete reply in the matter. Such petitions and any replies to the petition for declaratory order shall be filed with the Secretary on or before August 17, 1979. An original and fifteen copies shall be submitted and a copy served on all parties. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition for declaratory order.

Francis C. Hurney,

Secretary.

[FR Doc. 79-23737 Filed 7-31-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and request for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 24, 1979.

A. *Federal Reserve Bank of Chicago,* 230 South LaSalle Street, Chicago, Illinois 60690:

Hickory Bancorp., Inc., Hickory Hills, Ilinois (insurance activities; Illinois) to engage, through its subsidiary, Hickory Insurance Agency, Inc., in acting as agent or broker for the sale of life insurance and health and accident insurance directly related to extensions of credit made by its subsidiary bank; and acting as broker by placing insurance for its subsidiary bank. These activities would be conducted from an office in Hickory Hills, Illinois, serving Cook, DuPage, and Will Counties, Illinois.

B. *Federal Reserve Bank of Kansas City,* 925 Grand Avenue, Kansas City, Missouri 64198:

1. Kansas State Bancshares, Inc., Manhattan, Kansas (modular/manufactured home financing; Kansas, Nebraska, Missouri): To engage in making mortagages on modular homes and the real property underlying such homes. These activities would be conducted from Applicant's office in Manhattan, Kansas, serving Kansas and those parts of Nebraska, and Missouri within 100 miles of Manhattan, Kansas.

2. Bankshares of Nebraska, Inc., Grand Island, Nebraska (insurance activities; Nebraska): To engage, as agent, in the sale of credit life, builders risk, homeowners, performance and completion bond, fire, building and equipment, crop, and collision, comprehensive and liability insurance directly related to extensions of credit by its subsidiary banks; and in the sale of insurance on properties managed by it subsidiaries and the trust department of Applicant's subsidiary, First National Bank of Grand Island, Grand Island, Nebraska. These activities would be conducted from offices in Grand Island and Hastings, Nebraska, serving the counties of Hall, Adams, Howard, Merrick, Hamilton, Clay, Nuckalls, Webster, Franklin, Kerney, Buffalo, and Sherman.

3. Liberty National Corporation, Oklahoma City, Oklahoma (insurance activities; Oklahoma): To engage, through its indirectly owned subsidiary, Mid-American Insurance Agency, Inc., in the activity of acting as insurance agent for the sale of credit life, credit acccident and health insurance, directly related to extensions of credit by Applicant's subsidiaries. These activities would be conducted from the offices of Applicant's subsidiaries in Oklahoma City, Lawton, Tulsa, Broken Arrow, Edmond, and Sand Springs, Oklahoma, serving Lawton, Tulsa, Broken Arrow, Edmond and Sand Springs, Oklahoma and their surrounding areas and the Oklahoma City metropolitan area.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 25, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23674 Filed 7-31-79; 8:45 am]

BILLING CODE 6210-01-M

Melrose Bancshares, Inc.; Formation of Bank Holding Company

Melrose Bancshares, Inc., Melrose, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of Melrose State Bank, Melrose, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 25, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23673 Filed 7-31-79; 8:45 am]

BILLING CODE 6210-01-M

Tennessee National Bancshares, Inc.; Proposed Acquisition of Southeastern Life Insurance Co.

Tennessee National Bancshares, Inc., Maryville, Tennessee, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Southeastern Life Insurance Company, Phoenix, Arizona.

Applicant states that the proposed subsidiary would engage in the activities of underwriting, as reinsurer, credit life and credit accident and health insurance coverages in connection with extensions of credit made by Applicant's banking subsidiaries in accordance with the Board's Regulation Y. These activities would be performed from offices of Applicant's subsidiary in Maryville, Greenback, McMinnville, and Woodbury, Tennessee, and the geographic areas to be served are Blount, Loudoun, Warren, and Cannon Counties in Tennessee. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to

Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 24, 1979.

Board of Governors of the Federal Reserve System, July 25, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23675 Filed 7-31-79; 8:45 am]

BILLING CODE 6210-01-M

Victoria Bankshares, Inc.; Acquisition of Bank

Victoria Bankshares, Inc., Victoria, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of The First State Bank of Taft, Taft, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 25, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23672 Filed 7-31-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Hans J. Klaussner is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of Stuart Furniture Industries, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Deparment of Justice in response to requests for early termination submitted by both parties to the transaction. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-23693 Filed 7-31-79; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Regional Public Advisory Panel on Architectural and Engineering Services; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, National Capital Region, on August 16, 1979, from 9:30 a.m., to 4:30 p.m., in Room 2636 of the GSA Regional Office Building, Seventh and D Streets, SW., Washington, D.C. The meeting will be devoted to the initial stage of the process for screening and evaluating prospective architect-engineer firms to furnish professional services required in connection with development of Design Services for Conversion of Reserve & Unfinished Space into Three Judges Chambers, Three U.S. District Courtrooms & Anciliary Space in the Garmatz Building at 100 S. Hanover Street, Baltimore, Maryland (GS–03B–88483/99581). The meeting will be open to the public.

Robert J. DiLuchio,

Acting Regional Administrator.

[FR Doc. 79-23829 Filed 7-31-79; 8:45 am]

BILLING CODE 6820-23-M

Office of the Federal Register

National Fire Codes; Request for Comments on NFPA Technical Committee Reports

AGENCY: Office of the Federal Register.

ACTION: Request for comments.

SUMMARY: The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At the NFPA's fall meeting in November, or at the annual meeting in May, the NFPA acts on recommendations made by its technical committees.

The Office of the Federal Register, as a public service, requests comments on the technical reports which will be presented at the May, 1980, annual NFPA meeting.

DATES: Technical committee reports will be available for distribution to the public the week of August 6, 1979.

Comments must be submitted on or before October 5, 1979.

ADDRESS: 1980 Technical Committee Reports are available from NFPA, Publications Department, 470 Atlantic Avenue, Boston, Massachusetts 02210. (no charge for single copies.)

Comments on the reports should be submitted to the Assistant Vice President—Standards, NFPA, 470 Atlantic Avenue, Boston, Massachusetts 02210.

FOR FURTHER INFORMATION CONTACT: Susan Schruth (202) 523–4534.

SUPPLEMENTARY INFORMATION:

Background

Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal agencies as the basis for Federal regulations concerning fire safety. The NFPA standards are known collectively as the National Fire Code. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552 (a) and 1 CFR Part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May of each year. The NFPA invites public comment on its Technical Committee Reports.

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to the Assistant Vice President for Standards. Commentors may use the forms provided for comments in the Technical Committee Reports. Each person submitting a comment should include his or her name and address, identify this notice, and give reasons for any recommendations. Comments received on or before the October 5 deadline will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the Technical Committee Documentation by March 10, 1980, before the Annual Meeting. A copy of the Technical Committee Documentation will be sent automatically to each commentor. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Annual Meeting, May 19–22, 1980, at the John B. Hynes Auditorium and the Sheraton-Boston Hotel, Boston, Massachusetts by NFPA members who are members of record 30 (thirty) days before that meeting.

Copies of the Technical Committee Reports and Technical Committee Documentation, when published, will also be available for review at the Office of the Federal Register, Room 8401, 1100 L Street N.W. Washington, DC.

Dated: July 26, 1979.

Ernest J. Galdi,

Acting Director, Office of the Federal Register.

STANDARDS: Action at the NFPA Annual Meeting in May 1980 is being proposed on the NFPA standards listed below:

No.	Title	Action proposed
17	Dry Chemical Extinguishing Systems	O-P
20	Centrifugal Fire Pumps	O-P
65	Processing and Finishing Aluminum	O-C
70B	Electrical Equipment Maintenance	O-P
74	Household Fire Warning Equipment	O-P
76B	Safe Use of Electricity in Patient Care Areas of Health Care Facilities	N-O
78	Lightning Protection Code	O-C
79	Metalworking Machine Tools and Plastics Processing Machinery	O-P
85E	Furnace Explosions, Pulverized Coal-Fired	O-P
85G	Furnace Implosions, Multiple Burner	O-P
87	Piers and Wharves	O-P
90B	Warm Air Heating and Air Conditioning Systems	O-P
172	Standard Fire Protection Symbols for Architectural and Engineering Drawings	N-O
174	Standard Fire Protection Symbols for Risk Analysis Diagrams	N-O
232AM	Archives and Record Centers	R
302	Motor Craft	O-C
306	Gas Hazards on Vessels to be Repaired	O-C
407	Aircraft Fuel Servicing	O-P
410	Aircraft Systems Maintenance Operations (combining existing 410A, 410B, 410C, 410D, 410E, and 410F)	O-C
651	Aluminum or Magnesium Powder	O-P
910	Library Collections	O-P
911	Museum Collections	R

Types of Action

Proposed Action on Official Documents
- O-P Partial Amendments
- O-C Complete Revision
- O-T Tentative Revision

Proposed Action on New Documents
- N-T Tentative Adoption
- N-O Official Adoption

Proposed Action on Tentative Documents
- T-P Partial Amendments
- T-C Complete Revision
- T-O Official Adoption

Other Proposed Action
- R Reconfirmation
- W Withdrawal

[FR Doc. 79-23689 Filed 7-31-79; 8:45 am]

BILLING CODE 6820-27-M

National Fire Codes; Request for Proposals for Revisions of Standards

AGENCY: Office of the Federal Register.

ACTION: Request for Proposals.

SUMMARY: The National Fire Protection Association (NFPA) proposes to revise some of its fire safety standards. The Office of the Federal Register, as a public service, requests proposals from the public to amend existing NFPA fire safety standards. The purpose of this request is to increase public participation in the system used by the NFPA to develop its standards.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESS: Assistant Vice President for Standards, NFPA, 470 Atlantic Avenue, Boston, Massachusetts 02210.

FOR FURTHER INFORMATION CONTACT: Susan Schruth (202) 523–4534.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops fire safety standards which are known collectively as the National Fire Codes. Federal agencies frequently use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register (OFR) approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Request for Proposal

Interested persons may submit amendments, supported by written data, views, or arguments to the Assistant Vice President for Standards, NFPA, 470 Atlantic Avenue, Boston, Mass. 02210. Each person who submits a proposal must include his or her name and address, must identify the notice, and must give reasons for the proposal. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

The NFPA will publish a copy of each written proposal that it receives and the disposition of each proposal by the NFPA Committee as the Technical Committee Report. The NFPA will send a copy of the Technical Committee Report to each person who submits a proposal.

The NFPA will make copies of the Technical Committee Report available for review at the Office of the Federal Register, 1100 L Street N.W., Room 8401, Washington, DC.

Dated: July 26, 1979.

Ernest J. Galdi,

Acting Director, Office of the Federal Register.

Standards.—The NFPA requests proposals from the public to amend the following standards:

Committee	Title	Proposal closing date
Aviation	NFPA 406M–1975, Aircraft Rescue and Fire Fighting Techniques	Open.
	NFPA 408–1973, Aircraft Hand Fire Extinguishers	Open.
	NFPA 412–1974, Foam Fire Fighting Equipment on Aircraft Rescue and Fire Fighting Vehicles.	Open.
	NFPA 419–1975, Airport Water Supply Systems	Open.
Blower systems	NFPA 91, Installation of Blower and Exhaust Systems for Dust, Stock and Vapor Removal for Conveying.	Nov. 1, 1979.
Boiler-furnace explosions	NFPA 85F–1978, Pulverized Fuel Systems	Dec. 31, 1979.
Chomicals and explosives	NFPA 43B, Storage of Organic Peroxide	Nov. 1, 1979.
	NFPA 44A, Manufacture, Transportation and Storage of Fireworks	Open.
	NFPA 49, Hazardous Chemicals Data	Nov. 1, 1979.
	NFPA 491M, Hazardous Chemical Reactions	Nov. 1, 1979.
Combustible metals	NFPA 48, Storage, Handling and Processing of Magnesium	Nov. 1, 1979.
	NFPA 481, Production, Processing, Handling and Storage of Titanium	Nov. 1, 1979.
	NFPA 482M, Zirconium	Nov. 1, 1979.
Dust explosion hazards	NFPA 61A, Manufacturing and Handling Starch	Nov. 1, 1979.
	NFPA 61C, Prevention of Fire and Dust Explosions in Feed Mills	Nov. 1, 1979.
	NFPA 61D, Prevention of Fire and Dust Explosions in the Milling of Agricultural Commodities for Human Consumption.	Nov. 1, 1979.
	NFPA 63, Prevention of Dust Explosions in Industrial Plants	Nov. 1, 1979.
	NFPA 66, Pneumatic Conveying Systems for Handling Feed, Flour, Grain and Other Agricultural Dusts.	Nov. 1, 1979.
	NFPA 654, Prevention of Dust Explosions in the Plastic Industry	Nov. 1, 1979.
	NFPA 655, Prevention of Sulfur Fire and Explosions	Nov. 1, 1979.
	NFPA 69, Explosion Prevention Systems	Open.
Fire department equipment	NFPA 1904, Maintenance, Care, Testing and Use of Fire Department Aerial Ladders and Elevating Platforms.	Aug. 15, 1979.
	NFPA 1921, Specifications for Fire Department Portable Pumping Units	Aug. 15, 1979.
Fire service professional standards development for fire fighter qualifications.	NFPA 1001–1974, Fire Fighter Professional Qualifications	Sept. 4, 1979.
Fire service training	NFPA 1450M, Proposed Manual for the Planning of Fire Department Training Facilities.	June 30, 1980.
	NFPA 1451M, Proposed Guide for Emergency Vehicle Operator Training Programs.	June 30, 1980.
	NFPA 1452M, Proposed Guide for Training of Fire Department Personnel to Inspect Dwellings.	Dec. 31, 1979.
Firesafety symbols	NFPA 170, Proposed Symbol for Fire Fighting Operations	Aug. 20, 1979.
General storage	NFPA 231E, Proposed Standard on Storage of Baled Cotton	Dec. 31, 1979.
Health care facilities	NFPA 56B, Respiratory Therapy	Open.
Loss prevention procedures and practices.	NFPA 27–1975, Private Fire Brigades	Dec. 31, 1979.
	NFPA 601–1975, Guard Service in Fire Loss Prevention	Dec. 31, 1979.
	NFPA 601A–1975, Guard Operations in Fire Loss Prevention	Dec. 31, 1979.
Ovens and furnaces	NFPA 86A–1977, Ovens and Furnaces—Design, Location and Equipment	Dec. 31, 1979.
	NFPA 86B–1974, Industrial Furnaces—Design, Location and Equipment	Dec. 31, 1979.
Pest control operations	NFPA 57, Fumigation	Open.
Private water supply piping systems.	NFPA 24–1977, Outside Protection	Dec. 31, 1979.
	NFPA 291–1977, Marking of Hydrants	Dec. 31, 1979.
Pyrotechnics	NFPA 1121L, Model State Fireworks Law	Nov. 1, 1979.
	NFPA 1122L, Unmanned Rockets	Nov. 1, 1979.
Rack storage of materials	NFPA 231C–1975, Rack Storage of Materials	Aug. 20, 1979.
Standpipes	NFPA 14, Installation of Standpipe and Hose Systems	Open.
Suburban and rural fire departments.	NFPA 1231–1975, Water Supplies for Suburban and Rural Fire Fighting	Open.

[FR Doc. 79-23868 Filed 7-31-79; 8:45 am]

BILLING CODE 6820-27-M

Public Buildings Service

[GSA Order ADM 1095.2]

Consideration of Flood Plains and Wetlands in Decisionmaking GSA Procedures Regarding Floodplains and Wetlands

AGENCY: General Services Administration.

ACTION: Final internal procedure.

SUMMARY: This notice announces that GSA is publishing final internal procedures to be followed in implementing Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. This notice is intended to inform the public of the actions that will be taken within GSA to minimize the impact of floods on human safety, health, and welfare; to minimize the destruction, loss or degradation of wetlands; and to preserve and enhance the natural beneficial value of floodplains and wetlands.

EFFECTIVE DATE: August 1, 1979;

FOR FURTHER INFORMATION CONTACT: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, Office of Space Management, Public Buildings Service, General Services Administration, Washington, DC 20405 (202–566–1416.

SUPPLEMENTARY INFORMATION: On May 24, 1978, GSA published a notice of a proposed internal procedure to implement Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. GSA received comments from the Council on Environmental Quality, the U.S. Water Resources Council, the Federal Insurance Administration, the Department of the Interior, and the National Resources Defense Council. Most of the comments received were adopted and the order and attachments have been changed to reflect those suggestions. The recommended changes that were not adopted in the issuance are either (1) included in other GSA publications; (2) do not apply to any of the GSA program missions (3) considered to be duplicative of other actions currently required; or (4) considered beyond the scope of the order which implements overall agency policy.

Dated: July 3, 1979.

R. G. Freeman III,

Administrator of General Services.

July 23, 1979.

GSA Order

Consideration of Flood Plains and Wetlands in Decisionmaking

1. *Purpose.* This order prescribes the uniform procedures to be followed in implementing the laws and Executive orders concerning all GSA actions that affect flood plains and wetlands, consistent with the basic statutory responsibilities governing GSA program operations. This order also provides a basis for publication or revision, as required, of service and staff office orders and instructions which are directed toward GSA actions that may affect flood plains and wetlands.

2. *Background.* a. The laws, Executive orders, and programs which are the basis for this order include the National Environmental Policy Act (42 U.S.C. 4321, et seq.), hereinafter referred to as NEPA; the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001, et seq.); the Flood Disaster Protection Act of 1973 (Pub. L. 93–235, 87 Stat. 975); Executive Order 11988, of May 24, 1977, entitled "Floodplain Management," hereinafter referred to as the Flood Plains Order; the Guidelines issued by the Water Resources Council for implementing Executive Order 11988, published in the **Federal Register** on February 10, 1978, 43 FR 6030; Executive Order 11990, of May 24, 1977, entitled "Protection of Wetlands," hereinafter referred to as the Wetlands Order; and the Unified National Program for Flood Plain Management, U.S. Water Resources Council Publication, 1976.

b. The Flood Plains and Wetlands Orders direct that each agency shall provide leadership and shall take action to:

(1) Minimize the impact of floods on human safety, health, and welfare;

(2) Minimize the destruction, loss, or degradation of wetlands;

(3) Preserve and restore the natural and beneficial values of flood plains and wetlands;

(4) Reduce the risk of flood loss;

(5) Develop a procedure to involve the public in the flood plain management and wetland protection decisionmaking process; and

(6) Incorporate the Unified National Program for Flood Plain Management into agency programs.

c. The Flood Plains and Wetlands Orders were issued to ensure that the agencies clearly recognize that flood plains and wetlands have unique and significant public values which warrant especially careful management. They are intended to prevent to the extent possible the long- and short-term adverse impacts associated with the occupancy, destruction, or modification of flood plains and wetlands and to avoid direct or indirect support of flood plain development and new construction in wetlands wherever there is a practicable alternative.

d. The more detailed requirements of the Flood Plains Order apply to actions which impact upon both flood plains and wetlands.

3. *Responsibilities.* a. The Head of the Service or Staff Office or Regional Administrator under whose jurisdiction the action is being planned, hereinafter referred to as the responsible official, is responsible for the implementation of this order, except as provided in b, below.

b. The responsible official shall take no action in or affecting flood plains or wetlands unless the Administrator has determined that it is the only practicable alternative.

c. The Commissioner of the Public Buildings Service, who acts for the Administrator on environmental matters, shall review and monitor GSA's programs and actions which may affect flood plains and wetlands.

4. *Applicability.* a. This order applies to the following GSA program actions which may involve flood plains and wetlands. This list is not intended to be all inclusive:

(1) Real property acquisition through Federal construction, purchase, or lease,

(2) Public buildings design and construction,

(3) Public buildings alteration,

(4) Public buildings operation,

(5) National strategic and critical materials stockpile management and operation, and

(6) Disposal of any interest in surplus real property to non-Federal public or private parties.

b. If a Federal agency requests conveyance of a property containing a flood plain or wetland, that agency is responsible for compliance with the Flood Plains and Wetlands Orders.

c. Examples of GSA actions which may be critical actions include:

(1) National strategic and critical materials storage,

(2) Irreplaceable records storage, and

(3) Acquisition of health facilities for client agencies.

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Chapter I. Definitions

1. *Action.* An "action" is any GSA activity which involves: Acquiring, managing, and disposing of Federal lands and public buildings; providing federally undertaken, financed, or assisted construction and improvements; and conducting Federal activities and programs affecting land use. Subpar. 4a of the transmittal order includes a list of GSA program actions.

2. *Base flood.* A "base flood" is the flood which has a 1-percent chance of occuring in any given year, the so-called 100-year flood.

3. *Base flood plains.* "Base flood plains" are those areas which have a 1-percent or greater chance of flooding in any given year, the so-called 100-year flood plains.

4. *Critical actions.* "Critical actions" are those actions which should not be exposed to even a slight chance of flooding. For example, storage of irreplaceable records; storage of volatile, toxic, or water-reactive materials; construction of hospitals and schools, the occupants of which may not be sufficiently mobile to avoid loss of life and injury; and construction of utilities and emergency services which would be inoperative if flooded.

5. *Critical action flood plains.* "Critical action flood plains" are those areas which have a 0.2-percent chance of flooding in any given year, the so-called 500-year flood plains.

6. *Direct impacts. "Direct impacts"* are those impacts caused by the action which occur at the same time and place as the action.

7. *Flood plains.* "Flood plains" are the lowland and relatively flat areas adjoining inland and coastal waters including tsunami ans seiche inundation zones and flood-prone areas of offshore islands, and, at a minimum, areas subject to a 2 percent or greater chance of flooding in any given year. Flood plains may be, but are not necessarily, wetlands.

8. *Indirect impacts.* "Indirect impacts" are those impacts which support an action or which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.

9. *Minimize.* "Minimize" means to reduce to the smallest practicable amount or degree.

10. *Practicable alternatives.* "Practicable alternatives" are those which:

(a) Meet justified program requirements,

(b) Are within the legal authority of GSA or its client agency,

(c) Meet technological standards,

(d) Are demonstrated as being cost effective, and

(e) Do not result in unreasonable adverse environmental impacts.

11. *Preserve.* "Preserve" means to prevent modification to the natural environment or to maintain it as closely as possible to its natural state.

12. *Public building.* "Public building" means a Federal office building, post office, customhouse, courthouse, appraisers store, border inspection facility, warehouse, record center, relocation facility, and any other similar Federal facility which the President designates. The complete definition of "public building" located at Sec. 13(1) of

the Public Buildings Act of 1959, 40 U.S.C. 612(1).

13. *Restore.* "Restore" means to return to a condition which as closely as possible resembles the condition which existed prior to disturbance by man.

14. *Wetlands.* "Wetlands" are those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances do or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally staturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river outflows, and mud flats, and natural ponds. Most wetlands are in flood plains. Only those werlands which are maintained by a high water table where surface water would not be present in the event of a base flood are not also considered flood plains.

Chapter 2. Implementing the Flood Plains and Wetlands Orders

1. *Meeting goals.*

a. The goals of the Flood Plains and Wetlands Orders shall be met by the following:

(1) GSA shall take advantage of all opportunities to provide leadership in the letter and spirit of the Flood Plains and Wetlands Orders.

(2) When an action affecting a flood plain or wetland is proposed, it shall be taken only if the following conditions are met:

(a) There is no practicable alternative outside the flood plain or wetland,

(b) The no action alternative is not practicable, and

(c) The flood plain or wetland site has been determined practicable.

(3) Land use plans (master plans) shall be formulated to avoid adverse impacts to flood plains and wetlands.

(4) The GSA acquisition and site selection processes shall preclude the acquisition of public buildings through Federal construction, purchase, or lease within:

(a) Base flood plains and wetlands,

(b) Areas in which the action would adversely impact or indirectly support development of the base flood plain or wetland, and

(c) Critical action flood plains, if the proposed use is considered a critical action.

(5) GSA shall not acquire, by purchase or lease, space or buildings within areas listed in (4) (a) thru (c), above.

(6) The alteration of public buildings, except normal maintenance and repair, shall be discouraged within base flood plains and wetlands if the action would:

(a) Enlarge the public building,

(b) Modify the use of the public building,

(c) Significantly increase the useful life of the public building,

(d) Increase or change the environmental impacts on natural or human resources, or

(e) Repair major damage from flooding.

(7) When it is proposed to dispose of any interest in surplus real property located in a flood plain or wetland to non-Federal public or private parties, the advertisement and conveyance documents shall reference those uses that are restricted under identified Federal, State, and local regulations and shall attach other appropriate property use restrictions, except where prohibited by law, or withhold the properties from conveyance.

(8) If public buildings or other GSA properties have suffered flood damage or are located in a flood hazard area, conspicuous signs shall show past or probable flood heights to enhance public awareness of and knowledge about flood hazards.

(9) When there is no practicable alternative to taking an action in a flood plain or wetland all practicable means shall be used to minimize the adverse impacts.

(10) When a wetland is located in a flood plain the more detailed requirements of the Flood Plains Order shall be applied.

b. Exceptions to (3), (4), (5) and (6), above, are permissable when the Administrator has determined, by utilizing the decisionmaking process in par. 2, that no practicable alternative exists.

2. *The decisionmaking process.* The decisionmaking process for those GSA activities listed in subpar. 4a of the transmittal order will in many instances be incorporated into the agency's compliance with NEPA and shall include the following steps.

a. *Determination.* In the early stages of planning an action, the responsible official shall determine if the action will involve the disposal of a property in a base flood plain or wetland or if it could involve the use of a property in a base flood plain or wetland.

(1) A determination regarding flood plains shall be made by inspecting Department of Housing and Urban Development flood plain maps of the property or by referring to a more detailed source, if available. This process and sources of flood plain information and technical assistance services are described in part II, step 1 of the Water Resources Council Guidelines.

(2) A determination regarding wetlands should be made by inspecting the property and by applying the definition in ch. 1–14. However, if a determination cannot be made on the basis of the definition and inspection, the information shall be requested from the Fish and Wildlife Service of the Department of the Interior. Other sources include the Corps of Engineers, the Environmental Protection Agency, and local planning and zoning agencies.

(3) When a determination is made that the action will not involve the use or disposal of a base flood plain or wetland, the responsible official shall determine if the proposed action will have any indirect impact by performing the analysis in d, below.

b. *Early public review.* As soon as it is known that the proposed action may involve property in a base flood plain or wetland, the proposed action shall undergo early public review to allow interested parties the opportunity to offer their views.

(1) Distribution of notices for early public review shall occur:

(a) Immediately after determining the property surplus,

(b) As soon as possible after the establishment of a delineated area which does not specifically exclude base flood plains and wetlands as acceptable sites, or

(c) As soon as possible after it becomes apparent that any GSA action may involve the use of or have an impact upon a base flood plain or wetland.

(2) The responsible official shall provide those individuals and groups who normally receive Environmental Impact Statements (EIS's) and those groups having specific interest in flood plain and wetland managment a description of the property, plan, or proposal and (for flood plains only) as much of the material that has been developed to date to satsify the A–95 clearinghouse review requirements of the Flood Plains Order.

(3) Public hearings may be held when the responsible official determines that public hearings are the best method of notifying the public about the proposed action. A decision to hold a public hearing shall be based on the significance of the impact of the action on the base flood plain or wetland and the degree of interest the public has expressed or would express if it were aware of the action. If public hearings are held under the EIS process on the proposed action, these hearings will meet the requirement for hearings under he Flood Plains Order.

(4) Actions which are classified for security purposes may be excluded from the public review process.

c. *Alternatives.* If the proposed action could be in a base flood plain or wetland or could affect base flood plain or wetland, the responsible offical shall determine if there are any practicable alternatives. An alternative shall be considered practicable if all elements of the definition in ch. 1–10 are met.

(1) The following alternatives shall be considered:

(a) Carrying out the proposed action at a location outside the base flood plain or wetland (alternative sites),

(b) Using other means which accomplish the purpose of the proposed action (alternative actions), and

(c) Taking no action.

(2) The elements of the definition of practicable shall not be used as overly restrictive criteria to prevent the selection of an alternative which does not adversely affect the flood plain or the wetland, because that use would defeat the purpose of the Flood Plains and Wetlands Orders.

d. *Impacts.*

(1) The impacts of each alternative, the hazards involved with each alternative, and available mitigating measures shall be identified and analyzed in comparative form. Part II, step 4 of the Water Resources Council Guidelines shall be referred to as a guide for impact analysis.

(2) The responsible official shall consider economic, environmental, and other pertinent factors when evaluating the impacts of the alternatives. The NEPA implementation processes are the principal means of identifying impacts. The three basic types of impacts which must be assessed are:

(a) Positive and negative,

(b) Concentrated and dispersed, and

(c) Short- and long-term.

(3) The responsible official may assume that he has complied with this order if the proposed action is not located in a base flood plain or wetland and the impact analysis concludes that the action will have neither direct nor indirect impact on the base flood plain or wetland.

e. *Decision.* A decision on an action which could be located in or which may have an impact upon a base flood plain or a wetland shall not be made until the environmental assessment, final EIS, or other impact analyses and alternative studies have been completed. If the responsible officials selects the alternative which is located in or which may have an impact upon a base flood plain or a wetland, he or she shall request that the Administrator approve the proposed course of action. The Administrator shall approve the proposed course of action only if:

(1) There is no practicable alternative outside the flood plain or wetland,

(2) The no action alternative is not practicable, and

(3) The flood plain or wetland site has been determined practicable, or

(4) The requirements of subpar. 1a(7) are followed for real property disposal actions.

f. *Minimize impacts.* The processes in (1) thru (5), below, shall be used to minimize impacts from actions undertaken in flood plains and wetlands.

(1) If the action is the subject of an environmental assessment or an EIS, all practicable mitigating measures identified in the assessment or EIS shall be adopted.

(2) If the action is to be undertaken in a base flood plain, it must at a minimum meet the standards and criteria, and be consistent with the intent of, the National Flood Insurance Program (24 CFR 1909). It may deviate from this only if the standards are demonstrably inappropriate. This means that actions will be designed and carried out as they would be to meet at a minimum the substantive requirements for eligibility under the National Flood Insurance Program even though GSA actions are not insured under this program.

(3) All practicable means shall be taken to "floodproof" structures and to design or modify structures and/or actions to minimize potential harm to or within the flood plain. Elevation of a structure above the base flood level or the 500-year level for critical actions shall be taken whenever practicable instead of filling in land. This shall be accomplished by the use of open works, for example, columns, walls, piled, or piers.

(4) Part II, step 5 of the Water Resources Council Guidelines shall be referenced for additional guidance and examples of actions that may be utilized to minimize harm to lives and property and to restore and preserve the natural and beneficial values served by flood plains.

(5) If the action is to undertaken in a wetland, the action shall be designed or modified using all practicable measures consistent with the intent of the National Environmental Policy Act and the Wetlands Order to minimize harm to the wetland.

g. *Public notice.* Public notices are required by the Flood Plains Order, but they are not required by the Wetlands Order. However, the responsible official shall consider the impacts of actions on wetlands and the level of concern the public has shown, or would show if it were aware of the actions, and determine whether the public interest would be served by a public notice. Public notices shall be prepared and issued as follows:

(1) The responsible official shall prepare the public notice, not exceeding three pages in length, which shall include:

(a) An explanation why the action is proposed in the base flood plain or wetland,

(b) A statement indicating whether the action conforms to State and local flood plain or wetland standards,

(c) A list of the alternatives considered, and

(d) A location map.

(2) The public notice shall be transmitted to:

(a) State and areawide A–95 clearinghouses,

(b) Individuals and groups who normally receive EIS's on GSA actions in the geographical area, and

(c) Groups which have special interest in flood plains or wetland management.

(3) Distribution of the public notice for actions affecting a base flood plain or wetland shall occur as soon as possible after:

(a) The issuance of the record of decision which follows the final EIS,

(b) The approval of an environmental assessment and negative declaration, or

(c) The decision to take an action which is not included in a and b, above.

(4) The public notice shall be circulated for a commenting period of not less than 15 calendar days prior to commencement of the action.

(5) All GSA notices on actions subject to OMB Circular A–95 must state, if known, whether or not the action is located in a base flood plain or wetland.

h. *Implement.* When the actions in a thru g, above, have been taken, the proposed action may be implemented. The responsible official shall ensure that the action is accomplished in compliance with the Flood Plains and Wetlands Orders.

3. *Critical actions.* Actions listed in subpar. 4b of the transmittal order shall be examined individually to determine if they are critical actions. The development of proposals which are critical actions shall follow the decisionmaking process in par. 2, by substituting the term "critical action flood plain" for "base flood plain."

4. *Continuing actions.* All continuing activities being conducted in wetlands and flood plains shall be periodically

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evaluated to determine their impacts upon the wetland or flood plain. The responsible official shall establish procedures for periodic physical inspections to identify adverse impacts upon the wetlands or flood plains, to evaluate those impacts and possible mitigation measures to minimize or eliminate the impacts, and to monitor the effectiveness of the implemented mitigation measures. All practicable mitigating measures shall be taken to minimize adverse impacts upon the wetlands and floodplains.

5. *Requests for authorization or appropriation.* When congressional authorization or appropriation is necessary for the proposed actions, the request to OMB must indicate the action is in compliance with the policy and mandatory provisions of the Flood Plains and Wetlands Orders.

[FR Doc. 79-23632 Filed 7-31-79; 8:45 am]
BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Ethics Advisory Board; Meeting and Public Hearing, Disclosure of Certain Information Under the Freedom of Information Act

Notice is hereby given that the Ethics Advisory Board will hold a meeting and public hearing on the subject of possible exemptions to disclosure under the Freedom of Information Act for data relating to: (1) institutions and individuals cooperating with epidemiologic investigations conducted by the Center for Disease Control (CDC); and (2) research being conducted by the National Institutes of Health (NIH), where the data are incomplete. The meeting and hearing will be held on September 14–15, 1979 in Room 800, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. It will begin at 9:00 a.m. both days, and will be open to the public subject to limitations of available space.

Any person wishing to speak at the hearing must submit a request in writing no later than August 31, 1979 at the following address: Ethics Advisory Board, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Maryland 20016, telephone number 301–496–7776. Requests should include a brief summary of the presentation. Speakers will be given 5 minutes to present their views; written materials of any length may be submitted at any time and will be distributed to each member of the Board.

In addition to the public hearing, the agenda for the meeting will include discussion of possible further topics for study by the Ethics Advisory Board such as, for example, possible compensation for subjects who are injured in the course of their participation in biomedical or behavioral research.

In order to focus discussion at the hearing, specific comments are solicited on the following proposals by the Center for Disease Control and the National Institutes of Health:

Providing Confidentiality to Health Care Providers Cooperating With the Center for Disease Control

The purpose of this proposal is to amend the Public Health Service Act to authorize the Director of the Center for Disease Control (CDC) to issue assurances of confidentiality to health care providers who voluntarily make data available to that agency. No information which identifies them will be disclosed except under the conditions specified below.

Background Information

The CDC monitors the occurrence of disease and conducts epidemiologic studies to identify their causes, to determine if they are preventable, and to consider remedies which will reduce or eliminate them. Disease investigations and epidemiologic monitoring are routinely undertaken by CDC at the request, or with the endorsement, of the state health agency or agencies concerned.

Health care providers voluntarily report to Federal and State agencies (except for a small number of cases which by law must be reported) cases of illness, disease and death. In many cases, outbreaks of illness become known to CDC only because health care providers voluntarily submit information. Were it not for such reporting, CDC would have little opportunity to investigate many instances of preventable illness and death.

Voluntary reporting by health care providers (often accompanied by requests for CDC assistance) is important for the public good because the ensuing investigation often demonstrate that the illnesses and deaths examined are partially or totally preventable. CDC investigations often lead to the adoption of procedures which reduce or eliminate certain diseases. When the results of an investigation are disseminated nationwide, health care providers are enabled to take action to prevent further disease and death.

Documents resulting from investigation are retained in CDC files and under the Freedom of Information Act (FOIA) are subject to release upon request by any member of the public. In a number of instances the identity of cooperating health care providers has been disclosed. Some of the providers so identified have received adverse publicity, suffered financial losses resulting from decreased use of their facilities, and have been subjected to costly litigation. These unfortunate results followed the release of identifiers even in cases where the medical services provided were entirely appropriate and where the provider exhibited an exemplory sense of public responsibility in requesting and participating in CDC investigations.

To prevent such consequences, many states have enacted legislation which prohibits the State from disclosing the identity of hospitals that supply information. Similar protections are available to certain Federal agencies that collect information voluntarily reported by persons or institutions.

Regardless of whether the provision of medical care is adequate, voluntary reporting to and cooperation with CDC investigations serves the public good because it allows CDC to cooperate with State agencies, which can assure the adoption of corrective procedures and practices. However, if the present severe disincentives continue, many health care providers will refuse to cooperate. As a matter of fact, failure to report often means that a provider simply discontinues the monitoring and analyzing activities necessary to determine the existence and nature of a medical problem. Non-reporting results in serious harm to the public good because preventable illness and disease will remain unidentified, corrective measures will not be taken, and avoidable illness, disease and death will occur. The legislation proposed below should be designed to encourage and protect voluntary reporting. Enactment will serve to prevent significant suffering of illness, disease and death.

Proposed Remedy

The Public Health Service Act should be amended to protect from disclosure the identity of health care providers that voluntarily provide CDC with information for purposes of disease investigation, epidemiologic monitoring or epidemiologic study.

The amendment should continue to permit CDC to freely share the identity of health care providers with state health departments. It should also prohibit further disclosure of the identity of the provider unless the provider has publicly revealed the fact that it has participated in a disease investigation or consents to disclosure.

The proposed amendment does not restrict CDC's ability to release data, data analyses, conclusions and recommendations arising from disease investigations, epidemiologic studies or monitoring processes.

A Proposal Submitted by the National Institutes of Health: Protection of Research Data Under the Freedom of Information Act (FOIA)

The purpose of this proposal is to protect from disclosure data from clinical trials and observational epidemiological studies which are preliminary, incomplete, or not yet validated.

The Federal Government, particularly through the National Institutes of Health (NIH), is currently the largest source of support for biomedical and behavioral research in the country. The NIH has as its primary mission the conduct of biomedical research for improving the health of he nation's citizens. Occasionally, this reasearch mission comes into conflict with the public's right to know as guaranteed by the Freedom of Information Act (FOIA). This can occur where disclosure threatens the successful completion of ongoing research and may deprive the public of an important health benefit.

The primary purpose of the FOIA is to promote "the fullest responsible disclosure" of information about the conduct of the Federal Government. The Act requires disclosure of agency records and information about agency operating procedures, but it exempts nine specific categories of information. These exemptions are narrowly construed and represent, in part, an attempt by the Congress to balance the public's right to know how its Government functions against those instances where maintaining confidentiality may best serve the public interest.

The Freedom of Information Act (FOIA) contains three exemptions which may pertain, in some instances, to scientific research information.[1] However, none of the FOIA exemptions adequately protects or even addresses the issue of disclosure of scientific research data. The absence of protections for preliminary data and the growing number of requests for information have led to the concern that premature findings will be released which could jeopardize the public health and be fatal to the successful completion of much important research.

As several recent court decisions have pointed out, the release of information about federally conducted or funded research is, in many cases, required by the FOIA.[2] Whether or not scientific research data must be disclosed depends upon the legal relationship between the investigator and the Federal Government.[3]

The District of Columbia Court of Appeals has ruled that preliminary data collected under a Federal grant need not be released to a member of the public under the FOIA because the funding agency neither possesses the data nor has control over the research.[4] It is unclear what protection, if any, the courts would give to research data collected under contract.[5] Finally, research carried out by Federal employees is protected to an even lesser degree because it is a direct activity of the Federal agency.[6]

Arguments for the Protection of Research Data

There are a number of reasons why the premature disclosure of research data may be undesirable. One is the fact that a scientist's ideas are his only "stock-in-trade." The scientist has a proprietary interest in being allowed to develop his or her own ideas and to control the release of those ideas. Ultimately, those ideas, like those of an artist or author, may deserve commercial protection.

The nature of the research endeavor is such that it is essential to assure that results of the scientific process are released when they will most effectively promote the public good. Since the final conclusions drawn from research data are often quite different from preliminary findings, a crucial part of the scientific process must be the validation and evaluation of the data obtained during the experiment or trial. The validation process eventually includes peer review of the research findings, finally resulting in publication. Peer review prior to acceptance for publication includes a careful scrutiny of the experimental design and, where appropriate, affirmation of the statistical validity of the conclusions. Premature disclosure interrupts the process of validation. The result may be release of misleading data.

Clinical Trials and Observational Epidemiological Studies

There are potentially disastrous consequences in the premature release of incomplete or invalidated data. A clinical trial is an intricate and sophisticated test of an innovative medical technology to determine if it is worthy of general introduction into the practice of medicine. It often takes many years, thousands of subjects and millions of dollars to complete a clinical trial.

Current HEW regulations require that an Institutional Review Board (IRB) approve every research project before human subjects are even asked if they will consent to participate in an experiment.[7] Each volunteer must give his or her free and informed consent to participation in a research project. If any risks to the subjects are anticipated, regulations further require continuing review throughout the trial, often undertaken by a Data and Safety Monitoring Board. These Boards, in addition to individuals with clinical knowledge, and biostatistical expertise, include members who are public advocates. It is the responsibility of these Boards to continually scrutinize the conduct of clinical trials in order to assure the safety of the participants. Where necessary, a trial will be stopped

[1] The exemptions relevant to the protection of research data are those that protect "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552(b)(4)); "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" ((b)(6)); and information which is "specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld" ((b)(3)).

[2] See, *Washington Research Proj., Inc.* v. *Department of H.E.W.*, 504 F.2d 238 (D.C. Cir. 1974) *cert. denied*, 421 U.S. 963 (1975); *Forsham* v. *Mathews*, Civ. Act. No. 75–1608 (D.D.C. Feb. 5, 1976), *aff'd sub nom. Forsham* v. *Califano*, 587 F.2d 1128 (D.C. Cir. 1978) The Supreme Court granted certiorari on May 14, 1979 (No. 78–1118) and will hear the case sometime next term; and *Johnson* v. *Department of H.E.W.*, 462 F. Supp. 336 (1978.

[3] Under the FOIA, "agency records" must be disclosed. Thus, if research data constitute "agency records," they may not be withheld from the public unless they come under one of the exemptions. (5 U.S.C. 552(a)(4)(B)).

[4] *Forsham* v. *Mathews*, Civ. Act. No. 75–1608 (D.D.C. Feb. 5, 1976), *aff'd. sub nom. Forsham* v. *Califano*, 587 F.2d 1128 (D.C. Cir. 1978) The Supreme Court, as indicated in note 2, has granted certiorari and will hear the case sometime next term. It may, or may not, affirm the court of appeals ruling.

[5] In this case, the agency approves the research protocol and actually controls, to some degree, the conduct of research and, in addition, may possess, or have direct access to, the research records. The distinction between grants and contracts is significant—grants are initiated by the investigator and the role of the Government is to provide financial assistance, whereas contracts are initiated by the agency which is procuring the scientific services of the contractor.

[6] This is termed intramural research. Extramural research is defined as that conducted by grantees or contractors who receive Federal funding.

[7] 45 CFR Part 46.

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or modified to prevent injury to the subjects.

If premature release of data occurs during the trial, the participants, as well as the investigators, may then deviate from the research plan because of beliefs based on incomplete data or a loss of interest and thus jeopardize the validity of the trial. If the entire trial is so disrupted that it cannot be reconstituted, there will be an immeasurable loss to the public of a huge investment, both in dollars and human effort, but most important, the deprivation of a valuable contribution to human health.

Another type of clinical investigation is the observational epidemiological study[1] Many of the same concerns are present here and the breakdown of the research may deprive the public of important public health benefits since many kinds of information cannot readily be obtained in any other way. Of similar concern are investigations on animals to test toxic substances and new drugs which have direct implications to human health.

A clinical study must be carried out to a valid conclusion in order to guarantee that the tremendous investment involved will yield the maximum public benefit. However, some will argue that the public should have access to information about *all* Government information, including ongoing clinical studies. These interests—the public's right to know and the need to protect an experiment so it will produce a result useful to society—may occasionally clash. It is not a simple task to balance the opposing interests; nor is it impossible. It is important to assure that protection of research data does not involve the unwarranted suppression of information, but if the research mission is to be fulfilled, important scientific questions must not be doomed to perpetual uncertainty because of the public's right to know.

Clinical trials and observational epidemiological studies are particularly vulnerable to disruption from premature disclosure. It is from the data of these research studies that special statutory protection is proposed at this time.

Proposed Remedies

NIH proposes that a statutory amendment be drafted to protect from disclosure data from clinical trials and observational epidemiological studies which are preliminary, incomplete, or not yet validated. Withholding these data from disclosure should depend upon a determination that their release would jeopardize the conduct, completion, or validity of the research project. However, nothing in this proposal is intended to modify current procedures which require that every assurance be given in the structuring and conduct of a trial that the rights of human subjects of clinical trials will be safeguarded. The proposal must be carefully drafted so that, if preliminary data indicate the likelihood of human injury (through review by IRB's and, where appointed, Data and Safety Monitoring Boards), the withholding of such data from the public would not be required.

The requirements for statutory protection of these research data could be implemented in a number of ways. The following questions may serve as a guide for those who wish to comment on the proposal.

1. Should the scope of the amending language be limited as proposed above, or should it include protection for the premature release of data from *any* scientific research of potential importance to the nation's health?

2. Should the scope of amendments be limited to the National Institutes of Health, to all Public Health Service agencies (including NIH, CDC, and the Food and Drug Administration), or include additional Federal agencies (such as the Veterans Administration, the National Science Foundation, and the Department of Energy)?

3. When the department or agency head determines that the premature disclosure of research data would harm the public or the scientist, should he or she have *discretion* to withhold the data or should withholding be *mandatory*? If withholding is discretionary, what should be the standards for the exercise of discretion?

4. Should the authority to withhold from disclosure ideas, novel experimental techniques, data, or even a scientist's conclusions, be time-limited and, if so, who should decide when and for what reasons information should be withheld?

5. What if the only justification for withholding data from the public is protection of the scientist's ideas? Should a research proposal be given some degree of protection before or during agency review, after a funding commitment is made, or only if funding is denied?

6. At present, under the Freedom of Information Act, data are treated differently, depending upon whether they are obtained by intramural or extramural scientists. Should all data be treated in the same way?

7. Should any statutory remedies for protection of preliminary research data include an initial administrative mechanism for resolving disputes, or is the current availability of judicial review adequate?

8. Should the statutory solution to this problem be in the form of a general amendment, such as an exemption 10 under section 552(b) of the Freedom of Information Act, or a specific amendment to all relevant statutes falling under the conditions set forth in exemption 3 of section 552(b)?

9. Should the proposal include giving the agency or department head the authority to promulgate regulations governing procedures and criteria for disclosure, rather than direct application of statutory criteria?

Requests for information should be addressed to Ms. Roberta Garfinkle, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Maryland 20016, telephone 301–496–7776.

Dated: July 24, 1979.

Charles R. McCarthy,

Staff Director, Ethics Advisory Board.

[FR Doc. 79-23734 Filed 7-31-79; 8:45 am]

BILLING CODE 4110-08-M

[1] The observational epidemiological study is one in which the health status of two or more populations, differing insofar as possible in a single and definable parameter (e.g., radiation exposure, consumption of saccharin, use of hair dyes), is studied and compared.

Office of the Assistant Secretary for Health

Intent To Grant Exclusive Patent License

Pursuant to section 6.3, 45 CFR, Part 6, and 41 CFR 101–4, notice is hereby given of an intent to grant to Nuclear Pacific, Inc. of Seattle, Washington, an exclusive license to manufacture, use, and sell an invention of Michael D. Stern and Donald L. Lappe entitled "Method of and Apparatus for Measurement of Blood Flow using Coherent Light." A copy of U.S. Patent No. 4,109,647, which issued on the invention on August 29, 1978, may be obtained upon written request to the Acting Chief, Patent Branch, Department of Health, Education, and Welfare, 5A03 Westwood Building, National Institutes of Health, Bethesda, Maryland 20205.

The proposed license will have a duration of five (5) years, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with Department of Health, Education, and Welfare (HEW) patent regulations. HEW will grant the license unless, by October 1, 1979, the Acting Chief of the Patent Branch, named hereinabove, receives in writing any of the following, together with supporting documents:

(1) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(2) An application for a nonexclusive license to manufacture, use, or sell the invention in the United States is submitted in accordance with 41 CFR 101–4–104–2, and the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare will review all written responses to this Notice.

Authority: 45 CFR 6.3 and 41 CFR 101–4.

Dated: July 25, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79-23733 Filed 7-31-79; 8:45 am]

BILLING CODE 4110-85-M

Office for Civil Rights

Proposed Annual Operating Plan for Fiscal Year 1980

The Office for Civil Rights (OCR) is issuing its Proposed Fiscal Year 1980 Annual Operating Plan for public comment. The plan sets forth the compliance and enforcement activities that OCR proposes to conduct in FY 1980.

OCR has an authorized employment ceiling of 1700. Of these, 440 are assigned to the Headquarters and 1260 are assigned to ten regional offices. The regional staff is composed of managers, supervisors, investigators, attorneys and clericals. This regional staff produces 588 person years of investigator time. These staff resources will be assigned to compliance and enforcement work in FY 1980 as follows:

	Investigator time	
	Person years	Percent
Complaint Investigations	243	41
Compliance Reviews	258	44
Pre-award Reviews	54	9
Monitoring	33	6
Total	588	100

Complaint Investigations. Table 1 shows the projected number of complaints OCR expects to receive during the fiscal year and their distribution by jurisdiction. In order to determine the level of staff resources required to process these complaints, two projections were made. They are:

OCR expects to receive 5,855 complaints in FY 1980. Of these, 55 percent will require a full investigation and 45 percent will be resolvable without a formal investigation or closed administratively because they were incomplete or outside OCR's jurisdiction.

Investigators will resolve an average of 13 investigated complaints per investigative year.

Based on these projections, 243 investigative years are allocated to complaints

If either or both of these projections are not accurate, the amount of staff assigned to complaint processing will be adjusted. For example:

It is possible that complaint receipts could range from as high as 7,220 to as low as 4,480. Within this range as many as 4,693 or as few as 2,016 complaints could require a full investigation.

Investigator productivity could be higher than projected. A goal of 18 investigated complaint closures per investigative year has been set for internal management purposes.

Adjustments in the staff assigned to complaint processing required by either of these 2 circumstances will be accomplished by adjusting the level of staff assigned to compliance reviews. For example, if fewer complaints are received or if productivity rates are higher than 13, investigative time will be transferred from complaints to compliance reviews. Any such adjustments will be announced in a supplementary AOP and be published during FY 1980.

Compliance Reviews. A total of 258 investigative years are available to conduct compliance reviews in FY 1980. Of this, 100 investigative years will be used for reviews started, but not completed in previous years. The remaining 158 investigative years will be allocated for newly initiated reviews.

The proposed list of issues to be covered in FY 1980 reviews is presented in Table 2. These issues were identified on the basis of survey results, findings from previous complaint investigations and compliance reviews, and related research findings.

After analyzing the comments received, a final list of issues will be developed. The final AOP will list those issues and indicate the number of reviews to be conducted in each area and the amount of resources to be assigned.

Pre-Grant Reviews. If FY 1980, OCR will review the civil rights compliance of applicants for HEW grants under the Elementary School Aid Act (ESAA) and in health and human development programs prior to the award of the Federal assistance. OCR is allocating 54 investigative years to this work. Table 3 presents the distribution of staff on pre-grant review activities.

Monitoring. During FY 1980, OCR will review compliance agreements to determine whether recipients are complying with their terms. These activities will include monitoring the desegregation plans of institutions of higher education and the methods of administrations of state vocational education agencies. OCR is allocating 33 investigative years to this work.

Summary. Table 4 summarizes the allocation of investigative years by recipient groups. Table 5 summarizes the same allocation by jurisdiction.

Comments. OCR solicits comments from the public on this Proposed Annual Operating Plan. Comments should be addressed to the Director, Office for Civil Rights, Department of Health, Education, and Welfare, Room 5400, 330 Independence Avenue, S.W., Washington, D.C. 20201, and should be received no later than September 15, 1979. OCR will review the proposed plan in the light of the comments it receives, and so far as it is able to do so, it will revise the plan to reflect suggestions that have merit. OCR will issue its final Annual Operating Plan for FY 1980 before October 15, 1979.

Dated: July 26, 1979.

David S. Tatel,

Director, Office For Civil Rights.

Table 1.—*Fiscal Year 1980 Proposed Annual Operating Plan*

[Projected fiscal year 1980 Complaint Receipts]

Jurisdiction	Number of complaints	Percent
Title VI	1,858	32
Title IX	1,112	19
Section 504	2,887	49
Total	5,855	100

Table 2.—*Fiscal Year 1980 Proposed Annual Operating Plan*

[Proposed Compliance Review Issues]

Issue	Description of violation
ELEMENTARY AND SECONDARY EDUCATION	
1. Identification of and services to limited english proficiency (LEP) children.	Discrimination against non-English speaking (NES) or limited english proficiency children including NES and LEP handicapped children.

Table 2.—*Fiscal Year 1980 Proposed Annual Operating Plan—Continued*

[Proposed Compliance Review Issues]

Issue	Description of violation
2. Within-school segregation: classroom assignments, tracking and ability grouping special education, mainstreaming, and physical education programs.	Discriminatory assignment of students on the basis of race, national origin, sex and/or handicap to courses, classrooms, special programs (including educable mentally retarded and gifted or talented), ability grouping, special education programs, and athletic and physical education programs.
3. School discipline: Expulsions and suspensions	Discriminatory disciplinary treatment of students on the basis of race, national origin, sex and/or handicap.
4. Vocational education: Access, admissions and job placement	Discrimination on the basis of race, national origin, sex and/or handicap in vocational education programs and in industrial arts and home economics courses.
5. Special purpose schools: Program availability and least restrictive environment.	Discrimination in admissions, accessibility, treatment or employment in state administered special purpose schools on the basis of race, national origin, sex and/or handicap.
6. School segregation	Discriminatory assignment of students to schools on the basis of race or national origin.
POST-SECONDARY EDUCATION	
1. Program accessibility for the handicapped	Lack of program accessibility and accommodations for handicapped students in school programs including interests and/or handicap in admissions to graduate and professional schools.
2. Graduate and professional school admissions	Discrimination on the basis of race, national origin and/or handicap in admissions to graduate and professional schools.
3. Intercollegiate athletics: Overall program equality	Inadequate comparability of programs including interests and abilities of students and inadequate comparability of facilities provided.
4. Dual school systems	Discriminatory assignment of students or establishment and continuation of dual school systems on the basis of race
HEALTH AND HUMAN DEVELOPMENT	
1. Admission practices for hospitals, nursing homes and extended care facilities.	Discrimination on the basis of race, national origin and/or handicap in hospital, nursing home or extended care facility accessibility and/or admissions
2. Medicaid/Medicare: Delivery of services	Discrimination on the basis of race, national origin and/or handicap in the provision of Medicaid and Medicare services
3. Hospital services to special population groups	Discrimination by hospitals receiving federal funds on the basis of national origin and/or handicap in providing bilingual services and services to meet needs to visually and hearing impaired patients.
4. State welfare agencies: Bilingual services and methods of administration.	Discrimination on the basis of race, national origin and/or handicap in provision of welfare services by state welfare agencies.
5. Mental health center/mental health hospital practices: Equal care and bilingual services.	Discrimination on the basis of race, national origin and/or handicap by mental health agencies in the provision of services to clients.
6. Vocational rehabilitation services for the handicapped	Discrimination in the provision of services and benefits to severely mentally and physically handicapped individuals.
7. Child welfare referral practices: Foster care, bilingual services, and location of services.	Discrimination by child welfare agencies receiving federal funds in the provision of services and benefits to minority and/or handicapped children.
8. Title XX: Supportive services to elderly and disabled adults	Discrimination on the basis of race, national origin and/or handicap in the provision of services and benefits to elderly and disabled adults.
9. Health planning	Discrimination on the basis of race, national origin and/or handicap in the provision of health services resulting from health planning activities conducted by health services agencies

Table 3.—*Fiscal Year 1980 Proposed Annual Operating Plan*

[Pre-Grant Review Activities]

Type of review	Number of reviews	Investigative years required
ESAA	855	47
Health	1,600	7
Total	2,225	54

Table 4.—*Fiscal Year 1980 Proposed Annual Operating Plan*

[Investigative Years Allocated to Each Type of Recipient]

Type of recipient	Complaints	Compliance reviews	Pre-grant reviews	Monitoring	Total	Percent
Elementary and secondary schools	129	83	47	8	267	45
Post-secondary education institutions	46	59	0	22	127	22
Health and human development agencies	68	116	7	3	194	33
Total	243	258	54	33	588	100

Table 5.—*Fiscal Year 1980 Proposed Annual Operating Plan*

[Investigative Years Allocated to Each Jurisdiction]

Jurisdiction	Complaints	Compliance reviews	Pre-grant reviews	Monitoring	Total	Percent
Title VI	78	101	54	27	260	44
Title IX	46	52	0	3	101	17
Section 504	119	105	0	3	227	39
Total	243	258	54	33	588	100

[1] Resources allocated to Title IX constitute only 17 percent of the total time because Title IX does not extend to health and human development agencies. However, 26 percent of the staff time devoted to elementary, secondary and post-secondary education activities will be focused on Title IX issues.

[FR Doc. 79-23644 Filed 7-31-79; 8:45 am]

BILLING CODE 4110-12-M

National Institutes of Health

Allergy and Clinical Immunology Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Research Committee, National Institute of Allergy and Infectious Diseases on October 22, 1979, National Institutes of Health, Building 31, Conference Room 9. This meeting will be open to the public from 8:30 a.m. until 10-30 a.m. on October 22, 1979 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public on October 22, 1979 from 10:30 a.m. until 5 p.m., for the review, discussion, and evaluation of individual grant applications. These applications, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 6A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Allergy and Clinical Immunology Research Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496-7966, will provide substantive program information.

Dated: July 26, 1979.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-23666 Filed 7-31-79; 8:45 am]

BILLING CODE 4110-08-M

Microbiology and Infectious Diseases Advisory Committe; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases, on October 25-26, 1979, at the Linden Hill Hotel, Linden Room, Bethesda, Maryland.

This meeting will be open to the public from 9:00 a. m. until 10:30 a.m. on October 25 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c) (4) and 552b(c) (6), Title 5, U.S. Code and Section 10(d) of the Pub. L. 92-463, the meeting of the Committee will be closed to the public from 10:30 a.m. on October 25 until adjournment on October 26 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of Health, Building 31, Room 7A32, Bethesda, Maryland 20205, (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Westwood Building, Room 706, Bethesda, Maryland 20205, (301) 496-7465, will provide substantive program information.

Dated: July 26, 1979.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-23667 Filed 7-31-79; 8:45 am]

BILLING CODE 4110-08-M

NIH Public Advisory Committees; Renewal and Merger

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the renewal by the Secretary, HEW, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the Animal Resources Review Committee. Authority for the Animal Resources Review Committee will expire May 31, 1980, unless the Secretary formally determines that continuance is in the public interest.

In addition, the NIH announces the merger of the Arteriosclerosis and Hypertension Advisory Committee with the Lipid Metabolism Advisory Committee to form the Arteriosclerosis, Hypertenion and Lipid Metabolism Advisory Committee. Authority for this committee will expire June 30, 1981, unless the Secretary formally determines that continuance is in the public interest.

Dated: July 25, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-23663 Filed 7-31-79; 8:45 am]

BILLING CODE 4110-08-M

NIH Public Advisory Committees; Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the renewal by the Secretary, HEW, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following committees:

Allergy and Clinical Immunology Research Committee
Blood Diseases and Resources Advisory Committee
Board of Scientific Counselors, National Eye Institute
Board of Scientific Counselors, National Heart, Lung, and Blood Institute
Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases
Cardiology Advisory Committee
Cardiovascular and Pulmonary Study Section
Clinical Applications and Prevention Advisory Committee
Clinical Trials Review Committee
Communicative Sciences Study Section
Heart, Lung, and Blood Research Review Committee A
Heart, Lung, and Blood Research Review Committee B
Microbiology and Infectious Diseases Advisory Committee
National Advisory Allergy and Infectious Diseases Council
National Advisory Eye Council
National Heart, Lung, and Blood Advisory Council
Physiological Chemistry Study Section
Pulmonary Diseases Advisory Committee
Radiation Study Section
Sickle Cell Disease Advisory Committee
Transplantation Biology and Immunology Committee
Vision Research Program Committee

Authority for the above committees will expire June 30, 1981, unless the Secretary formally determines that continuance is in the public interest.

Dated: July 25, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-23664 Filed 7-31-79; 8:45 am]

BILLING CODE 4110-08-M

National Heart, Lung, and Blood Advisory Council and its Manpower Subcommittee and Research Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung and Blood Institute, September 13, 14, and 15, 1979, National Institutes of Health, Building 31, Conference Room 10, at 9:00 a.m.

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This meeting will be open to the public on September 13 from 9:00 a.m. to approximately 4:00 p.m., to discuss program policies and issues. Attendance by the public is limited to space available. In addition, meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be held September 12, 1979, at 8:00 p.m. in Building 31, Conference Room 9 and 10 respectively.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on September 13 from 4:00 p.m. until recess, and on September 14 from 9:00 a.m. to adjournment on September 15 for the review, discusssion and evaluation of individual grant applications. The Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8:00 p.m. to adjournment on September 12, also for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Director of Extramural Affairs, NHLBI, Westwood Building, Room 7A17, (301) 496–7416, will provide substantive program information.

Dated: July 26, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, and 13.839, National Institutes of Health)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-23865 Filed 7-31-79; 8:45 am]

BILLING CODE 4110-08-M

Review Papers on Health Effects of Radiation Exposure; Meeting

At his press conference on February 27, 1979, Secretary Joseph A. Califano indicated that the Director, NIH, would request outside scientific experts to review the previously unpubljshed HEW papers on health effects of radiation exposure which may have been associated with the atmospheric testing of nuclear weapons and recommend any additional research needs identified in this review.

Notice is hereby given of the third meeting of the scientific experts to review the content of HEW papers, August 13–15, 1979 at the Sir Francis Drake Hotel in San Francisco, California. The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. Attendance by the public will be limited to space available.

Dr. Victor H. Zeve, Special Assistant to the Deputy Director, National Cancer Institute, Building 31, Room 10A34, Bethesda, Maryland 20205 (301/496–5515) will provide additional information.

Dated: July 26, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institute of Health.

[FR Doc. 79-23862 Filed 7-31-79; 8:45 am]

BILLING CODE 4110-08-M

Office of Human Development Services

White House Conference on Handicapped Individuals; National Implementation Advisory Committee; Meeting

The White House Conference on Handicapped Individuals Implementation Advisory Committee was established by the Department of Health, Education and Welfare to advise and assist the Secretary of HEW in the review and implementation of the recommendations made by the White House Conference on Handicapped Individuals.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 95–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Committee will hold a meeting on August 22, 23, and 24, 1979 from 9:00 AM to 5:00 PM, at the Sheraton National Motor Hotel, Columbia Pike and Washington Blvd., Arlington, Virginia.

At this meeting the Committee will review actions taken by the federal government to implement items of the Implementation Plan, Vol. 111 of the White House Conference Documents.

Further information on the Committee may be obtained from Mr. Peter Rosenstein, White House Conference Implementation Unit, Room 3520, 330 C Street S.W., Washington, D.C. 20201, Telephone (202) 245–3186. Advisory Committee meetings are open for public observation.

Arnold Sampson,

HDS Committee Management Officer.

July 27, 1979.

[FR Doc. 79-23720 Filed 7-31-79; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Kalispel Indian Reservation, Washington; Ordinance Regulating the Distribution and Sale of Tobacco Products and/or Liquor and Beer Products

July 26, 1979.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, Pub. L. 277, 83rd Congress, 1st Session (67 Stat. 586). I certify that the following Resolution and Ordinance relating to the application of the Federal Indian Liquor Laws on the Kalispel Indian Reservation, Washington was adopted on June 8, 1979, and amended on July 9, 1979, by the Kalispel Tribal Business Committee which has jurisdiction over the area of Indian Country included in the Resolution and Ordinance, reading as follows:

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

Resolution

WHEREAS, The Kalispel Tribal Business Committee, as the governing body of the Kalispel Tribe, is charged by the Tribal Constitution and Bylaws to manage the affairs of the Kalispel Tribe and has the responsibility of protecting the health, security and general welfare of the Tribe and its members, and

WHEREAS, The State of Washington is without jurisdiction on the Kalispel Reservation to regulate and control Indian smoke shops, liquor outlets or other outlets operated by Tribal members, and

WHEREAS, The Kalispel Business Committee deems it essential to the health, security and general welfare of the Kalispel Tribe and its members to enact a comprehensive tobacco and liquor ordinance relating to the sale and distribution of cigarettes, other tobacco products and liquor products and levying and excise tax upon the distribution and sale on the Kalispel Indian Reservation.

NOW, THEREFORE, BE IT RESOLVED: The Kalispel Indian Tribe does hereby promulgate as a tribal ordinance the attached Chapter to the Tribal Law and Order Code entitled "Chapter 10—Kalispel Tobacco and Liquor Regulations"

Certification

The foregoing resolution was adopted by the Kalispel Tribal Council meeting on the *8th* day of June, 1979 at the Kalispel Tribal Hall on the reservation near Usk, Washington with the required quorum present by a vote of *3* for and *0* against.

Glen Nenema,

Chairman.

Alice E. Ignace,

Secretary Kalispel Tribe of Indians.

Chapter 10—Kalispel Tobacco and Liquor Code

Section 10–1—Title and Purpose

10–1.01 Title and Purpose. This chapter shall be known as the Kalispel Tobacco and Liquor Code. This Code is enacted to regulate the distribution and sale of tobacco products and/or liquor and beer products on the Kalispel Reservation, and to generate revenue to fund needed Tribal programs and services.

Section 10–2—Definitions

10–2.01 Definitions. Unless otherwise required by the context, the following words and phrases shall have the designated meanings:

(1) "Tribe" shall mean the Kalispel Indian Community of the Kalispel Indian Reservation, Washington.

(2) "Council" shall mean the Kalispel Tribal Business Committee as constituted by Article III of the Constitution and By-laws of the Kalispel Indian Tribe, Washington.

(3) "Reservation" shall mean lands and waters lying within the boundaries of the Kalispel Indian Reservation, Washington.

(4) "Member" shall mean any person whose name appears on the official roll of the Kalispel Indian Tribe.

(5) "Commercial Sale" shall mean the transfer, exchange or barter, in any or by any means whatsoever for a consideration, by any person, association, partnership, or corporation, of cigarettes, tobacco products and/or liquor and beer products.

(6) "Wholesale Price" shall mean the established price for which cigarettes, tobacco products and/or liquor and beer products are sold to the Kalispel Indian Tribe or any licensed operator by the manufacturer or distributor, exclusive of any discount or other reduction.

(7) "Tobacco Products" shall mean cigars, cheroots, stogies, granulated, plug cut, crim cut, ready rubbed, and other smoking tobacco, snuff, cavendish, snuff flour, plug and twist tobacco, fine cut and other chewing tobaccos shorts and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for smoking and chewing. Tobacco products shall include cigarettes.

(8) "Cigarette" shall mean any roll for smoking made wholly or in part of tobacco being flavored, adulterated, or mixed with any other ingredient, where such wrapper is wholly or in the greater part made of paper or any material except where such is wholly or in the greater part made of natural leaf tobacco in its natural state.

(9) "Tobacco Outlet" shall mean a Tribally licensed retail sales business selling tobacco products on the Kalispel Indian Reservation.

(10) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substance including all dilutions and mixtures of this substance.

(11) "Beer" means any beverage obtained by the alcohol fermentation of an infusion or decoction of pure hops, or pure extract of hops, and malt and sugar in pure water containing not more than 4% of alcohol by weight.

(12) "Liquor Outlet" shall mean a Tribally licensed retail sales business selling liquor or beer on the Kalispel Indian Reservation.

(13) "Operator" shall mean an enrolled member of the Kalispel Tribe or enrolled member of another federally recognized Tribe licensed by the Kalispel Tribe of Indians to operate a tobacco and/or liquor and beer outlet.

Section 10–3—Licensing of Tobacco or Liquor and Beer Outlets

10–3.01 Licensing. The Kalispel Business Committee shall be the Kalispel Tobacco, Liquor and Beer Control Commission. The Commission is empowered to:

(1) Administer this Code by exercising general control, management, and supervision of all tobacco and/or liquor and beer sales, places of sale and sales outlets as well as exercising all powers necessary to accomplish the purposes of this Code;

(2) Adopt and enforce rules and regulations in furtherance of the purposes of this Code and in the performance of its administrative functions.

Section 10–4—Nature of Outlet

10–4.01 Nature of Outlet. Each tobacco and/or liquor and beer outlet, licensed hereunder, shall be managed by an operator pursuant to a license granted by the Commission, hereunder, and shall also be managed pursuant to a Federal Indian Trader's License provided in Section 10–7 hereof.

Section 10–5—Application for Tobacco Outlet License or Liquor and Beer Outlet License

10–5.01 Application. Any enrolled member of the Kalispel Indian Tribe or an enrolled member of the federally recognized Tribe may apply to the Commission for a tobacco outlet license and/or a liquor and beet outlet license.

10–5.02 Processing of Application. The Tribal secretary-treasurer shall receive and process applications, and be the official representative of the Tribe and Commission in matters relating to tobacco and/or liquor and beer outlets excise tax collections and related matters. The Commission or its authorized representative shall obtain additional information as deemed appropriate. If the Commission or its authorized representative is satisfied that the applicant is a suitable and reputable person, the Commission or its authorized representative may issue a license for the sale of tobacco products and/or liquor and beer products.

10–5.03 Application Fee. Each application shall be accompanied by an application charge or fee of fifty dollars ($50.00). An application for both a tobacco outlet license and a liquor and beet outlet license shall be considered to be two applications with an application charge of fifty dollars ($50.00) each.

Section 10–6—Tobacco Outlet License and Liquor and Beer Outlet License

10–6.01. Upon approval of an application, the Commission shall issue the applicant a tobacco outlet license and/or a liquor and beer outlet license whichever the case may be, for one year which shall entitle the operator to establish and maintain one outlet for the type being permitted on the Kalispel Indian Reservation. This license shall be non-transferable. It shall be renewable annually at the discretion of the Commission by filing a new application form and payment of the application fee as provided in Section 10–5.

Section 10–7—Trader's License

10–7.01 Trader's License. No tobacco and/or liquor and beer outlet shall be issued to an operator unless he/she has obtained a Federal Indian Trader's License from the Superintendent of the Spokane Indian Agency, provided, however, that a full blooded Kalispel Indian need not obtain a Federal Indian Trader's License to qualify. Revocation of the Federal Indian Trader's License shall be grounds for the revocation of the operator's tobacco outlet license and/or liquor and beer outlet license by the Kalispel Tribe.

Section 10–8—Regarding Sales by Liquor Wholesalers and Transport of Liquor to the Reservation

10–8.01 Right of Commission to Screen Suppliers. The operator of any licensed outlet shall keep the Commission informed in writing of the identity of suppliers and wholesalers who supply or are expected to supply tobacco or liquor stocks to the outlet. The Commission may at its discretion and for any reasonable cause limit or prohibit the purchase of said stock from a supplier or wholesaler.

10–8.02 Freedom of Information From Suppliers. Operators shall in their purchases of stock and in their business relationships with suppliers cooperate with and assure a free flow of information and data to the Commission from suppliers relating to all sales to and business arrangements between the suppliers and operators. The Commission may, in its discretion, require the receipt by it from the suppliers of all invoices, bills of lading, billings or other documentary records of sales to the operator.

Section 10–9—Sales by Retail Operators

10–9.01 Commission Regulations. The Commission shall adopt regulations which shall supplement this Code and facilitate its enforcement. These regulations shall include limitations on sales to minors, where liquor may be consumed, persons not allowed to purchase alcoholic beverages, hours and

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days when outlets may be open for business, and other appropriate matters and controls.

10–9.02 Sales to Minors. No Tribal operator shall give, sell or otherwise supply liquor to any person under twenty-one (21) years of age, either for his or her own use or for the use of his or her parents or for the use of any other person.

10–9.03 Consumption of Liquor Upon Licensed Premises Prohibited. No Tribal operator shall permit any person to open or consume liquor on his or her premises or any premises adjacent thereto and in his or her control.

10–9.04 Conduct on Licensed Premises. (1) No Tribal operator shall be disorderly, boisterous or intoxicated on the licensed premises or on any public premises adjacent thereto which are under his or her control, nor shall he or she permit any disorderly, boisterous or intoxicated person to be thereon; nor shall he or she use or allow the use of profane or vulgar language thereon.

(2) No operator or employee shall consume liquor of any kind while working on the licensed premises.

(3) No Tribal operator shall permit suggestive, lewd, or obscene conduct or acts on his or her premises. For the purpose of this section, suggestive, lewd or obscene acts or conduct shall consist of the list of acts enumerated in the Washington Administrative Code 314–16–125 (1)–(9).

10–9.05 Employment of Minors. No person under the age of twenty-one (21) years shall be employed in any service in connection with the sale or handling of liquor, either on a paid or voluntary basis, except as otherwise provided herein. Employees eighteen (18) years or older may sell and handle beer or wine not to be consumed on the premises provided that there is direct supervision by an adult twenty-one (21) years of age or older.

10–9.06 Display of License. Any Tribal operator issued a license shall frame under glass and display the license on the premises.

10–9.07 Operator's Premises Open to Commission Inspection. The premises of all Tribal operators, including vehicles used in connection with liquor sales, shall be open at all times to inspection by the Kalispel Liquor Commission.

10–9.08 Operator's Records. The originals or copies of all sales slips, invoices and other memoranda covering all purchases of liquor by operators shall be kept on file in the retail premises of the operator purchasing the same for at least five (5) years after each purchase, and shall be filed separately and kept apart from all other records, and as nearly as possible shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection and checking. All cancelled checks, bank statements and books of accounting covering or involving the purchase of liquor, and all memoranda, if any, showing payment of money for liquor other than by check, shall be likewise preserved for availability for inspection and checking.

10–9.09 Records Confidential. All records of the Kalispel Liquor Commission showing purchase of liquor by any individual or group shall be confidential and shall not be inspected except by members or employees of the Kalispel Liquor Commission or its authorized representative.

10–9.10 Conformity With State Law. Tribal operators shall comply with State of Washington liquor standards to the extents required by 18 U.S.C. 1161. However, total jurisdiction over the sale of liquor and beer products is reserved to and exercised by the Kalispel Liquor Commission within the boundaries of the Kalispel Indian Reservation.

Section 10–10—Tribal Excise Tax Imposed Upon Distribution of Tobacco and Liquor

10–10.01 Tribal Excise Taxes. The Commission shall by regulation include a provision for the taxing of sales of cigarettes, tobacco and liquor products to the consumer or purchaser. Such tax shall be in amounts equal to at least 5% of all retail sales prices, but the Commission may establish tax rates in excess of that 5% for any given class of merchandise.

10–10.02 Added to Retail Price. The excise tax levied hereunder shall be added to the retail selling price of tobacco products sold to the ultimate consumer.

Section 10–11—Liability for Bills

10–11.01 Liability For Bills. The Tribe shall have no legal responsibility for any unpaid bills owed by a tobacco outlet to a wholesale supplier or to any other person. The operator shall make arrangements with his or her wholesalers to send copies of all of his or her purchase invoices to the Tribal office.

Section 10–12—Other Business by Operator

10–12.01 Other Business By Operator. An operator may conduct another business simultaneously with managing a tobacco outlet for the Tribe. The other business may be conducted on the same premises, but the operator shall be required to maintain separate books of account for the other business.

10–12.02 Excise Taxes For Other Business. The Business Committee may make provision for an excise or sales tax to be charged customers or purchasers of items held for sale on such other business.

Section 10–13—Tribal Liability and Credit

10–13.01. An operator is forbidden to represent or give the impression to any supplier or other person with whom he or she does business that he is an official representative of the Tribe or Commission authorized to pledge Tribal credit or financial responsibility for any of the expenses of his or her business operation. The operator shall hold the Kalispel Indian Tribe harmless from all claims and liability of whatever nature. The Commission shall revoke the operator's outlet license if it is not operated in a businesslike manner or if it does not remain financially solvent or does not pay its operating expenses and bills before they become delinquent.

10–13.02 Insurance. The operator shall maintain at his or her expense adequate insurance covering liability, fire, theft, vandalism and other insurable risks. The Commission or the Business Committee may establish as a condition of any license higher limits and any additional coverage it deems advisable. All insurance policies shall name the Tribe as an insured.

Section 10–14—Audit and Inspection Bond

10–14.01. All of the books and other business records of the outlet shall be available for inspection and audit by the Commission or its authorized representative for any reasonable time.

10–14.02 Bond For Excise Tax. The excise tax together with reports on forms to be supplied by the Tribe shall be remitted to the Tribal office monthly unless otherwise specified in writing by the Commission. The operator shall furnish a satisfactory bond to the Tribe in an amount to be specified by the Commission guaranteeing his or her payment of excise tax.

Section 10–15—Revocation of Operator's License

10–15.01. Revocation of Operator's License. Failure of an operator to abide by the provisions of this chapter and any additional regulations or requirements imposed by the Commission will constitute grounds for revocation of the operator's license as well as enforcement of the penalties provided in Section 10–16.

Section 10–16—Violation-Penalties

10–16.01. Any Indian violating this chapter shall be guilty of an offense and subject to a fine in Tribal Court of not less than Fifty Dollars ($50.00) and not exceed a maximum of Two Hundred-Fifty Dollars ($250.00). An operator who violates the provisions of this Code forfeits all of the remaining stock in the outlet. The Tribal Law Enforcement officer shall be empowered to seize forfeited products.

Section 10–17—Separability

10–17.01. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

[FR Doc. 79–23678 Filed 7–31–79; 8:45 am]

BILLING CODE 4310–02–M

Notice of Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

July 23, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Delawares of Idaho, Inc., 3677 N. Maple Grove Road, Boise, Idaho 83704, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on July 14, 1979. The petition was forwarded and signed by Mr. Arthur Albert Creech.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs' files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79–23634 Filed 7–31–79; 8:45 am]

BILLING CODE 4310–02–M

Rhode Island Indian Claims Settlement Act; Findings Pursuant to Section 7

July 24, 1979.

I hereby find pursuant to section 7 of Public Law 95–395, the Rhode Island Indian Claims Settlement Act, that the State of Rhode Island has enacted legislation, namely the "Narragansett Indian Land Management Corporation Act" approved may 4, 1979, which creates and authorizes the creation of a state-chartered corporation satisfying the following criteria:

(1) The corporation is authorized by the legislation to acquire, perpetually manage, and hold the settlement lands, as defined by section 3(f) of the Rhode Island Indian Claims Settlement Act;

(2) The corporation is authorized by the legislation to be controlled by a board of directors, the majority of the members of which shall be selected by the Indian Corporation (as defined by section 3(a) of the Rhode Island Indian Claims Settlement Act) or its successor, and the remaining members of which shall be selected by the State of Rhode Island; and

(3) The corporation is authorized by the legislation to establish its own regulations, after consultation with appropriate state officials, concerning hunting and fishing on the settlement lands, which regulations need not comply with regulations of the State of Rhode Island but which shall establish minimum standards for the safety of persons and protection of wildlife and fish stock.

I also find that the above-described legislation authorizes the conveyance to the corporation of land and natural resources that substantially conform to the public settlement lands as described in paragraph 2 of the Settlement Agreement, as defined by section 3(h) of the Rhode Island Indian Claims Settlement Act.

Supplementary information: As a result of the publication of these findings, all aboriginal or other land claims of the Indian Corporation known as the Narragansett Tribe of Indians are extinguished pursuant to section 6(a) of the Rhode Island Indian Claims Settlement Act, Public law 95–395 (approved September 30, 1978). The publication of these findings has a similar effect on other land claims, if any, within the Town of Charlestown, Rhode Island, which might be made by any Indian, Indian nation, or tribe of Indians.

Section 6(b) of the Settlement Act permits any Indian, Indian nation, or tribe of Indians (other than the Indian Corporation known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, or any member or stockholder of that Indian Corporation), whose claims have been extinguished by section 6(a), to bring an action or lawsuit against the Narragansett Indian Land Management Corporation, in lieu of an action against any other person against whom a cause of action may have existed in the absence of section 6 of the Settlement Act. Such a lawsuit must be filed within 180 days of the date of this publication. And in any such action or lawsuit the remedy shall be limited to a right of possession of the settlement lands, as defined by section 3(f) of the Settlement Act.

For further information please contact: Tim Vollmann Office of the Solicitor, U.S.Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343–6967.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 79–23633 Filed 7–31–79; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

[AA–6662–A2]

Alaska Native Claims Selection; Notice for Publication

On December 5, 1975, Ekuk Natives Limited, filed selection application AA–6662–A2 under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)), (ANCSA) for the surface estate of certain lands in the Ekuk area.

The State of Alaska filed general purposes grant selection applications on November 14, 1978, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)), for certain lands in the Ekuk area. Applications AA–21809 and AA–21999, as amended, selected all available lands in T. 16 S., R. 54 W., and T. 16 S., R. 57 W., Seward Meridian, respectively. Ekuk Natives Limited properly selected lands located within the above townships in village selection application AA–6662–A2 on December 5, 1975. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated* and *unreserved* public lands in Alaska.

Therefore, in view of the above the following State selection applications are hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA–21809

T. 16 S., R. 54 W.
Sec. 13, all;
Secs. 23 to 26, inclusive, all;
Secs. 35 and 36, all.
Containing approximately 4,480 acres.

State Selection AA–21999

T. 16 S., R. 57 W.
Sec. 4 (fractional), all;
Secs. 5, 6, 7 and 8, excluding the Igushik River;
Sec. 9 (fractional), excluding the Igushik River;
Sec. 28 (fractional), all.
Containing approximately 2,709 acres.
Aggregating approximately 7,189 acres.

Further action on the subject State slection applications, as to those lands not rejected herein, will be taken at a later date.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

On July 13, 1978, Ekuk Natives Limited (for the village of Ekuk) merged with Choggiung Ltd., the village corporation of Dillingham as provided in Sec. 30 of the Alaska Native Claims Settlement Act, as amended (89 Stat. 1145, 1148; 43 U.S.C. 1601, 1627). The surviving corporation, Choggiung, Ltd., is entitled to all rights, privileges and benefits of the Alaska Native Claims Settlement Act.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(b), aggregating approximately 7,189 acres, is considered proper for acquisition by Choggiung Ltd. and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Unsurveyed)

T. 16 S., R. 54 W.
Sec. 13, all;
Secs. 23 to 26, inclusive, all;
Secs. 35 and 36, all.
Containing approximately 4,480 acres.
T. 16 S., R. 57 W.
Sec. 4 (fractional) all;
Secs. 5, 6, 7 and 8, excluding the Igushik River;
Sec. 9 (fractional), excluding the Igushik River;
Sec. 28 (fractional), all.
Containing approximately 2,709 acres.
Aggregating approximately 7,189 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The village of Ekuk has been reallocated 7,680 acres of land pursuant to Sec. 12(b) of the Alaska Native Claims Settlement Act. To date approximately 7,189 acres of the 12(b) reallocation has been approved for conveyance. The remaining 12(b) reallocation of approximately 491 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Choggiung Ltd., (for the village of Ekuk) for the surface estate, and shall be subject to the same conditions as the surface conveyance.

The following inland water body within the described lands is considered to be navigable:

The Igushik River

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until August 31, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Choggiung Ltd., P.O. Box 247, Dillingham, Alaska 99576.
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-23648 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-84-M

[AA-6687-A]

Alaska Native Claims Selection; Notice for Publication

On July 1, 1968, the State of Alaska filed general purposes selection application AA-3002, as amended, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)). The State selected lands near the Native village of Old Harbor.

On December 18, 1971, Sec. 11 of the Alaska Native Claims Settlement Act (85 Stat. 688, 696; 43 U.S.C. 1601, 1610 (1976)), withdrew lands surrounding the village of Old Harbor, including the lands in the subject State selection, for Native selection.

On September 10, 1974, Old Harbor Native Corporation for the Native village of Old Harbor filed village selection application AA-6687-A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of the village, including lands within the above-referenced State selection. The application was amended on December 13, 1974, to give a new description of the lands to be selected and to supersede the previously filed application.

The village corporation selected lands which were withdrawn by Secs. 11(a)(1) and 11(a)(2) of ANCSA. Section 11(a)(2) specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by Sec. 11(a)(1) that had been selected by, or tentatively approved to, but not yet patented to the State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)).

Section 12(a)(1) of ANCSA provides that village selections shall be made from lands withdrawn by Sec. 11(a).

Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

By decision dated March 21, 1978, 58,775 acres of lands *properly* selected by the State were approved for conveyance to the village of Old Harbor. That figure incorrectly includes lands within U.S. Survey No. 4656, containing 475.29 acres. Public Land Order 2417 provides that lands within an area one mile square surrounding the village of Old Harbor are not subject to State selection until so provided by order of an authorized officer of the Bureau of Land Management. There has been no such opening order. The acreage chargeable against the 69,120 acres permitted under Sec. 12(a)(1) thus should have been approximately 58,300 acres.

The following described lands, which are State selected, have been properly selected under village selection application AA-6687-A. Accordingly, State selection AA-3002 is hereby rejected as to all the lands approved for conveyance to Old Harbor Native Corporation described below. Further action on the subject State selection application as to those lands not rejected herein will be taken at a later date.

As to the lands described below, the application filed by Old Harbor Native Corporation, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

The corrected total amount of lands which have been properly selected by the State, including any selection applications previously rejected to permit conveyances to Old Harbor Native Corporation, is 66,528 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 8,228 acres, is considered proper for acquisition by Old Harbor Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 36 S., R. 25 W.,
Secs. 1 and 2 (fractional), all;
Secs. 3 and 4, all;
Secs. 5, 6 and 7 (fractional), all;
Secs. 11 and 14 (fractional), all;
Sec. 17, all;
Secs. 18, 19 and 20 (fractional), all;
Secs. 23, 24 and 26 (fractional), all;
Sec. 30 (fractional), all;
Sec. 31, all;
Secs. 34 and 35 (fractional), all.
Containing approximately 8,228 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976));

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file AA-6687-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 31 E) An easement for an existing access trail twenty-five (25) feet in width from tideline at the mouth of a creek in Ocean Bay in Sec. 11, T. 36 S., R. 25 W., Seward Meridian, southwesterly to site EIN 31a E in Sec. 20, T. 36 S., R. 25 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 31a E) A one (1) acre site easement upland of the mean high tide line in Sec. 20, T. 36 S., R. 25 W., Seward Meridian, at the head of Rolling Bay. The uses allowed are those listed above for a one (1) acre site.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act, any valid existing right recognized by the Alaska Native Claims Settlement Act shall continue to have whatever right of access as is now provided for under existing law;

3. Grazing lease A-050255 to Kenneth Arndt on Sitkalidak Island (excluding U.S. Surveys 2897 and 1743) under the act of March 4, 1927 (44 Stat. 1452; 48 U.S.C. 471, 471a and 471o); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Old Harbor Native Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 102,008 acres. The remaining entitlement of approximately 13,192 acres will be conveyed at a later date.

Further to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Koniag Inc., Regional Native Corporation when the surface estate is conveyed to Old Harbor Native Corporation, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the KODIAK MIRROR. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the

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Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until August 31, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the apeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501
Old Harbor Native Corporation, Box 69, Old Harbor, Alaska 99643
Koniag, Inc., Regional Native Corporation, Box 746, Kodiak, Alaska 99615

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-23649 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-84-M

[AA-6662-A Through AA-6662-K]

Alaska Native Claims Selections

On January 25, 1974, July 16, 1974 and October 4, 1974, Ekuk Natives Limited, for the Native village of Ekuk, filed selection applications AA-6662-A through AA-6662-K, as amended, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the Ekuk area.

The State of Alaska filed general purposes grant selection applications on November 14, 1978, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)), for certain lands in the Ekuk area. Applications AA-21809, AA-21810, AA-21815, AA-21819, AA-21999, AA-22000 and AA-22002, all as amended, selected all available lands in T. 16 S., R. 54 W.; Tps. 16, 17 and 18 S., Rs. 55 W.; T. 16 S., R. 57 W. and Tps. 16 and 17 S., Rs. 58 W.; Seward Meridian, respectively. Ekuk Natives Limited properly selected lands located within the above townships in village selection applications AA-6662-B through AA-6662-G on July 16, 1974, AA-6662-I and AA-6662-K on October 4, 1974. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated* and *unreserved* public lands in Alaska.

Therefore, in view of the above the following State selection applications are hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA-21809

T. 16 S., R. 54 W.,
Secs. 1 to 12, inclusive, all;
Secs. 14 to 22, inclusive, all;
Secs. 27 to 30, inclusive, all;
Sec. 31 (fractional), all;
Secs. 32, 33 and 34, all.
Containing approximately 18,527 acres.

State Selection AA-21810

T. 16 S., R. 55 W.,
Secs. 1 to 4, inclusive, all;
Sec. 5, excluding Native allotment AA-6286;
Sec. 6, excluding Native allotments AA-6163, AA-6164, AA-6165, AA-6166 Parcel A and AA-6287;
Sec. 7, excluding Native allotments AA-6235 Parcel A and AA-6245 Parcel A;
Secs. 8 to 16, inclusive, all;
Sec. 17 (fractional), all;
Sec. 18 (fractional), excluding U.S. Survey 2813, Native allotments AA-6160 Parcel B and AA-6161 Parcel B;
Sec. 20 (fractional), all;
Sec. 21 (fractional), excluding Native allotment AA-6235 Parcel B;
Secs. 22 and 23 (fractional), all;
Sec. 24, all;
Secs. 25 and 26 (fractional), all;
Sec. 36 (fractional), all.
Containing approximately 13,187 acres.

State Selection AA-21815

T. 17 S., R. 55 W.,
Secs. 1 and 2, all;
Secs. 3 and 4 (fractional), all;
Sec. 10 (fractional), all;
Secs. 11 to 14, inclusive, all;
Sec. 15 (fractional), all;
Sec. 22 (fractional), all;
Secs. 23 to 26, inclusive, all;
Sec. 27 (fractional), all;
Secs. 34 and 35 (fractional), all;
Sec. 36, all.
Containing approximately 8,735 acres.

State Selection AA-21819

T. 18 S., R. 55 W.,
Secs. 1 and 2 (fractional), all;
Sec. 12 (fractional), all.
Containing approximately 650 acres.

State Selection AA-21999

T. 16 S., R. 57 W.,
Sec. 16 (fractional), excluding the Igushik River;
Secs. 19 and 20, excluding the Igushik River;
Sec. 21, all;
Sec. 22 (fractional), all;
Sec. 27 (fractional), all.
Containing approximately 1,701 acres.

State Selection AA-22000

T. 16 S., R. 58 W.,
Sec. 22, excluding U.S. Survey 394, Native allotments AA-7378, AA-7531 and the Igushik River;
Secs. 23 and 24, excluding the Igushik River;
Sec. 26, excluding U.S. Survey 393, Native allotments AA-7840 Parcel A, AA-7711 and the Igushik River;
Sec. 27, excluding Native allotment AA-7840 Parcel A;
Sec. 34, all;
Sec. 35, excluding U.S. Survey 391, U.S. Survey 392 and U.S. Survey 560, Native allotment AA-7594 Parcel C, AA-7593 Parcel C, AA-7711 and the Igushik River.
Containing approximately 2,600 acres.

State Selection AA-22002

T. 17 S., R. 58 W.,
Sec. 5 (fractional), excluding U.S. Survey 392, U.S. Survey 729, Native allotments AA-7591 Parcel A and A-053802 Parcel 4;
Secs. 6 and 7, all;
Sec. 8 (fractional), excluding U.S. Survey 729, Native allotment A-053802 Parcel 4;
Sec. 16 (fractional), excluding Native allotment AA-7793;
Sec. 17 (fractional), excluding Native allotment A-054453 Parcel B;
Sec. 18, all.
Containing approximately 3,004 acres.
Aggregating approximately 48,404 acres.

Further action on State selection applications AA-21809, AA-21810, AA-21819, AA-21999, AA-22000 and AA-22002, as to those lands not rejected herein, will be taken at a later date. State selection application AA-21815 is hereby rejected in its entirety and will be closed of record when this decision becomes final.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

On July 13, 1978 Ekuk Natives Limited (for the village of Ekuk) merged with Choggiung Ltd., the village corporation of Dillingham as provided in Sec. 30 of the Alaska Native Claims Settlement Act, as amend (89 Stat. 1145, 1148; 43 U.S.C. 1601, 1627). the surviving corporation, Choggiung Ltd., is entitled to all rights, privileges and benefits of the Alaska Native Claims Settlement Act.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a),

aggregating approximately 63,155 acres, is considered proper for acquisition by Choggiung Ltd. and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claim Settlement Act:

U.S. Survey No. 2812, situated 10 chains south of Ekuk Bluff Blinker Lighthouse on Ekuk Bluff, east shore Nushagak Bay, Alaska, excluding Native allotment AA-6162 Parcel B.
Containing approximately 34 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 16 S., R. 54 W.,
Secs. 1 to 12, inclusive, all;
Secs. 14 to 22, inclusive, all;
Secs. 27 to 30, inclusive, all;
Sec. 31 (fractional), all;
Secs. 32, 33 and 34, all.
Containing approximately 18,527acres.

T. 16 S., R. 55 W.,
Secs. 1 to 4, inclusive, all;
Secs. 5 excluding Native allotment AA-6286;
Secs. 6 excluding Native allotments AA-6163, AA-6164, AA-6165, AA-6166 Parcel A and AA-6287;
Sec. 7 excluding Native allotments AA-6235 Parcel A and AA-6245 Parcel A;
Secs. 8 to 16, inclusive, all;
Sec. 17 (fractional), all;
Sec. 18 (fractional), excluding U.S. Survey 2813, Native allotments AA-6160 Parcel B and AA-6161 Parcel B;
Sec. 20 (fractional), all;
Sec. 21 (fractional), excluding Native allotment AA-6235 Parcel B;
Secs. 22 and 23 (fractional), all; Sec. 24, all:
Secs. 25 and 26 (fractional), all;
Sec. 36 (fractional), all;
Containing approximately 13,187 acres.

T. 17 S., R. 55 W.,
Secs. 1 and 2, all;
Secs. 3 to 4, inclusive, all;
Sec. 10 (fractional), all;
Secs. 11 to 14, inclusive, all;
Sec. 15 (fractional), all;
Sec. 22 (fractional), all;
Secs. 23 to 26, inclusive, all;
Sec. 27 (fractional), all;
Secs. 34 and 35 (fractional), all;
Sec. 36, all.
Containing approximately 8,735 acres.

T. 18 S., R. 55 W.,
Secs. 1 and 2 (fractional), all;
Sec. 12 (fractional), all.
Containing approximately 650 acres.

T. 16 S., R. 56 W.,
Sec. 1 (fractional), excluding U.S. Survey 389, U.S. Survey 557 and U.S. Survey 2713, Native allotments AA-6160 Parcel A, AA-6162 Parcel A, AA-6163 and A-057946 Parcel B;
Sec. 2 (fractional), excluding U.S. Survey 389, U.S. Survey 2713 and U.S. Survey 3005;
Sec. 11 (fractional), excluding U.S. Survey 769, U.S. Survey 1703, U.S. Survey 1795, U.S. Survey 2713, U.S. Survey 2884 and U.S. Survey 3005;
Sec. 12 (fractional), excluding U.S. Survey 769, U.S. Survey 862, U.S. Survey 912, U.S. Survey 1703, Native allotment AA-6159 and ANCSA Sec. 3(e) application AA-12836;
Sec. 13 (fractional), excluding U.S. Survey 862, U.S. Survey 2812, U.S. Survey 2813 and Native allotment AA-6162 Parcel B.
Containing approximately 770 acres.

T. 16 S., R. 57 W.,
Sec. 16 (fractional), excluding the Igushik River;
Secs. 19 and 20, excluding the Igushik River;
Sec. 21, all;
Sec. 22 (fractional), all;
Sec. 27 (fractional), all.
Containing approximately 1,701 acres.

T. 16 S., R. 57 W.,
Sec. 31 (fractional), all.
Containing approximately 15 acres.

T. 16 S., R. 58 W.,
Sec. 22, excluding U.S. Survey 394, Native allotments AA-7378, AA-7531 and the Igushik River;
Secs. 23 and 24, excluding the Igushik river;
Sec. 26, excluding U.S. Survey 393, Native allotments AA-7840 Parcel A, AA-7711 and the Igushik River;
Sec. 27, excluding Native allotment AA-7840 Parcel A;
Sec. 34, all;
Sec. 35, excluding U.S. Survey 391, U.S. Survey 392 and U.S. Survey 560, Native allotments AA-7594 Parcel C, AA-7593 Parcel C, AA-7711 and the Igushik River.
Containing approximately 2,600 acres.

T. 17 S., R. 58 W.,
Sec. 5 (fractional), excluding U.S. Survey 392, U.S. Survey 729, Native allotments AA-7591 Parcel A and A-053802 Parcel 4;
Secs. 6 and 7, all;
Sec. 8 (fractional), excluding U.S. Survey 729, Native allotment A-053802 Parcel 4;
Sec. 16 (fractional), excluding Native allotment AA-7793;
Sec. 17 (fractional), excluding Native allotment A-054453 Parcel B;
Secs. 18, 19 and 20, all;
Sec. 21 (fractional), excluding Native allotments AA-7840 Parcel B, AA-7211, and A-056046 Parcel B;
Sec. 28 (fractional), excluding Native allotments AA-7211, AA-7213, AA-7214 and AA-7752 Parcel B;
Sec. 29 all;
Sec. 32, all;
Sec. 33, excluding Native allotment AA-7214;
Sec. 34 (fractional), excluding Native allotments AA-7214, AA7215 Parcel A and ANCSA Sec. 3(e) application AA-12839.
Containing approximately 6,786 acres.

T. 18 S., R. 58 W.,
Sec. 3 (fractional), excluding Native allotment AA-7215 Parcel A;
Secs. 4 and 5, all;
Secs. 8 and 9, all;
Sec. 10 (fractional), all;
Secs. 14 and 15 (fractional), excluding Native allotment AA-7216;
Secs. 16 and 17, all;
Secs. 20, 21 and 22, all;
Secs. 23 and 25, (fractional), all;
Sec. 26 (fractional), excluding Native allotment AA-7212;
Secs. 27 and 28, all;
Sec. 34 all;
Secs. 35 and 36, (fractional), excluding Native allotment AA-7468.
Containing approximately 10,130 acres.
Aggregating approximately 63,155 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616 (b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-6662-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW).

a. (EIN 3 C5) An easement for an existing access trail twenty-five (25) feet in width from Ekuk in Sec. 2, T. 16 S., R. 56 W., Seward Meridan, southeasterly to public lands in Sec. 7, T. 17 S., R. 54 W., Seward Meridan. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 9 E) An easement for an existing access trail twenty-five (25) feet in width from Ekuk in Sec. 1, T. 16 S., R. 56 W., Seward Meridan, northerly to Clarks Point in Sec. 36, T. 15 S., R. 56 W., Seward Meridan. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 21, Sec. 6(g)

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(1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17 (b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Those rights for water pipeline purposes as have been granted to C.W.C. Fisheries, Inc., its successors or assigns, by right-of-way A–053898, located within the SW¼ Sec. 1 and the NW¼ Sec. 12, T. 16 S., R. 56 W., Seward Meridian, under the act of February 15, 1901 (31 Stat. 790; 43 U.S.C. 959); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The village of Ekuk is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, 63,155 acres of this entitlement have been approved for conveyance; the remaining entitlement of 5,965 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Choggiung Ltd., (for the village of Ekuk) for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following inland water body, within the described lands, is considered to be navigable:

Igushik River

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until August 31, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501
Choggiung Ltd., P.O. Box 247, Dillingham, Alaska 99576.

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-23650 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 28176]

Invitation for Coal Exploration License; Western Fuels Association, Inc.

July 24, 1979.

Western Fuels Association, Inc. hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration program concerning Federally owned coal underlying land contained in the following description, Rio Blanco County, Colorado:

T. 2 N., R 101 W., 6th P.M.,
Sec. 1: Lots 2, 5, 7, SW¼NE¼, NW¼SE¼
Sec. 11: Lots 1, 2, 4, 5, 6
Sec. 12: Lots 2, 3, 4, 5, 13
T. 3 N., R 101 W., 6th P.M.,
Sec. 19: Lots 1 thru 4, E½, E½W½ (All)
Sec. 20: All
Sec. 21: NW¼, S½
Sec. 27: NW¼, S½
Sec. 28: N½, N½SW¼, SE¼
Sec. 34: N½, N½SE¼
Sec. 35: N½, N½S½
Sec. 36: N½SW¼, W½SE¼
T. 3 N., R 102 W., 6th P.M.,
Sec. 23: All
Sec. 24: All
Sec. 25: All
Sec. 35: E½E½
Sec. 36: All
Containing 7007.03 Acres, More or Less.

All of the coal in the above lands consists of unleased Federal coal. The coal in 259.06 of the acres in T. 2 N., R. 101 W., 6th P.M. is the subject of a Preference Right Lease Application (C–0126669) filed by Reliable Coal and Mining Company of Indianapolis, Indiana.

The purpose of this exploration program is to determine the quality and quantity of the coal within the boundaries of the above described area.

A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under Serial Number C–28176):

Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.
Bureau of Land Management, 455 Emerson, Craig, Colorado 81625.
Bureau of Land Management, 317 East Market Street, Meeker, Colorado 81641.

This Notice of Invitation will be published in this newspaper once each week for two consecutive weeks beginning the week of July 23, 1979 and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Western Fuels Association, Inc. no later than ten calendar days after the last publication of this invitation in this newspaper or August 31, 1979, whichever is the later date. The written notice for Western Fuels Association, Inc. should be sent to the following address:

Western Fuels Association, Inc., 405 Urban Street, Suite 305, Lakewood, Colorado 80228.

The written notice for the Bureau of Land Management should be sent to the following address:

Colorado State Office, ATTN: Leader, Craig Team, Bureau of Land Management, Room 700, Colorado State Bank Building, Denver, Colorado 80202.

The foregoing notice is published in the **Federal Register** pursuant to Title 43, Code of Federal Regulations, Section 3410.2–1(d)(1), as published in 44 Federal Register 42584 at 42613 (No. 140, July 19, 1979).

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-23635 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-84-M

Accelerated Wilderness Inventory, Nevada.

July 25, 1979.

The Bureau of Land Management's Battle Mountain District has completed a special project wilderness inventory on the San Antonio inventory unit (NV–060–52) covering about 88,285 acres north of Tonopah in Nye County, Nevada. Based on this intensive inventory, the BLM is recommending that the area be released from further wilderness consideration because it lacks wilderness characteristics specified by Congress.

A 30-day public comment period is open until September 4, 1979. An open house is scheduled August 16 at the Tonopah Convention Center from 6:30 to 9:30 p.m. to acquaint the public with the inventory findings. Public comments can be mailed to the Battle Mountain District, 2nd and Scott Streets, P.O. Box 194, Battle Mountain, NV 89820 or to the Nevada State Office, Room 3008 Federal Building, 300 Booth Street, Reno, NV 89509.

The special, accelerated inventory was requested by Anaconda Copper Company who are planning a molybdenum mine and mill in the area. According to the inventory findings, the unit was split by roads, resulting in several areas which were evaluated for wilderness characteristics on an individual basis. None of the areas studied were found to contain wilderness characteristics. A summary of the study findings follows:

1. 4,385 acres were excluded in four parcels because roads separated them from the bulk of the unit. All are below the minimum standard acreage and none have strong public support for their preservation as wilderness.

2. 7,000 acres were excluded due to heavy mining impacts which resulted in a lack of naturalness.

3. A 20,500 acre parcel was found to be roadless and essentially natural but lacking in outstanding opportunities for solitude and a primitive and unconfined type of recreation. Primary reasons were: poor screening by vegetation and topography, lack of outstanding features of interest, and poor camping, hiking and backpacking opportunities due to sandy terrain, lack of water, and absence of protection from the elements.

4. A 56,400 acre tract was also found to be roadless and essentially natural but lacking in outstanding opportunities for solitude and a primitive and unconfined type of recreation due to the same reasons noted above.

Maps and additional information on the San Antonio unit can be obtained from either the Reno or Battle Mountain offices, as well as the Tonopah Area BLM Office, P.O. Box 911, Tonopah, Nevada 89049.

E. I. Rowland,

State Director, Nevada.

July 25, 1979.

[FR Doc. 79-23712 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37710, 37712, 37713, 37714, 37715, and 37868]

New Mexico; Notice of Applications

July 25, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 9 W.,
Sec. 17, SE¼SE¼;
Sec. 20, NE¼NE¼;
Sec. 33, SW¼SE¼.
T. 31 N., R. 9 W.,
Sec. 7, lots 11, 12, 15 and 18.
T. 31 N., R. 11 W.,
Sec. 5, E½SW¼;
Sec. 17, NW¼NW¼.

These pipelines will convey natural gas across 0.922 of a mile of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23710 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37692]

New Mexico; Notice of Application

July 23, 1979.

Notice is hereby given that, pursuant to Section 23 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 18 S., R. 27 E.,
Sec. 11, E½W½.

This pipeline will convey natural gas across 0.994 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23708 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37697 and 37717]

New Mexico; Notice of Applications

July 23, 1979.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 8 W.,
Sec. 18, E½NE¼ and SW¼NE¼;
Sec. 31, lots 14 and 15.

These pipelines will convey natural gas across 0.489 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23711 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 24005 Okla.]

New Mexico; Notice of Coal Lease Offering by Sealed Bid

July 25, 1979.

U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501. Notice is hereby given that certain coal resources in the lands hereinafter described in Haskell County, Oklahoma will be offered for lease by sealed bid of $25 per acre minimum to the qualified bidder of the highest cash amount per acre or fraction thereof. The sale will be held at 2:00 p.m., local time, August 30, 1979, in Room 2–A Sweeney Convention Center, corner of Marcy and Grant, Santa Fee, New Mexico. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time and place set for opening of such bids.

Coal Offered

The coal resource to be offered is limited to those reserves recoverable by surface mining methods from the Upper Hartshorne and Lower Hartshorne coal beds in the following described tract located approximately one mile northeast of the town or McCurtain, Haskell County, Oklahoma:

Indian Meridian, Oklahoma

T. 8 N., R. 22 E.
Sec. 14: S½NE¼SW¼, S½SW¼
Sec. 15: SE¼SE¼
Containing 140.00 acres

On an as-received basis, the coal averages about seven percent ash, 16 percent volatile matter, two percent moisture, 75 percent fixed carbon, one percent sulfur and 14,300 BTU/lb. This would classify the coal as low volatile bituminous under ASTM specification D 38866. The coal has a free swelling index of nine and is used as metallurgical coal. The Upper Hartshorne coal is about 24" thick and is separated from the Lower Hartshorne coal (about 36" thick) by two to five feet of shale. The estimated total reserves recoverable by surface mining methods are 163,000 tons.

Public Comments

The public is invited to submit written comments and any recommendations concerning the fair market value of the coal to be leased as described in this notice. Comments should be sent to the State Director, New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, CO 80225, to arrive no later than August 23, 1979.

Notice of Availability

All case file documents and written comments submitted by the public on fair market value or royalty rates except those portions identified as proprietary by the commentor and meeting exemptions stated in the Freedom of Information Act will be available for public inspection at the Bureau of Land Management, Room 3031, on the third floor of the U.S. Post Office and Federal Building located on South Federal Place, Santa Fe, New Mexico. Copies of the detailed statement and proposed coal lease are also available in Room 3031.

The successful bidder is obligated to pay for the newspaper publications of this notice.

Arthur W. Zimmerman,
State Director.

[FR Doc. 79-23709 Filed 7-31-79; 8:45 am]
BILLING CODE 4310-84-M

[M 20500(SD)]

South Dakota; Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

July 24, 1979.

The Forest Service, United States Department of Agriculture, filed application Serial No. M 20500(SD) on December 28, 1971, for a withdrawal from location and entry under the mining laws but not from leasing under the mineral leasing laws, subject to existing valid claims, in relation to the following described lands:

Black Hills Meridian, South Dakota

Steamboat Rock Picnic Grounds

T. 2 N., R. 5 E.,
Sec. 1, S½NW¼SW¼, N½SW¼SW¼, and NW¼SE¼SW¼.

Mount Roosevelt Recreation Sites and Roadside Zone

T. 5 N., R. 3 E.,
Sec. 16, Lots 1, 3, and 4, SW¼SE¼NE¼, W½NW¼SE¼SE¼, and NE¼SW¼ SE¼.

Also a strip of land 150 feet each side of the centerline of Mount Roosevelt Road and a branch road through the following legal subdivisions:

Sec. 14, Lot 4 and S½NW¼;
Sec. 15, Lots 1, 2, and 3, SW¼NW¼, and NW¼SW¼; and
Sec. 16, Lot 5, E½SE¼NE¼, NW¼SE¼NE¼, S½SW¼SE¼, and NE¼SE¼.

The areas described aggregate 263.26 acres, more or less, in Lawrence County, South Dakota.

A notice of the proposed withdrawal was published in the **Federal Register** on February 5, 1972, Vol. 37, page 2793, document No. 72-1742. We have deleted M.S. 1216 in this republication as the government does not own the minerals. Also, we have reduced the roadside strip from 200 feet to 150 feet as requested by the Forest Service.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, or or before August 31, 1979. Notice of the public hearing will be published in the **Federal Register**, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau Land Management on or before August 31, 1979.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23707 Filed 7-31-79; 8:45 am]
BILLING CODE 4310-84-M

[W-045038]

Wyoming; Notice of Application

July 18, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an appalication to amend their existing right-of-way W-045038 to construct a 4 inch lateral crossover pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 27 N., R. 113 W.,
Sec. 20, SW¼SW¼

The proposed lateral crossover pipeline consisting of 20 feet of pipeline will serve to connect Northwest Pipeline Corporation's existing Hogsback 73–19 Well lateral pipeline to their existing lateral A–2 pipeline, all located within the SW¼SW¼ of Section 20, T. 27 N., R. 113 W., Sublette County, Wyoming.

The purpose of this notice is to conform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23713 Filed 7-31-79; 8:45 am]
BILLING CODE 4310-84-M

DEPARTMENT OF INTERIOR

Coal Slurry Pipeline; Public Scoping Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Scoping Meetings on Energy Transportation Systems, Inc. (ETSI) Coal Slurry Pipeline EIS.

SUMMARY: The Department of the Interior, Bureau of Land Management, Wyoming State Office will hold scoping meetings on the ETSI EIS. The statement will analyze construction, operation and maintenance of a 36 to 38-inch diameter coal slurry pipeline approximately 1,355 miles long, capable of transporting 25 million tons of coal per year to coal-fired electric generating plants along the proposed route and to a barge facility at Penton, Mississippi. Associated facilities including pumping stations, dewatering facilities, a barge terminal and slurry preparation plants will also be assessed in the statement. Alternatives to be considered include, but will not be limited to, routes, facilities and other transportation modes capable of transporting approximately 25 million tons of coal annually from Wyoming to markets in the midwest and gulf coast regions. Public workshops to help identify the scope of the ETSI EIS will be held at the following places and times:

Monday, August 20, 1979, 1:30 p.m. in the Denver Community Program Center, Emerson House, Inc., 1420 Logan Street, Denver, Colorado.

Tuesday, August 21, 1979, 7:00 p.m. in the Commission Chamber of the Public Safety Center, 2nd and Oklahoma Streets in Ponca City, Oklahoma.

Wednesday, August 22, 1979, 7:00 p.m. in the Council Chamber of the Grand Community Building, 6th and North Adair Streets in Pryor, Oklahoma.

Thursday, August 23, 1979 in the Arkansas Game and Fish Commission Auditorium, No. 2 Natural Resources Drive in Little Rock, Arkansas.

Monday, August 27, 1979 at the Desoto County Courthouse in Hernando, Mississippi.

Tuesday, August 28, 1979 at the Concordia Parish Police Jury Meeting Room, Highway 84 West in Vidalia, Louisiana.

Wednesday, August 29, 1979 at the Multi-purpose Room, Alliance High School, 100 West 14th in Alliance, Nebraska.

The purpose of these public workshops is: (1) to provide information to the public concerning the nature of the proposal and the purpose of the Environmental Impact Statement, and (2) to have the public, through a workshop process identify for BLM's consideration in the EIS, the significant issues and impacts that they feel are associated with the proposed project.

The contact for the ETSI Coal Slurry Pipeline Environmental Impact Statement is: Richard E. Traylor, ETSI EIS Team Leader, Bureau of Land Management, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82001, telephone: commercial number (307) 778–2220, extension 2405; FTS 328–2405. A summary of the proposed project and meeting agenda may be obtained from the above address. Persons unable to attend the public meetings may submit written comments as to what may be the significant issues and impacts. The comments should also include reasons why the identified issue or impact is significant and why they should be included in the EIS. Written comments should be submitted no later than August 29, 1979.

Dated: July 23, 1979.

P. D. Leonard,
Acting Director, Wyoming.

[FR Doc. 79-23812 Filed 7-31-79; 8:45 a.m.]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Animal Damage Control for Migratory Birds, Rodents, and Miscellaneous Mammals Environmental Impact Statement; Scoping Meeting

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that a meeting of all affected agencies and interested individuals will be held to help determine and refine the scope of an environmental impact statement for those portions of the Animal Damage Control Program dealing with migratory birds, rodents, and miscellaneous mammals.

To comply with the NEPA regulations which become effective July 30, 1979, and to provide the guidance and perspective of a broad range of affected groups, the Service invites the participation of all individuals who can provide construction criticism and suggestions.

DATES: Tuesday, Wednesday, and Thursday, September 4, 5, and 6, 1979 (The scoping meeting will be shortened as progress warrants).

ADDRESS: Main Interior Auditorium, 18th and C Streets, Washington, D.C. 20240. Meetings will start at 9:00 a.m. each day.

FOR FURTHER INFORMATION CONTACT: F. Nelson Swink, Chief, Branch of Birds, Division of Animal Damage Control, Fish and Wildlife Service, U.S. Department of the Interior (202) 632–7463.

SUPPLEMENTARY INFORMATION: For the purposes of this impact statement, the action of source of the impacts is the current Animal Damage Control program dealing with migratory birds, rodents, or miscellaneous animals or

proposed alternative. The need of or purpose for the action is the resolution of people-wildlife conflicts as it serves the interest and welfare or mankind.

Environmental Impact Statement on Predator Control in the West and the use of PA-14 to control Winter Roosting Blackbirds and Starlings have already been released in final form and will not be repeated in the proposed statement.

All who wish to attend this meeting are asked to advise Mr. Swink at the address or phone number above by *September* 1, 1979.

Dated: July 27, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 79-23643 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

National Park Service

[INT DES 79-48]

Designation of a Segment of the Green and Yampa Rivers as Units in the National Wild and Scenic Rivers System; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft study report/environmental statement for a proposal to designate 138 miles of the Green and Yampa Rivers in Colorado and Utah as National Wild and Scenic Rivers.

Written comments on the environmental statement are invited and will be accepted on or before September 17, 1979. Comments should be addressed to the Regional Director, Rocky Mountain Region.

Copies are available for inspection at the following locations:

Director, National Park Service, Interior Building, Washington, D.C. 20240, Telephone: (202) 343-5213.
Regional Director, Rocky Mountain Region, National Park Service, 655 Parfet Street, P.O. 25287, Denver, Colorado 80225.

A limited number of single copies are available and may be obtained by writing the above offices.

Dated: July 27, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-23743 Filed 7-31-79; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-56]

Certain Thermometer Sheath Packages; Commission Determination and Order

The United States International Trade Commission conducted an investigation under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) ("section 337") of unfair methods of competition and unfair acts in the unauthorized importation into the United States of certain thermometer sheath packages covered by the claims of U.S. Letters Patents No. 3,525,558 and 3,847,280, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. On July 10, 1979, the Commission determined that there is a violation of section 337 and ordered that thermometer sheath packages falling within claims 1, 4, 5, 8, 9, 13, 15, 16, 17, and 18 of U.S. Letters Patent No. 3,552,558, and claims 1, 2, and 5 of U.S. Letters Patent No. 3,847,280 be excluded from entry into the United States for the term of those patents (until January 5, 1988) [1] unless the importation is licensed by the patent owner.

This determination and order disposes of the Commission's thermometer sheath packages investigation. The Commission's determination and order are set forth below; the Commissioners' opinions are included in a separate Commission publication.

Determination

Having reviewed the record in this matter, the Commission, on July 10, 1979, determined: [2]

1. That there is a violation of section 337 of the Tariff Act of 1930, as amended, in the importation into the United States of certain thermometer sheath packages falling within claims 1, 4, 5, 8, 9, 13, 15, 16, 17, and 18 of U.S. Letters Patent No. 3,552,558 and claims 1, 2, and 5 of U.S. Letters Patent No. 3,847,280, or in their sale by their owners, importers, consignees, or agents of either, in the United States, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States; [3]

2. That the appropriate remedy for such a violation is to direct that thermometer sheath packages falling within claims 1, 4, 5, 8, 9, 13, 15, 16, 17, and 18 of U.S. Letters Patent No. 3,552,558, and claims 1, 2, and 5 of U.S. Letters Patent No. 3,847,280, be excluded from entry into the United States for the terms of said patents, except under license of the patent owner; [4]

3. That, after considering the effect of such relief upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, such relief should be imposed; and

4. That the bond provided for in subsection (g)(3) of section 337 of the Tariff Act of 1930 [19 U.S.C. 1337(g)(3)] be in the amount of 10 percent of the value of the thermometer sheath packages concerned, f.o.b. foreign port.

Order

Accordingly, it is hereby ordered that—

1. Complainant's motion [5] to dismiss those portions of the amended complaint which allege that respondents are offering their thermometer sheath packages below their average variable cost in order to damage the business of complainant and make complainant less effective as a competitor, is granted;

2. Thermometer sheath packages falling within claims 1, 4, 5, 8, 9, 13, 15, 16, 17, and 18 of U.S. Letters Patent No. 3,552,558 and claims 1, 2, and 5 of U.S. Letters Patent No. 3,847,280 are excluded from entry into the United States for the terms of said patents except where such importation is licensed by the owner of said patents; [6]

3. Thermometer sheath packages ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 10 percent of their value, f.o.b. foreign port, from the day after the day this order is received by the President pursuant to section 337(g) of the Tariff Act of 1930, as amended, until such time as the President notifies the Commission that he approves or disapproves this action, but, in any event, not later than 60 days after such day of receipt;

[1] A terminal disclaimer filed with the application for U.S. Letters Patent No. 3,847,280 reduces the term of that patent, granted Nov. 12, 1974, to Jan. 5, 1988, the expiration date of U.S. Letters Patent No. 3,552,558.

[2] Chairman Joseph O. Parker determined that there is no violation of sec. 337 for the reasons set forth in his dissenting opinion.

[3] The Commission determined that claims 12 and 19 of U.S. Letters Patent No. 3,552,558 are not being infringed by the imported thermometer sheath packages.

[4] Because the terminal portion of U.S. Letters Patent No. 3,847,280 has been disclaimed, the expiration date for both patents is Jan. 5, 1988.

[5] The motion is not numbered, but is contained in a letter from complainant's counsel dated Feb. 7, 1979, and filed Feb. 12, 1979.

[6] See note 1, supra.

4. That this determination and order will be published in the **Federal Register** and served upon each party of record in this investigation and upon the U.S. Department of Health, Education and Welfare, the U.S. Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury; and

5. That the United States International Trade Commission may amend this order at any time.

By order of the Commission.

Issued: July 25, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-23764 Filed 7-31-79; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL ENDOWMENT FOR THE ARTS

Expansion Arts Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Expansion Arts Panel will be held on August 22, 1979, August 23, 1979 and August 24, 1979, from 9:00 a.m.-5:30 p.m. in room 1426 of the Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C. 20506.

This meeting will be open to the public on a space available basis. The topic for discussion will be Policy and Guidelines.

Further information with reference to this meeting can be obtained from Mr. John H., Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 25, 1979.

[FR Doc. 79-23714 Filed 7-31-79; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-320]

Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit 2); Order for Modification of License

I. Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensee) are the holders of Facility Operating License No. DPR-73, which authorizes operation of the Three Mile Island Nuclear Station, Unit 2 at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor used for the commercial generation of electricity.

II. On March 28, 1979, an accident at the Three Mile Island Nuclear Station Unit 2 resulted in substantial damage to the reactor core and to certain reactor systems and components. The facility is not capable of operation and is in a shutdown condition with fuel in the core. Although many systems and components were damaged or have subsequently failed, the facility is now in a safe and stable cooling condition. The stable, long-term cooling condition is currently being maintained in accordance with approved operating and contingency procedures, with decay heat being removed by natural convection circulation of primary coolant through the core with heat rejection through the "A" steam generator. The "A" steam generator is producing steam which is condensed in the condenser and recirculated to the "A" steam generator. An alternative means of removing decay heat from the primary coolant is through the "B" steam generator. The steam side of the "B" steam generator has been modified to provide a water solid, closed loop cooling system which is in turn cooled by the secondary services closed cooling water system. Either steam generator cooling mode is adequate to remove decay heat from the primary coolant. If natural circulation cooling of the core should be lost, contingency plans and procedures have been prepared and approved for alternate means of providing long-term core cooling. These alternate core cooling means include forced circulation of the primary coolant using the reactor coolant pumps or decay heat removal pumps.

III. The facility operating license is being reviewed and a detailed evaluation of the license modifications necessary to reflect the present condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility, is being prepared. This evaluation will be set forth in a forthcoming Safety Evaluation which will address the imposition of new and/or revised Technical Specifications setting forth appropriate license conditions. It is expected that this effort will be completed in about 30 days at which time a further Order will be issued. Pending completion of the review and evaluation, it is appropriate to limit activities at the facility to maintenance of the reactor in its present condition. Furthermore, because of the current condition of the plant, the public health, safety and interest require that this suspension be effective immediately.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that:

(1) The authority provided by Facility Operating License No. DPR-73 to operate Three Mile Island Nuclear Station, Unit 2, is hereby suspended, effective immediately.

(2) Pending further amendment of the Facility Operating License, the licensee shall maintain the facility in a shutdown condition in accordance with the approved operating and contingency procedures for the facility.

In view of the further action to be taken with respect to this facility, the time within which the licensee may file an answer and any person whose interest may be affected by this Order may request a hearing in this matter, shall be as provided by the subsequent Order identified in Part III above.

Dated at Bethesda, Maryland this 20th day of July 1979.

For the Nuclear Regulatory Commission

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-23722 Filed 7-31-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas & Electric Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (the facility) located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment changes the provisions of the Technical Specifications to restrict operation with less than all reactor coolant loops in service.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10

CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 11, 1979, (Proposed Change No. 80), (2) Amendment No. 43 to License No. DPR–13, (3) the Commission's related Safety Evaluation, and (4) the Commission's letter to the licensee dated April 30, 1979, including the enclosed staff evaluation for Systematic Evaluation Program Topic IV–1.A, "Operation With Less Than All Loops In Service." All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California 92672. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of July, 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79–23724 Filed 7–31–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–206]

Southern California Edison Co. and San Diego Gas & Electric Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Provisional Operating License No. DPR–13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which amended the license and its appended Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (the facility) located in San Diego County, California.

The amendment adds license conditions relating to the completion of facility modifications and implementation of administrative controls for fire protection, and modifies the Technical Specifications to delete limiting conditions for operation and surveillance requirements for existing fire protection systems relative to the use of the screen wash pumps. The amendment also increases the compliment of the fire brigade in Technical Specifications 6.2.2.f from three to five members. The amendment is effective as of its date of issuance, except that the administrative controls shall be in effect within 90 days from the date of issuance of the amendment.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) and environmental impact statement or negative declaration and enviromental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's May 1978 submittal received by the Commission on June 8, 1978, with an undated letter responding to the Commission's March 16, 1978 letter, in addition to submittals dated May 19, July 3, October 18 and 30, 1978, December 1, 1978, January 11, 1979, and January 15, 1979, (2) Amendment No. 44 to License No. DPR–13, including the Commission's letter of transmittal, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of July, 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79–23725 Filed 7–31–79; 8:45 am]

BILLING CODE 7590–01–M

Implementation of Emergency Planning Requirements for Commercial Nuclear Power Reactors

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Meeting.

SUMMARY: On January 11, 1973 the Commission published in the Federal Register a revised Appendix E, "Emergency Plans for Production and Utilization Facilities to 10 CFR Part 50. Since that time the Commission has issued Regulatory Guide 1.101, "Emergency Planning for Nuclear Power Plants," March 1977, which outlines an emergency planning program for nuclear power reactors which meet the requirements of 10 CFR Part 50, Appendix E. As a result of recent incidents involving emergency plan utilization by licensees, improvements to increase the effectiveness and efficiency of licensees emergency plans have become necessary. In this connection the Commission will hold regional meetings to discuss these requirements and guidance.

DATES AND ADDRESSES:

Region I—August 20, 1979, 8 a.m.–3:30 p.m.—Holiday Inn, 260 Goddard Boulevard, King of Prussia, PA 19406.

Region II—August 24, 1979, 8 a.m.–3:30 p.m.—Peachtree Plaza, Peachtree Street, Atlanta, GA.

Region III—August 21, 1979, 8 a.m.–3:30 p.m.—Holiday Inn, 1250 Roosevelt Road, Glen Ellyn, IL 60137.

Region IV and V—August 22, 1979, 8 a.m.–3:30 p.m.—EPA Environmental Systems, Laboratories, 944 East Harmon, Las Vegas, NV 89109.

FOR FURTHER INFORMATION CONTACT:

Frank G. Pagano, Chief, Reactors Safeguards Development Branch, Division of Operating Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–7846.

SUPPLEMENTAL INFORMATION: The primary purpose of these meetings will be (1) to provide a further explanation of the necessary improvements; (2) explain the regulatory approach to be taken to effect these improvements; and (3) provide a forum for discussion of the rules and guidance.

Persons other than the NRC staff and licensee representatives may observe the proceedings but will not be permitted to participate in the discussions since only a limited time will be available for discussion.

Persons other than reactor licensees, desiring to attend the meetings should call the Office of the Chief, Reactor Safeguards Development Branch (Frank Pagano), phone (301) 492–7846, before August 15, 1979.

Dated at Bethesda, Maryland, this the 26th day of July 1979, for the Nuclear Regulatory Commission.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79–23723 Filed 7–31–79; 8:45 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 01/01–0303]

Cohasset Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is herby given than an Application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)) under the name of Cohasset Capital Corporation (Applicant), for a license to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (Act), and the Rules and Regulations promulgated thereunder.

The Applicant, will be located at 220 Beechwood Street, Cohasset, Massachusetts 02025, and will begin operations with a capitalization of $515,000. Applicant's Common Stock, $1 Par Value will be sold to approximately 20 beneficial shareholders in a private offering. The Applicant presently has outstanding binding subscriptions from the investors listed below to purchase 27,500 shares of its Common Stock, $1 Par Value at $10 per share:

	Shares subscribed
Beaunit Corp. 1000 Wade Avenue, Raleigh, North Carolina 17605	16,000
Carter Broadcasting Corporation, 312 Stewart Street, Boston, MA 02116	5,000
HKSG, Inc., 872 Westford Road, Carlisle, MA 01741	5,000
Wilfred E. Gardner, Jr. 76 Garden Road, Wellesley Hills, MA 02181	2,500

The officers and directors of the Applicant will be as follows:

President Director* Grant M. Wilson, 872 Westford Road, Carlisle, MA 01741.

Treasurer, Director, Robert E. Swain, 14 Border Street, No. Scituate, MA 02066.

Clerk, Director, Wilfred E. Gardner, Jr., 76 Garden Road, Wellesley Hills, MA 02181.

Assistant Treasurer, Beverly A. Medinger, 4 Tupelo Road, Cohasset, MA 02025.

*Grant M. Wilson is also Vice President of Beaunit Corporation, Treasurer of Carter Broadcasting Corporation and President of HKSG, Inc.

The Applicant intends to make investments principally in the Commonwealth of Massachusetts and in other areas within the United States and its territories and possessions.

Matters involved in SBA's consideration of the Applicant include the general reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may (within 15 days after the date of publication of this Notice), submit written comments on the Applicant to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N. W., Washington, D.C. 20416.

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in Cohasset, Massachusetts.

(Catalogue of Federal Domestic Program No. 59.011, Small Business Investment Companies).

Dated: July 26, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79–23751 Filed 7–31–79; 8:45 am]

BILLING CODE 8025–01–M

[License No. 04/04–0168]

Gulf Coast Capital Co.; Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the Regulations (13 CFR 107.102 (1979)), under the name of Gulf Coast Capital Company, 70 North Baylen Street, Pensacola, Florida 32501 for a license to operate in the State of Florida as an SBIC, under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers and directors and major stockholders are as follows:

Name and title	Percent
President, General Manager and Director, Oscar M. Thorp, 928 Fairway Drive, Warrington, Fla. 32507	0
Vice President, Director, William G. Champlin, 615 Bayshore Drive, Warrington, Fla. 32507	0
Secretary, Treasurer, and Director, Schuyler J. Reed, 515 S. Second Street, Warrington, Fla. 32504	0
Mutual Federal Savings and Loan Association, 70 North Baylen Street, Pensacola, Fla. 32501	100

The stock will all be owned by Mutual Federal Savings and Loan Association, which is a Federally chartered mutual savings and loan association having no beneficial holders.

The applicant will begin operations with a capitalization of $500,000, which will be a source of equity capital and long-term loans for qualified small business concerns.

The applicant will conduct its operations principally in the State of Florida and in other areas wherever the need may arise.

Matters involved in SBA's consideration of the application include the general reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any interested person may (on or before August 13, 1979) submit written comments on the proposed company to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 25, 1979.

Peter F. McNeish,

Acting Associate Adminstrator for Finance and Investment.

[FR Doc. 79–23750 Filed 7–31–79; 8:45 am]

BILLING CODE 8025–01–M

[Proposed License No. 01/01–0302]

Transatlantic Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration, pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of Transatlantic Capital Corporation (Applicant) for a License to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (ACT), and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the Commonwealth of Massachusetts and it will commence operations with a capitalization of $3,000,000, which amount will be raised from the sale of shares of Common

Stock, $1 Par Value, of the Applicant to three (3) shareholders. The Klebl Trust will own twenty percent (20%) of the stock; the Bank in Liechtenstein will own forty percent (40%); and the Prince of Liechtenstein Foundation will own forty percent (40%).

The Klebl Trust, Liechtenstein, was established by Norman Klebl, a proposed director of the Applicant, for the benefit of his immediate family.

The Bank in Liechtenstein, Liechtenstein, is ninety percent (90%) owned by the Furst von Liechtenstein Stiftung, (Prince of Liechtenstein Foundation), Schloss Vaduz, 9490 Vaduz, Principality of Liechtenstein. The Foundation was established in 1970 by the Reigning Prince Franze Josef II of Liechtenstein.

The Officers and Directors of the Applicant will be:

Names and Addresses; Proposed Title or Relationship to Licensee

President and Director, Bayard Henry, 65 Goodard Ave., Brookline, Mass. 02146.
Vice President, Treasurer and Assistant Clerk, John O. Flender, 112 Avon Hill Street, Cambridge, Mass. 02140.
Clerk, William D. Nichols, 100 Federal Street, Boston, Mass. 02110.
Director, Hans Adam Liechtenstein, Schloss Vaduz, FL-9490 Vaduz, Liechtenstein.
Director, Norbert Klebl, Fernholz 15, 403 Ratingen, Germany.
Director, James R. Dempsey, 4081 Ridgeview Circle, Arlington, VA. 22208.
Director, Charles C. Cunningham, Director, 63 Hillside Road, Brookline, Mass. 02146.
Director, Harvey J. Sarles,* 25 Thomas Street, Harrington, R.I. 02806.

The Applicant will have its principal place of business at 60 Batterymarsh Street, Boston, Massachusetts 02110, and it intends to conduct operations primarily in the Northeastern part of the United States.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may within 15 days after the date of publication of this Notice, submit written comments on the Applicant to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in Boston, Massachusetts.

(Catalogue of Federal Domestic Assistance Program No. 59.011, Small Business Investment Investment Companies).

Dated: July 23, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-23752 Filed 7-31-79; 8:45 am]

BILLING CODE 8025-01-M

*Harvey J. Sarles is also a Consultant and Director of Narragansett Capital Corporation, 40 Westminster Street, Providence, Rhode Island 02903, a Federal Licensee under the Small Business Investment Act of 1958, as amended.

[License No. 09/09-5236]

Yosemite Capital Investment Co.; Issuance of a License To Operate as a Small Business Investment Company

On April 23, 1979, a notice was published in the **Federal Register** (44 FR 23961) stating that Yosemite Capital Investment Company located at 448 Fresno Street, Fresno, California 93706, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1979) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business May 8, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued license No. 09/09-5236 to Yosemite Capital Investment Company on July 17, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: July 23, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-23753 Filed 7-31-79; 8:45 am]

BILLING CODE 8025-01-M

Office of the Chief Counsel for Advocacy; Hearing

Pursuant to the statutory authority set forth in Section 612(d) of Title 15, United States Code, the Chief Counsel for Advocacy of the Small Business Administration, Milton D. Stewart, Esq., with the approval of the Administrator, A. Vernon Weaver, will conduct public hearings in Des Moines, Iowa, on August 28, 1979, on "Government Competition With Small Business." The hearing will convene at 9:00 a.m. (C.S.T.) in Room 113 Federal Building, 210 Walnut Street in Des Moines.

The Chief Counsel, with the assistance of a Special Task Group, will assess the adequacy of current efforts to restrict Federal government involvement in commercial and industrial activities, and the incidence and effects of direct and indirect competition by the Federal, state and local governments with small business.

Participants will include owners and representatives of small businesses which have been directly affected by government competition, pertinent trade associations and concerned government officials.

The hearing is open to the public. Any member of the public may make a verbal statement, but must file a written statement prior to the hearing. Any member of the public may file a written statement with the Office of the Chief Counsel for Advocacy before, during or after the hearings. All communications or inquiries regarding these hearings should be addressed to: Doreen Thompson, Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, 1441 L Street NW.—Rm. 219, Washington, D.C. 20416, (202) 653-6998.

Milton D. Stewart,

Chief Counsel for Advocacy.

[FR Doc. 79-23677 Filed 7-31-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.106]

AID Representative, Burma; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me by Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the AID Representative, Burma, the authority to sign:

1. U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent:

2. Contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent; and

3. Operational Program Grants (OPG's) subject to the conditions set forth in AID Redelegation of Authority No. 99.1.95.

The authority delegated in paragraphs 1 and 2 above may be redelegated in writing, in whole or in part, by the AID Representative at his/her discretion to the person or persons designated by the AID Representative as the Contracting Officer. Such redelegation shall remain in effect until the designated person or persons ceases to hold the office of Contracting Officer or until the redelegation is revoked by the AID Representative, whichever shall first occur. The authority so redelegated by the AID Representative may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the AID Representative's acting capacity.

Actions within the scope of this delegation and any redelegation hereunder heretofore taken by officials designated in such delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective immediately.

Dated: July 20, 1979.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 79-23637 Filed 7-31-79; 8:45 am]

BILLING CODE 4710-02-M

[Nos. 5.24, 38.21, 99.19 and 112.12]

A.I.D. Representative in Burma; Redelegation of Authority

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449) as amended, with respect to Loan Agreements, No. 38, dated April 10, 1964 (29 FR 5280), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grants to International Organizations; No. 99, dated April 27, 1973 (38 FR 12834), with respect to Contracting and Related Functions; and No. 112, dated October 12, 1975 (40 FR 48955), with respect to other authorities and functions delegated to me, I hereby redelegate to the A.I.D. Representative in Burma and to any person acting in this official capacity, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate and execute loan and grant agreements and amendments thereto up to Five Hundred Thousand United States Dollars ($500,000) with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the "Act"), in accordance with the terms of the authorization of such loan or grant; such grant agreements for purposes of this authority and all other authorities contained in this redelegation shall mean agreements with foreign governments, foreign government agencies and international organizations having a membership consisting primarily of such foreign governments;

2. Authority to implement such loan and grant agreements with respect to loans and grants authorized under the Act, including the following:

(a) Authority to prepare, negotiate, sign and deliver letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such loan or grant agreements;

(c) Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan and grant agreements;

(d) Authority to sign or approve Project Implementation Orders (PIO's);

(e) Authority to approve contractors, review and approve the terms of contracts, amendments and modifications thereto, and invitations for bids with respect to such contracts financed by funds made available under such loan or grant agreements; *Provided*, that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent; and

(f) Authority to extend terminal dates for signing Project Agreements and meeting initial conditions precedent for a cumulative period of not to exceed six months for each, and to extend terminal dates for requesting disbursement authorizations, terminal disbursement dates, and Project Assistance Completion Dates (PACD's) for a cumulative period of not to exceed one year for each.

The authorities enumerated above may be exercised only after appropriate consultation with A.I.D. technical and legal staff.

The authority enumerated above in paragraph one (1) with respect to execution of loan and grant agreements is also hereby redelegated under the same terms and conditions set forth herein to the U.S. Ambassador to Burma.

This Redelegation of Authority is effective immediately.

Dated: July 18, 1979.

John H. Sullivan,

Assistant Administrator, Bureau for Asia.

[FR Doc. 79-23638 Filed 7-31-79; 8:45 am]

BILLING CODE 4710-02-M

Revocation of Authority for AID Programs in Burma

Delegation of Authority No. 51, dated August 10, 1964 is hereby revoked.

Dated: July 19, 1979.

Robert H. Nooter,

Administrator (Acting), Agency for International Development.

[FR Doc. 79-23636 Filed 7-31-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 156 (Rev. 1); Chief Counsel Order No. 1031.3]

Delegation of Authority To Disclose Tax Information

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This revised delegation order authorizes certain officials of the Internal Revenue Service to disclose tax information and to permit testimony or the production of documents. The text of the delegation order appears below.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Howard T. Martin, CP:D, 1111 Constitution Ave., N.W., Room 1603, Washington, D.C. 20224, Telephone number 202-566-3908 (Not a Toll-Free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Howard T. Martin,

Director, Disclosure Operations Division.

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U.S. Treasury Department, Internal Revenue Service

Delegation Order

Order No. 156 (Rev. 1)

Chief Counsel Order No. 1031.3

Date of issue: July 30, 1979.
Effective Date: August 31, 1979.

Subject: Authority To Permit Disclosure of Tax Information and To Permit Testimony or the Production of Documents.

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150–37, dated March 17, 1955, and in the Chief Counsel by General Counsel Order No. 4 dated June 14, 1979 and by Treasury Department Order No. 190 (Revision 15), dated March 16, 1978, authority to act in matters officially before their respective functions is hereby delegated as follows:

(1) The Deputy Commissioner; Assistant Commissioners; Deputy Assistant Commissioners; Division Directors; Deputy Chief Counsels; Chief Counsel Division Directors; Regional Commissioners; Regional Inspectors; Regional Counsels; Deputy Regional Counsels; District Counsels; District and Service Center Directors; Director of International Operations; Director, National Computer Center; and Director, Data Center are authorized:

(a) To disclose or, in specific instances, authorize the disclosure of returns or return information to such persons as the taxpayer may designate in a written request, subject to the conditions prescribed in IRC 6103(c) and the Treasury Regulations thereunder. The authority to withhold return information upon a determination that such disclosure would seriously impair Federal tax administration is also delegated. The authority delegated in this paragraph to disclose returns or return information may be redelegated to Internal Revenue Service employees and employees of the Office of Chief Counsel to the extent necessary within the exercise of their official duties. The authority delegated in this paragraph to withhold return information may be redelegated not lower than Chiefs, Special Procedures function; Group Managers (or their equivalent); Chiefs, Appeals Offices; Chiefs, Criminal Investigation Branch; and Disclosure Officers.

(b) To disclose or, in specific instances, authorize the disclosure of returns, upon the written request of an individual taxpayer, partner, corporate officer, shareholder, administrator, executor, trustee, or other person having a material interest, except as provided below in paragraph (1)(c), subject to the conditions prescribed in IRC 6103(e). The authority to disclose or, in specific instances, authorize the disclosure of return information to such persons, upon a determination that disclosure would not seriously impair Federal tax administration, as prescribed in IRC 6103(e)(6), is also delegated. The authority delegated in this paragraph to disclose or authorize the disclosure of returns or return information may be redelegated to Internal Revenue Service employees and employees of the Office of Chief Counsel to the extent necessary within the exercise of their official duties. In the event a disclosure of return information would seriously impair Federal tax administration, the decision to withhold such return information will be referred to officials not lower than Chiefs, Special Procedures function; Group Managers (or their equivalent); Chiefs, Appeals Offices; Chiefs, Criminal Investigation Branch; and Disclosure Officers.

(c) To disclose or, in specific instances, authorize the disclosure of returns upon the written request of a person found to have a material interest which will be affected by information contained therein, subject to the conditions prescribed in IRC 6103(e)(1)(D)(vi), (e)(1)(E)(ii), (e)(1)(F)(ii), (e)(3)(B), and (e)(4). The authority to disclose or, in specific instances, authorize the disclosure of return information to such persons upon a determination that disclosure would not seriously impair Federal tax administration, as prescribed in IRC 6103(e)(6), is also delegated. The authority delegated in this paragraph may be redelegated not lower than Chiefs, Special Procedures function; Special Procedures function Advisor Reviewers; Group Managers (or their equivalent); Chiefs, Appeals Offices; Chiefs, Criminal Investigation Branch; and Disclosure Officers.

(d) To disclose or, in specific instances, authorize the disclosure of returns or return information to attorneys of the Department of Justice in a matter involving tax administration, subject to the conditions prescribed in IRC 6103(h)(2), the Treasury Regulations thereunder, and (h)(3). The authority delegated in this paragraph may be redelegated not lower than Chiefs, Special Procedures function; Group Managers (or their equivalent); Chiefs, Appeals Offices; and to attorneys of the Office of Chief Counsel directly involved in such matters.

(e) To disclose or, in specific instances, authorize the disclosure of returns or return information to officers and employees of the Department of Treasury, as specified in IRC 6103(1)(4)(B) or, upon written request, to employees and other persons specified in IRC 6103(1)(4)(A) for use in personnel or claimant representative matters, and to make relevancy and materiality determinations as provided in section 6103(1)(4)(A), subject to the conditions prescribed in IRC 6103(1)(4). The authority delegated in this paragraph may be redelegated only to Assistant Division Directors; Assistant Regional Commissioners; Regional Director of Appeals; Assistant Regional Inspectors; Regional Chief, Personnel Branch; Assistant District and Service Center Directors; Assistant Director of International Operations; Division Chiefs; Disclosure Officers; National Office Branch Chiefs, Internal Security Division; Staff Assistants to Regional Counsels; and to attorneys of the Office of Chief Counsel and Inspectors directly involved in such matters.

(f) To disclose or, in specific instances, authorize the disclosure of returns or return information to the extent necessary in connection with contractual procurement by the Service or Office of the Chief Counsel of equipment or other property or services, subject to the conditions prescribed in IRC 6103(n) and the Treasury Regulations thereunder. The authority delegated in this paragraph may be redelegated only to Assistant Division Directors; Assistant Regional Commissioners; Regional Director of Appeals; Assistant Regional Inspectors; Assistant District and Service Center Directors; Assistants to the District and Service Center Directors; Assistant Director of International Operations; Division Chiefs; Chief Counsel Assistant Division Directors; Staff Assistants to Regional Counsels; and Disclosure Officers.

(g) To disclose or, in specific instances, authorize the disclosure of return information (other than taxpayer return information) which may constitute evidence of a threat or an irrational statement against the President or other government official to the U.S. Secret Service, subject to the conditions prescribed in IRC 6103(i)(3). The authority delegated in this paragraph may not be redelegated.

(2) The Deputy Commissioner; Assistant Commissioners; Deputy Assistant Commissioners; Division Directors; Regional Commissioners; Regional Inspectors; District and Service Center Directors; Director of International Operations; Director, National Computer Center; and Director, Data Center are authorized to determine whether a disclosure of returns or return information in a Federal or State judicial or administrative tax proceeding would identify a confidential informant or seriously impair a civil or criminal tax investigation, subject to the conditions prescribed in IRC 6103(h)(4). The authority delegated in this paragraph may not be redelegated.

(3) The Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); Regional Commissioners; Director, Disclosure Operations Division; District and Service Center Directors; and Director of International Operations are authorized:

(a) To furnish an affirmative or negative response to a written inquiry from an attorney of the Department of Justice (including a United States Attorney) involved in a judicial tax proceeding, or any person (or his legal representative) who is a party to such proceeding, as to whether a prospective juror has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service, subject to the conditions prescribed in IRC 6103(h)(5). The authority delegated in this paragraph may be redelegated only to the Assistant Director, Disclosure Operations Division; Assistant District and Service Center Directors; Assistants to the District and Service Center Directors; Assistant Director of International Operations; Division Chiefs; and Disclosure Officers.

(b) To disclose or, in specific instances, authorize the disclosure of:

(i) Accepted offers-in-compromise to members of the general public, subject to the conditions prescribed in IRC 6103(k)(1). When the liability compromised is $5,000 or over, the authority to disclose or, in specific instances, authorize the disclosure of accepted offers-in-compromise is also delegated to the Assistant Commissioner (Compliance); Deputy Assistant Commissioner (Compliance); and Director, Collection Division;

(ii) The amount of an outstanding lien to any person who furnishes satisfactory written evidence establishing a right in or intent to obtain a right in property subject to such lien, subject to the conditions prescribed in IRC 6103(k)(2). The authority to disclose or, in specific instances, authorize the disclosure of the amount of an outstanding lien is also delegated to the Assistant Commissioner (Compliance); Deputy Assistant Commissioner (Compliance); and Director, Collection Division;

(iii) Taxpayer identity information with respect to any income tax return preparer and information as to whether any penalty has been assessed against such preparer to officers and employees of any agency charged under State or local law with the regulation of such preparers, upon written request and subject to the conditions prescribed in IRC 6103(k)(5);

(iv) Returns or return information with respect to taxes imposed by IRC chapters 2, 21, and 24 to the Social Security Administration, upon written request and subject to the conditions prescribed in IRC 6103(1)(1)(A);

(v) Returns or return information with respect to taxes imposed by IRC chapter 22 to the Railroad Retirement Board, upon written request and subject to the conditions prescribed in IRC 6103(1)(1)(C).

(vi) Returns or return information with respect to taxes imposed by IRC subtitle E (relating to taxes on alcohol, tobacco and firearms) to officers and employees of the Bureau of Alcohol, Tobacco and Firearms, upon written request and pursuant to IRC 6103(o)(1).

The authority delegated in this paragraph may be redelegated only to Assistant Director, Disclosure Operations Division; Assistant District and Service Center Directors; Assistants to the the District and Service Center Directors; Assistant Director of International Operations; Division Chiefs, and Disclosure Officers. In addition, the authority delegated in subparagraph (i) may also be redelegated only to Chiefs, Special Procedures function; Special Procedures function Advisor Reviewers; and Group Managers (or their equivalent). The authority delegated in subparagraph (ii) may also be redelegated only to Chiefs, Special Procedures function; Special Procedures function Advisor Reviewers; Group Managers (or their equivalent); and Revenue Officers.

(4) The Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); Director, Disclosure Operations Division; and Assistant Director, Disclosure Operations Division are authorized to disclose or, in specific instances, authorize the disclosure of returns or return information to designated State tax officials, upon written request by the head of a State tax agency, for the purpose of and to the extent necessary in the administration of State tax laws, pursuant to the provisions of IRC 6103(d) and subject to the conditions prescribed in IRC 6103(h)(4) and (p)(8). The authority to withhold return information pursuant to IRC 6103(d) and (h)(4) upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph does not extend to the entry into Federal/State Agreements on the Coordination of Tax Administration. The authority delegated in this paragraph may be redelegated only to the Chief, Tax Disclosure Branch, Disclosure Operations Division.

(5) The Deputy Commissioner; Regional Commissioners; District and Service Center Directors; Director of International Operations; and Director, National Computer Center are authorized to disclose or, in specific instances, authorize the disclosure of returns or return information pursuant to Federal/State Agreements on the Coordination of Tax Administration entered into between the head of any State tax agency and the Commissioner of Internal Revenue, pursuant to the provisions of IRC 6103(d) and subject to the conditions prescribed in IRC 6103(h)(4) and (p)(8). The authority to withhold return information pursuant to IRC 6103(d) and (h)(4) upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph may be redelegated only to Assistant District and Service Center Directors; Assistants to the District and Service Center Directors; Assistant Director of International Operations; Division Chiefs; and Disclosure Officers, but such redelegation shall not extend to the authority to withhold return information.

(6) The Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); and Director, Disclosure Operations Division are authorized:

(a) To disclose or, in specific instances, authorize the disclosure of returns and return information to Congressional committees and other persons, upon written request and subject to the conditions prescribed in IRC 6103(f). The authority delegated in this paragraph may not be redelegated.

(b) To disclose or, in specific instances, authorize the disclosure of returns or taxpayer return information to officers and employees of a Federal agency pursuant to an *ex parte* order by

a Federal District Court judge when needed for use in the enforcement of a Federal criminal statute (not involving tax administration), subject to the conditions prescribed in IRC 6103(i)(1) and the Treasury Regulations thereunder. The authority to withhold any return or taxpayer return information, pursuant to IRC 6103(i)(1) of (i)(4), upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph may be redelegated only to the Assistant Director, Disclosure Operations Division; and Branch Chiefs and Section Chiefs, Disclosure Operations Division, but such redelegation shall not extend to the authority to withhold returns or taxpayer return information.

(c) To disclose or, in specific instances, authorize the disclosure of return information (other than taxpayer return information) to officers and employees of a Federal agency upon written request by the head of such agency, or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, when needed for use in the enforcement of a Federal criminal statute (not involving tax administration), subject to the conditions prescribed in IRC 6103(i)(2). The authority to withhold return information (other than taxpayer return information), pursuant to IRC 6103(i)(2) or (i)(4), upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph may be redelegated only to the Assistant Director, Disclosure Operations Division; and Branch Chiefs and Section Chiefs, Disclosure Operations Division, but such redelegation shall not extend to the authority to withhold return information (other than taxpayer return information).

(d) To disclose or, in specific instances, authorize the disclosure in writing of return information (other than taxpayer return information), which may constitute evidence of a violation of Federal criminal laws, to the extent necessary to apprise the head of the appropriate Federal agency enforcing such laws, subject to the conditions prescribed in IRC 6103(i)(3). the authority to withhold return information (other than taxpayer return information), pursuant to IRC 6103(i)(4), upon a determination that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation is also delegated. The authority delegated in this paragraph may be redelegated only to the Assistant Director, Disclosure Operations Division; and Branch Chiefs and Section Chiefs, Disclosure Operations Division, but such redelegation shall not extend to the authority to withhold return information (other than taxpayer return information). This authority is in addition to the authority previously delegated in paragraph (1)(g).

(e) To disclose or, in specific instances, authorize the disclosure of returns or return information to officers and employees of the General Accounting Office, upon written request by the Comptroller General of the United States and subject to the conditions prescribed in IRC 6103(i)(6). The authority delegated in this paragraph may not be redelegated.

(f) To disclose or, in specific instances, authorize the disclosure of the mailing address of a taxpayer to officers and employees of an agency when needed in connection with a Federal claim against such taxpayer, upon written request and subject to the conditions prescribed in IRC 6103(m)(2). Upon approval by the Director, Disclosure Operations Division or his/her delegate of a contractual agreement for such disclosures, the authority delegated in this paragraph is also delegated to the Assistant Commissioner (Data Services); Executive Assistant to the Assistant Commissioner (Data Services); Director, Service and Design Division; Director, National Computer Center; and Service Center Directors. The authority delegated in this paragraph to the Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); and Director, Disclosure Operations Division, may be redelegated only to the Assistant Director, Disclosure Operations Division; and Branch Chiefs and Section Chiefs, Disclosure Operations Division. The authority delegated to the Assistant Commissioner (Data Services); Executive Assistant to the Assistant Commissioner (Data Services); Director, Service and Design Division; Director, National Computer Center; and Service Center Directors may not be redelegated. The authority delegated in this order does not include authority to enter into a contractual agreement, which is contained in Delegation Order No. 100, as revised.

(g) To disclose or, in specific instances, authorize the disclosure of the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health, upon written request and subject to the conditions prescribed in IRC 6103(m)(3). Upon approval by the Director, Disclosure Operations Division or his/her delegate of a contractual agreement for such disclosures, the authority delegated in this paragraph is also delegated to the Assistant Commissioner (Data Services); Executive Assistant to the Assistant Commissioner (Data Services); Director, Service and Design Division; Director, National Computer Center; and Service Center Directors. The authority delegated in this paragraph to the Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); and Director, Disclosure Operations Division, may be redelegated only to the Assistant Director, Disclosure Operations Division; and Branch Chiefs and Section Chiefs, Disclosure Operations Division. The authority delegated to the Assistant Commissioner (Data Services); Executive Assistant to the Assistant Commissioner (Data Services); Director, Service and Design Division; Director, National Computer Center; and Service Center Directors may not be redelegated. The authority delegated in this paragraph does not include authority to enter into a contractual agreement, which is contained in Delegation Order No. 100, as revised.

(h) To disclose, or in specific instances, authorize the disclosure of the mailing address of any taxpayer who has defaulted on a loan made from the student loan fund established under part E of title IV of the Higher Education Act of 1965 to the Commissioner of Education, upon written request and subject to the conditions prescribed in IRC 6103(m)(4). Upon approval by the Director, Disclosure Operations Division or his/her delegate of a contractual agreement for such disclosures, the authority delegated in this paragraph is also delegated to the following officials: Assistant Commissioner (Data Services); Executive Assistant to the Assistant Commissioner (Data Services); Director, Service and Design Division; Director, National Computer Center; and Service Center Directors. The authority delegated in this paragraph to the Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); and Director, Disclosure Operations Division, may be redelegated only to the Assistant Director, Disclosure Operations Division; and Branch Chiefs and Section Chiefs, Disclosure Operations Division. The authority delegated to the Assistant Commissioner (Data Services); Executive Assistant to the Assistant Commissioner (Data Services); Director, Service and Design Division; Director, National Computer Center; and Service Center Directors may not be redelegated. The authority delegated in this paragraph does not include authority to enter into a contractual agreement, which is contained in Delegation Order No. 100, as revised.

(i) To disclose or, in specific instances, authorize the disclosure of return information to officers and employees of the Department of Commerce, Bureau of Economic Analysis, upon the written request of the Secretary of Commerce, or to officers and employees of the Federal Trade Commission, upon written request of the Chairman, subject to the conditions prescribed in IRC 6103 (j)(1)(B) and (j)(2) and the Treasury Regulations thereunder. The authority delegated in this paragraph may be redelegated only to the Director, Statistics Division.

(j) To disclose or, in specific instances, authorize the disclosure of return information for statistical use to officers and employees of the Department of Commerce, Bureau of Census, upon the written request of the Secretary of Commerce or to officers and employees of the Department of the Treasury, subject to the conditions prescribed in IRC 6103(j)(1)(A) and the Treasury Regulations thereunder and (j)(3). The authority delegated in this paragraph may be redelegated only to the Director, Statistics Division.

(k) To disclose or, in specific instances, authorize the disclosure of return information for statistical use to officers and employees of the Department of Commerce, Bureau of Economic Analysis, upon the written request of the Secretary of Commerce, or to officers and employees of the Federal Trade Commission, upon written request of the Chairman, subject to the conditions prescribed in IRC 6103 (j)(1)(B) and (j)(2) and the Treasury Regulations thereunder. The authority delegated in this paragraph may be redelegated only to the Director, Statistics Division.

(l) The Deputy Commissioner; Assistant to the Commissioner (Public Affairs); Director and Assistant Director, Public Affairs Division; Regional Commissioners; and District Directors are authorized to disclose taxpayers' names and the city, state and zip code of their mailing addresses to the press and other media for purposes of notifying persons entitled to undelivered tax refunds, subject to the conditions prescribed in IRC 6103(m)(1). The authority delegated in this paragraph may not be redelegated.

(m) The Deputy Commissioner and Assistant Commissioner (Taxpayer Service and Returns Processing) are authorized:

(a) Upon written request of the President, to disclose, or in specific instances, authorize the disclosure of return information (other than return information that is adverse to the taxpayer) of an individual who is under consideration for appointment to a position in the executive or judicial branch of the Federal Government to the authorized representative of the Executive Office of the President or to the Federal Bureau of Investigation on behalf of the President, subject to the conditions prescribed in IRC 6103 (g)(2) and (g)(4). Authority is also delegated to disclose or, in specific instances, authorize the disclosure of return information with respect to the categories of individuals discussed above to the heads of Federal agencies upon written request, or the Federal Bureau of Investigation on behalf of and upon the written request of such agency heads, subject to the conditions described in IRC 6103 (g)(2) and (g)(4). Upon receipt of any request for return information under IRC 6103(g)(2), authority to notify the individuals with respect to whom the request has been made is also delegated. The authority delegated in this paragraph may be redelegated but not lower than:

(i) Deputy Assistant Commissioner (Taxpayer Service and Returns Processing), in the case of requests by or on behalf of the President where the return information to be disclosed is not adverse to the taxpayer;

(ii) Assistant Director, Disclosure Operations Division, in the case of requests by or on behalf of the heads of Federal agencies where the return information to be disclosed is adverse to the taxpayer;

(iii) Branch Chiefs, Disclosure Operations Division, in the case of requests by or on behalf of the heads of Federal agencies where the return information to be disclosed is not adverse to the taxpayer; and

(iv) Section Chiefs, Disclosure Operations Division, concerning the notification of individuals with respect to whom a request has been made.

(b) To make the determination that an agency, body or commission or the General Accounting Office has failed to or does not meet the requirements of IRC 6103(p)(4). Subject to the administrative review applicable to State tax agencies described in IRC 6103 (p) (7), authority to withhold returns and return information from any agency, body or commission or the General Accounting Office until a determination is made that the requirements of IRC 6103(p)(4) have been or will be met is also delegated. The authority delegated in this paragraph may not be redelegated.

(10) The Deputy Commissioner; Assistant Commissioner (Employee Plans and Exempt Organizations); Deputy Assistant Commissioner (Employee Plans and Exempt Organizations); Director, Disclosure Operations Division; Regional Commissioners; District Directors of Key Districts for Employee Plans and Exempt Organizations matters; Service Center Directors; Director, National Computer Center; and Director, Data Center are authorized to disclose, or in specific instances, authorize the disclosure of:

(a) Statements, notifications, reports, or other return information described in IRC 6057(d) to officers and employees of the Social Security Administration for the administration of section 1131 of the Social Security Act, upon written request and subject to the conditions prescribed in IRC 6103(1)(B). The authority delegated in this paragraph to the Assistant Commissioner and Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) may be redelegated, but not lower than Branch Chief, Employee Plans Division. The authority delegated in this paragraph to the Director, Disclosure Operations Division may not be redelegated. The authority delegated in this paragraph to Regional Commissioners may be redelegated not lower than Assistant Regional Commissioner. The authority delegated in this paragraph to the District Directors of Key Districts may be redelegated, but not below Chiefs, Technical Staffs, Employee Plans and Exempt Organizations Division. The authority delegated in this paragraph to Service Center Directors may be redelegated, but not lower than Section Chiefs (or their equivalent). The authority delegated in this paragraph to the Director, National Computer Center and Director, Data Center may be redelegated, but not lower than Branch Chiefs (or their equivalent).

(b) Returns or return information including compensation information, to officers and employees of the Department of Labor and Pension Benefit Guaranty Corporation for the administration of Titles I and IV of the Employee Retirement Income Security Act of 1974, upon written request and subject to the conditions prescribed in IRC 6103(1)(2) and the Treasury regulations thereunder. The returns or return information which may be disclosed under this paragraph include:

(i) Upon specific written request, the information specified in 26 CFR

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420.6103(1)(2)–1(a), 2(a), 3(b)(1), and 3(b)(2);

(ii) Upon receipt by the Commissioner of Internal Revenue of an annual written request, the information specified in 26 CFR 420.6103(1)(2)–3(a);

(iii) Upon receipt by the Commissioner of Internal Revenue of a general written request, information specified in 26 CFR 420.6103(1)(2)–3(d).

The authority delegated in this paragraph to the Assistant Commissioner and Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) may be redelegated, but not lower than Branch Chiefs of Employee Plans and Actuarial Division, except for Chief, Projects and Miscellaneous Section, Employee Plans Technical Branch. The authority delegated in this paragraph to the Director, Disclosure Operations Division may not be redelegated. The authority delegated in this paragraph to Regional Commissioners may be redelegated not lower than Assistant Regional Commissioner. The authority delegated in this paragraph to District Directors of the Key Districts may be redelegated, but not lower than Chiefs, Technical Staff, Employee Plans and Exempt Organizations Division; Group Managers, Employee Plans and Exempt Organizations Division; and Employee Plans Specialist. The authority delegated in this paragraph to Service Center Directors may be redelegated, but not lower than Section Chiefs (or their equivalent). The authority delegated in this paragraph to the Director, National Computer Center and Director, Data Center may be redelegated, but not lower than Branch Chiefs (or their equivalent).

(11) The Deputy Commissioner; Assistant Commissioner (Employee Plans and Exempt Organizations); and Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) are authorized to disclose or, in specific instances, authorize the disclosure of drafts of proposed exemptions or of proposed denials of exemption requests, denial letters, and copies of information submitted by taxpayers requesting exemptions to the proper officers of the Department of Labor for consultation and coordination as required by IRC 4975(c)(2). The authority delegated in this paragraph may be redelegated not lower than Chief, Projects and Miscellaneous Section, Employee Plans Technical Branch.

(12) Disclosure of information to appropriate Federal, State or local law enforcement officials may be made by Internal Revenue Service employees, and employees of the Office of Chief Counsel, concerning non-tax crimes which do not involve return information or the income or other financial information of an individual or entity, in accordance with the provisions of chapter (35)00 of the Disclosure of Official Information Handbook, IRM 1272. In situations where there is a question at to whether the information to be disclosed is or is not return information, such as those described in IRM 1272, the Assistant Commissioner (Taxpayer Service and Returns Processing) and Deputy Assistant Commissioner (Taxpayer Service and Returns Processing) are authorized to approve or deny such requests for disclosure. The Assistant Commissioner (Taxpayer Service and Returns Processing) and the Deputy Assistant Commissioner (Taxpayer Service and Returns Processing) should act in all such matters only after coordination with the Disclosure Litigation Division, Office of Chief Counsel. The authority delegated in this paragraph may not be redelegated.

(13) The authority vested in the Commissioner of Internal Revenue by 26 CFR 301.9000–1 is delegated by this Order to the Deputy Commissioner and to Regional Commissioners; the Assistant Commissioner (Taxpayer Service and Returns Processing); and the Deputy Assistant Commissioner (Taxpayer Service and Returns processing) to the extent described below:

(a) Regional Commissioners are authorized to determine whether officers and employees of the Internal Revenue Service assigned to their regions, including employees of the Office of the Regional and District Counsel, but not including employees of the Regional Inspector, will be permitted to testify or produce Service records because of a request or demand for the disclosure of such records or information. The Regional Commissioners should act in all such matters only after coordination with the Office of Regional Counsel. The authority delegated in this paragraph may not be redelegated. (See (c), (d), and (e) below). The authority delegated in this paragraph shall not extend to the disclosure of Internal Revenue Service records and information in response to a subpoena or request or other order of the Tax Court. (See General Counsel Order No. 4, 44 FR 36131 (1979), which provides the authority for the disclosure of Internal Revenue Service records and information in tax court proceedings.)

(b) The Assistant Commissioner (Taxpayer Service and Returns Processing) and the Deputy Assistant Commissioner (Taxpayer Service and Returns Processing) are authorized to determine whether officers and employees of the Internal Revenue Service assigned to the National Office, including employees of the Office of Chief Counsel, and employees assigned to Regional Inspectors will be permitted to testify or produce Service records because of a request or demand for the disclosure of such record or information. The Assistant Commissioner (Taxpayer Service and Returns Processing) or the Deputy Assistant Commissioner (Taxpayer Service and Returns Processing) should act in all such matters only after coordination with the Disclosure Litigation Division, Office of Chief Counsel. The authority delegated in this paragraph may not be redelegated. (See (c), (d), and (e) below). The authority delegated in this paragraph shall not extend to the disclosure of Internal Revenue Service record and information in response to a subpoena or request or other order of the Tax Court. (See General Counsel Order No. 4, 44 FR 36131 (1979)).

(c) The Assistant Commissioner (Taxpayer Service and Returns Processing) and the Deputy Assistant Commissioner (Taxpayer Service and Returns Processing) are authorized to determine whether all officers and employees of the Internal Revenue Service, and the Office of Chief Counsel, including those previously described in paragraphs (a) and (b), will be permitted to testify or produce Service records because of a request or demand for the disclosure of such records or information where testimony or production may require disclosure of returns or return information pursuant to IRC 6103(i)(1), (2), (3), and (4). The Assistant Commissioner (Taxpayer Service and Returns Processing) or the Deputy Assistant Commissioner (Taxpayer Service and Returns Processing) should act in all such matters only after coordination with the Disclosure Litigation Division, Office of Chief Counsel. The authority delegated in this paragraph may not be redelegated. (See (d) below).

(d) The authority delegated in paragraphs (a), (b) and (c) shall not extend to testimony or the production of Service records because of request or demand for the disclosure of such records or information:

(i) By a Congressional committee;

(ii) Involving a disclosure to the President or certain other persons pursuant to IRC 6103(g);

(iii) Involving a disclosure to the Comptroller General pursuant to IRC 6103(i)(6); or

(iv) Involving a disclosure to correct a misstatement of fact pursuant to IRC 6103(k)(3).

(e) The authority delegated to Regional Commissioners in paragraph (a) shall not extend to testimony or the production of Service records because of a request or demand for the disclosure of such records or information which may require a disclosure to a competent authority under a tax convention, whether or not such records or information were previously disclosed pursuant to such convention. The Assistant Commissioner (Taxpayer Service and Returns Processing) and the Deputy Assistant Commissioner (Taxpayer Service and Returns Processing) should act in all such matters only after authorization by the Assistant Commissioner (Compliance). The authority delegated to Regional Commissioners in paragraph (a) also shall not extend to testimony or the production of Service records which may require a disclosure of returns or return information pursuant to IRC 6103(i)(1), (2), (3), and (4), unless a disclosure of the same returns or return information has been previously authorized by the Commissioner, or other persons authorized to permit such disclosure under paragraph (6) of this Order. The provisions of this paragraph are limited to the authorization of testimony or the production of documents pursuant to a request or demand as referred to in paragraphs (d)(1)(i) and (ii) of 26 CFR 301.9000–1 and does not extend to or affect other disclosure authority previously delegated in paragraphs (6) and (9) of this Order.

(14) The Deputy Commissioner; Assistant Commissioner (Data Services); Executive Assistant to the Assistant Commissioner (Data Services); Regional Commissioners; Director, Service and Design Division; Director, National Computer Center; and Service Center Directors are authorized to disclose or, in specific instances, authorize the disclosure of individual master file information to the head of a Federal, State or local child support enforcement agency or an authorized supervisory official under a contractual agreement entered into pursuant to Delegation Order 100, as revised, Revenue Procedure 78–10, and subject to the conditions prescribed in IRC 6103(1)(6)(A)(i). Such contractual agreement should be entered into only after coordination with the Director, Disclosure Operations Division. The authority delegated in this paragaraph may not be redelegated.

(15) The Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); Regional Commissioners; and Service Center Directors are authorized to disclose or, in specific instances, authorize the disclosure of return information to the head of a State or local child support enforcement agency or an authorized supervisory official under a contractural agreement entered into pursuant to Delegation Order 100, as revised, Revenue Procedure 78–10, and subject to the conditions prescribed in IRC 6103(1)(6)(A)(ii). Such contractual agreement should be entered into only after coordination with the Director, Disclosure Operations Division. The authority delegated in this paragraph may be redelegated, but not lower than Disclosure Officer.

(16) The Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); Regional Commissioners; Service Center Directors; Director, National Computer Center; and Director, Data Center are authorized to disclose or, in specific instances, authorize the disclosure of information returns filed pursuant to part III of subchapter A of IRC chapter 61 to designated personnel of the Social Security Administration for the purpose of carrying out an effective return processing program in accordance with section 232 of the Social Security Act and pursuant to IRC 6103(1)(5). The authority delegated in this paragraph may not be redelegated.

(17) To the extent that authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified.

(18) This Order supersedes Delegation Order 15 (Rev. 3), issued February 28, 1972; Delegation Order 44, issued November 21, 1956; Delegation Order 70 (Rev. 5), issued July 2, 1978; Delegation Order 101 (Rev. 1), issued Nov. 16, 1978; Delegation Order 151 (Rev. 1), issued December 3, 1975; Delegation Order 156, issued May 19, 1976; Delegation Order 156, Amend. 1, issued May 18, 1977; Delegation Order 156, Amend. 2, issued August 8, 1977; Delegation Order 156, Amend. 3, issued November 28, 1977; Delegation Order 156, Amend. 4, issued April 13, 1978; Delegation Order 156, Amend. 5, issued April 13, 1978; Delegation Order 156, Amend. 6, issued April 26, 1978; Delegation Order 156, Amend. 7, issued April 27, 1978; Delegation Order 156, Amend. 8, issued July 2, 1978; Delegation Order 156, Amend. 9 issued June 13, 1979; and Delegation Order 167, issued June 16, 1977.

Lester Stein,
Acting Chief Counsel.

Jerome Kurtz,
Commissioner.

[FR Doc. 79–23619 Filed 7–31–79; 8:45 am]

BILLING CODE 4830–01–M

[Delegation Order No. 9; Revision 5]

Use of Government Owned or Leased Automobiles; Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: Delegation Order No. 9, Revision 4, delegates authority to specific management officials to designate employees authorized to use goverment-owned or leased automobiles for transportation between their domiciles and places of employment. The text of the delegation order appears below.

EFFECTIVE DATE: August 8, 1979.

FOR FURTHER INFORMATION CONTACT: Alvin H. Weiss, RM:FM:S Room 745 WB, 1111 Constitution Ave., NW., Washington, DC 20224, 202–376–0012 (Not toll-free).

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Richard F. Payne,
Chief, Space and Property Branch.

Date of issue: July 25, 1979.
Effective date: August 8, 1979.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 101–1, dated December 8, 1978, I hereby delegate authority to designate employees authorized to use government owned or leased automobiles for transportation between their domiciles and places of employment, in accordance with the provisions of 31 U.S.C. 638a, to:

Deputy Commissioner
Assistant Commissioners
Regional Commissioners
District Directors
Regional Inspectors

The authority delegated herein may not be redelegated.

This order supersedes Delegation Order No. 9 (Rev. 4), issued January 29, 1979.

Jerome Kurtz,

Commissioner.

[FR Doc. 79-23620 Filed 7-31-79; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on August 24, 1979, at 1:00 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Estes Kefauver Federal Building—U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in State Area Vocational Technical School, 821 West Louise Avenue, P.O. Box 130, Morristown, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: July 25, 1979.

R. S. Bielak,

Director, VA Regional Office, 110 9th Avenue, South, Nashville, Tenn.

[FR Doc. 79-23715 Filed 7-31-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Thirty-Seventh Revised Exemption No. 12]

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To all railroads:

It appearing, That the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" or "XMI," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlantic and Western Railway
Reporting Marks: ATW
Chicago & Illinois Midland Railway Company
Reporting Marks: CIM
Fonda, Johnstown and Gloversville Railroad Company
Reporting Marks: FJG
Hartford and Slocum Railroad Company [1]
Reporting Marks: HS
Hillsdale County Railway Company Inc.
Reporting Marks: HCRC
Maryland and Pennsylvania Railroad Company
Reporting Marks: MPA
Pickens Railroad Company
Reporting Marks: PICK

Effective July 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 12, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-23658 Filed 7-31-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: July 24, 1979.

In our decision of July 17, 1979, a 7.5 percent surcharge was authorized on all owner-operator and truckload traffic. We ordered that all owner-operators were to receive compensation at this level. As indicated in the prior decision, further upward changes were not contemplated until the Commission's weekly fuel index exceeded this 7.5 percent figure.

The weekly figures set forth in the appendix for transportation performed by owner-operators and truckload traffic is 7.7 percent. However, as stated in our decisions of June 26 and July 17, 1979, we recognize the concerns regarding the possible overstatement of the diesel fuel base price figure, and shipper concerns regarding weekly tariff adjustments. As such, we are authorizing an 8 percent surcharge on all owner-operator and truckload traffic. All owner-operators are to receive compensation at this 8 percent level. As in the past, we will continue to publish the fuel index weekly. Further upward changes in the surcharge are not contemplated until the index exceeds 8 percent.

With regard to the percentage surcharge figure for less-than-truckload (LTL) traffic, no change has been made in recent weeks to the 2.7 percent authorized in our decision of June 28, 1979, despite upward changes in the fuel index. As stated in our decisions of July 3 and July 10, 1979, a joint petition was filed on June 25, 1979 by the National Small Shipments Traffic Conference, Inc. and Drug and Toilet Preparation Traffic Conference, Inc. seeking modification of the LTL percentage surcharge for carriers not utilizing owner-operators. Petitioners allege that the 7.5 percent fuel expense of total revenue figure used to derive the surcharge is too high. By decision of June 29, 1979, the Commission ordered the major motor carrier rate bureaus to submit certain additional information as described in that decision. While we were waiting for this information, the Commission felt no further upward changes in the LTL surcharge should be authorized.

We have reviewed the data submitted by the nine major rate bureaus in accordance with the June 29 decision, and are generally satisfied with the methodology employed. At the December 31, 1978 level, we find that on an average basis the percentage of fuel expense (including taxes) of total operating revenue was 6.0 percent for LTL traffic. We find that this figure should be incorporated in the LTL surcharge determination to be released in today's index, as well as in future weekly indices.

In multiplying the percentage increase of diesel fuel prices from the base date to today by 6.0 pecent, the resulting surcharge for LTL traffic is 2.7 percent.

Notice of this decision shall be given to the general public by mailing a copy of this decision to the Governor of each state and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered: This decision shall become effective 12:01 a.m., July 25, 1979.

By the Commission. Chairman O'Neal, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Clapp absent and not participating in the disposition of this proceeding.

Agatha L. Mergenovich,

Secretary.

July 23, 1979.

Appendix.—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax)

January 1, 1979..... 63.5¢

Date of Current Price Measurement and Price Per Gallon (Including Tax)

July 23, 1979..... 92.5¢

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1)	(2)
From Transportation Performed by Owner Operators (Apply to All Truckload Traffic)	Other (Including Less-Truckload Traffic)
16.5%	6.0% [1]
Percent Surcharge	
7.7%	2.7%

[1] The change from 7.5% to 6.0% is the result of additional input received in accordance with the Commission's Decision of June 29, 1979.

[FR Doc. 79-23661 Filed 7-31-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Applications for Relief

July 26, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before August 16, 1979.

FSA No. 43721, Southwestern Freight Bureau, Agent's No. B-11, rates on synthetic rubber and rubber compounds, from Bancroft, TX to destinations in Official, Western Trunk Line (including Illinois Rate Committee), and Southern Territories, to become effective August 19, 1979, in Supp. 2 to its Tariff ICC SWFB 4973-A. Grounds for relief—market competition and rate relationship.

FSA No. 43722, Southwestern Freight Bureau, Agent's No. B-16, annual volume rates on butyl alcohol, from South Bay City, TX to Bay City and Midland, MI to become effective August 13, 1979, in Supp. 33 to its Tariff ICC SWFB 4616. Grounds for relief—market competition.

FSA No. 43723, Waterman Steamship Corporation's No. 1, intermodal rates on general commodities, in containers, from rail carrier's terminals at ports in California to ports in Continental Europe, Ireland, Scandinavia, and the United Kingdom by way of New Orleans, LA and Houston, TX, to become effective August 19, 1979, in its Tariff ICC WSSL 302. Grounds for relief—all-water competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-23659 Filed 7-31-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order 45-A; Service Order 1344]

Rerouting of Traffic

To all railroads:

Upon further consideration of I.C.C. Order No. 45 (Duluth and Northeastern Railroad Company), and good cause appearing therefor:

It is ordered, I.C.C. Order No. 45 is vacated.

This order shall become effective July 13, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the **Federal Register.**

Issued at Washington, D.C., July 13, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-23660 Filed 7-31-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2202 (Sub-598TA), filed June 13, 1979. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. *Common carrier:* regular route: *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* Serving Graham, TX as an off-route pt. in connection with applicant's present authority, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Grahm Magnetics Inc., U.S. 380, Graham, TX 76046. Southwest Fiber Glass, 500 Burbank Ave., Graham, TX. E.I. Du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 2253 (Sub-97TA), filed May 24, 1979. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie, P.O. Box 697, Cherryville, NC 28021. *Steelsheets and coils* from Savannah, GA to Marietta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pacesetter Steel Service, Inc., P.O. Box 6865, Marietta, GA 30065. Send protests to: DS, Terrell Price, 800 Briar Creek Rd., Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 2392 (Sub-129TA), filed May 21, 1979. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 "F" St., Omaha, NE 68127. Representative: Keith D. Wheeler (same address as above). *Liquid fertilizer, in bulk, in tank trucks,* from Perry, NE to points in KS and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Allied Chemical Corporation,

[1] Addition.

P.O. Box 2120, Houston, TX 77001. Send Protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 4943 (Sub-37TA), filed June 26, 1979. Applicant: CENTRAL EXPRESS INC., 5801 West Waco Drive, Waco, TX 76703. Representative: Phillip Robinson, P.O. Box 2207, Austin, TX 78768. *General commodities (except those of unusual value, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment)* between Houston, TX and Freeport, TX, serving no intermediate points and serving all points in the Freeport commercial zone, (1) over Texas Highway 288, and (2) from Houston over Texas Highway 35 to Angleton, then over Texas Highway 288 to junction of Texas Highway 36, then over Texas Highway 36 to Freeport and return over the same route for 180 days. Applicant intends to tack this authority with its existing authority, and will interline with other carriers at Houston, TX. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are nine (9) supporting shippers. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 4963 (Sub-72TA), filed June 7, 1979. Applicant: JONES MOTOR CO., INC., Bridge St. and Schuykill Road, Spring City, PA 19475. Representative: William H. Peiffer (same as applicant). *Iron or steel articles, metals, metal products, paper and paper products, lumber, commodities the transportation of which, because of size or weight, require the use of special equipment,* between pts. in the states of NC, AL, GA, KY, MO, TN, and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 29 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 8973 (Sub-59TA), filed May 30, 1979. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Plastic products and equipment, materials and supplies used in the manufacture thereof (except in bulk). From Springfield, OH to points in MI, CA, TX, LA, KS, WA, MS, and NH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Group, 4 Landmark Square, Stamford, CT 06901. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 14252 (Sub-67TA), filed May 23, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same as applicant). *General commodities (except those of unusual value, Class A and B explosives, Household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between the Plant Site of Westvaco Corp. at or near Covington, VA and pts. in LA, IL, IN, KY, MO, OH, PA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westvaco Corp., Covington, VA 24426. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 14252 (Sub-69TA), filed June 13, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refuge Rd., Columbus, OH 43227. Representative: William C. Buckham (same as applicant). *Common carrier:* regular route: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* serving Eldorado, IL as an off-route pt. in connecting with carriers presently authorized regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority here applied for to another authority held by it—MC 14252. Supporting shipper(s): Proctor & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 14252 (Sub-70TA), filed June 4, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refuge Rd., Columbus, OH 43227. Representative: William C. Buckham, (same as applicant). *Kitchen cabinets, cabinet parts wood and metal,* between the plant site of Merrillatt Industries, Adrian, MI and Merrillatt Industries, Atkins, VA for 180 days. Supporting Shippers(s): Merrillatt Industries, Adrian, MI. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 30383 (Sub-18TA), filed May 18, 1979. Applicant: JOSEPH F. WHELAN CO., INC., 439 West 54th Street, New York, NY 10019. Representative: Arthur Liberstein, 888 Seventh Avenue, New York, NY 10019. *Contract carrier,* irregular routes: *Soap, soap products, stearic acid, vegetable stearine, glycerine, oils, cooking fats, cleaning and washing compounds, lard substitutes, toilet preparations, containers and such commodities as are dealt in by retail food stores, (except commodities in bulk),* between New York, NY, Bayonne and Carteret, NJ, on the one hand, and, on the other, all points in the State of CT, under a continuing contract with Procter & Gamble Manufacturing Company, and Proctor & Gamble Distributing Company, for 150 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Proctor & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 32083 (Sub-5TA), filed June 20, 1979. Applicant: DONNIE A. DIXON, INC., Rt. 9, Box 378, Greenville, NC 27834. Representative: Peter A. Greene, 900 17th St. NW, Washington, DC 20006. *Manufactured forest products* from the facilities of Weyerhaeuser Company, Inc. in NC to points in the states of VA, IN, IL, OH, TN, KY, ME, WV, MD, DE, PA, NJ, NY, CT, RI, MA, NH, and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Weyerhaeuser Company, P.O. Box 787, Plymouth, NC 27962. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd–Rm CC516, Charlotte, NC 28205.

MC 32882 (Sub-114TA), filed May 21, 1979. Applicant: MITCHELL BROS. TRUCK LINES, 3841 N. Columbia Blvd., P.O. Box 17039, Portland, OR 97217. Representative: David J. Lister, 3841 N. Columbia Blvd., P.O. Box 17039, Portland, OR 97217. Hydraulic Platforms (aerial or scissor type working lifts), 22,000# and under, and parts thereof from the plantsite of Calavar Corp. at/or near Santa Fe Springs, CA to points in AZ, CO, KS, MO, NV and UT for 180 days. A Corresponding ETA has been granted MC 32882 R–26 and a permanent will be filed. Supporting Shippers(s): Calavar Corporation, 9200 Sorenson, Santa Fe Springs, CA. Send protests to: R. V. Dubay, 114 Pioneer Courthouse, Portland, OR 97204.

MC 32882 (Sub-117TA), filed June 5, 1979. Applicant MITCHELL BROS. TRUCK LINES, 3841 N. Columbia Blvd., P.O. Box 17039, Portland, OR 97217. Representative: David J. Lister, 3841 N. Columbia Blvd., P.O. Box 17039, Portland, OR 97217. *Lumber,* from the facilities of Edward Hines Lumber Company located at or near St. Anthony, ID to Casper, Cheyenne and Laramie, including the commercial zones, WY; Arvada, Bayfield, Boulder, Breckenridge, Denver, Fort Morgan, Golden, Lafayette and Littleton, including the commercial zones, CO; Mesa, Phoenix, Scotsdale, Tempe and Tucson, including the commercial zones, AZ; and Albuquerque, Farmington and Hobbs, including the commercial zones, NM for 180 days. A corresponding permanent has been filed and MC 32882 R 28 was granted for 30 plus 2 June 5, 1979. Supporting shipper(s): Edward Hines Lumber Company, 200 S. Michigan Ave., Chicago, IL 60604. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 35882 (Sub-2TA), filed May 22, 1979. Applicant BRANDER BUS LINES, INC., 20 Slater Street, Rehoboth, MA 02769. Representative: James A. Donnelly, Jr., Seven North Main Street, Fall River, MA 02722. *Passenger and their baggage—special and charter operations,* beginning and ending in the communities located in Bristol and Newport Counties, RI, and the following communities in Bristol County, MA: Fall River, Somerset, Westport, Dartmouth, New Bedford, Fairhaven and Acushnet, MA, and extending to all points in the United States (except HI and AK), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 34 statements of support which may be examined at the office listed below and Headquarters. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset St., Room 102, Providence, RI 02903.

MC 43963 (Sub-18TA), filed May 16, 1979. Applicant: CHIEF TRUCK LINES, 1479 Ripley Street, Lake Station, IN 46405. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, Illinois 60602. *Metal and metal articles,* from Chicago, IL and its commercial zone to points in MN for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Alumox Mill Products, Inc., 5555 East Hwy. No. 6, Morris, IL 60450. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 47583 (Sub-102TA), filed June 23, 1979. Applicant TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: As above. *Borate (except in bulk)* from San Francisco, CA, to points and places in OK and TX. Supporting shipper(s): Metro-Chem, Inc., 1509 E. Freeport, Broken Arrow, OK 74012. Send protests to: Vernon V. Coble, D/S, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 47583 (Sub-103TA), filed June 28, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. *Chemicals,* in bags and drums (except in bulk) from the facilities of Vulcan Material Company located at or near Wichita, KS, to all points and places in the U.S. (except AK and HI), for 180 days. Supporting shipper(s): Vulcan Material Company, P.O. Box 12283, Wichita, KS 67277. Send protests to: Vernon V. Coble, D/S, Interstate Commerce Commission, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 64932 (Sub-602TA), filed May 29, 1979. Applicant: ROGERS CARTAGE COMPANY, 10735 South Cicero Ave., Oak Lawn, IL 60453. Representative: William F. Farrell (same address as applicant). *Ammoniated fatty acids, fatty acids; plasticizer; glycerine; fatty alcohol; fatty acid esters, in bulk, in tank vehicles,* from the plant-site of Sherex Chemical Company at Janesville, WI, to points located east of U.S. Route 85 and on thereof for 180 days. Supporting shipper(s): Sherex Chemical Company, 5200 Blazer Parkway, Dublin, OH 43017. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 66462 (Sub-21TA), filed April 11, 1979. Applicant: THE WILLETT COMPANY, 700 S. Desplaines St., Chicago, IL 60607. Representative: Thomas E. Bedich (same address as applicant). *Petroleum and petroleum products, in packages,* from the facilities of Mobil Oil Corp. at Cicero, IL to points in IN, IA, MI, MN, OH and WI, for 180 days. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway, #522, Dallas, TX 75206. Send protests to: Annie Booker, TA, ICC, 1386 Everett Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 80443 (Sub-24TA), filed June 12, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Samuel Rubenstein/David Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Lumber and lumber products* from (1) Arcata, CA to Anoka, Detroit Lakes, Lake Elmo, Minneapolis and its commercial zone, Moorhead, Rochester, and St. Cloud, MN, Bismarck, Fargo and Minot, ND, Antigo, Chippewa Falls, Hatley, Merrill, St. Croix and Sheboygan, WI; (2) Cloverdale and Samoa, CA to Anoka, Detroit Lakes, Lake Elmo, Moorhead, Rochester and St. Cloud, MN, Bismarck, Fargo and Minot, ND, Antigo, Chippewa Falls, Eau Claire, Hatley, Merrill, St. Croix and Sheboygan, WI; (3) Eureka and Fort Bragg, CA to Anoka, Detroit Lakes, Lake Elmo, Minneapolis and its commercial zone, Moorhead, Rochester and St. Cloud, MN, Bismarck, Fargo and Minot, ND, Antigo, Chippewa Falls, Eau Claire, Hatley, Merrill, St. Croix and Sheboygan, WI; (4) Scotia, CA to Anoka, Detroit Lakes, Lake Elmo, Minneapolis and its commercial zone, Moorhead, Rochester and St. Cloud, MN, Bismarck and Minot, ND, Antigo, Chippewa Falls, Eau Claire, Hatley, Merrill, St. Croix and Sheboygan, WI; and (5) Willits, CA to Anoka, Detroit Lakes, Minneapolis and its commercial zone, Moorhead, Rochester and St. Cloud, MN, Bismarck, Fargo and Minot, ND, Antigo, Chippewa Falls, Eau Claire, Hatley, Merrill, St. Croix and Sheboygan, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Canton Lumber Sales Co., Canton Redwood Sales Co., and Canton Redwood Yard, Inc., 9110 83rd Avenue North, Minneapolis, MN 55445. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 82492 (Sub-245TA), filed June 4, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as above). *Frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in IA, KS, MI, MN, MO, NE, OH, PA, WI. Restriction: Restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 46203. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 99493 (Sub-8TA), filed June 8, 1979. Applicant: CENTRAL STORAGE & TRANSFER CO. OF HARRISBURG, P.O. Box 2821, Harrisburg, PA 17105. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. *Chemicals (except in bulk),* between the facilities of Cello Chemical Co. at or near Havre de Grace, MD, on the one hand, and, on the other, points in the Counties of Adams, Berks, Blair, Bucks, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Huntingdon,

Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northcumberland, Perry, Philadelphia, Schuylkill, Snyder, Union, Wyoming, and York, PA, for 180 days. Supporting shippper(s): Transportation Bureau of Baltimore, Inc., representing Cello Chemical Co., 1354 Old Post Road, Havre de Grace, MD 21078. Send protests to: I.C.C., Federal Reserve Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 103993 (Sub-972TA), filed May 23, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda, 28651 U.S. 20 West, Elkhart, IN 46515. *Materials, equipment and supplies used in the manufacture, sale and distribution of metal buildings and metal building parts (except commodities in bulk),* from points in the United States in and east of the States of ND, SD, NE, KS, OK, and TX to the facilites of Star Manufacturing at or near Homer City, PA for 180 days. Supporting shipper(s): Star Manufacturing Co., P.O. Box 94910, Oklahoma City, OK 73109, and Jones and Laughlin Steel Corporation, 1600 West Carson Street, Pittsburgh, PA 15263. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 103993 (Sub-973TA), filed April 23, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda, (same address as applicant). *Motor vehicles* from the facilities of Holiday Rambler Corporation at or near Sweetwater, TX to points in the United States (except AK and HI) for 180 days. Supporting shipper: Holiday Rambler Corporation, 65528 State Road 19, Wakarusa, IN. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm. 429 Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 103993 (Sub-974TA), filed June 5, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). (1) *Iron and steel articles,* from the plantsite of Stanley Steel Service Corp., at or near Buffalo, NY to points in the United States in and east of the states of ND, SD, NE, KS, OK, and TX and (2) *materials, equipment and supplies used in the manufacture, sale and distribution of iron and steel articles (except commodities in bulk),* from points in the United States in and east of the states of ND, SD, NE, KS, OK, and TX to the plantsite of Stanley Steel Service Corp., at or near Buffalo, NY for 180 days. Supporting shipper: Stanley Steel Service Corp., P.O. Box 236, Buffalo, NY 14240. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204, for 180 days. An underlying ETA seeks 90 days authority.

MC 105733 (Sub-73TA), filed June 25, 1979. Applicant: RITTER TRANSPORTATION, INC., 928 East Hazlewood Avenue, Rahway, NJ 07065. Representative: A. R. Jeltes, 928 East Hazlewood Avenue, Rahway, NJ 07065. *Liquid Amorphous Polypropylene,* in bulk, in shipper owned tank vehicles from Neal, WV to Sayreville, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Essex Chemical Corporation, 1401 Broad Street, Clifton NJ 07015. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 105902 (Sub-23TA), filed March 8, 1979, and previously published in the Federal Register on April 24, 1979. Applicant: PENN YAN EXPRESS, INC., 100 West Lake Road, P.O. Box 396, Penn Yan, NY 14527. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312, Phone: (703) 750–1112. *General Commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* between points in Chicago, IL. (Restricted to the transportation of shipments having an immediately prior or an immediately subsequent movement by rail.) for 180 days. Underlying ETA for 30+2 has been filed. Applicant intends to interline at Chicago, IL. The purpose of this republication is to reflect interlining. Supporting shipper(s): There are eight (8) shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 South Clinton St., Rm. 1259, Syracuse, N.Y. 13260.

MC 106223 (Sub-72 TA), filed June 21, 1979. Applicant: GREENLEAF MOTOR EXPRESS, INC., 4606 State Rd., Ashtabula, OH 44004. Representative: Richard R. Higley (same address as applicant). *Titanium tetrachloride, in bulk, in tank vehicles,* from Ashtabula, OH to Longview, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stauffer Chemical Company, Westport, CT 06880. Send protests to: D/S, ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 106223 (Sub-73TA), filed June 26, 1979. Applicant: GREENLEAF MOTOR EXPRESS, INC., 4606 State Road, Ashtabula, OH 44004. Representative: Richard R. Higley (same address as applicant). *Titanium tetrochloride,* in bulk, in tank vehicles, from Ashtabula, OH to Cedar Bayou (Houston), TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stauffer Chemical Co., Westport, CT 06880. Send protests to: D/S, ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 107103 (Sub-19TA), filed June 29, 1979. Applicant: ROBINSON CARTAGE CO., 2712 Chicago Drive SW., Grand Rapids, MI 49509. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226. *Iron and Steel Articles;* from the facilities utilized by Acme Roll Forming Company, at or near Sebewaing, MI to points in IA, IL, IN, OH, St. Louis, MO, Warrenton, MO and Pittsburgh, PA. For 180 days. Supporting shipper(s): Acme Roll Forming Company, 812 North Beck, Sebewaing, MI 48759. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 107162 (Sub-62TA), filed March 5, 1979. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route No. 1, Brimley, MI 49715. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. *Iron and steel articles,* from the port of entry on the United States-Canada boundary line at or near Sault Ste. Marie, MI, and (2) *steel casings, pipe and tubing,* from the facilities of Algoma Tube Corporation at or near Dafter, MI, to points in the United States (except Alaska and Hawaii) and (B) equipment, materials and supplies, used or useful in the manufacture of commodities named in (A) from points in the United States (except Alaska and Hawaii) to the origins in (A) above for 180 days. Supporting shipper(s): Algoma Steel Corporation, Ltd., Administration Bldg., Queens Street West, Sault Ste. Marie, Ontario, P6A5P2. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 107403 (Sub-1227TA), filed February 14, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Asphalt,* in bulk, in tank vehicles, from Lima, Ohio to Ennis, TX and Pryor, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Polyguard Products, Inc., P.O.B. 755, Ennis, TX 75119. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 107403 (Sub-1231TA), filed June 8, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Petroleum products, in bulk, in tank vehicles,* from Shreveport, LA to pts. in the US (except AK and HI), for 180 days. Supporting shipper(s): Atlas Processing Co., P.O. Box 2967, Pennzoil Place, Houston, TX 77001. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 107403(Sub-1232TA), filed June 11, 1979. Applicant: MATLACK, INC., 10 Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Petroleum lubricating oils and hydraulic systems fluids, in bulk, in tank vehicles,* from Carrollton, GA to pts. in the US east of the Mississippi River, except pts. in AL, FL, MS, NC, SC, TN, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. F. Houghton & Co., P.O. Box 860, Carrollton, GA 30117. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th, Rm. 620, Philadelphia, PA 19106.

MC 110012 (Sub-55TA), filed July 3, 1979. Applicant: ROY WIDENER MOTOR LINES, INC., 707 N. Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. *Canned and preserved foodstuffs,* from the facilities of Heinz USA at or near Holland, MI; Fremont and Toledo, OH and Pittsburgh, PA, to points in AL on and north of Hwy 78; to points in GA on and north of Hwy 78; and to points in NC, SC and TN; and from the facilities of Heinz USA at or near Iowa City and Muscatine, IA to Heinz Facility at Greenville, SC. Restricted to traffic originating at or destined to the facilities of Heinz USA. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Glenda Kuss, TA, ICC, A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 110683 (Sub-143TA), filed April 30, 1979. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 Sixteenth Street, N.W., Washington, D.C. 20036. *General Commodities* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Lancaster, PA, and Philadelphia, PA, over US Hwy 30 serving all intermediate points and serving points in Berks, Chester, and Lancaster Counties as off route points in connection with regular routes, for 180 days. Supporting shipper(s): There are 67 supporting statements to this application which may be viewed at the ICC, Washington, DC or the field office listed below. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

Note.—No duplicating authority sought.

MC 110683 (Sub-144TA), filed April 30, 1979. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 Sixteenth Street N.W., Washington, D.C. 20036. *Common–regular. General commodities,* except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, serving Canajoharie NY as an off-route point in connection with carrier's regular routes, for 180 days. Supporting Shipper(s): Life Savers, Inc., Church Street, Canajoharie, NY 13317, Beech-nut Foods Corporation, Two Church St., Canajoharie, NY 13317. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 110683 (Sub-146TA), filed May 23, 1979. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 Sixteenth Street N.W., Washington, D.C. 20036. *Common–irregular. General commodities,* except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Birmingham, AL, and points within 15 miles thereof on the one hand, and, Tuscumbia and Sheffield, AL, on the other hand, for 180 days. Supporting Shipper(s): There are 20 statements of support to this application which may be examined at the ICC, Washington, DC or the field office named below. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

Mc 111812 (Sub-650TA), filed June 4, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brqndsma (same address as applicants). *Printed matter, materials, supplies and equipment* used in the manufacture and production of printed matter, between the facilities of Brown Printing Co. located at or near Waseca, MN, on the one hand, and, on the other, Franklin, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Brown Printing Co., West Highway 14, Waseca, MN 56093. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 112713 (Sub-277TA), filed June 14, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Ave., P.O. Box 7270, Overland Park, KS 66207 Representative: John M. Records, 10990 Roe Ave., P.O. Box 7270, Overland Park, KS 66207. *Meats, meat products, and articles distributed by meat packinghouses as described in Sections A, C & D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* between the facilities of Armour and Company at Mason City, IA and of Lauridsen Foods, Inc. at or near Britt, IA, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, IL, IN, KS, SY, LA, MA, MD, ME, MI, MO, MN, MS, NC, NE, EH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, TN, TX, UT, VA, WI, WV, and WY. Restriction: Restricted to traffic originating at or destined to the named facilities. For 180 days. Supporting shippers(s): Armour and Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 112713 (Sub-278TA), filed June 29, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Ave., P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. DeLand (same

as above), *General commodities, except Classes A & B explosives, commodities in bulk, commodities of unusual value, those requiring special equipment and household goods as defined by the Commission,* serving the facilities of Gould, Inc. at Atlantic, IA as an off-route point in connection with carrier's otherwise authorized operations. Supporting shippers(s): Gould, Inc. Engine Parts Division, 17000 St. Clair Ave., Cleveland, OH 44110. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 112963 (Sub-86TA), filed June 15, 1979. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Representative: Leonard E. Murphy (same address as applicant). *Common carrier:* Irregular routes: *ceramic roofing granules, dry, in bulk, in enclosed dump vehicles.* From Belle Mead and Bound Brook, NJ to Waltham, MA, for 180 days. Supporting shippers(s): Owens-Corning Fiberglass, Waltham, MA 02154. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 112963 (Sub-87TA), filed June 29, 1979. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Representative: Leonard E. Murphy (same address as applicant). *Common carrier: irregular routes: polyvinyl chloride resins, dry, in bulk, in tank vehicles* from New Bedford, MA to points in Ohio for 180 days. Supporting shippers(s): Imex Polymers, Inc., 54 Middlesex Turnpike, Bedford, MA 01730. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 113362 (Sub-357TA), filed May 30, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 55912. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Meats packinghouse products, (except hides and commoditites in bulk)* from the facilities of Briggs & Co., a subsidiary of Wilson Foods Corp., located at Landover, MD to points in IA, KS, MN, MO, NE and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 113362 (Sub-359TA), filed June 28, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Commodities dealt in or used by automotive supply and household appliance stores to or from the facilities of Western Auto Supply Co. (except commoditites in bulk)* between points in the US in and east of MN, IA, NE, KS, OK and TX for 180 days. Supporting shipper(s): Western Auto Supply Co., 2107 Grande Ave., Kansas City, MO 64108. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 113843 (Sub-262TA), filed June 6, 1979. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). Common carrier: irregular routes: *frozen boxed meat* from (a) Mt. Airy, MD and Philadelphia, PA to: points in CT, KS, KY, IL, IN, IA, MA, ME, MI, MN, MO, NE, NH, NJ, NY, OH, PA, RI, VT, WI and DC (b) from: Wilmington, DE to KS, KY, IL, IN, IA, MI, MN, MO, NE, NJ, OH, WI for 180 days. Supporting shipper(s): A. J. Cunningham Packing Co., 1776 Heritage Drive, Quincy, MA 02169. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 114273 (Sub-814TA), filed June 25, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). *Plastic articles* from Louisiana, MO to Cedar Rapids, IA and Toledo, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Mills, Inc., P.O. Box 1113, Minneapolis, MN 55440. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114552 (Sub-213TA), filed May 15, 1979. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. *Building materials (except in bulk)* from facilities of United States Gypsum Company at Morrow and Chamblee, GA to AL, FL, GA, KY, LA, MS, NC, SC, TN, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, 55 Perimeter Center East, Atlanta, GA 30346. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 114552 (Sub-214TA), filed May 16, 1979. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. *Iron and steel articles,* from facilities of Kline Iron & Steel Company, at or near Columbia, SC to points in OH and St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kline Iron & Steel Company, P.O. Box 1013, Columbia, SC 29202. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 114552 (Sub-218TA), filed June 15, 1979. Applicant: SENN TRUCKING COMPANY, P.O. Box 220, Newberry, SC 29108. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. (1) *Boards, composition board, lumber, plywood, gypsum wallboard, poles and posts, and* (2) *Materials and supplies used in the installation, manufacture and distribution of commodities in (1) above (except commodities in bulk, in tank vehicles,* between all points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Restricted to traffic originating at or destined to the facilities used by the Weyerhaeuser Company, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Weyerhaeuser Company, Tacoma, WA 98401. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 114632 (Sub-232TA), filed May 31, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant's). *Petroleum products, in containers,* from the facilities of Pennzoil Co. located at Rouseville, PA and Reno, PA to points in IN, IL, IA, MI, MO, MN, NE, ND, SD, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pennzoil Co., P.O. Box 808, Oil City, PA 16301. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-233TA), filed June 7, 1979. Applicant: APPLE LINES, INC., 212 S.W. Second Street, Madison, SD 57042. Representative: David E. Peterson (same address as applicant's). *Such commodities as are dealt in by retail and wholesale grocery and drug stores* (except commodities in bulk) between the facilities of or used by the Procter & Gamble Distributing Company at or near Cincinnati, OH on the one hand, and points in PA, NY, NJ, MD, MA, and WV, on the other, for 180 days. Supporting shipper(s): The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201, William P. Edmund III, Traffic Analyst. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-242TA), filed June 12, 1979. Applicant: APPLE LINES, INC., 212 S.W. Second Street, Madison, SD 57042. Representative: David E. Peterson (same address as applicant's). *Frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in CO, CT, DE, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, MT, NE, NH, NJ, NY, ND, OH, PA, RI, SD, TN, UT, VT, VA, WV, WI, WY, and DC, restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 46203, Melvin M. Hadley, President. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-243TA), filed July 3, 1979. Applicant: APPLE LINES, INC., 212 S.W. Second Street, Madison, SD 57042. Representative: David E. Peterson (same address as applicant's). *Such commodities as are dealt in by retail department stores* from the facilities of Target Stores, located at Fridley, MN to the facilities of Target Stores located in CO, IL, IA, MO, NE, OK, TX and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Target Stores (Div. of Dayton-Hudson Corp.), 7120 Hwy 65 NE, Fridley, MN 55432. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-244TA), filed July 3, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant's). *Carbon, charcoal, charcoal briquets, hickory chips, carbon wood products, fireplace logs, compressed sawdust, lighter fluid, grills, grill liners and related barbecue supplies,* from the facilities of Husky Industries, Inc. at Dickinson, ND and Isanti, MN to points in AZ, CA, CO, ID, SD, NM, NE, IA, WI, WY and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center, Atlanta, GA 30346. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 115162 (Sub-490TA), filed June 14, 1979. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, Registered Practitioner (address same as applicant). *Boards, composition board, lumber, plywood, gypsum wallboard, poles and posts, and materials and supplies used in the installation, manufacture and distribution thereof* except commodities in bulk in tank vehicles), between points in and east of the states of ND, SD, NE, KS, OK and TX, restricted to traffic originating at or destined to facilities used by Weyerhaeuser Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, Tacoma, WA 98401. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 115162 (Sub-491TA), filed June 15, 1979. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, (address same as applicant). *Television sets, radios, phonographs, stereo systems, recorders and players, speaker systems, audio equipment, and accessories and component parts for the above set forth commodities,* from the facilities of RCA Corporation located at Bloomington and Indianapolis, IN to points in the states of AL, FL, GA, LA, MS, and TX, for 180 days. Supporting shipper(s): RCA Corporation, Building 204–2, Route 38, Cherry Hill, NJ 08358. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 115162 (Sub-492TA), filed June 28, 1979. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, (P.O. address same as above). *(1) Plastic pipe, Plastic tubing, plastic fittings, and accessories used in the installation thereof,* from the facilities of Phillips Driscopipe, Inc. at or near Startex, SC to points in the United States in and east of the states of LA AR, TN, KY, IL and MI; and *(2) Materials and supplies used in the manufacture and distribution of plastic pipe, plastic tubing, and plastic fittings* (except commodities in bulk, in tank vehicles) from points in the US in and east of the states of LA, AR, TN, KY, IL and MI to the facilities of Phillips Driscopipe, Inc., at or near Startex, SC. Supporting shipper(s): Phillips Petroleum Company, 153 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 115322 (Sub-187TA), filed May 30, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 1077, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. *(1) Malt Beverages and related advertising materials, and (2) Empty malt beverage containers and shipper owned pallets;* (1) from Latrobe, PA to points in FL, and (2) from points in FL to Latrobe, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Latrobe Brewing Company, P.O. Box 350, Latrobe, PA 15650. Send protests to: G. H. Fauss, DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 115322 (Sub-189TA), filed June 8, 1979. Applicant: REDWING REFRIGERATED, INC., 9831 S. Orange Avenue, Taft, FL 32809. Representative: Warren P. Kurtz (same as applicant). *Foodstuffs,* from Wilson, NC, to points in VA, DC, DE, MD, PA, NJ, NY, CT, RI, MA, NH, VT, ME, SC, GA, FL, AL, TN, LA, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bruce Foods Corporation, P.O. Drawer 1030, New Iberia, LA 70560. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 115322 (Sub-190TA), filed June 15, 1979. Applicant: REDWING REFRIGERATED, INC., 9831 South Orange Avenue, P.O. Box 10177, Taft, FL 32809. Representative: Warren P. Kurtz (same as applicant). *Bananas and other fruits which are otherwise exempt from economic regulations,* from Portsmouth, VA, to points in PA, MD, DC, DE, NY, NJ, CT, RI, MA, NH, VT, ME, NC, SC, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Best Banana Company, P.O. Box 407, Flushing, NY 11352. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 116763 (Sub-532TA), filed May 9, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Such commodities as are used, distributed, manufactured, processed or dealt in by wholesalers, distributors, retailers, manufacturers or processors of rubber products (except in bulk, in tank vehicles)* from Barberton, OH to the facilities of Wagner Products Div. located at or near Hustisford, WI. Restricted to traffic originating at the named origin and destined to the named destination for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wagner Products Div., 331 Riverview Dr., Hustisford, WI 53034. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 116763 (Sub-533TA), filed June 13, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative:

Gary J. Jira (same as applicant). *Foodstuff* (except commodities in bulk, in tank vehicles), from Mobile, AL and Philadelphia, PA, to points in DE, GA, IA, IL, IN, MD, MN, MO, OH, PA, and WI, for 180 days. Restricted to traffic originating at the named origins and destined to the indicated destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sampco, Inc., 221 N. LaSalle St., Chicago, IL 60601. Send protests to: D/S. I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 116763 (Sub-534TA), filed June 14, 1979. Applicant CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *Containers and container ends, tips and covers* from the facilities of Container Corporation of America located at or near Piqua, OH to points in OK and TX, for 180 days. Restricted to traffic originating at the named origin and destined to the indicated destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Container Corporation of America, 500 E. North Avenue, Carol Stream, IL 60187.

MC 116763 (Sub-535TA), filed June 8, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *Malt beverages, malt syrups, and related advertising materials, beverage containers* (except commodities in bulk, in tank vehicles), from counties of Oswego and Onandaga, NY to points in ME, MA, NH, and VT, for 180 days. Restricted to traffic originating at the named origins and destined to the indicated destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miller Brewing Co., 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: D/S, ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 116763 (Sub-536TA), filed June 8, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *Candy, confectionery, and candy and confectionery products* (except commodities in bulk, in tank vehicles), from St. Louis, MO to points in CT, DE, IA, IL, IN, MA, MD, ME, MI, MN, OH, PA, NJ, NH, NY, RI, VA, VT, WV, WI and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Switzer Candy Co., Division Beatrice Foods Corp., 1600 N. Broadway, St. Louis, MO 63102. Send protests to: D/S. ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 116763 (Sub-537TA), filed June 11, 1979. Applicant CARL SUBLER TRUCKING, INC., P.O. Box 81, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, and filters* (except commodities in bulk, in tank vehicles), from the facilities of Quaker State Oil Refining Corporation, at or near Farmers Valley and Emienton, PA and Congo and St. Marys, WV to points in the United States in and west of MN, IA, MO, OK, and TX, for 180 days. Restricted to traffic originating at the above named origins and destined to the above destinations. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: D/S, ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 118142 (Sub-222TA), filed May 10, 1979. Applicant: M. BRUENGER & CO., INC., 6250 No. Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Bldg., Wichita, KS 67202. *Foodstuffs*, from facilities of TreeSweet Products Company, at or near Fort Pierce, FL, to points in AR, CT, KS, MI, MN, MS, MO, NH, NY & TX (restricted against the transportation of commodities in bulk); 180 days, common, irregular; permanent application filed simultaneously. Supporting shipper: TreeSweet Products, Co., Santa Ana, CA. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 118142 (Sub-228TA), filed April 18, 1979. Applicant: M. BRUENGER & CO., INC., 6250 No. Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza, Wichita, KS 67202. *Bananas and agricultural commodities* otherwise exempt from regulation under Section 203(b)(3) of the Interstate Commerce Act when moving in mixed loads with bananas, from Tampa, FL, to points in GA, IL, IN, IA, KS, KY, MI, MN, MO, NE, NC, OH, SC, TN & WI; common, irregular, 180 days. Supporting shippper: Del Monte Banana Company, Miami, FL. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 118142 (Sub-230TA), filed June 5, 1979. Applicant: M. BRUENGER & CO., INC., 6250 No. Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. *Bananas, and agricultural commodities*, the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. Sec. 10526(a)(6) (1978), in mixed loads with bananas, from the facilities of Del Monte Banana Company at Port Hueneme, CA to points and places in the states of AZ, CO, IA, ID, KS, MO, MT, NE, ND, NM, OR, SD, TX, UP, WA, & WY. Restricted to the transportation of traffic having a prior movement by maritime carrier; for 180 days, common, irregular. Supporting shipper: Del Monte Banana Company, P.O. Box 1940, Miami, FL 33101. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 118202 (Sub-125TA), filed June 25, 1979. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Thomas J. Beener, One World Trade Center, Suite 4959, New York, NY 10048. *Foodstuffs, except in bulk*, from the plantsite of Duffy-Mott Co., Inc. at Hamlin, Holley and Williamson, NY to points in IL, IN, MI, MN, MO, WI, SD, and ND, for 180 days. Supporting shipper(s): Duffy-Mott Co., Inc., 370 Lexington Avenue, New York, NY 10017. Send protests to: District Supervisor, ICC, 414 Federal Building, U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 118202 (Sub-126TA), filed June 28, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Frozen foodstuffs* between Indianapolis, IN, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, SD, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI and DC, restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN, for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 South Arlington Avenue, Indianapolis, IN 56203. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 119493 (Sub-304TA), filed June 5, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). *Lumber*, from KS and MO to AL, AR, GA, KY, LA, MS, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Char/Ray Sawmill, R.R. No. 1, Eldorado Springs, MO 64744. Send protests to: DS John V. Barry, ICC, 600 Federal Bldg., 911 Walnut, Kansas City, MO 64106

MC 134289 (Sub-6TA), filed May 15, 1979, and published in the **Federal Register** issue of June 26, 1979, and republished as corrected this issue. Applicant: CALDWELL TRUCK RENTALS, INC., 625 South Boulevard, Lenoir, NC 28645. Representative: Jack L. Hawn (same as above). *New furniture, crated or uncrated, and new furniture parts*, from points on the west of US Hwy 301, in NC to VA, MD, PA, NJ, NY, DC, DE, RI, MA, CT, VT, ME, NH, WV, OH and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 30 shippers. Their statements may be examined at the office below or Headquarters. Send protests to: Terrell Price, 800 Briar Creek Road, Room CC516, Charlotte, NC 28205. The purpose of this republication is to show the correct scope of the application as previously published.

MC 145579 (Sub-1TA), filed January 29, 1979, and published in the **Federal Register** issue of March 7, 1979, and republished as corrected this issue. Applicant: D. IRVIN TRANSPORT, LIMITED, 3020 52nd Street, S.E., Calgary, AB, Canada T2G 2A7. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Lumber, lumber products and wood products*, from points in FL, LA, MS, AL, AR, GA, TN, SC, NC, VA, KY, PA, OH, IN, IL, MO, CA, WA, OR, MT, TX and ID, to ports of entry on the International Boundary Line between the United States and Canada located in and west of MN, for furtherance to points in Alberta, Canada, in foreign commerce only, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McLean Lumber Sales Ltd. and Delta Pacific Lumber Company, Ltd., 5011 Macleod Trail, Calgary, AB, Canada. Elwood Distributors, 3640–7th Street, SE, Calgary, AB, Canada. Send protests to: Paul J. Labane, ICC, 2602 First Avenue North, Billings MT 59101. The purpose of this republication is to show complete scope of the application as previously omitted.

MC 146258 (Sub-7TA), filed April 11, 1979, and published in the **Federal Register** issue of June 7, 1979, and republished as corrected this issue. Applicant: M. R. BRUTON, INC., P.O. Box 547, Cuba, MO 65453. Representative: Stephen H. Loeb, Suite 200, 205 W. Toughy Avenue, Park Ridge, IL 60068. *Iron and steel articles* (except commodities in bulk), from St. Louis, MO and points in its commercial zone to points in AZ, AR, CA, LA, NM, OK, and TX, restricted to the transportation of traffic for the account of LaBarge, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): LaBarge, Inc., Tubular Div., 20 S. 4th Street, St. Louis, MO 63102. Send protests to: P. E. Binder, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101. The purpose of this republication is to show the correct scope of the application as previously published.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-23657 Filed 7-31-79; 8:45 am]

BILLING CODE 7035-01-M

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Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., August 10, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1525–79 Filed 7–30–79; 10:04 am]

BILLING CODE 6351–01–M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 1, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting following the Open Meeting.

CHANGES IN THE MEETING:

Agenda, Item No., and Subject

General—2—WNCN Listeners Guild v. FCC No. 76–1692 (D.C. Cir. 1979) (entertainment format case) (petition for certiorari).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: July 27, 1979.

[S–1528–79 Filed 7–30–79; 3:36 pm]

BILLING CODE 6712–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: August 3, 1979, 10 a.m.

PLACE: 825 North Capitol Street N.E., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Initiation of Civil Action.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary, telephone (202) 275–4166.

[S–1526–79 Filed 7–30–79; 10:47 am]

BILLING CODE 6450–01–M

4

July 30, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., August 3, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission will act on the following cases:

1. Island Creek Coal Company, PIKE 79–18.

2. Climax Molybdenum Company, DENV 79–3–PM, etc.

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFO: Jean Ellen, 202–653–5632.

[S–1527–79 Filed 7–30–79; 1:17 pm]

BILLING CODE 6820–12–M

5

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 44643, July 30, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Wednesday, August 1, 1979, 9 a.m. [NM–79–24]

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires that the time of this meeting be changed to: 10 a.m., Thursday, August 2, 1979.

Federal Register
Vol. 44, No. 149
Wednesday, August 1, 1979

The agenda remains the same as previously published.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

July 30, 1979.

[S–1529–79 Filed 7–30–79; 3:47 pm]

BILLING CODE 4910–58–M

6

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 44644, July 30, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, August 2, 1979, 9 a.m. [NM–79–25]

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires that the time of this meeting be changed to: 9 a.m., Friday, August 3, 1979.

The agenda remains the same as previously published.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

July 30, 1979.

[S–1530–79 Filed 7–30–79; 3:47 pm]

BILLING CODE 4910–58–M

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federal register

Wednesday
August 1, 1979

Part II

Department of Justice

Civil Rights Division

Semiannual Agenda of Regulations

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DEPARTMENT OF JUSTICE

Civil Rights Division

[28 CFR Ch. I]

Semiannual Agenda of Regulations

AGENCY: Civil Rights Division, Department of Justice

ACTION: Semiannual agenda of regulations.

SUMMARY: The Civil Rights Division is publishing its semiannual agenda of regulations under Executive Order 12044.

FOR FURTHER INFORMATION CONTACT: For information regarding individual regulations, contact the individual identified as the knowledgeable official.

Semiannual Agenda of Regulations

Nondiscrimination Based on Handicap in Federally Assisted Programs—Implementation of Section 504 of the Rehabilitation Act of 1973 and Executive Order 11914

Discussion of the Regulation

The regulation will establish standards to assure nondiscrimination based on handicap in programs and activities receiving Federal financial assistance from the Department of Justice. It will define and prohibit acts of discrimination against qualified handicapped persons in employment and as beneficiaries of programs and activities receiving assistance from the Department. Covered programs and activities will include those administered by state and local units of the criminal justice system receiving grants and Federal assistance contracts from the Law Enforcement Assistance Administration (*e.g.*, police departments, prisons, courts), training programs and laboratory facilities provided by the Federal Bureau of Investigation and the Drug Enforcement Administration, training programs provided by the Bureau of Prisons through its National Institute of Corrections, and grants provided to states by the Department of Justice for antitrust enforcement. Procurement contracts and contracts of insurance of guaranty are not considered Federal financial assistance within the meaning of § 504 of the Rehabilitation Act.

This regulation will affect a substantial number of public and private agencies. For example, in Fiscal Years 1977 and 1978 LEAA made 6,840 and 10,398 grants and contracts respectively.

Legal Basis

Rehabilitation Act of 1973, § 504, 29 U.S.C. § 794; Executive Order 11914, 41 FR 17871–3 CFR 1976 Comp., pp. 117–118, HEW Guidelines on Rehabilitation, 42 FR 2132.

Regulatory Analysis

The appropriateness of a regulatory analysis is presently under consideration.

Knowledgeable Offical

Robert N. Dempsey, Federal Enforcement Section, Civil Rights Division, Department of Justice, Washington, D.C. 20530, 202/633–2374.

Procedures for the Administration of Section 5 of the Voting Rights Act of 1965 (28 CFR Part 51)

Discussion of the Regulation

Section 5 of the Voting Rights Act of 1965, as amended in 1970 and 1975, 42 U.S.C. 1973c, requires that certain states, counties, cities, school districts, and other political units (primarily in the South and Southwest) submit to the Attorney General (or to the United States District Court for the District of Columbia) any changes in voting procedures, practices, or standards for a determination that such changes do not have the purpose and will not have the effect of discriminating on the basis of race, color, or membership in a language minority group. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965 were first published on September 10, 1971, 36 FR 18186. These procedures are currently under revision. The procedures explain the preclearance requirement, the Department's internal procedures, the submissions process to be followed by affected jurisdictions, the information required by the Attorney General to evaluate proposed changes and the standards utilized in reviewing such changes. They also inform interested persons of the manner in which they can be notified of submitted changes and can comment upon them.

The Section 5 procedures do not impose new requirements on the affected jurisdictions. Rather, they provide guidance on compliance with requirements imposed by Congress. The procedures allow the preclearance requirements of Section 5 to be more easily understood, facilitate the preparation of submissions without legal counsel, and enable the submission process to operate more expeditiously than it otherwise would.

Legal Basis

Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c; *Georgia* v. *United States*, 411 U. S. 526 (1973).

Regulatory Analysis

A regulatory analysis is not required.

Knowledgeable Official

David H. Hunter, Attorney, Voting Section, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530, 202/724–7439.

Education Programs or Activities Receiving or Benefiting From Federal Financial Assistance—Implementation of Title IX of the Education Amendments of 1972, as Amended

Discussion of the Regulation

The regulation will establish standards to assure nondiscrimination on the basis of sex in education programs and activities receiving Federal financial assistance from all components of the Department of Justice except the Law Enforcement Assistance Administration. * It will define and prohibit discrimination on the basis of sex in these programs and activities, encompassing such matters as recruitment, admissions, the delivery services, and employment. Covered programs and activities will include training programs provided by the Bureau of Prisons through its National Institute of Corrections, training assistance provided by the Drug Enforcement Administration, citizenship education and training funded by the Immigration and Naturalization Service, and education assistance provided by the Federal Bureau of Investigation.

Legal Basis

Title IX of the Education Amendments of 1972, as amended, & 901, § 902, 20 U.S.C. § 1681 *et seq.*

Regulatory Basis

A regulatory analysis is not required.

Knowledgeable Official

Stewart B. Oneglia, Office of Coordination and Review, Civil Rights Division, Department of Justice, Washington, D.C. 20250, (702) 724–6757.

John E. Huerta,

Deputy Assistant Attorney General, Civil Rights Division.

[FR Doc. 79–23290 Filed 7–31–79; 8:45 am]

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* Section 518(c) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and Section 262 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, prohibit sex discrimination by any recipient of Federal financial assistance under those Acts. Since the scope of these Acts is broader than that of Title IX, the Law Enforcement Assistance Administration regulation implementing the nondiscrimination provisions of those Acts, 28 C.F.R. Part 42.201 *et seq.*, will be amended to include Title IX in its authority, and a reference to 28 CFR Part 42.201 et seq. will be made in the proposed Title IX regulation.

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federal register

Wednesday
August 1, 1979

Part III

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

Unlawful Trade Practices Under the Federal Alcohol Administration Act

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 6, 8, 10, 11]

[Notice No. 327]

Unlawful Trade Practices Under the Federal Alcohol Administration Act

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of proposed rulemaking and notice of hearing.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to issue regulations concerning trade practices prohibited under the Federal Alcohol Administration (FAA) Act. The specific provisions of the FAA Act covered by these proposed regulations concern "Exclusive outlet", "Tied house", "Commercial bribery", and "Consignment sales". These proposed regulations also liberalize current interpretations of the FAA act, clarify existing provisions, and update regulatory requirements to conform with acceptable modern business practice. Some trade practice areas are deregulated which, hopefully, will stimulate competition. Finally, these proposed regulations will replace a large number of rulings and circulars with a single source of rules which is readily available.

ATF announced its intent to propose these regulations with an advance notice of proposed rulemaking on December 30, 1977, [Notice No. 315, 42 FR 37116].

DATES: Written comments must be received by October 30, 1979.

Requests to testify at a public hearing must be received by August 31, 1979.

Public hearings: September 6 and 7, 1979—Washington, D.C. September 10 and 11, 1979—Hartford, Conn. September 13 and 14, 1979—Atlanta, Ga. September 17 and 18, 1979—Chicago, Ill. September 19 and 20, 1979—San Francisco, Calif.

ADDRESSES: Send written comments and requests to testify at public hearings to: Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044, Attn: Chief, Regulations and Procedures Divisions.

Dates and addresses: Public hearings

Public Hearing, Washington, DC

Dates: From 10 a.m. until 5 p.m. on September 6 and 7, 1979.

Address: Cash Room, U.S. Treasury Building, 15th & Pennsylvania Avenue, NW.

Public Hearing, Hartford, CT

Dates: From 10 a.m. until 5 p.m. on September 10 and 11, 1979.

Address: Plaza Room, Hotel Sonesta, 5 Constitution Plaza.

Public Hearing, Atlanta, GA

Dates: From 10 a.m. until 5 p.m. on September 13 and 14, 1979.

Address: Holiday Hall I and II, Holiday Inn Downtown, 175 Piedmont Avenue, NE.

Public Hearing, Chicago, IL

Dates: From 10 a.m. until 5 p.m. on September 17 and 18, 1979.

Address: Monroe Ballroom, 6th Floor (September 17), Crystal Ballroom, 3rd Floor (September 18), Palmer House Hotel, State and Monroe Streets.

Public Hearing, San Francisco, CA

Dates: From 10 a.m. until 5 p.m. on September 19 and 20, 1979.

Address: Room 503, U.S. Custom House, 555 Battery Street.

Evening Public Hearings

Public hearings will be held in the evenings to accommodate persons unable to attend daytime hearings, if demand is great enough. Evening hearings will begin at 7 p.m and be held in each city at a location to be announced. Evening hearings are scheduled as follows: Washington, DC on September 6; Hartford, Connecticut on September 10; Atlanta, Georgia on September 13; Chicago, Illinois on September 17; and San Francisco, California on September 20.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, telephone: 202–566–7626.

SUPPLEMENTARY INFORMATION:

Requests To Testify; Rules Governing Public Hearings

Persons requesting to testify at any of these hearings shall indicate the city in their request. These persons shall also indicate a preference for the date and time of day in which they request to testify; to the extent possible, ATF will honor these preferences. The request to testify must include an outline of the topic or topics on which a person desires to speak. Testimony will be limited to 10 minutes per speaker, but additional time may be granted for answering questions. Persons testifying should be prepared to respond to questions concerning their testimony, the outline of their testimony, or to any matters relating to written comments which they may have submitted. Written comments relating to this notice of proposed rulemaking, or to the advance notice of proposed rulemaking will be available at each hearing for public inspection. Persons not scheduled to testify may be allowed to testify if time permits at the conclusion of each hearing.

ATF will notify all persons requesting to testify and will confirm dates and times. ATF will prepare an agenda, listing speakers and their topics, for each hearing, and will make this agenda available at the hearing.

All public hearings held pursuant to this notice will be conducted under ATF's procedural rules at 27 CFR 71.41(a)(3).

The Federal Alcohol Administration Act

The Federal Alcohol Administration Act (hereinafter referred to as FAA Act or Act), provides for Federal regulation of the alcoholic beverage industry. Its major objectives are to protect the consumer through establishment of standards for labeling and advertising of alcoholic beverages, to further protect the Federal revenue derived from taxes on distilled spirits, wines, and malt beverages, and to prevent the recurrence of those abuses in the distribution of liquor which, in part, led to National Prohibition. ATF and its predecessor agencies have enforced the FAA Act since 1935.

Sections 5(a)-5(d) of the FAA Act prohibit marketing practices which are considered unfair competition. These sections entitled "Exclusive outlet", "Tied house", "Commercial bribery", and "Consignment sales", delineate and proscribe unfair trade practices in the alcoholic beverage industry.

While other sections of the FAA Act have been interpreted by regulations issued since 1935, regulations concerning prohibited trade practices have been issued in only two areas. As required by the FAA Act, regulations providing exceptions to the general prohibitions of section 5(b)(3) were issued in 1935 and are codified in 27 CFR Part 6. In addition, the required credit period regulations were issued in 1938 and are codified in 27 CFR Part 8. Rather than issuing regulations to carry out the other provisions of sections 5(a)-(d) of the FAA Act, ATF and its predecessor agencies have utilized rulings and circulars in order to keep industry members informed of the requirements and application of the Act.

Need for New Trade Practice Regulations

ATF is proposing to issue regulations implementing all of the trade practice provisions of the FAA Act. The reasons ATF feels these regulations would be beneficial are as follows:

(a) The provisions of Part 6 are based on hearings held in the mid-1930's. Some of the provisions of these regulations may be out of date due to technological advances or changes in acceptable business practices. The regulations modernize the exceptions granted in Part 6.

(b) ATF has indentified over 50 published rulings (both Internal Revenue and ATF) covering interpretations of the FAA Act. These rulings date as far back as 1954 and have not been compiled in one volume. Moreover, ATF feels the subject matter of these rulings is more appropriate for regulations.

(c) ATF has identified several circulars issued by the Federal Alcohol Administration in the 1930's, and by the Internal Revenue Service in the 1950's which concern prohibited trade practices. These circulars contain interpretations of the FAA Act which both ATF and industry members depend upon for guidance. Most of these circulars are, however, out of print and not readily available.

(d) ATF has examined its previous positions on several trade practice questions and has determined that certain positions are in need of clarification. ATF feels that by issuing regulations to cover these areas, ATF, industry members and retail liquor dealers would have clearer guidance in these trade practice areas. Moreover, the regulatory process, through written comments and public hearings, will provide public input into the development of regulations implementing the FAA Act.

(e) ATF feels that some previous applications of the FAA Act have been overly restrictive or have failed to recognize acceptable modern business practices. In addition, ATF desires to deregulate some trade practice areas in order to promote greater competition among industry members. These proposed regulations are, therefore, liberalizing.

In view of the above considerations, ATF feels that regulations covering all aspects of the trade practice provisons of the FAA Act would be beneficial.

Advance Notice of Proposed Rulemaking

In order to solicit public input on the advisability of issuing regulations concerning the trade practice provisions of the FAA Act, ATF issued an advance notice of proposed rulemaking [Notice No. 315, 42 FR 37116, December 30, 1977]. That advance notice suggested specific areas within 27 CFR Parts 6 and 8 which ATF was considering changing, such as regulations pertaining to equipment and supplies, inside signs, retail advertising specialties, and displays. The advance notice also suggested specific trade practices which might be included in current Part 6. Finally, the advance notice suggested that ATF might issue new regulations concerning all trade practices not currently covered by regulations.

ATF received about 90 written comments in response to the advance notice. Comments were submitted by all alcoholic beverage industry segments incuding major trade associations, State retail liquor dealer associations, associations of tavern owners, alcoholic beverage wholesalers, several distillers, brewers and vintners, and three "control" State governments.

In general, respondents favored modernizing the FAA regulations concerning prohibited trade practices. The majority of individual comments favored clarification of trade practice areas not now covered by regulation; for example, stocking and rotation of alcoholic beverages.

The written comments addressed nearly all trade practice areas included in sections 5(a)-(d) of the FAA Act. Based on these comments, ATF has drafted these regulations covering sections 5(a)-(d) of the FAA Act. We further solicit public comments on any areas or activities of these proposed regulations which appear overly restrictive, and solicit suggestions for possible section 5(b)(3) exemptions which are not contained in these proposed regulations.

The Proposed Regulations

ATF is proposing to issue 4 new or revised parts in the Code of Federal Regulations, Title 27: Alcohol, Tobacco Products and Firearms. Each part will correspond to a subsection of section 5 of the FAA Act. The proposed parts are as follows:

27 CFR Part 6: "Tied House" (includes regulations presently found in 27 CFR Parts 6, 8);
27 CFR Part 8: Exclusive Outlet;
27 CFR Part 10: Commercial Bribery; and
27 CFR Part 11: Consignment Sales.

The proposed regulations are discussed in detail below.

Definition of Retail Liquor Dealer

The Federal Alcohol Administration Act does not define "retail liquor dealer" or "retailer". Currently, 27 CFR Part 6, defines a "retailer" as "any person engaged in the sale of distilled spirits, wine or malt beverages to consumers". Although this regulatory definition generally has been adequate, it presents special problems when applying sections 5(a), Exclusive outlet, and 5(b), Tied house, of the FAA Act to certain classes of liquor dealers. Unfortunately, not all liquor dealers may be easily classified as a "wholesaler" or a "retailer". Many liquor dealers, especially State liquor control authorities, conduct both wholesale and retail sales of alcoholic beverages. Moreover, some of these dealers are predominantly wholesalers but conduct minimal retail sales to consumers. Therefore, it is proposed to expand upon the definition of "retailer" by adding the sentence "This does not include a wholesaler who makes incidental retail sales representing less than 10 percent of the wholesaler's total sales volume for the preceding 2 month period.".

Application of Section 5 of the Federal Alcohol Administration Act to State Liquor Control Authorities

Past rulings and circulars hold that the trade practice provisions of section 5 of the Act apply to States when acting as retail liquor dealers. Accordingly, industry members are prohibited by law from engaging in the trade practices outlined in sections 5(a)-(d) with States which fall into the category of a "retailer".

Three State liquor control authorities responded to the advance notice of proposed rulemaking. Their comments plus that of the National Alcoholic Beverage Control Association request that ATF either exempt control States from the provisions of the FAA Act or treat these control States as wholesalers rather than retailers. ATF finds no statutory authority for exempting control States in their retail activities from the coverage of the Act. However, State liquor control authorities are, when operating as wholesalers, by statute, exempt in their dealings with retail liquor dealers for purposes of sections 5(a), (b) and (c) of the Act. This exemption is incorporated into the definition of industry member.

Exclusive Outlet Regulations

Requirements of law. Proposed Part 8, Exclusive outlet, provides that it is unlawful for an industry member, directly or indirectly or through an affiliate to require, by agreement or otherwise, that any retailer engaged in the sale of alcoholic beverages, purchase any such products from such person to the exclusion in whole or in part of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce, if such requirement is made in the course of

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interstate or foreign commerce, or if such person engages in such practice to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such requirement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

Section 5(a) of the Act applies to transactions between industry members and retailers. State agencies when operating as retailers are included within the coverage of this part under § 8.3. However, State agencies' wholesale transactions with retailers are exempt.

Definitions. Terms used throughout the part are defined in § 8.11. All definitions are identical to those appearing presently in 27 CFR Part 6 with the exception of the term "retailer" which is modified as discussed above.

Prohibited trade practices. Subpart C outlines trade practices prohibited by section 5(a) of the FAA Act. Section 8.21 paraphrases the Act by describing those transactions that are prohibited. This section further states that purchases coerced by industry members, through threats or acts of physical or economic harm, are prohibited, as are voluntary industry member retail purchase agreements. Sections 8.22–8.24 give specific examples and clarification of prohibited practices.

Tied House Regulations

Requirements of law. Proposed Part 6, "Tied house", provides that it is unlawful for an industry member to induce through any of the following means, any retailer engaged in the sale of alcoholic beverages to purchase any such product from such person to the exclusion in whole or in part of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such person engages in the practice of using such means to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

(1) By acquiring or holding any interest in any license with respect to the premises of the retailer; or

(2) By acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of his business; or

(3) By furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services or other thing of value, subject to the exceptions prescribed by regulation, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest and the purposes of the subsection; or

(4) By paying or crediting the retailer for any advertising display, or distribution service; or

(5) By guaranteeing any loan or repayment of any financial obligation of the retailer; or

(6) By extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions, as ascertained by the Secretary and prescribed by regulation; or

(7) By requiring the retailer to take and dispose of a certain quota of any of such products.

Proposed Part 6. The proposed Part 6 replaces 27 CFR Part 6, Inducements Furnished to Retailers, and 27 CFR Part 8, Credit Period to be Extended to Retailers of Alcoholic Beverages. This proposed part also incorporates many revenue rulings and industry circulars which were issued to clarify section 5(b) of the Act. This part not only outlines the unlawful inducements proscribed by the Act, but lists the inducements which may lawfully be given or furnished to retailers under the exemption found in section 5(b)(3).

Definitions. Most definitions in Subpart B currently appear in Part 6 but several are new. The definition of "laid-in cost" adopts the terminology of ATF Ruling 76–16, 1976 ATF C.B. 78: "Laid-in cost" means the cost incurred by an industry member to place alcoholic beverages in inventory which includes the manufacturer's invoice price, freight charges and taxes. "Equipment" is defined as including all funtional items used in the conduct of a retailer's business. The definition of "retailer" is amended by excluding those combination wholesale and retail operations in which retail sales to consumers constitute less than 10 percent of the total sales volume for the preceding 2 month period.

The Distilled Spirits Council of the United States (DISCUS) and the Wine and Spirits Wholesalers of America (WSWA) submitted comments concerning the revision of former Part 6. Their comments suggested several additional terms be defined. Two of their suggested definitions, "cost adjustment factor" and "value" are incorporated elsewhere in this part. While DISCUS and WSWA also suggested definitions for other terms including "exclusion in whole or in part", "offense or violation", and "willful", definitions of these terms do not now appear in Part 6. ATF believes these terms are not susceptible to precise definition except in the context of a particular enforcement proceeding.

Interest in retail license. Sections 6.25–6.27 implement section 5(b)(1). Section 6.25 paraphrases the Act and prohibits industry members from influencing purchases of a retailer by acquiring an interest in any license (State, county, or municipal) with respect to the premises of the retailer.

Interest in retail property. Section 6.31 paraphrases section 5(b)(2) which prohibits industry members from influencing the purchases of retailers by acquiring an interest in property owned, occupied, used or leased by the retailer in the retail business. Sections 6.32–6.35 provide examples of prohibited interests in a retailer's property.

Furnishing things of value. Sections 6.41–6.49 implement the provisions of section 5(b)(3) prohibiting an industry member from furnishing a thing of value to a retailer. These regulations replace former 27 CFR 6.20. Subpart D states exceptions to these regulations by allowing industry members to furnish certain specified items to retailers.

Section 6.42 prohibits an industry member from furnishing a thing of value to a third party (such as a retail association) and the thing of value passing through to a retailer. Section 6.43 prohibits an industry member from selling equipment to a retailer. Section 6.44, entitled "Free warehousing", prohibits an industry member from delaying delivery of alcoholic beverages to a retailer beyond the lawful credit period set forth in § 6.66. Under § 6.45, any assistance (financial, legal, adminsitrative, or influential) by an industry member in the acquisition by a retailer of a license constitutes the furnishing of a service or thing of value within the meaning of the Act.

Free goods, discounts, rebates, and price reductions. Section 6.46 clarifies ATF's position regarding free goods, rebates, discounts, and price reductions, and incorporates the positions taken in Revenue Ruling 54–161, 1954–1 C.B. 338 and ATF Rulings 74–6, 1974 ATF C.B. 50; 75–12, 1975 ATF C.B. 33; 75–33, 1975 ATF C.B. 34; and 76–16, 1976 ATF C.B. 78, by stating in one place, ATF's current interpretation of section 5(b)(3) regarding these practices.

Approximately 16 industry comments concerning free goods, discounts and rebates were received in response to the advance notice of proposed rule making. Generally, the respondents favored treating discounts, rebates, free goods, and the like as pricing arrangements rather than prohibited inducements. Several respondents recommended that ATF issue a definitive position on the matter of free goods, discounts, rebates and price reductions, as well as requires that all discounts be reflected on the related sales invoice. Two respondents recommended that ATF modify its position on "free goods" by allowing the giving of a discount in the form of liquor dissimilar to the products purchased. Most of these comments are incorporated into this proposed section. Section 6.46 permits industry members to give free goods, discounts, rebates, and price reductions to retailers under certain circumstances.

Present ATF policy permits the giving of free goods, discounts, price reductions or rebates if they are given pursuant to an agreement made at the time of sale, if the quantities given are not so excessive as to constitute a gift (are not less than the supplier's "laid-in cost"), and if free goods given are identical to the products purchased.

Proposed § 6.46 represents several changes to this policy. First, this section requires that the "laid-in cost" be calculated over the 12 month period previous to the transaction. This requirement precludes a primary supplier (producer, rectifier, bottler, brewer) from creating a tied-house relationship with retailers by greatly discounting their products to their wholesalers who in turn discount them to retailers below the wholesaler's customary "laid-in cost".

A second proposed change concerning "free goods" is elimination of the requirement that free goods given in the course of a transaction be the same as the goods purchased. ATF feels these "free goods" represent a discount made by the industry member to a retailer, and that the type of product given should not be a factor.

A third proposed change is that transactions involving free goods, discounts or price reductions be documented. Section 6.46(b) requires all such sales arrangements to be shown on sales invoices available for inspection for a period of five years. The DISCUS and WSWA comments suggested that existing recordkeeping requirements in 27 CFR Part 194, Liquor Dealers, would be sufficient to document these transactions. ATF notes, however, that Part 194 only requires records of receipt and disposition of wines, distilled spirits, and malt beverages; it does not require showing pricing arrangements between retailers and their suppliers. Additionally, Part 194 does not apply to liquor dealers in Puerto Rico. Therefore, we propose to include recordkeeping requirements for free goods and the like in § 6.46. ATF also notes that this recordkeeping requirement may be satisfied by maintaining copies of invoices or commercial papers rather than keeping a separate government record.

Other things of value. Section 6.47 prohibits the furnishing of certain activities such as entertainment for patrons at a retail establishment by an industry member. Under § 6.48(a), an industry member is prohibited from furnishing *outside signs* to retailers. Paragraph (b) further prohibits an industry member from placing a "billboard" or "spectacular" sign on the wall or roof of a retail establishment or adjacent building under certain circumstances. Section 6.49 provides that things of value given to retailers, such as trading stamps, coupons, non-alcoholic mixers, and pouring racks, are inducements under the FAA Act, even if the industry member intends them for free distribution to consumers.

Paying for advertising, display or distribution service. Proposed § 6.51 paraphrases section 5(b)(4) which prohibits industry members from influencing a retailer by paying or crediting the retailer for an advertising, display or distribution service.

Cooperative advertising in which an industry member participates with a retailer in paying for an advertisement placed by the retailer is prohibited under proposed § 6.52. Section 6.53 prohibits an industry member from purchasing advertising signs, scoreboards, programs, and the like at ball parks, race tracks, or stadiums from a retail concessionaire. Advertising by an industry member in a retailer publication intended for distribution to consumers or the general public is prohibited under § 6.54. Section 6.55 prohibits payments by industry members to retailers or setting up product displays since this is rendering a display service under section 5(b)(4). Similarly, under § 6.56, a wholesaler may not rent display space on the retailer's premises.

Guaranteeing loans. Section 6.61 paraphrases section 5(b)(5) which prohibits an industry member from influencing a retailer by guaranteeing any loan or the repayment of a financial obligation by the retailer.

Extension of credit. Section 5(b)(6) of the Act prohibits industry members from influencing a retailer by extending credit in excess of the customary credit period. Section 6.65 paraphrases section 5(b)(6) and gives the usual and customary credit period as 30 days, as presently set forth in 27 CFR 8.20 and 8.21. The credit period is calculated as the time between delivery of the alcoholic beverage and the date of the full legal discharge by the retailer of indebtedness arising from the sale. Section 6.66 continues the provisions of former § 822.

Sales to retailer whose account is in arrears. Under § 6.67, a retailer whose account is in arrears would be required to reduce existing indebtedness to a supplier to that of the average purchase by the retailer from that supplier over the preceding four month period. The retailer is required to make payment equal to or greater than the value of the current order in order for the supplier not to be violation of the Act.

Quota sales. Section 6.71 which paraphrases section 5(b)(7) prohibits an industry member from influencing a retailer by requiring that the retailer take a specified quota of any alcoholic beverage.

Exceptions to "Tied House" Regulations

Exceptions or "legal inducements" have been provided by regulations in 27 CFR Part 6, Inducements Furnished to Retailers, since 1936; these exceptions are being incorporated in to this part. In addition, this part lists exceptions which were not formerly listed in Part 6 and incorporates many revenue rulings.

Section 6.81(a) is a general statement allowing industry members to make certain inducements to retailers within the restrictions listed in §§ 6.83–6.100, as long as the inducements are not conditioned on purchases of alcoholic beverages.

Recordkeeping requirements. Proposed § 6.81(b) requires industry members to keep records of all items and services furnished to retailers under the provisions of this subpart.

Cost adjustment factor. Several of the legal inducements listed (inside signs, product displays, retail advertising specialties, advertising in retailer association publications) contain fixed dollar limitations. In their comments to the advance notice of proposed rulemaking DISCUS noted that inflation has necessitated increasing dollar limitations through administrative action. To streamline this process, § 6.82 provides for adjustment of these dollar limitations. Increases (or decreases) would be determined by a "cost adjustment factor" equal to the change

in the Consumer Price Index published monthly by the Bureau of Labor Statistics. Dollar limitation adjustments would occur when the "cost adjustment factor" would require an adjustment of at least $10.

Product displays. New § 6.83 defines a products display as any "wine racks, bins, barrels, casks, shelving, and the like from which alcoholic beverages are displayed and sold."

Section 6.83 permits an industry member to furnish, give, rent, loan, or sell product displays to a retailer. The total value of the product displays furnished to a retailer by an industry member is limited to not more than $25 at one time; further, "pooling" of dollar limitations by industry members in order to exceed the dollar limitation would be prohibited. The dollar value is fixed as the actual cost to the industry member excluding transportation and installation charges. Product displays are required to bear conspicuous advertising matter. As discussed above, an industry member cannot condition the furnishing of a product display on the sale of sufficient product to stock the display. Although the product display is limited to $25 under § 6.83, there is no limit to the amount of product which may be used in the product display.

This section incorporates many comments received in response to the advance notice of proposed rulemaking. In general, respondents suggested that a product display should attract the customer and make the product more available. Nearly all respondents opposed any quantity limitation on the amount of product used in displays.

As proposed, product displays would include wine casks if they bear conspicuous advertising matter in order to differentiate them from "equipment" as defined in § 6.11. Product displays would also include wine racks. In the past, industry members have furnished wine racks to retailers; however, they cannot be considered "inside sign." In order to clarify the status of these items, they have been specifically included as product displays, subject to the $25 limitation.

Inside signs. The provisions permitting the furnishings of inside signs to retailers have been combined into one section, and made uniform for signs relating to malt beverages, wine and distilled spirits.

Section 6.84 sets a maximum value of $75 on all signs furnished by an industry member to a retailer, but no limits are set on the number of signs for individual products. This proposed section does not allow industry members to "pool" their dollar limitations in order to furnish a retailer signs in excess of $75. The dollar value of inside signs would be the actual cost to the industry member, excluding transportation and installation. This concept is simple to enforce and places signs of all products—malt beverages, wine and distilled spirits—on an equal footing when determining their value. Several respondents to the advance notice of proposed rulemaking pointed out that the suggested "fair market value" would be extremely difficult to determine and might be unenforceable.

In the advance notice of proposed rulemaking, it was proposed to combine the sections relating to inside signs and to retailer advertising specialties. All national supplier and wholesaler associations commented unfavorably on this idea, and these items continue to be treated in separate sections. Most respondents did, however, favor establishing a uniform dollar limitation for all inside signs and this is reflected in the proposed section.

Retailer advertising specialties. Section 6.85 lists certain advertising specialties which an industry member may furnish to a retailer. This section replaces former § 6.28. The section sets a uniform value of $50 for those specialties which an industry member may furnish a retailer; moreover, a $20 limit for any one item is set. This represents an increase from the $20 maximum per industry member currently in § 6.28. "Pooling" of funds by industry members to increase dollar limits is prohibited.

Many respondents to the advance notice of proposed rulemaking suggested a separate category for "wine menus" or a separate dollar limitation for them. A "wine menu" is a listing of wines, often including prices, offered for sale by a retailer. ATF feels that most "wine menus" are neither retailer advertising specialties nor consumer advertising specialties since their primary value to the retailer is functional, not point of sale advertising, and because they are not for unconditional distribution to the public. ATF feels and exception for wine menus is not justified since they tend to be exclusionary—competitors' products are almost automatically excluded. Therefore, ATF is proposing to delete "menu cards" from retailer advertising specialties, and "wine lists" from consumer advertising specialties.

Consumer advertising specialties. Section 6.86 permits an industry member to furnish certain stated consumer advertising specialties to retailers for unconditional distribution to the public. This section replaces former § 6.27 and is unchanged except for the deletion of "wine lists" as discussed above.

Tapping accessories and supplies. Sections 6.87 and 6.88 permit industry members to sell tapping equipment and carbon dioxide or ice to retailers in accordance with certain limitations. These sections replace former §§ 6.22 and 6.24. Standards and faucets have been added to the list of tapping accessories. The older term "carbonic acid gas" has been changed to read "carbon dioxide".

Samples. Provisions relating to samples of alcoholic beverages furnished to retailers appear at § 6.89 which incorporates former § 6.29. Sample sizes for wine and distilled spirits are converted to their metric equivalents. Sample sizes for malt beverages have been increased from two to three gallons to permit furnishing a case of 12 or 16 ounce bottles or cans since a case is the customary marketing unit. A third change permits an industry member to furnish the next larger size of a sample product if a size within the quantity limitations is unavailable.

Cumulative discounts. Section 6.90 deals with cumulative discounts given for quantity purchases of alcoholic beverages. In response to the advance notice of proposed rulemaking, several comments, both for and against cumulative discounts, were received.

In view of the fact that cumulative discounts have become commonplace in some parts of the nation, ATF is proposing this new exception. Under proposed § 6.90, discounts given for cumulative purchases of alcoholic beverages over a period of time may be considered excepted inducements and thus not subject to the section 5(b)(3) prohibitions if certain criteria are met.

Newspaper cuts. Under § 6.91, an industry member may furnish newspaper cuts to a retailer selling the industry member's products. The provisions of former § 6.30 are unchanged.

Combination packaging. ATF believes that combination packaging of alcoholic beverages in conjunction with items of negligible value such as salt, cocktail mixes, plastic charms, glassware, and the like, should no longer be considered proscribed inducements. At the same time, ATF wishes to retain adequate controls to prevent the inducement of retailers. Therefore, ATF is proposing § 6.92, Combination packaging, which allows distribution of these items in combination with alcoholic beverages if the items have no value or benefit to the retailer and if the items are attached to the bottle in such a manner so that their removal prior to their distribution to the ultimate consumer would render the package unsaleable.

Educational seminars. Proposed § 6.93 would allow industry members to give or sponsor educational seminars for employees of retailers. Industry members are, however, prohibited from paying retailers' expenses, for example, transportation, meals, or lodging in connection with any educational seminars.

Consumer tasting on retailers premises. Proposed § 6.94 would allow an industry member to conduct consumer tasting at a retail establishment. The industry member may purchase the alcoholic beverages to be used from the retailer, but is prohibited from paying more than the ordinary retail price for them.

Consumer promotions. Under proposed § 6.95, an industry member may furnish consumers with coupons which may be redeemed by retailers. The coupons may not specify retailers where the coupons may be redeemed. Moreover, the industry member may not reimburse the retailer for more than the face value of all coupons redeemed.

The proposed section also allows industry members to offer contest prizes, premiums, refunds, and the like, directly to consumers as long as retailers and officers and employees of wholesalers and retailers are excluded from participation.

Coil cleaning service. Former § 6.25 has been incorporated into § 6.96, Coil cleaning service, with one minor change. The phrase "retailer of malt beverages" has been changed to "retailer of alcoholic beverages" to permit the servicing of wine lines in bulk wine dispensers by a wine supplier.

Advertising service. Proposed § 6.97 allows industry members to include the names and addresses of retailers selling the industry member's product in their advertisements if the retail price of the product is not also included. The advertisement may not contain pictures or illustrations of retail establishments or laudatory references to retailers.

Stocking, rotation and pricing of alcoholic beverages. A large number of the respondents to the advance notice of proposed rulemaking commented specifically on the question concerning stocking and rotation of alcoholic beverages. The respondents strongly recommended relaxing current restrictions on rotating and pricing of alcoholic beverages. Both suppliers and retailers alike favored allowing stocking and rotation services.

In view of the evidence presented that stocking, rotation and pricing is a reasonable service considering the benefit to the consumer, the value of the service, and established trade custom. ATF is proposing this exception. Proposed § 6.98 permits industry members to stock, rotate and price products which they sell (malt beverages, wine, or distilled spirits). However, an industry member may not disturb or alter products of another industry member, and may not rearrange or reset all or part of a store or liquor department.

Participation in retailer association activities. Section 6.99 describes the extent to which industry members may lawfully participate in retailer association activities. More than half of the respondents to the advance notice of proposed rulemaking commented upon participation in retailer associations, all the State or national retail associations favored increased participation in retailer association activities. Industry member groups or individual industry members, in general, favored some participation but with guidelines. Retailer associations also sought guidelines on permitted industry member participation in retailer associations.

Section 6.99 describes the extent to which industry members may lawfully participate in retailer association activities. Under § 6.99, an industry member (1) may display its products at a convention or trade show; (2) may rent display booth space directly from the hotel or convention center and pay a fee which is not exorbitant; (3) may set-up a hospitality suite that is independent from association sponsored activities; (4) may purchase tickets and pay registration fees if payments are consistent with prices paid by all attendees, retailers and suppliers; and (5) may purchase advertising in programs or brochures issued by retailer associations if the cost does not exceed $75 per year; industry members would also be prohibited from "pooling" their dollar limitations.

The proposed section incorporates the provisions of ATF Ruling 76–23, 1976 ATF C.B. 79, but states the activities in which an industry member may lawfully engage, rather than stating prohibited practices. The regulation, however, continues ATF's position that certain activities would result in violations of section 5(b)(3) of the Act. These prohibited activities include: (1) payments made to trade buyer employee associations, as prohibited by Revenue Ruling 54–391, 1954–2 C.B. 579; (2) collection of dues on behalf of retail liquor dealer associations as prohibited by Revenue Ruling 54–130, 1954–1 C.B. 338; and (3) payments to retailer associations to underwrite conventions.

ATF is proposing one minor change in its past position relating to purchasing of advertising by industry members. In response to some public comments, proposed § 6.99(e) would permit the purchase of a small quantity of advertising by industry members. ATF feels that because of the relatively small dollar limitation, exclusion would not occur by the purchase of these advertisements.

Because of the many respondents seeking clarification on the extent of permitted activities, ATF is proposing this new section. If this proposed rule is adopted ATF intends to monitor its implementation closely. If it appears that it has led to the exclusion of non-participants in these activities, then this exception will be reconsidered.

Merchandise. Section 6.100, Merchandise, is a restatement of former § 6.31. This section allows industry members to sell non-alcoholic items such as drugs or groceries to retailers.

Commercial Bribery Regulations

Requirements of law. Proposed Part 10, Commercial bribery, provides that it is unlawful for any industry member to induce through any of the following means, any trade buyer engaged in the sale of alcoholic beverages, to purchase any such products from such person to the exclusion in whole or in part of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such person engages in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such trade buyer in interstate or foreign commerce: (1) by commercial bribery; or (2) by offering or giving any bonus, premium, or compensation to any officer, or employee, or representative of the trade buyer.

Proposed Part 10. The proposed Part 10 is new. In the past, section 5(c) of the FAA Act has been interpreted through revenue rulings and industry circulars.

Definitions. Proposed § 10.11 contains definitions for terms used throughout the part. A definition of "trade buyer" is stated as "any retailer or wholesaler of wine, distilled spirits or malt beverages." "Officer" is defined as "all corporate executives including

presidents, vice-presidents, treasurers, and chief executive officers."

The DISCUS and WSWA comments suggested including a definition of "bonus, premium, or compensation." However, ATF feels these terms are adequately defined in the other sections within this part.

Employee associations. Section 10.32, Employee associations, states that gifts or payments for advertising in publications, to trade buyer employee associations are considered the same as bonuses of compensation given directly to employees.

Gifts or payments to wholesalers. Section 10.33 states that gifts or payments may be given to a wholesale entity (Gifts to a retailer by an industry member would violate section 5(b)(3) of the Act.). However, the wholesale entity may not act as a mere conduit for the industry member's giving gifts, or payments to individual employees.

Consignment Sales Regulations

Requirement of law. Proposed Part 11, Consignment sales, provides that it is unlawful for any industry member to sell, offer for sale, or contract to sell to any trade buyer engaged in the sale of alcoholic beverages, or for any such trade buyer to purchase, offer to purchase, or contract to purchase, any such products on consignment or under conditional sale or with the privilege of return or on any basis otherwise than a bona fide sale, or where any part of such transaction involves, directly or indirectly, the acquisition by such person from the trade buyer or his agreement to acquire from the trade buyer other alcholic beverages if such sale, purchase, offer, or contract is made in the course of interstate or foreign commerce, or if such person or trade buyer engages in such practice to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such sale, purchase, offer, or contract is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such trade buyer in interstate or foreign commerce: provided, that this subsection shall not apply to transactions involving solely the bona fide return of merchandise for ordinary and usual commercial reasons arising after the merchandise has been sold.

Proposed Part 11. The proposed Part 11 is new: In the past, section 5(d) has been interpreted by revenue rulings and industry circulars.

Definitions. Section 11.11 contains definitions for terms used throughout the part. The term "industry member" does not exclude State liquor authorities. "Exchange" is defined as the transfer of alcoholic beverages from a trade buyer to an industry member with other alcoholic beverages taken as a replacement. "Return" is defined as the transfer of alcoholic beverages from a trade buyer to the industry member from whom purchased, for cash or credit.

Unlawful sales arrangements. Proposed Subpart C, Unlawful sales arrangements, explains the types of sales arrangements, which are prohibited by section 5(d).

Proposed § 11.22 explains what is meant by "consignment" or "conditional" sales. A "consignment" sale exists when the trade buyer is under no obligation to pay for the products until they are sold. In a "conditional" sale, the seller maintains a security interest in the products.

Transactions in which there exists an agreement at the time of sale to allow the return of unsold products other than for the reasons set forth in Subpart D, are prohibited under § 11.23.

Proposed § 11.24(a) prohibits sales transactions in which an industry member agrees to accept other products from the trade buyer as a condition to present or future sales of products to that trade buyer. Section 11.24(b) prohibits exchange of products if the exchange is conditioned on the acquisition of other products. Section 11.24(b) does not prohibit the exchange on a case-by-case basis of such similar products (same type and brand, different container size or type) if there was no direct or implied privilege of return when the products were orginally sold.

Rules for the Return of Alcoholic Beverages

Under section 5(d) of the FAA Act, the actual return of alcoholic beverages to an industry member is not prohibited if the return is for "ordinary and usual commercial reasons" arising after the product has been sold. Proposed §§ 11.32–11.40 outline what may be considered valid reasons for the return of alcoholic beverages.

Defective products which are unmarketable may be exchanged under § 11.32 for an equal quantity of identical products.

Errors. Products which are delivered in error to a trade buyer may be exchanged for the product that was originally ordered, or may be returned for cash or credit against outstanding indebtedness. A return is required within a reasonable period after delivery.

Products which may no longer be lawfully sold may be returned if a trade buyer is unable to sell them because of legal or regulatory action over which the trade buyer has no control. These products (including different sizes or brands of a product) may be returned for cash or credit against outstanding indebtedness.

Termination of business. Section 11.35 permits a return for cash or credit against existing indebtedness of alcoholic beverages held by a trade buyer who is terminating business. Limited dealers whose operations are not recurring would be covered by this section, but seasonal dealers who are temporarily closing would not be covered (see § 11.40).

Termination of franchise. Section 11.36 permits a distributor to return products to an industry member for cash or credit against existing indebtedness in cases when the distributor's franchise to sell that product has been terminated by the industry member.

Change in product. Under § 11.37, a trade buyer may exchange a product which has been changed in formula, proof, label or container, for an equal quantity of the new version of the product.

Discontinued products. A trade buyer may return for cash or credit against existing indebtedness, quantities of a product which has been discontinued by a producer or importer.

Returned products on past due accounts. Section 11.39 allows an industry member to accept products returned by a trade buyer in settlement of a bad debt.

Seasonal dealers. A provision allowing for the return of alcoholic beverages by seasonal dealers, open only a portion of the year, when the products are perishable, is incorporated into § 11.40. This proposed section is new and would allow the return of such products for cash or credit against existing indebtedness.

Overstocked and slow-moving products. Proposed § 11.41 prohibits the return of alcoholic beverages by trade buyers because of oversupply or slow sales.

Seasonal products. Under § 11.42, products for which a seasonal demand exists, for example, holiday decanters, may not be sold by an industry member with the express or implied privilege of return of unsold portions of the product.

Treatment of Revenue Rulings

The following revenue rulings will either be incorporated into the proposed regulations, or their provisions will become obsolete at the time these proposed regulations become effective: Revenue Rulings 54–131, 1954–1 C.B. 341; 54–161, 1954–1 C.B. 338; 54–162, 1954–1 C.B. 340; 54–175, 1954–1 C.B. 340; 54–176, 1954–1 C.B. 340; 54–177, 1954–1 C.B. 340; 54–260, 1954–2 C.B. 572; 54–261, 1954–1 C.B. 573; 54–262, 1954–2 C.B. 575; 54–279, 1954–2 C.B. 582; 54–286, 1954–2 C.B. 576; 54–295, 1954–2 C.B. 572; 54–303, 1954–2 C.B. 576; 54–337, 1954–2 C.B. 573; 54–355, 1954–2 C.B. 577; 54–377, 1954–2 C.B. 577; 54–390, 1954–2 C.B. 578; 54–509, 1954–2 C.B. 561; 54–620, 1954–2 C.B. 580; 54–621, 1954–2 C.B. 581; 54–622, 1954–2 C.B. 581; 55–42, 1955–1 C.B. 610; 55–166, 1955–1 C.B. 610; 55–167, 1955–1 C.B. 610; 55–168, 1955–1 C.B. 611; 55–401, 1955–1 C.B. 611; 55–403, 1955–1 C.B. 609; 55–551, 1955–2 C.B. 732; 55–567, 1955–2 C.B. 732; 55–568, 1955–2 C.B. 731; 56–204, 1956–1 C.B. 808; 56–205, 1956–1 C.B. 809; 56–206, 1956–1 C.B. 810; 56–384, 1956–2 C.B. 1053; 56–628, 1956–2 C.B. 1055; 56–629, 1956–2 C.B. 1056; 56–646, 1956–2 C.B. 1057; 56–647, 1956–2 C.B. 1056; 56–650, 1956–2 C.B. 1058; 58–121, 1958–1 C.B. 609; 58–136, 1958–1 C.B. 612; 61–78, 1961–1 C.B. 846; 62–223, 1962–2 C.B. 385; ATF Rulings 74–6, 1974 ATF C.B. 50; 75–12, 1975 ATF C.B. 33; 75–33, 1975 ATF C.B. 34; 76–16, 1976 ATF C.B. 78; 76–23, 1976 ATF C.B. 79; 77–4, 1977 ATF C.B. 161; 77–17, 1977 ATF C.B. 153.

Disclosure of Comments

Comments on this notice of proposed rulemaking may be inspected in the ATF Reading Room, Office of Public Affairs, Room 4408, Benjamin Franklin Post Office Building, 12th and Pennsylvania Avenue, NW, Washingon, DC, during normal business hours.

Drafting Information

The principal authors of this document are John Daffron, Michael Desrochers, Gerard LaRusso, and Charles Bacon, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and the Treasury Department participated in developing the document, both on matters of substance and style.

Compliance With Executive Order 12044

This proposed regulation does not meet the Department's criteria for significant regulations as set forth in the **Federal Register** of November 8, 1978.

Authority and Issuance

These proposed regulations are issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended (27 U.S.C. 205).

Accordingly, Title 27 Code of Federal Regulations is amended as follows:

Paragraph 1. Revise Part 6 to read as follows:

PART 6—"TIED HOUSE"

Subpart A—Scope of Regulations

Sec.
6.1 General.
6.2 Territorial extent.
6.3 Application.
6.4 Jurisdictional limits.

Subpart B—Definitions

6.11 Meaning of terms.

Subpart C—Unlawful Inducements

General

6.21 Application.

Interest in Retail License

6.25 General.
6.26 Indirect interest.
6.27 Propietary interest.

Interest in Retail Property

6.31 General.
6.32 Indirect interest.
6.33 Proprietary interest.
6.34 Mortgages.
6.35 Renting display space.

Furnishing Things of Value

6.41 General.
6.42 Indirect inducements through third party arrangements.
6.43 Sale of equipment.
6.44 Free warehousing.
6.45 Assistance in acquiring license.
6.46 Free goods, discounts, rebates, and price reductions.
6.47 Activities at a retail establishment.
6.48 Outside signs.
6.49 Items intended for consumers.

Paying for Advertising Display or Distribution Service

6.51 General.
6.52 Cooperative advertising.
6.53 Advertising in ballparks, racetracks, and stadiums.
6.54 Advertising in retailer publications.
6.55 Display service.
6.56 Renting display space.

Guaranteeing Loans

6.61 Guaranteeing loans.

Extension of Credit

6.65 General.
6.66 Calculation of period.
6.67 Sales to retailer whose account is in arrears.

Quota Sales

6.71 Quota sales.

Subpart D—Exceptions

6.81 General.
6.82 Cost adjustment factor.
6.83 Product displays.
6.84 Inside signs.
6.85 Retailer advertising specialties.
6.86 Consumer advertising specialties.
6.87 Tapping accessories.
6.88 Supplies.
6.89 Samples.
6.90 Cumulative discounts.
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6.92 Combination packaging.
6.93 Educational seminars.
6.94 Consumer tasting or sampling at retail establishments.
6.95 Consumer promotions.
6.96 Coil cleaning service.
6.97 Advertising service.
6.98 Stocking and pricing service.
6.99 Participation in retailer association activities.
6.100 Merchandise.

Authority. The provisions of this Part 6 issued under 49 Stat. 981, as amended (27 U.S.C. 205).

Subpart A—Scope of Regulations

§ 6.1 General.

The regulations in this part, issued pursuant to section 5 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify practices which are prohibited by subsection (b), "Tied house", and provide the exceptions to these prohibitions. This part does not attempt to enumerate all of the practices prohibited by section 5 (b) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

§ 6.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

§ 6.3 Application.

(a) *General.* This part applies only to transactions between industry members and retailers. It does not apply to transactions between two industry members (for example, between a producer and a wholesaler), or to transactions between an industry member and a retailer wholly owned by that industry member.

(b) *Transactions involving State agencies.* The regulations in this part apply to transactions between industry members and State agencies operating as retailers as defined in this part. The regulations do not apply to State agencies with regard to their wholesale dealings with retailers.

§ 6.4 Jurisdictional limits.

(a) *General.* The regulations in this part apply where:

(1) the industry member induces a retailer to purchase alcoholic beverages from such industry member to the exclusion in whole or in part of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce; and,

(2) if:

(i) The inducement is made in the course of interstate or foreign commerce; or

(ii) The industry member engages in the practice of using an inducement to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products; or

(iii) The direct effect of the inducement is to prevent, deter, hinder or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

(b) *Malt beverages.* In the case of malt beverages, this part applies to transactions between a retailer in any State and a brewer, importer, or wholesaler of malt beverages inside or outside such State only to the extent that the law of such State imposes requirements similar to the requirements of section 5(b) of the Federal Alcohol Administration Act (27 U.S.C. 205(b)), with respect to similar transactions between a retailer in such State and a brewer, importer, or wholesaler of malt beverages in such State, as the case may be.

Subpart B—Definitions

§ 6.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms have the meanings given in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by that Act.

Act. The Federal Alcohol Administration Act.

Equipment. All functional items such as tap boxes, glassware, pouring racks, and similar items used in the conduct of a retailer's business.

Industry member. Any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits; industry member does not include any agency of a State or political subdivision thereof, or an officer or employee of such agency.

Laid-in cost. The cost incurred by an industry member to place alcoholic beverages in inventory and would consist of the manufacturer's invoice price, freight, and related taxes.

Product. Distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

Retailer. Any person engaged in the sale of distilled spirits, wine or malt beverages to consumers. This term does not include a wholesaler who makes incidental retail sales representing less than 10 percent of the wholesaler's total sales volume for the proceding 2 month period.

Retail establishment. Any premises where distilled spirits, wine or malt beverages are sold or offered for sale to consumers, whether for consumption on or off the premises where sold.

Subpart C—Unlawful Inducements

General

§ 6.21 Application.

Except as provided in Subpart D, it is unlawful for any industry member to induce, directly or indirectly, any retailer to purchase alcoholic beverages from the industry member to the exclusion, in whole or in part, of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce by any of the following means:

(a) By acquiring or holding any interest in any license with respect to the premises of the retailer;

(b) By acquiring any interest in the real or personal property owned, occupied, or used by the retailer in the conduct of his business;

(c) By furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services or other thing of value, subject to the exceptions contained in Subpart D;

(d) By paying or crediting the retailer for any advertising, display, or distribution service;

(e) By guaranteeing any loan or the repayment of any financial obligation of the retailer;

(f) By extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions as prescribed in § 6.65; or

(g) By requiring the retailer to take and dispose of a certain quota of any alcoholic beverage.

Interest in Retail License

§ 6.25 General.

Industry members are prohibited from influencing or controlling the purchases of a retailer by acquiring or holding any interest in any license (State, county or municipal) with respect to the premises of a retailer.

§ 6.26 Indirect interest.

Industry member interest in retail licenses includes any interest acquired by corporate officials, partners, employees or other representatives of the industry member. Any interest in a retail license acquired by a separate corporation in which the industry member of its officials, hold ownership or are otherwise affiliated is an interest in a retail license.

§ 6.27 Proprietary interest.

(a) *Complete ownership.* Outright ownership of a retail business by an industry member is not prohibited.

(b) *Partial ownership.* Less than complete ownership of a retail business by an industry member constitutes interest in a retail license within the meaning of the Act.

Interest in Retail Property

§ 6.31 General.

Industry members are prohibited from influencing or controlling the purchases of retailers by acquiring an interest in real or personal property owned, occupied, or used by the retailer in the conduct of the business.

§ 6.32 Indirect interest.

Industry member interest in retail property includes any interest acquired by corporate officials, partners, employees or other representatives of the industry member. Any interest in retail property acquired by a separate corporation in which the industry member or its officials, hold ownership or are otherwise affiliated is an interest in retail property.

§ 6.33 Proprietary interest.

(a) *Complete ownership.* Outright ownership of a retail business by an industry member is not prohibited.

(b) *Partial ownership.* Less than complete ownership of a retail business by an industry member constitutes interest in retail property within the meaning of the Act.

§ 6.34 Mortgages.

The acquisition of a mortgage on a retailer's real or personal property by an industry member constitutes an interest in the retailer's property within the meaning of the Act.

§ 6.35 Renting display space.

The renting of display space by an industry member at a retail establishment constitutes interest in the retailer's property within the meaning of the Act.

Furnishing Things of Value

§ 6.41 General.

Subject to the exceptions listed in Subpart D, industry members are prohibited from influencing or controlling the purchases of a retailer by furnishing, giving, renting, lending or selling to the retailer any equipment, fixtures, signs, supplies, money, services or other thing of value. Sections 6.42–6.49 are proscribed inducements within the meaning of the Act.

§ 6.42 Indirect inducements through third party arrangements.

The furnishing of payments, gifts or services by an industry member to a third party, such as a retail association or display company where the benefits resulting from such payments, gifts or services flow to individual retailers, is the indirect furnishing of a thing of value within the meaning of the Act.

§ 6.43 Sale of equipment.

Transactions in which equipment is sold to a retailer by an industry member, except as provided in § 6.87, is the furnishing of a thing of value within the meaning of the Act whether the industry member sells such equipment for a profit or at cost. Further, the negotiation by an industry member of a special price to a retailer for equipment from an equipment company is the furnishing of a thing of value within the meaning of the Act.

§ 6.44 Free warehousing.

The furnishing of free warehousing by delaying delivery of alcoholic beverages beyond the time that payment for the product is received, or if a retailer is purchasing on credit, delaying final delivery of the alcoholic beverages beyond the close of the period of time for which credit is lawfully extended, is the furnishing of a service or thing of value within the meaning of the Act.

§ 6.45 Assistance in acquiring license.

Any assistance (financial, legal, administrative or influential) given the retailer by an industry member in the retailer's acquisition of the retailer's license is the furnishing of a service or thing of value within the meaning of the Act.

§ 6.46 Free goods, discounts, rebates, and price reductions.

The providing of free goods whether similar or dissimilar to those purchased, discounts, rebates, and price reductions, constitutes the furnishing of money or thing of value within the meaning of the Act unless:

(a) They are based on agreements made at the time of sale between a retailer and the immediate supplier (Depletion allowances, floor stock adjustments, and other after the fact discounts constitute inducements within the meaning of the Act.); and

(b) They are reflected on the related sales invoices (all such invoices to be retained and be available for inspection on the permit premises for a five year period); and

(c) They are not so excessive that they represent a gift to the retailer. (Free goods, discouns, rebates, and price reductions which result in sales below the industry member's average "laid-in" cost over the preceding 12 month period are excessive and constitute gifts to the retailer. However, sales, even though below "laid-in" cost, which are transacted in order to introduce new products or to close-out discontinued items would not, in themselves, be regarded as inducements.); and

(d) They are based on a single sales transaction except as provided in § 6.90.

§ 6.47 Activities at a retail establishment.

Activities furnished a retail establishment, such as providing entertainment, is the furnishing of a thing of value within the meaning of the Act.

§ 6.48 Outside signs.

(a) *Furnished to retailers.* The furnishing of outside signs to retailers by an industry member is the furnishing of a thing of value within the meaning of the Act.

(b) *Benefiting a retailer.* The placement by an industry member of a "billboard" or "spectacular" sign, advertising alcoholic beverages, on the wall or roof of a building adjacent to or occupied by a retailer is the furnishing of a thing of value within the meaning of the Act if (1) the sign contains a panel identifying the retailer, or (2) the retailer is compensated, directly or indirectly (through a sign company) in conjunction with the placement of the sign.

§ 6.49 Items intended for consumers.

Except as provided in §§ 6.86 and 6.92, the furnishing of things of value such as trading stamps, coupons, non-alcoholic mixers, pouring racks, and the like to retailers is the furnishing of a thing of value within the meaning of the Act even though the industry member intends for the item to be distributed free of charge to consumers.

Paying for Advertising, Display or Distribution Service

§ 6.51 General.

Industry members are prohibited from influencing or controlling the purchases of a retailer by paying or crediting the retailer for any advertising, display or distribution service, whether or not the advertising, display or distribution service received is commensurate with the amount paid by the retailer. Sections 6.52–6.56 are proscribed inducements within the meaning of the Act.

§ 6.52 Cooperative advertising.

An arrangement where an industry member participates with a retailer in paying for an advertisement placed by the retailer constitutes paying the retailer for advertising within the meaning of the Act.

§ 6.53 Advertising in ballparks, racetracks, and stadiums.

The purchase, by an industry member, of advertising on signs, scoreboards, programs, scorecards, and the like at ballparks, racetracks or stadiums, from the retail concessionaire constitutes paying the retailer for an advertising service within the meaning of the Act.

§ 6.54 Advertising in retailer publications.

The purchase, by an industry member, of advertising in a retailer publication for distribution to consumers or the general public constitutes paying the retailer for advertising within the meaning of the Act.

§ 6.55 Display service.

Industry member payments to retailers as compensation for setting up product or other displays constitutes paying the retailer for rendering a display service within the meaning of the Act.

§ 6.56 Renting display space.

A promotion whereby an industry member rents display space at a retail establishment constitutes paying the retailer for rendering a display service within the meaning of the Act.

Guaranteeing Loans

§ 6.61 Guaranteeing loans.

An industry member is prohibited from influencing or controlling the purchases of a retailer by guaranteeing any loan or the repayment of any financial obligation of a retailer.

Extension of credit

§ 6.65 General.

Industry members are prohibited from influencing or controlling the purchases of a retailer by the extension of credit to the retailer for a period of time in excess of 30 days from the date of delivery.

§ 6.66 Calculation of period.

For the purpose of this part, the period of credit is calculated as the time elapsing between the date of delivery of the alcoholic beverages and the date of full legal discharge of the retailer, through the payment of cash or its

equivalent, from all indebtedness arising from the transaction.

§ 6.67 Sales to retailer whose account is in arrears.

(a) A supplier who continues to sell to a retailer with purchases unpaid for a period in excess of 30 days will not be considered in violation of the 30 day limit on extension of credit, if—

(1) The amount in arrears does not exceed an average purchase by the retailer from the supplier over the preceding four month period, and

(2) Subsequent orders are accompanied by a payment equal to or greater than the value of the current order.

(b) *Example.* A retailer makes average purchases from a supplier of $1,000, and has an outstanding debt to that supplier of $5,000. That retailer would be required to reduce the outstanding debt to that supplier to $1,000 plus pay any current charges in full in order for the retailer to be considered not in arrears.

Quota Sales

§ 6.71 Quota sales.

An industry member is prohibited from influencing or controlling the purchases of a retailer by requiring a retailer to take and dispose of any quota of alcoholic beverages.

Subpart D—Exceptions

§ 6.81 General.

(a) *Application.* An industry member may furnish to a retailer equipment, inside signs, supplies, services, or other thing of value, under the conditions and within the limitations prescribed by this subpart. The furnishing of these items or services may not be conditioned on the purchase of distilled spirits, wine or malt beverages.

(b) *Recordkeeping requirements.* Industry members must keep and maintain adequate records on the permit premises, for a five year period, of all items and services furnished to retailers under this subpart. These records shall show:

(1) The name and address of the retailer receiving the item or service;

(2) The date furnished;

(3) The item furnished and/or service performed (including the name and address of the company performing the service if different than that of the industry member);

(4) The value of the service and/or the industry member's cost of the item furnished (determined by manufacturer's invoice price); and

(5) Charges to the retailer for any item or service sold.

§ 6.82 Cost adjustment factor.

(a) *General.* A "cost adjustment factor" will be used to periodically update the dollar limitations prescribed in this subpart. The Director, Bureau of Alcohol, Tobacco and Firearms, shall establish the adjusted dollar limitation when the adjusted change (as determined by a series of cost adjustment factors) amounts to at least $10.

(b) *Definition.* "Cost adjustment factor" is a percentage equal to the change in the Bureau of Labor Statistics consumer price index from the effective date of these regulations.

§ 6.83 Product displays.

(a) *General.* An industry member may furnish, give, rent, loan, or sell product displays to a retailer, subject to the limitations prescribed in paragraph (c) of this section.

(b) *Definition.* Product display means any wine racks, bins, barrels, casks, shelving, and the like from which alcoholic beverages are displayed and sold.

(c) *Conditions and limitations.* (1) The total value of all product displays furnished by an industry member under paragraph (a) of this section may not exceed $25 in use at any one time in any one retail establishment. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded.

(2) Industry members may not pool or combine their dollar limitations in order to provide to a particular retailer a product display valued in excess of $25.

(3) Product displays shall bear conspicuous and substantial advertising matter.

§ 6.84 Inside signs.

(a) *General.* An industry member may furnish, give, rent, loan, or sell to a retailer inside signs which bear advertising matter. Inside signs include such things as posters, placards, designs, mechanical devices, and window decorations.

(b) *Conditions and limitations.* Industry members may furnish inside signs to retailers under the following limitations:

(1) The inside sign shall have no value to the retailer except as an advertisement.

(2) The inside sign shall be used only in the windows or other interior portions of the retail establishment.

(3) The industry member may not directly or indirectly pay or credit the retailer for displaying the inside sign or for any expense incidental to its operation.

(4) The total value of all inside signs furnished by the industry member and in use at any one time in any one retail establishment may not exceed $75. The value of an inside sign is the actual cost of the sign to the industry member who initially purchased it. Transportation and installation expenses are excluded.

(5) Industry members may not pool or combine their dollar limitations in order to provide to a particular retailer inside signs valued in excess of $75.

§ 6.85 Retailer advertising specialties.

(a) *General.* An industry member may furnish, give, rent, loan, or sell retailer advertising specialities to a retailer if these items bear advertising matter and are primarily valuable to the retailer as point of sale advertising. These items include such things as trays, coasters, mats, meal checks, paper napkings, foam scrapers, back bar mats, thermometers, clocks, and calendars. An industry member may add the name or name and address of the retailer to the retailer advertising specialty.

(b) *Limitations.* (1) The total value of all retailer advertising specialities furnished by an industry member to a retailer may not exceed $50 in any one calendar year per retail establishment. The value of a retailer advertising specialty is the actual cost of that item to the industry member who initially purchased it. Transportation and installation costs are excluded.

(2) A single retailer advertising specialty may not exceed $20 in value.

(3) Industry members may not pool or combine their dollar limitations in order to provide a particular retailer with retailer advertising specialties valued in excess of $50 total or $20 for any single item.

§ 6.86 Consumer advertising specialties.

Consumer advertising specialties, such as ash trays, bottle or can openers, cork screws, shopping bags, matches, printed receipts, pamphlets, cards, leaflets, blotters, post cards, and pencils, which bear advertising matter may be furnished, given, or sold to a retailer for unconditional distribution by the retailer to the general public. The retailer may not be paid or credited in any manner directly or indirectly for this distribution service.

§ 6.87 Tapping accessories.

Tapping accessories, such as standards, faucets, rods, vents, taps, hoses, washers, couplings, vent tongues, and check valves, may be sold to a retailer and installed in the retailer's establishment if the tapping accessories are sold at a price not less than the cost to the industry member who initially purchased those items, and if the price is collected within 30 days of the date of sale.

§ 6.88 Supplies.

Carbon dioxide gas or ice may be sold to a retailer, if sold in accordance with the reasonable open market price in the locality where sold, and if the price is collected with 30 days of the date of sale.

§ 6.89 Samples.

An industry member may furnish or give a sample of an alcoholic beverage to a retailer who has not previously purchased that particular product. For each retail establishment, the industry member may give not more than 3 gallons of any brand of malt beverage, not more than 500 milliliters of any brand of distilled spirits, and not more than 3 liters of any brand of wine. If the retailer is an agency of a State or a political subdivision of a State, the industry member may furnish up to 2 liters of any brand of distilled spirits. If a particular product is not available in a size within the quantity limitations of this section, an industry member may furnish to a retailer the next largest size.

§ 6.90 Cumulative discounts.

Quantity discounts based on an accumulation of purchases are allowable, subject to the following conditions:

(a) They shall be based on agreements made at the beginning of the discount period between a retailer and the immediate supplier. Terms of such agreements shall be stated on the initial sales invoice and shall specify the period of the discount, the product or products involved, the quantities of such products, and the amount of the discount;

(b) They shall extend for a specific period not to exceed 30 days in duration;

(c) They may not be so excessive that they represent a gift to the retailer. Cumulative discounts which result in sales below the industry member's average "laid-in" cost over the preceding 12 month period are excessive and constitute gifts to the retailer. However, sales, even though below "laid-in" cost, which are transacted in order to introduce new products or to close-out discontinued items would not, in themselves, be regarded as inducements within the meaning of the Act; and

(d) They shall be documented by an invoice or credit memorandum which is prepared at the time such discounts are paid and cross-referenced to both the initial sales invoice and all related sales invoices.

§ 6.91 Newspaper cuts.

Newspaper cuts, mats, or engraved blocks for use in retailers' advertisements may be furnished, given, rented, loaned, or sold by an industry member to a retailer selling his products.

§ 6.92 Combination packaging.

An industry member may package and distribute alcoholic beverages in combination with other items provided that:

(a) the items have no value or benefit to the retailer other than that of having the potential of attracting purchasers and thereby promoting sales; and

(b) the items are affixed to the bottle containing alcoholic beverages in such a manner that their removal prior to their distribution to the ultimate consumer would render the package unsaleable.

§ 6.93 Educational seminars.

An industry member may give or sponsor educational seminars for employees of retailers either at the industry member's premises or at the retail establishment. Examples would be seminars dealing with use of a retailer's equipment, training seminars for employees of retailers, or tours of industry member's plant premises. However, this section does not apply to industry members paying a retailer's expenses in conjunction with educational seminars.

§ 6.94 Consumer tasting or sampling at retail establishments.

An industry member may conduct tasting or sampling activities at a retail establishment. The industry member may purchase the alcoholic beverages to be used from the retailer, but may not purchase them from the retailer for more than the ordinary retail price.

§ 6.95 Consumer promotions.

(a) *Coupons.* An industry member may furnish to consumers, coupons which are redeemable at a retail establishment, provided:

(1) The coupons do not specify a particular retailer or group of retailers where such coupons can be redeemed; and

(2) The retailers are not reimbursed by the industry member for more than the face value of all coupons redeemed.

(b) *Direct offerings.* Contest prizes, premium offers, refunds, and like items may be offered by industry members directly to consumers. Retailers and officers and employees of wholesalers and retailers shall be excluded from participation.

§ 6.96 Coil cleaning service.

Coil cleaning service may be furnished, given or sold to a retailer of alcoholic beverages.

§ 6.97 Advertising service.

The names and addresses of retailers selling the products of an industry member may be listed in an advertisement of that industry member, if—

(a) The advertisement does not also contain the retail price of the product, and

(b) The listing is the only reference to the retailer in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole.

Pictures or illustrations of retail establishments and laudatory references to retailers in industry member advertisements are not hereby authorized.

§ 6.98 Stocking and pricing service.

Industry members may, at a retail establishment, stock, rotate and price products which they sell, provided products purchased from other industry members are not altered or disturbed. The rearranging or resetting of all or part of a store or liquor department is not hereby authorized.

§ 6.99 Participation in retailer association activities.

An industry member may participate in retailer association activities as follows:

(a) An industry member may display its products at a convention or trade show.

(b) An industry member may rent display booth space if the industry member rents directly from the hotel or convention center and pays a rental fee which is not excessive or exhorbitant.

(c) An industry member may set-up its own hospitality suite which is independent from association sponsored activities.

(d) An industry member may purchase tickets to functions and pay registration fees if the payments for these tickets or registration fees are consistent with prices paid by all attendees, retailers and suppliers alike.

(e) An industry member may make diminutive payments for advertisements in programs or brochures issued by retailer associations at a convention or trade show subject to the following restrictions:

(1) The total payments made by an industry member for all such

advertisements do not exceed $75 per year for any retailer association.

(2) Industry members may not pool or combine their dollar limitations in order to purchase advertisements of greater value from a retailer association.

§ 6.100 Merchandise.

(a) *General.* An industry member, who is also engaged in business as a bona fide vendor of other merchandise (for example, groceries or drugs), may sell that merchandise to a retailer, if—

(1) The merchandise is sold at its fair market value,

(2) The merchandise is not sold in combination with distilled spirits, wines, or malt beverages, and

(3) The merchandise is itemized separately on the industry member's invoices and other records.

(b) *Merchandise covered in other sections of this part.* Equipment, fixtures, signs, supplies, services, and advertising specialties may be furnished to retailers only as provided in other sections within this part.

Paragraph 2. Delete Part 8: Credit Period to be Extended to Retailers of Alcoholic Beverages.

Paragraph 3. Add new Parts 8, 10 and 11 which read as follows:

PART 8—EXCLUSIVE OUTLET

Subpart A—Scope of Regulations

Sec.
8.1 General.
8.2 Territorial extent.
8.3 Application.
8.4 Jurisdictional limits.

Subpart B—Definitions

8.11 Meaning of terms.

Subpart C—Prohibited Practices

8.21 General.
8.22 Contracts to purchase alcoholic beverages.
8.23 Third party arrangements.
8.24 "Tie-in" sales.

Authority: The provisions of this Part 8 issued under 49 Stat. 981, as amended (27 U.S.C. 205).

Subpart A—Scope of Regulations

§ 8.1 General.

The regulations in this part, issued pursuant to section 5 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify practices which are prohibited by subsection (a), "Exclusive outlet." this part does not attempt to enumerate all of the practices prohibited by section 5(a) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

§ 8.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

§ 8.3 Application.

(a) *General.* This part applies only to transactions between industry members and retailers. It does not apply to transactions between two industry members; for example, between a producer and a wholesaler.

(b) *Transactions involving State agencies.* The regulations in this part apply to transactions between industry members and State agencies operating as retailers as defined in this part. The regulations do not apply to State agencies with regard to their wholesale dealings with retailers.

§ 8.4 Jurisdictional limits.

(a) *General.* The regulations in this part apply where:

(1) The industry member requires, by agreement or otherwise, a retailer to purchase alcoholic beverages from such industry member to the exclusion in whole or in part of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce; and

(2) if:

(i) The requirement is made in the course of interstate or foreign commerce; or

(ii) The industry member engages in the practice of using a requirement to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products; or

(iii) The direct effect of the requirement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

(b) *Malt beverages.* In the case of malt beverages, this part applies to transactions between a retailer in any State and a brewer, importer, or wholesaler of malt beverages inside or outside such State only to the extent that the law of such State imposes requirements similar to the requirements of section 5(a) of the Federal Alcohol Administration Act (27 U.S.C. 205(a)), with respect to similar transactions between a retailer in such State and a brewer, importer, or wholesaler of malt beverages in such State.

Subpart B—Definitions

§ 8.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms have the meanings given in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by that Act.

Act. The Federal Alcohol Administration Act.

Industry member. Any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits; industry member does not include any agency of a State or political subdivision thereof, or an officer or employee of such agency.

Laid-in cost. The cost incurred by an industry member to place alcoholic beverages in inventory and would consist of the manufacturer's invoice price, freight, and related taxes.

Product. Distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

Retailer. Any person engaged in the sale of distilled spirits, wine or malt beverages to consumers. This term does not include a wholesaler who makes incidental retail sales representing less than 10 percent of the wholesaler's total sales volume for the preceding two month period.

Retail establishment. Any premises where distilled spirits, wine or malt beverages are sold or offered for sale to consumers, whether for consumption on or off the premises where sold.

Subpart C—Prohibited Practices

§ 8.21 General.

It is unlawful for an industry member to require, by agreement or otherwise, that any retailer purchase alcoholic beverages from the industry member to the exclusion, in whole or in part, of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce. This prohibition includes purchases coerced by industry members, through acts or threats of physical or economic harm, as well as voluntary industry member-retailer purchase agreements.

§ 8.22 Contracts to purchase alcoholic beverages.

Any contractual agreement, written or unwritten, between an industry member and a retailer which has the effect of requiring the retailer to purchase alcoholic beverages from the industry member beyond a single sales transaction is prohibited. Examples of such contracts are:

(a) An advertising contract between an industry member and a retailer requiring, expressly or impliedly, the purchase of the advertisers' products; or

(b) A sales contract awarded on a competitive bid basis which has the effect of prohibiting the retailer from purchasing from other industry members by:

(1) Requiring that for the period of the agreement, the retailer purchase a product or line of products exclusively from the industry member; or

(2) Requiring that the retailer purchase a specific or minimum quantity during the period of the agreement.

§ 8.23 Third party arrangements.

Industry member arrangements with non-retailers which result in the non-retailer requiring a retailer to purchase the industry member's products are prohibited. For example, a supplier enters into a contractural agreement or other arrangement with a third party. The third party, a ballclub, or municipal or private corporation, not acting as a retailer, leases the concession rights but maintains control over the purchasing operations of the retailer. The business arrangements entered into, between the industry member and the third party, may consist of such things as sponsoring radio or television broadcasting, paying for advertising, or providing other services or things of value. The third party, in consideration of the above, requires the retailer to purchase the industry member's products either exclusively or on a specified percentage basis.

§ 8.24 "Tie-in" sales.

A requirement that a retailer purchase one product in order to purchase another is probibited. This includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds or brands of products to a retailer, provided (a) the retailer has the option of purchasing either item at the usual price and (b) the retailer is not required to purchase any item he or she does not want. A combination price which results in sales below the industry member's laid-in cost over the preceding 12 months may constitute the furnishing of a thing of value under § 6.46 of this chapter.

PART 10—COMMERCIAL BRIBERY

Subpart A—Scope of regulations

Sec.
10.1 General.
10.2 Territorial extent.
10.3 Application.
10.4 Jurisdictional limits.

Subpart B—Definitions

10.11 Meaning of terms.

Subpart C—Payments and Gifts

10.21 Payments and Gifts.

Subpart D—Bonus, Premium or Compensation

10.31 Bonus, premium or compensation.
10.32 Employee associations.
10.33 Gifts or payments to wholesalers.
10.34 Sales promotion contests.

Authority: The provisions of this Part 10 issued under 49 Stat. 981, as amended (27 U.S.C. 205).

Subpart A—Scope of regulations

§ 10.1 General.

The regulations in this part, issued pursuant to section 5 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify practices which are prohibited by subsection (c), "Commercial Bribery." This part does not attempt to enumerate all of the practices prohibited by section 5(c) of the Act. Nothing in this part shall exempt any person from the requirements of any State law or regulation.

§ 10.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

§ 10.3 Application.

(a) *General.* The regulations in this part apply to transactions between industry members and employees, officers, representatives, or agents of trade buyers.

(b) *Transactions involving State agencies.* The regulations in this part apply to transactions between industry members and employees of State agencies operating as retailers, wholesalers, or both. The regulations do not apply to State agencies with regard to their dealings with employees, officers, or representatives of trade buyers.

§ 10.4 Jurisdictional limits.

(a) *General.* The regulations in this part apply where:

(1) The industry member induces a retailer to purchase alcoholic beverages from such industry member to the exclusion in whole or in part of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce; and

(2) If:

i (a) The inducement is made in the course of interstate or foreign commerce; or

ii (b) The industry member engages in the practice of using an inducement to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products; or

iii (c) The direct effect of the inducement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

(b) *Malt beverages.* In the case of malt beverages, this part applies to transactions between an employee, officer, representative, or agent of a trade buyer in any State and a brewer, importer, or wholesaler of malt beverages inside or outside such State only to the extent that the law of such State imposes requirements similar to the requirements of subsection 5(d) of the Federal Alcohol Administration Act (27 U.S.C. 205(c)), with respect to similar transactions between an employee, officer, or representative of a trade buyer in such State and a brewer, importer, or wholesaler of malt beverages in such State.

Subpart B—Definitions

§ 10.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms have the meanings given in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by that Act.

Act. The Federal Alcohol Administration Act.

Industry member. Any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits; industry member does not include any agency of a State or political subdivision thereof, or an officer or employee of such agency.

Officer. All corporate executives, including presidents, vice presidents, treasurers, and chief executive officers.

Product. Distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

Trade buyer. Any person who is a wholesaler or retailer of distilled spirits, wine, or malt beverages.

Subpart C—Payments and Gifts

§ 10.21 Payments and gifts.

It is unlawful for an industry member directly or indirectly or through an

affiliate to induce a trade buyer to purchase the industry member's products, to the complete or partial exclusion of products sold or offered for sale by other persons in interstate or foreign commerce, by commercial bribery.

Subpart D—Bonus, Premium or Compensation

§ 10.31 Bonus, premium or compensation.

It is unlawful for an industry member, directly or indirectly or through an affiliate, to induce a trade buyer to purchase the industry member's products, to the complete or partial exclusion of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce, by offering or giving a bonus, premium or compensation to any officer, employee, or representative of the trade buyer. The bonus, premium or compensation need not be offered or given for the purpose of directly influencing a trade buyer to purchase from the seller, but rather is applicable if an industry member influences officers, employees or representatives of the trade buyer to promote sales of the industry member's products and thereby indirectly induces the trade buyer to purchase from the industry member.

§ 10.32 Employee associations.

Gifts, donations, and other payments such as for advertising in publications, by an industry member, to trade buyer employee associations are considered the same as bonuses, premiums or compensation given directly to the employees, since the benefits resulting from the gifts or payments flow to the individual members of the association.

§ 10.33 Gifts or payments to wholesalers.

Although industry members are not prohibited from offering or giving money or other thing of value to a wholesale entity (i.e., the corporation, partnership, or individual who owns the business), the wholesaler will be considered as acting as a mere conduit between his officers or employees and the industry member, if—

(a) There is an agreement or understanding, implied or explicit, that the money or thing of value will be passed on to the officers or employees, or

(b) It is obvious by the very nature of the item given (such as a free trip) that a pass through to the officers or employees is clearly contemplated, or

(c) The records of the receipient wholesaler do not accurately reflect such money or item as an asset of the wholesale entity, thus being subject to all ensuing tax consequences as distinguished from the reciept of the money or item as a personal asset of an officer or employee.

§ 10.34 Sales promotion contests.

Sales contests sponsored by an industry member which offer prizes directly or indirectly to trade buyers officers, employees or representatives are inducements within the meaning of the Act.

PART 11—CONSIGNMENT SALES

Subpart A—Scope of Regulations

Sec.
11.1 General.
11.2 Territorial extent.
11.3 Application.
11.4 Jurisdictional limits.

Subpart B—Definitions

11.11 Meaning of terms.

Subpart C—Unlawful Sales Arrangements

11.21 General.
11.22 Consignment and conditional sales.
11.23 Sales conditioned on the acquisition of other products.

Subpart D—Rules for the Return of Alcoholic Beverages

11.31 General.

Exchanges and Returns for Ordinary and Usual Commercial Reasons

11.32 Defective products.
11.33 Error in products delivered.
11.34 Products which may no longer be lawfully sold.
11.35 Termination of business.
11.36 Termination of franchise.
11.37 Change in product.
11.38 Discontinued products.
11.39 Products returned on past due account.
11.40 Seasonal dealers.

Returns for Reasons Not Considered Ordinary and Usual

11.41 Overstocked and slow-moving products.
11.42 Seasonal products.

Authority: The provisions of this Part 11 issued under 49 Stat. 981, as amended (27 U.S.C. 205).

Subpart A—Scope of Regulations

§ 11.1 General.

The regulations in this part, issued pursuant to section 5 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify sales arrangements prohibited by subsection (d), "Consignment sales" and contain guidelines concerning the return of alcoholic beverages from a trade buyer. This part does not attempt to enumerate all of the sales arrangements prohibited by section 5(d) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

§ 11.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

§ 11.3 Application.

(a) *General.* The regulations in this part apply to transactions between industry members and trade buyers.

(b) *Transactions involving State agencies.* The regulations in this part apply to transactions involving State agencies operating as retailers or wholesalers.

§ 11.4 Jurisdictional limits.

(a) *General.* The regulations in this part apply where:

(1) The industry member sells, offers for sale, or contracts to sell to a trade buyer engaged in the sale of distilled spirits, wines, or malt beverages, or for any such trade buyer to purchase, offer to purchase, or contract to purchase, any such products on consignment or under conditional sale or with the privilege of return or on any basis other than a bona fide sale, or where any part of such transaction involves, directly or indirectly, the acquisition by such person from the trade buyer or the agreement to acquire from the trade buyer other distilled spirits, wine, or malt beverages; and,

(2) If:

(i) The sale, purchase, offer or contract is made in the course of interstate or foreign commerce; or

(ii) The industry member engages in using the practice to such an extent as subtantially to restrain or prevent transactions in interstate or foreign commerce in any such products; or

(iii) The direct effect of the sale, purchase, offer or contract is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such trade buyer in interstate or foreign commerce.

(b) *Malt beverages.* In the case of malt beverages, this part applies to transactions between a retailer in any State and a brewer, importer, or wholesaler of malt beverages inside or outside such State only to the extent that the law of such State imposes requirements similar to the requirements of section 5(d) of the Federal Alcohol Administration Act (27 U.S.C. 205(d)), with respect to similar transactions between a retailer in such State and a brewer, importer, or wholesaler of malt beverages in such State.

Subpart B—Definitions

§ 11.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms have the meanings given in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by that Act.

Act. The Federal Alcohol Administration Act.

Exchange. The transfer of alcoholic beverages from a trade buyer to an industry member with other alcoholic beverages taken as a replacement.

Industry member. Any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler of distilled spirits, wine or malt beverages, or as a bottler or warehouseman and bottler, of distilled spirits.

Product. Distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

Return. The transfer of alcoholic beverages from a trade buyer to the industry member from whom purchased, for cash or credit.

Trade buyer. Any person who is a wholesaler or retailer of distilled spirits, wine or malt beverages.

Subpart C—Unlawful Sales Arrangements

§ 11.21 General.

It is unlawful for an industry member to sell, offer for sale, or contract to sell to any trade buyer, or for any such trade buyer to purchase, offer to purchase, or contract to purchase any products (a) on consignment; or (b) under conditional sale; or (c) with the privilege of return; or (d) on any basis other than a bona fide sale; or (e) if any part of the sale includes, directly or indirectly, the acquisition by such person of other alcoholic beverages from the trade buyer or the agreement to acquire other alcoholic beverages from the trade buyer. Transactions involving the bona fide return of products for ordinary and usual commercial reasons arising after the product has been sold are not prohibited.

§ 11.22 Consignment and conditional sales.

Any transaction in which title to the alcoholic beverages is not transferred at the time of shipment and which does not involve some form of settlement, either by cash or on an ordinary open account basis, would be contrary to the provisions of the Act, subject to § 11.4. "Consignment sales" are arrangements wherein the trade buyer is under no obligation to pay for the products until they are sold. A "conditional sale" is a transaction in which the seller maintains a security interest in the product.

§ 11.23 Sales conditioned on the acquisition of other products.

(a) *General.* A sale where any part of the sale involves, directly or indirectly, the acquisition by the industry member from the trade buyer, or the agreement, as a condition to present or future sales, to accept other products from the trade buyer is prohibited.

(b) *Exchange.* The exchange of one product for another is prohibited as a sales transaction conditioned on the acquisition of other products. However, the exchange of a product for equal quantities (case for case) of the same type and brand or product, in containers of another size or style is not considered an acquisition of "other" products and is not prohibited if there was no direct or implied privilege of return extended when the product was originally sold. Industry members may make price adjustments on products eligible for exchange under this paragraph.

Subpart D—Rules for the Return of Alcoholic Beverages

§ 11.31 General.

Section 5(d) of the Act provides, in part, that it is unlawful to sell, offer to sell, or contract to sell products with the privilege of return for any reason, other than those considered to be "ordinary and usual commercial" reasons arising after the product has been sold, subject to § 11.4. Sections 11.32 through 11.40 specify what are considered "ordinary and usual commercial reasons" for the return of alcoholic beverages, and outline the conditions and limitations for such returns.

Exchanges and Returns For Ordinary and Usual Commercial Reasons

§ 11.32 Defective products.

Products which are unmarketable because of product deterioration, leaking containers, damaged labels, or multilated and missing strip stamps may be exchanged for an equal quantity of identical products.

§ 11.33 Error in products delivered.

Any discrepancy between products ordered and products delivered may be corrected, within a reasonable period after delivery, by exchange of the products delivered for those which were ordered, or by a return for cash or credit against outstanding indebtedness.

§ 11.34 Products which may no longer be lawfully sold.

Products which may no longer be lawfully sold may be returned for cash or credit against outstanding indebtedness. This would include situations where, due to a change in law or regulation, a particular size or brand is no longer permitted to be sold.

§ 11.35 Termination of business.

Products on-hand at the time a trade buyer terminates operations may be returned for cash or credit against outstanding indebtedness. This does not include a temporary seasonal shutdown (see § 11.40).

§ 11.36 Termination of franchise.

When an industry member has sold products for cash or credit to one of its distributors and the distributorship arrangement is subsequently terminated, stocks of the product on-hand may be returned for cash or credit against outstanding indebtedness.

§ 11.37 Change in product.

A trade buyer's inventory of a product which has been changed in formula, proof, label or container (subject to § 11.42) may be exchanged for equal quantities of the new version of that product.

§ 11.38 Discontinued products.

When a producer or importer discontinues the production or importation of a product, a trade buyer's inventory of that product may be returned for cash or credit against outstanding indebtedness.

§ 11.39 Products returned on past due account.

An industry member may accept products in settlement of a bad debt.

§ 11.40 Seasonal dealers.

Wholesalers may accept the return of products from retail dealers who are only open a portion of the year, if the products are likely to spoil during the off season. These returns will be for cash or for credit against outstanding indebtedness.

Returns For Reasons Not Considered Ordinary and Usual

§ 11.41 Overstocked and slow-moving products.

The return of a product because it is overstocked or slow-moving does not constitute a return for "ordinary and usual commercial reasons".

§ 11.42 Seasonal products.

The return of products for which there is only a limited or seasonal demand,

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such as holiday decanters and certain distinctive bottles, does not constitute a return for "ordinary and usual commercial reasons".

Signed: June 29, 1979.

William T. Drake,

Acting Director.

Approved: July 3, 1979.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 79-23783 Filed 7-31-79; 8:45 am]

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Wednesday
August 1, 1979

Part IV

Department of the Interior

Office of Surface Mining—Reclamation and Enforcement

Abandoned Mine Land Reclamation Program; Guidelines Covering Reclamation Standards

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining—Reclamation and Enforcement

Abandoned Mine Land Reclamation Program; Guidelines Covering Reclamation Standards

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Notice of decision to develop guidelines.

SUMMARY: OSM plans to publish guidelines establishing reclamation standards that should be considered for abandoned mine land programs and projects. OSM has published final rules in the October 25, 1978, **Federal Register** (43 FR 49933) which established the abandoned mine land reclamation program and procedures for administering this program. These rules did not include the reclamation standards that must be met on abandoned mine land reclamation work but indicated in the preamble to these rules that reclamation standards would be developed by a rulemaking process at a later date. OSM does not plan to develop regulations for reclamation standards for Abandoned Mine Lands Reclamation Programs but will issue guidelines that should be considered when Abandoned Mine Land programs and projects are developed. OSM plans to publish the proposed guidelines in October 1979 and the final guidelines in February 1980.

DATES: The comment period on the decision to develop guidelines for AML reclamation standards will extend until August 31, 1979. All writen comments must be received at the address given below under "address" by 5 p.m. on August 31, 1979.

ADDRESS: Written comments must be mailed or hand delivered to the Office of Surface Mining, Administrative Records Office, Room 135 South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, telephone 202–343–4728. All comments received will be available for further inspection at the same address.

FOR FURTHER INFORMATION CONTACT: Richard Nalbandian, Chief, Division of Reclamation Planning and Standards, Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, 202–343–4057.

SUPPLEMENTAL INFORMATION: Guidelines on reclamation standards will be developed and published in the **Federal Register**. These guidelines will cover the following general areas of concern:

1. Land, Water or Mineral Rights Requried for Reclamation—Effect on reclamation if mineral rights are severed from surface rights, type of ownership, i.e., private versus public, and other ownership related problems;

2. Jurisdictional Responsibilities—Effect on reclamation brought about by differing State or Federal agencies responsibilities and water rights requirements; i.e., what permits may be required and how do you meet the requirements mandated for the National Environmental Policy Act and the Fish and Wildlife Coordination Act review compliance and the protection of wetlands and floodplain areas, rare and endangerd species, and archeological and historic areas;

3. Purpose for which Reclamation is Proposed—Compatibility of proposed post-reclamation land use to existing land use of the site and the surrounding area and to the proposed use of land contained in any approved land use plan for the area;

4. Selections Process for Considering Reclamation Activities—

a. Technical Feasibility—Is the state-of-the-art sufficient to provide a solution to the problem?

b. Economic Feasibility—Are the funds available utilized in the most effective manner to carry out the basic requirements of Title IV of the Act?

5. Emergency Projects—Emergency reclamation projects are limited to those needed to protect life or property. This guideline will present the minimum reclamation criteria that must be considered for such projects;

6. Remining or Secondary Recovery in Conjunction with Reclamation Activities—When can Title IV requirements be applied to remining efforts?

7. Abandoned Structures—Reclaiming areas where structures such as coal tipples, coal processing facilities, equipment, material, etc., are located in the area to be reclaimed;

8. Borrow and Disposal Areas Created by Reclamation Activities—Reclamation activities for these areas must be protected the same as the abandoned mine areas;

9. Trial or Demonstration Practices—Use of new practices that appear or are known to be of value in lieu of standard practices. The guideline should address the conditions that must be met before the new practice can be used;

10. Project/Program Evaluation—Review of AML work including need for monitoring the effectiveness of reclamation activities to determine that the objectives of the fund have been met;

11. Operation and Maintenance of Completed Reclamation Work—Completed reclamation work requires some operation and maintenance efforts to assure that the reclamation becomes established or is maintained in an adequate working condition. This may range from applying lime and fertilizer to maintain a vegetative cover to operating a treatment plant to treat acid mine drainage. This guideline will address these requirements; and

12. Non-coal Projects and Impact Assistance—This guideline will address the selection procedure that must be considered for non-coal projects and impact assistance.

Specific guidelines for problems associated with the following control parameters will be developed:

1. Toxic Mine Drainage.
2. Active Slides and Slide Prone Areas.
3. Erosion and Sedimentation.
4. Vegetation.
5. Toxic Materials.
6. Hydrologic Balance.
7. Public Safety and Health.
8. Aesthetic and Visual Values.
9. Fish and Wildlife Values.
10. Air Quality.
11. Site Characteristics.

After the guidelines for the general areas of concerns and control parameters listed above are developed, each of the specific problems associated with surface and underground abandoned mines listed below will be analyzed to see if that specific problem is adequately covered by the guidelines. If it is not adequately covered, a discussion of the unique features of this specific problem will be added to an applicable guideline.

Specific examples of problems associated with abandoned surface mines, with a problem description are:

1. Highwalls—Exposed steep cuts not eliminated at the end of mining;
2. Slides—Both spoil and parent material that is slipping or is slide prone;
3. Outslope Spoil—Spoil resulting from contour mining that was deposited adjacent to or downslope from the mined area;
4. Abandoned Pits—Cuts resulting from mining activities that were not filled by spoil from the mining activities;
5. Impoundments—Areas that cause water to be trapped;
6. Refuse Areas Including Slurry or Outwash Areas—Disposal of coal processing waste;
7. Roads—Mining and access roads that were abandoned in an improper manner;

8. Spoil—Overburden material resulting from surface mining operations that was placed in an improper or unreclaimed manner;
9. Sediment Deposition—Sediments resulting from surface mined areas that restrict drainage patterns or affect the intended use of mined area or any downstream areas;
10. Mine Fires—Burning surface disposal areas resulting from underground and surface mines; and
11. Waste Disposal—Non-mining wastes disposed of in surface mines.

Specific examples of problems associated with abandoned underground mines, with a problem description are:

1. Subsidence—Caving of abandoned underground mines that cause a surface impact;
2. Mine Fires—Burning in abandoned underground workings that have a surface impact
3. Entries—Surface openings to abandoned underground workings;
4. Gas Vents—Gaseous pressures and noxious fumes that have a surface impact;
5. Mine Drainage—Drainage into or out of underground workings that result in a surface or subsurface impact;
6. Roads—Mining and access roads constructed to facilitate underground mining operations that were abandoned in an improper manner;
7. Impoundments—Areas that cause water to be trapped behind spoil material resulting from underground mining operations;
8. Refuse Areas—Disposal of coal processing wastes resulting from underground mining operations;
9. Mine Waste—Disposal of spoil material resulting from underground mining operations in an improper or unreclaimed manner;
10. Sediment Deposition—Sediments resulting from underground mining operations that restrict drainage patterns or affect the intended use of downstream areas;
11. Slides—Slides resulting from underground workings; and
12. Waste Disposal—Non-mining wastes disposed of in underground workings.

Paul L. Reeves,

Deputy Director, Office of Surface mining Reclamation and Enforcement.

[FR Doc. 79–23768 Filed 7–31–79; 8:45 am]

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Wednesday
August 1, 1979

Part V

Department of Agriculture

Agricultural Marketing Service

Livestock: Grades and Standards for Feeder Cattle

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 53

Livestock (Grades and Standards for Feeder Cattle)

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This document revises the official United States standards for grades of feeder cattle. Changes in the kinds of cattle being produced in the United States since the present standards were adopted in 1964, linked with changes made in the slaughter cattle and beef carcass standards in 1976, make a revision necessary. This grading system for thrifty feeder cattle involves separate identifications for variations in frame size and muscle thickness. The frame size portion of the grade—the most important consideration—effectively identifies feeders for the weight at which they are expected to produce carcasses of a given grade—U.S. Choice, for example. The portion of the grade related to thickness identifies feeders for the effect that differences in muscle thickness will have on the ultimate USDA yield grade of their carcass.

On May 1, 1979, a notice of proposed rulemaking was published in the **Federal Register** (Vol. 44, No. 85, 25614), Part VI, regarding a revision of the grades and standards for feeder cattle (7 CFR Part 53.208–53.212).

A 61-day comment period was provided for interested persons to submit written data, views, or arguments concerning the proposal. During this period, Department Livestock Standardization technicians appeared at several industry meetings to explain the proposal.

The comments and other information available to the Department relative to the proposal have been carefully evaluated. Based on that evaluation, the Department has concluded that adoption of the standards as proposed is in the best interest of the livestock industry.

EFFECTIVE DATE: September 2, 1979.

FOR FURTHER INFORMATION CONTACT: W. Edmund Tyler, 202–447–5679.

SUPPLEMENTARY INFORMATION: The present U.S. standards for grades of feeder cattle were promulgated September 25, 1964. Since 1964, these official standards have been used by the Department as the basis for market reporting of feeder cattle prices and the basis for certifying the grade of feeder cattle delivered on futures contracts. They also are used by States which conduct official feeder cattle grading programs.

Recognizing the changes in size and body type that have occurred, in the cattle population, the Department appointed a special task force in 1973 to review the adequacy of the 1964 standards and to recommend any changes that might be needed. That task force was composed of USDA Livestock Division specialists and State department of agriculture specialists directly responsible for conducting livestock grading programs in their respective States.

The task force report concluded (1) that the present standards were not widely accepted as a tool for use in trading on feeder cattle, (2) that the feeder cattle type had changed dramatically since 1964, and (3) that new standards which better reflect the needs of the feeder cattle industry should be developed.

That task force also concluded that frame size and muscle thickness were two of the most important factors affecting merit (value) in feeder cattle that were not otherwise readily apparent—sex, weight, age, etc. The task force recommended that these two factors be used as the basis for revised standards and that a grading system be developed in which the grade of a feeder animal would include separate identifications for each of these factors. Separate identification for these two important variables was considered essential since frame size and muscle thickness are not necessarily related, and a single system combining these factors would result in individual grades containing cattle of varying frame sizes and muscle thicknesses.

The frame size and muscle thickness concept is valid because: (1) frame size is an inherent characteristic in cattle that is not affected by normal management practices. Frame size at a given age is highly correlated with an animal's mature size. Consequently, frame size is also highly correlated with the weight at which, under normal feeding and management practices, an animal will produce a carcass of a given grade. An evaluation of frame size is a useful tool for segregating animals into groups that are relatively homogeneous with respect to the weight at which they would have the same USDA quality grade. Therefore, to reflect differences in frame size, three frame size categories are used—Large Frame, Medium Frame, and Small Frame. In each of the frame size specifications, guidelines are given relative to the live weights at which steers and heifers would each be expected to produce U.S. Choice carcasses.

(2) Degree of muscle thickness is also an inherent characteristic which affects carcass yields of lean meat and differences in USDA carcass yield grades. Such differences can result in a thinly muscled animal having a Choice, Yield Grade 3 carcass, whereas the carcass of a thickly muscled animal may be a Choice, Yield Grade 2. Such a difference in yield grade is of considerable economic significance and thus is a valid reason for including a measure of muscle thickness as a factor in the standards for grades of feeder cattle. And, since variations in this factor are associated with differences in yield grade—not quality grade—the terms "No. 1," "No. 2," and "No. 3" have been selected to identify the three categories of thickness. A constant degree of fatness (slightly thin) is used in appraising the development of muscle thickness.

Thriftiness is an important value determining characteristic of feeder cattle because it relates to the animal's ability to grow and fatten normally. Cattle must be thrifty to be eligible for the frame size and muscle thickness grades. When unthrifty, they are graded inferior.

The Department considered the possible inclusion of fatness as a third grade factor for feeder cattle. However, this would greatly increase the number of grade combinations—from 9 to 27—which would likely render the application of the grades impractical. Using fatness in lieu of degree of muscle thickness was also considered, but this would result in cattle in a particular grade being so dissimilar in appearance that their marketability would be seriously impaired. For example, a pen of cattle of a given frame size and degree of fatness could range all the way from thick beef animals to animals of non-beef breeding which are narrow throughout. Adopting fatness as a grade factor would, at times, necessitate placing a different feeder grade on the same animal in different stages of its development. Also, cattle from the same herd may be graded differently from year to year depending on their plane of nutrition and management.

Variations in fatness have different effects on feeder cattle value, dependent on the relative price of slaughter cattle and cost of feedlot gain. Depending on the feeding regime to be followed, the age of the cattle, and the "feeding economics," cattle may bring either a premium or be discounted because they are fat or because they are thin.

Therefore, the Department believes that when degree of fatness is a significant factor affecting value, it should be used in market reports in addition to grade in order to be more descriptive of market conditions.

The Department has always recognized the need for a more factual basis for all of its livestock grade standards and has continually encouraged and supported research designed to identify and evaluate the factors that would accurately predict feeder cattle merit. Late in 1976, a draft proposal of feeder cattle standards was developed and submitted to interested persons for discussion purposes. The draft proposal was based on an evaluation of the research data available at the time from various research intitutions. Informal comments on the draft were solicited from university animal scientists, State departments of agriculture, livestock, breed, and farm organizations, and other industry interests. A vast majority commented favorably on the draft proposal. Almost concurrently, preliminary results from a feeder cattle study which raised questions concerning the use of muscling as a grade factor were presented at several meetings of cattle producers and feeders. Consequently, a proposal for new feeder grades was delayed until more research could be conducted, particularly with respect to muscling. In this effort, the Department cooperated with Texas A&M University, Colorado State University, and Monfort of Colorado in conducting a feeder cattle study (Monfort study) which began in September 1977 and was completed in March 1978. Nine hundred forty-four feeder steers were selected to represent broad variations in frame size and degree of muscling and they were fed to weights that correspoond to their frame size as defined in the 1976 proposed revision. Numerous subjective and objective evaluations were made on these cattle and their resultant carcasses. These data were then analyzed with respect to the effect of musling and frame size and the results indicated: (a) the larger the frame size the higher the rate of gain, the longer the period required to fatten, and the greater the live weight necessary to attain a given slaughter quality grade, (b) the greater the muscle thickness the higher the yield grade of the resulting carcasses, the greater the ribeye size, and the higher the muscle: bone ratio. In addition to the Monfort study, feeder and carcass data were collected on two hundred twenty-two steers in a cooperative study with the American Farm Bureau Federation. Results from these studies were comparable.

A total of 67 comments on the proposed standards for grades of feeder cattle were received during the comment period. Comments received included 14 from organizations with 5 of those from organizations of a national scope, 2 from beef cattle registry associations, 20 from State departments of agriculture, 24 from research and educational workers, and 7 from individuals and companies. The comments were overwhelmingly in favor of adopting the proposal. Several commentators, although they endorsed adoption, recommended slight adjustments or refinements. For the most part, these reiterated positions and recommendations which the Department had considered in developing the proposal. Recommended adjustments in the standards not included in the proposal fell generally into two categories:

A. Levels of muscle thickness.

B. Extra time for industry education before implementation.

With respect to muscle thickness, some suggested that the Department use the levels of muscling referenced in the 1976 draft proposal. In this draft proposal the Department intended for the levels of muscling referenced as No. 1, No. 2, and No. 3, to correspond with the muscling descriptions from Prime, Choice, and less than Choice grades described in the 1964 grade standards. This was changed prior to the May 1 proposal because some industry members were concerned that: (1) the muscling differences were not of sufficient magnitude to be used as a grade factor, (2) muscling differences in feeder cattle were not easily distinguished in young cattle, and (3) very thick muscling might cause production problems. These concerns by some industry members caused the Department to modify and deemphasize muscling requirements from that originally described in the 1976 draft.

A few commentators were concerned that the width of the No. 2 muscle thickness grade as proposed—this grade includes cattle formally in the Good and Standard grades—was too wide. Our research shows, that the variation in muscle thickness in cattle eligible for this grade does not justify reducing the width of the grade. Also, USDA Marketing Research Report No. 1073, "Grades of Fed Beef Carcasses", shows that the number of beef carcasses with U.S. Standard muscle thickness is only 0.4 percent. This compares with 25.1, 63.8, and 13.7 for the Prime, Choice, and Good Grades, respectively.

The Department is presently cooperating with the Colorado State Department of Agriculture and the Colorado State University in an extensive feeder cattle study designed to develop additional data with regard to muscling and its impact on beef production. The Department will analyze this data after completion of the study in 1983 to determine if the standards for grades of feeder cattle can be improved.

The Department does not believe that allowing extra time for industry education before implementing the standards is necessary. The Department bases this conclusion on the following: (1) these standards have been actively discussed by the industry since early 1977, (2) the proposal has been highly publicized in virtually all livestock trade magazines and publications, (3) a slide series and script explaining the proposal was distributed to most land-grant universities, State departments of agriculture, breed associations, and industry organizations, (4) for the most part, comments received by the Department during the commenting period indicated a thorough working knowledge of the proposal. Additionally, several States which conduct State graded feeder cattle sales have indicated they wish to use the revised standards this fall if they are implemented by September.

Accordingly, the official U.S. grades and standards for feeder cattle are revised, effective September 2, 1979, by changing §§ 53.208, 53.209, and adding 53.210–53.212 as follows:

§ 53.208 Feeder Cattle Grades.

(a) *Grade Factors.* (1) These standards apply only to cattle that have not reached the age of 36 months, except these grades may be used to describe stock cows for market reporting purposes.

(2) The grade of feeder cattle is determined by evaluating three general value-determining characteristics—frame size, thickness, and thriftiness.

(3) Frame size refers to the animal's skeletal size—its height and body length—in relation to its age. Thus, frame size evaluations are directly related to differences in mature size. At the same age, large frame cattle will be taller at the withers and the hips and longer bodied than small frame cattle.

(4) Thickness in feeder cattle refers to the development of the muscle system in relation to skeletal size. In feeder cattle of the same age and frame size variations in thickness are due to differences in bone structure, muscling, and degree of fatness. For purposes of

these standards, thickness is evaluated, assuming a constant degree of fatness—slightly thin. Thicker feeder cattle will have a higher ratio of muscle to bone when fed to the same degree of fatness and will have a higher yield grade.

(5) Thriftiness refers to the apparent health of an animal and to its ability to grow and fatten normally. In these standards unthrifty animals are those which are not expected to perform normally in their present state. This may be due to such factors as disease, parasitism, severe emaciation, or any condition that must be corrected before they could be expected to perform normally. Unthrifty feeder cattle may have any combination of thickness and frame size.

(b) *Grades.* (1) The grades of feeder cattle that have been determined to be thrifty include three separate groupings for different frame sizes—Large Frame, Medium Frame, and Small Frame and three separate groups for thickness—No. 1, No. 2, and No. 3. The nine resultant grades are as follows: Large Frame, No. 1; Large Frame, No. 2; Large Frame, No. 3; Medium Frame, No. 1; Medium Frame, No. 2; Medium Frame, No. 3; Small Frame, No. 1; Small Frame, No. 2; Small Frame, No. 3.

(2) The U.S. Inferior grade shall apply to all feeder cattle that have been determined to be unthrifty. Additionally, "double-muscled" (muscular hyperthrophy) cattle are graded Inferior because they cannot be expected to deposit intramuscular fat (marbling) normally.

§ 53.209 Application of Standards for Grades of Feeder Cattle.

(a) *General Principles.* (1) For the grades of feeder cattle, separate evaluations are made for thriftiness, frame size, and thickness. Each of these factors are very important to feeder cattle buyers and individually affect how cattle will perform in the feedlot. Additionally, variations in frame size and thickness have separate effects on the ultimate carcasses that are produced.

(2) Variations in frame size among feeder cattle primarily affect the composition of their gain in weight. The gain in weight of a large framed feeder animal of a given degree of thickness normally will consist of more muscle and bone—but less fat—than a smaller framed animal. Indirectly, therefore, at a given weight and thickness, large framed animals will have a lesser degree of fatness than smaller framed animals and will also have carcasses with higher yield grades—but lower quality grades. This means that if animals are fed to produce the same quality grades—Choice, for example—large framed cattle of a given thickness must be fed to heavier weights than cattle of the same thickness but which are smaller framed. In each of the frame size specifications, guidelines are given relative to the live weights at which steers and heifers may each be expected to produce carcasses with the degree of finish normally associated with the Choice grade (approximately 0.50 inch).

(3) Variations in thickness are reflected in differences in ribeye area and, therefore, relate primarily to the ultimate yield grade of the carcass that a feeder animal will produce. When marketed at a given weight, a thick animal of a given frame size will normally produce a higher yield grading carcass than an animal of the same frame size that is narrow throughout. This results from the fact that the thick animal, at a given weight, will have both a larger ribeye and a lesser degree of fatness. If cattle are fed to produce carcasses of the same quality grade—Choice, for example—thick feeders of a given frame size must normally be fed to slightly heavier weights than cattle of the same frame size which are not as thick.

(4) The frame size portion of the grade is determined by an evaluation of an animal's skeletal size in relation to its age. Since age is such an important factor in determining frame size, careful consideration must be given to its evaluation. For example, two feeder cattle from the same environment with the same height and body length but which differed substantially in age would obviously not be the same frame size. By the same token, at a given age, a taller, longer bodied feeder animal will be larger framed than a short bodied animal that is not as tall. As feeder cattle mature, their heads appear to increase in relation to the size of their body; their ears decrease in size in relation to the size of their heads; the muzzle becomes proportionately wider; the head becomes longer in relation to its width; the feet become larger in relation to the size of the bone; and the tail increases in length and exhibits a more prominent switch. In evaluating feeder cattle for frame size, it must be remembered that breeds differ in the general range of their frame size and that since these standards apply to all breeds, this variation in frame among breeds must be taken in account. For example, in these standards, the largest framed cattle in a breed of small mature size—and the smallest framed cattle in a breed of large mature size—might both be considered as Medium in frame size.

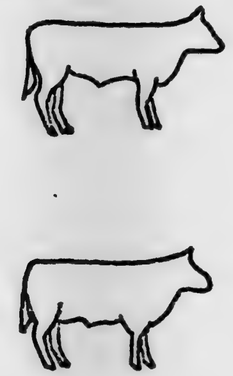
(5) The thickness portion of the grade is determined by appraising the development of the muscular system in relation to the development of the skeletal system. Two of the three thickness grades include detailed descriptions of the thickness and fullness of the feeder cattle in the various parts due to differences in bone structure and muscling. However, since the appearance of these parts may be influenced to a considerable extent by variations in fatness, the descriptions are based on animals that have a slightly thin covering of fat. When evaluating the thickness of animals which have either a greater or lesser degree of fatness than that on which the standards are based, proper allowances must be made for the effect of these differences on the appearance of the various parts. In making such allowances, it must be remembered that cattle deposit fat at a relatively faster rate over the loin and back and in the flank, cod or udder, twist, and brisket than they do through the rear quarter, forearm, and gaskin. Therefore, as cattle increase in fatness, these former parts appear progressively fuller, thicker, and more distended in relation to the thickness through the rear quarter and to the fullness of the forearm and gaskin. Since relatively little fat is deposited over these latter parts, their appearance is affected relatively little by variations in fatness. In evaluating the thickness of feeder cattle, it is important to properly evaluate the thickness in all parts of the animal. However, since variations in fatness make it especially difficult to precisely evaluate the thickness and fullness of muscling in the loin and back, major emphasis should be placed on the development of muscling in the rear quarter, forearm, and gaskin as an indicator of overall thickness. Unless proper allowance is made for variations in fatness, animals carrying considerable finish may appear to have greater thickness throughout than actually is the case, whereas those which are in very thin condition may be inherently thicker than their appearance might indicate.

§ 53.210 Specifications for Official United States Standards for Grades of Thrifty Feeder Cattle (Frame Size).

(a) *Large Frame (L).* Feeder cattle which possess typical minimum qualifications for this grade are thrifty, have large frames, and are tall and long bodied for their age. Steers and heifers would not be expected to produce U.S. Choice carcasses (about 0.50 inch fat at twelth rib) until their live weights exceed 1200 pounds and 1000 pounds, respectively.



(b) *Medium Frame (M).* Feeder cattle which possess typical minimum qualifications for this grade are thrifty, have slightly large frames, and are slightly tall and slightly long bodied for their age. Steers and heifers would be expected to produce U.S. Choice carcasses (about 0.50 inch fat at twelth rib) at live weights of 1000 to 1200 pounds and 850 to 1000 pounds, respectively.



(c) Small Frame (S). Feeder cattle included in this grade are thrifty, have small frames, and are shorter bodied and not as tall as specified as the minimum for the Medium Frame grade. Steers and heifers would be expected to produce U.S. Choice carcasses (about 0.50 inch fat at twelfth rib) at live weights of less than 1,000 pounds and 850 pounds, respectively.



§ 53.211 Specifications for official U.S. standards for grades of thrifty feeder cattle (thickness).

(a) *No. 1.* Feeder cattle which possess minimum qualifications for this grade usually show a high proportion of beef breeding. They must be thrifty and slightly thick throughout. They are slightly thick and full in the forearm and gaskin, showing a rounded appearance through the back and loin with moderate width between the legs, both front and rear. Cattle show this thickness with a slightly thin covering of fat; however, cattle eligible for this grade may carry varying degrees of fat.



(b) *No. 2.* Feeder cattle which possess minimum qualifications for this grade are thrifty and are narrow through the forequarter and the middle part of the rounds. The forearm and gaskin are thin and the back and loin have a sunken appearance. The legs are set close together, both front and rear. Cattle show this narrowness with a slightly thin covering of fat; however, cattle eligible for this grade may carry varying degrees of fat.



(c) *No. 3.* Feeder cattle included in this grade are thrifty animals which have less thickness than the minimum requirements specified for the No. 2 grade.



§ 53.212 Specifications for official U.S. standards for the grade of unthrifty feeder cattle.

(a) *Inferior.* This grade includes those feeder cattle which are not expected to perform normally in their present state and those that are "double-muscled." Cattle in this grade may have any combination of thickness and frame size.

Dated: July 27, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-23771 Filed 7-31-79; 8:45 am]

BILLING CODE 3410-02-M

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federal register

Wednesday
August 1, 1979

Part VI

Department of the Treasury

Office of the Secretary

Bureau of Alcohol, Tobacco, and Firearms

Customs Service

Office of Revenue Sharing

Improving Government Regulations; Semiannual Agenda

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UMI

DEPARTMENT OF THE TREASURY

[31 CFR Subtitle A]

Improving Government Regulations; Semiannual Agenda

AGENCY: Department of the Treasury.

ACTION: Semiannual Agenda for the Office of the Secretary and the Treasury Bureaus.

SUMMARY: In response to Executive Order 12044, "Improving Government regulations," and the Treasury Department Directive implementing that Executive Order, the Office of the Secretary has prepared and is publishing for public information a listing of its one significant regulation under review. The Comptroller of the Currency Semiannual Agenda will publish on August 15 instead of August 1, 1979. The Bureau of Engraving and Printing, the Federal Law Enforcement Training Center, the Bureau of the Mint and the U.S. Secret Service have no regulation projects under development or under review. Agendas for the Bureau of Alcohol, Tobacco and Firearms, the U.S. Customs Service and the Office of Revenue Sharing are published in this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Steven L. Skancke, Deputy Executive Secretary, Department of the Treasury, Washington, D.C. 20220, (202) 566–2269.

SUPPLEMENTARY INFORMATION:

Office of the Secretary Semiannual Agenda

1. *Description/Justification:* Treasury regulations issued in response to the Freedom of Information Act (31 CFR Part 1, Subpart A) and the Privacy Act of 1974 (31 CFR Part 1, Subpart C) are under review for revision and updating. Revision is necessary to clarify and simplify exising Treasury regulations implementing these Acts. A regulatory analysis will not be necessary.

2. *Statutory Basis:* 5 U.S.C. 552 and 5 U.S.C. 552a.

3. *Knowledgeable Official:* Linda K. Zannetti, Department Disclosure Officer, (202) 556–5573.

By direction of the Secretary.

Dated: July 30, 1979.

Steven L. Skancke,

Deputy Executive Secretary.

[FR Doc. 79-23820 Filed 7-31-79; 8:45 a.m.]

BILLING CODE 4810-25-M

Bureau of Alcohol, Tobacco, and Firearms

[27 CFR Ch. I]

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Bureau of Alcohol, Tobacco, and Firearms (ATF).

ACTION: Semiannual Agenda of Regulations, significant and nonsignificant, under development and review.

SUMMARY: This semiannual agenda lists the regulations that ATF will be developing and reviewing from August 1, 1979, through February 1, 1980. The purpose of the semiannual agenda is to give the public adequate notice of ATF regulatory activities.

FOR FURTHER INFORMATION CONTACT: For general information about this semiannual agenda, contact Ms. Armida N. Stickney or Mr. Charles N. Bacon.

For information about any particular item on the semiannual agenda, contact the individual listed in the second column, subheading "Contact," for that item.

Telephone number for all contact persons: 202–566–7626 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

General

Executive Order 12044, "Improving Government Regulations," and Treasury Directive 50–04.F, "Criteria and Procedures for the Preparation, Review and Approval of Regulations," require that a semiannual agenda of regulations under development and review be published in the **Federal Register**. In the **Federal Register** of Wednesday, November 1, 1978, the Department of Treasury announced that ATF will publish its semiannual agenda on February 1 and August 1 of each calendar year.

The first semiannual agenda of the Bureau of Alcohol, Tobacco, and Firearms was published in the **Federal Register** on February 1, 1979 (44 FR 6686). This semiannual agenda provides a status report on those regulation projects which were listed in the first semiannual agenda. The next ATF semiannual agenda will be published in the **Federal Register** on Friday, February 1, 1980.

Description

This Semiannual Agenda of Regulations is divided into two parts. Part I lists all regulation projects concerned with the development of regulations which ATF has under consideration as of July 13, 1979. Part II lists, separately, existing regulations which are being reviewed pursuant to Treasury Directive 50–04.F, paragraph 12. A table, which defines abbreviations used throughout this semiannual agenda, follows Part II.

Part I and Part II are set-up in columnar form and are composed of the following divisions:

1. Title/Citation

The first column states briefly the subject of the regulation and the affected part number of Title 27 of the Code of Federal Regulations.

2. Summary

The second column includes—

A. *Description*—A description of the proposed or final rule, or of the regulatory matter under consideration;

B. *Need*—A brief statement of why the regulation is needed;

C. *Legal basis*—The legal basis for the action being taken;

D. *Contact*—the name of the person to be contacted for additional information;

E. *Status*—The current and/or anticipated chronology of the development of the regulation, including any final action taken since the last semiannual agenda;

F. *Regulatory analysis*—If a regulatory analysis is required for a regulation project, a statement to this effect will appear in this subdivision.

Issuance

By direction of the Secretary of the Treasury, this Semiannual Agenda of Regulations reads as set forth below.

Signed: July 24, 1979.

G. R. Dickerson,

Director.

Part I—*Regulations Under Development*

Title/Citation	Summary
	Alcohol
50 ml container for wine 27 CFR 4.73	A. *Description:* This revision would add a 50 ml (1.7 fluid ounce) size to the standards of fill for wine. B. *Need:* Some types of wine, especially sherry and port wines, have traditionally been produced in a miniature size for sale by airlines and railroads. Under current regulations, a size smaller than 100 ml can no longer be used in the United States. C. *Legal Basis:* 27 U.S.C. 205. D. *Contact:* Charles N. Bacon. E. *Status:* Revision under internal development; NPRM targeted for September 1979.
Grape Brandy 27 CFR Part 5	A. *Description:* ATF will consider whether standards of identity for "varietal grape brandy" should be added to the present labeling designations of "brandy" and "grape brandy". B. *Need:* Responds to a petition to permit the production and sale of brandies produced from specific varieties of grapes. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* Armida N. Stickney. E. *Status:* ANPRM under Treasury review.
Prohibited Trade Practices under the FAA Act; 27 CFR Parts 6, 8, 10, and 11.	A. *Description:* Implements the trade practice subsections, 5(a)–5(d), of the FAA Act. Regulations will specify practices which are prohibited by the FAA Act and will list exceptions to those prohibitions. B. *Need:* Provisions of the FAA Act have been implemented through letters, ATF Rulings, and circulars. A need exists to update, revise and codify these rulings. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* Charles N. Bacon. E. *Status:* NPRM to be published in July/August 1979. Public hearings in September 1979.
American Viticultural Areas; 27 CFR Part 9	A. *Description:* A new Part 9 entitled American Viticultural Areas would be added to Title 27 of the Code of Federal Regulations and would list approved viticultural areas to be used as American appelations of origin in accordance with 27 CFR Part 4 (Appellation of Origin Regulations). B. *Need:* A new part needs to be added to 27 CFR Chapter I in order to list approved American viticultural areas. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* Armida N. Stickney. E. *Status:* T.D. w/o N. under ATF review; publication targeted for August 1979.
Proposed Viticultural Area (Augusta, Missouri); 27 CFR 9.22.	A. *Description:* Establishes an American viticultural area for labeling and advertising of wine. B. *Need:* Responds to a petition from an industry member to establish a viticultural area. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* Tom Minton. E. *Status:* NPRM published July 17, 1979 (44 FR 41487).
Proposed Viticultural Area (The Pinnacles, California); 27 CFR Part 9.	A. *Description:* Establishes an American viticultural area for the labeling and advertising of wine. B. *Need:* Responds to a petition from an industry member to establish a viticultural area. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* Tom Minton. E. *Status:* NPRM under internal development; publication targeted for October 1979.
Proposed Viticultural Area (Napa Valley, California); 27 CFR Part 9.	A. *Description:* Establishes an American viticultural area for labeling and advertising of wine. B. *Need:* Responds to a petition from an industry member to establish a viticultural area. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* Tom Minton. E. *Status:* NPRM under internal development; publication targeted for October 1979.
Regulations to Implement the Distilled Spirits Tax Revision Act of 1979; 27 CFR Parts 4, 5, 170, 186, 194, 197, 200, 201, 211, 212, 213, 231, 240, 250, 251, and 252.	A. *Description:* The Distilled Spirits Tax Revision Act of 1979 will (1) eliminate the wine gallon method for imposing the distilled spirits tax, (2) eliminate the rectification tax, and (3) convert DSP/s from the present distilled spirits tax system to an all-in-bond tax system. B. *Need:* The Act was recently passed by Congress as a part of the Trade Agreements Act of 1979 and will become effective on January 1, 1980. As a result, ATF is currently preparing interim regulations. C. *Legal basis:* The statutory provisions would be contained in 26 U.S.C. Chapter 51. D. *Contact:* Edward J. Sheehan. E. *Status:* ANPRM published on July 18, 1979 (44 FR 41833). Revision of regulations currently under development for an interim T.D.
New Completely Denatured Alcohol Formula; 27 CFR Parts 211 and 212.	A. *Description:* Establishes a new completely denatured alcohol formula suitable for blending in motor fuels. B. *Need:* Increased interest in and demand for gasohol as a way of reducing gasoline consumption results in the need for a new CDA formula. C. *Legal basis:* 26 U.S.C. 5241. D. *Contact:* John V. Jarowski. E. *Status:* T.D. w/o N. currently under internal development.

Part I—*Regulations Under Development*—Continued

Title/Citation	Summary
	Alcohol—Continued
Home Production of Beer and Wine; 27 CFR Parts 240 and 245.	A. *Description:* This T.D. revised and added regulations to (1) permit any adult to produce beer and wine in limited quantities for personal or family use, without payment of tax, and not for sale; (2) delete the registration requirement for the home production of wine; and (3) revise the definition of a brewer to exempt home brewing. B. *Need:* This T.D. implemented Pub. L. 95-458 which became effective February 1, 1979. C. *Legal basis:* Pub. L. 95-458; 26 U.S.C. 5042, and 5053. D. *Contact:* Edward J. Sheehan. E. *Status:* T.D. ATF-55 published February 6, 1979 (44 FR 7138) and effective February 1, 1979.
Alternate Premises between DSP/s and Bonded Wine Cellars; 27 CFR Parts 201 and 240.	A. *Description:* Allows proprietors of adjacent bonded wine cellars and DSP/s to alternate premises between their DSP/s and bonded wine cellars without having to submit qualifying documents each time they propose an alternation. B. *Need:* This regulation relieves industry and Government of an administrative burden without jeopardizing the revenue. C. *Legal basis:* 26 U.S.C. 7805. D. *Contact:* Armida N. Stickney. E. *Status:* This regulations is being incorporated into the complete revision of 27 CFR Part 201 (to incorporate the Distilled Spirits Tax Revision Act of 1979).
Determination of Color in White Wine and Treatment of Sherry with activated carbon; 27 CFR Part 240.	A. *Description:* ATF proposed to (1) replace the Lovibond Method with the Association of Official Analytical Chemists (AOAC) Method 11.B01-11.B02 for determining color in wine, (2) provide winemakers continuing authority to treat sherry with activated carbon in order to remove excess color, and (3) set a new limitation on the amount of activated carbon to remove the excess color in sherry. B. *Need:* To accommodate technological advances. C. *Legal basis:* 26 U.S.C. 5382 and 7805. D. *Contact:* Armida N. Stickney. E. *Status:* NPRM published July 10, 1979 (44 FR 40351); T.D. publication targeted for November 1979.
	Procedures and Practices
Seizures and Forfeitures; Carriers and Contraband Cigarettes; 27 CFR Part 72.	A. *Description:* This regulation would (1) implement section 111 of Pub. L. 95-410 (Customs Procedural Reform and Simplification Act of 1978) by increasing the appraised value of carriers from $2,500 to $10,000 and (2) implement Pub. L. 95-575 which provides that any contraband cigarettes involved in any violation of criminal law shall be subject to seizure and forfeiture. B *Need:* To implement the provisions of Pub. L. 95-410 and Pub. L. 95-575. C. *Legal basis:* 26 U.S.C. 7805, 49 U.S.C. 788, and 18 U.S.C. 2346. D. *Contact:* Armida N. Stickney. E. *Status:* T.D. w/o N. under ATF review; publication targeted for September 1979.
Tobacco Excise Tax Acceleration Project; 27 CFR Parts 270, 275, and 285.	A. *Description:* This regulatory project would change the deferral and return periods for tobacco excise taxpayments, and would use electronic wire transfers for the payment of those excise taxes. B. *Need:* This project would implement the cash management recommendations resulting from the President's Reorganization Project. C. *Legal basis:* 26 U.S.C. 5061(a), 5703(b), and 7805. D. *Contact:* Armida N. Stickney. E. *Status:* Currently under internal study and development; NPRM targeted for October 1979.
	Firearms
Security at Federal Firearms License Premises; 27 CFR Part 178.	A. *Description:* This project is to study the problem of thefts of firearms from Federal firearms dealers, and to determine if additional security requirements are necessary. B. *Need:* To further implement the Gun Control Act of 1968; study of firearms thefts, was directed by the decision in *NATIONAL COUNCIL TO CONTROL HANDGUNS vs. BLUMENTHAL*, United States District Court, District of Columbia, No. 77-1574, October 24, 1978. C. *Legal basis:* 18 U.S.C. 926. D. *CONTACT:* James A. Hunt. E. *STATUS:* Currently under internal study at ATF.
	Tobacco Products
Records Requirement for Cigarette Distributors; 27 CFR Part 296 Subpart F.	A. *Description:* Implements record-keeping provisions of Pub. L. 95-575 in order to curtail trafficking of contraband cigarettes. B. *Need:* Records would be useful in tracing the movement of cigarettes and making enforcement of this law easier. C. *Legal basis:* Pub. L. 95-575 (18 U.S.C. 2343). D. *Contact:* Tom Minton. E. *Status:* NPRM under review at Treasury; publication of T.D. targeted for October 1979

Part II—*Regulations Under Review*

Title/Citation	Summary
	Alcohol
Wine; Standard of Identity for Cider; 27 CFR Part 4.	A. *Description:* Liberalizes standard of identity for cider by permitting cider to be made from a mixture of apples and pears. B. *Need:* Responds to a petition from an industry member. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* Tom Minton. E. *Status:* ANPRM under review in ATF; publication targeted for August 1979.
Labeling of Wine; 27 CFR Part 4	A. *Description:* Amends labeling regulations to make bulk-packed wine for consumers conform to same labeling requirements as wine bottled in bottles. B. *Need:* Amendment would eliminate separate statements—"packed by" for containers over four liters, and "bottled by" for containers of four liters or less. This amendment would save money and standardize labels. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* James A. Hunt. E. *Status:* Amendment under internal development; NPRM targeted for October 1979.
Bottles per Shipping Case for Wine and Distilled Spirits; 27 CFR Parts 4 and 5.	A. *Description:* Eliminates the regulatory requirement that distilled spirits or wine be packed with a specified number of bottles per case. B. *Need:* The requirement to pack a specified number of bottles per case has resulted in numerous requests for exemptions due to various reasons. These exemptions have proven to be an administrative burden on ATF, and have hindered industry. Elimination of this requirement will remove an unnecessary restriction. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* James A. Hunt. E. *Status:* Revision under internal development; NPRM publication targeted for October 1979.
The Fetal Alcohol Syndrome; A Public Awareness Campaign; 27 CFR Parts 4, 5, and 7.	A. *Description:* A progress report on the ANPRM (43 FR 2186) summarized the pros and cons of warning labels and described a plan of action to inform the public about the possible dangers that maternal alcohol consumption can present to an unborn child. If after a reasonable period of time these plans of action do not provide a sufficient high level of public awareness to the problems associated with drinking and pregnancy, a warning label as a means of direct communication to the American public will be reconsidered. B. *Need:* Because of the medical and technical evidence submitted in response to the ANPRM, and to avoid unnecessary regulation, ATF has launched a public awareness campaign and is still assessing the warning label proposal. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* Armida N. Stickney or Charles N. Bacon E. *Status:* ANPRM published January 16, 1978 (43 FR 2186). Progress report published February 9, 1979 (44 FR 2186). An industry-Federal public awareness program has been formulated and is being implemented.
Advertising of Wine, Distilled Spirits, and Malt Beverages; 27 CFR Parts 4, 5, and 7.	A. *Description:* The advertising regulations under section 5(f) of the FAA Act are being reviewed for updating and possible revision. B. *Need:* Social and technological changes have made some existing regulation obsolete. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* Tom Minton. E. *Status:* ANPRM published on November 21, 1978 (43 FR 51808); extension of comment period published January 12, 1979 (44 FR 2603).
Partial Ingredient Labeling for Wine, Distilled Spirits, and Malt Beverages; 27 CFR Parts 4, 5, and 7.	A. *Description:* A major revision of FAA labeling requirements for all domestic and imported beverages would require that alcoholic beverage labels list essential components, colorings, flavorings, and preservatives. B. *Need:* This proposal is intended to assist consumers in identifying ingredients contained in alcoholic beverages. C. *Legal basis:* 27 U.S.C. 205. D. *Contact:* Norman P. Blake. E. *Status:* NPRM published February 2, 1979 (44 FR 6740); extension of comment period published June 4, 1979 (44 FR 14577); future action under consideration. F. *Regulatory analysis:* A Regulatory analysis is required and is under development.
Labeling of Distilled Spirits and Wine; 27 CFR Parts 5 and 7.	A. *Description:* Amends labeling requirements to simplify the minimum type size for statements appearing on distilled spirits or wine labels, and converts this size limitation to the metric system. B. *Need:* The present type-size requirement is difficult to interpret and enforce. As part of ATF's metrication program, the type-size requirements should be expressed in metric units. C. *Legal basis:* 27 U.S.C. 205(e). D. *Contact:* Steve Simon. E. *Status:* Currently under internal development; NPRM publication targeted for November 1979.
Transfer of Volatile Fruit Flavor Concentrate between Manufacturing Plants; 27 CFR 18.127.	A. *Description:* Allows volatile fruit flavor concentrate of 15-24% alcohol content to be transferred between volatile fruit flavor manufacturing plants of same ownership. B. *Need:* Concentrates cannot be transferred between manufacturing plants unless reduced in alcohol content. This amendment would liberalize a current restriction on plant operations without jeopardizing revenues. C. *Legal basis:* 26 U.S.C. 5511. D. *Contact:* James A. Hunt. E. *Status:* Revision under internal development; NPRM publication targeted for December 1979.

Part II—*Regulations Under Review*—*Continued*

Title/Citation	Summary
	Alcohol—Continued
Non-Beverage Drawback, 27 CFR Parts 170 and 197.	A. *Description:* This regulatory project will update, clarify, simplify, and reissue the regulations relating to manufacturers of non-beverage drawback products. B. *Need:* Changes in industry practices, ATF policy, ATF procedures, and possible improvements to the regulatory format necessitate the reissuance of these regulations. C. *Legal basis:* 26 U.S.C. 5131–5134. D. *Contact:* Steve Simon. E. *Status:* NPRM under internal development; publication targeted for May 1980.
Formulas for Rectified Products [Form 27–B, Supplemental]; 27 CFR Parts 170, 201, 250, and 252.	A. *Description:* This regulatory project would (1) redesignate the form number and change the title on formulas for rectified products, (2) allow rectifiers to submit a single formula for multiple plant coverage, (3) eliminate the requirement on formulas to include a statement of process, (4) eliminate the requirement for riders to formulas, (5) eliminate the use of new intermediate product formulas, and (6) add a requirement for a written statement from manufacturers of nonalcoholic flavors or blenders used in rectified product formulas showing the ingredients used and the quantities of any ingredients limited under FDA regulations. B. *Need:* This proposal would (1) reduce the number of formulas required to be filed with ATF and (2) expedite the processing and approval of formulas by ATF. C. *Legal basis:* 26 U.S.C. 5201, 5251, and 5065. D. *Contact:* Edward J. Sheehan. E. *Status:* These regulations are being incorporated into the complete revision of 27 CFR Part 201 (to incorporate the Distilled Spirits Tax Revision Act of 1979).
Distilled Spirits Liquor Bottles; 27 CFR Part 173	A. *Description:* Eliminates registration of liquor bottle manufactures with ATF. Liquor bottle indicia requirement is amended to read "Liquor Bottle" and transferred to Parts 201, 250, and 251. B. *Need:* Regulation of the industry is no longer required to protect the revenue. C. *Legal basis:* 26 U.S.C. 5301 and 7805. D. *Contact:* Norman P. Blake. E. *Status:* T.D. currently under internal development; publication targeted for September 1979.
Strip Stamps and Alternate Devices: 27 CFR Parts 194, 201, 250, 251, and 252	A. *Description:* Specific areas to be revised may include (1) the authorization to use alternatives to strip stamps; (2) the elimination of references to serial numbers on strip stamps in the regulations; (3) the elimination of blue and white strip stamps and the substitution of green and red strip stamps, respectively; (4) the elimination of certain overprinting requirements on green strip stamps; and (5) redesignation of form numbers and changes in titles for strip stamp forms. B. *Need:* These regulations implement the provisions of Pub. L. 94–569. C. *Legal basis:* 26 U.S.C. 5202, 5235, and 7805. D. *Contact:* Edward J. Sheehan. E. *Status:* NPRM published November 7, 1978 (43 FR 5808). T.D. under internal development.
Special Tax, 27 CFR Parts 179, 194, 197, 201, and 245.	A. *Description:* Implements adjustments in interest applicable to overpayments and underpayments of special tax, and conforms ATF regulations to changes made by the Internal Revenue Service on Form 11. B. *Need:* Regulations need to be revised to conform to Form 11, and to revise the interest rate statement. C. *Legal basis:* Pub. L. 93–625 and 26 U.S.C. 6621 and 7805. D. *Contact:* Steve Simon. E. *Status:* T.D. w/o N. under internal review; publication targeted for September 1979.
Bonding Requirements; 27 CFR Parts 197, 211, and 213.	A. *Description:* If proposed, certain bond requirements would be decreased or eliminated. B. *Need:* A study of bonding requirements and previous bond defaults has shown that it may be possible to decrease or eliminate bond requirements for some taxpayers without jeopardy to Federal revenues. C. *Legal basis:* 26 U.S.C. 5134 and 5272. D. *Contact:* Steve Simon. E. *Status:* Regulatory change currently under internal study.
Elimination of Bonding Requirements for Certain Experimental Gasohol DSP/s; 27 CFR 201.65.	A. *Description:* Reduces bonding requirements on certain experimental DSP/s producing alcohol for fuel use. B. *Need:* Eliminates an administrative burden for the Government and industry members. C. *Legal basis:* 26 U.S.C. 5312(b). D. *Contact:* Tom Minton. E. *Status:* Bonding requirements currently being studied within ATF.
Marks on Portable Containers of Tax Free Alcohol; 27 CFR Part 201	A. *Description;* This T.D. deleted the requirement for DSP proprietors to mark the purpose of withdrawal on the Government side of each package or case of alcohol withdrawn free of tax. B. *Need:* Based on an internal review of regulations, ATF concluded that the permit number of the tax-free alcohol user on the Government head of a package or side of a case is sufficient information to indicate the purpose of withdrawal. C. *Legal basis:* 26 U.S.C. 5206. D. *Contact:* Edward J. Sheehan. E. *Status:* T.D. ATF–59 was published on July 6, 1979 (44 FR 39389).
Distilled Spirits Meters; 27 CFR Part 201	A. *Description:* Amends regulations to permit taxpayment gauging of distilled spirits by approved metering systems. B. *Need:* Technological advances have made possible an accurate distilled spirits meter. It may be possible to permit taxpayment gauging by this method. C. *Legal basis:* 26 U.S.C. 5552 and 7805 D. *Contact:* Steve Simon. E. *Status:* These regulations are being incorporated into the complete revision of 27 CFR part 201 (to incorporate the Distilled Spirits Tax Revision Act of 1979).

Part II—*Regulations Under Review*—Continued

Title/Citation	Summary
	Alcohol—Continued
Operational Losses of Distilled Spirits; 27 CFR Part 201.	A. *Description:* Increases the amount of allowable losses occurring during bottling operations at DSP/s. Current regulatory allowances are not providing adequate coverage of bottling losses. B. *Need:* To more closely align bottling loses with modern production methods. C. *Legal basis:* 26 U.S.C. 5008. D. *Contact:* Norman P. Blake. E. *Status:* NPRM published July 2, 1979 (44 FR 38573); T.D. publication targeted for August 1979.
Export Storage Facilities at DSP/s; 27 CFR Part 201.	A. *Description:* A liberalization of regulations relating to use of export storage facilities. These regulations would allow the transfer-in-bond of distilled spirits between different export storage facilities. B. *Need:* Present regulations are too restrictive relating to the use of export storage facilities. C. *Legal basis:* Pub. L. 95–176 (26 U.S.C. 5215). D. *Contact:* Charles N. Bacon. E. *Status:* These regulations are being incorporated into the complete revision of 27 CFR Part 201 (to incorporate the Distilled Spirits Tax Revision Act of 1979).
Samples of Distilled Spirits; 27 CFR Part 201	A. *Description:* A liberalization of regulations relating to the withdrawal and use of distilled spirits for research, development, or testing purposes. Specific changes would allow spirits to be withdrawn to central or commercial laboratories and would ease recordkeeping requirements. The schedule of samples would be given one day in advance rather than five days. B. *Need:* Present regulations are too restrictive with regard to the withdrawal of spirits for laboratory analysis or testing. C. *Legal basis:* Pub. L. 95–176 (26 U.S.C. 5214). D. *Contact:* Charles N. Bacon. E. *Status:* These regulations are being incorporated into the complete revision of 27 CFR Part 201 (to incorporate the Distilled Spirits Tax Revision Act of 1979).
Distribution and Use of Denatured Alcohol and Rum; 27 CFR Part 211.	A. *Description:* A reissuance of regulations relating to the distribution and use of denatured alcohol by bonded dealers and users. Requirements will be liberalized and made more simple. B. *Need:* Contains substantive rules which have not been significantly revised in the preceding six years and are complex and can be clarified and simplified. C. *Legal basis:* 26 U.S.C. 5271–5275. D. *Contact:* Charles N. Bacon. E. *Status:* Revision under internal development. NPRM expected in 1980.
Distribution and Use of Tax Free Alcohol; 27 CFR Part 213.	A. *Description:* Reissuance of regulations relating to the distribution and use of tax-free alcohol by qualified individuals. Requirements will be liberalized and made more simple. B. *Need:* Contains substantive rules which have not been significantly revised in the preceding six years and are complex and can be clarified and simplified. C. *Legal basis:* 26 U.S.C. 5271–5275. D. *Contact:* Charles N. Bacon. E. *Status:* Revision under internal development. NPRM expected in 1980.
Formulas for Denatured Alcohol and Rum; 27 CFR Part 212.	A. *Description:* This regulatory project will update, clarify, simplify, and reissue the regulations relating to formulas of denatured alcohol and rum. B. *Need:* Technological changes necessitate revision of 27 CFR Part 212 to conform with industry practice and changes in chemical terminology. C. *Legal basis:* 26 U.S.C. 5241. D. *Contact:* Steve Simon. E. *Status:* NPRM is under internal development; publication targeted for December 1979.
Wine; Public Use Forms; 27 CFR Parts 231 and 240.	A. *Description:* Eliminates several forms required to be kept by proprietors of wineries, and changes the information to be recorded to more accurately reflect operations at wineries. B. *Need:* The maintenance of these public use forms is unnecessary, and may be burdensome to some winery proprietors. C. *Legal basis:* 26 U.S.C. 5367. D. *Contact:* James A. Hunt. E. *Status:* NPRM published April 16, 1979 (44 FR 22473). T.D. under development and publication targeted for October 1979.
Wine; Recodification; 27 CFR Parts 240, 231, and 170 Subpart Z.	A. *Description:* Updates, simplifies, and clarifies regulations relating to wine. Incorporates all regulations and outstanding ATF rulings relating to the production of wine into one CFR Part. B. *Need:* Present rules are at times redundant and confusing. C. *Legal basis:* 26 U.S.C. 7805. D. *Contact:* Tom Minton. E. *Status:* ANPRM published May 22, 1979 (44 FR 2969); NPRM publication targeted for February 1980.
Production of Beer; 27 CFR Part 245	A. *Description:* A reissuance of regulations relating to the production of beer. Requirements will be simplified, and technological advances will be incorporated into the regulations. B. *Need:* Contains substantive rules which have not been significantly revised in the preceding six years, and which are complex and may be simplified and clarified.

Part II—*Regulations Under Review*—*Continued*

Title/Citation	Summary
	Alcohol—Continued
	C. *Legal basis:* 26 U.S.C. 5051–5056, 26 U.S.C. 5401–5417.
	D. *Contact:* Charles N. Bacon.
	E. *Status:* Revision under internal development; NPRM publication targeted for 1980.
Export of Bulk Beer; 27 CFR Parts 245 and 252....	A. *Description:* Allows the export of beer in bulk containers without payment of tax.
	B. *Need:* Eliminates an unnecessary burden on the brewing industry.
	C. *Legal basis:* 26 U.S.C. 5053.
	D. *Contact:* Tom Minton.
	E. *Status:* T. D. w/o N. under review within ATF.
U.S. Customs Certification on Distilled Spirits from Puerto Rico; 27 CFR PArt 250.	A. *Description:* This regulation changes the Customs certification on distilled spirits entering the United States from Puerto Rico.
	B. *Need:* The U.S. Customs Service does not consider Puerto Rican distilled spirits as an import; therefore, it is necessary to revise the certification procedures for these spirits which are brought into the United States from Puerto Rico.
	C. *Legal basis:* 26 U.S.C. 7805.
	D. *Contact:* James A. Hunt.
	E. *Status:* NPRM under internal development, publication targeted for December 1979.
Exportation of Wine, Distilled Spirits, and Malt Beverages; 27 CFR Part 252.	A. *Description:* This regulatory project will update, clarify, simplify, and reissue the regulations relating to the exportation of wine, distilled spirits, and malt beverages.
	B. *Need:* Present procedures for the certification of the export of alcoholic beverages are burdensome upon Government and industry, and do not work well in all cases. ATF has determined to study the export procedures and make necessary changes.
	C. *Legal basis:* 26 U.S.C. 7805.
	D. *Contact:* Steve Simon.
	E. *Status:* NPRM under internal development; publication targeted for December 1979.
Markings on Cases of Distilled Spirits for Export; 27 CFR Part 252.	A. *Description:* Deletes the regulatory requirement to mark cases of distilled spirits for export with the words "Without Payment of Tax" or "Drawback Claimed."
	B. *Need:* The requirement to mark cases of distilled spirits for export is burdensome to proprietors of DSP/s, and this requirement does not serve to protect the revenue.
	C. *Legal basis:* 26 U.S.C. 5206.
	D. *Contact:* Charles N. Bacon.
	E. *Status:* Revision under internal development. T.D. w/o N. publication targeted for September 1979.
	Explosives
Recodification and Redesignation of Explosives Regulations; 27 CFR Part 181.	A. *Description:* Recodification of explosives regulations which are to be updated, clarified, and simplified. It will further implement Title XI of the Organized Crime Control Act of 1970 and will adopt standards of safety and security.
	B. *Need:* The explosives regulations have not been significantly revised in the past six years. Many technological advances have made these regulations obsolete.
	C. *Legal basis:* 18 U.S.C. 847.
	D. *Contact:* James A. Hunt.
	E. *Status:* NPRM published August 3, 1977 (42 FR 39316). T.D. in review and publication targeted for September 1979.
	Firearms
National Firearms Act; 27 CFR Part 179.....	A. *Description:* These regulations would streamline the transfer procedures for title II weapons.
	B. *Need:* The NFA firearms regulations have not been significantly revised in the past six years.
	C. *Legal basis:* 26 U.S.C. 7805 and 26 U.S.C. Chapter 53.
	D. *Contact:* Armida N. Stickney.
	E. *Status:* This regulation project is under internal study.
	Tobacco Products
Importation of Tobacco Products; 27 CFR Part 275.	A. *Description:* Eliminates U.S. Customs Service involvement on importation of Puerto Rican tobacco products. Eliminates direct ATF supervision of tobacco product shipment from Puerto Rico.
	B. *Need:* Eliminates a regulatory burden for the Government and industry members.
	C. *Legal basis:* 26 U.S.C. 7805
	D. *Contact:* Tom Minton.
	E. *Status:* NPRM under internal development; publication targeted for January 1980.
Manufacturer Identification on Tobacco Products Packages; 27 CFR Parts 270, 290, and 295.	A. *Description:* Removes a regulatory requirement relating to labeling. Permits identification of the manufacturer of cigarettes or cigars by means of a code on the label.

Part II—*Regulations Under Review*

Title/Citation	Summary
	Tobacco Products—Continued
	B. *Need:* Special permission for manufacturer identification by code has been approved for use on some labels in certain cases, and no jeopardy to the revenue has been experienced. Consequently, all manufacturers should be permitted to use this method, on the condition that ATF be permitted to identify the codes to any member of the public making a request for such identification.
	C. *Legal basis:* 26 U.S.C. 5723.
	D. *Contact:* Steve Simon.
	E. *Status:* NPRM currently under internal development; publication targeted for May 1980.
Markings on Packages of Large Cigars; 27 CFR Parts 270, 275, 290, and 295.	A. *Description:* This regulation removes the requirement to mark the wholesale price on packages of large cigars. This requirement was added by Pub. L. 94–455.
	B. *Need:* An ATF study disclosed that the requirement to mark wholesale prices on packages of cigars is unnecessary.
	C. *Legal basis:* Pub. L. 94–455 and 26 U.S.C. 7805.
	D. *Contact:* Steve Simon.
	E. *Status:* T.D. w/o N. targeted for December 1979.
Tobacco Products Transferred to Export Warehouses; 27 CFR Parts 275 and 290.	A. *Description:* Proposed regulations would implement Pub. L. 95–455, relating to transfer of liability for tobacco taxes and to exemptions from tobacco taxes.
	B. *Need:* There is a need to incorporate into regulations the changes made by section 1905 of Pub. L. 95–455.
	C. *Legal basis:* Public Law 94–455, 26 U.S.C. 5703 and 5704.
	D. *Contact:* Steve Simon.
	E. *Status:* Currently under internal consideration.
Exportation of Tobacco Products; 27 CFR Part 290	A. *Description:* This regulatory project will update, clarify, simplify, and reissue the regulations relating to the exportation of tobacco products.
	B. *Need:* Changes in industry practices necessitate revision of Part 290. These regulations contain substantive rules which have not been significantly revised in the preceding six years and which are complex and need to be clarified.
	C. *Legal basis:* 26 U.S.C. 7805.
	D. *Contact:* Steve Simon.
	E. *Status:* NPRM under internal development; publication targeted for July 1980.
	Procedures and Practices
ATF Procedural Rules; 27 CFR Part 71.....	A. *Description:* Incorporates all of the procedural requirements which relate to ATF and which now appear in Internal Revenue Service Regulations (26 CFR Parts 301 and 601) into ATF procedural regulations.
	B. *Need:* Eliminates a source of confusion and places all of the procedural regulations into Title 27: Alcohol, Tobacco Products and Firearms.
	C. *Legal basis:* 26 U.S.C. 7805.
	D. *Contact:* Steve Simon.
	E. *Status:* T.D. w/o N. under internal development; publication targeted for December 1979.
Appeal Procedure for Claims for Abatement, Remission or Refund of Excise Taxes; 27 CFR Part 71.	A. *Description:* Establishes an appeal procedure whereby claims denied at the regional level may be appealed to the ATF Director.
	B. *Need:* Current regulations do not provide for an appeal process for a claimant who feels that a claim was unfairly denied by the regional regulatory administrator (except in the case of newly discovered information).
	C. *Legal basis:* 26 U.S.C. 7805.
	D. *Contact:* Steve Simon.
	E. *Status:* Target date for publication of T.D. w/o N. is October 1979.
Disclosure of Tax Return Information; 27 CFR Part 71.	A. *Description:* Proposed regulations would implement Title XIII of Pub. L 94–455, relating to disclosure of tax return information.
	B. *Need:* Regulations may be needed to govern disclosure of tax return information, because of the changes made in this area by Pub. L. 95–455
	C. *Legal basis:* 26 U.S.C. 7609.
	D. *Contact:* Steve Simon.
	E. *Status:* Currently under internal study.

Table of Abbreviations

Abbreviation	Meaning
ANPRM	Advance notice of proposed rulemaking.
ATF	Bureau of Alcohol, Tobacco and Firearms.
CFR	Code of Federal Regulations
DSP	Distilled spirits plant.
FR	Federal Register.
FAA Act	Federal Alcohol Administration Act.
FDA	Food and Drug Administration.
NPRM	Notice of proposed rulemaking
P. L.	Public Law.
T.D.	Treasury decision.
T.D. w/o N.	Treasury decision without notice
Treasury	Department of the Treasury.

[FR Doc. 79–23621 Filed 7–31–79; 8:45 am]

BILLING CODE 4810–31–M

Customs Service

[19 CFR Ch. I]

Improving Government Regulations; Semiannual Agenda

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Semiannual agenda.

SUMMARY: In response to Executive Order 12044, "Improving Government Regulations", and the Treasury Department directive implementing that Executive Order, Customs has prepared and is publishing for public information a list of significant regulations either under development or under review.

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory project described in the agenda, communicate with the person identified as the "Contact". Comments or inquiries of a general nature should be directed to: Todd J. Schneider, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8237).

SUPPLEMENTARY INFORMATION:

Background

On November 8, 1978, the Department of the Treasury published a report in the **Federal Register** (43 FR 52120) to implement EO 12044. The report included a directive that each Treasury bureau or office shall publish a semiannual agenda of significant regulations either under development or under review. The agenda is to describe each regulatory project ("project") being considered, the need for and legal basis for the action being taken, the name and telephone number of a knowledgeable agency official, and whether a regulatory analysis will be prepared. In addition, subsequent agendas will show the status of projects referred to in the previously published agenda. A notice published in the preliminary pages of the **Federal Register** on October 10, 1978 (43 FR xii), provides that Customs will publish its semiannual agenda on February 1 and August 1 of each year.

The following is the second semiannual agenda to be published by Customs. It has been determined that none of the projects listed will require a regulatory analysis under the criteria set out in the Executive Order and implementing Treasury directive.

General statutory authority for the development or review of regulations relating to Customs matters is found in section 301, title 5, United States Code (5 U.S.C. 301), and in sections 66 and 1624, title 19, United States Code (19 U.S.C. 66, 1624). Specific statutory authority, if any, is indicated after the description of each project.

In accordance with the Treasury directive implementing EO 12044, no action, other than preliminary studies, may be taken on any project commenced after May 22, 1978, without Secretarial approval of a "work plan". Work on many of the described projects commenced before May 22, 1978, and therefore, no work plan will be prepared. For these projects, and others which are in an early stage of preparation, no work plans are available to the public. However, projects which either have had work plans approved or are the subject of documents published in the **Federal Register** (FR) as an advance notice of proposed rulemaking (ANPRM), a notice of proposed rulemaking (NPRM), or a final rule—Treasury Decision (T.D.), are identified by work plan number or **Federal Register** citation. Approved work plans are available to the public under the provisions of the Freedom of Information Act, as amended (5 U.S.C. 552), and Part 103, Customs Regulations (19 CFR Part 103). Requests should be addressed to the Freedom of Information and Privacy Branch, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

By direction of the Secretary of the Treasury.

Dated: July 23, 1979.

William T. Archey,

Acting Commissioner of Customs.

Customs Service—*Semiannual Agenda*

Part I—*Regulations Under Development*

Title/Citation (19 CFR—)	Summary
Classification of merchandise/152.24	*Description:* Extension of time before examination by domestic producers of footwear samples appraised at American Selling Price. *Need:* To encourage timely submission of footwear samples to assist Customs in determining proper appraisement. *Authority:* 19 U.S.C. 1202, 1336, 1401a, 1402 *Contact:* Charles E. Wilson (202–566–8651) *Status:* Withdrawn in light of Multilateral Trade Negotiations agreements.
Foreign-trade zones/146.46	*Description:* Change of appraisement practice involving costs of processing and profit for certain merchandise produced in foreign-trade zones. *Need:* To encourage use of domestic labor and materials in foreign-trade zones. *Authority:* 19 U.S.C. 81h *Contact:* Thomas Lobred (202–566–2936) *Status:* NPRM published May 21, 1979 (44 FR 29489).
Entry of merchandise/141.89	*Description:* Modify the Special Summary Steel Invoice to require name of producer and, in some cases, sale price to first unrelated purchaser in U.S. *Need:* To assist Customs in enforcing the "Trigger Price Mechanism" relating to steel imports. *Authority:* 19 U.S.C. 166, 173, 1202, 1481, 1484 *Contact:* Frank Brennan (202–566–8235) *Status:* T.D. 79–79 published March 7, 1979 (44 FR 12411).
Customs accounting procedure; Bonds/Parts 24 & 113.	*Description:* Charge interest on delinquent accounts of importers and others with Customs. *Need:* To encourage importers to pay Customs bills promptly and thereby improve cash-flow. *Authority:* 19 U.S.C. 1623 *Contact:* Robert B. Hamilton (202–566–2596) *Status:* Work Plan in review in Customs.
Customhouse brokers/Part 111	*Description:* Amend regulations relating to responsibilities of customhouse brokers. *Need:* To clarify responsibilities of customhouse brokers and to ensure uniform compliance with applicable regulations. *Authority:* 19 U.S.C. 1641 *Contact:* Edward B. Gable, Jr. (202–566–8047) *Status:* Work Plan 79–5 in review at Treasury Department.
Customs Bonds/Part 113	*Description:* Consolidation of Customs bonds and related forms. *Need:* To simplify bond structure and language preparatory to expansion of AMPS program. *Authority:* 19 U.S.C. 1623 *Contact:* Joseph Goody (202–566–2974) *Status:* NPRM under development.
Vessels: Drawback/Parts 4 & 22	*Description:* Conform regulations relating to Panama Canal Zone to provisions of Panama Canal Treaty. *Need:* Amendments required by Treaty of September 7, 1977 "Panama Canal Treaty." *Authority:* 19 U.S.C. 1466 *Contact:* Patrick J. Casey (202–566–5706) *Status:* T.D. under development.
Entry of noise-emitting merchandise; standards and labelling/Part 12.	*Description:* Regulations to administer the EPA noise emission standard and labelling requirements on certain imported merchandise. *Need:* To implement provisions of Pub. L. 92–572, "Noise Control Act of 1972" *Authority:* General *Contact:* Harrison Feese (505–566–8651) *Status:* NPRM under joint development by Customs and EPA.
American manufacturer's petitions/Part 175	*Description:* Reflect extension of procedures applicable to American manufacturer's petitions to cases involving antidumping and countervailing duties. *Need:* To implement provisions of Pub. L. 93–618, "Trade Act of 1974" *Authority:* 19 U.S.C. 1516 *Contact:* Theodore Hume (202–566–5476) *Status:* Withdrawal document under development in light of Multilateral Trade Negotiations agreements.
Entry of energy-using products; labeling/12.92	*Description:* Implement FTC labelling requirements for certain imported energy-using products. *Need:* Required by provisions of Pub. L. 94–163, "Energy Policy Conservation Act". *Authority:* General *Contact:* Harrison Feese (202–566–8651) *Status:* NPRM under joint development by Customs and FTC.

Customs Service—*Semiannual Agenda—Continued*

Title/Citation (19 CFR—)	Summary
Entry of electronic products/12.90 & 12.91	*Description:* Implement FTC labelling requirements for certain imported electronic products. *Need:* Required by provisions of Pub. L. 93-523, "Public Health Service Act". *Authority:* General *Contact:* Darrell Kast (202-566-5765) *Status:* NPRMs published September 5, 1975 (40 FR 41118) and July 27, 1976 (41 FR 31223). T.D. under joint development by Customs and FTC.
Copyrights/Part 133	*Description:* Amendments to regulations relating to recordation of copyrights with Customs. *Need:* To implement provisions of Pub. L. 94-533, "Copyright Act of 1976". *Authority:* 17 U.S.C. 1603 *Contact:* Samuel Orandle (202-566-5765) *Status:* NPRM under joint development by Customs and Copyright Office.
Relief from duties/Part 158	*Description:* Refund of duties and taxes on alcoholic beverages destroyed or damaged by disaster or breakage. *Need:* Conforming amendment required by Pub. L. 95-423. *Authority:* General *Contact:* Benjamin Mahoney (202-566-5778) *Status:* To be added to Customs Regulations Appendix (cross referenced to the Bureau of Alcohol, Tobacco and Firearms regulations.)
Vessels; navigation fees/4.98	*Description:* Amend fee schedule under which Customs charges and collects fees for specific services provided to vessels. *Need:* To implement provisions of Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978". *Authority:* 31 U.S.C. 483a *Contact:* Jerry Laderberg (202-566-5706) *Status:* NPRM published May 25, 1979 (44 FR 303075).
Entry of merchandise; special permits for immediate delivery/Parts 141 & 142.	*Description:* Revise Consumption Entry (Customs Form 7501) to accommodate new entry procedures. *Need:* To implement provisions of Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978". *Authority:* 19 U.S.C. 1484 *Contact:* William Wagner (202-566-5307) *Status:* Request for comments on the proposed form published May 23, 1979 (44 FR 29916).
Entry and liquidation/Parts 141, 142, and others	*Description:* Amendments relating to the entry and liquidation of merchandise. *Need:* To implement provisions of Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978". *Authority:* 19 U.S.C. 467,1315,1484,1504,1505,1520,1559 *Contact:* Herbert Geller (202-566-5307) *Status:* NPRM published November 29, 1978 (44 FR 55774); T.D. in review at Treasury Department.
Importation of motor vehicles/12.73	*Description:* Conform regulations governing importation of motor vehicles under Clean Air Act to proposed EPA amendments on Federal emission standards. *Need:* To implement provisions of "Clean Air Act of 1955" as amended by Pub. L. 95-95. *Authority:* 19 U.S.C. 1484 *Contact:* Harrison Feese (202-566-8651) *Status:* NPRM under joint development by Customs and EPA.
Petroleum/Part 10	*Description:* Regulation of petroleum exports from Canada. *Need:* Conforming amendment required by Pub. L. 95-159. *Authority:* General *Contact:* G. Scott Shreve (202-566-5307) *Status:* T.D. under development.
Carnets (A.T.A.)/Part 114	*Description:* Extend use of international Customs document (A.T.A. carnet) to professional samples in transit. *Need:* To implement Customs Convention on A.T.A. Carnets (TIAS 6631). *Authority:* General *Contact:* Jerrald Worley (202-566-8607) *Status:* T.D. under development.
Carnets (E.C.S.)/Parts 10 & 114	*Description:* Discontinue use of international Customs document (E.C.S. carnet) relating to entry of commercial samples. *Need:* United States withdrawal from Customs Convention on E.C.S. Carnets (TIAS 6632). *Authority:* General *Contact:* Jerrald Worley (202-566-8607) *Status:* T.D. under development.
Appraisement of merchandise/Part 152	*Description:* Amendments required by new International Valuation Code agreed to in Multilateral Trade Negotiations. *Need:* Multilateral Trade Negotiations. *Authority:* Trade Agreements Act of 1979 *Contact:* Thomas Lobred (202-566-2938) *Status:* Work Plan under development.
Trade fairs/147.46	*Description:* Removal of trade fair merchandise from foreign-trade zones for consumption without permission of Foreign-Trade Zones Board. *Need:* Amendments required to implement provisions of Pub. L. 91-692. *Authority:* 19 U.S.C. 81h *Contact:* William Rosoff (202-566-5856) *Status:* NPRM under development (consolidated with "Customs bonds; letter of credit").

Customs Service—*Semiannual Agenda—Continued*

Title/Citation (19 CFR—)	Summary
Toxic substances/Part 12	*Description:* Administration of EPA prohibition against importation of certain chemical substances, mixtures, or articles. *Need:* To implement provisions of Pub. L. 94-469, "Toxic Substances Control Act". *Authority:* General *Contact:* Harrison Feese (202-566-8651) *Status:* NPRM under joint development by Customs and EPA.
Penalties/Parts 171, 172, and others	*Description:* Final amendments regarding penalties for violations of Customs and navigation laws. *Need:* To implement provisions of Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978". *Authority:* 19 U.S.C. 1466, 1584, 1592, 46 U.S.C. 883, 49 U.S.C. 1509 *Contact:* Edward Rosse (202-566-8317) *Status:* T.D. 79-161 published June 4, 1979 (44 FR 31950).
Recordkeeping/Part 162 and others	*Description:* Final amendments regarding recordkeeping, reporting by customhouse brokers, trademarks, and disposition of forfeited distilled spirits, wines, and malt liquor. *Need:* To implement provisions of Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978". *Authority:* 19 U.S.C. 1491, 1509, 1510, 1511, 1526 *Contact:* John Elkins (202-566-8237) *Status:* T.D. 79-159 published June 4, 1979 (44 FR 31962).
Liquidation of duties/159.9	*Description:* Use of courtesy notice of liquidation (Customs Form 4333-A). *Need:* U.S. Customs Court decision: *Reliable Chemical Company v. United States* (C.R.D. 78-11, June 26, 1978) *Authority:* 19 U.S.C. 1500, 1504 *Contact:* Benjamin Mahoney (202-566-5778) *Status:* Withdrawn. Incorporated into the final amendments relating to the entry and liquidation of merchandise (see "Entry and Liquidation" above).
Vessels, tonnage taxes and light money/4.22	*Description:* Add Nauru to list of countries whose vessels are exempt from special tonnage taxes and light money. *Need:* To provide reciprocity to Nauru-registered vessels. *Authority:* 46 U.S.C. 3, 121, 128, 141 *Contact:* Patrick Casey (202-566-5706) *Status:* T.D. 79-134 published May 10, 1979 (44 FR 27384).
Carries of bonded merchandise/112.11	*Description:* Revise criteria for designating private carriers of bonded merchandise to require only that they file bonds and transport their own property. *Need:* To lessen restrictions of prior regulation. *Authority:* 19 U.S.C. 1551 *Contact:* Donald Beach (202-566-5856) *Status:* Work Plan 70-19 approved; NPRM under development.
Vessels; forms substitution/4.99	*Description:* Authorize printing of Customs forms used in connection with the entry and clearance of vessels by private parties and foreign governments on metric A4 size paper. *Need:* To further U.S. policy regarding metric system and to facilitate international commerce. *Authority:* General *Contact:* John Mathis (202-566-5706) *Status:* Work Plan 79-9 approved; T.D. under development.
Vessels; equipment and repairs/4.14	*Description:* Status of Panama Canal Zone in regard to dutiability of fish net purchases by U.S.-flag vessels. *Need:* To clarify whether vessel repairs and equipment purchases by U.S. vessels in Canal Zone are subject to duty. *Authority:* 19 U.S.C. 1466, 1498 *Contact:* Jerry Laderberg (202-566-5706) *Status:* Withdrawn in light of Panama Canal Treaty.
Vessels; inward foreign manifest/4.7a	*Description:* Provide alternative reporting procedure for bill of lading numbers on cargo declaration forms. *Need:* To simplify reporting requirement. *Authority:* General *Contact:* John Mathis (202-566-5706) *Status:* T.D. 79-31 published January 29, 1979 (44 FR 5649).
Port of entry limits/101.3	*Description:* Clarification and extension of port of entry limits: Las Vegas, Nevada; Sault Ste. Marie, Michigan; Dalton Cache, Alaska; Minot, North Dakota; Saginaw-Bay City-Flint, Michigan; San Francisco, California. *Need:* To improve service to public. *Authority:* 19 U.S.C. 2; E.O. 10289 *Contact:* Robert Schenarts (202-566-8151) *Status:* T.D. 79-74 published March 5, 1979 (44 FR 12029).
Drawback/22.3 & 22.5	*Description:* Expiration of drawback rates, unless renewed, 15 years after issuance or approval. *Need:* To allow Customs to dispose of obsolete records. *Authority:* 19 U.S.C. 1313 *Contact:* Donald Beach (202-566-5856) *Status:* T.D. 79-65 published February 27, 1979 (44 FR 11061).
Port of entry limits/101.3	*Description:* Extend port of entry limits: Buffalo, New York; Puget Sound, Wash., and Providence, R.I.; abolish port of entry at South Bend-Raymond, Ind. *Need:* To improve service to public. *Authority:* 19 U.S.C. 2; EO 10289 *Contact:* Robert Schenarts (202-566-8151) *Status:* T.D. 79-169 published June 15, 1979 (44 FR 34478).

Customs Service—*Semiannual Agenda—Continued*

Title/Citation (19 CFR—)	Summary
Air commerce/6.3 & 6.8	*Description:* Simplification and clarification of aircraft clearance procedures. *Need:* To facilitate clearance of aircraft departing U.S. *Authority:* 49 U.S.C. 1509 *Contact:* John Mathis (202-566-5706) *Status:* Work Plan 79-6 approved; T.D. under development.
Port of entry limits/101.3	*Description:* Extend port of entry limits of Brownsville, Tex. *Need:* To improve service to public. *Authority:* 19 U.S.C. 2; EO 10289 *Contact:* Robert Schenarts (202-566-8151) *Status:* NPRM published February 9, 1979 (44 FR 8276); T.D. under development.
New Customs district/101.3	*Description:* Establish Customs district at Dallas-Ft. Worth, Tex. *Need:* To improve service to public. *Authority:* 19 U.S.C. 2; EO 10289 *Contact:* Robert Schenarts (202-566-8151) *Status:* NPRM published August 15, 1978 (43 FR 36106); T.D. under development.
Transportation in bond/18.8	*Description:* Increase amount of liquidated damages required by carrier's bond for shortage, failure to deliver, or irregular delivery of duty-free merchandise. Carrier also would be liable for duty on dutiable merchandise, as well as liquidated damages. *Need:* To clarify carrier's obligations under required bond and provide for liquidated damages as deterrent to violations. *Authority:* 19 U.S.C. 1551, 1623 *Contact:* William Rosoff (202-566-5856) *Status:* Work Plan 79-11 approved; NPRM under development.
Informal entries/143.23	*Description:* Provide for use of Customs Form 7523 for informal entry of non-commercial, duty-free merchandise, regardless of value. *Need:* Public benefit and Customs convenience. *Authority:* General *Contact:* Drury Williford (202-566-5354) *Status:* Work Plan 79-17 approved; NPRM under development.
Protests/Part 174	*Description:* Specification of Customs charges subject to protest. *Need:* To facilitate filing of protests. *Authority:* 19 U.S.C. 1514 *Contact:* Laurie Amster (202-566-8237) *Status:* Withdrawn as unnecessary.
Customs bonds; letter of credit/Part 113	*Description:* Authorize use of letter of credit in lieu of foreign-trade zone bond to guarantee payment of claims made by Customs against a foreign-trade zone operator. *Need:* To facilitate use of foreign-trade zones. *Authority:* 19 U.S.C. 81c, 1623 *Contact:* William Rosoff (202-566-5856) *Status:* NPRM under development (consolidated with "Trade fairs" above).
Inspection, search, and seizure/162.47	*Description:* Waiver of bond requirement by district director for individuals who show proof of inability to obtain bond. *Need:* Decisions of U.S. Courts of Appeals: *Wiren* v. *Eide*, 542 F. 2d 757 (9 Cir. 1976) and *Lee & Rich* v. *Thornton*, 538 F. 2d 27 (2 Cir. 1976). *Authority:* General *Contact:* Joseph Priddy (202-566-5746) *Status:* T.D. under development.
Personal declarations and exemptions/148.73	*Description:* Execution of written baggage declarations by military personnel. *Need:* To conform Customs and DOD regulations. *Authority:* General *Contact:* Donald Thompson (202-566-5706) *Status:* NPRM under development.
Drawback; bulk-fungible goods/22.5	*Description:* Allow drawback without actual use of bulk-fungible goods if substituted for goods of same kind/quality. *Need:* To extend to other articles privileges now applicable to petroleum products. *Authority:* General *Contact:* Donald Beach (202-566-5856) *Status:* NPRM in review at Treasury Department.
Contiguous countries; manifest discrepancies/123.9.	*Description:* Establish uniform procedures for handling manifest discrepancies of vehicles and certain vessels arriving from contiguous countries. *Need:* To facilitate entry of vessels and vehicles from Canada or Mexico. *Authority:* General *Contact:* Donald Reusch (202-566-5706) *Status:* NPRM published July 28, 1978 (43 FR 32817); T.D. under development.
Vessels; foreign repairs/4.7 & 4.14	*Description:* Revision of requirements and procedures for handling entries relating to foreign repairs and equipment purchases by U.S. vessels. *Need:* To expedite processing of entries. *Authority:* 19 U.S.C. 1466, 1498, 1514 *Contact:* James Fritz (202-566-5706) *Status:* NPRM published April 4, 1978 (43 FR 14080); T.D. under development.
Vessels; coastwise trade/4.80b	*Description:* Incorporate into regulations administrative rulings relating to transportation of merchandise in coastwise trade. *Need:* U.S. Court of Appeals decision: *American Maritime Assn. et al*, v. *Blumenthal*, 590 F.2d 1156 (1978); cert. den. May 14, 1979. *Authority:* 46 U.S.C. 883 *Contact:* William Hart (202-566-5706) *Status:* NPRM published September 14, 1978 (43 FR 46068); T.D. 79-193 published July 19, 1979 (44 FR 42175).

Customs Service—*Semiannual Agenda—Continued*

Title/Citation (19 CFR—)	Summary
Drawback; identification of entries/Part 22	*Description:* Require drawback entries be identified at time of entry. *Need:* To reduce delays in processing drawback claims. *Authority:* 19 U.S.C. 1313; 31 U.S.C. 483a *Contact:* George Steuart (202-566-8453) *Status:* ANPRM under development.
In-bond transportation of merchandise/Parts 18, 123 & 144.	*Description:* Change time limits and other rules relating to in-bond transportation of merchandise. *Need:* To give Customs greater control over merchandise transported in bond. *Authority:* 19 U.S.C. 1552, 1553, 1557, 1623 *Contact:* J. Bradley Lund (202-566-5354) *Status:* NPRM published August 13, 1976 (41 FR 34271) T.D. under development.
Entry of merchandise/141.89	*Description:* To revise the additional information required on entry of footwear. *Need:* To assist Customs in the appraisement and classification of imported footwear. *Authority:* 19 U.S.C. 1202, 1481, 1484 *Contact:* Linda Mays (202-566-2957) *Status:* NPRM published July 28, 1976 (43 FR 32819); after consideration of comments, a second NPRM under development.
Registration of merchandise/148.1	*Description:* New instructions for registration of personal effects taken abroad. *Need:* To ensure uniform registration procedures. *Authority:* 19 U.S.C. 1498 *Contact:* Bernard Harris (202-566-5354) *Status:* Work Plan under development.
Contiguous countries; manifest validation/123.41 & 123.42.	*Description:* Require truck driver carrying merchandise between U.S. and Canada to present manifest for validation by U.S. Customs at U.S. port of departure. *Need:* Jointly initiated by U.S. & Canadian Customs to prevent evasion of duty when merchandise re-enters U.S. from Canada on in-transit documentation. *Authority:* 19 U.S.C. 1553, 1554 *Contact:* J. Bradley Lund (202-566-5354) *Status:* NPRM published December 9, 1976 (41 FR 53610) T.D. under development.
Vessels; entry and clearance/Part 4	*Description:* Clarify entry and clearance requirements for U.S.-flag vessels departing for U.S. Virgin Islands. *Need:* To provide for uniform treatment of vessels in U.S.-Virgin Islands trade. *Authority:* General *Contact:* Donald Reusch (202-566-5706) *Status:* Withdrawn as unnecessary.
Contiguous countries; railroad equipment/123.12	*Description:* Admission of empty foreign railroad equipment without entry and payment of duty in certain instances. *Need:* To clarify permitted use of foreign railroad equipment. *Authority:* General *Contact:* Michael Tomenga (202-566-5706) *Status:* Work Plan 79-18 under development.

Part II—*Existing Regulations To Be Reviewed*

Title/Citation (19 CFR—)	Summary
Bonds/Part 18	*Description:* Transportation in bond and merchandise in transit. *Need:* To ensure consistency of format and style. *Contact:* Paul Hegland (202-566-8237) *Status:* Customs review of draft completed; NPRM under development.
Finance/Part 24	*Description:* Customs financial and accounting procedure. *Need:* To ensure consistency of format and style. *Contact:* Parul Hegland (202-566-8237) *Status:* Customs review of draft completed; NPRM under development.
Duties/Parts 10 & 54	*Description:* Articles conditionally free, subject to a reduced rate, etc., and certain importations temporarily free of duty. *Need:* To ensure consistency of format and style. *Contact:* John Roth (202-566-8237) *Status:* In review in Customs.
Freedom of information/Part 103	*Description:* Availability of information. *Need:* To conform to amendments to Freedom of Information Act made by Pub. L. 93-502. *Contact:* John Roth (202-566-8237) *Status:* NPRM in review at Treasury Department.

[FR Doc. 79-23822 Filed 7-31-79; 8:45 am]
BILLING CODE 4810-22-M

Office of Revenue Sharing

[31 CFR Part 51]

Semiannual Agenda of Regulations

AGENCY: Office of Revenue Sharing, Department of Treasury.

ACTION: Semiannual Agenda of Regulations.

SUMMARY: This is the semiannual agenda of the Office of Revenue Sharing regulations implementing the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.*, as amended by the State and Local Fiscal Assistance Amendments of 1976, Pub. L. 94–488. The agenda is published pursuant to Executive Order 12044.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION: Contact: Herman Schwartz, Chief Counsel, Office of Revenue Sharing, Washington, D.C. 20226, (202) 634–5184.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 12044 "On Improving Government Regulations", and Treasury Department Directive (TD–50 04.F) which implements that Executive Order, the Office of Revenue Sharing has prepared a semiannual agenda which sets forth the significant Revenue Sharing regulations under development and a list of significant existing regulations under review.

Among other amendments, Pub. L. 94–488 revised the nondiscrimination provisions of the State and Local Fiscal Assistance Act to include the prohibition against discrimination on the basis of handicap status, as provided in Section 504 of the Rehabilitation Act of 1973, as amended, and the prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975. Also, the Office of Revenue Sharing is preparing a revision of all of the regulations in 31 CFR Part 51, and amendments resulting from that review will be published in proposed form in the near future.

(This semiannual agenda of regulations is published under the authority of Executive Order 12044 and Treasury Department Directive 50 04.F. The authority of the Office of Revenue Sharing to publish regulations derives from the State and Local Fiscal Assistance Act of 1972, as amended by Pub. L. 94–488, 31 U.S.C. 1221 *et seq.* and Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342) as amended by Treasury Department Order No. 242 (Revision No. 1) dated May 17, 1977.)

Bernadine Denning,

Director, Office of Revenue Sharing.

July 26, 1979.

Roger C. Altman,

Assistant Secretary, Domestic Finance, Department of the Treasury.

Semiannual Agenda of Regulations

I Significant Existing Regulations Under Development

The Office of Revenue Sharing has reviewed all existing regulations published in 31 CFR part 51 pursuant to the State and Local Fiscal Assistance Act of 1972 as amended (31 U.S.C. 1221 *et seq.*). The regulations are currently being revised. A work plan was approved January 1, 1979.

1. The revisions are needed to conform the regulations to changes in case law and existing procedures.
2. For further information contact Herman Schwartz, Chief Counsel for Revenue Sharing, 2401 E St., N.W., Washington, D.C. 20226.
3. A set of proposed regulations containing the revisions will be published in the near future.

II Significant Regulations Under Development

A. Regulations to implement the prohibitions against discrimination under 31 U.S.C. 1242 (a)(1) with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1972. Executive Order 11914 issued April 28, 1976, and the H.E.W. Implementation thereof mandate the issuance of these regulations.

1. The regulation was in progress prior to the effective date of the Treasury Department Implementation of Executive Order 12044, May 22, 1978. Accordingly, a work plan was not required.
2. A proposed regulation was published on April 14, 1978 (43 FR 15735) a final draft has been approved by H.E.W. and is currently under review by the Treasury Department.
3. The regulation is required to implement section 504 of the Rehabilitation Act of 1973, as amended.
4. It has not been decided whether a regulatory analysis will be prepared.

B. Regulations to implement the prohibitions against discrimination under 31 U.S.C. 1242 (a)(1) on the basis of age under the Age Discrimination Act of 1975 as amended. The Age Discrimination Act of 1975 and the H.E.W. Government-wide Age Discrimination Regulations (45 CFR Part 90) mandate the issuance of these regulations.

1. The work plan is currently in progress.
2. The proposed regulation is currently in progress.
3. The regulation is required to implement the Age Discrimination Act of 1975 as amended.
4. It has not been decided whether a regulatory analysis will be prepared.

[FR Doc. 79–23823 Filed 7–31–79; 8:45 am]

BILLING CODE 4810–28–M

federal register

Wednesday
August 1, 1979

Part VII

Department of Housing and Urban Development

Office of the Secretary

Improving Government Regulations; Semiannual Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Subtitles A and B]

[Docket No. R-79-696]

Improving Government Regulations; Semiannual Agenda of Significant Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of significant regulations under development or review.

SUMMARY: Pursuant to section 2(a) of Executive Order 12044, "Improving Government Regulations", the Department is publishing its second semiannual agenda. This agenda lists significant regulations that will be under development or review through January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

ADDRESSES: Rules Docket Clerk, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6703.

Office of Legislation and Intergovernmental Relations, Department of Housing and Urban Development, Room 10120, 451 7th Stret, SW., Washington, D.C. 20410 (202) 755-5005.

SUPPLEMENTARY INFORMATION: Executive Order 12044, "Improving Government Regulations" (43 FR 12661) directs each Executive Agency to adopt procedures to improve existing and future regulations. Publication of an agenda of significant regulations is required at least semiannually in order to give the public adequate notice of agency rulemaking activities.

The Department issued its first semiannual agenda on February 1, 1979 (44 FR 6674).

In fulfillment of requirements imposed by the Executive order, this agenda: (1) Describes significant regulations under development or review by the Department for the period through January 31, 1980; (2) Indicates the need and legal basis for the action being taken; (3) Provides the name and telephone number of an agency official familiar with the regulation, and (4) Indicates, where known, if a regulatory analysis is anticipated.

The agenda also indicates the status of significant regulations which were listed in the February 1, 1979 agenda.

Public commend on the agenda is invited and should be submitted to the Rules Docket Clerk, General purpose State and local governments, and national organizations representing general purpose State and local governments, are invited to notify HUD's Office of Legislation and Intergovernmental Relations of those rules in which they have particular interest. The Office of Legislation and Intergovernmental Relations will acknowledge receipt of any such expression of interest and will bring the matter to the attention of the appropriate drafting office for follow-up attention. Comments should be sent to the addresses listed above.

If necessary, the Department will publish supplemental agendas to identify additional significant regulations under development or review.

Appended to this Notice is HUD's second agency of significant regulations.

Office of Community Planning and Development

A. New Regulations

1. Areawide Housing Opportunity Plan (AHOP)

Description. Would amend basic regulations governing application requirements for the Areawide Housing Opportunity Program.

Need. To update and simplify the present regulations which are published at 24 CFR 891.101 et seq.

Authority. Section 7(d), Department on HUD Act; 42 U.S.C. 3535(d).

Regulatory Analysis. Not yet known.

Contact. Gene Hix, 202-755-5649.

Status. In preparation.

2. HUD Procedure for Protection of Floodplains and Wetlands

Description. Would provide (1) policy direction; (2) substantive requirements; and (3) procedural requirements for Departmental Compliance with Executive Orders 11988 and 11990.

Need. To improve the Department's implementation of Federal policy and mandatory provisions of Executive Orders 11988 and 11990.

(Executive Order 11988 (Floodplain Management) 42 FR 26951; Executive Order 11990 (Protection of Wetlands) 42 FR 26961; Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d).)

Regulatory Analysis. Not yet known.

Contact. Walter Prybyla, 202-755-3409.

Status. In Congressional review.[1]

3. HUD Procedures: Protection of Historic and Cultural Properties Under HUD Programs

Description. Would specify how undertakings for HUD programs are to be reviewed so that the Advisory Council on Historic Preservation is assured of its standing to comment on those which affect properties on the National Register of Historic Places. Will cover all HUD programs including Community Development Block Grant Program (CDBG).

Need. Present HUD regulations now cross reference to Advisory Council Procedures. By Presidential Directive, Council has issued regulafions which HUD must implement through its own counterpart regulations.

Authority. National Historic Preservation Act of 1966; Pub. L. 89-665, 80 Stat. 915; 16 U.S.C. 470.

Regulatory Anaylsis. Not yet known.

Contact. James J. Brennan, 202-755-3409.

Status. In preparation.

4. Indian CDBG Regulations—Housing Assistance Plan

Description. Would amend 24 CFR 571.305(d) and 571.405(e) to make CDBG requirements, pertaining to submittal of Housing Assistance Plans (HAPs), more flexible and responsive to the special needs, cultural traditions, and legal circumstances of eligible Indian tribes and Alaska Natives.

Need. To assist tribes in planning, coordinating and implementing housing with their reservation development.

Authority. Section 107(a)(7) of the Housing and Community Development Act of 1974, as amended; Pub. L. 93-383, 88 Stat. 633, Pub. L. 95-128, 91 Stat. 1111.

Regulatory Analysis. Not yet known.

Contact. Donald G. Dodge, 202-755-6090.

B. Previously Listed Regulations

1. CDBG—Clarification of Program Benefit Requirements

Description. Would clarify the program benefit requirement in the CDBG Program to reflect 1978 statutory amendments.

Need. To implement the 1978 amendments to the Housing and Community Development Act of 1974.

Authority. Section 104(c) of the Housing and Community Development Act of 1974, as amended; Pub. L. 93-383, 88 Stat. 633; Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. Not yet known.

Contact. James R. Broughman, 202-755-6287.

Status. In preparation. No longer classified as routine.

2. Urban Development Action Grants

Description. Would amend existing regulations to reflect changes dictated by needs identified by the Department and participants during the first year of implementation of the UDAG program.

Need. The Action Grant regulations were drafted before the Department began reviewing and approving applications. Changes are required to clarify policy and make technical amendments based on our experience to date.

Authority. Section 119 of the Housing and Community Development Act of 1974, as amended, Pub. L. 93-383, 88 Stat. 633.

Contact. Margaret B. Sowell, 202-742-3947.

Status. Withdrawn.

3. Comprehensive Planning Assistance (701) Program; 24 CFR Part 600—Subparts A to F—Basic Regulations

Description. Would amend the 701 regulations to implement more effectively national objectives set forth by the President's Urban Policy including: (1) Community conservation and aid to distressed communities; (2) Expansion of housing and employment opportunities; and (3) Promotion of orderly and efficient growth. Would provide for waivers from areawide organization requirements regarding board composition in order to facilitate creation of single planning organizations which would undertake unified planning for multiple Federal planning programs.

Need. To initiate activities in support of the President's National Urban Policy.

Authority. Section 701, Housing Act of 1954, as amended, 68 Stat. 640, 40 U.S.C. 461.

Regulatory Analysis. Not yet known.

Contact. Trudy F. McFall, 202-755-6308.

Status. Published as proposed rule 4/11/79.

4. Section 312 Rehabilitation Loan Program

Description. Would implement Section 312 of the Housing Act of 1964 and program changes required by the Housing and Community Development Amendments of 1978.

Need. To implement Section 312 of the Housing Act of 1964 and the Housing and Community Development Amendments of 1978.

Authority. Section 312 of the Housing Act of 1964, as amended; Pub. L. 88-560, 78 Stat. 769, 790; 42 U.S.C. 1452(b); Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. Not yet known.

Contact. Robert I. Dodge, 202-755-6322.

Status. In preparation.

5. Uniform Relocation Assistance and Real Property Acquisition

Description. Would adopt requirements appropriate to the flexible nature of the Community Development Block Grant program under Title I of the Housing and Community Development Act of 1974; would set forth requirements governing acquisition and rehabilitation activities which take place with no intent to displace tenants and make general improvements based on past experience in implementing the Uniform Act.

Need. To benefit from program experience and to present the regulations in a more understandable format.

Authority. Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601; Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Contact. Harold J. Huecker, 202-755-1871.

Status. Published as final rule 5/29/79.

6. Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality

Description. Would implement the National Environmental Policy Act of 1969, by incorporating the provisions of HUD Handbook 1390.1, Procedures for Protection and Enhancement of Environmental Quality, and of Section 905 of the Housing and Community Development Amendments of 1978.

Need. To modify the Department's environmental review procedures to reflect program changes and/or amendments that have affected the comprehensiveness of the basic document (1390.1 Handbook). The modification would incorporate all of these changes into a single Federal Register document.

Authority. The National Environmental Policy Act of 1969; Pub. L. 91-190, 42 U.S.C. 4321, et seq.; Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. Not yet known.

Contact. Fred D. Regetz, 202-755-6296.

Status. In preparation.

7. Environmental Criteria and Standards, Noise Abatement and Control

Description. Would convert the existing noise policy to regulation format and would make revisions and improvements intended to make the policy more flexible and consistent with other Federal agencies' noise programs.

Need. To update, consolidate and clarify procedures and policies set forth in HUD Circulars into regulation form.

Authority. National Environmental Policy Act of 1969; Pub. L. 91-190; Noise Control Act of 1972, Pub. L. 92574.

Contact. James F. Miller, 202-755-8909.

Status. Published as a final rule July 12, 1979.

8. Hazardous Operations of an Explosive or Flammable Nature

Description. Would establish standards for safety separation distances or other mitigation measures to provide a healthful and safe living environment to residential or community projects that would be located in close proximity to industrial installations whose activities include hazardous operations with large quantities of fuels or chemicals of an extremely explosive or flammable nature.

Need. To set safety standards for mixed use development in industrial urban areas.

Authority. National Environmental Policy Act of 1969; Pub. L. 42 U.S.C. 4321 et seq.

Regulatory Analysis. Not yet known.

Contact. James Christopulos, 202-755-6201; Michael T. McGee, 202-755-8909.

Status. In preparation.

9. Comprehensive Planning Assistance: Requirements and Procedures for Managing a Grant

Description. Would set forth requirements and procedures for managing a grant for Comprehensive Planning Assistance and reflect changes made in grant administration pursuant to Office of Management and Budget requirements contained in revised OMB Circular A-102, September, 1977.

Need. To convert existing Handbook for Comprehensive Planning Assistance Program into regulation form and update requirements to reflect changes made in grant administration pursuant to revised OMB Circular No. A-102.

Authority. Sec. 701 of the Housing Act of 1954, 40 U.S.C. 461, as amended by the Housing and Community Development Act of 1974, 42 U.S.C. 5301.

Regulatory Analysis. Not yet known.

[1] In accordance with the requirements of 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557.

V 4 4 / 1 4 9

Contact. Leroy P. Gonnella, 202–755–5649; Joyce Walther, 202–755–5649.

Status. Published as a proposed rule, April 16, 1979.

Office of Fair Housing and Equal Opportunity

A. New Regulations

1. Age Discrimination Act of 1975

Description. Would prohibit discrimination on the basis of age in programs and activities receiving Federal financial assistance including programs and activities receiving funds under the Revenue Sharing Act; would specify permissible age distinctions and reasonable factors other than age for Federally assisted programs and activities, and for recipients of Federal funds; would indicate programs and activities not covered by the ADA Act of 1975.

Need. To implement the provisions of the Age Discrimination Act of 1975, as amended.

Authority. Age Disrimination Act of 1975, 42 U.S.C. 6101 et seq.

Regulatory Analysis. Not yet known.

Contact. Laurance D. Pearl, 202–755–8697.

B. Previously Listed Regulations

1. Compliance Procedures for Affirmative Fair Housing Marketing

Description. Would provide for HUD review of approved AFHM Plans and for procedures, including imposition of sanctions, to assure compliance with approved plans.

Need. To add procedures for processing allegations of violations and imposing sanctions to the existing AFHM regulations (24 CFR Part 200m).

Authority. Executive Order 11064, Equal Housing Opportunity, 27 FR 11527; Title VIII of the Civil Rights Act of 1968, Pub. L. 90–284, 82 Stat. 73, 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

2. Discrimination in the Financing of Housing

Description. Would indicate the Department's view of conduct considered unlawful under Section 805 of the Civil Rights Act of 1968 and would require the collection of data by financial institutions on the race, national origin, and sex of applicants for loans or other assistance relating to dwellings.

Need. To deal with recent experience which indicates that some residential mortgage lenders are discriminating against blacks, other minorities, and women in the making of housing loans.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

3. Department-Wide Regulations Implementing Executive Order 11063

Description. Would establish compliance review and complaint processing procedures and create a compliance mechanism leading to the imposition of sanctions, including referral of cases to the Attorney General.

Need. To implement Executive Order 11063 which requires that all necessary and appropriate action be taken by Federal departments and agencies to prevent discrimination because of race, color, creed, or national origin in residential property and related facilities owned, operated, or provided with Federal financial assistance and in lending practices with respect to residential property and related facilities of lending institutions, insofar as such practices relate to loans insured or guaranteed by the Federal government.

Authority. Executive Order 11063—Equal Opportunity in Housing, 27 FR 11527.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

4. Discrimination in Housing Advertising

Description. Would provide HUD's interpretation of the provisions of Title VIII of the Civil Rights Act of 1968 with respect to discrimination in advertising for the sale or rental of dwellings. Also would indicate the nature of HUD's inquiry into advertising practices in complaint investigations which allege discrimination in advertising based on race, color, religion, sex, or national origin.

Need. To implement Section 804(c) of the Civil Rights Act of 1968 which makes it unlawful to make, print, or publish any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex or national origin and to supplement HUD's Fair Housing Advertising Guidelines.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73, 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

5. Prohibited Broker Conduct Under Title VIII

Description. Would inform brokers as to their responsibilities with respect to fair housing in solicitations, sales of advertising, marketing, and the provision of services pursuant to application of Title VIII of the Civil Rights Act of 1968; also would provide information as to membership in associations, and the use of services among real estate brokers.

Need. To implement Title VIII which prohibits discrimination in the sale or rental of dwellings, discrimination in financing, blockbusting, and discriminatory advertising and which also makes it unlawful to deny any person access to, or membership or participation in any multiple listing service or real estate broker's organization based on race, color, religion, sex or national origin.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73, 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

6. Conduct Which Constitutes Steering Under Title VIII

Description. Would describe real estate practices which could be a violation of Title VIII of the Civil Rights Act of 1968 with emphasis on steering based on race, color, religion, sex, or national origin.

Need. To aid persons in complying with Title VIII by describing practices which constitute steering and to advise prospective buyers and renters of practices, often unrecognized, which unlawfully restrict their range of housing choices.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73, 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

7. Unlawful Zoning and Land Use Practices Under Title VIII

Description. Would describe the applicability fo Title VIII of the Civil Rights Act of 1968 to zoning and land use practices and indicate the tests to be used by HUD in determining whether a violation has occurred.

Need. In dealing with cases where violation of Title VIII through zoning actions was alleged, the courts have provided some indication as to the scope of coverage of Title VIII. Thus the courts have held that Title VIII prohibits discriminatory land use and zoning actions. However, the courts have not articulated a standard for compliance with the Fair Housing Law. In administering the Law, HUD can provide assistance to the public, and local agencies by indicating the tests it will apply in its analysis of complaints alleging discriminatory zoning or land use practices.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73, 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

8. Prohibited Appraisal Practices

Description. Would provide guidance to persons concerning HUD's interpretation of proper standards and policies concerning the appraisal of dwellings; also would advise appraisers and the public of HUD's position concerning practices, procedures, and methods of appraisal which can constitute a violation of Title VIII.

Need. HUD complaint experience has shown that appraisals are the subject of many Title VIII complaints. In the investigation of such complaints, we have found that isntructional materials recognized as being authoritative on appraisal methods contain directions to appraisers which can result in violations of Title VIII of the Civil Rights Act of 1968. Some efforts have been launched to review these materials; however, this process is cumbersome since the Government and each major association of appraisers has voluminous material relating to appraisal policies. A general statement of appraisal policies and practices which may violate Title VIII will be helpful to appraisers in their work and to the public in understanding fair housing considerations in the appraisal of dwellings.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

9. Residential Redlining Under Title VIII

Description. Would indicate HUD's interpretation of Section 804(a) of the 1968 Civil Rights Act with respect to redlining and would set forth the tests to be applied by the Department in investigating allegations of redlining based on race, color, religion, sex, or national origin.

Need. To implement Section 804(a) which makes it unlawful "to refuse to sell or rent . . . or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, or national origin." HUD experience in this area indicates that applicants may not be aware of real estate practices which constitute redlining because of the subtle nature of the practice.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

10. Discriminatory Practices Regarding Property Insurance

Description. Would describe the coverage of Title VIII of the Civil Rights Act of 1968 with respect to denials of property insurance and advise the public as to the tests which HUD will apply in complaint investigations to determine whether violations of Title VIII have occurred.

Need. To implement Title VIII, and to inform prospective owners securing and maintaining property insurance.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73, 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

11. Affirmative Administration of Federal Programs Relating to Housing and Urban Development

Description. Would set forth HUD's interpretation of the Title VIII mandate to administer programs relating to housing and urban development in a manner affirmatively to further the purposes of fair housing, and would identify in general, the nature and types of action HUD will take in the administration of its programs to enhance their impact on the provision of fair housing.

Need. To better implement Sections 808(a), 808(d) and 808(e)(3) of the Civil Rights Act of 1968.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

12. Training and Employment Opportunities for Lower Income Residents

Description. Would provide HUD's interpretation of the provisions of Section 3 of the Housing and Urban Development Act of 1968 with respect to opportunities for training and employment for lower income residents arising in connection with HUD assisted projects, and for contracting opportunities for business concerns located in, or owned in substantial part by persons residing in, the area of HUD assisted projects.

Need. HUD's existing Section 3 regulation was promulgated prior to the enactment of the Housing and Community Development Act of 1974, which established the Community Development Block Grant (CDBG) program. The regulation would provide for interpretations in the context of that program.

Authority. Section 3 of the Housing and Urban Development Act of 1968, Pub. L. 90–448, 82 Stat. 476; 12 U.S.C. 1701, et seq.; and Section 118 of the Housing and Community Development Act of 1974, Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–7007.

Status. In preparation.

13. Implementation of Section 109 of the Housing and Community Development Act of 1974

Description. Would set forth procedures and policies to assure nondiscrimination on grounds of race, color, national origin, or sex in programs and activities receiving assistance under Title I of the Housing and Community Development Act of 1974.

Need. To provide detailed regulations and procedures which describe requirements for compliance with Section 109 of the HCDA of 1974 in regard to nondiscrimination.

Authority. Section 109 of the Housing and Community Development Act of 1974, as amended; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. Not yet known.

Contact. Laurance Pearl, 202–755–8697.

Status. In preparation.

Office of the Inspector General

A. New Regulations

None.

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B. Previously Listed Regulations

1. Exercise of Subpoena Power

Description. Would describe the manner in which subpoena authority may be exercised by the Office of Inspector General under the provisions of the Inspector General Act of 1978.
Need. To implement the Inspector General Act of 1978.
Authority. Inspector General Act of 1978; Pub. L. 95–452, 92 Stat. 1101.
Contact. Frank L. Coveleski, 202–755–6383.
Status. Withdrawn.

2. Audit Guide for GNMA Mortgage Backed Securities Program

Description. Would promulgate an audit guide for use by public accountants in auditing operations of issuers of GNMA-guaranteed mortgage-backed securities. This guide would describe the audit work to be performed by a public accountant at the issuer's office and at the office of its custodian. The guide would require the public accountant to report to GNMA, through the issuer, on the issuer's compliance with GNMA's requirements.
Need. To incorporate procedures and policies in regulation form.
Authority. Inspector General Act of 1978; Pub. L. 95–452, 92 Stat. 1101.
Regulatory Analysis. Not yet known.
Contact. Leonard Wolin, 202–755–6361.
Status. In preparation.

Office of Neighborhoods, Voluntary Associations, and Consumer Protection

A. New Regulations

1. Implementation of Building Energy Performance Standards

Description. Would provide guidance and direction to the public and to State and local governments with regard to the implementation of the Building Energy Performance Standards issued by the Department of Energy.
Need. To provide rules governing the implementation of BEPS according to the statutory requirements.
Authority. Energy Conservation and Production Act of 1976, Pub. L. 94–385, 90 Stat. 1125.
Regulatory Analysis. Yes.
Contact. Archie Twitchell, 202–376–4572.

B. Previously Listed Regulations

1. Neighborhood Self Help Development

Description. Would implement legislation under which HUD is to (1) provide grants and other forms of assistance to qualified neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization, projects in low- and moderate-income neighborhoods, which are in need of preservation and revitalization, and (2) in the process of providing such assistance, increase the capacity of neighborhood organizations to utilize and coordinate resources available from the public and private sectors and from the residents and neighborhoods themselves, in conserving and revitalizing such neighborhoods.
Need. To implement Title VII of the Housing and Community Development Amendments of 1978.
Authority. Title VII, Housing and Community Development Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080.
Regulatory Analysis. Not yet known.
Contact. Joseph McNeely, 202–755–8227.
Status. In preparation.

2. Livable Cities Program

Description. Would implement legislation under which HUD is to assist the efforts of States, local governments, neighborhood and other organizations to provide a more suitable living environment, expand cultural opportunities and, to the extent practicable, stimulate economic opportunities, primarily for the low and moderate income residents of communities and neighborhoods in need of conservation and revitalization, through the utilization, design or development of artistic, cultural or historic resources.
Need. To implement the provisions of Title VIII of the Housing and Community Development Amendments of 1978.
Authority. Title VIII, Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 208.
Regulatory Analysis. Not yet known.
Contact. Kathy Dexter, 202–755–0950.
Status. In preparation.

3. Modular Homes—Excluded Structures

Description. Would amend the Mobile Home Procedural and Enforcement Regulations by setting forth the certification required to be made by manufacturers of modular homes in order to exempt those structures from coverage under the National Mobile Home Construction and Safety Standards Act of 1974.
Need. To clarify application of existing regulations.
Authority. National Mobile Home Construction and Safety Standards Act of 1974, as amended; Pub. L. 93–383, 88 Stat. 633.
Regulatory Analysis. Not yet known.
Contact. Richard A. Mendlen, 202–426–1972.
Status. In preparation.

4. Copper Clad Aluminum Conductors

Description. Would amend the Federal Mobile Home Construction and Safety Standards to make certain sizes of copper clad aluminum conductors acceptable for use in the branch circuit electrical wiring of mobile homes.
Need. To implement legislation which calls for consideration of new and innovative building system.
Authority. National Mobile Home Construction and Safety Standards Act of 1974; Pub. L. 93–383, 88 Stat. 633.
Regulatory Analysis. Not yet known.
Contact. Richard A. Mendlen, 202–426–1872.
Status. Published as proposed rule 2/12/79 at 44 FR 8901.

5. Recreational Vehicles and Similar Structures

Description. Would amend the Mobile Home Procedural and Enforcement Regulations to further clarify the applicability of the National Mobile Home Construction and Safety Standards Act of 1974 to recreational vehicles and similar structures.
Need. To clarify existing regulations which deal with recreational vehicle type structures which are covered by the Act.
Authority. The National Mobile Home Construction and Safety Standards Act of 1974; Pub. L. 93–383, 88 Stat. 633.
Regulatory Analysis. Not yet known.
Contact. Richard A. Mendlen, 202–426–1872.
Status. In preparation.

6. Federal Mobile Home Procedural and Enforcement Standards

Description. Would change the eligibility requirements of certain participants, further delineate the responsibilities of these participants and modify some procedural and enforcement activities.
Need. To enhance the general effectiveness and overall efficiency of the Federal Mobile Home Standards Program. Rule will be designed to ensure the continued participation of States currently in the program and to make the program more attractive to States not presently in the program.
Authority. National Mobile Home Construction and Safety Standards Act of 1974; Pub. L. 93–383; 88 Stat. 633.
Regulatory Analysis. Not yet known.

Contact. Tobias A. Gottesman, 202–472–4703.
Status. In preparation.

7. Interstate Land Sales Full Disclosure Act

Description. Would revise regulations implementing the Interstate Land Sales Full Disclosure Act. Revisions result from a regulation simplification project which has included the use of a "readability consultant", public hearings and extensive consideration of public comment received on the published proposals.
Need. To simplify registration requirements which developers must meet to comply with the Act and provide additional exemptions from registration in those cases where the public interest is not served or where the protection of purchasers is not needed.
Authority. Title XIV of the Housing and Urban Development Act of 1968, as amended; Pub. L. 90–448, 82 Stat. 476.590; 15 U.S.C. 1701.
Contact. Roger C. Henderson, 202–755–6847.
Status. Published as final rule 4/10/79 at 44 FR 21442.

8. Real Estate Settlement Procedures Act

Description. Would revise or add to the existing regulations implementing the Real Estate Settlement Procedures Act. Contents of the proposed rule are now being developed on the basis of public comments submitted in response to an Advance Notice of Proposed Rulemaking which was published on August 5, 1978, with a closing date of December 1, 1978.
Need. This is the first opportunity the public has had to comment on the regulations since they were issued in 1976. At that time, the program was new and the industry and consumers had little or no experience working with the program regulations.
Authority. Real Estate Settlement Procedures Act, Pub. L. 93–533; 88 Stat. 1724; 12 U.S.C. 2617.
Contact. Cynthia D. Lewis, 202–755–7038.
Status. Withdrawn pending completion of major Congressionally-mandated study.

Office of Housing—FHA

A. New Regulations

1. Public Housing—Development Phase

Description. Would amend 24 CFR Part 841 to make changes in processing of applications/proposals for construction of public housing units. Changes would reduce the processing time between submission of an application/proposal and start of construction.
Need. To simplify development phase of public housing and reduce processing time.
Authority. U.S. Housing Act of 1937, as amended by HCD Act of 1974; Pub. L. 93–383, 88 Stat. 633.
Regulatory Analysis. Not yet known.
Contact. Gerald Benoit, 202–755–5846.
Status. In Congressional review.

2. Tax Exempt Obligations of Public Housing Agencies—Use of Guaranteed Mortgage-Backed Securities

Description. would add new subpart to 24 CFR Part 811 to govern use of Federally-guaranteed mortgage-backed securities in connection with tax-exempt obligations for insured Section 8 multifamily projects.
Need. To permit greater flexibility in financing of Section 8 multifamily projects.
Authority. Sections 3(b), 5(b), 8, 11(b) of U.S. Housing Act of 1937, as amended by HCD Act of 1974; cit. supra.
Regulatory Analysis. Not yet known.
Contact. Thomas W. White, 202–755–5750.
Status. Published as proposed rule June 28, 1979.

3. Guarantees for Taxable Obligations of State Housing Agencies

Description. Would amend 24 CFR Part 260 to provide for Federal guaranty of taxable obligations issued by state housing agencies for development of low income housing.
Need. To substitute Federal guaranty for interest subsidy grants on taxable obligations of state housing agencies.
Authority. Section 802(c) of the Housing and Community Development Act of 1974; cit. supra.
Regulatory Analysis. Not yet known.
Contact. Thomas W. White, 202–755–5750.

4. Initial Mortgage Insurance Premium—One- to Four-Family Residences

Description. Would amend 24 CFR Part 203 to require payment of mortgage insurance premiums at the beginning of the insurance year, rather than at the end.
Need. To conform to standard insurance practice in private industry.
Authority. Section 203 of the National Housing Act, 12 U.S.C. 1701, et seq.
Regulatory Analysis. Not yet known.
Contact. Julius M. Williams, 202–755–6700.

5. Prepayment Privilege on Insured Mortgages—One- to Four-Family Residences

Description. Would revise 24 CFR 203.22 to permit a mortgage prepayment in full at any time without notice. Present rule requires notice and permits prepayment only on specified dates.
Need. To conform with VA and FNMA practices.
Authority. Section 203 of the National Housing Act, cit supra.
Regulatory Analysis. Not yet known.
Contact. Julius M. Williams, 202–755–6700.

6. Prepayment of Insured Project Mortgages

Description. Would prohibit prepayment of mortgages insured under Sections 220, 221, 231 and 236 of the National Housing Act without the prior approval of the Federal Housing Commissioner when the project financed has a Housing Assistance Payments Contract in effect.
Need. To prevent unwarranted conversion of Section 8 projects to market rate tenancy.
Authority. Section 220, 221, 231 and 236 of the National Housing Act, cit supra.
Regulatory Analysis. Not yet known.
Contact. George O. Hipps, Jr. 202–755–5720.

7. Supplementary Financing for Project Mortgages

Description. Would amend 24 CFR Part 241 to permit supplementary financing for multifamily projects, group practice facilities, and hospitals not previously insured by HUD and to provide for insured improvement loans for purchase and installation of certain energy conserving systems.
Need. To implement statutory provisions.
Authority. Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080; National Energy Conservation and Production Act; Pub. L. 94–385, 90 Stat. 1125.
Regulatory Analysis. Not yet known.
Contact. George O. Hipps, Jr., 202–755–5720.

8. Section 8 Housing Assistance Payments Program for New Construction

Description. Would revise 24 CFR § 880.109 to remove option of owner to renew housing assistance payments contract for five-year terms, and to prohibit transfer of contract rights without HUD approval.
Need. To assure that housing units built under Section 8 remain available

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as assisted housing for full term of housing assistance payments contract.

Authority. Section 8 of U.S. Housing Act of 1937, as amended by Housing and Community Development Act of 1974, cit. supra.

Regulatory Analysis. Not yet known.

Contact. George O. Hipps, Jr. 202–755–5720.

9. Loans for Housing for the Elderly or Handicapped

Description. Would amend 24 CFR Part 885 (1) to implement new statutory requirement for significant community representation on Section 202 project governing boards; (2) to reduce from 18 to 12 months the time within which construction must begin; and (3) to provide for carryover of unapproved applications for consideration in following year.

Need. To provide community representation on projects with significant impact on community; to shorten time needed for completion of housing; and to provide equitable treatment for applicants denied approval only because of lack of funds.

Authority. Section 205 of Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080, et seq.

Regulatory Analysis. Not yet known.

Contact. George O. Hipps, Jr. 202–755–5720.

10. Coinsurance for Rental Housing Mortgage Loans by Private Mortgage Lenders

Description. Would amend 24 CFR Part 221 to permit coinsurance for rental housing and mortgage loans insured under Section 221(d)(3) or 221(d)(4) of National Housing Act and made by supervised private financial institutions, such as commercial banks, life insurance companies, mutual savings banks, and savings and loan associations.

Need. To encourage investment in multifamily rental housing by the private sector.

Authority. Section 244 of the National Housing Act; Public Law 93–383, 88 Stat. 633.

Regulatory Analysis. Yes.

Contact. George O. Hipps, Jr., 202–755–5720.

B. Previously Listed Regulations

1. Insuring Existing Comdominiums

Description. Would amend 24 CFR 234.25, 234.27 and 234.28 to implement provisons of the Housing and Community Development Amendments of 1978. Would provide for insuring loans financing the purchase of individual units in existing condominiums containing a minimum of 12 units and more than one year old.

Need. To implement the Housing and Community Development Amendments of 1978.

Authority. Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. Not yet known.

Contact. William L. Halpern, 202–755–6720.

Status. In preparation. No longer classified as significant.

2. Mobile Homes—Interest Subsidy

Description. Would provide for an interest subsidy for low income families wishing to purchase mobile homes and lots.

Need. To increase program participation.

Authority. Housing Authorization Act of 1976; Pub. L. 94–375, 90 Stat. 1067.

Regulatory Analysis. Not yet known.

Contact. John L. Brady, 202–755–8686.

Status. In preparation. No longer classified as significant.

3. Coinsurance for Private Mortgage Lenders

Description. Would amend 24 CFR Part 255 to provide co-insurance for private mortgage lenders.

Need. To implement statutory authority for this program.

Authority. Section 244 of the National Housing Act; Pub. L. 93–383, 88 Stat. 633; 12 U.S.C. 1701 et seq.

Regulatory Analysis. Not yet known.

Contact. George O. Hipps, Jr., 202–755–5720.

Status. In preparation.

4. Section 8 Co-ops

Description. Would implement the Section 8 cooperative housing program originally authorized by the Housing and Community Development Act of 1974; would establish policies and procedures for processing applications under that Program.

Need. To establish policies and procedures for processing Section 8 Program applications for Co-op projects.

Authority. U.S. Housing Act of 1937, as amended by Housing and Community Development Act of 1974; Pub. L. 93–383, 88 Stat. 633.

Contact. George O. Hipps, Jr., 202–755–5720.

Status. Withdrawn.

5. Part 881—Section 8 Substantial Rehabilitation

Description. Would revise the current regulations for the Section 8 substantial rehabilitation program to (1) incorporate cost containment provisions, (2) make the regulations easier to understand, and (3) simplify processing procedures.

Need. To incorporate cost containment provisions, make the regulations easier to understand, and simplify processing procedures.

Authority. U.S. Housing Act of 1937, as amended by HCD Act of 1974; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. Not yet known.

Contact. George O. Hipps, Jr., 202–755–5720.

Status. In preparation.

6. Section 8 Farmers Home Administration and Section 515 Rural Rental Housing Projects

Description. Would revise the regulations covering use of the Section 8 program with the Farmers Home Administration (FmHA) Section 515 program to extend coverage to rehabilitation as well as new construction and to clarify the roles of HUD and FmHA.

Need. To simplify processing procedures and improve language for clarity.

Authority. U. S. Housing Act of 1937, as amended by HCD Act of 1974; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. Yes.

Contact. George O. Hipps, Jr., 202–755–5720.

Status. In preparation. No longer classified as significant.

7. Part 880—Section 8 Housing Assistance Payments Program for New Construction

Description. Would revise the regulations for the Section 8 New Construction Program. Revisions would include a new summary and guide, revised basic policies and requirements, and improved processing procedures.

Need. To make the regulations easier to understand and use; to improve processing procedures, including revisions in response to work leveling recommendations; and to implement additional cost containment factors including limitations on rents, replacement costs and project funds distribution, prohibition on excess amenities and imposition of cost reviews.

Authority. United States Housing Act of 1937, as amended by Housing and Community Development Act of 1974; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. Not yet known.

Contact. George O. Hipps, Jr., 202–755–5720.

Status. Published as a proposed rule June 12, 1979.

8. Obligations of Public Housing Agencies—Tax Exemption and Related Amendments

Description. Would amend 24 CFR Part 811 to specify procedures for processing of developments being financed with tax-exempt bonds or mortgages issued as obligations of a Public Housing Agency (PHA) or a PHA instrumentality.

Need. To provide greater program control.

Authority. Section 11(b) of the U. S. Housing Act of 1937; Pub. L. 93–383, 88 Stat. 633.

Contact. Michael Smilow, 202–755–5946.

Status. Final rule published March 6, 1979, at 44 FR 12358.

9. Elimination of Rent Reduction Incentive Section 8 Existing Housing Program

Description. Would delete the Rent Reduction Incentive and prohibit Public Housing Agencies from approving any reduction in the family contribution toward rent for families selecting units renting for less than HUD approved maximum rents.

Need. To respond to concern regarding cost effectiveness of the incentives.

Authority. Section 8 of the U. S. Housing Act of 1937; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. Not yet known.

Contact. Madeline Hastings, 202–755–5656.

Status. In preparation. No longer classified as significant.

10. Interjurisdictional Mobility: Section 8 Existing Housing Program

Description. Would facilitate greater opportunities for families with Section 8 Existing Housing Program Certificates of Participation to find housing of their choice within an SMSA or elsewhere. Selected units must meet Section 8 Existing Housing Program Quality Standards and be within required Fair Market Rents.

Need. To increase housing opportunities by faciliating the use of existing resources.

Authority. Section 8 of the U.S. Housing Act of 1937; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. Not yet known.

Contact. Madeline Hastings, 202–755–5656.

Status. In preparation. No longer classified as significant.

11. Co-Insurance for Single Family Mortgage Loans by Supervised Private Financial Institutions

Description. Would modify the exsiting regulations under 24 CFR Part 204 which prescribe rules governing coinsurance for mortgage loans on single family homes insured under Section 203(b) of the National Housing Act. Would add a new subpart to prescribe a separate set of rules for coinsurance for home loans made by supervised private financial institutions, defined as commercial banks, credit unions, life insurance companies, mutual savings banks, and savings and loan associations.

Need. To increase participation in and effect of program.

Authority. Section 244 of the National Housing Act; Pub. L. 93–383, 88 Stat. 633; 12 U.S.C. 1701 et seq.

Regulatory Analysis. Not yet known.

Contact. Arnold Diamond, 202–755–6924.

Status. In preparation. No longer classified as significant.

12. Congregate Housing Services Act of 1978

Description. Would authorize grants to eligible PHAs and Section 202 project sponsors which contract to have at least two meals, seven days a week, and supportive services, such as housekeeping and personal care services, provided to frail elderly and nonelderly handicapped individuals in order to enable them to avoid institutionalization. Each project would be reviewed by the local area agency on aging or vocational rehabilitation/mental retardation agency, as appropriate, prior to being submitted to HUD.

Need. To implement recent legislation.

Authority. Title IV of the Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. Not yet known.

Contact. Morton Leeds, 202–755–2257; Jerry Nachison, 202–755–6618.

Status. Withdrawn (pending experience gained from demonstration projects).

13. Section 8 Housing Assistance Payments Program—Housing Finance and Development Agencies

Description. Would set forth the procedures for processing and administration of the Section 8 Housing Assistance Payments Program financed by State Housing Finance and Development Agencies and implement cost containment policies.

Need. To implement cost containment policies.

Authority. Section 8 of the U.S. Housing Act of 1937, Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. Not yet known.

Contact. Thomas W. White, 202–755–5750.

Status. In preparation.

14. Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities

Description. Would set forth procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving HUD financial assistance.

Need. To comply with Section 504 of the Rehabilitation Act of 1973, as amended, and Executive Order 11914, which relate to nondiscrimination against handicapped persons.

Authority. Executive Order 11914—Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs, April 28, 1976; Rehabilitation Act of 1973; Pub. L. 93–112, 87 Stat. 355.

Regulatory Analysis. Not yet known.

Contact. David R. Williamson, 202–755–7366.

Status. In preparation.

15. Accessibility Design Standards

Description. Would amend present regulations to prescribe accessibility design standards which apply to all Federal programs involving publicly-owned residential structures constructed, altered or leased with Federal funds. Amendments would conform the rule to legislative changes, make some routine changes, and add a provision to permit program-by-program supplementing of the accessibility standards with numerical or percentage requirements for specific building features such as parking spaces, dwelling units, or elevators.

Need. To clarify present regulations and conform to recent legislation.

Authority. Architectural Barriers Act of 1968, Pub. L. 90–480, 82 Stat. 718.

Regulatory Analysis. Not yet known.

Contact. David R. Williamson, 202–755–7366.

Status. In preparation.

16. Accessibility Design Standards

Description. Would augment the rule at 24 CFR Part 40, which prescribes accessibility design standards under the Architectural Barriers Act of 1968.

Need. To strengthen and coordinate the Department's procedures for compliance with the Architectural Barriers Act of 1968.

Authority. Architectural Barriers Act of 1968, Pub. L. 90–480, 82 Stat. 718; Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 355.

Regulatory Analysis. Not yet known.

Contact. David R. Williamson, 202–755–7366.

Status. In preparation.

17. Flexible Subsidy Regulations

Description. Would implement the flexible subsidy program authorizing legislation as enacted by Congress in the 1978 Housing and Community Development Amendments, define eligible activities, and spell out HUD's program oversight responsibilities.

Need. To implement Section 201 of the Housing and Community Development Amendments of 1978.

Authority. The Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. Not yet known.

Contact. Susan Donohue, 202–755–5677.

Status. In preparation.

18. Unsubsidized Housing Projects—Rent Preemption

Description. Would modify the existing rule on Federal Preemption of Local Rent Control by providing for a tenant comment period and redefining the amount of rental income needed to sustain a project financially.

Need. To improve existing regulations in response to sugnificant public comment.

Authority. Section 7(d) of the Department of Hud Act; Pub. L. 89–174, 79 Stat. 667; 42 U.S.C. 3531.

Regulatory Analysis. Not yet known.

Contact. James Tahash, 202–755–5757.

Status. In preparation. No longer classified as significant.

Note.—The functions of the Federal Insurance Administration (FIA) and the Federal Disaster Assistance Administration (FDAA) have been transferred to the Federal Emergency Management Agency (FEMA); Therefore, further development on the below previously listed rules for FIA and FDAA will be issued by FEMA.

Federal Insurance Admininstration

1. Standard Flood Insurance Policy Revision

Description. Would revise the Standard Flood Insurance Policy to enable policyholders to better understand its provisions, benefits and protections.

Need. To serve the needs of approximately 1.5 million flood insurance policyholders.

Authority. National Flood Insurance Act of 1968; Pub. L. 90–448, 82 Stat. 476.

Contact. Richard W. Krimm, 202–755–5581.

Status. In preparation.

2. Revision of Appeals Procedure

Description. Would address in greater detail the use of administrative hearings to resolve appeals from proposed base flood elevation determinations.

Need. To satisfy due process requirements.

Authority. National Flood Insurance Act of 1968; Pub. L. 90–448, 82 Stat. 476.

Contact. Richard Krimm, 202–755–5581.

Status. In preparation.

3. Marketing of Federal Crime Insurance

Description. Would provide increased marketing incentives for Federal Crime Insurance (FCI) policies and simplify the computation of insurance premiums through adoption of a uniform rate for all cities.

Need. To improve operation of the FCI program.

Authority. Section 1231–4, of the National Housing Act, as amended by Section 602(d), HUD Act of 1970, Pub. L. 609, 84 Stat. 1770, 1789, et seq.

Contact. James Rose, 202–755–6555.

Status. In preparation.

4. Fair Plans

Description. Would revise existing regulations governing the administration of Statewide FAIR Plans, established in response to the Urban Property Protection and Reinsurance Act of 1968, as amended by the Housing and Community Development Act of 1978; would also encourage efforts to stem arson-for-profit.

Need. To implement Section 307 of the Housing and Community Development Amendments of 1978, which requires that FAIR Plan rates be no higher than rates for the same coverage in the voluntary market and that FAIR Plans have public voting members on their boards.

Authority. Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Contact. Robert J. DeHenzel, 202–755–6580.

Status. In preparation.

Federal Disaster Assistance Administration

5. Hazard Mitigation

Description. Would add a new subpart to implement the provisions of Section 406 of the Disaster Relief Act of 1974.

Need. To implement statutory provisions.

Authority. Disaster Relief Act of 1974; Pub. L. 93–288, 88 Stat. 143.

Contact: Charles Stuart, 202–634–7835.

Status. Published as proposed rule April 4, 1979.

6. Floodplain Management

Description. Would add a new subpart to implement the provisions of Executive Orders 11988 and 11990.

Need. Needed to implement Executive Orders.

Authority. Disaster Relief Act of 1974; Pub. L. 93–288, 88 Stat. 143; Executive Orders 11988 and 11990, cit. supra.

Contact. Charles Stuart, 202–634–7835.

Status. Proposed Rule published on June 13, 1979, at FR Vol. 44, No. 115, p. 34048–58.

(Section 2(a) of Executive Order 12044, 43 FR 21661, March 24, 1978).

Issued at Washington, D.C., on July 27, 1979.

Jay Janis,

Acting Secretary, Department of Housing and Urban Development.

[FR Doc. 79–23824 Filed 7–31–79; 8:45 am]
BILLING CODE 4210–01–M *ERR50*

federal register

Wednesday
August 1, 1979

Part VIII

Department of Energy

Economic Regulatory Administration

Refiner, Reseller-Retailer, and Retailer Price Rules for Motor Gasoline

DEPARTMENT OF ENERGY

10 CFR Part 212

[Docket No. ERA-R-79-32-B]

Mandatory Petroleum Price Regulations; Amendments to the Refiner, Reseller-Retailer and Retailer Price Rules for Motor Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts the following amendments to the refiner, reseller-retailer, and retailer price rules with respect to retail sales of motor gasoline.

1. A refiner may not charge a price in retail sales of gasoline which exceeds the refiner's most recent dealer tank wagon selling price to the nearest independent retailer, plus 15.4 cents per gallon, plus applicable taxes.

2. A reseller-retailer may not charge a price in retail sales of gasoline which exceeds the reseller-retailer's most recent dealer tank wagon selling price to the nearest independent retailer, plus 15.4 cents per gallon, plus applicable taxes.

3. All retail sellers of gasoline, including refiners and reseller-retailers, shall post either the maximum lawful selling price of each type and grade of gasoline or a certification that the maximum lawful selling price has been properly calculated and the actual selling price is equal to or less than the maximum allowable selling price for that type or grade of gasoline. The prior provisions requiring the posting of dealer margins is suspended until the receipt and evaluation of public comments.

The purpose of these amendments is to prevent refiners and reseller-retailers from charging prices in retail sales of gasoline in excess of those allowed to be charged by competing independent retailers. Refiners and reseller-retailers shall continue to calculate the maximum lawful selling price for gasoline under the current rules, except that such prices shall not exceed the limitations set forth in the amendments adopted today.

In addition, clarifications are made to the retailer price rule in the definitions of "acquisition cost," and the normal business practices rule has been amended to reflect the new rule.

Certain inadvertent errors and omissions have been corrected regarding the retailer price rule for gasoline.

DATES: Effective date: August 1, 1979: New Amendments; July 16, 1979: Corrective Amendments.

Other dates: Comments on final rules adopted today by November 16, 1979, 4:30 p.m.

ADDRESSES: All comments to Public Hearing Management, Docket No. ERA-R-79-32—B, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214–B, 2000 M Street NW., Washington, D.C. 20461, (202) 254–5201.
William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C. 20461, (202) 634–2170.
Chuck Boehl or Ed Mampe (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254–7200.
William M. Lee (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6754.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Refiner Rule.
III. Reseller-Retailer Rule.
IV. Clarifications: A. Posting Rules. B. Normal Business Practices. C. Definitions.
V. Corrective Amendments.
VI. Procedural Requirements.

I. Background

On June 22, 1979, DOE issued a notice of proposed rulemaking regarding price rules for retail sales of gasoline. Specific comments were requested with respect to refiner and reseller retail outlets.

On July 15, 1979, the DOE issued final rules regarding the retailer price regulations for motor gasoline. 44 FR 42541 (July 19, 1979). In effect, the new rules require that retailers' maximum lawful selling prices for each grade or type of gasoline not exceed the most recent acquisition cost, plus 15.4 cents per gallon, plus applicable taxes. Retailers' current and prospective "banks" were eliminated. The equal application rule is no longer effective with respect to retail sales of gasoline by retailers. Accordingly, with respect to sales of gasoline by retailers, the DOE has adopted a totally different and much simplified method of computing the maximum lawful selling price. Because the July 15 rule only dealt with retailers, DOE continued the June 22 rulemaking with respect to reseller-retailers and refiners. Today's final rule imposes a limit on retail sales by reseller-retailers and refiners in accord with that adopted for independent retailers but leaves open certain other issues which should be addressed in the comments on this rulemaking.

A possibility exists that substantial price differentials will develop between the maximum lawful selling price permitted for sales of gasoline at the retail level by refiners, reseller-retailers, and retailers. This is because refiners and reseller-retailers must continue to compute their maximum lawful selling prices for retail sales of gasoline under the current refiner and reseller-retailer price rules which permit certain cost elements, which are now excluded from retailers' maximum lawful selling price computations, to be included in their maximum lawful selling price calculations. For example, refiners and reseller-retailers may include "banks" in their maximum lawful selling price computations. Accordingly, in a shortage situation, when it is generally possible for retail dealers to charge the maximum lawful selling price, it is necessary to limit refiners' and reseller-retailers' maximum lawful selling prices to an amount approximately equal to retailers' maximum lawful selling prices in order to preserve competition and prevent price gouging and distortions, supply disruptions and dislocations, and inflationary price increases.

Therefore, DOE is adopting today final rules for refiners and reseller-retailers which will prevent extreme price differentials among the maximum lawful selling prices for retail sales of gasoline by refiners, reseller-retailers, and retailers. These amendments, which are limitations on refiners' and reseller-retailers' maximum lawful selling prices, are to be applied in addition to the current price rules. In other words, the new rules will only become operative if a refiner's or reseller-retailer's calculation of its maximum lawful selling price exceeds that permitted under the regulations adopted today.

In today's amendments, we are also adopting on an interim basis certain other changes to the rules adopted on July 15. These changes are intended to respond to comments received which have pointed out certain problems created by the regulations, including clarification of certain provisions in the rules adopted July 15.

The final rules adopted today do not establish limitations on the retail selling price for gasoline by refiners and reseller-retailers which do not sell gasoline to independent retailers at dealer tank wagon prices. DOE invites comments on the appropriate limitations

DOE should impose on retail prices by refiner and reseller-retailers which do not have sales to independent retailers at dealer tank wagon prices.

II. Refiner Rule

Under the rule adopted today, refiners who sell at retail will continue to be subject to the existing refiner price rules. However, a refiner may not charge a price in retail sales of gasoline which exceeds the refiner's most recent dealer tank wagon price to the nearest independent retailer, plus 15.4 cents per gallon, plus applicable taxes (as defined in § 212.92). In effect, refiners are now subject to a second limitation on the price they may charge in retail sales of gasoline.

The possibility exists that certain refiners may be denied the opportunity to recoup a portion of their total increased costs because of the application of the equal application rule in conjunction with the new retail price limitation adopted today. Accordingly, today's rule also provides an exception to the requirements of the equal application rule to the extent the refiner's retail selling price is restrained by the new retail price limitation and thereby results in unequal recovery of costs among classes of purchaser. In other words, when calculating the amount of increased costs a refiner is deemed to have recouped in a month, any increased costs the refiner is precluded from recouping because of the rules adopted today will not be deemed to have been recouped pursuant to the equal application rule.

The DOE emphasizes that the limitation adopted today does not permit refiners to recoup additional revenues. The purpose and effect of the rule is to prevent severe price differentials, price gouging, and inflationary prices at the retail level.

Today's rule does not address the possibility that continued operation of the refiners' price rule to retail sales of gasoline by refiners may result in holding some refiners' retail prices at well below competitive levels and cause them to increase their market shares at the expense of independent retail dealers. During the present shortage this possibility is reduced because most stations are subject to allocation fractions and are able to sell their available supply regardless of price. However, we specifically request comments on whether further changes should be made in these rules to prevent refiners from being forced to undercut their retail competition and, if so, how such changes should be made.

III. Reseller-Retailer Rule

Under the rules adopted today, reseller-retailers may not charge a price in retail sales of gasoline which exceeds the reseller-retailer's most recent dealer tank wagon selling price to the nearest independent retailer, plus 15.4 cents per gallon, plus applicable taxes. This new rule is in addition to the current rules which remain applicable and in effect imposes a second limit on the maximum amount a reseller-retailer may charge in retail sales.

As is the case with refiner-retailers, the existing price rules for reseller-retailers may result in such firms being constrained by maximum lawful selling prices at retail that would cause them to undercut substantially their independent retailer competition. We specifically request comments on whether further changes to the regulations should be made to prevent their forcing reseller-retailers to charge prices that are significantly below competitive levels and, if so, how such changes should be structured.

The rules adopted today do not address the calculations of the maximum allowable prices for retail sales of gasoline by refiners and reseller-retailers which do not sell at dealer tank wagon to independent retail dealers. We ask comments on whether such a rule is required and, if so, what regulatory changes might be adopted. For example, actual transportation costs to retail stations or a specific cents per gallon allowance (perhaps based on the national rack minus DTW differential) might be utilized to impute a DTW price.

IV. Clarifications

A. *Posting Rules.*—In the rules adopted on July 15, we required retailers to post both their maximum lawful prices and the maximum lawful margins allowed by the new rules. Since then we have received numerous complaints to the effect that such posting requirements will have an anticompetitive effect, in that the posting of either maximum prices or maximum margins will allow competitors to determine what a dealer is paying for gasoline. Many non-branded dealers particularly consider such information highly confidential, since its disclosure would facilitate predatory pricing practices by competitors. Other dealers have complained that the margin posting requirement particularly is unnecessary and might be misunderstood by the public as a net profit amount.

We continue to believe that the posting of price, margin and other relevant information is useful to the consumer in understanding what his rights are under the regulations. However, in light of our concern for possible anticompetitive consequences, we have decided to limit the posting requirements adopted on July 15 until further public comments are received in November, to the following requirement:

All retail sellers of gasoline shall post either the maximum lawful selling price on a cents-per-gallon basis for each type and grade of gasoline sold at the outlet *or* a certification that the retail seller has computed its maximum lawful selling price and that its actual selling price is equal to or less than the maximum lawful selling price allowed by DOE regulations for the particular type or grade of gasoline concerned. The first part of this rule—the posting of the maximum selling price—is the same as the rule in effect prior to July 15. The second part—allowing the option of certifying the legality of the actual selling price—allows retailers an option of posting in a way that prevents disclosure of the price they pay their supplier for gasoline.

The postings shall be either on the gasoline pump or in a prominent place at the retail outlet. A prominent place is a location which is easily visible by a customer purchasing gasoline at the station.

The posting requirements will apply to all retail sales of gasoline at retail outlets by refiners, reseller-retailers, and retailers. They only apply to retail sales of gasoline at retail service station outlets and do not apply to retail sales made at other than retail service outlets.

If any retail seller of gasoline is found to have violated the posting requirements, DOE's enforcement staff may impose, in addition to the penalties otherwise applicable, the requirement that the retail seller decrease its maximum lawful selling price by five (5) cents per gallon for each day the firm has been found to have violated the posting rules, plus an additional thirty (30) days.

The posting requirements adopted today are effective immediately with respect to all retail sellers of motor gasoline. However, we continue to seek public comments on the appropriate posting requirements that will meet the objectives of providing consumers with relevant and useful information regarding regulated prices and assuring maximum possible compliance with the regulations, while also keeping burdens on retail sellers to a minimum. We particularly urge comments on these issues from retail dealers, consumer organizations and government agencies concerned with the consumer protection

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and competitive aspects of the posting requirements.

B. *Normal Business Practices.*—The normal business practices rule found in § 210.62 is amended with respect to retailers to clarify which business practices a retailer may change or modify under the new retailer pricing rules for gasoline.

Retailers may charge separately (but not on a cents per gallon basis) for other services offered at the retail outlet. However, retailers may not require the purchase of such other services as a condition of buying gasoline.

Retailers may maintain full serve and self serve islands with different posted prices, provided the higher of the two prices is within the maximum allowable price. They may also, for example, maintain a full serve island at which an extra charge is made for performing services in addition to pumping gasoline. In such cases, however, a purchaser who declines to receive the extra services must still be given the option of buying gasoline at that island and having it pumped into his car for him without having to pay the extra service charge.

Similarly, a retailer has discretion whether or not to honor credit cards, without regard to historical practice. The retailer is not prohibited by the price rules from imposing a charge for honoring credit cards, provided that the customer has the option of paying cash.

A retailer which included the service of pumping gasoline as part of its May 15, 1973 price is not required to continue doing so. It may offer self serve only and may charge the maximum allowable markup. However, a retailer may not charge a fee to pump or dispense gasoline to the consumer.

C. *Definitions.*—The definition of "acquisition cost" is clarified with respect to firms with multiple retail stations and a single inventory and firms which receive multiple deliveries into inventory on a daily basis.

Retailers with several retail stations which historically make more than three purchases in a twenty-four hour period, shall compute the acquisition cost using the weighted average price as documented by invoices or other written evidence for the three (3) preceding days.

The calculation of the acquisition costs by gasoline retailers may be based only upon receipt of written evidence documenting the price at which the retailer is purchasing the gasoline. The written evidence may take the form of a telegram or invoice. However, the retailer may not calculate acquisition costs until delivery of the gasoline has been made. Thus, the change in acquisition price should occur when the retailer first receives written evidence of the price it is to pay for a specific delivery of gasoline and the gasoline has been delivered.

"Tax cost" is being amended to clarify that the cost must be computed on a cents-per-gallon basis but it is not necessary that the tax be levied on a cents-per-gallon basis. In other words, tax cost includes all allowable taxes imposed directly on gasoline, regardless of how the tax is assessed.

It is not necessary that the allowable tax be expressed in terms of cents-per-gallon, provided it is in the nature of a sales tax rather than an income tax. However, it must be a tax that is calculated in such a way that the precise amount of the tax can be determined and imposed at the time of a gasoline sale. Thus, a percentage sales tax is also eligible for inclusion within the definition. In addition, Ruling 1974–4, relating to taxes imposed on gross revenues, remains in effect.

V. Corrective Amendments

The July 15, 1979 final rule for retail sales of gasoline by retailers contained certain inadvertent errors and omissions which have been corrected in the appended final rule. It should be noted that among the inadvertent errors appearing in the July 15 final rule was the deletion from 10 CFR 212.92 of the definitions of "Increased rental cost" and "Vapor recovery system cost" and the deletion of 10 CFR 212.93(b)(1)(i) and (ii). These provisions should not have been deleted, as they have applicability to reseller-retailers which market motor gasoline at the retail level, as well as to independent retailers, and were therefore not intended to be affected in that regard. Accordingly, the definitions of "Increased rental cost" and "Vapor recovery system cost" are to remain in § 212.92 and the provisions of § 212.93(b)(1)(i) and (ii) continue to be applicable to retail sales of motor gasoline by sellers other than retailers.

DOE stresses that any firm that is adversely affected by today's rules may apply to DOE's Office of Hearings and Appeals pursuant to Part 205 for an exception to such rules.

VI. Procedural Requirements

A. *Section 501 of the DOE Act.*—Section 501(b)–(d) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91) contains certain procedural requirements relating to rulemakings. Among them is a requirement that at least 30 days be provided for comment with respect to proposed rulemakings. Under section 501(e) of the DOE Act, we may waive this 30 day requirement, as well as the other requirements of section 501(b)–(d) upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare. For the following reasons, DOE believes such a finding can and should be made in this instance. First, extreme price differentials could develop among refiners', reseller-retailers', and retailers' maximum lawful selling prices of gasoline at the retail level. Such differentials could cause severe disruptions and imbalances in the supply and distribution of motor gasoline. Such disruptions and imbalances will cause serious harm and injury to the public health, safety and welfare. Second, the inflationary impact and price distortions which could result if these rules are not adopted immediately, will cause severe economic harm and injury. Therefore, for the reasons stated above and for the reasons stated in the preamble to the final rules adopted July 15, 1979, regarding the retailers' price rules for motor gasoline, we have waived these requirements to the extent necessary to adopt these amendments effective August 1, 1979.

B. *Section 553 of the Administrative Procedure Act.*—Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. We have determined that good cause is found to waive the section 553(d) requirement for the reasons stated above in support of adopting the amendments effective immediately.

C. *Written Comments.*—DOE will accept written comments on the final rules adopted today through November 16, 1979. DOE is permitting this extended comment period to allow interested parties to submit additional comments on appropriate changes or amendments to the rules once they are in effect. We are particularly interested in receiving comments concerning the definition of "acquisition cost," the posting requirements, and the new normal business practices rule.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70 and Pub. L. 95–619; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23785; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below effective August 1, 1979, with respect to the new amendments added today and July 16, 1979 with respect to the corrective amendments to the retailer price rule.

Issued in Washington, D.C., July 30, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

1. Section 210.62 is amended to add a new paragraph (d) to read as follows:

§ 210.62 Normal business practices.

* * * * *

(d) Notwithstanding the provisions of this section:

(1) A retailer of gasoline may charge a fee for services offered for sale by the retailer provided: (i) the fee is not computed on a cents per gallon basis, and; (ii) the purchase of gasoline by the ultimate consumer is not contingent upon the purchase of any other service.

(2) A retailer shall not charge a fee to "pump" or dispense gasoline to the ultimate consumer.

(3) A retailer may offer discounts, premiums, and different commodities, services, credit terms or schedules, and equipment, than previously offered or sold.

* * * * *

2. Section 212.83(c)(1)(i) is amended to add a new subparagraph 212.83(c)(1)(i)(C) to read as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.*

* * * * *

(1) *Allocation of increased costs incurred in the period "t"*—(i)(A) * * *.

(C) Notwithstanding any other provision of this Subpart, a refiner which sells gasoline to independent retailers at dealer tank wagon prices, may not charge a price in retail sales of gasoline at a retail outlet which exceeds the refiner's most recent dealer tank wagon price to the nearest independent retailer to that retail outlet, plus 15.4¢ per gallon, plus tax cost as defined in § 212.92.

* * * * *

3. Section 212.83(h)(2)(iv) is revised to read as follows:

§ 212.83 Price rule.

* * * * *

(h) *Equal application among classes of purchaser.*

* * * * *

(2) *Special rules.*

* * * * *

(iv) *Retail sales of gasoline by refiners.* (A) When a refiner calculates the amount of increased costs not recouped that may be added to May 15, 1973, selling prices of gasoline to compute maximum allowable prices in a subsequent month, it may, notwithstanding the general rule in [subparagraph (1) above] of this section, compute revenues as though (I) the greatest amount of increased costs actually added to any May 15, 1973, selling price of gasoline and included in the price charged to any class of purchaser that purchases gasoline at retail from a refiner at any service station operated by employees of the refiner had been added to the May 15, 1973, selling prices of that product and included in the price charged to each class of purchaser that purchases gasoline at retail from a refiner at any service station operated by employees of the refiner and, (II) the greatest amount of increased costs actually added to the May 15, 1973, selling price of gasoline and included in the price charged to any class of purchaser that purchases gasoline at retail from a refiner at any service station operated by employees of the refiner had been added, in the same amount (less any actual differential or three cents per gallon, whichever is less) to the May 15, 1973 selling prices of gasoline and included in the price charged to all other classes of purchaser.

(B) When a firm calculates the amount of increased costs not recouped that may be added to the May 15, 1973, selling price of gasoline to compute maximum allowable prices in a subsequent month, it may, notwithstanding the general rule in subparagraph (1) above, with respect to retail sales of gasoline, include the amount by which the greatest amount of increased costs actually added to any May 15, 1973, selling price of gasoline to any class of purchaser exceeds the amount of increased costs which could have been added to the May 15, 1973, selling price in retail sales of gasoline but for the limitation in § 212.83(c)(1)(i)(C).

* * * * *

4. Section 212.92 is amended to correct the inadvertent deletion of the definitions of "Increased rental cost" and "Vapor recovery system cost." "Increased rental cost" follows the definition of "Exchange" in the section and "Vapor recovery system cost" is the last definition in the section. The definitions of "Acquisition cost" and "Tax cost" are amended to read as follows:

§ 212.92 Definitions.

For purposes of this Subpart—

"Acquisition cost" means: (a) for retailers which make three (3) consecutive purchases from the same supplier, the actual purchase price paid for the most recent purchase of a product, or;

(b) for all other retailers, the weighted average purchase price paid for the three (3) most recent purchases computed on a cents per gallon basis.

(c) Notwithstanding the provisions in paragraph (a) and (b) above, for any retailer which historically makes more than three (3) purchases in a twenty-four (24) hour period, the acquisition cost is the weighted average purchase price paid in the immediately preceding three (3) day period.

(d) The purchase price shall:

(1) be computed on a cents per gallon basis;

(2) be substantiated by written evidence of delivered product; and

(3) Include transportation costs of bringing the product into inventory.

(e) DOE may disallow any purchases which have the effect of frustrating the purpose of the price regulations.

* * * * *

"Increased rental cost" means the rent, in terms of cents per gallon, with respect to that portion of real property leased for purposes of retail gasoline sales, paid to an independent lessor for the calendar month preceding the calendar month in which gasoline is sold minus the rent, stated in terms of cents per gallon, with respect to the same real property leased for purposes of retail gasoline sales, paid to an independent lessor for the month of May 1973. For purposes of this paragraph, "independent lessor" means a lessor which is not directly or indirectly controlled by the lessee concerned or by any firm which directly or indirectly controls that lessee.

* * * * *

"Tax cost" means the cost of federal, local, and state excise, sales, and other similiar taxes attributable to gasoline sales and computed on a cents per gallon basis. Federal, state, and local income, property, franchise, and other similar taxes are not included in this amount.

* * * * *

"Vapor recovery system cost" means the unrecovered installation and purchase cost incurred by the seller since May 15, 1973 with respect to a gasoline vapor recovery system required by a Federal, state, or local governmental authority. For purposes of this paragraph, the cost incurred with respect to a vapor recovery system may be recovered in one month or may be prorated over a period of months. Each seller will be required to establish an accounting method by which vapor recovery costs shall be recovered. Once the method is established, the seller will apply the method consistently over the period for the recovery of costs. A seller may not recover in sales of gasoline a total amount attributable to such costs which exceeds the seller's actual vapor recovery system cost. In any one month, the portion of vapor recovery system costs that are available for recovery in that month shall be applied equally to, and shall be deemed to have been recovered on, each gallon of gasoline sold and for purposes of § 212.83(f) of this Part shall be deemed to have been recovered before all other nonproduct costs.

* * * * *

5. Section 212.93(a) is revised to read as follows:

§ 212.93 Price rule.

(a)(1) Except for retail sales of gasoline by retailers, a seller may not charge a price for an item subject to this subpart which exceeds the weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects, on a dollar-for-dollar basis, the increased product costs concerned. Each seller shall maintain records sufficient to justify prices charged which reflect increased product costs, including, if applicable, records which demonstrate that the seller qualifies to determine increased product costs according to separate inventories. With respect to an item which is blended by the seller, and which was not sold by the seller on or before May 15, 1973, the "weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973" shall be imputed to be the lawful price charged by the seller for the predominant covered product in the blend in transactions with the class of purchaser concerned on May 15, 1973.

(2) With respect to sales of gasoline by retailers, a retailer may not charge a price in a sale of any type or grade of gasoline which exceeds the most recent acquisition cost, plus 15.4 cents per gallon, plus tax costs attributable to sales of that type or grade of gasoline. Beginning December 15, 1979, DOE shall adjust semi-annually the fixed cents per gallon markup to reflect the GNP deflator.

(3)(i) Upon ten (10) days prior notice to the Administrator, the Governor of a State may increase the fixed cents per gallon markup as described in subparagraph (a)(2) above for all or some of the retailers in the State by an amount not to exceed ten (10) cents per gallon provided the increase is cost justified and achieves the objectives of the Emergency Petroleum Allocation Act of 1973, as amended. The Governor must receive prior approval from the Administrator to grant any other increases to the fixed cents per gallon markup.

(ii) Any adjustments to the fixed cents per gallon markup made by the Governor pursuant to this section may be disallowed by the Administrator at any time.

(iii) For purposes of this section, the term "Governor" includes the Governors of the 50 States, and the Chief Executive Officers of the District of Columbia, Puerto Rico, and the territories and possessions of the United States, other than the Panama Canal Zone.

(4) With respect to retail sales of gasoline by reseller-retailers which sell gasoline to independent retailers at dealer tank wagon prices, a reseller-retailer may not charge a price in retail sales of gasoline at a retail outlet which exceeds the most recent dealer tank wagon price the reseller-retailer charged to the nearest independent retailer to that retail outlet, plus 15.4 cents per gallon, plus tax costs.

* * * * *

6. Sections 212.93(b)(1) (i) and (ii) which were inadvertently deleted are reinserted and amended to read as follows:

* * * * *

(b) Notwithstanding the provisions of paragraph (a) of this section:

(1) With respect to gasoline: (i) in retail sales, a seller (other than a retailer) may charge one cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section, and, with respect to all other sales a seller may charge one-half cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section to reflect non-product cost increases that the seller incurred after May 15, 1973, provided that, subsequent to January 1, 1979, such non-product cost increases shall not include those costs that are or could have been recovered under either paragraph (b)(1)(ii)(B) or paragraph (b)(1)(ii)(C) of this section.

(ii)(A) Beginning with March 1974, in retail sales of gasoline, a seller (other than a retailer) may charge two cents per gallon of gasoline in excess of the amount otherwise permitted to be charged for that item pursuant to this section, including paragraph (b)(1)(i) of this section, to reflect increases in non-product costs incurred by the seller concerned since May 15, 1973, provided that, subsequent to January 1, 1979, such non-product cost increases shall not include those non-product costs that are or could have been recovered under either paragraph (b)(1)(ii)(B) or paragraph (b)(1)(ii)(C) of this section.

(B) Beginnning January 1, 1979, in retail sales of gasoline, a seller (other than a retailer) may charge an amount in excess of the price otherwise permitted to be charged for that item pursuant to this section (including paragraphs (b)(1)(i) and (b)(1)(ii)(A) of this section), which reflects increased rental costs not otherwise recovered.

(C) Beginning January 1, 1979, in retail sales of gasoline, a seller (other than a retailer) may charge an amount in excess of the price otherwise permitted to be charged for that item pursuant to this section (including paragraphs (b)(1)(i) and (b)(1)(ii) (A) and (B)), which reflects a portion of vapor recovery system cost as set forth in § 212.92 not otherwise recovered.

* * * * *

7. Section 212.93(e) is amended by adding new subparagraphs (3) and (4) to read as follows:

* * * * *

(e) Notwithstanding the provisions of paragraph (a) of this section and except for retail sales of gasoline by retailers:

* * * * *

(3) With respect to retail sales of gasoline by retailers, increased product costs not recouped on or before July 16, 1979 shall not be carried forward pursuant to subparagraph (1) of this section to be recouped after July 16, 1979.

(4) When a reseller-retailer calculates the amount of increased costs not recouped that may be added to the May 15, 1973, selling price of gasoline to compute maximum allowable prices, it may, notwithstanding the general rule in paragraph (e)(1) of this section, with respect to retail sales of gasoline, include the amount by which the greatest amount of increased costs actually added to any May 15, 1973, selling price of gasoline to any class of purchaser exceeds the amount of increased costs which could have been added to the May 15, 1973, selling price in retail sales of gasoline but for the limitation in § 212.93(b)(4).

* * * * *

8. Section 212.129 is amended by revising paragraph (b) and by adding a new paragraph (d) to read as follows:

§ 212.129 Price information and posting.

* * * * *

(b) Each retail seller of gasoline shall comply with subparagraph (1) or, in the alternative, subparagraph (2), of this paragraph.

(1) Each retail seller of gasoline shall post and maintain in legible form the maximum lawful selling price of each type and grade of gasoline. The maximum lawful selling price shall be posted either: (i) on each face of each pump used to dispense gasoline at retail outlets in numbers not less than one-half (½) inch high or (ii) at a prominent location which is easily visible (in numbers not less than four (4) inches high) to a customer purchasing gasoline at the retail outlet. The posting of the actual selling price is not considered to be the posting of the maximum lawful selling price as required by this subparagraph. Whenever an adjustment is made to the maximum lawful selling price, each retail seller must post the new adjusted maximum lawful selling price, and remove the prior posted price.

(2) Each retail seller of gasoline shall post and maintain in legible form a certification that the maximum lawful selling price for a particular type or grade of gasoline has been calculated by the retail seller and that the actual selling price for that type or grade of gasoline is either equal to or less than its maximum lawful selling price. Such certification shall be placed either: (i) on each face of each pump used to dispense gasoline at the seller's retail outlet in letters not less than one-half (½) inch high or (ii) at a prominent location which is easily visible (in letters not less than four (4) inches high) to customers purchasing gasoline at the seller's retail outlet.

* * * * *

(d) The maximum lawful selling price may, at the discretion of DOE, be decreased by five (5) cents per gallon for each day of failure to comply with § 212.129(b), plus an additional 30 days.

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Reader Aids

Federal Register
Vol. 44, No. 149
Wednesday, August 1, 1979

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

TABLE OF EFFECTIVE DATES AND TIME PERIODS—AUGUST 1979

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
August 1	August 16	August 31	September 17	October 1	October 30
August 2	August 17	September 4	September 17	October 1	October 31
August 3	August 20	September 4	September 17	October 2	November 1
August 6	August 21	September 5	September 20	October 5	November 5
August 7	August 22	September 6	September 21	October 9	November 5
August 8	August 23	September 7	September 24	October 9	November 6
August 9	August 24	September 10	September 24	October 9	November 7
August 10	August 27	September 10	September 24	October 9	November 8
August 13	August 28	September 12	September 27	October 12	November 12
August 14	August 29	September 13	September 28	October 15	November 12
August 15	August 30	September 14	October 1	October 15	November 13
August 16	August 31	September 17	October 1	October 15	November 14
August 17	September 4	September 17	October 1	October 16	November 15
August 20	September 4	September 19	October 4	October 19	November 19
August 21	September 5	September 20	October 5	October 22	November 19
August 22	September 6	September 21	October 9	October 22	November 20
August 23	September 7	September 24	October 9	October 22	November 21
August 24	September 10	September 24	October 9	October 23	November 23
August 27	September 11	September 26	October 11	October 26	November 26
August 28	September 12	September 27	October 12	October 29	November 26
August 29	September 13	September 28	October 15	October 29	November 27
August 30	September 14	October 1	October 15	October 29	November 28
August 31	September 17	October 1	October 15	October 30	November 29

CFR CHECKLIST; 1978/1979 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1978/1979. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1979):

Title	Price
1	$3.00
2 [Reserved]	
4	4.50
7 Parts:	
0–52	6.75
53–209	5.00
700–899	6.00
900–944	5.25
045–980	3.75
981–999	3.75
1000–1059	6.00
1060–1119	6.50
1200–1499	6.25
2852	6.00
2853–end	4.50
9	8.00
10 Parts:	
0–199	6.50
12 Parts:	
1–199	6.00
13	5.00
14 Parts:	
1–59	7.50
60–199	7.25
200–1199	7.00
1200–end	3.50
15	7.50
16 Parts:	
0–149	4.50
150–999	4.25
1000–end	5.00

CFR Unit (Rev. as of Apr. 1, 1979):

18 Parts:	
0–149	6.50
19	7.50
20 Parts:	
1–399	5.50
400–499	7.00
21 Parts:	
1–99	5.50
200–299	4.00
600–1299	6.00
1300–end	4.25
22	7.00
23	6.50
24 Parts:	
0–499	8.00
25	7.00
26 Parts:	
1 (§§ 1.301–1.400)	5.50
1 (§§ 1.501–1.640)	6.00
1 (§§ 1.641–1.850)	6.50
300–499	6.00
600–end	4.25

CFR Unit (Rev. as of July 1, 1978):

28	$4.50
29 Parts:	
0–499	6.25
500–1899	6.25
1900–1919	7.00
1920–end	5.25
30	6.25
31	6.25
32 Parts:	
40–399	8.50
400–589	4.50
590–699	4.50
700–799	6.00
800–999	5.50
1000–1399	3.50
1400–1599	4.50
1600–end	3.00
32A	4.00
33 Parts:	
1–199	6.25
200–end	5.75
35	4.75
36	5.00
37	4.00
38	6.50
39	4.25
40 Parts:	
0–49	4.75
50–59	6.50
60–99	8.50
100–399	5.50
400–end	8.75
41 CFR:	
Chapters:	
1–2	6.50
3–6	5.75
7	2.75
8	2.75
10–17	4.75
Chapter 18, Parts:	
1–52 (Vol. I, Rev. 7/31/78)	5.25
1–52 (Vol. II, Rev. 7/31/78)	7.00
1–52 (Vol. III, Rev. 7/31/78)	5.75
Chapters:	
19–100	4.50
CFR Index	5.00
101–end	8.50

CFR Unit (Rev. as of Oct. 1, 1978):

42 Parts:	
1–399	6.00
400–end	5.50
43 Parts:	
1–999	4.25
1000–end	6.50
44 [Reserved]	
45 Parts:	
1–99	4.75
100–149	5.75
150–199	5.25
200–499	3.50
500–end	8.25
46 Parts:	
1–29	3.25
30–40	3.25
41–69	4.50
70–89	3.75
90–109	3.25
110–139	3.25
140–155	3.50
156–165	4.25
166–199	3.00
200–end	6.50
47 Parts:	
0–19	5.00
20–69	5.75
70–79	5.25
80–end	7.00
48 [Reserved]	
49 Parts:	
1–99	3.25
100–199	9.25
200–999	12.00
1000–1199	5.00
1200–1299	6.50
1300–end	4.50
50	5.75

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V 44 / 149 AUG 1 79 UML

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Department of Agriculture
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FTZB Foreign-Trade Zones Board
ITA Industry and Trade Administration
MA Maritime Administration
MBEO Minority Business Enterprise Office
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

DOE Energy Department

BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
OE Office of Education
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
FDAA Federal Disaster Assistance Administration
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
RB Reclamation Bureau
SMRE Surface Mining Reclamation and Enforcement Office

JUSTICE Justice Department

DEA Drug Enforcement Administration
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections

LABOR Labor Department

BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office

LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

AID Agency for International Development
FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLS Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NNRC National Neighborhood Reinvestment Corporation
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

V 4 4 / 1 4 9

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Agriculture Marketing Service—

40491 7–11–79 / Cotton and cottonseed; revision in fees

COMMERCE DEPARTMENT

Census Bureau—

38832 7–3–79 / Requirement for employer identification number and change in value requirement for filing of shipper's export declaration

[Corrected at 44 FR 40064, 7–9–79]

COMMODITY FUTURES TRADING COMMISSION

25431 5–1–79 / Reports by futures commission merchants and foreign brokers; carrying and reporting the total open long and short positions in omnibus accounts

ENERGY DEPARTMENT

Economic Regulatory Administration—

37940 6–29–79 / Mandatory petroleum allocation; removal of 21 cents per barrel entitlement penalty on uncontrolled crude oil

FEDERAL COMMUNICATIONS COMMISSION

37509 6–27–79 / FM broadcast station in Big Pine Key, Fla.; changes in table of assignments

29067 5–18–79 / Private land mobile radio service; system licensing; identification requirements

40310 7–10–79 / Public safety, special emergency industrial and land transportation radio services; licensing system; call signs; correction

FEDERAL RESERVE SYSTEM

33837 6–13–79 / Electronic Fund Transfers; Disclosure of Consumers' Liability for Unauthorized Transfers

JUSTICE DEPARTMENT

Prisons Bureau—

38236 6–29–79 / Control, custody, care, treatment, and instruction of inmates

NATIONAL CREDIT UNION ADMINISTRATION

32358 6–6–79 / Borrowed funds from credit union members

STATE DEPARTMENT

Agency for International Development—

41425 7–17–79 / Overseas Shipments of Supplies by Voluntary Nonprofit Relief Agencies

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

43286 7–24–79 / Handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oreg.; comments by 8–8–79

32706 6–7–79 / Navel oranges grown in Arizona and part of California; establishment of separate district, comments by 8–6–79

Animal and Plant Health Inspection Service—

34501 5–15–79 / Witchweed quarantine; miscellaneous amendments to regulated areas; comments by 8–10–79

Food and Nutrition Service—

33380 6–8–79 / Food Stamp Act of 1977; miscellaneous amendments; comments by 8–7–79

Rural Electrification Administration—

40319 7–10–79 / Advance notice, audit of accounting records and accounting interpretations; comments by 8–9–79

33076 6–8–79 / Telephone outside plant construction contract; revision of existing contract and specifications; comments by 8–7–79

CIVIL AERONAUTICS BOARD

32399 6–6–79 / Escrow depository requirements for public charters; comments by 8–6–79

COMMERCE DEPARTMENT

Economic Development Administration—

32359 6–6–79 / Organizational structure of economic development districts; comments by 8–6–79

National Oceanic and Atmospheric Administration—

39564 7–6–79 / Foreign fishing regulations; recording of numbers of salmon and halibut discarded; comments by 8–6–79

Office of the Secretary—

32958 6–7–79 / Regional Action Planning Commissions Operations; administration regulations; comments by 8–6–79

CONSUMER PRODUCT SAFETY COMMISSION

40524 7–11–79 / Procedures for export of noncomplying products; proposed notification requirements; extension of comment period; comments by 8–10–79

[Originally published at 44 FR 27685, 5–11–79]

ENERGY DEPARTMENT

33344 6–8–79 / Industrial energy conservation program including proposed voluntary recovered materials utilization targets; comments by 8–7–79

26987 6–25–79 / Residential Conservation Service Program; comments period extended to 8–9–79

[Originally published at 44 FR 16546, March 19, 1979]

Federal Energy Regulatory Commission—

33410 6–11–79 / Calculation of cash working capital allowance for electric utilities; replies to Commission Staff comments by 8–8–79

40330 7–10–79 / Natural gas curtailment priority; comments by 8–10–79

40525 7–11–79 / Research, development, and demonstration expenses relating to rate schedules filed by electric utilities; comments by 8–8–79

Western Area Power Administration—

40118 7–9–79 / Central Valley Project, power rates; comments by 8–8–79

ENVIRONMENTAL PROTECTION AGENCY

40078 7–9–79 / Air pollution; revisions to Vermont State Implementation Plan; comments by 8–8–79

39486 7–6–79 / Air quality control regions, criteria, and control techniques; attainment status designations—Arizona; comments by 8–6–79

39234 7–5–79 / Air quality implementation plan revisions, Arizona; comments by 8–6–79

39485 7–6–79 / Air quality implementation plan; availability of revision for State of Oregon; comments by 8–6–79

39484 7–6–79 / Air quality implementation plans; requirements for preparation, adoption, and submittal of implementation plans for Wisconsin; comments by 8–6–79

43495 7–25–79 / Disapproval of revision to Michigan State Implementation Plan; comments period extended to 8–8–79

[Originally published at 44 FR 35263, June 19, 1979]

27362 5–9–79 / Good laboratory practice standards for health effects; comments by 8–7–79

27334 5–9–79 / Proposed health effects test standards for Toxic Substances Control Act test rules; comments by 8–7–79

39026 7–3–79 / Toxic substances; comments by 8–6–79

FEDERAL COMMUNICATIONS COMMISSION

38917 7–3–79 / Applications for certificates of compliance and Federal-State/Local regulatory relationships; reply comments by 8–6–79

31673 6–1–79 / Duncan, Oklahoma; changes in table of assignments of FM broadcast stations; reply comments by 8–6–79

30128 5–24–79 / FM broadcast stations in Haskell, Tex.; change in table of assignments; reply comments by 8–6–79

34980 6–18–79 / FM broadcast stations, Moriah, N.Y.; table of assignments; comments by 8–6–79

34981 6–18–79 / FM broadcast stations in Murfreesboro, Ark.; table of assignments; comments by 8–6–79

42734 7–20–79 / FM broadcast stations in North Platte, Nebr.; table of assignments; comments by 8–8–79

34979 6–18–79 / FM broadcast stations in St. Simon's Island; table of assignments; comments by 8–6–79

42734 7–20–79 / FM quadraphonic broadcasting; reply comments by 8–10–79

30129 5–24–79 / TV broadcast stations in McAllen and Brownsville, Tex.; changes in table of assignments; reply comments by 8–6–79

FEDERAL DEPOSIT INSURANCE CORPORATION

40056 7–9–79 / Foreign banks; clarification and definition of deposit insurance coverage; comments by 8–8–79

33077 6–8–79 / Securities of insured nonmember State banks; comments by 8–7–79

FEDERAL MARITIME COMMISSION

43322 7–24–79 / Amendment to financial reports by common carriers by water in the domestic offshore trades; comments by 8–8–79

FINE ARTS COMMISSION

42728 7–20–79 / Organizational regulations; comments by 8–6–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

33022 6–7–79 / Correction Education Demonstration Program; comments by 8–6–79

33036 6–7–79 / Preschool Partnership Program; comments by 8–6–79

33028 6–7–79 / Safe Schools Program; comments by 8–6–79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Community Planning and Development—

33372 6–8–79 / Community development block grants; urban development action grants; comments by 8–7–79

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection—

32711 6–7–79 / Revision of mobile home construction and safety standards; comments by 8–6–79

INTERIOR DEPARTMENT

Fish and Wildlife Service—

40534 7–11–79 / Wildlife development areas; comments by 8–10–79

Indian Affairs Bureau—

40345 7–10–79 / Tribes organized under the Indian Reorganization Act (2 documents); comments by 8–10–79

Land and Management Bureau—

32590 6–6–79 / Areas of critical environmental concern, intent to prepare policy and guideline; comments by 8–6–79

26130 5–4–79 / Leasing of minerals other than oil and gas; comment period extended to 8–6–79

[Originally published at 44 FR 12464, 3–7–79]

INTERSTATE COMMERCE COMMISSION

40217 7–9–79 / Motor Carriers of freight concerning practices; comments by 8–8–79

39560 7–6–79 / Standards for determining commuter rail service continuation subsidies; comments by 8–10–79

NUCLEAR REGULATORY COMMISSION

32394 6–6–79 / Testing of radioisotope generators; comments by 8–6–79

PERSONNEL MANAGEMENT OFFICE

32223 6–5–79 / Federal employee health benefits for members of medically underserved population; comments by 8–6–79

POSTAL SERVICE

40076 7–9–79 / Proposal to allow private delivery of "extremely urgent" letters; comments by 8–10–79

TRANSPORTATION DEPARTMENT

Federal Railroad Administration—

40174 7–9–79 / Environmental Impacts; comments by 8–6–79

Materials Transportation Bureau—

32972 6–7–79 / Display of hazardous materials identification numbers; improved emergency response capability; comments by 8–7–79

[Corrected at 44 FR 34171, 6–14–79]

TREASURY DEPARTMENT

Customs Service—

40075 7–9–79 / Entry of imported merchandise; revised customs form; comments period extended to 8–10–79

[Originally published at 44 FR 29916, 5–23–79]

Internal Revenue Service—

32235 6–5–79 / Determination of amounts at risk with respect to certain activities; comments by 8–6–79

39200 7–5–79 / Treatment of original issue discount on certain short-term cooperate obligations; comments by 8–6–79

Next Week's Meetings

AGING, FEDERAL COUNCIL

40725 7–12–79 / Long Term Care Committee, Washington, D.C. (open), 8–6–79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

42343 7–19–79 / Humanities Panel Advisory Committee, Washington, D.C. (closed), 8–6 through 8–10–79

CIVIL RIGHTS COMMISSION

43031 7–23–79 / California Advisory Committee; Los Angeles, Calif. (open), 8–10–79

41992 7–18–79 / Illinois Advisory Committee, Chicago, Ill. (open), 8–8–79

41276 7–16–79 / North Carolina Advisory Committee, Asheville, N.C. (open), 8–8–79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

43035 7–23–79 / Gulf of Mexico Fishery Management Council, Corpus Christi, Tex. (open), 8–7 through 8–9–79

41276 7–16–79 / Mid-Atlantic Fishery Management Council, Philadelphia, Pa. (open), 8–8 through 8–10–79

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DEFENSE DEPARTMENT

Air Force Department—

42755 7–20–79 / Community College of the Air Force Advisory Committee, Montgomery, Ala. (open), 8–10–79

Army Department—

41908 7–18–79 / Board of Visitors, U.S. Military Academy, West Point, N.Y. (open), 8–6 through 8–8–79

42302 7–19–79 / Winter Navigation Board on Great Lakes—St. Lawrence Seaway, Cleveland, Ohio (open), 8–6 and 8–7–79

Navy Department—

43040 7–23–79 / Chief of Naval Operations Executive Panel Advisory Committee, Washington, D.C. (closed), 8–8 and 8–9–79

Office of the Secretary—

40220 7–9–79 / Defense Science Board, Research and Engineering, Newport, R.I. (open), 8–6 through 8–10–79

36222 6–21–79 / Wage Committee, Washington, D.C. (partially open), 8–7–79

ENERGY DEPARTMENT

Office of the Secretary—

37678 6–28–79 / Government Subcommittee of the Committee on Materials and Manpower Requirements, Houston, Tex. (open), 8–9–79

40916 7–13–79 / National Petroleum Council; Refinery Capability Task Group of the Committee on Refinery Flexibility, Houston, Tex. (open), 8–8–79

FEDERAL PAY ADVISORY COMMITTEE

40657 7–12–79 / Discussions on proposed adjustment in Federal pay for October 1979, Washington, D.C. (open), 8–6–79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

42779 7–20–79 / Meeting, Washington, D.C. (open), 8–9–79

GENERAL SERVICES ADMINISTRATION

42340 7–19–79 / Architectural and Engineering Services Regional Public Advisory Panel, Boston, Mass. (open), 8–6 through 8–10–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

38386 6–29–79 / Community Schools and Comprehensive Community Education Act; each of the ten regional headquarters cities (open), 8–7–79

37866 6–28–79 / Meetings on implementation of Adult Education Act, ten regional cities (open), 8–7–79

38184 6–29–79 / School assistance in areas affected by Federal activity and cases of certain disasters, Pierre, S.D. and Phoenix, Arizona (open), 8–7 and 8–9–79

Food and Drug Administration—

42781 7–20–79 / Consumer participation meeting, St. Petersburg, Fla. (open), 8–9–79

41548 7–17–79 / Panel on Review of Allergenic Extracts, Rockville, Md. (open), 8–9 through 8–11–79

National Institutes of Health—

41966 7–18–79 / Clinical Cancer Program Project and Cancer Center Support Review Committee (Clinical Cancer Program Project Review Subcommittee), Bethesda, Md. (partially open), 8–6 and 8–7–79

41966 7–18–79 / Clinical Trials Committee, Bethesda, Md. (partially open), 8–7 and 8–8–79

Office of the Secretary—

37692 6–28–79 / Model Adoption Legislation and Procedures Advisory Panel, Washington, D.C. (open), 8–6 through 8–8–79

Public Health Service—

43426 7–24–79 / National toxicology program, Washington, D.C. (open), 8–10–79

Social Security Administration—

42786 7–20–79 / Social Security Advisory Council, Washington, D.C. (open), 8–10 and 8–11–79

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45380 **Aircraft Acquisitions** CAB issues rule concerning; effective 8–2–79

45412 **Improving Government Regulations** SBA publishes semiannual agenda of rules under review

45513 **Floodplain Management and Protection of Wetlands** TVA issues procedures and draft implementing guidelines

45489 **National Environmental Policy Act** ICA adopts internal procedures; effective 7–30–79

45431 **National Environmental Policy Act** CIA issues revised implementation procedures; effective 7–30–79

45386 **4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-One** EPA establishes tolerances for residues; effective 8–2–79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY, GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY, AND FEDERAL SERVICE IMPASSES PANEL

5 CFR Chapter XIV

Processing of Cases; Interim Rules

Correction

F.R. Doc. 79–23328 appearing on page 44740 in the issue of Monday, July 30, 1979 as "Part V", should have appeared under the classification "Rules and Regulations".

BILLING CODE 1505–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 623]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 3–9, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

The committee met on July 31, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges continues to be limited.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive order. An impact analysis is available from Malvin E. McGaha, (202) 447–5975.

§ 908.923 Valencia Orange Regulation 623.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 3, 1979, through August 9, 1979, are established as follows:

(1) District 1: 238,000 cartons;

(2) District 2: 212,000 cartons;

(3) District 3: Unlimited.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" means the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 1, 1979.

Charles R. Brader
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79–24112 Filed 8–1–79; 11:30 am]

BILLING CODE 3410–02–M

9 CFR Part 201

Deletion and Revocation of all Regulations That Pertain to Poultry Licensees Operating in Designated Poultry Marketing Areas.

AGENCY: Packers and Stockyards, Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this document is to amend the regulations (9 CFR, Part 201) issued under the Packers and Stockyards Act which apply to poultry licensees. The marketing of live poultry in designated areas has become virtually nonexistent and the regulations are no longer pertinent. Poultry regulations pertaining to live poultry dealers and handlers operating in commerce were issued in 1971. These regulations together with the prohibitions in the Packers and Stockyards Act (7 U.S.C. 192) are considered adequate to deal with any unfair practices which may occur in the marketing of live poultry.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: James D. Tuggle, Chief, Poultry Branch, Packer and Poultry Division, Packers and Stockyards, AMS, United States Department of Agriculture, Washington, D.C. 20250, Telephone: 202–447–5877.

SUPPLEMENTARY INFORMATION: On May 11, 1979, a notice was pubished in the **Federal Register** (44 FR 27665) by the Packers and Stockyards, Agricultural Marketing Service (AMS), regarding a proposal to delete and revoke all regulations or parts thereof issued under the Packers and Stockyards Act (7

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U.S.C. 181 et seq.) which apply to poultry licensees. The period for comments closed on July 16, 1979. All comments were favorable.

PART 201—[Amended]

Accordingly, Part 201 is amended as follows:

§ 201.8, 201.9, 201.14, 201.15, 201.16, 201.18, 201.35, 201.36, 201.37, 201.38, 201.46(b), 201.48, and 201.83 (Reserved)

The above sections are revoked and numbers reserved.

§ 201.2 [Amended]

The paragraphs listed below are deleted and redesignated.

Delete sections 201.2(i) and 201.2(k).

Section 201.2(j) is redesignated 201.2(i).

Section 201.2(l) is redesignated 201.2(j).

Section 201.2(m) is redesignated 201.2(k).

§ 201.8 [Amended]

Delete the subject title "Designation of Live Poultry Markets" preceding § 201.8.

§ 201.14 [Amended]

Delete the subject title "Licensing" preceding § 201.14.

§ 201.35 [Amended]

Delete the subject title "Licensee Bonds" preceding § 201.35.

§ 201.46 [Amended]

Delete (a) in § 201.46.

The following sections and paragraphs have been rewritten and are set out below: 201.22(a), 201.24, 201.26, 201.43(a), 201.44, 201.50, 201.55, 201.79(a), and 201.81.

Section 201.22(a) is revised to read as follows:

§ 201.22 Time and place stockyard owners and market agencies are to file schedules and amendments.

(a) Duplicate copies of all schedules and rules or regulations and amendments or supplements thereto required to be filed under the Act by market agencies and stockyard owners shall be kept open for public inspection at their places of business. Unless the requirement as to filing and notice is specifically waived, as provided for in section 306(c) of the Act, all amendments to schedules or rules or regulations changing a rate or charge shall be filed with the Administrator at Washington, D.C., not less than ten (10) days before the effective date thereof. The provisions of this section apply to changes in feed charges and specified margins above cost of feed contained in basic tariff schedules: *Provided, however,* That the requirements as to filing and notice contained in section 306(c) of the Act are specifically waived with respect to changes in feed charges when (1) the basic tariff schedule provides that such feed charges are to be based on an average cost plus a specified margin, and (2) the records of the stockyard or market agency involved clearly disclose the average cost of the feed on hand, and (3) a schedule of the current feed charges computed in accordance with the basic tariff schedule and showing the effective date thereof is conspicuously posted at the stockyard and a copy is furnished to the Area Supervisor for informational purposes.

* * * * *

Section 201.24 is revised as follows:

§ 201.24 Prescribed rates, charges, practices, and regulations.

After the effective date of any general order issued by the Secretary prescribing rates, charges, practices, or regulations governing the rendition of stockyard services or the selling or buying of livestock on a commission basis at a stockyard, every market agency operating at such stockyard shall conform to such order.

Section 201.26 is revised as follows:

§ 201.26 Form.

The schedules of each stockyard owner and market agency operating at a stockyard, shall be substantially in the form set out below:

Tariff or Schedule of Charges No. —— or Amendment No. —— to Tariff or Schedule of Charges No. —— of ——
(Operator's Name) ——————
(Operator's Business Address)
—————— (Name posted stockyard where charges apply) ——————
(Location of posted stockyard where charges apply) ——— Issued: ———
Effective: —— (Not less than ten days after receipt in Washington office)

(Insert here, dividing into sections, the various classes of service performed by the stockyard owner or operator, or market agency operating at a stockyard, the kind of livestock concerning which services are performed, the nature of the services, and the terms of conditions under which the services are rendered.)
(Operator's name) ——————
(Signed by) ——————
(Owner, partner, or Official designation)

Section 201.43(a) is revised to read as follows:

§ 201.43 Payment and accounting for livestock.

(a) *Market agencies to make prompt accounting and transmittal of net proceeds.* Each market agency shall, before the close of the next business day following the sale of any livestock consigned to it for sale, transmit or deliver to the consignor or shipper of the livestock, or the duly authorized agent, in the absence of any knowledge that any other person, or persons, has any interest in the livestock, the net proceeds received from the sale and a true written account of such sale, showing the number, weight, and price of each kind of animal sold, the name of the purchaser, the date of sale, the commission, yardage, and other lawful charges, and such other facts as may be necessary to complete the account and show fully the true nature of the transaction.

* * * * *

Section 201.44 is revised to read as follows:

§ 201.44 Market agencies to render prompt accounting for purchases on order.

Each market agency shall, promptly following the purchase of livestock on a commission or agency basis, transmit or deliver to the person for whose account such purchase was made, or the duly authorized agent, a true written account of the purchase showing the number, weight, and price of each kind of animal purchased, the names of the persons from whom purchased, the date of purchase, the commission and other lawful charges, and such other facts as may be necessary to complete the account and show fully the true nature of the transaction.

Section 201.50 is revised to read as follows:

§ 201.50 Records; disposition.

(a) Except as otherwise provided in paragraphs (b) and (c) of this section, no stockyard owner, market agency, or dealer shall, without the consent in writing of the Administrator, destroy or dispose of any books, records, documents, or papers which contain, explain or modify transactions in the business under the Act.

(b) Every stockyard owner, market agency or dealer may destroy or dispose of the following categories of records after they have been retained for a period of 2 full calendar years:

Stockyard Owners

All feed records.
Dipping and spraying orders.
Vaccinating and testing orders.
Orders for special services.
Routine correspondence.
Railroad advance charges.
Bills to commission firms and others.
Records of shipments by States and markets.
Deposit slips.
Bank statements.
Cancelled checks and drafts.
Check stubs.
Railroad in-bound records.
Truck-in receipt records.
Delivery records.
Yarding receipts.
Pass-out and delivery orders.
Truck shipping orders.
Railroad shipping orders.
Scale yarding records.
Scale tickets.
Scale test reports.

Market Agencies

Scale tickets.
Bills from stockyard company.
Bills for livestock purchased.
Gate tickets.
Routine correspondence.
Way-bills and truckers tickets.
Accounts of sales.
Accounts of purchases.
Bills and invoices to buyers.
Deposit slips.
Bank statements.
Cancelled checks and drafts.
Check stubs.
Scale test reports.

Dealers

Bills from stockyard company.
Bills for livestock purchased.
Accounts of sales.
Routine correspondence.
Bills to purchasers.
Scale tickets.
Deposit slips.
Bank statements.
Cancelled checks and drafts.
Check stubs.
Scale test reports.

(c) The 2-year period specified in paragraph (b) of this section shall be extended if necessary to comply with any Federal, State, or local law, or if the stockyard owner, market agency, or dealer is notified in writing by the Administrator that specified records should be retained pending the completion of any investigation or proceeding under the Act. The periods specified herein after which records may be disposed of have been approved by the Office of Management and Budget in accordance with the Federal Report Act of 1942 (56 Stat. 1078; 5 U.S.C., 139 et seq.).

Section 201.55 is revised to read as follows:

§ 201.55 Purchases and sales to be made on actual weights.

When livestock is bought or sold on a weight basis in transactions subject to the provisions of the Act, settlement therefor shall be on the basis of the weight shown on the scale ticket or correction ticket, as the case may be. Any weight figures shown on accounts of sale, accounts of purchase, invoices, bills, or statements issued in connection with transactions subject to the Act shall be actual weights obtained on scales operated or used by stockyard owners, market agencies, dealers, or packers at the place and at the time of the consummation of the transactions in question or, if not, shall be appropriately explained on the accountings, bills, or statements issued.

Section 201.79(a) is revised to read as follows:

§ 201.79 Facilities and services at stockyards.

(a) *Facilities and services at stockyards; discrimination prohibited.* No stockyard owner shall discriminate unfairly with respect to the utilization of pens, alleys, buildings, or facilities for the yarding, weighing, or handling of livestock, or of space for packing, rendering, and other establishments, or otherwise in furnishing services and facilities at the stockyard.

* * * * *

Section 201.81 is revised to read as follows:

§ 201.81 Suspended registrants.

No stockyard owner, packer, market agency, or dealer shall employ any person who has been suspended as a registrant to perform activities in connection with livestock transactions in commerce during the period of such suspension: *Provided,* That the provisions of this section shall not be construed to prohibit the employment of any person who has been suspended as a registrant until such time as the person demonstrates solvency or obtains the bond required under the Act and regulations. No such person shall be employed, however, until after the expiration of any specified period of suspension contained in the order of suspension.

(72 Stat. 1750: secs. 202, 307, 312, 42 Stat. 161 et seq., as amended; 7 U.S.C. 192, 208, 213).

§ 201.2 [Amended]

In § 201.2 (1) delete, ", market agencies, or licensees." and insert "and market agencies."

§§ 201.4, 201.53, 201.54, 201.71, 201.72, 201.73, 201.74, 201.75, 201.84, 201.94, 201.95, 201.96 [Amended]

In the sections listed above delete "dealer, or licensee" whenever it appears and insert "or dealer".

§§ 201.54, 201.63 [Amended]

In the sections listed above delete "dealer or licensee" and insert, "or dealer".

§§ 201.19, 201.20, 201.21 [Amended]

a. In § 201.19 delete ", market agencies operating at a stockyard, and licensees" and insert " and market agencies operating at a stockyard."

b. In §§ 201.19 and 201.20 delete ", market agency, or licensee" whenever it appears and insert "or market agency".

c. In §§ 201.20 and 201.21 delete ", market agency operating at a stockyard, and licensee" and insert " and market agency operating at a stockyard".

§§ 201.39, 201.40, 201.41, 201.42, 201.45, 201.47, 201.52, 201.58, 201.59, 201.60, 201.64 [Amended]

a. In the sections listed above delete "or licensee" whenever it appears.

In §§ 201.39, 201.41, 201.42(b), 201.45, 201.47, delete " and licensees" whenever it appears.

§ 201.25 [Amended]

In § 201.25 delete ", market agency, and licensee" and insert " and market agency".

§ 201.28 [Amended]

a. In § 201.28 delete "licensee." whenever it appears.

b. In § 201.28 delete "or a license"

c. In § 201.28 delete "licensee's."

§§ 201.23, 201.40, 201.47 [Amended]

In the sections listed above delete "or licensees" whenever it appears.

§§ 201.39, 201.40, 201.41, 201.42, 201.45, 201.47, 201.52, 201.53, 201.54, 201.58, 201.59, 201.60, 201.63, 201.64, 201.71, 201.72, 201.73, 201.74, 201.76, 201.77, 201.84. [Amended]

a. In the sections listed above delete "or live poultry" whenever it appears.

b. In § 201.42(a) delete "or poultry purchases".

c. In §§ 201.42(a) and 201.63 delete "or poultry".

d. In §§ 201.42(a) and 201.42(h) delete "or licensee's".

e. In § 201.53 delete "and live poultry."

f. In § 201.59 delete ", or licensed under the act".

g. In § 201.63 listed below delete "or in designated areas or".

§§ 201.23, 201.42(b), 201.42(f), 201.58, 201.45 [Amended]

In the sections listed above delete "and licensee" whenever it appears.

§§ 201.46, 201.73, 201.94, 201.95 [Amended]

In the sections listed above delete "dealers, and licensees" and insert "and dealers" whenever it appears.

§ 201.76 [Amended]

In § 201.76 delete "packers, and licensees," and insert " and packers,".

§ 201.77 [Amended]

In § 201.77 delete "packer, and licensee" and insert " and packer".

§ 201.94, 201.95, 201.97 [Amended]

In §§ 201.94, 201.95, 201.97, delete "dealer, and licensee" and insert "and dealer".

§ 201.96 [Amended]

In § 201.96 delete "dealers, or licensees" and insert "or dealers".

§ 201.95 [Amended]

In § 201.95 (Amended) delete "dealer, or licensee." and insert "or dealer.".

§ 201.23 [Amended]

In § 201.23 delete "or licensee,".

Due to the nature of these changes they shall become effective August 2, 1979.

Done at Washington, D.C. this 26th day of July 1979.

Chas B. Jennings,

Deputy Administrator, Packers and Stockyards, AMS.

[FR Doc. 79-23836 Filed 8-1-79; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

Licensing and Regulatory Policy and Procedures for Environmental Protection; Uranium Fuel Cycle Impacts From Spent Fuel Reprocessing and Radioactive Waste Management

AGENCY: Nuclear Regulatory Commission.

ACTION: Promulgation of a final fuel cycle rule.

SUMMARY: The Commission promulgated on March 14, 1977 an interim rule identifying the environmental impact values for the uranium fuel cycle which are to be included in environmental reports and environmental impact statements for individual light water nuclear power reactors. After an extensive proceeding focused on the nuclear waste management and fuel reprocessing parts of the fuel cycle, the Commission now promulgates a final rule which sets out revised impact values. The rule also specifies fuel-cycle-related subjects that are to be considered in individual licensing proceedings as part of the environmental cost-benefit analysis for a power reactor. The Commission notes its intention to conduct a further supplementary rulemaking to adopt as part of the rule an explanatory narrative addressing the environmental significance of the impact values tabulated in the final rule. A general update of the rule with respect to all aspects of the uranium fuel cycle is also in progress.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: E. Leo Slaggie, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, phone 202-634-3224.

SUPPLEMENTARY INFORMATION: This notice announces the outcome of a final rulemaking by the Nuclear Regulatory Commission regarding the environmental effects of spent fuel reprocessing and radioactive waste management in the light water power reactor uranium fuel cycle. The rule adopted herein replaces an interim rule which identifies fuel cycle environmental impact values to be included in environmental reports and environmental impact statements for individual light water power reactors. The interim rule, 10 CFR 51.20(e) ("Table S-3", as revised), was published on March 14, 1977 (42 FR 13803) to be effective for 18 months and was extended several times, the final extension being to the effective date of this rule.

This final rulemaking concludes a proceeding which began on May 26, 1977 with a notice that a rulemaking hearing would be held to consider whether the interim rule should be made permanent or, if it should be altered, in what respects. 42 FR 26987. The Hearing Board took extensive written and oral testimony from more than twenty participants. On August 31, 1978 the Board submitted to the Commission a detailed summary of the evidentiary record, followed on October 26, 1978 by its Conclusions and Recommendations.

After studying the Hearing Board's recommendation and receiving written and oral presentations by rulemaking participants, the Commission has adopted as a final rule the modified Table S-3 recommended by the Hearing Board. The impact values in this table differ only slightly from the values in the interim rule. With two exceptions, these values will be taken as the basis for evaluating in individual light water power reactor licensing proceedings, pursuant to requirements of the National Environmental Policy Act (NEPA), the contribution of uranium fuel cycle activities [1] to the environmental costs of licensing the reactor in question. The exceptions are radon releases, presently omitted from the interim rule (43 FR 15613, April 14, 1978), and technetium-99 releases from reprocessing and waste management activities, as discussed later in this notice. Appropriate values for these releases are open for consideration in individual proceedings.

Promulgation of the revised table is not the sole outcome of this rulemaking. The rulemaking record makes clear that effluent release values, standing alone, do not meaningfully convey the environmental significance of uranium fuel cycle activities. The focus of interest and the ultimate measure of impact for radioactive releases are the resulting radiological dose commitments and associated health effects. To convey in understandable terms the significance of releases in the Table, the Hearing Board recommended that the modified Table be accompanied by an explanatory narrative promulgated as part of the rule. The recommended narrative would also address important fuel cycle impacts now outside the scope of the Table, including socioeconomic and cumulative impacts, where these are appropriate for generic treatment. The Commission has directed the NRC staff to prepare by October 1 such a narrative, as described in more detail later in this notice. The narrative will be submitted for public comment in a further rulemaking.

Pending adoption of an explanatory narrative as part of the fuel cycle rule, the use of Table S-3 in individual proceedings must be accompanied by supplementary presentations. Accordingly, the Commission has directed the NRC staff to continue presenting in individual proceedings an evaluation of dose commitments and health effects from fuel cycle releases. In addition, the staff will address economic, socioeconomic, and possible cumulative impacts of fuel cycle activities and such other impacts of the fuel cycle as may reasonably appear to have a significance for inidividual reactor licensing sufficient to warrant attention for NEPA purposes. These matters remain open for litigation in individual proceedings. The present rulemaking settles only the question of fuel cycle release values, with the exceptions noted above, and such other numerical data that appear explicitly in the Table.

In response to a recent decision by the United States Court of Appeals for the District of Columbia Circuit, *State of Minnesota* v. *NRC*, Nos. 78-1269 and 78-2032 (May 23, 1979), the Commission intends to conduct a generic proceeding which will consider the most recent evidence regarding the likelihood that nuclear waste can be safely disposed of and when that, or some other off-site storage solution, can be accomplished. That new generic waste disposal proceeding will be separate and different in scope and purpose from further fuel cycle rulemakings dealing with an S-3 narrative and general update of S-3, but will in part review and update the conclusions regarding waste disposal which have been reached in the present rulemaking. If available, the record compiled in the new generic waste disposal proceeding can be considered in, and made a part of the record in, the general update of S-3.

The background of this proceeding and the reasons underlying the Commission's decision are explained in the material which follows.

I. Need For a Fuel Cycle Rule in Power Reactor Licensing

The National Environmental Policy Act of 1969 (NEPA) requires that the Commission look closely at the environmental impact of a proposed nuclear power reactor before it may license the construction or operation of the facility. To comply with NEPA the Commission has adopted licensing and regulatory procedures presently set out in 10 CFR Part 51. Under these rules the environmental analysis in a power reactor licensing proceeding must include a cost-benefit analysis which, among other things, considers and balances the adverse environmental impacts of the nuclear plant against the expected environmental, economic, technical, and other benefits.

The environmental impact of operating a nuclear power reactor is not limited to effects specific to the plant itself, such as site alterations due to plant construction or the release of reactor effluents. The environment will also be affected by the fuel cycle activities necessary to support plant operation. Since operation of a nuclear plant involves a commitment to prepare fuel and dispose of spent fuel and waste, the environmental impacts considered in the NEPA analysis for a power reactor should include contributions from uranium fuel cycle activities.[2]

Evaluating these contributions necessarily involves a wide-ranging inquiry and a certain amount of speculation. Fuel cycle facilities serve many reactors, and there is no way to ascertain with certainty which facility now in existence or to be operated in the future will contribute fuel to a given nuclear power reactor or will receive its irradiated fuel or wastes. Thus the fuel for a particular reactor cannot be identified at the start of the fuel cycle and traced through the various steps to final disposal. Instead, the fuel cycle impacts for a particular reactor must be estimated hypothetically, for example by apportioning the impacts of representative fuel cycle facilities to the number of reactors served. Determining these facility impacts also involves uncertainties, particularly for the back end of the cycle. For example, reprocessing of spent fuel, if it is done, would take place at newly designed facilities, not yet operational. Thus impacts based on previous reprocessing experience using outdated technology are not in the Commission's judgment representative of future impacts. For waste disposal many proposals have been put forth, but the method or methods which will finally be used are as yet unselected. A reasonable approach for determining waste disposal impacts is to focus on a system which seems likely to be deployed and to estimate its impacts conservatively, based on the best available information and analysis.

A study of fuel cycle impact thus involves difficult generic analysis and prediction well outside the normal scope of facility-specific subjects dealt with by a reactor licensing board. This does not mean that the subject can be ignored or deferred until the fuel cycle facilities themselves come up for licensing.[3] It does mean that in reactor licensing fuel cycle impacts should be treated where possible by generic rulemaking rather than case-by-case adjudication.

The Commission's interim fuel cycle rule, 10 CFR 51.20(e), requires that the environmental costs to be considered in a power reactor licensing proceeding shall include contributions from uranium fuel cycle activities as set forth in a table ("Table S-3, Summary of environmental considerations for uranium fuel cycle"). The adequacy of this interim rule, insofar as waste management and reprocessing impacts are concerned, was the original focus of the present rulemaking, as the background discussion in the section to follow indicates. As the rulemaking progressed, however, participants submitted a substantial amount of public comment and testimony addressing matters not dealt with by the interim rule, including economic and socioeconomic impacts, numerical uncertainties in the estimates, and long-term dose commitments and health effects. This implicit broadening of the rulemaking's scope called attention to problems which must be addressed in a further rulemaking, but also indicated there may be confusion regarding the proper objective of a fuel cycle rule.

The rule aimed at in this proceeding has a limited purpose. It applies only to environmental cost-benefit balances for power reactors and is in no way intended to be a tool for choosing among alternative uranium fuel cycle technologies. Although the rule should reflect as accurate an assessment as reasonably possible of uranium fuel cycle impacts, the rule clearly does not need the detail or the precision of an environmental analysis for licensing fuel cycle facilities themselves. A reasonable degree of uncertainty is unavoidable and is acceptable, given that basic decisions have not yet been made regarding reprocessing and the technology of waste disposal.

The rule need not be comprehensive in scope to be a useful and valid exercise of rulemaking authority. A record is not yet available to support a comprehensive rule dealing with all generic aspects of fuel cycle impacts relevant to reactor licensing, but the Commission is free to adopt a narrower rule that for the present leaves some of these matters for consideration in individual proceedings. The table of impacts adopted as a final rule in this proceeding serves as an important first step in this consideration, relieving adjudicatory boards from the need to determine those numerical impacts of the uranium fuel cycle which have been extensively considered in generic rulemaking. Ultimately, however, the impacts of the releases and not the releases themselves dictate the standards the Commission must set. Therefore, use of the table in individual licensing will not foreclose discussion of the significance of those impacts or other important aspects of the fuel cycle not addressed by the table. This point

[1] The fuel cycle activities addressed by the rule include uranium mining and milling, the production of uranium hexafluoride, isotopic enrichment, fuel fabrication, spent fuel storage and disposal, reprocessing of irradiated fuel, transportation of radioactive materials and management of low-level wastes and high-level wastes. The rulemaking proceeding concluded here dealt only with impacts of reprocessing and waste management and associated transportation, the so-called "back-end" of the fuel cycle. The impacts of transportation of cold fuel to the reactor and irradiated fuel and solid radioactive wastes lie outside the scope of the rule and are treated separately in the Commission's regulations. See 10 CFR 51.20(g).

[2] Activities comprising the nuclear fuel cycle are listed in note 1, above.

[3] The court of appeals for the D.C. Circuit has specifically rejected such an approach and held that "absent effective generic proceedings to consider these issues, they must be dealt with in individual licensing proceedings." *NRDC* v. *NRC*, 547 F. 2d 663, 641 (1976), *rev'd on other grounds sub nom. Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519 (1978).

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needs emphasis in view of the background of the Commission's original S–3 rule, which at least initially was apparently interpreted as cutting off further discussion of fuel cycle impacts.

II. Background of the Fuel Cycle Rulemaking

1. *Promulgation and Application of the Original Fuel Cycle Rule, "Table S–3"*

In a Notice of Proposed Rulemaking published November 15, 1972 (37 FR 24191) the Atomic Energy Commission (AEC) announced a proceeding "that would specifically deal with the question of consideration of environmental effects associated with the uranium fuel cycle in the individual cost-benefit analysis for light water cooled nuclear power reactors." As a basis for this consideration the Commission's staff had published a report entitled "Environmental Survey of the Nuclear Fuel Cycle," dated November 6, 1972.[4] Citing the Environmental Survey, the Notice set out two proposed alternatives for public comment and consideration at an informal hearing. Under one alternative, no consideration of fuel cycle impacts (apart from facility-specific effects of transporting cold fuel to the reactor and spent fuel and radioactive wastes from the reactor) would be required in individual proceedings, on the grounds that these impacts as analyzed in the Environmental Survey were sufficiently small not to affect significantly the cost-benefit balance for an individual reactor. Under the second alternative, impact values for fuel cycle costs of licensing a power reactor would be taken in individual licensing proceedings as set forth in Table S–3 of the Environmental Survey.[5]

Written comments were submitted by more than forty individuals and organizations. The hearing took place February 1 and 2, 1973 before the three-person hearing board, following legislative-type procedures announced by the Commission in a supplemental notice (38 FR 49).

Following the hearing and supplementary written submissions by participants, the board on July 6, 1973 presented to the Commission a 24-page report which identified the major issues at the proceeding but, in accordance with the Commission's direction, made no recommendation.

After consideration of the comments and the hearing record, the AEC on April 22, 1974 (39 FR 14188), adopted the second alternative, under which "the environmental effect associated with the uranium fuel cycle, albeit small, would be factored into individual cost-benefit analyses in the form of numerical values," as set out in Table S–3, with minor revisions to reflect corrections or changes suggested by the hearing record. The Commission noted its view that the values in the table reflected "substantial conservatism" and found it to be a "fact that the environmental effects of the uranium fuel cycle have been shown to be relatively insignificant." The Commission concluded accordingly that there was no need to apply the rule retrospectively.

The Commission stated that it preferred to adopt Table S–3, rather than the alternative of declaring by rule that fuel cycle impacts are not significant for reactor licensing, because in conformance with other regulations the table "quantifies, to the fullest extent practicable, the environmental effects of the uranium fuel cycle in individual cost-benefit analyses." *Cf.* 10 CFR 51.20(b), 51.23(c). Consistent with the Commission's view at that time that Table S–3 represented a full quantitative account of fuel cycle contributions, the text of the rule stated that in applicants' environmental reports and Commission impact statements in individual licensing proceedings this contribution "shall be as set forth in . . . Table S–3 . . . No further discussion of such environmental effects shall be required."

The Commission notice promulgating the rule did not specifically mention health effects, socioeconomic impacts, or cumulative impacts, either to require or preclude their discussions, although it might fairly be concluded that the notice's repeated observation that fuel cycle effects were "insignificant" amounted to a Commission judgment implicit in the rule that no discussion of these effects was formally required. The Commission's regulatory staff applied the rule in practice as allowing fuel cycle impacts to be addressed in reactor licensing proceedings solely by the formal act of displaying Table S–3 in impact statements, with no further discussion. In particular, impact statements prepared by the staff did not analyze fuel cycle impacts in terms of health effects which might be caused by the radioactive releases tabulated in the rule and did not discuss socioeconomic or cumulative impacts.

Almost three years after the rule became effective, the Commission's Atomic Safety and Licensing Appeal Board issued a decision implying that discussion of fuel cycle health effects was desirable when the comparison between the proposed nuclear plant and an alternative coal plant was an issue in the licensing proceeding. *In the Matter of Tennessee Valley Authority* (Hartsville Nuclear Units), 5 NRC 92, 103 (1977). As part of its response to the Hartsville decision, the regulatory staff sought and received permission from reactor licensing boards to introduce evidence of the public health consequences of the nuclear fuel cycle compared with the coal fuel cycle. Cf. *In the Matter of Public Service Company of Indiana, Inc.* (Marble Hill Nuclear Generating Station), 7 NRC 179, 187 (1978). As the rule required, health effects in the staff's submissions were based on the tabulated radioactive release values in 10 CFR 51.20(e).[6] By this time, however, the original Table S–3 had been replaced by the amended table in the interim rule as a result of legal developments discussed next.

2. *The Vermont Yankee Decision*

On a petition to review the adequacy of the fuel cycle rulemaking proceedings, the United States Court of Appeals for the District of Columbia Circuit on July 21, 1976 set aside those portions of the rule pertaining to waste management and spent fuel reprocessing. *Natural Resources Defense Council* v. *NRC*, 547 F. 2d 633, rev'd *sub nom. Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519 (1978). After first holding that fuel cycle impacts must be addressed in reactor licensing,[7] either by an effective rule or in the adjudicatory proceeding, the court found the rulemaking record insufficient to support the waste management and reprocessing parts of the rule because the procedures afforded during the hearing were inadequate, at least as applied by the hearing board.[8] The court saw the significance of Table S–3 as an expression "in numerical terms [of] the conclusion that the environmental effects of the fuel cycle, including waste disposal, are insubstantial." *Id.* at 646. With regard to reprocessing and waste disposal, "the focal points for this appeal," the court found that the Environmental Survey failed to provide "detailed explanation and support" for this conclusion and that testimony presented at the hearing did not fill the gap. The court noted that "[t]he only discussion of high level waste disposal techniques was supplied by a 20-page statement by [AEC witness] Dr. Frank K. Pittman," which the court criticized for its "conclusory quality." *Id.* at 645, 651. The court found that the procedures employed at the hearing failed to expose this statement to any "probing of its underlying analysis," *id.*, and concluded that the Commission had been arbitrary and capricious to adopt a rule "cutting off consideration of waste disposal issues and reprocessing issues in licensing proceedings based on the cursory development of the facts . . . in this [rulemaking] proceeding." The court vacated those portions of the rule and remanded to the Commission.

In important respects, however, the court of appeals approved the Commission's overall approach to the fuel cycle rulemaking. The court rejected the argument that a fuel cycle rule is itself a major Federal action requiring an impact statement. The court found it sufficient that a NEPA impact statement is prepared when Table S–3 is incorporated into a proposal to license an individual reactor. The court also saw no necessity for a "plenary consideration of alternatives" in evaluating waste disposal impacts for the purposes of the rule, "provided a sufficiently conservative and credible assessment of a particular waste disposal method is used." *Id.* at 653, note 57.

3. *Promulgation of the Interim Rule*

In response to the *NRDC* v. *NRC* decision and a related decision, *Aeschliman* v. *NRC*, 547 F. 2d 622 (D.C. Cir. 1976), the Commission on August 16, 1976 issued a General Statement of Policy (GSP) (41 FR 34707) announcing an intention to reopen the fuel cycle rulemaking proceeding to supplement the existing record on waste management and reprocessing impacts and to determine whether or not the rule should be amended. The Commission directed the NRC staff to prepare on an expedited basis a revised and well-documented environmental survey as the basis for an interim rule on waste management and reprocessing impacts. The General Statement of Policy also directed that no new full-power operating licenses, construction permits, or limited work authorizations should issue, pending the conclusion of a notice-and-comment interim rulemaking. With regard to licenses already issued, the Commisson indicated that, if requests for a show cause order based on fuel cycle grounds were received, licensing boards would be assigned to determine whether the licenses in question should be continued, modified, or suspended pending adoption of an interim rule.

The revised enironmental survey, NUREG–0116—Supplement 1 to WASH–1248, was completed in early October, 1976, and on October 18 the Commission published a notice soliciting public comment on the survey and a proposed interim rule. (41 FR 45849). Comments received in response to that notice and the Commission's responses to those comments were later published in March 1977 as NUREG–0216, Supplement 2 to WASH–1248.

On November 11, 1976 the Commission announced that licensing could resume on a conditional basis (41 FR 49898). As factors in this decision the Commission noted that (1) the court of appeals had stayed its mandate, leaving the S–3 rule formally in effect but conditioning new licenses on the outcome of petitions by licenses for Supreme Court review of the court's decision,[9] and (2) NUREG–0116 provided significant support for the conclusion that waste management and reprocessing impacts are slight, so that the interim rule, when promulgated, would not be likely to produce results in reactor licensing different from the original rule. The Commission also suspended show cause proceedings on fuel cycle grounds against light water reactor licensees. The Commission directed that new licenses could be issued only if a separate analysis determined that use of the impacts in the proposed interim rule would not tilt the cost-benefit balance against the reactor.

On March 19, 1977 the Commission promulgated the interim rule (42 FR 13803) to be effective for eighteen months, subject to extension for good cause. 10 CFR 51.20(e). In support of the interim rule the Commission noted that the two environmental supplements, NUREG–0116 and NUREG–0216, provided a "sufficient informational basis for the interim rule . . ." The Commission acknowledged that "there are gaps in the information needed for a detailed assessment of waste management and disposal technology" but found that "the costs of not proceeding outweigh the risks of proceeding by interim rule," given that within a relatively short period the issues would be more thoroughly discussed in the final rulemaking proceeding. The Commission terminated show cause proceedings initiated pursuant to the General Statement of Policy, noting that "the values in the interim rule are not sufficiently different from the values in the original Table S–3 to warrant revocation or suspension on cost-benefit grounds [of previously issued licenses]."[10] 43 FR 43806.

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[1] A revised version of this Environmental Survey was published in April 1974 as WASH–1248.

[5] The tabulated impacts in Table S–3 included acres of land committed to fuel cycle activities, amount of water discharged by such activities, fossil fuel consumption, and chemical and radiological effluents, the latter in curies, all normalized to the annual fuel requirement for a model 1000 MWe light-water reactor. Notations accompanying the tabulated values included a few radiological doses in man-rem, but no estimates are given of human health effects caused by fuel cycle radiological effluents. The Environmental Survey did not give quantitative estimates of health effects.

[6] The Commission announced on April 14, 1978 an amendment to the fuel cycle rule which removed the release value for radon from the table and left radon impacts open for litigation in individual proceedings. 43 *Fed. Reg.* 15613. Subsequent to this amendment, the staff has been free to introduce evidence of radon-related health effects not based on Table S–3 release values. This notice also confirmed that the rule does not address health effects and does not preclude discussion of health effects in individual proceedings. The notice amended the second sentence of the rule to read: "No further discussion of the environmental effects addressed by the Table shall be required."

Mr. Marvin Lewis, one of the participants in this rulemaking, petitioned the Commission to "vacate" Table S–3 in its entirety, citing as grounds asserted severe health effects from radon releases. The Commission has denied this petition, noting that radon releases are no longer addressed by the table.

[7] The court of appeals consolidated the petition to review the fuel cycle rule with a petition to review an Appeal Board holding in the Vermont Yankee Nuclear Power Station licensing proceeding that environmental impacts of reprocessing or waste disposal need not be considered in individual reactor licensing proceedings. *In the Matter of*

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Vermont Yankee Nuclear Power Corp., 4 AEC 930 (June 6, 1972). The court of appeals rejected the Appeal Board's decision and held that reprocessing and waste disposal issues must be dealt with either by an effective rule or in individual licensing proceedings. The Supreme Court did not disturb this holding when it later reversed the court of appeals. The Supreme Court noted that the Commission "acted well within its statutory authority" in requiring that fuel cycle impacts be considered in reactor licensing proceedings. *Vermont Yankee, Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 539 (1978). The Commission in promulgating the fuel cycle rule had stated that the Appeal Board's Vermont Yankee decisions had no further precedential significance insofar as they differed from the rule. 39 *Fed. Reg.* 14188.

[8] Interpreters of the opinion have differed over the relative weight which the court of appeals in reaching its decision attached to procedural inadequacies and to insufficiency of the record. The Supreme Court was persuaded that the "ineluctable mandate of the court's decision is that the procedures afforded during the hearings were inadequate." 435 U.S. 519, 542. The Supreme Court reversed the court of appeals on this procedural question and remanded for consideration whether the evidentiary record supported the rule. The court of appeals has held in abeyance its decision on the remand, pending completion of the Commission's final rulemaking.

[9] The Supreme Court's subsequent grant of certiorari automatically continued the stay of mandate pending completion of Supreme Court Action. The Supreme Court's remand and subsequent action by the court of appeals have left unresolved for the present the question whether the waste management and reprocessing portions of the original S–3 rule were legally sufficient. See note 8.

[10] Subsequently the Commission directed the Appeal Board to consider for the ten facilities affected by the terminated show cause proceedings "the particularized factual data essential to making a determination of the incremental effect, if any, that the use of the values in the interim rule would have on the NEPA cost-benefit balances for the particular facilities involved." 5 NRC 717, 7173 (1977). The Appeal Board found that fuel cycle impacts did not tilt the cost-benefit balance against any of the facilities in question. 6 NRC 25, 28–30, 6 NRC 33, 102–104, 6 NRC 206, 209 (1977), and concluded: "The effects assigned by the interim rule

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4. Initiation of the Present Rulemaking

Following promulgation of the interim rule, the Commission published a notice of hearing which initiated a final rulemaking. 42 FR 26987 (May 26, 1977). The procedures announced in the notice were the same as those applied in the original hearing, except that specific provision was made for the Hearing Board to entertain suggestions from participants regarding questions which the Board should direct to witnesses or other participants.[11] The subject of the hearing was "confined to the environmental effects of spent fuel reprocessing and radioactive waste management in the light water power reactor uranium fuel cycle, and to the question whether the outcome of the interim rulemaking should be made permanent for future use, or if it should be altered, in what respects."[12] Both NUREG–0116 and NUREG–0216 were specified for inclusion in the hearing record. The fuel cycle was to be taken to include alternatively (1) no reprocessing of spent fuel, or (2) reprocessing of spent fuel for purposes other than recycle of plutonium, with follow-on interim and/or long-term storage or disposal of plutonium and wastes from reprocessing, with plutonium either separated from or included with the wastes.[13]

The following parties participated in this reopened proceeding: the staff of NRC; the Environmental Protection Agency; the Department of Interior; the U.S. Geological Survey; the States of California (California Energy Resources Conservation and Development Commission), Delaware, Maryland, Ohio, Wisconsin and New York; Baltimore Gas and Electric Co., *et al.* (a group of 16 utilities); Commonwealth Edison Co., *et al.* (a group of 8 utilities); the Tennessee Valley Authority; the Allied-General Nuclear Services Co.; Exxon Nuclear Company; Westinghouse Electric Corporation; the Atomic Industrial Forum; the Natural Resources Defense Council; the Pacific Legal Foundation; Environmentalists, Inc.; the Sierra Club; the Union of Concerned Scientists; Mr. Marvin Lewis; and Dr. Chauncey Kepford.

At a prehearing conference held on July 28, 1977 the Hearing Board provided for the submission of written direct testimony by the participants, written questions and answers based on that testimony and follow-up questions, all prior to the start of the oral hearings. These hearings began on January 16, 1978 and concluded in March 1978 after ten days of testimony. During the hearings, in response to a petition by the State of New York, the Board expanded the scope of the proceeding to consider the economic feasibility of the model facilities on which the proposed Table S–3 values were based. The Board conducted all of the questioning during the oral hearings.

The Board compiled an extensive evidentiary record, including the staff's NUREG–0116 and NUREG–0216, the staff's testimony on the economic feasibility of its model facilities, the direct testimony of participants exceeding 1,100 pages, two rounds of written questions propounded by participants and several hundred pages of responses, more than 1,200 pages of transcript of oral hearings, written rebuttal testimony of the parties, and final concluding statements of the parties, filed June 26, 1978.

On August 31, 1978 the Hearing Board submitted a 137-page report to the Commission which summarized this record and outlined the significant issues raised by the participants. Also, responding to the Commission's request for the Board's views, the Board submitted on October 26, 1978 its Conclusions and Recommendations. The Board recommended that the Commission adopt as a final rule a modified Table S–3 proposed by the NRC staff, in which the majority of entries were unchanged from those in the interim rule. The Board also recommended that a "brief explanatory narrative" be adopted as part of the rule, which among other things would interpret the significance of the tabulated impacts in terms of environmental dose commitments. The Board's recommendations identified several aspects of the rule which in the Board's view should be improved upon during the general update of the fuel cycle rule.[14]

Shortly before the Board's recommendations were issued, the Commission announced that it would receive participants' written statements commenting on the rulemaking record and the Hearing Board's recommendations. Nine participants submitted comments, including the NRC staff.[15] Several participants argued that the record did not support adoption of the modified Table S–3. New York State asserted that the record showed the model facilities on which the table was based were not economically feasible. Other opponents of the table argued that the tabulated impact values did not adequately reflect underlying uncertainties revealed by the record. In particular, they questioned basing reprocessing impacts on model facilities rather than past operating experience. The omission of technetium-99 releases from the table was also criticized. Several parties who opposed adopting the table stressed that dose commitments and health effects, economic and socioeconomic impacts, and cumulative impacts were not addressed by the table and were required for an adequate description of fuel cycle environmental impacts. These participants generally supported preparation of an explanatory narrative but urged a broader scope than the one proposed by the Board.

Other participants supported the Board's recommendation for adoption of the modified Table S–3 but questioned the need for an explanatory narrative. They pointed to procedural problems of providing adequate notice before a narrative could be incorporated as part of the rule. Some parties concluded, on the grounds that the D.C. Circuit had not criticized the portions of the original S–3 rule dealing with the front-end of the fuel cycle, that there was no legal requirement for a narrative or for consideration of fuel cycle environmental questions outside the scope of the original Table S–3.

The NRC staff favored adoption of the modified Table S–3 as a final rule but preferred that an explanatory narrative be deferred for preparation as part of the general update. The staff noted that explanatory material subject to litigation in individual licensing proceedings is presently introduced to

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to the uranium fuel cycle are . . . extremely small (as the Commission itself has suggested). This being so, they could not possibly serve to call for the abandonment of any particular nuclear facility unless the cost-benefit balance for that facility was otherwise in virtual equipoise." 8 NRC at 104.

[11] On January 26, 1978 the Commission modified the procedures to allow participants to cross-examine witnesses on specific factual issues at the close of the legislative-type hearings, where it could be demonstrated with particularity that the procedure was necessary to prepare a record adequate for a sound decision. No cross-examination in fact occurred. After a special hearing to consider requests, the Board found that the requisite demonstrations had not been made.

[12] With regard to fuel cycle impacts not within the scope of the hearing, the notice observed that the staff had begun a general update which was expected to lead to a separate rulemaking proceeding. A proposed outline for this "update of WASH–1248" was announced by the staff on September 7, 1978. 43 Fed. Reg. 39801.

[13] The impacts from reprocessing, waste management and transportation of wastes given in the interim rule are maximized for either of the two fuel cycles considered (no reprocessing and reprocessing only to recover uranium). See note 1 to Table S–3, 10 CFR 51.20 (1978).

[14] See note 12 above.

[15] The nine commenters were Mr. Marvin Lewis, the Natural Resources Defense Council, the Sierra Club, the State of New York, the States of Ohio and Wisconsin, Baltimore Gas and Electric, *et al.*, Commonwealth Edison, *et al.*, the Tennessee Valley Authority, and the NRC staff.

accompany the use of Table S–3 in such proceedings and recommended that this practice continue.

On January 19, 1979 the Commission heard oral presentations from the commenters. These presentations provided a valuable elaboration of the parties' views but did not change the basic positions stated in the written comments. The Commission accepted brief supplemental written submissions following the oral presentations and then closed the record of this proceeding as of January 23, 1979.

III. Final Rulemaking

1. Adoption of the modified Table S–3

The Commission has found that except for technetium-99 releases the record supports adoption of the modified Table S–3 as a final rule, as recommended by the Hearing Board. The participants' comments and the Board's recommendations have made clear that the Table is not free of flaws, but for the reasons discussed below the Commission believes that these will not significantly impair the Table's usefulness as the starting point for considering fuel cycle impacts in individual reactor licensing proceedings.

To begin with, there can be little doubt that this rulemaking has been adequate from a procedural standpoint. The Supreme Court's *Vermont Yankee* decision confirmed that informal agency rulemaking is procedurally sufficient when the notice-and-comment requirements of the Administrative Procedure Act, 5 U.S.C. 553, are met. 435 U.S. 419 (1978). The fuel cycle rulemaking not only afforded these basic notice-and-comment procedures but also provided extensive additional written and oral procedures, including several not offered by the hearing board in the original S–3 rulemaking. A few participants expressed the view that the record might have been improved, had the Board exercised its discretion to permit cross-examination, but no one has argued that the record is legally deficient from a procedural standpoint.

As noted earlier, however, several comments to the Commission questioned whether the record provides sufficient evidence to support the numbers in the modified Table. The general thrust of these comments was that the model facilities analyzed by the staff were for one reason or another unacceptable as a basis for determining fuel cycle impacts. The Commission believes that the substance of these comments has been adequately addressed by the Hearing Board in the discussion supporting its recommendations. Conclusions and Recommendations of the Hearing Board, Docket RM–50–3. The issues of greatest importance or special concern to commenters are reviewed in the following subsections.

a. Economic Feasibility. The proposed rule clearly would be open to serious question if the model facilities on which the values in Table S–3 are based would be prohibitively expensive to build and operate. In response to the Board's request for evidence on economic feasibility, viewed in this narrow sense, the staff submitted cost estimates based on material from the GESMO proceeding.[16] From these estimates the Hearing Board found per-reactor costs of reprocessing and waste management to be on the order of ten percent of the total costs for building and operating an individual reactor. The Board concluded that such costs were not prohibitive. Recommendations, page 58.

Comments by the State of New York challenged the Board's conclusion that establishing fuel cycle costs at a few percent of total generating costs sufficed to demonstrate economic feasibility.[17] New York cited testimony by its own witnesses asserting that the economics of nuclear power are precarious and that back-end fuel cycle costs will tip this doubtful balance against the nuclear option. This evidence, New York concluded, "mandates a finding of economic infeasibility of the back end of the uranium fuel cycle."

The Commission believes New York missed the distinction between the broad issue of nuclear power economics and the much narrower question of economic feasibility of specific models for waste management and reprocessing. Whether nuclear power is good business is not an issue in this rulemaking. The fuel cycle rule will be used only when someone has decided, rightly, or wrongly, that nuclear power is sufficiently viable economically to warrant applying for a reactor license. Once the reactor has operated, back-end fuel cyle activities must be carried out, whatever the cost. This rulemaking addressed the environmental impact of those activities based on methods and facilities which could on technological grounds reasonably be employed. The economic feasibility question, correctly identified by the Hearing Board, is simply whether these methods might be so outlandishly expensive that there will be a "major incentive for reducing [costs] at the expense of increasing the radioactive effluents above the values * * * in Table S–3." Recommendations, page 58. The Commission believes that the fuel cycle cost estimates arrived at by the Hearing Board took adequate account of matters in controversy and provided a reasonable basis for the Board's conclusion that the staff's models are economically feasible in the sense described above.[18]

b. Waste Management and Disposal. In determining the impacts associated with waste management and disposal the staff assumed that high-level waste (or reactor spent fuel treated as waste) would be stored in interim facilities (water basins and retrievable surface storage facilities) for about twenty years and then disposed of by burial in a bedded salt geologic repository.[19] The

[16] Generic Environmental Statement on the Use of Recycle Plutonium in Mixed Oxide Fuels in Light Water Cooled Reactors, NUREG–0002, August 1976.

[17] Also, during the hearing and in a separate motion filed before the Commission on December 18, 1978, New York, together with Wisconsin and Ohio, urged that dollar value impacts should be brought within the scope of the S–3 proceeding. The matter of dollar value economic impacts is separate from the issue of economic feasibility. The Commission made clear earlier in an order issued February 9, 1978, Docket RM–50–3, that this rulemaking "was not intended to encompass a full economic analysis leading to inclusion of economic costs in the uranium fuel cycle rule." The Order left open the possibility that the detailed economic costs of the fuel cycle might be dealt with in a later generic rulemaking. The Commission will refer the States' motion to the staff for treatment as a petition for rulemaking pursuant to 10 CFR 2.802. To the extent that fuel cycle dollar value impacts are relevant to the cost-benefit balance for a reactor they may at present be considered in individual licensing proceedings.

[18] The Board's cost estimates took into account New York's vigorous objection to the staff's use of a 10 percent discount rate. The Board computed a range of estimated fuel cycle costs based on return on investment of 2 and 0 percent, suggested by New York as more realistic, and based its judgment on an overall cost estimate large enough to include the upper limit of the range. The Board also noted its view that costs of decommissioning a power reactor, a matter of controversy at the hearing, are facility-specific and should be considered in individual reactor proceedings rather than included among the costs of the fuel cycle activities which are the subject of the generic rule. The Commission finds the Board's reasoning correct on this point and confirms that reactor decommissioning costs are not relevant to this rulemaking.

[19] The program of interim storage followed by geologic disposal is in broad outline the same waste management model considered in the original fuel cycle rulemaking, but the record developed in the present proceeding is far more extensive, particularly with respect to disposal. Dr. Pittman's testimony at the original rulemaking in 1973 consisted largely of a description of a proposed retrievable surface storage facility for continuously monitored interim storage. Concerning ultimate disposal without further surveillance, Dr. Pittman noted that a major effort was underway to determine whether disposal in bedded salt was acceptable, but he did not describe the concept in any detail. In contrast, NUREG–0116, Section 4.4, provides a 30-page quantitative discussion of disposal of long-lived wastes in a bedded salt repository, with citations to many relevant technical documents prepared since 1973. The bedded salt concept was discussed extensively in written and oral testimony at the hearing. For example, the Board's oral examination of witnesses from the

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staff's interim storage model was not seriously questioned at the hearing. The technology for storing spent fuel elements under water in pools is well established; radioactive releases to the environment have in practice been extremely small and may be expected to remain small, even if pool storage is protracted by delays in establishing disposal facilities. The Commission concludes that the staff analysis of interim storage impacts was reasonable. In any case, the values in Table S–3 would not be significantly affected by any reasonably foreseeable variations from the time periods and models for interim storage assumed by the staff.

Analysis of waste disposal necessarily involves greater uncertainty than interim storage because disposal technology has not yet been selected. Consistent with the court of appeals' ruling that it suffices to assess one credible waste disposal method, rather than the full spectrum of alternatives, NUREG–0116 chose to analyze "deep emplacement in a stable geologic medium (bedded salt) under the continental U.S." The staff concluded that this technology "has the greatest amount of substantive information available from which to summarize environmental impacts" and would be "reasonably representative of impacts that would result from any appropriately designed geological emplacement." NUREG–0116, page 2–9.

The waste repository impacts of greatest concern are radioactive effluents which might escape to the biosphere during the thousands of years which must elapse before radioactivity in the waste has dropped to an insignificant level. For spent fuel disposal the staff made the conservative assumption that fission-product gases in the spent fuel, including all tritium, krypton-85, carbon-14, and iodine-129, would be released during handling and emplacement of the waste prior to sealing of the repository.[20] This assumption reflects the possibility that the spent fuel storage canisters and the fuel rod cladding will be corroded by the salt during the period the repository is open (roughly 6 to 20 years), and volatile materials in the fuel will escape to the environment. The staff assumed, however, that after the repository is sealed there would be no further release of radioactive materials to the environment.[21]

With regard to this assumption of complete repository integrity, the Hearing Board identified as the major concern the question "whether water might enter, dissolve the radioactive materials, and transport them to the biosphere." The staff assumed such transport would not occur, for reasons summarized by the Board as "in part based on the fact that the salt in which the waste would be buried would have existed for millions of years free of water except for a small amount of entrapped brine, and could be expected to continue to so exist. The location would be one of low seismic and volcanic activity and with few resources important to man, so the probability of intrusion by nature or by humans would be small. Salt is plastic and would tend to heal some types of intrusions. Furthermore, if water were to reach the repository and dissolve the waste, natural barriers provided by media surrounding the salt would slow the rate of transport so that most of the radioactivity would decay before it would reach the biosphere." Conclusions and Recommendations of the Hearing Board, Docket RM–50–3, page 34.

The Commission finds that these characteristics of a bedded-salt repository afford a reasonable basis for the staff's conclusion that the repository can maintain its integrity, provided that sites meeting the selection criteria can in fact be found and developed. On this key issue the evidence in the record is tentative but favorable. At the hearing a witness for the U.S. Geological Survey testified that he believed it possible to find sites for repositories that would give the low release rates estimated by the staff. Transcript at 729. Although no specific location has yet been identified as meeting the criteria, the widespread distribution of salt deposits favors the view that suitable sites can be found.[22] Such general evidence, coupled with the absence of any strong argument that a site cannot be found, probably affords as strong a record as can be made on the issue until a specific site has been thoroughly investigated and found to be suitable.[23]

For these reasons and based on this record it is the Commission's judgment that a suitable bedded-salt repository site or its equivalent will be found, but the Commission notes and agrees with the Interagency Review Group on Waste Management that areas of uncertainty remain regarding both the likelihood of finding a site and the probability that it will perform as expected.[24] The Commission's judgment in this regard is limited to the purposes for which this proceeding was brought—namely to specify for NEPA purposes the environmental impacts to be considered in individual licensing proceedings as part of the environmental cost-benefit analysis for a power reactor. It is in no way intended to be a judgment for choosing among alternative technologies for waste disposal. That kind of judgment is in the first instance to be made by the Department of Energy and will be subject to further review in a Commission licensing proceeding when a particular proposal comes before us. Nor is the Commission making judgments in this proceeding as to the likelihood of waste disposal being accomplished safely. That issue has been addressed separately by the Commission.[25]

Furthermore, the Commission intends in the near future to conduct a generic proceeding to reassess the outlook for the availability of safe waste disposal methods in light of new data and recent developments in the Federal waste management program.[26]

In view of the uncertainties noted regarding waste disposal, the question then arises whether these uncertainties can or should be reflected explicitly in the fuel cycle rule. The Commission has concluded that the rule should not be so modified. On the individual reactor licensing level, where the proceedings deal with fuel cycle issues only peripherally, the Commission sees no advantage in having licensing boards repeatedly weigh for themselves the effect of uncertainties on the selection of fuel cycle impacts for use in cost-benefit balancing. This is a generic question properly dealt with in this rulemaking as part of choosing what impact values should go into the fuel cycle rule. The Commission concludes, having noted that uncertainties exist, that for the limited purpose of the fuel cycle rule it is reasonable to base impacts on the assumption which the Commission believes the probabilities favor, *i.e.*, that bedded-salt repository sites can be found which will provide effective isolation of radioactive waste from the biosphere.[27]

Assuming an initially suitable site is found, the Board noted that particular concern had been expressed regarding the possibility that heat released by radioactive decays in the waste might alter conditions in the salt so as to give access to water and promote migration of the waste. As the Board points out in its recommendations, however, the average temperature rises in the salt will depend on the density of waste emplacement. Increasing the amount of land committed to the repository reduces this density and may be expected to be an effective measure for meeting concerns about temperature effects. During the proceeding the staff proposed a modification to Table S–3 raising the acreage committed to waste disposal. This modification is included in the table adopted as the final rule.

Even allowing for some eventual leakage of water into the repository, information in the record indicates that transport of materials out of the repository area would take tens of thousands of years. The only apparent natural mechanisms cited which might reasonably cause major releases involved very low probability catastrophic events such as a large meteor strike on the repository or formation of new geologic faulting intersecting the area. Releases through accidential intrusion by man remain possible but in the Commission's view unlikely since casual intrusions should be virtually impossible and sites should be selected in areas offering little incentive for deliberate intrusion in search of natural resources. Given the staff's assumption that volatile fission products are totally released before the repository is sealed, the Commission finds that taking post-sealing releases as zero does not significantly reduce the overall conservatism of the table.

In summary, the Commission concludes, based on the above considerations and the more detailed analysis given in the Board's recommendations, that the staff's model for assessing impacts of waste disposal is reasonable and adequate for the purposes of the fuel cycle rule.

c. *Reprocessing.* The reprocessing alternative considered in this proceeding involved reprocessing of spent fuel for purposes other than recycle of plutonium.[28] In considering this alternative, the Commission expresses no view on the likelihood that such reprocessing will take place.[29] Under this alternative the staff assumed that spent fuel after 160 days cooling at the reactor would be shipped to a model reprocessing facility, where the uramium, plutonium, and fission products would be separated by the Purex solvent extraction process into three liquid fractions. The uranium would be converted to uramium hexafluoride for recycling at an enrichment plant. The plutonium, still containing about five percent of the fission products to deter diversion, would be converted to plutonium oxide and packaged for disposal in a Federal waste repository. The high-level liquid waste (HLLW), containing the bulk of the fission products, would be stored up to five years in tanks and then calcined and formed into glass for repository disposal.

No significant question was raised at the hearing regarding the staff's choice of processes, but considerable controversy arose concerning the staff's assumption that the performance of the model facility would show a significant improvement over previous commercial reprocessing experience. The only commercial experience in the United States with reprocessing spent uranium oxide fuel from light water reactors was obtained at the Nuclear Fuel Services plant (NFS) in West Valley, New York.

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United States Geological Survey regarding the characteristics of salt beds as a repository medium occupies 37 pages of the hearing transcript. Tr. 699 ff. Docket RM–50–3. In addition, the present state of knowledge regarding nuclear waste disposal and its impacts has been extensively detailed in the Report to the President by the Interagency Review Group on Nuclear Waste Management ("IRG Report"), TID–29442 (March 1979) and the draft Subgroup Report on Alternative Strategies for the Isolation of Nuclear Waste, TID–28818 (Draft), October 1978.

[20] The numbers in Table S–3 reflect this assumed complete release. In the alternative that spent fuel is reprocessed rather than disposed of directly, the staff's reprocessing model assumed complete release of tritium, krypton-85, and carbon-14 but provided for capture of most of the iodine-129. The value for iodine-129 that appears in Table S–3 is for total release.

[21] NUREG–0116 states (pages 2–10, 2–11): "Long term impacts will be nonexistent if the repository performs as expected and maintains the wastes in isolation. The rationale . . . follows a simple line: since the [bedded salt] formation has been demonstrably undisturbed for many millions of years, there is reason to believe that it will remain undisturbed into the future, even though mildly modified by placing the wastes into it." Supplementing this basic rationale, Section 4.4 of NUREG–0116 provides a detailed review of reasons for believing that a bedded salt disposal system, suitably selected, will prevent significant releases for the full period needed for waste detoxification.

[22] NUREG–0116 notes that salt deposits have been found in 24 of the 50 States. Sec. 4.4.1.2.

[23] In view of the often-cited experience at Lyons, Kansas, it is worth mentioning that the failure of a particular site to meet selection criteria, though discouraging, cannot of itself disprove the feasibility of the bedded-salt repository concept. At Lyons, Kansas, an initially promising site later proved unsuitable because of previously undiscovered bore holes and adjacent mining operations that compromised the integrity of the site. These problems were specific to the site rather than inherent in the concept.

[24] These residual uncertainties were noted in the Report to the President by the Interagency Review Group on Waste Management, TID–29442, March 1979, which was discussed in draft form at the January 19, 1979 oral presentation. Responding to comments on the feasibility of waste disposal in mined repositories, the IRG report states on page 42: "No scientific or technical reason is known that would prevent identifying a site that is suitable for a repository provided that the systems view is utilized vigorously to evaluate the suitability of sites and designs, and in minimizing the influence of future human activities. A suitable site is one at which a repository would meet predetermined criteria and would provide a high degree of assurance that radioactive waste can be successfully isolated from the biosphere for periods of thousands of years. For periods beyond a few thousand years, our capability to assess the performance of the repository diminishes and the degree of assurance is therefore reduced. The feasibility of safely disposing of high level waste in mined repositories can only be assessed on the basis of specific investigations at and determinations of suitability at particular sites. * * * [E]ven at the time of decommissioning some uncertainty about repository performance will still exist." The Commission believes the IRG Report's view that suitable sites can be identified but that uncertainty about repository performance cannot be entirely eliminated is consistent with the record compiled in the fuel cycle rulemaking.

[25] 42 *Fed. Reg.* 34391, July 5, 1977. See also *Natural Resources Defense Council* v. *NRC*, 582 F. 2d 166 (2d Cir. 1978).

[26] The immediate occasion for this proceeding is the D.C. Circuit's remand to the Commission of *State of Minnesota* v. *NRC*, Nos. 78–1269 and 78–2032 (May 23, 1979) to consider whether there is reasonable assurance that an off-site storage solution for nuclear wastes will be available by the years 2007–09, the expiration dates for licenses of certain nuclear plants where the Commission has granted permits to expand on-site spent fuel capacities and if not, whether there is reasonable assurance that the fuel can be stored safely at the site beyond those dates. A continuing reassessment of the Commission's views on waste disposal is part of the commitment which the Commission has made to Congress. The final IRG report, which was available to the fuel cycle rulemaking participants only at the close of the rulemaking and only in draft form, will be part of the new information which the Commission will consider in its reassessment. The Commission will announce at a later date the specific procedures to be adopted for this proceeding and its precise scope.

[27] Even if, contrary to the evidence in the record and the Commission's expectation, bedded-salt repositories should ultimately be found not adequate, the strong incentive to develop sound waste disposal methods and the major effort now directed to this goal make it likely that a means of effective isolation will be found among the many geologic disposal techniques being considered. The IRG Report (see note 24 above) notes on page 3 that "increased levels of support . . . and broader range of disciplines involved have led to a greatly increased accumulation of knowledge within the [waste management] program. The current rate of growth of knowledge is very large."

[28] On December 23, 1977, in response to President Carter's nuclear non-proliferation policy, the Commission terminated proceedings on pending or future plutonium recycle-related license applications and halted proceedings on the Generic Environmental Statement on Mixed Oxide Fuel (GESMO) to determine under what condition uranium and plutonium might be recycled from spent light water reactor fuel and fabricated into fresh mixed oxide fuel on a wide scale. In the Matter of Mixed Oxide Fuel, 6 NRC 861 (1977). See also 7 NRC 711 (1978).

[29] The Commission's instructions to the S–3 Board of January 26, 1978 (Commissioner Gilinsky dissenting) noted that "Although the 'once-through' fuel cycle is currently the reference case for United States policymaking purposes, the possibility of some form of reprocessing for waste management purposes is not excluded and therefore the Commission decided that this alternative should be included as well. The Commission paid particular attention to the fact that the spent fuel processing surveyed in this proceeding would treat plutonium solely as a waste product and would not make plutonium available in a form suitable for use as reactor fuel. The Commission emphasized that its refusal to cut back the scope of the fuel cycle rulemaking is not to be allowed to convert this rulemaking into a GESMO proceeding."

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This relatively small plant, which is no longer in operation, had the capacity to process on the order of one metric ton of spent fuel per day but in practice achieved a capacity factor of only 0.33 as compared with an expected 0.8. A high level of radioactive effluent releases was experienced during the NFS operation.

The staff based its reprocessing impact estimates on performance predictions for future facilities rather than on the NFS operation. The staff's model reprocessing facility is intended to be representative of the as-yet-unoperated Allied Gulf Nuclear Service Plant at Barnwell, South Carolina, built with a capacity of 5 metric tons/day, and Exxon Nuclear's propqsed Nuclear Fuel Recovery and Recycling Center, designed for an ultimate capacity of 7 metric tons/day. The staff assumed that the model facility would operate with a capacity factor of 0.8 and would reprocess spent fuel from 57 model reactors.[30] The staff assumed that effluent control measures proposed for the model facility would achieve for several radioactive effluents a degree of decontamination greatly exceeding that demonstrated at NFS.[31]

The Hearing Board found that equipment was presently available or reasonably likely to be developed that would enable operation of a reprocessing facility on the scale assumed by the staff. The Board noted that design improvements intended to overcome operational difficulties experienced at NFS have been incorporated in Barnwell and that in any case no problems identified in the record appeared too difficult for solution by sound engineering and additional experience. The Board found that the capacity factor of 0.8 assumed by the staff was probably too optimistic but that a factor of 0.7 was likely to be achieved. Even with this lower capacity factor, the Board found that because the staff had probably overestimated the amount of spent fuel discharged annually per reactor the staff's model facility would still be able to reprocess spent fuel from 57 reactors, as assumed. In any event, the Board observed, radioactive releases and natural gas consumption, which are the major reprocessing impact contributions to Table S–3, are primarily dependent on the amount of spent fuel processed per reference reactor year and are not much affected by reprocessing plant size or capacity factor.

With regard to radioactive effluents from reprocessing plants, the Board found that the impact values "are reasonable and in most instances are overestimates of the impacts that would actually occur." Recommendations at 17. The Board noted that the staff assumed spent fuel would be reprocessed after 160 days decay, while in all likelihood any spent fuel actually reprocessed in the foreseeable future will probably have been stored five years or more following removal from the reactor. In this period iodine-131 (8-day half-life) will have decayed away, ruthenium-106 (368-day half-life) will be reduced by a factor of about 30, and tritium and krypton-85 will be reduced by a factor of 1.3 or more.

The Board observed that the control measures which the staff relied on to achieve decontamination factors greatly superior to NFS experience "have not been operated in the combinations proposed, and some have been tested only in the laboratory." Recommendations at 20. Nevertheless the Board found these tests sufficiently convincing to support the staff's conclusion that the assumed decontamination factors can be achieved and probably surpased. The low decontamination factors at NFS were, in the Board's view, largely caused by faulty design and perhaps faulty operation. The Board concluded that the staff had probably overestimated the amounts of ruthenium, non-volatile fission products and transuranic nuclides likely to be released during normal operation of a model reprocessing facility.[32]

In its comments to the Commission, the Sierra Club stressed its view that reprocessing impacts (including occupational exposures) should be based on the NFS historical experience rather than on "idealized hypothetical facilities," or alternatively that the table should be amended to include two sets of reprocessing estimates, one based on historical experience and the other on model facilities. The Sierra Club also called attention to the omission of technetium-99 releases from Table S–3 and argued that these releases would be significant.[33]

The Commission does not accept the view that historical experience should be the definitive measure for reprocessing impacts. The Commission finds that the staff and the Board were reasonable in recommending that reprocessing impact estimates take account of expected technological improvements, especially where most if not all of those improvements are not simply "hypothetical" but are already designed, constructed, and installed in an existing facility (Barnwell). As the comments pointed out, Barnwell has not operated, and there is always uncertainty whether untested facilities will work as well as planned. But even if one agrees with the observation made in several of the comments that in nuclear technology things almost never work as well as planned, it would seem that reasonable allowance for this factor is included within the staff's many conservatisms and overestimates of releases noted by the Hearing Board.

Furthermore, the Commission does not believe that including in the table a separate set of impact estimates based on NFS experience would illuminate the uncertainty issue. NFS impacts are not likely to be a meaningful measure, even as a limiting case. It is clear from the general dissatisfaction with the NFS facility that further commercial reprocessing ventures will not be attempted unless their proponents have sound reason to expect much better performance, including reduced occupational exposure.[34]

Accordingly, the Commission concludes, as in the matter of waste disposal uncertainties, that uncertainties in reprocessing impacts should be

[30] As of March 1979 there were seventy light water power reactors licensed to operate in the United States.

[31] These include ruthenium-106, strontium-90, cesium-137, plutonium and other transuranic nuclides. The staff assumed decontamination factors on the order of 10^3 Decontamination factors of about 10^3 were measured at NFS for ruthenium, strontium, and cesium. See Recommendations at 22.

[32] With regard to volatile radionuclides, as noted previously (see note 20), the staff assumed all tritium, krypton-85, and carbon-14 in spent fuel would be released, either in reprocessing or during the operating phase of a waste disposal repository. The Board found the release values for krypton-85 and tritium to be overestimates and the carbon-14 emission value of 24 curies to be "reasonable." The Board found that the staff had also overestimated iodine-129 releases from reprocessing, but this estimate is of no consequence since the iodine-129 value in Table S–3 is based on total releases from spent fuel during waste repository operation.

[33] Technetium-99 is a relatively volatile radionuclide with a half-life of 213,000 years. The Hearing Board found that the assumption that all iodine-129 is released "tends to compensate" for the neglect of technetium. The Board concluded also that technetium releases could probably be contained at least as well as ruthenium releases, which in the Board's view the staff had overestimated. The Board recommended that technetium release impacts be considered explicitly as part of the general update.

[34] Thus the NFS facility is not representative of "existing technology" in the sense of an ongoing activity which will continue at a present level of impact until technical breakthroughs occur. The court of appeals' comment, 547 F. 2d 638, note 13, noted by the Sierra Club, that it might be desirable to have alternative impact estimates, one "based only on existing technology" and another which takes account of anticipated developments, does not in the Commission's view apply to the reprocessing situation as it now exists. The court of appeals also stated that it had "no occasion in this case to decide whether a court could ever require such a procedure." *Id.*

resolved within this rulemaking by adopting tabulated impacts based on model facilities using technology most likely to be employed. Except for technetium-99 releases, the Commission has therefore found that the modified Table S–3 provides an adequate treatment of reprocessing impacts. It appears from the record that technetium releases from the fuel cycle will occur but are not included in the table. The Commission believes that Table S–3 should be supplemented during the general update by inclusion of an appropriate value for technetium releases. Pending this supplementation, both the magnitude and the environmental significance of technetium releases from back end fuel cycle activities may be considered in individual reactor licensing proceedings which have not been noticed for hearing on environmental matters prior to the effective date of this final rule. In view of the Hearing Board's conclusion that the conservative assumption of complete release of iodine-129 tends to compensate for the omission of technetium from Table S–3, the Commission finds it unnecessary to reopen closed proceedings or to disturb consideration of environmental issues in presently pending proceedings to provide for consideration of technetium-99 releases.

2. The Explanatory Narrative.

As the comments indicate, this rulemaking grew well beyond a narrow inquiry into the evidentiary basis supporting the numbers tabulated in the interim rule. The broader perspective taken by the participants and the Hearing Board has helped clarify many aspects of fuel cycle environmental impacts not covered by Table S–3 which need to be addressed, at least conceptually, in a comprehensive fuel cycle rule. Until such a rule is developed important generic fuel cycle issues must continue to be litigated in individual reactor licensing proceedings. These issues include—but are not necessarily limited to—environmental dose commitments and health effects from fuel cycle releases, fuel cycle socioeconomic impacts, and possible cumulative impacts. Pending further treatment by rulemaking, the NRC staff is directed to address these matters in the environmental analysis accompanying a proposal to issue a limited work authorization, construction permit, or operating license for a power reactor.

The Commission has accepted the Hearing Board's recommendation that an explanatory narrative which addresses these subjects should be prepared and adopted as part of the fuel cycle rule. Although such a narrative is not legally required, provided an adequate description of fuel cycle impacts is given in individual proceedings, the same reasons which favor treatment of fuel cycle impacts by generic rulemaking also favor evaluating the significance of those impacts by rulemaking, rather than by repeated adjudication. The Commission agrees, however, that adoption of a narrative by rulemaking will require adequate notice and opportunity for public comment and therefore cannot be done without a further proceeding. Since the narrative must address important basic issues in arriving at a method for evaluating the significance of fuel cycle impacts,[35] the Commission has determined that such a proceeding should begin promptly.

The Commission has directed the staff to prepare by October 1, 1979, a draft narrative for the Commission's review prior to issuance for public comment.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the National Environmental Policy Act of 1969, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to 10 CFR Part 51 is published as a document subject to codification, to be effective on September 4, 1979.

10 CFR Part 51 is amended by revising § 51.20(e) and 51.23(c) as follows:

§ 51.20 Applicant's Environmental Report—Construction Permit Stage.

* * * * *

(e) The Environmental Report required by paragraph (a) for light-water-cooled nuclear power reactors shall take Table S–3, Table of Uranium Fuel Cycle Environmental Data, as the basis for evaluating the contribution of the environmental effects of uranium mining and milling, the production of uranium hexafluoride, isotopic enrichment, fuel fabrication, reprocessing of irradiated fuel, transportation of radioactive materials and management of low level wastes and high level wastes related to uranium fuel cycle activities to the environmental costs of licensing the nuclear power reactor. Table S–3 shall be included in the Report and may be supplemented by a discussion of the environmental significance of the data set forth in the Table as weighed in the cost-benefit analysis for the proposed facility. This paragraph applies to any applicant's environmental report submitted on September 4, 1979, or thereafter.

§ 51.23 Contents of Draft Environmental Statement.

* * * * *

(c) The draft environmental impact statement will include a preliminary cost-benefit analysis which considers and balances the environmental and other effects of the facility and the alternatives available for reducing or avoiding adverse environmental and other effects, as well as the environmental, economic, technical and other benefits of the facility. The contribution of the environmental effects of the uranium fuel cycle activities specified in § 51.20(e) shall be evaluated on the basis of impact values set forth in Table S–3, Table of Uranium Fuel Cycle Environmental Data, which shall be set out in the draft environmental impact statement. With the exception of radon-222 and technetium-99 releases, no further discussion of fuel cycle release values and other numerical data that appear explicitly in the Table shall be required.[36] The impact statement shall take account of dose commitments and health effects from fuel cycle effluents set forth in Table S–3 and shall in addition take account of economic, socioeconomic, and possible cumulative impacts and such other fuel cycle impacts as may reasonably appear significant. The cost benefit analysis will, to the fullest extent practicable, quantify the various factors considered. To the extent that such factors cannot be quantified, they will be discussed in qualitative terms. The cost-benefit analysis will indicate what other interests and consideration of Federal policy are thought to offset any adverse environmental effects of the proposed action identified pursuant to paragraph (a). Due consideration will be given to

[35] Among these issues is the question of the time period over which dose commitments from long-lived radioactive effluents should be evaluated. The court of appeals observed with regard to waste disposal that: "[T]he toxic life of the waste under discussion far exceeds the life of the plant being licensed. The environmental effects to be considered are those flowing from reprocessing and passive storage for the full detoxification period." 547 F. 2d 639, note 12. The analysis required by NEPA is, of course, subject to a rule of reason. *See Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 551 (1978); NRDC v. Morton, 458 F. 2d 827, 837 (D.C. Cir. 1972).* How dose commitment evaluations over extended periods of time might be performed and what their significance might be are subjects which the Commission expects an explanatory narrative would address.

[36] Values for releases of Rn–222 and Tc–99 are not given in the Table. The amount and significance of Rn–222 releases from the fuel cycle and Tc–99 releases from waste management or reprocessing activities shall be considered in the draft environmental impact statement and may be the subject of litigation in individual licensing proceedings.

compliance of the facility construction or operation and alternative construction and operation with environmental quality standards and requirements which have been imposed by Federal, State, regional, and local agencies having responsibility for environmental protection, including applicable zoning and land-use regulations and water pollution limitations or requirements promulgated or imposed pursuant to the Federal Water Pollution Control Act. The environmental impact of the facility will be considered in the cost-benefit analysis with respect to matters covered by such standards and requirements irrespective of whether a certification or license from the appropriate authority has been obtained, including any certification obtained pursuant to section 401 of the Federal Water Pollution Control Act. While satisfaction of Commission standards and criteria pertaining to radiological effects will be necessary to meet the licensing requirements of the Atomic Energy Act, the cost-benefit analysis will, for the purposes of NEPA, consider the radiological effects of the facility and alternatives.

Separate Views of Commissioner Bradford on S–3

I

I am concurring in the latest version of the S–3 table with the understanding that it is to be extensively supplemented. Today's decision does improve somewhat on the present interim version. However, it remains a document with four weaknesses that will have to be improved through the promised narrative and update proceeding. The weaknesses are the zero release repository judgment, the reprocessing scenario, the procedural underpinning, and the absence of a clear statement of the health effects and time commitments involved. Additionally, I do not agree with the ambiguous and pointless restriction on the litigation of the technetium issue and would prefer to handle it as was agreed to by four Commissioners on May 3, 1979.

I can concur in the "zero release" number only because it is better founded than the same figure in the present interim version, and because, as the Commission states, this assumption does not appear to affect the S–3 table's overall conservatism. Nonetheless, there are uncertainties here, and the Board's summary of the record has not done them justice.[1] The forthcoming narrative will, in my view, need to address this subject.

[1] See for example, Transcript, p. 729. The Commission improves upon the Board's understatement in its Footnote 24, p. 40. However, the IRG report itself at that point contains a dissenting view from members who felt that insufficient attention was given to "significant gaps and uncertainties in our current technical understanding."

Table S–3.—*Table of Uranium Fuel Cycle Environmental Data*[1]

[Normalized to model LWR annual fuel requirement [WASH–1248] or reference reactor year [NUREG–0116]]

Environmental considerations	Total	Maximum effect per annual fuel requirement or reference reactor year of model 1,000 MWe LWR
NATURAL RESOURCES USE		
Land (acres):		
Temporarily committed [2]	100	
Undisturbed area	79	
Disturbed area	22	Equivalent to a 110 MWe coal-fired power plant.
Permanently committed	13	
Overburden moved (millions of MT)	2.8	Equivalent to 95 MWe coal-fired power plant.
Water (millions of gallons):		
Discharged to air	160	=2 percent of model 1,000 MWe LWR with cooling tower.
Discharged to water bodies	11,090	
Discharged to ground	127	
Total	11,377	<4 percent of model 1,000 MWe LWR with once-through cooling.
Fossil fuel:		
Electrical energy (thousands of MW-hour)	323	<5 percent of model 1,000 MWe LWR output.
Equivalent coal (thousands of MT)	118	Equivalent to the consumption of a 45 MWe coal-fired power plant.
Natural gas (millions of scf)	135	<0.4 percent of model 1,000 MWe energy output.
EFFLUENTS—CHEMICAL (MT)		
Gases (including entrainment) [3]		
SO_x	4,400	
NO_x [4]	1,190	
Hydrocarbons	14	Equivalent to emissions from 45 MWe coal-fired plant for a year.
CO	29.6	
Particulates	1,154	
Other gases:		
F	.67	Principally from UF_6 production, enrichment, and reprocessing. Concentration within range of state standards—below level that has effects on human health.
HCl	.014	
Liquids:		
SO^{-}_{4}	9.9	From enrichment, fuel fabrication, and reprocessing steps. Components that constitute a potential for adverse environmental effect are present in dilute concentrations and receive additional dilution by receiving bodies of water to levels below permissible standards. The constituents that require dilution and the flow of dilution water are: NH_3—600 cfs. NO_3—20 cfs. Fluoride—70 cfs.
NO^{-}_{3}	25.8	
Fluoride	12.9	
Ca^{++}	5.4	
Cl^{-}	8.5	
Na^{+}	12.1	
NH_3	10.0	
Fe	.4	
Tailings solutions (thousands of MT)	240	From mills only—no significant effluents to environment.
Solids	91,000	Principally from mills—no significant effluents to environment.
EFFLUENTS—RADIOLOGICAL (CURIES)		
Gases (including entrainment):		
Rn–222		Presently under reconsideration by the Commission.
Ra–226	.02	
Th–230	.02	
Uranium	.034	
Tritium (thousands)	18.1	
C–14	24	
Kr–85 (thousands)	400	
Ru–106	.14	Principally from fuel reprocessing plants
I–129	1.3	
I–131	.83	
Tc–99		Presently under consideration by the Commission.
Fission products and transuranics	203	
Liquids:		
Uranium and daughters	2.1	Principally from milling—included tailings liquor and returned to ground—no effluents; therefore, no effect on environment.
Ra–226	.0034	From UF_6 production.
Th–230	.0015	
Th–234	.01	From fuel fabrication plants—concentration 10 percent of 10 CFR 20 for total processing 26 annual fuel requirements for model LWR.
Fission and activation products	5.9×10^{-6}	
Solids (buried on site):		
Other than high level (shallow)	11,300	9,100 Ci comes from low level reactor wastes and 1,500 Ci comes from reactor decontamination and decommissioning—buried at land burial facilities. 600 Ci comes from mills—included in tailings returned to ground.

Table S–3.—*Table of Uranium Fuel Cycle Environmental Data*[1]—*Continued*

[Normalized to model LWR annual fuel requirement-[WASH–1248] or reference reactor year [NUREG–0116]]

Environmental considerations	Total	Maximum effect per annual fuel requirement or reference reactor year of model 1,000 MWe LWR
TRU and HLW (deep)	1.1×10^{7}	Buried at Federal Repository.
Effluents—thermal (billions of British thermal units)	4,063	<5 percent of model 1,000 MWe LWR.
Transportation (person-rem):		
Exposure of workers and general public	2.5	
Occupational exposure (person-rem)	22.6	From reprocessing and waste management.

[1] In some cases where no entry appears it is clear from the background documents that the matter was addressed and that, in effect, the Table should be read as if a specific zero entry had been made. However, there are other areas that are not addressed at all in the Table. Table S–3 does not include health effects from the effluents described in the Table, or estimates of releases of Radon–222 from the uranium fuel cycle or estimates of Technetium–99 released from waste management or reprocessing activities. These issues may be the subject of litigation in the individual licensing proceedings.

Data supporting this table are given in the "Environmental Survey of the Uranium Fuel Cycle," WASH–1248, April 1974; the "Environmental Survey of the Reprocessing and Waste Management Portion of the LWR Fuel Cycle," NUREG–0116 (Supp. 1 to WASH–1248); the "Public Comments and Task Force Responses Regarding the Environmental Survey of the Reprocessing and Waste Management Portions of the LWR Fuel Cycle," NUREG–0216 (Supp. 2 to WASH–1248); and in the record of the final rulemaking pertaining to Uranium Fuel Cycle Impacts from Spent Fuel Reprocessing and Radioactive Waste Management, Docket RM–50–3. The contributions from reprocessing, waste management and transportation of wastes are maximized for either of the two fuel cycles (uranium only and no recycle). The contribution from transportation excludes transportation of cold fuel to a reactor and of irradiated fuel and radioactive wastes from a reactor which are considered in Table S–4 of § 51.20(g). The contributions from the other steps of the fuel cycle are given in columns A–E of Table S–3A of WASH–1248.

[2] The contributions to temporarily committed land from reprocessing are not prorated over 30 years, since the complete temporary impact accrues regardless of whether the plant services one reactor for one year or 57 reactors for 30 years.

[3] Estimated effluents based upon combustion of equivalent coal for power generation.

[4] 1.2 percent from natural gas use and process.

It is so ordered.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

Dated at Washington, D.C. this 27th day of July, 1979.

Furthermore, I think that the Commission goes too far in terming its assumption that a "bedded salt repository or its equivalent will be found" to be a "judgment." I think that little more can be said by a prudent regulatory agency at this time in the face of this record and the general uncertainty than that the direction of current federal programs makes a bedded salt repository a responsible working assumption for NEPA purposes. That is really all that I think the staff testimony supports.[2]

More seriously, I continue to disassociate myself from the optimistic assessment of the waste management program cited by the majority that is in 42 Fed. Reg. 34391.[3] In July 1977, the Commission reached a sweeping conclusion on the sufficiency of what then passed for a waste management program without benefit even of a notice and comment proceeding, never mind a formal review. For this Statement of Considerations to reference that denial of a requested rulemaking as an expression of a Commission view on the safety of a waste repository proceeding is procedural farce of a low order. It should not be done here, especially in light of the commitment to a new generic proceeding.

As to reprocessing, I have concluded that Commissioner Gilinsky was in many respects correct in his dissenting views from our January 26, 1978 Memorandum on the scope of this rulemaking. Nevertheless, the record has now been built on what may be an unlikely case, and it seems to me the Commission's decision so circumscribes it that the worst harms foreseen by Commissioner Gilinsky cannot result from any responsible reading of the current Statement of Considerations.

[2] Transcript, p. 534, 575.

[3] Memorandum and Order, p. 41.

II

By memorandum of January 26, 1978, to the Fuel Cycle Rulemaking Hearing Board, the Commission ordered that the Board entertain requests for cross-examination of particular witnesses on specific factual issues where a showing could be made with particularity that this procedure was necessary for an adequate record. While the Commission left the decisions on cross-examination to the sole descretion of the Hearing Board, it expected that the Hearing Board would apply the procedures "in a sensitive and careful fashion so as to assure the ventilation and consideration of waste management issues called for in *NRDC v. NRC*, 547 F.2d 633 (D.C. Cir. 1976)." I dissented from the extraordinary discretion delegated to the Board and the restrictive criteria for cross-examination.

The Board was neither sensitive nor careful in its decision to deny all cross-examination. Rather than assuring the ventilation and consideration of waste management and disposal issues, the Board stifled full exploration of crucial and difficult subjects even when the staff, to its credit, did not object.

The denial of cross-examination on two particular issues serves to illustrate the consequences. The Sierra Club sought to cross-examine several witnesses on the release of technetium from the waste management and disposal fuel cycle facilities. The Board denied the request in general terms,[4] stating that many of the matters were not involved in this proceeding or not in serious dispute. Moreover, the Board said its review indicated that each subject was "fully ventilated" through other procedures. The Commission's finding on technetium rejects these conclusions of the Board. The Commission found that technetium releases should be included in Table S–3. However, because there was not sufficient evidence in the record to derive a release figure, the Commission ordered that the issue be litigable in individual proceedings. Thus the Commission, contrary to the Board, viewed the release of technetium both as being insufficiently serious dispute and so inadequately ventilated as to require further litigation.

By avoiding a full record on technetium, the Board has shown the futility of the Commission's procedural shortcut. As I noted in my January 26, 1978 dissent, the delays caused by withholding cross-examination can far exceed the "delays" inherent in cross-examination. The issue of technetium release now may be litigated in every individual licensing proceeding. Instead of being cross-examined once, staff witnesses are potentially subject to cross-examination in many proceedings, with licensing boards, the Appeal Board, and possibly the Commission reviewing the record of each case.

The Board also refused to allow cross-examination regarding the uncertainties of bedded salt as a waste medium. This refusal was particularly unfortunate since, as noted by the petitioner for cross-examination, it came immediately after the DOE Task Force on Nuclear Waste Management stated it was "aware of scientific issues concerning the adequacy of salt as suitable geologic medium for emplacement of concentrated waste exhibiting high surface temperatures." (Report of Task Force for Review of Nuclear Waste Management, U.S. DOE at 9, February 1978).

One of the issues on which NRDC requested cross-examination was the staff's lack of analysis of media other than salt. Now, without this inquiry, the Commission makes a "judgment" that an "equivalent" to a bedded salt repository will be found. This statement rests on some statements from the IRG Report, issued after the hearing was over.[5] Thus the Commission has, through the dubious procedural device of its "irrevocable delegation," treated a subordinate board like a distant and separate part of the government and has thereby cost itself any chance to correct the weakness of the record.

In refusing to permit cross-examination on waste disposal, the Board has kept perfect the past record of the Commission's obsessive need not to know about the uncertainties regarding its waste disposal assumptions. While continuing to express "confidence" that the wastes can and will be disposed of safely and while judging that a bedded salt repository or its equivalent will

[4] Memorandum and Order, May 4, 1979.

[5] Report to the President by the Interagency Review Group on Waste Management, TID–29442, March 1979.

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be found which will have a zero release after it is sealed, the Commission has never allowed a proceeding to take place where witnesses supporting these views could be cross-examined.

While this approach has been found by courts not to be inconsistent with Congressional intent, it is inconsistent with an accurate appraisal of the consequences of new licensing actions. I would rather that this agency had looked less for the legally acceptable minimum procedures and more for a process that gave the Commission and ultimately the public the most accurate possible conception of the environmental commitments being made on its behalf.

Separate Views of Commissioner Gilinsky on Final Adoption of the S–3 Rule

In February the Commission decided to go forward with a final table of nuclear fuel cycle environmental impacts (S–3) without waiting for the narrative explanation which it directed the NRC staff to prepare to accompany the table. Without such an explanation of the effluent release values in terms of radiological dose commitments and associated health effects, there is not much use a licensing board can make of the table in deciding whether or not to approve a license. The new table is in fact almost identical to the interim table in use now. The major effect of adopting a final rule now without an explanatory narrative is to relieve pressure for the narrative's preparation. To avoid this result I earlier urged the Commission to hold up promulgation of a final rule until the narrative is available and approved by the Commission.

At issue is each reactor's share of effluent releases from the operation of the overall nuclear fuel cycle. But the table values do not depend on the characteristics of the specific powerplant that is the subject of a licensing proceeding—they do not distinguish among reactors. As a consequence, it is virtually inconceivable that the table would affect the outcome of any such a licensing proceeding before one of our boards. A finding that the reactor's share of the fuel cycle effluents outweighs the benefits of the plant in terms of the electric power it delivers is tantamount to a conclusion that no reactor should be licensed.[1] As a practical matter, such a finding, reaching the very core of NRC decisionmaking could—and should—come only from the Commission itself. If there is doubt about the outcome of this question the Commission should address it directly. By not addressing it and by dealing instead with the fuel cycle environmental impacts in reactor licensing licensing proceedings by handing the licensing boards a table of effluent releases the Commission is in effect saying that these impacts should not affect the outcome. That may in fact be the right conclusion; but if it is, the Commission should state it clearly and not hide behind a table of numbers.

There is another reason for my disagreement with the Commission's action in approving the final rule. I would not adopt at least one of the values in the table—the zero expected release from a high level waste repository. I am concerned that the Commission's expressed confidence in the *perfect* long term operation of such a waste depository may be misplaced, especially in view of its being based on a general examination by the Board in this proceeding of the bedded salt repository concept.

In this regard, I note that the D.C. Circuit Court of Appeals in *Minnesota* v. *NRC* has remanded to the Commission the question of whether there is reasonable assurance that wastes can be disposed of safely and at what point in time disposal can reasonably be effected. I think that the generic proceeding which the Commission plans to conduct in response to the D.C. Circuit's decision will give us an appropriate vehicle for a thorough-going evaluation of the problems involved in the government's commitment to a waste disposal solution and the likelihood that such a program is not only feasible but is also on course.

No such repository has yet operated. The prospective constructors of such a repository have not yet agreed on a design or even chosen a geologic medium. It seems anomalous, at this stage, for the regulators to express more confidence on this score than the repository designers and builders themselves have expressed.

I would add two brief comments. I previously argued that there was no need to include in this analysis an option for reprocessing, especially the contrived reprocessing mode which was considered in this hearing. The inclusion of this option has indeed complicated and lengthened the proceeding.

Also, I have come to agree with Commissioner Bradford that the Commission should not have delegated to the S–3 Hearing Board the discretion to make final determinations on whether or not to allow cross-examination on issues arising in the course of the proceeding.

[FR Doc. 79–23868 Filed 8–1–79; 8:45 am]

BILLING CODE 7590–01–M

[1] The notion that the fuel cycle effluents add to one side of the "NEPA balance" and thus might tip it in some cases and not in others is naive.

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10 CFR Part 51

Uranium Fuel Cycle Impacts for Spent Fuel Reprocessing and Radioactive Waste Management; Extension of Interim Fuel Cycle Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of the interim fuel cycle rule.

SUMMARY: The Commission promulgated March 14, 1977 (42 FR 13803) an interim rule identifying the environmental impact values for the uranium fuel cycle which are to be included in environmental reports and environmental impact statements for individual light water nuclear power reactors. The interim rule was made effective for 18 months with the possibility of extension for good cause. The Commission has made five extensions for the period of effectiveness of the interim rule. The most recent extension enlarged this period to July 30, 1979. The Commission now finds good cause to enlarge this period until September 4, 1979, the effective date of the final rule.

DATE: The interim rule published at 42 FR 13803, March 14, 1977 (10 CFR 51.20(e)) is extended until September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen Eilperin, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 202–634–3224.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Nuclear Regulatory Commission has extended through September 4, 1979, the effectiveness of the interim fuel cycle rule 10 CFR 51.20(e) ("table S–3,: as revised). The Commission finds this extension desirable so that there is no gap prior to the effective date of the final rule.

Background

The status of the Commission's interim rule cycle rule and the course of the final rulemaking up to the submission of the Hearing Board's report on the extensive evidentiary record were reviewed in the notice of September 18, 1978 (43 FR 41373), which extended the interim rule through March 14, 1979. Additional extensions have proved necessary, most recently because the Commission needed additional time to consider its course of action in light of the D.C. Circuit's decision in *State of Minnesota* v. *NRC*, No. 78–1269 (May 23, 1979).

The Commission has now completed its consideration of the final fuel cycle rule and that rule is being made effective as of September 4, 1979. In order that there be no gap prior to that effective date the Commission finds good cause to extend the period of effectiveness of the interim rule until September 4, 1979.

It is so ordered.

For the Commission.

Dated at Washington, D.C., this 27th day of July, 1979.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79–23825 filed 8–1–79; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Commission

10 CFR Part 211

[Docket No. ERA–R–79–35]

Mandatory Petroleum Allocation Regulations; Amendment to Motor Gasoline Allocation Level Provisions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Change in Hearing Location.

SUMMARY: On July 16, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a final rule to amend the Mandatory Petroleum Allocation Regulations, effective August 1, 1979, to provide that motor gasoline allocation levels for all priority uses specified in section 211.103 shall be based on usage during the period November 1977 through October 1978 (44 FR 42545, July 19, 1979). In the July 19 **Federal Register** Notice, we announced the dates and locations for hearings on the amendments to be held in Chicago, Illinois and Washington, D.C. Notice is hereby given that the Chicago hearing originally announced to be held in the John C. Kluczinski Building will be held at the Chicago Marriott Hotel, 540 North Michigan Avenue, Chicago, Illinois. As reflected below, all other information pertinent to these hearings remains the same as that announced in the July 19 Notice.

DATES: All requests to speak at a hearing by August 1, 1979, 4:30 p.m. Chicago, Illinois hearing: August 9, 1979, 9:30 a.m. Washington, D.C. hearing: August 16, 1979, 9:30 a.m. All written comments by August 31, 1979, 4:30 p.m.

ADDRESSES: All comments and requests to speak at a hearing to: Economic Regulatory Administration, Office of Public Hearings Management, Docket No. ERA–R–79–35, Room 2313, 2000 M Street N.W., Washington, D.C. 20461. Chicago hearing location: Chicago Marriott Hotel, Chicago Ballroom/Salon E, 540 North Michigan Avenue, Chicago, Illinois 60611. Washington location: Room 2105, 2000 M Street N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearings Management), Economic Regulatory Administration, Room 2222–A, 2000 M Street NW., Washington, D.C. 20461, (202) 254–5201.

Jack Kendall (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6739.

Issued in Washington, D.C., July 26, 1979.

Douglas G. Robinson,

Deputy Administrator for Policy, Economic Regulatory Administration.

[FR Doc. 79–23798 Filed 8–1–79; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 344

Recordkeeping and Confirmation Requirements for Securities Transactions; Adoption of New Part and Request for Comments on Certain Provisions

Correction

In FR Doc. 79–22684 appearing at page 43260 in the issue for Tuesday, July 24, 1979, make the following correction: On page 43262, in the first column, in § 344.3(a), in the 8th line, replace the word "of" with the word "or".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79–WE–10–AD; Amdt. 39–3513]

McDonnell Douglas DC–10 Series Airplanes; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective airworthiness directive (AD) which requires inspection and repair, if necessary, of wing mounted pylons on McDonnell Douglas DC–10 airplanes.

This amendment makes mandatory the inspections set out in McDonnell Douglas Alert Service Bulletins 54–70 and 54–71. This amendment also establishes recurrent inspections and is needed because subsequent knowledge has indicated that the inspection procedures specified in the original AD were not adequate to the safety need.

DATES: Effective July 13, 1979. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, CI–750 (54–60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone (213) 536–6351.

SUPPLEMENTARY INFORMATION: Amendment 39–3505 (44 FR 37617), AD 79–13–05 requires inspection of certain areas of the DC–10 wing mounted pylon and pylon attachments for cracks, repair of cracks, replacement of thrust link bolts and inspection for condition and security of fasteners. Amendment 39–3505 also requires reporting requirements on results of findings and imposes a recurring inspection requirement.

Subsequent to the issuance of the telegraphic ADs, published in the **Federal Register** as Amendment 39–3505, the Type Certificate for the Model DC–10 series aircraft was suspended by the FAA on June 6, 1979, until such time as it is found by the Administrator that the Model DC–10 series aircraft meets the applicable certification basis as defined by Type Certification Data Sheet A22WE and is eligible for reinstatement of the type certificate.

After issuing Amendment 39–3505 the FAA conducted intensive study of DC–10 pylon design and maintenance. Based on the reports of those studies, the Administrator has determined that certain initial inspections and instructions therefore are necessary to ensure conformance with the minimum standards of safety prescribed by the FAR. In addition, the Administrator has determined that to preclude recurrence of certain structural damage to the wing/pylon which may result from maintenance practices or services, certain of these inspections must be repetitive.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known operators of McDonnell Douglas Model DC–10 airplanes. Based on the reports of the referenced

investigations, the FAA has determined that these inspections must be performed before further flight. The AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC–10–10, –10F, –30, –30F, –40 series airplanes certificated in all categories.

Compliance required as indicated. To ensure integrity of the wing engine pylon structure and attachment, accomplish the following on both the right and left hand wing:

(a) Prior to further flight, unless already accomplished exactly as specified herein subsequent to June 6, 1979:

1. Prepare the pylon zones to be inspected and accomplish inspections specified in Part 2 of McDonnell Douglas Alert Service Bulletin, A54–71 dated July 6, 1979, except that the inspections of Alert Service Bulletin A54–71 Part 2, paragraphs K. (2), (3), (4), (6) and (7) need not be accomplished if previously accomplished subsequent to May 28, 1979, per AD–79–13–05.

2. Inspect clearance between the wing pylon aft bulkhead attachments and wing aft monoball attach fittings per the accomplishment instructions of McDonnell Douglas Alert Service Bulletin, 54–70 dated June 15, 1979.

Note 1.—For the purposes of this AD one flight cycle as referenced in Part 2, paragraph I(4)(b), of ASB 54–71 is defined as one landing. Touch-and-go landings are counted as cycles.

(b) Within 100 hours' time in service after initial inspection required by paragraph (a) of this AD and at intervals not to exceed 100 hours' time in service thereafter:

1. Inspect pylon aft spherical bearing and attaching hardware to verify security of nut and bolt. Inspect torque stripe for alignment.

2. Visually inspect thrust link attachment lugs and attaching thrust link hardware as specified in Part 2, paragraphs K(1) and K(5) of ASB 54–71. Verify alignment of torque stripe.

(c) Within 300 hours' time in service after the initial inspection required by paragraph (a) of this AD and thereafter at intervals not to exceed 600 hours' time in service from the prior inspection:

1. Conduct eddy current inspection of upper surface of pylon aft bulkhead horizontal flange as specified in Part 2, paragraph H of ASB 54–71.

2. Visually inspect wing clevis for cracks and inspect lower wing area surrounding wing clevis for evidence of fuel leaks which may indicate failure of clevis attach bolts.

3. Accomplish inspections specified in Part 2, paragraphs D (1), (2), (3), (4) and (5) of ASB 54–71.

4. Accomplish inspection specified in Part 2, paragraphs E [except (2)], M, O, P and Q of ASB 54–71.

5. Visually inspect upper forward spherical bearing installation to verify condition, security and torque stripe of plug assembly.

6. Visually inspect the pylon aft spherical bearing for cracks, without disassembly, using ten power magnification.

(d) Within 900 hours' time in service after initial inspection required by paragraph (a) of this AD and at intervals not to exceed 600 hours' time in service thereafter ultrasonically inspect exposed surface of pylon attach lug and wing clevis without disassembly per ASB 54–71 Part 2, paragraph D.(6).

(e) Within 1500 hours' time in service after initial inspection required by paragraph (a) of this AD and at intervals not to exceed 1500 hours' time in service thereafter:

1. Conduct inspections as specified in Part 2, paragraphs F and G of ASB 54–71.

(f) Within 3000 hours' time in service after initial inspection required by paragraph (a) of this AD and at intervals not to exceed 3000 hours' time in service thereafter:

1. Conduct inspections as specified in Part 2, paragraphs I, K and N of ASB 54–71.

2. Conduct inspections per Part 2 of SB 54–70.

(g) Inspect pylon for structural intergrity per DC–10 Maintenance Manual TR5–20, dated June 14, 1979, prior to further flight after events producing high pylon loads including but not limited to:

a. Hard or overweight landings;
b. Severe turbulence encounters;
c. Engine vibration and/or critical failure;
d. Ground damage, (workstand, etc.);
e. Compressor stalls;
f. Excursions from the runway.

(h) General: 1. Correct all discrepancies found as a result of this AD prior to further flight.

2. Damaged or repaired pylon aft bulkheads must be replaced with like serviceable parts prior to further flight.

3. Whenever fasteners are replaced as a result of the inspections specified in ASB 54–71, Part 2, paragraph E, prior to installing new fasteners inspect the holes, and the area around adjacent fasteners (without removing fasteners) for cracks using eddy current or equivalent NDT methods.

(i) After the effective date of this AD, installation of the engine and pylon as an assembly shall render the aircraft unairworthy.

(j) Prior to return to service after pylon installation accomplish pylon inspection per Part 2, paragraph D(1) through D(5) of ASB 54–71.

(k) Prior to return to service after installation of pylon accomplish inspection of pylon per Part 2, paragraph H of ASB 54–71 and reinspect per Part 2, paragraph H of ASB 54–71 within 300 hours' time in service after initial inspection.

(l) Whenever the pylon has been subjected to vertical and/or horizontal misalignment, inspect per Part 2, paragraph H of ASB 54–71.

(m) After each installation of pylons with titanium upper forward spherical bearing plug; within 300 hours after installation, conduct the following inspection:

1. Partially remove nut from upper spherical bearing through bolt.

2. Inspect plug for failure of the threaded portion from the plug body by vigorously shaking nut (by hand).

3. Remove through bolt and perform a detailed visual inspection of the plug for cracking, by using appropriate optical aids. No cracks or separations are permitted. Reassemble per DC–10 Maintenance Manual.

4. Torque stripe nut to bolt and revert to standard repetitive inspection interval.

(n) Report results of all inspection to the assigned FAA maintenance inspector within 24 hours of accomplishment in the following format:

"N" Number, hours' time in service at inspection, pylon number, results of inspection by specific paragraph and subparagraph of this AD, and Service Bulletins SB 54–70, and ASB 54–71. In reporting be as specific as possible to identify location and size of crack, or specific location of discrepant fastener, etc. List part numbers.

(o) Alternative inspections, modifications or other actions which provide equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Note 2.—FAA approval of related McDonnell Douglas Service Bulletin 54–70 has been reinstated.

This supersedes Amendment 39–3505 (44 FR 37617), AD 79–13–05.

This amendment becomes effective July 13, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Issued in Washington, D.C. on July 13, 1979.

Leon C. Daugherty,

Director, Federal Aviation Adminstration Western Region.

[FR Doc. 79–23679 Filed 8–1–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. AD–79–WE–15–AD; Amdt. 39–3514]

McDonnell Douglas DC–10 Series Airplanes; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This notice adopts a new Airworthiness Directive (AD) which requires an initial and repetitive inspections of the Model DC–10 series airplanes wing leading edge slats mechanical drive system, and establishes a service life limitation on certain slat drive cables. This Airworthiness Directive is required to improve the integrity of the slat mechanical drive systems.

DATES: Effective July 13, 1979.

Compliance schedule—Compliance required before further flight and at intervals not to exceed 600 hours' time in service until specified corrective action is accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, CI–750, (54–60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: DC–10 operators have experienced numerous failures of wing leading edge slat drive cables. The greatest difficulties have been with the #3 position slat drive cables. Cable failures could lead to malfunction of the slat system or could damage the structure or other systems. Failures of the slat drive mechanisms have also been addressed by AD 78–20–04 (Amendment 39–3308). The FAA is concerned with the integrity of the wing leading edge slat mechanical drive system. This AD is required to ensure integrity of the wing leading edge slat mechanical drive system.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive.

McDonnell Douglas: Applies to Model DC–10–10, –10F, –30, –30F, and –40 airplanes certificated in all categories.

Compliance required as indicated.

To ensure the integrity and condition of the wing leading edge slat mechanical drive system, accomplish the following:

(a) Before further flight, after the effective date of this AD, unless already accomplished after June 6, 1979, and thereafter at intervals not to exceed 600 hours' time in service since the last inspection:

1. Visually inspect all slat system drive cables and pulleys in situ for security, and general condition (corrosion, damage, etc.);

2. Visually inspect all slat system followup cables and pulleys in situ for security and general condition (corrosion, damage, etc.);

3. Visually inspect the inboard and outboard slat drive mechanisms while operating the slat system to verify security of the components and freedom of movement of the mechanisms;

4. Correct all discrepancies found during the above inspections which exceed the condition limitation provided by the McDonnell Douglas DC–10 Maintenance Manual; and

5. Report results of all inspections to the Chief, Aircraft Engineering Division, FAA Western Region within 24 hours of accomplishment in the following format:

(1) "N" Number.

(2) Hours time in service at inspection.

(3) Results of inspection by specific paragraph and subparagraph of this AD.

(4) Part Number.

(5) Identify contact for follow-up.

(b) For #2 and #3 position, slat drive cables, except "zinc coated 7 flex premium cables," before accumulating an additional 1500 hours' time in service on any individual cable after the effective date of this AD, unless a new cable was installed within the last 10,500 hours' time in service, and thereafter at intervals not to exceed 12,000 hours' total time in service on any individual cable, replace the affected drive cable with a new cable of the same part number or an FAA approved replacement cable. If a cable is replaced with a "zinc coated 7 flex premium cable," the cable replacement time limits specified by paragraph (c) become effective for the replacement cable.

(c) For #2 and #3 position, slat "zinc coated 7 flex premium" type drive cables, before accumulating an additional 1500 hours' time in service on any individual cable after the effective date of this AD, unless a new cable was installed within the last 18,500 hours' time in service and thereafter at intervals not to exceed 20,000 hours' total time in service on any individual cable, replace the affected drive cable with a new cable of the same part number or an FAA approved replacement part.

(d) Part numbers of "zinc coated 7 flex premium cables" which are approved replacement cables for compliance with either paragraph (b) or (c) are identified by McDonnell Douglas All Operators Letter (AOL) 10–1333A, dated October 26, 1978.

(e) The repetitive inspections required by paragraph (a) may be discontinued after the inspection and modifications required by paragraph (b) of AD 78–20–04 (Amendment 39–3308) have been accomplished and after it has been determined that #2 and #3 slat position drive cables are within the 12,000 hours' total time in service, or the 20,000 hours' total time in service limitations of paragraphs (b) or (c) respectively of this AD.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(g) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective July 13, 1979

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Washington, D.C. on July 13, 1979.

Leon C. Daugherty,

Director, Federal Aviation Administrator, Western Region.

[FR Doc. 79–23670 Filed 8–1–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 79–WE–16–AD; Amdt. 39–3515]

McDonnell Douglas DC–10 Series Airplanes; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires that certain warning systems be in operable condition and also requires duality of certain elements of the sensing systems related to control of flight on McDonnell Douglas DC–10 aircraft. This AD is needed because failures of the wing slat sensing system in conjunction with failures of the stall warning system can result in severe loss of control.

DATES: Effective July 13, 1979.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, CI–750 (54–60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION, CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration,

Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: A hazardous condition could exist during low speed flight in the DC-10 airplane in the event of a failure in the wing leading edge slat system resulting in an asymmetric slat condition if the flight crew is not adequately informed of the asymmetry. Although there is a "disagree" light installed which provides information regarding asymmetry of the surfaces, that light in itself is considered inadequate as a warning by virtue of its size, intensity, and location.

The flight crew is informed of a potentially hazardous slat position while on the ground by a takeoff warning system, and in flight by a stall warning system. The criticality of an asymmetric slat condition is related to flight in the low speed range. With proper functioning of the warning systems the crew is able to take appropriate action to avoid the hazardous condition occasioned by slat asymmetry. To assure proper functioning of these warning systems, this airworthiness directive requires that the stall warning system and the "slats not in takeoff" function of the takeoff warning system be operative for takeoff. This AD further requires that the approved configuration of the stall warning system must include position sensing of both outboard groups of slats as well as sensing of angle of attack by both installed sensors. This is accomplished when the stall warning function of two auto throttle/speed control computers are fully functional, but it may also be accomplished with appropriate modification and use of a single auto throttle/speed control computer.

The FAA has amended the minimum equipment list for this aircraft to require the slat function of the takeoff warning system to be operative for dispatch.

This AD also requires an appropriate flight manual limitation to additionally inform the flight crew of these requirements.

In addition, the FAA believes it is necessary to reduce the possibility of an improper operation of the stall warning system due to an asymmetric slat condition. Since any of a number of single failures can result in loss of the stall warning capability of a single system, the FAA is preparing a notice of proposed rule making to require complete redundancy of the stall warning system.

Since a situation exists that requires the immediate adoption of this regulation it is found that notice in public procedures hereon is impracticable and good cause exists for making this amendment effective in less than thirty days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-10-10, -10F, -30, -30F, -40 series airplanes certificated in all categories. Compliance required as indicated. To assure immediate indication to the flight crew of any asymmetric wing slat condition, accomplish the following:

a. Before further flight, after the effective date of this AD:

(1) Install two auto throttle/speed control computers in accordance with FAA approved type design data to provide stall warning based on both right and left angle of attack sensors and on the positions of both outboard wing slat groups in addition to previously required inputs, or;

(2) Modify the stall warning and auto slat system to provide information from two angle of attack sensors and the positions of both outboard wing slat groups to a single auto throttle/speed control computer in accordance with design data approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Note.—The stall warning and auto slat functions of the auto throttle/speed control computer are the functions required by this AD.

b. Within 30 days after the effective date of this AD, add the following to the limitations section of the FAA approved Airplane Flight Manual:

"Takeoff Warning. The slat function of the takeoff warning system must be operative for takeoff."

c. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of modifications required by this AD.

d. Alternative modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective July 13, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Issued in Washington, D.C. on July 13, 1979.

Leon C. Daugherty,

Director, Federal Aviation Administration Western Region.

[FR Doc. 79-23671 Filed 8-1-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 45

[Docket No. 15977; Amdt. No. 45-10]

Identification and Registration Marking; Prohibition on Removal of Identification Data

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to prohibit the removal, change, or placement of identification information on any aircraft, aircraft engine, propeller, propeller blade, or propeller hub, and to prohibit the removal or installation of any identification plate, without the Administrator's approval, except in certain circumstances. These amendments are necessary to prevent the use of improper identification information on aircraft and aircraft parts.

DATES: Effective date: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond E. Ramakis, Regulatory Project Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION: These amendments are based on a Notice of Proposed Rule Making (Notice 76-16) published in the **Federal Register** on August 12, 1976 (41 FR 34076), which proposed to prohibit any person from removing, changing, or placing information on an identification plate required by § 45.11, and from installing or removing identification plates without the approval of the Administrator. Numerous comments relating to these proposals were received in response to the notice. Based on these comments and upon further review by the FAA, some changes of a clarifying nature have been made.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matter presented except those comments which were outside the scope of the proposal.

Several commenters objected to the proposed changes to § 45.13(b). Before this amendment, § 45.13(b) prohibited the removal or changing of identification information required by § 45.11. Because the rule had been interpreted to permit the placement of additional information on an identification plate or part, the proposed rule included a prohibition against these additions, unless approved by the Administrator. Commenters objecting to this aspect of the proposal contend that there is a continuing need to modify aircraft and engine identification plates by placing additional information on them. Some commenters suggested that an unnecessary burden might be imposed upon certificated maintenance and alteration facilities if they are required to obtain the Administrator's approval each time it is necessary to add information to an identification plate or part. To avoid this result, new § 45.13(d)(1) now exempts persons who perform work under Part 43 from having to obtain approval from the Administrator when identification information is removed, changed, or added. However, this must be done in accordance with methods, techniques, and practices acceptable to the Administrator, as reflected in pertinent advisory circular material.

The language of the amendment makes it clear that the prohibition against removing, changing, or placing information on an identification plate also applies to any identification information stamped, engraved, or etched on propellers and propeller blades and hubs in accordance with § 45.13(b).

Many commenters voiced objection to the addition of § 45.13(c) which would have prohibited any person from removing or installing an identification plate required by § 45.11 without obtaining the approval of the Administrator. This section was developed to curtail activities which involve the misidentification of products, such as aircraft and aircraft engines, and to curtail the practice of building an aircraft and identifying it with the identification plate from a scrapped or destroyed aircraft. Most comments were sympathetic with this objective, but reflected concern that an unnecessary burden would be placed upon persons authorized to perform work under § 43.3.

The FAA agrees that there is no reason to require persons authorized to perform work under § 43.3 to seek approval from the Administrator to remove or to install identification plates when the removal or installation is accomplished in conjunction with work performed pursuant to Part 43.

Therefore, new § 45.13(d)(2) exempts those persons who perform work under the provisions of Part 43 from the requirement to obtain individual approval from the Administrator when it is necessary, during certain maintenance operations, to remove and replace an identification plate. For example, the FAA would consider the removal of an identification plate to be necessary when it would otherwise be damaged during certain maintenance operations such as caustic cleaning, paint removal, or sandblasting, or when the member on which the plate is fastened must be repaired or replaced. However, the removal or replacement must be done in accordance with methods, techniques, and practices acceptable to the Administrator, which are reflected in pertinent advisory circular material. The identification plate may not be installed on any aircraft, aircraft engine, propeller, propeller blade, or propeller hub other than the one from which it was removed.

One commenter indicated that he was opposed to proposed § 45.13(c) because he wished to continue to rebuild wrecked aircraft and to remove identification plates as necessary. The FAA believes that the practice of rebuilding a wrecked aircraft by replacing almost the entire aircraft and affixing the identification plate which was recovered from the wreckage is not in the public interest. This practice has been justified as "maintenance" or "repair," when it is in fact a rebuilding of the aircraft. The only person authorized to rebuild an aircraft is a person who manufactured it under a type or production certificate.

A few commenters stated that proposed § 45.13(c) might not eliminate all improper activities in this area. While § 45.13(c) may not completely deter the improper use of identification plates, such as switching identification information from a destroyed aircraft to a new one, or using stolen aircraft identification plates, it will subject persons not complying with this section to a civil penalty not to exceed $1,000 for each such violation in accordance with Section 901 of the Federal Aviation Act.

Adoption of the Amendment

Accordingly, Part 45 of the Federal Aviation Regulations (14 CFR Part 45) is amended, effective September 4, 1979, by revising paragraph (b) and adding new paragraphs (c) through (e) to read as follows:

§ 45.13 Identification data.

* * * * *

(b) Except as provided in paragraph (d)(1) of this section, no person may remove, change, or place identification information required by paragraph (a) of this section, on any aircraft, aircraft engine, propeller, propeller blade, or propeller hub, without the approval of the Administrator.

(c) Except as provided in paragraph (d)(2) of this section, no person may remove or install any identification plate required by § 45.11 of this part, without the approval of the Administrator.

(d) Persons performing work under the provisions of Part 43 of this chapter may, in accordance with methods, techniques, and practices acceptable to the Administrator—

(1) Remove, change, or place the identification information required by paragraph (a) of this section on any aircraft, aircraft engine, propeller, propeller blade, or propeller hub; or

(2) Remove an identification plate required by § 45.11 when necessary during maintenance operations.

(e) No person may install an identification plate removed in accordance with paragraph (d)(2) of this section on any aircraft, aircraft engine, propeller, propeller blade, or propeller hub other than the one from which it was removed.

(Sections 307(c), 313(a), 501 and 502 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1401, and 1402) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).)

Note.—The FAA had determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the regulation is so minimal that it does not require an evaluation.

Issued in Washington, D.C. on July 25, 1979.

Langhorne Bond,

Administrator.

[FR Doc. 79-23621 Filed 8-1-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-SO-32]

Alteration of Transition Area, Macon, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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SUMMARY: This rule alters the Macon, Georgia, Transition Area and lowers the base of controlled airspace south of the Perry-Fort Valley Airport, Perry, Georgia, from 1,200 to 700 feet AGL. A new public use instrument approach procedure (NDB RWY 36) has been developed for the Perry-Fort Valley Airport and the additional controlled airspace is required to protect aircraft executing the approach procedure.

EFFECTIVE DATE: August 16, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Thursday, May 24, 1979 (44 FR 30103), which proposed the alteration of the Macon, Georgia, Transition Area. No objections were received from this Notice.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, August 16, 1979, as follows:

Macon, Ga.

All after Perry-Fort Valley Airport is deleted and ". . . latitude 32°30'36" N., longitude 83°45'51" W.); within 5 miles each side of Vienna VORTAC 321° radial, extending from the 5.5-mile radius area to 16 miles northwest of the VORTAC; within 3 miles each side of the 189° bearing from the Bay Creek RBN (latitude 32°27'48" N., longitude 83°45'57" W.), extending from the 5.5-mile radius area to 8.5 miles south of the RBN . . ." is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034 February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on July 16, 1979.

George R. Lacaille,

Acting Director, Southern Region.

[FR Doc. 79-23651 Filed 8-1-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 299

[Reg. ER-1136, Amdt. 5]

Exemption From Section 408 for Aircraft Acquisitions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is issuing a final rule that broadens the range of aircraft acquisitions exempt from prior Board approval. The current exemption is being modified and enlarged to include transactions that the CAB has found do not need routine regulatory scrutiny.

DATES: Adopted: July 27, 1979. Effective: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: Barry L. Molar, Special Authorities Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5918.

SUPPLEMENTARY INFORMATION: In EDR–371 (44 FR 7736, February 7, 1979), the Board issued a notice of proposed rulemaking to enlarge the scope of 14 CFR Part 299, which grants an exemption from section 408 of the Federal Aviation Act for routine aircraft purchases and leases. The proposal suggested changing the limits of the exemption. Under the existing rule, aircraft purchases and leases are exempt from the requirement of prior Board approval unless they involve more than $30 million in market value, 10 aircraft, or 20 percent of a carrier's fleet. Also, the exemption does not apply to transactions between parties with interlocking managements or financial interests; the transaction must be entered into "after arm's-length bargaining." EDR-371 proposed to eliminate the three-part test and declare that any transaction involving 20 percent or less of a carrier's fleet would be regarded as outside the Board's jurisdiction, as an "insubstantial portion" of the carrier's business. In addition, *all* acquisitions of aircraft from persons other than certificated route carriers were proposed to be exempted, subject to the arm's-length bargaining restrictions. The proposal also suggested expanding the range of persons eligible for the exemption to include persons other than air carriers, such as aircraft dealers and foreign air carriers, and to eliminate the requirement that a copy of each exempted agreement be filed with the Board.

Comments were submitted by Delta Air Lines, Flying Tiger Line, and Alaska International Air (AIA) supporting the proposal. No comments opposed it.

Flying Tiger suggested that certain ancillary agreements often made in connection with aircraft purchases and leases, such as maintenance and operations training, or participation in a parts pool for the purchased or leased aircraft, should also be exempted. It argued that the Board would have no interest in reviewing the ancillary components of a transaction if the essence of the bargain, the purchase or lease contract, was exempt from scrutiny.

AIA argued that conditioning the exemption on arm's-length bargaining and on the absence of financial or management relationships between the parties would serve no valid regulatory purpose. AIA said that arm's-length bargaining must be more clearly defined if it is to function as a workable standard, and it questioned whether any past situation had indicated a need for prior Board scrutiny of transactions between parties related in interest.

We agree with AIA that the arm's-length bargaining and common interest restrictions are unnecessary, but we disagree with FTL that ancillary agreements to purchases or leases of aircraft should be exempt.

The proposed exemption would apply to acquisitions of more than 20 percent of a charter carrier's or air taxi's fleet; it would not apply to acquisitions of a route carrier's fleet. Certificated route carriers' fleets still form a large majority of available aircraft. Charter carriers and air taxis, in contrast, control a smaller amount of capacity, and their operations are subject to little overall regulation. Therefore, we are exempting charter carriers and air taxis from purchase or lease of any portion of their fleets. The Board's authority under sections 408(a) (1) and (5) still extends to aircraft acquisitions large enough to amount to "merger" or "control" transactions, and general public antitrust laws remain applicable as well. Thus, the anticompetitive effects of aircraft transactions remain subject to government regulation. Since the open competition that characterizes charter and air taxi transportation is best served by a minimum of government intervention and accompanying delay, we have omitted proposed § 299.3(a) and the "arm's-length bargaining" phrase from the final rule. The exemption will be applicable regardless of the affiliations between the parties.

With respect to Flying Tiger's comments, many of the ancillary agreements it has in mind seem to be within the scope of 14 CFR Part 289, which exempts ground service agreements from any section 412 prior approval requirement. We would prefer to review those ancillary agreements not exempted under Part 289, since some of them, such as flight crew training, might be very similar to other agreements, such as technical assistance agreements, which we wish to scrutinize. The fact that an agreement is ancillary to an aircraft purchase or lease does not mean we have no interest in reviewing it. Any expansion of Part 289 to include the agreements mentioned by Flying Tiger should be dealt with in a separate proceeding.

The title of Part 299 is being shortened and made more informative.

We are adopting the changes to Part 299 as proposed in EDR–371, except as mentioned above, effective immediately. Since this rule grants an exemption and relieves existing restrictions, we find that an immediate effective date is in the public interest.

Final Rule

The Civil Aeronautics Board revises 14 CFR Part 299 to read as follows:

PART 299—EXEMPTION FROM SECTION 408 FOR AIRCRAFT ACQUISITIONS

Sec.

299.1 Definitions.
299.2 Declination of jurisdiction.
299.3 Exemption.
299.4 Termination of exemption.
299.5 Effect of exemption.

Authority: Secs. 204, 408 and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1726, 72 Stat. 771, (49 U.S.C. 1324, 1378, 1386).

§ 299.1 Definitions.

For the purposes of this part:

(a) "Aircraft" means any aircraft, as defined in the Act, together with spare parts and accessories maintained for installation or use on it.

(b) "Indirect air carrier" means any air carrier that does not engage directly in the operation of aircraft in air transportation.

§ 299.2 Declination of jurisdiction.

(a) The Board declines to exercise its jurisdiction under sections 408(a)(2) and (a)(3) of the Act over any transaction that involves only the purchase, lease, or lease with purchase option of aircraft that make up not more than 20 percent of the seller's or lessor's total number, market value, and lift capacity of aircraft.

(b) For the purposes of this section, a series of transactions within a 6-month period will be considered a single transaction.

(c) For the purposes of this section, the total number of a person's aircraft includes all aircraft of that person except aircraft that are under lease to that person for a period of 6 months or less and aircraft that are owned by that person but under lease to some other person for a period of more than 6 months.

(d) The Board reserves the right to assert the jurisdiction described in paragraph (a) of this section when the public interest requires it.

§ 299.3 Exemption.

Any person other than an indirect air carrier shall be exempt from section 408(a)(2) and (a)(3) of the Act for any purchase, lease, or lease with purchase option of aircraft, if the transaction does not involve:

(a) Purchase or lease from an air carrier holding a certificate of public convenience and necessity under section 401(d)(1) or (d)(2);

(b) A lease with crew or an aircraft interchange agreement; or

(c) A purchase or lease agreement under which the payment is directly related to the gross revenue or profits derived from operating the aircraft.

§ 299.4 Termination of exemption.

The Board may terminate the exemption granted by this part with respect to any transaction that it finds to be inconsistent with the public interest.

§ 299.5 Effect of exemption.

(a) The exemption granted by this part shall not be considered a determination for ratemaking purposes of the reasonableness of the transaction, and it does not exempt any person from the operation of the antitrust laws as provided in section 414 of the Act.

(b) This rule does not release a party to an aircraft sale or lease agreement from conditions in any Board order prohibiting or limiting transactions involving that party.

(c) This rule does not affect any duty that a person may have under the remaining provisions of section 408 or under section 412 of the Act with respect to a purchase, lease, or lease with purchase option of aircraft.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23661 Filed 8-1-79; 8:45 am]

BILLING CODE 4320-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 77-087]

New York Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule establishes the operating procedures for the New York Vessel Traffic Service (VTS). It requires vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Regulations (33 CFR Part 26) and all vessels which carry 10 or more passengers for hire to comply with VTS communications, reporting, and special operating rules for certain areas. The New York Harbor area ranks among the leaders of U.S. ports in vessel movements and in losses caused by vessel casualties. It is expected that the VTS will bring about a substantial reduction in these losses.

EFFECTIVE DATE: September 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Schwer, Office of Marine Environment and Systems, Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–4958.

SUPPLEMENTARY INFORMATION: "Interested persons were invited to participate in the development of these rules by a notice of proposed rulemaking which appeared in the **Federal Register** of February 16, 1978 (43 FR 6906). In addition, a public hearing was held in New York City on March 29, 1978. Except as noted and discussed in the following paragraphs, the rules as proposed have been adopted without substantial changes.

Drafting Information

The principal persons involved in drafting this rule are Mr. Fred Schwer, Project Manager, Office of Marine Environment and Systems, and Lieutenant John Salter, Project Attorney, Office of Chief Counsel, U.S. Coast Guard.

Discussion of Comments

There are minor changes to the rules, comments not within the scope of the rulemaking, and non-substantive comments that are not discussed in this

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document. Except for these items, the preamble discusses the changes to the rules and comments received.

Several changes have been made to the Vessel Movement Reporting System (VMRS) reporting points proposed in § 164.50, including deletion of Nos. 13 and 14, and to the area descriptions in §§ 161.580 through 161.582. Absent an international agreement, the Ports and Waterways Safety Act limits establishment of Vessel Traffic Services to the navigable waters of the United States. In each case, the changes were made to comply with the Act. The overall effect is to make the VTS Area smaller than before.

Ten letters of comment on the proposal were received. One commenter supported the proposal but suggested deletion of the words "attempt to" in § 161.570. The Coast Guard feels that such a deletion would be inappropriate. Not all vessels in the limited traffic areas will be equipped with a VHF–FM radiotelephone. Moreover, it is not the intent of this section to establish a penalty for groundings or collisions but rather to establish a procedure to avoid them.

One commenter expressed concern about the term "emergency" as a standard for deviation from the VTS rules as provided for in § 161.511. The commenter felt that the Coast Guard should specify criteria to define the term more clearly. It would be impossible to identify all potential conditions or occurrences that could necessitate immediate action to avoid endangering persons, property, or the environment. The Coast Guard believes that the rule must provide sufficient flexibility for the master of a vessel to adapt to rapidly changing circumstances and unforeseen situations. Therefore, the rule has not been changed.

One commenter requested relief from the requirement of § 161.520 to maintain a listening watch on the VTS sector frequency except when transmitting on that frequency. He pointed out that it is impractical to listen when transmitting on any frequency in the Marine Mobile band because of receiver desensitization. It is not the intent of this regulation to prohibit the exchange of information necessary for the operation of the vessel. Therefore, the regulation has been changed to allow a vessel to interrupt the VTS listening watch for short periods of time as necessary to communicate on another VHF–FM frequency.

Six commenters expressed concern over the sectorization of VTS communications as described in § 161.540 and proposed single frequency operation. The commenters' primary concern was that vessels in the VTS area would have to guard three VHF–FM frequencies: Channel 13, Channel 16, and the VTS frequency. The reasons for sectorization were discussed at some length in the notice of proposed rulemaking. Coast Guard studies have indicated that it would be impossible for one radio channel to handle the volume of information required on timely basis. The commenters provide no new information which would refute the reasoning or alter the import of these studies. Additionally, as explained below, it is anticipated that vessels participating in the VTS will not have to guard Channel 16. Therefore, sectorization of communications stands as proposed.

Most of those advocating a single VTS communications channel recommended that it be VHF–FM Channel 13 (156.65 MHz), the Vessel Bridge-to-Bridge frequency. Direct Bridge-to-Bridge communication by meeting vessels is a cornerstone of the U.S. vessel safety program. Near immediate frequency access is necessary to make it work. As discussed in the preamble to the notice, adding a VTS communications load to this frequency would render it unusable for its intended purpose. Therefore, the recommendation is not adopted.

One commenter requested that portable VHF radiotelephones be allowed to be used for the mandatory watch of the VTS Channels required by § 161.520. The commenter stated that this would allow pilots to provide radiotelephones for international shipping that does not carry installed VHF radio equipment capable of monitoring those channels. The commenter seems to have misinterpreted the rule concerning radiotelephone equipment. Section 161.522 requires a radiotelephone capable of being operated on the navigating bridge of a vessel. It does not require the radiotelephone be fixed or installed in a specific place. Therefore, portable radiotelephones may be utilized to monitor the VTS Channels.

Four commenters asked for relief from the Federal Communications Commission (FCC) requirement to monitor VHF–FM Channel 16, the Distress, Safety and Calling frequency, in the VTS area. The FCC has a rulemaking in progress to waive the requirement for Channel 16 guard for vessels participating in a VTS, provided that they are monitoring the VTS frequency. It is expected that the waiver will granted before VTS New York is operational.

One commenter suggested that vessels be required to report to the Vessel Traffic Center (VTC) only when entering and leaving the VTS area. The Coast Guard believes that the reports of emergency or radio failure, impairment to the operation of the vessel, and movement reports when the Vessel Movement Reporting System is activated, are necessary. Without such informaton the VTC would not be able to inform vessels of potentially hazardous situations or coordinate vessel traffic flow to avoid them. Therefore, the suggestion is not adopted.

One commenter recommended elimination of movement reports required in § 161.539 when the VTC's surveillance capability was impaired. The commenter felt that when there was a failure of "hardware" (television or radar), the VTC would be limited to relaying radio messages back and forth between vessels. The Coast Guard disagrees. Although inferior to direct surveillance, movement reporting can give the VTC an excellent overview of harbor movements. Moreover, even if the VTS were to receive no information from the surveillance system in a particular sector, information gained from other sectors and the movement reports in the affected sector would enable the VTC to provide vessels with warnings of potentially hazardous situations.

Four commenters expressed concern over the ability of VTC personnel to direct the movement of vessels as authorized by § 161.507. It must be emphasized that the normal mode of operation of the VTS is advisory and recommendatory. However, the Coast Guard believes that for the VTS to be effective in reducing the number of accidents in the area, the capacity to exercise a measure of positive control over vessels is vital. For example, when a particular channel is congested and a vessel at anchor within the VTS area reports its intention to proceed along that route, the VTC may direct the vessel to remain at anchor until danger of collision is reduced to an acceptable level.

It was stated in the notice of proposed rulemaking that the Coast Guard planned a period of voluntary operation before making compliance with the rules mandatory. VTC operations during the recent tug boat strike in New York Harbor in effect accomplished the purpose of a voluntary period—user familiarization. Moveover, the VTC will resume operations on September 3, 1979, fifteen days before this rule becomes effective. This period will provide an additional opportunity for user familiarization. Therefore, an extended period of voluntary operation is not considered necessary and the rules will become effective on September 18, 1979.

This final rule has been evaluated in accordance with DOT "Regulatory Policies and Procedures," 44 FR 11033 (February 26, 1979). A copy of the final evaluation may be obtained from: Commandant (G–CMC/81) U.S. Coast Guard, Washington, D.C. 20590, (202) 426–1477.

PART 161—VESSEL TRAFFIC MANAGEMENT

In consideration of the foregoing, Part 161 of Chapter I, Title 33, Code of Federal Regulations, is amended by adding new sections as follows:

Subpart B—Vessel Traffic Services

* * * * *

New York Vessel Traffic Service—General Rules

Sec.

161.501 Purpose and applicability.
161.503 Definitions.
161.504 Vessel operation in the VTS Area.
161.505 Laws and regulations not affected.
161.506 VTS Operating Manual.
161.507 VTC directions.
161.509 Authorization to deviate from these rules.
161.511 Emergencies.

Communications Rules

161.520 Radio listening watch.
161.522 Radiotelephone equipment.
161.524 English language.
161.526 Time.
161.528 Radio failure.
161.530 Report of emergency or radio failure.
161.532 Report of impairment to the operation of the vessel.

Vessel Movement Reporting System Rules

161.536 Initial report.
161.537 Follow-up reports.
161.538 Invoking of the VMRS rules.
161.539 Movement reports.
161.540 VMRS reporting points.
161.542 Final report.

Special Rules

161.570 Communications in limited traffic areas (LTA).
161.572 Entering an LTA.
161.573 Entering Pierhead Channel from Kill Van Kull.
161.574 St. George special rule.
161.575 Action during reduced visibility.

Descriptions and Geographic Coordinates

161.580 VTS area.
161.581 Communications sector boundaries.
161.582 Limited traffic areas.
161.583 St. George special rule area.

Authority: [Sec. 2, Pub. L. 95–474, 92 Stat. 1471 (33 U.S.C. 1223); 49 CFR 1.46(n)(4)].

New York Vessel Traffic Service—General Rules

§ 161.501 Purpose and applicability.

(a) Sections 161.501 through 161.583 prescribe rules for vessel operation in the New York Vessel Traffic Service (VTS) Area to prevent collisions and groundings and to protect the navigable waters of the VTS Area from environmental harm resulting from collisions and groundings.

(b) The General Rules in §§ 161.501 through 161.507, except § 161.506, and the St. George Special Rule in § 161.574 apply to the operation of all vessels.

(c) General Rule 161.506, the Communications Rules in §§ 161.520 through 161.532, the Vessel Movement Reporting System Rules in §§161.536 through 161.542, and the Special Rules in §§ 161.570, 161.572, 161.573, and 161.575 only apply to the operation of—

(1) Each vessel of 300 or more gross tons that is propelled by machinery;

(2) Each vessel of 100 or more gross tons that is carrying one or more passengers for hire;

(3) Each vessel carrying 10 or more passengers for hire;

(4) Each commercial vessel of 26 feet or over in length engaged in towing another vessel astern, alongside, or by pushing ahead; and

(5) Each dredge and floating plant.

§ 161.503 Definitions

As used in §§ 161.501 through 161.583:

"ETA" means estimated time of arrival.

"Limited Traffic Area (LTA)" means any subarea within the VTS Area where the special rules in §§ 161.570 and 161.572 apply.

These areas are described in § 161.582.

"Master" means licensed master or operator or, on vessels not requiring a licensed operator, the person in command of the vessel.

"Person" includes and individual, firm, corporation, association, partnership, and governmental entity.

"Sector" means a particular area within the VTS Area as described in § 161.581.

"Sector" means a particular area within the VTS Area as described in § 161.581.

"Sector Frequency" means the VHF–FM radio frequency designated for use in a particular VTS sector.

"Vessel Movement Reporting System (VMRS)" is a system by which vessel progress is monitored by reports from the vessel rather than by electronic surveillance.

"Vessel Traffic Center (VTC)" means the shore-based facility that operates the New York Vessel Traffic Service.

§ 161.504 Vessel operation in the VTS Area.

No person may cause or authorize the operation of a vessel in the VTS Area contrary to the rules in §§ 161.501 through 161.583.

§ 161.505 Laws and regulations not affected.

Nothing in §§161.501 through 161.583 is intended to relieve any person from complying with—

(a) The Navigation Rules for Harbors, Rivers and Inland Waters generally (33 U.S.C. 151 through 232);

(b) Vessel Bridge-to-Bridge Radiotelephone Regulations (Part 26 of this chapter);

(c) Pilot Rules for Inland Waters (Part 80 of this chapter);

(d) The Federal Boat Safety Act of 1971 (46 U.S.C. 1451 through 1489); and

(e) Any other laws or regulations.

§ 161.506 VTS Operating Manual.

The master of a vessel shall ensure that a copy of the current edition of the New York Vessel Traffic Service Operating Manual is available on board the vessel when it is in the VTS area.

Note.—"New York VTS Operating Manual" includes the VTS regulations and navigation information. The Manual is available from the U.S. Coast Guard Marine Inspection Office, Battery Park Building, New York, New York 10004, or by writing to Commanding Officer, New York Vessel Traffic Service, Governors Island, New York, New York 10004.

§ 161.507 VTC directions.

(a) During conditions of vessel congestion, adverse weather, reduced visibility, or other hazardous circumstances in the VTS Area, the VTC may issue directions to control and supervise traffic, and may specify times when vessels may enter, move within or through or depart from ports, harbors, or other waters in the VTS Area.

(b) When a vessel is navigating in an unsafe manner, navigating or attempting to navigate in the VTS Area with insufficient bottom clearance or with equipment not functioning properly, the VTC may direct the vessel's movement, including directing it to anchor or moor.

(c) The master of a vessel in the VTS Area shall comply with each direction issued to the vessel under this section.

§ 161.509 Authorization to deviate from these rules.

(a) The Commander, Third Coast Guard District may, upon written

request, issue an authorization to deviate from any rule in §§ 161.501 through 161.583 if that officer finds that the proposed operation can be done safely. An application for an authorization must state the need for the authorization and describe the proposed operations.

(b) The VTC may, upon request, issue an authorization to deviate from any rule in this Part for a voyage or part of a voyage on which a vessel is embarked or about to embark.

§ 161.511 Emergencies.

In an emergency, any master may deviate from any rule in §§ 161.501 through 161.583 to the extent necessary to avoid endangering persons, property, or the environment.

Communications Rules

§ 161.520 Radio listening watch.

The master of a vessel in the VTS Area shall maintain a continuous listening watch on the radio frequency designated by the VTC for the sector of the VTS Area in which the vessel is operating, except when communicating on that or another frequency in the VHF–FM Maritime Mobile band.

§ 161.522 Radiotelephone equipment.

Each report required by the New York VTS rules to be made by radiotelephone must be made using a radiotelephone that is capable of operating on Channels 11, 12, and 14 VHF–FM (156.55, 156.60, 156.70 MHz). The radiotelephone must be capable of being operated on the navigational bridge of the vessel, or in the case of a dredge, at its main control station.

§ 161.524 English language.

Each report required by §§ 161.501 through 161.583 must be made in the English language.

§ 161.526 Time.

Each report required by §§ 161.501 through 161.583 must specify time using—

(a) The zone time in effect in the VTS Area; and

(b) The 24-hour clock system.

§ 161.528 Radio failure.

Whenever a vessel's radiotelephone equipment fails—

(a) Before entering or while underway in the VTS Area—

(1) Compliance with §§ 161.520, and 161.539 is not required; and

(2) Compliance with §§ 161.536, 161.537, and 161.542 is not required unless those reports can be made by other means.

(b) Before getting underway in the VTS Area, permission to get underway must be obtained from the VTC; and

(c) The master shall restore the radiotelephone to operating condition as soon as possible.

§ 161.530 Report of emergency or radio failure.

Whenever the master of a vessel deviates from any rule in §§ 161.501 through 161.583 because of an emergency or experiences radio failure, he shall report the deviation or radio failure to the VTC by the most expeditious means.

§ 161.532 Report of impairment to the operation of the vessel.

The master of a vessel in the VTS Area shall report to the VTC as soon as possible—

(a) Any condition on the vessel that may impair its navigation, such as fire, defective propulsion machinery, defective steering equipment, defective radar, defective gyrocompass, or defective echo depth sounding device;

(b) Any tow that the towing vessel is unable to control or can control only with difficulty; and

(c) When involved in a grounding, collision, or ramming of a fixed object.

Vessel Movement Reporting System Rules

§ 161.536 Initial report.

At least 15 minutes before a vessel enters or begins to navigate in the VTS Area, the master of the vessel shall report the following information to the VTC.

(a) The type and name of the vessel.

(b) The point of entry in the VTS Area.

(c) Destination and route in the VTS Area.

(d) Length and deepest draft of the vessel.

(e) Speed of advance of the vessel.

(f) Any dangerous or explosive cargo listed in § 124.14 of this Chapter that is on board the vessel.

(g) Any impairment to the operation of the vessel as described in § 161.532 (a) and (b).

§ 161.537 Follow-up reports.

When entering or beginning to navigate in the VTS Area, or if the vessel deviates from its route plan as reported in the initial report, the master of the vessel shall report the following information by radiotelephone to the VTC:

(a) Vessel name.

(b) Location of the vessel.

(c) Any revisions to the initial report in § 161.536.

§ 161.538 Invoking of the VMRS rules.

In the event of impairment of surveillance capability or when otherwise required for the safety of navigation, the Vessel Movement Reporting System (VMRS) may be invoked by the VTC.

§ 161.539 Movement reports.

When the VMRS is in operation, or at other times when directed by the VTC, the master of a vessel passing a reporting point listed in § 161.540 or sector boundary listed in § 161.581 shall report the following to the VTC by radiotelephone:

(a) Vessel name.

(b) Reporting point, sector boundary, or other location of the vessel.

§ 161.540 VMRS reporting points.

No.	Position description	Geographic location
	Sector 1	
11	Romer Shoal	Abeam Romer Shoal Light (when the vessel is in Ambrose Channel).
12	West Bank Light	Abeam West Bank Light (when the vessel is in the Chapel Hill Channel).
	Sector 2	
21	Buoy 20A	Gowanus Flats Lighted Bell Buoy 20A.
22	Con Hook Range	Approaching Kill Van Kull just prior to coming on Con Hook Range.
	Sector 3	
31	Red Bank	Raritan Bay Light 42.
32	Outerbridge	Outerbridge crossing.
33	Smoking Point	Arthur Kill Light 14.
34	Carteret	North end of Island of Meadows.
35	Grasselli	Passing under the overhead power cable in the vicinity of Grasselli and Piles Creek.
36	Howland Hook	½ mi. northeast of the Goethals Bridge.
37	Newark Bay	Entering Newark Bay Middle Reach, or Newark Bay South Reach at Beacon 9.
	Sector 4	
41	Ventilator Shaft	Between the tunnel ventilator shafts at pier 34 Manhattan and pier 9 New Jersey, Hudson River.
42	Manhattan Bridge	Passing Manhattan Bridge, East River.
	Sector 5	
51	72d St	East River at 72d St. Manhattan.
52	Sunken Meadows	Sunken Meadow Light 16.
53	125th St	Triborough Bridge, Harlem River.
54	Hunts Point	Due south of Hunts Point.
55	Whitestone Bridge	Whitestone Bridge, East River.
56	Stepping Stones	Abeam Stepping Stones Light.

§ 161.542 Final report.

When a vessel anchors in, moors in, or departs from the VTS Area, the master shall report the place of anchoring, mooring, or departing to the VTC.

Special Rules

§ 161.570 Communications in limited traffic areas (LTA).

Before a vessel meets, crosses ahead of, or overtakes another vessel in any area described in § 161.582, the master shall attempt to arrange a safe passage with the master of the other vessel on Channel 13 VHF–FM (156.65MHz), the frequency designated under the Bridge-to-Bridge Radiotelephone Act.

§ 161.572 Entering an LTA.

A vessel may not enter any of the areas described in § 161.582 when advised by the VTC that it will encounter another vessel unless—

(a) Safe passage has been arranged in accordance with § 161.570; or

(b) The VTC grants the vessel permission to proceed.

§ 161.573 Entering Pierhead Channel from Kill Van Kull.

Each vessel proceeding easterly in Kill Van Kull intending to use the Pierhead Channel shall cross the Constable Hook Reach toward Pierhead Channel between Kill Van Kull Lighted Buoy 7, at latitude 40°38′58″ N., longitude 74°05′11″ W., and Kill Van Kull Lighted Buoy 8 at latitude 40°38′55″ N., longitude 74°05′39″ W.

§ 161.574 St. George special rule.

Except for ferries operated by the City of New York and public vessels, no vessel may enter the St. George Special Rule Area, described in § 161.583, without the permission of the VTC.

§ 161.575 Action during reduced visibility.

When visibility is less than 2 nautical miles, any vessel that is operating without radar shall notify the VTC immediately.

Description and Geographic Coordinates

§ 161.580 VTS area.

The VTS area consists of the navigable waters of the United States inshore of a line from a point on the Long Island shore opposite the south end of the Marine Parkway Bridge at latitude 40°33′43″ N., longitude 73°52′44″ W.; thence southwesterly to a point at latitude 40°28′33″ N., longitude 73°55′47″ W.; thence southerly to Scotland Lighted Horn Buoy S at latitude 40°26′33″ N., longitude 73°55′01″ W.; thence southwesterly to Highlands Light at latitude 40°23′47″ N., longitude 73°59′11″ W. The area includes Lower New York Bay, Rockaway Inlet east to the Marine Parkway Bridge at latitude 40°34′24″ N., longitude 73°53′07″ W., Raritan Bay and Raritan River west to an east-west line through Sandy Point at latitude 40°30′03″ N., longitude 74°17′03″ W., Arthur Kill, Newark Bay north to an east-west line through the junction of the Hackensack and Passaic Rivers at latitude 40°42′27″ N., longitude 74°07′10″ W., Kill Van Kull, Upper New York Bay and the Hudson River north to an east-west line through the Yonkers Pilot Station at latitude 40°56′21″ N., longitude 73°54′10″ W., the Harlem and East Rivers and western Long Island Sound east to a line from Oak Neck Point on the Long Island shore at latitude 40°54′53″ N., longitude 73°34′20″ W., northerly to Great Captain Island Light at latitude 40°58′57″ N., longitude 73°37′25″ W., thence due north to the Connecticut shore at latitude 41°00′40″ N., longitude 73°37′25″ W.

§ 161.581 Communications sector boundaries.

The New York Vessel Traffic Service Area is divided into five sectors with the following boundaries:

(a) *Sector One:* Lower Bay. Includes the area bounded by the following:

(1) A line from a point on the Long Island shore opposite the south end of the Marine Parkway Bridge at latitude 40°33′43″ N., longitude 73°52′44″ W.; thence southwesterly to a point at latitude 40°28′33″ N., longitude 73°55′47″ W.; thence southerly to Scotland Lighted Horn Buoy S at latitude 40°26′33″ N., longitude 73°55′01″ W.; thence southwesterly to Highlands Light at latitude 40°23′47″ N., longitude 73°59′11″ W.

(2) Marine Parkway Bridge (Rockaway Inlet).

(3) East-west line through Coney Island Light (Norton Point).

(4) North-south line through Raritan Bay West Reach Light No. 20.

(b) *Sector Two:* Upper Bay, Gowanus Bay, Kill Van Kull entrance. Includes the area bounded by the following:

(1) East-west line through Coney Island Light (Norton Point).

(2) North-south line through Kill Van Kull at Platty Kill Creek.

(3) Gowanus Bay to the bridge at the entrance to the Gowanus Canal.

(4) A line bearing 270 degrees true from Governors Island Extension Light to the New Jersey shore; a line bearing 142 degrees true from Governors Island Extension Light to Red Hook (Brooklyn shore).

(c) *Sector Three:* Newark Bay, Kill Van Kull, Arthur Kill, Raritan Bay, and entrance to Raritan River. Includes the area bounded by the following:

(1) North-south line through Kill Van Kull at Platty Kill Creek.

(2) East-west line through Newark Bay light at the junction of the Hackensack and Passaic Rivers.

(3) East-west line through the Raritan River at Sandy Point.

(4) North-south line through Raritan Bay West Reach Light No. 20.

(d) *Sector Four:* Lower Hudson River, the Battery, and Lower East River. Includes the area bounded by the following:

(1) East-west line through the Hudson River at the Yonkers pilot station.

(2) Junction of the Harlem River and Hudson River at Spuyten Duyvil.

(3) Line bearing 270 degrees true from Governors Island Extension Light to the New Jersey shore and a line bearing 142 degrees true from Governors Island Extension Light to Red Hook (Brooklyn shore).

(4) A line bearing 284 degrees true from Poorhouse Flats Range Rear Light to the Manhattan shore.

(e) *Sector Five:* Upper East River, Harlem River, and western Long Island Sound. Includes the area bounded by the following:

(1) A line bearing 284 degrees true from the Poorhouse Flats Range Rear Light to the Manhattan shore.

(2) Junction of the Harlem River and Hudson River at Spuyten Duyvil.

(3) A line bearing 150 degrees true from Great Captain's Island Light to the Long Island Shore (Oak Neck Point).

§ 161.582 Limited traffic areas (LTA).

The LTA's consist of the following:

(a) *Bergen Point LTA.* An area enclosed by a line beginning at the northwestern tip of Shooters Island at latitude 40°38′44″ N., longitude 74°09′43″ W.; thence north to Kill Van Kull light 16A at latitude 40°38′52″ N., longitude 74°09′43″ W.; thence easterly to Newark Bay channel lighted buoy 1 at latitude 40°38′49″ N., longitude 74°09′12″ W.; thence easterly to Newark Bay channel lighted buoy 4 at latitude 40°38′51″ N., longitude 74°08′56″ W.; thence southerly to Bergen Point light 14A at latitude 40°38′34″ N., longitude 74°08′52″ W.; thence southerly to Kill Van Kull lighted

buoy 15 at latitude 40°38'25" N., longitude 74°08"55" W.; thence westerly to a point on the shore of Staten Island at latitude 40°38'25" N., longitude 74°09'42" W.; thence to origin.

(b) *Bayway LTA.* An area enclosed by an east-west line drawn through the end of the pier on the New Jersey shoreline at latitude 40°37'48" N., longitude 74°12'16" W., and the railroad lift bridge centered at latitude 40°38'15" N., longitude 74°11'45" W.

(c) *Tremley Point LTA.* An area enclosed by a line beginning at Pralls Island channel range front light at latitude 40°36'12" N., longitude 74°12'19" W.; thence northeasterly to Arthur Kill lighted buoy 38 at latitude 40°36'17" N., longitude 74°12'09" W.; thence southeasterly through Arthur Kill buoy 36 at latitude 40°36'02" N., longitude 74°11'56" W.; thence southerly to Arthur Kill lighted buoy 34 at latitude 40°35'49" N., longitude 74°11'58" W.; thence due west to the intersection with the New Jersey shoreline; thence following the New Jersey shoreline north to the origin.

(d) *Tufts Points LTA.* An area enclosed by a line through Arthur Kill lighted buoy 21 at latitude 40°33'40" N., longitude 74°12'59" W., perpendicular to the navigable channel, to the eastern edge of the navigable channel at latitude 40°33'39" N., longitude 74°12'53" W.; thence following the eastern limit of the channel south and west to Arthur Kill lighted buoy 18 at latitude 40°33'27" N., longitude 74°13'09" W.; thence northerly to Arthur Kill lighted buoy 17 at latitude 40°33'31" N., longitude 74°13'11" W.; thence following the northwest side of the channel northeasterly to the origin.

(e) *Hell Gate LTA.* An area enclosed by a line beginning at the railroad bridge across the East River whose center is at latitude 40°46'56" N., longitude 73°55'21" W.; thence following the shoreline of Queens, New York, south and west to a point on the shoreline at latitude 40°46'28" N., longitude 73°56'17" W.; thence across the East River to the northern tip of Roosevelt Island at latitude 40°46'22" N., longitude 73°56'26" W.; thence northwest to a point on the Manhattan, New York, shoreline at latitude 40°46'28" N., longitude 73°56'37" W.; thence following the Manhattan shoreline north and west to a point on the shoreline at latitude 40°46'46" N., longitude 73°56'35" W.; thence due east to the southwestern tip of Mill Rock at latitude 40°46'46" N., longitude 73°56'24" W.; thence along the southern edge of Mill Rock to the eastern tip of Mill Rock at latitude 40°46'49" N., longitude 73°56'17" W.; thence northeast to a point on the Bronx, New York, shoreline at latitude 40°46'58" N., longitude 73°56'06" W.; thence along the Bronx shoreline north and east to the origin.

(f) *North Brother Island LTA.* An area enclosed by a line beginning on the Bronx, New York, shoreline at latitude 40°48'06" N., longitude 73°54'21" W.; thence along the Bronx shoreline easterly to Baretto Point at latitude 40°48'07" N., longitude 73°53'07" W.; thence southwesterly to the northwest tip of Rikers Island at latitude 40°47'52" N., longitude 73°53'26" W.; thence westerly to the southern tip of North Brother Island at latitude 40°47'57" N., longitude 73°54'02" W.; thence northwesterly to the origin.

§ 161.583 St. George special rule area.

The area adjacent to St. George, Staten Island, New York, bounded by a line beginning at latitude 40°38'42'.2" N., longitude 74°04'23.0" W.; thence to latitude 40°38'49.0" N., longitude 74°04'16.0" W.; thence to latitude 40°38'44.0" N., longitude 74°04'00" W.; thence to latitude 40°38'37.0" N., longitude 74°03'49.0" W.; thence to latitude 40°38'36.0" N., longitude 74°04'15.7" W.; thence to the origin.

(Sec. 2, Pub. L. 95-474, 92 Stat. 1471 (33 U.S.C. 1223); 49 CFR 1.46(b)(4)).

Dated: July 30, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 79-23992 Filed 8-1-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6F2049/R211; FRL 1288-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural commodities; 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one on soybean forage and hay at 4 parts per million (ppm). The regulation was requested by Mobay Chemical Corp. This rule establishes maximum permissible levels for residues of the subject herbicide on soybean forage and hay.

EFFECTIVE DATE: Effective on August 2, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-7013).

SUPPLEMENTARY INFORMATION: On March 23, 1978, notice was given (43 FR 12081) that Mobay Chemical Corp., P.O. Box 4913, Hawthorn Road, Kansas City, MO 64120, had filed a pesticide petition (PP 6F2049) with the EPA. This petition proposed that 40 CFR 180.332 be amended to establish tolerances for combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one and its trazinone metabolites in or on the raw agricultural commodities soybean vines at 4 ppm and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 1 ppm.

Subsequently, the petitioner amended the petition by deleting the commodities meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep from the proposed regulation. Furthermore, the Agency has concluded that the tolerance would be better expressed as "soybean forage and soybean hay" rather than "soybean vines." No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included rat acute oral lethal dose (LD_{50}) studies, a rabbit teratogenicity study with a no-observed-effect level (NOEL) of 30 milligrams (mg)/kilogram (kg) of body weight (bw) (highest level fed), a rat teratogenicity study with an NOEL of 100 mg/kg bw (highest level fed), a two-year dog feeding study with an NOEL of 100 ppm, a two-year rat feeding study with an NOEL of 300 ppm, and an 18-month mouse carcinogenicity study (negative at 2,500 ppm, the highest level fed), a three-generation rat reproduction study with an NOEL of 300 ppm, and a mouse mutagenicity study with an NOEL of 20 mg/kg bw (highest level tested).

Tolerances have previously been established for residues of the subject herbicide on a variety of raw agricultural commodities at levels ranging from 7 ppm to 0.01 ppm for a theoretical maximum residue contribution (TMRC) of 0.2 mg/day for a 60-kg man or 2.50 percent of the maximum permissible intake (MPI). the proposed tolerances do not contribute any additional TMRC because soybean forage and hay are not considered human foods.

There are no regulatory actions pending against the continued registration of the subject pesticide, and the nature of its residue is adequately delineated. An adequate analytical method (a gas chromatographic procedure using an electron capture detector) is available for enforcement purposes. No data are lacking from the petition, and no other considerations are involved in establishing the proposed tolerances.

Residues could occur in eggs, meat, milk, fat, and meat byproducts of livestock, but such residues would be adequately covered by existing tolerances (§ 180.6(a)(2) applies).

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances on soybean forage and hay at 4 ppm established by amending 40 CFR 180.332 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before September 4, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective August 2, 1979, Part 180 is amended as set forth below.

Dated: July 27, 1979.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.332, is amended by alphabetically inserting soybean forage and soybean hay at 4 ppm in the table to read as follows:

§ 180.332 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one; tolerances for residues.

* * * * * *

Commodity:	Parts per million
* * * * *	
Soybeans, forage	4
Soybeans, hay	4
* * * * *	

[FR Doc. 79-23886 Filed 8-2-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-5674]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Arizona	Maricopa	Goodyear, town of	040046-B	July 16, 1979, suspension withdrawn.	Mar. 15, 1974 and Aug. 30, 1976.
Arkansas	Phillips	Helena, city of	050168-B	do	June 28, 1974 and Dec. 12, 1975.
California	Merced	Merced, city of	060191-B	do	July 19, 1974 and Sept. 19, 1975.
Do	Stanislaus	Waterford, city of	060393-B	do	May 24, 1974 and Oct. 17, 1975.

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State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Colorado	Weld	Dacono, town of	080236-A	do	Sept. 5, 1975.
Do	Lanmer	Fort Collins, city of	080102-A	do	June 28, 1974.
Connecicut	New Haven	Beacon Falls, town of	090072-C	do	May 3, 1974 and Oct. 22, 1976.
Illinois	Will	Crest Hill, city of	170699-B	do	Mar. 29, 1974 and June 18, 1976.
Do	Cook	Willow Springs, village of	170174-B	do	Apr. 12, 1974.
Kansas	Labette	Parsons, city of	200184-B	do	Feb. 1, 1974 and Apr. 23, 1976.
Massachusetts	Norfolk	Medfield, town of	250242-B	do	Sept. 6, 1974 and July 23, 1976.
Michigan	Oakland	Pontiac, township of	260177-B	do	Feb. 1, 1974 and Aug. 20, 1976.
Minnesota	Houston	Houston, city of	270193-B	do	Jan. 6, 1976.
Do	Mower	Unincorporated area	270307-A	do	Mar. 21, 1975.
Do	Stearns	Rockville, city of	270454-B	do	Aug. 2, 1974 and Feb 13, 1976.
Missoun		St. Louis, city of	290385-A	do	Feb. 21, 1975.
Montana	Flathead	Whitefish, city of	300026-B	do	May 31, 1974 and Jan. 9, 1976.
New Hampshire	Merrimack	Boscawen, town of	330105-B	do	Mar. 15, 1974 and Dec. 24, 1976.
New Jersey	Burlington	Hainesport, township of	340099-A	do	July 30, 1976.
Do	Ocean	Seaside Heights, Borough of	340389-B	do	Mar. 22, 1974.
New York	Suffolk	Babylon, town of	360790-B	do	July 26, 1974 and Jan. 30, 1976.
North Dakota	Pierce	Rugby, city of	380088-C	do	Mar. 22, 1974 and Oct. 3, 1975.
Oregon	Multnomah	Gresham, city of	410181-B	do	Dec. 7, 1971 and Apr 30, 1976.
Pennsylvania	Cameron	Driftwood, Borough of	420245-B	do	Aug. 9, 1974 and Apr. 16, 1976.
Do	Allegheny	Millvale, Borough of	420053-B	do	Dec. 28, 1973 and Apr 23, 1976.
Texas	Hildalgo	LaJoya, city of	480341-B	do	Jan. 23, 1974 and Apr. 9, 1976.
Do	Hidalgo	Pharr, city of	480347-B	do	May 31, 1974 and Aug. 27, 1979
Utah	Utah	Salem, city of	490160-A	do	June 28, 1974.
Vermont	Windham	Bellows Falls, village of	500125-B	do	Aug. 16, 1974 and May 2, 1977.
Virginia	Scott	Dungannon, town of	510144-B	do	Mar. 22, 1974 and July 2, 1976.
Washington	Pacific	Raymond, city of	530129-B	do	May 31, 1974 and Feb. 7, 1975.
Wyoming	Albany	Laramie, city of	560002-B	do	Apr. 5, 1974 and Feb. 6, 1976.
Do	Sweetwater	Rock Springs, city of	560051-B	do	May 31, 1974 and Dec. 12, 1975
Florida	Lake	Howey-In-The-Hills, town of	120585-A	July 18, 1979, emergency	Mar. 2, 1979
North Carolina	Mitchell	Unincorporated areas	370161-A	do	June 30, 1978
Texas	Harris	Tomball, city of	480315	do	Jan. 24, 1975
Missoun	Cass	Baldwin Park, village of	290880-New	July 19, 1979, emergency.	
South Dakota	Brookings	Unincorporated areas	460253-A	do	Dec. 20, 1977
North Carolina	Cherokee	Unincorporated areas	370059	July 23, 1979, emergency	June 16, 1978
Texas	Brazoria	Liverpool, city of	480075	do	Nov. 26, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: July 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23746 Filed 8-1-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 65

[Docket No. FEMA 5675]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Office of Federal Insurance and Hazard Mitigation have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is: (1) for acquisition and construction of buildings, and (2) for buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Office of Federal Insurance and Hazard Mitigation's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard area shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.).

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Bundary Maps (FHBM's).* The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149, 40 FR 17015, 40 FR 20798, 40 FR 46102, 40 FR 53579, 40 FR 56672, 41 FR 1478, 41 FR 50990, 41 FR 13352, 41 FR 17726, 42 FR 8895, 42 FR 29433, 42 FR 46226, 42 FR 64076, 43 FR 24019, 44 FR 815, 44 FR 6383, 44 FR 18485, 44 FR 25636, 44 FR 34120, 44 FR 45389.

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 17015, 41 FR 1478, 42 FR 49811, 42 FR 64076, 43 FR 24019, 44 FR 25636, 44 FR 45389.

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made Pursuant to § 65.6:

State	Community name and number	County	Hazard ID date	Rescission date	Reason
Michigan	Berkeley, city, 260292A	Oakland	May 13, 1977	May 29, 1979	1
New York	Nassau, vil, 360675B	Rensselaer	Aug. 11, 1978	May 18, 1979	(1)
Do	Hardenburgh, TN	Ulster	Nov. 29, 1974	May 29, 1979	2
Ohio	Holgate, vil, 390265A	Henry	May 3, 1974	do	1A
Do	Mount Cory, vil, 390249A	Hancock	Sept. 20, 1974	do	1
Do	St. Paris, vil, 390059A, C	Champaign	June 7, 1974	do	1A
Do	Zanesfield, vil, 390345A	Logan	Oct. 18, 1974	do	1
Oklahoma	Mangum, city, 400067A, C	Greer	May 17, 1974	do	1A
Pennsylvania	Birmingham, boro, 420482	Huntingdon	Dec. 1, 1974	do	1
Do	East Vandegrift, boro, 420875A, C	Westmoreland	Apr. 5, 1974	do	1A
Tennessee	Gibson County, 470359		Feb. 3, 1978	do	1
Washington	Warden, TN, 530304C	Grant	May 2, 1975	do	1A
Ohio	Troy, city, 390402A, C	Miami	Sept. 3, 1976	June 15, 1979	1A
Do	West Milton, vil, 390403B, C	do	June 4, 1976	do	1A
New Mexico	Deming, city, 350039C	Luna	Mar. 29, 1974	do	1A
Tennessee	Monteagle, TN, 470309	Grundy and Marion	July 2, 1976	do	1A
Do	Ridgeside, city, 470319A	Hamilton	Feb. 25, 1977	do	1
Washington	Granger, TN, 530219A	Yakima	Apr. 23, 1976	do	1
Pennsylvania	Callensburgh, TN, 422364	Clarion	Jan. 31, 1975	do	1
Do	Bear Lake, boro, 422544	Warren	Dec. 27, 1974	do	1
Massachusetts	West Springfield, city, 250155B	Hampden	June 1, 1979	June 28, 1979	4
New Mexico	Logan, vil, 350105C	Quay	Sept. 17, 1976	do	1A
Tennessee	Signal Mountain, town, 470078C	Hamilton	Sept. 3, 1976	do	1A
Texas	Hilshire Village, city, 480295A, C	Harris	Nov. 18, 1976	do	1A
Wisconsin	Kennan, vil, 550531C	Price	Nov. 8, 1974	do	1A
Do	Catawaba, vil, 550527C	do	do	do	1A

[1] Withdrawal of FIRM.

KEY TO SYMBOLS

E—The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.
C—The community is participating in the Emergency Program. It will be converted to the Regular Program without an FIA map.
R—The community is participating in the Regular Program.

1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
1A. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
2. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
3. The Community lacked land-use authority over the special flood hazard area.
4. A more accurate FIA map is the effective map for this community.
5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.) A new FHBM will be prepared and distributed.
6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.
7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.
8. The T&E or H&E Map was rescinded.
9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23747 Filed 8-1-79; 8:45 am]

BILLING CODE 4210-23-M

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44 CFR Part 65

[Docket No. FEMA 5676]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communites to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or 30 days after the date of this **Federal Register** publication, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by federally regulated, insured, supervised, or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Director, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to Janaury 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Director, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 or Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

State, county, community name, and number of panels	Community number and suffix		Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Colorado, Moffat, City of Craig, 0001B	080119	B	E-8,9,11,12	I	F	May 3, 1974, Mar. 26, 1976.	July 3, 1979	Honorable Jerry Thompson, Mayor, P.O. Box 425, Craig, Colorado 81625, (303) 824-5897.
Colorado, Logan, City of Sterling, 0001B	080294	B	E-11,12,15	I	F	Sept. 19, 1978	July 3, 1979	Mr. Marvin McElwain, City Manager, P.O. Box 590, Sterling, Colorado 80751, (303) 522-2757.
Idaho, Ada, City of Garden City, 0001B–0002B	160004	B	E-11	I	F	Dec. 17, 1973, Nov. 14, 1975.	July 3, 1979	Honorable Raynold Eld, Mayor, City of Garden City, 201 W. 33rd Street, Boise, Idaho 83704, (208) 377-1831.
Kansas, McPherson, City of McPherson, 0001C	200217	C	E-8,11,12,15	I	F	Mar. 15, 1974, Apr. 11, 1975.	July 3, 1979	Mr. Charles E. Stacy, City Engineer, Municipal Center, P.O. Box 1006, McPherson, Kansas 67460, (316) 241-2573

State, county, community name, and number of panels	Community number and suffix		Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Texas, Nacogdoches, City of Chireno, 0001A	481543	A	N-5	I	F	July 3, 1979	July 3, 1979	Honorable Orland Strickland, Mayor, Town of Chireno, Office of Mayor, P.O. Box 67, Chireno Texas 75937, (713) 362-2370.
Texas, Henderson, City of Coffee City, 0001A	481507	A	N-5	I	F	July 3, 1979	July 3, 1979	Honorable Wayne Phillips, Mayor, Office of Mayor, City of Coffee City, P.O. Box 216, Frankston, Texas 75763, (214) 676-2993.
Texas, Denton, Town of Hebron, 0001A–0002A	481495	A	N-5	I	F	July 3, 1979	July 3, 1979	Honorable Stanley Dozier, Mayor, Town of Hebron, Office of Mayor, Route 3, Box 130, Lewisville, Texas 75067, (214) 242-5685.
Texas, Archer, City of Lakeside City, 0001A	481496	A	N-5	I	F	July 3, 1979	July 3, 1979	Honorable Jon J. Rivkin, Mayor, City of Lakeside City, Office of Mayor, Route 3, Wichita Falls, Texas 76308, (817) 692-2203.
Texas, Wharton, City of Wharton, 0001B	480654	B	E-11,12	I	F	Dec. 31, 1976, July 19, 1977.	July 3, 1979	Honorable Victor H. Driscoll, Mayor, P.O. Box 1026, Wharton, Texas 77488, (713) 532-2491
Illinois, Jasper, Jasper County,[1] 0001A–0006A	170990		N-5	I	F	July 27, 1979	July 27, 1979	Mrs. Alma LeFever, Clerk, Courthouse, Newton, Illinois 62448, phone: (618) 455-3039.
Illinois, Mercer, City of Keithsburg, 0001C	170508		E-11,12,14	I	F	Feb. 15, 1974, Aug. 1, 1975, and Feb. 13, 1976.	July 27, 1979	Clarence Whitesell, Mayor, City Hall, Keithsburg, Illinois 61442, phone: (309) 374-2631
Illinois, Tazewell, Village of Morton, 0001B–0002B	170652		E-8,11,12,14	I	F	May 31, 1974, Nov. 19, 1976.	July 27, 1979	Chairmer Arnett, President of Village Council, 121 North Main Street, Morton, Illinois 61550, phone: (309) 264-8406.
Indiana, Wayne, City of Richmond, 0001B–0003B	180287		E-8,11,12,14	I	F	May 10, 1974, Dec. 5, 1975.	July 27, 1979	Clifford Dickman, Mayor, 50 North Fifth Street, Richmond, Indiana 47377, phone: (317) 962-2963.
Minnesota, Pipestone, Pipestone County,[1] 0001A–0006A	270627		E-5	I	F	July 27, 1979	July 27, 1979	Gordon Baden, Auditor, Courthouse, Box 510, Pipestone, Minnesota 56164, phone: (507) 825-4494.
Ohio, Summit, Village of Clinton, 0001B	390525		E-8,11,12,14	I	F	Feb. 8, 1974, May 21, 1976.	July 27, 1979	Leroy Seebach, Mayor, 7805 Second Avenue, Clinton, Ohio 44216, phone: (216) 882-4782.
Ohio, Logan, Village of Lakeview, 01	390341	B	E-8,11,12,14	I	F	May 3, 1974, May 21, 1976.	July 27, 1979	Woodrow Wagner, Mayor, P.O. Box 801, Lakeview, Ohio 43331, phone: (513) 843-4971.
Ohio, Scioto, City of Portsmouth, 0001B–0002B	390498		E-8,11,12,14	I	F	May 31, 1974, June 11, 1976.	July 27, 1979	Albert White, Mayor, 728 Second Street, Portsmouth, Ohio 45662, phone: (614) 354-7541.
Ohio, Hamilton, City of Sharonville, 0001B	390236		E-8,11	I	F	Apr. 12, 1974, May 28, 1976.	July 27, 1979	John Dowlin, Mayor, 10900 Reading Road, Sharonville, Ohio 45241, phone: (513) 563-1144.
Ohio, Rose, Village of South Salem, 01	390485	B	N-11,12,14	I	F	Aug. 29, 1974, May 7, 1976.	July 27, 1979	Roy Surber, Mayor, Village Hall, South Salem, Ohio 45681, phone: (513) 981-3497.
Pennsylvania, Venango, Township of Jackson, 0001A–0002A	422535		E-11,12,14	I	F	Jan. 24, 1975	July 27, 1979	DeWayne F. Shorots, Chairman, R.D. No. 1, Cooperstown, Pennsylvania 16317, phone: (814-374-4188.
Mississippi, Pototoc, Town of Toccopola	280263	A	E-11,12	I	F	Dec. 13, 1974	July 27, 1979	Town Office, Town of Toccopola, Toccopola, Mississippi 38874, (601) 489-3451.
Arizona, Pinal, Town of Superior, 0001A	040119	A	N-5	I	F	July 31, 1979	July 31, 1979	Honorable Herbert Henson, Mayor, 109 Palo Verde Street, Superior, Arizona 87273, (602) 689-2441.
Colorado, Chaffee, Town of Buena Vista, 01B–02B	080030	B	E-11,12	I	F	May 3, 1974, Feb. 6, 1976.	July 31, 1979	Honorable Mark McGoff, Mayor, P.O. Box "B", Buena Vista, Colorado 81211, (303) 395-8643.
Texas, Willacy, City of San Perlita, 01B	480667	B	E-12	I	F	Oct. 25, 1974, June 18, 1976.	July 31, 1979	Honorable Fidel Duron, Mayor, P.O. Box 121, San Perlita, Texas 78590, (512) 248-5573.

[1] Unincorporated area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: July 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23749 Filed 8-1-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-4998]

Final Flood Elevation Determination for the Town of Cicero, Hamilton County, Ind.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Cicero, Hamilton County, Indiana.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Cicero, Hamilton County, Indiana.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Cicero, Hamilton County, Indiana, are available for review at the Town Clerk's Office, Town Hall, 70 Byron Street, Cicero, Indiana 46034.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Cicero, Hamilton County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Morse Reservoir	Just downstream of the Jackson Street Bridge (East 236th Street).	813
	Just downstream of State Route 19.	814
West Arm Morse Reservoir.	Confluence with Little Cicero Creek.	814
Cicero Creek	East 249th Street (Extended)	816
	East 256th Street (Extended)	822
Little Cicero Creek	East 249th Street (Extended)	817
	Just downstream of East 256th Street.	826
Hinkle Creek	Approximately 300 feet upstream of 225th Street.	849
	Approximately 100 feet downstream of Deming Road.	858

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: July 5, 1979.

Charles M. Plaxico, Jr.,
Acting Federal Insurance Administrator.

[FR Doc. 79–23684 Filed 8–1–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI-5245]

Final Flood Elevation Determination for the Unincorporated Areas of Newton County, Miss., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the unincorporated areas of Newton County, Mississippi.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the unincorporated areas of Newton County, Mississippi.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of Newton County, Mississippi, are available for review at the Board Room, Newton County Courthouse, Decatur, Mississippi.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the unincorporated areas of Newton County, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448) 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Potterchitto Creek	Just downstream of State Route 15.	358
	Just upstream of Interstate 20.	375
	Just upstream of U.S. Highway 80.	388
Riser Creek	Just upstream of the Illinois Central Gulf Railroad.	363
	Just downstream of County Road.	371

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: July 5, 1979.

Charles M. Plaxico, Jr.,
Acting Federal Insurance Administrator.

[FR Doc. 79–23685 Filed 8–1–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI-5276]

Final Flood Elevation Determination for the Unincorporated Areas of Transylvania County, N.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the unincorporated areas of Transylvania County, North Carolina.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the unincorporated areas of Transylvania County, North Carolina.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of Transylvania County, North Carolina, are available for review at the County Manager's Office, County Administration Building, 28 East Main Street, Brevard, North Carolina.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the unincorporated areas of Transylvania County, North Carolina.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
French Broad River	Just upstream of Crab Creek Road.	2094
	Approximately 500 feet upstream of Everett Road (Patton Bridge).	2101
	Just upstream of Island Ford Road.	2140
	Approximately 300 feet upstream of Calvert Road	2188
	Approximately 500 feet downstream of Burnt Road.	2192
Little River	Just upstream of Cascade Lake Road.	2103
Crab Creek	Just upstream of Cascade Lake Road.	2098
Davidson River	Approximately 100 feet upstream of U.S. Highway 64 (U.S. Highway 276).	2128
	Just upstream of English Chapel Road.	2169
Carson Creek	Just upstream of Island Ford Road.	2152
Catheys Creek	Approximately 100 feet upstream of U.S. Highway 64.	2177
Lime Kiln Branch	Just upstream of U.S. Highway 64.	2182
Patterson Creek	Approximately 50 feet upstream of U.S. Highway 64.	2176
Mason Creek	Just upstream of U.S. Highway 64.	2180
East Fork French Broad River.	Just downstream of the most western crossing of Secondary Road 1107.	2186
	Just upstream of the most eastern crossing of Secondary Road 1107.	2254
Middle Fork French Broad River.	Just upstream of Secondary Road 1107.	2183
	Just upstream of the most southern crossing of Secondary Road 1131.	2235
	At U.S. Highway 178	2273
North Fork French Broad River.	Just upstream of Secondary Road 1322.	2226
West Fork French Broad River.	Approximately 100 feet upstream of U.S. Highway 64.	2240

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: July 5, 1979.

Charles M. Plaxico, Jr.,
Acting Federal Insurance Administrator.

[FR Doc. 79–23686 Filed 8–1–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI-3780]

Final Flood Elevation Determination for the City of Sallisaw, Sequoyah County, Okla.; Under the National Flood Insurance Program

AGENCY: Office of the Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Sallisaw, Sequoyah County, Oklahoma.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Sallisaw, Sequoyah County, Oklahoma.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Sallisaw, Sequoyah County, Oklahoma, are available for review at City Hall, 111 North Elm Street, Sallisaw, Oklahoma.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Sallisaw, Sequoyah County, Oklahoma.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hog Creek	Just upstream of U.S Highway 64.	494
	Upstream of Redwood Avenue.	499
Shiloh Creek	Adams Street (extended)	550
	Upstream of Meadowlark Street.	554
Tributary No. 1	Upstream of Interstate 40 West.	511
	Upstream of U.S. Highway 64 Bridge (Cherokee Avenue).	527
	Redwood Avenue Bridge	535

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Develpment Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: July 5, 1979.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 79–23687 Filed 8–1–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5296]

Final Flood Elevation Determination for the Town of Josephine, Collin County, Tex.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Josephine, Collin County, Texas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Josephine, Collin County, Texas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Josephine, Collin County, Texas, are available for review at City Hall, Josephine, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Josephine, Collin County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sabine Creek Tributary.	Just downstream of Farm to Market Road #6.	585
	Just downstream of Hubbard Street.	588

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: July 5, 1979.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 79–22688 Filed 8–1–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5251]

Final Flood Elevation Determinations for the City of Plano, Collin County, Tex., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Plano, Collin County, Texas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Plano, Collin County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Plano, Collin County, Texas, are available for review at the Office of Planning and Engineering, 1117 15th Street, Plano, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Plano, Collin County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Rowlett Creek	Just upstream of 14th Street.	522
	Just upstream of Jupiter Road.	563
	Just upstream of Highway 5...	576
Cottonwood Creek	Just upstream of Betsy Lane.	537
	Just upstream of Parker Road.	560
Stream 2D12	Just upstream Morton-Vale Road (Backwater flooding of Rowlett Creek).	561
Stream 2D15	Just downstream of Chapperal Road.	591
Russell Creek	Just downstream of Alma Road.	600
	Just upstream Katherine Road.	701
Spring Creek	Just upstream of West Dallas North Parkway	595
	Just upstream of Alma Road.	620
	Just upstream of Custer Road.	667
	Just upstream of Anna Road.	715
Pittman Creek	Just upstream of Westwood Drive.	615
	Just upstream of Park Boulevard.	651
	Just upstream of Teakwood Lane.	684
Stream 5B13	Just upstream White Rock Road.	710
Stream 5B14	Just downstream of Atchison Topeka and Santa Fe Railroad.	689
McKamy Branch	Just upstream of White Rock Road.	664
White Rock Creek	Just upstream of F.M. 544 (Park Boulevard).	622
	Just upstream of F.M. 289 (Preston Road).	672
	Just upstream of Pasor Road	697
	Just upstream of County Road.	701
Stream 5B18	Just upstream Private Road (approximately 900 feet above its mouth).	623
Stream 5B19	Just upstream of Dallas Parkway.	661
Stream 5B20	Just upstream of Broken Dam.	623
Stream 5B21	Just downstream of F.M. 544 (Park Boulevard).	632
Stream 5B22	Just upstream of the Dam (Approximately 400 feet above its mouth.	645
Stream 5B23	Just downstream of S.H. 289 (Preston Road).	665
Stream 5B24	Approximately 100 feet downstream S.H. 289 (Preston Road).	675
Stream 5B25	Just downstream of S.H. 289 (Preston Road).	673
	Just upstream of S.H. 289 (Preston Road).	678
Stream 5B26	Approximately 200 feet upstream of the Dam.	634
Stream 5B27	Just upstream of Yeary Road	633
	Confluence of Stream 5B28...	693
Stream 5B28	Just upstream of the Dam.....	702
Stream 5B29	Just upstream of Private Road.	653
Stream 5B30	Just downstream of S.H. 289 (Preston Road).	662
	Just upstream of S.H. 289 (Preston Road).	669
Stream 5B31	Just downstream S.H. 289 (Preston Road).	661
	Just upstream of S.H. 289 (Preston Road).	667
Stream 5B32	Confluence with White Rock Creek (Backwater flooding from White Rock Creek).	658
Stream 5B33	Just upstream of S.H. 289 (Preston Road).	674
Stream 5B34	Just upstream of the Broken Dam.	687
Stream 5B35	Just upstream of Rasor Road	701
Stream 5B36	Just upstream S.H. 121	706
	West Fork of Pittman Creek...	700
	Just upstream of Independence Parkway.	739
	Just upstream of Wiffle Tree Road.	739
Stream 2I11	Confluence with Spring Creek (Backwater flooding from Spring Creek).	686
Stream 2L1	Just upstream of Dam	662
Stream 2I9	Just upstream of Custer Road.	673
Brown Branch	Just upstream of Parker Road.	565
	Just upstream of Spring Creek Parkway.	626
Stream 2D11	Just upstream of Avenue R	609
	Just upstream of Avenue P	626
Stream 2I12	Just upstream Round Rock Trail.	692
	Just upstream of Independence Parkway.	694
Beck Branch	Just downstream of Shiloh Road.	582
Prarie Creek	Just upstream of Independence Parkway.	685
	Just upstream of Park Boulevard.	710
Stream 2M3	Just upstream of Dallas North Parkway.	622
Stream 2D10	Just upstream of Rigsbee Drive.	584
Stream 2D8	Just upstream of Ridgewood Drive.	551
	Just downstream of Jupiter Road.	594
Bowman Branch	Just upstream of Highway 5...	522
	Just upstream of Alma Road.	656
Stream 2D9	Just downstream of Sherrye Drive.	547
	Just upstream of Sherrye Drive.	552
	Just upstream of Ridgewood Drive.	581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Adminstrator 44 FR 20963).

Issued: July 5, 1979.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 79–23689 Filed 8–1–79; 8:45 am]

BILLING CODE 4210–23–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79–72; RM–3253]

FM Broadcast Station in Ava, Ill.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a first Class A FM channel to Ava, Illinois, in response to a petition filed by Harold Lawder. This channel could be used to provide a first local aural broadcast service to the community.

EFFECTIVE DATE: September 7, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Ava, Illinois), BC Docket No. 79–72, RM–3253: *Report and Order,* (Proceeding Terminated).

Adopted: July 25, 1979.

Released: July 31, 1979.

1. On April 2, 1979, the Commission adopted a *Notice of Proposed Rule Making,* 44 Fed. Reg. 21044, proposing the assignment of Channel 280A as a first FM assignment to Ava, Illinois, at the request of Harold Lawder ("petitioner"). Supporting comments were filed by petitioner in which he stated a readiness to apply for the channel, if assigned.

2. Ava (pop. 788), in Jackson County (pop. 55,008) [1], is located approximately 105 kilometers (65 miles) southeast of St. Louis, Missouri. There is no local aural broadcast service in Ava.

3. Petitioner states there are four coal mines within 10 miles of Ava which provide employment and a good level of income to those employed there. He claims that current projections by local government agencies show great population growth in the immediate area as a result of expansion in the coal industry. Petitioner submitted numerous letters from citizens in the Ava area expressing their interest in and support of an FM assignment.

4. It has been shown that there is a need and demand for an FM assignment in Ava, Illinois. A station on the channel could provide a first full-time local aural broadcast service to the community. Therefore, we conclude that the public interest would be served by making this assignment.

5. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. Accordingly, it is ordered, that effective September 7, 1979, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with regard to the community listed below:

City	Channel No.
Ava, Illinois	280A

[1] Population figures are taken from the 1970 U.S. Census.

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1068, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79–23857 Filed 8–1–79; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Parts 1, 81, 83

Stations on Land in the Maritime Services and Alaska-Public Fixed Stations, Stations on Shipboard in the Maritime Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Editorial amendments to the rules to correct certain minor errors. Also, amendment to require that a voltmeter be provided in lieu of a hydrometer aboard certain vessels equipped with a sealed lead acid battery for a reserve source of energy. These amendments are part of a continuing effort to update our rules.

EFFECTIVE DATE: August 10, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kemp J. Beaty, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

In the matter of Editorial amendment to §§ 1.952, 81.206, 81.304, 83.134, 83.145, 83.363, 83.499, 83.536, 83.554, and 83.811: Order.

Adopted: July 25, 1979.
Released: July 27, 1979.

1. Section 1.952 of our rules indicates how file numbers are assigned to applications in the Private Radio Services. The designator MR refers by practise to applications filed for authorizations in the "Maritime radiodetermination land" group. We are amending this section to indicate this designation instead of "Marine radiolocation land" which currently appears in our rules.

2. An error appears in the table under Section 81.206 of our rules. The frequency 6633.5 kHz under the 6 MHz column for the North Atlantic area is in error. This frequency should be 6333.5 kHz.

3. Section 81.304(b)(22), table, has an error in the Channel designator for the frequency 161.925 MHz. The table indicates that this designator is Channel 36 when it is actually Channel 86.

4. Sections 83.134(i) and 83.144(e) conflict with each other regarding the temperature range for the testing of an Emergency Position Indicating Radiobeacon (EPIRB). The temperature range −20 to +55 degrees Celsius in § 83.144(e) is correct. Section 83.134(i) is being amended to correct the upper temperature limit to +55 degrees Celsius.

5. Section 83.363 contains a table listing the Coast Station Schedule for U.S. Coast Guard AMVER stations. The Coast Guard has notified us that the San Francisco station now operates 24 hours a day on the 4 MHz frequency. We are adding this to the table.

6. Section 83.536(b)(1) has the word "minimum" which is in error. This should refer to maximum length. In addition, the second "towing" in paragraph (b) is unnecessary and we are deleting it.

7. Lead-acid batteries are now manufactured for marine use which are sealed except for small vent holes in the cover. It is not possible to measure the specific gravity of the electrolyte or the voltage of the individual cells. It is necessary that a voltmeter capable of measuring the voltage of the battery be available for testing the reserve source of energy for compliance. Provision for this is made by an amendment to § 83.499(b).

8. Section 83.554(a)(1)(i), subdivision (*b*) contains the sentence "Auto alarms installed before * * * (the effective date of this Report and Order) * * *." The date, June 6, 1975, should have been inserted in place of the parenthical phrase "(the effective * * *)" as this was the effective date of the Report and Order in Docket 20148 which placed this subdivision into our rules.

9. Section 83.811(b)(2) has a phrase which reads "For simple frequency simplex". The word "simple" should be "single".

10. The title of § 83.145 is being amended to bring the phrase "Emergency Position Indicating Radio Beacon Stations" into conformance with our other usages of this phrase. We are amending this phrase. We are amending this phrase to read "emergency position indicating radiobeacon stations".

11. In view of the foregoing and under the authority of Sections 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended, and Section 0.231(d) of the Commission's rules, we are amending §§ 1.952, 81.206, 81.304, 83.134, 83.145, 83.363, 83.499, 83.536, 83.554, and 83.811 as shown in the attached Appendix. Since these amendments are editorial in nature, the public notice, procedure and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable.

12. Regarding question on matters covered in this document contact Kemp J. Beaty, telephone (202) 632–7175.

13. In view of the above, it is ordered, that the rule amendments set forth in the attached Appendix are adopted effective August 10, 1979.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

R. D. Lichtwardt,

Executive Director.

Appendix

Parts 1, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended to read as follows:

PART 1—PRACTICE AND PROCEDURE

§ 1.952 [Amended]

Section 1.952(b) under Marine Services is amended by replacing the phrase "Marine radiolocation land." with "Marine radiodetermination land."

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

§ 81.206 [Amended]

1. The table is amended under the "6 MHz" column by replacing the figure "6633.5" with the figure "6333.5".

§ 81.304 [Amended]

2. In § 81.304(b)(22) the table is amended under the column labeled "Channel designator" by replacing the figure "36" with "86".

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.134 [Amended]

1. Section 83.134(i) is amended by replacing the figure "50" with "55".

§ 83.145 [Amended]

2. The title of § 83.145 is amended to read "Special requirements for emergency position indicating radiobeacon stations, Class A".

§ 83.363 [Amended]

3. Section 83.363(c) table is amended in the third line under the first heading "Greenwich mean time" by inserting the figure "0000–2400".

4. In § 83.499 paragraph (b)(2) is amended, and a new paragraph (b)(3) is added to read as follows:

§ 83.499 Tools and testing equipment.

* * * * *

(b) * * *

(2) One voltmeter, having an accuracy of at least 3 percent when measuring 2 or 6 volts, for use when batteries of other types are provided; or

(3) When lead-acid batteries are provided which do not have filler caps, one voltmeter with a full scale reading of 15 volts with an accuracy of at least 3 percent of full scale reading for d.c. measurements.

* * * * *

§ 83.536 [Amended]

5. Section 83.536 is amended in paragraph (b) by deleting the second "towing" and paragraph (b)(1) is amended by replacing the word "minimum" with "maximum".

§ 83.554 [Amended]

6. Section 83.554(a)(1)(i)(*b*) is amended by deleting the phrase "* * * (the effective date of this Report and Order)" and inserting in its place the date "June 6, 1975".

§ 83.811 [Amended]

7. Section 83.811(b)(2) is amended by replacing the word "simple" with "single".

[FR Doc. 79–23858 Filed 8–1–79; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1377, Amdt. No. 1]

Norfolk and Portsmouth Belt Line Railroad Co. Authorized to Operate Over Tracks of Norfolk and Western Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1377.

SUMMARY: Service Order No. 1377 authorizes the Norfolk and Portsmouth Belt Line Railroad Company to operate over 3.65 miles of Norfolk and Western Railway Company tracks at South Norfolk, Virginia.

EFFECTIVE DATE: 11:59 p.m., July 31, 1979, and continuing in effect until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275–7840.

Decided: July 25, 1979.

Upon further consideration of Service Order No. 1377 (44 FR 26085), and good cause appearing therefor:

It is ordered:

§ 1033.1377 Norfolk and Portsmouth Belt Line Railroad Company Authorized to Operate over tracks of Norfolk and Western Railway Company.

Service Order No. 1377 is amended by sustituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 31, 1979.

(49 U.S.C. (10304–10305 and 11121–11126).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–23860 Filed 8–1–79; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Sport Fishing; Opening of the Charles M. Russell National Wildlife Refuge and the UL Bend National Wildlife Refuge, Mont., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of the Charles M. Russell National Wildlife Refuge and the UL Bend National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1979 through August 31, 1980.

FOR FURTHER INFORMATION CONTACT: Refuge Manager, Charles M. Russell National Wildlife Refuge, P.O. Box 110, Lewistown, Montana 59457; telephone: 406/538–8707.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing.

Sport fishing is permitted year round on all waters of the Missouri River, Musselshell River, and Fort Peck Reservoir within the Charles M. Russell National Wildlife Refuge and the UL Bend National Wildlife Refuge, Montana. These fishing areas comprise approximately 250,000 acres and are delineated on maps available at the refuge headquarters in Lewistown, Montana, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building, 316 North 26th Street, Billings, Montana 59101. All sport fishing shall be in accordance with all applicable state regulations and subject to the following regulations:

1. Portable icehouses and other structures expressly used for ice fishing are permitted within the Charles M. Russell National Wildlife Refuge only from December 1 through March 31 of the following year. These structures must be removed from the Wildlife Refuge entirely by March 31 of each year. In addition, each structure must be labeled with the owner's name and permanent address in a prominent location on an outside sidewall.

Violations of this regulation will be treated under the provisions of §§ 27.92 and 27.93 of Title 50 of the Code of Federal Regulations, dealing with unauthorized private structures and abandoned property. Penalties described in Part 28 will be applicable.

2. Vehicle travel is permitted only on designated roads and trails and all off-road vehicle traffic is prohibited.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time. The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purpose for which the area was established; and (2) that funds are available for the development, operation

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and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Charles M. Russell National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

F. David Stearns,

Acting Refuge Manager, Charles M. Russell National Wildlife Refuge, Lewistown, Montana.

July 25, 1979.

[FR Doc. 79-23810 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Trawl Fishery of the Washington, Oregon, and California Region Regulations; Fishery Reserve Release

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Final rule.

SUMMARY: This document increases the total allowable level of foreign fishing (TALFF) for Pacific hake in the fishery conservation zone off the Washington, Oregon, and California coasts, by releasing the reserves of Pacific hake for allocation by the Department of State to those foreign nations participating in that fishery.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Donald R. Johnson Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Wash. 98109, telephone 206-422-7575.

SUPPLEMENTARY INFORMATION: On February 10, 1977, a preliminary fishery management plan (PMP) prepared by the Secretary of Commerce was published in the Federal Register (42 FR 8578). The PMP established conservation and management measures for the foreign trawl fisheries of the Washington, Oregon, and California region under authority of section 201(g) of the Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq. (FCMA). The PMP was subsequently amended on November 30, 1977 (42 FR 60945) and May 4, 1979 (44 FR 26131).

The Second Supplement to the PMP established an optimum yield (OY) for Pacific hake of 198,900 m.t., a domestic annual harvest (DAH) of 50,000 m.t. and a TALFF of 109,120 m.t. Because of uncertainties in stock abundance and DAH, 39,780 m.t. of the optimum yield were held in reseve until better information on these points could be obtained. Provisions were made in the Second Supplement for the Regional Director to release the hake reserve to TALFF as soon as practical after August 1 if events and available data justified this action. A 15 day comment period (July 1-15) was established and all pertinent statistics were to be made available for public review in the Regional Office during that time.

The following criteria for release of the reserve were established in the Second Supplement to the PMP:

The Regional Director may withhold all or part of the Pacific hake reserves if, as of July 15:

(1) The average catch rate of Pacific hake by vessels of the USSR is less than 27 m.t. per trawler per day; or

(2) All or part of the Pacific hake reserve will be harvested by vessels of the United States during the rest of the fishing year, as determined by reported U.S. catch and effort compared to previously projected U.S. harvesting capacity, and projected U.S. catch and effort for the rest of the fishing year; or

(3) The all-nation catch of Pacific ocean perch in the Columbia Area is greater than 80 percent of the equilibrium yield for that species in that area and the Regional Director determines that further catch of Pacific ocean perch by foreign vessels would not be consistent with conservation of that species. Factors which shall be considered in this determination are:

—Catch per unit of effort;
—Any new or proposed State restrictions on domestic catch of Pacific ocean perch in the Columbia Area during the rest of the fishing year;
—Any other factors relevant to abundance of Pacific ocean perch.

Statistics reviewed by the Regional Director indicated that as of July 15, all criteria for release of the hake reserve were met:

(1) The average catch rate of Pacific hake by vessels of the USSR was 34 m.t./trawler day, greater than the required 27 m.t./trawler day;

(2) Vessels of the U.S. will not harvest all of the 50,000 m.t. of DAH, and thus will not harvest any of the hake reserve; and

(3) The all-nation catch of Pacific ocean perch in the Columbia Area was 440.3 m.t., (440 m.t. domestic, 0.3 m.t. foreign), considerably less than 80% of the equilibrium yield (640 m.t.) for that species in that area, and further incidental catch of Pacific ocean perch by foreign vessels would not be inconsistent with conservation of that species since preliminary data indicate a slight increase in Pacific ocean perch abundnace in the Columbia Area and no new, more restrictive, state landing laws are anticipated.

No comments were received from the public by the Regional Director during the 15-day comment period.

Based on the above information, and with the rulemaking authority delegated by the Assistant Administrator, the Regional Director has determined that all of the 39,780 m.t. of reserve shall be added to TALFF.

Note.—The Assistant Administrator for Fisheries has determined that this action does not require the preparation of a regulatory analysis under Executive Orders 12044.

The Second Supplement to the Final Environmental Impact Statement/ Preliminary Management Plan "Trawl Fisheries of Washington, Oregon and California" is on file with the Environmental Protection Agency.

The Assistant Administrator has approved this document pursuant to delegation of authority from the Secretary.

50 CFR 611.20(c) is amended by revising table 1 to read as follows:

§ 611.20 Table 1 [Amended]

Fishery	Species	Species code	TALFF (m.t.)
Washington, Oregon, California	Hake	704	[1] 148,900
Do	Flounders	129	[1] 149
Do	Mackerel	208	[1] 4,467
Do	Rockfishes, including Pacific ocean perch	849	[1] 1,191
Do	Perch, Pacific ocean	780	[1] 93
Do	Sablefish	703	[1] 149
Do	Other species	449	[1] 745

[1] Unavoidable incidental catch only. Amount will be increased if additional Pacific hake is released to TALFF.

50 CFR 611.70(b) is amended by revising table 1 to read as follows:

§ 611.70(b) Table 1 [Amended]

Table 1.—*Washington, Oregon, and California Trawl Fishery: TALFF and Reserve by Species*[1]

[Metric tons]

Species	TALFF [4]	Reserve [4]	Total [4]
Pacific Hake	109,120	39,780	148,900
Flounders [2]	109	40	149
Jack Mackerel [2]	3,274	1,193	4,467
Rockfishes, including Pacific Ocean Perch [2]	873	318	1,191
Pacific Ocean Perch [2]	68	25	93
Sablefish [2]	109	40	149
Other species [2 3]	546	199	745

[1] The TALFF's specified in this table may be modified during the year if reserves are apportioned to TALFF.
[2] Unavoidable incidental catch only. Reserve amounts may be apportioned to TALFF's to the extent the Pacific hake reserve is apportioned to TALFF during the year.
[3] The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) billfish, Pacific halibut, salmon, scallops, sharks (except dogfish), shrimp, steelhead trout, and Continental Shelf fishery resources.
[4] Due to August 1 release of reserve by Regional Director, TALFF equals Total

(16 U.S.C. 1801 et seq).

Signed at Washington, D.C., this 27th day of July, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-23859 Filed 8-1-79; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 150
Thursday, August 2, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 933]

[Docket No. AO-383]

Ruby Seedless Grapes Grown in California; Decision and Referendum Order on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes a marketing agreement and order regulating the handling of Ruby Seedless grapes grown in California. Producers of this variety of grapes will be given the opportunity to vote in a referendum to determine if they favor the proposed marketing order.

The proposed order would: Establish a committee of growers for local administration, authorize grade, size, quality, maturity, pack, and container regulations; and allow the committee to engage in production and marketing research and development projects financed by handler assessments. The primary objective is to authorize establishment of minimum quality requirements for Ruby Seedless grapes shipped to market. Consumers would thereby be assured of satisfactory quality and growers would benefit from an expanded market.

DATE: The representative period for purposes of the referendum herein ordered is August 1, 1978, through June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone: (202) 447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing; issued November 24, 1978, and published in the **Federal Register** (43 FR 56045) on November 30, 1978; and Notice of Recommended Decision; issued June 11, 1979, and published in the **Federal Register** (44 FR 34135) on June 14, 1979.

Preliminary Statement

The proposed marketing agreement and order were formulated on the record of a public hearing at Reedley, Calif., February 1-2, 1979. Notice of Hearing was published in the November 30, 1978 issue of the **Federal Register** (43 FR 56045). The notice set forth a proposed marketing order submitted by the "Proponents for Ruby Seedless Marketing Order" on behalf of producers and handlers of Ruby Seedless grapes grown in the proposed production area.

On the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on June 11, 1979, filed with the Hearing Clerk, U.S. Department of Agriculture, a recommended decision which contained notice of the opportunity to file written exceptions thereto by July 16, 1979. Comments opposing the proposed marketing order were filed by 47 persons.

Rulings on Exceptions

The written comments were submitted by 47 persons identifying themselves as growers of Ruby Seedless grapes. Each commentator, on a form letter, stated that he or she wanted to go on record as opposing the proposed marketing order. None of the comments challenged any specific part of the recommended decision or of the proposed marketing order. It is therefore determined that the findings and conclusions and the regulatory provisions as set forth in the recommended decision are appropriate and are hereby affirmed.

The material issues, findings and conclusions, rulings and general findings of the recommended decision published June 14, 1979, in the **Federal Register** (44 FR 34135) are hereby incorporated by reference herein and made a part hereof, subject to the following corrections:

Page	Column	Line	Change
34135	3	9	"incure" to "incur";
34136	2	31	"Rudy" to "Ruby";
34136	2	62	"Rudy" to "Ruby";
34136	3	34	"Rudy" to "Ruby";
34136	3	48	"Rudy" to "Ruby";
34137	1	9	"Rudy" to "Ruby";
34137	1	51	"Rudy" to "Ruby";
34138	1	42	"maket" to "market";
34138	2	4	"an" to "any";
34139	2	14	"eitht" to "eight";
34139	3	47	"poroducer" to "producer";
34143	1	23	"appropriate" to "appropriate";
34144	2	53	"ontains" to "contains";
34144	3	32	"peoduction" to "production";
34144	3	36	"seedless" to "Seedless"

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Ruby Seedless Grapes Grown in California", and *Marketing Order Regulating the Handling of Ruby Seedless Grapes Grown in California*, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, that this entire decision, except the annexed marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order regulating the handling of Ruby Seedless grapes grown in California is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1978 to June 30, 1979.

The agents of the Secretary to conduct such referendum are hereby designated to be O. C. Fuqua and Richard Van Diest, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Federal Building, 1130 "O" Street, Room 3114, Fresno, California 93721.

A Final Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Phone (202) 447-5975.

Copies of this Decision are being mailed to known interested persons. Others may obtain copies from the designated referendum agents or from Mr. McGaha.

Signed at Washington, D.C., on: July 30, 1979.

P. R. "Bobby" Smith,
Assistant Secretary for Marketing and Transportation Services.

Marketing Order [1]

Regulating the Handling of Ruby Seedless Grapes Grown in California

Findings

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et. seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order, regulating the handling of Ruby Seedless grapes grown in California.

Upon the basis of the record it is found that:

(1) The order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order regulates the handling of Ruby Seedless grapes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of Ruby Seedless grapes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of Ruby Seedless grapes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of Ruby Seedless grapes grown in California shall be in conformity to and in compliance with the following terms and conditions;

The provisions of the proposed order contained in the recommended decision issued by the Deputy Administrator on June 11, 1979, and published in the **Federal Register** on June 14, 1979 (44 FR 34135), shall be and are the terms and provisions of this order, and are set forth in full herein.

Definitions

Sec.
933.1 Secretary.
933.2 Act.
933.3 Person.
933.4 Production area.
933.5 Grapes.
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933.7 Handle.
933.8 Handler.
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Administrative Body

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Expenses and Assessments

933.40 Expenses.
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Research and Market Development

933.45 Production research, marketing research and market development.

Regulations

933.50 Marketing policy.
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933.53 Modification, suspension, or termination of regulations.
933.54 Special purpose shipment.
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Reports

933.60 Reports.

Miscellaneous Provisions

933.61 Compliance.
933.62 Right of the Secretary.
933.63 Effective time.
933.64 Termination.
933.65 Proceedings after termination.
933.66 Effect of termination or amendment.
933.67 Duration of immunities.
933.68 Agents.
933.69 Derogation.
933.70 Personal liability.
933.71 Separability.

Authority.—Sections 933.0 to 933.71, inclusive, issued under Secs. 1-19, 48 Stat. 31, as amended, 7 U.S.C. 601-674.

Definitions

§ 933.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department who is or who may hereafter be authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 933.2 Act.

"Act" means Public Act No. 10, 73rd Congress (may 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*).

§ 933.3 Person.

"Person" means any individual, partnership, corporation, association or any other business unit.

§ 933.4 Production area.

"Production area" means the State of California.

§ 933.5 Grapes.

"Grapes" means all strains of Ruby Seedless grapes grown in the production area.

§ 933.6 Producer.

"Producer" is synonymous with "grower" and means any person engaged in a proprietary capacity in the production of grapes for the fresh market.

§ 933.7 Handle.

"Handle" and "ship" are synonymous and mean to sell, consign, deliver, or transport grapes or cause grapes to be sold, consigned, delivered, or transported in the current of commerce between any point within the production area and any point outside thereof, or within the production area: *Provided*, That, the term handle shall not include the sale of grapes on the vine or the transportation or delivery of grapes from the vineyard where grown to a packing facility located within such area for preparation for market.

§ 933.8 Handler.

"Handler" and "shipper" are synonymous and mean any person (except a common or contract carrier transporting grapes owned by another person) who handles grapes.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 933.9 Fiscal year.

"Fiscal year" is synonymous with "crop year" and means the 12 month period beginning April 1 of any year and ending on March 31 of the following year, both dates inclusive, or such other period as the committee, with the approval of the Secretary, may prescribe.

§ 933.10 Committee.

"Committee" means the Ruby Seedless Grape Committee established pursuant to § 933.20.

§ 933.11 District.

"District" means the State of California, or such other districts as may be prescribed pursuant to § 933.31(1).

§ 933.12 Pack.

"Pack" means (a) the placement of grapes into a container for shipment to market as fresh grapes, or (b) the specific arrangement of grapes within a particular type and size of container by size of grape, weight, grade, or any combination thereof, for shipment as fresh grapes.

§ 933.13 Container.

"Container" means a box, lug, crate, carton, or any other receptacle used in packing grapes for shipment as fresh grapes and includes the dimensions, capacity, weight, markings, and any pads, liners, lids, and any or all appurtenances thereto or parts thereof. The term applies, in the case of grapes packed in consumer packages, to the master receptacle and to any and all packages therein.

§ 933.14 Part and subpart.

"Part" means the Order Regulating the Handling of Ruby Seedless Grapes Grown in California and all rules and regulations and supplementary orders issued thereto. The aforesaid Order Regulating the Handling of Ruby Seedless Grapes Grown in California shall be in a "subpart" of such part.

Administrative body

§ 933.20 Establishment and membership.

There is hereby established a Ruby Seedless Grape Committee consisting of nine members, each of whom shall have an alternate who shall have the same qualifications as the member. Eight members shall be growers (producer members), and one shall be a public member. Producer members and their alternates shall be growers or employees of growers. Each member and alternate shall meet the eligibility requirements set forth in § 933.22. The Secretary, on recommendation of the committee, may change the number of members on the committee.

§ 933.21 Term of office.

The term of office of each member and alternate member of the committee shall be for two fiscal years beginning on April 1 of an odd numbered year and ending on March 31 of an odd numbered year. Members and alternate members shall serve in such capacities for that portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified

§ 933.22 Eligibility.

Each producer member of the committee shall, at the time of selection and during the term of office, be a producer in the district for which selected. The public member of the committee, at the time of selection and during the term of office, shall not have a financial interest in or be associated with the production, processing, financing or marketing (except as consumers) of Ruby Seedless or any other variety of grapes.

§ 933.23 Nominations.

(a) *Initial members.* Nominations for each of the initial members, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by the committee responsible for promulgation of this part. Such nominations may be made by means of a meeting or meetings of the growers in the production area. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided in § 933.20.

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than February 15 of each odd numbered year, a meeting or meetings of growers in each district for the purpose of designating nominees for successor producer members and alternate members of the committee. These meetings shall be supervised by the committee which shall prescribe such procedure as shall be reasonable and fair to all persons concerned.

(2) Only growers who are present at each such nomination meeting, or who are represented by duly authorized representatives approved by the committee, may participate in the nomination and election of nominees for producer members and their alternates. Each grower in attendance, or authorized representative of a grower, shall be entitled to cast only one vote, regardless of the number of business units the grower may represent, for each nominee to be selected.

(3) A particular grower, including officers or employees of such grower, shall be eligible for membership as member or alternate to fill only one position on the committee.

(4) Nominations for public member and alternate shall be made by the committee. The committee may appoint a subcommittee to select prospective nominees for the public member and alternate member positions on the committee. The committee shall prescribe such procedure for the selection and voting for each candidate as shall be fair to all persons concerned.

§ 933.24 Selection.

From the nominations made pursuant to § 933.23, or from other qualified persons, the Secretary shall select the nine members of the committee and an alternate for each such member.

§ 933.25 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § 933.23, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 933.20.

§ 933.26 Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 933.27 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignaton, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in § 933.23 and § 933.24. If the names of the nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for in § 933.20.

§ 933.28 Alternate members.

An alternate member shall act in the place of the member during such member's absence and may be assigned other program duties by the chairman or the committee. In the event of the death, removal, resignation, or disqualification of a member, the alternate shall act for the member until a successor for such member is selected and has qualified. In the event that both a producer member and that member's alternate are unable to attend a committee meeting, the member or committee members present may designate any other alternate to serve in such member's place at that meeting provided such action is necessary to secure a quorum.

§ 933.30 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 933.31 Duties.

The committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine compensation and to define the duties of each;

(c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such year;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a competent public accountant at least once each fiscal year and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to grapes;

(i) To submit to the Secretary the same notice of meetings of the committee as is given to its members;

(j) To submit to the Secretary such available information as he may request;

(k) To investigate compliance with the provisions of this part; and

(l) With the approval of the Secretary, to divide the production area into districts, and to redefine such districts, and, further, to apportion the representation on the committee among the districts or to reapportion such representation among the districts.

§ 933.32 Procedure.

(a) Six members of the committee, or alternates acting for members, shall constitute a quorum and any action of the committee shall require the concurring vote of the majority of those present: *Provided,* That actions of the committee with respect to expenses and assessments, or recommendations for regulations pursuant to §§ 933.50 through 933.54 shall require at least six concurring votes.

(b) The committee may vote by telephone, telegraph, or other means of communication, and any vote cast by telephone shall be confirmed promptly in writing: *Provided,* That voting other than in an assembled meeting shall require two-thirds affirmative vote of the committee in order to constitute approval and at least eight votes must be cast. If an assembled meeting is held, all votes shall be cast in person. Recommendations for regulation pursuant to § 933.51 and recommendations for assessments pursuant to § 933.41 may be made only at an assembled meeting.

§ 933.33 Expenses and compensation.

The members of the committee, and alternates when acting as members, shall serve without compensation but shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part: *Provided,* That the committee at its discretion may request the attendance of one or more alternates at any or all meetings notwithstanding the expected or actual presence of the respective members and may pay expenses as aforesaid.

§ 933.34 Annual report.

The committee may, as soon as is practicable after the close of each crop year, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

Expenses and Assessments

§ 933.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired in the manner prescribed in § 933.41.

§ 933.41 Assessments.

(a) Each person who first handles grapes shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person during a fiscal year in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such year and to accumulate and maintain a reserve fund equal to approximately one fiscal year's expenses. At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later findings by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all grapes handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal year before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

(c) Any assessment not paid by a handler within a period of time prescribed by the committee may be subject to an interest or late payment charge, or both. The period of time, rate of interest, and late payment charge shall be as recommended by the

committee and approved by the Secretary. Subsequent to such approval, all assessments not paid within the period of time prescribed shall be subject to the interest or late payment charge, or both.

§ 933.42 Accounting.

(a) If, at the end of a fiscal year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess in not retained in a reserve, as provided in subparagraph (2) of this paragraph, it shall be refunded proportionately to the persons from whom it was collected: *Provided,* That any sum paid by a person in excess of such person's pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal years as a reserve: *Provided,* That funds in the reserve shall not exceed approximately one fiscal year's expenses. Such reserve funds may be used (i) to defray expenses, during any fiscal year, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal year when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, or (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee under this part shall be used solely for the purpose specified and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

Research and Market Development

§ 933.45 Production research, marketing research and market development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of grapes. The expense of such projects shall be paid by funds collected pursuant to § 93.41.

Regulations

§ 933.50 Marketing policy.

Each season prior to making any recommendations pursuant to § 933.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing marketing season. Such marketing policy report shall contain information relative to:

(a) The estimated total production of grapes within the production area;

(b) The expected general quality of grapes in the production area;

(c) The expected demand conditions for grapes;

(d) The expected shipments of grapes produced in the production area;

(e) The probable prices for grapes;

(f) Supplies of competing commodities;

(g) Trend and level of consumer income;

(h) Other factors having a bearing on the marketing of grapes; and

(i) The type of regulations expected to be recommended during the marketing season.

§ 933.51 Recommendation of committee.

(a) Whenever the committee deems it advisable to regulate the handling of grapes in the manner provided in § 933.52, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for Ruby Seedless grapes during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request. The committee shall promptly give adequate notice to the handlers and growers of any such recommendation submitted to the Secretary.

§ 933.52 Establishment of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of grapes whenever the Secretary finds, from the recommendation and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit during any period or periods the handling of any particular grade, size, quality, maturity, or any combination thereof, of grapes grown in the production area;

(2) Limit the handling of grapes by establishing in terms of grades, sizes, or both, minimum standards of quality or maturity, or any combination thereof, during any period when season average prices are expected to exceed the parity level;

(3) Fix the size, capacity, weight, dimensions, markings, or pack of any container, or containers, which may be used in the handling of grapes.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary and the committee shall promptly give notice thereof to handlers.

§ 933.53 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 933.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of grapes in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ 933.54 Special purpose shipment.

(a) Except as otherwise provided in this section, any person may without regard to the provisions of §§ 933.41, 933.51, 933.52, and 933.54 and the regulations issued thereunder, handle grapes (1) for consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements, under or established pursuant to §§ 933.41, 933.51, 933.52, and 933.54, the handling of grapes for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 933.45), or in such minimum quantities or types of shipments, as may be prescribed.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent grapes handled under provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle grapes pursuant to this section, and that such application be accompanied by a certification by the intended purchaser or receiver that the grapes will not be used for any purpose not authorized by this section.

§ 933.55 Inspection and certification.

(a) Whenever the handling of any variety of grapes is regulated pursuant to § 933.52 or 933.53, each handler who handles grapes shall, prior thereto, cause such grapes to be inspected by the Federal or Federal-State Inspection Service and certified as meeting the applicable requirements of such regulation: *Provided,* That inspection and certification shall not be required for grapes which previously have been so inspected and certified if such prior inspection was performed within such period as may be established pursuant to paragraph (b) of this section. Promptly after inspection and certification, each such handler shall submit or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such grapes.

The committee may, with the approval of the Secretary, prescribe rules and regulations waiving the inspection requirements of this section where it is determined that inspection is not available: *Provided,* That all shipments made under such waiver shall comply with all regulations in effect.

(b) The committee may, with the approval of the Secretary, establish a period prior to shipment during which the inspection required by this section must be performed.

(c) The committee may enter into an agreement with the Federal and Federal-State Inspection Services with respect to the cost of the inspection required by paragraph (a) of this section, and may collect from handlers their respective pro rata share of such costs.

Reports

§ 933.60 Reports.

(a) Each handler shall furnish to the committee at such times and for such periods as the committee may designate certified reports covering, to the extent necessary for the committee to perform its functions, each shipment of grapes as follows:

(1) The name of the shipper and the shipping point;

(2) The car of truck license number (or name of the trucker), and identification of the carrier;

(3) The date and time of departure;

(4) The number and type of containers in the shipment;

(5) The destination;

(6) Identification of the inspection certificate or waiver pursuant to which the fruit was handled.

(b) Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part.

(c) Each handler shall maintain for at least two succeeding fiscal years after the end of the fiscal year in which the transactions occurred, such records of the grapes received and disposed of by such handler as may be necessary to verify the reports such handler submits to the committee pursuant to this section.

(d) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided,* That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handler furnishing the information is not disclosed and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

Miscellaneous Provisions

§ 933.61 Compliance.

Except as provided in this part, no person shall handle grapes, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle grapes except in conformity with the provisions of this part and the regulations issued under this part.

§ 933.62 Right of the Secretary.

The members of the committee (including successors and alternates) and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 933.63 Effective time.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § 933.64.

§ 933.64 Termination.

(a) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(b) The Secretary shall terminate the provisions of this part whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers: *Provided,* That such majority has, during the current marketing season, produced more than 50 percent of the volume of grapes which were produced within the production area for shipment in fresh form. Such termination shall become effective on the first day of April subsequent to the announcement thereof by the Secretary.

(c) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

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§ 933.65 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and

(3) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 933.66 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part; or

(b) Release or extinguish any violation of this part; or

(c) Affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

§ 933.67 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 933.68 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as agent or representative in connection with any of the provisions of this part.

§ 933.69 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States:

(a) To exercise any powers granted by the act or otherwise; or

(b) In accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 933.70 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 933.71 Separability.

If any provisions of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

[FR Doc. 79-23885 Filed 8-1-79; 8:45 am]
BILLING Code 3410-02-M

FEDERAL RESERVE SYSTEM

[12 CFR Chapter II]

Semiannual Agenda of Regulations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual Agenda.

SUMMARY: Pursuant to the Board's Statement of Policy Regarding Expanded Rulemaking Procedures, the Board anticipates having under consideration regulatory matters as indicated below during the period from August 2, 1979, through February 1, 1980.

DATE: Comments may be received any time during the next six months.

ADDRESS: Comments should be addressed to Theodore E. Allison, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: (A staff contact for each item is indicated with the regulatory description below.)

SUPPLEMENTARY INFORMATION: The Board's Semiannual Agenda is divided into three sections. Section I reports those regulatory matters from the Board's last Semiannual Agenda (February 1 through August 1, 1979) on which final action has been taken; Section II reports on regulatory matters that have been proposed, and will involve further Board consideration; and Section III reports regulatory matters the Board may consider during the next six months. A double asterisk indicates those matters listed on the Board's previous Semiannual Agenda.

I. Regulatory Matters From the February 1 Through August 1, 1979 Semiannual Agenda On Which Final Action Has Been Taken

A. Regulatory Actions Resulting From Recent Legislation, or From Regulatory Decisions of Other Federal Agencies

****1. Regulation: E (Electronic Fund Transfers)**

ACTION TAKEN: In March 1979, the Board published final rules implementing two sections of the Electronic Fund Transfer Act. The sections, which took effect on February 8, 1979, limit the consumer's liability for unauthorized transfers and regulate the issuance of EFT access devices (44 FR 18468, March 28, 1979).

At the same time, the Board proposed for comment a rule that would require financial institutions to give certain disclosures before imposing upon consumers liability for unauthorized transfers. After consideration of public comments, the Board issued the rule in final form on June 13, 1979 (44 FR 33837).

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95-630, Title XX, Section 904.

STAFF CONTACT: Anne Geary, Assistant Director, Division of Consumer Affairs, (202-452-2761); Dolores S. Smith, Section Chief, Division of Consumer Affairs, (202-452-2412).

****2. Regulation: F (Securities of Member State Banks)**

ACTION TAKEN: In December 1978, the Board adopted amendments to Regulation F (effective January 29, 1979) as required by the Securities Exchange Act to make the regulation substantially similar to regulations of the Securities and Exchange Commission (43 FR 60549, December 28, 1979).

AUTHORITY: Securities Exchange Act of 1934, 15 U.S.C. 78(i).

STAFF CONTACT: Richard M. Whiting, Attorney, Legal Division, (202-452-3876); Thomas A. Sidman, Assistant Director, Division of Banking Supervision and Regulation, (202-452-3503)

****3. Regulation:—Statement of Customer Rights Required Under Title XI (Right to Financial Privacy) of the Financial Institutions Regulatory and Interest Rate Control Act**

ACTION TAKEN: In February 1979, the Board issued for public comment a Statement of Customer's Rights, as required by the Right to Financial Privacy Act. On march 7, 1979, the requirement was repealed, and the Board published a notice of withdrawal of its proposed statement (44 FR 13584, March 12, 1979).

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95-630, Title XI, Section 1104(d); repealed by Pub. L. 96-3.

STAFF CONTACT: MaryEllen A. Brown, Senior counsel, Legal Division, (202-452-3608).

B. Actions Intended To Reduce Regulatory Burden or To Clarify Existing Regulations. (None)

C. Other Regulatory Activity

****1. Regulation: B (Equal Credit Opportunity)**

ACTION TAKEN: Following public comment on three amendments to broaden the scope of Regulation B, the Board in April 1979 adopted a proposal relating to one of them—the definition of "creditor" (44 FR 23813, April 23, 1979). The amendment clarifies that Regulation B covers persons, such as real estate brokers, home builders, and automobile dealers, who regularly refer applicants or prospective applicants to creditors, or who select or offer to select creditors to whom requests for credit may be made. The other proposals published for comment will be considered in the Board's review of Regulation B pursuant to its regulatory improvement project.

AUTHORITY: Equal Credit Opportunity Act, 15 U.S.C. 1691 et seq.

STAFF CONTACT: Dolores S. Smith, Section Chief, Division of Consumer Affairs, (202-452-2412); Robert C. Plows, Section Chief, Division of Consumer Affairs, (202-452-3667).

****2. Regulation: Q (Interest on Deposits)**

ACTION TAKEN: In response to a request by several members of the Congress that the advertising and promotional restrictions on NOW accounts be dropped, it was decided that, not withstanding the Board's sympathy toward the goal of extending the benefits of NOW accounts to potential depositors throughout the nation and removing artificial barriers that limit competition, such restrictions should remain in place at this time.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 371b.

STAFF CONTACT: Anthony F. Cole, Attorney, Legal Division, (202-452-3711).

**** 3. Regulation: Y (Bank Holding Companies)**

ACTION TAKEN: In February 1979, the Board adopted a proposed amendment to Regulation Y that would permit bank holding companies and their nonbank subsidiaries to sell, at retail, money orders and similar instruments, travelers checks, U.S. Savings Bonds and consumer-oriented financial management courses (44 FR 12019, March 5, 1979).

AUTHORITY: Bank Holding Company Act, 12 U.S.C. 1843(c)(8).

STAFF CONTACT: James McAfee, Senior Attorney, Legal Division, (202-452-3707).

**** 4. Regulations:—Consolidation and revision of the Board's international banking regulations: Regulation K (Corporations Engaged in International Banking and Financing Under the Federal Reserve Act), Regulation M (Foreign Activities of National Banks), and Parts of Regulation Y (Bank Holding Companies)**

ACTION TAKEN: In June 1979, the Board adopted a revised Regulation K governing the international operations of United States banks (44 FR 36005, June 20, 1979). The new regulation, known as International Banking Operations, supersedes Regulations K, M, and parts of Regulation Y.

AUTHORITY: International Banking Act, 92 Stat. 607. Federal Reserve Act, 12 U.S.C. 601 and 615. Banking Holding Company Act, 12 U.S.C. 1844.

STAFF CONTACT: C. Keefe Hurley, Jr., Senior Attorney, Legal Division, (202-452-3269).

II. Regulatory Matters That Have Been Proposed and Will Involve Further Board Consideration

A. Regulatory Actions Resulting From Recent Legislation, or From Regulatory Decisions of Other Federal Agencies

**** 1. Regulation: D (Reserves of Member Banks) and Q (Interest on Deposits)**

ACTION TAKEN: In July 1979, the Board, pursuant to provisions of the International Banking Act (IBA), approved publishing for public comment proposed amendments to Regulations D and Q to make United States branches and agencies of foreign banks subject to reserve requirements and interest rate ceilings currently applicable to member banks. The Board's proposals to implement the provisions of IBA will facilitate the conduct of monetary policy and will promote fair competition by treating branches and agencies like member banks to the fullest extent possible. The Board will review the comments received on the draft amendments and is expected to take final action within the next six months.

AUTHORITY: International Banking Act, 12 U.S.C. 3105.

STAFF CONTACT: Edward C. Ettin, Deputy Staff Director, Office of Staff Director for Monetary and Financial Policy (202-452-3762).

2. Regulation: E (Electronic Fund Transfers)

ACTION TAKEN: In May 1979, the Board issued for public comment sections of Regulation E to implement those provisions of the Electronic Fund Transfer Act that become effective on May 10, 1980 (44 FR 25850, May 3, 1979). The proposals deal with disclosure of terms and conditions of EFT services, documentation of transfers, error resolution procedures, and procedures of stopping payment of preauthorized transfers. The Board will review the comments received on the proposals and is expected to take final action within the next six months.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95-630, Title XX, Section 904.

STAFF CONTACT: Dolores S. Smith, Section Chief, Division of Consumer Affairs, (202-452-2412).

3. Regulation: F (Securities of Member State Banks)

ANTICIPATED ACTION: In July 1979, the Board issued for public comment proposed amendments to certain portions of Regulation F concerning form and content of registration statements, annual reports and other periodic reports (44 FR 38543, July 2, 1979). These changes are required, in part, to make the Board's Regulation F substantially similar to regulations of the Securities and Exchange Commission. The incorporation by reference of instructions for the preparation of supervisory financial reports is an undertaking to reduce the reporting burden of registrant banks. The Board will review the comments received on the draft amendments and is expected to take final action on the proposal during the next six months.

AUTHORITY: Securities Exchange Act of 1934, 15 U.S.C. 78(i).

STAFF CONTACT: Thomas A. Sidman, Assistant Director, Division of Banking Supervision and Regulation, (202-452-

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3503); Richard M. Whiting, Senior Attorney, Legal Division, (202–452–3786).

**** 4. Regulation: L (Management Official Interlocks)**

ACTION TAKEN: In June 1979, the Board and the other Federal agencies supervising federally insured depository institutions adopted final regulations under the Depository Institutions Management Interlocks Act that prohibit certain management official interlocks between depository organizations (44 FR 42212, July 19, 1979). The Board and the other agencies at the same time proposed clarifying amendments to the final regulations (1) to define the term "representative or nominee" under the Act, (2) to add provisions regarding grandfather rights and changes in circumstances, and (3) to request comment on the issue whether a corporation is a management official under the Act. In addition the Board and the other agencies invited public comment on the final regulation; following review of the comments received on both the proposed amendments and the final regulation, the Board will determine during the next six months what further action should be taken.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95–630, Title II, Section 209.

STAFF CONTACT: Bronwen Mason, Senior Attorney, Legal Division, (202–452–3564); John L. Walker, Attorney, Legal Division, (202–452–2418).

**** 5. Regulation: O (Loans to Executive Officers of Member Banks)**

ACTION TAKEN: In February 1979, the Board adopted regulations to implement certain additional requirements imposed on loans by member banks to certain persons under the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (44 FR 12959, March 9, 1979). The additional requirements relate to loans by a member bank to executive officers, directors and principal shareholders of the member bank and of its holding company affiliates. At the same time the Board invited public comment on the final regulation; following review of the comments received, the Board will determine during the next six months whether further action should be taken.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95–630 Title I, Section 104.

STAFF CONTACT: James V. Mattingly, Assistant General Counsel, Legal Division, (202–452–3430); Michael Bleier, Senior Attorney, Legal Division, (202–452–3721).

6. Regulation: T (Credit by Brokers and Dealers)

ANTICIPATED ACTION: In December 1976 and April 1977, the Board issued for public comment a proposed amendment to Regulation T to permit options specialists to both purchase and sell short stock underlying the options in which they specialize, with a 25 percent margin requirement (41 FR 55552, December 21, 1976, and 42 FR 22894, May 5, 1977). The proposed amendment also recognizes exchange rules approved by the Securities and Exchange Commission which allow trading in puts and calls by specialists on their specialty stock, and provides comparable relief for such hedging activities. The Board will review the comments received on the draft regulations and is expected to take final action on the proposal during the next six months.

AUTHORITY: Securities Exchange Act of 1934, 15 U.S.C. 78g.

STAFF CONTACT: Laura Homer, Chief Attorney, Securities Regulation, Division of Banking Supervision and Regulation, (202–452–2786); Theodore Prush, Senior Securities Regulation Analyst, Securities Regulation, Division of Banking Supervision and Regulation, (202–452–2781).

**** 7. Regulation: Y (Bank Holding Companies)**

ACTION TAKEN: In February 1979, the Board adopted regulations to implement the Change in Bank Control Act, under which any person seeking to acquire control of any insured bank or bank holding company must provide 60 days' prior written notice to the appropriate Federal banking agency. At the same time the Board invited public comment on the final regulations (44 FR 7229, February 6, 1979); following review of the comments received, the Board will determine during the next six months whether further action should be taken.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95–630, Title VI, Section 602.

STAFF CONTACT: James McAfee, Senior Attorney, Legal Division, (202–452–3707); Jack M. Egertson, Assistant Director, Division of Banking Supervision and Regulation, (202–452–3408).

****8. Regulation:—Initiatives required under Titles VIII (Correspondent Accounts) and IX (Disclosure of Material Facts) of the Financial Institutions Regulatory and Interest Rate Control Act**

ACTION TAKEN: In March 1979, the Board and Federal Deposit Insurance Corporation issued for public comment proposed regulations to implement the prohibitions pertaining to insider loans involving correspondent banking relationships under Title VIII and the reporting requirements contained in Title IX which relate to loans of insiders at their own banks. The Board will review the comments received on the draft regulations and is expected to take final action on the proposal within the next six months by amending its Regulation O (Loans to Executive Officers of Member Banks).

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95–630, Title VIII, Section 801, and Title IX, Section 901.

STAFF CONTACT: Michael Bleier, Senior Attorney, Legal Division, (202–452–3721).

B. Actions Intended To Reduce Regulatory Burden or To Clarify Existing Regulations

1. Regulation: B (Equal Credit Opportunity)

ANTICIPATED ACTION: In April 1979, the Board, in response to requests for clarification, requested public comment on how the specific rules of Regulation B should apply to various credit scoring practices (44 FR 23865, April 23, 1979). The Board will review the comments received and determine during the next six months what regulatory action appears appropriate.

AUTHORITY: Section 703(a) of the Equal Credit Opportunity Act, 15 U.S.C. 1691b(a).

STAFF CONTACT: Dolores S. Smith, Section Chief, Division of Consumer Affairs, (202–452–2412).

****2. Regulation: Z (Truth in Lending)**

ACTION TAKEN: Based on response to a wide range of questions published for comment in January 1979, the Board in July 1979, invited public comment on specific regulatory changes to Regulation Z that would clarify the computation and disclosure of the annual percentage rate (APR) and several other credit terms. The Board will review the comments received on the draft amendments and is expected to take final action on the proposals during the next six months.

AUTHORITY: Truth in Lending Act, 15 U.S.C. 1604 and 1608.

STAFF CONTACT: Dolores S. Smith, Section Chief, Division of Consumer Affairs, (202–452–2412).

****3. Regulation: Z (Truth in Lending)**

ACTION TAKEN: In August 1978, the Board issued for public comment a proposed interpretation of Regulation Z regarding an interest reduction on a time deposit used to secure a loan (43 FR 38849, August 31, 1978). Under Regulation Q, Interest on Deposits, the interest rate on a loan secured by a deposit must be at least 1% above the interest rate paid on the deposit. Where a state usury ceiling makes it necessary for a creditor to lower the interest on the deposit in order to maintain the rate differential required by Regulation Q, the proposed interpretation will require disclosure of the reduction, but the amount need not be included as part of the "finance charge." The Board will review the comments received on the proposed interpretation and is expected to take final action during the next six months.

AUTHORITY: Truth in Lending Act, 15 U.S.C. 1604.

STAFF CONTACT: Dolores S. Smith, Section Chief, Division of Consumer Affairs, (202–452–2412).

4. Regulation: Y (Bank Holding Companies)

ANTICIPATED ACTION: Following a review of its policies toward foreign bank holding companies, in April 1979 the Board issued for public comment a change in the definition of "foreign bank holding company" for purposes of section 4(c)(9) of the Bank Holding Company Act and section 225.4(g) of Regulation Y (44 FR 24864, April 27, 1979). Under current regulations, foreign bank holding companies are afforded certain exemptions from the nonbanking prohibitions applicable to bank holding companies. The proposed rule would amend the definition of "foreign bank holding company" to include only those foreign organizations principally engaged in banking outside the United States. The Board will review the comments received on the proposed amendment and is expected to take final action during the next six months.

AUTHORITY: Bank Holding Company Act (12 U.S.C. 1844). International Banking Act (92 Stat. 607).

STAFF CONTACT: C. Keefe Hurley, Jr., Senior Attorney, Legal Division, (202–452–3269).

C. Other Regulatory Activity

**** 1. Regulation: B (Equal Credit Opportunity)**

ACTION TAKEN: In July 1978, the five Federal financial regulatory agencies—Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, and the Federal Reserve Board—issued for public comment proposed uniform guidelines for enforcement of the Equal Credit Opportunity and Fair Housing Acts (43 FR 29256, July 6, 1978). The guidelines specify the kind of corrective action a creditor will be required to take for violations of the more substantive provisions of the Equal Credit Opportunity Act (Regulation B) and the Fair Housing Act. The agencies will review the comments received on the draft guidelines and are expected to take final action on the proposals during the next six months.

AUTHORITY: Equal Credit Opportunity Act, 15 U.S.C. 1691. *et seq.* Federal Deposit Insurance Act, 12 U.S.C. 1818(b).

STAFF CONTACT: Jerauld C. Kluckman, Associate Director, Division of Consumer Affairs, (202–452–3401).

2. Regulation: D (Reserves of Member Banks)

ACTION TAKEN: In April 1979, the Board issued for public comment a proposed amendment to Regulation D to apply a 3 percent reserve requirement to member banks on certain borrowings from nonmember banks, other depository institutions and the United States government and to certain repurchase agreements involving U.S. government and agency securities (44 FR 23868, April 23, 1979).

The purpose of the proposal is to establish more effective control over growth of bank credit. The Board will review the comments received on the draft amendment and determine during the next six months whether further action should be taken.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 461(a) and (b).

STAFF CONTACT: Gilbert T. Schwartz, Assistant General Counsel, Legal Division, (202–452–3623).

3. Regulation: E (Electronic Fund Transfers)

ACTION TAKEN: In May 1979, the Board issued for public comment a proposed amendment to Regulation E to provide that written notice of loss or theft of an access device or possible unauthorized electronic fund transfers is effective at the time the consumer mails or otherwise sends the notice to the financial institution (44 FR 30690, May 29, 1979). This amendment is proposed to give interested parties an opportunity to comment on the benefits and costs associated with the proposed change. The Board will review the comments received on the proposed amendment and is expected to take final action within the next six months.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95–630, Title XX, Section 904.

STAFF CONTACT: Lynn B. Barr, Senior Attorney, Division of Consumer Affairs (202–452–2412).

****4. Regulation: H (Membership of State Banking Institutions in the Federal Reserve System)**

ACTION TAKEN: In April 1977, the Board issued for public comment a proposal to amend Regulation H to prohibit State member banks from purchasing loans on improved real estate or mobile homes located in flood hazard areas if the property is not covered by flood insurance (42 FR 20815, April 22, 1977). This proposal was issued under the Flood Disaster Protection Act, as amended, which presently requires flood insurance on improved real estate that secures a loan if the property is located in a flood hazard area of a community that participates in the National Flood Insurance Program. The comments received on the proposed amendments have been reviewed by staff, and it is expected that the Board will take final action during the next six months.

AUTHORITY: Flood Disaster Protection Act, 42 U.S.C. 4012a(b) and 4128.

STAFF CONTACT: John L. Walker, Attorney, Legal Division, (202–452–2418).

**** 5. Regulation: H (Membership of State Banking Institutions in the Federal Reserve System)**

ACTION TAKEN: In June 1979, the Board adopted amendments to Regulation H to require that State member banks that effect certain securities transactions for customers provide confirmation and maintain records with respect to such transactions (44 FR 43256, July 24, 1979). At the same time the Board invited public comment on areas dealing with confirmation requirements as they apply to transactions in U.S. Government, federal agency and municipal securities and on the bank officers and employees reporting requirements as they apply to transactions in U.S. Government or federal agency obligations. Following review of the comments received, the Board will determine during the next six months what further action should be taken.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 248(a) and (i), and 321. Federal Deposit Insurance Act, 12 U.S.C. 1818(b).

STAFF CONTACT: Robert S. Plotkin, Assistant Director, Division of Banking

Supervision and Regulation, (202–452–2782); Robert A. Wallgren, Chief, Trust Activities Program, Division of Banking Supervision and Regulation, (202–452–2717).

**6. Regulation: J (Collection of Checks and Other Items and Transfers of Funds)

ACTION TAKEN: In January 1976, the Board issued for public comment proposals to amend Regulation J to deal with clearing and settlement of wire transfers and payment instructions recorded on magnetic tape (41 FR 3097, January 21, 1976). On June 16, 1977, the Board adopted Subpart B of Regulation J dealing with wire transfer operations only, and determined to adopt amendments regarding automated clearing house (ACH) operations at a later date (Subpart C of Regulation J). The purpose of proposed Subpart C will be to set forth a system of rights and responsibilities governing the receipt and use of Federal Reserve electronic clearing and settlement services through automated clearing houses. At the present time individual agreements are in place with each of the 32 automated clearing house associations. This proposal is needed in view of the continuing increase in the volume of ACH transactions and the benefits that would be derived from the establishment of a uniform set of rules and responsibilities applicable to all participants in Federal Reserve ACH operations. It is anticipated that the Board will consider issuing during the next six months a revised proposal before taking any final action.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 248 (i)(j) and (o), 342 and 360.

STAFF CONTACT: Lee S. Adams, Attorney, Legal Division, (202–452–3594).

**7. Regulation: J (Collection of Checks and Other Items and Transfers of Funds)

ACTION TAKEN: In April 1979, the Board requested public comment on the handling by Federal Reserve Banks of payment instruments that are not payable on demand (44 FR 24929, April 27, 1979). After consideration of the comments received, the Board will consider issuing for public comment during the next six months an amendment to Regulation J dealing with the treatment by Federal Reserve Banks in their check collection procedures of such instruments. This proposal will be considered in view of a recent court case in the Commonwealth of Pennsylvania where State-chartered savings banks are authorized to issue to their depositors noninterest bearing negotiable orders of withdrawal (NINOWs). The Pennsylvania Supreme Court Recently determined that these instruments are not payable on demand, and thus Regulation J needs to be amended if Reserve Banks are to continue to collect these as cash items.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 248(i), 248(o), 342, and 360.

STAFF CONTACT: Lee S. Adams, Senior Attorney, Legal Division, (202–452–3694).

**8. Regulation: Y (Bank Holding Companies)

ACTION TAKEN: In March and May 1978, the Board issued for public comment proposals to amend its Regulation Y relating to permissible insurance activities for bank holding companies (43 FR 14970, April 10, 1978 and 43 FR 23588, May 31, 1978). These proposals would conform the regulation with the federal court decision, *Alabama Association of Insurance Agents* v. *Board of Governors of the Federal Reserve System,* 553 F. 2d 224 (5th Cir. 1976), rehearing denied, 558 F. 2d 729 (1977), *cert.* denied 435 U.S. 904 (1978). The Board will review the comments received on the draft amendments and is expected to take final action during the next six months.

AUTHORITY: Bank Holding Company Act, 12 U.S.C. 1843(c)(8).

STAFF CONTACT: Richard M. Whiting, Attorney, Legal Division, (202–452–3786).

**9. Regulation: Z (Truth in Lending)

ACTION TAKEN: In February 1979, the Board proposed to suspend an amendment and interpretation of Regulation Z which reduced the obligation of creditors to provide a right of recission for each transaction under open end accounts secured by consumers' residences (44 FR 9761, February 15, 1979). Comment was also requested on whether the amendment should be modified or repealed. This action was taken because when the amendment was initially proposed for comment, some interested parties may not have been aware of the proposal. The Board will review the comments received on the draft proposal and determine what further action should be taken.

AUTHORITY: Truth in Lending Act, 15 U.S.C., Section 1604.

STAFF CONTACT: Gerald C. Kell, Section Chief, Division of Consumer Affairs, (202–452–3667).

III. Regulatory Matters the Board May Consider During the Next Six Months

A. Regulatory Actions Resulting From Recent Legislation, or From Regulatory Decisions of Other Federal Agencies

**1. Regulation: AA (Unfair or Deceptive Acts and Practices)

ANTICIPATED ACTION: The Board is required by the Federal Trade Commission Act to adopt substantially similar trade regulation rules applicable to banks to those adopted by the FTC with regard to other creditors. The Board will consider issuing for public comment a new proposal to adopt a rule governing the preservation of consumers' claims and defenses (commonly known as the "creditor holder in due course rule") in response to a rule proposed by the FTC. The Board's rule was originally proposed on February 17, 1976 (41 FR 7110, February 17, 1976) before Regulation AA was adopted; the Board would consider the revised proposal as an amendment to Regulation AA. This proposal would require the insertion in certain credit contracts of a notice preserving a consumer's claims and defenses against a seller of goods or services against all holders of the contract. It is expected that the FTC will consider its proposed creditor rule on or about October 1, 1979.

AUTHORITY: Federal Trade Commission Act, 15 U.S.C. 18f.

STAFF CONTACT: Lynne B. Barr, Senior Attorney, Division of Consumer Affairs, (202–452–2412).

**2. Regulation:—Proposal to be made part of the new Board regulation governing international banking operations (Regulation K, International Banking Operations)

ANTICIPATED ACTION: Under the International Banking Act (IBA), the Board will consider issuing for public comment proposals relating to (a) nonbanking activities of foreign bank holding companies, and (b) criteria for selection of a "home State" by foreign banks with U.S. offices. The IBA subjects foreign banks with U.S. banking offices to the Bank Holding Company Act. The Act provides an exemption from the nonbanking prohibitions of the Bank Holding Company Act for certain qualifying foreign banks. That exemption would be the subject of Board regulation. The IBA also provides for the determination of a foreign bank's "home State." Criteria for determining a foreign bank's home State and procedures for changing the home State once it is determined require Board regulation.

AUTHORITY: International Banking Act of 1978, 92 Stat. 607. Bank Holding Company Act, 12 U.S.C. 1844.

STAFF CONTACT: C. Keefe Hurley, Jr., Senior Attorney, Legal Division, (202–452–3269).

**3. Regulation:—Rule writing required under Title XI (Right to Financial Privacy) of the Financial Institutions Regulatory and Interest Rate Control Act

ANTICIPATED ACTION: The Board will consider issuing for public comment proposed new regulations to implement Title XI which provides for reimbursement to financial institutions for reasonably necessary and direct costs incurred in providing customers' financial records to Federal agencies. The regulation would establish the rates and conditions for reimbursement to financial institutions including banks, savings banks, credit card issuers, industrial loan companies, trust companies, savings and loan associations, building and loan associations, homestead associations, cooperative banks, credit unions, and consumer finance companies.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act, Pub. L. 95–630, Title XI, Section 1115.

STAFF CONTACT: MaryEllen A. Brown, Senior Counsel, Legal Division, (202–452–3608).

B. Actions Intended To Reduce Regulatory Burden or To Clarify Existing Regulations

**1. Regulation: K (International Banking Operations)

ANTICIPATED ACTION: The Board will consider republishing for comment a proposal that would permit Edge Corporations to provide full banking services to a limited class of customers. Pursuant to the International Banking Act, a similar proposal was published for comment in February 1979, (44 FR 10509, February 21, 1979) to improve the competitive position of Edge Corporations.

AUTHORITY: International Banking Act of 1978, 92 Stat. 607. Federal Reserve Act, 12 U.S.C. 601 and 615.

STAFF CONTACT: C. Keefe Hurley, Jr., Senior Attorney, Legal Division, (202–452–3269).

**2. Regulation: T (Credit by Brokers and Dealers)

ANTICIPATED ACTION: In response to a request by the Investment Company Institute, Washington, D.C., the Board will consider issuing for public comment a proposed amendment to Regulation T to permit brokers and dealers to extend and maintain credit on securities issued by open-end investment companies that are registered under the Investment Company Act of 1940. Such an amendment would remove the competitive disadvantage presently placed upon brokers as compared to banks and other lenders.

AUTHORITY: Securities Exchange Act of 1934, 15 U.S.C. 78g.

STAFF CONTACT: Laura Homer, Chief Attorney, Securities Regulation, Division of Banking Supervision and Regulation, (202–452–2786); Patsy Abell, Senior Attorney, Securities Regulation, Division of Banking Supervision and Regulation, (202–452–2781).

**3. Regulation: Rules of Practice for Formal Hearings

ANTICIPATED ACTION: The Board will consider revising its Rules of Procedure for Formal Hearings to simplify and clarify the rules applicable to formal administrative hearings conducted pursuant to section 554 of the Administrative Procedure Act. The proposed revision of the Rules would also expand the coverage of the Rules to cover administrative proceedings required by certain provisions of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRA). In particular, procedures would be established governing the imposition of civil money penalties authorized by FIRA for violations of provisions of the Federal Reserve Act, Bank Holding Company Act, and certain other statutes administered by the Board. Procedures will also be established governing cease and desist, removal, and suspension actions under the amendments made by FIRA to the Financial Institution Supervisory Act, 12 U.S.C. 1818(b) *et seq.* Pursuant to the authority of 5 U.S.C. 553, it is not anticipated that these proposals will be issued for public comment.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 248(i).

STAFF CONTACT: James V. Mattingly, Assistant General Counsel, Legal Division, (202–452–3430); Michael Bleier, Senior Attorney, Legal Division, (202–452–3721).

**4. Regulation: Rules Regarding Availability of Information

ANTICIPATED ACTION: The Board will consider issuing for public comment certain amendments to its Rules Regarding Availability of Information in order to bring them into conformity with existing information disclosure law as it has developed since the regulation was last amended, and also in order to take advantage of the staff's experience working with the Freedom of Information Act.

AUTHORITY: Freedom of Information Act, 5 U.S.C., section 552.

STAFF CONTACT: Stephen L. Siciliano, Senior Attorney, Legal Division, (202–452–3920).

**5. Regulatory Improvement Project

ANTICIPATED ACTION: The Board's Regulatory Improvement Project involves, among other things, a substantive, zero-base review of all Federal Reserve regulations that affect the public to determine (1) the fundamental objectives of the regulation and the extent to which it is meeting current policy goals, (2) nonregulatory alternatives that would accomplish the objectives, (3) costs and benefits of the regulation, (4) unnecessary burdens imposed by the regulation, and (5) the clarity of the regulation.

During the past six months, review was completed on Regulation K (International Banking Operations), L (Management Official Interlocks), M (Foreign Activities of National Banks), S (Bank Service Arrangements), and V (Loan Guarantees for Defense Production).

Over the next six months revisions likely to be considered by the Board will include, but are not necessarily limited to: Regulation A (Extensions of Credit by Federal Reserve Banks), B (Equal Credit Opportunity), D (Reserves of Member Banks), F (Securities of Member State Banks), G (Securities Credit by Persons Other than Banks, Brokers or Dealers), I (Issue and Cancellation of Capital Stock of Federal Reserve Banks), J (Collection of Checks and Other Items and Transfers of Funds), N (Relations with Foreign Banks and Bankers), O (Loans to Executive Officers of Member Banks), P (Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks), Q (Interest on Deposits), R (Relationships with Dealers in Securities under Section 32, Banking Act of 1933), T (Credit by Brokers and Dealers), U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks), X (Rules Governing Borrowers Who Obtain Securities Credit), Y (Bank Holding Companies), and Z (Truth in Lending). Requests for public comment on proposals concerning many of these regulations will be made over the coming six months.

STAFF CONTACT: Richard H. Puckett, Manager, Regulatory Improvement Project, (202–452–3742).

C. Other Regulatory Activity

****1. Regulation: H (Membership of State Banking Institutions in the Federal Reserve System)**

ANTICIPATED ACTION: The Board will consider issuing for public comment an amendment to Regulation H to implement section 28(e) of the Securities Exchange Act of 1934 which requires any person (including a bank) who exercises investment discretion with respect to an account to disclose his policies and practices with respect to commissions that will be paid for effecting securities transactions. The amendment would prescribe the manner and frequency of making such disclosures by State member banks. Similar regulations are expected to be considered by the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

AUTHORITY: Securities Exchange Act of 1934, 15 U.S.C. 78b(e)(2).

STAFF CONTACT: Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation, (202–452–2782); Robert A. Wallgren, Chief, Trust Activities Program, Division of Banking Supervision and Regulation, (202–452–2717).

****2. Regulation: Q (Interest on Deposits)**

ANTICIPATED ACTION: The Board will consider issuing for public comment an amendment to its Regulation Q to require member and nonmember banks to make certain additional disclosures to depositors concerning savings and time deposit accounts. It is anticipated that the required disclosures, if proposed, would relate to the rate of interest and manner in which it is computed and paid, service charges that may be imposed, and withdrawal restrictions. This initiative is in response to consumer surveys and consumer complaints alleging unfairness concerning certain practices engaged in by banks with regard to disclosure of terms relating to interest on deposits.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 371b. Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

STAFF CONTACT: Anthony F. Cole, Senior Attorney, Legal Division, (202–452–3711); Anne J. Geary, Assistant Director, Division of Consumer Affairs, (202–452–2761).

Comments on this agenda should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, July 27, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79–23703 Filed 8–1–79; 8:45 am]

BILLING CODE 6210–01–M

SMALL BUSINESS ADMINISTRATION

[13 CFR Chapter I]

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the Semiannual Agenda of Regulations under review or development by the Small Business Administration.

SUMMARY: In January of 1979, the SBA published its initial semiannual agenda of regulations and its plan for implementing EO 12044 "Improving Government Regulations." Although not a regulatory Agency, SBA attempted to draft a plan and agenda that would meet both the criteria and the spirit of the EO and establish the regulatory review process.

The SBA agenda contains many regulations which are limited in pubic impact, but are published to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on the first SBA Agenda were general and all were positive. None were directed at its specific contents, nor were any changes suggested or recommended.

The agenda format has been revised as required to track regulations listed on previous agendas. In addition, a Part III, Existing Regulations Selected for Review, has been established to inform the public of the regulation review which is currently the Agency priority.

Part I: Status of Regulations in SBA's first agenda (44 FR 8942).

Part II: Regulations under Review and Development.

Part III: Existing Regulations selected for Review

Publication of this agenda does not impose any binding obligation on SBA with regard to any specific item on the agenda. Additional regulatory action not listed on the agenda is not precluded.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual listed for the particular item.

For information concerning the overall SBA Regulatory Review and Development Program and general semiannual agenda questions, contact George M. Grant, Jr., Associate General Counsel for Legislation, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, 202/653–6662.

Dated: July 26, 1979.

William H. Mauk, Jr.

Acting Administrator.

Part I.—*Status of Regulations on SBA's January 1979 Agenda at 44 FR 8942*

Significant Regulations

Title of regulation	Summary	Target date
Procurement and Technical Assistance 13 CFR Part 124.	Regulations implementing SBA's 8(a) and Small Business Capital Ownership Development Programs.	Proposed rule published January 25, 1979, 44 FR 5320. Final rule published May 29, 1979, 44 FR 30672.
Procurement and Technical Assistance 13 CFR Part 124 Research and Development Assistance 13 CFR Part 125.	Complete revision of Regulations governing SBS's Certificate of Competency, Prime Contract Assistance, Defense Production Pools, Property Sales Assistance, Subcontracting Assistance, and Technology Assistance Programs. Published as Part 125—Procurement Assistance.	Proposed rule published June 13, 1979, 44 FR 33884. Final rule to be published.
13 CFR Part 107 107.3, 107.101(d) (1) and (2), 107.205, 107.806.	Small Business Investment Companies Amendments to Part 107 as a result of enactment of P.L. 95–507.	Proposed rule published April 10, 1979, 44 FR 21292. Final rule August 1979.
Surety Bond Guarantee 13 CFR Part 115	Changes in SBA's Surety Bond Guarantee Regulations mandated by P.L. 95–507	First agenda target date February 1979.
Pollution Control 13 CFR Part 111	Regulations redefining eligibility for SBA's Pollution Control Financing	First agenda target date February 1979.
13 CFR Part 121	Small Business Size Standards	Advance notice of proposed rulemaking April 23, 1979, 44 FR 23815. Proposed rule published July 13, 1979 44 FR 40897.
13 CFR 107.4	Small Business Investment Companies	Proposed rule published April 19, 1979 44 FR 23258.
13 CFR Part 101	Administration—8(a) Adjudicatve Procedures	Final rule published January 24, 1979, 44 FR 4957. Republished May 29, 1979, in 13 CFR Part 124, 44 FR 30666.
13 CFR Part 101	Administration—Organization and Functions	First agenda target date June 1979.
13 CFR Part 120.3	New Guaranty Agreement for SBA Business	First agenda target date April 1979.
13 CFR Part 108	Loans to State and Local Development Companies	Proposed rule published March 2, 1979, 44 FR 11787.

Significant Regulations—Continued

Title of regulation	Summary	Target date
13 CFR Part 123	Disaster Loans	Final rule published April 11, 1979, 44 FR 16361.
13 CFR Part 120	Business Loan Policy—loans to small contractors	Final rule published April 11, 1979, 44 FR 21622.
13 CFR Part 113	Nondiscrimination in Federally Assisted Programs of SBA	Final rule published April 4, 1979, 44 FR 20087.

Part II.—*Small Business Administration Regulations Review and Development, Agenda No. 2*

July 1979 Proposals

Nonsignificant Regulations

Title of regulation	Summary	Knowledgeable official	Target date
Business Loan Policy, 13 CFR Part 120	Section 120.2(d) clarifies the criteria considered in determining which companies are eligible under SBA's Related Company Transaction (alter-ego) Policy.	Robert H. Barlett, 202/653–6470.	Proposed rule published May 7, 1979, 44 FR 26748.
Business Loans, 13 CFR Part 122	Sec. 122.5 limits the SBA share of a guaranteed loan to $350,000 unless exceptional situations exist in which case the SBA share can be $500,000. Consideration is being given to allowing the SBA share of a guaranteed loan to be $500,000 without exceptional circumstances existing.	Evelyn Cherry, 202/653–6696	Publish proposed rule August 1979.
Economic Opportunity Loans, 13 CFR Part 119.	SBA is considering amending Sec. 119 to provide that, when SBA purchases its guaranty, the interest rate on the SBA portion will remain at the same rate the bank had been charging. This change will establish a uniform policy for all business loan programs.	Richard Wray, 202/653–6470.	Publish proposed rule October 1979.
Small Business Size Standards, 13 CFR Part 121.	Proposed rule to establish a size standard for a small coal mining firm for purpose of small business set-aside leases on Federal coal land.	Harvey D. Bronstein, 202/653–6373.	Proposed rule published March 14, 1979, 44 FR 15513. Final rule to be republished as proposed rule August 1979.
Small Business Size Standards, 13 CFR Part 121.	Definition of a small business for the purpose of Government procurement for accounting and auditing services.	Robert N. Ray, Jr., 202/653–6373.	Proposed rule published June 7, 1978, 43 FR 24697. Proposed rule withdrawn April 11, 1979, 44 FR 21654.
Small Business Size Standards, 13 CFR Part 121.	Proposed eligibility criteria for SBA financial assistance to small water supply firms	Robert N. Ray, Jr., 202/653–6373.	Proposed rule published March 6, 1979, 44 FR 12200. Final rule to be published.
Loan Moratorium, 13 CFR Part 131	Regulations implementing SBA's loan moratorium program under Section 5(e) of the Small Business Act, 15 U.S.C. 634(e) which authorizes suspension of a borrower's obligation under an SBA loan.	Timothy O'Leary, 202/653–6429.	Proposed rule published April 11, 1979, 44 FR 21654. Final rule to be published September 1979.

Part II.—*Small Business Administration Regulations Review and Development, Agenda No. 2*—Continued

Title of regulation	Summary	Knowledgeable official	Target date
Management Assistance, 13 CFR Part 129	Regulation implementng P.L. 95–510, effective October 1, 1979, which is to govern SBA's SCORE/ACE program.	Lincoln Simon, 202/653–6768.	Publish proposed rule September 1979.
Small Business Energy Loans, 13 CFR Part 130.	This proposal would require that all "energy" loans to the extent feasible be made under Sec. 7(1) of the Small Business Act.	Evelyn Cherry, 202/653–6696.	Publish proposed rule October 1979.
Business Loan Policy, 13 CFR Part 120	Sec. 120(d)(11) limits or restricts loans to a business whose principal(s) is incarcerated or on probation for a serious offense. A change is being considered that will relax the restrictions as they apply to certain probationers.	Evelyn Cherry, 202/653–6696.	Publish proposed rule October 1979.
Small Business Size Standards, 13 CFR Part 121.	Definition of small business for assistance by SBIC's and by development companies	John L. Werner, 202/653–6672.	Proposed rule published June 21, 1979, 44 FR 36195.
Small Business Investment Companies, 13 CFR Part 107.	Amending Sec. 107.4 to specify that SBA will make nonrecourse loans to SBIC's formed as limited partnerships.	Arthur P. Cyr, 202/653–6585.	Proposed rule published April 19, 1979, 44 FR 23258.
Small Business Investment Companies, 13 CFR Part 107.	SBA is considering changing the ratio of purely private capital to nonprivate capital required for leverage eligibitity from SBA.	Peter F. McNeish, 202/653–6848.	Notice of proposed rulemaking October 1979.

Part III.—*Existing Regulations Selected for Review for the Period July 1979–January 1980*

Title of regulation	Summary	Knowledgeable official	Target date
Disaster Loans, 13 CFR Part 123	SBA has undertaken a complete revision and update of SBA disaster assistance regulations.	Maxine W. Wood, 202/653–6732.	Notice of Proposed rulemaking September 1979.
Small Business Size Standards, 13 CFR Part 121.	SBA is developing technical, procedural and clarifying changes to Part 121 to improve administrason of field office and central office size determinations, and to better inform the public on size procedures and criteria.	Donald W. Farrell, 202/653–6660.	Notice of proposed rulemaking September 1979.

[FR Doc. 79–23694 Filed 8–1–79; 8:45 am]

BILLING CODE 6025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 71 and 73]

[Airspace Docket No. 79–WE–8]

Alteration of Restricted Area R–2531, Tracy, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to divide restricted area R–2531 into areas A and B (above and below 3,000 feet MSL) without changing lateral dimensions, to change the name of the using agency to reflect the new name of the agency that will continue using the area, to add a controlling agency and to amend airway V–244 to exclude the new areas. This action will permit additional use of the airspace by the public.

DATES: Comments must be received on or before September 3, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 79–WE–8, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24) Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received on or before September 3, 1979 will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) that would divide R–2531 into upper and lower areas to permit use of the upper area by the public when the lower area is in use by the using agency. To provide for joint use of the airspace the FAA Oakland ARTC Center would become the controlling agency and V–244 airway would be changed to exclude both the A and B areas. R–2531 would be rescinded and the lateral dimensions of R–2531A and R–2531B would be identical to the present dimensions of R–2531.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (44 FR 307 and 675) as follows:

§ 71.123 [Amended]

In § 71.123, under V–244 "R–2531 is excluded." is deleted and "R–2531A and R–2531B is excluded." is substituted therefor.

§ 73.25 [Amended]

Under § 73.25, "R–2531 Tracy, Calif." title and text is deleted.

"R–2531A Tracy, Calif. Boundaries. Beginning at latitude 37°40'34" N., longitude 121°33'42" W.; to latitude 37°40'45" N., longitude 121°31'29" W.; to latitude 37°39'28" N., longitude 121°30'28" W.; to latitude 37°38'50" N., longitude 121°31'05" W.; to latitude 37°39'03" N., longitude 121°34'03" W.; thence to the point of beginning. Designated altitudes. Surface to but not including 3,000 feet MSL. Time of designation. 1000 to 1800 local time, Monday through Friday. Controlling agency: Federal Aviation Administration, Oakland ARTC Center. Using agency: United States Energy Research and Development Administration, San Francisco Operations Office." is added.

"R–2531B Tracy, Calif. Boundaries. Beginning at latitude 37°40'34" N., longitude 121°33'42" W.; to latitude 37°40'45" N., longitude 121°31'29" W.; to latitude 37°39'28" N., longitude 121°30'28" W.; to latitude 37°38'50" N., longitude 121°31'05" W.; to latitude 37°39'03" N., longitude 121°34'03" W.; thence to the point of beginning. Designated altitudes. 3,000 feet MSL to and including 4,000 feet MSL. Time of designation. 1000 to 1800, local time, Monday through Friday. Controlling agency: Federal Aviation Administration, Oakland ARTC Center. Using agency: United States Energy Research and Development Administration, San Francisco Operations Office." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 25, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–23617 Filed 8–1–79; 8:45 am]
BILLING CODE 4910–13–M

[14 CFR Part 73]

[Airspace Docket No. 79–WA–9]

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the time of designation for Restricted Area R–3601A/B from their current designated hours and date to "Monday through Saturday, sunrise to 2400 c.s.t. Other times by NOTAM." The additional time is necessary for the U.S. Air Force to conduct its expanded training programs and exercises.

DATES: Comments must be received on or before September 3, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 79–WA–9, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. Lewis W. Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before September 3, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would alter the description of Restricted Area R–3601 by changing the time of designation to "Monday through Saturday, sunrise to 2400 c.s.t. Other times by NOTAM." At the present time R–3601 is designated as from "Sunrise to 2400 c.s.t., Tuesday through Saturday, sunrise to sunset Sunday." This alteration would allow more flexibility for training required by the U.S. Air Force to maintain pilot proficiency. The proposed additional activities would be conducted within the current boundaries of R–3601A and R–3601B. The using agency (Commander, Kansas Air National Guard) will serve as lead agency for purposes of compliance with the National Environmental Policy Act. Comments on any land use problems can be addressed to Major Patrick L. Carter, Air Space Manager, Kansas Air National Guard, H.Q. 184th Tactical Fighter Training Group, McConnell AFB, Kansas 67221. Subpart B of Part 73 was republished in the **Federal Register** on January 2, 1979, (44 FR 692).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.36 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 692) as follows:

§ 73.36 [Amended]

Under R–3601A Brookville, Kans. Time of designation. "Sunrise to 2400 c.s.t., Tuesday through Saturday; sunrise to sunset Sunday." is deleted and "Monday through Saturday, sunrise to 2400 c.s.t. Other times by NOTAM." is substituted therefor.

Under R–3601B Brookville, Kans., Time of designation. "Sunrise to 2400 hours c.s.t., Tuesday through Saturday; sunrise to sunset Sunday." is deleted and "Monday through Saturday, sunrise to 2400 c.s.t. Other times by NOTAM." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 25, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–23616 Filed 8–1–79; 8:45 am]
BILLING CODE 4910–13–M

[14 CFR Part 73]

[Airspace Docket No. 79–WE–1]

Alteration of Restricted Area Time and Altitude

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter restricted area R–4806 Las Vegas, Nev., and restricted area R–4807 Tonopah, Nev., by increasing their vertical extents and time of use, by changing their using agencies, and by establishing a controlling agency to facilitate their use by nonparticipating aircraft. Insufficient airspace is presently available and the increase as proposed would permit the Air Force, National Guard and Reserve units to train more efficiently.

DATES: Comments must be received on or before September 3, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 79–WE–1, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before September 3, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed

in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would increase the times of designation, extend the altitudes within the areas down to the surface, and change the using agency of R–4806 and R–4807. The proposed amendment would also change R–4807 to joint use. The proposed action would permit increased use of the restricted areas by the Air Force, the Army Guard and the Marine Reserve units. The change to joint use of R–4807 would permit the airspace to be used by nonmilitary aircraft at certain altitudes when not in use by the military. The Department of Air Force is the lead agency for the purpose of compliance with the National Environmental Policy Act. Headquarters Tactical Air Command, Chief, Environmental Planning Division, Langley Air Force Base, Virginia 23665. Mr. Thomas L. Ford, telephone: (804) 764–4430, is the person to which comments on the environmental aspects and land use can be addressed.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.48 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 700) as follows:

§ 73.48 [Amended]

1. In R–4806 Las Vegas, Nev., under Designated altitudes: the text is amended to read "Unlimited." Under Using agency: "Commander," is deleted and "Commander, Tactical Fighter Weapons Center," is substituted therefor.

2. In R–4807 Tonopah, Nev., under Designated altitudes: the text is amended to read "Unlimited." Under Using agency. "Commander," is deleted and "Commander, Tactical Fighter Weapons Center," is substituted therefor. Also, "Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulator action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 25, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–23615 Filed 8–1–79; 8:45 am]

BILLING CODE 4910–13–m

[14 CFR Part 73]

[Airspace Docket No. 78–SO–80]

Alteration of Restricted Areas

Correction

In FR Doc. 79–22675 appearing at page 43003 in the issue for Monday, July 23, 1979, make the following correction: On page 43004, in the middle column, under the heading entitled, **The Proposed Amendment**, in the paragraph on R–5314, Subarea J, in the 4th line, "Lat. 35°43'25" N." should be corrected to read "Lat. 35°40'25" N."

BILLING CODE 1505–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 9]

[Docket No. R–79–682]

Part-Time Career Employment Program

AGENCY: Office of the Secretary, (HUD).

ACTION: Proposed Rule.

SUMMARY: This proposed rule would amend Title 24 of the CFR by adding a new Part 9, Part-Time Career Employment Program. The amendment is needed to prescribe Departmental policies pursuant to the requirements of the Federal Employees Part-Time Career Employment Act of 1978.

COMMENTS DUE: October 1, 1979.

ADDRESSES: Send written comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Barbara J. Robinson, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. (202) 755–5492 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Federal Employees Part-Time Career Employment Act of 1978 (The "Act") reflects the growing awareness that many individuals possess productive potential which is unrealized because they cannot meet the requirements of a standard, 40-hour workweek. Congress, in its enactment of the Act, has decided that permanent part-time employment serves to meet a variety of individual needs by providing: (1) older individuals with a gradual transition into retirement; (2) employment opportunities for handicapped or other persons unable to work a full workweek; (3) parents with the opportunity to balance, in a more satisfactory manner, family responsibilities and the need to increase family income; and (4) students with a means of financing a greater portion of the expenses for educational or vocational training. The Government on the other hand, is benefited by (1) increased productivity and job satisfaction; (2) lower rates of absenteeism and staff turnover; and (3) greater management flexibility in meeting work requirements and filling vacancies in occupations in which there is a shortage of skilled personnel.

Interested parties are invited to send written comments or suggestions regarding the proposed rule to the Rules Docket Clerk at the address noted above. All comments received on or before October 1, 1979, will be considered prior to promulgation of a final rule. All written comments will be available for public inspection in the Office of the Rules Docket Clerk during regular business hours.

Accordingly, it is proposed to amend 24 CFR, Subtitle A, Office of the Secretary, by adding a new Part 9, to read as follows:

PART-TIME CAREER EMPLOYMENT PROGRAM

Sec.

§ 9.1 Purpose.
§ 9.3 Policy.
9.5 Definitions.
9.7 Exceptions.
9.9 Review of positions.
9.11 Procedures and criteria for establishing and converting positions for part-time career employment.
9.13 Limitations.
9.15 Annual goals and timetables.
9.17 Review and evaluation.
9.19 Publicizing vacancies.

Authority: (Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

9.1 Purpose.

The purpose of this Part is to provide increased part-time career employment opportunities in the Department of Housing and Urban Development (The Department).

9.3 Policy.

It is the policy of the Department to provide part-time career employment opportunities in positions through GS–15, or equivalent, subject to agency resources and mission requirements.

§ 9.5 Definitions.

(a) Part-time career employment means part-time employment of 16 to 32 hours a week under a schedule consisting of an equal or varied number of hours per day, whether in a position which would be part-time without regard to this section or one established to allow job-sharing or comparable arrangements, but does not include employment on a temporary or intermittent basis.

(b) Collective-bargaining agreement means an agreement covering conditions of employment for employees in the bargaining unit which is reached through negotiations between management and union representatives.

(c) Secretary means the head of the Department of Housing and Urban Development.

§ 9.7 Exceptions.

(a) Employment of part-time staff for less than 16 hours per week may be permitted if necessary to carry out the Department's mission.

(b) Part-time positions within the Department which were covered by a collective-bargaining agreement on October 10, 1978 which established the number of hours a week are not covered by this Part.

(c) The Secretary, or designee, may except specific covered positions from inclusion in the program as may be necessary to carry out the Department's mission.

§ 9.9 Review of positions.

(a) The Department will review positions which, when established or after such positions become vacant, may be filled on a part-time career employment basis.

(b) Criteria to be used to identify such positions may include: mission requirements, workload fluctuations, employment ceilings and budgetary considerations; applicant and current employee interest; and other factors based on local needs and circumstances.

§ 9.11 Procedures and criteria for establishing and converting positions for part-time career employment.

(a) Position management and other internal reviews may indicate that positions when vacated or at an employee's request, can be either converted from full-time or initially established as part-time positions.

(b) The criteria listed in § 9.9, and others as appropriate, may be used as the basis for determining which positions can be converted to or established as part-time positions.

(c) Consideration may be given to convert a full-time position to part-time at the request of the employee occupying the position.

(d) The procedures for converting or establishing a position as part-time will follow regular Departmental position management and position classification procedures.

(e) Positions being considered for conversion to or established as part-time are subject to the limitations stated in § 9.13.

§ 9.13 Limitations.

(a) The Department shall not abolish an occupied full-time position in order to make the duties available on a part-time basis unless the employee occupying the position requests part-time employment.

(b) The Department will not require a full-time employee to accept part-time employment as a condition of continued employment. This shall not preclude offering part-time employment in lieu of separation during reduction-in-force when no better offer exists.

§ 9.15 Annual goals and timetables.

The Department will develop a plan which provides annual goals for establishing or converting positions for part-time career employment. The plan will also contain a timetable setting forth interim and final deadlines for achieving the goals. The plan will be applicable throughout the Department.

§ 9.17 Review and Evaluation.

The Part-Time Career Employment Program will be reviewed through continuous standard reporting procedures to determine the increase in part-time career employment. Various types of additional reports will be requested, as necessary, to review and evaluate the program adequately. Evaluation of the program may also be accomplished through personnel management reviews.

§ 9.19 Publicizing Vacancies.

Part-time vacancies will be published in accordance with merit staffing requirements. When applicants from outside the Department are needed, published vacancy announcements may be distributed to recruitment sources such as the Federal Job Information Centers, state employment offices, and applicable professional organizations.

Authority: (Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., July 2, 1979.

Patricia Roberts Harris,

Secretary of Housing and Urban Development.

[FR Doc. 79–23837 Filed 8–1–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

[36 CFR Part 1213]

Procedures for the Identification and Protection of Archeological, Architectural, Historic, and Scientific Properties

AGENCY: Heritage Conservation and Recreation Service, DOI.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that these policies and procedures are proposed to meet the Department of the Interior's responsibilities in the identification, protection, preservation, and management of archeological, architectural, historic, scientific, and other cultural resources. These regulations fulfill requirements set forth in the National Historic Preservation Act, Executive Order 11593, and other applicable historic preservation laws and were developed in consultation with the Advisory Council on Historic Preservation pursuant to section 1(3) of Executive Order 11593, the President's Memorandum on Environmental Quality and Water Resources Management of

July 12, 1978, and section 800.10 of the amended regulations of the Advisory Council on Historic Preservation "Protection of Historic and Cultural Properties" (36 CFR Part 800).

DATES: Comments must be received on or before September 4, 1979.

ADDRESS: Comments should be submitted to the Secretary, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Deputy Assistant Secretary for Fish and Wildlife and Parks, David Hales, Department of the Interior, Washington, D.C. 20240; 202–343–4678.

SUPPLEMENTARY INFORMATION:

Background

The Advisory Council on Historic Preservation published final amendments to its regulations to implement section 106 of the National Historic Preservation Act, as amended (16 U.S.C. 470f). The purpose of section 106 is to protect properties included in or eligible for inclusion in the National Register of Historic Places through review and comment by the Council on Federal undertakings that affect such properties. Properties are listed on the National Register or declared eligible for listing by the Secretary of the Interior. As implemented through these regulations, the section 106 process is a public interest process in which the Federal agency proposing an undertaking, the State Historic Preservation Officer, the Council, and interested organizations and individuals participate. The process is designed to assure that alternatives to avoid or mitigate an adverse effect on a National Register or eligible property are adequately considered in the planning processes. The regulations are binding on all Federal agencies and specify the manner in which the Council will render its comments to Federal agencies when their undertakings affect properties included in or eligible for inclusion in the National Register of Historic Places. To facilitate processing of the large volume of cases submitted for Council comment each year, the regulations provide for agency consultation with the Council's staff and State Historic Preservation Officers to reduce the number of undertakings that require consideration by the full Council.

In July of 1978, the President issued the Memorandum on Environmental Quality and Water Resources Management which directed the Chairman of the Council to review and promulgate regulations implementing the Act and the Memorandum by March 1, 1979. Accordingly, the existing regulations were amended to reflect changes in statutory authority, experience gained in implementing the procedures since 1974, and to meet the demands of the President's Memorandum.

Agencies must publish regulations no later than three months after the effective date of these regulations, or may choose to adopt counterpart regulations specifically tailored to their particular program needs as stipulated in Council regulations. These regulations are issued pursuant to the directives of the President's Memorandum on Evironmental Quality and Water Resources Management and section 800.10 of the Advisory Council Regulations.

Section 1213.1 Purpose and Authorities

This section sets forth the basis for issuing these regulations.

Section 1213.2 Implementation Policy

This section establishes the policy for implementing the Advisory Council Regulations, and provides guidance for Interior Department Bureaus to establish implementing procedures or counterpart regulations.

Section 1213.3 Compliance Responsibility

This section delegates responsibility to comply with cultural resource legislation to the Bureaus of the Department.

Section 1213.4 Definitions

This section defines commonly used terms and concepts for Interior Bureaus to use.

Conclusion

The Department of the Interior made a conscientious effort to comply with the letter and the spirit of the regulations of the Advisory Council, the various laws and Executive orders, and the President's Memorandum on Environmental Quality and Water Resources Management. We believe these regulations set clear standards for the Bureaus to follow, provide a consistent approach for Interior Bureaus, yet provide sufficient flexibility to provide for the wide variety of programs and needs.

The Department has determined that these regulations are not significant within the meaning of Executive Order 12044 and consequently no regulatory analysis is required.

The purpose of these regulations is to simplify existing requirements and to clarify responsibilities in conformance with the spirit of Executive Order 12044.

An Environmental Impact Statement is not required as a result of issuing these regulations.

Principal Author: Roy W. Reaves III, Archeologist, Heritage Conservation and Recreation Service.

Dated: July 27, 1979.

Richard J. Myshak,

Acting Assistant Secretary for Fish and Wildlife and Parks.

PART 1213—PROCEDURES FOR THE IDENTIFICATION AND PROTECTION OF ARCHEOLOGICAL, ARCHITECTURAL, HISTORIC, AND SCIENTIFIC PROPERTIES

Sec.

1213.1 Purpose and authorities.
1213.2 Implementation policy.
1213.3 Compliance responsibility.
1213.4 Definitions.

Authority. 16 U.S.C. 470f.

§ 1213.1 Purpose and authorities.

The President's memorandum entitled "Environmental Quality and Water Resources Management" required the President's Advisory Council on Historic Preservation to promulgate regulations to apply section 106 of the National Historic Preservation Act of 1966 (as amended). These were published in the **Federal Register** January 30, 1979 (44 FR 6068), and became effective March 1, 1979. The memorandum also requires each affected Federal agency (including sub-departmental units) to develop individual procedures to implement the Council's amended regulations within three months of the effective date of Council's procedures. The Advisory Copuncil on Historic Preservation's amended regulations in section 800.10 also require consultation with the Council to develop regulations to implement the Council's National Historic Preservation Act of 1966 section 106 procedures.

§ 1213.2 Implementation policy.

The Department of the Interior, as the Nation's principal conservation agency, will manage cultural resources consistent with the directives of the Antiquities Act of 1906, Historic Sites Act of 1935, Historic Preservation Act of 1966, National Environmental Policy Act of 1969, Executive Order 11593, Archeological and Historic Preservation Act of 1974, the President's Memorandum on Environmental Quality and Water Resources Management, and the Regulations of the Advisory Council on Historic Preservation (36 CFR 800). Each Bureau of the Department will develop specific implementing procedures for its own programs and will provide an opportunity for public review and comment in the **Federal Register**. Each Bureau's regulations will at a minimum contain mechanisms to:

(a) Identify all National Register properties and properties appearing to meet the criteria for nomination to the National Register (36 CFR 60.6) that may be affected by the policies, plans, programs, or other undertakings of that Bureau.

(1) At the earliest reasonable stage in planning, before design, land acquisition, or other actions limiting alternatives occur, consult with the State Historic Preservation Officers, and others with cultural interests or expertise to determine what resources are known to be in the area of the undertaking's potential environmental impact.

(2) If the State historic Preservation Officer has inadequate information to document the presence or absence of historic properties in the project areas, refer to the Department of the Interior's criteria for the identification of historic properties and, where reasonable justification is identified by the Bureau or by other interested parties for potential unknown cultural resources to exist in the area of the undertaking's potential environmental impact, provide for necessary investigations to determine if they are present, and to evaluate discovered resources by the criteria for nomination to the National Register (36 CFR 60.6).

(3) In consultation with the State Historic Preservation Officer, apply the National Register criteria for evaluation contained in 36 CFR 60.6 to all potentially eligible properties that may be affected by the proposed action. If a property appears to meet the criteria and the State Historic Preservation Officer agrees, follow the procedures in 36 CFR 63 for determinations of eligibility or in 36 CFR Part 60 for nominations. If there is a question of whether or not the criteria are met, also complete the procedures in 36 CFR Part 63. A question on whether a property meets the criteria exists when the agency and the State Historic Preservation Officer disagree or when the agency determines that a question exists.

(b) At the earliest appropriate stage in planning before design, land acquisition, or other actions limiting alternatives occur, initiate consultation with the Advisory Council on Historic Preservation as outlined in 36 CFR 800.

(c) Initiate plans and programs that will contribute to the preservation of cultural resources to the maximum extent consistent with its legislated mission and other national interests. Such plans and programs will include a study of alternatives. Such studies will include:

(1) Carrying out the proposed undertaking at a location that will eliminate or substantially reduce the potential to adversely affect National Register or eligible properties (alternative sites);

(2) Conducting other undertakings, actions, activities, or programs with similar objectives which avoid or substantially reduce the potential to adversely affect National Register or eligible properties (alternative undertakings);

(3) Conducting other plans, designs, schemes, or concepts with similar objectives which avoid or substantially reduce the potential to adversely affect National Register or eligible properties (alternative designs); and

(4) Taking no action (no action alternative).

(d) Notify and involve the public in the decisionmaking process to the maximum extent consistent with Departmental missions, mandates, and responsibilities.

(e) Provide funding concurrently and proportionately with other funds to mitigate potential adverse affects to cultural resources.

(f) Provide procedures for discovery situations to comply with the Archeological and Historic Preservation Act and the Council's regulations. In emergency discovery situations where appropriate compliance with the National Enviromental Policy Act and section 106 has occurred, the Secretary will investigate through the Heritage Conservation and Recreation Service. The investigation will be initiated to determine the appropriate action within 48 hours of notification under section 4(a) of the Archeological and Historic Preservation Act as indicated in the Statement of Program Approach (44 FR 18117–19) and the implementing regulations published (36 CFR 66) January 28, 1977. Telephone notification followed by telegraphic abstract and request to the appropriate Field Office of Heritage Conservation and Recreation Service will constitute notification.

(g) Coordinate contacts with the Advisory Council on Historic Preservation with the Deputy Assistant Secretary for Fish and Wildlife and Parks, who is the designated representative of the Secretary to that Council. Bureaus should appoint one person to coordinate these activities.

§ 1213.3 Compliance responsibility.

Each Bureau of the Department is responsible for compliance with cultural resource legislation. Cultural resource review requirements and compliance with section 106 of the Historic Preservation Act of 1966 and the implementing regulations 36 CFR 800 shall be integrated with other environmental considerations under the National Environmental Policy Act of 1969 and § 1502.25(a) of the Council on Environmental Quality's regulations implementing the National Environmental Policy Act. Section 106 compliance will be completed on National Register or National Register eligible properties even if an Environmental Impact Statement is not required by the National Environmental Policy Act. Each Bureau must indicate professionally adequate capabilities to develop and direct the cultural resources program. Projects will not proceed until compliance process under 36 CFR 800 is completed.

§ 1213.4 Definitions.

(a) "Advisory Council" means the Advisory Council on Historic Preservation, a 29 member board which was created by the National Historic Preservation Act of 1966. To carry out its consultative role the Advisory Council retains staffs for review and compliance in Denver, Colorado, and Washington, D.C.

(b) "Consultation" means the act of formally seeking advice or conferring with the appropriate State Historic Preservation Officer and the Advisory Council on Historic Preservation, as provided under 36 CFR Part 800.

"Effect" is the extent of an undertaking's impact on a cultural resource as determined according to the Advisory Council's "Criteria of Effect" (36 CFR 800.3 and 800.4).

(d) "Mitigation" refers to those actions that will be taken to avoid, reduce, or ameliorate possible or probable adverse effects on a cultural resource. Mitigation can include data retrieval but is not synonymous with it. Mitigation measures are identified by the formal consulation procedures of 36 CFR Part 800.

"National Register" means the national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture, maintained by the Secretary of the Interior under authority of section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and section 101(a)(1) of the National Historic Preservation Act. "National Register program" means

the survey, planning, and registration program that has evolved under the Secretary of the Interior's authority in section 101(a)(1) of the National Historic Preservation Act, including, but not limited to, the responsibilities of the State Historic Preservation Officers as outlined in § 61.2.

(f) *National Register status.* "National Register property" means a district, site, building, structure, or object included in the National Register. "Eligible property" means any district, site, building, structure, or object that meets the National Register criteria. Properties that have been "determined eligible" have achieved this status in accordance with the process outlined in 36 CFR 63. "National Register Criteria" means the criteria established by the Secretary of the Interior to evaluate properties to determine whether they are eligible for inclusion on the National Register. (See 36 CFR 60.6)

(g) Classes of properties are:

(1) A "district" is a geographically definable area, urban or rural, possessing a significant concentration, linkage or continuity of sites, buildings, structures, or objects which are united by past events or aesthetically by plan or physical development. A district may also be comprised of individual elements which are separated geographically but are linked by associations or history.

(2) A "site" is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of existing structures.

(3) A "building" is a structure created to shelter any form of human activity such as a house, barn, church, hotel, or similar structure. "Buildings" may refer to a historically related complex, such as a courthouse and jail or a house and barn.

(4) A "structure" is a work made up of interdependent and interrelated parts in a definite pattern or organization. Constructed by man, it is often an engineering project large in scale.

(5) An "object" is a material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

(h) "State Historic Preservation Officer" means the official, who is responsible for administering the Act within the State or jurisdiction, or a designated representative authorized to act for the State Historic Preservation Office. These officers are appointed pursuant to 36 CFR Part 61.2 by the Governors of the 50 States, Guam, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Mariana Islands, and the Mayor of the District of Columbia.

(i) "Undertaking" as defined under 36 CFR 800.4, is "any Federal, federally assisted or federally licensed action, activity, or program or the approval, sanction, assistance, or support of any non-Federal action, activity, or program." This definition is further elaborated on under 36 CFR rules and proposed rules. These will be redesignated as follows:

36 CFR 60 to 36 CFR 1202
36 CFR 61 to 36 CFR 1201
36 CFR 63 to 36 CFR 1204
36 CFR 66 to 36 CFR 1210

(k) "References to the Appropriate Field Offices of the Heritage Conservation and Recreation Service" refer to the following:

Interagency Archeological Services—Atlanta Heritage Conservation and Recreation Service, 1895 Phoenix Boulevard, Atlanta, Georgia 30349. Commercial Number: 404–996–2520, ext. 346, FTS: 260–9346.

Interagency Archeological Services—Denver Heritage Conservation and Recreation Service, Box 25387, Denver Federal Center, Denver, Colorado 80227. Commerical Number: 303–234–2560, FTS: 234–2560.

Interagency Archeological Services—San Francisco Heritage Conservation and Recreation Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102. Commercial Number: 415–556–7741, FTS: 556–7741.

[FR Doc. 79-23809 Filed 8-1-79; 8:45 am]
BILLING CODE 4310-03-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1288-1]

Proposed Rulemaking on Approval of Montana State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: Provisions of the 1977 Clean Air Act Amendments (the Act) require states to revise their State Implementation Plans (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). The Act requires that states submit the necessary plan revisions to the Environmental Protection Agency (EPA) by January 1, 1979, and that EPA publish a final determination of approvability in the **Federal Register** by July 1, 1979, if certain economic and growth limitations are to be avoided in the nonattainment areas. The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, **Federal Register** (44 FR 20372), and will not be restated in this notice.

On April 24, 1979, EPA received the required SIP revision from the State of Montana. In addition to addressing the requirements of Part D of the Clean Air Act, the revised SIP addressed the Part C requirements for prevention of significant deterioration, and the requirements of Section 123 of the Act for stack heights. Both of these issues will be discussed in a separate notice as will several new non-Part D requirements of the Act which are not addressed in the Montana SIP (e.g. section 128—State Boards).

In this notice, key events in Montana nonattainment SIP development are described, the SIP is summarized, and issues that affect SIP approval are discussed. An evaluation report which describes the SIP with respect to the Clean Air Act requirements is available to any interested persons for inspection.

The Act also specifies that many decisions regarding strategy selection are now to be made at the local government level. In Montana, local governmental units in Billings and Missoula were delegated responsibility for preparing portions of the SIP submittal discussed herein.

The EPA requests comments on:

(1) The approvability of the SIP with respect to those portions for which no specific definiencies have been identified;

(2) The appropriateness of EPA's findings with respect to issues that affect SIP approval; and

(3) The approvability of the SIP with respect to such issues.

DATES: Comments must be recieved by September 4, 1979. EPA has determined that this comment period is sufficient because the public has had an opportunity to review and comment on the state implementation plan since May 23, 1979.

ADDESSES: Comments should be sent to: Ivan W. Dodson, Director, Montana Office, Environmental Protection Agency, Region VIII, FOB, Drawer 10096, 301 South Park, Helena, Montana 59601.

Comments received on this proposal, EPA's evaluation report, and the SIP submission itself will be available for review by any interested persons at:

Environmental Protection Agency, Montana Office, FOB, Drawer 10096, 301 South Park, Helena, Montana 59601.

Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460.

Environmental Protection Agency, Region VIII, Regional Library, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT:
Mr. Ken Alkema, Environmental Protection Agency, Montana Office, 301 South Park, Helena, Montana 59601, (406) 585–5414.

SUPPLEMENTARY INFORMATION:

Introduction

The Montana SIP revision was developed and submitted to EPA in response to the requirements of Part D of the Clean Air Act, as amended in 1977. In general, the SIP is required to provide for attainment and maintenance of the national ambient air quality standards (NAAQS) for all areas which have been designated "nonattainment" pursuant to Section 107 of the Clean Air Act. Specific requirements for an approvable SIP are discussed in detail in the April 4, 1979, **Federal Register** (44 FR 20372). A supplement to the April 4 notice was published on July 2, 1979 (44 FR 38583) involving, among other things, conditional approval.

EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections by specified deadlines. This notice solicits comment on what items should be conditionally approved, and on the deadlines where specified in this notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

On March 3, 1978 (43 FR 8962), pursuant to Section 107 of the Act, EPA designated certain areas as nonattainment for the criteria air pollutants. The designated nonattainment areas in Montana are displayed in Table 1.

Table 1.—*Nonattainment Areas in Montana*

	Carbon monoxide	Total suspended particulate (TSP)	Sulfur dioxide (SO_2)	Ozone (O_3)
Anaconda Area			X	
Billings Area	X	X		
Butte Area		X		
Columbia Falls		X		
Colstrip Area		X		
E. Helena Area		X	X	
Great Falls Area		X		
Laurel Area			X	
Missoula	X	X		
Yellowstone County				X

In accordance with Section 174 of the Act, primary responsibility for preparing carbon monoxide (CO) and ozone control plans was delegated by the Governor to organizations of local elected officials. These designated organizations are the Billings-Yellowstone City-County Planning Board, for the Billings-Yellowstone County nonattainment areas, and the Missoula City-County Health Board for the Missoula nonattainment area. Agreements were developed between the Governor and the local governmental units which generally describe the planning responsibilities of the designated organizations. The State was responsible for technical support to designated agencies, stationary source control, new source review and any other programs encompassing areas beyond the authority of local governments. The designated agencies were generally responsible for transportation control plan development, which were coordinated with the transportation planning process.

The State also delegated that portion of total suspended particulates (TSP) plan development which involved transportation sources to local governmental agencies.

The locally prepared plans were submitted to the State Board of Health in December 1978. Following a public hearing, the Board adopted the SIP and submitted it to the Governor of Montana. The Governor submitted the SIP to EPA on April 24, 1979. EPA noticed the availability of the SIP in the **Federal Register** on May 23, 1979 (44 FR 29931) and requested public comments. As yet, no comments have been received.

The Department of Transportation (DOT) has reviewed the SIP and submitted comments to EPA in accordance with the June 16, 1978, EPA–DOT Memorandum of Understanding, and the Region VIII EPA–DOT procedures on SIP review. DOT's comments were considered in preparation of this notice.

Detailed Discussion

This section contains a discussion of issues identified by EPA which could affect approval of the Montana SIP. This discussion includes a general description of the deficiency or issue and, where possible, describes corrective actions. This section also sets forth alternative approaches to final rulemaking action with respect to some of these issues.

Statewide Portion

1. *Airborne Particulate (Fugitive Dust) Rule.* In December 1978, the State Board of Health conducted a public hearing on a proposed airborne particulate regulation. Based on testimony presented at the hearing, a portion of the regulation relating to emissions from paved and unpaved roads was deleted and the Board directed the Air Quality Bureau to conduct a study to further evaluate the problem. The Air Quality Bureau is to use the results of the study to develop particulate emission standards for paved and unpaved roads. Particulate emission standards from these sources are significant problems in all of the State's TSP nonattainment areas. A schedule for the completion of the proposed study and for adoption of the regulation is included in the SIP. This schedule indicates that the study will be completed by October 1, 1979, and that a regulation will be developed and adopted by February 15, 1980. Implementation of the regulation together with an assessment of its effectiveness is expected by December 31, 1982.

The portions of the airborne particulate regulation adopted by the Health Board in December 1978, include the following major provisions:

(1) Generally limits emissions from storage handling, production or transportation of materials to 20% opacity;

(2) Limits emissions from construction or demolition to 20% opacity;

(3) Within nonattainment areas requires Reasonably Available Control Technology (RACT) to be applied to existing sources;

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(4) Within nonattainment areas requires Best Available Control Technology (BACT) on new sources with an emission potential of less than 100 tons per year;

(5) Within nonattainment areas requires Lowest Achievable Emission Rate (LAER) for new sources with a potential to emit more than 100 tons per year;

(6) Requires reasonable precautions to prevent emissions from any street, road, or parking lot; and

(7) Exempts agricultural operations

This regulation is acceptable.

II. *Source Test Methods.* Many of the Montana regulations are deficient because they do not specify source test methods. It is essential that for each emission limitation, the appropriate test method be specified.

III. *New Source Review Program.* The State's regulation pertaining to the review of new and modified sources is deficient in a number of respects. The regulation does not meet the requirements of Part D of the Clean Air Act because (a) it does not address the permit requirements of Section 173 (1), (3), and (4) of the Act; (b) it authorizes the transfer of permits from one location to another and one person to another; and (c) it authorizes the issuance of new source permits with future effective dates. The source must be in compliance at start-up.

The regulations pertaining to new source review do not provide for a 30 day public comment period as required by 40 CFR 51.18(h)(2)(ii). However, it is EPA's opinion that the exception found at 40 CFR 51.18(h)(3) is applicable in this case due to the time constraints on permit processing imposed by Section 75–2–211(6) MCA. The regulations do not meet the notice requirements of 40 CFR 51.18(h)(4) which require that a copy of the public notice be sent to the EPA and other appropriate state and local air pollution control agencies. While this defect could be corrected by a commitment to provide such notice, the commitment does not appear in the SIP submission and the new source review program must be disapproved as not meeting the requirements of 40 CFR 51.18(h)(4).

IV. *Malfunction.* Montana's malfunction regulation, ARM 16–2.14(1)—S14000, is inadequate in that it renders emission limitations potentially unenforceable and, thereby, fails to provide for attainment and maintenance of the NAAQS, as required by Section 110 of the Clean Air Act. EPA's policy regarding malfunction regulations is set forth in the April 27, 1977, Federal Register (42 FR 21472), and the federal malfunction regulations there promulgated provide a model of acceptable malfunction provisions. The Montana rule is deficient in the following respects:

(1) EPA defines "malfunction" as "any sudden and unavoidable failure of air pollution control equipment or process equipment or a process to operate in a normal and usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions." (42 FR 21474). The Montana regulation does not define the term "malfunction," so that it cannot be ascertained whether the State malfunction rule is sufficiently restrictive in scope to protect ambient air quality.

(2) As a matter of federal law, excess emissions due to malfunctions are violations of the applicable emissions limitations. This is necessary to ensure that the NAAQS will be attained and maintained on a continuous basis. The federal regulations do, however, establish a procedure whereby the source may submit information to the Administrator in order to enable him to carry out his statutory duties, which include the exercise of enforcement discretion. Although the information to be supplied is not limited in scope, the federal regulations require that if information is furnished it include, at a minimum: (1) Identification of the emission points; (2) the magnitude of the excess emissions; (3) the time and duration of the excess emissions; (4) identification of the equipment causing the excess emissions; (5) the nature and cause of the excess emissions; (6) a description of the steps taken to remedy the situation and the steps taken or planned to prevent a recurrence; (7) a description of the steps taken to limit the excess emissions; and (8) documentation that the air pollution control equipment, process equipment, or processes were at all times maintained and operated to the maximum extent practicable in a manner consistent with good practice for minimizing emissions. While EPA reserves the right to enforce against any excess emissions, EPA discretion would normally be exercised according to and consistent with these criteria.

EPA has partially approved State malfunction regulations which exempt malfunctions from being violations of the applicable emission standards when the exemptions result from an exercise of discretion by the pollution control agency based upon criteria very similar to those listed above.

The Montana malfunction rule exempts excess emissions resulting from a malfunction from applicable emission standards if certain reporting requirements are met. The regulation also authorizes the State to permit continued operation of the source, and states that he "may" require the submittal of a written report containing the information specified in (3), (5), and (6) above. As already noted, no criteria are set forth for determining, as a threshold matter, whether an episode of excess emissions qualifies as a malfunction, regardless of whether the source properly reports it. The information which the State is empowered to require presupposes that a "malfunction" has occurred and is, presumably, intended to guide him in determining whether to allow continued operation of the source. The information which he is authorized to require is, however, insufficient to enable him to exercise this discretion consistently with federal malfunction guidelines. Moreover, the discretionary language of the rule apparently allows the State to permit a source to continue to operate without the submittal of even this limited report. In light of all the above deficiencies, the Montana malfunction rule provides such inadequate criteria for the exercise of enforcement discretion and is so vague as to render the State's emission standards potentially unenforceable. Therefore, EPA proposes to disapprove the regulation in its entirety.

(3) Finally, the Montana malfunction regulation authorizes the State to allow a malfunctioning source to continue to operate for an unspecified period of time, provided a corrective program has been submitted and approved and there is no threat of life, health, or property. This open-ended discretion to permit continued operation of a source which is exceeding applicable emission limitations is inconsistent with the mandate of Section 110(i) of the Clean Air Act and is, therefore, unapprovable.

The malfunction provision contained in the Anaconda portion of the proposed SIP revision improves upon the general malfunction regulation, in that it contains an acceptable definition of the term "malfunction" and it requires the submittal of monthly excess emission reports which are to include information very similar to that required by the federal malfunction regulations. The provision is nevertheless deficient because it provides: "The Department shall determine whether to permit the operation to continue in accordance with ARM 16–2.14(1)—S14000 (1)." Incorporation of the general malfunction regulation is fatal to the Anaconda malfunction provision because, as discussed above, the regulation does not provide adequate criteria to guide the exercise of enforcement discretion and does not limit the State's authority to permit continued operation.

Nonattainment Area Plans

Billings—Yellowstone County Area. The Billings area was designated nonattainment for ozone, carbon monoxide (CO), sulfur dioxide (SO_2), and total suspended particulates (TSP).

I. *Carbon Monoxide (CO).* A portion of the city of Billings is in violation of the eight hour carbon monoxide standard and the violations are due, almost entirely to motor vehicle emissions.

The strategy proposed by the City County Planning Board to alleviate the problem concerns modifications of the Exposition—First Avenue North Intersection. Two additional lanes would be added to Exposition in the vicinity of the intersection and traffic signals would be installed. However, based on the input data used, modeling projections indicated that the 8 hour CO concentration would still be 9.6 ppm in 1982, 0.6 ppm above the standard. By 1985, the concentration would be reduced to 7.2 ppm.

The control strategy is unacceptable because it was based on an emission inventory using outdated emission factors which overestimate the benefits of the federal motor vehicle control program.

The plan should be updated using emission factors published by EPA in May 1978. The adequacy of any control strategies should be demonstrated using the *Carbon Monoxide Hot Spot Guidelines, Vol. III Workbook* (EPA–450/3–78–035, August 1978) or an equivalent procedure.

Once the control strategies have been developed, formal written commitments to implement them on an expeditious schedule must be obtained from the appropriate levels of government and submitted as part of the SIP.

II. *Total Suspended Particulate (TSP).* The Billings downtown Central Business District was designated a nonattainment area for TSP based on marginal violations of the secondary standard. The emission inventory indicates that reentrained dust from paved roads is the major problem.

The Billings plan indicates the City has purchased a vacuum sweeper and that a pilot street sweeping and flushing program will be undertaken. The streets involved in this program have not been identified nor has the sweeping and flushing frequency been delineated. Furthermore, it would appear that maintenance of some of the streets involved is the responsibility of the State Highway Department, and there is no indication that the Highway Department will participate in this program. If the City is going to do the sweeping for the Highway Department, an agreement is needed. Also, a written commitment to undertake the program should be executed by the local governing body. For the plan to be approvable, these deficiencies need to be corrected.

III. *Sulfur Dioxide (SO_2).* The Laurel metropolitan area, which is located just west of Billings, was designated nonattainment for SO_2. A revision to the plan was submitted to EPA by the Governor on January 26, 1978. On May 9, 1979, EPA published a notice in the Federal Register (May 9, 1979, 44 FR 27187) proposing to approve the control strategy. Final action on the Laurel control strategy will be taken independently. However, that action will not address the requirements of Part D of the Act.

EPA has reviewed the SIP with respect to Part D and finds that the SIP for Laurel meets requirements of that Part.

IV. *Ozone.* Billings was originally designated as a nonattainment area for ozone based on marginal violations of the applicable ozone standard of 0.08 ppm. This standard was subsequently revised (February 8, 1979, 44 FR 8202) to 0.12 ppm. Up to the present time, there have been no violations of the revised standard. As a result, no ozone strategy for the Billings area has been submitted. In order for the ozone plan to be approved, the State must either redesignate the area or apply Reasonably Available Control Technology to existing stationary sources of volatile organic compounds.

Butte Area. The northeast section of Butte was designated nonattainment for the primary TSP standards. The principal causes of the problem are fugitive emissions from paved roads and the open pit copper mine owned by the Anaconda Copper Company.

An analysis of the problem using the 1977 emission inventory, and an acceptable diffusion model demonstrated that a strategy to control fugitive dust emissions would attain the primary standard by 1982.

As indicated earlier, the State is developing a regulation to control reentrained dust from paved streets. The SIP analysis has projected that a reduction of 8 ug/m^3 will be attained by its implementation. This is an acceptable approach. However, when the new regulation is submitted to EPA for approval, it must be accompanied by a demonstration that the projected reductions will be attained.

The SIP does not include a demonstration of attainment of the secondary TSP standard. The SIP must contain such a demonstration or a request for up to an 18-month extension under Section 110(e) of the Act.

Colstrip. The Colstrip area was designated nonattainment for both the 24 hour and annual primary standards for TSP. Two independent emission inventories were developed for the Colstrip area by two consultants. The results of these efforts were markedly different. As a result, it has not been possible to apply a diffusion model to the problem and demonstrate attainment of either the primary or secondary standards. The State proposes to achieve the standards through the implementation of its permit rule. This will involve application of Reasonably Available Control Technology (RACT), Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) to the stationary sources, as appropriate. However, no specific control measures are provided and no detailed schedules for applying these measures are included in the plan. For the plan to be approvable, such schedules, including specific control measures and an estimate of their effectiveness, must be developed and submitted to EPA.

Columbia Falls. The area within the city limits of Columbia Falls was designated nonattainment for the primary, annual TSP standard.

A microinventory of emissions was conducted for Columbia Falls in 1978, incorporating point source emission inventory data for Flathead County for 1977. An empirical model was then used to indicate that the largest contributor to TSP in Columbia Falls is fugitive dust from Highway 40 and Nucleus Avenue. Both of these streets will be rebuilt, and Nucleus Avenue will be swept frequently to remove dirt and mud carried onto it from adjacent unpaved streets. The SIP demonstrates that this will bring the area into compliance; therefore, EPA proposes to approve the Columbia Falls TSP plan.

East Helena—I. *Total Suspended Particulates (TSP).* In March 1978, a portion of East Helena was designated nonattainment for the TSP secondary standard. A microinventory was completed using 1977 emission data. The basic conclusion to be drawn from the microinventory and empirical modeling results was that construction activities

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were the primary cause of the violation. These activities were begun in 1976 and were completed in 1978. The ASARCO lead smelter, the other major source, has a written agreement with the State requiring the company to use water and other means, if necessary, to minimize emissions from its slag piles. In view of this, EPA proposes to approve the East Helena TSP plan.

II. *Sulfur Dioxide.* East Helena, Montana violates the national standards for SO_2 as a result of low-level emissions from the ASARCO lead smelter. Nearly 80 percent of the SO_2 emissions from the smelter are emitted from existing stacks which are at least 400 feet tall. However, most of the remaining 20 percent (23 tons per day) of the emissions are emitted from the three stacks serving the smelter's blast furnace operation which are only 110 feet tall. The SIP contained studies which demonstrate that the existing violations of the national standards are a result of atmospheric downwash from the 110 foot stacks. Therefore, the strategy chosen by the State was to limit emissions from the blast furnace to 23 tons per day and to permit the company to construct a new stack of 375 feet. The SIP included an analysis performed using an EPA-approved dispersion model which demonstrates that this strategy, when coupled with control measures on other portions of the smelter which were approved by EPA on September 19, 1975 (40 FR 43216), would provide attainment and maintenance of the national standards.

It should be noted that Section 123 of the Clean Air Act, as amended in 1977, places specific limitations on the reliance on stack height increases and other dispersion techniques as control strategy measures. Specifically, that section requires that the degree of emission limitation required by a source not be affected by so much of the stack height, for a stack constructed after 1970, which exceeds good engineering practice (GEP). The Act defines GEP as "* * * the height necessary to insure that emissions from the stack do not result in excessive concentrations of any pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator). For purposes of this section such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the Administrator, that a greater height is necessary as provided under the preceding sentence. In no event may the Administrator prohibit any increase in any stack height or restrict in any manner the stack height of any source."

The SIP includes a report on a field study which was conducted during the fall of 1978. The purposes of the study were to demonstrate that the existing 110 foot stacks were not GEP and to establish the stack height which would represent GEP. EPA's review of that report has resulted in the conclusion that downwash in excess does occur from the existing 110 foot stacks. However, the study was not adequate to determine what height does represent GEP.

Because the SIP relies upon a new 375 foot stack, but fails to demonstrate that a 375 foot stack represents GEP, EPA cannot unconditionally approve this strategy. However, since the SIP clearly shows the need to raise the blast furance stacks to avoid excessive downwash, EPA proposes to approve the SO_2 strategy on the following conditions:

(1) A new study be performed which clearly demonstrates the stack height which represents GEP; and

(2) If the GEP height is less than 375 feet, a new dispersion modeling analysis be performed using the GEP stack height for the blast furnace stacks to demonstrate whether the proposed emission limitations are sufficient to attain and maintain the national standards.

EPA invites comment on the adequacy of the field study submitted with the SIP and the proposed conditional approval. In addition, EPA invites comment on what deadline should be imposed for completion of the study.

Great Falls. The Great Falls area was designated nonattainment as a result of violations of the secondary TSP standard. Nonattainment in Great Falls is due largely to windblown particulate from street sanding operations. The plan indicates that a trial street sweeping and flushing program will be undertaken. However, no details concerning the program are provided. Until the effectiveness of the control strategy is known, attainment cannot be demonstrated. The streets to be swept or flushed should be identified. The frequencies of sweeping and flushing should be set forth. If the State Highway Department is to be involved, an agreement setting forth the respective responsibilities of the Highway Department and the City of Great Falls must be set forth. The control strategy portion of the plan is not approvable until these deficiencies are corrected.

Missoula—I. *Carbon Monoxide.* Missoula was designated nonattainment for the eight-hour CO standard based on monitoring data from a single location (the corner of south Brooks and Russell). A schedule has been submitted as part of the Montana SIP which calls for updating the inventory, remodeling the problem and developing of the necessary control strategies, and a revised plan demonstrating attainment of the standards by December 1982 is scheduled to be submitted by January 1980.

That plan should be prepared using the latest motor vehicle emission factors, and the adequacy of any control strategies should be demonstrated using the *Carbon Monoxide Hot Spot Guidelines, Vol. III Workbook* (EPA 450/3–78–035, August 1978) or an equivalent procedure.

Once the control strategies have been developed, formal, written commitments to implement them must be obtained and submitted as part of the SIP.

The CO plan for Missoula cannot be approved until additional data, schedules and commitments are submitted as set forth in the preceding paragraphs.

II. *Total Suspended Particulate (TSP).* Missoula was designated nonattainment for TSP because of violations of the primary standard. An emission inventory based on 1974 data indicated that paved and unpaved roads account for the bulk of the TSP emissions in Missoula. The emissions were modeled using EPA approved dispersion models. The plan sets forth a control strategy calling for an extensive street paving, sweeping and flushing program coupled with control of stationary sources.

The time schedule for completing the various activities is for the most part not specified, and commitments on the part of the appropriate units of government to carry them out are lacking. As an example, the plan indicates that the City of Missoula will sweep all streets under its jurisdiction at least once per month. The plan also indicates that the State Highway Department will sweep all State and Federal Highway routes in the Missoula Urban Area at least once per month. But the plan contains no formal, written commitment on the part of either the city or the highway department to carry out these activities. The plan contains similar commitments relating to the paving of roads and parking lots, but lacks the political and financial commitments to carry them out.

Anaconda. The Anaconda area violates the national standards for SO_2 as a result of emissions from the nearby Anaconda Copper smelter. Ambient air quality problems near the smelter are two-fold. First, violations occur close to the smelter as a result of excessive fugitive emissions. Second, violations occur in the elevated terrain southwest of the smelter as a result of excessive emissions from the main stack.

The strategy submitted with the SIP addresses both violations with the following requirements:

(1) Emissions of SO_2 from the main stack are limited to (a) 16,800 pounds per hour, maximum 6-hour average, and (b) 11,800 pounds per hour, maximum 24-hour average.

(2) Emissions from the acid plant stack may not exceed 1000 parts per million, maximum 6-hour average; and

(3) Fugitive emissions must be contained to the maximum extent feasible and vented through a stack.

The SIP included a diffusion modeling analysis which demonstrates that the low-level emissions will be sufficiently controlled to provide attainment of the national standards close to the smelter. In addition, a modeling analysis performed by EPA as the basis for a federal proposed rulemaking for the smelter (published September 11, 1978, 43 FR 40242) indicates that the proposed limitations will provide for attainment of the national standards in the elevated terrain. On the basis of these analyses, EPA proposes to approve the control strategy for Anaconda, Montana.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: July 9, 1979.

Alan Merson,

Regional Administrator.

[FR Doc. 79-23797 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF INTERIOR

Bureau of Land Management

[43 CFR Chapter II]

Exchanges of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to propose rulemaking.

SUMMARY: The Federal Land Policy and Management Act of 1976 repealed part of the exhange authority that had been exercised by the Secretary of the Interior and replaced it with more comprehensive authority. A draft proposed rulemaking has been prepared that sets forth new procedures for exchanges of public lands and interests in those lands. This gives notice of the availability of the draft proposed rulemaking and asks the public for comments.

DATE: Comments by October 1, 1979.

ADDRESS: Send comments to: Director (650), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240. Comments will be available for public review in Room 5555 at the above address from 7:45 a.m. to 4:15 p.m. on regular working days.

FOR FURTHER INFORMATION, CONTACT: David C. Hemstreet, 202–343–8731, or Robert C. Bruce, 202–343–8735.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) repealed the exchange authority contained in section 8 of the Taylor Grazing Act of 1934 (43 U.S.C. 315 (p) and (q)), and provided more comprehensive exchange authority for use by the Secretary of the Interior. This draft proposed rulemaking outlines the procedure that is now under consideration for use in carrying out the new authority. This draft proposed rulemaking will not affect the processing of exchanges applied for under statutory authority covering special exchange situations. Further, State exchanges filed prior to October 21, 1976, the date of enactment of the Federal Land Policy and Management Act of 1976, under section 8 (c) and (d) of the Taylor Grazing Act will be processed under the existing regulations.

As input to the decisionmaking process of the Department of the Interior, the public is asked to give careful consideration to the question of whether the Department should permit or prohibit, by regulation, the exchange of public lands for private lands or interests that are acquired for the purpose of later being exchanged for other private lands or interests. This process, commonly referred to as a "third party exchange," has been used only rarely in the past, due to current Departmental policy. The process is used to allow the Federal Government to acquire lands or interests in which it has program interests. Exchange is just one way of acquiring such lands. The draft proposed rulemaking that is the subject of this notice does not now contain a provision on third party exchanges. If the final rulemaking contains no provisions on third party exchanges, they could be authorized if the Department felt they were needed. However, if the final rulemaking contains a provision barring third party exchanges, then the Department would have no discretion on authorizing them.

The draft proposed rulemaking contains a provision which allows the parties to an exchange to enter into a binding exchange agreement prior to conveyance of the lands. The exchange agreement would bind both parties and establish the value for the exchange. This provision is being analyzed by the Office of the Solicitor to determine its legal sufficiency. The provision has been included to elicit comments from the public about whether such a provision has any merit and should be included in the proposed and final rulemaking on exchange if it is found to be legally sufficient. Further, this provision would make the Bureau of Land Management's procedures more consistent with those of the land managing agencies.

The draft proposed rulemaking brings exchange actions into the land use planning program of the Bureau of Land Management. It provides that exchanges will be made on the motion of the Bureau of Land Management, not through an application system, as is now the case, but it does provide for the public to make proposals for exchanges. The draft proposed rulemaking also provides a method for equalizing the differences in values of the exchanged property by the payment of cash. This cash equalization authority was provided in the Federal Land Policy and Management Act of 1976.

Even though the new procedure is in the form of a draft proposed rulemaking, it is in fact a preproposed rulemaking. The language and concepts of the draft are not binding or final. Input from the public on this preproposal is sought. Comments that are adopted will be reflected in the proposed rulemaking, or if not adopted, will be discussed in the preamble. An opportunity for public comment on the proposed rulemaking will be afforded. The preproposed

rulemaking format is used merely to give the public some idea of how a regulation might read and to provide a basis on which to comment.

Copies of the draft proposed rulemaking will be available in all of the Bureau of Land Management State Offices, the Eastern States Office and the Washington Office. The public is requested to secure copies of the draft proposed rulemaking and make comments so that public input can be made a part of the proposed rulemaking.

Gary J. Wicks,

Acting Assistant Secretary of the Interior.

July 27, 1979.

[FR Doc. 79-23706 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 79-14; Notice 1]

Federal Motor Vehicle Safety Standards; Windshield Mounting and Zone Intrusion

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes two options for amending Standard No. 212–76, *Windshield Mounting*, and Standard No. 219–75, *Windshield Zone Intrusion*, to provide a more appropriate level of safety for trucks, buses, and multipurpose passenger vehicles. This rulemaking results from petitions submitted by the Truck Body and Equipment Association and the National Truck Equipment Association suggesting that the existing requirements unfairly burden final-stage manufacturers. The agency also tentatively concludes that the existing requirements may result in overstrengthening of heavier vehicles. The overstrengthening may, in turn, be detrimental to the occupants of smaller vehicles that are impacted by heavier vehicles. To alleviate both of these problems, the agency proposes two options in this notice for comment.

DATES: Proposed effective date: January 1, 1980. Comment closing date: September 17, 1979.

ADDRESSES: Comments on this notice should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–2242).

SUPPLEMENTARY INFORMATION: Recently, the National Highway Traffic Safety Administration (NHTSA) amended Standard No. 212–76, *Windshield Mounting*, and Standard No. 219–75, *Windshield Zone Intrusion*, extending their applicability to trucks, buses and multipurpose passenger vehicles. Those amendments became effective in September 1978 and September 1977, respectively. The intent of the extension of the applicability of these standards was to provide some additional safety in the windshield areas of multipurpose passenger vehicles, light trucks and small buses similar to the increased safety provided in passenger cars. Standard No. 212 strengthens windshields to reduce the likelihood of occupant ejection in crashes. Standard No. 219 reduces the probability of hood penetration into the occupant compartment in frontal crashes.

Petitions were submitted to the agency by the Truck Body and Equipment Association (TBEA) (October 23, 1978) and the National Truck Equipment Association (NTEA) (April 20, 1979) requesting changes in these two standards and in Standard No. 301, *Fuel System Integrity*. These organizations both claimed that final-stage manufacturers were being unduly burdened by the imposition of these standards upon the vehicles that they manufacture. On May 24, 1979, by notice on the Federal Register (44 FR 30141), the NHTSA granted their request for rulemaking with respect to Standards Nos. 212 and 219 while denying rulemaking on Standard No. 301. The reasons for the denial of rulemaking with respect to Standard No. 301 were detailed in that notice and will not be repeated again here.

The problem that has generated the current rulemaking is complex and its solution is equally difficult to achieve. In response to the extension of Standards Nos. 212 and 219 to light trucks, chassis manufacturers imposed severe weight and center of gravity restrictions upon final-stage manufacturers that finish the chassis into a complete vehicle. (A "chassis" is an incomplete vehicle with a completed occupant compartment that typically lacks a body.) Any final-stage manufacturer that does not build its vehicle in accordance with the restrictions imposed by the chassis manufacturer must recertify that the completed vehicle complies with the standards based upon its own information, analysis, or tests. Final-stage manufacturers fear, incorrectly, that they must always crash test vehicles in order to ensure compliance whenever the restrictions are exceeded. They indicate that crash testing is not feasible since they are small manufacturers and produce limited numbers of a variety of speciality vehicles.

The test problems of final-stage manufacturers were brought to the agency's attention just as the NHTSA was becoming concerned about the full effect of compliance of heavier vehicles with these standards. The agency is well-aware that collisions between larger vehicles and smaller passenger cars frequently result in extensive damage to the smaller vehicles and serious injury to their occupants. As the size of passenger cars decreases, the problems resulting from collisions between them and larger vehicles will become more acute. Accordingly, the agency is exploring methods whereby larger vehicles can be made less aggressive in their driving environments thereby reducing the safety hazard they represent with respect to smaller passenger cars.

Compliance by heavier vehicles with Standards Nos. 212 and 219 could make these vehicles significantly more aggressive in their driving environment. These vehicles would need some strengthening in the front structure and body area which increases the rigidity of the overall vehicle. As a result, the slight additional safety that is created for the occupants of the heavier vehicles will come at the expense of occupants of lighter vehicles that they impact. Since occupants of heavier vehicles are already safer than occupants of lighter vehicles in multivehicle collisions, compliance with safety standards by heavier vehicles in a manner that lessens the safety of occupants of lighter vehicles impacted by them appears not to be justified.

Since the agency has tentatively determined that the existing requirements of Standards Nos. 212 and 219 for heavier vehicles may be inappropriate and may in fact be harmful to the occupants of smaller vehicles impacted by larger veicles, the NHTSA has decided to commence rulemaking. While this rulemaking will attempt to establish the appropriate level of safety, the agency will also explore ways to alleviate problems facted by final-stage manufacturers in testing their completed vehicles. Vehicles presently covered by the

standard should have some elements of sasfety built into their windshield areas, but the tests required by these standards should not create an overly great burden upon final-stage manufacturers. The agency continues to believe, nonetheless, that final-stage manufacturers must bear some responsibility for the safety of vehicles they manufacture.

During consideration of approaches to resolve final-stage manufacturers' testing questions and to establish an appropriate level of safety in the affected vehicles, the NHTSA reviewed a variety of options. The TBEA proposed that the agency exempt commercial vehicles from compliance with the standards. The NHTSA concludes that such an exemption is not in the interest of safety.

Pursuant to section 103(f)(3) of the Vehicle Safety Act, the agency designs motor vehicle safety standards to apply to certain vehicle types and sizes. The basis of standards' application is a need for safety for a particular vehicle type and size. For example, standards apply to trucks, buses, multipurpose passenger vehicles, or pasenger cars depending upon their need for safety improvements in specific areas. The TBEA proposal, which would have the agency apply standards in a manner that would exempt commercial vehicles, would not base the application of the standards upon the safety needs of vehicles. Under the TBEA proposed scheme, two trucks of identical weight and configuration, one commercial and one noncommercial, would be treated differently by the standards. This would be an inappropriate result since the safety needs of similar vehicles usually are also similar.

The TBEA proposal would also require standards to be applied according to vehicle use, rather than vehicle type. The application of the standards in this manner would force manufacturers to know in advance that a vehicle was being designed for commercial use as opposed to other possible uses in order to ascertain which safety standards should apply. This scheme would create a potential liability problem for manufacturers should they be wrong in their assessment of the future use of a vehicle. Further, this approach would not take into consideration the possibility that vehicles may enjoy several different uses during their lives. For all of these reasons, the agency has concluded that the TBEA proposal would not adequately address the safety needs of the affected vehicles nor would it resolve final stage manufacturer's problems.

The NTEA proposed two options for resolving the final stage manufacturer's testing problems. First, it suggested that the NHTSA apply the standards only to vehicles with a gross vehicle weight rating (GVWR) of 8,500 pounds or less, instead of all vehicles with a GVWR of 10,000 pounds or less as is currently required. As an alternative, the NTEA suggested that the standards apply to chassis manufacturers of the multistage vehicles, while the final-stage manufacturers would be exempted from the requirements.

The agency declines to adopt an 8,500 pound GVWR as an appropriate cut-off for the application of these two safety standards. The NHTSA historically has applied its safety standards based upon GVWR classifications divided at 10,000 pounds. All safety standards that reference GVWR classifications apply in this manner. The 10,000 pound weight classification has been accepted by the industry and is effective. The Motor Vehicle Manufacturers Association has similar catagories. Its classes I and II coincide with the 10,000 pound NHTSA classification. Moreover, reducing the GVWR for purposes of applying the standards would eliminate any safety improvements that currently result from the application of these standards to vehicles over 8,500 pounds GVWR. This complete relaxation of the two safety standards is not in the public interest. The NHTSA notes further that the adoption of this alternative would resolve testing problems for many, but not all final-stage manufacturers.

The second option proposed by the NTEA, applying safety standards to chassis manufacturers and not to final-stage manufacturers, received considerable attention from the agency. At first glance, this option appears to have great merit. It would put the testing responsibility upon the chassis manufacturer, who is most capable of bearing that responsibility. However, this option suffers from a number of unanswerable questions and problems of legal liability.

The agency is not convinced that this approach would result in chassis manufacturers removing the weight and center of gravity restrictions that are currently imposed upon final-stage manufacturers. Although the restrictions would not be necessary for compliance with these two Federal standards, the possibility of product liability looms over this entire area and may influence chassis manufacturers to maintain the same restrictions. Chassis manufacturers may not want to make an unqualified certification that its vehicles comply with the standards since the completed vehicle may not in fact comply. The continued imposition of restrictions in incomplete vehicle documents might limit chassis manufacturer's product liability. If the restrictions continue, prudent final-stage manufacturers would be not better off than they are today with respect to their ability to complete their vehicles with confidence that they are not likely to be liable subsequently for a failure in the vehicle.

As stated earlier, the agency believes that all manufacturers should bear responsibility for their manufacturing operations. This includes final-stage manufacturers. The burdens of the standards, of course, should be reasonably imposed. The National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391 *et seq.*) establishes a system under which all manufacturers are responsible for their manufacturing operations. In section 108(a)(2)(A) (15 U.S.C. 1397), the Act states that no manufacturer shall render inoperative any device or element of design installed in or on a vehicle in compliance with a safety standard. If the agency applied standards only to chassis manufacturers and a final-stage manufacturer completed its vehicle in such a way that the completed vehicle would not comply with some safety standards, the possibility of rendering inoperative would result. The agency does not have the authority to permit such a result given the statute's specific prohibition against rendering inoperative. Therefore, in light of the possibility that this solution would not achieve a resolution of the problem and that it also might create more legal problems for final-stage manufacturers than they currently face, the agency concludes that this approach is not viable.

The NHTSA has tentatively concluded that two possible options will achieve the results that the agency desires: and appropriate level of safety in the heavier vehicle and a reasonable test burden upon all manufacturers. The agency notes that neither of these proposed options will completely absolve the final stage-manufacturer from responsibility which might in some limited instances include testing. Nonetheless, the agency believes that the following options provide the best possible chance for achieving safety in vehicles while providing reasonable test burdens.

The first option that the agency proposes would amend the test requirements of the standards.

Multipurpose passenger vehicles, trucks, and buses with unloaded vehicle weights less than 4,000 pounds and all passenger cars would be tested in the manner now prescribed by the standards. Multipurpose passenger vehicles, trucks and buses with unloaded vehicle weights over 4,000 pounds would be tested by being impacted by a 4,000 pound, rigid flat-faced moving barrier, moving at a velocity of 42.4 MPH. This moving barrier test is described in Standard No. 208, *Occupant Crash Protection,* and is used in the rear and side impact tests of Standard No. 301.

The agency proposes this amendment based upon a number of considerations. First, by using the 4,000 pound barrier test, the agency would be imposing a test requirement that is generally consistent with Standard Nos. 208 and 301 testing. This test procedure would allow manufacturers to utilize existing test devices without need to develop alternate costly test techniques. A second reason for the choice of the 4,000 pound test barrier is that according to agency understanding this test should achieve the necessary safety level in these vehicles without increasing the aggressivity of the vehicles. The energy absorbed by a 4,000 pound vehicle when it is impacted by a rigid flat-faced 4,000 pound moving barrier at 42.4 MPH, is equivalent to the energy absorbed by a 4,000 pound vehicle impacting a fixed barrier at 30 MPH. Any vehicle heavier than 4,000 pounds that passes the 4,000 pound moving barrier test requirements at 42.4 MPH should provide safety levels equal to or greater than those for 4,000 pound vehicles in vehicle-to-vehicle collisions.

The agency acknowledges that this alternative could result in chassis manufacturers continuing to impose significant weight and center of gravity restrictions on their vehicles. However, through informal conversations with chassis manufacturers, the agency has obtained some indications that this type of test would permit them to relax their restrictions somewhat. The agency believes that it is the responsibility of chassis manufacturers to do this and encourages their comments on this proposal, particularly those comments that bear upon the extent and nature of the reduction of restrictions.

The second option that the agency proposes would require all vehicles to be tested to their unloaded vehicle weight or to 5,500 pounds, whichever is less. This option would establish a maximum test weight for all vehicles and would reduce the test burdens for vehicles that are completed beyond 5,500 pounds. This option is not a novel idea. Several years ago, TBEA petitioned the agency to adopt this test approach for Standard No. 301. For reasons specified at that time and in our notice granting the current rulemaking, the agency declined to amend Standard No. 301. However, this test method might meet the needs of safety and reasonableness of testing with respect to Standards Nos. 212 and 219. Accordingly, the agency proposes it here.

The agency notes again that this alternative might not completely relieve the final-stage manufacturer's problems. It would be less effective for those vehicles certified to an unloaded vehicle weight significantly less than 5,500 pounds. However, the agency believes that this option could go far toward relieving the testing problems and assuring safety, since many vehicles will be certified by their chassis manufacturer to 5,500 pounds.

In accordance with the foregoing, the agency proposes the following amendments to Volume 49 of the Code of the Federal Regulations Part 571, §§ 571.212 and 571.219, in Standards Nos. 212 and 219.

Option 1

§ 571.212-76 [Amended]

1. Standard No. 212–76 would be amended by revising paragraph S5 and adding paragraph S6.6 to read as follows:

S5. *Requirements.* When tested in accordance with S5(a) or S5(b) under the conditions of S6, the windshield mounting of the vehicle shall retain not less than the minimum portion of the windshield periphery specified in S5.1 and S5.2.

(a) Multipurpose passenger vehicles, trucks, and buses with unloaded vehicle weights of 4,000 pounds or less and all passenger cars shall, while traveling longitudinally forward at any speed up to and including 30 MPH, impact a fixed collision barrier that is perpendicular to the line of travel.

(b) Multipurpose passenger vehicles, trucks, and buses with unloaded vehicle weights greater than 4,000 pounds shall be impacted by a moving barrier, as specified in S6.6, traveling at any speed up to an including 42.4 MPH.

* * * * *

S6.6 *Frontal moving barrier test conditions.* The frontal moving barrier test conditions are those specified in S8.2 of Standard No. 208, 49 CFR 571.208, except for the positioning of the barrier and the vehicle. The barrier and test vehicle are positioned so that at impact—

(a) The vehicle is at rest in its normal attitude;

(b) The barrier is traveling with its face perpendicular to the longitudinal centerline of the vehicle; and

(c) A vertical plane through the geometric center of the barrier impact surface and perpendicular to that surface coincides with the longitudinal centerline of the vehicle.

2. Standard No. 219–75 would be amended by revising S5 and adding S7.8 as follows:

§ 571.219-75 [Amended]

S5. *Requirements.* When tested in accordance with S5(a) or S5(b) under the conditions of S7, no part of the vehicle outside the occupant compartment except windshield molding and other components designed to be normally in contact with the windshield, shall penetrate the protected zone template, affixed according to S6, to a depth of more than one-quarter inch, and no such part of a vehicle shall penetrate the inner surface of that portion of the windshield below the protected zone defined in S6.

(a) Multipurpose passenger vehicle, trucks, and buses with unloaded vehicle weights of 4,000 pounds or less and all passenger cars shall, while traveling longitudinaly forward at any speed up to and including 30 mph, impact a fixed collision barrier that is perpendicular to the line of travel.

(b) Multipurpose passenger vehicles, trucks, and buses with unloaded vehicle weights greater than 4,000 pounds shall be impacted by a moving barrier, as specified in S7.8, traveling at any speed up to and including 42.4 MPH.

* * * * *

S7.8 The frontal moving barrier test conditions are those specified in S8.2 of Standard No. 208, 49 CFR 571.208, except for the positioning of the barrier and the vehicle. The barrier and test vehicle are positioned so that at impact—

(a) The vehicle is at rest in its normal attitude;

(b) The barrier is traveling with its face perpendicular to the longitudinal centerline of the vehicle; and

(c) A vertical plane through the geometric center of the barrier impact surface and perpendicular to that surface coincides with the longitudinal centerline of the vehicle.

Option 2

§ 571.212-76 [Amended] and § 571.219-75 [Amended]

Section S6.1(b) of Standard No. 212–76 and Paragraph S7.1(b) of Standard No. 219–75 would be revised by adding the following sentence to the end of each: "Vehicles are tested to a maximum unloaded vehicle weight of 5,500 pounds."

The agency has reviewed the impacts of this amendment and concludes that it will have minimal economic impact. In fact, since this amendment relieves some requirements, it may reduce the costs of compliance with the standards.

The agency encourages comments from all manufacturers and other individuals concerning the merits of these two proposals. The agency is particularly anxious to receive the comments of chassis manufacturers as to the impact of either of these proposals on their impositions of weight and center of gravity restrictions.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The principal authors of this notice are William Smith of the Office of Vehicle Safety Standards and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, Pub.L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50 and 501.8).

Issued on July 27, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79–23748 Filed 7–27–79; 3:51 pm]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

Re-Institution of Reasonable Dispatch Requirements Pertaining to Household Goods Moving Industry

AGENCY: Interstate Commerce Commission.

ACTION: Informal conference on re-institution of regulation.

SUMMARY: Certain consumer representatives, including the President's Special Assistant for Consumer Affairs, have questioned the continued suspension of the Commission's "reasonable dispatch" requirements pertaining to the household goods moving industry. An informal conference with the Commission's staff will be held on August 6, 1979, to discuss the possible re-institution of these regulations. Consumer and industry representatives are invited to attend.

DATE: The informal conference is scheduled for August 6, 1979, at 9:30 a.m.

ADDRESS: The conference will be held in Hearing Room C at the Commission's offices in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Edward J. Schack, Special Counsel, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. (202) 275–7411.

SUPPLEMENTARY INFORMATION: The Commission's basic "reasonable dispatch" rule provides that a motor common carrier of household goods must transport each shipment on the dates or during the time period agreed with the shipper (49 CFR 1056.1(c) and 1056.12(a)).

On June 29, 1979, (44 FR 40068), the Commission "temporarily relieved" household goods carriers of their obligations to comply with the reasonable dispatch requirement. *Provided,* That (1) there is no preference of any kind by carriers toward selected shippers, (2) no storage-in-transit charges are imposed on consumers due to inability to make timely delivery, and (3) the carrier informs each customers whose shipment is booked during the suspenison in writing that it will not be able to comply with the rule. The other portions of the regulation, requiring carriers to notify shippers of delays and retain detailed record of such notification and the surrounding circumstances, and forbidding dissemination of false information as to the cause of delays (49 CFR 1056.12(b–e)), were not affected by the order.

At the time the suspension order was issued, there was a near cessation of business in many sectors of the motor carrier industry, and sporadic violence with respect to the movements which did take place. At one point virtually all owner-operators were on strike.

It is now generally believed that the normal pre-strike complement of trucks may be back on the road. Mrs. Esther Peterson, Special Assistant to the President for Consumer Affairs, has asked that the reasonable dispatch rule be re-instituted, stating in writing to the Chairman that (1) the reason for the suspension is over, (2) each carrier now has a known quantity of unfinished deliveries and a known quantity of personnel and trucks to deal with them, and can therefore reasonably calculate time of pickup and delivery when it books a new shipment, (3) the suspension has the effect of (a) encouraging carriers to make unreasonable promises of swift delivery to shippers, since they know they won't be prosecuted for nonperformance under the reasonable dispatch rule, and (b) impairing shipper prosecution of

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inconvenience claims, and (4) the need for holding carriers to promised delivery dates is greater than ever with the residual backlog caused by the strike. Other consumer representatives have made similar representations.

It seems fair to give all interested parties an opportunity to state their views on present conditions in the industry and whether the reasonable dispatch rules should be re-instituted. In order to provide consumer and carrier representatives with a forum to discuss this matter, an informal conference is scheduled for August 6, 1979, at 9:30 a.m. in Hearing Room C at the Commission's offices in Washington, D.C. The conference will be continued as long as the participants find necessary.

The Conference will be chaired by Director Joel E. Burns of the Bureau of Operations. Also representing the Commission at the conference will be staff members from the Office of the Chairman, Office of Special Counsel, Bureau of Investigations and Enforcement, and Bureau of Traffic, among others.

The discussion will involve any factors relevant to the policy decision of whether or not the reasonable dispatch rule should be re-instituted, including (but not limited to) the following:

1. The need for continued suspension of the reasonable dispatch rule, in view of resumption of service by the owner-operators who work for the household goods carriers.
2. The capability of the industry to comply with the regulations at this time.
3. The extent, if any, of deception of shippers by carriers booking agents, etc. following suspension of rules.

Following the conference, the staff will report to the Commission and a decision will be made expeditiously as to whether the suspension should be continued and whether further Commission action is needed.

Decided: July 31, 1979.

By the Commission, Chairman O'Neal.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-23091 Filed 8-1-79; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 44, No. 150
Thursday, August 2, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Agreement Regarding National Park Service Planning Documents

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the regulations for the "Protection of Historic and Cultural Resources" (36 CFR Part 800) with the Department of the Interior, National Park Service, and the National Conference of State Historic Preservation Officers concerning planning documents for areas of the National Park System which call for action that will affect properties included in or eligible for inclusion in the National Register of Historic Places. The agreement updates the existing Memorandum of Understanding and renders it consistent with the Council's recently amended regulations.

COMMENTS DUE: September 4, 1979.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Suite 536, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Peter H. Smith, Chief, Division of Federal Program Review, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005, (202) 254-3495.

SUPPLEMENTARY INFORMATION: This notice of the proposed agreement invites comments from interested parties. Copies of the proposed agreement are available from the Council. The agreement concerns the manner in which the National Park Service will meet its responsibilities under Section 106 of the National Historic Preservation Act and the Council's implementing regulations, 36 CFR Part 800. Section 106 requires that the head of any Federal agency having indirect or direct jurisdiction over a proposed Federal or Federally assisted or licensed undertaking affecting properties listed in or eligible for listing in the National Register of Historic Places shall afford the Council a reasonable opportunity for comment. The proposed agreement updates an existing agreement which provides that the National Park Service will submit basic planning documents for the National Park System to the Council for review if they call for action that would affect properties listed or eligible for listing in the National Register. Once planning documents have been approved by the Council, subsequent implementing actions may not require individual review in most cases.

The proposed agreement will be reviewed on an annual basis to determine whether it should be continued or modified. The parties to the agreement believe that it provides a workable system for expediting planning and implementation of actions within the National Park System.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 79-23819 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-10-M

CENTRAL INTELLIGENCE AGENCY

[Instruction LI 45-16]

National Environmental Policy Act; Revised Implementation Procedures

AGENCY: Central Intelligence Agency.

ACTION: Final Agency Implementing Procedures.

SUMMARY: These final Agency procedures supplement National Environmental Policy Act (NEPA) implementing regulations. 40 CFR 1500.

DATE: Effective July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Director of Logistics at the Central Intelligence Agency, Washington, D.C. 2025, or telephone (703) 351-1100, ext. 8200.

Pursuant to the provisions of the National Environmental Policy Act of 1969, as amended, (Public Law 91-190 as amended), and the Council on Environmental Quality's NEPA regulations, 40 CFR 1500, the Central Intelligence Agency has revised internal procedures to supplement the Council's regulations implementing the procedural provisions of NEPA. (44 FR 23103, April 18, 1979).

Since this instruction is for intra-Agency use, it will not be codified for publication as a section of the Code of Federal Regulations. The revised implementation procedures follow:

1. Purpose

This Logistics Instruction prescribes procedures for use within the Central Intelligence Agency, supplementing the Council on Environmental Quality's regulations inplementing the National Environmental Policy Act (Public Law 91-190 as amended) hereinafter referred to as NEPA.

2. Background

In carrying out national environmental policy and goals, § 1500.1(a) of the NEPA regulations states that:

"The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (Section 101), and provides means (Section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that Federal agencies act according to the letter and spirit of the Act. . ."

The NEPA regulations are designed to ensure that the data and analysis developed during the environmental review process are made available to Agency planners and decisionmakers at the time when it will be of most value to them in formulating, reviewing, and deciding upon proposals for agency action.

3. Implementing Procedures

a. NEPA Regulations § 1500.6, *Agency Authority*, states that:

"Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in Section 102 means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations

expressly prohibits or makes compliance impossible."

(1) The Agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to address traditional activities in view of NEPA's national environmental objectives.

b. NEPA Regulations § 1501.2, *Apply NEPA early in the process,* states that:

"Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts."

(1) Types of actions initiated by private parties, state, and local agencies and other non-Governmental entities for which Agency involvement is reasonably foreseeable are as follows:

(a) When an environmental assessment or environmental impact statement is required to be prepared by another Federal agency for a proposed development, demolition, construction, changed use or rezoning of property located up to 500 yards beyond the Agency property line.

(b) When an environmental assessment or environmental impact statement is required to be prepared by another Federal Agency for any proposed activity with the potential for electrical interferences within three miles of an Agency installation.

(c) When an environmental assessment or environmental impact statement is required to be prepared by another Federal agency for proposed mining operations, quarrying, blasting, heavy construction, or tunneling within three miles of an Agency installation having an appreciable manmade seismic disturbance that may interfere with the Agency's operation of precise measuring equipment and the conduct of vibration sensitive research.

(2) This Instruction and the NEPA process form the basic policy for advising potential applicants of requirements for early consultation in cases where Agency involvement is reasonably foreseeable.

(3) The Director of Logistics has been designated the responsible officer for making the identifications and implementing the policies under subsections (1) and (2) above.

c. NEPA Regulations § 1501.4, *Whether To Prepare an Environmental Impact Statement,* states that:

"In determining whether to prepare an Environmental Impact Statement the Federal agency shall: Determine under its procedures supplementing these regulations (described in § 1507.3) whether the proposal is one which: (1) Normally requires an environmental impact statement, or (2) Normally does not require an environmental impact statement or an environmental assessment (categorical exclusion)."

(1) Project or actions for which environmental impact statements would normally be made include the following:

(a) Proposed construction of major new facilities by the Agency that have a significant impact on the environment.

(b) Agency acquisition or disposal of real property, by lease, assignment, purchase, or otherwise, the operation of which has a significant impact on the environment.

(c) Major additions or renovations of existing Agency facilities that alter the basic functions of space and have a significant impact on the environment.

(d) Master plans for facilities and installations which involve a series of actions for long-range planning and improvement having a significant impact on the environment.

(2) Projects or actions for which environmental assessments or environmental impact statements are not normally required (categorical exclusions) include the following:

(a) Repair and improvements to existing facilities that do not alter the functions of the space.

(b) Additions to existing facilities when the present function of the facility is not changed and the addition has no appreciable effect on existing utilities, transportation, or clean air.

(c) New and replacement construction on existing installations or locations when new real estate is not required, existing transportation and utilities are not appreciably affected, no significant change in the skyline occurs when viewed from outside the installation property boundary, and no appreciable increase in noise or air pollution occurs.

(d) Changes in function of existing facilities when no appreciable change or effect to existing utilities, transportation, clean air, or noise occurs.

(e) Acquisition, use, or disposal of real property by lease assignment, purchase, or otherwise when no physical impact occurs to the environment.

(f) Actions that force displacement of personnel, affect the social or economic environment, but have no impact on the physical environment.

(g) New construction covered by an existing and approved Master Plan when the impact was previously assessed during Master Plan preparation and approval.

(3) Projects or actions which are not covered by paragraphs (1) and (2) above or which may be controversial shall have an environmental assessment prepared. This assessment will be the basis for a finding of "no significant impact" or a decision to prepare an envrionmental impact statement.

d. NEPA Regulations § 1502.5, *Timing,* states that:

The preparation of the Environmental Impact Statement (EIS) shall be started as close to the time the Agency is developing a proposal so that the EIS can be included in any recommendation or final report on the proposal.

e. NEPA Regulations § 1502.9, *Draft, Final, and Supplemental Statements,* states that:

(1) Draft Impact Statements.—After a determination has been made that the proposed action is a major Federal action significantly affecting the environment, a draft EIS shall be prepared. At the earliest possible stage of draft EIS preparation, Federal, State, and local agencies shall contacted to obtain views, comments and information about potential impacts of the proposed actions.

(2) Final Environmental Impact Statement.—The final EIS must reflect all the site data; and substantive comments submitted by other Federal, State, and local officials, individuals, and groups; and Agency responses to above comments.

(3) Supplemental Statements.—A supplemental EIS shall be prepared when the Agency makes substantial changes in the proposed action that are relevant to the environmental concerns. The supplement shall only address those new factors and the conclusions of the original EIS. The supplemental EIS shall be prepared, circulated and filed as an addendum to the original EIS.

F. NEPA Regulations § 1505.1, *Agency Decisionmaking Procedures,* states that:

(1) The Director of Logistics has been designated the Responsible Official who shall:

(a) Determine if proposed Agency actions require environmental impact statements. (b) Ensure the fullest practicable provision of timely public information relative to Agency plans for actions of the type described in paragraph 3.c. which will impact on the human environment, and he shall obtain views and comments of interested parties before taking final administrative action.

(2) The Chief, Real Estate and Construction Division, will assist the Director of Logistics as required, including the following:

(a) Provide technical competence for assessment studies of proposed projects and actions.

(b) Develop environmental impact statements when they are deemed necessary.

(c) Maintain a list of actions for which environmental statements are being prepared, revising the list as proposed actions are added or dropped.

(3) The Logistics and Procurement Law Division (Office of General Counsel) shall review and approve all environmental assessments, environmental impact statements, and supplements as well as other matters pertaining to environmental law.

(4) Independent Operating Officials shall review proposed projects with the Director of Logistics at the earliest possible stage of the proposal.

g. NEPA Regulations § 1506.6, *Public Involvement,* states that:

In accordance with NEPA Regulations § 1506.6(e), interested persons can obtain information or status reports on environmental impact statements and other elements of the NEPA process except for classified information provided under NEPA Regulations Section 1507.3. This information can be obtained by contacting Director of Logistics, Central Intelligence Agency, Washington, D.C. 20505, Tel. (703) 351–1100, ext. 8200.

h. NEPA Regulations § 1507.3(b), *Agency Procedures,* states that: "Agency procedures shall comply with these regulations except where compliance would be inconsistent with statutory requirements and shall include:"

(1) Those procedures required by paragraphs 3.b. (NEPA Regulations § 1501.2, Apply NEPA Early in the Process), 3.c.(3) (NEPA Regulations § 1502.9, Supplemental Statements), 3.f. (NEPA Regulations § 1505.1, Agency Decisionmaking Procedures), 3.g. (NEPA Regulations § 1506.6, Public Involvement) above, and NEPA Regulations § 1508.4 (Categorical Exclusions).

(2) Criteria for typical classes of actions are included in paragraphs 3.c.(1), 3.c.(2), and 3.c.(3) above and respectively represent actions which normally require an environmental impact statement, categorical exclusions, and environmental assessments.

(3) NEPA Regulations § 1507.3(c), states:

"Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Excecutive Order or statute to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified pursuant to such Executive order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes in order that the unclassified portions can be made available to the public."

(4) The following points are to be covered in draft and final environmental impact statements:

(a) Describe the proposed action and its purpose.

(b) Describe the existing environment to be affected, supplemented with maps, photos, charts, and other graphic media commensurate with the extent of the impact and with amount of information required at the particular level of decisionmaking.

(c) State relationship of proposed action to land-use plans, policies, and controls for the affected area.

(d) Describe the probable impact on the environment in both positive and negative aspects. Include primary and secondary consequences which cannot be avoided such as pollution, urban congestion, and threats to environmental goals.

(e) State alternatives to the proposed action and illustrate desirability relative to the recommended course of action proposed. Discuss alternative measures to compensate for losses to wildlife and alternate design approaches that significantly affect consumption of energy or other resources.

(f) Discuss the relationship between local, short-term use, and the maintenance and enhancement of long-term productivity of man's environment.

(g) Identify any irreversible and irretrievable commitments of resources should the action be implemented. This requires identification of the extent to which the action would curtail the range of beneficial use of the environment.

(h) indicate other interests and considerations of Federal policy which are thought to offset the proposed action's adverse effects.

(i) Where appropriate, discuss problems and objections raised by other Federal, State, and local agencies and by the public during the review process.

(5) Review of Environmental Statements by Federal, State, and Local Agencies:

(a) To meet statutory requirements of making environmental statements available to the President, draft statements and final statements, together with the substance of all comments, shall be sent to the Office of Environmental Review, Environmental Protection Agency, 401 M Street, S.W., A–104, Washington, D.C. 20460, as soon as they are prepared. Transmit statements to the EPA in ten copies. Simultaneously, copies being sent to other agencies for review and comment should be issued.

(b) Draft environmental statements should be circulated for review to Federal and State agencies with relevant expertise.

(c) Draft environmental statements should be submitted in all cases to the Environmental Protection Agency for review and written comment.

(d) Final environmental statements shall be published and circulated to all organizations and individuals that made substantive comments on the draft statement. In all cases, copies shall be sent to the Environmental Protection Agency.

(e) Inquiries regarding these Agency procedures, environmental impact statements, or assessments are to be directed to: Director of Logistics, Central Intelligence Agency, Washington, D.C. 20505, Tel. (703) 351–1100, ext. 8200.

James H. McDonald,
Director of Logistics.

[FR Doc. 79–23868 Filed 8–1–79; 8:45 am]
BILLING CODE 6310–02–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended July 27, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the

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original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No	Description
July 11, 1979	36195	Braniff Airways, Inc., Braniff World Headquarters, Braniff Boulevard, Dallas/Ft Worth Regional Airport, Dallas, Texas 75261 Application of Braniff Airways, Inc. requests the Board for an amendment of its certificate of public convenience and necessity for Route 9 to remove Condition (16) pursuant to Section 401(e)(7)(B) of the Act. That Condition provides: "Flight on segment 9 shall serve both terminals of that segment and no more than one intermediate point between those terminals." The effect of removing this restriction would be to grant Braniff turnaround authority in the Detroit-Kansas City market. Answers due on August 6, 1979.
July 24, 1979	36205	Texas International Airlines, Inc., P.O. Box 12788, Houston, Texas 77017. Application of Texas International Airlines, Inc. requests the Board pursuant to Rule 1701(b) of Subpart Q of the Board's Rules of Practice for removal of its one-stop restriction in the Dallas/Ft. Worth-Corpus Christi market. Answers due on August 7, 1979.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23853 Filed 8-1-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposal To Designate a Marine Sanctuary Around the Channel Islands of California; Availability of Funds for Public Participation

AGENCY: National Oceanic and Atmospheric Administration, Office of Coastal Zone Management (OCZM).

ACTION: Extension of Application Period.

SUMMARY: Pursuant to Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431-1434, OCZM is considering the designation of certain waters off the Coast of California, adjacent to the Northern Channel Islands, as a marine sanctuary. It is anticipated that a Draft Environmental Impact Statement (DEIS) discussing this proposal will be published in August 1979, and a hearing held in Santa Barbara in September 1979.

In order to promote a full and fair determination of the issues involved, OCZM is making available $5,000 to compensate persons eligible (under the criteria set forth in NOAA Regulations, 15 CFR Part 904, **Federal Register** of April 26, 1978, p. 17806) for participation in this proceeding.

The original notice of this OCZM proceeding appeared in **Federal Register** Vol. 44, No. 131, July 6, 1979, p. 39573, and set a closing date for receipt of applications of July 31, 1979. In order to ensure that all interested parties have an adequate opportunity to apply, OCZM is extending the application period for this funding to August 15, 1979.

DATES: The extended closing date for the receipt of applications for compensation is August 15, 1979.

FOR FURTHER INFORMATION CONTACT: JoAnn Chandler, Director, or Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, Page Building 1, 3300 Whitehaven St., NW., Washington, D.C., 20235, telephone 202-634-4236.

Dated: July 25, 1979.

Samuel A. Lawrence,

Assistant Administrator for Administration.

[FR Doc. 79-23827 Filed 8-1-79; 8:45 am]

BILLING CODE 3510-08-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street SW., Washington, D.C. 20324.

Patent 4,140,291 Ramp Toe Stowage System. Filed 13 Oct. 1977, patented 20 Feb. 1979. Not available NTIS.

Patent 4,140,727 Fluoroalkyleneether Silicate Copolymers. Filed 10 Jan. 1978, patented 20 Feb. 1979. Not available NTIS.

Patent 4,141,014 Multiband High Frequency Communication Antenna with Adjustable Slot Aperture. Filed 19 Aug. 1977, patented 20 Feb. 1979. Not available NTIS.

Patent 4,141,076 Associative Bubble Memory Apparatus. Filed 24 June 1977, patented 20 Feb. 1979. Not available NTIS.

Patent 4,142,037 Readily Curable Fluorocarbon Ether Bibenzoxazole Polymers. Filed 21 Dec. 1977, patented 27 Feb. 1979. Not available NTIS.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 4,088,737 Dry Method for Recycling Iodine-Loaded Silver Zeolite. Filed 2 Nov. 1976, patented 9 May 1978. Not available NTIS.

Patent 4,091,084 Purification of HgI sub 2 for Nuclear Detector Fabrication. Filed 6 June 1977, patented 23 May 1978. Not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Pat. Appl. 6,008,028 Flexible, Shapeable, Composite Acoustic Transducer. Filed 31 Jan. 1979.

Pat. Appl. 6,011,834 Display Processor for Aircraft Landing System. Filed 13 Feb. 1979.

Pat. Appl. 6,011,976 Optical Fiber-to-Fiber Evanescent Field Coupler. Filed 14 Feb. 1979.

Pat. Appl. 6,012,409 High-Speed Digital Pulse Compressor. Filed 15 Feb. 1979.

Pat. Appl. 936,431 Room Temperature Cured Elastomer. Filed 24 Aug. 1978.

Pat. Appl. 936,433 Room Temperature Cured Elastomer. Filed 24 Aug. 1978.

Pat. Appl. 937,634 A Method for Preparing 2,3,7,8-Tetraazaspiro (4.4) nonane, 2,3,7,8-Tetraazaspiro (4.4) nona-2,7-Diene and Derivatives. Filed 28 Aug. 1978.

Pat. Appl. 937,635 A Method for Preparing 2,3,7,8-Tetraazaspiro (4.4) nonane, 2,3,7,8-Tetraazaspiro (4.4) nona-2,7-diene and derivatives. Filed 28 Aug. 1978.

Pat. Appl. 954,674 Process for Bonding with Polyethylene Encapsulant. Filed 28 Oct. 1978.

Pat. Appl. 972,560 Sea Water Pressure Regulator Valve. Filed 22 Dec. 1978.

Patent. 4,087,063 Parachute Suspension Line Stowage Device. Filed 6 June 1977, patented 2 May 1978. Not available NTIS.

Patent. 4,132,842 Silicon-Phthalocyanine-Siloxane Polymers. Filed 23 Feb. 1978, patented 2 Jan. 1979. Not available NTIS.

Patent. 4,133,173 Ducted Rockets. Filed 13 June 1977, patented 9 Jan. 1979. Not available NTIS.

Patent. 4,133,862 Method of Inhibiting and/or Eradicating Marine Fungal Growth with Obtusastyrene. Filed 8 June 1977, patented 9 Jan. 1979. Not available NTIS.

Patent. 4,133,935 Coated Electrodes for Underwater Metal Working. Filed 17 Nov. 1977, patented 9 Jan. 1979. Not available NTIS.

Patent. 4,134,646 Composite for Improved Stripline Board Material. Filed 28 June 1976, patented 16 Jan. 1979. Not available NTIS.

National Aeronautics & Space Administration, Assistant Gen. Couns. for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Pat. Appl. 6,014,864 Method and Apparatus for Fabricating Improved Solar Cell Modules. Filed 23 Feb. 1979.

Pat. Appl. 935,827 Cryogenic Container Compound Suspension Strap. Filed 22 Aug. 1978.

Patent 4,136,211 Method of Making Bearing Materials. Filed 13 Dec. 1977, patented 23 Jan. 1979. Not available NTIS.

[FR Doc. 79-23813 Filed 8-1-79; 8:45 am]

BILLING CODE 3510-04-M

Office of the Secretary

Activities of Advisory Committees; Public Availability of Report on Closed Meetings

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular No. A-63 of March 27, 1974, those advisory committees of the Department which held meetings in 1978 that were closed or partially closed to the public have prepared reports on the activities of these meetings. Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, 2nd and Independence Avenue, S.E., Washington, D.C. 20540.

Department of Commerce, Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

The reports cover the closed and partially closed meetings of forty-five committees and eleven subcommittees, the names of which are listed below.

Committee (Subcommittee)

Advisory Committee on East-West Trade
Caribbean Fishery Management Council
Committee of Industry Sector Advisory Committee Chairmen for Multilateral Trade Negotiations
Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee
Computer Systems Technical Advisory Committee
—Foreign Availability Subcommittee
—Hardware Subcommittee
—Licensing Procedures Subcommittee
—Technology Transfer Subcommittee
Electromagnetic Radiation Management Advisory Council
Electronic Instrumentation Technical Advisory Committee
Gulf of Mexico Fishery Management Council
Industry Policy Advisory Committee for Multilateral Trade Negotiations (MTN)
Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for MTN
ISAC on Automotive Equipment for MTN
ISAC on Communication Equipment and Non-Consumer Electronic Equipment for MTN
ISAC on Construction, Mining, Agriculture, and Oil Field Machinery and Equipment for MTN
ISAC on Consumer Electronic Products and Household Appliances for MTN
ISAC on Drugs, Soaps, Cleaners, and Toilet Preparations for MTN
ISAC on Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines for MTN
ISAC on Ferrous Metals and Products for MTN
ISAC on Food and Kindred Products for MTN
ISAC on Hand Tools, Cutlery, and Tableware for MTN
ISAC on Industrial Chemicals and Fertilizers for MTN
ISAC on Leather and Products for MTN
ISAC on Lumber and Wood Products for MTN
ISAC on Machine Tools—Other Metalworking Equipment, and Other Nonelectrical Machinery for MTN
ISAC on Miscellaneous Manufactures, Toys, Musical Instruments, Furniture, etc., for MTN
ISAC on Nonferrous Metals and Products for MTN
ISAC on Office and Computing Equipment for MTN
ISAC on Other Fabricated Metal Products for MTN
ISAC on Paint, Gum and Wood Chemicals, and Miscellaneous Chemical Products for MTN
ISAC on Paper and Products for MTN
ISAC on Photographic Equipment and Supplies for MTN
ISAC on Railroad Equipment and Miscellaneous Transportation Equipment for MTN
ISAC on Retailing for MTN
ISAC on Rubber and Plastics Materials for MTN
ISAC on Scientific and Controlling Instruments for MTN
ISAC on Stone, Clay, and Glass Products for MTN
ISAC on Textiles and Apparel for MTN
Mid-Atlantic Fishery Management Council
National Advisory Committee on Oceans and Atmosphere
Numerically Controlled Machine Tool Technical Advisory Committee
Pacific Fishery Management Council
—Anchovy Advisory Panel
—Salmon Advisory Panel
President's Export Council Subcommittee on Export Administration
Sea Grant Review Panel
Semiconductor Technical Advisory Committee
—Materials and Acoustic Wave, Memory and Photo Conductive Device Subcommittee
—Microcircuit Subcommittee
—Semiconductor Manufacturing Equipment Subcommittee
—Transistor, Diode, and Thyristor Subcommittee
South Atlantic Fishery Management Council
Telecommunications Equipment Technical Advisory Committee
Western Pacific Fishery Management Council

Dated: July 25, 1979.

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 79-23846 Filed 8-1-79; 8:45 am]

BILLING CODE 3510-17-M

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DEPARTMENT OF DEFENSE

Department of the Navy

Naval Air Station, Fallon, Nev., BRAVO-20 Range; Intent To Prepare an Environmental Assessment and Hold a Public Scoping Meeting

The Naval Air Station, Fallon, Nevada, will be preparing an Environmental Assessment (EA) for the continued withdrawal of approximately 19,680 acres of public land from the Public Domain, 3,840 acres of which are preently contained within the BRAVO–20 Range, and an additional 15,840 acres to insure an adequate buffer zone due to the possibility of live ordnance lying outside the boundaries.

The purpose of this administrative action is to permit ongoing military test activities to continue uninterrupted operation by controlling access and use of the range. Continued withdrawal of the range will prevent undue public exposure to safety hazards resulting from military operations and will eliminate the potential development of incompatible land uses.

The EA will consider the following alternatives: reversion of the BRAVO–20 Range to public land status (no project); revised boundaries; relocation of range operations to other existing ranges; and creation of a new range at another land location.

A public scoping meeting will be held on the EA to determine the scope of issues of concern and to identify the significant issues related to the proposed action. This meeting will be held on August 20, 1979, at 7:00 p.m. at the District Court Room, Churchill County Law Enforcement Facility, 73 Main Street, Fallon, Nevada 89406. Interested parties may attend the meeting or submit comments in writing to be received no later than September 4, 1979, to the address shown below.

For further information concerning the proposed action of the EA, contact the following individual: Mr. A. M. Fung, Western Division, Naval Facilities Engineering Command, P.O. Box 727, San Bruno, CA 94066, Telephone No. (415) 877–7555.

Dated: July 30, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-23801 Filed 8-1-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Proposed Contract Award

AGENCY: Department of Energy.

ACTION: Notice of proposed contract award.

SUMMARY: In accordance with Department of Energy (DOE) Procurement Regulations, Title 41, Subpart 9–1.5409, published in the **Federal Register** on January 11, 1979 (44 FR 2556), DOE gives public notice that a contract award, recognizing the existence of potential organizational conflicts of interest, is in the interest of the United States.

FOR FURTHER INFORMATION CONTACT:

Stephen J. Caracciolo, Office of Procurement Operations, Room 209, 400 First Street NW., Washington, D.C. 20585, (202) 376–9829.

William B. Taylor, Office of Oil and Gas Policy, Room 7H–031, 1000 Independence Avenue SW., Washington, D.C. 20314, (202) 252–5667.

NOTICE: U.S. Department of Energy.

Determination and Findings

Upon the basis of the following findings and determination, the proposed contract described below should be awarded recognizing the existence of potential Organizational Conflicts of Interest pursuant to the authority of 41 CFR 9–1.5409(a)(3).

Findings

1. The Department of Energy (DOE), Office of Oil and Gas Policy in the Office of Policy and Evaluation is currently conducting a study of domestic refining policy. The completed study will assist DOE in assessing the impact of potential petroleum supply interruptions and in developing appropriate regulations for the management of petroleum supplies.

2. In connection with this study, it was found necessary by the Office of Oil and Gas Policy to modify a linear programming model developed by the consulting firm of Turner, Mason & Solomon of Dallas, Texas. Because it is essential to the agency that this model be revised and used in the agency's deliberations at the earliest possible time and because it was determined that the government would incur substantial start-up costs and learning time that would be experienced if any other organization performed the work, it was determined that Turner, Mason & Solomon should be requested to commence work and supply the model and train certain DOE personnel to use the model.

3. In accordance with 41 CFR 9–1.5405, Turner, Mason & Solomon provided a statement disclosing relevant information concerning its interests related to the work performed for the agency and bearing on whether it has possible organizational conflicts of interest (1) with respect to being able to render impartial, technically sound and objective assistance or advice, or (2) which may give it an unfair competitive advantage.

4. Based on an evaluation of the facts contained in the disclosure statement, that is, the clientele of Turner, Mason & Solomon being large and small petroleum and petroleum-related companies, it has been determined that Turner, Mason & Solomon has organizational conflicts of interest with regard to the work required by the Office of Oil and Gas Policy, in accordance with 41 CFR 9–1.5409(a).

5. Because Turner, Mason & Solomon has the exclusive capability to perform the work for the Office of Oil and Gas Policy within the time and budgeting constraints, it is not feasible to disqualify Turner, Mason & Solomon from award pursuant to 41 CFR 9–1.5409(a)(1). Furthermore, it is not possible to avoid the potential organizational conflicts of interest by the inclusion of appropriate conditions in the resulting contract, pursuant to 41 CFR 9–1.5409(a)(2).

6. The Turner, Mason & Solomon work is necessary and valuable to the agency in assessing the impact of potential petroleum supply interruptions and in developing appropriate regulations for petroleum supply management. Corroboration of the work will be obtained from independent sources from within DOE and from outside sources.

Determination

In light of the above findings, I hereby determine in accordance with 41 CFR 9–1.5409(a)(3) that award of a contract would be in the best interest of the United States.

Dated: July 25, 1979.

Alvin L. Alm,

Assistant Secretary Policy and Evaluation.

[FR Doc. 79-23878 Filed 8-01-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Liberty Oil & Gas Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: July 23, 1979.

COMMENTS BY: September 4, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX 75235 [Phone: 214/767–7745].

SUPPLEMENTARY INFORMATION: On July 23, 1979, the Office of Enforcement of the ERA executed a Consent Order with Liberty Oil and Gas Company, Inc. (Liberty), P.O. Box 176, Livonia, Louisiana 70755. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Liberty wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Liberty effective as of the date of its execution by the DOE and Liberty.

I. Consent Order

Liberty with its office in Livonia, Louisiana, is a firm engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and Liberty entered into a Consent Order to resolve certain civil actions which could be brought by ERA as a result of its audit of the crude oil sales by Liberty from properties located in Pointee Coupe Parish, Louisiana.

The significant terms of the Consent Order with Liberty are as follows:

1. The period covered by the audit was September 1, 1973, through July 31, 1977.

2. Liberty improperly applied the provisions of 10 CFR § 212.73 and its predecessor, 6 CFR § 150.354 when determining the prices to properties located in Pointee Coupe Parish, Louisiana.

3. Liberty agrees to refund to the DOE the sum of $80,000. This amount will be refunded payable in 12 equal installments beginning thirty (30) days after the effective date of the Consent Order.

4. The provisions of 10 CFR § 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

Refunded overcharges as described in I.3a. above will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable law and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Liberty Oil and Gas Company, Inc. Consent Order." We will consider all comments we received by 4:30 p.m., local time, on September 4, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 23rd day of July, 1979.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District Office.

[FR Doc. 79-23879 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

Investigation Into Electric Power Outages in Boston, Mass.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Investigation Into Recent Electric Power Outages by Boston Edison Company in Areas of Boston, Massachusetts.

SUMMARY: The Economic Regulatory Administration, working with the Massachusetts Department of Public Utilities, is conducting an in-depth investigation into the five recent power outages experienced by parts of Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. James Brown, Jr., System Reliability and Emergency, Response Branch, Department of Energy, Room 4110, 2000 M Street, NW., Washington, D.C. 20461, (202) 254–8260.

Lise Courtney M. Howe, Office of General Counsel, Department of Energy, Room 5116, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633–9380.

SUPPLEMENTARY INFORMATION: The urban areas of Boston, Massachusetts have experienced five electric power outages in the past eighteen months. They have occurred as follows:

Date	Load lost
Oct. 5, 1977	100 MW
Feb. 7, 1978	280 MW
Apr. 1–4, 1979	50 MW
May 21, 1979	70 MW
June 2, 1979	24 MW

These electric power outages have caused substantial public discomfort and inconvenience. The frequency of these outages, particularly in the last three months, is of concern to the Economic Regulatory Administration (ERA).

In order to understand the causes of the outages and the restoration procedures employed by the Boston Edison Company, ERA pursuant to Section 311 of the Federal Power Act is investigating these events in cooperation with the Massachusetts Department of Public Utilities. The investigation will center on the precise events leading to each outage and the restoration procedures employed by Boston Edison. ERA will recommend actions which could prevent future outages or mitigate their effects.

Representatives of ERA met with representatives of the Massachusetts Department of Public Utilities on June 26, 1979 in Boston, to initiate the investigation. A final report will be published by ERA by November 30, 1979.

Any person desiring to submit information or to obtain additional information concerning this investigation should contact the Chief, System Reliability and Emergency Response, Economic Regulatory Administration, Room 4110, 2000 M Street, NW., Washington, D.C. 20461.

Dated: July 26, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-23773 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-045]

Western Massachusetts Electric Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on June 15, 1979, Western Massachusetts Electric Company (Western Massachusetts) P.O. Box 270, Hartford, Connecticut 06101, filed an application for certification of an eligible use of natural gas to displace fuel oil at its West Springfield Station (Unit No. 3), West Springfield, Massachusetts, pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Western Massachusetts states that the volume of natural gas for which it requests certification is approximately 450,000 Mcf for the period between July 15, 1979 and October 31, 1979, and the eligible seller is Fitchburg Gas and Electric Light Company, 120 Royall Street, Canton, Massachusetts 02021. This natural gas will displace the use of approximately 73,500 barrels of No. 6 fuel oil (2.2 percent sulfur) at Western Massachusetts' West Springfield Station (Unit No. 3) and will be tranported by Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before August 13, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Western Massachusetts and any persons filing comments, and published in the **Federal Register.**

Issued in Washington, D.C., on July 26, 1979.

Paul T. Burke,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-23772 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER79-521]

Carolina Power & Light Co.; Filing

July 26, 1979.

The filing company submits the following:

Take notice that Carolina Power & Light Company, on July 19, 1979, tendered for filing an Amendment to the Interconnection Agreement between Carolina Power & Light Company and Virginia Electric and Power Company, dated July 9, 1970. Carolina Power & Light Company states that the Amendment deletes existing service schedules A, B, C, D, and G and replaces them with Service Schedules A–1979 Spinning Reserve, B–1979 Short Term Power, C–1979 Limited Term Power, D–1979 Economy Interchange, and G–1979 Other Energy. Existing Service Schedules E and F are retained. Also tendered for filing is an executed Certificate of Concurrence from Virginia Electric and Power Company. Carolina Power & Light Company requests that this Amendment to the Interconnection Agreement be permitted to become effective on August 1, 1979.

Carolina Power & Light Company has sent copies of this filing to Virginia Electric and Power Company, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23775 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-525]

Central Illinois Light Co.; Filing

July 26, 1979.

The filing company submits the following:

Take notice that on July 19, 1979, Central Illinois Light Company (CILCO) Tendered for filing a new Appendix A to its Interconnection Agreement with Illinois Power Company (IP) which provides for the establishment of a new interconnection point between CILCO and IP. Also enclosed was a Certificate of Concurrence of IP.

CILCO requests that the filing be made effective upon the completion of its 34.5 kv circuit to the Hammond Substation, which is anticipated to be on or about August 1, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23776 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-395]

Cities Service Gas Co.; Application

July 25, 1979

Take notice that on July 3, 1979, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP79-395 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline, taps, measuring, regulating and appurtenant facilities to enable it to render natural gas service to authorized local natural gas distribution companies for resale to 10 rural domestic customers pursuant to right-of-way easements and agreements heretofore entered into between Applicant and said customers, or to serve the customers directly if no local authorized natural gas distribution company is willing or able to make such service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that all of the proposed customers have requested gas service pursuant to the terms of their right-of-way easements and agreements and that all of the customers have relied upon the provisions for said natural gas service as contained in their respective right-of-way easements and agreements, as said provisions constituted a major portion of the consideration given to said individuals by Applicant in exchange for the voluntary grant of said easements.

Applicant proposes to:

Item 1: Tap Applicant's Oklahoma City 30-inch transmission pipeline in Oklahoma County, Oklahoma, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Kurt T. Fischer.

Item 2: Tap Applicant's Jane 20-inch transmission pipeline in Newton County, Missouri, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Bill O. Herron.

Item 3: Tap Applicant's Lawrence 16-inch River crossing transmission pipeline in Douglas County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Clinton R. Laughlin.

Item 4: Tap Applicant's Guymon-Blackwell 26-inch transmission pipeline in Alfalfa County, Oklahoma, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Earl W. Morgan.

Item 5: Tap Applicant's Rodman 16-inch transmission pipeline in Garfield County, Oklahoma, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Hazel L. Ott.

Item 6: Tap Applicant's North Topeka 10-inch transmission pipeline in Jefferson County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Richard Petro.

Item 7: Tap Applicant's East Kansas City 20-inch transmission pipeline in Jackson County, Missouri, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Clyde R. Snow.

Item 8: Tap Applicant's Valley Falls 6-inch transmission pipeline in Jefferson County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Marlin I. Steffey.

Item 9: Tap Applicant's Kansas City #3 20-inch transmission pipeline in Johnson County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to William F. Thompson.

Item 10: Tap Applicant's Dilworth-Haysville 20-inch transmission pipeline in Sumner County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Harlan Walton.

At the present time Applicant anticipates that these sales would be made by it to The Gas Service Company for resale to these customers.

Applicant estimates that the total cost of the proposed facilities would be approximately $7,227, which cost Applicant would finance from treasury funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23777 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-519]

Florida Power Corp.; Filing

July 26, 1979.

The filing Company submits the following:

Take notice that Florida Power Corporation ("Florida Power"), on July 18, 1979, tendered for filing a proposed amendment to its Contract for Interconnection and Electric Service between Florida Power and the City of Sebring Utilities Commission. The Amendment provides for the installation of an additional point of interconnection between the two utilities.

Florida Power proposed an effective date of September 19, 1979.

According to Florida Power, copies of this filing were served upon the Sebring Utilities Commission and upon the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. In accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23778 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-522]

Florida Power & Light Co.; Amendment to Agreement To Provide Specified Transmission Service

July 26, 1979.

The filing company submits the following:

Take notice that Florida Power & Light Company (FP&L), on July 19, 1979, tendered for filing an amendment, executed by both parties, to an agreement entitled "Amendment Number Three To Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and Fort Pierce Utilities Authority." Under the Amendment, FP&L will transmit power and energy for Fort Pierce Utilities Authority (Ft. Pierce) as is required by Ft. Pierce in the implementation of its interchange agreement with Jacksonville Electric Authority.

FP&L requests an effective date for the Agreement of no later than 60 days after the date of filing. FP&L states that a copy of the filing was served on the director of Utilities of Ft. Pierce.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23779 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-10]

Great Lakes Gas Transmission Co.; Informal Settlement Conference

July 26, 1979.

Take notice that on August 6, 1979, at 1:00 P.M. an informal conference of all interested persons will be convened for the purpose of continued settlement discussions in this proceeding. If necessary, this conference will continue on August 7 and 8, 1979. The conference will be held at a meeting room of the Federal Energy Regulatory Commission at 825 North Capitol Street, NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in this proceeding and to make commitments with respect to such issues and any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23780 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-518]

Illinois Power Co.; Filing Modification No. 3

July 26, 1979.

The filing Company submits the following:

Take notice that on July 18, 1979, Illinois Power Company ("ILLINOIS Power") tendered for filing proposed Modification No. 3, dated April 30, 1979, to the Interconnection Agreement, dated July 25, 1975, between Western Illinois Power Cooperative, Inc. and Illinois Power Company.

Illinois Power indicates that this filing is made for an increase for Short-Term Firm Capacity, Maintenance Power and Short-Term Non-Firm Power reservation charges.

Illinois Power states that a copy of the filing was served upon Western Illinois Power Cooperative, Inc. and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23781 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-520]

Indiana & Michigan Electric Co.; Proposed Changes in Rates and Charges

July 26, 1979.

The filing company submits the following:

Take notice that American Electric Power Service Corporation (SEP) on July 18, 1979, tendered for filing on behalf of its affiliate, Indiana & Michigan Electric Company (Indiana Company), Modification No. 12 dated June 29, 1979 to the Interconnection Agreement dated November 27, 1961 (1961 Agreement), between Indiana Company and Illinois Power Company (Illinois Company), designated Indiana's Company Rate Schedule FERC No. 23.

Modification No. 12 provides, for participation by the parties in Economy Energy transactions involving systems which are not parties to the 1961 Agreement.

Under the proposed Modification transactions with systems not a party to the 1961 Agreement between the parties would be priced, as was previously contemplated under the 1961 Agreement between the parties, on the basis of costs incurred, plus a sharing by all of the participants of the savings realized by the ultimate receiving system. Transmission losses are one of the costs incurred. Each system participating in an Economy Energy transaction other than as the supplying or receiving system would receive 15% of the savings and the supplying and ultimate receiving system would divide the remainder of the savings. Applicant states that the proposed 15% of savings allocated to each intermediate system was arrived at through negotiation and is intended to recognize participation in the transaction. Applicant further states that since Economy Energy transactions will depend upon the availability of Economy Energy, the need of another system for such energy and possible transmission restrictions, it is impossible to estimate the transactions and revenues resulting from the proposed service.

Copies of the filing were served upon Illinois Power Company, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1979. Protests will be considered by the Commission determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23782 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-277]

Middle South Service, Inc.; Order Accepting and Suspending Proposed Rate Changes, Providing for Public Hearing and Requiring the Filing of Cost Support and Direct Testimony

Issued: July 24, 1979.

On March 30, 1979, Middle South Services, Inc. (Middle South) submitted for filing proposed revisions to the interconnection agreement among Arkansas Power & Light Company, Arkansas-Missouri Power Company, Louisiana Power & Light Company, Mississippi Power & Light Company, New Orleans Public Service, Inc., and Middle South Services, Inc., dated April 16, 1973 (Agreement). The Agreement governs the sale and exchange of power and energy among these five operating utilities of the Middle South Utilities, Inc., power pool.[1] Middle South requests that the Commission waive its 60-day notice requirement and permit the revisions to become effective April 1, 1979, or in any event no later than June 1, 1979.[2] The applicant also requests that the Commission waive the requirement regarding the filing of a case-in-chief. Notice of Middle South's filing was issued on April 3, 1979, with responses due on or before April 25, 1979. On April 25, the State of Arkansas filed a notice of intervention.

The proposed revisions concern four service schedules included in the Agreement.[3] The first schedule, MSS-1, contains a formula that equalizes the production capability and the costs of ownership of such capability among the five operating utilities. The pool members who are deficient in capability pay an equalization charge to the members with excess capacity for each kilowatt of deficiency, based on the costs related to the latest units placed in service by the excess members. Energy associated with equalized capacity is provided at cost. The second schedule, MSS-2, provides a formula for equalizing the companies' investments in bulk power transmission facilities. The transmission investment equalization charge is based on the system average costs related to bulk power transmission facilities. The third schedule, MSS-3, prices intra-pool energy exchanges. The fourth service schedule, MSS-4, specifies how the net balance from sales to unaffiliated utilities is to be distributed to the members.

In addition, Middle South proposes to add to the Agreement a new Section 4.03—Energy Purchased by Services—which will accommodate energy transactions initiated under on-going interconnection agreements. While Section 4.02 of the Agreement is concerned with firm contractual purchases of power and energy, the new section covers day-to-day transactions under economic dispatch or emergency conditions which are not related to a firm contractual amount over a specified period of time.

For the year ending May 1980, the proposed revisions will result in increased charges of $4.1 million (17 percent) for capacity equalization, $0.4 million (5.8 percent) for transmission equalization and $0.9 million (1.1 percent) for energy exchange.

As to the capability (MSS-1) and transmission (MSS-2) schedules, Middle South proposes to revise several components in the equalization formulae. For both schedules, the applicant seeks to increase the return on common equity components from 11.6 percent to 14.0 percent and also to combine the operation and maintenance (O&M) and general and administrative (A&G) expense components.

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[1] The installation of generation facilities and bulk transmission lines and daily operations of the five pool utilities are integrated under the Agreement. Further, expansion of the members' integrated power systems is planned on a pool wide basis with responsibility for constructing and operating specific generating units and transmission facilities assigned to specific companies.

[2] Because the filing contained no capitalization data in support of the proposed revisions, Middle South was informed by letter dated April 24, 1979, that its filing was deficient with regard to Statements A and G of Section 35.13 of the Commission's Regulations. In response, Middle South submitted to the Secretary additional information under letter dated May 24, 1979.

[3] The Schedules are the following:

MSS-1 Capability Equalization.

MSS-2 Transmission Equalization.

MSS-3 Exchange of Energy Among the Companies.

MSS-4 Distribution of Revenue from Revenues Made for the Joint Account of all the Companies.

Rate Schedule Designations reflecting the proposed revisions are given in Attachment A.

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In the capability equalization schedule, MSS–1, the O&M component is currently based on an annual charge of $2.00 per kilowatt (kW) subject to certain multipliers depending on the fuel type used to supply the entitlement energy. The multipliers are 1.0 for gas, 1.25 for oil, and 1.5 for nuclear and coal. The current A&G component is fixed at $1.00 per kW per year. The applicant proposes to combine these components but make separate computations for fossil fuels and nuclear fuels. Thus, for each year, Middle South proposes to combine all steam non-fuel production O&M expenses and A&G expenses assigned to functions on the basis of functional non-fuel O&M expense into an enlarged base O&M component computed on average costs over the prior three years. This enlarged steam O&M component is subject to new multipliers: 1.0 for gas and oil and 2.0 for coal. Middle South also proposes to combine nuclear non-fuel O&M and A&G expenses. Based on the revisions, the initial base O&M components in the capability equalization schedule are set at $6.00 per kW per year for steam and $15.15 per kW per year for nuclear.

Middle South also seeks to combine the O&M and A&G components of the MSS–2 transmission investment equalization charge. This charge is based on a system average ownership cost calculated from annual costs of the pool members. The proposed enlarged O&M component includes A&G expenses assigned to functions on the basis of functional non-fuel O&M expense and for each year will be calculated on average costs over the prior three years.

Our review of the applicant's filing indicates that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them to become effective June 1, 1979, subject to refund. Further, a public hearing shall be held to consider the proposed revisions. In an attempt to expedite the discovery process in this proceeding, we shall order the presiding administrative law judge to convene a prehearing conference, within 45 days of the date of this order, for the purpose of resolving any problems relating to the data requests of the Staff.

With regard to the proposed use of a 14 percent return on common equity in the equalization formulae, Middle South has offered no cost support. As to the proposed multiplier of 2.0 for O&M and A&G equalization charges related to coal-fired capacity, the applicant has offered as support 1976 and 1977 data for three coal-fired plants owned by non-affiliated companies, alleged to be comparable to the first Middle South system coal unit scheduled for commercial operation in mid-1980. Middle South states that as coal-fired units go into commercial operation on the Middle South system, a multiplier will be calculated on the basis of actual costs to supplant the derived 2.0 multiplier. As noted, Middle South assigns A&G expense to functions on the basis of functional non-fuel O&M expense. A&G expenses of the Middle South utilities consist largely of salaries, pensions and benefits and overhead expenses that are directly or indirectly related to employee support or labor costs.

Therefore, on or before August 31, 1979, Middle South shall file prepared direct testimony and exhibits in support of the rates, charges, and revenue level to be collected under the four service schedules (MMS–1 agreement. In addition Middle South shall file prepared direct testimony and exhibits with regard to the proposed 14 percent rate of return on common equity. Middle South's testimony shall also indicate specifically when and how the applicant plans to revise the MSS–1 equalization schedule to reflect actual coal O&M and A&G expenses. The question of whether A&G expenses should be assigned to functions on the basis of functional non-fuel O&M expense or on the basis of labor ratios should also be considered in the applicant's testimony.

The Commission orders: (A) Middle South's proposed rates are accepted for filing, suspended and permitted to become effective on June 1, 1979, subject to refund. Waiver of the Commission's 60 day notice requirement is hereby granted pursuant to Section 35.11 of our Regulations.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act, a public hearing shall be held concerning the justness and reasonableness of the proposed rate changes.

(C) On or before August 31, 1979, Middle South shall file prepared direct testimony and cost support as described herein. Middle South's request for waiver of the case in chief filing requirement is granted except as previously noted.

(D) The Staff shall file top sheets within 90 days after Middle South has filed its case in chief and exhibits.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose, shall convene a prehearing conference in this proceeding, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. That conference shall be for the purpose of resolving any problems relating to the data requests of the staff and the intervenors. Within 10 days of the service of top sheets, the presiding administrative law judge shall convene a second prehearing conference. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the commission.

Kenneth F. Plumb,

Secretary.

Middle South Utilities

Docket No ER79–277.Q02
Filed: May 24, 1979.
Effective: June 1, 1979, subject to refund.

	Rate schedule No.
Arkansas-Missouri Power Co	38
Arkansas Power and Light Co	69
Louisiana Power and Light Co	48
Mississippi Power and Light Co	226
New Orleans Public Service Inc	5

Designation	Supersedes	Description
Supp. No.8		Amended Art. 4
Supp. No. 9	Supp. No. 6	MSS–1
Supp. No. 10	Supp. No. 7	MSS–2
Supp. No. 11	Supp. No. 3	MSS–3
Supp. No. 12	Supp. No. 4	MSS–4

[FR Doc. 79–23783 Filed 8–1–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP74–134]

Natural Gas Pipeline Co. of America; Petition To Amend

July 25, 1979.

Take notice that on July 2, 1979, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP74–134 a petition to amend the order of May 29, 1975,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the exchange of gas at an additional exchange point in Moore County, Texas, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to order on May 29, 1975, as amended, Petitioner was authorized to exchange gas with Northern Natural Gas Company (Northern) at various exchange points in Texas and Oklahoma, pursuant to an exchange agreement dated June 29, 1973, as amended, and to construct and operate certain facilities necessary for the exchange.

Pursuant to the terms of an amendment dated February 22, 1979, to the exchange agreement dated June 29, 1973, as amended, Petitioner proposes to add an additional exchange point at the tailgate of Diamond Shamrock Corporation's McKee Plant in Moore County, Texas, which point would be utilized by Northern to deliver balancing exchange volumes to Petitioner. Petitioner states that the volumes of gas delivered to it at the McKee exchange point for redelivery are to be adjusted to include a charge equal to 1.3 percent to compensate Petitioner for compression fuel.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–23784 Filed 8–1–79; 8:45 am]

BILLING CODE 6450–01–M

[1] This proceeding was commenced beforfe the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ER 79–523]

Niagara Mohawk Power Corp.; Tariff Filing

July 26, 1979.

The filing company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) on July 19, 1979, tendered for filing as a rate schedule, an agreement between Niagara and Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (hereinafter collectively called GPU) dated July 18, 1979.

Niagara states that under the terms of the agreement, Niagara agrees to purchase, for resale to GPU, electrical energy from the Jamestown (New York) Board of Public Utilities. Niagara also agrees to wheel this energy from Niagara's interconnection with GPU.

Niagara requests waiver of the Commission's notice requirements in order to allow said agreement to become effective as of July 19, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practices and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for Public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–23785 Filed 8–1–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket Nos. CP78–202 and CP78–203]

Northwest Pipeline Corp.; Petition To Amend

July 25, 1979.

Take notice that on July 3, 1979, Northwest Pipeline Corporation (Northwest), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket Nos. CP78–202 and CP78–203 a petition to amend the order of December 14, 1978, issued in said dockets pursuant to Section 7(c) of the Natural Gas Act authorizing the transportation of natural gas for Colorado Interstate Gas Company (CIG), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Northwest states that it was granted authorization by the Commission in the aforementioned dockets, to transport for the account of CIG, up to 5,000 Mcf of natural gas per day from the Shute Creek area of Lincoln County, Wyoming, and up to 5,000 Mcf of natural gas per day from the Monument Butte area of Sweetwater County, Wyoming, pursuant to gas gathering and transportation agreements dated December 28, 1977 and December 30, 1977, respectively.

The initial delivery points are the Shute Creek #30–23–112 and Shute Creek #31–23–112 wells in the Shute Creek area and the Federal #32–22, Federal #32–27, and Federal #32–14 wells in the Monument Butte area. Northwest requests, by this petition, that the Commission amend its order in the aforementioned dockets, authorizing the transportation for CIG of up to 5,000 Mcf of natural gas per day so as specifically to grant Northwest authority to receive quantities of gas from CIG for transportation at any wellhead delivery point which is now, or may hereafter be, located in the areas covered by the respective agreements.

Northwest states that receipt of the requested authorization would enable it timely to transport volumes of gas for CIG both from the additional wellhead delivery points provided for by the March 19, 1979, amendments to the agreements and from any future wellhead delivery points established on the acreage subject to the agreements.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the

requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23786 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER76-398]

Pennsylvania Power & Light Co.; Informal Conference

July 26, 1979.

Take notice that an informal conference in the above-docket will be convened to discuss Pennsylvania Power & Light Company's filing to comply with Opinion No. 34. The conference will begin at 2:00 p.m. on Monday, August 6, 1979 at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in a room to be designated by notice on the second flood notice board of the Commission.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23787 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-527]

Puget Sound Power & Light Co.; Filing

July 26, 1979.

The filing Company submits the following:

Take notice that on July 20, 1979, Puget Sound Power & Light Company (Puget) tendered for filing as an initial rate schedule, a Letter Agreement between Puget and the Southern California Edison Company (SCE).

The agreement sets forth the terms and conditions under which Puget will make available firm capacity to SCE during the months of July, 1979, and August, 1979. This capacity is required by SCE to supplement its resources in anticipation of heavy airconditioning loads on it system this summer.

A copy of the filing has been sent to Southern California Edison.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C., 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23788 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP77-321]

Southern Natural Gas Co.; Petition To Amend

July 25, 1979.

Take notice that on June 29, 1979, Southern Natural Gas Company (Southern), P.O. Box 27710, Houston, Texas 77027, filed in Docket No. CP77-321 a petition to amend the order of March 22, 1979, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of gas on an interruptible basis for Transcontinental Gas Pipe Line Corporation (Transco) for an additional two-year period, and to authorize the transportation of such gas at an increased commodity rate, all more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order of March 22, 1979, Southern was granted authorization to transport up to 3,000 Mcf of natural gas per day at 15.025 psia on an interruptible basis for Transco, individually, and as agent for certain Transco customer participants in the Transmac Exploration and Development Program. The order also authorized the transportation of gas by Transco and other intermediate transporters of gas for thirteen specified distribution and industrial customers of Transco or their affiliates. Such authorization was limited to an initial term of two years from the date deliveries commence, which deliveries commenced August 23, 1977, pursuant to temporary authorization granted in the instant docket on July 15, 1977.

Southern states that it is presently performing the transportation service for Transco, individually, and intermediate transportation service for Transco as agent for its customers and that its existing authorization to performing such transportation expires August 23, 1979. Transco has requested on behalf of its customers that Southern continue to perform the transportation for an additional two-year period, through August 1981. Consequently, Southern requests authorization to continue to perform the transportation service until such time.

Southern also requests authorization to increase its current commodity charge rate from 29.2 cents to 35.5 cents per Mcf of natural gas redelivered to Transco in order to assure Southern of just and reasonable compensation for continued performance of the transportation service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23789 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER 79-524]

Western Massachusetts Electric Co.; Purchase Agreement

July 26, 1979.

The filing company submits the following:

Take notice that on July 19, 1979, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units, dated May 1, 1979 between WMECO and Washington Electric Cooperative, Inc. (Washington).

WMECO states that the Purchase Agreement provides for a sale to Washington of a specified percentage of capacity and energy from three gas turbine generating units during the sumnmer period from May 1, 1979 to October 31, 1979.

WMECO requests the Commission, pursuant to Section 35.11 of its regulations, waive the customary notice period and permit the rate schedule filed to become effective on May 1, 1979 in order for Washington to meet its Capability Responsibility as a result of changes to their generation mix.

WMECO states that the capacity charge for the proposed service is a negotiated rate, and the variable and additional maintenance charges were derived from historical costs.

WMECO states that copies of this rate schedule have been mailed or delivered to WMECO, West Springfield, Massachusetts and Washington, East Montpelier, Vermont.

WMECO further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23792 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 24, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area
7. County, State or Block No
8. Estimated Annual Volume
9. Date Received at Ferc
10. Purchaser(s)

1. 79-12824
2. 30-025-09589
3. 108
4. Phillips Petroleum Company
5. Wollworth C D No 8
6. Jalmat Yates-Seven Rivers
7. Lea NM
8. 1.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12825
2. 30-025-25961
3. 107
4. Arco Oil and Gas Company
5. Langley Getty Com No 1
6. Langley Ellenburger
7. Lea County NM
8. 25.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12826
2. 30-039-21673
3. 103
4. El Paso Natural Gas Company
5. San Juan 30-6 Unit #89A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 200.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12827
2. 30-045-11786
3. 108
4. El Paso Natural Gas Company
5. Flaningam #1
6. Aztec Pictured Cliffs Gas
7. San Juan NM
8. 21.9 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12828
2. 30-005-20614
3. 103
4. Amoco Production Company
5. State /DO/NO 1
6. Many Gates Morrow
7. Chaves NM
8. 34.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12829
2. 30-025-25650
3. 103
4. Amoco Production Company
5. State /EO/NO 1
6. Antelope Ridge Atoka
7. Lea NM
8. 1573.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12830
2. 30-045-23047
3. 103
4. El Paso Natural Gas Company
5. Nye #1A
6. Blanco Mesaverde
7. San Juan NM
8. 140.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12831
2. 30-039-21636
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #249
6. Basin Dakota
7. Rio Arriba NM
8. 140.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12832
2. 30-039-21613
3. 103
4. El Paso Natural Gas Company
5. San Juan 29-7 Unit #47A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 90.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corporation

1. 79-12833
2. 30-039-21614
3. 103
4. El Paso Natural Gas Company
5. San Juan 29-7 Unit #84A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 140.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corporation

1. 79-12834
2. 30-039-21615
3. 103
4. El Paso Natural Gas Company
5. San Juan 29-7 Unit #38A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 75.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corporation

1. 79-12835
2. 30-039-21670
3. 103
4. El Paso Natural Gas Company
5. San Juan 30-6 Unit #13A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 120.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12836
2. 30-045-21963
3. 103
4. El Paso Natural Gas Company
5. Delhi Com #1A
6. Blanco Mesaverde
7. San Juan NM
8. 180.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12837
2. 30-045-23044
3. 103
4. El Paso Natural Gas Company
5. Atlantic B #26
6. Blanco Pictured Cliffs
7. San Juan NM
8. 130.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79-12838
2. 30-045-23046
3. 103
4. El Paso Natural Gas Company
5. Mudge #8A
6. Blanco Mesaverde
7. San Juan NM
8. 90.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No
8. Estimated Annual, Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-12759
2. 47-033-01158
3. 108
4. Allegheny Land & Mineral Company
5. A-699
6. Eagle District
7. Harrison WV
8. 17.9 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12760
2. 47-017-01890
3. 108
4. Allegheny Land & Mineral Company
5. A-745
6. Southwest District
7. Doddridge WV
8. 18.9 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12761
2. 47-083-00187
3. 108
4. Allegheny Land & Mineral Company
5. A-646
6. Middle Fork District
7. Randolph WV
8. 20.4 million cubic feet
9. July 13, 1979
10. Columbia Gas Transmission Corpn

1. 79-12762
2. 47-083-00178
3. 108
4. Allegheny Land & Mineral Company
5. A-600
6. Middle Fork District
7. Randolph WV
8. 5.5 million cubic feet
9. July 13, 1979
10. Columbia Gas Transmission Corpn

1. 79-12763
2. 47-085-02018
3. 108
4. Allegheny Land & Mineral Company
5. A-25
6. Union District
7. Ritchie WV
8. .8 million cubic feet
9. July 13, 1979
10. Equitable Gas

1. 79-12764
2. 47-017-01862
3. 108
4. Allegheny Land & Mineral Company
5. A-665
6. Southwest
7. Doddridge
8. 9.2 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12765
2. 47-001-00866
3. 108
4. Allegheny Land & Mineral Company
5. A-662
6. Philippi District
7. Barbour WV
8. 16.7 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12766
2. 47-001-00801
3. 108
4. Allegheny Land & Mineral Company
5. A-608
6. Pleasant District
7. Barbour WV
8. 17.2 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12767
2. 47-085-01989
3. 108
4. Allegheny Land & Mineral Company
5. A-20
6. Union District
7. Ritchie WV
8. 6.3 million cubic feet
9. July 13, 1979
10. Equitable Gas

1. 79-12768
2. 47-017-01863
3. 108
4. Allegheny Land & Mineral Co
5. A-666
6. Southwest District
7. Doddridge WV
8. 5.5 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12769
2. 47-041-01344
3. 108
4. Allegheny Land & Mineral Co
5. A-256
6. Freemans Creek
7. Lewis WV
8. 2.4 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12770
2. 47-021-01346
3. 108
4. Allegheny Land & Mineral Co
5. A-164
6. Glenville-District
7. Gilmer WV
8. .6 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12771
2. 47-041-00949
3. 108
4. Allegheny Land & Mineral Co
5. A-168
6. Court House District
7. Lewis WV
8. 3.4 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12772
2. 47-083-00188
3. 108
4. Allegheny Land & Mineral Co
5. A-648
6. Roaring Creek District
7. Randolph WV
8. 10.7 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12773
2. 47-097-01284
3. 108
4. Allegheny Land & Mineral Co
5. A-398
6. Washington District
7. Upshur WV
8. 17.0 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12774
2. 47-097-01793
3. 108
4. Allegheny Land & Mineral Co
5. A-724
6. Washington District
7. Upshur WV
8. 14.9 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12775
2. 47-013-01636
3. 108
4. Allegheny Land & Mineral Co
5. A-11
6. Lee District
7. Calhoun WV
8. 4.4 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12776
2. 47-017-01116
3. 108
4. Allegheny Land & Mineral Co
5. A-249
6. McClellan District
7. Doddridge WV
8. 3.2 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12777
2. 47-033-01181
3. 108
4. Allegheny Land & Mineral Co
5. A-696
6. Sardis District
7. Harrison WV
8. 1.7 million cubic feet

9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12778
2. 47-041-00791
3. 108
4. Allegheny Land & Mineral Co
5. A-148
6. Court House District
7. Lewis WV
8. 3.0 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

1. 79-12779
2. 47-041-00993
3. 108
4. Allegheny Land & Mineral Co
5. A-176
6. Court House District
7. Lewis WV
8. 3.4 million cubic feet
9. July 13, 1979
10. Consolidated Gas Supply Corp

U.S. Geological Survey, Metairie, La.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-12839
2. 17-719-40137-0000-0
3. 102
4. Exxon Corporation
5. OCS-G 026 No J-23
6. West Delta
7. 30
8. 30.0 million cubic feet
9. July 16, 1979
10. Tennessee Gas Pipeline Co

1. 79-12840
2. 17-710-40749-0000-0
3. 102
4. Texaco Inc
5. E I Block 313 Well No B-16
6. Eugene Island
7. 313
8. 1460.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp, Texas Eastern Transmission Corp

1. 79-12841
2. 17-715-40245-0000-0
3. 102
4. Gulf Oil Corporation
5. South Timbalier 38 Well No C-5
6. South Timbalier
7. 38
8. 314.0 million cubic feet
9. July 16, 1979
10. Texas Eastern Transmission Corp, Tennessee Gas Pipeline Co

1. 79-12842
2. 17-715-40202-0000-0
3. 102
4. C & K Marine Production Company
5. South Timbalier 203 Well No A-4
6. South Timbalier
7. 203
8. 1024.0 million cubic feet
9. July 16, 1979
10. Trunkline Gas Company

1. 79-12845
2. 17-710-40728-0000-0
3. 102
4. Texaco Inc
5. E I Block 330 Well No B-14
6. Eugene Island
7. 313
8. 36.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp, Texas Eastern Transmission Corp

1. 79-12846
2. 17-703-40125-0000-0
3. 102
4. CNG Producing Company
5. 4C
6. East Cameron
7. 118
8. 1121.0 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp

1. 79-12847
2. 17-702-40373-0000-0
3. 102
4. Amoco Production Company
5. OCS-G-2231 Well No A-1
6. West Cameron
7. 605
8. 1840.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp, Florida Gas Transmission Corp, Florida Power & Light Co

1. 79-12848
2. 17-702-40373-0000-0
3. 102
4. CNG Producing Company
5. OCS-G-2231 Well No A-1D
6. West Cameron
7. 605
8. 1443.0 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp, Florida Gas Transmission Corp, Florida Power & Light Co

1. 79-12850
2. 17-715-40219-0000-0
3. 102
4. C & K Marine Production Company
5. South Timbalier 203 Well No A-6
6. South Timbalier
7. 203
8. 935.0 million cubic feet
9. July 16, 1979
10. Trunkline Gas Company

1. 79-12851
2. 17-702-40405-0000-0
3. 102
4. Amoco Production Company
5. UCS-G-2231 Will No A-5
6. West Cameron
7. 605
8. 1840.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp, Florida Gas Transmission Corp, Florida Power & Light Co

1. 79-12852
2. 17-702-40394-0000-0
3. 102
4. Amoco Production Company
5. OCS-G-2231 Well No A-7D
6. West Cameron
7. 605
8. 240.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp, Florida Gas Transmission Corp, Florida Power & Light Co

1. 79-12853
2. 17-724-40129-0000-0
3. 102
4. Continental Oil Company
5. Main Pass Block 288 A-13D
6. Main Pass
7. 288
8. 4.0 million cubic feet
9. July 16, 1979
10. Southern Natural Gas Co

1. 79-12854
2. 17-702-40423-0000-0
3. 102
4. Amoco Production Company
5. OCS-G-2231 Well No A-6
6. West Cameron
7. 605
8. 2170.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp, Florida Gas Transmission Corp, Florida Power & Light Co

1. 79-12855
2. 17-710-40715-0000-0
3. 102
4. Texaco Inc
5. E I Block 330 Well No B-19
6. Eugene Island
7. 313
8. 365.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp, Texas Eastern Transmission Corp

1. 79-12856
2. 17-715-40155-0000-0
3. 102
4. C & K Offshore Company
5. South Timbalier 190 Well No A-2D
6. South Timbalier
7. 190
8. 331.0 million cubic feet
9. July 16, 1979
10. Trunkline Gas Company

1. 79-12862
2. 17-715-40181-0000-0
3. 102
4. Exxon Corporation
5. OCS-G 028 F-4 Unit
6. South Timbalier
7. 55
8. 1000.0 million cubic feet
9. July 16, 1979
10. Tennessee Gas Pipeline Do

1. 79-12864
2. 17-703-40125-0000-0
3. 102
4. CNG Producing Company
5. 4A
6. East Cameron
7. 118
8. 1160.0 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp

1. 79-12865
2. 17-702-40394-0000-0
3. 102
4. Amoco Production Company

5. OCS–G–2231 Well No A–7
6. West Cameron
7. 605
8. 1320.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp, Florida Gas Transmission Corp, Florida Power & Light Co

1. 79–12866
2. 17–710–40680–0000–0
3. 102
4. Texaco Inc
5. E I Block 330 Well No B 10
6. Eugene Island
7. 313
8. 365.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp, Texas Eastern Transmission Corp

1. 79–12867
2. 17–709–40285–0000–0
3. 102
4. Texaco Inc
5. E I Block 205 Well No F–3
6. Eugene Island
7. 206
8. 2750.0 million cubic feet
9. July 16, 1979
10. Sea Rubin Pipeline Company, Transcontinental Gas Pipeline Corp

1. 79–12868
2. 17–710–40589–0000–0
3. 102
4. Texaco Inc
5. E I Block 330 Well No B2D
6. Eugene Island
7. 313
8. 55. million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp, Texas Eastern Transmission Corp

1. 79–12843
2. 42–711–40255–0000–0
3. 102
4. Sun Oil Company
5. OCS–G–2434 No A–11
6. East High Island
7. A–370
8. 2000.0 million cubic feet
9. July 16, 1979
10. Trunkline Gas Company, Michigan-Wisconsin Pipeline Co, Natural Gas Pipeline Co

1. 79–12844
2. 42–711–40199–0000–0
3. 102
4. Sun Oil Company
5. OCs–G–2751 No. A–12
6. East High Island
7. A–369
8. 2600.0 million Cubic Feet
9. July 16, 1979
10. Trunkline Gas Company, Michigan-Wisconsin Pipeline Co, Natural Gas Pipeline Co

1. 79–12849
2. 142–711–40277–0000–0
3. 102
4. Sun Oil Company
5. OCS–G–2751 No A–13
6. East High Island
7. A–369
8. 800.0 million cubic feet
9. July 16, 1979
10. Trunkline Gas Company, Michigan-Wisconsin Pipeline Co, Natural Gas Pipeline Co

1. 79–12857
2. 42–711–40255–0000–0
3. 102
4. Sun Oil Company
5. OCS–G–2434 No A–11D
6. East High Island
7. A–375
8. 2000.0 million cubic feet
9. July 16, 1979
10. Trunkline Gas Company, Michigan-Wisconsin Pipeline Co, Natural Gas Pipeline Co

1. 79–12858
2. 42–711–40297–0000–0
3. 102
4. Sun Oil Company
5. OCS–G–2751 No A–16
6. East High Island
7. A–369
8. 2000.0 million cubic feet
9. July 16, 1979
10. Trunkline Gas Company, Michigan-Wisconsin Pipeline Co, Natural Gas Pipeline Co

1. 79–12859
2. 42–711–40221–0000–0
3. 102
4. Sun Oil Company
5. OCS–G–2434 No A–6
6. East High Island
7. A–370
8. 2000.0 million cubic feet
9. July 16, 1979
10. Trunkline Gas Company, Michigan-Wisconsin Pipeline Co, Natural Gas Pipeline Co

1. 79–12860
2. 42–711–40287–0000–0
3. 102
4. Sun Oil Company
5. OCS–G–2434 No A–14
6. East High Island
7. A–370
8. 2600.0 million cubic feet
9. July 16, 1979
10. Trunkline Gas Company, Michigan-Wisconsin Pipeline Co, Natural Gas Pipeline Co

1. 79–12861
2. 42–711–40269–0000–0
3. 102
4. Sun Oil Company
5. OCS–G–2434 No A–15
6. East High Island
7. A–370
8. 2600.0 million cubic feet
9. July 16, 1979
10. Trunkline Gas Company, Michigan-Wisconsin Pipeline Co, Natural Gas Pipeline Co

1. 79–12863
2. 42–711–40251–0000–0
3. 102
4. Aminoil USA Inc
5. A–6
6. High Island Area
7. 309
8. 1500.0 million cubic feet
9. July 16, 1979
10. Natural Gas Pipeline Company of AME, Michigan-Wisconsin Pipeline Co, El Paso Natural Gas

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 79–12780
2. 30–039–07092–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 27–5 Unit #65
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 16.4 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corporation

1. 79–12781
2. 30–039–20801–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–7 Unit 169 PC & CH (NP)
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 17.9 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12782
2. 30–039–07219–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–7 Unit #77
6. Blanco-Mesaverde Gas
7. Rio Arriba, NM
8. 11.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12783
2. 30–039–06558–0000–0
3. 108
4. El Paso Natural Gas Company
5. Rincon Unit #95
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 13.9 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12784
2. 30–039–07420–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–4 Unit #26
6. Blanco-Measverde gas
7. Rio Arriba, NM
8. 4.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12785
2. 30–039–07368–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–5 Unit #37
6. Blanco-Mesaverde Gas
7. Rio Arriba, NM

8. 16.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12786
2. 30–039–07068–0000–0
3. 108
4. El Paso Natural Gas Company
5. Rincon Unit #54
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 7.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12787
2. 30–039–07308–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–6 Unit #8
6. Blanco-Mesaverde Gas
7. Rio Arriba, NM
8. 20.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12788
2. 30–039–05677–0000–0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #19
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 8.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12789
2. 30–039–07031–0000–0
3. 108
4. El Paso Natural Gas Company
5. Rincon Unit #36
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 7.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12790
2. 30–039–06809–0000–0
3. 108
4. El Paso Natural Gas Company
5. Rincon Unit #35
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 15.3 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12791
2. 30–039–06782–0000–0
3. 108
4. El Paso Natural Gas Company
5. Rincon Unit #42
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 11.7 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12792
2. 30–039–07091–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–7 Unit #39
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 1.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12793
2. 30–025–00000–0000–0
3. 103
4. American Quasar Petroleum Co
5. Brinninstool Unit #2
6. 1980 FN & WL 21–T23S–E R33–E
7. Lea, NM
8. 277.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Co

1. 79–12794
2. 30–025–25637–0000–0
3. 102
4. Petroleum Development Corporation
5. Pedco Gulf Federal Com #1
6. North Lusk Wolfcamp
7. Lea, NM
8. 50.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Co

1. 79–12795
2. 30–025–25637–0000–0
3. 103
4. Petroleum Development Corporation
5. Pedco Gulf Federal Com #1
6. North Lusk Wolfcamp
7. Lea County, NM
8. 50.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Co

1. 79–12796
2. 30–043–20215–0000–0
3. 108
4. Chace Oil Company Inc
5. Gulf Federal #3
6. Rusty Chacra
7. Sandoval, NM
8. 10.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12797
2. 30–043–20172–0000–0
3. 108
4. Chace Oil Company Inc
5. Gulf Federal #2
6. Rusty Chacra
7. Sandoval, NM
8. 11.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12798
2. 30–043–20215–0000–0
3. 108
4. Chace Oil Company Inc
5. Gulf Federal #1
6. Rusty Chacra
7. Sandoval, NM
8. 10.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12799
2. 30–043–20190–0000–0
3. 108
4. Chace Oil Company Inc
5. Rusty Federal #4
6. Rusty Chacra
7. Sandoval, NM
8. 10.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12800
2. 30–043–20171–0000–0
3. 108
4. Chace Oil Company Inc
5. Rusty Federal #3
6. Rusty Chacra
7. Sandoval, NM
8. 12.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12801
2. 30–043–20157–0000–0
3. 108
4. Chace Oil Company Inc
5. Rusty Federal #2
6. Rusty Chacra
7. Sandoval, NM
8. 12.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12802
2. 30–043–20150–0000–0
3. 108
4. Chace Oil Company Inc
5. Rusty Federal #1
6. Rusty Chacra
7. Sandoval, NM
8. 16.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12803
2. 30–039–05309–0000–0
3. 108
4. Mobil Oil Corporation
5. Jicarilla Otero #2
6. Basin Dakota
7. Rio Arriba, NM
8. 16.0 million cubic feet
9. July 13, 1979
10. Northwest Pipeline Corporation

1. 79–12804
2. 30–045–06170–0000–0
3. 108
4. Dugan Production Corp
5. McAdams #3
6. Basin-Dakota
7. San Juan, NM
8. 16.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

1. 79–12805
2. 30–045–22851–0000–0
3. 103
4. Southland Royalty Co
5. Hubbard 1–A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 13, 1979
10. Southern Union Gathering Co

1. 79–12806
2. 30–045–22870–0000–0
3. 103
4. Southland Royalty Co
5. Hubbard 2A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 13, 1979
10. Southern Union Gathering Co

1. 79–12807
2. 30–045–22875–0000–0
3. 103
4. Southland Royalty Co
5. Nye 1 A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet

9. July 13, 1979
10. Southern Union Gathering Co
1. 79–12808
2. 30–045–22861–0000–0
3. 103
4. Southland Royalty Co
5. Nye #16A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 13, 1979
10. Southern Union Gathering Co
1.79–12809
2. 30–045–22882–0000–0
3. 103
4. Southland Royalty Co
5. Oliver 1–A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 13, 1979
10. Southern Union Gathering Co
1. 79–12810
2. 30–045–22455–0000–0
3. 103
4. Southland Royalty Co
5. Page 1–A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 13, 1979
10. Southern Union Gathering Co
1.79–12811
2. 30–045–22453–0000–0
3. 103
4. Southland Royalty Co
5. Pierce #2A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 13, 1979
10. Southern Union Gathering Co
1.79–12812
2. 30–045–22459–0000–0
3. 103
4. Southland Royalty Co
5. Primo Mudge #1–A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 13, 1979
10. Southern Union Gathering Co
1 79–12813
2. 30–025–04337–0000–0
3. 108
4. Warrior Inc
5. Federal D Account A #2
6. Eumont Yates Seven Rivers Queen
7. Lea, NM
8. 1.0 million cubic feet
9. July 13, 1979
10. Phillips Petroleum Co
1.79–1281414
2. 30–025–04336–0000–0
3. 108
4. Warrior Inc
5. Federal D Account A #1
6. Eumont Yates Seven Rivers Queen
7. Lea, NM
8. .0 million cubic feet
9. July 13, 1979
10. Phillips Petroleum Co
1.79–12815
2. 30–045–21199–0000–0
3. 108
4. Lively Exploration Company
5. Lively Well No 12
6. San Juan
7. San Juan, NM
8. 14.4 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company
1.79–12816
2. 30–045–21193–0000–0
3. 108
4. Lively Exploration Company
5. Lively Well No 9
6. San Juan
7. San Juan, NM
8. 13.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company
1.79–12817
2. 30–045–21075–0000–0
3. 108
4. Lively Exploration Company
5. Lively Well No 4
6. San Juan
7. San Juan, NM
8. 20.1 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company
1.79–12818
2. 30–045–21357–0000–0
3. 108
4. Lively Exploration Company
5. Lively Well No 16
6. San Juan
7. San Juan, NM
8. 12.7 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company
1.79–12819
2. 30–045–21109–0000–0
3. 108
4. Lively Exploration Company
5. Lively Well No 8
6. San Juan
7. San Juan, NM
8. 11.3 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company
1.79–12820
2. 30–045–21106–0000–0
3. 108
4. Lively Exploration Company
5. Lively Well No 5
6. San Juan
7. San Juan, NM
8. 5.4 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company
1.79–12821
2. 30–015–22305–0000–0
3. 103
4. Petroleum Development Corporation
5. Manzano Grande Federal #1
6. Undesignated Morrow
7. Eddy, NM
8. 250.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company
1.79–12822
2. 30–025–25862–0000–0
3. 103
4. Petroleum Development Corporation
5. Sun-McKay Federal #2
6. East Lusk Wolfcamp
7. Lea, NM
8. 140.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company
1.79–12823
2. 30–025–25690–0000–0
3. 103
4. Petroleum Development Corporation
5. Sun, McKay Federal #1
6. East Lusk Wolfcamp
7. Lea, NM
8. 50.0 million cubic feet
9. July 13, 1979
10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the commission's office of public information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the commission on or before August 16, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–23793 Filed 8–1–79; 8:45 am]

BILLING CODE 6450–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 24, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Puchased(s)

1. 79–12491
2. 34–073–21450–0014–
3. 108
4. The Oxford Oil Co
5. Zoath Mohler #1
6.

7. Hocking, OH
8. 2.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12492
2. 34–119–23125–0014–
3. 108
4. The Oxford Oil Co
5. The Murphy Farm #1
6.
7. Muskingum, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12493
2. 34–075–21771–0014–
3. 108
4. The Oxford Oil Co
5. Wayne Power #1
6.
7. Holmes, OH
8. 1.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12494
2. 34–169–20387–0014–
3. 108
4. The Oxford Oil Co
5. Peter Richard #2
6.
7. Wayne, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12495
2. 34–115–20974–0014
3. 108
4. The Oxford Oil Co
5. Lloyd Smith #1
6.
7. Morgan, OH
8. 1.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12496
2. 34–075–21665–0014
3. 108
4. The Oxford Oil Co
5. Earl Opliger Unit #1
6.
7. Holmes, OH
8. 3.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12497
2. 34–119–216400–0014
3. 108
4. The Oxford Oil Co
5. Arthur Tenney #1
6.
7. Muskingom, OH
8. 2.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1.. 79–12498
2. 34–115–21129–0014
3. 108
4. Cameron Brothers
5. George Howard #1
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12499
2. 34–115–21131–0014
3. 108
4. Cameron Brothers
5. George Howard #2
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12500
2. 34–115–21132–0014
3. 108
4. Cameron Brothers
5. George Howard #3
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12501
2. 34–115–21189–0014
3. 108
4. Cameron Brothers
5. George Howard #4
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12502
2. 34–115–21130–0014
3. 108
4. Cameron Brothers
5. Glen Parsons #1
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12503
2. 34–115–21285–0014
3. 108
4. Cameron Brothers
5. Glen Parsons #2
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12504
2. 34–115–21284–0014
3. 108
4. Cameron Brothers
5. Glen Parsons #3
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12505
2. 34–115–21283–0014
3. 108
4. Cameron Brothers
5. Glen Parsons #4
6.
7. Morgan OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12506
2. 34–115–21094–0014
3. 108
4. Cameron Brothers
5. Ralph Wood #1
6.
7. Morgan OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12507
2. 34–115–21114–0014
3. 108
4. Cameron Brothers
5. Ralph Wood #2
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12508
2. 34–115–21206–0014
3. 108
4. Cameron Brothers
5. Clayton Murphy #3
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12509
2. 34–115–21124–0014
3. 108
4. Cameron Brothers
5. Blaine Hart #1
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12510
2. 34–115–21139–0014
3. 108
4. Cameron Brothers
5. Blaine Hart #3
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12511
2. 34–115–21148–0014
3. 108
4. Cameron Brothers
5. Blaine Hart #5
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12512
2. 34–115–21194–0014
3. 108
4. Cameron Brothers
5. Blaine Hart #6
6.
7. Morgan, OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12513
2. 34–115–21149–0014
3. 108
4. Cameron Brothers
5. Wayne Adrian #2
6.
7. Morgan, OH
8. 4.0 million cubic feet

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9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12514
2. 34–119–22782–0014
3. 108
4. Cameron Brothers
5. Montgonery #1
6.
7. Muskingum, OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12515
2. 34–105–21401–0014
3. 108
4. Cameron Brothers
5. Walker #1
6.
7. Meigs, OH
8. 4.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12516
2. 34–115–21192–0014
3. 108
4. Cameron Brothers
5. Lillian Newburn #1
6.
7. Morgan, OH
8. 2.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12517
2. 34–119–23234–0014
3. 108
4. Cameron Brothers
5. Billy Shirer #1
6.
7. Muskingum, OH
8. 3.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79–12518
2. 34–133–21698–0014
3. 103
4. Jud Noble and Associates Inc
5. Phile McKown Unit #1
6.
7. Portage, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79–12519
2. 34–133–21700–0014
3. 103
4. Jud Noble and Associates Inc
5. Bauman #1
6.
7. Portage, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79–12520
2. 34–133–21697–0014
3. 103
4. Jud Noble and Associates Inc
5. Phile-McKown Unit #3
6.
7. Portage, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79–12521
2. 34–133–21699–0014
3. 103
4. Jud Noble and Associates Inc
5. Phile-McKown Unit #2
6.
7. Portage, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79–12522
2. 34–133–21821–0014
3. 103
4. Jud Noble and Associates Inc
5. Dria #3
6.
7. Portage, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79–12523
2. 34–119–24100–0014
3. 103
4. Charles O Lighthizer
5. Spiker Well #3
6. Dwight E Spiker Farm
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas
1. 79–12524
2. 34–119–24063–0014
3. 103
4. Charles O Lighthizer
5. Spiker Well #2
6. Dwight E Spiker Farm
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas
1. 79–12525
2. 34–119–23981–0014
3. 103
4. Charles O Lighthizer
5. Skinner Well #2
6. Wilbur Skinner Farm
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas
1. 79–12526
2. 34–119–24300–0014
3. 103
4. Charles O Lighthizer
5. Miller Well #3
6. Harold & Dorothy Miller Farm
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas
1. 79–12527
2. 34–119–20531–0014
3. 103
4. Charles O Lighthizer
5. Marshall Well #1
6. Marshall Farm
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas
1. 79–12528
2. 34–119–20343–0014
3. 103
4. Charles O Lighthizer
5. Lightizer #5
6. Charles Lightizer
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas
1. 79–12529
2. 34–119–23987–0014
3. 103
4. Charles O Lighthizer
5. Skinner #3
6. Wilbur C Skinner Farm
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas
1. 79–12530
2. 34–119–22586–0014
3. 103
4. Charles O Lighthizer
5. Stayner Well #1
6. Thomas Stayner Farm
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10. Leader Equities
1. 79–12531
2. 34–089–23564–0014
3. 103
4. Mid-Con Oil Company
5. Whited Well #4
6.
7. Bowling Green TWP Lioh
8. 8.0 million cubic feet
9. July 12, 1979
10. National Gas & Oil Company
1. 79–12532
2. 34–167–24588–0014
3. 103
4. Quadrant Exploration
5. Eugene & Easter REA—Well #2
6.
7. Washington, OH
8. 54.0 million cubic feet
9. July 12, 1979
10.
1. 79–12533
2. 34–167–24587–0014
3. 103
4. Quadrant Exploration
5. Eugene & Easter REA #1
6.
7. Washington, OH
8. 54.0 million cubic feet
9. July 12, 1979
10.
1. 79–12534
2. 34–127–24044–0014
3. 103
4. Bethel Resources Inc
5. James Allison #1
6.
7. Perry, OH
8. 12.0 million cubic feet
9. July 12, 1979
10. Enterprise Oil and Gas Company
1. 79–12535
2. 34–127–24227–0014
3. 103
4. Bethel Resources Inc
5. Russell Presgraves #1
6.
7. Perry, OH
8.12.0 million cubic feet
9. July 12, 1979

10. Columbia Gas Transmission Corporation
1. 79–12536
2. 34–127–23967–0014
3. 103
4. Bethel Resources Inc
5. B B Spohn #2
6.
7. Perry, OH
8. 12.0 million cubic feet
9. July 12, 1979
10. Foraker Gas Company
1. 79–12537
2. 34–127–24052–0014
3. 103
4. Bethel Resources Inc
5. Dwight S Allen #1
6.
7. Perry, OH
8. 12.0 million cubic feet
9. July 12, 1979
10. Foraker Gas Company
1. 79–12538
2. 34–127–23968–0014
3. 103
4. Bethel Resources Inc
5. B B Spohn #3
6.
7. Perry, OH
8. 12.0 million cubic feet
9. July 12, 1979
10. Foraker Gas Company
1. 79–12539
2. 34–127–24223–0014
3. 103
4. Bethel Resources Inc
5. Walter Rabenstein #2
6.
7. Perry, OH
8. 12.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corporation
1. 79–12540
2. 34–031–23413–0014
3. 103
4. Seventh St Investment Assoc
5. Maynard Conkle #1
6.
7. Coshocton OH
8. 28.0 million cubic feet
9. July 12, 1979
10.
1. 79–12541
2. 34–031–23407–0014
3. 103
4. Seventh St Investment Assoc
5. Conkle Trustees #1
6.
7. Coshocton OH
8. 28.0 million cubic feet
9. July 12, 1979
10.
1. 79–12542
2. 34–031–23411–0014
3. 103
4. Seventh St Investment Assoc
5. Conkle Trustees #3
6.
7. Coshocton OH
8. 28.0 million cubic feet
9. July 12, 1979
10.
1. 79–12543
2. 34–031–23408–0014
3. 103
4. Seventh St Investment Assoc
5. Conkle Trustees #4
6.
7. Coshocton OH
8. 28.0 million cubic feet
9. July 12, 1979
10.
1. 79–12544
2. 34–059–22345–0014
3. 103
4. Enterprise Gas & Oil Inc
5. M Rogers #4
6.
7. Guernsey OH
8. 29.2 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12545
2. 34–059–22412–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Ryan McElroy #1
6.
7. Guernsey OH
8. 29.2 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12546
2. 34–059–22344–0014
3. 103
4. Enterprise Gas & Oil Inc
5. M Rogers #3
6.
7. Guernsey OH
8. 32.8 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12547
2. 34–059–22301–0014
3. 103
4. Enterprise Gas & Oil Inc
5. M Rogers-Hilton Heirs #1
6.
7. Guernsey OH
8. 18.2 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12548
2. 34–059–22342–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Tolley Etal #2
6.
7. Guernsey OH
8. 14.6 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12549
2. 34–059–22337–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Tolley Etal #1
6.
7. Guernsey OH
8. 25.5 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12550
2. 34–059–22323–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Buckey #1
6.
7. Guernsey OH
8. 7.3 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12551
2. 34–059–22229–0014
3. 103
4. Enterprise Gas & Oil Inc
5. G Rogers #1
6.
7. Guernsey OH
8. 10.9 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12552
2. 34–059–22228–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Nicholson-Thorla #1
6.
7. Guernsey OH
8. 91.2 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12553
2. 34–059–22320–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Potts #2
6.
7. Guernsey OH
8. 36.5 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12554
2. 34–059–22192–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Wagler #3
6.
7. Guernsey OH
8. 45.6 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12555
2. 34–059–22193–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Wagler #2
6.
7. Guernsey OH
8. 146.0 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12556
2. 34–059–22357–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Wagler #4–A
6.
7. Guernsey OH
8. 91.2 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co
1. 79–12557
2. 34–169–22140–0014
3. 103
4. Sheldon L Turrill
5. Kocsis #1
6.
7. Wayne OH
8. 100.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company

1. 79-12558
2. 34-169-22152-0014
3. 103
4. Smith Shafer Smith
5. William Moore #1
6.
7. Wayne OH
8. 26.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12559
2. 34-169-22156-0014
3. 103
4. Smith Shafer Smith
5. William Moore #2
6.
7. Wayne OH
8. 26.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12560
2. 34-053-20387-0014
3. 103
4. Adams Drilling Company
5. Clinton Jones #1
6.
7. Gallia OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12561
2. 34-059-22325-0014
3. 103
4. Enterprise Gas & Oil Inc
5. B Ramage #2
6.
7. Guernsey OH
8. 36.5 million cubic feet
9. July 12, 1979
10. Owens-Illinois Glass Co

1. 79-12562
2. 34-059-22551-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Fisk Etal #1
6.
7. Guernsey OH
8. 36.5 million cubic feet
9. July 12. 1979
10.

1. 79-12563
2. 34-083-22524-0014
3. 103
4. Clinton Oil Company
5. Waldo Blue #2
6.
7. Knox OH
8. 30.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12564
2. 34-119-24155-0014
3. 103
4. Clinton Oil Company
5. M Foster #2
6.
7. Muskingum OH
8. 35.0 million cubic feet
9. July 12, 1979
10. National Gas

1. 79-12565
2. 34-119-24154-0014
3. 103
4. Clinton Oil Company
5. Carl Milner #1
6.
7. Muskingum OH
8. 30.0 million cubic feet
9. July 12, 1979
10. National Gas

1. 79-12566
2. 34-133-21749-0014
3. 103
4. Viking Resources Corporation
5. A Grace #3
6.
7. Portage OH
8. 30.0 million cubic feet
9. July 12, 1979
10.

1. 79-12567
2. 34-133-21683-0014
3. 103
4. Viking Resources Corporation
5. W P & N J Smith #1
6.
7. Portage OH
8. 30.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12568
2. 34-133-21681-0014
3. 103
4. Viking Resources Corporation
5. W P & N J Smith #2
6.
7. Portage OH
8. 30.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12569
2. 34-133-21682-0014
3. 103
4. Viking Resources Corporation
5. W P & N J Smith #3
6.
7. Portage OH
8. 30.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12570
2. 34-167-24595-0014
3. 103
4. Quadrant Exploration
5. William Ferrell—Well #6
6.
7. Washington OH
8. 50.0 million cubic feet
9. July 12, 1979
10.

1. 79-12571
2. 34-075-22032-0014
3. 103
4. Vescorp Industries Inc
5. Fair #1
6.
7. Holmes OH
8. 4.0 million cubic feet
9. July 12, 1979
10. John C Mason

1. 79-12572
2. 34-075-22031-0014
3. 103
4. Vescorp Industries Inc
5. Ottmar Gallion #1
6.
7. Holmes OH
8. 20.0 million cubic feet
9. July 12, 1979
10. John C Mason

1. 79-12573
2. 34-075-22107-0014
3. 103
4. A Producing Company
5. James Hall Well #1
6.
7. Holmes OH
8. 22.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp

1. 79-12574
2. 34-127-24180-0014
3. 103
4. Jerry C Olds
5. David J Lewis #1
6.
7. Perry OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Columbia Transmission Corp

1. 79-12575
2. 34-031-23038-0014
3. 103
4. Jerry Moore Inc
5. John C Conkle #1
6. Clark
7. Coshocton OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission

1. 79-12576
2. 34-031-23248-0014
3. 103
4. Jerry Moore Inc
5. P David Apple #2
6. West Lafayette
7. Coshocton OH
8. 1.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission

1. 79-12577
2. 34-133-21532-0014
3. 103
4. Jerry Moore Inc
5. John Danko #1
6. Atwater
7. Portage OH
8. 36.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company

1. 79-12578
2. 34-133-21530-0014
3. 103
4. Jerry Moore Inc
5. John Danko #2
6. Atwater
7. Portage OH
8. 36.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company

1. 79-12579
2. 34-133-21531-0014
3. 103
4. Jerry Moore Inc
5. John Danko #3
6. Atwater
7. Portage OH
8. 36.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company

1. 79-12580

2. 34-031-22996-0014
3. 103
4. Jerry Moore Inc
5. David Shawver #2
6. Clark
7. Coshocton OH
8. 2.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission

1. 79-12581
2. 34-031-22997-0014
3. 103
4. Jerry Moore Inc
5. David Shawver #1
6. Clark
7. Coshocton OH
8. 2.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission

1. 79-12582
2. 34-157-23309-0014
3. 103
4. Stocker & Sitler Inc
5. No 2 Dayton Specht Unit
6.
7. Tuscarawas OH
8. 28.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Co

1. 79-12583
2. 34-157-23132-0014
3. 103
4. Stocker & Sitler Inc
5. No 1 Burky Lease
6.
7. Tuscarawas OH
8. 18.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Co

1. 79-12584
2. 34-157-23319-0014
3. 103
4. Stocker & Sitler Inc
5. No 1 Auman Unit
6.
7. Tuscarawas OH
8. 20.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Co

1. 79-12585
2. 34-157-23310-0014
3. 103
4. Stocker & Sitler Inc
5. No 1 Robeson Unit
6.
7. Tuscarawas OH
8. 23.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Co

1. 79-12586
2. 34-157-23305-0014
3. 103
4. Stocker & Sitler Inc
5. No 1 Lowell Specht Unit
6.
7. Tuscarawas OH
8. 26.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Co

1. 79-12587
2. 34-119-24719-0014
3. 103
4. Wilson Petroleum Corporation
5. Birchfield-Harris No 1
6.
7. Muskingum OH
8. 24.0 million cubic feet
9. July 12, 1979
10. National Gas & Oil Corp

1. 79-12588
2. 34-151-22996-0014
3. 103
4. Buckeye Oil Producing Co
5. Miller-Volkmann Unit #2
6.
7. Stark OH
8. 18.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12589
2. 34-075-22181-0014
3. 103
4. Buckeye Oil Producing Co
5. Levi Hershberger #1
6.
7. Holmes OH
8. 18.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12590
2. 34-073-22047-0014
3. 103
4. Oxford Oil Co
5. Ellen Lehman #1
6.
7. Hocking OH
8. 9.0 million cubic feet
9. July 12, 1979
10.

1. 79-12591
2. 34-119-24535-0014
3. 103
4. Oxford Oil Co
5. Charles Gleich #1
6.
7. Muskingum OH
8. 9.0 million cubic feet
9. July 12, 1979
10.

1. 79-12592
2. 34-115-21793-0014
3. 103
4. Oxford Oil Co
5. Harold Frash #1
6.
7. Morgan OH
8. 9.0 million cubic feet
9. July 12, 1979
10.

1. 79-12593
2. 34-099-21165-0014
3. 103
4. Buckeye Oil Producing Co
5. Kilmer #2
6.
7. Mahoning OH
8. 18.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12594
2. 34-059-22491-0014
3. 103
4. Enterprise Gas & Oil Inc
5. McElroy #1
6.
7. Guernsey OH
8. 91.2 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12595
2. 34-059-22485-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Turner #1
6.
7. Guernsey OH
8. 36.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12596
2. 34-059-22418-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Milligan #1
6.
7. Guernsey OH
8. 182.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12597
2. 34-059-22457-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Gibson-Postlethwait #1
6.
7. Guernsey OH
8. 146.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12598
2. 34-119-24710-0014
3. 103
4. Oxford Oil Co
5. Paul Brent #1
6.
7. Muskingum OH
8. 9.0 million cubic feet
9. July 12, 1979
10.

1. 79-12599
2. 34-083-22525-0014
3. 103
4. Apex Natural Gas Company Inc
5. Kenneth Swendal #4
6.
7. Knox OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Corp

1. 79-12600
2. 34-009-21914-0014
3. 103
4. Reliance Management Co
5. Sunday Creek Coal Co #45R
6.
7. Athens OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12601
2. 34-121-22113-0014
3. 103
4. Green Gas Co
5. Ohio Power-Big Ley #2
6.
7. Noble OH
8. 1.3 million cubic feet
9. July 12, 1979
10. The East Ohio Gas

1. 79-12602
2. 34-121-22112-0014

3. 103
4. Green Gas Co
5. Ohio Power-Nesbitt #1
6.
7. Noble OH
8. 1.6 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Co

1. 79-12603
2. 34-169-22122-0014
3. 103
4. Royal Petroleum II Ltd
5. Amstutz #2
6.
7. Wayne OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12604
2. 34-169-22121-0014
3. 103
4. Royal Petroleum II Ltd
5. Amstutz #1
6.
7. Wayne County OH
8. 4.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12605
2. 34-099-20937-0014
3. 103
4. Continental Natural Gas
5. Sternberg Unit #1
6.
7. Mahoning OH
8. 21.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company

1. 79-12606
2. 34-099-21000-001
3. 103
4. Continental Natural Gas
5. Dykema #1
6.
7. Mahoning OH
8. 21.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company

1. 79-12607
2. 34-099-20996-0014
3. 103
4. Continental Natural Gas
5. Fusek #1
6.
7. Mahoning OH
8. 21.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12608
2. 34-099-21030-0014
3. 103
4. Continental Natural Gas
5. McCreary #1
6.
7. Mahoning OH
8. 21.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company

1. 79-12609
2. 34-133-21801-0014
3. 103
4. Viking Resources Corporation
5. Wilcox Unit #2
6.
7. Portage OH
8. 30.0 million cubic feet
9. July 12, 1979
10.

1. 79-12610
2. 34-121-22132-0014
3. 103
4. Tiger Oil Inc
5. Cliff Edmisten #1
6.
7. Noble OH
8. 25.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company

1. 79-12611
2. 34-053-20426-0014
3. 103
4. Altheirs Oil Inc
5. Shuler #1
6.
7. Gallia
8. 12.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12612
2. 34-105-21789-0014
3. 103
4. BJVC Energy Management Corp
5. Edith Lambert #1
6.
7. Meigs OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12613
2. 34-089-23595-0014
3. 103
4. Altheirs Oil Inc
5. L Ashcraft #1
6. Fallsbury Twp
7. Licking OH
8. 10.0 million cubic feet
9. July 12, 1979
10. National Oil and Gas

1. 79-12614
2. 34-031-23469-0014
3. 103
4. Joe L Schrimsher
5. Archie Williamson #2
6.
7. Coshocton OH
8. 20.0 million cubic feet
9. July 12, 1979
10.

1. 79-12615
2. 34-133-21695-0014
3. 103
4. Kor-Kel Resources
5. Kor-Kel Resources No. 1
6. Deerfield
7. Portage OH
8. 25.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12616
2. 34-089-23605-0014
3. 103
4. Reliance Management Co
5. R Grove #1
6.
7. Licking OH
8. 10.0 million cubic feet
9. July 12, 1979
10. New Zane Gas Co

1. 79-12617
2. 34-169-22094-0014
3. 103
4. Ohio Natural Fuel Co
5. Eick #1
6.
7. Wayne OH
8. 25.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12618
2. 34-031-23498-0014
3. 103
4. Conpetro Inc
5. Althea Braniger #1A
6.
7. Coshocton OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12619
2. 34-099-21196-0014
3. 103
4. Rowley & Brown Petroleum Corp
5. Tuxford #1
6.
7. Mahoning OH
8. 27.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company

1. 79-12620
2. 34-155-21148-0014
3. 103
4. Janco Well Operations
5. Albert Wickley #1
6.
7. Trumbull OH
8. 70.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12621
2. 34-155-21151-0014
3. 103
4. Janco Well Operations
5. Plalan Lake Unit #1
6.
7. Trumbull OH
8. 60.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12622
2. 34-083-22437-0014
3. 103
4. Harold Sparks
5. Wallice Byler Well #1
6.
7. Knox OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12623
2. 34-083-22418-0014
3. 103
4. Harold Sparks
5. Tom Hamelton Well #2
6.
7. Knox OH
8. 3.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12624
2. 34-133-21727-0014
3. 103
4. Viking Resources Corporation

5. Phillips & Mayfield #1
6.
7. Portage OH
8. 30.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12625
2. 34-169-22141-0014
3. 103
4. Sheldon L Turrill
5. Kocsis #2
6.
7. Wayne OH
8. 100.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12626
2. 34-133-21728-0014
3. 103
4. Viking Resources Corporation
5. Phillips & Mayfield #2
6.
7. Portage OH
8. 30.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company

1. 79-12627
2. 34-133-21837-0014
3. 103
4. Viking Resources Corporation
5. Summit County Field & Stream #2
6.
7. Portage OH
8. 30.0 million cubic feet
9. July 12, 1979
10.

1. 79-12628
2. 34-133-21836-0014
3. 103
4. Viking Resources Corporation
5. Summit Co Field & Stream #1
6.
7. Portage OH
8. 30.0 million cubic feet
9. July 12, 1979
10.

1. 79-12629
2. 34-099-21931-0014
3. 103
4. R Wolfe Oil & Gas
5. Linscott #1 P 1931
6.
7. Athens OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Company

1. 79-12630
2. 34-083-22565-0014
3. 103
4. Maram Energy Co
5. Speelman #1
6.
7. Knox OH
8. 12.0 million cubic feet
9. July 12, 1979
10.

1. 79-12631
2. 34-083-21381-0014
3. 103
4. Maram Energy Co
5. Wears #1
6.
7. Knox OH
8. 12.0 million cubic feet
9. July 12, 1979
10.

1. 79-12632
2. 34-119-24738-0014
3. 103
4. Cameron Bros
5. Robert Hicks #1
6.
7. Muskingum OH
8. 9.0 million cubic feet
9. July 12, 1979
10.

1. 79-12633
2. 34-103-21967-0014
3. 103
4. Flint Oil & Gas Inc
5. (2112) O & M Grim #1
6.
7. Medina OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12634
2. 34-103-21984-0014
3. 103
4. Flint Oil & Gas Inc
5. (2113) F & G Shaw #1
6.
7. Medina OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12635
2. 34-103-21991-0014
3. 103
4. Flint Oil & Gas Inc
5. (2181) Geisinger Unit #1
6.
7. Medina OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12636
2. 34-103-21988-0014
3. 103
4. Flint Oil & Gas Inc
5. (2212) Lytle-Hovanec Unit #1
6.
7. Medina OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12637
2. 34-103-21987-0014
3. 103
4. Flint Oil & Gas Inc
5. (2213) Lytle-Hovanec Unit #2
6.
7. Medina OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12638
2. 34-103-21985-0014
3. 103
4. Flint Oil & Gas Inc
5. (2214) Blake Packard et ux #1
6.
7. Medina OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12639
2. 34-103-21992-0014
3. 103
4. Flint Oil & Gas Inc
5. (2216) F & G Shaw #2
6.
7. Medina OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12640
2. 34-103-22004-0014
3. 103
4. Flint Oil & Gas Inc
5. (2238) Fern E Kreiner #1
6.
7. Medina OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12641
2. 34-099-21160-0014
3. 103
4. Roebling Energy Corporation
5. Schaade #4 well
6.
7. Mahoning OH
8. 9.0 million cubic feet
9. July 12, 1979
10.

1. 79-12642
2. 34-127-24289-0014
3. 103
4. John Tansky
5. Jimmy Moore #1
6.
7. Perry OH
8. 18.0 million cubic feet
9. July 12, 1979
10.

1. 79-12643
2. 34-151-22937-0014
3. 103
4. Reliance Management Co
5. Charles Gonter #1
6.
7. Stark OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12645
2. 34-151-22970-0014
3. 103
4. Viking Resources Corporation
5. Willis #2
6.
7. Stark OH
8. 30.0 million cubic feet
9. July 12, 1979
10.

1. 79-12646
2. 34-167-24457-0014
3. 103
4. Bauman Oil & Gas Co Inc
5. Bauman-Brown-Toomey #1
6.
7. Washington OH
8. 18.0 million cubic feet
9. July 12, 1979
10. River Gas Co

1. 79-12647
2. 34-167-24456-0014
3. 103
4. Bauman Oil & Gas Co Inc
5. Bauman-Brown-Toomey #2

6.
7. Washington OH
8. 18.0 million cubic feet
9. July 12, 1979
10. River Gas Co
1. 79-12648
2. 34-155-20801-0014
3. 103
4. Flint Oil & Gas Inc
5. (2117) W Brown Unit #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12649
2. 34-155-20777-0014
3. 103
4. Flint Oil & Gas Inc
5. (2116) Daniel Walker et ux #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12650
2. 34-155-20828-0014
3. 103
4. Flint Oil & Gas Inc
5. (2115) W Webb et ux #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12651
2. 34-155-20778-0014
3. 103
4. Flint Oil & Gas Inc
5. (2114) Joseph Owens et ux #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12652
2. 34-155-20905-0014
3. 103
4. Flint Oil & Gas Inc
5. (2134) Kathryn Pierce Unit #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12653
2. 34-155-20904-0014
3. 103
4. Flint Oil & Gas Inc
5. (2135) Kathryn Pierce Unit #2
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12654
2. 34-155-20933-0014
3. 103
4. Flint Oil & Gas Inc
5. (2154) Raymond Ratell et ux #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12655
2. 34-155-20928-0014
3. 103
4. Flint Oil & Gas Inc
5. (2248) D Wolfe Unit #2
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12656
2. 34-169-22119-0014
3. 103
4. US Fuel Development Co
5. Emma Bowman #1
6.
7. Wayne OH
8. 3.2 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12657
2. 34-167-24595-0014
3. 103
4. Quadrant Exploration
5. William Ferrell—Well #6
6.
7. Washington OH
8. 50.0 million cubic feet
9. July 12, 1979
10.
1. 79-12658
2. 34-167-24594-0014
3. 103
4. Quadrant Exploration
5. William & Joetta Ferrell—Well #5
6.
7. Washington OH
8. 54.0 million cubic feet
9. July 12, 1979
10.
1. 79-12659
2. 34-155-20767-0014
3. 103
4. Flint Oil & Gas Inc
5. (2118) John Armstrong et ux #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12660
2. 34-155-20975-0014
3. 103
4. Flint Oil & Gas Inc
5. (2031) L Thomas Unit #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12661
2. 34-155-20756-0014
3. 103
4. Flint Oil & Gas Inc
5. (2119) Reel Unit #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12662
2. 34-155-20775-0014
3. 103
4. Flint Oil & Gas Inc
5. (2120) Reel Unit #2
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12663
2. 34-155-20779-0014
3. 103
4. Flint Oil & Gas Inc
5. (2123) Szepietowski Unit #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12664
2. 34-155-21000-0014
3. 103
4. Flint Oil & Gas Inc
5. (2124) Foltz Unit #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12665
2. 34-155-20876-0014
3. 103
4. Flint Oil & Gas Inc
5. (2128) Andrew Yount Et Ux #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12666
2. 34-155-20847-0014
3. 103
4. Flint Oil & Gas Inc
5. (2130) Rudy Perich #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12667
2. 34-155-20894-0014
3. 103
4. Flint Oil & Gas Inc
5. (2131) Donald Wolfe Et Ux #1
6.
7. 20.0 million cubic feet
8. Trumbull, OH
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12668
2. 34-155-20899-0014
3. 103
4. Flint Oil & Gas Inc
5. (2132) D Wolfe Unit #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12669
2. 34-155-20874-0014
3. 103
4. Flint Oil & Gas Inc
5. (2133) Adam Miller Et Ux #1
6.

7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12670
2. 34-157-23288-0014
3. 103
4. William N Tipka
5. D Gowins #1
6.
7. Tuscarawas, OH
8. 36.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co, American Energy Services Inc
1. 79-12671
2. 34-157-23302-0014
3. 103
4. William N Tipka
5. Spring Unit #1
6.
7. Tuscarawas, OH
8. 40.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co, American Energy Services Inc
1. 79-12672
2. 34-157-23287-0014
3. 103
4. William N. Tipke
5. Spring Unit #2
6.
7. Tuscarawas, OH
8. 35.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co, American Energy Services Inc
1. 79-12673
2. 34-119-24667-0014
3. 103
4. Hopco Resources Inc
5. Betty Rambo #3
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. July 12, 1979
10.
1. 79-12674
2. 34-075-22136-0014
3. 103
4. Hortin & Huffman
5. Fred & Evelyn F Clark #1
6.
7. Holmes, OH
8. 2.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Co
1. 79-12675
2. 34-083-22569-0014
3. 103
4. Hortin & Huffman
5. Robert K & Ruby Kauffman #2
6.
7. Knox, OH
8. 2.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Co
1. 79-12676
2. 34-103-21946-0014
3. 103
4. Leslie Oil and Gas Co Inc
5. Leonard #1
6.
7. Medina, OH
8. 3.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Corporation
1. 79-12677
2. 34-119-24654-0014
3. 103
4. Hopewell Oil & Gas Dev Co
5. Lewis & B Walker & Floy Fulks #1
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. July 12, 1979
10.
1. 79-12678
2. 34-119-24646-0014
3. 103
4. Hopewell Oil & Gas Development Co
5. Pandy-Himmelspach #1
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. July 12, 1979
10.
1. 79-12679
2. 34-119-24567-0014
3. 103
4. Hopewell Oil & Gas Development Co
5. Milman Linn #1
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. July 12, 1979
10.
1. 79-12680
2. 34-119-24655-0014
3. 103
4. Hopewell Oil & Gas Dev Company
5. Eugene & Evelyn Mock #1
6.
7. Muskingum, OH
8. 12.0 million cubic feet
9. July 12, 1979
10.
1. 79-12681
2. 34-155-20974-0014
3. 103
4. Ohio Industrial Energy Inc
5. Trumbull County No 5A—#1142
6.
7. Trumbull, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp, Copperwald Steel Co, Ohio Steel Tube
1. 79-12682
2. 34-155-20993-0014
3. 103
4. Ohio Industrial Energy Inc
5. Morrison Unit No 1—#1147
6.
7. Trumbull, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube
1. 79-12683
2. 34-121-22013-0014
3. 103
4. Green Gas Company
5. Ohio Power-Wigley Bigley #1
6.
7. Noble, OH
8. 32.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12684
2. 34-119-24061-0014
3. 103
4. Green Gas Company
5. Valley-Knigely #3
6.
7. Muskingum, OH
8. 30.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12685
2. 34-067-20346-0014
3. 103
4. Kst Oil & Gas Co Inc
5. J & J Bear #1
6.
7. Harrison, OH
8. 36.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12686
2. 34-157-23327-0014
3. 103
4. Wayne Hammond
5. Miller No 1
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company
1. 79-12687
2. 34-169-22006-0014
3. 103
4. Berman J Shafer
5. Butzer #2
6.
7. Wayne, OH
8. 26.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12688
2. 34-031-23175-0014
3. 103
4. Ralph H Hamblin
5. #1 Fox-Fesler
6.
7. Coshocton, OH
8. 30.0 million cubic feet
9. July 12, 1979
10.
1. 79-12689
2. 34-105-21796-0014
3. 103
4. Jack W Crisp & Glenna R Crisp
5. Crisp #1
6. Salem
7. Meigs, OH
8. 3.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission
1. 79-12690
2. 34-103-22019-0014
3. 103
4. Smith Shafer Smith
5. S & J Rebick No 1
6.
7. Medina, OH
8. 27.4 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12691
2. 34-103-21972-0014

3. 103
4. Smith Shafer Smith
5. R J Praisler No 1
6.
7. Medina, OH
8. 27.4 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12692
2. 34-103-22020-0014
3. 103
4. Smith Shafer Smith
5. Skorichenko No 1
6.
7. Medina, OH
8. 27.4 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12693
2. 34-119-24114-0014
3. 103
4. Callander & Kimbrel
5. Pidcock #4
6.
7. Muskingum, OH
8. 18.2 million cubic feet
9. July 12, 1979
10.
1. 79-12694
2. 34-059-22093-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Howell #1
6.
7. Guernsey, OH
8. 18.2 million cubic feet
9. July 12, 1979
10. Owens Illinois Glass Co
1. 79-12695
2. 34-053-20289-0014
3. 103
4. Helen & J L Coats
5. H C & Anna R Waugh #1
6.
7. Gallia, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12696
2. 34-067-20340-0014
3. 103
4. J S Marfy and Neeg Gmbh
5. Rutledge #3
6.
7. Harrison, OH
8. .0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co
1. 79-12697
2. 34-067-20342-0014
3. 103
4. J S Marfy and Neeg Gmbh
5. Rutledge #1
6.
7. Harrison, OH
8. 7.3 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co
1. 79-12698
2. 34-067-20332-0014
3. 103
4. J S Marfy and Neeg Gmbh
5. McCauley et al #1
6.
7. Harrison, OH
8. 36.5 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co
1. 79-12699
2. 34-059-22097-0014
3. 103
4. Appalachian Exploration Inc
5. H Ross #1
6.
7. Guernsey, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. American Energy Services Inc
1. 79-12700
2. 34-121-22014-0014
3. 103
4. Green Gas Company
5. Cecil Cain #4
6.
7. Noble, OH
8. 31.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12701
2. 34-119-23961-0014
3. 103
4. Williston Oil & Development Corp
5. Jimmy Barnhouse—1MD
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. July 12, 1979
10.
1. 79-12702
2. 34-119-24617-0014
3. 103
4. Williston Oil & Development Corp
5. Campbell #4
6.
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10.
1. 79-12703
2. 34-119-24579-0014
3. 103
4. Williston Oil & Development Corp
5. Campbell #3
6.
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10.
1. 79-12704
2. 34-119-24522-0014
3. 103
4. Williston Oil & Development Corp
5. Campbell #2
6.
7. Muskingum, OH
8. .0 million cubic feet
9. July 12, 1979
10.
1. 79-12705
2. 34-119-24519-0014
3. 103
4. Williston Oil & Development Corp
5. Campbell #1
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. July 12, 1979
10.
1. 79-12706
2. 34-119-24724-0014
3. 103
4. Williston Oil & Development Corp
5. Dale Dingey #4
6.
7. Muskingom, OH
8. 14.6 million cubic feet
9. July 12, 1979
10.
1. 79-12707
2. 34-059-22268-0014
3. 103
4. Appalachian Exploration Inc
5. Perry #2
6.
7. Guernsey, OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Consolidated Aluminum Corp
1. 79-12708
2. 34-031-23398-0014
3. 103
4. Edco Drilling & Producing Inc
5. SC-4C Shrimplin
6.
7. Coshocton, OH
8. 18.3 million cubic feet
9. July 12, 1979
10.
1. 79-12709
2. 34-031-23378-0014
3. 103
4. Edco Drilling & Producing Inc
5. SC-3C Shrimplin
6.
7. Coshocton, OH
8. 18.3 million cubic feet
9. July 12, 1979
10.
1. 79-12710
2. 34-031-23063-0014
3. 103
4. Edco Drilling & Producing Inc
5. 1B Harmon
6.
7. Coshocton, OH
8. 18.3 million cubic feet
9. July 12, 1979
10.
1. 79-12711
2. 34-031-23434-0014
3. 103
4. Edco Drilling & Producing Inc
5. SC-3A Williamson
6.
7. Coshocton, OH
8. 18.3 million cubic feet
9. July 12, 1979
10.
1. 79-12712
2. 34-099-21166-0014
3. 103
4. Pioneer Oil Company
5. Boy Scouts of America #1-78-1
6.
7. Mahoning, OH
8. 100.0 million cubic feet
9. July 12, 1979
10. Columbia Gas of Ohio
1. 79-12713
2. 34-115-21702-0014
3. 103
4. MTD-OPI Oil & Gas Ltd

5. John Hill #1
6.
7. Morgan, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12714
2. 34-115-21620-0014
3. 103
4. MTD-OPI Gas & Oil Ltd
5. Forest Knox #3
6.
7. Morgan, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12715
2. 34-115-21643-0014
3. 103
4. MTD-OPI Gas & Oil Ltd
5. Paul Childs #2
6.
7. Morgan, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12716
2. 34-115-21619-0014
3. 103
4. MTD-OPI Gas Oil Ltd
5. Forest Knox #2
6.
7. Morgan, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12717
2. 34-151-22985-0014
3. 103
4. Franklin Gas & Oil Co Inc
5. Margaret R Maxfield No 1
6.
7. Stark, OH
8. 36.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12718
2. 34-151-22986-0014
3. 103
4. Franklin Gas & Oil Co Inc
5. Betty L Nofsinger No 1
6.
7. Stark, OH
8. 36.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12719
2. 34-151-22987-0014
3. 103
4. Franklin Gas & Oil Company Inc
5. Sheldon L Bates Unit No 1
6.
7. Stark, OH
8. 36.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12720
2. 34-127-24246-0014
3. 103
4. Reliance Management Co
5. Frank Owen #1
6.
7. Perry, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12721
2. 34-151-22833-0014
3. 103
4. Nucorp Energy Company
5. Leeman-Baker Unit Well #1
6.
7. Stark County, OH
8. 12.0 million cubic feet
9. July 12, 1979
10. Anchor Hocking Corporation
1. 79-12722
2. 34-133-21537-0014
3. 103
4. Nucorp Energy Company
5. Carlisle-Pollock Unit Well #1
6.
7. Portage County, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Anchor Hocking Corporation
1. 79-12723
2. 34-151-22816-0014
3. 103
4. Nucorp Energy Company
5. Baker Well #1
6.
7. Stark County, OH
8. 12.0 million cubic feet
9. July 12, 1979
10. Anchor Hocking Corporation
1. 79-12724
2. 34-119-24728-0014
3. 103
4. Reliance Management Co
5. John Mattingly #1
6.
7. Muskingum, OH
8. 15.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12725
2. 34-133-21538-0014
3. 103
4. Nucorp Energy Company
5. Brosius-Carlisle-Pollock Unit #1
6.
7. Portage County, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12726
2. 34-009-21944-0014
3. 103
4. Trend Exploration Ltd
5. Trend #2 Malone Unit
6. Coolville
7. Athens, OH
8. 6.2 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12727
2. 34-009-21939-0014
3. 103
4. Trend Exploration Ltd
5. Trend #1 Thompson
6. Coolville
7. Athens, OH
8. 11.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12728
2. 34-075-22099-0014
3. 103
4. Don Gross
5. Landon No 1
6.
7. Holmes, OH
8. 18.3 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12729
2. 34-175-22101-0014
3. 103
4. Dart Oil Company
5. Paul Miller No 1
6.
7. Holmes, OH
8. 30.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12730
2. 34-133-21827-0014
3. 103
4. Dart Oil Company
5. Pierce No 1
6.
7. Portage, OH
8. 35.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company
1. 79-12731
2. 34-133-21777-0014
3. 103
4. Dart Oil Company
5. Woodward No 1
6.
7. Portage, OH
8. 35.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company
1. 79-12732
2. 34-133-21832-0014
3. 103
4. Dart Oil Company
5. Ingledo No 1
6.
7. Portage, OH
8. 45.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company
1. 79-12733
2. 34-155-21040-0014
3. 103
4. Dart Oil Company
5. Krauss Krauss Bottger No 1
6.
7. Trumbull, OH
8. 35.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company
1. 79-12734
2. 34-157-23218-0014
3. 103
4. Dart Oil Company
5. Raeder No 1
6.
7. Tuscarawas, OH
8. 40.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company
1. 79-12735
2. 34-155-20989-0014
3. 103
4. Flint Oil & Gas Inc
5. (2030) Stillwagon Unit #1

6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company
1. 79–12736
2. 34–155–20982–0014
3. 103
4. Flint Oil & Gas Inc
5. (2047) Ackerman Unit #2
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company
1. 79–12737
2. 34–155–20873–0014
3. 103
4. Flint Oil & Gas Inc
5. (2159) Carl Lozner Er Ux #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company
1. 79–12738
2. 34–155–21001–0014
3. 103
4. Flint Oil & Gas Inc
5. (2301) M Hughes Unit #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. The East Ohio Gas Company
1. 79–12739
2. 34–067–20331–0014
3. 103
4. J S Marfy and Neeg GMBH
5. R Chaney #1
6.
7. Harrison, OH
8. 11.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79–12740
2. 34–067–20329–0014
3. 103
4. J S Marfy and Neeg GMBH
5. Garner #1
6.
7. Harrison, OH
8. 7.3 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79–12741
2. 34–067–20328–0014
3. 103
4. J S Marfy and Neeg GMBH
5. Farnsworth #1
6.
7. Harrison, OH
8. 3.7 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79–12742
2. 34–127–24304–0014
3. 103
4. Irvin Producing Company
5. Leckrone #4
6.
7. Perry, OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79–12743
2. 34–103–22079–0014
3. 103
4. H E Rupp
5. Spirnak #2
6.
7. Medina, OH
8. 250.0 million cubic feet
9. July 12, 1979
10.
1. 79–12744
2. 34–103–22117–0014
3. 103
4. H E Rupp
5. Stine #1
6.
7. Medina, OH
8. 250.0 million cubic feet
9. July 12, 1979
10.
1. 79–12745
2. 34–167–24119–0014
3. 103
4. Beardmore Producing Company
5. David M Bradley #3
6.
7. Washington, OH
8. .0 million cubic feet
9. July 12, 1979
10. Gas Transport Company
1. 79–12746
2. 34–167–23781–0014
3. 103
4. Beardmore Producing Company
5. Briggs Sand & Gravel #1
6.
7. Washington, OH
8. .0 million cubic feet
9. July 12, 1979
10. Gas Transport Company
1. 79–12747
2. 34–155–21113–0014
3. 103
4. Giant Petroleum Corporation
5. E & I Mahan Well #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79–12644
2. 34–133–21867–0014
3. 103
4. Viking Resources Corporation
5. Willis #1
6.
7. Portage, OH
8. 30.0 million cubic feet
9. July 12, 1979
10.

U.S.Geological Survey, Metairie, La.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10 Purchaser(s)

1. 79–12753
2. 17–710–40582–0000–0
3. 102
4. Sun Oil Company
5. OCS—G–2327 No A–8
6. Eugene Island
7. 360
8. 1700.0 million cubic feet
9. July 13, 1979
10. Trunkline Gas Company
1. 79–12754
2. 17–710–40581–0000–0
3. 102
4. Sun Oil Company
5. OCS—G–2327 No A–7
6. Eugene Island
7. 360
8. 500.0 million cubic feet
9. July 13, 1979
10. Trunkline Ga. Company
1. 79–12756
2. 17–715–40101–0000–0
3. 102 Denied
4. C & K Offshore Company
5. South Timbalier 190 Well No A–1
6. South Timbalier
7. 190
8. 1017.0 million cubic feet
9. July 13, 1979
10. Trunkline Gas Company
1. 79–12749
2. 42–711–40187–0000–0
3. 102
4. Sun Oil Company
5. OCS—G2434 No. A–3D
6. East High Island
7. 370
8. 324.0 million cubic feet
9. July 13, 1979
10. Michigan-Wisconsin Pl Co
1. 79–12750
2. 42–711–40221–0000–0
3. 102
4. Sun Oil Co
5. OCS—G–2434 No A–6D
6. East High Island
7. 370
8. 1949.0 million cubic feet
9. July 13, 1979
10. Michigan-Wisconsin Pl Co
1. 79–12751
2. 42–711–40226–0000–0
3. 102
4. Sun Oil Company
5. OCS—G–2434 No A–7D
6. East High Island
7. A–370
8. 2000.0 million cubic feet
9. July 13, 1979
10. Trunkline Gas Company, Michigan-Wisconsin P/L Co, Natural Gas Pipeline Co
1. 79–12752
2. 42–711–40234–0000–0
3. 102
4. Sun Oil Company
5. OCS—G–2434 No A–8D
6. East High Island
7. A–370
8. 2000.0 million cubic feet
9. July 13, 1979
10. Trunkline Gas Company, Michigan Wisconsin P/L Co, Natural Gas Pipeline Co
1. 79–12748
2. 17–705–40293–0000
3. 102

4. Union Oil Company of California
5. OCS 0297 No 27
6. Vermilion Block 14
7. 26
8. 6205.0 million cubic feet
9. July 13, 1979
10. Trunkline Gas Co
1. 79–12755
2. 42–711–40160–0000–0
3. 102
4. Sun Oil Company
5. OCS—G–2751 No A–1
6. East High Island
7. A–369
8. 2300.0 million cubic feet
9. July 13, 1979
10. Trunkline Gas Company, Michigan-Wisconsin P/L Co, Natural Gas Pipeline Co
1. 79–12757
2. 42–711–40226–0000–0
3. 102
4. Sun Oil Company
5. OCS—G–2434 No A–7
6. East High Island
7. A–370
8. 2000.0 million cubic feet
9. July 13, 1979
10. Trunkline Gas Company, Michigan-Wisconsin P/L Co, Natural Gas Pipeline Co
1. 79–12758
2. 42–711–40187–0000–0
3. 102
4. Sun Oil Company
5. OCS—G–2434 No A–3
6. East High Island
7. A–370
8. 1000.0 million cubic feet
9. July 13, 1979
10. Michigan-Wisconsin Pipeline Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before August 16, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–23794 Filed 8–1–79; 8:45 am]
BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed Week of April 27 Through May 4, 1979

Notice is hereby given that during the week of April 27, 1979 through May 4, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461.

George B. Breznay,
Acting Director, Office of Hearings and Appeals.
July 27, 1979.

List of Cases Received by the Office of Hearings and Appeals

(Week of April 30 through May 4, 1979)

Date	Name and location of applicant	Case No.	Type of submission
Apr. 30, 1979	Exxon Company, U.S.A., Washington, D.C.	DFA–0403	Appeal of an Information Request Denial. If granted: The DOE's March 30, 1979, Information Request Denial would be rescinded and Exxon Company, U.S.A. would be granted access to certain DOE data.
Apr. 30, 1979	Gasolinas De Puerto Rico Corporation, Hato Rey, Puerto Rico.	DEE–4751	Exception to Change Supplier. If granted: Gasolinas De Puerto Rico Corporation would be assigned a new base period supplier of motor gasoline to replace Commonwealth Oil Refining Co., Inc.
Apr. 30, 1979	Glenn Martin Heller, Boston, Massachusetts	DRH–0184 and DRD–0184.	Motions for Evidentiary Hearing and Discovery. If granted: An evidentiary hearing would be convened and discovery would be granted with respect to Glen Martin Heller's objection to the Proposed Remedial Order (Case No. DRO–0184).
Apr. 30, 1979	Grace Petroleum Corporation, San Patricio County, Texas.	DEE–4752	Price Exception (Section 212.73). If granted: Grace Petroleum Corporation would be permitted to sell the crude oil produced from the Lovett #1 Well, C. I. Lovett Lease, located in San Patricio County, Texas, at stripper well prices.
Apr. 30, 1979	Stechshulte Gas & Oil Co., Owosso, Michigan	DEX–0162	Supplemental Order. If granted: Stay issued to Stechshulte Gas & Oil Company on March 27, 1979, would be modified.
Apr. 30, 1979	Teledyne Lears, North Hollywood, California	DEE–4753	Exception from applicance energy conservation program test procedures (10 CFR Part 430). If granted: Teledyne Lears would be granted an exception from the appliance energy conservation program test procedure requirements applicable to boilers.
Apr. 30, 1979	Texaco, Inc. (Land-O-Lakes), White Plains, New York.	DEA–0402	Appeal of ERA Redirection Order. If granted: The Economic Regulatory Administration's Redirection Order of Product of March 26, 1979, issued to Texaco, Inc., would be rescinded.
May 1, 1979	Amoco Oil Company, Chicago, Illinois	DEE–4754 and DEE–4755.	Price Exception (Section 212.73). If granted: Amoco Oil Company would be permitted to sell the crude oil produced from the Cottonwood Creek Phosphona Unit, located in Washakie County, Wyoming, and the Fourbear-SRA Unit, located in Park County, Wyoming, at upper tier ceiling prices.
May 1, 1979	Publicker Industries, Inc., Greenwich, Connecticut	DES–0201	Request for Stay. If granted: Publicker Industries, Inc., would be granted a stay from the provisions of 10 CFR 211.67, with respect to its entitlements purchase obligation for the month of April.
May 2, 1979	Amoco Oil Co. (Farmland), Illinois	DEA–0382	Appeal of ERA Redirection Order. If granted: The Economic Regulatory Administration's Redirection Order of Product of March 20, 1979, issued to Farmland Industries, Inc., would be modified.
May 2, 1979	Butler, Binion, Rice, Cook & Knapp, Washington, D.C.	DFA–0360	Appeal of an Information Request Denial. If granted: The DOE's March 28, 1979, Information Request Denial would be rescinded and Butler, Binion, Rice, Cook & Knapp would be granted access to certain DOE data.
May 2, 1979	Exxon Company, U.S.A. (Publix), Washington, D.C.	DEA–0384 and DES–0384.	Appeal of Assignment Order, Request for Stay. If granted: The Assignment Order issued by DOE Region IV on April 12, 1979, regarding Exxon's requirement to supply Publix Oil Company with motor gasoline for the months of April and May would be rescinded.
May 2, 1979	Petrochemical Energy Group, Washington, D.C.	DEA–0392	Appeal of Office of Fuels Regulation Order. If granted: The April 2, 1979, Office of Fuels Regulation Order issued to Columbia LNG Corporation regarding an assignment of synthetic natural gas feedstock would be rescinded.
May 2, 1979	Shell Oil Co. (Midland), Houston, Texas	DEA–0385 and DES–0385.	Appeal of ERA Redirection Order, Request for Stay. If granted: The Economic Regulatory Administration's Redirection Order of Product of March 23, 1979, issued to Midland Cooperatives, Inc., would be modified.

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List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of April 30 through May 4, 1979]

Date	Name and location of applicant	Case No.	Type of submission
May 3, 1979	Amoco Oil Co. (Midland), Chicago, Illinois	DEA-0383	Appeal of ERA Redirection (Order). If granted: The Economic Regulatory Administration's Redirection Order of Product of March 23, 1979, issued to Midland Cooperatives, would be modified.
May 3, 1979	Consumer Energy Council of America, Washington, D.C.	DSG-0052	Request for Special Redress. If granted: Applicant would receive additional funding for its participation in No. 2 (home) heating oil proceedings during 1978.
May 3, 1979	Keller-Piasa Terminals, Inc., Washington, D.C	DEA-0281	Appeal of DOE Order. If granted: DOE Region V Order of March 30, 1979, terminating Keller-Piasa Terminals, Inc., as a base period supplier of motor gasoline to Service Oil Company and Dalee Oil Company would be rescinded.
May 4, 1979	Chestertown Shorgas, Philadelphia, Pennsylvania	DES-2080	Request of Stay. If granted: Chestertown Shorgas Company would receive a stay of the provisions of (10 CFR 212.93).
May 4, 1979	Duncan Oil Company, Xenia, Ohio	DEE-5111	Exception to the filing of Form EIA-9. If granted: Duncan Oil Company would be granted an exception to the filing of Form EIA-9.
May 4, 1979	Homestead Gas Company, Inc., Homestead, Florida.	DEE-5116	Price Exception to regulation 211.93. If granted: Homestead Gas Company, Inc., would receive an exception from the provisions of 10 CFR 212.93.
May 4, 1979	Tosco Corporation, Washington, D.C	DEA-0405	Appeal of a Redirection Order. If granted: The Order for Redirection of Product issued by DOE Region IX on April 9, 1979, regarding Tosco's requirement to supply Pacific Refining Company with motor gasoline for the month of April would be rescinded.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Apr. 30, 1979	Class Exception for Retail Outlets & Wholesale Producer-Consumers	DEE-3726
Apr. 27, 1979	Kimberly Gas Mart, Kimberly, Idaho	DEE-2291
Apr. 30, 1979	Moor, Howard, Wertzville, Missouri	DEE-2604
May 2, 1979	Hardell Corporation, Maryland	DEE-2579
May 2, 1979	Boulder Valley Oil Co., Denver, Colorado	DEE-2495
May 4, 1979	Bauserman Oil Company, Winchester, Virginia	DEE-2915

Proposed Remedial Orders

May 1, 1979	Atlantic Richfield Co	DRO-0193
May 1, 1979	Gulf Oil Corporation	DRO-0194
May 1, 1979	Marathon Oil Company	DRO-0195
May 1, 1979	Standard Oil Co. Of Ca. & Chevron	DRO-0196
May 1, 1979	Standard Oil Co. of Ohio	DRO-0197
May 1, 1979	Standard Oil Co. of Indiana	DRO-0198
May 1, 1979	Texaco, Inc	DRO-0199

List of Cases involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline.

Week of April 30 Through May 4, 1979

If granted: The following firms would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

April 30, 1979

Airline Shell	DEE-4663	04/30/79	Louisiana.
Amonent Petroleum Company	DEE-4626	04/30/79	California.
Anthony Troiano & Sons	DEE-4664	04/30/79	Connecticut.
Apponaug Gulf	DEE-4665	04/30/79	Rhode Island.
Arlton Gulf Station	DEE-4666	04/30/79	Massachusetts.
Arzie's Arco Service	DEE-4648	04/30/79	California.
Auto-Brite Car Wash, Inc	DEE-4641	04/30/79	Massachusetts.
B & E Store	DEE-5500	04/30/79	Maine.
Bill's Gulf Servicenter	DEE-4667	04/30/79	Massachusetts.
Bob's Autotorium, Inc	DEE-4668	04/30/79	Pennsylvania.
Bob's Gulf	DEE-4645	04/30/79	Maine.
Bob's Gulf	DEE-4669	04/30/79	Vermont.
Bolduc Service Centers, Inc	DEE-4670	04/30/79	Massachusetts.
Bonne Brae Conoco	DEE-4646	04/30/79	Colorado.
Bowens Grocery Store	DEE-4671	04/30/79	Maine.
Brown's Service Station	DEE-4672	04/30/79	Rhode Island.
Bud's Service Center	DEE-4673	04/30/79	Connecticut.
Burgess Gulf Station	DEE-4674	04/30/79	Massachusetts.
Burghoff's Service Station	DEE-4675	04/30/79	Connecticut.
Burns Brothers Truck Plaza Inc	DEE-4676	04/30/79	
C & M Gulf	DEE-4677	04/30/79	Massachusetts.
Carey's Gulf Service	DEE-4678	04/30/79	Massachusetts.
Carson Mini Market	DEE-4649	04/30/79	Nevada.
Chandler Gulf Service	DEE-4679	04/30/79	New Hampshire.
Clampus Holiday Gulf	DEE-4680	04/30/79	Massachusetts.
City Service Fuels, Inc	DEE-4681	04/30/79	Connecticut.
Conners Gulf, Inc	DEE-4682	04/30/79	Massachusetts.
Davcon Ltd.	DEE-4650	04/30/79	Connecticut.
De Beise, Michael	DEE-4684	04/30/79	Connecticut.
Deans Gas Company, Inc	DEE-4683	04/30/79	North Carolina.
Dematteo's Gulf Services	DEE-4685	04/30/79	Connecticut.
Drexel Gas House	DEE-4686	04/30/79	North Carolina.
Economy #5	DEE-4687	04/30/79	North Carolina.
Ed's West Harvich Gulf	DEE-4688	04/30/79	Massachusetts.

April 30, 1979—Continued

Edart Truck Rental Corp	DEE-5699	04/30/79	Connecticut.
Fairhope Exxon Servicenter	DEE-4689	04/30/79	Alabama.
Fairlaw Mobil Self Service	DEE-4690	04/30/79	Rhode Island.
Fox's Gulf Service	DEE-4691	04/30/79	Massachusetts.
Franco, Harry	DEE-4692	04/30/79	Rhode Island.
Gaeta's Arco	DEE-4651	04/30/79	Massachusetts.
Gagan, Edward J	DEE-4693	04/30/79	Massachusetts.
Gallucci's Gulf Service	DEE-4694	04/30/79	Massachusetts.
Gene's Mini Market	DEE-4652	04/30/79	Connecticut.
Hess of Chicopee	DEE-4695	04/30/79	Massachusetts.
Hicks Oils and Hicksgas, Inc	DEE-4653	04/30/79	Illinois.
Highland Exxon Service	DEE-4696	04/30/79	Colorado.
Hillsdale Chevron Service	DEE-4647	04/30/79	California.
Hopkinton Gulf	DEE-4697	04/30/79	Massachusetts.
Huhtala Oil & Templeton Garage	DEE-4698	04/30/79	Massachusetts.
Interstate Mobil	DEE-4699	04/30/79	Massachusetts.
Jack's Gulf Service	DEE-4700	04/30/79	Massachusetts.
James Helmuth Union	DEE-4701	04/30/79	California.
Jennings-Watts Oil Co., Inc	DEE-4702	04/30/79	Virginia.
Jim McGough's Mobil	DEE-4703	04/30/79	Massachusetts.
Johnson, Wayne	DEE-4705	04/30/79	Massachusetts.
K & L Shell	DEE-4937	04/30/79	California.
K & W Shell	DEE-4322	04/30/79	California.
Ken's Service Center	DEE-4706	04/30/79	Connecticut.
Kenilworth Car Wash, Inc	DEE-4707	04/30/79	Maryland.
L & G Service Center	DEE-4708	04/30/79	Massachusetts.
Langley Park Amoco	DEE-4709	04/30/79	Maryland.
Lapointe's Service Center, Inc	DEE-4642	04/30/79	Massachusetts.
Larry's Mobil	DEE-4710	04/30/79	Massachusetts.
Le Grand Oil Company	DEE-4711	04/30/79	Iowa.
Lil Peach of Mass. Inc	DEE-4712	04/30/79	Massachusetts.
Main Street Gulf	DEE-4713	04/30/79	Rhode Island.
Manchester, John C Inc	DEE-4704	04/30/79	New Hampshire.
Maury's Service Station	DEE-4714	04/30/79	Massachusetts.
Mayflower Sunoco	DEE-4643	04/30/79	Massachusetts.
Mayo's Gulf Service Station	DEE-4715	04/30/79	Massachusetts.
McLaughlins Gulf Service	DEE-4716	04/30/79	Massachusetts.
Midway Oil Corp	DEE-4496	04/30/79	Vermont.
Milford Jeep, Inc	DEE-4717	04/30/79	Connecticut.
Mobil Self Service	DEE-4719	04/30/79	Massachusetts.
Moffat, Ance	DEE-4718	04/30/79	Ohio.
N.A. Dunn, Inc	DEE-4721	04/30/79	North Carolina.
Navy Exchange Serv. (Newport)	DEE-4767	04/30/79	Rhode Island.
Navy Exchange Serv. (Brunswick)	DEE-4768	04/30/79	Maine.
Neuman, Louis	DEE-4722	04/30/79	California.
Newman Oil Co	DEE-5984	04/30/79	Florida.
Nick's Arco & Mini Market	DEE-4654	04/30/79	California.
Northford Arco Minishop, Inc	DEE-4655	04/30/79	Connecticut.
Northgate Shell Service Inc	DEE-4656	04/30/79	California.
O.F. Welker	DEE-4723	04/30/79	Massachusetts.
P. & T. Motors, Inc	DEE-4724	04/30/79	Massachusetts.
Paquette, Raymond P	DEE-4725	04/30/79	New Hampshire.
Patton, Michael J	DEE-4726	04/30/79	Connecticut.
Pete's Gulf Service	DEE-4727	04/30/79	Massachusetts.
Petro Inc	DEE-4728	04/30/79	Texas.
Pickens Oil Company	DEE-5985	04/30/79	South Carolina.
Ragan, George M	DEE-4730	04/30/79	Maryland.
Raro Automotive	DEE-4731	04/30/79	Connecticut.
Reheuser George	DEE-4732	04/30/79	Massachusetts.
S.K. Gulf Service	DEE-4735	04/30/79	Massachusetts.
S.O.K.'s Service & Grocery Inc	DEE-4657	04/30/79	Maryland.
Schauer, Bruce	DEE-4733	04/30/79	Massachusetts.
Silvas Citgo Staton	DEE-4734	04/30/79	Massachusetts.
Simons Service Station	DEE-4658	04/30/79	Texas.
Skip's Gulf Service Station	DEE-4736	04/30/79	Connecticut.
Smith Bros. Fuel Co., Inc	DEE-4737	04/30/79	Connecticut.
Sorel's Garage, Inc	DEE-4738	04/30/79	Connecticut.
South Braintree Mobil	DEE-4739	04/30/79	Massachusetts.
Spelke Enterprises, Inc	DEE-4659	04/30/79	Connecticut.
Stu's Service	DEE-4740	04/30/79	Connecticut.
Subase Service Station	DEE-4741	04/30/79	Connecticut.
T & J Gulf Service	DEE-4742	04/30/79	Connecticut.
The Pop Shoppe	DEE-4729	04/30/79	North Carolina.
Thomas, James A	DEE-4958	04/30/79	Alabama.
Todisco Amoco	DEE-4644	04/30/79	Massachusetts.
Trinity Arco	DEE-4660	04/30/79	Rhode Island.
Troy's Mount View inc	DEE-4743	04/30/79	Connecticut.
Village Mobil	DEE-4744	04/30/79	Massachusetts.
W. C. Eaton, Inc	DEE-4745	04/30/79	New Hampshire.
Webber Oil Co. (Buchanan)	DEE-5164	04/30/79	Florida.
Wells, Charles H., Jr	DEE-4746	04/30/79	Vermont.
Wesco, Inc	DEE-4747	04/30/79	Vermont.
West Main Mini-Market	DEE-4661	04/30/79	Connecticut.
Williamson Auto Electric	DEE-4750	04/30/79	Connecticut.
Wojcik's Gulf	DEE-4748	04/30/79	Massachusetts.
Womack, Charles	DEE-4749	04/30/79	Louisiana.
610 South Fulton Corporation	DEE-4662	04/30/79	New York.

May 1, 1979

Allen & Beach, Inc	DEE-4534	05/01/79	Texas.
Allways Towing	DEE-4770	05/01/79	Texas.
Apex Oil Co	DEE-4757	05/01/79	Florida.
Army & Air Force Exchange	DEE-4771	05/01/79	Texas.
Art's Exxon	DEE-4831	05/01/79	California.
B & B Exxon Service	DEE-4772	05/01/79	Georgia.
Bermes Texaco	DEE-4773	05/01/79	Arizona.
Blanco Car Center	DEE-4774	05/01/79	Texas.
Bobber Auto/Truck Plaza	DEE-4758	05/01/79	Illinois.
Boehm Exxon Service Station	DEE-4832	05/01/79	Texas.
Bolin Oil Company	DEE-4775	05/01/79	Ohio.
Chambers Heights Exxon	DEE-4776	05/01/79	Colorado
Charton Oil Company, Inc	DEE-4777	05/01/79	Ohio.
Chuck's Howland Exxon	DEE-4779	05/01/79	Ohio.
Crume, Sam E	DEE-4780	05/01/79	Colorado
D C Oliver Gulf	DEE-4781	05/01/79	Arkansas
Decolores Services, Inc	DEE-4782	05/01/79	Florida.
Eddie's Arco Hack's/Minimarket	DEE-4762	05/01/79	California.
Ever Ready Oil Co., Inc	DEE-4783	05/01/79	New Mexico
Fair's Exxon	DEE-4784	05/01/79	Arkansas
Fancy Gap Gulf Service	DEE-4759	05/01/79	Virginia.
First Texarkana	DEE-4763	05/01/79	Texas.
Flanagan's Service Center	DEE-4959	05/01/79	Alabama.
Flower's Grocery	DEE-4785	05/01/79	Mississippi.
Flowerton Exxon Center	DEE-4786	05/01/79	South Carolina.
Fuel City, Inc	DEE-4787	05/01/79	Indiana.
Glenn & Joe's Shell	DEE-4788	05/01/79	Arizona.
Gower Mobil	DEE-4789	05/01/79	Oklahoma.
Grannis Petroleum Products, Inc	DEE-4790	05/01/79	Idaho.
Green Star, Inc	DEE-4791	05/01/79	Minnesota
Gulamalu, Abdul Hamid	DEE-4792	05/01/79	Texas.
Hadri, Zakana	DEE-4795	05/01/79	California.
Handi-Mart, Inc	DEE-4793	05/01/79	Georgia.
Handy Peddler Market	DEE-4794	05/01/79	Tennessee
Harry's Brake & Alignment	DEE-4796	05/01/79	Connecticut
Herndon Phillips 66	DEE-4797	05/01/79	Virginia.
Hudson Oil Company	DEE-4798	05/01/79	Kansas.
Kensington Amoco	DEE-4799	05/01/79	Maryland
Key West Navy Exchange	DEE-4811	05/01/79	Florida.
Laurel Exxon Servicenter	DEE-4800	05/01/79	Delaware
Leo's One Stop Mart	DEE-4764	05/01/79	Washington
M R Sullivan Oil Company	DEE-4801	05/01/79	Virginia.
Mason, Randoll L	DEE-4802	05/01/79	Oklahoma
Mauntel, W. E., Jr	DEE-4803	05/01/79	Oklahoma.
McNemar's Exxon	DEE-4805	05/01/79	California.
Mel's Car Care Center	DEE-4806	05/01/79	North Carolina
Mesa Conoco Service	DEE-4760	05/01/79	Colorado
Moffat Distribution Co., Inc	DEE-4833	05/01/79	Washington
Monger Coal & Oil, Inc	DEE-4807	05/01/79	Virginia.
Montegomery Mall Chevron	DEE-4808	05/01/79	Alabama.
Morris, Gordon D	DEE-4809	05/01/79	California.
Munro Petroleum & Terminal Corp	DEE-4810	05/01/79	Mississippi
Northline Service	DEE-4769	05/01/79	Minnesota.
Northridge Mini Market	DEE-4765	05/01/79	California.
Oak Ridge Exxon	DEE-4761	05/01/79	South Carolina
Ormond Mall 66 Service	DEE-4812	05/01/79	Florida.
Ray's Shell Service	DEE-4814	05/01/79	California
Ron's Exxon	DEE-4815	05/01/79	California.
Ryder Truck Rental	DEE-4816	05/01/79	Louisiana.
S & K One Stop	DEE-4817	05/01/79	Tennessee
Sanders Kerr McGee Station	DEE-4818	05/01/79	Oklahoma.
Sav-Mor Oil Co.	DEE-5905	05/01/79	California.
Shenandoah Phillips 66	DEE-4819	05/01/79	Virginia.
Shenlle, Frank	DEE-4820	05/01/79	California.
Simaan, Mufid E	DEE-4821	05/01/79	California.
Smith Snow Amoco	DEE-4822	05/01/79	Ohio.
Spears Chevron Food Mart	DEE-4823	05/01/79	Alabama.
Spence's Sunoco	DEE-4824	05/01/79	Virginia.
State of New Jersey	DEE-4778	05/01/79	New Jersey
Stoddard, Herbert A	DEE-4960	05/01/79	Texas.
Sullivan Mechanical Contractor	DEE-4825	05/01/79	Virginia.
Taylor, Raymond E	DEE-4766	05/01/79	Texas.
Texas Instruments Inc	DEE-4826	05/01/79	Texas
Wagner, Ervin	DEE-4827	05/01/79	Kentucky
Winsauer's Texaco	DEE-4961	05/01/79	Texas
Yeman, Charles R	DEE-4828	05/01/79	Ohio.

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Aptos Shell Service	DEE-4839	05/02/79	California.
Bell, Lester C	DEE-4840	05/02/79	Florida.
Bob Ullman, Inc	DEE-4841	05/02/79	Ohio.
Dinkins Enterprises	DEE-4842	05/02/79	South Carolina
East Shore Sports & Sports	DEE-4843	05/02/79	California.
Ernest J Short & Son, Inc	DEE-4861	05/02/79	New Mexico
Farmland Industries, Inc	DEE-4844	05/02/79	Missouri.
Foley's Chevron & Drive In Dairy	DEE-4845	05/02/79	California.
Hamilton Oil Co	DEE-4846	05/02/79	Tennessee.
Lacy's 66 Service	DEE-4847	05/02/79	Missouri.
Lee's Chevron Service	DEE-4848	05/02/79	Nevada.
Leesburg Oil Company	DEE-4835	05/02/79	Virginia.
Meadowlark Conoco (Newton)	DEE-4849	05/02/79	Colorado.
Olney Mobil Service Center	DEE-4850	05/02/79	Maryland.
Pacesetter Division of U. P	DEE-4962	05/02/79	Texas.
Pen Fern Oil Co	DEE-4813	05/02/79	Pennsylvania.
Richard Oil Corporation	DEE-4855	05/02/79	Florida.
Sanders, Bob	DEE-4836	05/02/79	Texas.
Service Oil Corp	DEE-4879	05/02/79	Florida.
Stop-N-Go Foods, Inc	DEE-4851	05/02/79	Ohio.
Stop-N-Sav	DEE-4852	05-02-79	Florida.
Tiberlake Brothers	DEE-4853	05-02-79	Virginia.
Vernon Mobil Service Station	DEE-4834	05-02-79	New York.
Vic's Arco Service	DEE-4836	05-02-79	California.
Wagoner Gas & Oil, Inc	DEE-4837	05-02-79	Pennsylvania.

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Airline Petroleum Co	DEE-4854	05-03-79	Pennsylvania.
Anlee Arco	DEE-4867	05-03-79	California.
Auto Scrubber	DEE-4868	05-03-79	California.
Barrington, Alvin P	DEE-4869	05-03-79	California.
Bob's Chevron Service	DEE-4870	05-03-79	California.
Chillum Exxon	DEE-5165	05-03-79	Maryland
Driscoll	DEE-4871	05-03-79	California.
George Beall Mobil	DEE-4872	05-03-79	California.
Harrison Avenue Amoco	DEE-4856	05-03-79	Florida.
Jeff Lawson Chevron	DEE-4873	05-03-79	California.
Oaks Texaco	DEE-4874	05-03-79	California.
Oklahoma Refining Co	DEE-4541	05-03-79	Oklahoma.
Park Drive Service Station	DEE-4857	05-03-79	New York.
Parry, Richard D	DEE-4875	05-03-79	California.
Renny's Texaco Service	DEE-4876	05-03-79	California.
Richmond Chevron	DEE-4829	05-03-79	Arizona.
Sanford Oil Co	DEE-4858	05-03-79	Oklahoma.
Scottsdale Tire Co., Inc	DEE-4863	05-03-79	Arizona.
Shey Oil Co., Inc	DEE-4859	05-03-79	Arizona.
Taber's, Inc	DEE-4877	05-03-79	California.
Tatro, Joe	DEE-4866	05-03-79	Nevada.
Tonopah Chevron	DEE-4864	05-03-79	Arizona.
U-Fuel, Inc	DEE-4878	05-03-79	California.
United General Stores, Inc	DEE-4860	05-03-79	South Carolina.
Westside Chevron	DEE-4865	05-03-79	Arizona.

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A. C. & M. Goldberg	DEE-4892	05-04-79	Maryland.
Austin's Exxon Service	DEE-4482	05-04-79	District of Columbia.
Auto Car Wash	DEE-4887	05-04-79	Texas.
Bigelow, Charles	DEE-4888	05-04-79	California.
Champion Garage & Gasoline	DEE-4889	05-04-79	California.
Circle R No. 3	DEE-4890	05-04-79	Louisiana.
Cold Spring Amoco Service	DEE-4891	05-04-79	Maryland.
Craigs Fina Station	DEE-4894	05-04-79	Arkansas
Downtown Chevron	DEE-4895	05-04-79	Florida.
George's Shell	DEE-4896	05-04-79	Florida.
Hardy Turquoise Co., Inc	DEE-4897	05-04-79	Arizona.
Huff's Inc	DEE-4883	05-04-79	Oklahoma.
K & S Oil Company, Inc	DEE-4898	05-04-79	Kansas.
Kojic, Svetomir	DEE-4899	05-04-79	Arizona.
Love's Shell Service	DEE-4900	05-04-79	California.
Lynady Brothers	DEE-4901	05-04-79	Pennsylvania.
M. E. Homer Arco	DEE-4884	05-04-79	California.
M. D. Fisher Oil, Inc	DEE-4880	05-04-79	Texas.
Mel's Gulf	DEE-4902	05-04-79	Florida.
Morgan's Amoco Service	DEE-4893	05-04-79	Maryland.
Nu-Way Oil Co	DEE-4881	05-04-79	Texas.
Nuss Arco Mini Market	DEE-4885	05-04-79	Pennsylvania.
Perry's Service Station	DEE-4903	05-04-79	California.
Rapid, Inc	DEE-4886	05-04-79	Georgia.
Razorback Gulf Station	DEE-4904	05-04-79	Alaska.
Reynolds Exxon	DEE-4905	05-04-79	Arizona.
Richmond Texaco	DEE-4906	05-04-79	California.
Roth Oil Co., Inc	DEE-4907	05-04-79	Minnesota.
Schneider's Automotive Repair	DEE-4908	05-04-79	California.
Ted's Arco	DEE-4882	05-04-79	New Jersey.
Yucaipa Car Wash & Automotive	DEE-4910	05-04-79	California.
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[FR Doc. 79-23877 Filed 8-1-79; 8:45 am]

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Southwestern Power Administration

Preliminary Power Allocations (1980–1988); Opportunities for Public Review and Comment

AGENCY: Department of Energy, Southwestern Power Administration.

ACTION: Notice of Preliminary Power Allocations (1980–1988) and Opportunities for Public Review and Comment.

SUMMARY: The Administrator, Southwestern Power Administration, has made Preliminary Power Allocations to preference customers for the years 1980 through 1988. An explanation of the criteria used is included with these allocations. Opportunities will be presented for customers, prospective customers, and other interested persons to receive copies of these allocations, to participate in public review forums, and to submit written comments. Following review of the oral and written comments and other information received, the Administrator will announce Final Power Allocations.

DATES: Three public review forums will be held on the following dates: August 21, 1979, in Baton Rouge, Louisiana; on August 23, 1979, in Kansas City, Missouri; and on August 28, 1979, in Tulsa, Oklahoma. Written comments on the Preliminary Power Allocations are due on or before September 14, 1979.

ADDRESSES: Five copies of the written comments should be submitted to the Administrator, Southwestern Power Administration, P.O. Drawer 1619, Tulsa, Oklahoma 74101. The public review forums, in each case, will be at 9:30 a.m. The forum in Baton Rouge, Louisiana, will be held at the Baton Rouge Hilton, 5500 Hilton Avenue. The forum in Kansas City, Missouri, will be held at the Holiday Inn Trade Mart, 1 North Broadway. The forum in Tulsa, Oklahoma, will be held at the Tulsa City-County Library, 4th & Denver, Aaronson Auditorium.

FOR FURTHER INFORMATION CONTACT: Walter M. Bowers, Chief, Division of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Drawer 1619, Tulsa, Oklahoma 74101, (918) 581–7529

SUPPLEMENTARY INFORMATION: The Southwestern Power Administration markets hydroelectric generated power from 21 operating multiple-purpose reservoir projects constructed and operated by the U.S. Corps of Engineers in the states of Missouri, Oklahoma, and Texas. Two of these operating projects are isolated from transmission facilities available to Southwestern Power Administration and currently each is marketed to preference customers at the dams. Southwestern Power Administration has the responsibility to market this power to customers in a marketing area generally covering the states of Missouri, Arkansas, Oklahoma, Louisiana, and portions of the states of Kansas and Texas. Section 5 of the Flood Control Act of 1944 (58 Stat. 890, 16 U.S.C.A. 825s), the statutory authority for SWPA's activities, provides, among other things, that the power and energy be transmitted and disposed of in such manner to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles. It requires that perference in the sale of such power and energy be given to public bodies and cooperatives. The construction or acquisition of transmission facilities is authorized to make such power and energy available in wholesale quantities to facilities owned by the Federal Government, public bodies, cooperatives, and privately-owned companies. Two additional projects are nearing completion in Missouri and the power from them is expected to be available to preference customers by 1982 from the integrated system.

The product of these projects is primarily low-plant factor peaking power which means that available water permits the hydraulic turbines to operate only a portion of the time needed to supply normal load factor loads. The hydroelectric production must be supplemented, particularly in below average rainfall periods, by purchased energy from other suppliers under non-firm contracts generally negotiated from time to time as required from suppliers willing to sell this product to the Government and at varying prices.

SWPA commenced marketing power in 1945 and currently supplies peaking and/or firm power service to 62 customers. During this 36-year period, many contracts have been executed for the sale of power. Many expired by their terms and were renewed oft times modified with sales made to the existing customers or with new customers. There have been periods of time when SWPA was unable to market some of the available power and energy because of the rate level required and in some cases, because of the unavailability of transmission facilities. At present, demands from existing or prospective customers for the power which may be available far exceed the supply. SWPA will experience the termination of a number of firm and peaking power sales contracts in the near future and also will have available a limited quantity of new hydroelectric capacity from the two multiple-purpose reservoir projects under construction to be operative in 1980 and 1982. It is imperative that allocations and/or reallocations of this power be developed soon in order that the most equitable distribution to present and new preference customers in the six-state marketing area can be made for the period through 1988.

SWPA has prepared an Environmental Assessment concerning these proposed allocations of power. Based on this Environmental Assessment, SWPA and DOE have made the finding that the proposed allocations of power will not have a significant effect upon the quality of the human environment. Copies of this assessment are available by writing to the Administrator, Southwestern Power Administration, U.S. Department of Energy, P.O. Drawer 1619, Tulsa, Oklahoma 74101. Public comment is invited on the Environmental Assessment. Comments may also be presented in writing or at the public review forums to be held in connection with the preliminary power allocations.

Copies of the Preliminary Power Allocations will be mailed to all SWPA customers, prospective customers, and others who have expressed an interest in the subject.

The first of three public review forums will be held at 9:30 a.m., on August 21, 1979, in Baton Rouge, Louisiana, at the Baton Rouge Hilton, 5500 Hilton Avenue, to explain to the public the preliminary power allocations, supporting criteria, and the Environmental Assessment. Additional forums will be held at 9:30 a.m., on August 23, 1979, in Kansas City, Missouri, at the Holiday Inn Trade Mart, 1 North Broadway, and at 9:30 a.m., on August 28, 1979, in Tulsa, Oklahoma, at the Tulsa City-County Library, 4th & Denver, Aaronson Auditorium. The forums will be conducted by a chairperson who will be responsible for orderly forum procedure. Questions and comments raised at the forums concerning the preliminary allocations, supporting criteria, and the Environmental Assessment will be answered to the extent possible at the forums. Questions and comments not answered at the forums will be answered in writing within fifteen days after the forum at which the question was asked.

Written comments on the Preliminary Power Allocations and the Environmental Assessment are due on or before September 14, 1979. Five copies of the written comments should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, P.O. Drawer 1619, Tulsa, Oklahoma.

Following review of the oral and written comments and the information gathered in the course of the proceedings, the Administrator will announce Final Power Allocations for the period through 1988.

Issued in Tulsa, Oklahoma, July 26, 1979.

James B. Hammett,
Administrator.

Southwestern Power Administration

Power Allocation Guidelines, Principles, and Power Allocation (1980–1988)

Introduction. The Southwestern Power Administration (SWPA) will experience the termination of a number of firm and peaking power sales contracts in the future and will also have available a limited quantity of new hydro capacity from two multiple-purpose reservior projects under construction to be operative in 1980 to 1982. It is imperative that allocations and/or reallocations of this power be developed soon in order that the most equitable distribution to present and new preference customers in the six-state marketing area can be made for the period through 1988. Accordingly, the attached preliminary capacity allocation has been developed which will form the basis for developing final power allocations before the end of this calendar year.

SWPA has received numerous requests for federal hydroelectric power. These requests have been taken into consideration in this preliminary allocation. In order to be made more fully aware of preference customer power needs and power supply plans for the next nine-year period, meetings will be scheduled in Baton Rouge, Louisiana; Kansas City, Missiouri; and in Tulsa, Oklahoma, at which time SWPA will explain and receive comments on its preliminary power allocations as well as receive other comments concerning each applicants needs and plans.

Customer Participation. SWPA will involve its customers and prospective customers at each step of this procedure. This will be done in three steps:

1. Public Review Forums will be held on August 21, 1979, in Baton Rouge, Louisiana; August 23, 1979, in Kansas City, Missouri, and on August 28, 1979, in Tulsa, Oklahoma. Oral explanations will be presented by SWPA. Oral and written comments will be received from all interested parties at each meeting.

2. Interested parties will have until September 14, 1979, to present written comments or objections to the preliminary capacity allocations.

3. SWPA will announce final power allocations in the **Federal Register** and notify all interested parties of the quantities allocated and customers to which allocated after the comments and objections received have been fully and thoroughly considered.

Problems Peculiar to SWPA. 1. *All Present Capacity Marketed.* The SWPA, which has been in operation since 1945, has all of its capacity marketed at this time, and there will be only 89 MW of "new" capacity (capacity from projects under construction) available for allocation in 1980, of which 76 MW will be available for long-term obligation, with an additional 53 MW available by 1982. This capacity will be marketed as peaking capacity with only 1,200 kilowatt-hours per kilowatt per year of associated energy guaranteed.

2. *Primarily Peaking Power Available for Sale.* As a policy matter, SWPA is converting all contracts requiring the delivery of full load factor energy to peaking contracts as such contracts expire in order that SWPA's energy obligations will more nearly match its available resources. Commitments for the sale of peaking capacity to preference customers will be contiuned with associated energy limited to 1,200 kilowatt-hours per kilowatt per-year. It may be impossible for some customers receiving full loan factor service to change in peaking constracts. Where it is at all possible, SWPA insists on the change with SWPA assisting the customer to obtain the supplemental energy needed from other sources by furnishing transmission service over existing SWPA facilities.

3. *Present Customer Power Capacity Sales Continued.* Another practice which has been a part of SWPA's marketing program over recent years has been to continue selling capacity that becomes available with contract expiration to the perference customer that has been purchasing that capacity and no reduction of capacity under contract is made without voluntary consent.

4. *New Capacity Substantially Committed.* As SWPA approached the limit of the capacity available for marketing, substantially all of SWPA's capacity expected to become available from new generation was committed.

Allocation Criteria Considered. 1. *Customer's Ability to Use Peaking Power.* The ability to utilize and receive peaking capacity with 1,200 kilowatt-hours per kilowatt per year of associated energy must be a consideration in SWPA's plan. There are potential preference customers situated so that it is impossible, because of distance from the transmission facilities available or potentially available to the customer of SWPA, for customers to buy power. This inability to utilize peaking capacity of SWPA could include the need for full load factor energy.

2. *Allocate Meaningful Quantities.* An allocation of capacity must be made in "meaningful" quantities as opposed to some pro rata share to many customers. Meaningful quantities must be sufficient size to be measurable and deliverable on a large system. What "wholsale quantities" means must be decide in each case and depends on other factors, such as available transmission and total customer load. This would negate a blanket pro rata distribution to many customers regardless of size of load. Factor such as size and type of load should be considered where reasonable.

3. *Continue Sales to Present Customers.* It is possible to consider a reallocation to new preference customers when existing preference customer contracts expire. From the practical standpoint, it is virtually impossible to stop service to a customer which has had service from SWPA over a period of years. The mere explanation that the old customer has benefited and it is a new customer's turn is not enough. This power supply has been part of the

old customer's planning and it would almost require physical electrical disconnection to end power deliveries.

4. *Distribution Between States.* The distribution between States could be done a number of ways. For instance, the resources available in a state could be marketed in that particular state. This, however, circumvents the "Widespread use" marketing principle of Section 5 of the Flood Control Act of 1944 in which projects are integrated and benefits are derived not only from electrical diversity but hydrological diversity. Furthermore, sales of power are made now in Kansas and Louisiana where there are no hydro plants. The plan could consider that the power would be marketed on the basis of the distribution of the total preference customer load among the six states in the marketing area. This was used as a guide. It assumes all the preference customers could make arrangements to wheel SWPA power over interconnecting facilities and to purchase any supplemental power needed.

5. *Date of Customer's Request.* This method rewards those customers that were sufficiently aware of SWPA's limited resources to have filed a request and penalizes those ignorant of the necessity. For this reason, this criteria was not used.

6. *Hardship, If Any.* The element of hardship cannot be overlooked. Certainly, if power is available for sale and a situation arises where a customer is relying on the Government's resources for which there is no substitute, this customer cannot be disconnected. However, if the customer is currently connected to SWPA and receiving some allocation of the resources and the only hardship that may result from SWPA's lack of making a greater allocation would be financial, such a hardship is not considered as a primary hardship.

7. *Priority Between or Among Prference Customers.* We can find no realistic basis for SWPA to conclude an allocation based on the class of preference customers (municipal, cooperative, etc.) or the type of the end-use load served since Section 5 of the Flood Control Act of 1944 makes no such apparent differentiation.

Proposed Method of Allocation. With these points in mind, the primary function of an allocation procedure in SWPA's case would be to allocate any new capacity to become available and to reallocate the capacity presently under contract with private utility companies and perference customers as thes contracts expire in such a manner as to distribute the sales between states as fairly as possible. In the proposed allocation, the following principles are adhered to:

1. SWPA will reallocate any capacity under contract with preference customers, available as the result of contract expirations, to the same customers previously using that power.

2. Contracts that require more than 1200 kWh/kW/yr will be reallocated as peaking power with 1200 kWh/kW/yr.

3. No priority is considered between or among cooperatives or municipalities because they are considered coequal under the law in their preference rights.

4. The 45 MW sold to the Empire District Electric Company and the 150 MW being sold to the Arkansas Power and Light Company under the Aluminum Contract will be reallocated to preference customers at the time of expiration of these contracts on May 31, 1980, and December 31, 1983, respectively.

5. To receive an allocation of power, a preference customer must be a true customer. That is, it cannot transfer title to a non-preference supplier to be diverted to other ultimate consumers.

6. Power will be allocated at wholesale in meaningful quantities.

7. Hardships, if any, will be considered.

8. After consideration of the above items (1–7), any capacity available will be allocated to states where the ratio of SWPA power to the total preference customer load of that state is lower.

Preliminary Power Allocations

All dependable capacity is under contract in FY 1979. The next year, 1980, new resources become available from the Harry S. Truman Project now nearing the end of construction. In that year, certain contracts expire which condition creates a quantity of "old" power available for reallocation. New resources become available from the Clarence Cannon Project in 1982 which ends new hydro construction in the SWPA area. There are contracts expiring each year through 1988 which have been reallocated as shown in the attached Preliminary Power Allocations (1980 through 1988). These allocations are dependent upon capacity being available from the projects as installed by the Corps of Engineers. Any reduction in capacity available as a result of legal or other action will require a modified allocation. Further, in the event Louisiana preference customers are unable to obtain transmission agreements by January 1, 1980, allocations will need to be modified.

Southwestern Power Administration Preliminary Power Allocations

[1980 through 1988]

1980

New Resources	162	MW Harry S. Truman [1]
Less: Reserve	15	MW
Subtotal	147	MW
Contracts Expiring:		
Empire Dist. Elec. Co.	45	MW 1200 hr. Peaking Power
Carthage, MO	7	MW 1200 hr. Peaking Power
Hermann, MO	2 5.8	MW 1200 hr. Peaking Power
Subtotal	57.8	MW
Total	204.8	MW
Under Contract:		
Kansas Elec. Co-op	90	MW 1200 hr. Peaking Power
Nixa, MO	1	MW NLF Power
Oklahoma Borderline Customers:		
Clarksville, AR	1.6	MW
Goltry, OK	.4	MW
Lexington, OK	.7	MW
Paris, AR	1.1	MW
Purcell, OK	.3	MW
Spiro, OK	.3	MW
Yale, OK	.3	MW
Comanche, OK	.3	MW
Copan, OK	.3	MW
Duncan, OK	2.4	MW
Eldorado, OK	.1	MW
Granite, OK	.2	MW
Hominy, OK	.7	MW
Manitou, OK		
Olustee, OK		
Ryan, OK	.1	MW
Walters, OK	.4	MW
Wetumka, OK	.1	MW
Ft. Sill	15.4	MW
McAlester Army Ammo. Plant		
Vance A.F.B.		
Total (Rounded)	25	MW 1200 hr. Peaking Power
Subtotal	116	MW
Balance for Allocation	88.8	MW
Allocate:		
Malden, MO	5	MW 1200 hr. Peaking Power
Carthage, MO	7	MW 1200 hr. Peaking Power
Higginsville, MO	3	MW 1200 hr. Peaking Power
Lafayette, LA	23	MW 1200 hr. Peaking Power [2]
Houma, LA	4	MW 1200 hr. Peaking Power [2]
Ruston, LA	5	MW 1200 hr. Peaking Power [2]
Alexandria, LA	15	MW 1200 hr. Peaking Power [2]
Jonesboro, LA	1	MW 1200 hr. Peaking Power [3]
Rayne, LA	2	MW 1200 hr. Peaking Power [2]
Minden, LA	3	MW 1200 hr. Peaking Power [2]
Plaquemine, LA	2	MW 1200 hr. Peaking Power [2]
Grand River Dam Authority	5	MW 1200 hr. Peaking Power [3]
Sikeston, MO	8	MW 1200 hr. Peaking Power [2]
Hermann, MO	5.8	MW 1200 hr. Peaking Power
Total	88.8	MW

[1] Critical year capability assumed. Any sale contingent on capacity being available. Contingent upon Harry S. Truman availability.
[2] Contingent upon wheeling available by January 1, 1980.
[3] One year only.

1981

New Resources	None	
Contracts Expiring:		
1 year contracts allocated in 1980	13	MW 1200 hr. Peaking Power
Augusta, AR	3.7	MW NLF Power
Total	16.7	MW
Under Contract:		
Lamar, MO	1	MW NLF Power
Oklahoma Borderline Customers:		
Clarksville, AR	1.6	MW
Goltry, OK	.1	MW
Lexington, OK	.5	MW
Paris, AR	.8	MW
Purcell, OK	1.2	MW
Spiro, OK	.3	MW
Yale, OK	.4	MW
Comanche, OK	.3	MW
Copan, OK	.3	MW
Duncan, OK	2.6	MW
Eldorado, OK	.1	MW
Granite, OK	.2	MW
Hominy, OK	.9	MW
Manitou, OK	.1	MW
Olustee, OK		MW
Ryan, OK	.1	MW
Walters, OK	.4	MW
Wetumka, OK	.1	MW
Ft. Sill	1.5	MW
McAlester Army Ammo. Plant		
Vance A.F.B		
Total (Rounded)	12	MW 1200 hr. Peaking Power
Subtotal	13	MW
Balance for Allocation	3.7	MW
Allocate		
Augusta, AR	3.7	MW 1200 hr. Peaking Power

1982

New Resources	58	MW Clarence Cannon
Less Reserve	5	MW
Subtotal	53	MW
Contracts Expiring	None	
Total	53	MW
Under Contract	None	
Balance for Allocation	53	MW
Allocate		
Cajun Elec. Co-op	53	MW

1983

New Resources	None	
Contracts Expiring:		
Thayer, MO	2.8	MW NLF Power
Total	2.8	MW
Under Contract	None	
Balance for Allocation	2.8	MW
Allocate:		
Thayer, MO	2.8	MW 1200 hr. Peaking Power

1984

New Resources	None	
Contracts Expiring:		
AP&L/Reynolds	150	MW 2400 hr. Peaking Power
Total	150	MW
Under Contract	None	
Balance for Allocation	150	MW
Allocate:		
Kansas Elec. Co-op	85	MW 1200 hr. Peaking Power
Cajun Elec. Co-op	47	MW 1200 hr. Peaking Power [1]
Lafayette, LA	8	MW 1200 hr. Peaking Power [1]
Houma, LA	1	MW 1200 hr. Peaking Power [1]
Ruston, LA	2	MW 1200 hr. Peaking Power [1]
Alexandria, LA	4	MW 1200 hr. Peaking Power [1]
Jonesboro, LA	1	MW 1200 hr. Peaking Power [1]
Rayne, LA		MW 1200 hr. Peaking Power [1]
Minden, LA	1	MW 1200 hr. Peaking Power [1]
Plaquemine, LA	1	MW 1200 hr. Peaking Power [1]
Total	150	MW

[1] Contingent upon wheeling available.

1985

New Resources	None	
Contracts Expiring:		
Jonesboro, AR	54	MW NLF Power
	26	W1200 hr. Peaking Power
Kennett, MO	6	MW NLF Power
	5	MW 1200 hr. Peaking Power
New Madrid, MO	4.5	MW NLF Power
Poplar Bluff, MO	39.5	MW NLF Power
Tex-La (SWEPCO)	117	MW 1600 hr. Peaking Power
	25.5	MW Narrows Project
Paragould, AR	30.5	MW NLF Power
	20	MW 1200 hr. Peaking Power
Total	328	MW
Under Contract	None	
Balance for Allocation	328	MW
Allocate:		
Jonesboro, AR	80	MW 1200 hr. Peaking Power
Kennett, MO	11	MW 1200 hr. Peaking Power
New Madrid, MO	4.5	MW 1200 hr. Peaking Power
Poplar Bluff, MO	39.5	MW 1200 hr. Peaking Power
Tex-La (SWEPCO)	117	MW 1200 hr. Peaking Power
	25.5	MW Narrows Project Sale
Paragould, AR	50.5	MW 1200 hr. Peaking Power
Total	328	MW

1986

New Resources	None	
Contracts Expiring:		
Sam Rayburn Dam Elec. Co-op	52	MW Sam Rayburn Project
Bentonville, AR	18	MW 1200 hr. Peaking Power
Sikeston, MO	23.8	MW NLF Power
	10	MW 1200 hr. Peaking Power
Total	103.8	MW
Under Contract	None	
Balance for Allocation	103.8	MW
Allocate:		
Sam Rayburn Dam Elec. Co-op	52	MW Sam Rayburn Project Sale
Bentonville, AR	18	MW 1200 hr. Peaking Power
Sikeston, MO	33.8	MW 1200 hr. Peaking Power
Total	103.8	MW

1987

New Resources	None	
Contracts Expiring:		
Fulton, MO	3	MW NLF Power
Lamar, MO	12	MW NLF Power
Arkansas Elec. Co-op	45	MW 1200 hr. Peaking Power
Piggott, AR	4.9	MW NLF Power
Tex-La (TP&L)	15	MW NLF Power
Total	79.9	MW
Under Contract	None	
Balance for Allocation	79.9	MW
Allocate:		
Fulton, MO	3	MW 1200 hr. Peaking Power
Lamar, MO	12	MW 1200 hr. Peaking Power
Ark. Elec. Co-op	45	MW 1200 hr. Peaking Power
Piggott, AR	4.9	MW 1200 hr. Peaking Power
Tex-La (TP&L)	15	MW 1200 hr. Peaking Power
Total	79.9	MW

1988

New Resources	None	
Contracts Expiring:		
West Plains, MO	15	MW NLF Power
Brazos Elec. Co-op	30	MW 1200 hr. Peaking Power
Nixa, MO	5.3	MW NLF Power
Total	50.3	MW
Under Contract	None	
Balance for Allocation	50.3	MW
Allocate:		
West Plains, MO	15	MW 1200 hr. Peaking Power
Brazos Elec. Co-op	30	MW 1200 hr. Peaking Power
Nixa, MO	5.3	MW 1200 hr. Peaking Power
Total	50.3	MW

Environmental Assessment
Department of Energy, Southwestern Power Administration, Tulsa, Oklahoma
Allocation of Power
June 6, 1979.

1. *Introduction.* This Environmental Assessment (EA) has been prepared by the staff of the Southwestern Power Administration (SWPA) to meet the procedural requirements of the National Environmental Policy Act. Public comment will also be invited on this EA at three public review forums which SWPA will hold in connection with its allocation of power. The CEQ regulations published November 29, 1978, were used as a guide for the preparation of this EA. These regulations do not become effective until July 30, 1979.

2. *Proposed Action.* SWPA proposes to allocate power from hydroelectric projects for which it has marketing responsibility in six southwestern states. Attachment A is a table which lists these projects, along with their on-line date, installed nameplate capacity, and estimated average annual energy. It proposes to allocate all resources to be available through 1988. SWPA's total resources available for marketing presently amount to 1,994,700 kW. Upon completion of the Harry S. Truman

project, this amount will increase to 2,107,700 kW. During the period through 1988, SWPA will have available for allocation 860,300 kW of this capacity.

In this connection with this proposed allocation of power, SWPA proposes to convert 220,000 kW of power presently marketed as normal load factor power (averaging 4,000–5,000 hours use per year) to peaking power (1,200 hours use per year). Please refer to Federal Register notice concerning proposed allocation of power for details of the proposed action.

3. *Need for the Proposal.* The SWPA markets hydroelectric power generated at 21 operating multiple-purpose reservoir projects constructed and operated by the U.S. Corps of Engineers in the states of Missouri, Arkansas, Oklahoma, and Texas. SWPA is responsible for marketing this power to customers in an area generally covering the states of Missouri, Arkansas, Oklahoma, and Louisiana and portions of the states of Kansas and Texas. Section 5 of the Flood Control Act of 1944 (58 Stat. 887, 16 U.S.C.A. 825s), the authority for SWPA's activities provides, among other things, that the power and energy be transmitted and disposed of in such manner to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles. It requires that preference in the sale of such power and energy be given to public bodies and cooperatives. The construction or acquisition of transmission facilities is authorized to make such power and energy available in wholesale quantities to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies.

Two additional projects are nearing completion in Missouri, and the power from them is expected to be available to preference customers in 1980 and 1982.

The product of the hydroelectric projects in the Southwest is primarily low-plant factor peaking power which means the average water flows permit the hydraulic turbines to operate only a portion of the time needed to supply normal load factor loads. The hydroelectric production must be supplemented, particularly in below-average rainfall periods, by purchased energy from other suppliers under nonfirm contracts generally negotiated from time to time as required from suppliers willing to sell this product to the Government and at prices which vary with the utility supplying the service. In fiscal year 1978, SWPA purchased 910 million kWh of thermal energy.

SWPA will experience the termination of a number of firm and peaking power sales contracts in the near future and also will have available a limited quantity of new hydroelectric capacity from the two multiple-purpose reservoir projects under construction to be operative in 1980 and 1982. It is imperative that an allocation and/or reallocation of this power be developed soon in order that the most equitable distribution to present and new preference customers in the six-state marketing area can be made for the period through 1988.

The total load of the preference systems in the six-state region of SWPA is projected to be 14,264,200 kW with an estimated energy requirement of 64.2 billion kWh in 1979. For purposes of comparison, SWPA's total resources available for marketing by 1984 will amount to only 2,107,700 kW, and it will have available during an average year only 5.3 billion kWh to market.

SWPA has received requests for power allocations totaling in excess of 2,000,000 kilowatts. During the period through 1988, SWPA expects to have new power projects with a total capability of 218,000 kilowatts capacity. A portion of this 218,000 kW has been allocated. SWPA's present resources totaling 1,916,700 kW are fully allocated. With this situation where demand substantially exceeds the available resources, it is necessary for SWPA to allocate its available power resources in an equitable manner.

4. *Environmental Effects of the Proposed Action.* i. *Impact of the Criteria Used to Allocate.* In order to determine an equitable allocation of power to become available upon completion of the two hydroelectric projects in Missouri and the expiration of existing power contracts, SWPA studied a number of criteria to be used in developing the amounts of power allocated to the various customers or proposed customers. Of course, these criteria result in some systems receiving no SWPA allocation despite the fact that they have presented a formal request for an allocation. The principal impact on these systems will be they must continue to rely on sources of power other than SWPA which generally result in higher rates to their customers.

Not all of criteria considered were used. Those criteria which SWPA determined to have merit in connection with its requirements under the Flood Control Act of 1944 and the technical aspects of the electric system in the Southwest are:

a. *Customer's Ability to Utilize and Receive SWPA Peaking Power.* Peaking power requires the customer to have a supplemental source of energy. This energy source will be thermally-generated and will have some environmental effects. The 220,000 kW of power converted from normal load factor to peaking power will reduce the energy requirements on SWPA from 990,000,000 kWh (assuming 4,500 hours use per year) to 264,000,000 kWh (based on 1,200 hours use per year). SWPA may have had to purchase this energy from thermal sources if hydroelectric energy were not available. The same thermal energy will still be generated. However, it will be sold directly to the preference system by the generating utility and not purchased and resold by SWPA.

The criteria also requires that the customer be interconnected with the power systems in the Southwest in order to receive the SWPA power. The result is that no new transmission facilities will be required to be constructed by the government as a result of this criteria. We are unable to determine what facilities, if any, will need to be constructed by others.

The 14 systems which will be converted from normal load factor sales to peaking sales will purchase power under SWPA's peaking rate schedule (P–3) rather than its firm rate schedule (F–2) as at present. The average cost per kWh from the SWPA grid under P–3 is 17.5 mills, while under F–2 it is 10.0 mills. In addition to this increase in average cost of energy from SWPA, these systems must purchase thermal energy to supplement the hydro energy. The cost to SWPA for thermal energy has recently ranged from 14 mills per kWh to 35 mills per kWh. Due to the location and nature of the loads of these systems, thermal energy purchases by these systems may even exceed 35 mills per kWh. This supplemental energy combined with the higher cost peaking service will cause the overall energy cost to these systems to increase substantially over SWPA's present F–2 rate. This higher cost will still be less than alternate firm sources. These systems may be required to increase retail rates, depending on the amount of their total load supplied by SWPA and the other operating characteristics of their systems.

b. *Allocate Capacity in Meaningful Quantities.* The loads of each system to which SWPA proposed to allocate power have been considered in applying the term "meaningful." A quantity would not be considered "meaningful" if it were not of sufficient magnitude that it could be measured and scheduled by

the facilities used by SWPA and the utility systems in the Southwest. It is also required under this criteria that the benefits of the Federal hydroelectric power and energy have a recognizable impact upon the ultimate customers of the preference systems.

SWPA chose not to pro-rate its available resources among all of the systems requesting power allocation. To do so, would have meant allocating minimal quantities of power, which would have in many cases been difficult or impossible to measure and schedule. Furthermore, the advantages of hydroelectric power would not have been realized by any of these systems because the SWPA power would have been such a small percentage of the total capacity needs of the customers. We see no environmental effect as a result of this criteria.

c. *Continue Capacity Allocation to Existing Preference Customers When Such Preference Customers' Contracts Expire.* This criteria addresses reallocation of power made available as a result of expiration of contracts with preference customers only. The only contracts with nonpreference customers to expire during the period to 1988 are the Empire District Electric Company Contract and the Reynolds Metals Company-Arkansas Power and Light Company contract, which are discussed later. Reallocation of capacity, which was previously under contract, to a customer other than the party previously purchasing it would result in requiring the previous purchaser to install new generating capacity or purchase from another source. Likewise, a new customer may have generating facilities of its own which may become idle as a result of this reallocation. The net environmental effect of this criteria is that it is possible that some generating capacity may not need to be constructed by or for existing preference customers.

d. *Distribution Between States:* Section 5 of the Flood Control Act requires SWPA to seek the most widespread use of hydroelectric power. The proposed allocation is an effort to fairly distribute SWPA's resources among the states. Since loads served by hydroelectric resources will not be concentrated in certain areas, this criteria helps to distribute between the states thermal generating sources, thus avoiding the concentration of the environmental impacts of the construction and operation of thermal electric generating plants. SWPA is limited to some extent in implementing this criteria due to the electrical isolation of some systems in Texas. SWPA has two hydroelectric projects which are connected to the electric utility systems which operate as part of the Electric Reliability Council of Texas (ERCOT). Since the ERCOT systems are not interconnected with utilities outside of the state of Texas, it is impossible for SWPA to allocate capacity from resources other than these two hydroelectric projects to preference customers in the ERCOT portion of Texas. At the present time, capacity of the Whitney hydroelectric project must be sold in Texas. The capacity of the Denison hydroelectric project can be marketed either within or outside of Texas. This 70,000 kW of generation at Denison represents the only flexibility SWPA presently has in allocating power between Texas and the other states in our marketing area.

e. *Hardship.* This criteria is determined on a case-by-case basis. No proposed allocation has been based solely on this criteria. If an allocation is made based on this criteria, the environmental effects of this criteria will be evaluated at that time.

ii. *Impacts of Conversion from Normal Load Factor to Peaking Sales.* As discussed above, the water available for electric generation in the projects marketed by SWPA permits the hydraulic turbine to operate only a portion of the time necessary to supply normal load factor loads. This allocation of power is designed to market the type of resource which SWPA has available, i.e., peaking power. In the past, SWPA has sold normal load factor power to some customers and has purchased additional thermal energy in order to provide normal load factor service. The conversion of sales from normal load factor to peaking will transfer the responsibility for purchasing thermal energy from SWPA to the customers. There will be no net environmental change as a result. SWPA will continue to schedule all the energy possible from its hydroelectric resources. The projects which SWPA dispatches are operated within the constraints of available water and storage capability. Water releases for generation are, at times, dictated by the need for water from the project for purposes such as navigation, wildlife, recreation, and municipal water supply. Its generation can be schedules to meet loads other than that of preference customers. No change is anticipated in the operation of these projects or the downstream water flows. SWPA will continue to make available to preference customers supplemental energy which may be available during good water periods to customers to offset thermal generation.

iii. *Impact of Not Continuing the Allocation of Power Sold to Empire District Electric Company and to Reynolds Metals Company,* SWPA presently markets 45,0000 kilowatts to Empire District Electric Company and 150,000 kilowatts to Reynolds Metals Company and Arkansas Power & Light Company. These contracts expire on May 31, 1980, and December 31, 1983, respectively. These parties are not preference customers under Section 5 of the Flood Control Act of 1944. SWPA must, therefore, reallocate this power to preference customers.

Empire District uses this power as a peaking resource to serve its system requirements. It will have to use other generation to replace this power and energy. It will result in more thermal generation and possible more generation capacity construction. This will be offset by less generation and possible construction by those to whom this power and energy will be reallocated.

Reynolds uses this power for its aluminum production plant near Arkadelphia, Arkansas. Aluminum production is an energy intense process; therefore, the cost of aluminum is extremely sentitive to the cost of electric energy. SWPA's rates have recently been increased to Reynolds Metals Company and Arkansas Power & Light Company. Even with this rate increase, SWPA power and energy are still significantly less expensive than power and energy from Arkansas Power & Light Company (AP&L). Since this conversion from SWPA's source to another source will not occur until January 1, 1984, it is impossible to determine what course of action Reynolds may take. As we see it, Reynolds has three options:

a. *Continue to operate as at present.* Reynolds would purchase energy from AP&L at much higher prices than present rates from SWPA. AP&L would probably construct additional thermal generation facilities. However, it should be noted that if this 150,000 kilowatts continued to be sold to AP&L, those customers to whom SWPA proposes to allocate this power would have had equivalent capacity constructed for them. AP&L will be required to generate more electric energy from its fossil or nuclear generating plants to supply Reynolds. This is, of course, offset by reduced fossil or nuclear generation by or for those preference customers which receive an allocation of power as a result of this expiration. Reynolds may increase the cost of its aluminum. However, if Reynolds chooses to continue to operate its plant, it will have done so based on a market

determination that the cost of its Arkadelphia aluminum production would continue to be competitive with production of other aluminum plants. Therefore, we see no significant impact as a result of this action on Reynolds, should it continue to operate.

b. *Reynolds may choose to close down its operation.* The plant has been in production for 25 years, and Reynolds may determine that the useful life of this facility has been realized. Employees of Reynolds in the area would be terminated, resulting in some increased unemployment in the area. These employees may find work in Hot Springs or other neighboring communities, or they may be required to relocate in order to find employment. If the plant is shut down, there will be a reduction in thermal energy production equivalent to the total electric energy usage at the plant.

c. *Reynolds may choose to increase or decrease production of the plant,* based on its economical assessment of the expected life of the plant, cost of expansion, and the price for electric energy. Without knowledge of the future costs of energy from AP&L or construction costs, we cannot assess the impacts of these alternatives.

iv. *Impact of Construction.* SWPA will not be required to construct any additional facilities as a result of this allocation. SWPA requires customers to take delivery, or arrange for delivery, from the Federal transmission system. Deliveries of power to be allocated will therefore be made from the SWPA transmission system directly to customers connected to our system, or delivered to systems with interconnections to the SWPA system for redelivery to the customer.

Two new hydroelectric resources will become available for allocation during the period through 1988. They are the Harry S. Truman Hydroelectric Project and the Clarence Cannon Hydroelectric Project. These projects are under construction presently and Environmental Impact Statements have been prepared in connection with them. SWPA is presently constructing a transmission line from the Harry S. Truman Project to Clinton, Missouri, to integrate this project with the other projects on its interconnected system. This line will deliver the output to the Harry S. Truman Project into the SWPA system. An Environmental Assessment has been prepared in connection with the construction of this line.

Arrangements for the delivery of the output of the Clarence Cannon Project to the SWPA system have not been finalized. SWPA envisions the delivery of this power over existing transmission facilities owned by others. Construction of a relatively short transmission line by SWPA may be required to connect this project to existing transmission facilities. If SWPA is required to build such a line, the appropriate National Environmental Policy Act documentation will be prepared.

5. *Conclusions:* SWPA now markets power to 56 preference systems. This proposed reallocation will affect 23 of these systems to which SWPA proposes to continue to sell power and energy. The proposed reallocation will result in initial service to 12 preference systems not presently under contract to purchase from SWPA. SWPA's power resources represent 3.7% of the generating capacity and approximately 2.9% of the electric energy requirements of the interconnected power systems in the Southwest Power Pool. The actual amount of electric power and energy affected by this reallocation has minimum impact upon the total electrical requirements in the Southwest. Based on our review of the impacts discussed in this Environmental Assessment and the minimum impact this allocation will have on the total electrical resources of the region, we have concluded that his proposed action will not have a significant effect on the quality of the human environment.

6. *Alternatives:* i. SWPA could have considered other criteria in allocating power. Such other criteria might have included:

a. *Conservation.* SWPA could have required applicants to submit energy conservations plans and allocate capacity to those customers which demonstrated the best energy conservation proposals. While this would have had favorable impacts by possibly reducing energy usage, hydroelectric production would not have been altered. The conservation would have resulted in less thermal electric generation. The criteria was not used because it would have been too subjective in nature and difficult to apply in a fair an equitable manner.

b. *Fuel Displacement.* SWPA could have required customers to forecast the types and amounts of fuels which would have been saved as a result of the use of hydroelectric energy. Using this criteria, preference might have been given to those systems which are predominantly reliant on oil-based fuels. SWPA chose not to use this criteria because it would have required customers relying on coal-fired plants to increase generation, thereby increasing the enviromental impact of those plant through added pollution and increased construction. SWPA does not wish to impose such a requirement which would result in such an environmental trade-off which is of questionable value.

c. *Date of Customers' Requests.* SWPA chose not to use this as a criteria because it did not seek application for its capacity, and this criteria would have given certain customers an unfair advantage in the allocation process. SWPA cannot predict the impact of this criteria.

d. *Priority Between and Among Preference Customers.* This criteria would have suggested that one class of preference customers (i.e., municipal or cooperatives) be given a preference over the other class of preference customers. SWPA found no equity in adopting this criteria. SWPA cannot predict the impact of this criteria.

ii. SWPA could have allocated its capacity to other preference systems in different amounts. We envision that any modification to the amounts or individual customers to receive the SWPA power and energy would have had no net change on the environmental impact. The principal result would have been to shift from one area to another of impacts such as the effects of additional generation in areas not receiving SWPA power and the higher cost of power from sources other than SWPA.

iii. SWPA could have reallocated 45,000 kilowatts to Empire District Electric Company and 150,000 kilowatts to Reynolds Metals Company and Arkansas Power & Light Company. The result of this would have been to offset the environmental impact discussed under 4.iii, above. This alternative was not chosen because Empire District Electric Company, Reynolds Metals Company, and Arkansas Power & Light Company are not preference customers under Section 5 of the Flood Control Act of 1944, and preference in the allocation of power must first be given to public bodies and cooperatives whose requests exceed available capacity.

7. *References.* The reader is referred to the Federal Register Notice concerning the allocation of power, Section 5 of the Flood Control Act of 1944, and Section 302 of the Department of Energy Organization Act. These three documents are incorporated by this reference as part of the Environmental Assessment.

Attachment A

Project	FY on-line date	Installed capacity kW	Estimated Average annual energy (millions-kWh)
In service			
Beaver	1965	112,000	172
Blakely Mountain	1956	75,000	166
Broken Bow	1970	100,000	129
Bull Shoals	1953	340,000	785
Dardanelle	1965	124,000	613
DeGray [1]	1972	68,000	98
Denison	1945	70,000	244
Eufaula	1965	90,000	260
Ft. Gibson	1953	45,000	191
Greers Ferry	1964	96,000	189
Robert S. Kerr	1972	110,000	459
Keystone	1968	70,000	228
Narrows	1951	25,500	30
Norfolk	1944	70,000	164
Ozark	1973	100,000	429
Sam Rayburn	1967	52,000	114
Stockton	1973	42,200	55
Table Rock	1959	200,000	495
Tenkiller Ferry	1954	34,000	95
Webbers Falls	1974	60,000	213
Whitney	1955	30,000	73
Total operating		1,916,700	5,222
Under construction			
Clarence Cannon [1]	1982	58,000	90
Harry Truman [1]	1980	160,000	282
Under construction		218,000	372
Total		2,134,700	5,594

[1] Projects with pumpback capability.

[FR Doc. 79-23774 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Miles City-Baker-Hettinger-New Underwood 230-kV Transmission Line, Montana-North Dakota-South Dakota; Availability of Final Environmental Impact Statement

Notice is hereby given that a final Environmental Impact Statement (EIS), Miles City-Baker-Hettinger-New Underwood 230-kV Transmission Line, Montana-North Dakota-South Dakota was issued and filed with the Environmental Protection Agency on July 30, 1979, pursuant to the Department of Energy's (DOE) implementation of the National Environmental Policy Act of 1969. The statement was prepared to support DOE's proposed participation in the construction of a 528-kilometer (328-mile) Miles City-Baker-Hettinger-New Underwood 230-kV Transmission Line located in Custer and Fallon Counties in Montana, Adams, Bowman, and Slope counties in North Dakota and Meade, Pennington and Perkins counties in South Dakota. Montana-Dakota Utilities Company would construct the North Dakota segment of the line and DOE would construct the segments in Montana and South Dakota. The Rural Electrification Administration (REA) has participated in the preparation of this EIS, to fulfill the NEPA requirements for guaranteeing REA loan funds for the Basin Electric Power Cooperative portion of this project and REA intends to use this EIS for its compliance with NEPA. (In this project the REA is a Cooperating Agency, No. USDA-REA-EIS (ADM) 79-4-F.)

The statement assesses the potential environmental impacts associated with construction and operation of the proposed transmission line. This includes the adverse impacts associated with dust and noise pollution and clearing of trees and brush during the construction phase of the activity. Long-term impacts include visual impacts where the line crosses highways, occasional loss of bird life as a result of collision with the structures or conductors, and removal of 36 hectares (86 acres) of farm and rangeland from agricultural production. The line would cross three scattered parcels of the Little Missouri National Grasslands and the Little Missouri River, which has been designated as a Scenic River by the State of North Dakota. The segment north of Marmarth is currently being considered as a potential addition to the National Wild and Scenic Rivers System by the Secretaries of Agriculture and the Interior.

Copies of the draft Environmental Impact Statement have been distributed for review and comment to appropriate Federal, State and local agencies, and other organizations and individuals who are known to have an interest in the activities associated with construction of the proposed transmission line. All comments received were incorporated into the final EIS.

Copies of the final Environmental Impact Statement have also been distributed for review and comment to appropriate Federal, State and local agencies, and other organizations and individuals who commented on the draft EIS.

Copies of the statement are also available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, at the following DOE public reading rooms:

Library, Room 1223, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20585.

Department of Energy, Room GA 152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585.

Individual copies of the final Environmental Impact Statement are available upon request addressed to James D. Davies, Area Manager, Western Area Power Administration, Department of Energy, P.O. Box EGY, Billings, MT 59101, (406) 657-6533, or FTS 585-6533.

Dated at Washington, DC., this 30th day of July, 1979. For the Department of Energy.

James L. Liverman,

Deputy Assistant Secretary for Environment.

[FR Doc. 79-23880 Filed 8-1-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

United States and Republic of Korea; Proposed Subsequent Arrangement Concerning Peaceful Uses of Atomic Energy

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of contractual arrangements under which DOE will consent to the assignment of portions of several uranium enrichment services contracts held by several U.S. utilities involving up to 1.1 million separative work units to the Korea Electric Company for utilization in up to 8 power reactors.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: July 31, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-24106 Filed 8-1-79; 11:16 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180293A; FRL 1289-6]

California Department of Food and Agriculture; Amendment to Specific Exemption To Use Amitraz (BAAM) on Pears To Control Pear Psylla

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of amendment to specific exemption.

SUMMARY: EPA has issued an amendment to a specific exemption granted to the California Department of Food and Agriculture (hereafter referred to as "California") to use amitraz (BAAM) on pears to control pear psylla. The amendment permits application of amitraz in two additinal counties.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On June 21, 1979 (44 FR 36248), EPA published a notice in the **Federal Register** which announced the granting of a specific exemption to California to use 48,375 pounds of amitraz on 10,750 acres of pears to control the pear psylla. Since then, California has requested permission to add 838 acres of pears in Butte County and 834 acres of pears in San Benito County to the specific exemption. According to California, seven infestations in those two countries require treatment to prevent losses of $74,450 to growers.

After reviewing the application and other available information, EPA has determined that the requested amendment would not significantly increase the amount of BAAM already being used in the major pear-growing areas of California. Accordingly, EPA has granted the amendment to include the counties named above. A total of up to 3,771 pounds of the active ingredient amitraz may be applied in Butte County and up to 3,753 pounds in San Benito County. This increases the total amount of amitraz authorized for use in California from 48,375 pounds to 55,899 pounds. All other provisions and restrictions of the specific exemption granted on April 19, 1979, still apply.

(Section 18 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136.)

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23887 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180332; FRL 1288-7]

Idaho, Oregon, and Washington State Departments of Agriculture; Issuance of Specific Exemptions To Use Acephate To Control Lepidopterous Pests of Mint

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the Idaho, Oregon, and Washington Departments of Agriculture (hereafter referred to as "Idaho," "Oregon," "Washington," or the "Applicants") to use acephate to control several lepidopterous pests of mint on 12,000 acres in Idaho, 20,000 acres in Oregon, and 9,000 acres in Washington. The specific exemptions expire on August 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-757), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Idaho reports a number of lepidopterous pests which attack peppermint and spearmint. A complex of cutworm species such as the spotted cutworm (*Amathes c-nigrum*), the black cutworm (*Agrotis ipsilon*), *Diarsia pseudosaria*, and *Euxoa* spp. reportedly have caused serious early damage to mint fields in southwestern Idaho. These cutworms feed on mint roots and stolons. Later on in the season, two other pests, the variegated cutworm *(Peridroma saucia)* and the alfalfa looper (*Autographa californica),* feed on the foliage. Damage from the latter two pests occur from late June through August. In 1978, Lannate and Nudrin were employed in an attempt to control heavy populations of cutworms but control results were marginal, mainly because of the dense foliage present. Dyfonate 10G has been reported to be marginally effective in the mint fields of the Northwest. In addition when used with Sinbar, a herbicide, phytotoxicity problems arose, Idaho reports. Idaho ranks third in the nation in mint oil production with 14,000 acres of mint in production. In 1977, the Idaho mint crop was valued at $10 million. Idaho estimates 25–30% losses in untreated fields. Idaho states that in 1978 several growers experienced losses of 50% because of high cutworm infestations.

Oregon reports that the redbacked cutworm and other *Euxoa* spp. cause serious damage on peppermint in central and eastern Oregon by feeding on peppermint roots and stolons during April and May and on foliage during late May and June. The alfalfa and variegated cutworm have caused severe defoliation of mint during late June through August in western (Willamette Valley) and central Oregon. Oregon also reports that although Dyfonate 10G is currently State-registered for control of the redbacked cutworm on mint, it is not widely used because: (1) growers in central Oregon employ a non-tillage program to reduce the spread of a serious mint disease, verticillum wilt, (Dyfonate must be incorporated into the soil in order to be effective); (2) phytotoxicity is often encountered when Dyfonate G and Sinbar are used in the same mint fields; and (3) irrigation water, which is needed to seal the soil surface after Dyfonate is applied, is not always available to growers when needed. Oregon also reports that Lannate and Nudrin have been ineffective when applied aerially during July and August. Oregon currently grows 50,000 acres of mint, valued at over $40 million. Oregon estimates that potential losses from lepidopterous pests can amount to $2 million annually.

Washington reports that the redbacked cutworm, the variegated cutworm, and the alfalfa looper are the major pests of mint in Washington; other cutworm species are also present. Washington also reported that Lannate and Nudrin were ineffective in controlling mint pests in 1978. Washington grows 28,000 acres of mint, valued at $20 million. Washington estimates potential losses could be as high as $1.5 million on the total acreage grown in Washington, if an effective program is not carried out.

The Applicants proposed the use of Orthene 75S, EPA Reg. No. 239-2418, which contains the active ingredient (a.i.) acephate. No more than two applications will be made per season at the dosage rate of 1.33 pounds product per acre.

Acephate is currently registered for use on lemons, celery, cotton, beans, lettuce, soybeans, and peppers. EPA has determined that total residues of acephate and its metabolite (methamidophos) will not exceed 20 parts per million (ppm) in fresh hay. Significantly lower residues would occur in the spent hay, and residue levels would be undetectable (less than 0.05 ppm) in the mint oil. These residue levels have been judged adequate to protect the public health. The existing 0.1 ppm tolerance for acephate and its metabolite in meat, meat byproducts, milk, and fat is not likely to be exceeded by the feeding of spent hay to livestock.

EPA does not anticipate serious adverse effects to terrestrial vertebrates from the from the proposed program since the applications of acephate are scheduled far enough apart so that no residue build-up should occur. Likewise, little hazard to aquatic organisms is expected. However, since acephate is highly toxic to bees, precautions have been imposed to prevent adverse effects to bees. In addition, certain standard precautions against contamination of aquatic areas were required.

After reviewing the applications and other available information, EPA determined that (a) pest outbreaks of various lepidopterous pests of mint have occurred or are about to occur; (b) there is no effective pesticide registered and available for use to control the various lepidopterous pests of mint in Idaho, Oregon, and Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the lepidopterous pests are controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until August 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The EPA-registered product Orthene 75S (EPA Reg. No. 239-2418) may be used at a rate of one pound a.i. per acre per application;

2. A maximum of two applications will be made;

3. A maximum of 12,000 pounds a.i. may be applied to 6,000 acres of mint in southwestern Idaho. A maximum of 40,000 pounds a.i. may be applied to 20,000 acres of mint in central and western Oregon. A maximum of 18,000 pounds a.i. may be applied to 9,000 acres of mint east of the Cascade Mountains in Washington;

4. Applications will be made with ground or air equipment;

5. Spray mixture volumes of 20–100 gallons per acre will be applied by ground equipment or 5–10 gallons by aircraft;

6. All applications will be made by qualified growers using their own equipment or by State-licensed commercial applicators. State University Extension agents will furnish information on rates and procedures;

7. Precautions will be taken to avoid spray drift to nontarget areas. The pesticide will not be applied when weather conditions favor drift;

8. Care will be exercised to keep the pesticide out of lakes, streams, or ponds, and to prevent contamination of water by cleaning of equipment or disposal of waste;

9. This product may not be applied to blooming mint fields when bees are present in the area;

10. Combined residues of acephate and its metabolite methamidophos are not expected to exceed 20 ppm in fresh and spent peppermint hay. Detectable residues (greater than 0.05 ppm) will not occur in mint oil. Fresh and spent peppermint and spearmint hay and mint oil with residues which are not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

11. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

12. The Applicants are responsible for ensuring that all of the provisions of the specific exemptions are met and each must submit a report summarizing the results of this program by January 15, 1980; and

13. The EPA shall be informed immediately of any adverse effects resulting from the use of acephate in connection with these exemptions.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23888 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180296A; FRL 1289-5]

Idaho and Washington State Departments of Agriculture; Issuance of Specific Amendments To Use Dinoseb To Control Broadleaf Weeds in Lentils; Correction

In FR Doc. 179-17974 appearing at page 33150 in the issue of Friday, June 8, 1979, the nitrosamine impurity in dinoseb is incorrectly identified. The seventh and eighteenth lines of the fourth paragraph of the first column on page 33151 are corrected to begin respectively "nitrosamine impurity NDELA . . ." and "impurity NDELA. . . ."

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23890 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180341; FRL 1288-8]

New Jersey Department of Environmental Protection; Issuance of Specific Exemption To Use Permethrin To Control Colorado Potato Beetle on Eggplants

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the New Jersey Department of Environmental Protection (hereafter referred to as the "Applicant") to use permethrin (Ambush or Pounce) on 1,000 acres of eggplants in seven counties in New Jersey to control the Colorado potato beetle. The specific exemption expires on September 15, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Both the larvae and adults of the Colorado potato

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beetle feed on the leaves of eggplants. This feeding may result in defoliation of the plant which prevents development of the fruit or greatly reduces fruit size. The pest also feeds on the fruit.

There are many chemicals registered for control of this pest on eggplants: carbaryl, endosulfan, methoxychlor, pyrethrum, parathion, rotenone, and toxaphene; however, these chemicals are unsatisfactory for control of the Colorado potato beetle due to developing pesticidal resistance. Resistance to organophosphates has become apparent in certain areas during the past three years. The Applicant states that the Colorado potato beetle's resistance to endosulfan, carbaryl, methoxychlor and parathion is evident. According to the Applicant, the availability of rotenone and pyrethrum is very questionable. Data indicate that permethrin is effective against the Colorado potato beetle (adult and larvae) at the proposed rates. Without an effective control program, the Applicant estimates a loss of $625,000 to $2 million to the eggplant growers.

The Applicant proposed to make up to eight applications of permethrin to a maximum of 1,000 acres of eggplants in Atlantic, Burlington, Camden, Cumberland, Gloucester, Monmouth, and Salem Counties, New Jersey. Application will be at a rate of 0.1 to 0.2 pound of active ingredient (a.i.) per acre.

EPA has determined that residues of permethrin on eggplants would not be expected to exceed 0.5 part per million (ppm) as a result of the proposed use, provided that no more than eight applications of permethrin are made and a three-day pre-harvest interval is observed. This level has been judged adequate to protect the public health. Since peremthrin is highly toxic to bees and aquatic vetebrates and invertebrates, appropriate restrictions have been imposed.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of Colorado potato beetle has occurred or is likely to occur; (b) there is no effective pesticide presently registered and available for use to control the Colorado potato beetle in New Jersey; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the Colorado potato beetle is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products, Ambush, manufactured by ICI Americas, Inc., and Pounce, manufactured by FMC Corp., may be applied;

2. These pesticides may be applied at a rate of 0.1 to 0.2 pound a.i. per acre;

3. A maximum of eight applications of permethrin may be made with a preharvest interval of three days;

4. A maximum of 1,000 acres in the New Jersey counties named above may be treated;

5. Applications will be made with air or ground equipment;

6. Spray mixture volumes of 40 or more gallons of water will be applied by ground equipment, 5 or more gallons by aircraft;

7. Applications will be made by State-certified private or commercial applicators or persons under the direct supervision of a State-certified applicator;

8. Permethrin is toxic to fish, birds, and other wildlife. It must be kept out of any body of water. It may not be applied where run-off is likely to occur. It may not be applied when weather conditions favor drift from treated areas. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes;

9. In order to minimize spray drift, the following restrictions will be observed for applications of permethrin:

a. Aerial applications will not be made when wind speed exceeds five miles per hour.

b. A buffer zone of 100 feet (horizontal distance) between treated areas and aquatic areas will be observed;

10. Permethrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

11. The Applicant is responsible for ensuring that residue data for levels of permethrin in eggplants, resulting from the proposed use pattern, are gathered;

12. Eggplants treated according to the above provisions will not have residues of permethrin in excess of 0.5 ppm. Eggplants with residues of permethrin which do not exceed this level may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. A 60-day crop rotation restriction is imposed;

14. The EPA will be immediately informed of any adverse effects resulting from the use of permethrin in connection with this exemption; and

15. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by February 15, 1980.

(Section 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23889 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180331; FRL 1289-8]

Massachusetts Department of Food and Agriculture; Issuance of Specific Exemption To Use Acephate on Cranberries To Control Brown Cranberry Spanworm

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Massachusetts Department of Food and Agriculture (hereafter referred to as the "Applicant") to use 1,500 pounds of acephate on 750 acres of cranberries in Massachusetts to control the brown cranberry spanworm. The specific exemption expires on July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division, (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The brown cranberry spanworm is a lepidopterous insect that overwinters as a pupa among dead cranberry leaves. These pupae readily withstand floods, emerging as adult moths in late May and early June. Eggs are laid which hatch into worms by mid-June and early July. The worms nip off blossoms and small berries and eat the cranberry leaves. According to the Applicant, a severe infestation can wipe out an entire cranberry bog.

Parathion is registered for the proposed use pattern, but the Applicant claims that the brown spanworm has become resistant to it. The Applicant stated that non-pesticidal means of controlling the worms (flooding and resanding of bog floors) have proved ineffective. It has been determined that acephate should be efficacious against the brown cranberry spanworm.

The Applicant estimates that up to 20,000 barrels of cranberries were lost to the pest last year, causing a loss of $420,000. The Applicant expects a similar loss this year, if an effective program is not carried out.

Acephate is registered for use on various crops, and a number of tolerances have been established for its residues. EPA has determined that the proposed use should result in residues of acephate in or on cranberries not in excess of 2.0 parts per million (ppm). This level has been judged adequate to protect the public health.

Acephate is extremely toxic to bees. In order to prevent bee losses, appropriate restrictions have been imposed. The use of acephate according to the provisions of the specific exemption should not pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of the brown cranberry spanworm has occurred; (b) there is no effective pesticide presently registered and available for use to control the brown cranberry spanworm in Massachusets; (c) there are no altrnative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the brown cranberry spanworm is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 31, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Orthene 75S, EPA Reg. No. 239-2418, may be applied;

2. Orthene may be applied at a rate of one pound active ingredient per acre;

3. A maximum of two applications may be made with a pre-harvest interval of sixty days;

4. A maximum of 750 acres of cranberries may be treated;

5. Orthene is extremely toxic to bees. Severe losses can be expected if this pesticide is used when bees are present at treatment time or within twenty-four hours after application;

6. Applications may be made through a sprinkler system in a spray mixture of up to 400 gallons of water per acre or by helicopter in a spray volume of two or more gallons of water per acre;

7. In order to prevent bee losses, post-bloom applications should be made through a sprinkler system. Application should be made at dusk, and, whenever possible, light sprinkle irrigation should continue the day following application;

8. Applications will be carried out by experienced cranberry growers or commercial applicators serving the cranberry industry;

9. Cranberries treated according to the above provisions should not have residues of acephate and its cholinesterase-inhibiting matabolite, O,S-demethyl phosphoramidothioate, in excess of 2.0 ppm. Cranberries with residues of acephate and its metabolite which do not exceed this level may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. The EPA will be immediately informed of any adverse effects resulting from the use of acephate in connection with this exemption; and

11. The applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by October 31, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23805 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180343; FRL 1289-1]

Michigan Department of Agriculture; Issuance of Specific Exemption To Use Permethrin To Control Pear Psylla

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Michigan Department of Agriculture (hereafter referred to as the "Applicant") to use 3,150 pounds of permethrin to control pear psylla on 4,500 acres of pear trees in Michigan. The specific exemption expires on September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The Applicant reported that pear psylla is present in all pear orchards in Michigan. The adult winters in bark crevices or under leaves on the ground and starts to lay eggs around the buds in early spring. The eggs hatch in two weeks into wingless nymphs which become adults in one month. There are normally three to five generations in a season with summer eggs laid on leaves or petioles. The secretion from the nymphs covers foliage and fruit, and a sooty mold growing in the secretion makes brown spots on leaves, scarring and blackening the fruit. There can be partial defoliation, loss of vigor and abnormal buds. The fruit is made unsightly and unfit for fresh fruit sale. Processors will not buy russeted fruit because of problems in peeling and/or contamination of the end product, the Applicant claims.

According to the Applicant, the pear psylla is resistant to most registered products. Currently Guthion, summer oil, and Morestan are recommended for pear psylla control. Morestan is used as a delayed dormant spray, Guthion and summer oil may be used as cover sprays. The most effective insecticides, chlordimeform and Perthane have been withdrawn by the manufacturers and are no longer available to growers. The Applicant also states that there are no cultural or biological methods to control pear psylla effectively.

EPA granted the Applicant a specific exemption to use Pydrin to control the pear psylla earlier this year. However, Pydrin may be used only from the dormant through the pre-bloom stages in pear tree development. The Applicant states a need for post-bloom control. The manufacturer of Ambush, the requested pesticide, currently has an experimental use permit for this use on a crop destruct basis. Another chemical, amitraz (BAAM), has recently been shown to be effective for post-bloom psylla control. Registration of BAAM for this use on pears is expected soon, but

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not in time for this year's outbreak. The Applicant states that the value of the 1977 crop was $2,640,000 and that the economic loss can be total without control of the pear psylla.

Pydrin was used under a specific exemption for the two early season dormant sprays. The Applicant plans to use permethrin for two summer cover sprays at a total maximum rate of .7 pound active ingredient (a.i.) per acre, using ground equipment.

Residues of permethrin on pears from the proposed use are not expected to exceed 4 parts per million (ppm). This residue level has been judged adequate to protect the public health. Since permethrin is highly toxic to aquatic organisms, appropriate restrictions have been imposed. The proposed use should not pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of pear psylla has occurrred or is likely to occur; (b) there is no pesticide presently registered and available for use to control the pear psylla in Michigan; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pear psylla is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product, Ambush Insecticide, EPA Reg. No. 10182–3, manufactured by ICI Americas, Inc., is authorized;

2. Ambush will be applied at a rate of 0.2 to 0.35 pound a.i. per acre. A maximum of two applications may be made;

3. A maximum of 4,500 acres may be treated;

4. A maximum of 3,150 pounds a.i. may be applied;

5. All applications will be made by ground equipment;

6. No application will be made within 21 days of any harvest;

7. All applications will be made by State-certified private and commercial applicators;

8. All applicable directions, restrictions, and precautions on the product label must be followed;

9. Cover crops in treated orchards may not be grazed or fed;

10. This pesticide is extremely toxic to fish and aquatic invertebrates. Care must be used when applying it in areas adjacent to any body of water. it may not be applied when weather conditions favor run-off or drift. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of wastes in any way which directly or indirectly discharge into lakes, streams, or ponds;

11. Treatment of pear trees as proposed should not result in residues exceeding 4 ppm of permethrin. Pears with residues not exceeding this level may be placed into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

12. The EPA shall be informed immediately of any adverse effects resulting from the use of this pesticide in connection with this exemption; and

13. The Applicant shall be responsible for assuring that all provisions of this specific exemption are met and must submit a report summarizing the results of this program by March 1, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23890 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180342; FRL 1289-2]

New Jersey Department of Environmental Protection; Issuance of Specific Exemption To Use Captafol To Control Pepper Blight

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the New Jersey Department of Environmental Protection (hereafter referred to as the "Applicant") to use 9,000 pounds of captafol (Difolatan 4F) to control pepper blight on 1,200 acres of peppers in five counties in New Jersey. The specific exemption expires on October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Pepper blight is caused by a fungus that lives in the soil from year to year and may be carried on the seed. The infected plant commonly is girdled at the soil line, causing a sudden wilting and death of the plant. Branches and fruit may also be infected. Infected fruits first show dark water-soaked patches. These patches become coated with a white growth of the fungus, and the fruit finally withers but remains attached to the plant. According to the Applicant, the pepper blight has been a severe problem in pepper fields and the Applicant estimates a direct loss of $3 million this year and a potential loss of a $3 million industry, if the pepper blight is not controlled.

Sprays of fixed copper fungicides, bordeaux mixtures, or preparations containing zineb or nabam (used with zinc sulfate) are generally recommended to control the disease. Zineb and copper oxychloride sulfate (COCS) are registered for this use. The Applicant states that zineb and COCS are generally unavailable in the infested area and that related compounds (various manganese and zinc ion products such as Polyram, and various fixed copper products such as Copper Count N) proved ineffective in tests and commercial fields.

The Applicant proposed to treat 1,200 acres of peppers in Atlantic, Camden, Cumberland, Gloucester, and Salem Counties, New Jersey. The requested use is for a maximum of five applications (aerial and ground) at a rate of 1.5 pounds active ingredient (a.i.) per acre.

Difolatan 4F is currently registered for both ground and air application to a large variety of crops at rates greater than those requested for this use. EPA has determined that Difolatan 4F would be an effective alternative fungicide for control of pepper blight in the absence of COCS and zineb. Residues of captafol on peppers are not expected to exceed 3.5 parts per million (ppm) as a result of the proposed use, providing a 14-day pre-harvest interval is observed. This level has been judged adequate to protect the public health. The proposed use should not have an unreasonable adverse effect on birds, mammals, or aquatic organisms; nor should it pose a hazard to endangered species and/or their habitats.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of

pepper blight on pepper has occurred or is likely to occur; (b) there is no pesticide presently registered and available for use to control pepper blight in New Jersey; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pepper blight is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 1, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Difolatan 4F (EPA Reg. No. 239–2211), manufactured by Chevron Chemical Company, may be applied;

2. Captafol may be applied at a rate of 1.5 pounds a.i. per acre;

3. A maximum of five applications may be made with a pre-harvest interval of fourteen days;

4. A maximum of 1,200 acres may be treated in New Jersey;

5. A maximum of 9,000 pounds of captafol may be applied;

6. Applications will be made with air or ground equipment on a 10-day schedule;

7. Spray mixture volumes of five gallons of water per acre may be applied by air equipment;

8. Application wil not begin until conditions are favorable for the foliar phase of the disease to begin;

9. Peppers treated according to the above provisions will not have residues of captafol in excess of 3.5 ppm. Peppers with residues of captafol which do not exceed this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

11. The EPA will be immediately informed of any adverse effects resulting from the use of captafol in connection with this exemption; and

12. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the result of this program by April 1, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23891 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180344; FRL 1290-2]

North Carolina Department of Agriculture; Issuance of Specific Exemption To Use Bentazon To Control Broadleaf Weeds and Sedges in Chili Peppers

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the North Carolina Department of Agriculture (hereafter referred to as the "Applicant") to use 2,400 pounds of bentazon on 1,200 acres of Bohemian chili peppers to control broadleaf weeds and sedges in four counties in North Carolina. The specific exemption expires on October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Recently, techniques have been developed for producing and processing chili peppers in northeastern North Carolina. The use of mechanical pepper harvesters dictates that chili pepper fields be maintained in a weed-free state throughout the growing season. Chopping has been the primary means by which weeds and grass have been controlled. The Applicant states that there is a lack of available labor for chopping. Although Paraquat CL is registered for use on peppers, the Applicant states that it is not a suitable alternative because it is phytotoxic to the Bohemian chili pepper. There are a number of herbicides registered for use on peppers, but these products control only broadleaf weeds, not sedges. The Applicant states that with an effective broadleaf weed and sedge control program, chili peppers should prove economically competitive with peanuts. Without an adequate control program, the Applicant estimates the loss to the chili pepper growers could reach $1 million.

The Applicant proposed to use Basagran, which contains the active ingredient (a.i.) bentazon on 1,200 acres of peppers in Bertie, Chowan, Tyrell, and Washington Counties. Application would be made with ground equipment, using a maximum of two pounds a.i. per acre. On June 7, 1979, North Carolina availed itself of a crisis exemption for this use.

EPA has determined that residues of bentazon and its 6- and 8-hydroxy metabolites are not expected to exceed 0.2 part per million (ppm) as a result of the proposed use. This level has been judged adequate to protect the public health. The proposed use is not expected to have an unreasonable adverse effect on birds, mammals, or aquatic organisms; nor should it pose a hazard to endangered species and/or their habitats.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of broadleaf weeds and sedges has occurred; (b) there is no effective pesticide presently registered and available for use to control both broadleaf weeds and sedges in North Carolina; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if broadleaf weeds and sedges are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 1, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Basagran, EPA Reg. No. 7969–45, manufactured by BASF Wyandotte Corp., is authorized;

2. Basagran will be applied at a rate of 0.5 to 1.5 pounds a.i. per acre. Either single or split applications may be made, but a maximum of two pounds a.i. per acre may be applied;

3. A maximum of 1,200 acres in the counties named above may be treated;

4. A maximum of 2,400 pounds a.i. may be applied;

5. All applications will be made by broadcast ground equipment;

6. No application will be made within 105 days of any harvest;

7. Applications may be made by either private or State-licensed commercial applicators;

8. All label directions, precautions, and restrictions on the product label must be followed;

9. Chili peppers with residues of bentazon and its 6- and 8-hydroxy metabolites not exceeding 0.2 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. A full report summarizing the results of this program must be submitted to EPA by the end of March, 1980;

11. The EPA shall be immediately informed of any adverse effects resulting from the use of Basagran in connection with this exemption; and

12. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are met.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23893 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180267A; FRL 1289-7]

North Dakota Department of Agriculture; Amendment to Specific Exemption To Use Propanil To Control Foxtail Grasses

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of amendment to specific exemption

SUMMARY: EPA has issued an amendment to a specific exemption granted to the North Dakota Department of Agriculture (hereafter referred to as the "Applicant") to use propanil on hard red spring wheat to control foxtail grasses. The amendment permits aerial application of propanil on 100,000 acres of wheat in Montana.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On Thursday, June 21, 1979 (44 FR 36247), EPA published a notice in the **Federal Register** which announced the granting of a specific exemption to the Applicant to use propanil (Stam F-34) on a million acres of hard red spring wheat in North Dakota to control foxtail grasses, using ground equipment. Since then, the Applicant has requested permission to make aerial application to ten percent of the authorized acreage (100,000 acres).

According to the Applicant, due to an unusually wet spring, the amount of time available for planting wheat has been shortened considerably; the time available for pesticide application was likewise shortened. The Applicant claims that aerial applications are needed to supplement ground applications because of this shortened time period.

After reviewing the application and other available information, EPA has determined that the requested amendment should not significantly change the original request. Accordingly, EPA has granted the amendment so that the application of propanil to control green foxtail and yellow foxtail in hard red spring wheat in North Dakota may be made by ground or air equipment using a sufficient amount of water to assure uniform coverage. The total area treated by air will not exceed 100,000 acres. The amendment is contingent on the provision that a buffer zone of 600 feet from aquatic areas be maintained for all aerial applications and that a monitoring program be conducted to determine the impact of propanil on the aquatic ecosystem. EPA also requests that residue samples be collected from a representative amount of aerially treated wheat, in order to insure that residue levels of propanil will not exceed 0.05 part per million (ppm) in or on wheat grain and 0.5 ppm in or on wheat straw. All other terms and conditions of the specific exemption granted on March 31, 1979 still apply.

(Section 18 of the Federal Insecticide, Rodenticide, and Fungicide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23896 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180346; FRL 1289-4]

North Carolina Department of Agriculture and Virginia Department of Agriculture and Commerce; Issuance of Specific Exemptions To Use Botran 75W To Control Sclerotinia Blight of Peanuts

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the North Carolina Department of Agriculture and the Virginia Department of Agriculture and Commerce (hereafter referred to as "North Carolina," "Virginia," or the "Applicants") to use Botran 75W for the control of *Sclerotinia* blight on 56,350 acres of peanuts in North Carolina and on 52,000 acres of peanuts in Virginia. The specific examptions expire on September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes,

SUPPLEMENTARY INFORMATION: According to North Carolina and Virginia, the *Sclerotinia* blight, which is caused by the plant pathogen *Sclerotinia sclerotiorum* (syn. *S. minor*), is a relatively new disease on peanuts in the United States, being first reported in 1971. *S. sclerotiorum* invades the tap root, lateral branches, and pegs at the soil line and eventually causes rotting of the peanut pods. Losses in yield in excess of 50% have been reported in North Carolina and Virginia due to this pathogen, the Applicants stated.

There are no EPA-registered fungicides for the control of *S. sclerotiorum* on peanuts. Several fungicides have been tested and shown to be effective for the control of *Sclerotinia* blight on peanuts. Pentachloronitrobenzene (PCNB) when used at maximal label rates did control *S. sclerotiorum* in some instances, but not in others. Multiple applications of benomyl also provided adequate control. Neither of these fungicides is registered although PCNB has a registration for peanut pod rot complex. Botran 75W was chosen by the Applicants because it was considered to be most efficacious for control of *S. sclerotiorum*. In addition, Botran 75W is registered for the control of *Sclerotinia* on several vegetable crops (beans, celery, cucumbers, lettuce, onions, potatoes, and snap beans).

North Carolina will use Botran 75W, containing the active ingredient 2,6-dichloro-4-nitroaniline, once at a dosage rate of 4 to 5 pounds of product per acre, or twice at a dosage rate of 2 to 2.66 pounds of product per acre. If two applications are made, they will be made 10–14 days apart. Applications of Botran will be made by peanut growers on a maximum of 56,350 acres of peanuts in the North Carolina coastal plain. The diagnosis of this plant pathogen must be made before Botran 75W is applied.

Virginia proposes essentially the same program as North Carolina on a total of 52,000 acres in the following counties: Brunswick, Dinwiddie, Greenville, Isle of Wight, Prince George, Southampton, Suffolk City, Surry, and Sussex. If split applications are made in Virginia, they will be at a dosage rate of 2 to 2.5 pounds of product in 25–50 gallons of water.

North Carolina estimates that losses due to uncontrolled *S. sclerotiorum* infection could exceed $5.4 million. Virginia estimates that peanut yield losses of over $3 million could occur without a suitable control program.

This use of Botran 75W is not expected to have any adverse effects on the environment. Treated peanut vines or hay may not be used as livestock feed items.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of *Sclerotinia* blight have occurred or are about to occur; (b) there is no pesticide presently registered and available for use to control this pest in North Carolina and Virginia; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. Botran 75W (EPA Reg. No. 1023-36) may be applied with ground equipment either once at a dosage rate of 4 to 5 pounds of product (3–3.75 pounds active ingredient) per acre or as a split application, 10–14 days apart, at a dosage rate in North Carolina of 2–2.66 pounds of product (1.5–2.0 pounds active ingredient) per acre and in Virginia at a dosage rate of 2–2.5 pounds of product (1.5–1.88 pounds active ingredient) per acre. The product should be applied in North Carolina in 30–50 gallons of water and in Virginia in 25–50 gallons of water over the row, using a flat type spray nozzle that produces large droplets rather than a mist and with sufficient pressure to drive the fungicide to the soil surface;

2. A maximum of 56,350 acres of peanuts located in the North Carolina coastal plain and a maximum of 52,000 acres of peanuts in the Virginia counties previously listed may be treated;

3. A maximum of 225,400 pounds of active ingredient may be applied in North Carolina; 195,520 pounds in Virginia;

4. Applications may be made by growers;

5. The use of Botran 75W in conjunction with these specific exemptions is authorized only when personnel of the North Carolina Department of Agriculture or county extension personnel in North Carolina, or personnel of the Virginia Cooperative Extension Service in Virginia determine the presence of *Sclerotinia* blight in a given growing area;

6. The North Carolina Extension Service's recommendations and the Virginia Cooperative Extension Service's recommendations concerning application methods and equipment must be made available to growers in the respective States;

7. A residue level of 2,6-dichloro-4-nitroaniline in or on peanut meat and hulls not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Botran-treated peanut vines or hay must not be used as livestock feed items. A minimum pre-harvest interval of 30 days must be observed;

9. Botran 75W is toxic to fish. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of waste or containers. It may not be applied under conditions favoring sheet run-off;

10. All label directions, precautions, and restrictions must be adhered to;

11. The EPA shall be immediately informed of any adverse effects resulting from the use of Botran 75W in connection with these exemptions; and

12. The Applicants are each required to submit a full report summarizing the results of this program in their respective States to the EPA by March, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23808 Filed 8-01-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-30169; FRL 1288-5]

Pesticide Programs; Receipt of Application To Register Pesticide Product Containing New Active Ingredient

Gametrics Limited, 180 Harbor Drive, Sausalito, CA 94965, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product Epibloc Rodenticide (EPA File Symbol 42882-R), containing 20% of the active ingredient (a rodenticide-chemosterilant) alpha-chlorohydrin (3-chloro-1,2-propanediol) which has not been included in any previously registered pesticide product. The application proposes that the pesticide be classified for restricted use in the control of Norway and roof rats in and around building, sewers, and dumps. Notice of this application is given pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended and the regulations thereunder (40 CFR 162). Notice of receipt of this application does not indicate a decision by the Agency on the application.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 16, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426-9458.

The comments must be received on or before September 4, 1979, and should bear a notation indicating the EPA File Symbol 42882-R. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without

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delaying processing of the application. The label furnished by Gametrics Limited, as well as all written comments filed pursuant to this notice, will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Notice of approval or denial of this application to register Epibloc Rodenticide will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the **Federal Register** if an application is approved.

Dated: July 25, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-23887 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180345; FRL 1289-3]

Department of Agriculture; Crisis Exemption To Use Acephate To Eradicate Gypsy Moth on Trees

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the U.S. Department of Agriculture (hereafter referred to as "USDA") has availed itself of a crisis exemption to use acephate on trees to eradicate the gypsy moth *(Lymantria dispar)* in 350 acres in Renton, Washington. The crisis exemption expired on June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: USDA reported that the gypsy moth is probably the most destructive insect threatening or currently attacking hardwood forests and shade trees in the eastern United States. The larval or caterpillar stage of this insect is a leaf eater capable of completely defoliating trees and shrubs, resulting in reduced growth and often mortality of the trees. USDA reported that an isolated infestation was discovered in Renton, Washington in 1976. In 1978, over 23 moths were trapped in a one-square-mile area; in addition, 33 egg masses were located on three properties in the area indicating an active infestation.

Acceptable registered pesticides and other means of controlling this pest were not readily available, USDA claimed. While carbaryl is registered for this use, it was not selected due to potential damage to bee colonies in the area and because of the current cancer scare concerning this compound. Dylox is registered for aerial application against the gypsy moth, but has no estblished tolerances for apples or pears; further, aerial application was determined to be impractical in this situation. Acephate is registered for use against the gypsy moth in both forest and urban situations, but has no established tolerances for apples or pears; however, it can be applied with ground equipment. USDA made two applications of acephate at the rate of 0.5 pound in 100 gallons of water, using hydraulic sprayers. Approximately 85 pounds of acephate were applied to wet the trees in an area of 350 acres in Renton, Washington. All applications were made by or under the supervision of qualified personnel of the Division of Plant Industry of the Washington State Department of Agriculture, or the USDA's Plant Protection and Quarantine Programs (PPQ) of the Animal and Plant Health Inspection Service. Knowledgeable experts determined where treatment was to be made. The apple and pear trees within the treatment area were reported to be in post-bloom stage of development; however, the fruit trees will be monitored for residues of acephate and methamidophos. Monitoring will be conducted under the direction of PPQ personnel. No unreasonable adverse effect is expected to occur to man or the environment from this use of acephate. USDA reported that the time element with respect to the applications was so critical that there was no time to request a specific exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Products.

[FR Doc. 79-23892 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180327; FRL 1290-1]

Washington State Department of Agriculture; Issuance of a Specific Exemption To Use Carbofuran To Control Root Weevil on Cranberries

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to use 560 pounds of carbofurn to control populations of root weevils which are threatening the commercial cranberry crop on 140 acres in Pacific and Grays Harbor Counties, Washington. The specific exemption expires on August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the primary pest is the Black Vine Weevil (*Otiorhynchus sulcatus*). Other weevils which may be present are the Strawberry Root Weevil (*O. ovatus*), the Rough Strawberry Weevil (*O. rugostriatus*), and the Obscure Root Weevil (*Sciopithes obscurus*). These pests occur prinicpally in those cranberry bogs which are not flooded at harvest. Of the 1200 acres of cranberries grown in Washington State, about 700 acres are not flooded. The Applicant estimated that approximately twenty percent of the dry harvest bogs, about 140 acres, will need treatment with carbofuran this year.

These pests are indigenous to the area. Wildlands adjacent to the cranberry bogs contain alternate hosts which serve as reservoirs for new infestations. The larvae, which feed on the roots, may destroy virtually every cranberry plant as the pest spreads.

Recovery can be expected only if the weevils are controlled before the damage becomes extensive. The Applicant stated that recent experience indicates that infestations will increase rapidly and cause widespread damage within the next two to five years.

There appear to be no alternative registered pesticides or non-chemical methods of control currently available to control these pest; malathion, registered for strawberry weevil control on cranberries, is of questionable efficacy, according to the Applicant. Flooding will control these pests, but bogs which are dry-harvested cannot be flooded because of slope or unevenness of the land. Prior to their cancellation, chlorinated hydrocarbon insecticides were registered for control of root weevils.

The Applicant proposed the use of two applications of the product Furadan 10G at a rate of two pounds of active ingredient per acre per application. A pre-harvest interval of at least sixty days will be observed. Broadcast applications will be made by State-certified commercial and private applicators using ground equipment in accordance with instructions provided by the Washington State University Cooperative Extension Service. Treatment will be limited to non-flooded bogs where infestations have been confirmed. According to the Applicant, nearly complete control can be obtained with applications of the Furadan granules at the rate proposed. The applicant estimated that without treatment the ultimate cost to the industry could be as high as $1,995,000.

EPA has determined that cranberries bearing residues of carbofuran which do not exceed 0.2 part per million (ppm) will not pose a hazard to the public health. Cranberries comprise only about 0.1 percent of the human diet, and the request was for only 140 acres of the 25,000 acres of cranberries grown in the United States; therefore, actual risk is minimal. Although Furadan 10G poses a serious hazard to wildlife, particularly waterfowl, the treatment does not pose an unacceptable environmental hazard, due to the small acreage involved and the facts that (a) following application, the granules are expected to go through the thick mat of cranberry vines to the soil where they would be unavailable to birds, and (b) the application period should miss the time when nesting waterfowl will be utilizing nest sites.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of root weevils has occurred, (b) there is no effective pesticide presently registered and available for use to control the root weevils threatening the cranberry crop in Pacific and Grays Harbor Counties, Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the root weevils are not controlled; and (e) the time available for action to mitigate the problems is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 1, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product, Furadan 10 Granular, EPA Reg. No. 279-2712, manufactured by the FMC Corporation, is authorized;

2. Furadan 10G will be applied at a rate of two pounds active ingredient per acre. A maximum of two applications may be made;

3. A maximum of 140 acres may be treated;

4. A maximum of 560 pounds active ingredient may be applied;

5. All applications will be made by broadcast ground equipment;

6. No application will be made within 60 days of any harvest;

7. Applications may be made only to non-flooded bogs which are watered by sprinkler irrigation;

8. Applications will be limited to those fields in which root weevil infestations have been confirmed by Washington State University Research or Extension personnel or by fieldmen from the Ocean Spray Cranberry Company;

9. All applications will be made by State-certified private and commercial applicators;

10. All applicable directions, restrictions and precautions on the product label must be followed;

11. The pesticide will not be applied in bogs which are being utilized by waterfowl as nesting or feeding sites;

12. Monitoring for adverse effects must be conducted by persons trained in wildlife observations or by persons under the direct supervision of wildlife biologists. The results of all monitoring activity must be submitted with the final report prior to February 15, 1980.

13. This use will result in a residue level of not more than 0.2 ppm of carbofuran, its carbamate metabolite and its phenolic metabolites in or on cranberries, which level has been judged adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

14. The EPA shall be informed immediately of any adverse effects resulting from the use of this pesticide in connection with this exemption; and

15. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by February 15, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: July 27, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23894 Filed 8-1-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 28469]

Invitation for Coal Exploration License—W. R. Grace & Co.

July 27, 1979.

Members of the public are hereby invited to participate with W. R. Grace & Co., a Connecticut corporation, in a program for the exploration of coal deposits owned by the United States of America, in the following described lands located in Moffat and Rio Blanco Counties, Colorado:

T. 3 N., R. 94 W., 6th P.M.,
Sec. 15: S½;
Sec. 17: All;
Sec. 20: All;
Sec. 21: N½, SW¼, N½SE¼;
Sec. 22: N½NE¼, NW¼, SE¼SW¼.
Containing 2,440.00 Acres, more or less.

Any party electing to participate in this exploration program must send written notice of that election to the Bureau of Land Management and to W. R. Grace & Co., directed to the following persons at the addresses shown:

Leader, Craig Team, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202,
and
Manager of Exploration, W. R. Grace & Co., Stapleton Plaza, 3333 Quebec Street, Suite 8800, Denver, CO 80207.

Such written notice must be received by the above named persons at the addresses shown not later than September 4, 1979 or ten days after the last publication of the counterpart of this notice in a newspaper or newspapers of general circulation in the

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area where the above described lands are located, whichever is the later date.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan, as approved by the U.S. Geological Survey and the Bureau of Land Management, agencies of the Department of the Interior. Copies of the exploration plan, as submitted by W. R. Grace & Co., are available for public review during normal business hours in the following offices:

Bureau of Land Management, 455 Emerson, Craig, CO 81625.
Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

The foregoing notice is published in the **Federal Register** pursuant to 43 Code of Federal Regulations, Section 3410.2–1(d)(1), as published in 44 FR 42584 at 42614 (No. 140, July 19, 1979). A counterpart will be published in at least one newspaper of general circulation in the area where the lands described above are located by W. R. Grace & Co.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79–23836 Filed 8–1–79; 8:45 am]

BILLING CODE 4310–84–M

Cedar City District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Wednesday, September 12, 1979. The meeting will begin at 9:30 a.m. at the Bureau of Land Management Escalante Area Office, Escalante, Utah.

The primary purpose of the meeting will be a field tour of the Upper Cattle Allotment which is part of the area covered in the upcoming Kanab/Escalante Grazing Environmental Impact Statement. During the tour six major topics will be discussed: (1) Range Condition; (2) Trend Data; (3) Vegetative Sub-types; (4) Carrying Capacity; (5) Range Suitability; (6) Present Allotment Managment Plan Grazing Treatments.

Grazing advisory board meetings are open to the public. Interested persons may make oral statements to the board between 9:30 and 10:00 a.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, phone 801–586–2401, by September 10, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

All those desiring to make the tour should furnish their own transportation and lunch. Due to unimproved roads in the area transportation should not be a standard automobile.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

July 27, 1979.

Morgan S. Jensen,

District Manager.

[FR Doc. 79–23805 Filed 8–1–79; 8:45 am]

BILLING CODE 4310–84–M

New Mexico Wilderness Inventory; Star Lake-Bisti Intensive Wilderness Inventory Recommendation

July 27, 1979.

AGENCY: Bureau of Land Management

ACTION: Notice of Intensive Wilderness Inventory recommendation

SUMMARY: The New Mexico State Office of the Bureau of Land Management announces the intensive wilderness inventory recommendations for public lands inventoried for wilderness characteristics which are associated with the Star Lake-Bisti Regional Coal Environmental Statement. All affected lands are located in the New Mexico's Albuquerque District.

Three wilderness inventory units were found to contain wilderness characteristics as defined by the Wilderness Act of 1964. As a result of the intensive inventory, some boundary adjustments were made on these areas. They are:

	Old acreage	Current acreage
NM–010–4, De-na-zin	16,640	24,240
NM–010–9, Ah-shi-sle-pah	7,040	7,122
NM–010–57, Bisti	3,520	3,520

If, after public review and comment, the final inventory decision is that these areas do contain wilderness characteristic, they will be identified as Wilderness Study Areas. These Wilderness Study Areas are studied in the regular land use planning process where all potential land uses, including wilderness, are considered.

Wilderness inventory unit NM–010–3, Chaco Mesa, was found not to contain wilderness characteristics and is recommended to be dropped from further wilderness consideration.

Publication of this notice initiates a 90-day public comment period on this recommendation. This public comment period ends November 2, 1979. A public meeting will be held for the BLM to accept verbal testimony on August 22 from 1:00 p.m. to 5:00 p.m. and 7:00 p.m. to 9:00 p.m., at the Hilton Hotel, 1900 University NE, Albuquerque, New Mexico.

ADDRESS: Send comments or requests to: Paul Applegate, District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT: Randy Botkin at the above Albuquerque, New Mexico address or call 505–768–2455.

Arthur W. Zimmerman,

State Director.

[FR Doc. 79–23811 Filed 8–1–79; 8:45 am]

BILLING CODE 4310–84–M

Oregon; Motorized Vehicles on Public Lands; Restriction of Use

Notice is hereby given that off-road travel by motorized vehicles on Public lands within the area known as Jordan Craters Research Natural Area is restricted in accordance with the provisions of 43 CFR Subpart 8364—Closures. These restrictions do not apply to emergency, law enforcement, and Federal or other Government vehicles while being used for official or emergency purposes.

The area affected by this restriction notice is located approximately thirty miles northwest of Jordan Valley, Oregon. The legal description of the lands closed to off-road vehicle travel is:

Willamette Meridian

T. 27 S., R. 43 E.,
Secs. 33 to 36, inclusive.
T. 28 S., R. 43 E.,
Secs. 1 to 3, inclusive;
Sec. 4, lots 1, 2, and 4, S½N½, and S½;
Sec. 5;
Secs. 8 to 11, inclusive;
Sec. 12, W½, and SW¼SE¼;
Secs. 13 to 17, inclusive;
Sec. 20, N½W½SW¼, SE¼SW¼, SW¼SE¼, and E½SE¼;
Secs. 21 to 29, inclusive;
Secs. 32 to 36 inclusive.
T. 28 S., R. 44 E.,
Sec. 18, lots 3 and 4, SE¼SW¼, and SW¼SE¼;
Sec. 19;
Sec. 20, S½SW¼;
Sec. 28, W½W½;
Secs. 29 to 32, inclusive.
T. 29 S., R. 43 E.,
Secs. 1 to 5, inclusive.
T. 29 S., R. 44 E.,
Sec. 4, W½;
Sec. 5, lots 1 to 4, inclusive, S½N½, N½SW¼, and W½SE¼;
Sec. 7;
Sec. 8, S½NE¼, W½, and SE¼;
Sec. 9, W½, and W½SE¼;
Sec. 16, W½NE¼, and E½NW¼.

Total acres: 31,394.70.

The use of the identified public lands by off-road vehicles in the past have destroyed or damaged botanical, geological, zoological, wilderness and scenic values in the area. After reviewing management objectives of the Jordan Craters Research Natural Area as promulgated by provisions of Title 43 CFR Subpart 6225—Natural Areas, an off-road vehicle restriction was determined to be necessary to protect the aforementioned values from further disturbance and/or destruction.

The restriction is effective immediately until January 15, 1981 or until off-road vehicle designation procedures under provisions of Title 43 CFR Subpart 8342—Designation of Areas and Trails could be undertaken, whichever occur first, thereby providing guidance for updated public input concerning permanent off-road vehicle restriction within the Research Natural Area.

Maps showing the areas described above are available at the Bureau of Land Management, Vale District Office, 365 A Street West (P.O. Box 700), Vale, Oregon 97918. Dated August 15, 1979.

W. R. Papworth,

Acting District Manager.

[FR Doc. 79–23814 Filed 8–1–79; 8:45 am]

BILLING CODE 4310–84–M

Rock Springs District Advisory Board; Meeting

July 26, 1979.

Notice is hereby given in accordance with P.L. 92–463 that a meeting of the Rock Springs District Grazing Advisory Board will be held on September 12, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management District Office on Highway 187 North, Rock Springs, Wyoming.

The agenda for the meeting will include: (1) a discussion of range improvement projects constructed or maintained with range betterment funds in FY79; (2) proposed range improvement projects to be constructed or maintained with range betterment funds in FY80; (3) a discussion of Allotment Management Plans for the Sandy Environmental Statement Area; and (4) a public comment period.

The meeting is open to the public. Interested persons may make oral statements to the Board between 2:30 and 3:00 p.m., or file written statements for the Board's consideration. Anyone wishing to make oral statements must notify the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming, 82901 by September 10, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Jerry Ostrom,

Assistant District Manager.

[FR Doc. 79–23815 Filed 8–1–79; 8:45 am]

BILLING CODE 4310–84–M

[W–68634]

Wyoming; Application

July 26, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline, a 4' by 6' meter house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 94 W.,
Sec. 30, lots 5, 12 and 13.

The proposed pipeline will transport natural gas from the Chorney-Federal #30–1 Well located in lot 13 to a point of connection with an existing pipeline located in lot 5. The proposed 4' by 6' meter house and related metering and dehydration facilities will be located entirely within the 50 foot right-of-way in lot 13, all within T. 18 N., R. 94 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–23826 Filed 8–1–79; 8:45 am]

BILLING CODE 4310–84–M

[W–67936]

Wyoming; Application

July 26, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct 4½ inch and 8⅝ inch O.D. pipelines as an addition to their gathering system for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 112 W.,
Sec. 22, SW¼NW¼ and W½SW¼.
T. 19 N., R. 112 W.,
Sec. 6, lot 2, SW¼NE¼ and W½SE¼;
Sec. 8, NE¼NE¼;
Sec. 18, W½NE¼ and NW¼SE¼;
Sec. 30, lot 1.
T. 20 N., R. 112 W.,
Sec. 24, S½SW¼;
Sec. 32, W½NW¼ and N½SW¼;
Sec. 36, S½S½.
T. 21 N., R. 112 W.,
Sec. 32, S½NE¼, NE¼SW¼ and NW¼SE¼.
T. 18 N., R. 113 W.,
Sec. 24, SE¼NE¼, N½NE¼ and E½NW¼.
T. 19 N., R. 113 W.,
Sec. 24, SE¼NE¼, W½NE¼ and E½SE¼.
T. 20 N., R. 113 W.,
Sec. 24, S½SE¼;
Sec. 36, NE¼NE¼.

The proposed pipeline will transport natural gas from Amoco-Berkeley Federal #1 Well, Amoco-Champlin Well Numbers 285 E–1, 326 D–1 and 350 D–1, Amoco-Wilson Ranch Well Numbers 9, 11, 13, 14 and 15, Amoco-URC Anderson Federal 1–18 Well and Amoco-Whiskey Buttes #35 Well to points of connection with existing pipelines, all located within Tps. 18, 19, 20 and 21 N., R. 112 W., and Tps. 18, 19 and 20, R. 113 W., Uinta, Lincoln and Sweetwater Counties, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager,

Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23806 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68633]

Wyoming; Application

July 25, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline, a 4' by 6' meter house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 17 N., R. 95 W.,
Sec. 12, E½SE¼.

The proposed pipeline will transport natural gas from the Marshall Winston Federal #12-1 Well located in the SE¼ of section 12, T. 17 N., R. 95 W., to a point of connection with an existing pipeline in section 7, T. 17 N., R. 94 W. The 4' by 6' meter house and related metering and dehydration facilities are to be located entirely within the proposed 50 foot right-of-way in the SE¼ of section 12, T. 17 N., R. 95 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23807 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT DES 79-49]

Sioux Falls Unit, South Dakota; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement describing the environmental impacts of the Sioux Falls Unit, South Dakota. The statement covers impacts of constructing a reservoir on Slip Up Creek near the city of Sioux Falls, and associated pumping plants and pipelines for municipal water, recreation, and fish and wildlife development.

Written comments may be submitted to the Regional Director (address below) within 45 days of this notice.

Copies are available for inspection at the following locations:

Office of Environmental Affairs, Department of the Interior, Bureau of Reclamation, Room 7622, Washington, DC 20240, Telephone (202) 343-4991.
Division of Engineering Support, Technical Services and Publications Branch, Denver Federal Center, E&R Center, Denver, CO 80225, Telephone (303) 343-3007.
Office of the Regional Director, Bureau of Reclamation, P.O. Box 2553, 316 North 26th Street, Billings, MT 59103, Telephone (406) 245-6711.
Missouri-Oahe Projects Office, Bureau of Reclamation, Huron Federal Building, 200 Fourth Street SW., Huron, SD 57350.

Single copies of the draft environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: July 30, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-23845 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Carr's Grocery & Canoe Rental Co.; Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before September 4, 1979, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Carr's Grocery and Canoe Rental Company, authorizing it to provide merchandise and canoe rental facilities and services for the public at Ozark National Scenic Riverways for a period of five (5) years from January 1, 1978, through December 31, 1983.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Regional Director, Mid-West Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing concession permit which expired by limitation of time on December 31, 1978, and therefore, pursuant to the Act of October 9, 1965, as cited before, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Carr's Grocery and Canoe Rental Company, as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Carr's Grocery and Canoe Rental Company is substantially equal to others received. In the event a responsive proposal superior to that of Carr's Grocery and Canoe Rental Company (as determined by the Secretary) is submitted, Carr's Grocery and Canoe Rental Company, will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Carr's Grocery and Canoe Rental Company. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be post marked or hand delivered on or before September 4, 1979, to be considered and evaluated.

Interested parties should contact the Regional Director, Mid-West Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, for information as to the requirements of the proposed contract.

Dated: July 27, 1979.

Daniel J. Tobin, Jr.,

Associate Director, National Park Service.

[FR Doc. 79-23854 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-70-M

Maggard Canoe & Boat Co., Inc.; Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before September 4, 1979, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Maggard Canoe and Boat Co., Inc., authorizing it to provide ferry boat, merchandising and canoe rental facilities and services for the public at Ozark National Scenic Riverways for a period of five (5) years from January 1, 1979, through December 31, 1983.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Regional Director, Mid-West Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing concession permit which expired by limitation of time on December 31, 1978, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Maggard Canoe and Boat Co., Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Maggard Canoe and Boat Co., Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Maggard Canoe and Boat Co., Inc., (as determined by the Secretary) is submitted, Maggard Canoe and Boat Co., Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Maggard Canoe and Boat Co., Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be post marked or hand delivered on or before September 4, 1979, to be considered and evaluated.

Interested parties should contact the Regional Director, Mid-West Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, for information as to the requirements of the proposed contract.

Dated: July 27, 1979.

Daniel J. Tobin, Jr.,

Associate Director, National Park Service.

[FR Doc. 79-23855 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-70-M

Sleeping Bear Dunes National Lakeshore; Meeting; Amendment

Notice is hereby given that the date of the Sleeping Bear Dunes National Lakeshore Advisory Commission Meeting, published July 13, 1979 in FR Doc. 79-21612, page 40940, originally scheduled for August 3, 1979, has been changed to August 17, 1979.

Dated: July 23, 1979

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 79-23852 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-70-M

Availability of Environmental Assessment on General Management Plan/Development Concept Plan for Andersonville National Historic Site, Ga.

An Environmental Assessment considering alternatives formulated for management and preservation of historic features of Andersonville National Historic Site is availalb efor inspection at the Southeast Regional Office of the National Park Service, 75 Spring Street, Suite 1050, Atlanta, Georgia 3303, or the Office of the Superintendent, Andersonville National Historic Site, Andersonville, Georgia 31711. In addition as part of the Service's program for public participation in planning, public meetings to consider the material in the assessment will be held at the Chamber of Commerce, 105 South Dudley Street, Americus, Georgia 31707, at 2 p.m. and 7:30 p.m. on September 10, 1979.

In addition to the alternatives, the assessment considers the nature of the resource, impacts of the various alternaties, mitigating measures to soften the effects of an alternative on the human environment and adverse effects that cannot be avoided should an alternative be implemented. Public comments on the assessment and its alternatives are solicited. Written and oral comments on the assesment and its contents will be received for consideration at the meetings. In addition, written comments will be received at the offices listed above until October 10, 1979.

Dated: July 20, 1979.

Joe Brown,

Regional Director, Southeast Region.

[FR Doc. 79-23799 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-70-M

Availability of Assessment of Alternatives and Notice of a Public Meeting on General Management Plan for Ninity Six National Historic Site, South Carolina

An Assessment of Alternatives considering alternatives formulated for management and preservation of historic features of Ninety Six National Historic Site is available for inspection at the Southeast Regional Office of the National Park Service, 75 Spring Street, S.W., Room 1050, Atlanta, Georgia 30303, or the Office of the Superintendent, Ninety Six National Historic Site, P.O. Box 496, Ninety Six, South Carolina 29666. In addition as part of the Service's program for public participation in planning, a public meeting to consider the material in the assessment will be held at the Greenwood County Courthouse, Room 200, Greenwood, South Carolina 29646, at 3 p.m. on September 6.

In addition ot the alternatives, the assessment considers the nature of the resource, impacts of the various alternatives, mitigating measures to soften the effects of an alternative on the human environment and adverse effects that cannot be avoided should an alternative be implemented. Public comments on the assessment and its alternatives are solicited. Written and oral comments on the assessment and its contents will be received for consideration at the meeting. In addition, written comments will be received at the offices listed above until October 6.

Dated: July 23, 1979.

Neal G. Guse,

Acting Regional Director, Southeast Region.

[FRr Doc. 79-23800 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL COMMUNICATION AGENCY

National Environmental Policy Act; Agency Implementing Procedures

AGENCY: International Communication Agency.

V 4 4 / 1 5 0

ACTION: Final Agency internal implementing procedures.

SUMMARY: USICA adopts internal procedures to implement the National Environmental Policy Act in accordance with the regulations of the Council on Environmental Quality (CEQ) 43 FR 55978, November 29, 1978.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: John A. Hols, Jr., Chief, Editorial Services Unit, Office of Congressional and Public Liaison, USICA, (202) 724–9192.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the National Environmental Policy Act of 1969, as amended, USICA is publishing these internal procedures for environmental review of major Agency actions. These procedures were published in proposed form for comment on June 13, 1979, 44 FR 33979. No comments were received. Minor changes were made in the proposed version. CEQ has given final approval to the Agency's implementing procedure as published herein. These implementing procedures are for intra-Agency use and are not, therefore, codified in the Code of Federal Regulations. The implementing procedures follow:

II MOA, Sec. 2000 *et seq.*

2000 *Environmental Review of Agency Actions*

2000.1 *Background.*

a. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

b. Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR Part 1500–1508) on November 29, 1978, which are binding on all Federal agencies as of July 30, 1979. These regulations provide that each Federal agency shall, as necessary, adopt implementing procedures to supplement the regulations. Section 1507.3(b) of the NEPA regulations identifies those sections of the regulations which must be addressed in agency procedures.

2000.2 *Purpose.*

This section establishes guidelines and procedures pursuant to NEPA and regulations promulgated by CEQ, 43 F.R. 55978–56007, November 29, 1978 (40 CFR Parts 1500–1508). The CEQ regulations are the basic regulations to be followed in all phases of the Agency's NEPA process with respect to decisions concerning proposed Agency projects.

2000.3 *Coverage.*

These regulations apply to all major domestic activities of the Agency which may have a significant impact upon the quality of the human environment. These implementing procedures are effective July 30, 1979. For guidance concerning the consideration of environmental effects of Agency program activities abroad, see Executive Order 12114, January 4, 1979, "Environmental Effects Abroad of Major Federal Action" and Agency Implementing Procedures to be issued pursuant thereto.

2001 *General.*

The Associate Director for Management, or his designee (MGT), is the responsible officer for assuring compliance with NEPA and the NEPA Regulations (40 CFR 1500 *et seq.*). MGT must be advised by the responsible Agency element, as early in the decisionmaking process as practicable, of any major Agency proposal which may significantly affect the environment, or whose effects on the human environment may be controversial in nature. The Office of the General Counsel (GC) shall advise MGT with respect to, and shall review action, decisions, and documentation required by, the NEPA process.

2002 *Applications From Private Applicants or Other Non-Federal Entities Which May Involve the Agency.*

The International Communication Agency performs no functions which involve the issuance of licenses or permits to applicants from the private sector; therefore, implementing procedures related to those functions as required by 40 CFR § 1507.3(b) are unnecessary.

2003 *Responsibilities.*

a. *Associate Director for Management.*

1. The Associate Director for Management (MGT) is the Agency officer responsible for compliance with NEPA, NEPA Regulations, and these Agency implementing procedures, for Agency activities or projects which may be affected by the NEPA process.

2. The Associate Director for Management may delegate his authority with respect to the Agency's NEPA process.

3. The Associate Director for Management may, as appropriate, require Agency officers and employees to assist in the carrying out of his NEPA process responsibilities.

b. *General Counsel.*

The General Counsel (GC) shall provide necessary advice, assistance, review, and consultation to the Associate Director for Management, or his designee, in implementing the Agency's NEPA process with respect to a proposed project.

2004 *Agency Procedures To Determine Whether To Prepare an Environmental Assessment or an Environmental Impact Statement.*

Few, if any, of the Agency's activities, with the exception of construction or similar activities at domestic Voice of America relay or transmitter stations, will have any effect on the quality of the human environment. Normally only large scale construction may be expected to involve the NEPA process. The following guidance is provided, however, for those activities which could require environmental review:

a. *Initial determination of need for an environmental assessment.*

In accordance with 40 CFR 1501.3, the Agency element head having responsibility for a proposed Agency project or activity (or private project or activity in which the Agency may have a significant involvement) which may reasonably be foreseen to have an impact on the quality of the human environment shall, prior to the commitment of significant Agency resources, consult with MGT concerning the need for the preparation of an environmental assessment.

b. *Initial determination of need for an environmental impact statement.*

The Associate Director for Management, or his designee, with respect to any significant Agency action which may affect the domestic human environment, shall, as early in the decisionmaking process as practicable and with the advice and assistance of GC, determine whether the action is one with respect to which an environmental impact statement normally is, or is not, prepared, referring to Section 2005.

2005 *Typical Classes of Action for Similar Treatment Under NEPA.*

Section 1507.3(b)(2) of the regulations requires agencies to establish three typical classes of action for similar treatment under NEPA. These classes of action and specific criteria therefor are set forth in 2005.1, 2005.2, and 2005.3.

2005.1 *Actions Normally Requiring Environmental Impact Statements.*

a. *Agency Actions Which Normally Require An Environmental Impact Statement To Be Prepared.*

1. Construction of significant proportion, *e.g.*, an entire transmitting or relay station or major subcomponent thereof which requires the acquisition of new real estate, and which has a significant impact on the environment.

2. Major use of herbicides or pesticides which has a significant impact on the environment.

3. Major clearing of forested or wetlands areas to accommodate construction which has a significant impact on the environment.

4. Agency acquisition or disposal of real property by lease, assignment, purchase, or otherwise which has a significant impact on the environment.

5. Major diversion or other interference with natural water courses which has a significant impact on the environment.

6. Major use of any chemical agent which has a significant impact on the environment.

7. Installation of large scale diesel-powered electric generators which has a significant impact on the environment.

b. *Specific Criteria For Determining Other Classes of Agency Action Which Normally Do Require Environmental Impact Statements.*

1. Any major activity which will directly affect or alter any part of the environment (including animal and plant life, air, water, land usage, noise levels, or aesthetics) to a significant degree (whether beneficially or adversely).

2. Any major Agency action which may reasonably be foreseen to affect or alter indirectly the physical environment or any aspect thereof, significantly.

3. Issuance of a policy or regulation which may reasonably be foreseen to have a direct or indirect significant effect (in the carrying out thereof) on the human environment (other than purely economic or socioeconomic).

2005.2 *Actions Normally Requiring Environmental Assessment but not Necessarily Environmental Impact Statements:*

a. *Specific Criteria For Identifying Typical Classes Of Agency Action Which Normally Require An Environmental Assessment But Not Necessarily Environmental Impact Statements.*

The following criteria are to be used by MGT as a guide in making the initial determination whether an environmental assessment is needed:

1. Activities, such as construction, clearing of forrested or wetlands areas, use of herbicides or pesticides, which entail only a moderate degree of Agency resource involvement or affect a relatively limited site, but as to which a direct, significant environmental effect may reasonably be foreseen.

2. Installation of electrical transmission lines of a significant physical size, including supporting structures, if accompanied by reasonably foreseeable environmental effects.

3. Proposed Agency projects or activities which, although environmental impact is only remotely probable, are or may be the object of controversy or criticism by special interest groups.

4. Major projects or activities with respect to which the environmental effects are virtually unknown, but which could reasonably be suspected of being significant in some respect.

b. With respect to any proposed projects or activities for which the Agency determines at the outset to prepare an environmental impact statement, no environmental assessment is required.

c. Major proposals or activities which may significantly affect the quality of the domestic human environment, and which are not covered by § 2005.1 or § 2005.3 or which may be controversial, normally shall have an environmental assessment prepared. Such an assessment will be the basis for a "no significant impact" finding or a decision to prepare an environmental impact statement.

2005.3 *Actions Normally not Requiring Environmental Assessment or Environmental Impact Statements (Categorical Exclusions):*

a. Communication between the Agency and private individuals, Government or non-Governmental entities, or other firms or persons in connection with the implementation or planning of Agency programs, domestically or abroad. This class of activity is categorically excluded because it involves primarily interpersonal contact, oral or written, in implementation of plans for conducting programs abroad, exchanges or activities such as exhibits, participation in exhibitions, English teaching, magazine or other periodical distribution or production, and Voice of America operations overseas. Such contact has no significant impact upon the quality of the domestic human environment.

b. Domestic planning and implementation (including acquisition or procurement) of the following types of specific Agency (overseas) programs:

1. Voice of America operations (broadcasting, operation of transmitter and relay stations, but excluding domestic construction);

2. participation in international fairs, exhibits and expositions;

3. Fulbright exchange programs (educational and cultural) and agency relations with grantees (students, professors, etc.) or such contract firms as assist in the selection, payment and placement of individuals under these programs;

4. English teaching programs;

5. film and VTR production, acquisition, and distribution;

6. magazine (or other periodical) production or distribution;

7. cooperation with binational centers (including the making of grants);

8. operations of USICA centers or libraries;

9. International Visitors program;

10. International Speakers program; and

11. operation of the Wireless File.

The above class of activities is categorically excluded because the planning and implementation of those activities as carried out by USICA involve no significant impact on the quality of the domestic human environment. Such activities consist generally of contracting for exhibits, agency operation of printing facilities, shipment overseas from agency warehouses, program planning and carrying out studio work in connection with Voice of America broadcasts.

The exchange programs involve selection of scholars and cultural exchange materials to implement educational and cultural exchange programs with other countries and may require planning for travel of individuals in those programs. Other activities in connection with overseas Agency programs include staffing functions at the Agency's offices in Washington. None of the above activities have significant impact on the quality of the human environment, and they are, therefore, categorically excluded from the need for an environmental review.

c. Agency operaton and maintenance of existing facilities (domestic) at current levels. Such current levels of operation and maintenance of existing facilities without significant change in degree or function do not have a

significant impact on the quality of the human environment.

d. Relocation, or actions forcing the relocation, of personnel and equipment. Such relocations do not constitute a major federal action affecting the quality of the human environment. Moreover, the effect of such relocation on the sending and receiving areas would be one of economic or socioeconomic impact, not warranting the preparation of an environmental impact statement or other review.

e. Disposal of surplus personal property. This class of activity contemplates the sale or disposal of items of office furniture and equipment, household furniture, radio station equipment and material. Such activities do not significantly affect the quality of the environment.

f. New and replacement construction on existing installations or locations when new real estate is not required, existing transportation and utilities are not appreciably affected, no significant change in the overall appearance of the installation occurs when viewed from outside the property boundary, and no appreciable increase in noise or air pollution occurs.

g. MGT shall determine whether an EIS or an environmental assessment is required where:

1. a proposal for Agency action, which may significantly affect the environment, is not covered by one of the typical classes of action, above; or

2. for actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

2006 *Agency Decisionmaking Procedures—Environmental Review.*

2006.1 *General.*

The Agency's NEPA process (environmental review, etc.) applies to any proposed major Agency action (including substantial involvement in proposed projects or activities submitted for consideration by private firms or persons or other non-U.S. Governmental entities) which is likely to have a substantial effect on the (domestic) human environment.

For USICA, few, if any, programs or program related activities will have any effect on the quality of the domestic environment. By statute, virtually all Agency programs which could conceivably affect the environment are to be carried out abroad. Such programs are contained within the boundaries of the individual countries in which the Agency conducts its activities with the exception of international radio broadcasts, which do not affect the environment. Normally, only construction or certain activities at domestic VOA relay or transmitter stations may be expected to trigger the Agency's NEPA process.

20062. *Procedures.*

a. Any Agency officer (project officer) who proposes a major Agency action or project, or who receives a proposal which may substantially involve the Agency in a major private activity or project, shall consider whether the project is likely to have a significant effect (beneficial or adverse) on the quality of the human environment. If the determination is affirmative or questionable, the project officer shall promptly so advise the Associate Director for Management. In making the initial informal determination above, the project officer may consult with the Office of the General Counsel if there is any reasonable question as to the potential environmental effect of a proposed project. In all cases involving new construction or other significant direct modification of the environment (including animal or plant life, air, water, aesthetics, land or utility usage, or noise level) the project officer shall notify MGT that the project is under consideration and of the nature of any foreseeable environmental effect.

b. The Associate Director for Management, or his designee, with the advice and assistance of GC, shall insure that the Agency's NEPA process is initiated at the earliest practicable time before a final decision is made to recommend the proposed project or activity in question to the Director, USICA, for final approval to carry out the project or activity. Normally, in the case of a major Federal action involving construction within the United States or its territories, the NEPA process should be initiated contemporaneously with a feasibility or similar study, made prior to the commitment of significant Federal resources, but in any event the NEPA process should begin at such time that any alternative proposals resulting from an environmental review may be effectively considered by Agency decisionmakers.

c. *Environmental materials available to decisionmakers.*

1. The NEPA procedure is designed to provide agency decisionmakers with the analyses resulting from environmental review at a time when such analyses will be most valuable and useful to them in deciding upon proposals for Agency activities and projects. With respect to those activities which require environmental review, an environmental assessment shall have been prepared and made available to the responsible Area Director or Associate Director for consideration as a part of the decision whether such officer should recommend approval of a proposed project or activity to the Director, USICA. In the event that the Associate Director or Area Director is the final deciding officer regarding implementation of a proposed project, that officer shall consider the entire administrative record concerning environmental matters (including the final environmental impact statement, if any, and any necessary supplements) in reaching a decision.

2. With respect to those proposed projects or activities submitted to the Director, USICA, for approval for implementation, an environmental assessment or, if appropriate, a final and a supplemental environmental impact statement, if any, conforming to NEPA Regulations, shall be forwarded for consideration, if such environmental review documents are required by law or regulations.

d. *Proposals for Legislation.*

1. *General.* NEPA requires an environmental impact statement on recommendations or reports on proposals for legislation significantly affecting the quality of the human environment.

2. *Procedure.* As the Agency office responsible for coordinating the Agency's Congressional relations, the Office of Congressional and Public Liaison (CPL) shall, with the advice of GC, assist MGT in carrying out any required NEPA process concerning such proposed legislation.

2006.3 *Administrative Record of Decision.*

a. GC shall advise MGT in compiling, and shall review, the administrative record related to proposals involving environmental review. This record shall be considered at appropriate stages of the decisionmaking process by Agency decisionmakers. The administrative record shall be available to the public.

b. The decisionmaker (Director, Associate Director, or Area Director) shall, in cases where environmental review is required, consider only those choices which have been discussed in the administrative environmental record, and which have been made available to the public to the extent required by the NEPA regulations (40 CFR Part 1500).

2007 *Public Involvement in Agency Decisionmaking Processes Involving Environmental Concerns.*

a. *Associate Director for Management.*

The Associate Director for Management, or his designee, when involved in the consideration of any proposed Agency action which may significantly affect the environment, with the advice and review of GC, shall follow the requirements of 40 CFR § 1506.6, concerning the involvement of the public in the decisionmaking process. MGT shall insure that copies of the administrative record, if any, related to the environmental review associated with Agency projects are available to the Congressional and Public Liaison Office for purposes of (b) below. MGT shall maintain a register of projects involving environmental review and indicating the status of the administrative environmental record of such projects.

b. *Congressional and Public Liaison Office.*

Interested persons may obtain information concerning the status of, and environmental and other documentation involved in, the Agency's decisionmaking process concerning a particular proposal (which is subject to environmental review) by sending a written request for such specifically identified information to the Office of Congressional and Public Liaison, International Communication Agency, Washington, D.C. 20547; Phone (202) 724–9103 or 724–9192.

Dated: July 27, 1979.

John E. Reinhardt,

Director, International Communication Agency.

[FR Doc. 79–23876 Filed 8–1–79; 8:45 am]

BILLING CODE 8230–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

July 26, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

1. Date: August 20, 1979. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review Fellowships in Category B applications in Religion, Philosophy of Religion, and Ethics submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
2. Date: August 22, 1979. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review Fellowships in Category B applications in Philosophy submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
3. Date: August 23, 1979. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review Fellowships in Category A applications in European History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
4. Date: August 24, 1979. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review Fellowships in Category A applications in Art History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
5. Date: August 25, 1979. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review Fellowships in Category A applications in Social Sciences submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
6. Date: August 30, 1979. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review Fellowships in Category A applications in American History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
7. Date: September 1, 1979. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review Fellowships in Category A applications in Political Science for projects beginning after January 1, 1980.
8. Date: September 7, 1979. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review Fellowships in Category A applications in Philosophy submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
9. Date: September 7, 1979. Time: 9 a.m. to 5:30 p.m. Room: 1134. Purpose: To review applications in Literature and Fine Arts that have been submitted to the General Research Program of the National Endowment for the Humanities for projects beginning November 1, 1979.
10. Date: September 20 and 21, 1979. Time: 9 a.m. to 5:30 p.m. Room: 1134. Purpose: To review applications in History that have been submitted to the General Research Program of the National Endowment for the Humanities for projects beginning November 1, 1979.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, NW., Washington, D.C. 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79–23850 Filed 8–1–79; 8:45 am]

BILLING CODE 7536–01–M

Humanities Panel; Meeting

July 26, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

1. Date: August 20, 1979. Time: 9 a.m. to 5:30 p.m. Room: 807. Purpose: To review Fellowships in Category A applications in American History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
2. Date: August 29, 1979. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review Fellowships in Category A applications in American Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
3. Date: August 29, 1979. Time: 9 a.m. to 5:30 p.m. Room: 807. Purpose: To review Fellowships in Category A applications in Anthropology submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, NW., Washington, D.C. 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79–23851 Filed 8–1–79; 8:45 am]

BILLING CODE 7536–01–M

V 4 4 / 1 5 0

NATIONAL SCIENCE FOUNDATION

Subcommittee for Ocean Sciences Research; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Ocean Sciences Research of the Advisory Committee for Ocean Sciences.

Date and Time: August 20–23, 1979, 9:00 a.m. to 5:00 p.m. each day.

Place: Rooms 628 & 643, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. M. Grant Gross, International Decade of Ocean Exploration Section, Room 606, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–7356.

Purpose of Subcommittee: To provide the IDOE with additional expertise in the review and evaluation of proposals relating to oceanograhic research related to the Warm Core Rings, the Conjugate Margins, and the North Atlantic Study of Transient Tracers Projects.

Agenda: August 20–21: Warm Core Rings, room 628, Conjugate Margins, Room 643 August 22–23: North Atlantic Study of Transient Tracers, Room 628.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator

July 30, 1979.

[FR Doc. 79–23795 Filed 8–1–79; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974; Correction Notice

In FR Docket Nos. 79–23478 and 79–23477 published July 27, 1979 [44 FR 44308 and 44 FR 44309], the comment expiration date on both notices is being changed from August 30, 1979 to August 27, 1979.

Chase R. Stephens,

Chief, Docketing and Service Branch, Office of the Secretary of the Commission.

[FR Doc. 79–23828 Filed 8–1–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–366]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. NPF–5 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 2, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

This amendment modifies the Technical Specifications by increasing temporarily the limiting conditions for operation on Drywell Average Air Temperature from 135°F to 145°F.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 23, 1979, (2) Amendment No. 10 to License No. NPF–5, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 26th day of July 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc. 79–23830 Filed 8–1–79; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–254 and 50–265]

Commonwealth Edison Co. and Iowa-Illinois Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 52 and 49 to Facility Operating License Nos. DPR–29 and DPR–30 issued to Commonwealth Edison Company (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Company), which revised the licenses for operation of the Quad Cities Nuclear Power Station Units Nos. 1 and 2 (the facility) located in Rock Island County, Illinois. The amendments will become effective twenty days after issuance, unless a hearing has been requested.

The amendments add license conditions relating to the completion of facility modifications and implementation of administrative controls for fire protection.

The licensee's submittals comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I; which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the licensee's submittals dated March 29, August 3, 1977, June 6, July 6, July 27, November 30, 1978, March 29, April 5, and April 23, 1979, (2) Amendment Nos. 52 and 49 to License Nos. DPR–29 and DPR–30, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Moline Public Library, 504—17th Street, Moline, Illinois 61265. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 27th day of July 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc. 79–23832 Filed 8–1–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–220]

Niagara Mohawk Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR–63 to Niagara Mohawk Power Corporation (the licensee) which revised the license for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, New York. The amendment will become effective twenty days after issuance, unless a hearing has been requested.

The amendment adds license conditions relating to the completion of facility modifications for fire protection.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated April 10, 1978, October 6, 1978, January 2, 1979 and January 31, 1979, (2) Amendment No. 33 to License No. DPR–63, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 26th day of July 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito, Chief,

Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc. 79–23831 Filed 8–1–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. PRM–7–1]

Non Destructive Testing Management Association; Denial of Petition for Rule Making

By letter dated July 19, 1978, Mr. Walter P. Peeples, Jr., on behalf of the Non Destructive Testing Management Association, filed with the Nuclear Regulatory Commission a petition for rule making (PRM 7–1).

The Petition

The petitioner requested the Commission to form a review board made up of responsible members of the industry to review all pertinent regulations and to clarify positions of the industry prior to issuance of all new regulations. The petitioner stated that the petition is related to all regulations that directly affect users of byproduct materials in the field of nondestructive testing. The petitioner stated also that since the field of nondestructive testing is large in scope, the members of the review group should be selected from the manufacturers and users of byproduct materials representing industrial radiography, gauging, and oil well logging industries.

Basis For Request

As the basis for the petition, the petitioner stated:

> Within the past few years, it has become obvious that certain regulations are placed upon the industry which are deemed unnecessary. It is the consensus of the industry that this is caused by certain individuals within the bureaucracy writing regulations and not being familiar with the industry.
>
> We feel that this petition is necessary and that this approach will serve to educate both the industry and the U.S. Nuclear Regulatory Commission.
>
> The industry's objective is to maintain a liaison with the U.S. Nuclear Regulatory Commission and to indicate to the U.S. Nuclear Regulatory Commission what is considered necessary and unnecessary in relationship to regulations.

Request for Comments on Petition

A notice of filing of petition for rule making was published in the Federal Register on September 14, 1978 (43 FR 41100). The comment period expired November 13, 1978. Four letters of comment were received in response to the notice. Two letters endorsed the petition as submitted. One letter agreed with the petitioner's reasons for the need to review regulations but indicated that establishing a Commission review board is an unnecessary addition to the increasing staff of the Commission and should not be employed. One letter stated a few members of its association do not believe the proposed review board would be productive, but a majority feel that such a review board would be beneficial.

NRC Staff Actions

The NRC strongly encourages public participation and input throughout the NRC's rule making process. The NRC publishes **Federal Register** notices, issues public announcements, holds public meetings if deemed advisable, and takes other actions designed to notify and invite all interested persons who desire to submit written comments or suggestions for consideration in connection with a proposed regulation to send them to the NRC.

In addition, the NRC staff has adopted procedures expected to result in a broader spectrum of public comment on proposed amendments to NRC regulations and better assurance of licensee awareness of and compliance with effective NRC regulations.

The procedures carry out NRC policy established November 20, 1978, that all substantive proposed and effective regulations will be mailed to affected licensees and other known interested persons. "Interested persons" include, for example, standards writing groups, trade associations, trade publications likely to be read by affected licensees, public interest groups, persons who commented on a proposed rule, and other persons who have expressed an interest in the regulation being issued, amended, or rescinded.

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Under this policy, the NRC contact listed in the **Federal Register** notice of proposed or final rule making will be responsible for designating the addresses to whom the notice will be mailed and coordinating the mailing of the notice.

In keeping with this NRC policy, all interested persons who desire to receive proposed and effective regulations are invited to send their names, addresses, and areas of interest to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Distribution Services Branch (ADM/DSB), DDC.

All persons who submit substantive comments on a proposed regulation can identify their comments and the NRC staff responses to their comments in the comment analysis prepared in connection with the effective regulation. This public comment procedure provides ample opportunity for all interested persons, including industry, to submit to the NRC their views on the values, impacts administrative burdens, costs, and other aspects of proposed regulations.

Only after thorough consideration of relevant matter presented does the NRC publish in the **Federal Register** notices of adoption of effective regulations that include responses to the substantive comments received.

Grounds for Denial

The Commission has given careful consideration to this petition for rule making (PRM 7–1) and has decided to deny the petition on the grounds that NRC policy and procedures for direct distribution of proposed and effective amendments of NRC regulations to licensees and other interested persons: (1) Fully satisfy the objectives set forth in the petition; and (2) Assure that affected licensees and applicants are aware of all proposed and effective regulations of a substantive nature, without the need to form a review board as requested in the petition.

A copy of the petition for rule making and copies of the letters of comment and the Commission's letter of denial are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Maryland this 18th day of July 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79–23835 Filed 8–1–79; 8:45 am]

BILLING CODE 7590–01–M

State Workshops for Review of NRC Decommissioning policy

The Nuclear Regulatory Commission is now considering development of a more explicit overall policy and regulatory base for nuclear facility decommissioning to include more specific guidance on decommissioning criteria for production and utilization facility licensees and byproduct, source, and special nuclear material licensees. In March 1978, NUREG–0436, "Plan for Reevaluation of NRC Policy on Decommissioning of Nuclear Facilities," was published. Since that date many comments have been received on the plan from the public and States. In response to these comments, and to information gained during the initial stage of execution of the plan, several modifications were made to the plan. NUREG–0436, Revision 1 was published in December 1978.

NRC will hold two regional State workshops to discuss the modified plan and the progress made during the past year. This will include additional technical information consisting of an expanded report on the decommissioning of pressurized water reactors and reports on the decommissioning of boiling water reactors and low level waste burial facilities. Comments will be sought on preliminary staff reports on financial assurance and residual activity limits. The Governors, Legislative leadership, and Public Utility Chairmen have been invited to send representatives to either workshop.

NRC staff will use the information from these workshops to evaluate its preliminary conclusions with regard to decommissioning. The workshop locations and dates are as follows:

September 12–14. Carolina Inn, 937 Assembly St., Columbia, S.C.

September 25–27. The Conference Center at Seattle Center, Seattle, WA.

These workshops are being held to obtain the views of, and to provide the opportunity for discussion among State officials; however, all sessions will be open to public attendance and observation on a space available basis. Reports on the proceedings of the meeting will be filed in the NRC Public Document room.

Persons who wish further information about these workshops or who wish to observe should write Mrs. Sharon Thompson-Cohen, PEER Consultants, Inc., 1160 Rockville Pike, Suite 202, Rockville, Maryland 20852, (301) 340–7990.

Dated at Bethesda, Maryland, this 26th day of July 1979.

For the Nuclear Regulatory Commission.

G. Wayne Kerr,

Acting Director, Office of State Programs.

[FR Doc. 79–23833 Filed 8–1–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–237–SP and 50–249–SP]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Units 2 and 3); Provisional Operating License No. DPR–19 Facility Operating License No. DPR–25; Reconstitution of Board

Edward Luton, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because he transferred to another Federal Agency, where he will serve as an Administrative Law Judge, Mr. Luton is unable to continue his service on this Board.

Accordingly, John F. Wolf, Esq., whose address is 3409 Shepherd Street, Chevy Chase, Maryland 20015, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland this 30th day of July 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79–23834 Filed 8–1–79; 8:45 am]

BILLING CODE 7590–11–M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-Ar 79-31]

Accident Report, Responses to Safety Recommendations; Availability

Aircraft Accident Report

Antilles Air Boats, Inc., Grumman G21A, N7777V, St. Thomas, Virgin Islands, September 2, 1978 (NTSB–AAR–79–9).—The National Transportation Safety Board on July 20 made public its formal report of investigation into the crash of the Grumman G21A, operating as Flight 941, while on a passenger flight from St. Croix to St. Thomas. The plane crashed after the left engine failed and level flight could not be maintained with one engine. The captain attempted to fly the aircraft in ground effect, about 20 to 50 feet above the water's surface. The aircraft struck the water when single-engine flight could not be maintained even in ground effect, cartwheeled around the left wing, and broke apart. The captain and three of the ten passengers were killed, and the aircraft was destroyed.

The Safety Board determined that the probable cause of the accident was the inability of the aircraft to sustain single-engine flight and the captain's decision to attempt to fly the aircraft in ground effect rather than attempt an open sea emergency landing. Single-engine flight was not possible at any altitude because of the drag induced by the loss of the engine cowl, the decreased efficiency of the improperly maintained right propeller, and the overgrossed condition which resulted from a deficient Federal Aviation Administration supplemental type certificate.

Contributing to the accident were the company's inadequate maintenance program, the management influence which resulted in a disregard of Federal Aviation Regulations and FAA-approved company maintenance policies, inadequate FAA surveillance of the airline, and deficient enforcement procedures. Contributing to the fatalities in this survivable accident was the captain's failure to brief passengers properly on emergency procedures.

As a result of the Safety Board's investigation, the FAA Southern Region conducted a special investigation of the operations and maintenance procedures of Antilles Air Boats, Inc. The restrictions which were subsequently imposed by the FAA included a retesting of all Antilles pilots in single-engine emergency procedures, a reduced interval for the inspection of aircraft, a reorganization of the operations and maintenance programs, and a general upgrade of maintenance facilities.

Also as a result of its investigation, the Safety Board has issued four recommendations to the FAA: A–79–11 on May 4 to require that all aircraft maintenance logbook sheets be numbered consecutively (44 FR 27509, May 10, 1979); A–79–31 on May 9 to strengthen surveillance and enforcement programs directed toward Part 135 operators to provide adequate staffing for FAA facilities, to assure uniform application of surveillance and enforcement procedures, and to upgrade enforcement procedures (44 FR 28897, May 17, 1979); and A–79–56 and 57 on July 12 to determine Grumman G21A performance data at current operating weights to insure that appropriate certification requirements can be satisfied, and to insure that procedures for proper development, testing, review, and quality control for issuing supplemental type certificates are complied with in each FAA Region (44 FR 42348, July 19, 1979).

Also repeated in the Safety Board's report on this accident are recommendations A–78–37 through 41 issued on May 17, 1978, in connection with a commuter airline accident which occurred on September 6, 1977. These recommendations asked FAA to: Revise surveillance procedures for FAA inspectors to insure more stringent monitoring of commuter airlines; insure that adequate numbers of FAA inspectors are assigned to monitor air taxi/commuter airlines; review the flight operations and training manuals of all commuter airlines to insure that the requirements of 14 CFR Part 135 are met and practiced; amend 14 CFR 135.27 to require that flight operations manuals specify the duties and responsibilities of key management personnel and positive means to insure control of flights by company management and pilots; and review maintenance procedures of air taxi and commuter airlines to evaluate their effectiveness. (See 43 FR 22465, May 25, 1978.)

Responses to Safety Recommendations

Aviation

A–72–56 and 57.—Federal Aviation Administration's letter of July 18, reports on actions taken to implement recommendations issued May 8, 1972, concerning recovery of cockpit voice recorders and flight data recorders. FAA advises that §§ 25.1457(g) and 121.359(c) of the Federal Aviation Regulations were revised on July 18, 1977, to require approved underwater locating devices and reflective tape affixed to the cockpit voice recorder.

A–78–1.—On July 20 FAA responded to the Safety Board's comments of June 7 pertaining to FAA's response letter dated April 9 (44 FR 24658, April 26, 1979). The recommendation, resulting from investigation of the Southern Airways DC–9 (S0242) accident at New Hope, Ga., April 4, 1977, asked FAA to initiate research to determine the attenuating effects of various levels of precipitation and icing on airborne radomes of both x- and c-band radar and to disseminate any pertinent data to the aviation community. FAA's April 9 response indicated that there was no evidence of serious problems caused by ice and water on radomes, that the attenuation effects of ice and water are well known, and that further research is not necessary.

The Board agrees that the "attenuation effects of ice and water are well known," if one considers only attenuation which occurs after the signal has left the radome, but contends that the effects of precipitation, if any, on the radome itself are not well known. Preliminary results of a recent study conducted by the National Severe Storms Laboratory indicate that rainfall attenuation of x-band radar is greater than c-band by several orders of magnitude, and that x-band attenuation causes loss of high reflectivity areas. Because of the extensive use of x-band radar, and the fact that many decisions to avoid thunderstorms—particularly by local service carriers operating on short flights—are made while aircraft are operating in precipitation conditions, radar display interpretation becomes critical.

Further, the Board noted, as a result of the limitations of current air traffic control surveillance radar and the present system for relaying severe weather information to airborne flightcrews, the controller can be of little assistance before he receives confirmation of severe weather from the flightcrew; they in turn must rely almost exclusively on airborne weather radar. If the crew's interpretation of the radar display is made without knowledge of the extent to which attenuation can adversely affect the presentation, there is no assurance that severe weather ahead can be detected and avoided. Accordingly, because of the potential catastrophic consequences of inadvertent aircraft penetration of severe weather, the Board continues to believe that the actual extent of attenuation due to precipitation on airborne radomes should be determined. The Board requested reconsideration.

FAA's July 20 letter reports that this matter was discussed briefly during the NTSB/FAA quarterly meeting held July 13. FAA offered to review the basis for its April 9 response.

A–78–37.—FAA's letter of July 23 reports on action with respect to one of the recommendations referenced in the Safety Board's report on the Antilles Air Boats Grumman G21A accident at St. Thomas (see above). FAA reports that Notice N8000.176, "Increased Surveillance for Operators Under New Part 135," was issued on April 25; a copy of this notice is attached to FAA's letter. This notice directs increased surveillance of scheduled air taxi operators complying with the new Part 135 and prescribes additional actions which emphasize the higher level of safety required in Part 135 operations.

A–79–21 through 24.—FAA on July 16 responded to recommendations issued as a result of Board investigations of several accidents involving Learjet aircraft equipped with the same type of servo drive unit. (See 44 FR 24656, April 26, 1979.)

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Recommendation A–79–21 asked FAA to immediately determine the cause for the clutch malfunction in JET Electronic part No. 2380066, servo drive unit, to devise a means to detect potential problems, and define corrective action. Gates Learjet found that the powder packs because the individual particles are worn smooth from constant agitation by the continuous running motor and excessive amount of unlubricated powder in the clutches. Also, Gates Learjet is testing an improved magnetic clutch which they plan to certify as a replacement clutch and is preparing the necessary information for a retrofit program. FAA is considering airworthiness directive action for the retrofit program, and the Safety Board will be further advised in 30 days.

Recommendation A–79–22 asked FAA to restrict the operation of all Learjet aircraft equipped with this servo drive unit, if defining and implementing the corrective action described will require prolonged effort. The response letter states that FAA does not believe that it is necessary to restrict operations of Learjets equipped with part No. 2380066 servo drive units to assure safe operation. FAA reports that a Temporary Airplane Flight Manual Supplement for all Learjets equipped with the above servo drive units has been issued. It contains emergency procedures in the event of an autopilot pitch axis malfunction or complete stall warning failures. A copy of the manual supplement is provided.

In response to A–79–23, which recommended that FAA issue immediately an Operations Alert Bulletin to FAA inspectors and notify operators of Learjets equipped with this type of servo drive unit to advise pilots of the possible control difficulties which can be encountered as a result of clutch malfunction. FAA reports that copies of this recommendation have been sent to all FAA Flight Standards Offices as an initial notification of the problem. Two operations bulletins dealing with the problems are being prepared, one expected to be issued by June 30 and the other by July 15.

With reference to A–79–24, which asked FAA to determine whether other model aircraft use the same servo drive unit clutches and take appropriate action to advise the operators of those aircraft of the potential problem, FAA reports that the same stick pusher/puller/autopilot pitch servo, P/N 2380066, is used on all Learjet Model 23 airplanes, S/N 23–003 through 23–009; Model 24 airplanes, S/N 24–100 through 24–229 except 24–218; and Model 25 airplanes, S/N 25–002 through 25–067 except 25–061. The service information being prepared by Gates Learjet will be applicable to all of the above affected models. Similarly, any operations alert bulletin that might be issued will be applicable to the above model airplanes. FAA says this servo drive clutch unit is used only in Gates Learjet aircraft.

A–79–45 and 46.—FAA on July 16 provided the Safety Board with copies of an airworthiness directive and a telegraphic notice, issued in connection with recommendations which were forwarded to FAA during the early stages of investigation into the May 25 crash of American Airlines DC–10 N110AA at Chicago O'Hare International Airport. (See 44 FR 34222, June 14, 1979.)

Recommendation A–79–45 called on FAA to issue a telegraphic airworthiness directive to require an immediate inspection of all DC–10 aircraft in which an engine pylon assembly has been removed and reinstalled for damage to the wing-mounted pylon aft bulkhead, including its forward flange and the attaching spar web and fasteners; require removal of any sealant which may hide a crack in the flange area and employ eddy-current or other approved techniques to ensure detection of such damage. An amendment to an airworthiness directive, issued May 28 and amended May 29, was issued June 4. FAA believes that this amendment is responsive to the recommendation.

Recommendation A–79–46 asked FAA to issue a maintenance alert bulletin directing FAA Maintenance Inspectors to contact their assigned carriers and advise them to immediately discontinue the practice of lowering and raising the pylon with the engine still attached. Carriers should adhere to the procedure recommended by the Douglas Aircraft Company service bulletin which includes removing the engine from the pylon before removing the pylon from the wing. FAA reports that telegraphic Notice N8320.232 covering this subject was issued on June 3.

Highway

H–79–29.—The General Services Administration's letter of July 19 responds to the Safety Board's July 5 comments on GSA's initial response of June 11 (44 FR 36274, June 21, 1979) to a recommendation issued following investigation of a fatal ambulance accident near Littleton, N.H., August 28, 1978. The recommendation asked GSA to add to Federal Specification KKK–A–1822 of January 2, 1974, Ambulances Approved by Federal Supply Services, performance-type requirements in the areas of (1) maintenance of the manufacturer's vehicle handling characteristics during modification procedures, (2) loading instructions to guide users so as not to change vehicle handling characteristics, (3) body structural integrity, (4) anchorages for all equipment installed, and (5) occupant protection.

The Safety Board expressed appreciation of GSA's efforts in implementing this recommendation and asked for a copy of the proposed schedule for completing the changes outlined in GSA's June 11 letter. The Board believes that further study should be made into the requirement for a test for cabinet retention performance, having found that the movement of cabinets during the impact in the Littleton accident created an unsafe environment for occupants of the ambulance. The Board has no statistics to show the extent of this cabinet movement as a general problem and believes that a formal study would be helpful.

In response to the Safety Board's comments, GSA reports having made a further review of the need for a cabinet retention test. GSA said that, significantly, the subject ambulance was neither built under nor would it have met the requirements of the GSA's specification. GSA is confident that this problem would have been precluded if the ambulance had met the cabinet retention requirements of its specification. This was confirmed by various credible sources including a cross section of ambulance users, the National Highway Traffic Safety Administration, and insurance companies. They knew of no incident of cabinet retention failure on an ambulance involved in an accident that was built to KKK–A–1822. Therefore, GSA stated, the revised KKK–A–1822A, which will be issued in the early fall, will maintain the cabinet mounting requirements in the present specification.

GSA also noted that the issuance of NHTSA safety standards, applicable to all ambulances, including those built under KKK–A–1822A, may be worthy of consideration, and GSA would fully support this approach.

Marine

M–77–15 through 30.—The U.S. Coast Guard on May 22 responded to the Safety Board's comments of last September 22 to a previous response dated February 17, 1978 (43 FR 21522, May 18, 1978). The recommendations were issued following investigation of the sinking of the charter fishing boat PEARL-C while being towed on the Columbia River Bar near Astoria, Oreg., September 13, 1976.

Recommendation M–77–15 asked Coast Guard to conduct field investigations to determine the cause of vessel equipment failures which require assistance from Coast Guard Station Cape Disappointment and implement corrective actions, including publication of maintenance and repair guidelines for charter boat operators to reduce the number of assistance cases. The Safety Board's September 22 letter expressed appreciation of Coast Guard's concurrence in the need for a mechanical information pamphlet for operators of fishing boats, and anticipated the findings of Coast Guard's study into specific areas of information needed to reduce the search and rescue (SAR) workload in the Thirteenth Coast Guard District, as well as in other Coast Guard districts. Coast Guard's May 22 response reports that casualty data has been assembled which is relevant to vessel equipment failures, and analysis of this data will take approximately 3 months at which time a detailed response will be made.

In view of Coast Guard's June 28, 1978, response to recommendation M–77–16 (43 FR 32477, July 27, 1978) and Coast Guard's subsequent response of last October 18 to the Safety Board's August 30 reply (43 FR 52309, November 9, 1978), the Safety Board on December 12 advised the Coast Guard that the recommendation was being closed as reconsidered, thus withdrawing it from further discussion. The recommendation asked Coast Guard to require operators of inspected charter boats to keep a record of service and repairs in a suitable form for Coast Guard examination. The Safety Board acknowledged that the information concerning small passenger boat safety furnished by Coast Guard on October 18 supported Coast Guard's contention that M–77–16 would create an unwarranted recordkeeping burden on an industry with a good overall safety record.

Recommendation M–77–17 asked Coast Guard to establish, in cooperation with the States of Oregon and Washington, a program of safety education for charter boat operators, including training in preventive maintenance and in at-sea repair of machinery and equipment that is necessary for safe operation. The Safety Board said on September 22, in commenting on Coast Guard's response, that the Board did not intend for Coast Guard to share its responsibilities but rather sought to complement Coast Guard's certification process, which now includes a Coast Guard-administrated examination and an experience requirement, with an educational program which would be carried out through cooperation with the States. The Board noted that current licensing examinations cover only the operational aspects of charter boating; an operator's knowledge of preventive maintenance techniques and his at-sea repair capabilities must be tested before he is licensed. In calling for reconsideration of the recommendation, the Board expressed hope that such consideration would generate ideas as to how Coast Guard can provide maintenance and repair training for charter fishing boat operators so that they would not be forced to gain this ability through trial and error process.

In response to the Board's comments, Coast Guard said it is opposed to any program that would single out any segment of the commercial vessel industry for maintenance and repair training. Any Coast Guard training would have to be general enough to include all possible propulsion installations. Coast Guard has included additional questions on the subject of propulsion machinery in examinations administered to charter boat operators, which system has proven to be effective.

The Safety Board also asked for further consideration of M–77–18, which recommended that Coast Guard evaluate the effectiveness of its motor lifeboats in search operations offshore in comparison with its aircraft, and establish criteria for selecting specific boats and aircraft according to existing SAR conditions. In commenting on Coast Guard's earlier response to M–77–18, the Safety Board said it did not mean to suggest that any newly developed criteria should be used as a substitute for training and judgment. Rather, the Board intended that such criteria would complement and enhance the decisionmaking capabilities of the SAR coordinator. The Board believes that through special vessel trials and collection of SAR response reports, which should include the reasons for the SAR vehicle selection, the outcome of the operation, and descriptions of local problems encountered, a concise yet comprehensive list of "do's" and "don't's" could be developed for optimizing SAR craft effectiveness. The Board strongly believes that small-boat SAR capabilities must be critically evaluated and appropriately documented in order for SAR coordinators to effectively carry out their duties.

In responding to the Safety Board's comments regarding M–77–18, Coast Guard notes that the choice of offshore SAR response vehicles is limited to three classes of small boats, two rotary wing aircraft, two fixed wing aircraft, and two classes of cutters. The location of the object in distress usually narrows the choice further. If the object is close in and small with good visibility, the cutters and fixed wing aircraft would not be used. The choice of response vehicle is made by eliminating the unneeded or unsuited. The final choice is made at the unit level with more complicated cases referred to the centralized Group Office of District RCC. Coast Guard states that SAR capabilities and limitations for resources are defined by design and through past SAR mission experience. The SAR coordinator makes the initial decision as to which vehicle is to be dispatched based on known parameters that can be listed (fuel endurance, to wing capability, etc.), but it is the vehicle operator who makes a final objective decision on ability to accomplish the mission at hand. Coast Guard does not see how the criteria for SAR mission vehicle selection can be refined further. Coast Guard does not agree that the 44'MLB was inadequate for the search or that the decision to use it was incorrect in the subject accident. It was determined that the 44'MLB has very limited capability to perform precise search patterns or navigate in reduced visibility. A new radar, a LORAN–C receiver, and a VHF–FM Homer will be installed on all 44'MLB's, Coast Guard states.

With respect to M–77–19, the Safety Board said it was pleased with the implementation of both an equipment-failure reporting program and maintenance plan in the Thirteenth Coast Guard District and asked to be advised of Coast Guard's evaluation of these programs and of any plans for expanding them. The May 22 response indicates that a Coast Guard-wide Preventive Maintenance System (PMS) for the 44'MLB and the 41'UTB was implemented in December 1977. This system was well received and initial feedbacks reports indicate that the system is working. PMS for all standard boats operated by the Coast Guard will be completed by October 31, 1979. Also, Coast Guard is investigating a service-wide casualty reporting system for boats.

Recommendation M–77–20 asked Coast Guard to expedite, in conjunction with the Federal Communications Commission, the dedication (allocation) of channel 15 VHF for the sole purpose of emergency location. The Board's September 22 letter said it will monitor

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the regulatory process, and Coast Guard's response reported that a rule proposing channel 15 VHF–FM was published in the Federal Register on August 9, 1978, under Federal Communications Commission General Docket No. 78–230.

The Safety Board asked to be kept informed on Coast Guard's efforts to develop and implement a towing procedures checklist on SAR vessels, as recommended by M–77–21. In response, Coast Guard advises that a towing checklist has been prepared and distributed to all of its units which operate motor lifeboats (MLB's) and large utility boats (UTB's). The checklist, which covers all essential aspects of towing, will be posted in a conspicuous place near the coxwain. Coast Guard provided a copy of this checklist for information as an enclosure to Commandant Notice 9582, dated October 6, 1978.

Recommendation M–77–22 asked Coast Guard to determine the feasibility of increasing the assignment periods for military personnel or, in lieu thereof, using civilian employee rescue personnel as an alternative to give the station more continuity and higher capability. The Safety Board said that Coast Guard's initial response was encouraging and asked to be provided with statistics showing the relative success of the new personnel procedures which lengthen the tour of duty at SAR stations. The Board is also interested in the outcome of exploratory work in using civilian SAR employees for actual rescue work. Coast Guard said in response that the issue is skill, not longevity, and that skill levels can be raised by training. If incoming military personnel have the required skills, the problem is addressed. Coast Guard is making an in-depth analysis of the SAR system, and response capabilities will be a part of that analysis. Coast Guard reports an increase in the overall stability in the Thirteenth District in the past 9 months in both numbers and tour length, but no correlation can be drawn as yet between increased stability and gain in specific expertise. More time for observation will be required.

The Safety Board stated with reference to M–77–23 that when it recommended a SAR operational checklist the Board was interested in developing a usable format with wide mandatory usage, rather than the limited checklists described in the SAR manual with optional usage. The Board asked to be notified of findings resulting from Coast Guard's examination of the current SAR checklist. Coast Guard said it would notify the Board when the review of the checklists is complete.

Recommendation M–77–24 called on Coast Guard to require the operators of inspected charter boats to give instructions to their passengers in locating and using personal flotation devices before getting underway and to both notify the Coast Guard of the situation and distribute these devices to their passengers before crossing a bar or waterway when conditions are determined by the Coast Guard to be hazardous. In its September 22 letter, the Board said it did not intend to suggest that Coast Guard make a "subjective determination" of hazardous conditions on the Columbia River Bar. Rather, the Board had envisioned broader application of 33 CFR Part 177, which contains a workable method for determining unsafe conditions. This part already defines the Columbia River Bar as a regulated boating area. The Board recommended that charter fishing boat operators be required to distribute PFD's to passengers and to notify Coast Guard of their intent to cross the bar when the Coast Guard has broadcast quantitative hazardous conditions. Otherwise, the operator might not be able to determine whether bar conditions are too hazardous for crossing, especially during times of low visibility and when observing the bar from the sea. This action does not relieve the operator of his responsibility for safe navigation generally. Although, under Part 177, the Coast Guard can direct the operator of a pleasure boat to take immediate and reasonable steps to assure the safety of those aboard, Coast Guard primarily would be advising commercial operators of an existing hazardous situation, based on a number of measurable data, and would be asking for notification of intended action. The Board asked for further consideration of M–77–24 based on this explanation and its discussion.

In answer to the Board's comments, Coast Guard said that the "Safety Orientation Requirements" published as a proposed rule on June 29, 1978, will adequately address the safety issues of M–77–24. Coast Guard notes that nearly every geographical area has hazardous operating areas. Each Officer in Charge, Marine Inspection, can increase the safe operation through operator licensing procedures. An applicant for a license as an operator of ocean mechanically propelled vessels must demonstrate his knowledge of many subjects—winds, weather, current, etc. Questions related to hazardous bar conditions can be included in the examination. Coast Guard states that the criteria for determining unsafe conditions in areas designated regulated boating areas (33 CFR Part 177) were developed with the recreational, noncommercial boater in mind. There is reason to doubt that 33 CFR Part 177 can be cited as authority to require action on the part of the operators of small passenger vessels as regulated by 46 CFR Subchapter T. Coast Guard said there is no method, universal in application and effect, that is workable for persons ashore to determine what constitutes unsafe conditions at sea. This determination is best made by the vessel operator. The Commander, Thirteenth Coast Guard District, reports that there is no need for a Coast Guard-maintained special system to alert charter boat operators of possible dangerous conditions. The marine user population has access to weather and bar condition information through radio and TV commercial broadcast made at intervals from population centers. The use made of the information is a matter of prudence and professionalism on the part of the individual operator. A copy of Thirteenth District OPLAN No. 1, present coastal bar condition reporting plan, is provided.

In commenting on M–77–25, which recommended that Coast Guard require inspected passenger vessels to have a means to alert the operator at his control station, by both visual and audible signals, of unsafe water levels in each decked-over compartment which if flooded would have a significant effect on stability, the Safety Board said it would monitor the rulemaking process that will require bilge alarms in boats regulated by 49 CFR Part 182, Subchapter T. Coast Guard is drafting regulations for these bilge alarms. No docket number has been assigned.

Recommendation M–77–26 asked Coast Guard to determine whether electric bilge pumps which are actuated automatically by water in the bilges and which have an independent energy source should be required to be installed in each compartment of inspected small passenger vessels. The Safety Board's September 22 letter says that this recommendation dealt more with pump placement and power source than with pump capacity. The Board's analysis indicates that pump capacity was adequate on the PEARL–C but that it could not be applied when and where it was needed. The Board recognizes the possible conflict with the Federal Water Pollution Control Act; however, excess water must be removed from these boats before the point of no return is reached. The Board suggests that Coast Guard consider this problem further and explore alternative solutions such as automatic pumps, standby power sources, etc. In response, Coast Guard reports that M–77–26 has been evaluated in light of 46 CFR 182.25 and the Safety Board's comments of September 22, 1978. Coast Guard finds that it is neither reasonable nor necessary to provide permanently installed bilge pumping capabilities to handle catastrophic flooding conditions. Further, Coast Guard states, experience does not confirm that the standards for equipping small passenger vessels with bilge pumping capability are inadequate.

With reference to M–77–27, the Board said it will monitor the rulemaking process for a requirement to close fuel tank cross-connections, as recommended. Coast Guard said in response that it cannot establish a creditable need for a regulation based on this recommendation. According to Coast Guard, a review of its casualty statistics found that the PEARL–C accident is the only case which a transfer of fuel through fuel tank cross connections was thought to have played any role in the loss of a small passenger vessel. "A regulatory effort to modify or eliminate the otherwise beneficial fuel equalizing feature of fuel tank connections, based solely on the PEARL–C incident, cannot be justified," Coast Guard stated.

In response to the Safety Board's request regarding recommendation M–77–8 for a copy of the amendment to the Marine Safety Manual which advises Coast Guard inspectors to strictly enforce weather deck watertightness regulations, Coast Guard provided an excerpt from Marine Safety Manual CG–495, part 30–6–25A, "Hull Inspections—General," which includes the statement: "The inspector shall ensure that the regulations regarding weathertightness of the hull envelope including weather decks are strictly enforced.

Recommendation M–77–29 asked Coast Guard to designate the Columbia River Bar as a specially hazardous area per 46 CFR 178–05–15(a) and require vessels which operate across it to have the maximum degree of seaworthiness afforded by the Small Passenger Vessel regulations. The Safety Board's September 22 comments take note of the possible economic impact of designating the Columbia River Bar as an especially hazardous area and of the fact that hazardous areas require that vessels be more seaworthy and some boats may have to be modified to continue carrying passengers across the bar if this change is made. However, the Safety Board states emphatically that it cannot accept an economic impact study of the effect the recommended action might have on the charter boat industry—as Coast Guard proposed—as the basis for deciding the risk that the general public, as third parties, should accept. This is especially true since the interests of the general public cannot be represented in such a study.

In response to the Board's comments regarding M–77–29, the Coast Guard provided a current assessment of risk to passengers crossing the Columbia River Bar. It is based on best estimate information supplied by MSO Portland, Oreg., personnel for inspected small passenger vessels. Coast Guard asked the Board to consider these facts:

1. Approximately 300 inspected small passenger vessels operate across the Columbia River Bar.
2. Each vessel makes approximately 90 to 100 round trips across the bar annually while carrying passengers.
3. The prime boating season is June through August during which time the bar conditions are better than the rest of the year.
4. There are approximately two vessel casualties each year involving inspected small passenger vessels which are bar-condition related.
5. The most frequent problems incurred by these vessels are fuel system failures, resulting in loss of propulsion, and steering failures.

Coast Guard said it cannot justify the extensive restrictive regulatory effort described in recommendation M–77–29 for an industry which has demonstrated as excellent overall safety recommendation.

The Safety Board noted that in response to M–77–30, which recommended that a deckhand be required on charter fishing boats and that minimum qualifications for this deckhand be set, Coast Guard stated a policy of allowing USCG district and local field offices to set manning requirements. In line with this policy and recognizing the Commandant's overall responsibility for Coast Guard activities, the Board suggests that a task group be established of headquarters, district, and local Coast Guard personnel to develop policy or guidelines concerning the use of a deckhand. Guidelines should consider the parameters discussed in Coast Guard's initial response—vessel construction, route, and passengers. The need for a deckhand on the PEARL–C was obvious, and fulfilling that need must be explored further.

In its May 22 response, Coast Guard maintains its previous position, stating, ". . . any regulatory effort to absolutely require a deckhand irrespective of local consideration is ill-advised." Coast Guard notes that many vessels would not be able to continue operations due to the increased cost of operation. Coast Guard states, "The operator's only option short of going out of business would be to then carry six or less passengers. This will enable the operator to avoid any meaningful Coast Guard regulations and would yield a net decrease in the level of safety accorded the public."

Railroad

R–77–1.—Federal Railroad Administration's letter of July 17 responds to the Safety Board's May 15 evaluation of FRA's previous response dated April 19 (44 FR 25956, May 3, 1979). The recommendation, resulting from investigation of the derailment of an Amtrak train at New Castle, Ala., January 16, 1977, called on FRA to investigate immediately the interaction between SDP–40F and P–30CH locomotives of passenger trains and track conditions to determine the causes for the widening of the track gage and act to correct the cause.

The Safety Board noted that it had not received any data, particularly the Transportation System Center evaluation and final report, which resulted from the four-party locomotive testing program. Although the Board is aware of the change from three-axle to two-axle truck configuration of some SDP–40F locomotives, it has not been advised of any effective modifications applicable to the existing three-axle trucks.

In response, FRA stated that on May 21, 1979, revised FRA Locomotive Safety Standards were published in Volume 44, No. 99 of the Federal Register. This notice proposes to amend the rules pertaining to railroad locomotive inspection, and FRA notes that as indicated in its April 19 response, results of the testing on the Chessie System were considered in drafting these amendments.

Note—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

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(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

Margaret L. Fisher,

Federal Register Liaison Officer.

July 30, 1979.

[FR Doc. 79–23867 Filed 8–1–79; 8:45 am]

BILLING CODE 4910–58–M

[N–AR 79–30]

Special Investigation Report, Safety Recommendations and Responses; Availability

Correction

In FR Doc. 79–23085 appearing at page 43824 in the issue for Thursday, July 26, 1979, make the following correction: On page 43824, in the middle column, under the main heading **Safety Recommendation Letters** and minor heading *Aviation*, in the paragraph with the designation A–79–58 and 59, in the 6th line, substitute the word "retracted" for the word "retracting".

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OFFICE OF MANAGEMENT AND BUDGET

Final Ruling on Proposed Amendment to OMB Circular A–95 on Urban Impact Reviews

AGENCY: Office of Management and Budget (OMB).

ACTION: Final Ruling to amend the circular as proposed.

SUMMARY: Comments were received from 68 respondents. Most of them agreed with the intent of the proposal and more than half gave it either full support or qualified support. This included nearly all thirteen clearinghouse respondents and most of the State and local interest groups which commented. Nine clearinghouses perceived a need for additional funds to handle any new workloads caused by the amendment. Thirty-three respondents were non-supportive to varying degrees. The bulk of the criticism centered around highway and housing projects, as voiced by State highway departments and by housing industry groups.

These criticisms have been carefully analyzed and it has been determined that in the main they reflect a lack of understanding of how the A–95 review process is designed to work. An analysis of the concerns is provided below.

Accordingly, OMB and the Interagency Coordinating Council have agreed that considerable benefits should accrue from the implementation of the proposed amendment. Therefore, OMB Circular A–95 is being amended as proposed.

EFFECTIVE DATE: August 1, 1979.

BACKGROUND: The proposed amendment was published in the **Federal Register** on January 15, 1979, with a deadline of March 20, 1979 for receipt of comments. The amendment encourages clearinghouses to evaluate the urban impact of projects proposed for Federal assistance as part of the A–95 review process. It was perceived that such analysis, if undertaken, would help determine the potential significant positive or negative impacts on communities of federally assisted projects and provide an opportunity for clearinghouses to work with applicants to minimize potential adverse impacts prior to submission of applications to Federal agencies.

Specifically the proposal amends A–95's Attachment A, Part I (Project Notification and Review System), Section 5, regarding the subject matter of comments and recommendations, by adding a final subparagraph "j" as follows: "The extent to which the project creates a significant impact on central cities, older suburban cities and other communities within the jurisdiction of the clearinghouse, including the relative impacts the project may have on one type of place as compared to others. Such assessments should consider the relationship of the proposed project to factors such as:

(1) Economic revitalization objectives, particularly those related to distressed communities, and efforts to prevent additional areas from becoming distressed;

(2) Business location and level of economic activity;

(3) Expansion of jobs for moniorities and the unemployed;

(4) Expansion of housing choices for disadvantaged and minorities;

(5) Efforts to strengthen the fiscal condition and tax base of urban communities, particularly distressed communities;

(6) Conservation and revitalization of neighborhoods, particularly blighted neighborhoods; and

(7) Improvement of urban physical, cultural and aesthetic environments through protection of park, recreation, historic and cultural resources and development of mass transit opportunities.

DISCUSSION OF MAJOR COMMENTS: The largest amount of criticism came from sixteen State highway departments, which perceived an increase in application processing time and a duplication of the comprehensive reviews required by Federal Department of Transportation (DOT) regulations and by the National Environmental Policy Act of 1969 (NEPA). DOT has analyzed the specific concerns and provides the following response:

"We strongly endorse the amendment and will have no problem in administering it in conjunction with Departmental assistance programs.

The negative comments you have received from some state highway agencies reflect a concern that evaluation of urban impacts as part of the A–95 review process would create additional paperwork and increase the time required for processing of grant applications, as well as duplicate urban impact analyses made for highway projects prior to the A–95 review. Recent policy guidance issued by Secretary of Transportation Brock Adams to the Federal Highway and Urban Mass Transportation Administrations, has clarified the requirements for urban impact analyses for federally-assisted transportation projects in light of changing urban transportation needs and energy, environmental, and financial concerns. The Secretary's policy recognizes that the expansionary period of transportation development, where the program emphasis was on the construction of new systems, is giving way to one of conservation and better management of existing facilities. Making this transition smoothly will require a more careful review of social, environmental and energy implications and the financial costs of construction in urban areas and operation of urban transportation systems.

To implement the Secretary's policy the Urban Mass Transportation Administration (UMTA) and the Federal Highway Administration (FHWA) are taking steps to ensure that each alternative considered in the DOT assisted planning studies and in the environmental impact statement (EIS) for a major urban area highway or transit investment is to include (among other factors): analysis of the effect of the investment on the economic viability of the central city; identification of opportunities for minority business and employment; discussion and documentation of the consistency of the project with State and local plans, including land use, economic development, and housing; and discussion of efforts taken and agreements reached for using transportation investments to support both public and private development plans in the central city and for mitigating any adverse effects on housing stock and neighborhoods as well as jobs.

In many instances these evaluations are already being performed through FHWA and UMTA-funded urban transportation planning. The Secretary's policy guidance stresses the importance of these evaluations in DOT's planning and decision-making processes. If there has been any question in the past, the Secretary's policy makes it clear that these types of analyses should be a regular part of the overall transportation planning process and are eligible activities for DOT funding. With the assurance that these analyses will now be part of the information developed in the planning process, the potential for duplication will be minimized.

In addition to the concerns about duplication, a few state highway agencies have commented that they do not believe the information needed to perform an urban impact analysis is available for the A–95 review of transportation programs. Since most states obtain annual A–95 reviews of the overall Transportation Improvement Program (TIP), which includes all proposed projects for the area, the urban impacts of some specific projects may not be clearly defined at the time of the TIP review. In these instances, where it is premature to perform an urban impact analysis prior to or during the initial A–95 process, clearinghouses may request a specific project review at a later time when the necessary information can be provided. Consequently, we do not believe the absence of complete data during an initial A–95 review represents a real problem.

We understand that the question of funding for A–95 agency review of urban impacts also has been raised in comments you have received. As you may know, more than half of the A–95 agencies in metropolitan areas are the designated Metropolitan Planning Organizations (MPOs) responsible for transportation planning. Funding for the A–95 review process is available from the transportation planning program funds. Where the MPO is not the A–95 agency, funding for the transportation related A–95 review may be requested by the MPO as an eligible item of expense in its planning grant request to DOT and passed through to the A–95 agency. Thus, regardless of whether or not the A–95 agency is the local MPO, DOT planning programs provide the opportunity for financial support for the transportation related A–95 review process.

Since analyses are to be accomplished through the planning and environmental processes, no additional funding for A–95 review of the urban impacts of transportation projects should be necessary."

In assessing DOT's comments it is OMB's view that the comprehensiveness of the urban impact evaluations performed as a part of the DOT planning and decision-making processes should decrease considerably the necessity for an additional comprehensive review on the part of clearinghouses so long as this information is made available to the clearinghouses as needed. To the degree that a clearinghouse might believe that an independent review is still required for any aspect of a particular proposal, a minor delay could occur.

Adverse perceptions regarding housing matters were received from seven respondents, comprised of two building industry associations, two developers, one financial corporation, one local housing authority and one individual. An analysis of the primary concerns and comments thereon, as provided by the Department of Housing and Urban Development follows:

"One comment from a housing organization indicated the need for urban impact review criteria for apartments since urban impact reviews can be highly subjective. The proposed urban impact factors need to be read in conjunction with the *subject matter of comments and recommendations* contained in the OMB Circular. It is felt that the proposed amendment is no more subjective than the current provisions of the Circular. Criteria may be developed by individual clearinghouses to meet the particular needs of their jurisdictions but national standards should not be developed due to differing local circumstances.

Duplication with underwriting criteria and environmental analyses was mentioned by one commentor. Normally, the FHA analysts underwriting concerns are focused on market factors at the community level. Clearly, they do not reflect many of the variables included by urban impact reviews. Clearinghouses provide opportunity for both a State and regional perspective on a particular concern, and an appropriate urban overview. Regarding environmental analyses, such analyses are performed in most instances by the Federal agencies after receipt of an application for assistance. The A–95 "early warning" system is designed to provide clearinghouse comments on environmental considerations, if the clearinghouse chooses to do so, when the applicant submits the application with or prior to the completion of HUD's processing. The A–95 comments, therefore, precede the Federal agency environmental analysis and are not duplicative.

One organization viewed the proposed amendment as an extension of the environmental impact analysis with resulting red tape for the developer. The commentor suggested modifying present regulations and standards. The intent of the proposed A–95 amendment is to use the present A–95 regulations instead of developing a new system. The comments are to be prepared by the clearinghouse, not the developer, within the normal A–95 30-day review period. Additional red tape should not be imposed on the developer since the amendment simply adds urban policy concerns to the type of comments that clearinghouses should consider under a system that has been used for ten years.

Another organization indicated that the proposed amendment contained inherent conflicts and that individual projects could be "held hostage" by interjurisdictional frictions. A balanced approach was suggested by the commentor to resolve the potential conflict of expanding housing choices for disadvantaged and minorities while at the same time protecting "park, recreation, historic and cultural resources and development of mass transit opportunities." One of the primary reason for using the A–95 process for urban impact review purposes was to obtain comments of State, areawide and local officials on a proposed project so that Federal officials would have the benefit of different perspectives in making their decision. The clearinghouses are in an excellent position to recommend a balanced approach since they generally perform housing planning in addition to other forms of planning which attempts to resolve potential conflicts. Projects cannot be held hostage by interjurisdictional frictions since the Federal agency will proceed with its decision after review of problem situations. There should be few instances in which delays might exceed the normal Federal processing period."

Another concern stemmed from the perception by some medium size and smaller clearinghouses that such reviews might involve new workloads which could not be handled within their existing funds. OMB believes that the key phrase in the amendment are the words "the extent to which the project creates a *significant* impact * * *" (emphasis added). The relative significance is a matter of individual clearinghouse judgement. We have found that truely significant projects already are given a comprehensive review in the clearinghouse review process, usually involving in some fashion most of the factors being suggested. It is not the intent of the amendment to force a clearinghouse to do more than it normally would do for projects it considers to be significant. The intent is to provide cohesiveness to such reviews and also to lend an assurance that Federal agencies are expected to be examining clearinghouse comments and recommendations in such context. In the broader context, OMB does recognize that many clearinghouses which are trying to do a conscientious review have very limited funds available. OMB is currently examining the degree to which more flexibility can be provided in the use of a variety of Federal agencies' planning funds to support clearinghouse reviews.

Another concern involved a seeming inconsistency of the amendment with related Federal policies. Six respondents pointed to a perceived inconsistency of the proposal with Executive Order #12074 and its implementing directive, OMB Circular A–116, which require Federal agencies to send urban and community impact analyses to OMB on major program and policy initiatives. (A–116 states that it specifically is not intended to require that urban and community impacts of individual projects be incorporated in this OMB review of Federal agency program and policies.) Also, in view of a perceived additional burden on the application process, these same respondents believe the proposal is counterproductive to the President's announced policies. It is our view that A–116 has a related, but appropriately separate objective, dealing at the national level on major program and policy initiatives. Circular A–116 is not intended to imply that

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proper consideration should not be given at local levels and by Federal agencies to the urban impact of major, significant projects as they are being proposed. Also, the allegation that the proposal runs counter to the President's policies on the cutting of red tape and the avoidance of unnecessary delays is not a valid perception, as demonstrated in the specific discussion of comments under the two main areas of concern, housing and transportation.

Another category of comments dealt with a request for clarification of the terms and further development of criteria. For example, some requested further definition of the terms "urban", "central cities", "older suburban cities" and "other communities", and the possible inclusion of the term "metropolitan area". The other chief request was for a clarification as to what the term "significant impact" means, as a prerequisite for distinguishing between major projects and minor ones. In contrast some emphasized that local clearinghouses are in the position to determine which communities should be covered by the terms and what should constitute a "significant impact." We agree with the latter viewpoint. Beyond a reference to the Bureau of the Census definitions of "places" and "urbanized areas" the proposed amendment purposely avoids size criteria and leaves the interpretation of "significant impact" to local clearinghouse determination. The only exceptions to this purposely flexible approach would be those imposed by individual Federal program administrative guidelines, e.g., a qualification that a project or applicant must be located in a standard metropolitan statistical area.

On the subject of further development of criteria, the following additional factors were urged for development: a value system on the relative importance of the factors listed, methodologies for assessing the fiscal impacts, an interdisciplinary framework of factors instead of a checklist, a factor on potential displacement of minorities and low income people, a factor on consistency with existing land use policies, a factor on energy conservation, the impact on adjacent rural, nonincorporated areas, a factor on opportunities for minority businessmen, additional emphasis on impact of proposed sewer and road extensions in SMSA's, more balance on physical design, as distinct from economic aspects, put the existing factor "development of mass transit opportunities" in a separate category, and consider the indirect and secondary impacts, e.g., fiscal drain, and the cumulative effects of related projects. It is our position that the list of factors is suggestive and not all inclusive. The relative importance of the factors is a subjective judgment which should be reflective of local perspective rather than an arbitrary Federal standard.

Other comments had to do with changes in scope and process. The following are the most specific recommendations: (1) Direct Federal projects (Part II of A–95) should also be subject to urban impact reviews, (2) expand the scope to cover clearinghouse review of State plans (Part III of A–95), (3) require coordination of reviews with special referrals for civil rights, environment, etc., (4) require the applicant to include an urban impact assessment, (5) make the reviews mandatory and send a copy to OMB, and (6) assure Federal funding agency consideration of all reviews. OMB's position it that recommendations (1) and (2) will be given some emphasis in a forthcoming comprehensive revision of A–95. Recommendation (3) is implicit in the existing clearinghouse review process. Numbers (4) and (5) are not considered necessary, and on number (6), it is already required that Federal agencies must consider clearinghouse A–95 comments.

Other comments concerned a perceived infeasibility of the proposal. This category is highlighted because it synthesizes those basic concerns as to whether or not the proposal would work, regardless of the refinements we might make to the process. The main concerns expressed were: (1) "Encouraging" clearinghouse urban impact reivews is not an assured inducement for eliciting sound urban proposals that are consistent with Federal objectives, and suggesting that this should be done by putting appropriate incentives in each of the Federal urban programs (and encouraging their packaging) to create built-in priorities, (2) the reviews will be too subjective and uneven unless objective review criteria are established, (3) there are inherent conflicts among the seven proposed criteria, and that what is good for one area will inherently cause problems in others, including encouragement of "leapfrog" local development, particularly for housing, (4) the social impact state of the art is too simplistic and very few clearinghouses have the expertise or the detailed data to enable them to perform meaningful reviews of social impacts, and (5) the A–95 process is not working well now and adding to its scope will only compound the problem.

It is OMB's view that on Number (1) above, the two approaches described are not mutually exclusive. Steps are already being taken by Federal agencies to build program incentives and to coordinate urban planning and project development. We share the concern that some clearinghouses may not have adequate resources, and we are addressing this concern via a special analysis as previously mentioned. On number (2), we believe that allowing a subjective application of the criteria is the best way of assuring that a suitable local perspective is preserved. Regarding number (3), these are viewed more as tradeoff consideratons rather than irresolvable conflicts of interest. Such tradeoff analyses should be made at local levels as well as State level. On number (4) we agree. Many clearinghouses have limited capabilities and somewhat limited data available to measure social impacts. To the degree feasible they will have to refer proposals to agencies and organizations more qualified to make such judgments where social-type analyses are considered to be significant. On number (5), we have launched a major action with the Federal agencies to improve the discipline of the A–95 process.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 79–23803 Filed 8–1–79; 8:45 am]

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Agency Forms Under Review

July 30, 1979.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsbility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person of office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michaels—377–4217

New Forms

Bureau of the Census
Post Census Disability Survey—Pretest
CDS–1X, 2X, 3X, 5X 7X
Single time
Individuals in one sample area, 4,000 responses; 2,000 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Bureau of the Census
1979 P.R. Pretest Household Reinterview Questionnaire
D–17 PR(X)
Single time
Sample of households in San Juan pretest area, 250 responses; 42 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Bureau of the Census
Local Review Response
D–74
Single time
Offical or designee of county & local governments, 41,665 responses; 20,833 hours
Richard Sheppard, 395–3211

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—252–5214

New Forms

Survey of Electric Utility Definitions and Procedures
ERA–146A–G
Single time
ST UTI Com of Ele Uti W/Ret ele sle gr. 1/500M KWH, 310 responses; 3,720 hours
Jefferson B. Hill, 395–5867

Revisions

Fuel Oil Identification Survey
EIA–402
Single time
Fuel oil companies; 30,000 responses; 11,667 hours
Jefferson B. Hill, 395–5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245–7488

New Forms

Alchohol, Drug Abuse and Mental Health Administration
CODAP Reliability Study
Single time
Drug abuse treatment service units, 150 responses; 63 hours
Richard Eisinger, 395–3214

Food and Drug Administration
Product License Application for the Manufacturer of Single Donor Plasma
FD–3097
On occasion
Manufacturer of single donor plasma, 25 responses; 19 hours
Richard Eisinger, 395–3214.

Food and Drug Administration
Food Label Information Mail Questionnaire
Single time
AIN members , food mfgs., food retailers, consumers, 2,400 responses; 1,200 hours
Richard Eisinger, 395–3214

Health Care Financing Administration (departmental)
Questionnaire on Uniform Hospital Billing Form
HCFA–134 T
Single time
Recip. of serv. from hosp. participating in UB–16 test; 1,007 responses; 252 hours
Richard Eisinger, 395–3214

Revisions

Center for Disease Control
*X-Ray Examination Program—Federal Mine Safety and Health Act 1977
CDC/NIOSH 2.8, 2.9, 2.10, 2.11, 2.12
On Occasion
Miner, mine operators, and physicians, 107,600 responses; 8,832 hours
Richard Eisinger, 395–3214

Center for Disease Control
*Human Health Consequences of Polybrominated Biphenyls (PBBS) Contamination in Farms in Michigan
Annually
Families around PBB contaminated farms in Michigan, 1,000 responses; 84 hours
Richard Eisinger, 395–3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755–5190

New Forms

Community Planning and Development
Survey of Urban County Technical Assistance Resources and Needs
Single time
The Univ. of 84 urban county CDBG recipients, 84 responses; 336 hours
Arnold Strasser, 395–5080

Housing Production and Mortgage Credit
Title I Monthly Statement Reconcilement of Insurance Charges
HUD–646
Monthly
HUD approved financial institutions (T–I), 84,000 responses; 42,000 hours
Arnold Strasser, 395–5080

Policy Development and Research
Survey Instruments for Binational Input-Output Models of San Diego/Tijuana and Imperial Valley/Mexicali Areas
Single time
Firms in San Diego/Mexicali, 6,000 responses; 12,000 hours
Arnold Strasser, 395–5080

Revisions

Housing Management
Rental Schedule and Information on Rental Projects
HUD-92458
Annually
Mortgagors/Management agents, 8,422 responses; 8,422 hours
Arnold Strasser, 395-5080

Extensions

Housing Production and Mortgage Credit
Title I Loan Reporting Manifest
FH-4
On occasion
Banks, savings and loans, credit unions, lenders, 300,000 responses; 30,000 hours
Arnold Strasser, 395-5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Offices—Bruce H. Allen—426-1887

Reinstatements

National Highway Traffic Safety Administration
Motorist Sanction Severity Survey
Single time
Licensed drivers, 3,000 responses; 750 hours
Susan B. Geiger, 395-5867

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245-3064

New Forms

Reporting Identities of Trade Name Chemical Products
On Occasion
Chemical manufacturers and processors, 117 responses; 219 hours
Edward H. Clarke, 395-5867

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

Agency Clearance Officer—Thomas Clarke—395-4540

New Forms

Council of Economic Advisers
Feasibility Study of a Comp. Linked IPM Information
Dissemination system
Single time
IPM professionals, 1,000 responses; 500 hours
Edward H. Clarke, 395-5867

INTERNATIONAL COMMUNICATIONS AGENCY

Agency Clearance Officer—Mary Jane Winnett—523-4308

Extensions

*Certificate of Eligibility for Exchange Visitor
(J-1) Status
IAP-66
On occasion
Exchange visitor program sponsors, 50,000 responses; 12,250 hours
Marsha D. Traynham, 395-6140

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—615-755-2915

New Forms

Residential Survey: Customers of Local Electric Systems
Distributing TVA Power
Single time
Electric customers served on residential rates, 9,400 responses; 3,134 hours
Charles A. Ellett, 395-5080

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

Revisions

Request for Determination of Eligibility and Available Loan Guaranty Entitlement
26-1880
On occasion
Veterans, 600,000 responses; 150,000 hours
David P. Caywood, 395-6140

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-23864 Filed 8-1-79; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16048; File No. SR-NESDTC-79-1]

Self-Regulatory Organizations; Proposed Rule Change by New England Securities Depository Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 26, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change which it subsequently amended on July 6, 1979.

Statement of the Terms of Substance of the Proposed Rule Change. The text of the proposed rule change to Rule III, Section 3 is as follows (additions italicized; deletions bracketed):

[Investment of Cash Contributions]
Income on Deposits

Section 3. Any interest or other sum paid to the Corporation on account of any investments held in the Participants Fund shall be paid by the Corporation to the participant for whose account such investment is held *provided, however, that the Corporation may invest any cash held in the Participants Fund in direct obligations of, or obligations the principal and interest on which are unconditionally guaranteed by, the United States of America and retain for use in its own business any income or gains resulting therefrom.*

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change is to enable New England Securities Depository Trust Company ("NESDTC") to invest cash contributions in its Participants Fund.

The proposed rule change relates to the capacity of NESDTC to carry out the purposes of Section 17A of the Act by enabling it to invest cash amounts in its Participants fund, increasing thereby the income available to it for its operations.

No comments have been or are expected to be solicited from members, participants or others.

There will be no burden on competition imposed by the proposed rule change.

Until September 6, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes it reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number

referenced in the caption above and should be submitted by October 2, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

July 27, 1979.

[FR Doc. 79-23863 Filed 8-1-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 21164; 70-6291]

Columbia Gas System, Inc.; Proposed Issuance and Sale of Short-Term Notes to Banks and to Dealers in Commercial Paper and Exception From Competitive Bidding

July 27, 1979.

In the matter of the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware, 19807 (70-6291).

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Columbia requests that through May 31, 1980, the exemption from the provision of 6(a) of the Act afforded it by the first sentence of 6(b), relative to the issue and sale of short-term notes, be increased from 5% to approximately 18% and that Columbia be permitted to issue and sell through May 31, 1980, and/or have outstanding, at any one time, up to $270,000,000 principal amount of short-term notes. Generally, Columbia will make the proceeds from the sale of these notes available to its subsidiary companies for the purchase of gas for underground storage and liquid hydrocarbons inventories and for other short-term requirements. In this regard, see Columbia's filing for intrasystem financing (File No. 70-6282). It is stated that the short-term gas and liquid hydrocarbon requirements of approximately $306,400,000 may make it necessary to have outstanding at any one time up to May 31, 1980, the aforesaid short-term notes in the aggregate amount of $270,000,000.

Columbia proposes to issue and sell commercial paper to one or more dealers, and it will continue to do so as long as the effective interest rate is less than the effective interest cost which Columbia would have to pay to banks for an equivalent amount of funds as of the date of borrowing, except that, in order to obtain greater flexibility, commercial paper may be issued with a maturity of not more than 60 days from the date of issue with an effective interest cost in excess of such effective interest cost on bank borrowings.

The commercial paper will be in the form of promissory notes with maturities not to exceed 270 days and will not be prepayable prior to maturity. The actual maturities will be determined by market conditions, effective interest cost to Columbia, and Columbia's anticipated cash requirements at the time of issuance. The commercial paper notes will be issued in denominations of not less than $50,000 and not more than $5,000,000 and will be sold to the dealers at a discount which will be not in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of the particular maturity and rating.

It is stated that no commission or fee will be payable in connection with the issuance and sale of the commercial paper notes. Each dealer, as principal, will reoffer such notes at a discount rate of ⅛ of 1% per annum less than the discount rate to Columbia. The reoffering will be made to not more than an aggregate of 200 customers of the dealers, such customers to be identified and designated in lists (nonpublic) prepared in advance. No additions will be made to the customer lists, which will consist of institutional investors, without first advising this Commission. It is expected that Columbia's commercial paper notes will be held by customers to maturity, but, if they wish to resell prior thereto, the applicable dealer, pursuant to a repurchase agreement, will repurchase the notes and reoffer the same to others in its specified list of customers.

Columbia requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper. In support of this request, Columbia states that the proposed commercial paper notes will have a maturity of nine months or less, that it is not practical to invite competitive bids for commercial paper, and that current rates for commercial paper for such prime borrowers as Columbia are published daily in financial publications.

Columbia proposes that up to $270,000,000 of the proposed short-term borrowings may be in the form of short-term bank notes, issued from time to time in accordance with two agreements establishing credit-lines with participating banks. In no event will the proposed bank borrowings and/or commercial paper exceed an aggregate amount of $270,000,000, at any one time outstanding. The notes are to be repaid on or before May 31, 1980, and will be prepayable, in whole or in part, without penalty.

The first agreement consists of bank loan lines of credit aggregating $120,000,000 in accordance with agreements with seven participating banks, and the second agreement consists of bank loan lines of credit aggregating $75,000,000 in accordance with agreements with twenty-five participating banks. Columbia intends to maintain average annual compensating balances in connection with certain banks participating in the two above-mentioned lines of credit equating to the greater of 10% of the lines of credit or 20% of the annual average outstanding loan balance. Interest on any loans outstanding under the first line of credit is to be at a mutually acceptable rate negotiated at the time of the borrowings, but in no event is such rate to exceed the prime rate in effect from time to time at Chemical Bank, New York. Interest on any loans outstanding under the second line of credit is to be at the prime rate in effect from time to time at Morgan Guaranty Trust Company of New York.

The expenses to be paid by Columbia in connection with the proposed transactions are estimated at $22,000, including rating fees estimated at $18,000 and charges for services of Columbia Gas System Service Corporation estimated at $1,500. Columbia has also requested that authority be granted to file certificates under Rule 24 with respect to the proposed transactions on a quarterly basis.

The application states that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than August 20, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-

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stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-23884 Filed 8-1-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 6096]

Kilpatrick, Cody, Rogers, McClatchey & Regenstein; Filing of Application

July 26, 1979.

In the matter of the Kilpatrick, Cody, Rogers, McClatchey & Regenstein Retirement Plan and Trust, 3100 Equitable Building, 100 Peachtree Street, Atlanta, GA 30303 (18-43).

Notice is hereby given that Kilpatrick, Cody, Rogers, McClatchey & Regenstein (the "Applicant"), a law firm organized as a partnership under the laws of the State of Georgia, has, on March 8, 1979, filed an application for exemption from the registration requirements of the Securities Act of 1933 ("Act") for participations or interests issued in connection with the Kilpatrick, Cody, Rogers, McClatchey & Regenstein Retirement Plan and Trust (the "Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein which are summarized below.

I. Introduction

Applicant states that Applicant has aopted the Plan as a profit-sharing plan for eligible partners and employees. Applicant states that because the Plan covers persons (in this case, Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code"), the Plan is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description of the Plan

Applicant states that the Plan is of the type commonly known as a "Keogh" or "H.R. 10" Plan. It was established in 1966 and amended in 1974. Applicant further states that the Plan is qualified under Section 401(a) of the Code. The Plan covers all eligible partners, associate attorneys and non-lawyer employees of Applicant. A partner or employee is eligible to participate in the Plan upon completing three years of service with the Applicant. As of December 31, 1978, there were 28 partners and 55 employees actively participating in the Plan.

The Applicant contributes for partners each year out of its net profits a percentage, specified annually by the partner, out of the partner's earned income. The contribution, however, may not exceed the lesser of $7,500 or 15% of the partner's earned income (considering only the first $100,000 of such "earned income") for such year. Applicant's annual contribution on behalf of each eligible employee-participant is an amount which is not less than the same percentage of such participant's annual compensation as the contribution by the Applicant on behalf of each partner bears to the first $100,000 of his "earned income" for such year. A participant may (but is not required to) make voluntary contributions to the Plan in an amount not to exceed 10% of his income from the Applicant for all the years he is an active participant in the Plan. Any such voluntary contributions are credited to the particiant's account and invested as part of a general trust fund.

The assets of the Plan are held by a trustee which has the responsibility of investing and reinvesting the assets of the trust fund. The trustee is Fulton National Bank of Atlanta. The Plan is administered by an Employee Benefit Commitee (the "Committee") selected by the Applicant and comprised of four partners, one associate attorney and one other employee who is not a lawyer. The Committee is responsible for matters related to the administration of the Plan, such as determining eligibility for participation and benefits, deciding claims for benefits, and selecting the manner of payment of benefits. The Committee is also authorized to retain qualified experts to assist it in administering and managing the Plan, including accountants, actuaries and investment advisers. The Trustee is required to give notice to the Committee of any proposed investment and the Committee has the right to approve or disapprove any such investment. If the Committee fails to indicate its approval or disapproval within five days of such notice, the investment is deemed approved.

Subject to any limitations in the Employees Retirement Income Security Act of 1974 ("ERISA"), the assets of the Plan may be invested in such stocks, bonds, trust shares, mutual fund shares, annuity or insurance contracts, mortgages or other evidences of indebtedness, or common or commingled trust funds maintained by the Trustee, as the Trustee or the Committee may select. Currently, the Trust Fund is invested primarily in United States Treasury obligations, corporate bonds and other, similar fixed income obligations. No portion of the Trust Fund is presently invested in any common or commingled trust fund.

III. Discussion

Applicant states that if the partnership were a corporation, interests and participations in the Plan would be exempt under Section 3(a)(2) of the Act. Applicant submits that merely because Applicant is unincorporated is no reason for subjecting such interests and participations to the registration requirements of the Act. Applicant further submits that the intent of Congress in excluding from the exemption plans in which self-employed persons were participants was to prevent the sale without registration of interests in prepackaged plans offered by financial institutions to self-employed persons lacking the sophistication to protect themselves and their employees, and that the provision permitting the Commission to grant exemption upon application was included in Section 3(a)(2) of the Act to make available an exemption for partnership plans where the plan and the entity involved are comparable to corporate plans exempted by Section 3(a)(2).

Applicant states that the Plan covers partners and employees of a single firm and is not a uniform prototype plan of a type designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as Applicant is required under ERISA to distribute to participants or to employees). Applicant makes available to Plan participants for inspection upon request copies of the Plan and all documents relating to it.

Applicant states that it is engaged in furnishing legal service of a type which necessarily involves financially sophisticated and complex matters and, for that reason as well as the extensive administrative control over the Plan maintained by the Partnership, is able to represent adequately its interests and the interests of its employees who are participants in the Plan.

Applicant concludes that for the foregoing reasons, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 20, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following August 20, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-23865 Filed 8-1-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 6095]

Casey, Lane, Mittendorf; Filing of Application

July 26, 1979.

In the matter of the Retirement Plan of Casey, Lane & Mittendorf, 26 Broadway, New York, NY 10004

Notice is hereby given that Casey, Lane & Mittendorf (hereafter referred to as the "Applicant" or the "Firm") a law firm organized as a partnership under the laws of the State of New York, on July 6, 1979 filed an application for exemption from the registration requirements of the Securities Act of 1933 (the "Act") for interests or participations issued in connection with the Retirement Plan of Casey, Lane & Mittendorf (the "Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

The Plan covers the Firm's partners, associates and non-legal staff who have completed three years of service with the Firm. As of November 1, 1978, 14 partners, 6 associates and 17 non-legal employees of the Firm were eligible to participate. Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "Code") and, therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Plan was adopted in October, 1978, effective as of November 1, 1977. The Internal Revenue Service has issued a ruling to the effect that the Plan is a qualified plan under Section 401(a) of the Code. The Plan is an "employee pension benefit plan" subject to the fiduciary standards and to the full reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974.

II. Description and Administration of the Plan

Applicant states that it makes annual contributions to the Plan on behalf of all participants in amounts based on specified percentages of their compensation, with certain limitations. Participants may also make voluntary contributions of not more than 10 per cent of their compensation for the year.

Three partners of the Firm serve as trustees of the Plan under a restated trust agreement (the "Trust Agreement"). Under the Trust Agreement, the trustees are responsible for the administration of the Plan. Plan assets are to be invested in insurance or annuity contracts issued by the Metropolitan Life Insurance Company.

III. Discussion

Applicant states that in excluding plans in which self-employed persons are participants from the exemption from registration afforded by Section 3(a)(2) of the Act, Congress appears to have intended to prevent the sale without registration of prepackaged plans offered by sponsoring financial institutions to self-employed persons who might not be sophisticated in the securities field or who might be unable adequately to protect their interests and those of their participating employees. Applicant submits that the Plan does not present the risks associated with the sale of interests or participations in multi-employer plans by sponsoring financial institutions with which Congress was primarily concerned. The Plan is not a uniform prototype or master plan designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. It is an individual plan sponsored by the Firm for the benefit of its partners, assoicates, and non-legal staff. Finally, the Firm is engaged in providing legal services which involve sophisticated and complex financial matters and believes that it is able to represent adequately its own interests and those of its employees.

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Applicant concludes that for the foregoing reasons granting the requested exemption would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 21, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following August 21, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, Pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-23866 Filed 8-1-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16050; July 27, 1979; File No. SR-PSE-79-11]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on July 20, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Pacific Stock Exchange, Inc., Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Options Floor Procedure Advice G-3 as follows (italics indicate new language):

PSE Options Floor Procedure Advice G-3, Trade Comparison Procedures

Section 23 of Rule VI requires clearing members to promptly verify and reconcile compared and uncompared trade lists in accordance with procedures established by the Exchange from time to time. The unique Trade Comparison System that has been developed by the Exchange for use on the Options Trading Floor will, if properly employed, ensure mutually satisfactory comparison of all transactions in the afternoon of each trading day.

The great majority of trades can be routinely compared during the course of the trading session, but appropriate provisions must exist for exceptions arising from unusual volume or similar consideration.

Accordingly, all executing members must be available for the settlement of uncompared trades for an appropriate period of time following the close of trading, either in person or through a designated representative empowered to negotiate settlement of any dispute in his name and for his account.

Unless the Exchange determines otherwise due to extenuating circumstances, this time period will normally be the longer of one hour following distribution of the Preliminary Compared and Uncompared Trade Reports, or whenever all out-trades have been resolved by the respective members. For purposes of complying with this provision, all executing members or their representatives shall be required to provide a record of attendance during this period for use by the Exchange in monitoring compliance with the comparison procedures. To accomplish this monitoring function, Exchange provided time card must be stamped and signed by an authorized representative at the time Preliminary Compared and Uncompared Trade Reports are distributed and upon completion of trade checking procedures. The authorized representative must be physically present on the trading floor during this time.

The Options Floor Trading Committee has determined that there will be a fine of from $100.00 to $5,000.00 for failure to comply with these procedures (except for time-stamp violations, when the amount will be determined by the Options Floor Trading Committee upon recommendation from the Operations Advisory Subcommittee). Subsequent violations of these procedures may be cause for higher fines or other disciplinary actions.

While there may be occasional instances when a trade must remain uncompared overnight, and be resolved in conformance with Section 27 of Rule VI, any member or member organization who or which shall be responsible for an undue number of such occurrences will be subject to disciplinary action by the Options Floor Trading Committee.

In any case where a member, member organization or associated person is sought to be disciplined pursuant to this advice the Exchange shall bring specific charges, notify such member, member organization or associated person of, and give such person an opportunity to defend against, such charges and keep a record. Any determination by the Exchange to impose a disciplinary sanction shall be supported by a statement setting forth:

1. Any act or practice in which such member, member organization or associated person has been found to have engaged, or which such member, member organization or associated person has been found to have omitted.

2. The specific provision of the rules of the Exchange which any such act or practice, or omission to act, is deemed to violate.

3. The sanction imposed and the reasons therefor.

Pacific Stock Exchange, Inc., Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide an explanation of the rights of persons who appear to have violated trade checking requirements.

The rights set forth are intended to provide those procedural rights set forth in Section 6 of the Securities Exchange Act of 1934.

The PSE believes that the proposed rule change provides a fair procedure for the disciplining of members and persons associated with members for violation of the PSE trade checking requirements.

Comments have neither been solicited nor received from members on the proposed rule change.

The proposed rule change imposes no burden upon competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 23, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

July 27, 1979.

[FR Doc. 79-23862 Filed 8-1-79; 8:45 am]

BILLING CODE 8010-01-M

STATE DEPARTMENT

Office of the Secretary

[Public Notice 678]

Secretarial Determination

June 21, 1979.

Subject: Eligibility of the Government of Papua New Guinea to Receive Defense Articles and Defense Services Acquired by the Government of Australia under the Arms Export Control Act.

Pursuant to section 3(a)(1) of the Arms Export Control Act (the Act), and the authority vested in me by Executive Order No. 11958 of January 18, 1977 (42 FR 4311), I hereby find that the transfer by the Government of Australia to the Government of Papua New Guinea of certain defense articles acquired by the Government of Australia under the Act will strengthen the security of the United States and promote world peace.

This finding shall be promptly reported to the Congress.

This finding shall be published in the **Federal Register**.

Cyrus R. Vance,

Secretary of State.

[FR Doc. 79-23816 Filed 8-01-79; 8:45 am]

BILLING CODE 4710-01-M

[Public Notice 679]

Certain Nonimmigrant Visas; Validity

Public Notice 634 of October 19, 1978 authorized consular officers to issue, in their discretion, nonimmigrant visas under section 101(a)(15)(B) of the Immigration and Nationality Act valid for an indefinite period of time to otherwise eligible nationals of certain countries which offer reciprocal or more liberal treatment to nationals of the United States who are in a similar class. The Republic of Seychelles is being added to the list of countries contained in that notice.

This notice amends Public Notice 634 of October 19, 1978 (43 FR 48751).

Dated: July 16, 1979.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

[FR Doc. 79-23817 Filed 8-1-79; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 139—Airborne Equipment Standards for Microwave Landing System (MLS); Rescheduled Meeting

This Notice announces the rescheduling of the Radio Technical Commission for Aeronautics (RTCA) Special Committee 139 meeting which was to be held August 21-23, 1979 and announced in the **Federal Register** on July 19, 1979 (44 FR 42364). The meeting has been rescheduled for August 20-22, 1979, and will be held in the Air Transport Association of America Conference Room A, 5th floor, 1709 New York Avenue, N.W., Washington, D.C., commencing at 9:30 a.m.

Issued in Washington, D.C., on July 30, 1979.

Karl F. Bierach,

Designated Officer.

[FR Doc. 79-23802 Filed 8-1-79; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 79-15; Notice 1]

Heavy Duty Truck Safety; Public Meeting

AGENCY: National Highway Traffic Safety Adminstration (NHTSA).

ACTION: Notice of public meeting and invitation for applications for financial assistance in preparation of comments.

SUMMARY: The National Highway Traffic Safety Administration will hold a public meeting on September 10, 1979, on ways of improving safety in designing, manufacturing, operating and maintaining heavy duty trucks. The Bureau of Motor Carrier Safety (BMCS) will also participate in the meeting. The five major topics to be discussed at the meeting and the meeting format are set forth below.

DATES: The public meeting will be held on September 10, 1979, and run from 9 a.m. to about 6 p.m. If warranted by the number of requests to speak, an additional session will be held during the same hours and at the same location on September 11, 1979. Persons and organizations wishing to speak at the meeting must submit a copy of their presentation on each topic to NHTSA not later than August 27, 1979. Persons and organizations wishing to submit written comments only must submit their comments by September 5, 1979.

Supplementary written comments may be submitted after the meeting. These comments must be received no later than October 1, 1979.

ADDRESSES: The public meeting will be held in the Department of Commerce Auditorium, 14th Street and Constitution Avenue N.W., Washington, D.C. (The closest Metro subway stop is the Federal Triangle Station on the Blue/Orange Lines (National Airport-New Carrollton) on 12th Street between Constitution Avenue and Pennsylvania Avenue, N.W.)

Copies of presentations to be delivered at the meeting, written comments, and any supplementary material submitted after the meeting should refer to the docket number set forth above and be addressed to: Mike Impelleazari, Public Affairs and Consumer Participation, National Highway Traffic Safety Administration, Room 5232, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-0670. Questions about the arrangements for the format of the meeting should also be addressed to Mr. Impellezari.

Applications for financial assistance should be submitted in writing to: Ms. Ann Mitchell, Public Affairs and Consumer Participation, National Highway Traffic Safety Administration, Room 5232, 400 Seventh Street, S.W., Washington, D.C. 20590, 202–426–0670.

Questions on the technical aspects of the subjects to be discussed at the meeting should be directed to Mr. W. Harry Close, National Highway Traffic Safety Administration Room 5222, 2100 2nd Street, S.W., Washington, D.C. 20590, 202–426–4553, or Mr. George L. Parker, National Highway Traffic Safety Administration, Room 5307], 400 Seventh Street, S.W., Washington, D.C. 20590, 202–426–2720.

SUPPLEMENTARY INFORMATION:

Safety Problems of Heavy Duty Trucks

Since 1975, accidents claiming the lives of the occupants of heavy trucks (trucks with gross vehicle weight rating in excess of 19,000 pounds) have increased by more than 41 percent, from 717 in 1975 to 1,010 in 1978. This disturbing statistics compares to a figure of 37 percent increase for occupants of pickup trucks and vans and 7 percent increase for passenger car facilities during the same period.

Between 1975 and 1978 almost 30 percent of the increase in automobile deaths is attributed to fatalities occurring in accidents with heavy trucks. In fatal accidents involving heavy trucks and passenger cars, 97 percent of the deaths are to the occupants of the cars.

Purpose of Meeting

Within the Department of Transportation (DOT) the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration Bureau of Motor Carrier Safety (BMCS) deal with truck safety issues. The NHTSA issues standards that are applicable to new vehicles and motor vehicles equipment sold in the United States. The BMCS promulgates and enforces regulations applicable to motor vehicles used in transportation in interstate or foreign commerce for compensation or in furtherance of a commercial enterprise (private carriage of property).

The September 10 meeting will provide a means of communication among the trucking industry (both manufacturers and users), government and drivers on issues of heavy truck safety. It is hoped that drivers, manufacturers, trucking companies, etc. will use their own experiences to discuss safety problems with heavy duty trucks. This will provide a means to increase NHTSA's and BMCS's knowledge and understanding of problems and possible solutions in trucks safety, as well as to identify additional areas for possible action by the Federal government and industry.

The following are some of the potential results of the meeting:

•The need, opportunities for, and feasibility of heavy duty truck safety research and rulemaking in areas such as improved brakes, visibility, tire performance, vehicle handling, ride performance, and crashworthiness.

•Steps that can be taken by industry and labor to contribute to heavy duty truck safety.

•Means to improve communications among government, truck manufacturers, trucking companies and drivers.

The following five major topics should be the focal point for presentations by individuals, institutions, drivers, users, and other people from the trucking industry:

1. Driver Environment
   —Interior noise
   —Ride quality
   —Engine fumes and exhaust systems
   —Temperature
   —Driver space
   —Steps and handholds
   —Controls and displays
   —Overall cab comfort
2. Driveability
   —Brakes
   —Tires and traction under various road conditions (wet, dry, etc.)
   —Handling and stability (including loading)
   —Speed control
3. Crash Protection
   —Steering wheel and column
   —Windshield retention
   —Restraint systems
   —Fuel system integrity
   —Load shift protection
   —Structural integrity
4. Vision and Lighting
   —Forward visibility
   —Mirror systems
   —Headlamps
   —Signal lamps
   —Identification lamps and reflectors
   —Splash and spray
5. Maintenance, Operation and Training
   —Ease of access and repair
   —Equipment durability
   —Driver responsibility for safe operations
   —Improved communications in training
   —Dispatching practices

Oral and Written Public Comments

Individuals and organizations, including heavy duty truck drivers, owners, manufacturers and others are invited to testify at the meeting. Presentations made at the meeting and written comments should identify specific safety problems that exist in the areas described above, as well as ideas for solutions to those problems.

The amount of time available to each speaker will depend largely on the number of participants. the agency anticipates that not more than 5–10 minutes will be available for a speaker to speak on a particular topic. Interested persons unable to attend the meeting should note that they can participate by submitting written comments. For information on the submission of testimony and written comments, see the beginning of this notice.

Agenda of Speakers

After the requests to spealk are received by NHTSA, a list of the order of appearance of speakers at the public meeting on September 10, 1979, will be made available in NHTSA's Office of Public affairs and Consumer Protection. The list will be available on or about September 4, 1979.

Format of Meeting

The public meeting will be organized around the five major topics discussed above and speakers will present their comments and views to representatives from the trucking industry (manufacturers and carriers), users. drivers and the Federal government. including BMCS. Individuals will be allowed to present their speech which addresses a specific topic during the time interval provided for that topic. A question and answer period will be provided after all of the scheduled speakers on each topic have completed their presentations. At that time speakers as well as the public will have the opportunity to ask questions of anyone on the panel regarding these five topics, including matters such as the related regulatory plans of the government agencies and the practices of the manufacturers. The Administrator of NHTSA and her associates will chair these discussions and will direct the question and answer period that is envisioned as a two way communicaation exchange.

Speakers may address as many of the five topics as they wish. A speaker wishing to address two or more topics will be provided time during the discusion of each of those topics to deliver the portion of his or her presentation dealing with that topic. Thus, a speaker wishing to address three topics will appear three different times during the meeting.

A transcript of the hearing will be made. A copy of the transcript and the written comments will be available for public inspection in the NHTSA docket section in Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590, about one month after this meeting.

Applications for Financial Assistance

NHTSA invites all qualified individuals and organizations financially unable to participate in this proceeding to apply for financial assistance. All applications submitted before the deadline specified at the beginning of this notice will be examined by an evaluation board, composed of NHTSA and other Department of Transportation officials, to determine whether each applicant is eligible to receive funding. consideration of late applications is at the discretion of the evaluation board.

In general, an applicant is eligible if its participation would contribute substantially to a full and fair determination of the issues involved in the proceeding, taking into consideration the novelty, complexity, and significance of the ideas advanced and the ability of the applicant to represent the interests it espouses competently. Additionally, it must be demonstrated that the applicant does not have sufficient resources available to participate effectively in the proceeding in the absence of an award under this program.

If more than one applicant representing the same or similar interest is deemed eligible, the board will either select the applicant which can make the strongest presentation or select more than one applicant if justified. Compensaton is to the extent the agency's budget for this purpose will permit. Payment is made as soon as possible after the selected applicant has completed its work and submitted a claim, but not later than 60 days after a completed claim is submitted.

Each applicant should specify in its application which issues it proposes to address if its application for funding is approved, and the nature of its proposed work product. Applicants must submit as part of their application all information required by § 5.49 of the recently revised DOT regulations governing this financial assistance program (44 FR 4675; January 23, 1979). Failure to submit the required information may result in delays in evaluation and possible disqualification of the application.

Issued on July 31, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79–23993 Filed 7–31–79; 3:51 pm]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

National Consumer Cooperative Bank; Meeting of the Board of Directors of the Bank

In anticipation of confirmation by the Senate of the Board of Directors of the National Consumer Cooperative Bank, a first organizational meeting of the Board is scheduled from Monday, August 6, 1979. The meeting will be held in Room 4121, Main Treasury Building, 15th and Pennsylvania Avenue, N.W., Washington, D.C., from 10:00 a.m. to 5:00 p.m.

The tentative agenda follows:

1. Swearing-in of Board.
2. Election of temporary officers of Board and Corporation.
3. Delegation of authority of the Board.
4. Discussion of Counsel to the Board.
5. Discussion of qualifications for Bank President and Senior Management, and appointment of a Search Committee and other Board Committees.
6. Discussion of Fiscal 1979 Budget.
7. Determination of future meeting dates and agendas and discussion of additional administrative details as they arise.

This meeting is subject to the confirmation of the Board by the Senate before Monday and will not be held if such confirmation does not occur. The meeting is open to the public. Contact Thomas Schroeder for more information at 202–376–0382.

Done at Washington, D.C., this 31st day of July, 1979.

Roger C. Altman,

Assistant Secretary of the Treasury, Domestic Finance.

[FR Doc. 79–24088 Filed 8–1–79; 9:06 am]

BILLING CODE 4810–25–M

TENNESSEE VALLEY AUTHORITY

Implementation of Executive Order Nos. 11988 and 11990, Floodplain Management and Protection of Wetlands; Procedures and Draft Implementing Guidelines

AGENCY: Tennessee Valley Authority.

ACTION: Procedures and draft implementing guidelines.

SUMMARY: The Board of Directors of the Tennessee Valley Authority has adopted the following procedures to guide the development, coordination, and review of TVA activities. These procedures are intended to incorporate the concepts and implement the policies of Executive Order Nos. 11988 and 11990, Floodplain Management and Protection of Wetlands. TVA has also developed draft implementing guidelines intended to supplement the procedures. Both documents are being published for public comment.

ADDRESS: Comments should be sent to Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902, by September 1, 1979.

FOR FURTHER INFORMATION CONTACT: Sue E. Wallace, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902, (615) 632–3304.

SUPPLEMENTARY INFORMATION: As a regional resource development agency, TVA has a unique role. Under the Tennessee Valley Authority Act of 1933, 48 Stat. 58, *as amended*, 16 U.S.C. §§ 831–831dd (1976), TVA has the responsibility for the advancement of the national defense and the physical, social, and economic development of the region, including responsibility for providing for flood control on the Tennessee River and improving navigation.

These procedures were prepared in light of the Water Resources Council (WRC) guidelines for implementing Executive Order No. 11988, and are tailored to meet TVA's legislatively prescribed missions and the directives of the order. Because of the wide diversity and variety of TVA programs and actions taken under the TVA Act, the most effective approach for implementing the Executive orders is to incorporate floodplain and wetlands considerations into TVA's normal multidisciplinary review process under the National Environmental Policy Act (NEPA), avoiding highly detailed procedures for each type of activity. This is consistent with the WRC guidelines, which recognize that agencies should use existing processes established under the Council on Environmental Quality's NEPA implementing provisions. The floodplain and wetland procedures, coupled with TVA's NEPA procedures, will assure that the directives of the Executive orders are carried out.

On June 2, 1978, the Tennessee Valley Authority published in the **Federal Register** (43 FR 24228) draft procedures to implement Executive Order Nos. 11988 and 11990, Floodplain Management and Protection of Wetlands for public comment. TVA, as a result of the comments received, made a number of changes in its proposed procedures. Generally the comments touched on the following broad areas: (1) The need to provide more detail on how the procedures apply to specific actions or classes of actions and how

the procedures are tailored to specific program needs; (2) the need to clarify the procedural steps and administrative framework in which the decisionmaking process proceeds; (3) the need to delineate and clarify the public notice procedures; (4) the desirability of clarifying TVA's leadership role in avoiding impacts to and protecting floodplain and wetlands. The procedures and draft guidelines provide a level of detail greater than that in the draft in order to indicate more clearly the types of actions and programs affected and the procedural decisionmaking steps to be taken. However, because it is impossible to anticipate the full range of specific situations affected by the order, all individual actions, classes of actions, or programs are to be evaluated on a case-by-case basis. The public notice provisions have been rewritten to clarify TVA's commitment to provide pre- and post-action public notice and review of all actions which might potentially affect floodplains and wetlands. Further, TVA's leadership role has been outlined in more detail. Specific comments, including those from the Department of the Interior and the Water Resources Council, have been considered in the preparation of the final procedures and draft guidelines.

TVA has developed a set of draft implementing guidelines to supplement the adopted procedures. The guidelines provide detailed direction for the day-to-day activities by which TVA intends to carry out the objectives of the Executive orders. TVA is publishing both documents for public comment and review.

Comments should be submitted by September 1, 1979 to Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902.

After the public comment period has ended, TVA will take all comments received into consideration and develop final implementing guidelines. In addition, TVA's procedures may be revised depending on the comments received and experience gained in implementing the regulations.

The procedures, Floodplain Management and Protection of Wetlands, and draft implementing guidelines, Guidelines for Implementing TVA Code IX—Floodplain Management and Protection of Wetlands, are printed below.

Dated: July 23, 1979.

W. F. Willis,

General Manager.

Floodplain Management and Protection of Wetlands

The Board of Directors approved the following policy on July 12, 1979.

It provides guidance for implementing the policies contained in Executive Order Nos. 11988, Floodplain Management, and 11990, Protection of Wetlands. The Executive orders impact a wide variety of programs and activities within TVA. This Code is established to ensure that the policies of the Executive orders are carried out. TVA has developed detailed guidelines to provide direction for the day-to-day activities by which it implements these policies. These guidelines are available to members of the public as well as Federal, state, and local officials on request.

Policy

TVA provides leadership and takes actions to reduce the risk of flood loss, to minimize the impacts of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by floodplains.

TVA provides leadership and takes actions to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. It works closely with states and local organizations to provide information and guidance to promote sound floodplain and wetland management practices at the non-Federal level. In its own activities, TVA applies this commitment to broad agency program reviews, as well as to direct or indirect support or approval of individual project or program actions, from their initial planning stages through postimplementation monitoring and evaluation.

To that end, TVA establishes procedures to avoid to the extent practical the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and with the destruction or modification of wetlands, and to avoid to the extent practical the direct or indirect support of floodplain development or wetland alteration. These procedures are implemented as part of the environmental review for any action under the National Environmental Policy Act (NEPA) and TVA Code IX Environmental Quality. TVA procedures endeavor to incorporate, to the extent possible, the Unified National Program for Floodplain Management (U.S. Water Resources Council) and the provisions of Section 2(b) of Executive Order No. 11514, as amended, Protection and Enhancement of Environmental Quality, which encourages early public review of any plans or proposals for action in floodplains. The procedures implement the orders' intent to develop an integrated process to involve the public in the floodplain and wetland management evaluation process. TVA analyzes its policies and programs to ensure consistency with the provisions of the orders. In order to obtain the views of the public, timely public information is provided in TVA plans for actions in floodplains or alteration of wetlands.

Flood hazards, floodplain management, and wetlands protection will be taken into account when formulating proposals for actions. The use of resources and the construction of TVA facilities and structures will be consistent with the flood hazard involved; the standards and criteria promulgated under the National Flood Insurance Program of the Federal Insurance Administration, unless the standards of the program are demonstrably inappropriate for the given type of structure or facility; the Unified National Program for Flood Plain Management of the Water Resources Council; and Executive Order No. 11988. For activities for which even a 1 percent change of flooding would be too great, a lesser degree of flood hazard should be considered, *e.g.*, location outside of the 0.2 percent chance floodplain or elevation or protection of the use to a level at or above this level of flooding. For those actions for which even a slight degree of flooding would be too great, consideration should be given to a much higher level of flood protection by elevating or protecting the site, or by location in a flood-free site. Use of land in the floodplain for other than open space or use of land for new construction in wetlands will be avoided to the extent practicable. Where new structures or facilities are to be located in a floodplain, flood-proofing and other flood protection measures will be utilized as necessary. Raising of structures above the base flood levels will, when practicable, be preferred to filling.

If TVA determines that property in its custody used by the general public has suffered flood damage or is located in an identified flood hazard area, TVA will take steps to enhance public awareness of and knowledge about flood hazards. Such steps may include providing on structures, and other places where appropriate, conspicuous delineation of past and probable flood height.

Definitions

"Critical action" is any action for which even a slight change of flooding would be too great. A 0.2 percent chance floodplain will be applied to any critical action or a floodplain covering a lesser chance of flooding may be applied where necessary.

"Floodplain" refers to the lowland and relatively flat areas adjoining inland waters or to those areas inundated by the unusual or rapid accumulation or runoff of surface waters from any source, including at a minimum, that area subject to a 1 percent or greater chance of flooding in any given year. The base floodplain is the 1 percent chance floodplain.

"New construction" include drainage, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun after October 1, 1977. This definition is applicable only to evaluations of wetlands impacts.

"Practical" or "practicable" is defined as the capability to be done within existing constraints. The test of what is practical depends on the situation involved and should include an evalutation of all pertinent factors, such as environmental impact, economic costs, technological achievability, and public benefit.

"Wetlands" are those areas inundated by surface or ground water with a frequency sufficient to maintain, and under normal conditions does or would maintain, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Commonly accepted wetland species will comprise a substantial portion of the biological community. Opportunistic upland-typical plants adapted for colonization of disturbed areas exposed by controlled, receding water levels but incapable of surviving sustained reflooding during the growing season will not be considered as wetland species. Wetlands generally include swamps, marshes, bogs, sloughs, potholes, wet meadows, mud flats, and natural ponds or similar areas where soil and water characteristics and biological communities reflect the influence of predominantly wet conditions on inspection, even if the inspection would occur in a normally dry period of the year. Areas that once supported a wetland community but have been essentially converted to dry land for agriculture or other purposes will not be considered to be wetlands for purposes of this policy.

Application

This policy applies to the following actions:

1. The acquisition, management, and disposition of TVA facilities and Federal lands under TVA control.

2. Construction and improvements undertaken, financed, or assisted by TVA.

3. TVA activities and programs affecting land use, including but not limited to, water and related land resources planning and assistance to states and their political subdivisions, the issuance of licenses, permits, and approvals including those required under Section 26a of the TVA Act. Procedures with respect to wetland protection do not apply to the issuance of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal lands, *e.g.*, such as Section 26a permits.

The wetland procedures do not apply to projects or programs under construction or in operation May 24, 1977, or for which all of the funds have been appropriated through fiscal year 1977, or for which draft or final environmental impact statement was filed or the environmental review was completed prior to October 1, 1977. For actions, programs, and policies approved by TVA prior to the date of adoption of this Code provision, no reevaluation of floodplain or wetland impacts need be made.

Procedures

For each action or class of actions such as the acquisition of property, a floodplain and wetlands evaluation will be performed. For actions initiated by TVA, the decisionmaking process will be carried out in the following sequence. For actions proposed by others which involve TVA assistance, issuance of licenses and permits, or approvals, step 3 may precede step 2.

1. At the request of, and on the basis of information provided by the initiating office or division at the earliest practical stage of planning, the Office of Natural Resources will determine, in accordance with the Water Resources Council's "Guidance for Floodplain Management" (42 Fed. Reg. 52,590–99 (1977)), whether a proposed action, or any part of it, will occur in or affect the base floodplain. Where exposure to a lesser degree of flood hazard is desired, a greater floodplain will be used. It will also determine whether a proposed action will affect wetlands or support new construction in a wetland.

2. If the proposed action is outside the floodplain or wetland, and has no identifiable impacts to floodplains or wetlands, and does not directly or indirectly support floodplain development or wetlands alteration, the action can be implemented. If it is determined that any part of a proposed action will occur in a floodplain, involves new construction in a wetland, or will result in direct or indirect short- or long-term impacts to wetlands or floodplains, the initiating office or division will identify and evaluate potential alternative actions (or require the identification and evaluation to be made by the requesting party subject to TVA review) in conjunction with other offices and divisions in accordance with their program interests and fields of expertise. Offices or divisions will consider whether the floodplain or wetland can be avoided either through alternative siting; through alternative actions which would perform the intended function, but which would minimize harm to or activities within the floodplain or wetland; or by taking no actions.

3. The initiating office or division, in consultation with the Environmental Quality Staff in the Office of Natural Resources, the Information Office, and the Office of the General Counsel, and with the approval of the General Manager, will provide opportunity for early public review for actions or classes of actions to be located in floodplains or wetlands. If this action or class is subject to OMB A–95 procedures, the Office of Community Development will send a notice to state and area A–95 clearinghouses for the geographical area affected.

4. The initiating office or division will identify and evaluate the impacts of the proposed alternatives on floodplains and wetlands, requesting the necessary assistance of other offices or divisions having special expertise or program interest.

5. If the proposed action has identifiable impact, the initiating office or division with the necessary assistance will identify and evaluate measures to minimize these effects and to ensure the preservation or restoration of natural and beneficial floodplain values and to ensure the preservation or enhancement of wetland values.

6. The initiating office or division with the necessary assistance will reevaluate the proposed alternative, taking into account the identified impacts, the steps necessary to minimize these impacts, and the opportunities to restore or preserve floodplain and preserve or enhance wetland values. The initiating

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office or division will consider limiting the action to make a nonfloodplain or nonwetland site practicable or taking no action. If the proposed action is located outside the floodplain or wetland, but has impacts on or indirectly supports floodplain development or wetland modification, the office or division will consider modifying or relocating the action if practical to eliminate or reduce these effects or taking the no-action alternative.

7. If, after reevaluation, the initiating office or division determines that the only practicable action consistent with this policy will affect floodplain or wetland values, this reevaluation will be made a part of the environmental evaluation record or environmental impact statement. This determination will be made by considering the project benefits and the following factors:

The risk of flood hazard to humans and property;

The effect of floodplain development or wetland modification or occupancy on water quality, groundwater, recharge, living resources, cultural resources, and agricultural and forestry resources; and

The feasibility and availability of alternative sites.

8. If the Director of the Environmental Quality Staff, after consultation with the Office of the General Counsel, concurs in the determination, it is a final determination. If the Director of the Environmental Quality Staff does not concur, the initiating office or division may refer the matter to the General Manager for submission to the Board for determination.

9. If a final determination is made that the only practicable action results in floodplain or wetland siting or adverse floodplain or wetland impacts, prior to taking action, a public notice explaining the action, the finding, and the reasons will be prepared by the initiating office or division for circulation. If the action is subject to Office of Management and Budget Circular A–95 procedures, the notice, including a location map, will be sent to state and areawide A–95 clearinghouses for the areas affected. For actions not subject to A–95 review, the notice will be circulated among agencies and be made available in a reasonable manner to the public in areas affected. The notice will include the reasons for locating in a floodplain or wetland, a statement whether the action conforms to applicable floodplain or wetland protection standards, and a list of alternatives studied. A reasonable period for comment will be allowed before implementing the action, the period to be specified in the notice.

10. The initiating office or division will have responsibility for implementing any action and ensuring that it is carried out in compliance with these procedures. A monitoring program should be considered for inclusion as a part of any action approved which will affect floodplain or wetland values.

11. Requests for new appropriations submitted to the Office of Management and Budget will indicate whether a proposed action is to be located in a floodplain or wetland, and if so, whether the proposed action is consistent with Executive Order Nos. 11988 and 11990.

12. When a class of routine or recurring actions exists and the considerations of whether to locate in a floodplain or wetland are substantially similar, *e.g.*, small boat docks and similar water use facilities, a floodplain or wetland evaluation of the class may be undertaken. If, after carrying out the above procedures, the evaluation results in a final determination that there is normally for each action within the class no practicable alternative(s), consistent with the law and the policy of this code, to siting in a floodplain or wetland, and all practical measures to minimize harm to the floodplain or wetland have been included, then subsequent actions in the class will not normally require a floodplain or wetland evaluation.

13. When Federally owned floodplains or wetlands under TVA's control are proposed for lease or licensing, granting of easements and rights of way, or disposal to non-Federal parties:

a. The conveyance will contain appropriate restrictions on use under this policy; or

b. The property may be withheld from disposal.

Reservations

The *Board of Directors* (1) acts on any action involving novel or major policy considerations and may, under appropriate circumstances, including national or regional emergencies, or conflict with the TVA Act or other law, waive or modify the procedural requirements of this policy; and (2) approves the determination to take an action resulting in siting in a floodplain or wetland, if the Environmental Quality Staff, after consulting with the Office of the General Counsel, does not concur with the initial determination to do so by the initiating office or division.

The *General Manager* approves holding public hearings on a proposed action, and approves guidelines for general application within TVA issued under the policy.

Delegations

Offices and divisions initiating actions or proposals covered by the policy:

1. Seek flood hazard or wetland information at the earliest feasible stage of planning when alternative sites are being identified and evaluated.

2. Obtain assistance as necessary from other offices and divisions in accordance with their interests and expertise to evaluate the proposed action and to recommend and evaluate alternatives to siting in a floodplain or wetland.

3. In consultation with the Office of the General Counsel, Environmental Quality Staff, and the Information Office, provide opportunity for early public review of actions or classes of actions to be located in a floodplain or wetland.

4. Identify and evaluate impacts of alternative sites or alternative actions, obtaining assistance as necessary.

5. Determine, obtaining assistance as necessary, through an environmental assessment or an environmental impact statement, where appropriate, if an action which affects floodplain or wetland values is the only practicable one and seek the concurrence of the Environmental Quality Staff.

6. Refer to the General Manager such determination if the Environmental Quality Staff does not concur.

7. Assure in implementation of the action that it is carried out in accordance with approved monitoring plans.

8. As appropriate, develop internal divisional guidelines to assure compliance with the policy.

The *Office of Natural Resources* determines whether a proposed action, or any part of it, will occur in the base floodplain, or, where exposure to a lesser degree of flood hazard is desired, a greater floodplain; assists in the evaluation of alternatives; and assists in the final determination of what action should be taken.

It also determines whether a proposed action will affect or support new construction in a wetland, assists in the evaluation of alternatives, and assists in the final determination of what action should be taken.

The *Office of Natural Resources, Environmental Quality Staff,* assists in providing opportunity for public review of proposed actions, reviews and assesses alternatives and measures to minimize adverse impacts on floodplains and wetlands, evaluates in consultation with the Office of the General Counsel, the determination of the initiating office or division, that location in a floodplain or wetland is the only practicable alternative and approves monitoring plans for such actions. It is generally responsible for overseeing implementation of the policy within TVA, relying on the technical expertise of the Divisions of Water Resources and Land and Forest Resources. It assists offices and divisions in determining whether more detailed guidelines are necessary.

The *Office of Community Development* assists initiating offices and divisions in the public review process by circulating to state and area clearinghouses notices of proposed actions pursuant to the provisions of Office of Management and Budget Circular A–95.

The *Office of the General Counsel* advises on the public review process and advises the Environmental Quality Staff on the evaluation of impact and determination of the final action to be taken. It interprets and assists in the review and preparation of guidelines to and revisions of this Code.

The *Information Office* advises on the public review process and assists in public notification as necessary.

Guidelines for Implementing TVA Code IX—Floodplain Management and Protection of Wetlands; Introduction

Under the TVA Act, TVA has the unique responsibility for promoting the physical, social, and economic development of the TVA region, including the responsibility for providing flood control on the Tennessee River and its tributaries, improving navigation, and generating electricity. In implementing the policies of Executive Order Nos. 11988, "Floodplain Management" (42 Fed. Reg. 26,951 (1977)), and 11990, "Protection of Wetlands" (42 Fed. Reg. 26,961 (1977)), TVA clearly recognizes that floodplains and wetlands have significant environmental values requiring Federal protection and that activities in floodplains should be limited for public health, safety, and welfare reasons. These Executive orders touch a wide variety of programs and policies within TVA. Consequently, the anticipation of the full range of individual situations affected could not be made in the procedures set forth in TVA Code IX Floodplain Management and Protection of Wetlands. Instead, in line with the recommendations contained in the Executive orders and the United States Water Resources Council (WRC) guidelines (43 Fed. Reg. 6030 (1978)), these policies have been incorporated into TVA's multidisciplinary process for implementing the National Environmental Policy Act of 1969 (NEPA). The procedures, coupled with the NEPA process, will ensure that the goals of floodplain management and the protection of wetlands are achieved.

Consideration must be given in the decisionmaking process to the public benefit, economic, aesthetic, and physical, to be derived from the preservation of wetlands and floodplains. Floodplain development and wetland alteration are not prohibited in all cases, but rather TVA's policy is to be consistently against such actions unless no practical alternatives exist. TVA must act to reduce flooding risk, minimize adverse impacts, and preserve floodplain and wetlands values. Planning programs are included as actions which require evaluation for floodplain and wetland impacts even though they do not immediately (directly or indirectly) result in a physical change to the environment.

TVA is to provide leadership and take action to avoid the long- and short-term impacts associated with the occupancy and modification of floodplains or the destruction and modification of wetlands, and to avoid the direct or indirect support of floodplain development or wetlands modification unless no practicable alternative exists. TVA also recognizes the need to ensure future preservation or restoration of floodplains and preservation or enhancement of wetlands. In its planning processes such needs should be addressed and proposed actions structured where practical to achieve these goals.

While TVA Code IX Floodplain Management and Protection of Wetlands provides general procedures for taking into account floodplain and wetland values, these guidelines provide detailed direction for the day-to-day activities by which TVA implements the objectives of the orders. The subsequent sections of these guidelines define the pertinent terms used, detail TVA's policies on the use and management of the floodplains and wetlands, and set forth the decisionmaking process under the TVA Code.

Efforts should be made to carry out both policies if an action overlaps floodplain and wetland areas, but floodplain management policies should control if there appears to be any conflict.

Definitions

The following is a glossary of pertinent terms used in these guidelines:

1. "Alternatives" include all practical choices or options available to an action under these policies.

2. "Base Flood" means that flood with a 1 percent chance of exceedance in a given year (also known as the 100-year flood). This term is used in the National Flood Insurance Program to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

3. "Base Floodplain" means the 1 percent chance (100-year) floodplain. See also definition of floodplain.

4. "Critical Action" is any action for which even a slight chance of flooding would be too great. In order to determine whether a critical action would be exposed to flood risk, a 0.2 per cent chance (500-year) floodplain or, where necessary, a floodplain covering a lesser chance of flooding will be evaluated.

5. "Facility" as defined for these guidelines includes all human-made or human-placed items other than structures.

6. "Flood" or "flooding" means a general but temporary condition of partial or complete inundation or normally dry land areas from the overflow of inland waters, including unusual or rapid accumulation or runoff of surface waters from any source. Flood hazard is used as a general term meaning risk to life, health or safety, or the potential for damage to property from floods.

7. "Floodplain" refers to the lowland and relatively flat areas adjoining inland waters or to those areas inundated by the unusual or rapid accumulation or runoff of surface waters from any source, including at a minimum, that area subject to a 1 percent or greater chance of flooding in any given year.[1]

8. "New Construction" includes drainage, dredging, channelizing, filling, diking, impounding, and related activities on structures of facilities begun after October 1, 1977. This definition is applicable only to evaluations of wetland impact.

[1] Within the Tennessee Valley there are four general types of floodplains: (1) riverine, (2) reservoir rim, (3) sinkholes, and (4) areas subject to unusual and rapid accumulation or runoff of surface waters from any source. Riverine floodplains are the relative low-lying areas adjacent to a watercourse, which may be covered by floodwater when the normal carrying capacity of the channel is exceeded. Reservoir-rim floodplains are those lands within a reservoir which are temporarily inundated during floods or reservoir flood control operations. Sinkhole floodplains are the low-lying lands around the sinkhole outlet which flood when the carrying capacity of the outlet is exceeded. The fourth type of flooding usually occurs from intense rainfall on a small watershed, with rapid runoff and resultant sheet floow and/or ponding in localized depressions or low-lying areas sufficient to provide a significant flood hazard.

9. "Practical" or "practicable" is defined as the capability to be done within existing constraints. The test of what is practical depends on the situation involved and should include an evaluation of all pertinent factors, such as environmental impact, economic costs, technological achievability, and public benefit.

10. "Structures" are defined as walled or roofed buildings, including mobile homes and gas or liquid storage tanks that are primarily above ground.

11. "Wetlands" are those areas inundated by surface or ground water with a frequency sufficient to maintain, and under normal conditions does or would maintain, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Many wetlands are located in floodplains. Commonly accepted wetland species will comprise a substantial portion of the biological community. Opportunistic upland plants adapted for colonization of disturbed areas exposed by controlled, receding water levels but incapable of surviving sustained reflooding during the growing season will not be considered as wetland species. Wetlands generally include swamps, marshes, bogs, sloughs, potholes, wet meadows, mud flats, and natural ponds or similar areas where soil and water characteristics and biological communities reflect the influence of predominantly wet conditions on inspection, even if the inspection would occur in a normally dry period of the year. Areas that once supported a wetland community but have been essentially converted to dry land for agricultural or other purposes will not be considered to be wetlands for purposes of this policy.

Applicability

These guidelines apply to the following actions or classes of actions which are proposed to be located within wetlands or the base floodplain (or a larger floodplain for critical actions), or impact wetlands or the floodplain, or which directly or indirectly supports wetland or floodplain development:

1. Construction and improvements;
2. Disposal or acquisition of property interest;
3. Technical and financial assistance;
4. Administration of Section 26a of the TVA Act; and
5. Land management, land-use planning, and policies.

In case of wetlands, these guidelines do not apply to the issuance of permits, licenses, or allocations to private parties for activities involving nonfederally owned land, *i.e.*, such as Section 26a permits. These guidelines also do not apply to those activities involving wetlands which were under construction or in operation on May 24, 1977, or for which all the funds have been appropriated through fiscal year 1977, or for which a draft or final environmental impact statement was filed prior to October 1, 1977. Moreover, any actions, programs, or policies approved by TVA prior to the date of adoption of the Code provision need not be reevaluated with regard to floodplain or wetland impacts. Under appropriate circumstances such as but not limited to national or regional emergencies or conflict with the TVA Act or other law, the Board of Directors may waive or modify the procedural requirements of the Code provision. If the initiating office, after consultation with the Office of the General Counsel and the Office of Natural Resources Environmental Quality Staff, believes that the procedures should to any extent be waived or modified, it should seek the appropriate approval in a timely manner.

Policy Objectives

A broad Federal effort, both directly and by example, is developing to pursue the sound and nonhazardous uses of floodplains that recognize natural and beneficial floodplain values [2] and to promote the wise use or protection of wetlands that will maintain or enhance their special qualities and important natural functions.[3] Prior to Executive Order Nos. 11988 and 11990, TVA, in its own activities and programs and in its work with States and local organizations, has sought to embrace these concepts. TVA's program approach towards floodplains has been to broaden the use of flood damage reduction procedures, beyond sole reliance on its flood control system, by encouraging the thorough planning for wise use of floodplain lands. The protection and enhancement of Valley wetlands is an important program goal of TVA, receiving multidisciplinary attention to ensure that these unique ecological areas are recognized and incorporated in the Agency's development actions. With the issuance of Executive Order Nos. 11988 and 11990 TVA's commitment to floodplain management and protection of wetlands has been reinforced.

TVA, in its ongoing land acquisition, management, and disposal programs; its construction activities; and in its broad programs affecting land use, including planning, regulating and licensing, will apply the policies of the Executive orders on floodplain management and protection of wetlands. For example, in disposing of Federal property in a floodplain or wetland, TVA will identify those uses that are restricted under State and local floodplain or wetland guidelines or regulations. TVA will restrict to the extent practical the use of properties by the purchaser and any successors in a way consistent with Executive Order Nos. 11988 and 11990. TVA will, at a minimum, support local governmental regulations; it may be more restrictive.

Within floodplains the construction of structures and facilities by TVA will, at a minimum, be consistent with the standards and criteria of the National Flood Insurance Program and will deviate only to the extent that the standards are inappropriate for a given type of structure or facility. For critical actions, less exposure to flood hazards will be permitted. Where major improvements to existing floodplain structures and facilities are planned, reasonable measures will be taken to preserve and restore floodplain values.

The focus of most floodplain management activities in the past has been to prevent unwarranted increases in potential flood damages. Executive Order No. 11988 reinforces this long-established floodplain management objective or protecting lives and property but adds new prominence to the environment aspects of floodplain management. The flood hazards should be expressed in terms of (1) the potential (or residuals) for monetary loss; (2) human safety, health, and welfare; and (3) the shifting of costs or damages to others. Floodplain values and benefits should be identified in any evaluation.

The problem of loss of wetlands arises mainly from unwise land-use practices. In recognition of this situation, TVA has been instrumental in setting aside key wetland areas on those Federal lands it controls. TVA will continue to employ and promote wise land-use management practices, incorporating the preservation and enhancement goals of Executive Order No. 11990.

In its decisionmaking processes TVA must consider the natural and beneficial floodplain and wetland values and the public benefit to be derived from their enhancement, restoration, or preservation. The evaluation of wetland and floodplain impacts are accomplished in the context of existing TVA procedures (*i.e.*, implementing NEPA, the A–95 process, and Section 26a approvals). A final decision on all actions involving wetlands and floodplains must rest on full consideration of all pertinent factors including those set out in the following decisionmaking guidance.

Decisionmaking Process

The U.S. Water Resources Council has prepared "Floodplain Management Guidelines for Implementing Executive Order 11988" (43 FR 6030 (Feb. 10, 1978)). The guidelines identify eight steps which will be utilized in TVA's decisionmaking process. For actions initiated by TVA, *e.g.*, construction of facilities or disposal of surplus property, the decisionmaking process will be carried out in the following order. For actions proposed or initiated by others, *e.g.*, technical and financial assistance to communities or approvals required under section 26a of the TVA Act, step 3 may precede step 2.

Step 1—Initial Determination of Location

The first step is to determine whether a proposed action is located in the base or, in the case of critical actions, the 0.2 percent chance (or lesser chance) floodplain, or located within a wetland.

At the request of, and based on information provided by the initiating office or division, the Office of Natural Resources will determine whether a proposed action or part of it will occur in the base floodplain.[4] Where a lesser exposure to flooding is required as determined by the initiating division, the Office of Natural Resources will determine the minimum elevations required to afford the desired degree of flood protection. These determinations will be made for the subject site and for any identified alternative sites. In its determinations of floodplain boundaries and degrees of flood hazard, both TVA data and any studies and information available from other agencies such as the Office of Federal Insurance and Hazard Mitigation or the Corps of Engineers will be utilized in order to arrive at the best determination of the flood exposure.

Floodplain evaluation should be sought at the earliest feasible stage of planning to ensure adequate time for evaluation and to prevent the limiting of alternative courses of action. When making its request, the initiating division should provide a description of the proposed activity in sufficient detail to allow for evaluation. For actions proposed by others, *e.g.*, shoreline facilities within TVA reservoirs, an applicant or requesting party must provide sufficient information to allow TVA to determine accurately the site location in the floodplain. Where additional field survey data are required for a flood hazard analysis, an applicant or party may be asked to supply the necessary data. Where data and/or flood hazard analyses have been prepared outside of TVA, the Office of Natural Resources will review their reasonableness.

There are different magnitudes and hazards of flooding. For purposes of the TVA Code, TVA will be concerned at a minimum with the floodplain area which would be inundated by a flood having a 1 percent chance of exceedance in any year, (*i.e.*, 100-year flood). Within this "based" floodplain, the highest hazard is within those areas adjacent to the watercourse, where depths and velocities of floodwaters are greatest. These areas are usually referred to or designated as "floodways" and, with few exceptions, are locations to be avoided. These are the areas where flooding is not only most frequent and damaging, but where natural and beneficial values of the land and water interface are often at their maximum.

In addition to considering whether a proposed action is located within the 1 percent chance floodplain, TVA should consider the implications of the occurrence of larger floods on the economics and safety of a proposed floodplain action. If the proposed action would be especially dangerous or severely jeopardized when exposed to flooding (a critical action), it should be located outside the 0.2 percent chance floodplain, or structure elevation or protection should be considered. For those actions for which even a slight degree of flooding would be too great, TVA should consider a much higher level of flood protection by elevating, floodproofing, or protection the site, or by location in a flood-free site, *i.e.*, outside the probable maximum floodplain. Figure 1 depicts a typical riverine floodplain and the areas referred to above.

The Office of Natural resources will determine whether a proposed action would be located in a wetland. This determination should be sought at the earliest feasible planning stage and will be made on the basis of the information provided by the initiating office or division or by persons requesting action outside TVA. The initiating office or division should supply the following information:

1. A proposal or equivalent action description, including proposed work schedule.
2. Map(s) of project (activity) area of adequate scale and clarity—1:24,000 maps at minimum, larger scale (*i.e.*, 1:6,000) for actions of less than 50 acres.
3. Identification of an informal technical contact within the initiating office if more detailed information is required.

Supplementary information, including more detailed description of action in area, aerial photographs, soils information (especially permeability), contour-profile maps, reports or publications describing similar actions would be helpful and would generally expedite review.

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[2] Natural and beneficial floodplain values include wildlife habitat, biological communities, agricultural and forest products, stable ecosystems, opportunities for scientific studies, recreation areas, water resources, and other similar uses.

[3] Wetlands, which exist in many floodplains, are areas of great natural productivity, hydrological utility, and environmental diversity, providing natural flood control, improved water quality, recharge of aquifers, flow stabilization of stream and rivers, and habitat for fish and wildlife resources.

[4] WRC's "Guidance for Floodplain Management" (42 Fed. Reg. 52,590 (1977)) or subsequent revisions will be utilized in these determinations.

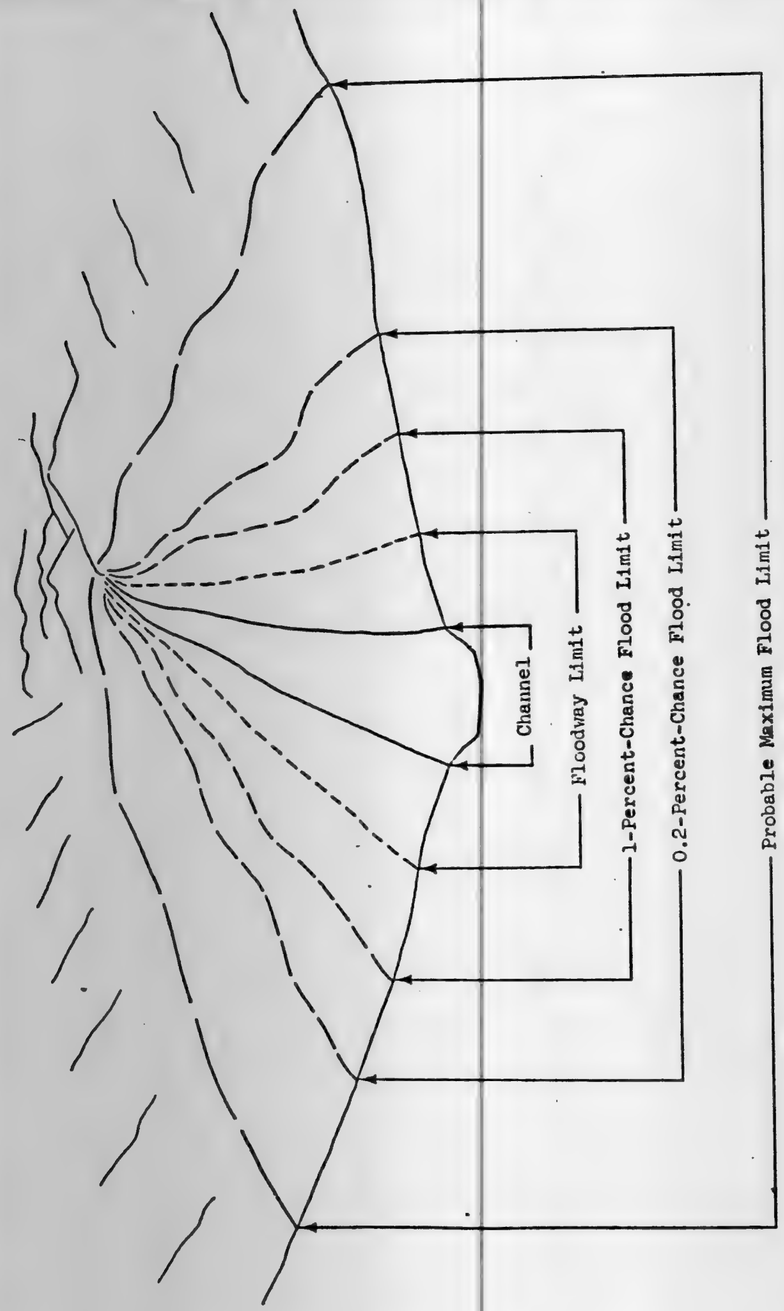


Figure 1

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For actions proposed by or taken at the request of others, the applicant or requesting party should provide sufficient information to allow an accurate determination of the site location within a wetland.

Upon receipt of the request, including this information, the Office of Natural Resources will determine presence or absence of a wetland and will evaluate the potential impacts resulting from the proposed action. Naturally occurring or intentional (human-caused) conditions (*i.e.*, reservoir construction) that result in saturated or seasonally saturated soil conditions will not be differentiated in wetland evaluations. Upon determining the existence of a wetland using these guidelines, the wetland will be classified in accordance with the *Classification of Wetlands and Deep-Water Habitats of the United States*, Cowardin, *et al.*, 1977.[5]

If the analyses and subsequent evaluations indicate that the proposed action (1) lies outside the base floodplain or a larger floodplain for critical actions, and outside a wetland; (2) has no floodplain and wetland impact; or (3) is not expected to cause indirect support of floodplain development and wetland alteration, then the proposed action may be carried out.

Step 2—Identify and Evaluate Alternatives to Locating in the Floodplain or Wetland

If a proposed action is to be located in the base floodplain or larger floodplain for critical actions, in a wetland, or if it may directly or indirectly affect floodplain or wetland values, the initiating office or division will identify and evaluate potential alternative actions (or require the identification and evaluation to be made by the requesting party subject to TVA review) to determine if a practical alternative exists. Alternatives which can be considered include (1) carrying out the proposed action at a location outside the floodplain or wetland, (2) consideration of alternative sites within the floodplain or wetland which may have lesser impacts than the originally proposed site, (3) using other means to accomplish the same purpose as the proposed action (*i.e.*, carrying out alternative actions), and (4) withdrawing the proposed action (the no-action alternative). The no-action alternative must always be considered.

Alternative sites must be identified and the practicability of such sites evaluated. In determining the practicability of a nonfloodplain or nonwetland site, the natural, social, economic, and legal aspects of site feasibility, among other factors, should be considered. However, no single consideration should be determinative of the relative merits of alternative sites.

In considering the natural aspects of an alternative site(s), its physical and environmental suitability for the proposed action should be evaluated. The evaluation should include, in addition to floodplain and wetland values, all relevant factors including geologic and seismic suitability, access, extent of any wildlife habitat or other biological systems, the extent of prime farmland, the need to preserve natural drainage or water quality, and the existence of any natural or manmade hazards or the potential for their creation. The social aspects should include the aesthetics and the appropriateness of the proposed action in relation to its surroundings. The economic aspects in evaluating alternative sites should include the relative costs for land, construction, services, and utilities; accessibility; and the added costs of relocating existing facilities if the floodplain or wetland site is not utilized. The legal aspects to be considered include ownership, surrounding land-use restrictions, the nature of existing land-use controls, environmental laws and regulations, and licensing considerations where appropriate.

If a practicable alternative site exists outside the floodplain or wetland and has no adverse impacts to floodplain or wetland values, the proposed action should not be located in the floodplain or wetland. Where no practical alternative sites exist, the proposed activity located in the floodplain or wetland should not be carried out when an alternative including the no-action alternative is practicable. Consequently, alternative actions also *must be considered* before a decision is made to carry out any action which affects a floodplain or wetland. In considering the practicability of alternative actions, their natural, social, economic, and legal aspects should be evaluated, as was the case for alternative sites. No action, *i.e.*, withdrawing the proposed action, is also an alternative and assessment of this course is always required.

The evaluation performed in this step is preliminary. The evaluation of alternatives cannot be fully completed until a determination has been made of the harm to or within the floodplain or wetland resulting from the proposed action or alternatives (steps 4 and 5).

Step 3—Early External Review

If the proposed action, class of actions, or any part thereof occur in the base floodplain, or a larger floodplain for critical actions, or in a wetland, early EXTERNAL review by other Government agencies and the public will be initiated, unless an evaluation has already been completed either individually or through an evaluation of a larger action of a class of activities. It is recognized that variations in TVA's programs and actions will determine the earliest practical time in the decisionmaking process when the public can be notified.

The external review of the proposed action or class of actions for which an environmental impact statement (EIS) will be prepared, including public meetings and the evaluation of comments from the public, will generally follow the EIS procedures outlined in TVA Code IX ENVIRONMENTAL QUALITY. For all other actions, public notice designed to reach potentially interested members of the public and government authorities should be used consistent with that Code. The initiating office, in consultation with the Information Office, the Office of the General Counsel, and the Environmental Quality Staff, with the approval of the General Manager, will determine the procedure for providing notice to the public. The initiating office or division is to provide information to ensure adequate informed public comment with regard to floodplain and wetland values. The public review period will be as specified by the originating office or division and, except in emergency situations, will be no less than 15 days. The Office of the General Counsel will be consulted in the preparation of any public notice and supporting documentation or meetings.

The initiating office or division will have the responsibility for evaluating comments on the proposed action or class, with the assistance of other offices or divisions having special expertise in the areas covered by the review comments. The initiating office or division should ensure that all substantive comments are considered in subsequent decisionmaking.

Step 4—Identify Impacts of the Proposed Action or Alternatives

Both the impacts of direct TVA actions or alternatives and the impacts of actions supported by TVA must be

[5] As defined by Cowardin (1977), there are three general wetland systems within the Tennessee Valley: (1) riverine, (2) polustrine, and (3) lacustrine. The complexity and variation of wetland classes and subclasses within these systems precludes further discussion (see Cowardin (1977) for details and definitions).

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evaluated. This step, coupled with step 5, provide the focus for answering the questions of whether any alternative is practical and whether the action should be implemented (see step 6). Whenever the analysis of the initiating office or division indicates a proposed action *or alternative* is to be located in the floodplain, or wetland, the impacts therein must be identified. Similarly, even where proposed actions or alternatives are located outside a floodplain or wetland, potential impacts to those areas will be identified and evaluated. Finally, agency activities which may support [6] subsequent activities having floodplain or wetland impacts are to be evaluated where reasonable.

Three basic types of impacts must be addressed in the assessment. They are (1) positive and negative; (2) concentrated and dispersed; and (3) short- and long-term. Even though the focus of impact identification and assessment is on negative or adverse impacts, both the *positive* and *negative* impacts of a proposed action or alternative should be identified. An impact is concentrated if it occurs at or near the site of an activity and is dispersed if it occurs at a site remote from an activity. For example, an improperly placed floodplain development may itself be subject to flood damage (a concentrated impact) and may also cause increases in flood stages, and resultant flood damages, for several miles upstream of the site (a dispersed impact).

Both short-term and long-term impacts should be analyzed in order to evaluate the total impact of an action or alternative. Short-term impacts are temporary changes occurring during or immediately following an activity. Long-term impacts occur during or after an activity and may take the form of delayed changes or changes resulting from the cumulative effects of many individual actions. As the name suggests, long-term impacts may continue for an indefinite period of time. An example of a short-term impact is the generation of sediment during construction. A long-term impact is the loss of Valley floodwater storage or wetland resources resulting from the cumulative effect of floodplain development or wetland alteration.

The risk to lives and property from carrying out a proposed action or alternative in the base floodplain should be determined. This assessment includes the identification of high hazard areas (usually synonymous with "floodways" in riverine situations). These areas are usually those nearest the watercourse and are subject to frequent flooding and large depths and rapid movement of floodwater. Activities that take place within such areas are subject to the conditions described and damage to facilities is often substantial. Human occupancy is particularly hazardous because of the flood conditions and problems of rescue and relief. The actions or alternative could also impede floodflows, thereby increasing flood heights and consequently the areas subject to flooding.

The Office of Natural Resources will evaluate site flood hazards and wetland impacts, using the procedures described in step 1. This site analysis will be made upon request of the initiating office or division and be based upon site information provided with the request. The flood hazard evaluation will also determine whether a proposed floodplain action or alternative is located within the floodway or floodfringe portions of riverine floodplains and identify the likelihood of such flood hazard factors as high velocity flows and flash flood conditions. When appropriate, the analysis will also provide information on the effects of the proposed action or alternative on upstream flood stages.

The initiating office or division should also make, or have made for it, an assessment of the impact of actions or alternatives on natural and beneficial floodplain or wetland values. Heavily developed or modified areas may no longer possess any favorable natural values. Once impacts are identified, a determination must be made of their significance. Only at this point can an evaluation be made. Above all else, in carrying out the evaluation, the concept of practicality must be applied. It is not the intent of the policy or these guidelines to make the decisionmaking process so complex and rigorous so as to, in essence, prohibit floodplain development or wetland alteration in all cases. There is to be, however, a consistent government policy against such development or alteration unless a systematic analysis leads to the conclusion that there is no practicable alternative to such action. The need for the proposed action to be located in or in a way that affects the floodplain or wetland must be clearly documented.

Step 5—Minimize, Restore, Preserve

If the proposed action or alternative could result in harm to both lives and property or to natural and beneficial floodplain and wetland values, such harmful effects must be minimized and these values preserved or restored where practical.

To the extent that they are appropriate, the standards and criteria of the National Flood Insurance Program (NFIP) will be used to minimize harm to and from actions or alternatives proposed to be located within the floodplain. In essence, the NFIP regulations provide minimum floodplain management standards which communities must adopt and enforce in order to participate in the program. For critical actions, a higher degree of flood protection is required than that which would be afforded by meeting the minimum requirements of the NFIP. Federal agencies are expected to provide leadership by employing the minimum standards of the NFIP, whenever appropriate, to proposed actions or alternatives within the floodplain. Uses which are subject to flood damage are to be elevated to a level at or above the 1 percent chance flood or employ construction methods and practices (floodproofing) which provide protection to this level.[7]

The proposed floodplain action or alternative will, at a minimum, be consistent with any local applicable floodplain regulations, including locating any action that would impede the flow of floodwaters outside any community-designated floodway. Where no community-designated floodway exists, the Office of Natural Resources will, upon request of the initiating office or division, calculate a floodway that will meet the minimum requirements of the NFIP.

One way to accomplish the above objectives is to avoid the floodway. Another is to provide clear access during all flood events up to and including the 1 percent chance flood. Evacuation must be possible within the time normally available for flood warnings and reaction. In areas where flash floods or rapid rise of floodwaters occur, a warning and evacuation plan should be developed. If TVA determines that property in its custody used by the general public has suffered flood damage or is located in an identified flood hazard area, TVA will take steps to enhance public awareness of an knowledge about flood hazards. Such steps may include providing on

[6] Wherever practicable TVA will avoid the direct and indirect support of floodplain development or wetland alteration. For the purpose of these guidelines, and action supports development if it encourages, allows, or otherwise facilitates additional development.

[7] Where floodproofing is used, it is recommended that protection be provided to a level at least one foot above the 1 percent chance flood.

structures, and other places where appropriate, conspicuous delineation of past and probable flood height. The Office of Natural Resources will provide to the initiating office or division these data and any other information on local conditions that could be particularly dangerous to human occupancy *e.g.*, high flood velocity, large flood depths, rapid rise of floodwaters.

In the recent past, methods directed toward minimizing harm to natural and beneficial environmental values, including those associated with the floodplain or wetland have been developed. In fulfilling the requirement of the policy to minimize harm to floodplain and wetland values, TVA offices and divisions should draw upon their procedures and experiences in implementing NEPA. The U.S. Water Resources Council "Floodplain Management Guidelines for Implementing Executive Order 11988" provides examples which can serve as additional guidance.

If an action or alternative will result in adverse impact to or within the floodplain or wetland, the initiating office or division must plan modifications to ensure preservation of as much of the natural and beneficial floodplain or wetland values as is practical. For floodplains and wetlands showing little or no disruption by man, a more intense effort to protect or preserve is required.

Step 6—Reevaluate

The initiating office or division is to reevaluate the proposed action and alternatives in light of the information subsequently gained concerning the harmful impacts it would have on the floodplain or wetland, the methods that would have to be employed to minimize these impacts, and the opportunity to preserve (and in some cases enhance or restore) floodplain or wetland values. A separate evaluation and documentation from that done in steps 2, 4, and 5 is not always required; but special attention must be given to ensure that the final evaluation performed recognizes all the parameters which any action or alternative might entail.

If the proposed action is located within the floodplain or wetland, a determination is to be made as to whether the action is practicable in light of the flood risk and/or the ensuing disruption or loss of natural values. The alternative of modifying, limiting, or not taking the action should be considered if carrying out the originally proposed action is no longer deemed practical. New alternative actions and sites can then be identified and previously rejected alternatives and sites reevaluated for practicability based on scaled-down expectations. If a scaled-down action is then considered, the decisionmaking process should start over at step 2 and carry through the subsequent steps.

Where TVA has before it an application or request of another which has been deemed impractical, the no-action alternative (*i.e.*, denial of request or application) should be chosen if no practical alternatives have been proposed or accepted by the applicant or requesting party.

Step 7—Findings and Public Explanation

If reevaluation by the initiating office or division results in a determination that there is no practicable alternative to locating in or impacting a floodplain or wetland and this determination is approved,[8] the office or division must prepare a brief written statement of findings and explanation, available to the public, for the proposed action. The findings and explanation should be incorporated into any environmental impact statement or assessment for a proposed action. The statement and explanation and any referenced detailed documentation should include:

1. A description of why the proposed action must be located in the floodplain or wetland;
2. A description of all significant facts considered in making the determination, including alternative sites and actions;
3. A statement indicating whether the actions conform to applicable state or local floodplain management or wetland protection measures;
4. A statement, if applicable, indicating why the National Flood Insurance Program criteria are inappropriate for the proposed floodplain action;
5. A statement indicating how the action affects natural or beneficial floodplain or wetland values;
6. A description of how the action will be designed or modified to minimize harm to or within the floodplain or wetland; and
7. A statement listing other involved agencies.

TVA will provide for a reasonable comment period prior to implementing the action, and make available for public inspection the written statement of findings and explanations.

[8] If the Director of the Environmental Quality Staff, after consultation with the Office of the General Counsel, concurs in the determination, it is a final determination. If the Director of the Environmental Quality Staff does not concur, the initiating office or division will refer the matter to the General Manager for submission to the Board for determination.

For proposed actions subject to both OMB Circular A–95 and the policy, TVA will, in addition to or in accordance with its existing public notice procedures (see step 3), as appropriate, provide the written statement of findings and public explanation, including a location map to the state and areawide A–95 clearinghouse for the areas affected. For all other proposed actions located within or impacting the floodplain or wetland which are not subject to A–95 review, TVA will use public review procedures similar to those developed for those programs in carrying out the interagency and public review requirements of the policy (see step 3). In addition to the normal circulation procedures, the initiating office or division will forward a copy of the notice to the Information Office where it will be available for public inspection. The office or division will consult with the Office of the General Counsel, the Environmental Quality Staff, and the Information Office on whether additional publicity is needed for the proposed action and will advise the General Manager and obtain his approval.

Step 8—Implement Action

With the completion of the previous steps in the decisionmaking process, the initiating office or division can implement the proposed action. However, the office or division has the responsibility for ensuring that all the requirements relating to minimization, preservation, or restoration will be observed if the proposed action will result in floodplain or wetland impacts. Consequently, an adequate monitoring program may have to accompany approval of any action. The monitoring program will be devised by the program division or office with the assistance of the Office of Natural Resources technical staffs and concurrence of its Environmental Quality Staff. The monitoring of compliance is especially important for non-TVA construction activities to ensure that the development takes place outside of the floodway, meets required exposures to flooding, and that floodplain or wetland impacts are minimized. When federally owned floodplains or wetlands under TVA's control are proposed for lease or licensing, granting of easements and rights of ways, or disposal to non-Federal parties:

a. The conveyance will contain appropriate restrictions on use under this policy; or

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b. The property may be withheld from disposal.

[FR Doc. 79-23866 Filed 8-1-79; 8:45 am]

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VETERANS ADMINISTRATION

Ambulatory Care Addition and Spinal Cord Injury Relocation, VAMC, Miami, Fla.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of an Ambulatory Care Addition and Spinal Cord Injury Unit at the Veterans Administration Medical Center (VAMC), Miami, Florida.

The project proposes constuction of two additions to Building No. 1 to expand the existing Ambulatory Care Service, including its specialty clinics, and the relocation of a 40-bed Spinal Cord Injury Unit to an on-grade site. The Ambulatory Care Addition will be part renovation and part new construction consisting of a total of 30,500–40,000 net square feet. The SCI Unit would comprise approximately 16,000 net square feet. Both additions will be structurally connected directly east of Building No. 1.

The development of the project will have probable impacts on the human and natural environment as it affects existing vegetation, soil erosion, open space, noise levels, and traffic.

Mitigation of the possible project impacts on the environment include implementation of erosion control measures, specific onsite noise abatement measures and building design in accordance with applicable Federal, State and local air quality standards. Traffic and parking impacts will be reduced by redesign of existing roadways and parking areas. However, deficient onsite parking will exist.

An analysis of environmental factors related to this proposed action indicates a "Finding of No Significant Impact." The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (004A), Room 1018, Veterans Administration, 810 Vermont Ave., NW., Washington, D.C. 20420, (202–389–2526). Questions and requests for single copies of the Environmental Assessment may be obtained on request to the above office.

Dated: July 27, 1979.

By direction of the Administrator.

Maury S. Crallé, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-23847 Filed 8-1-79; 8:45 am]

BILLING CODE 8320-01-M

New Main Kitchen Facility, VAMC, Waco, Tex.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the New Main Kitchen Facility at the Veterans Administration - Medical Center (VAMC), Waco, Texas.

The New Main Kitchen Facility will consist of a one-story addition attached to Building No. 4. The addition will house all of the Dietetics Service functions currently contained in Building No. 4 and provide approximately 20,000 net square feet (NSF).

Development of the project will have minimal impacts on the human and natural environment as it affects traffic and parking, soil stability, erosion, vegetation and noise levels. During construction additional noise, fumes, dust, odors and visual impacts will exist. The modernization must also be compatible with the existing historic architectural design.

Mitigation of the project impacts include: erosion control measures, dust and fume emission controls, onsite noise abatement techniques, landscaping, and campatible architectural design.

Findings conclude that the proposed action will not cause a significant adverse effect on the human and physical environment and, therefore, does not require the preparation of an Environmental Impact Statement. The Environmental Assessment has been performed in accordance with the requirements of Section 102 of the National Environmental Policy Act and VA Manual MP–1, Part 1, Chapter 9.

A "Finding of No Significant Impact" was concluded on the basis of the information presented in this assessment. The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202–389–2526). Questions and requests for single copies of the Environmental Assessment may be obtained on request to the above office.

Dated: July 27, 1979.

By direction of the Administrator.

Maury S. Crallé Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-23848 Filed 8-1-79; 8:45 am]

BILLING CODE 6320-01-M

INTERSTATE COMMERCE COMMISSION

[No. 37226]

Coal Transported From Axial, Colo., to Coleto Creek, Tex.; Intention To File a Capital Incentive Rate Schedule

AGENCY: Interstate Commerce Commission.

ACTION: Notice of intention to file a schedule stating a capital incentive rate on coal from Axial, CO, to Coleto Creek, TX, pursuant to regulations promulgated in Ex Parte No. 327 (49 CFR 1109.20).

SUMMARY: The filing of this notice of intention to file a capital incentive rate schedule initiates a 180-day period during which the Commission must determine the lawfulness of the proposed schedule, as provided in Ex Parte No. 327, *Rate Incentives for Capital Investment*, 353 I.C.C. 754 (1977) (See 49 CFR 1109.20 *et seq.*).

DATE: Any interested person seeking a hearing must notify the Commission on or before August 27, 1979.

FOR FURTHER INFORMATION CONTACT: Janice M. Rosenak or Harvey Gobetz, Inferstate Commerce Commission, Section of Rates, Washington, D.C. 20423.

SUPPLEMENTARY INFORMATION: The Denver and Rio Grande Western Railroad Co., the Atchison, Topeka and Santa Fe Railway Co., and the Southern Pacific Transportation Co., propose to establish a new rate of $20.85 per net ton for the transportation of coal in unit train service in shipper-supplied cars from Axial, CO, to Coleto Creek, TX, subject to a minimum annual volume of 1,500,000 tons. An alternative rate is proposed in the event that the annual volume is not met.

The carriers allege that they will collectively be required to make capital investments in excess of $33.4 million for locomotive units and fixed plant additions in order to provide transportation under the proposed unit train tariff. The proposed rate is subject to ex parte general rate increases and no formula for adjusting the rate is contemplated. The proposed duration of the proposed rate is a minimum of five years. The carriers state that Central Power and Light Company is presently the only shipper eligible to utilize the proposed capital incentive rate.

Inquires and requests for documents relating to the proposal should be addressed to the following carrier representatives:

Samuel R. Freeman, The Denver and Rio Grande Western Railroad Company, P.O. Box 5482, Denver, Colorado 80217.
Milton E. Nelson, Jr., The Atchison, Topeka and Santa Fe Railway Company, 80 East Jackson Boulevard, Chicago, Illinois 60604.
John MacDonald Smith, Southern Pacific Transportation Company, One Market Plaza, San Francisco, California 94105.

Copies of the proposed tariff are available for public inspection in the Public Tariff File, Room 6217, of the Interstate Commerce Commission, Washington, D.C. 20423.

Dated at Washington, D.C. this 30th day of July, 1979.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24040 Filed 8-1-79; 8:45 am]

BILLING CODE 7035-01-M

[No. 37230]

Coal Transported From Belle Ayr and Eagle Junction, Wyo. to Iatan, Mo.; Intention To File a Capital Incentive Rate Schedule

AGENCY: Interstate Commerce Commission.

ACTION: Notice of intention to file a schedule stating a capital incentive rate on coal from Belle Ayr and Eagle Junction, WY, to Iatan, MO, pursuant to regulations promulgated in Ex Parte No. 327 (49 CFR 1109.20).

SUMMARY: The filing of this notice of intention to file a capital incentive rate schedule initiates a 180-day period during which the Commission must determine the lawfulness of the proposed schedule, as provided in Ex Parte No. 327, *Rate Incentives for Capital Investment*, 353 I.C.C. 754 (1977) (See 49 CFR 1109.20 *et seq*).

DATE: Any interested person seeking a hearing must notify the Commission on or before August 27, 1979.

FOR FURTHER INFORMATION CONTACT: Janice M. Rosenak or Harvey Gobetz, Interstate Commerce Commission, Section of Rates, Washington, D.C. 20423.

SUPPLEMENTARY INFORMATION: Burlington Northern, Inc., proposes to establish a new rate of $9.34 per net ton for the transportation of coal in unit train service in shipper-supplied cars from Axial, CO, to Coleto Creek, TX, subject to a minimum annual volume of 2.0 million tons. An alternative rate of $13,73 per net ton is proposed in the event that the annual volume is not met.

Burlington Northern, Inc., alleges that it will be required to make capital investments in exess of $16 million for equipment and improvements in track structure to provide transportation under the proposed unit train tariff. The proposed rate is subject to Ex Parte No. 311 increases and future ex parte general rate increases. The proposed duration of the proposed rate is a minimum of five years. Burlington Northern, Inc., states the shipper eligible to tender freight under the proposed rate is Kansas City Power & Light Company.

Inquiries and requests for documents relating to the proposal should be addressed to the following representative:

Mr. A. E. Michon, Assistant Vice President—Energy, Burlington Northern, Inc., 176 East Fifth Street, St. Paul, Minnesota 55101.

Copies of the proposed tariff are available for public inspection in the Public Tariff File, Room 6217, of the Interstate Commerce Commission, Washington, D.C. 20423.

Dated at Washington, D.C., this 30th day of July, 1979.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24041 Filed 8-1-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 116]

Assignment of Hearings

July 27, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 125433 (Sub-177F), F–B Truck Line Company, application dismissed.
MC 120761 (Sub-43F), Newman Bros. Trucking Company, now assigned for continued hearing on August 21, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 123294 (Sub-51F), Warsaw Trucking Co., Inc., now assigned July 30, 1979, at Cincinnati, OH is canceled and transferred to Modified Procedure.
MC 109533 (Sub-106F), Overnite Transportation Company, now assigned for hearing on September 11, 1979 at St. Louis, MO, and will be held in Room 307 (Third Flood), Holiday Inn Riverfront, 4th and Pine Streets.
FF 511 F, Key Forwarding Co., A Corporation, now assigned for hearing on September 17, 1979, at Portland, OR, is canceled and application dismissed.
MC 145660 (Sub-2F), Callister & Sons Trucking, now being assigned for hearing on September 17, 1979 (2 Days), at Portland, OR, in a hearing room to be designated later.
MC F 13840, Associated Truck Lines, Inc.—Control Merger—The Depenthal Truck and Storage Co., and No. MC 69833 (Sub-139F) Associated Truck Lines, Inc., now being assigned for hearing on September 26, 1979 (1 week) at Columbus, OH, in a hearing room to be designated later.
MC 114457 (Sub-466F), Dart Transit Company, now assigned for hearing on September 11, 1979 (9 days), at Milwaukee, WI, in a hearing room to be later designated.
MC 135895 (Sub-30F), B & R Drayage, Inc., transferred to Modified Procedure.
I&S No. 9217, Increased Rates on Coal, Arco, TN, to Harllee, GA Sou. And CGA, now being assigned for hearing on September 5, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 134755 (Sub-160F), Charter Express, Inc., transferred to Modified Procedure.
MC 59135 (Sub-37F), Red Star Express Lines of Auburn, Inc. d.b.a. Red Star Express Lines, Transfer to Modified Procedure.
MC 124679 (Sub-95), C. R. England & Sons, Inc., now assigned July 31, 1979 at Washington, DC is canceled.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-23842 Filed 8-1-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, on or before September 4, 1979, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the

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proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC 26377 (Sub-25F), filed February 7, 1979, and previously noticed in the **Federal Register** issue of May 21, 1979. Applicant: LEONARDO TRUCK LINES, INC., 511 South 1st Street, Selah, WA 98942. Representative: Lawrence V. Smart, Jr., 419 NW., 23rd Avenue, Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, and *materials, equipment*, and *supplies* used in the manufacture and distribution of foods, between points in Benton, Chelan, and Yakima Counties, WA, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, and UT. (Hearing site: Yakima, WA.)

Note.—This republication is to include authority to serve points in MT.

MC 52917 (Sub-67F), filed January 18, 1979. Applicant: CHESAPEAKE MOTOR LINES, INC., 6748 Dorsey Road, Baltimore, MD 21227. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *oleomargarine and table sauces*, from Baltimore, MD, to points in CT, IL, IN, KY, ME, MA, MI, MO, NH, NY, OH, PA, RI, VT, VA, and WV. (Hearing site: Baltimore, MD.)

MC 115826 (Sub-377F), filed January 29, 1979, and prevеously noticed in the Federal Register issue of May 2, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant) To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Los Angeles and Ontario, CA, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Denver, Co.)

Note.—This republication is to include Ontario, CA, as an origin point.

MC 135797 (Sub-152F), filed January 29, 1979, and previously noticed in the **Federal Register** issue of May 2, 1979. Applicant: J. B. HUNT TRANSPORT INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers* and *container closures*, (a) from Springdale, AR, to points in IL, IN, MI, MN, OH, PA, TX, and WI and (b) from Augusta, WI, to points in OH, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of containers and container closures, from Cincinnati, OH, to points in AR. (Hearing site: Cincinnati, OH.)

Note.—This republication is to include in part (1)(a) IL, IN, MI, MN, OH, PA, and WI, part (1)(b), and in (2) points in AR.

MC 139906 (Sub-40F), filed February 23, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail mail order houses, (except commodities in bulk, and those which because of size or weight require special handling or equipment), between the facilities of U.S. Sales Corporation at or near Los Angeles, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 143029 (Sub-2F), filed January 11, 1979, previously published in the **Federal Register**, March 13, 1979. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Carl L. Steiner, 39 S. La Salle St., Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), between points in IL, IN, IA, MI, MN, MO, NY, OH, PA, and WI, under contract with Kraft, Inc., of Chicago, IL. Condition: Prior or coincidental cancellation, at carrier's written request, of its duplicating authority in MC 136774, issued November 8, 1972.

Note.—Dual operations may be involved. This republication shows MN in lieu of NM as previously published.

MC 146126F, filed January 15, 1979. Applicant: PAUL GREEN, d.b.a. P & G TRUCKING, 5317 W. Ohio Street, Chicago, IL 60644. Representative: Republic Packaging Corporation, 9160 S. Green Street, Chicago, IL 60602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *packaging materials*, between points in FL, IL, KY, MI, NE, OH, and TX, under continuing contract(s) with Republic Packaging Corporation of Chicago, IL. (Hearing site: Chicago, IL.)

MC 25798 (Sub-362F), filed February 26, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *mustard and relish*, in bulk, in tank vehicles, from Bentheim, MI, to Atlanta, GA. (Hearing site: Grand Rapids, MI, or Tampa, FL.)

MC 145588 (Sub-3F), filed November 20, 1978. Applicant: GULF-MIDWESTERN, INCORPORATED, a Texas corporation, 12152 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18500 John F. Kennedy Blvd., Houston, TX 77205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Williamsport and Avis, PA, to points in AR, FL, GA, MS, OK, TX, WA, and WI, and the ports of entry on the international boundary line between the United States and Canada located at or near Port of Chief, Port of Piegan, and Sweetgrass, MT. (Hearing site: Denver, CO, or Omaha, NE.)

MC 145588 (Sub-9F), filed February 5, 1979. Applicant: GULF-MIDWESTERN, INC., 12151 W. 44th Ave., Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic resins, reclaimed plastic materials, and reclaimed chemicals*, between points in Harris, Wharton, Brazoria, Orange, Lavaca, and Jefferson Counties, TX, on the one hand, and, on the other, points in CA, FL, GA, IL, MA, MI, NJ, NY, OH, and TX. (Hearing site: Denver, CO, or Omaha, NE.)

MC 145588 (Sub-10F), filed February 5, 1979. Applicant: GULF-MIDWESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic resins, reclaimed plastic materials, and reclaimed chemicals*, between points in CA, GA, IL, IN, IA, LA, MN, NJ, NY, NC, OH, TN, TX, WA, and WV. (Hearing site: Denver, CO, or Omaha, NE.)

MC 145979F, filed December 13, 1978. Applicant: CALIFORNIA EXPRESS, LTD., P.O. Box 756, 100 Beta Drive, Franklin, TN 37064. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cleaning, scouring, and washing compounds, chemicals, plastic liquids and sheeting, ink, laminating machinery, laminating machinery parts, solvents, pallets, and containers*, (except commodities in bulk), between the facilities of Thiokol/Dynachem Corporation at or near Tustin, CA, on the one hand, and, on the other, Woburn and South Hadley Falls, MA, Herndon, VA, Elmhurst, IL, Matthews, NC, Tampa, FL, and Detroit, MI, restricted to the transportation of traffic originating at and destined to the indicated points. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23841 Filed 8-1-79; 8:45 am]
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Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the

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development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publications of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC 18459 (Sub-10F), filed April 2, 1979. Applicant: BRITTON MOTOR SERVICE, INC., 1660 Terrace Drive, St. Paul, MN 55113. Representative: Allan C. Zuckerman, 39 South La Salle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles* (except commodities in bulk), from the facilities of North Star Steel Co., at St. Paul, MN, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture of iron and steel articles (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 23618 (Sub-50F), filed March 30, 1979. Applicant: MC ALISTER TRUCKING COMPANY, a corporation, d.b.a. MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Nucor Steel Co., at Jewett, TX, to points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, LA, MS, MO, NE, NM, OH, OK, and TN, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Dallas, TX.)

MC 23618 (Sub-51F), filed March 30, 1979. Applicant: MC ALISTER TRUCKING COMPANY, a corporation, d.b.a. MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cooling towers*, and (2) *parts and accessories* for cooling towers, from the facilities of BAC Pritchard, Inc., at Merced, CA, to points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 78228 (Sub-113F), filed March 30, 1979. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *railway freight car parts*, between the facilities of Davis Brake Beam Company, at Johnstown, PA, on the one hand and, on the other, points in IL, IN, KY, MI, and WV. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 106398 (Sub-872F), filed March 16, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103 Representative: Fred Rahal, Jr., (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wire-reinforced concrete planks, wood planks, cement planks, and wood and cement planks*, (1) from the facilities of Martin Fireproofing Georgia, Inc., at Elberton, GA, to points in CT, DE, IL, MD, MA, NJ, NY, OH, PA, VA, WV, and DC, and (2) from the facilities of Martin Fireproofing, Inc., at Tonawanda, NY, to points in the United States (except AK and HI). (Hearing site: Atlanta or Augusta, GA.)

MC 108119 (Sub-136F), filed April 2, 1979. Applicant: E. L. MURPHY, TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel rolling doors*, and (2) *accessories* for iron and steel rolling doors, between points in San Francisco County, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: San Francisco or Los Angeles, CA.)

MC 113158 (Sub-37F), filed March 30, 1979. Applicant: TODD TRANSPORT CO., INC., Box 158, Secretary, MD 21664. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Gioia Macaroni Co., Inc., at Buffalo, NY, and the facilities of Alfonso Gioia & Sons, Inc., at Rochester, NY, to points in CT and MA. (Hearing site: Philadelphia, PA.)

MC 114569 (Sub-310F), filed March 30, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Hy Plains Packing Co., at or near Dodge City, KS, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named facility. (Hearing site: Kansas City, KS, or Washington, DC.)

Note.—Dual operations may be involved.

MC 118159 (Sub-325F), filed March 29, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs, intravenous solutions, and accessories for intravenous solutions*, from Rocky Mount, NC, to points in AR, CO, CT, KS, LA, ME, MA, NH, NJ, NM, NY, OK, PA, RI, TX, and VT. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 118159 (Sub-326F), filed April 2, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tile and molding*, and (2) *materials* used in the installation of the commodities in (1) above, from the facilities of GAF Corporation, at or near Vails Gate, NY, to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX, and VA. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 119099 (Sub-25F), filed April 2, 1979. Applicant: BJORKLUND TRUCKING, INC., First Avenue NE & 8th Street, Buffalo, MN 55313. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building and insulating materials*, from the facilities of the CertainTeed Corporation, at Chicago Heights, IL, to the facilities of CertainTeed Corporation, at Shakopee, MN. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 119798 (Sub-8F), filed March 21, 1979. Applicant: SOUTHWEST SUPPLY, INC., 350 Roanoke Street, Bluefield, WV 24701. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *foodstuffs* and (b) *articles* distributed by meat-packing houses, (except foodstuffs, hides, and commodities in bulk), between Bluefield, WV, on the one hand, and, on the other, those points in TN on and east of Interstate Hwy 75; and (2) *frozen desserts*, from Philadelphia, PA, to Bluefield, WV, and Logan and Huntingdon, WV. (Hearing site: Charleston, WV.)

Note.—Dual operations may be involved.

MC 126489 (Sub-36F), filed April 2, 1979. Applicant: GASTON FEED TRANSPORTS, INC., P.O. Box 1066, Hutchinson, KS 67501. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *mineral feed, mixtures and feed ingredients*, (a) From points in Vance County, NC, to points in AL, AR, FL, GA, IL, IN, KY, MI, MN, MS, NJ, OH, PA, SC, TN, TX, VA, WV and WI, (b) from points in Decatur County, GA, to points in AL, AR, FL, IL, IN, KY, KS, LA, MS, MO, NJ, NC, OH, OK, PA, SC, TN, UT, WA, WI and WY, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, from points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI and WY, to points in Vance County, NC, Decatur County, GA, and Harrison County, TX. (Hearing site: New Orleans, LA., or Tampa, FL.)

MC 127539 (Sub-73F), filed March 30, 1979. Applicant: PARKER REFIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals, prepared foods, and beverage mixes*, (except commodities in bulk, in tank vehicles), between points in CA, OR, and WA, restricted to the transportation of traffic originating at or destined to the facilites of Foremost-McKesson, Inc. (Hearing site: San Francisco, CA.)

MC 128698 (Sub-19F), filed March 28, 1979. Applicant: ERDNER BROS., INC., Davidson Road, Swedesboro, NJ 08085. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from Napoleon, HO, to points in DE, MD, VA, NJ, and DC, and those points in PA on and east of U.S. Hwy 15. (Hearing site: Washington, DC.)

MC 136818 (Sub-67F), filed April 2, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except in bulk), (a) from points in WA, to points in OR, ID, CA, NV, and AZ, (b) from points in OR, to points in WA, ID, CA, NV, and AZ, and (c) from points in ID, to points in WA, CA, OR, NV, and AZ. (Hearing site: Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 138469 (Sub-135F), filed March 30, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, at or near

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Chicago, IL, to points in GA, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 140829 (Sub-204F), filed March 29, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *swimming pools, swimming pool accessories, plastic articles and chemicals* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from the facilities of Coastal Chemical Company, at Carlstadt, NJ, to points in IA, IL, IN, KS, MI, MN, MO, NE, OH, OK, TX, and WI, restricted to and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-211F), filed April 2, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery, dessert preparations, gum ball machines, and gumball machine stands*, from the facilities used by Leaf Confectionery, Inc., at or near Chicago, IL, to points in AR, CO, CT, IA, MA, MD, MO, NE, NJ, NY, OH, OK, PA, RI, TX, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 142278 (Sub-2F), filed April 2, 1979. Applicant: NORMAN PETERSTON AND CHARLES HEAVIRLAND, a partnership, d.b.a. P & H TRUCKING, Box 228, Floodwood, MN 55736. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fiberboard, automobile body panels*, in containers, from Floodwood, MN, to Norwalk, OH, and points in MI, under continuing contracts with (a) Floodwood Industries, Inc., of Floodwood, MN, and (b) Van Dresser Corporation, of Norwalk, OH. (Hearing site: Minneapolis or St. Paul, MN.)

MC 144739 (Sub-4F), filed April 2, 1979. Applicant: BOB'S TRUCK SERVICE, INC., Box 528, Middletown, OH 45042. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting (1) *building and construction materials, iron and steel articles, machinery, and aluminum articles*, and (2) *materials equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in Warren and Butler Counties, OH, on the one hand, and, on the other, points in TN, WI, KY, IL, IN, MI, and those in VA on and west of U.S. Hwy 220. (Hearing site: Columbus, OH, or Washington, DC.)

MC 145278 (Sub-2F), filed March 2, 1979. Applicant: TOM B. MARTINEZ TRUCKING CO., INC., d.b.a. MARTINEZ CONTRACTORS' SUPPLY, INC., 6041 Huron Street, Denver, CO 80221. Representative: Richard H. Hill, 1421 Court Place, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brick, concrete block, cinder block, clay tile, clay pipe, and concrete pipe*, from Greeley, CO, and points in Denver, Boulder, and Jefferson Counties, CO, to points in WY, those in NE and KS on and west of US Hwy 81, and those in NM on and north of US Hwy 66. (Hearing site: Denver, CO.)

MC 145738 (Sub-6F), filed March 30, 1979. Applicant: EAST–WEST MOTOR FREIGHT, INC., P.O. Box 535, Selmer, TN 38375. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, NE, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *carpet cleaning machines* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of carpet cleaning machines, (except commodities in bulk and those which because of size or weight require the use of special equipment), from Fresno, CA, to St. Louis, MO, and Dallas and Houston, TX. (Hearing site: Fresno, CA.)

Note.—Dual operations may be involved.

MC 146949 (Sub-1F), filed April 2, 1979. Applicant: McINVALE TRUCK LINES, INC., 6045 Hwy 18 West, Jackson, MS 39209. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic dinnerware*, from the facilities of National Home Products, Inc., at or near Port Gibson, MS, to points in CT, NY, NC, and MA; and (2) *plastic materials* (except expanded plastic materials and commodities in bulk, in tank vehicles), from Wallingford, CT, Florence, MA, and Midland, MI, to the origin facilities of (1) above. (Hearing site: Jackson, MS, or Washington, DC.)

MC 146949 (Sub-2F), filed April 2, 1979. Applicant: McINVALE TRUCK LINES, INC., 6045 Hwy 18 West, Jackson, MS 39209. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sleeping bags and comforters*, from the facilities of M. H. Manufacturing Co., at or near Pelahatchie and Jackson, MS, to points in CT, MA, NJ, NY, OH, and PA, and (2) *alcoholic beverages* (except in bulk, in tank vehicles), from points in NJ and NY, to points in MS. (Hearing site: Jackson, MS, or Washington, DC.)

MC 146949 (Sub-3F), filed April 2, 1979. Applicant: McINVALE TRUCK LINES, INC., 6045 Hwy 18 West, Jackson, MS 39209. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *household appliances*, (a) from the facilities of National Presto Industries, Inc., at or near Canton and Jackson, MS, to points in CA, FL, GA, NJ, NM, NY, NC, and TX, and (b) from Mt. Airy, NC, to the facilities of National Presto Industries, Inc., at or near Canton, MS; and (2) *household appliances and materials, equipment, and supplies* used in the manufacture of household appliances (except commodities in bulk, in tank vehicles), from Alamogorodo, NM, and Abilene, TX, to the origin facilities of National Presto Industries, Inc., at or near Canton, MS. (Hearing site: Jackson, MS, or Washington, DC.)

MC 146949 (Sub-4F), filed April 2, 1979. Applicant: McINVALE TRUCK LINES, INC., 6045 Hwy 18 West, Jackson, MS 39209. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from Senatobia, MS, to points in AZ, CA, CO, NV, OR, UT, and WA.

(Hearing site: Jackson, MS, or Washington, DC.)

MC 146949 (Sub-5F), filed April 2, 1979. Applicant: McINVALE TRUCK LINES, INC., 6045 Hwy 18 West, Jackson, MS 39209. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture*, from the facilities of Madison Furniture Industries, Inc., at or near Canton, MS, to points in AZ, CA, CO, CT, MA, NJ, NY, PA, RI, and TX; and (2) *materials, equipment and supplies* used in the manufacture of new furniture (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Jackson, MS, or Washington, DC.)

MC 146949 (Sub-6F), filed April 2, 1979. Applicant: McINVALE TRUCK LINES, INC., 6045 Hwy 18 West, Jackson, MS 39209. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *stainless steel cookware*, from Flora, MS, to points in MA, and CA. (Hearing site: Jackson, MS, or Washington, DC.)

MC 147308F, filed April 2, 1979. Applicant: HOBOKEN TANK LINES, INC., 457 12th Street, Hoboken, NJ 07030. Representative: Nick Caradonna, 48 Mayflower Street, Clifton, NJ 07013. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *vegetable oil and shortening*, in bulk, in tank vehicles, between New York, NY, on the one hand, and, on the other, Wilmington, DE, Philadelphia, PA, Baltimore, MD, points in DC, and points in Suffolk County, NY, and (2) *cleaning compounds*, in bulk, in tank vehicles, between New York, NY, on the one hand, and, on the other, Philadelphia, PA, Baltimore, MD, and points in Suffolk County, NY. (Hearing site: Newark, NJ, or New York, NY.)

MC 4405 (Sub-596F), filed March 20, 1979. Applicant: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *irrigation systems* and *sprinkling systems*, and (2) *parts, attachments and accessories* for the commodities in (1) above, from Denver and Aurora, CO, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 26825 (Sub-29F), filed March 14, 1979. Applicant: ANDREWS VAN LINES, INC., Seventh & Park Ave., Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ready-to-eat cereals* (except in bulk), from Omaha, NE, to points in the United States (except AK and HI). (Hearing site: Omaha or Lincoln, NE.)

MC 41915 (Sub-45F), filed March 19, 1979. Applicant: MILLER'S MOTOR FREIGHT, INC., 1060 Zinn's Quarry Rd., York PA 17405. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products, vehicle body sealer, and sound deadening compounds* (except commodities in bulk), and *filters* (1) from the facilities of Quaker State Oil Refining Corporation, in (a) Westmoreland County, PA, and (b) Hancock County, WV, to points in FL, GA, AL, and MS, and (2) from the facilities of the Quaker State Oil Refining Corporation, the Pennzoil Company, and Wolf's Head Oil Refining Company, in Venango County, PA, to points in FL, GA, AL, MS, NC, and SC. (Hearing site: Washington, DC.)

MC 43714 (Sub-2F), filed March 12, 1979. Applicant: THE "AL" NAISH MOVING & STORAGE COMPANY, a corporation, 3213 Madison Road, Cincinnati, OH 45209. Representative: J. Michael Fischer, 940 Mercantile Library Building, Cincinnati, OH 45202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods* as defined by the Commission, between points in AL, AR, CT, DE, FL, GA, IL, IN, KS, KY, LA, MD, MA, MI, MS, MO, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, WI, and DC. (Hearing site: Cincinnati or Columbus, OH.)

MC 44445 (Sub-8F), filed March 14, 1979. Applicant: HAROLD KLEIN CARTAGE, INC., 5235 North Hopkins St., Milwaukee, WI 53209. Representative: William C. Dineen, Suite 412 Empire Bldg., 710 North Plankinton Ave., Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities* which because of size and weight require the use of special equipment or handling, between points in WI, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, and WI. (Hearing site: Milwaukee or Madison, WI.)

Note.—/Dual operations may be involved.

MC 95084 (Sub-131F), filed March 15, 1979. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, LA 50246. Representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Nucor Corporation, Vulcraft Division, at or near Norfolk, NE, to points in IL, IN, IA, KS, KY, MI, MN, MO, OH, PA, SD, WV and WI. (Hearing site: Chicago, IL.)

MC 105045 (Sub-96F), filed March 20, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 1277, Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *reinforced concrete products*, and (2) *parts and accessories* for reinforced concrete products, from the facilities of Trenwa Products, Inc., at or near (a) Warsaw, KY, and (b) Denver, CO, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 106884 (Sub-4F), filed March 14, 1979. Applicant: FUCCY HAULING & EXCAVATING, INC., P.O. Box 667, New Cumberland, WV 26047. Representative: James E. Savitz, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are transported in dump vehicles, between points in Tuscarawas, Stark, Mahoning, Portage, Columbiana, Belmont, Harrison, Jefferson, Monroe, Guernsey, Noble, Carroll, and Washington Counties, OH, Hancock, Brooke, Marshall, Ohio, Wetzel, and Wood Counties, WV, and Greene, Beaver, Allegheny, Fayette, and Washington, Counties, PA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 109124 (Sub-64F), filed March 19, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in

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interstate or foreign commerce, over irregular routes, transporting *mill scale*, in bulk, from Detroit, MI, to Woodville, OH. (Hearing site: Columbus, OH.)

MC 110525 (Sub-1292F), filed March 19, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dimethyl terephthalate*, in bulk, in tank vehicles, from Old Hickory, TN, to points in NJ, OH, MI, NY, and IN; and (2) *ammonium thiosulfate*, in bulk, in sealed tank equipped van trailers, from Delaware Water Gap, PA, to Rochester, NY. (Hearing site: Washington, DC.)

MC 113855 (Sub-475F), filed March 19, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., SE, Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe* (except iron and steel pipe), and *pipe fittings*, (2) *accessories* for the commodities in (1) above, and (3) *materials* used in the installation of pipe, from Gustine, CA, to points in the United States (except AK, CA, and HI). (Hearing site: San Francisco, CA.)

MC 113855 (Sub-476F), filed March 12, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., SE, Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aircraft, aircraft engines and aircraft assemblies;* (2) *aerospace craft;* (3) *materials and equipment* (except commodities in bulk, in tank vehicles) used in the maintenance, servicing, operation and manufacture of aircraft and aerospace craft; and (4) *parts* for the commodities described in (1), (2), and (3) above, between points in the United States (including AK but excluding HI). (Hearing site: Los Angeles, CA, or Washington, DC.)

MC 114274 (Sub-58F), filed March 19, 1979. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle St. P, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in sections A, B, and C in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Swift & Co., at or near (a) East St. Louis, Bradley, Rochelle, and St. Charles, IL, (b) Glenwood, Marshalltown, and Sioux City, IA, (c) Omaha, NE, (d) Ft. Worth and Cactus, TX, (e) Kansas City, MO, (f) Kansas City, KS, (g) Guymon, OK, and (h) Clovis, NM, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 116544 (Sub-171F), filed March 16, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Kirk Wm. Horton, P.O. Box 10061, Palo Alto, CA 94303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of the Pillsbury Company and Fox DeLuxe Pizza Company, at or near Joplin and Carthage, MO, to points in NE, IA, CO, KS, OK, TX, IL, NM, WI, FL, AL, MS, LA, GA, UT, ID, TN, and AR, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

MC 116544 (Sub-171F), filed March 16, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Kirk Wm. Horton, P.O. Box 10061, Palo Alto, CA 94303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bananas*, and (2) *agricultural commodities* which are otherwise exempt from economic regulations under 49 U.S.C. 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act) when moving in mixed loads with bananas, from Charleston, SC, to points in IL, IN, WI, NM, IA, MO, and FL. (Hearing site: Washington, DC, or Miami, FL.)

MC 119704 (Sub-2F), filed March 8, 1979. Applicant: R. A. HARRIS & SONS, INC., 3501–22nd St., Menominee, MI 49858. Representative: Dennis R. Harris, (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum, aluminum castings, and ingots*, between Peshtigo, WI, on the one hand, and, on the other, points in MI, IL, and IN, under continuing contract(s) with Marinette Casting, Inc., of Peshtigo, WI. (Hearing site: Menominee, MI, or Marinette, WI.)

MC 125335 (Sub-54F), filed March 6, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from the facilities of Hanover Brands, Inc., at or near Hanover, PA, to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Harrisburg, PA, or Lincoln, NE.)

MC 125985 (Sub-25F), filed March 19, 1979, Applicant: AUTO DRIVEAWAY COMPANY, a Corporation, 310 South Michigan Ave., Chicago, IL 60604. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *self-propelled vehicles* (except trucks), and *trucks* weighing more than ¾ ton, in secondary movements, in driveaway service, between points in WI, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, and MO. (Hearing site: Chicago, IL.)

MC 126045 (Sub-24F), filed March 16, 1979, Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, P.O. Box 3122, Davenport, IA 52808. Representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* from Chicago and Sterling, IL, and Minneapolis, MN, to the facilities of Steel Warehousing, Inc., at or near Des Moines, IA. (Hearing site: Chicago, IL, or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 126844 (Sub-72F), filed March 15, 1979, Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Rd., Vineland, NJ 08360. Representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from the facilities of Pabst Brewing Co., at Perry, GA, to points in MD, NY, PA, and NJ. (Hearing site: Chicago, IL.)

MC 126844 (Sub-77F), filed March 15, 1979. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279,

Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *food* (except in bulk), from Vineland, NJ, to points in IA, KS, and NE. (Hearing site: Trenton, NJ, or Washington, D.C.)

MC 127524 (Sub-16F), filed March 15, 1979. Applicant: QUADREL BROS. TRUCKING COMPANY, INC., 1603 Hart St., Rahway, NJ 07065. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pellets*, in bulk, in tank vehicles, from Edison, NJ, to points in NY, PA, and VT. (Hearing site: New York, NY or Newark, NJ.)

MC 127705 (Sub-74F), filed March 16, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Drawer 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mineral wool insulation*, and (2) *materials and supplies* used in the manufacture and distribution of mineral wool insulation (except commodities in bulk), between the facilities of Guardian Industries, Insulation Division, at Huntington, IN, on the one hand, and, on the other, points in IL, MI, OH, PA, NY, KY, TN, MN, WI, MO, IA, WV, VA, and MD. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 128024 (Sub-11F), filed March 13, 1979. Applicant: MORGAN PORTABLE BUILDING TRANSPORT CORP., 10540 North Central Expressway, Dallas, TX 75231. Representative: Jack L. Coke, Jr., 4555 First National Bank Building, Dallas, TX 75202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *portable buildings*, complete, knocked down or in sections and (2) *component parts, materials, and supplies* used in the construction of portable buildings, (except commodities in bulk), between points in the United States (including AK but excluding HI), under continuing contract(s) with Morgan Portable Building Corporation, Morgan Building Systems, Inc., and Morgan Bldg. Corp., of Dallas, TX. (Hearing site: Dallas, TX.)

MC 134775 (Sub-176F), filed March 16, 1979. Applicant: GUNTER BROS., INC., 19060 Frager Rd., Kent, WA 98031. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. To operate as a *cantract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *air cargo containers, landing gear, fuselage fairing components, and interior aircraft furnishings*, from Kent, WA, to points in the United States (except AK and HI), under continuing contract(s) with Heath Tecna Corporation of Kent, WA. (Hearing site: Seattle, WA.)

MC 134755 (Sub-177F), filed March 19, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *materials and supplies* used in the manufacture and distribution of household equipment, from points in IL and IN, to points in MO. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 135364 (Sub-35F), filed March 16, 1979. Applicant: MORWALL TRUCKING, INC., P.O. Box 76C, R.D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air, gas, and liquid conditioning and handling equipment*, (2) *turbines*, and (3) *materials, equipment, and supplies* used in the manufacture, installation, operation, and distribution of the commodities named in (1) and (2), above (except commodities in bulk), between points in the United States (except AK and HI), under a continuing contract(s) with The Trane Company, of LaCrosse, WI. Condition: Issuance of this certificate is subject to prior or coincidental cancellation, at applicant's written request, of MC–135364 Sub 3 and Sub 25. (Hearing site: Washington, DC.)

MC 135454 (Sub-24F), filed March 19, 1979. Applicant: DENNY TRUCK LINES, INC., 893 Ridge Rd., Webster, NY 14580. Representative: Francis P. Barrett, 60 Adams St., P.O. Box 238, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by grocery houses (except commodities in bulk, in tank vehicles), from Geneva, NY and points in Yates County, NY, to New York City and points in Suffolk County, NY, and points in DE, MD, NJ, OH, PA, and DC, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Rochester or Syracuse, NY.)

MC 136315 (Sub-64F), filed March 12, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22828, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tubular steel poles*, and (2) *iron and steel articles*, from the facilities of A. B. Chance Company, in Harris County, TX, to those points in the United States in and east of TX, OK, KS, NE, SD, and ND. (Hearing site: Houston, TX, or Jackson, MS.)

Note.—Dual operations may be involved.

MC 138104 (Sub-73F), filed March 12, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove St., Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *mineral filler*, in bulk, in tank vehicles, from Batesville, AR, to the facilities of Certainteed Corporation, at or near Dallas, TX. (Hearing site: Dallas or Ft. Worth, TX.)

MC 138635 (Sub-75F), filed March 14, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rubber articles, plastic articles*, and *rubber and plastic products*, from the facilities of Entek Corp., at or near Irving, TX, to points in AL, NC, SC, GA, FL, CA, OR, WA, PA, NJ, and MD; and (2) *materials and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), from points in the United States (except AK, TX, and HI), to the facilities of Entek Corporation at or near Irving, TX. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 138635 (Sub-76F), filed March 14, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the manufacture

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and distribution of venetian blinds (except in bulk), from Montoursville, PA, to Westminster, CA, and Athens, GA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 139495 (Sub-425F), filed March 19, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Ln., Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meat, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Garden City, KS, to points in the United States (except AL and HI), and (2) *materials, supplies*, and *equipment* used or dealt in by meat-packing houses in the reverse direction (except AL and HI) to Garden City, KS, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 140205 (Sub-6F), filed March 12, 1979. Applicant: MOUW TRANSPORTATION, INC., 307 Maple Drive, Sibley, IA 51249. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper bags*, from Sibley, IA, to points in CO, MN, ND, and SD. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 141084 (Sub-14F), filed March 9, 1979. Applicant: NATIONAL FREIGHT LINES, INC., 13023 Arroyo Ave., P.O. Box 1031, San Fernando, CA 91341. Representative: Bill D. Gardner (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, processors, and distributors of chemicals (except commodities in bulk), (1) from points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, SD, SC, TN, TX, VA, WV, and WI, to points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, WY, and (2) from Denver and Grand Junction, CO, Carlsbad, NM, and Green River and Upton, WY, to points in AZ, CA, ID, MT, NV, OR, UT, and WA, under continuing contract(s) with McKesson Chemical Company, of Downey, CA. (Hearing site: Los Angeles, or San Francisco, CA.)

MC 141804 (Sub-195F), filed March 12, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, Ca 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical applicances*, and (2) *parts and accessories* of electrical applicances, from Princeton, KY, to points in TX, CA, WA, and OR. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142754 (Sub-1F), filed March 14, 1979. Applicant: PIROLLO TRANSPORT CO., INC., 6312 Hooker St., Pittsburgh, PA 15206. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor oil, lubricants, and undercoating compounds*, in containers, from Buffalo and North Tonawanda, NY, Emlenton, Farmers Valley, and North Warren, PA, and St. Marys and Congo, WV, to points in GA and FL, under continuing contract(s) with Quaker State Oil Refining Corp., of Oil City, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 144984 (Sub-2F), filed March 12, 1979. Applicant: LAHOMA TRANSPORT, INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, NE 68101. Representative: Duane L. Stromer (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from the facilities of Martin Marietta Cement Co., at or near Tulsa, OK, to points in KS, MO, AR, and those in Sherman, Hansford, Ochiltree, Lipscomb, Moore, Hutchinson, Roberts, Hemphill, Potter, Carson, Gray, Wheeler, Randall, Armstrong, Donley, Collingsworth, Childress, Hardeman, Wilbarger, and Wichita Counties, TX. (Hearing site: Tulsa, OK, or Omaha, NE.)

MC 145644 (Sub-2F), filed March 12, 1979. Applicant: TOTER-TEE TRANSPORTE, INC., P.O. Box 107, Kingsbury, IN 46435. Representative: Philip A. Lee, 120 W. Madison, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between Kingsbury, IN, and Chicago, IL, on the one hand, and, on the other points in MI. (Hearing site: Chicago, IL.)

MC 145814 (Sub-2F), filed March 19, 1979. Applicant: D. A. Bankston, Route 1, Box 327–H, Century, FL 32535. Representative: James E. Hart, Jr., P.O. Box 912, Brewton, AL 36426. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *doors, door hardware, and door accessories*, from the facilities of Jim Walter Doors, a Division of the Celetex Corporation, in Century, FL, to points in CA, CO, ID, NE, OR, UT, WA, MT, NM, AZ, and WY. (Hearing site: Birmingham, AL, or Tallahassee, FL.)

MC 146704 (Sub-1F), filed March 13, 1979. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Avenue, Akron, OH 44216. Representative: Michael L. Moushey, 275 East State Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials*, and (2) *materials, equipment and supplies* used in the manufacture of building materials, between Lodi, OH, and Franklain Park, IL, on the one hand, and, on the other, to points in WV, VA, MD, DE, PA, NY, NJ, MA, CT, RI, VT, NH, ME, MI, IN, OH and DC, under continuing contract(s) with Questor Corporation, of Toledo, OH. (Hearing site: Columbus or Cleveland, OH.)

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Decided: June 13, 1979

By the Commission, Review Board Number Members Carleton, Joyce and Jones.

MC 7840 (Sub-16F). Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper St., Watertown, NY 13601.

MC 48441 (Sub-49F). Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364.

MC 73688 (Sub-92F). Applicant: SOUTHERN TRUCKING CORP., 1500 Orenda Ave., P.O. Box 7195, Memphis, TN 38107.

MC 78687 (Sub-67F*). Applicant: LOTT MOTOR LINES, INC., West Cayuga St. P.O. Box 751, Moravia, NY 13118.

MC 115331 (Sub-502F). Applicant: TRUCK TRANSPORT, INCORPORATED, 29 Clayton Hills Ave., St. Louis, MO 63122.

MC 123387 (Sub-1F*). Applicant: E. E. HENRY, 1923 Sparrow Rd., Chesapeake, VA 23320.

MC 127303 (Sub-64F). Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326.

MC 133085 (Sub-14F*). Applicant: TRENCO, INCORPORATED, 2109 Marydale Ave., P.O. Box 697, Williamsport, PA 17701.

MC 136511 (Sub-60F). Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Rd., Lynchburg, VA 24502.

MC 141914 (Sub-57F*). Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, Oklahoma 74332.

MC 142873 (Sub-1F*). Applicant: DEWEY L. WILFONG, d.b.a. D & W TRUCK LINES, 200 First St., Parsons, WV 26287.

MC 144676 (Sub-2F*). Applicant: M&S TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666.

MC 145950 (Sub-24F*). Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Dr., Waco, TX 76706.

MC 146573 (Sub-7F). Applicant: LA SALLE TRUCKING, INC., P.O. Box 46, Peru, IL 61354.

MC 146890 (Sub-5F*). Applicant: C&E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338.

MC 147451*. Applicant: RAY J. FORNEY, INC., P.O. Box 207, Ashton, IL 61006.

MC 147452*. Applicant: W. D. W. TRUCKING, INC., 2620 S.W. 66th Terrace, Miramar, FL 33023.

The above 17 carriers are represented by: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001.

By applications filed June 14, 1979, the 17 above-named carriers are granted authority to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass products, metal products, plastic products, clay and clay products, feldspar*, and *talc*, (2) *molds and machinery* used in the manufacture of glass products, (3) *bottle coating systems*, (4) *parts and accessories* for the commodities in (2) and (3) above, and (5) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) through (4) above, between the facilities of Flat River Glass Company, Inc., at or near Flat River, MO, on the one hand, and, on the other, points in the United States (except AK and HI), restricted in (1) through (5) above against the transportation of commodities in bulk. (Hearing site: Washington, DC.)

MC 908 (Sub-3F), filed April 5, 1979. Applicant: CONSOLIDATED CARTAGE CO., INC., 4528 South McDowell Avenue, Chicago, IL 60609. Representative: Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of the Colgate Palmolive Co., at Jeffersonville, IN, on the one hand, and, on the other, points in IL. (Hearing site: Chicago, IL.)

Note.—Tacking is authorized at Bridgeview, IL, with carrier's authority in MC–908, issued October 30, 1941, to provide a through service in the transportation of *general commodities*, with the exceptions noted above, between the facilities of the Colgate Palmolive Co., at Jeffersonville, IN, on the one hand, and, on the other, points in TN within 35 miles of Chicago, IL.

MC 21779 (Sub-9F), filed April 6, 1979. Applicant: J. P. GRAHAM TRANSFER, INC., 429 Constitution Boulevard, Fallston, PA 15066. Representative: John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Union Drawn Div. of Republic Steel Corporation, at Beaver Falls, PA, to points in CT, IL, IN, MI, NJ, NY, OH, and those in WI on and south of WI Hwy 60, and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 29079 (Sub-100F), filed March 29, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from points in Allegheny County, PA, to points in IL, IN, KY, MD, MI, MO, NJ, NY, NC, OH, SC, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 29079 (Sub-101F), filed March 29, 1979. Applicant: BRADA MILLER FREIGHT SYSTEMS, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Rockcastle Steel Company, at Mt. Vernon, KY, to points in IL, IN, MD, MI, MO, NJ, NY, NC, OH, PA, SC, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction.

MC 29079 (Sub-102F), filed March 29, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *iron and steel articles*, from the facilities of Doolan Steel, at Martins Ferry, OH, to points in IL, IN, KY, MD, MI, MO, NJ, NY, NC, PA, SC, TN, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 31389 (Sub-280F), filed March 30, 1979. Applicant: McLEAN TRUCKING COMPANY, a corporation, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of General Motors Corporation, at or near Three Rivers and Constantine, MI, as off-route points in conjunction with applicant's otherwise authorized regular-route operations. (Hearing site: Detroit, MI, or Washington, DC.)

MC 31389 (Sub-281F), filed April 2, 1979. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: David E. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Honda of America Mfg., Inc., at or near Marysville, OH, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Columbus, OH or Washington, DC.)

*Dual operations may be involved.

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MC 48958 (Sub-177F), filed April 6, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from points in Jefferson County, CO, to points in AZ, CA, IA, KS, MO, NE, NV, NM, OK, TX, and UT. (Hearing site: Denver, CO.)

MC 78228 (Sub-115F), filed April 6, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA. 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bauxite ore*, in bulk, in dump vehicles, from Baltimore, MD, to Gary, IN, Warren, OH, and Sproul, PA (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 78228 (Sub-116F), filed April 9, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coke and coke breeze*, in bulk, in dump vehicles, from Erie, PA, and Toledo, OH, to points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, VA, WV, PA, OH, KY, IN, MI, IL, WI, MN, IA, MO, and DC. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 82079 (Sub-74F), filed April 4, 1979. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue, SW., Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery, dessert preparations, gumball machines, and gumball machine stands*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Leaf Confectionery, Inc., Tootsie Roll Industries, Inc., and Chicago Candy Association, at Chicago, IL, to Toledo, OH, and points in MI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Lansing, MI, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 87928 (Sub-49F), filed March 27, 1979. Applicant: AUTOMOBILE TRANSPORT, INC., 36555 Michigan Avenue, Wayne, MI 48184. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicles* (except trailers), in initial and secondary movements, in truck service, from Wayne, MI, to points in the United States (except AK and HI). (Hearing site: Detroit, MI.)

MC 93649 (Sub-28F), filed March 29, 1979. Applicant: GAINES MOTOR LINES, INC., P.O. Box 1549, Hickory, NC 28601. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave., & 13th St. NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by drug and cigar stores, (1) from the facilities used by Coty Company, a division of Pfizer Corp., at or near (a) Millville, NJ, and (b) Ballston Spa, NY, to Sanford, NC, and (2) from Philadelphia, PA, Baltimore, MD, New York, NY, and points in NJ within 50 miles of Columbus Circle in New York, NY, to Apex, NC. (Hearing site: New York, NY, or Washington, DC.)

MC 103798 (Sub-32F), filed April 4, 1979. Applicant: MARTIN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, NM 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, (2) *dried milk powder, feed and dried mill powder feed ingredient*, and (3) *commodities* otherwise exempt from economic regulation pursuant to the provisions of 49 U.S.C. 10526(a)(6), when moving in mixed loads with the commodities in (1) and (2) above, from (a) the facilities of Land O'Lakes, Inc., at Hudson, IA, and (b) points in NM and WI, to points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, SD, UT, WA, and WY. (Hearing site: St. Paul, NM.)

MC 103798 (Sub-33F), filed April 9, 1979. Applicant: MARTIN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as defined in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Albert Lea, NM, to points in CA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 106398 (sub-876F), filed April 6, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Aluminum and aluminum products*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 106398 (sub-877F), filed April 6, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Northwestern Steel and Wire, at Sterling, IL, to points in AR, CO, IN, IA, KS, KY, MI, MN, MO, ME, MD, OH, OK, PA, SD, TN, TX, and WI. (Hearing site: Chicago, IL.)

MC 108119 (Sub-137F), filed April 4, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail home improvement stores, retail home furnishings stores, and lumber stores (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Sutherland Lumber Company. (Hearing site: Kansas City, MO, or Minneapolis, MN.)

MC 108119 (Sub-138F), filed April 4, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000

First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *industrial ovens, air cooling equipment, industrial power-washing equipment, and industrial conveyors*, and (2) *materials and supplies used* in the manufacture of the commodities in (1) above, from Columbia, SC, to points in the United States (except AK and HI). (Hearing site: Columbia, SC, or Charlotte, NC.)

MC 108859 (Sub-68F), filed April 3, 1979. Applicant: CLAIRMONT TRANSFER CO., a corporation, 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Sherburne, Washington, and Wright Counties, MN, on the one hand, and, on the other, points in Alger, Baraga, Cheboygan, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties, MI, and Brown, Florence, Forest, Marinette, and Oconto Counties, WI. (Hearing site: Escanaba, MI, or St. Paul, MN.)

Note.—Applicant intends to tack this authority with its otherwise authorized regular-route operations which allow it to serve points in WI, MI, IL, IN, IA, OH, and KY.

MC 111548 (Sub-17F), filed April 9, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28637. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St. NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from Chicago and Jacksonville, IL, to points in NC and SC. (Hearing site: Chicago, IL.)

MC 113678 (Sub-778F), filed March 28, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *floor coverings*, from Whitehall, PA, to points in CO, MT, and NM.

MC 114028 (Sub-25F), filed April 9, 1979. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pig skins*, from Detroit, MI, to Dubuque, IA. (Hearing site: Des Moines, IA.)

MC 114098 (Sub-50F), filed April 6, 1979. Applicant: LOWTHER TRUCKING COMPANY, INC., P.O. Box 3117 C.R.S., Rock Hill, SC 29730. Representative: Lawrence E. Lindeman, Suite 1032 Pennsylvania Bldg., Pennsylvania, Ave. & 13th St. NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between points in Georgetown County, SC, and Surry County, NC. (Hearing site: Charlotte, NC.)

Note.—Dual operations may be involved.

MC 114969 (Sub-85F), filed April 6, 1979. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, Milford, OH, 45150. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer*, (1) from Mt. Vernon, IN, to points in IL, and (2) from Henderson, KY, to points in IL and IN. (Hearing Site: Indianapolis, IN, or Chicago, IL.)

MC 117068 (Sub-113F), filed March 26, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, in containers, from points in Jefferson County, CO, to points in IA, MO, and WA, and (2) *materials and supplies* used in the manufacture and distribution of malt beverages and malt beverage containers, (except commodities in bulk), in the reverse direction. (Hearing site: Denver, CO.)

MC 117439 (Sub-65F), filed April 4, 1979. Applicant: BULK TRANSPORT, INC., 5500 Florida Boulevard, P.O. Box 1429, Baton Rouge, LA 70821. Representative: Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from Geismar, LA, to points in AL, AR, MS, and TX. (Hearing site: Baton Rouge or New Orleans, LA.)

MC 117878 (Sub-14F), filed April 5, 1979. Applicant: DWIGHT CHEEK dba DWIGHT CHEEK TRUCKING, 4811 East 25th Street, Amarillo, TX. Representative: Thomas F. Sedberry, 801 Vaughn Building, Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *inedible meats, inedible meat products, and inedible meat byproducts*, (except hides and commodities in bulk, in tank vehicles), from the facilities of Consolidated Pet Foods, Inc., at or near Amarillo, TX, to the facilities of Kal Kan Foods, Inc., at or near Vernon, CA. (Hearing site: Amarillo, TX.)

MC 119789 (Sub-568F), filed April 6, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *outdoor recreational equipment, and heating and air conditioning equipment, and (2) parts* for the commodities in (1) above, from New Braunfels, TX, to points in the United States (except AK and HI), and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), in the reverse direction. (Hearing site: Wichita, KS.)

MC 119789 (Sub-569F), filed April 6, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC. P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as appplicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid plastic*, in containers, in vehicles equipped with mechanical refrigeration, from Houston, TX, and Geismar, LA, to Atlanta, GA, Seattle, WA, Portland, OR, Sacramento, CA, Minneapolis, MN, Niles, MI, St. Louis, MO, Pittsburgh, PA, and Buffalo, NY. (Hearing site: Los Angeles, CA.)

MC 119988 (Sub-197F), filed April 4, 1979. Applicant: GREAT WESTERN TRUCKING, INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T.

Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between the facilities of Purex Corporation, at Houston, TX, and in Dallas County , TX, on the one hand, and, on the other, points in NM, OK, AR, and LA, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Dallas, TX.)

MC 120869 (Sub-2F), filed April 9, 1979. Applicant: CALIFORNIA TANK LINES, INC., 3105 McKinley Avenue, Stockton, CA 95206. Representative: John G. Lyons, 220 Bush Street, Room 1418, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *anhydrous ammonia*, in bulk, from Sacramento, Hercules, Lathrop, Stockton, and Helm, CA, to points in NV, and those in Josephine, Jackson, Klamath, Lake, Harney, and Malheur Counties, OR. (Hearing site: San Francisco, CA.)

MC 121489 (Sub-15F), filed March 12 , 1979. Applicant: NEBRASKA-IOWA XPRESS, INC., 3219 Nebraska Avenue, Council Bluffs, IA 51501. Representative: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Denver, CO, and Scottsbluff, NE: from Denver over Interstate Hwy 25 to Cheyenne, WY, then over Interstate Hwy 80 to junction NE Hwy 71, then over NE Hwy 71 to Scottsbluff, and return over the same route, and (2) between Denver, CO, and Kimball, NE; from Denver over Interstate Hwy 76 to junction Hwy CO Hwy 71, then over CO Hwy 71 to the CO-NE State line, then over NE Hwy 71 to Kimball, and return over the same route, (A) serving all intermediate points in NE on Routes (1) and (2) above, and (B) serving points in NE as off-route points in connection with (1) and (2) above (except (a) Craig, Oakland, Lyons, Walthill, and Dakota City, NE, and points on U.S. Hwy 73 between Omaha and Dakota City, and (b) Dunbar, Peru, Brock, Brownsville, Johnson, Nemaha, Stella, Shubert, Barada, Salem, Rulo, and Hwy 73 and 75 between Omaha and Falls City, (c) Lexington and Grand Island, NE, (d) Bushnell, NE, and all intermediate points between Lexington and Bushnell on U.S. Hwy 30, and (e) Lyman, Ogallala, and Henry, NE, and all intermediate points between Ogallala and Henry, on U.S. Hwy 26). (Hearing site: Denver, CO.)

MC 121568 (Sub-12F), filed March 28, 1979. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Avenue, Nashville. TN 37211. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles, and materials, equipment, and supplies*, used in the sale or distribution of plastic articles, from the facilities of The Tupperware Company, at or near Halls, TN, to points in TX, and (2) *materials, equipment, and supplies* used in the manufacture, sale, or distribution of the commodities in (1) above, from points in TX, LA, and AR, to the facilities of The Tupperware Company, at or near Halls, TN. (Hearing site: Nashville, TN.)

MC 123048 (Sub-435F), filed April 6, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agricultural, industrial, and construction equipment*, (2) *attachments, accessories, and parts* for the commodities in (1) above, (3) *fabricated steel products*, frm Walhalla, ND, to points in the United States (except AK and HI); and (4) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1), (2), and (3) above, (except commodities in bulk), in the reverse direction. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 124078 (Sub-956F), filed April 4, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *limestone and limestone products*, between points in Sussex County, NJ, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NY, NC, OH, PA, RI, TN, VA, WV, and DC. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 127539 (Sub-74F), filed April 6, 1979. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, in vehicles equipped with mechanical refrigeration, from points in CA and OR, to Seattle, WA, restricted to the transportation of traffic having a subsequent movement by water. (Hearing site: Seattle, WA.)

MC 129759 (Sub-27F), filed April 5, 1979. Applicant: TRIANGLE TRUCKING CO., a corporation, P.O. Box 490, McKees Rock, PA 15136. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cable, wire, rods, pipe, pipe fittings*, and *parts* for pipe and pipe fittings, from the facilities of Triangle Industries, Inc., at New Brunswick and South Brunswick, NJ, to points in the United States (except IL, IN, IA, KY, MI, MN, MO, OH, WV, WI, AK, and HI); (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction, and (3)(a) *aluminum wire and cable, copper wire and cable, plastic granules*, and *electric cord sets*, and (b) materials and supplies used in the manufacture and distribution of the commodities in (3)(a) above, (except commodities in bulk, in tank vehicles), between the facilities of Triangle Industries, Inc., at or near Jewett City and Montville, CT, on the one hand, and, on the other, points in the United States (except IL, IN, IA, KY, KS, MI, MN, MO, OH, OK, TN, TX, VA, WI, WV, AK, HI, and those points in PA on and west of U.S. Hwy 219), under continuing contract(s) with Triangle Industries, Inc., of New Brunswick, NJ. (Hearing site: Washington, DC.)

MC 130559F, filed April 10, 1979. Applicant: CENTRAL TICKET & TRAVEL AGENCY, LTD., 984 E. Market Street, Georgetown, DE 19947. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To engage in operations, in interstate or foreign commerce, as a *broker*, at Georgetown, DE, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in Sussex County, DE, on the one hand, and, on the other, points in the United States (including AK and HI). (Hearing site: Georgetown, DE.)

MC 130569F, filed April 17, 1979. Applicant: BRYANT AND GARRETT TRAVEL AGENCY, First National Bank Annex, Rome, GA 30161. Representative: Martha A. Bryant (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Rome, GA, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at Rome, GA, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Atlanta, GA.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, N.Y.*, 54 M.C.C. 291 (1952).

MC 133689 (Sub-269F), filed April 6, 1979. Applicant: OVERLAND EXPRESS, INC. 719 First Street, SW, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), (a) from Hammond, IN, and points in ND, SD, NE, KS, MN, IA, MO, WI, and IL, to those points in the United States in and east of ND, SD, NE, KS, OK, AR, and LA, and (b) from points in IN (except Hammond), OH, MI, PA, NY, MD, DE, NJ, CT, MA, RI, NH, VT, and ME, to points in ND, SD, NE, MN, KS, IA, MO, WI, and IL. (Hearing site: St. Paul, MN.)

MC 134689 (Sub-4F), filed April 6, 1979. Applicant: LA ROSA DEL MONTE EXPRESS, INC., 1133–1135 Tiffany Street, Bronx, NY 10459. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *used household goods*, between points in the Los Angeles, CA. commercial zone, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: New York, NY.)

MC 134769 (Sub-4F), filed April 9, 1979. Applicant: BILL BURTON & SONS, INC., P.O. Box 404, East Victory Way, Newberry, MI 49868. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber products*, from points in Alger, Chippewa, Delta, Mackinac, Schoolcraft, and Luce Counties, MI, to those points in the Unites States in and east of ND, SD, NE, KS, OK, and TX (except WI, MI, IL, IN, and OH.)

MC 134888 (Sub-9F), filed April 5, 1979. Applicant: MOROSA BROS. TRANSPORTATION CO., a corporation, 4800 Stine Road, Bakersfield, CA 93309. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ink*, in bulk, from Bakersfield, CA, to points in AZ, OR, WA, MT, ID, UT, NV, CO, and NM. (Hearing site: Los Angeles or Bakersfield, CA.)

MC 135598 (Sub-22F), filed March 29, 1979. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carbon blocks*, from Keokuk, IA, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 138018 (Sub-49F), filed April 5, 1979. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Representative: Joseph W. Harvey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cleaning, washing, and scouring compounds*, (except in bulk, in tank vehicles), from Joliet, IL, to points in CA. (Hearing site: Minneapolis, MN, of Chicago, IL.)

MC 138469 (Sub-133F), filed March 28, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at (a) Albert Lea, MN, and (b) Omaha, NE, to points in CA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Dallas, TX or Kansas City, MO.)

MC 138469 (Sub-141F), filed April 6, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Kenneth E. McLinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cleaning, washing, polishing, and scouring compounds*, and (2) *waxes, janitorial supplies, weed killers, and sodium hypochlorite solutions* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Industrial Chemical Laboratories, Inc., at Omaha, NE, to Oklahoma City, OK. (Hearing site: Omaha, NE, or Oklahoma City, OK.)

MC 140829 (Sub-213F), filed April 6, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, and (2) *materials, equipment, and supplies* used in the manufacture of foodstuffs (except commodities in bulk, in tank vehicles), from Lowell, MA, to points in AR, IN, MN, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-215F), filed April 9, 1979. Applicant: CARGO, INC., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household products*, from the facilities used by S.C. Johnson and Son, Inc., at or near Waxdale and Racine, WI, to points in AR, CT, IA, KS, LA, ME, MA, MO, NE, NH, NJ, NY, OK, PA, RI, TX, and VT,

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restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-224F), filed April 6, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are manufactured and distributed by manufacturers of paper and paper products (except commodities in bulk, in tank vehicles), from the facilities of Fletcher Paper Company, at or near Alpena, MI, to points in AR, IA, KS, LA, MN, MO, NE, ND, SD, TX, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 141568 (Sub-2F), filed April 6, 1979. Applicant: S & S TRANSPORT, INC., 57678 CR 3, Elkhart, IN 46514. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand and gravel*, in dump vehicles, from points in Cass County, MI, and Elkhart County, IN, to Chicago, IL, under continuing contract(s) with Harvey Cement Products, Inc., of Harvey, IL, and Prairie Material Sales, Inc., of Bridgeview, IL. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 142508 (Sub-68F), filed March 29, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by hardware, department, agricultural supply, and motor vehicle parts and supplies stores, and grocery and food business houses (except commodities in bulk), from points in MA and Burlington and St. Albans, VT, to points in CO, IL, IN, IA, MI, MN, MO, NE, OH, OK, KS, TX and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Boston, MA, or Washington, DC.)

MC 142508 (Sub-72F), filed April 9, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the facilities of Iowa Beef Processors, Inc., at Dakota City, NE, to points in IL, WI, and CO, and (2) from Fort Morgan, CO, to Dakota City, NE, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 142998 (Sub-4F), filed March 19, 1979. Applicant: LAUGHLIN LINES, INC., P.O. Box 11886, Reno, NV 89510. Representative: Harley E. Laughlin, Suite 264, Airport Plaza, 1755 E. Plumb Lane, Reno, NV 89502. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Hub West, Inc., as Longshot, NV, on the one hand, and, on the other, points in the United States (including AK, but excluding HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Reno, NV.)

MC 143009 (Sub-2F), filed March 30, 1979. Applicant: RICHARD E. DURGIN, d.b.a., O'CONNORS EXPRESS, A337 Beckwith Road, Pine City, NY 14871. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Binghamton, NY, to Elmira, Big Flats, Horseheads, Corning, Painted Post, Campbell, and Bath, NY, and (2) between Elmira, NY, on the one hand, and, on the other, Mansfield and Wellsboro, PA, restricted in (1) and (2) above to the transportation of traffic having a prior or subsequent movement by air, under continuing contract(s) with Federal Express Corporation, of Memphis, TN. (Hearing site: Elmira or Binghamton, NY.)

MC 143058 (Sub-8F), filed April 9, 1979. Applicant: TRANS WEST CARRIERS, INC., 14416 Slover Avenue, Fontana, CA 92335. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by manufacturers of toilet articles and cosmetics (except commodities in bulk), from Monrovia and Pasadena, CA, to points in AZ, NM, TX, UT, NV, CA, ID, OR, and WA, under a continuing contract(s) with Avon, of New York, NY. (Hearing site: Los Angeles, CA.)

MC 143059 (Sub-73F), filed April 5, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th and Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber products*, from the facilities of Deltic Farms & Timber Co., Inc., at or near Ola and Waldo, AR, to those points in the United States in and west of ND, SD, NE, KS, OK, and TX, (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Louisville, KY, or Washington, DC.)

MC 144008 (Sub-1F), filed April 6, 1979. Applicant: STORE TRANSFER & DELIVERY SERVICES, INC., 226 Mill Street, Poughkeepsie, NY 12601. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by retail department stores* (except commodities in bulk), (1) between New York, NY, on the one hand, and, on the other, Terre Haute, IN, under continuing contract(s) with Meis Brothers, Inc., of Terre Haute, IN; (2) between New York, NY, on the one hand, and, on the other, Columbia, SC, under continuing contract(s) with Columbia Shippers Association, of Columbia, SC; (3) between New York, NY, on the hand, and, on the other, Atlanta and Waycross, GA, Beaufort, SC, Talladega, AL, and Mathis, TX, under continuing contract(s) with

Kenwin Shops, Inc., of New York, NY; (4) between New York, NY, on the one hand, and, on the other, Charlotte, NC, Augusta, GA, and Mobile AL, under continuing contract(s) with Mercantile Stores, Inc., of New York, NY; and (5) between New York, NY, on the one hand, and, on the other, Lansing, MI, under continuing contract(s) with J. W. Knapp, of Lansing, MI. (Hearing site: New York, NY.)

MC 144018 (Sub-4F), filed April 6, 1979. Applicant: ROBERT L. DRINKARD TRUCKING, INC., P.O. Box 2951, Eugene, OR 97403. Representative: Phillip G. Skofstad, P.O. Box 594, Gresham, OR 97030. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fibrous fuel pellets*, from Brownsville, OR, to points in WA and ID. (Hearing site: Portland, OR.)

MC 144678 (Sub-8F), filed April 4, 1979. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th Street, Fifth Floor, Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City, MO, and Wichita, KS, over Interstate Hwy 35, and (2) between junction Interstate Hwy 35 and U.S. Hwy 50, at or near Emporia, KS, and Wichita, KS: from junction Interstate Hwy 35 and U.S. Hwy 50, over U.S. Hwy 50 to junction Interstate Hwy 135, and then over Interstate Hwy 135 to Wichita, and return over the same route, serving junction of Interstate Hwy 35 and U.S. Hwy 50 for purposes of joinder only, and serving no intermediate points in (1) and (2) above. (hearing site: Kansas City, MO, or Wichita, KS.)

MC 144709 (Sub-8F), filed April 9, 1979. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. To operate as a *contract carrier*, by motor vehicle in interstate of foreign commerce, over irregular routes, transporting (1) *activated carbon*, in dump vehicles, from Neville Island, PA, and Catlettsburg, KY, to points in ME, NH, VT, MA, AL, FL, LA, TX, and WI, and (2) *spent carbon*, in dump vehicles, in the reverse direction, under continuing contact(s) in (1) and (2) above with Calgon Corporation, of Pittsburgh, PA. (Hearing site: Newark, NJ, or New York, NY.)

MC 145199 (Sub-2F), filed April 4, 1979. Applicant: WESTERFELD TRUCK LEASING, INC., R.R. 10, Greensburg, IN 47240. Representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between Greensburg and Indianapolis, IN, St. Louis, MO, and Columbus and Cincinnati, OH, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, LA, MS, MO, NC, OH, SC, TN, TX, VA, WV, the Lower Peninsula of MI, and those points in PA on and west of U.S. Hwy 219, restricted to the transportation of traffic originating at or destined to the facilities of Kroger Co., under continuing contract(s) with Kroger Co., of Cincinnati, OH. (Hearing site: Indianapolis, IN, or Cincinnati, OH.)

MC 145878 (Sub-1F), filed March 28, 1979. Applicant: JOHNNY KNOL TRUCKING COMPANY, INC., Route #1, Box 105–X, Oklahoma City, OK 73111. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *polyvinly chloride resin*, in bulk, from Oklahoma City, OK, to Beeville, TX, and (2) *polyvinyl chloride compound*, in bulk, from Beeville, TX, to Oklahoma City, OK, under continuing contract(s) with Modern Pipe, Inc., of Oklahoma City, OK. (Hearing site: Oklahoma City, OK.)

MC 146248 (Sub-2F), filed April 9, 1979. Applicant: QUALITY HAULERS, INC., 606 Hilda Street, Jefferson City, MO 65101. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *beer*, from Milwaukee, WI, and Omaha, NE, to Camdenton and Jefferson City, MO, (b) *polystyrene plastic coolers*, from Dallas, TX, to Camdenton and Jefferson City, MO, under continuing contract(s) with Quality Wholesalers, Inc., of Jefferson City, MO, (2) *scrap paper materials for recycling*, from Jefferson City, MO, to points in AR, IL, IA, NE, OK, and WI, under continuing contract(s) with Missouri Reclamation Services, of Eugene, MO, and (3) *polystyrene regrinds* (a) from Jefferson City, MO, to points in OH, and (b) from Cincinnati, OH, to points in IL and WI, under continuing contract(s) with Poly Recyclers, of Cincinnati, OH. (Hearing site: Jefferson City or St. Louis, MO.)

MC 146548 (Sub-1F), filed March 22, 1979. Applicant: BROKERS DISTRIBUTING, INC., 1020 Hall, SW., Grand Rapids, MI 49503. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, and (2) *materials* used in the manufacture and distribution of the commodities in (1) above, from the facilities of S.D. Warren Paper Company, Division of Scott Paper Company, at Muskegon, MI, to points in FL, UT, AZ, CA, WA, and TX. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 147318F, filed March 7, 1979. Applicant: DEEP SOUTH TRUCKING, INC., Hwy 11 North, P.O. Box 304, Purvis, MS 39475. Representative: Kent F. Hudson, 202 Main Street, P.O. Box 696, Purvis, MS 39475. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *titanium dioxide*, from the facilities of E. I. du Pont de Nemours & Company, in Hancock County, MS, to points in PA, MI, AL, and LA. (Hearing site: Jackson, MS.)

[FR Doc. 79-23840 Filed 8-1-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Floodplain Management and Wetlands Protection

AGENCY: Department of Justice.

ACTION: Draft Guidelines.

SUMMARY: This notice provides the Department of Justice's draft guidelines for complying with Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands).

DATE: Comments by August 31, 1979.

ADDRESS: Comments should be directed to: Anne H. Shields, Land and Natural Resources Division, Room 2613, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Anne H. Shields, Land and Natural Resources Division, Room 2613, 10th and

Pennsylvania Avenue, NW.,
Washington, D.C. 20530 (202–633–3743).

SUPPLEMENTARY INFORMATION: These draft guidelines are patterned on the Floodplain Management Guidelines for Implementing Executive Order 11988, published by the United States Water Resources Council (43 F.R. 6030) and should be used by agencies within the Department for preparing program specific guidelines if necessary. These guidelines constitute the Department's policy and procedures for implementation of the Executive Orders. Final guidelines will be published in the Federal Register.

Anne H. Shields,

Attorney, Division Control Officer.

August 1, 1979.

FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION PROCEDURES

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Section 1—Purpose

These guidelines set forth procedures to be followed by the Department of Justice to implement Executive Order 11988, Floodplain Management and Executive Order 11990, Protection of Wetlands. (The Orders.)

Section 2—Policy

It is the Department of Justice's policy to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and floodplains and to avoid direct or indirect support of new construction in floodplains and wetlands wherever there is a practicable alternative. The Department will provide leadership and take affirmative action to carry out the Orders.

It is the Department of Justice's intention to integrate these procedures with those required under statutes protecting the environment, such as the National Environmental Policy Act (NEPA). Whenever possible, the procedures detailed herein should be coordinated with other required documents, such as the environmental imnpact statement (EIS) or environmental assessment required under NEPA so that unnecessary paperwork can be eliminated.

Section 3—References

A. Unified National Program for Floodplain Management, Water Resources Council, which is incorporated in these guidelines.

B. Water Resources Council Guidelines for Floodplain Management Guidelines, Water Resources Council, 1978 (43 FR 6030).

C. National Flood Insurance Act of 1968, as amended (42 U.S.C. 3001 *et seq.*) and NFIP criteria.

D. Flood Disaster Protection Act of 1973 (Pub. L. 93–234, 87 Stat. 975).

E. National Environmental Policy Act of 1969, as amended (43 U.S.C. 4321 *et seq.*) (NEPA).

Section 4—Definitions

Throughout this document, the following basic definitions shall apply:

Action—any Federal activity including: "* * * (1) acquiring, managing and disposing of Federal lands and facilities; (2) providing federally undertaken, finances, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

Agency—an executive department, a government corporation, or an independent establishment and includes the military departments.

Base Flood—is that flood which has a one percent chance of occurence in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

Base Floodplain—the 100-year floodplain (one percent chance floodplain). Also see definition of floodplain.

Channel—a natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water.

Critical Action—any activity for which even a slight chance of flooding would be too great.

Facility—any man-made or man-placed item other than a structure.

Flood or Flooding—a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Fringe—that portion of the floodplain outside of the regulatory floodway (often referred to as "floodway fringe").

Floodplain—the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (one percent chance floodplain). The critical action floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

Floodproofing—the modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out or to reduce effects of water entry.

Minimize—to reduce to the smallest possible amount or degree.

One Percent Chance Flood—the flood having one chance in 100 of being exceeded in any one-year period (a large flood). The likelihood of exceeding this magnitude increases in a time period longer than one year. For example, there are two chances in three of a larger flood exceeding the one percent chance flood in 100-year period.

Practicable—capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost or technology.

Preserve—to prevent modification to the natural floodplain environment or to maintain it as closely as possible to its natural state.

Regulatory Floodway—the area regulated by Federal, State or local requirements; the channel of a river or other watercourse and the adjacent land areas that must be reserved in an open manner, i.e., unconfined or unobstructed either horizontally or vertically, to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the NFIP).

Restore—to re-establish a setting or environment in which the natural functions of the floodplain can again operate.

Structures—walled or roofed buildings, including mobile homes and gas or liquid storage tanks that are primarily above ground (as set by the NFIP).

Wetlands—"those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds" (as defined in Executive Order 11990, Protection of Wetlands).

Section 5—Responsibilities

A. Assistant Attorney General, Lands and Natural Resources Division.

1. Has overall responsibility for ensuring that the Department's responsibilities for complying with the Orders are carried out.

2. Will ensure that the Water Resources Council, the Council on Environmental Quality, and the Federal Insurance Agency are kept informed of the Department's execution of the Orders, as necessary.

3. Will determine, and revise on a continuing basis, which agencies within the Department should take further steps, such as the promulgation of program specific procedures, to comply with the Orders. Considerations for making this selection are whether an agency, division, or office:

a. acquires, manages, and disposes of federal lands and facilities;

b. provides federally undertaken, financed or assisted construction and improvements;

c. conducts federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

4. Will review and approve agency procedures for complying with the Orders.

B. Heads of agencies, divisions, offices.

1. Responsible for preparing program specific guidelines or procedures where necessary to comply with the Orders and for updating these procedures as required.

2. Will maintain general supervision over any new construction planning within the agency to see that the policy considerations and procedural requirements contrained herein are followed in the planning process.

3. Will furnish, with all requests for new authorization or appropriations for proposals to be located in floodplains or wetlands, a statement that the proposal is in accord with these Orders.

4. Will provide information to applicants for licenses, permits, loans or grants in areas in which floodplain and wetland requirements may have to be met.

5. Will provide conspicuous notice of past flood damage and potential flood hazard on structures under the agency's control and used by the general public.

If responsible for lease, easement, right-of-way, or disposal of federal property in a floodplain ore wetland to non-federal public or private parties, will:

a. reference uses in the conveyance that are restricted under identified Federal, state or local floodplain regulations; and

b. attach other appropriate restrictions; or

c. refuse to convey.

Section 6—Procedures

Each agency, division, or office qualifying under any of the considerations listed above [1.5A(3)] should complete the following steps before taking any action that could have adverse impacts on floodplains or wetlands or support, directly or indirectly, development in floodplains or wetlands.

A. Determine whether proposed agency action is located in or will affect a floodplain or wetland. Federal Insurance Administration floodplain maps are established as the minimum standards for making this determination.

B. *Notice:* The public should be informed of the proposed action either in or impacting on the floodplain or wetland. Procedures adopted should identify the audience to whom notice will be directed and the means of notification. The notice must be given before the action is taken and resulting comments should be integrated into the decision-making process. Agencies subject to OMB A–95 budget review must provide the required notice explaining the proposed action.

C. *Assessment:* If the agency determines a proposed action is located in or affects a floodplain or wetland, a floodplain/wetlands assessment shall be undertaken. For those actions where an evironmental assessment (EA) or environmental impact statement (EIS) is necessary, the floodplain/wetlands assessment shall be prepared concurrently with these analyses and shall be included in the EA or EIS. In other cases, a "floodplain/wetlands assessment" shall be prepared. Assessments shall consist of a description of the proposed action, a discussion of its effect on the floodplain/wetlands, description of the alternatives considered, and shall also state whether the one selected conforms to state and local guidelines.

D. *Public Review:* For proposed actions impacting floodplain/wetlands where an EA or EIS is prepared, the opportunity for public review will be provided through the NEPA notice provisions where appropriate. In other cases, an equivalent public notice of the floodplain/wetlands assessment shall be made.

E. *Minimize, Restore or Preserve:* If there is no practicable alternative to locating in or affecting the floodplain/wetlands, steps should be taken to minimize the effects (including the use of construction criteria of the National Flood Insurance Program) and to restore and preserve the natural and beneficial values of the floodplain or wetlands.

F. *Reevaluation and Decision:* After consideration of alternative actions, the agency shall select the desired alternative. Further public notice shall be given for any action in or affecting the floodplain/wetlands. Notice should be accompanied by a Statement of Findings, including:

1. The reasons why this action was chosen;

2. Description of significant facts leading to the decision;

3. Whether the proposed action conforms to applicable State or local floodplain protection standards;

4. Statement as to steps taken to minimize the effects and to preserve the natural or beneficial values of the floodplain/wetlands.

If applicable, the Statement of Findings may be incorporated in the final EIS or environmental impact appraisal. In other cases, notice should be placed in the Federal Register.

Section 7—Implementation

Agencies and divisions within the Department of Justice shall amend existing regulations and procedures, as appropriate, to incorporate the policy and procedures set forth in these guidelines. Such amendments will be made within 6 months of final publication of these guidelines.

Section 8—Exception

Nothing in these guidelines shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

[FR Doc. 79–24093 Filed 8–1–79; 10:17 am]
BILLING CODE 4410–01–M

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 150
Thursday, August 2, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 1, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda, Item No., and Subject

Cable Television—3—Title: Docket 20553: A rulemaking proceeding relating to the carriage of "speciality" stations by cable television systems. Summary: This proceeding relates to the carriage of "speciality" stations by cable television systems. In an earlier decision the Commission exempted from the cable television signal carriage limits, stations carrying significant amounts of foreign language, religious or automated programming. The proceeding was left open for the purpose of possible inclusion within the "speciality" definition of stations carrying ethnic programming or subscription television programming. The Commission has since, in Dockets 20988 and 21284, proposed to delete all of the signal carriage limits raising the question as to what, if any, further action needs to be taken in this "speciality" station proceeding.

Additional information concerning this item may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: July 31, 1979.

[S-1538-79 Filed 7-31-79; 2:59 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 1, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following the open meeting which is scheduled to commence at 9:30 a.m.

CHANGES IN THE MEETING: Additional items to be considered.

Agenda, Item No., and Subject

General—3 and 4—Discussion of Administrative and Personnel Matters.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: July 31, 1979.

[S-1539-79 Filed 7-31-79; 2:59 pm]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 1, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: ADDITIONAL ITEM TO BE CONSIDERED.

Agenda, Item No., and Subject

Assignment and transfer—5—Title: Applications (BAL-781117EB and BALH-781117EC) for voluntary assignment of the licenses of stations WDAS-AM-FM, Philadelphia, Pennsylvania, from Max M. Leon, Inc. to Unity Broadcasting Network-Penna., Inc. Summary: The Commission will generally consider the qualifications of the applicants to the exclusion of any matters involving the merits of the WDAS-AM—FM license renewal proceeding (BC Docket Nos. 79-30 and 79-31).

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: July 31, 1979.

[S-1540-79 Filed 7-31-79; 2:59 pm]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 1, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following items have been deleted:

Agenda, Item No., and Subject

General—6—Title: Petition for waiver of §§ 15.4(m) and 15.7 filed by Texas Instrument Inc. on February 26, 1979. Summary: FCC considers petition filed by TI to waive §§ 15.4 and 15.7 to permit immediate marketing of a personal computer and a stand alone modulator while a rule change to this effect is waiting final action by the Commission. Rule change is proposed in RM-3328.

Cable Television—7—*"Response to Commission Request for Information", filed by Station KIRO-TV (CBS, Channel 7), Seattle, Washington, concerning various cable systems in Seattle, Washington.* The issue raised herein is: Should KIRO receive network program nonduplication on cable systems in its area against imported Canadian signals which prerelease some American network programming? In the two most recent opinions, the Commission, reacting to an earlier order issued by the United States Court of Appeals, held that the problem of Canadian prerelease presented as serious a threat to the local, American broadcaster as simultaneous duplication. However, additional information was sought from the parties concerning economic impact. This item deals with the new submissions.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office. Telephone number (202) 632-7260.

Issued: July 31, 1979.

[S-1541-79 Filed 7-31-79; 2:59 pm]

BILLING CODE 6712-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, July 30, 1979, the Corporation's Board of Directors determined, on motion of Acting Chairman John G. Heimann (Comptroller of the Currency), seconded by Director William M. Isaac (Appointive), that Corporation business required the addition of the following matters to the agenda for consideration at the meeting, on less than seven days' notice to the public:

Applications of Scotiabank de Puerto Rico (In Organization), San Juan (Hato Rey), Puerto Rico, for Federal deposit insurance; for consent to merge with Banco Mercantil de Puerto Rico, Inc., San Juan (Rio Piedras), Puerto Rico; for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Puerto Rican branches of The Bank of Nova Scotia, Halifax, Canada, under the charter and with the title of "Scotiabank de Puerto Rico"; for consent to establish the three offices of Banco Mercantil de Puerto Rico, Inc., and the four Puerto Rican branches of The Bank of Nova Scotia as branches of the resultant bank; and for consent to designate the San Juan (Hato Rey) branch of The Bank of Nova Scotia as the main office of the resultant bank.

A Legal Division memorandum dated July 20, 1979, in connection with the receivership of The Farmers Bank of Petersburg, Petersburg, Kentucky.

The Board further determined, by the same majority vote, that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act"; and that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: July 30, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1536-79 Filed 7-31-79; 11:56 am]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m. on Monday, August 6, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Memorandum proposing an amendment to the Corporation's contract with Price-Waterhouse & Co. for the design and implementation of the Liquidation Accounting Subsystem.

Reports of Committees and Officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Investment Management Report dated June 30, 1979.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389-4425.

[S-1544-79 Filed 7-31-79; 3:18 pm]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m. on Monday, August 6, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal Deposit Insurance:

Willamette Falls State Bank, a proposed new bank to be located at the southeast corner of the intersection of Washington Street and 8th Avenue, Oregon City, Oregon, for Federal deposit insurance.

Bank of Poulabo, a proposed new bank to be located at 305 Hostmark Streeet, Poulabo, Washington, for Federal deposit insurance.

Application for consent to merge and establish branches:

First Marine Bank & Trust Company of the Palm Beaches, Riviera Beach, Florida, an insured State nonmember bank, for consent to merge with First Marine National Bank and Trust Company of Lake Worth, Lake Worth, Florida, and First Marine National Bank & Trust Company, Jupiter-Tequesta, Tequesta, Florida, under the charter and title of "First Marine Bank & Trust Company of the Palm Beaches," and for consent to establish the six offices of the two banks being acquired as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,972-SR. American Bank & Trust Company, New York, New York.

Case No. 43,969-L. American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Case No. 43,993-NR. United States National Bank, San Diego, California.

Case No. 43,994-L. Northern Ohio Bank, Cleveland, Ohio.

Case No. 43,995-L. First State Bank of Northern California, San Leandro, California.

Memorandum re: Citizens State Bank, Carrizo Springs, Texas.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Grievance Officer's report and recommendations with respect to the formal grievance of a Corporation employee.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389-4425.

[S-1545-79 Filed 7-31-79; 3:18 pm]

BILLING CODE 6714-01-M

8

FEDERAL ELECTION COMMISSION.

"FEDERAL REGISTER" NO. 1485.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, August 2, 1979, at 10 a.m.

CHANGE IN MEETING: This meeting has been cancelled

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, telephone: 202-523-4065.

Lena L. Stafford,

Acting Secretary to the Commission.

S-1535-79 Filed 7-31-79; 11:56 am]

BILLING CODE 6715-01-M

9

FEDERAL MARITIME COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 44345, July 27, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., August 1, 1979.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

2. Docket No. 78–51: Agreement No. 10349—A Cargo Revenue Pooling and Sailing Agreement—Argentina/United States Atlantic Trade; and Docket No. 78–52: Agreement No. 10346—A Cargo Revenue Pooling and Sailing Agreement—Argentina/United States Gulf Trade—Compliance with the Commission's Report.

[S–1543–79 Filed 7–31–79; 3:18 pm]

BILLING CODE 6730–01–M

10

July 31, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., August 7, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Olga Coal Company, HOPE 79–113–P (Petition for Discretionary Review).
2. Texas Utilities Generating Company, DENV 79–82–P (Petition for Discretionary Review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–1534–79 Filed 7–31–79; 11:14 am]

BILLING CODE 6820–12–M

11

FEDERAL TRADE COMMISSION.

TIME AND DATE: 1 p.m., Wednesday, September 26, 1979.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: open.

MATTER TO BE CONSIDERED: Oral Presentation in Trade Regulation Rule for the Hearing Aid Industry.

CONTACT PERSON FOR MORE INFORMATON: Ira J. Furman, Office of Public Information, (202) 523–3830, recorded message, (202) 523–3806.

[S–1531–79 Filed 7–31–79; 10:07 am]

BILLING CODE 6750–01–M

12

INTERNATIONAL TRADE COMMISSION: USITC SE–79–32.

TIME AND DATE: 10 a.m., Thursday, August 16, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary: a. Sealant compositions (Docket No. 586).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–1532–79 Filed 7–31–79; 10:51 am]

BILLING CODE 7020–02–M

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: July 31; August 6 and 7, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Tuesday, July 31, 12:30 p.m.

Additional Item

Continuation of Discussion of Issues in Restart of TMI–1 (Approximately 2 hours—public meeting).

Monday, August 6, 9:30 a.m.

Budget Markup Session (Approximately 3 hours—Closed—Exemption 9).

Tuesday, August 7, 9:30 a.m.

Budget Markup Session (Approximately 3 hours—Closed—Exemption 9).

Tuesday, August 7, 2 p.m.

Budget Markup Session (Approximately 3 hours—Closed—Exemption 9).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

July 30, 1979.

S–1537–79 Filed 7–31–79; 2:09 pm]

BILLING CODE 7590–01–M

14

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 44346, July 27, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1:30 p.m. on August 2, 1979.

CHANGES IN THE MEETING: This meeting has been rescheduled for 9:30 a.m. on August 3, 1979.

Dated: July 31, 1979.

[S–1542–79 Filed 7–31–79; 2:59 pm]

BILLING CODE 7600–01–M

15

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 6, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, August 7, 1979, at 10:00 a.m. and on Wednesday, August 8, 1979, immediately following the 10:00 a.m. open meeting. An open meeting will be held on Wednesday , August 8, 1979, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402 (a)(8), (9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 7, 1979, at 10:00 a.m., will be:

Formal orders of investigation.
Settlement of administrative proceedings of an enforcement nature.
Regulatory matters bearing enforcement implications.
Litigation matters.
Access to investigative files by Federal, State or Self-Regulatory Authorities.
Settlement of injunctive action.
Institution of administrative proceedings of an enforcement nature.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Order compelling testimony and subpoena enforcement action.
Freedom of Information Act appeal.
Chapter XI proceeding.

The subject matter of the closed meeting scheduled for Wednesday, August 8, 1979, immediately, following the 10:00 a.m. open meeting, will be:

Opinions.

The subject matter of the open meeting scheduled for Wednesday, August 8, 1979, at 10:00 a.m., will be:

1. Consideration of whether to withdraw a proposed amendment to rule 17d–1 under the Investment Company Act of 1940 that was issued in 1974 (Investment Company Act Release No. 8245, Feb. 25, 1974). The proposed amendment would have exempted investment companies entering into contracts for administrative services with their affiliated persons from the requirement of applying to the Commission for an order approving such contracts, if the contracts complied with certain conditions. No action has been taken on the amendment since its proposal. For further information, please contact Dianne E. O'Donnell at (202) 755–1796.

Consideration of an application filed by Third Generation Tax Exempt Bond Trust, Series 1 (and Subsequent Series) ("Fund"), a unit investment trust, and First Albany Municipals, a Division of First Albany Corporation, the Fund's sponsor (collectively, "Applicants") requesting an order of the Commission exempting the Fund and its Sponsor from the provisions of Section 26(a)(2) of the Investment Company Act of 1940 to the extent necessary to permit the Fund and its Sponsor to operate in the manner proposed. The Fund proposes to amortize the organizational expenses (but *not* the distribution expenses) of each series of the Fund over the entire life of that series based upon the maturity date of the last debt obligation in that series and an adjustment for an estimated unit redemption rate of five percent per year. It is also proposed that the Sponsor will charge either a low sales load or no sales load on purchases of Fund units by investors. For further information, please contact Glen A. Payne at (202) 755–1739 or Philip Hall at (202) 755–9034.

3. Consideration of a release which would solicit public comment on proposed amendments to Rule 12f–4 under the Securities Exchange Act of 1934. The proposed amendments would exempt securities which had been granted unlisted trading privileges from only the periodic reporting, proxy and short-swing profit provisions of the Exchange Act. The proposed amendment would terminate the present literal exemption from the provisions relating to accounting controls, acquisitions and tender offers. For further information, please contact Carl T. Bodolus at (202) 376–2412 or Ronald Adee at (202) 376–2417.

4. Consideration of whether to propose for comment certain amendments to the Commisison's proxy rules, including rules relating to the form of proxy sent to shareholders. Such consideration is part of the Commission's continuing response to issues raised in its re-examination of rules relating to shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally. For further information, please contact Richard B. Nesson at (202) 755–7622.

5. Consideration of whether the Commission should issue an order, pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 ("Act"), continuing the Commissions's temporary approval of the joint industry plan governing the implementation and operation of the Intermarket Trading System. The Commission will also consider whether to issue an order continuing a conditional exemption from Rule 17a–15 under the Act of permit elimination of market identifiers in connection with the dissemination of last sale reports on moving ticker displays. For further information please contact Richard Ketchum at (202) 755–8916 or Brandon Becker at (202) 755–8749.

At times changes in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: Mike Rogan at (202) 755–1638.

July 30, 1979.

[S–1533–79 Filed 7–31–79; 11:14 am]

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federal register

Thursday
August 2, 1979

Part II

Department of the Interior

Fish and Wildlife Service

Killing and Hunting of Walruses

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Change in Alaska State Walrus Regulations and Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of disapproval.

SUMMARY: The Director, U.S. Fish and Wildlife Service, hereby disapproves Alaska's walrus regulations and management program as modified by the State's emergency regulation repealing most of its walrus-related hunting regulations, and by the State's simultaneous termination of its walrus management and associated law enforcement programs. On June 27, 1979, the Alaska Board of Game adopted an emergency regulation, effective on July 1, that repealed the permit requirement for recreational hunters and the registration requirement for subsistence hunters; removed restrictions on possession, transportation, importation, or exportation of walruses or walrus parts; eliminated the requirement on sealing raw walrus ivory; and abolished closed seasons and bag limits except for most of the Walrus Islands State Game Sanctuary, which remains closed to hunting. These changes allow almost totally unlimited and unregulated taking of walruses which, with the State's voluntary termination of a walrus management program, cause the State's laws and regulations to be inconsistent with the Marine Mammal Protection Act of 1972, relevant Service regulations, and the terms of the wavier of the moratorium and return of walrus management to the State that were implemented in 1976. The Director's disapproval of Alaska's emergency regulation and the finding that the State's rules and management program are no longer in compliance with the Act are made after consultation with the Marine Mammal Commission and are being issued concomitantly with an emergency Federal rule to suspend all taking of walruses under the waiver except for that nonwasteful taking necessary for Native subsistence and the creation and selling of authentic native articles of handicrafts and clothing.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: Rupert R. Bonner, Marine Mammal Coordinator, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (202–632–2202).

SUPPLEMENTARY INFORMATION:

Background

On December 24, 1975, the Director, U.S. Fish and Wildlife Service, (hereinafter, the Director and the Service, respectively) published in the **Federal Register** (40 FR 59459–59461) a waiver of the moratorium imposed by the Marine Mammal Protection Act (the Act) on hunting and killing Pacific walruses in Alaska and adjacent waters. He did this under authority and subject to the conditions of section 101(a)(3)(A) of the Act (16 U.S.C. 1371(a)(3)(A). The notice of waiver provided, however, that the waiver itself would not become effective until management of walruses was returned to Alaska after approval of relevant State laws and regulations (rules) and a revised State walrus management program. On April 5, 1976, the Service implemented the waiver and returned management authority to Alaska after approving such State rules and management program (41 FR 14372–14373).

The approved Alaska Department of Fish and Game (ADF&G) hunting regulations contained the following elements: general licensing requirements; State-issued special permits to hunt walruses (nontransferable permit needed by all hunters "other than residents dependent upon and utilizing walrus for food," who, however, were required to register as walrus hunters with the village council in the village of their residence), to export raw walrus skins, to buy, sell, barter, or export raw ivory, and to gain access to Round Island and adjacent waters within one-half mile of the island, which is part of the Walrus Islands State Game Sanctuary in Bristol Bay; requirements for reports on the above permitted activities, on all purchases or consigment- or barter-based acquisitions of walrus hides, and on all sales or purchases of raw ivory; specification of permissible methods and means of taking walruses; restrictions on possession, transportation, importation, and exportation of walruses and walrus parts, and special restrictions on exportation of walrus skins and trophies (including walrus tusks); special stipulations on the purchase and sale of raw ivory and the use of walrus parts for animal food and bait; identification of areas closed to walrus hunting and State game refuges and sanctuaries closed to all taking of game; walrus hunting seasons and bag limits; provisions for emergency taking of walruses during the closed season or in defense of life or property, and for taking of walruses on the high seas; and general provisions related to ADF&G game management units and definitions.. The Approved walrus management program was based on the State's "management policy," which recognized that:

> "The greatest challenge to successful walrus management in the immediate future will involve manipulation of harvest to provide primarily for the food requirements of coastal residents and, secondarily, for a necessary but limited cash income based on ivory, other walrus products, and the returns derived from sport hunters. Based on our knowledge of population levels and productivity of the Pacific walrus, expanded commercial harvests by either American or Soviet hunters will be discouraged.

The State's "management policy" also articulated the State's commitment to cooperate in walrus research and to respond circumspectly to requests for animals for public education and scientific study.

Federal Regulations and Changes in Alaska Regulations

Under the waiver-related Service regulations published on December 24, 1975, (40 FR 59442–59444)—specifically those in 50 CFR 18.56(c)(1), (d)–(f) that address proposed changes in State rules. the ADF&G has requested and the Service has approved two changes in State regulations: the first, on October 13, 1976, elaborating on minimum calibers of rifles that may be used to hunt walrus (41 FR 44875); the second, on May 20, 1977, revising walrus hunting seasons and bag limits (42 FR 25924–25925). In May 1978, the ADF&G proposed and subsequently adopted the following additional changes: (1) an emergency rule that substituted a definition of "sustenance" hunters for "subsistence" hunters, distinguished between traditional resident "sustenance" hunters and recreational hunters, and established a separate 100-animal quota for the latter which, together with the take for sustenance use, would still not exceed the maximum number of 3,000 retrieved animals per year that may be taken under the waiver; (2) an amendment that (a) would require all walrus hunters other than residents traditionally dependent on walrus for sustenance to first obtain a nontransferable permit, but (b) would allow those traditional resident sustenance hunters to hunt walrus without a permit, provided they are registered as walrus hunters with the village council of the village in which they reside; (3) a new regulation requiring the sealing of raw walrus ivory; and (4) deletion of a regulation that empowered the ADF&G Commissioner to issue permits for buying, selling, bartering, or exporting raw ivory.

The revised waiver-related Service regulations currently in force, issued as final rulemaking on October 2, 1978, (43 FR 45370–45374) and amended on January 12, 1979, (44 FR 2597), require in 50 CFR 18.56(c) that:

> Each State, having approved laws and regulations shall file a special report within 30 days, whenever any of the following occurs:
>
> (1) A proposed change in a relevant State law or regulation . . . which, with the exception of emergency closings of seasons, shall not be effective until the Director [determines in consultation with the Marine Mammal Commission that it is in compliance with the Act and relevant Federal regulations];
>
> (2) A significant natural or manmade occurrence affecting the marine ecosystems or the species or stocks of marine mammals to which a waiver applies; or
>
> (3) A significant violation of the State management program including any quotas established thereby.

New Changes in Alaska Regulations

On June 27, 1979, the Alaska Board of Game adopted an emergency regulation that effectively terminated the State's walrus management program and relevant law enforcement by repealing most of the walrus-related hunting regulations in effect before that date. Specifically, the emergency regulation made the following changes in Alaska regulations, effective on July 1, 1979: repealed the permit requirement for recreational hunters and the walrus-hunter registration requirement for sustenance hunters; removed the restrictions on possession, transportation, importation, or exportation of walruses and walrus parts; and eliminated the requirement on sealing raw walrus ivory. It also abolished closed seasons and bag limits in all six walrus-inhabited game management units except for most of the Walrus Islands State Game Sanctuary, which remains closed to hunting. The overall effect of these changes is to allow almost totally unlimited and unregulated taking of walruses. As of July 1, the State also terminated its walrus management and enforcement activities except for field monitoring of the harvest through July 31.

In letters of March 19, June 4, and June 22 to the Service's Director, ADF&G Commissioner Ronald O. Skoog cited the following reasons for the State's actions: (1) apparent Federal disregard for the health and stability of the marine ecosystem of which walruses are a component; (2) total State agreement with the principle of optimum sustainable population (OSP), but dissatisfaction with the Service's explanation of the OSP definition, as published on January 11, 1979 (44 FR 2541–2542); (3) the inflexibility of fixed annual quotas and the desirability for average annual harvest limits that take into account the varied availability and importance of different species in different years due to variable climatic conditions, varying ice-dependent animal distribution, and other factors; (4) a belief, based on indications of population stress, that the walrus quota is too low, that the population may well be above the optimum carrying capacity of the environment, and that continuation of the present quota (3,000 retrieved animals per year) will ultimately disadvantage the population and contribute to its imminent crash; (5) a clear State intent that all user groups be included under one management regime; (6) undue constraint by Service rules and regulations, preventing maintenance of the walrus population within the biologically safe range of OSP; (7) a belief that continuation of the rules and regulations presently imposed likely will result in significant deterioration of the health and stability of the marine environment utilized by walrus; (8) the view that present procedures for reaching important management decisions are so cumbersome as to raise an unacceptably high risk of failure from undue delays; (9) the belief that continued bureaucratic delays have potentially placed the entire hearing records for the waiver in jeopardy for being biologically antiquated; (10) the State's wish to implement a sound ecosystem management program for all marine species has been consistently thwarted; and (11) the conclusion that "the present legal, political, and bureaucratic environment has created conflicts and confusion that make the management situation intolerable" (June 22 letter).

Amplifying on the last cited reason, Commissioner Skoog noted in his June 22 letter that:

> Alaskans are aware . . . that current State regulations, permissible under terms of the existing waiver, are becoming less satisfactory in meeting the biological intent of the Act. In addition, the preliminary [April 2, 1979] legal finding of Judge Harold Greene [that the State may not regulate Native hunting of nondepleted walrus in a nonwasteful manner for the purposes specified in the Act] has prompted serious objection to regulations of the State. Consumptive users of the walrus resource have been informed erroneously . . . that our regulations are invalid and violators cannot be prosecuted. The results of such misinformation are that many walrus users are disregarding State regulations and thus unknowingly are placing themselves in jeopardy; eventually, State walrus regulations are going to be unenforceable. This situation is quite unacceptable and can be rectified only by the return of walrus to Federal management until there is a satisfactory resolution.

Commissioner Skoog also observed, however,

> Nevertheless, I wish to emphasize once again that this action in no way implies the State's disinterest in managing marine mammals. We will continue to pursue vigorously the return to the State of management authority for all of our marine mammals, and will work cooperatively with the Departments of Interior and Commerce to achieve this end via the waiver [on nine marine mammal species] currently being negotiated.

Federal Review and Disapproval of New Changes in Alaska Regulations

Under section 109(a)(3) of the Act (16 U.S.C. 1379(a)(3)) and relevant Service regulations (50 CFR 18.56), the Director, acting under delegation from the Secretary of the Interior, is bound to continuously monitor and review all waiver-associated State rules and conservation programs to insure their continued consistency with Federal law and rules. After consultation with the Marine Mammal Commission, in accordance with 50 CFR 18.56, the Director has determined that Alaska's emergency regulation, which became effective on July 1, is not consistent with the Act and its implementing regulations, that the State's action must therefore be disapproved, and, pursuant to section 109(a)(1) of the Act, that its laws and regulations related to the taking of walrus are void.

The Director is compelled to make this determination because section 3(2) of the Act (16 U.S.C. 1362(2)) and 50 CFR 18.55(a) state that "conservation" and "management," the underlying objectives of Title I of the Act, "include the entire scope of activities that constitute a modern scientific resource program, including, but not limited to, research, census, law enforcement, and habitat acquisition and improvement." However, Commissioner Skoog announced in his June 22 letter to the Director that "effective July 1. . . . [t]he State will end its enforcement, research, ivory sealing, and other management activities concerning this species except for the present contract commitment for field monitoring of the walrus harvest through July 31, 1979." The State has thereby abandoned the "conservation" and "management" obligations it assumed under the 1976 waiver and return of management. In addition, as Commissioner Skoog stated elsewhere

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in his June 22 letter, the changes in the State's regulations "will not be in compliance with all the original regulations in the waiver." Taken together, the changes in the State's regulations and the termination of its management program allow almost unlimited and unregulated taking of walrus and, as such, fail to provide a basis to satisfy the requirement of 16 U.S.C. 1373(a) that the Director insure that taking under a waiver be regulated so as not to disadvantage the species or population stock for which the moratorium has been waived. As a result of the State's actions, which became effective on July 1, 1979, there is no longer in effect "an overall State program regarding the protection and management of [walrus]" as required by 50 CFR 18.53(d)(3). In the absence of any management or enforcement activities, the State of Alaska no longer has an adequate walrus management program, and it is prohibited by 16 U.S.C. 1379(a) from adopting or attempting to enforce any State law or regulation relating to the taking of walrus. The Director therefore acknowledges the State's termination of its walrus management program and disapproves of all State laws and regulations relating to the taking of walrus.

The Service fully recognizes that the State has taken these actions in the belief that: the walrus population is above the optimum carrying capacity of the environment and might crash in the near future—with severe consequences to both the population and the subsistence hunters dependent on it; the walrus food supply may not be adequate to support the population, and the stability of the marine ecosystem may be seriously threatened; and the 3,000-animal waiver quota, formulated in 1975 on the basis of an estimated population level appreciably lower than the one now believed to exist, precludes reduction of the population to a lower level. However, data supporting or confirming these beliefs have never been introduced into the record for the waiver of the moratorium relating to walrus. The Act (16 U.S.C. 1373(d)) and Service regulations (50 CFR 18.70) clearly require that only evidence presented and evaluated in a formal hearing process may be considered in a determination to waive the moratorium. The evidence that served as the basis for the walrus waiver and return of management to Alaska was taken in formal public hearings in 1975 and presumably comprised the "best scientific evidence available" (16 U.S.C. 1371(a)(3)(A)). The State offered no new evidence the following year when additional information could have been introduced at the 1976 formal hearings on waiving the moratorium for eight other Alaskan marine mammal species as well as continuing the already implemented walrus waiver, nor has the State ever requested the opportunity to do so. Lacking any new data presented "on the record," the Service has been compelled to consider only the information in the walrus waiver hearing record. This evidence does not justify an annual retrieved walrus harvest of more than 3,000 animals.

The service is also fully aware of the management difficulties posed by Native subsistence hunting, and it is continuing to meet and work with State and Native representatives to solve them. Troublesome as they are, however, the Service does not believe that these difficulties justify the ADF&G's actions. The single act of removing the ivory-sealing requirement warrants special concern since it eliminates the most significant and reliable source of information on the walrus harvest—information that is as indispensable to protection of the resource as is a reliable estimate of the animals' abundance.

State's Procedural Rights

If the State of Alaska desired to contest the Director's disapproval of its rules and the resumption of Federal management responsibility over walruses, it would have the right to notice in the **Federal Register** of a preliminary determination of disapproval and an opportunity for written comment or an informal hearing on the preliminary determination (16 U.S.C. 1379(a)(3) and 50 CFR 18.56(e)–(h)). In the present situation, however, the State has voluntarily terminated its walrus program and desires the immediate resumption of Federal management. Accordingly, the State, through its Attorney General's Office in Anchorage, advised the Department's Office of the Solicitor on July 13, 1979, that it agrees with the Service that its rights to notice and opportunity for comment or hearing are not applicable to the present determination and resumption of Federal management.

This notice was prepared by Jackson E. Lewis, Marine Biologist, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, and Ronald E. Swan, Office of the Solicitor, Department of the Interior.

Dated: July 24, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-23843 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 18

Marine Mammals; Suspension of Hunting and Killing of Walrus Under the 1976 Waiver of the Moratorium

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This emergency final rule suspends all taking and other activities involving Pacific walruses that are contingent on the waiver of the Marine Mammal Protection Act moratorium that was implemented in April 1976. The activities involving walruses that are contingent on the waiver, and which are therefore prohibited by this suspension, include all sport hunting and killing but do not include nonwasteful taking by Alaska Natives for purposes of subsistence or the creation and selling of authentic native articles of handicrafts and clothing. The Director issues the rule, after consultation with the Marine Mammal Commission, because effective on July 1, 1979, the Alaska Department of Fish and Game repealed most of the walrus-related regulations that had been approved by the Director, and it simultaneously terminated its walrus management and associated law enforcement programs. In a separate notice in this issue of the **Federal Register** and also after consultation with the Marine Mammal Commission, the Director acknowledges the State's termination of its approved walrus management program and finds the resulting State laws and regulations to be inconsistent with the Marine Mammal Protection Act, relevant Service regulations, and the terms of the 1976 waiver. This finding is necessary because the State rules allow almost totally unlimited and unregulated taking of walruses and because the State purports to adopt laws and regulations in the absence of an approved management program. This emergency final rule must be effective immediately because of the serious threat posed to walruses by the present essentially uncontrolled waiver on hunting and killing them and to protect them from the harmful effects of unregulated taking under the waiver which would occur in the absence of this rule. The suspension will remain in effect until the relevant section of the Service's regulations is amended to effectively control taking and otherwise implement the waiver.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: Rupert R. Bonner, Marine Mammal Coordinator, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (202–632–2202).

SUPPLEMENTARY INFORMATION: Pursuant to the Fish and Wildlife Service Director's decision and the Service regulations published in the **Federal Register** on December 24, 1975 (40 FR 59459–59461 and 40 FR 59442–59444), on April 5, 1976, the Service issued final regulations (50 CFR 18.94) waiving the moratorium imposed by the Marine Mammal Protection Act (the Act) on hunting and killing walruses in Alaska and adjacent waters (41 FR 14372–14373). Implementation of the waiver was contingent upon the Service's approval of Alaska's relevant laws and regulations (rules) and its walrus management program, and continuation of the State's management authority and all taking under the waiver was contingent upon those rules and management program remaining in effect and in compliance with the Act and the Service's waiver-related regulations.

On July 5 and 6, 1979, the Service received notification that the Alaska Department of Fish and Game (ADF&G), in conjunction with termination of its walrus management and enforcement activities, issued an emergency regulation, effective on July 1, that repealed most of the approved walrus-related hunting regulations in effect before that date. Specifically, the State's emergency regulation repealed the permit requirement for recreational hunters and the registration requirement for subsistence hunters; removed restrictions on possession, transportation, importation, and exportation of walruses and walrus parts; eliminated the requirement on sealing raw walrus ivory; and abolished closed seasons and bag limits in all six walrus-inhabited State game management units except for most of the Walrus Islands State Game Sanctuary in Bristol, Bay, which remains closed to hunting. The overall effect of these changes is to allow almost totally unlimited and unregulated taking of walruses because, effective on July 1, 1979, the State also terminated all of its walrus management and enforcement activities other than field monitoring of the harvest through July 31, 1979.

For the reasons set forth in a separate notice published today in the **Federal Register**, the Director, after consultation with the Marine Mammal Commission, has determined that the ADF&G's emergency regulation is not consistent with the Act, and he has therefore formally disapproved the State's actions and any State laws and regulations relating to the taking of walrus. Because taking under the 1976 walrus waiver is contingent upon approved State rules and an approved State management program, disapproval of the ADF&G's changes in its regulations and termination of the approved management program necessitate suspension of the effectiveness of the waiver. While the suspension is in effect, all recreational hunting, killing, and other activities contingent on the waiver must cease (16 U.S.C. 1371(a), 1372). However, as stated earlier, the suspension does not apply to nonwasteful taking by Alaska Natives for subsistence purposes or for the creation and sale of authentic native articles of handicrafts and clothing, since such taking is not contingent on a waiver.

It is the Service's hope that Alaska will soon be able to resume management authority over walruses and reinstate an approved management program so that this suspension of the waiver may be lifted. Toward this end, the Service is continuing to meet and work with State and Native representatives to solve the problems that the State believed necessitated its emergency regulation and termination of its management and enforcement activities.

If Alaska desired to contest the suspension of the waiver, disapproval of its laws and regulations, and the resumption of Federal management responsibility over walruses, it would have the right to notice in the **Federal Register** of a preliminary determination of disapproval of its emergency regulation, termination of its management authority, and resumption of Federal responsibility (16 U.S.C. 1379(a)(3) and 50 CFR 18.56(e)–(h)). It would also have the right to the opportunity for written comment or an informal public hearing on such preliminary determination. In the present situation, however, the State has voluntarily terminated its walrus program and desires the immediate resumption of Federal regulations and management. Accordingly, the State, through its Attorney General's Office in Anchorage, advised the Department's Office of the Solicitor on July 13, 1979, that it agrees with the Service that its rights to notice and opportunity for comment or hearing are not applicable to the present determination of

disapproval or to the resumption of Federal management responsibility.

Aside from the procedural rights that the Act confers on Alaska, the Administrative Procedure Act and the Department's regulations governing rulemaking generally require a notice of proposed rulemaking and an opportunity for public comment on rules adopted by the Service (5 U.S.C. 553(b)). However, an exception to this requirement is provided if it is found for good cause that notice and an opportunity for comment are impracticable or contrary to the public interest (5 U.S.C. 553(b)(B)). Because of the need to take emergency action to counter the serious threat posed to walruses by what at present is essentially an uncontrolled waiver of the Act's moratorium on hunting and killing, the Service for good cause finds that notice and public procedure on this rule is impracticable and contrary to the public interest. The need to take immediate action to protect walruses from the harmful effects of unregulated taking also caused the Service to find, for good cause, that this rule must be effective on August 2, 1979.

This rule was prepared by Jackson E. Lewis, Marine Biologist, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, and Ronald E. Swan, Office of the Solicitor, Department of the Interior.

Note.—The Department has determined that this document is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14. The Service has also determined that this final rule suspending the effectiveness of the current waiver of the Marine Mammal Protection Act moratorium on the hunting and killing of walruses will not have a significant impact on the human environment, and it therefore does not require preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and 40 CFR 1506.13.

Accordingly, subchapter B of chapter I, Title 50, Code of Federal Regulations, is amended as follows:

§ 18.94 [Amended]

1. By deleting from § 18.94, paragraph (a), the last four lines beginning with "* * * effective with publication of * * *" and ending with "* * * terms and conditions:" and by adding in their place: "provided that beginning August 2, 1979 this waiver shall not be effective, and no taking or importation under the waiver shall be allowed, until this section is amended to establish regulations to effectively control taking and otherwise implement the waiver."

2. By deleting from section 18.94 sub-paragraphs (1)–(8) of paragraph (a), and paragraphs (b) and (c).

Dated: July 30, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-23844 Filed 8-1-79; 8:45 am]

BILLING CODE 4310-55-M

federal register

Thursday
August 2, 1979

Part III

Department of Housing and Urban Development

Community Development Block Grant Program; Environmental Review Procedures; Interim Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 58

[Docket No. R-79-680]

Environmental Review Procedures Community Development Block Grant Program

AGENCY: Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: These amended regulations implement Section 104(h), Title I, of the Housing and Community Development Act of 1974 (Pub. L. 93–383, 42 U.S.C. 5301) as amended. The purpose of Part 58 is to set forth the regulations governing environmental review procedures to be undertaken by applicants for funds under the Community Development Block Grant Program. These regulations have been amended to reflect and supplement the NEPA Regulations of the Council on Environmental Quality ("CEQ"), 40 CFR Parts 1500 through 1508. The NEPA Regulations which were published in the **Federal Register** on November 29, 1978 (43 FR 55978–56007) authorize and direct that all Federal agencies shall adopt agency implementing procedures and carry out, to the fullest extent possible, the procedural provisions of Section 102(2) of the National Environmental Policy Act of 1969 (Pub. L. 91–190). The NEPA regulations also provide, under § 1506.12 that an additional four (4) months shall be allowed for the State or local agencies which administer the HUD programs under Section 104(h) of Title I, in order to adopt their implementing procedures.

EFFECTIVE DATE: October 1, 1979.

COMMENT DUE DATE: September 30, 1979.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410; telephone: 202/755–6300. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: These Part 58 Regulations are promulgated as an interim rule effective October 1, 1979. The intent of the Interim Rule is to enable the Department to meet its responsibility for implementing NEPA by the timely issuance of its implementing regulations which will allow their adoption and incorporation as soon as practicable thereafter by Title I applicants into the ongoing entitlement grant application process of the CDBG Program for Fiscal Year 1979. Accordingly the Secretary has determined that it is impracticable to follow a notice of proposed rulemaking procedure and that good cause exist for making these rules effective as soon as practicable.

Title I Applicant Compliance: November 30, 1979.

State and local agencies which administer HUD programs subject to this Part 58 Interim Regulations under Section 104(h) of Title I are advised that their implementing procedures should be adopted not later than November 30, 1979.

Public Comments Invited

Interested Persons are invited to participate in the making of the **Final** Rule by providing written comments. All comments received by September 30, 1979 will be considered in the preparation of the final rule. Such comments should be filed with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Copies of comments received will be available for inspection and copying at that address.

The Department has determined that an environmental impact statement is not required with this rule. A copy of the Finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk at the address provided above.

Part 58 is revised as follows:

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Subpart A—General Policy and Responsibilities

Sec.
58.1 Purpose and authority.
58.2 Time periods.
58.3 Terminology.
58.4 [Reserved]
58.5 General policy.
58.6 [Reserved]

Subpart B—Environmental Reviews by Applicants Under Title I

58.7 [Reserved]
58.8 [Reserved]
58.9 Financial assistance for environmental review.
58.10 [Reserved]
58.11 Evironmental review record.
58.12 [Reserved]
58.13 [Reserved]
58.14 Environmental Review Process—Early planning/assessment procedures.
58.15 Environmental Review Process—Steps to commence environmental assessment.
58.16 Environmental Review Process—Steps to complete environmental assessment. (No EIS required.)
58.17 Environmental Review Process—Procedures for Draft, Final and Supplemental Environmental Impact Statements.
58.18 Limitation on action pending clearance.
58.19 Use of prior environmental reviews.
58.20 Financial settlements of urban renewal projects.
58.21 Exempt activities and categorical exclusions.
58.22 Other environmental procedures.
58.23 Floodplains and wetlands.
58.24 Historic preservation.
58.25 Projects requiring an EIS.
58.26 [Reserved]
58.27 Interaction of applicant with Federal agencies and other non-Federal entities—Lead agency and cooperating agency role.
58.28 [Reserved]
58.29 [Reserved]

Subpart C—Releases of Funds for Particular Projects.

58.30 Release of funds upon certification.
58.31 Objections to release of funds.
58.32 Effect of approval of certification.

Subpart D—[Reserved]

58.33–58.36 [Reserved]

Subpart E—Environmental Effects Abroad of Particular Projects

58.37–58.38 [Reserved]

Authority. Sec. 7(d). Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Policy and Responsibilities

§ 58.1 Purpose and authority.

(a) *Authority*—(1) *Basic law.* The National Environmental Policy Act of 1969 (Pub. L. 91–190, 42 U.S.C. 4321 et seq.; hereinafter "NEPA") establishes national policy, goals, and procedures for protecting, restoring and enhancing environmental quality. NEPA, as implemented by Executive Order 11514 of March 5, 1970 as amended by Executive Order 11991 of May 24, 1977 and the implementing NEPA Regulations of the Council on Environmental Quality, 40 CFR Parts 1500 through 1508 of July 30, 1979 (43 FR 55978–56007, November 29, 1978) (hereinafter "CEQ", as to the Council, and "NEPA Regulations") authorizes and directs that all Federal agencies shall carry out, to the fullest extent possible, the procedural provisions of Section 102(2) of NEPA including, in Section 102(2)(C), the requirement that all agencies of the Federal Government prepare detailed environmental impact statements on proposals for major Federal actions significantly affecting the quality of the human environment.

(2) *Section 104(h) of title I (of the Housing and Community Development Act of 1974* (Pub. L. 93–383, 42 U.S.C. 5301 et seq.); hereinafter "section 104(h)" and "Title I" respectively) authorizes a procedure under which applicants with approved applications for assistance under Title I assume for specific projects the environmental review and decisionmaking responsibilities that would apply to the HUD Secretary were he to undertake such projects as Federal projects. The procedure eliminates the necessity for Federal environmental impact statements at the time of the initial application. At the same time, however, the procedure is intended to assure that NEPA policies and protection of the environment continue undiminished. Under the procedure applicants are to certify prior to any commitment of Title I funds for particular projects (other than funds for general planning or environmental study purposes) that they have met all of their environmental responsibilities in accordance with regulations issued by HUD Secretary, after consultation with CEQ. Approval of such certification by the Secretary under section 104(h) discharges the responsibilities he may otherwise have had under NEPA with respect to the specific projects covered by the certification. The Secretary is to wait 15 days after receipt before acting upon such a certification, thus giving those who may wish to challenge a certification an opportunity to take appropriate action. That challenge can include suit against the certifying officer or applicant who for purposes of enforcing NEPA has consented to accept the jurisdiction of the Federal courts.

Such challenge may also include a request that the Secretary reject the certification. The Secretary will consider a request for rejection of the certification only if such request is grounded on certain bases, as set forth in § 58.31(b). Under section 104(h) cities, counties and other units of general local government assume only those responsibilities under Section 102(2) of NEPA that are consistent with their statutory authority and legal capacity and which would apply if the HUD Secretary were to undertake the projects proposed for assistance as Federal projects. Thus, these regulations neither expand nor contract the categories of actions that would be subject to environmental identification and review procedures.

(3) *Other applicable authority.* The environmental review process must also take into account, where applicable, the criteria, standards, policies and regulations under the subsections below. The process should also consider the relationship of a project funded under Title I and the requirements of these authorities, to anticipated requests for other Federal assistance, particularly housing, to which these authorities may apply. An explanation of how these authorities are taken into account and considered shall be documented in the environmental review record prior to the applicant's submission of the certification and request for release of funds required by § 58.30.

(i) *Historic properties.* The National Historic Preservation Act of 1966 (Pub. L. 89–665); Preservation of Historic and Archeological Data Act of 1974 (Pub. L. 93–291) and regulations which may hereafter be issued; Executive Order 11593. Protection and Enhancement of the Cultural Environment, 1971; HUD regulations, "Protection of Historic and Cultural Properties Under HUD Programs" 24 CFR Part 59).

(ii) *Noise.* HUD regulations relative to environmental criteria and standards for "Noise Abatement and Control" (24 CFR Part 51, Subpart B).

(iii) *Floodplain.* Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and implementing regulations; Title 24, Chapter X, Subchapter B, National Flood Insurance Program; Executive Order 11988 and applicable HUD implementing flood-plain management regulations (24 CFR Part 55).

(iv) *Coastal zones and wetlands.* Coastal Zone Management Act of 1972 (Pub. L. 92–583). Executive Order 11990 and applicable State legislation or regulations.

(v) *Air quality.* Clean Air Act (Pub. L. 90–148), as amended, and applicable U.S. Environmental Protection Agency implementing regulations.

(vi) *Water quality.* Federal Water Pollution Control Act (Pub. L. 92–500), the Safe Drinking Water Act of 1974 (Pub. L. 93–523) and applicable U.S. Environmental Protection Agency implementing regulations.

(vii) *Wildlife.* Fish and Wildlife Coordination Act (Pub. L. 85–624).

(viii) *Endangered species.* The Endangered Species Act of 1973 (Pub. L. 93–205) as amended by the Endangered Species Amendment Act of 1978 (Pub. L. 95–632, 16 U.S.C. 1536 et. seq.) and applicable Department of the Interior and Department of Commerce implementing regulations.

(ix) *Solid waste disposal.* The Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (Pub. L. 94–580) and applicable U.S. Environmental Protection Agency implementing regulations.

(x) *Environmental effects abroad.* Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (44 FR 1957, January 4, 1979).

(b) *Purpose.* These regulations implement the requirements of section 104(h), supplement the NEPA Regulations (40 CFR Parts 1500–1508) and are intended to assure that the policies of NEPA are most effectively implemented in connection with the expenditure of funds under Title I, and to assure to the public undiminished protection of the environment. The policies of NEPA, in addition to other responsibilities set out in section 2 and Title I of NEPA, require the use of all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.

(2) Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities, and

(6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

§ 58.2 Time periods.

All time periods in this Part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time of the first day following the day of the action which initiates it.

For the purpose of this section, the term "action" means:

(a) Actual publication of the applicant's notices required by §§ 58.15, 58.16, 58.17 and 58.30;

(b) Actual publication in the Federal Register of the EPA announcement of its receipt of the applicant's notices;

(c) Receipt by the EPA of the final environmental impact statement.

§ 58.3 Terminology.

(a) *Title I definitions.* For the purposes of this part, the following terminology shall apply and supplement the uniform terminology provided in 40 CFR Part 1508 of the NEPA Regulations:

(1) *Actions which may significantly affect the quality of the human environment.* Those actions for which section 102(2)(c) of NEPA would require the preparation of an environmental impact statement (EIS). Applicants assuming NEPA responsibilities pursuant to Title I and these regulations shall review each project proposed for fund release under Title I in accordance with the environmental review process described in these regulations in order to determine whether the applicant's request to HUD for the release of Title I funds would constitute an action, were the applicant a Federal agency, which may significantly affect the quality of the human environment.

(2) *Activity.* As used in this Part, "activity" means both those actions funded or authorized to be funded with Title I assistance and those related actions which are not so funded or not authorized to be so funded but which are put forth by the applicant as part of its strategy for the treatment of a project area. In the context of environmental review, it is not the source of funds for an activity, but the nature of the activity and its relationship to other activities which is relevant. Where the term "eligible activity" is used in this part, it means an activity which is eligible for Title I assistance pursuant to 24 CFR Parts 570 and 571. See also § 58.21, Exempt Activities.

(3) *Applicant.* The applicant is the State or unit of general local government which makes application pursuant to the provisions of Subparts D, E, F and G of 24 CFR Part 570; or an Indian Tribe, as defined in Section 102(a)(16) of Title I, which makes an application pursuant to the provisions of Subparts C, D and E of 24 CFR Part 571. One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government or of an Indian Tribe to undertake a community development program in whole or in part, but only the State or unit of general local government or an Indian Tribe may be the applicant under the subparts cited above, and under this Part 58. Upon execution of its grant agreement with HUD, an applicant becomes a "recipient" under 24 CFR Part 570 or Part 571. As used in this Part 58, the term "applicant" includes "recipient" under Part 570 or Part 571, where the context so requires.

(4) *Certifying officer.* The term "certifying officer" means the chief executive or another officer of the applicant authorized, in accordance with applicable local law, to execute the certification and request for release of funds specified at § 58.30, to consent to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969, and to consent on behalf of the applicant to accept the jurisdiction of the Federal courts for the enforcement of NEPA responsibilities as such official.

(5) *Environmental impact.* Any alteration of existing environmental conditions, or creation of a new set of environmental conditions, adverse or beneficial, caused or induced in whole or in part, directly or indirectly, by a proposed project under Title I.

(6) *Environmental impact statement* (EIS). A written statement, prepared in accordance with NEPA and 40 CFR Part 1502 of the NEPA Regulations describing any alteration of environmental conditions or creation of a new set of environmental conditions, adverse or beneficial, caused or induced by the action or set of actions under consideration, and the alternatives to such action or group of actions. The statement should include a quantitative measure of magnitude and a qualitative measure of importance of the environmental impacts.

(7) *Environmental review and environmental review process.* The entire process for compliance by the applicant with NEPA under this Part with respect to a project funded under Title I.

(8) *Level of clearance finding.* The applicant's determination pursuant to § 58.15(d) as to which of the two levels of environmental clearance applies.

(9) *Project.* The term "project", as used in this part, means an activity or a group of integrally related activities, designed by the applicant to accomplish, in whole, or in part, a specific goal. Geographically or functionally related activities designed to accomplish a specific goal, irrespective of the funding sources of those activities, shall be grouped together for consideration as a single project. Because of the interrelationships of the activities comprising the project, the project as a whole shall be subject to a single environmental review in accordance with this part. A project may take a number of years to complete and may require funds in addition to the amount provided in a single program year.

(10) *SMSA.* A standard metropolitan statistical area as defined by the Office of Management and Budget.

(11) *SMSA county.* Within an SMSA, a county or county equivalent as listed in the P–25 series, with population estimates and projections, published by the Bureau of the Census.

(12) *Urban renewal project.* A project as defined in section 110(c) of the Housing Act of 1949, as amended or a neighborhood development program as defined in section 131(b) of the Housing Act of 1949, as amended.

(b) *Uniform terminology of NEPA Regulations.* The following terminology is set forth in 40 CFR Part 1508 and is hereby made a part of the HUD implementing regulations under this part:

(1) *Categorical exclusion* means: "a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency (HUD) * * * and for which therefore, neither an environmental assessment nor an environmental impact statement is required." (§ 1508.4)

(2) *Cooperating agency* means: "any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to an environmental impact involved in a proposal. * * * A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may, by agreement with the lead agency become a cooperating agency." (§ 1508.5)

(3) *Effects* include: (i) "Direct effects, which are caused by the action and occur at the same time and place.

(ii) "Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still foreseeable." (§ 1508.8)

(4) *Federal agency* means: "all agencies of the Federal Government. It also includes for purposes of these regulations States and units of general local government and Indian Tribes assuming NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974." (§ 1508.12)

(5) *Human Environment* "shall be interpreted comprehensively to include the natual and physical environment and the relationship of people with that environment. (See the definition of "effects".) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement.

When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment." (§ 1508.14)

(6) *Jurisdiction by Law* means: "agency authority to approve, veto, or finance all or part of the proposal." (§ 1508.15)

(7) *Lead agency* means: "the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement." (§ 1508.16)

(8) *Mitigation* includes:

(i) "Avoiding the impact altogether by not taking a certain action or parts of an action.

(ii) "Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(iii) "Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(iv) "Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(v) "Compensating for the impact by replacing or providing substitute resources or environments." (§ 1508.20)

(9) *Referring agency* means: "the Federal agency which has referred any matter to the Council (CEQ) after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality." (§ 1508.24)

(10) *Scope* consists of: "the range of actions, alternatives and impacts to be considered in an environmental impact statement. * * * To determine the scope of environmental impact statements, agencies shall consider * * *:

(i) *"Connected actions,* which means that they are closely related and therefore should be discussed in the same impact statement.

(ii) *"Cumulative actions,* which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.

(iii) *"Similar actions,* which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.

(iv) *"Alternatives,* which include:

—"No action alternative.

—"Other reasonable courses of actions.

—"Mitigation measures (not in the proposed action).

(v) *"Impacts,* which may be:

—"Direct.

—"Indirect.

—"Cumulative." (§ 1508.25)

(11) *Special expertise* "means statutory responsibility, agency mission, or related program experience." (§ 1508.26)

§ 58.5 General policy.

(a) *Applicants to assume environmental responsibilities.* Except as provided at paragraph (b) of this section, all applicants for assistance under Title I shall be required to assume responsibility for carrying out all of the provisions of NEPA relating to particular projects for which the release of funds is sought. This shall include:

(1) *NEPA Procedures*—The development of the applicant's technical and administrative capability to comply with the NEPA Regulations and the procedures of this part in accordance with the intent and applicable requirements of 40 CFR 1507.2 and 1507.3.

(2) *Additional Procedures*—Assuming all applicable responsibilities in accordance with §§ 58.22 through 58.24 and the requirements of 40 CFR 1502.25 for compliance with the National Historic Preservation Act of 1966, as amended; the Preservation of Historic and Archeological Data Act of 1974, as amended; Executive Order 11593, May 13, 1971, Protection and Enhancement of the Cultural Environment; the HUD regulations on "Protection of Historic and Cultural Properties Under HUD Programs" (24 CFR Part 59); Executive Order 11988, May 24, 1977, relating to floodplain management and HUD implementing regulations (24 CFR Part 55); Executive Order 11990, May 24, 1977, relating to Protection of Wetlands; Section 1424(e) of the Safe Drinking Water Act of 1974; the Endangered Species Act of 1973; and other regulations and orders issued relative to any of the foregoing.

(3) *Applicant's decision points.* The decisionmaking responsibilities in the conduct of the environmental review process in accordance with the applicable requirements and intent of 40 CFR 1505.1. Pursuant to §§ 58.14 through 58.17, an applicant's decision points will include normally the following:

(i) Decisions relative to environmental review and planning actions prescribed in § 58.14 and as authorized under 24 CFR 570.205 in conjunction with an applicant's basic-planning efforts undertaken pursuant to 24 CFR 570.301 and 570.305 (See paragraph (d), hereunder).

(ii) Determination of legal capacity (paragraph (b) hereunder);

(iii) Decisions not to proceed and to reprogram (paragraph (c)(3) hereunder);

(iv) Determination of projects that are exempt from environmental review requirements (§ 58.21) or categorically excluded from such review under this part.

(v) Decisions on the use of prior environmental reviews or prior EIS's can be used (§ 58.19);

(vi) Decisions on actions pursuant to the environmental assessment process findings on project impacts on the human environment (§ 58.15(d)(1) or §§ 58.15(d)(2), 58.16 pursuant to 40 CFR 1501.3 and/or other effects on related environmental issues cited in paragraph (a)(2) of this section (58.22 through 58.24) and pursuant to 40 CFR 1502.25(a).

(vii) Decision related to the conduct of draft, final and supplemental EIS's (58.17) as required by 40 CFR 1501.4 including the scoping determinations required under 40 CFR 1501.7; the issuance and transmittal of the draft and final EIS's (§ 58.17 (e) and (f) and the disposition of public and Federal agency comments thereon (§ 58.17(e)).

(viii) Execution of the certification and request for release of funds (§ 58.30).

The carrying out of all environmental review and decision-making responsibilities shall be documented in the environmental review record specified in § 58.11 of this part, including a summary record of decisions for projects requiring an EIS in accordance with 40 CFR 1505.2 (§ 58.11 (p)).

The certification described at § 58.30 must be submitted to HUD by the applicant prior to the release of funds for any such project as evidence of the assumption of the responsibilities set forth above.

(4) *Certifying officer responsibilities.* In addition to the environmental review and decision-making responsibility in paragraphs (a) (2) and (3), of this section the applicant's certifying officer, in his capacity as the "responsible Federal official" as that term is used in NEPA, shall:

(i) Assume responsibility for the preparation of an environmental impact statement on behalf of Federal agencies in the cases where the applicant is designated as the lead agency based on the procedures and criteria set forth in 40 CFR 1501.5 and as provided in § 58.27(b).

(ii) Carry out the functions and responsibilities assigned to the

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applicant designated as a cooperating agency in accordance with the provisions of 40 CFR 1501.6 as supplemented in § 58.27(c).

(iii) Represent the applicant and be subject to the jurisdiction of the Federal courts pursuant to section 104(h); such certifying officer of the applicant shall not be represented by the Department of Justice in court, but reasonable defense costs, including the fees of attorneys and experts incurred in environmental litigation may be funded from the applicant's grant amounts. In such cases the certifying officer shall ensure as called for by 40 CFR 1505.1(c) that "relevant environmental documents, comments and responses be part of the record" on the adjudicatory, proceedings on behalf of the applicant.

(iv) Ensure applicant compliance in the reviewing and commenting functions prescribed in the environmental review process of this part (§§ 58.15 through 58.17); on the applicant's functions as a lead agency or as a cooperating agency prescribed in paragraph (a)(4) (i) and (ii) of this section; and as an interested agency with special expertise in the case of a Federal project for which a draft EIS is prepared and which may have an impact on the applicant's community development program.

(v) Perform all the coordinating responsibilities as required under this part or generally prescribed in the NEPA Regulations.

(b) *Legal capacity. (1) Each applicant shall, prior to submitting an application, review its legal capacity to assume and carry out the environmental responsibilities hereunder. If an applicant believes it may lack legal capacity to assume and carry out environmental review responsibilities hereunder, then it shall submit to the HUD offical authorized to receive the application the legal opinion of its attorney in support of such claim and shall consult with said HUD official in order to obtain appropriate instructions. Such claim shall be made prior to submitting an entitlement or discretionary application. Discretionary applicants shall submit such claim to HUD with the preapplication, if a preapplication is required. HUD will review such claim and approve or disapprove it.*

(2) If an applicant's claim of lack of legal capacity has been approved by HUD, then HUD will complete an environmental assessment, including an EIS if appropriate, pursuant to 24 CFR, Part 50, as amended, before the application is approved, or in those cases where a preapplication is required, before the applicant is invited to submit a full application.

(3) Community associations, other applicants which are eligible for assistance pursuant to 24 CFR 570.403(b)(1)(iii) unless such applicant is also described in the first sentence of 24 CFR 570.3(v), and private developers approved under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the HUD Act of 1968, are considered by HUD to lack the legal capacity to assume or carry out environmental review responsibilities.

(c) *Environmental review process.* The environmental review process consists of a study by the applicant of each project to identify any environmental impacts of activities proposed to be taken by the applicant which are to be supported, in whole or in part, by Title I funds. The study will be performed in accordance with the guiding principles set forth in 40 CFR 1500.4 and 1500.5 of the NEPA Regulations as supplemented by the procedures of this Part and in HUD–399–CPD, *Environmental Reviews at the Community level* to provide for the smooth flow of the environmental review process without undue delay.

In the *environmental assessment* of a proposed project and its alternatives, the applicant shall determine the nature, magnitude and extent of the *environmental effects* caused by the project and measure the *cumulative impacts* as defined in § 58.5(d)(3) that they will produce on the human environment; make appropriate recommendations for environmental safeguards, and *mitigation* measures to be conditioned for approval of a proposed project; and, based on these determination and recommendation, make appropriate decisions for implementing or not implementing the project or its alternatives and, where necessary, (4) prescribe monitoring and inspection procedures to be followed during the implementation of project and after its completion (§ 58.32(c)).

(1) *Determination of impact.* In the environmental review process, the applicant must arrive at a determination as to whether or not any proposed project will result in any environmental impact; or will itself be affected by the environment; the nature, magnitude and extent of any such impact; whether or not any changes could be made in the project as proposed, or alternatives to such project could be adopted, to eliminate or minimize adverse impacts; and the level of environmental clearance which is appropriate. Such determination is largely a matter of judgment on the part of the applicant, involving evaluation of available facts, pursuant to the procedures and guidelines contained in this part.

(2) *Mitigation actions and safeguards.* If the applicant's environmental review process reveals environmental effects for which mitigation actions or safeguards should be implemented, the applicant shall use all appropriate means to minimize adverse impacts including mitigation actions provided in 40 CFR 1508.20 or otherwise providing for a decision not to implement a project pursuant to paragraph (c)(3), hereunder. The mitigation actions prescribed for a project shall be set forth in the environmental review record of the applicant to document the decisions and actions taken in the implementation of a project.

(3) *Decision not to implement.* If, through the environmental review process, the applicant concludes that the proposed project should not be implemented in whole or in part, then the applicant may reprogram to another eligible project in accordance with the applicable provisions of 24 CFR 570.305 or of 24 CFR 571.307 in the case of an Indian Tribe applicant.

(d) *Scope and timing of early environmental planning and environmental assessments.* The environmental review of a project is a continuing process which shall begin at the earliest point in the basic planning efforts prescribed in 24 CFR 570.301 and 570.305 or in 24 CFR 571.205 and 571.305 for Indian Tribe applicants. In compliance with Section 1501.2 of the NEPA Regulations, environmental considerations shall be raised and receive adequate attention by the applicant early in its planning and decisionmaking process for: The development of the comprehensive strategies of its three-year Community Development and Housing Plan; the formulation of its annual community development program, and the planning and management of areas designated for concentrated action of community development and related programs, of Neighborhood Strategy Areas (NSA's) and of multi-year projects.

Applicants shall carry out their environmental review responsibilities for projects as defined at § 58.3 in accordance with the following:

(1) *Early environmental assessment.* Urban environmental design and planning activities authorized by §§ 570.205 (a) and (b) or by §§ 571.205(a) and (b) and 571.206(h); and project engineering and design for eligible activities (prescribed in §§ 570.201 through 570.205 or in §§ 571.201 through 571.205) shall be carried out in sufficient detail and to the extent practicable pursuant to §§ 570.200(i), 570.301(e) or § 571.205 as appropriate. Such activities shall serve to assist the applicant's compliance with the purposes, intents and requirements of Part 1501 of the NEPA Regulations as supplemented by §§ 58.14 and 58.15.

(2) *Timing.* To the greatest extent possible, the environmental review of proposed projects shall be carried out concurrently with the formulation of the applicant's community development program and the preparation of the application for Title I funds. Environmental review shall commence at the earliest possible point in the development of a project. When a project is formulated, it shall be reviewed for environmental considerations in order to identify and evaluate expected or potential environmental impacts, to devise changes and modifications to eliminate or mitigate adverse impacts, and to explore alternatives. By developing and carrying out its environmental review as part of the overall program and application formulation process, the applicant can considerably shorten the time between program development and program implementation.

(3) *Cumulative impact and aggregation.* The cumulative effects of related activities must be considered together. Activities which are individually small may, in the aggregate, have cumulatively large effects on the environment, especially when a number of such activities will take place at or about the same general time and in the same general location. Also, a series of activities taking place over extended periods of time can, in the aggregate have a cumulative effect upon the environment much greater than the effect of each individual activity considered separately. All individual activities which are related either geographically or functionally, or are logical parts of a composite of contemplated actions, shall be grouped and shall be deemed by the applicant to be a project and must be evaluated as a whole in a single, comprehensive environmental review. The environmental review of a multi-year project shall encompass the entire multi-year scope of activities and shall not be limited to those activities scheduled for any given year. This subsection applies to all projects and activities, except that for exempt activities defined at § 58.21(a) the applicant may, but is not required to, apply these aggregation requirements.

(4) *Illustrations.* Where an applicant proposes to acquire a parcel of land, relocate its occupants, clear the site by demolition, then develop the site, or dispose of it for development by others, then all of these activities must be viewed as comprising a single project, for purposes of environmental review. Where an applicant proposes to undertake a number of small activities, such as street, water, and sewer improvements in a given neighborhood, the applicant shall aggregate all such geographically or functionally related activities and view them as a single project for environmental review purposes and shall evaluate their cumulative environmental impact. This applies even if the activities are to occur over a period of years and even if some of the activities are to be funded by other than Title I funds or carried out by someone other than the applicant.

§ 58.6 [Reserved]

Subpart B—Environmental Reviews by Applicants Under Title I

§ 58.7 [Reserved]
§ 58.8 [Reserved]
§ 58.9 Financial assistance for environmental review.

Applicants may utilize Federal financial assistance to enable them to carry out environmental review pursuant to this part, in accordance with the provisions of 24 CFR 570.205, 570.206(h), 570.301 and 571.205 and 571.206(h). The costs of environmental reviews include any costs incurred in complying with any of the authorities mentioned at § 58.1(a)(3).

§ 58/10 [Reserved]

§ 58.11 Environmental review record.

Applicants shall prepare and maintain a written record of the environmental review pertaining to each project, which shall be designated the "Environmental Review Record", and shall be available for review as part of the project proposal at the request of interested agencies, groups or individuals. The environmental review record, using the appropriate formats contained in HUD 399–CPD, Environmental Reviews at the Community Level, or other equivalent formats used by the applicant, shall include as applicable:

(a) A description of the project to which it relates and the documentation of environmental planning and assessment actions taken pursuant to 40 CFR Part 1501 and as set forth in § 58.14;

(b) Documentation showing that each step in the environmental review process set forth in § 58.15 has been performed, that the level of clearance finding required by 58.15(d) has been made, and is supported in the environmental review record;

(c) Documentation showing that each step in the environmental review process under § 58.16 or § 58.17, as the case may be, has been performed and that the requirements of applicable subsections have been satisfied;

(d) A description of the existing environmental conditions, the environmental impacts identified and modifications and changes made to compensate for environmental impacts;

(e) A copy of any Draft EIS, and the comment on it; the Final EIS together with comments and documentation on subsequent actions, if any, taken pursuant to § 58.31 (See (i) below); and a copy of any supplemental EIS which may have had to be prepared to supplement either a Draft or Final EIS pursuant to 40 CFR 1502.9(c) and as provided in §§ 58.17(h) and 58.19(a);

(f) Copies of historic preservation review analyses conducted under 24 CFR Part 59 showing satisfaction with each applicable step of such process and support for any conclusion reached in connection therewith;

(g) The written decision required by § 58.19(c) with respect to projects to which § 58.19(c) is applicable;

(h) A copy of the notice required by § 58.30(a), the request required by § 58.30(b), and the certification and accompanying statement required by § 58.30(c);

(i) A copy of any environmental objection received which pertains to the project;

(j) A copy of any request for a waiver, and any waiver that may be issued under § 58.25 (Table I note (2));

(k) Evidence of any determination of the "lead agency" or a "cooperating agency" under § 58.27;

(l) Copies of environmental analyses or reports, conducted under State or local law;

(m) Original counterparts or copies, as appropriate, of other documents appropriate in the judgment of the applicant for inclusion in the environmental review record (see (s) and (t) hereunder);

(n) Documentation relative to compliance with Executive Order 11988 on Floodplain Management and Executive Order 11990 on Protection of Wetlands, including the notices required by § 58.23; and

(o) Documentation required to reflect compliance with related statutory authorities and legislation cited in § 58.5(a).

(p) A "Summary record of decisions" which shall be prepared and maintained by the applicant as required in § 58.17

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for a project requiring an EIS. Such a summary record may be prepared at the applicant's option to accompany the procedure set forth in § 58.16 for completing the environmental review process of a project which resulted in a finding of no significant impact;

(q) Documentation of applicant monitoring and enforcement procedures and related post-review actions (§§ 58.17 and, 58.32);

(r) Copy of public hearing announcements and summary record of the objections, comments and of the response and decision of the applicant;

(s) Copies of relevant environmental assessments conducted by State and local agencies and the applicable information used;

(t) Copies of prior environmental reviews including areawide EIS and other Federal agency's EIS used in relation to a proposed Title I project;

(u) Alternatives considered in applicant decisions including comparison of the alternatives, environmental factors and non-environmental factors considered.

§ 58.12 [Reserved]
§ 58.13 [Reserved]
§ 58.14 [Reserved]

§ 58.14 Environmental Review Process—Early Planning/Assessment Procedures.

The purpose of this process is to provide applicants the means to implement the environmental planning and management policies set forth in § 58.5. The procedure set forth hereunder is designed to assist the applicant in establishing an administrative and environmental planning capability to carry out the environmental review and decisionmaking process as *tiered* (definition § 58.3(b)) for decision at each level of the environmental review process prescribed in §§ 58.14 through 58.17, pursuant to the tiering provisions of 40 CFR 1502.20 and 1508.28. This environmental review of a project is a continuing process which should begin at the earliest point in the basic planning efforts prescribed in 24 CFR 570.301 and 570.305 in order to ensure that environmental considerations shall be raised and receive adequate attention in the development of the administrative requirements and the planning and programming strategies of the applicant community development program. At this initial level, the environmental review process consists of the following actions:

(a) *Administrative Procedure.* The following administrative actions shall be initiated early in the applicant development of its CDBG Program:

(1) Designate the certifying officer who shall assume on behalf of the applicant all environmental review and decisionmaking responsibilities as provided in §§ 58.3(a) and 58.5.

(2) Provide all practicable public participation and decision review mechanisms for consultation, advice and guidance, pursuant to the requirements of 40 CFR 1506.6, through such means as the designation of specific staff source of information and status reports on environmental impact statements and other elements of the environmental review process. Such a control source of information would be responsible for:

(i) *Publication and dissemination* of the public notices required under this part;

(ii) Integration of applicable private development actions, including identification of the type of actions initiated by private parties and non-Federal entities for which applicant involvement may be reasonably anticipated such as the coordination provisions of 24 CFR 570.301(c) for Neighborhood Strategy Areas under Title I and economic development activities under 24 CFR 570.203 and 570.204. In such cases the applicant shall notify the private individual or organization of studies and information that it may reasonably expect to require under 40 CFR 1501.2(d) for the integration of these private actions in the applicant's CDBG strategies (such as those designed for economic development and neighborhood revitalization. The applicant shall obtain on such private actions all practicable environmental information which will be necessary for aggregation purposes and cumulative impact assessment as provided in § 58.5 and for threshold determinations under § 58.25.

(iii) Provide information and other resources to residents and citizen organizations participating in the planning, implementation or assessment of proposed Title I activities as provided in 24 CFR 570.206(b).

(3) Establish an urban environmental design administrative capacity authorized by 24 CFR 570.205(b)(3) as a part of the applicant's efforts to develop its policy-planning-management capacities so that it shall be able to comply with the NEPA mandate of Section 102(2)(a) "to utilize a systematic interdisciplinary approach" as required in 40 CFR 1501.2(a) and 1507.2(a).

(4) Determine staff and resource needs for the environmental planning and urban environmental design activities authorized by 24 CFR 570.205 including paragraph (a)(3) of this section that can be supported through the block grant funds provided for planning and administrative costs by 24 CFR 570.200(i) and the consultant costs of 570.200(g).

(5) Initiate, as necessary, the scoping process prescribed in 40 CFR 1501.7 for a *preliminary* determination of the scope of environmental issues to be addressed and a preliminary identification of the significant issues including conflicting objectives that shall serve to assess and compare environmental effects and compare alternatives in the planning, programming decisions and project selection including the decisions for areawide environmental assessments in the basic CDBG planning efforts specified above, and to carry out Steps (6) and (7) hereunder.

(6) Review in consultation with the appropriate Federal agencies and authorities cited in § 58.1(a)(3) the requirements for the related environmental concerns identified in scoping process of paragraph (a)(5) of this section.

(7) Based on the scoping process preliminary findings, determine potential lead and cooperating agencies based on the criteria of 40 CFR 1501.5 and 1501.6.

(b) *Environmental Planning Tier.* This planning tier shall consist of the following steps of decisionmaking.

(1) Establish environmental goals, objectives and the relative priority of available options to be selected by the applicant.

(2) Determine the policies, alternative implementing programs and actions including, where appropriate and practicable, results of prior environmental reviews (§ 58.19) and post review monitoring and audit functions.

(3) Ensure that the results of this feedback process will serve to develop alternative policies or objectives and where necessary, the corrective and reprogramming actions which can result from a decision not to implement (§ 58.5(b)(3).)

(4) Determine the advantages (benefit-cost, long-term and short-term) and feasibility of areawide environmental reviews, aggregation and cumulative impact assessments as opposed to individual project assessments.

(5) Initiate the scoping process in joint planning and coordination programs and for reviews to be undertaken by the applicant in a lead agency or cooperating agency capacity including the decisions related thereto.

(6) Develop the recommendations to be considered concurrently with other technical, economic and CDBG program considerations in the decisions of the applicant on the community development and housing actions that it will undertake with Title I funds.

(7) Ensure that recommendations and decisions on project selection and development take into account the extent to which the project creates a significant urban impact on central cities and older urban areas; including the relative impact that the project may have on a particular area as compared to other areas of a city or community relative to such factors as:

(i) Economic revitalization objectives, particularly those related to economically disadvantaged areas of a community, and efforts related to the prevention of additional areas from becoming distressed;

(ii) Business location and level of economic activity;

(iii) Expansion of jobs for minorities and the unemployed;

(iv) Expansion of housing choices for the disadvantaged and minorities;

(v) Efforts to strengthen the fiscal condition and tax base of the applicant;

(vi) Conservation and revitalization of neighborhoods, particularly blighted neighborhoods; and

(vii) Improvement of urban physical, cultural and esthetic environments through protection of parks, recreation, historic and cultural resources and through the development of mass transit opportunities.

§ 58.15 Environmental Review Process—Steps to Commence Environmental Assessment.

The manner in which the applicant carries out the environmental review process, including the concurrent historic preservation review, and other reviews required by the authorities set forth in § 58.1(a) and the responsibilities assumed pursuant to § 58.5(a), is largely within the discretion of the applicant. However, the process should start as early in the planning and program development process as possible, should be completed while alternatives can still reasonably be considered and action taken to enhance environmental quality. Unless an immediate decision is made that an EIS is required, the process will be reported in the HUD Format I or equivalent, and shall include the following steps:

(a) *Determine existing conditions.* Existing environmental conditions and trends which are likely to continue in the absence of the proposed project should be identified. Such information is an essential data base from which to assess and evaluate any effects of the project.

(b) *Identify environmental impacts.* The nature, magnitude, and extent of all environmental impacts of the project, whether beneficial or adverse, should be identified.

(c) *Examine identified impacts.* As to all environmental impacts of the proposed project which are identified:

(1) *Possible project modification.* Examine the project and consider ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize any adverse environmental impacts and enhance environmental quality. The examination should include consideration in light of the policies set forth in § 58.1(b) of both positive and negative effects of any such modification in relation to design, use, location, cost, and timing of the proposed project and its implementation.

(2) *Alternatives.* Examine alternatives to the project itself which would eliminate or minimize environmental impacts or enhance environmental quality. The examination should include consideration of both positive and negative effects of any such alternatives in relation to design, use, location, cost, and timing, and consideration of the effect of no project.

(d) *Level of clearance findings.* Having completed each of the foregoing steps that may be applicable in the environmental review process, the applicant shall make one of the two level of clearance findings set forth below.

(1) *Finding that request for release of funds for project is not an action which may significantly affect the quality of human environment.* If the environmental review process of the applicant results in a finding by the applicant that the request for release of funds for the proposed project is not an action which may significantly affect the quality of the human environment, then a document stating this finding and the facts and reasons supporting the finding shall be prepared by the applicant and included in the environmental review record. The document shall set forth sufficient information to demonstrate that the applicant has complied with each step in the environmental review process.

(2) *Finding that request for release of funds for project is an action which may significantly affect the quality of the human environment.* If an EIS is required by § 58.25, or if the environmental review process of the applicant results in a finding by the applicant that the request for release of funds for the proposed project is an action which may significantly affect the quality of the human environment, then a document stating this finding shall be prepared by the applicant and included in the environmental review record. An EIS is required for each action which may have such significant effect.

§ 58.16 Environmental Review Process—Steps to Complete Environmental Assessment (No EIS Required).

The following procedure shall be followed where the level of clearance finding is that specified in § 58.15(d)(1):

(a) *Notice of finding of no significant impact.* The applicant shall prepare a notice of finding of no significant impact on the environment using format VI of HUD–399–CPD, Environmental Reviews at the Community Level, or such other equivalent format as may be used by the applicant.

(b) *Publication and dissemination.* The notice of finding of no significant impact on the environment shall be published and disseminated in the same manner as a notice of intent to file an EIS, as described as § 58.17(b) and will provide at least 15 days after initial publication for public comment. The applicant may, at the same time of publication of the above notice, also publish the notice required by § 58.30(a). In such case, both notices shall be published and disseminated in the manner specified at § 58.17(b).

(c) *Completion.* Following publication and dissemination of the notice of finding of no significant impact on the environment and the expiration of any time fixed for comments, the environmental review process shall be complete, unless further proceedings are found by the applicant to be necessary, due to responses to such notice, or otherwise.

§ 58.17 Environmental Review Process—Procedures for Draft, Final and Supplemental Environmental Impact Statements.

The following procedure shall be followed where the level of clearance finding is that specified in § 58.15(d)(2):

(a) *Notice of intent to file an EIS.* As soon as practicable, the applicant shall prepare a notice of intent to file an EIS using format V of HUD–399–CPD, Environmental Review at the Community Level, or such other equivalent format as may be used by the applicant.

(b) *Publication and dissemination.* Copies of the notice of intent to file an EIS shall be sent to the local news media, individuals and groups, including low- and moderate-income

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neighborhood groups, known to be interested in the applicant's activities, local, state, and Federal agencies, including the headquarters and appropriate Regional Office of the Environmental Protection Agency, the HUD Area Office, the appropriate A–95 clearinghouses, and others believed appropriate by the applicant. Such notice shall be published at least once in a newspaper of general circulation in the affected community. If such newspaper is of a type specializing in the publication of legal, real estate, commercial, or other notices, listings, and advertisements and is not of a type subscribed to and read by the general public as a source of news of general public interest, then such notice shall also be published at least once in easily readable type in the nonlegal section of a newspaper of general circulation, and where appropriate in a minority and non-English language newspaper of general circulation where such exists. The applicant also shall make reasonable efforts to provide the notices, in the form of press releases to neighborhood newspapers or periodicals serving low- and moderate-income neighborhoods.

(c) *Procedures in the conduct of EIS's.* Prior to the preparation of a draft EIS, the applicant shall make the following determinations necessary for the conduct of the preparation of the draft and final EIS's for a project including the determination of lead agency when more than one Federal agency is involved in the same action; the designation of cooperating agencies; the establishment of the scoping process prescribed in 40 CFR Part 1501.7; and, the exercise of the public hearing options.

(1) *Lead agency designation.* When one or more Federal agency is involved in the same action, and as soon as practicable after its finding under § 58.15(d)(2) that a project will require the preparation of an EIS, the applicant shall initiate the procedure for the designation of the lead agency or joint lead agencies as prescribed in § 58.27 and in accordance with the criteria and conditions set forth in 40 CFR 1501.5 of the NEPA regulations. Such a lead agency shall assume the responsibility for the preparation of the draft and final EIS on behalf of consenting Federal agencies, State and other non-Federal entities which may be involved in the same project or group of related actions aggregated on a functional or geographical basis.

(2) *Cooperating agency.* The procedure established in paragraph (c)(1) of this section shall assist the applicant determination of the actions to be taken and the procedure to be followed:

(i) As a lead agency; and in this case, its designation of cooperating agencies as provided in § 58.27(c) and in accordance with the requirements of 40 CFR 1501.6 of the NEPA Regulations and within certain conditions, the involvement of State and local agencies or private entities in accordance with 40 CFR 1506.2 and 1501.2(d);

(ii) In the request to potential lead agencies that a lead agency be designated; and upon such designation,

(iii) As a cooperating agency pursuant to the provisions of 40 CFR 1501.6 and § 58.27.

(3) *Scoping process.* The process carried out by an applicant for determining the scope of issues to be addressed in the environmental review of a proposed action may be initiated as a tiered process integrated in the basic planning efforts prescribed in § 58.14; or it may be initiated either as a separate process or integral with the basic planning scoping process for the related statutory environmental review and consultation procedures prescribed in §§ 58.22 through 58.24. At the project level and for all actions which have been determined to require an EIS, the scoping process shall begin after the applicant notice of intent to file an EIS. As part of the scoping process under 40 CFR 1501.7, the applicant shall:

(i) "Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), ————————. An agency may give notice in accordance with § 58.17(a).

(ii) "Determine the scope (§ 58.3(b)) and the significant issues to be analyzed in depth in the environmental impact statement.

(iii) "Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (§ 58.19), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

(iv) "Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

(v) "Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.

(vi) "Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in § 1502.25 (See § 58.22(d))

(vii) "Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule."

An applicant shall revise the determinations made during the scoping process if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

(4) *Public hearings—Procedure.* Prior to the preparation and distribution of a draft EIS, the applicant shall determine whether or not it will conduct a hearing or hearings at which members of the public may be heard respecting the preparation and contents of the draft EIS. The applicant should also determine whether or not separate public hearings shall be held concerning the draft EIS, or whether such public hearings shall be combined with other public hearings pertaining to the application of the applicant. All such public hearings concerning a draft EIS shall be preceded by a notice of public hearing, which shall be published and disseminated in the same manner as a notice of intent to file an EIS as set forth in § 58.17(b), at least 15 days prior to such hearing, and which shall: (i) State the date, time, place, and purpose of the hearing; (ii) describe the project, its estimated costs, and the project area; (iii) state that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard; (iv) state the name and address of the applicant and the certifying officer of the applicant; and (v) state where the draft EIS can be obtained, whether in person or by mail, and any charges that may apply.

(d) *Public Hearings—Factors to consider.* The determination of whether or not public hearings shall be held prior to distribution of a draft EIS or after such distribution, or at any other time during the environmental review process, shall be within the reasonable discretion of the applicant. In determining whether or not to hold such public hearings on environmental issues, either separately, or in combination with other proceedings relating to the application of the applicant, the following factors should be considered: (1) The magnitude of the projects, in terms of economic costs, the geographic area involved, and the uniqueness of size of commitment of the resources involved; (2) the degree of interest in or controversy concerning the projects, as evidenced by requests from the public, or from Federal, State, or local authorities, for information, or that a hearing be held; (3) the complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the applicant in carrying out its environmental responsibilities respecting the particular projects; (4) the extent to which public involvement has been achieved with respect to environmental concerns through other means, such as other public hearings, citizen participation in the development of the applicant's community development program and in formulation of its application, meeting with citizen representatives, and written comments on the particular projects.

(e) *Draft EIS.* A draft EIS shall be prepared in accordance with Part 1502 of the NEPA Regulations and in the manner prescribed by the guiding principles of 40 CFR 1502.2 set forth in HUD–399–CPD, *Environmental Reviews at the Community Level.* Copies of the draft EIS shall be sent by the applicant to:

(1) The Headquarters of the U.S. Environmental Protection Agency, Office of Federal Activities, Mail Code A–104, Room 537W, 401 M Street, SW., Washington, D.C. 20460. The applicant is required to file 5 copies of the draft EIS with the EPA headquarters in order to fulfill the official filing requirements as set forth in the CEQ guidelines. Upon filing of the draft EIS with EPA Headquarters, a notice that the applicant has prepared a draft EIS will be published by EPA in the **Federal Register** which normally will be on the Friday of the week following the one in which EPA received the required number of copies. There shall be a minimum review period of 45 days for the draft EIS plus any extensions thereof initiated or granted by the applicant. A draft EIS must be on file with EPA at least 90 days prior to submission to HUD of a certification and request for release of funds for the particular project pursuant to § 58.30.

(2) Simultaneously with the official filing set forth in paragraph (e)(1) of this section, five (5) copies will be transmitted to the appropriate Regional Office of the U.S. Environmental Protection Agency in order to fulfill the requirements of section 309 of the Clean Air Act.

(3) Copies shall also be transmitted to Federal agencies whose areas of jurisdiction of law or special expertise are involved, to the applicable OMB-designated A–95 clearinghouses, to appropriate local agencies and entities, including local and area planning agencies, and groups or individuals known by the applicant to have an interest in the proposed action of the applicant.

(4) The appropriate HUD Area and Regional Office and to the HUD Headquarters Library, Eighth Floor, U.S. Department of Housing and Urban Development, Washington, D.C. 20410 (one copy each).

(5) Copies shall also be made available to the public at the offices of the applicant and at public libraries and either copies, or summaries, of the draft EIS, must be made available, upon request, to persons who request them.

(f) *Final EIS.* A final EIS shall be prepared in accordance with 40 CFR Part 1502 of the NEPA Regulations and in the manner and format provided in HUD–399–CPD, Environmental Reviews at the Community Level. The final EIS must take into account and must respond to the comments received as the result of circulation of the draft EIS. The final EIS, including all comments received and the applicant's responses thereto, shall be filed with:

(1) The U.S. Environmental Protection Agency, Office of Federal Activities, Mail Code A–104, Room 537W, 401 M Street, SW., Washington, D.C. 20460. The applicant is required to file 5 copies of the final EIS with the EPA headquarters in order to fulfill the official filing requirements as set forth in the CEQ guidelines. Upon filing of the final EIS with EPA headquarters, a notice that the applicant has prepared a final EIS will be published by EPA in the **Federal Register.**

(2) Simultaneously with the official filing set forth in paragraph (f)(1) of this section, five (5) copies shall be transmitted by the applicant to the appropriate Regional Office of the U.S. Environmental Protection Agency in order to fulfill the requirements of section 309 of the Clean Air Act.

(3) Copies shall also be transmitted to all agencies and individuals who commented on the draft EIS, to A–95 clearinghouses, appropriate Federal, State, regional and local agencies, and shall be made available to the public.

(4) The appropriate HUD Area and Regional Office and to the HUD Headquarters Library, Eighth Floor, U.S. Department of Housing and Urban Development, Washington, D.C. 20410 (one copy each).

(5) A final EIS must be on file with EPA not less than 30 days prior to submission to HUD of a certification and request for release of funds for the particular project pursuant to § 58.30. If the final EIS is filed within 90 days after publication by EPA in the **Federal Register** of notice of receipt of the draft EIS, then the minimum 30-day period for review of the final EIS, and the 90-day period provided for the § 58.17(e) will run concurrently, to the extent that they overlap.

(g) *Waivers from EIS time requirements.* Waivers from the time requirements specified for the draft and final EIS may be requested by the applicant. Requests should be submitted to the EPA Office of Federal Activities, Room 537W, Mail Code A–104, 401 M Street SW., Washington, D.C. 20460 accompanied by a justification for the request.

(h) *Supplemental EIS.* A supplemental EIS may have to be prepared for either a Draft or a Final EIS in those cases where an applicant makes substantial changes in the proposed project; or to update the EIS when new circumstances and information become available during the process of environmental reviews; or to update prior environmental reviews for their re-use in accordance with the provisions of § 58.19. The procedures for Supplemental EIS's shall be in accordance with the updating provisions of § 58.19(a). Such supplemental EIS's shall be subject to the same filing and dissemination and time requirements as for Draft and Final EIS's being updated, including the procedures for review and comments unless alternative procedures are approved by the CEQ as prescribed in 40 CFR 1502.9 (o)(4).

(i) All applicant EIS's and the documentation related thereto including comments and actions and decisions pursuant to 40 CFR 1505.2 shall be made a part of the applicant's environmental review record (§ 58.11).

§ 58.18 Limitation on action pending clearance.

During the environmental review process and pending completion of the appropriate environmental clearance procedures, the applicant may not use any funds to take any action with respect to the project under review where such action might have an adverse environmental effect, would limit choices among competing

alternatives, or might alter the environmental premises on which the pending clearance is based in such fashion that the validity of the conclusions to be reached would be affected. Except as to exempt activities under § 58.21, no Title I funds will be released for a project until the Secretary shall approve said release of funds and the related certification. (See §§ 58.30, 58.31, and 58.32.) No Title I funds may be used to reimburse project costs subject to this part which have been incurred in advance of the Secretary's approval of the release of such funds and the related certification. Notwithstanding the foregoing sentence, on or after June 28, 1979, relocation and acquisition costs may be reimbursed following the Secretary's approval of the release of funds and the related certification covering the project in connection with which such costs were incurred: *Provided*, That the payment of such costs is required by 24 CFR Part 42, and such costs occurred on or after the date of the submission of an application for assistance under Title I which includes that project, but prior to the date of the certification covering the project.

§ 58.19 Use of prior environmental reviews.

This section defines cases in which an EIS must be updated and cases in which an applicant may make use of a relevant published EIS for a new project activity; and it indicates cases of continuing activities in which a new environmental review is not required and cases in which they are required.

(a) *Procedures for Supplemental EIS's.* The following procedures shall be followed when new information becomes available or circumstances change during the process of environmental reviews.

(1) If information arises after a draft EIS has been transmitted for circulation, but prior to the expiration date for receipt of comments, then copies of any revision, amendment, addendum issued as a Supplemental EIS to the draft EIS shall be transmitted to all parties to whom the draft EIS was transmitted, as provided in § 58.17, and to all other parties who have commented thereon, and, where appropriate, the applicant shall extend the time for comment on the draft EIS.

(2) If the time for comments on the draft EIS has expired, but the final EIS has not been circulated, then any revision, amendment or addendum issued as a Supplemental EIS to the draft EIS shall be transmitted to all parties to whom the draft EIS was transmitted and to all parties who commented thereon, and a reasonable time for receipt of comments shall be fixed and allowed. The final EIS shall then reflect the additional factors and contain the comments and responses respecting them.

(3) If the final EIS has been circulated, then it shall be revised and reissued or a Supplemental EIS shall be prepared and distributed, as appropriate, to all parties to whom the final EIS was distributed and to others who have commented thereon. Such revision or Supplemental EIS shall be subject to the same review and comment procedures, including those respecting time, as the final EIS which is being updated.

(b) *Use of prior environmental impact statements.* Where any final environmental impact statement has been listed in the **Federal Register** for a project or where an areawide or similar broad scale final EIS has been so listed and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for that subsequent project if the conditions set forth below in subparagraphs (1), (2), (3), and (4) are met.

(1) The environmental review record contains a decision based on a finding that the proposed project is not a new major Federal action significantly affecting the quality of the human environment.

(2) In addition to the content prescribed elsewhere in this section, the decision shall include:

(i) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;

(ii) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(iii) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior environmental impact statement;

(iv) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(3) The prior final environmental impact statement has been kept current in the following ways:

(i) The EIS has been filed or updated within five (5) years; and

(ii) The EIS has been updated in accordance with significant revisions made to the underlying assumptions (covering at least those items in § 58.19(b)(2)(iii) above) as may be stated in the comprehensive plan or major elements thereof or other public policy revisions; and

(iii) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which the Department of Housing and Urban Development has determined to have significant environmental impact on the areas covered by the prior EIS.

(4) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

(c) *Environmental review findings of no significant effect.*—(1) *No new environmental review.* A project which is a continuation of a previously commenced activity or activities for which environmental review or clearance has been completed and for which circumstances, including the availability of a additional data or advances in technology, have not changed significantly, requires no new environmental review or clearance by virtue of such project's funding under Title I. The applicant shall prepare a written decision to that effect, which shall set forth the reasons therefor.

(2) *Requirement for new environmental review.* A project which is a continuation of a previously commenced activity or activities for which no environmental review has been completed or for which a prior EIS does not meet the requirements of § 58.19(b) must be subjected to an original or updated environmental review under this part. Such review shall be carried out with respect to the entire project to the extent that the entire project or portions of it could still be altered in light of environmental considerations.

§ 58.20 Financial settlement of urban renewal projects.

(a) *Project undertaken to facilitate early financial settlement.* If an applicant proposes to submit an application for financial settlement of an urban renewal project prior to substantial completion thereof pursuant to 24 CFR 570.804, which will be coupled with a proposal to use Title I grants pursuant to 24 CFR 570.801 for the purpose of facilitating such financial settlement, the latter proposal shall be deemed a project which is subject to the following additional requirements and conditions:

(1) Section 58.19(b) shall be inapplicable to such project;

(2) The environmental review for such project shall include an assessment of the environmental consequences of the financial settlement of the urban renewal project prior to substantial completion thereof;

(3) The applicant shall include the following sentence with the notice required by § 58.30(a):

Applicant will use the project to establish a financial basis, and will apply to the Secretary of HUD for financial settlement prior to substantial completion of the *(identify urban renewal project or NDP)* pursuant to 24 CFR 570.803 and 570.804.

(b) *Financial settlement prior to substantial completion of urban renewal project involving surplus of capital grant funds.* A financial settlement pursuant to 24 CFR 570.803 and 570.804 of an urban renewal project prior to substantial completion thereof which would result in a surplus of capital grant funds, $500 or more of which will be devoted to eligible Title I activities other than exempt activities under § 58.21 together with the proposed use(s) of the surplus shall be deemed a project and shall be subject to the following additional requirements and conditions:

(1) Section 58.19(b) shall be inapplicable to such project;

(2) The environmental review for such project shall include an assessment of the environmental consequences of the financial settlement of the urban renewal project prior to substantial completion thereof, and of the proposed use(s) of the surplus except any use(s) set forth in § 58.21;

(3) The application for financial settlement pursuant to 24 CFR 570.803 and 570.804 and use of the surplus resulting therefrom shall be treated as a request for release of funds and shall be subject to the requirements of Subpart C of this Part. However, the applicant shall use the following sentence in lieu of the first sentence set forth after the word "indicated" in § 58.30(a)(6):

(*Name of applicant*) will apply for financial settlement prior to substantial completion of *(identify urban renewal project or NDP)* and will undertake certain activities, all as described above, with surplus capital grant funds resulting from financial settlement.

(4) The surplus of capital grant funds resulting from such financial settlement may be used for a project which consists entirely of exempt activities under § 58.21 and/or activities which are subjected to environmental assessment pursuant to § 58.20(b) without further compliance with this Part.

(c) *HUD environmental review of certain financial settlements.* Prior to acting upon any application submitted pursuant to 24 CFR 570.803 and 570.804 for financial settlement of an urban renewal project which is not substantially completed and for which the environmental consequences of financial settlement prior to substantial completion thereof have not been assessed by the applicant pursuant to § 58.20 (a) or (b), HUD shall itself conduct an assessment of the environmental consequences of the proposed financial settlement. However, if HUD finds that the applicant should have conducted an environmental assessment pursuant to § 58.20 (a) or (b) but failed to do so, the application for financial settlement shall be rejected and the applicant shall be required to comply with the environmental assessment requirements of § 58.20 (a) or (b) as appropriate, on a catchup basis, as a condition precedent to resubmission of its application.

(d) *Financial settlement after substantial completion of urban renewal project.* Notwithstanding any other provision of this part an assessment of the environmental consequences of financial settlement pursuant to 24 CFR 570.803 and/or 570.804, or an urban renewal project which is substantially completed, is not required. However, the applicant or HUD as appropriate, shall prepare and maintain in its records a written finding as to the substantial completion of the urban renewal project.

(e) *Definition of Substantial Completion.* For the purposes of this Section and as applied to an urban renewal project, this term means that:

(1) Ninety percent (90%) or more of site improvement work has been completed and the remainder is under contract;

(2) Ninety percent (90%) or more of demolition work has been completed and the remainder is under contract;

(3) Relocation of all occupants of at least ninety-eight percent (98%) of the housing units in the relocation workload, or of all but five (5) such housing units, whichever is the lesser, has been completed;

(4) Relocation for at least ninety-five percent (95%) of all cases in the nonresidential relocation workload, or for all but ten (10) such cases, whichever is the lesser, has been completed;

(5) At least ninety percent (90%), by estimated cost, of all relocation payments have been made;

(6) With respect to each park, playground, public building or other public facility to be provided as a noncash local grant-in-aid:

(i) All land necessary for the provision thereof has been conveyed to or is in the ownership of the providing entity or is covered by an unconditional purchase, or similar, agreement,

(ii) All necessary planning agency or other public body approvals have been obtained,

(iii) All, or virtually all, of the funds necessary for the provision thereof have been authorized by the governing body of the providing entity and all and any necessary bond referendums or other public approvals have been obtained,

(iv) Complete working drawings and specifications have been prepared for the construction thereof and firm supportable estimates of the costs incident to provision thereof have been developed, and

(v) A firm assurance exists of timely completion and in any event, of completion within five (5) years from the date of the assurance;

(7) With respect to dwelling units not to be demolished, at least ninety-five percent (95%) comply with applicable codes and at least seventy-five percent (75%) comply with applicable property rehabilitation standards established for the urban renewal project: *Provided*, that in any event, project activities may be deemed complete in regard to dwelling units not to be demolished where the following conditions exist:

(i) Area decline has been arrested and stability and self-generating renewal assured,

(ii) Public facilities and services have been and will continue to be, provided to support continued stability,

(iii) Local financial institutions are making property loans in the area, and

(iv) The community will continue an adequate level of code enforcement activities in the area;

(8) All project land acquisition has been completed; and

(9) An amount equal to the HUD approved land disposition value of all acquired project land has been credited to the urban renewal project account(s): *Provided*, that for all project land actually sold, the full sale price thereof shall be so credited and for all leased or unsold project land, the full amount of the HUD approved estimate of the disposition value thereof shall be so credited from community development block grants or local funding sources.

§ 58.21 Exempt activities and categorical exclusions

(a) *Activities exempt by statute.* The following activities, to the extent eligible for assistance under Title I, are exempt from the requirements of this Part:

(1) Environmental studies or assessments.

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(2) Activities authorized by section 105(a)(12) of Title I and 24 CFR 570.205 and 571.205.

(b) *Categorical exclusions.* Activities and projects (see definitions at § 58.3 and aggregation requirements of § 58.5(d) which consist solely of the following kinds of activities shall be categorically excluded (see definition § 58.3(b)) from the requirements of this part:

(1) Administrative costs as provided by 24 CFR 570.206 and 571.206.

(2) The payment, under authority to section 105(a)(10) of Title I, of principal and interest on outstanding urban renewal project loans as defined in 24 CFR 570.800(b) where such payment is not covered by § 58.20 or where such payment is not associated with a change in the related urban renewal project.

(3) The payment, under authority of section 108(c) of Title I, of principal and interest due on notes or other obligations guaranteed pursuant to section 108; and the repayment, under authority of section 108; and the repayment, under authority of section 108(e), due the United States as a result of guarantees made pursuant to section 108.

(4) The payment of engineering and design costs associated with an activity eligible under 24 CFR 570.201 through 570.204.

(5) Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements eligible under §§ 570.201(c) and 571.201(c) and economic development activities authorized pursuant to §§ 570.203 and 571.203, subject to the following limitations:

(i) Acquisition for continued use. The article to be acquired is in place and will be retained in the same use that existed at the time of acquisition, without change in size, capacity or character.

(ii) Acquisition, construction, reconstruction, or installation for replacement or upgrading. The article will replace or upgrade a substantially identical original article, without more than a minimal change in its use, size, capacity, or location (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving streets, and modification of buildings to provide access for elderly and handicapped persons).

(iii) Acquisition construction, reconstruction, or installation to furnish or equip. The article will furnish or equip a site (other than furnishings and personal property prohibited by §§ 570.207(b)(2) and 571.207(b)(2)) where its placement and use is consistent with the use of that site and the action will not change the use, size, capacity, or character of the site (e.g., landscaping, street furniture, equipping established parks and playgrounds), and fire protection equipment consistent with the eligibility requirements prescribed by § 570.201(c)(6)(ii).

(6) Interim assistance eligible under § 570.201(f) and single purpose grants for imminent threats to public health or safety pursuant to § 570.432.

(7) Public services which:

(i) Are in support of a neighborhood strategy area program which consists entirely of activities exempt under this part; or

(ii) Are a continuation of services after completion of concentrated physical development activities of a neighborhood strategy area program pursuant to § 570.201(e)(1); or

(iii) Are provided by nonprofit or similar organizations in accordance with §§ 570.204(c)(4) and 571.204(c)(4) where the services are not part of a block grant funded physical development project.

(8) Rehabilitation of buildings and improvements as set forth in §§ 570.202 and 571.202, except paragraph (f): *Provided,* That:

(i) Unit density is not increased more than 20 percent; or

(ii) The project does not involve changes in land use from residential to nonresidential use or from nonresidential to residential use, or from one class of residential use (for example, a single family detached dwelling) to another class of residential use (such as single family attached dwelling, low-rise or high-rise multiple dwelling units;) or

(iii) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(9) Combinations of the above activities.

(c) *Other program requirements not affected.* The exemption or categorical exclusion of activities or projects from environmental review procedures pursuant to this section, does not relieve the applicant from compliance with the historic preservation requirements of § 58.24, the flood plains and wetland requirements of § 58.23, other authorities set forth at § 58.1(a)(3), the responsibilities assumed pursuant to §58.5(a), and other applicable program requirements set forth at 24 CFR Parts 570 and 571. Documentation of compliance with these other requirements shall be contained in the environmental review record. The applicant shall not carry out an activity exempt or categorically excluded under this section without:

(1) Completing the environmental review record showing compliance with the requirements and environmental procedures of historic preservation, floodplains and wetlands and other applicable authorities; and

(2) Providing an opportunity for public comment on propositions that historic properties are not involved.

§ 58.22 Other environmental procedures.

In addition to the NEPA environmental review and decisionmaking responsibilities implemented by the NEPA Regulations and this part, the applicant shall be subject to the requirements of executive orders, legislations and the implementing regulations and procedures promulgated under these statutory authorities cited in § 58.1(a)(3). The following procedures and those prescribed under §§ 58.23 and 58.24 shall be applied to all applicant actions covered by Title I and to related actions for which the applicant is the lead agency as defined in § 58.3(b)(7).

(a) *Coastal zone.* If an applicant's project may affect coastal zones or coastal waters as defined in Title III of the Coastal Zone Management Act of 1972 (Pub. L. 92–583), the applicant shall consult the appropriate state offices and with the appropriate office of the Department of Commerce during the environmental review to determine the probable impact of the proposed project.

(b) *Fish and wildlife.* If an applicant's project will result in the control or structural modification of any stream or body of water, the applicant shall consult with the Fish and Wildlife Service of the Department of the Interior; the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, Department of Commerce; the U.S. Army Corps of Engineers and the appropriate State agency. This consultation shall follow the procedures in the Fish and Wildlife Coordination Act of (Pub. L. 85–624) and shall occur during the environmental review as provided above.

(c) *Endangered species.* If an applicant's action may affect endangered species defined under Section 4 of the Endangered Species Act of 1973 (Pub. L. 93–205) as amended by the Endangered Species Amendment Act of 1978 (Pub. L. 95–632), the applicant shall consult with the Department of the Interior and the Department of Commerce on compliance with the procedure in Section 7 of that Act.)

(d) *Tiering of Related Procedures.* As a part of the tiered scoping process initiated by the applicant in the early environmental review activities under this §§ 58.23 and 58.24, the applicant shall:

(1) Identify the environmental issues to be addressed by a proposed project under the statutory authorities cited in § 58.1(a)(3);

(2) Determine the tiering coverage of such issues in its scoping process to ensure that the concerns of the environmental statutes are taken into consideration and satisfied concurrently with the major decision points of the environmental review procedure of this part;

(3) Determine as a result of the scoping process the proposed activities and projects which shall:

(i) When applicable, require an environmental impact statement directly without going through the intermediate steps of the environmental review process of this part on the basis that it may significantly affect the particular concern of the related statute;

(ii) Require specific actions on the part of the applicant, although they may be activities and projects which are categorically excluded from the environmental review requirements of this part, and for which, therefore, an environmental review record shall be maintained; and

(iii) Comply with the procedures of this section and of §§ 58.23 and 58.24 concurrently or combined with the environmental assessment or environmental impact statement procedure of this part (§§ 58.16 and 58.17).

(4) Requests for consultation and the results of such consultation shall be documented in writing. In all cases where consultation has occurred, the agencies consulted should receive copies of the Notice of No Significant Impact together with a copy of the environmental assessment prepared in the proposed action. If, under paragraph (d)(3)(i) of this section a decision has been made to prepare an EIS, then the required consultation shall be deferred until the preparation of the draft EIS.

§ 58.23 Floodplains and wetlands.

Applicants must comply with the requirements of section 2(a) of Executive Order 11988 on floodplain flood plain management and with sections 2 and 5 of Executive Order 11990 on protection of wetlands. In so doing, applicants shall use the floodplain management regulations of HUD set forth in 24 CFR Part 55 implementing the guidelines prepared by the U.S. Water Resources Council and published February 10, 1978, at 43 FR 6030. The following procedures apply where either of the Executive orders is applicable.

(a) *Early public review.* In carrying out the requirements of section 2(a)(4) of Executive Order 11988 and of section 2(b) of Executive Order 11990, applicants shall publish a notice providing opportunity for early public review as soon as it is determined that a project is proposed to be located in a floodplain or wetland as defined by the respective Executive order. Such notice may be brief, but shall: (1) Identify the affected project; (2) set forth the facts and reasons for such proposed project; (3) state that the applicant has additional information on the proposal available and where such information may be obtained; (4) indicate that comments may be submitted to the applicant until a certain date which shall not be less than 15 days following its first publication and dissemination; (5) state the name and address of the applicant and the certifying officer of the applicant; and (6) be dated as of the time it is first published and disseminated. Copies of this notice shall be published and disseminated in the same manner as a notice of intent to file an EIS as described at § 58.17(b).

(b) *Notice of explanation.* The notice of explanation of why a project is proposed to be located in a floodplain as required by section 2(a)(2)(ii) and 2(a)(3) of Executive Order 11988 may be published and distributed at the same time as the notice required by § 58.30(a). In such cases the notices shall be published and disseminated in the manner specified at § 58.17(b).

(c) *Certification.* Submission by the applicant of the certification form required by § 58.30(c) shall also be considered certification that the requirements of Executive Orders 11988 and 11990 have been met by the applicant.

§ 58.24 Historic preservation.

Applicants must comply with the following requirements relating to the Preservation of Historic and Archeological Data Act of 1974, section 106 of the National Historic Preservation Act of 1966 and Executive Order 11593 whenever any property or district included in or found by the Secretary of the Interior pursuant to 36 CFR Part 800 to be eligible for inclusion in the National Register provided for by such Act, is in the boundaries, or within the vicinity of, a project which is to be funded, in whole or in part, by Title I funds.

(a) As part of the environmental review process each project shall be examined in accordance with the procedures for protection of historic and cultural properties (36 CFR Part 800) for the purpose of identifying any National Register and National Register-eligible properties and determining whether or not the project may affect the property. If the property is not affected by the project, the applicant shall so state, in the environmental review record.

(b) If the project will affect the property, the applicant, as part of the environmental review process, shall carry out the procedures set forth at 24 CFR Part 59 of the HUD Regulations.

§ 58.25 Projects requiring an EIS.

Preparation and dissemination of an EIS is required when the environmental review process, pursuant to § 58.15(d)(2) indicates that a project may have a significant environmental effect and for the following types of projects:

(a) *Residential projects.* Residential projects which would remove, demolish, convert, or substantially rehabilitate exsiting housing units (but not including rehabilitation projects exempted under § 58.21(b)(4)), or which would construct or install housing units, or which would provide sites for housing units, in a quantity which equals or exceeds the applicable threshold as follows:

(1) Five hundred units for projects which are to be located outside a standard metropolitan statistical area (SMSA), or which are to be located within an SMSA county but beyond the urbanizing belt as defined in paragraph (a)(3) of this section; or

(2) For projects which are to be located in the urbanizing belt of an SMSA county as defined in paragraph (a)(3) of this section, the applicable threshold is that number in Table 1 opposite the population range that fits the SMSA county in which the project is to be located.

(3) Urbanizing belts are identified as the delineated urbanized areas, as defined by the Bureau of the Census, plus a 2-mile zone around the outer boundaries of such areas. In cases where this 2-mile zone borders or includes a portion of an incorporated place lacking census tracts or, when the 2-mile zone borders or includes a portion of a census tract, the next outer boundary of such incorporated place or census tract, may be used to delineate the out-limit of the urbanizing belt. Nothwithstanding the foregoing, an urbanizing belt shall not extend into a county or jurisdiction which is not a part of an SMSA. If the outer boundary of an urbanizing belt extends into another

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SMSA, then the EIS threshold for any project which has 50 percent or more of its area in such other SMSA shall use the threshold for such other county.

Also, when an applicant can document that significant development has occurred beyond, but contiguous to, the defined urbanized area, HUD may approve redefinition of the urbanizing area plus a 2-mile belt beyond.

Table 1—*Automatic EIS Thresholds Applicable to Housing Projects*

[For use in connection with § 58.25(a)]

SMSA county population range	Automatic threshold (units)
1,500,000 = plus	2,900
1,000,000 to 1,499,999	2,100
750,000 to 999,999	1,800
600,000 to 749,999	1,500
500,000 to 599,999	1,200
400,000 to 499,999	1,000
300,000 to 399,999	900
200,000 to 299,999	800
100,000 to 199,999	700
50,000 to 99,999	600
Under 50,000	500

Notes.—Note I. The thresholds are applied to population figures for an SMSA county or county equivalent (independent city) based on the latest Bureau of the Census population estimates published in the P–25 Series of Current Population Reports. Although the initial application of these thresholds will be to population data for 1975, revised figures may be used as they become available for subsequent years. Where the population estimate for a given SMSA county indicates that there has been a loss in population since the last decennial census, the census figures from that decennial census may be used.

Note II. It is recognized that in high density areas size alone need not necessarily imply a significant impact on the quality of the human environment. Therefore the numerical threshold requirements of this section for an EIS do not apply and are automatically waived for projects in which the number of dwelling units to be removed, demolished, converted or emplaced exceed the numerical thresholds in Table 1 when:

(i) Typical densities in immediate adjacent areas of such projects exceed 50 units per acre (or equivalent); and

(ii) The projects are otherwise assisted by HUD and HUD has waived the requirements for an EIS pursuant to the general environmental review regulations set forth in 24 CFR Part 50.

(b) *Hospitals and nursing homes.* Projects which provide a site or sites for hospitals and nursing homes shall utilize the thresholds set forth above in § 58.25(a) and Table 1 therein, except that the term "bed" shall be substituted for the term "housing unit."

(c) *Water and sewer projects.* Water and sewer projects capable of supporting additional residential development in partially developed and undeveloped areas at an estimated scale which meets the applicable thresholds in Table 1. For nonresidential or mixed used areas, that portion of the hydraulic capacity allocable to additional development shall be converted into the equivalent number of housing units, using standard flows per unit for design assumptions, and the results compared with Table 1 for determining whether the threshold is met or exceeded. In determining net potential development, the applicant shall consider the basic design assumptions used in determining the hydraulic capacity of the project and the land uses contemplated within the service area. Allowances may be made for significant factors such as standby water capacity for fire flow or the storm water of combined sewers which do not directly support new development, and for present development which is to be connected to or served by the project. However, the development potential of existing open areas along water or sewer lines as well as for the target service area must be included in the threshold calculation. The threshold calculation shall also be documented in the environmental review record.

(d) *Transitional EIS requirement.* The system of flexible EIS thresholds set forth in paragraph (a), (b), and (c) of this section have been in effect since June 25, 1979 under the present environmental review procedures of this part. However, since some environmental reviews will be in process when this Interim Rule becomes effective, the following transition rules shall continue to apply to those situations where an EIS would have been required under the previous thresholds but will not be required under the new flexible thresholds.

(1) Where a draft EIS has been published for public comment, the EIS process, including the issuance of a final EIS, shall be completed or the termination process described in subparagraph (3) of this paragraph shall be completed before the release of funds actions prescribed by § 58.30 are taken.

(2) Where a notice of intent to file an EIS has been published pursuant to § 58.17(a) but a draft EIS has not been published for public comment, the EIS process shall be completed or the termination process described in subparagraph (3) of this paragraph shall be completed before the release of funds actions prescribed by § 58.30 are taken.

(3) Where an EIS already in process is to be terminated, as provided by subparagraph (1) or (2) of this paragraph, the applicant shall make the level of clearance finding set forth at § 58.15(d)(1) that a request for release of funds for the project is not an action which may significantly affect the quality of the human environment; shall give full consideration to all comments which may have been received in response to a notice of intent to file an EIS or in response to a draft EIS; shall comply with the requirements of § 58.16; and shall publish a notice of intent to terminate an EIS. Such notice shall be published and disseminated in the same manner as a notice of intent to file an EIS as described at § 58.17(b). However, if a draft EIS was published, EPA shall be requested to have such notice published in the **Federal Register.** The notice may be brief but shall identify the name, character, site, and location of the project for which further processing of an EIS is to be terminated, set forth the circumstances and reasons for discontinuing further EIS processing, indicate that the finding required by this subsection has been completed and indicate where and when it is available for public review, describe how any comments received in response to a notice of intent to file an EIS or in response to a draft EIS where considered, and state that the applicant proposes to submit the request for release of funds for the project under consideration in no less than fifteen (15) calendar days from the date the notice is published. This notice may be combined with the notices required by §§ 58.16(a) and by 58.30(a).

§ 58.26 [Reserved]

§ 58.27 Interaction of applicant with Federal agencies and other non-Federal entities—Lead agency and cooperating agency role.

(a) *Interaction with Federal agencies.* If, as provided by Section 1501.5 of the NEPA Regulations, one or "more than one Federal agency either:

(1) Proposes or is involved in the same action; or

(2) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity;" or

(3) Is involved in a project to be jointly funded by other Federal agencies and by HUD under Title I; and if the preparation of an EIS is required by this part;

THEN, a single agency, either the applicant or the other Federal agency, should assume responsibility as the "lead agency" for the preparation and clearance of an EIS, with the other agencies providing assistance. In the event that the regulations of none of the Federal agencies other than HUD require an EIS for such project, but the applicant determines under this part that an EIS is required, then the applicant shall assume the "lead agency" role, or shall otherwise prepare an EIS, which shall comprehend the actions of the other Federal agency or agencies related to the project, as provided in the NEPA Regulations and hereunder:

(i) "If an action falls within the provisions of (this) paragraph (a) of this section the potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be the cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay.

(ii) "Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement (§ 1506.2)."

(b) *Joint reviews—Designation of lead agency.* All determinations respecting joint environmental review or designation of a "lead agency" to perform an environmental review shall be made and agreed upon between the applicant and any Federal agency involved, where practicable.

(1) *Designation criteria.* The designation of the lead agency in the case where there are several potential agencies ready to assume such a role, shall be based on the following criteria prescribed in order of descending importance by Section 1501.5 of the NEPA Regulations:

(i) "Magnitude of agency's involvement.

(ii) "Project approval/disapproval authority.

(iii) "Expertise concerning the action's environmental effects.

(iv) "Duration of agency's involvement."

(2) *Agreement procedure.* In the event an applicant and a Federal agency are unable to reach such agreement, the applicant shall notify HUD, and HUD, with the advice and assistance of CEQ, will seek to obtain such agreement based on the following procedure set forth in Section 1501.5(e) of the NEPA Regulations: "Within 45 days in a lead agency designation, any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency.

"A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

(i) "A precise description of the nature and extent of the proposed action.

(ii) "A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified in (paragraph (b)(1) of this section.)

"A response may be filed by any potential lead agency concerned within 20 days days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 20 days after receiving the request and all responses to it which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies."

(c) *Cooperating agencies.* The designation of the cooperating agencies in those cases where there is more than one agency including the applicant ready to assume such a role shall entail the following actions on the part of the applicant either in a lead agency or as a cooperating agency capacity: pursuant to the provisions of 40 CFR 1501.6 cited hereunder:

(1) "*The lead agency shall:*

(i) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.

(ii) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.

(iii) Meet with a cooperating agency at the latter's request."

(2) "*Each cooperating agency shall:*

(i) Participate in the NEPA process at the earliest possible time.

(ii) Participate in the scoping process.

(iii) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.

(iv) Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.

(v) Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests."

"A cooperating agency may, in response to a lead agency's request for assistance in preparing the environmental impact statement • • • reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council."

(d) *Interaction with non-Federal entities.* Applicant cooperation with State agencies and other non-Federal entities shall be in accordance with the provisions of 40 CFR 1506.2 which are as follows: "(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

(1) Joint planning processes.

(2) Joint environmental research and studies.

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint environmental assessements.

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law."

§§ 58.28–58.29 [Reserved]

Subpart C—Releases of Funds for Particular Projects

§ 58.30 Release of funds upon certification.

An applicant which has completed all applicable environmental review and clearance requirements as provided in this Part with respect to a proposed project and which desires to submit a

request to HUD for the release of Title I funds for the project, shall comply with the following:

(a) *Publication of notice.* An applicant, at least 7 calendar days prior to submitting the request for release of funds and certification, shall publish and disseminate, a notice to the public doing so in the same manner as a notice of intent to file an EIS, as described at § 58.17(b), using format VII of HUD–399–CPD, Environmental Reviews At The Community Level, or such other equivalent format as may be used by the applicant. An applicant may publish this notice at the same time as that required by § 58.16(b).

(b) *Request for release of funds.* A request for release of funds pursuant to this part shall be addressed to the HUD officer authorized to receive the application of applicant, shall be executed by the certifying officer and may be submitted with or as part of an application, or at any time after submittal of an application. Such request shall in all cases be accompanied by the certification of the applicant as stated at § 58.30(c) and shall:

(1) State the name and address of the applicant;

(2) State that the applicant requests the release of funds for particular projects, identify such projects; and

(3) Be accompanied by the certification described in paragraph (c) of this section.

(c) *Certification.* A certification pursuant to this part shall be addressed to the HUD officer authorized to receive the application of applicant, and shall:

(1) State the name and address of the applicant and be executed by the certifying officer.

(2) Specify that the applicant has fully carried out its responsibilities for environmental review decisionmaking and action pertaining to the projects named in the request for release of funds;

(3) Specify the levels of all environmental clearances carried out by the applicant in connection with each project pertaining to the certification;

(4) Specify the dates upon which any statutory or regulatory time period for review, comment, or other response or action in regard to each such environmental clearance commenced and has expired, or will expire, and that with the expiration of each statutory or regulatory time period the applicant is in compliance with the requirements of this Part;

(5) Specify that the certifying officer is authorized to consent to assume the status of a responsible Federal official, under NEPA, insofar as the provisions of NEPA apply to the HUD responsibilities for environmental review, decision making and action assumed and carried out by the applicant, and that the certifying officer by so consenting, such officer assumes the responsibilities, where applicable, for the conduct of environmental reviews, decision making, and action as to environmental issues; preparation and circulation of draft and final EIS's; and assumption of lead agency responsibilities for preparation of such statements on behalf of Federal agencies other than HUD when such agencies consent to such assumption;

(6) Specify that the certifying officer is authorized to consent, on behalf of the applicant, to accept the jurisdiction of the Federal courts, for the enforcement of all responsibilities referred to in § 58.30(c)(5); and that the certifying officer so consents on behalf of the applicant and himself in his official capacity only.

§ 58.31 Objections to release of funds.

HUD shall not approve the release of funds for any project until fifteen (15) calendar days have elapsed from the time HUD shall have received the applicant's request for the release of such funds and the certification pertaining thereto or the time specified in the notice published pursuant to § 58.30(a), whichever shall be the later time. Applicants shall not commit any funds which are the subject of any request for the release of funds to any project prior to HUD's approval of such request. Any person or agency may object to an applicant's request for the release of funds and the certification pertaining thereto, but HUD will consider such objections only if the conditions and procedures set forth in this section are satisfied. HUD can refuse the request and certification on any grounds set forth in paragraph (b) of this section. Any decision by HUD approving or disapproving the request for the release of funds and the certification pertaining thereto shall be final.

(a) *Time for objecting.* HUD must receive objections within fifteen (15) days from the time HUD shall have received the applicant's request for the release of funds and the certification pertaining thereto, or the time specified in the notice published pursuant to § 58.30(a), whichever shall be the later time.

(b) *Permissible bases.* (1) That the certification was not, in fact, executed by the certifying officer of the applicant;

(2) That the applicant has failed to make one of the two level of clearance findings pursuant to § 58.15(d), or to make the decision required by § 58.19(b) or § 58.19(c) for the project, as applicable;

(3) That with regard to a project for which the level of clearance finding in § 58.15(d)(1) was made, the applicant has omitted one or more of the steps set forth at: § 58.15(a); § 58.15(b); § 58.15(c)(1); § 58.15(c)(2); § 58.16(a); or § 58.16(b);

(4) That with regard to a project for which the level of clearance finding in § 58.15(d)(2) was made, the applicant has omitted one or more of the steps set forth at: § 58.17(a); § 58.17(b); § 58.17(c) only if applicant has decided to conduct a public hearing as a part of its environmental review of the project; § 58.17(e); or § 58.17(f);

(5) That with respect to a property listed on the National Register of Historic Places, or found to be eligible by the Secretary of the Interior pursuant to 36 CFR Part 800 for inclusion in such Register, and which is affected by the project, no opportunity was given to the Advisory Council on Historic Preservation or its Executive Director to review the effect of the project on the property in accordance with the procedures set forth at 36 CFR Part 800; or

(6) That with respect to a project for which the applicant has decided that § 58.19(b) applies, the applicant has failed to include in the environmental review record the written decision required pursuant to § 58.19(b) or that the applicant's decision is not supported by facts specified by the objecting party; or,

(7) That another Federal agency, acting pursuant to Section 309 of the Clean Air Act, or Section 102(2)(C) of NEPA and implementing regulations, has submitted a written finding to HUD that an applicant's project is unsatisfactory from the standpoint of public health or welfare or environmental quality. This finding shall set forth at least the following:

(i) The Federal agency basis for stating that the applicant's project will have potentially adverse environmental impacts which would cause the violation of national environmental standards or policies or would be of such a severity, geographical scope, duration, or importance as precedent as to warrant HUD's disapproving the release of funds and the certification pertaining thereto;

(ii) The Federal agency's consultations with the applicant and the basis for

failure to reach a satisfactory agreement;

(iii) Factual evidence that the project is environmentally unsound;

(iv) Recommendations for mitigation, alternatives, or other courses of action needed to make the project environmentally acceptable.

(c) *Public and agency objections.* The only bases upon which HUD will consider the objection of any person or agency to the certification of an applicant, or to the approval by HUD of such certification, are set forth at § 58.31(b). Other objections will not be considered by HUD; but may be addressed to the applicant, and the certifying officer of the applicant.

(d) *Procedure.* A person or agency objecting to an applicant's request for the release of funds and the certification pertaining thereto shall:

(1) Submit such objection in writing, to the HUD officer authorized to receive the application of the applicant;

(2) Specify the name, address, and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of the agency;

(3) Be dated when signed;

(4) Specify the bases for objection and the facts or legal authority relied upon in support of the objection;

(5) Indicate that a copy of the objections has been mailed or delivered to the chief executive officer of the applicant.

§ 58.32 Effect of approval of certification.

(a) *NEPA responsibilities of HUD.* The approval by HUD of the certification of an applicant is deemed to satisfy the responsibilities of the Secretary under NEPA insofar as those responsibilities relate to the applicant and releases of funds under Title I for projects which are covered by such certification.

(b) *Public and agency redress.* Persons and agencies seeking redress in relation to environmental assessments covered by an approved certification shall deal with the applicant and not with HUD. It shall be the policy of HUD, following the approval of a certification, not to respond to inquiries and complaints seeking such redress, and only to refer such inquiries and complaints to the applicant and the certifying officer of the applicant. Other remedies for noncompliance, in addition to those stated in this part, are set forth at 24 CFR 570.910–913.

(c) *Implementation of environmental review decisions.* Certain projects, due to their nature, importance and scope may require post-review monitoring and other inspection and enforcement actions on the part of the applicant and/or HUD to assure that decisions adopted through the environmental review process shall be carried out during project development and implementation.

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., on June 25, 1979.

Patricia Roberts Harris,

Secretary of Housing and Urban Development.

[FR Doc. 79–23856 Filed 8–1–79; 8:45 am]

BILLING CODE 4210–01–M

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Reader Aids

Federal Register

Vol. 44, No. 150

Thursday, August 2, 1979

INFORMATION AND ASSISTANCE

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
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DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

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38842 7–3–79 / Section 312 Rehabilitation Loan Program

List of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 3661 / Pub. L. 96–40 To increase the authorization of appropriations under the Act of December 22, 1974 (88 Stat. 1712). (July 30, 1979; 93 Stat. 318) Price $.75.

H.R. 2154 / Pub. L. 96–41 "Strategic and Critical Materials Stock Piling Revision Act of 1979". (July 30, 1979; 93 Stat. 319) Price $.75.

H.R. 4712 / Pub. L. 96–42 To delay conditionally the effective date of certain rules of procedure and evidence proposed by the United States Supreme Court, and for other purposes. (July 31, 1979; 93 Stat. 326) Price $.75.

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[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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Pages 45587-45916

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Highlights

45880 **Food Stamp Program** USDA/FNS sets rules requirements for conducting quality control reviews; effective 8–3–79 (Part VI of this issue)

45900, 45909 **Leasing** DOE proposes rules regarding acquisition and disposition of Federal Royalty Oil; comments by 9–18–79; requests by 9–4–79; hearings, 8–30, 9–5, and 9–12–79 (2 documents) (Part VII of this issue)

45605 **Residue Program** USDA/FSQS intends to modify procedures for detecting biological residues; effective 8–3–79; comments by 9–3–79

45912 **Animal Welfare** USDA/APHIS proposes to amend regulations regarding handling, care, treatment and transportation; comments by 10–2–79 (Part VIII of this issue)

45624 **Noise Emission Controls** EPA reconsiders applicability of truck regulations; effective 12–3–79

45610 **Redeemable Preferred Stocks** SEC presents financial statements; effective 9–15–79

45912 **Research Guidelines** HEW/NIH issues revised Guidelines for Research Involving Recombinant DNA Molecules (Part III of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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45762 **National Toxicology Program** HEW/FDA executes a memorandum delineating responsibilities for conducting an evaluation; effective 5–7–79

45587 **Performance Appraisal** OPM implements systems of accuracy for evaluations; effective 7–24–79

45802 **Three Mile Island** NRC disseminates information on abnormal occurrences

45635 **Eurodollar Deposits** FHLB proposes security for marketable certificates of deposit; comments by 10–1–79

45591 **Grade and Removal Reduction** OPM provides regulations based on unacceptable performance; effective 8–3–79

45764 **Cattle and Sheep** HEW/FDA withdraws approval of new animal drug applications; effective 8–3–79

45641 **Bulk Flavor Labeling** HEW/FDA extends effective date for compliance until 7–1–81

45759 **Safety of Certain Food Ingredients** HEW/FDA announces opportunity for public hearing; requests by 9–4–79

45627 **Frequencies Available to Aircraft** FCC amends rules applicable to marine VHF frequencies; effective 9–10–79

45596 **Sugarbeets and Sugarcane** USDA/CCC sets terms and conditions for support prices to domestic producers; effective 8–3–79

45604 **Brucellosis Indemnity** USDA/APHIS amends regulations governing payment; effective 7–27–79

45818 **Sunshine Act Meetings**

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Rules and Regulations

Federal Register
Vol. 44, No. 151
Friday, August 3, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 210

Basic Concepts and Definitions

AGENCY: Office of Personnel Mannagement.

ACTION: Final regulations.

SUMMARY: This document removes the coded lists of agencies, actions and employees and positions excluded from one or more parts of OPM regulations from the provisions governing the applicability of various parts of regulations. (§ 210.101.)

The lists are removed because the benefits of their use did not outweigh the expense and effort needed for their maintenance.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Field, Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Street, N.W., Washington, DC 20415, (202) 632–5623.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management issued on January 16, 1979 (44 FR 3440) amendments to Part 210 as interim regulations. These amendments provided new paragraphs (c), (d), and (e) to § 210.101, *Applicability of various parts of regulations* with coded lists of agencies, actions, and employees and positions excluded from one or more parts of 5 CFR. This was done to have these lists of exclusions in one place for reference by code number when applicable in one or more parts. OPM stated its belief that this change would eliminate repetition and make it easier to update when necessary. What was contained in the three paragraphs was not an entire listing, but only a listing of the numbered exceptions needed for Parts 430, 432, and 752.

OPM received written comments from three organizations. Of these three responses, a labor organization had no comment, one agency thought a system of identification codes for exclusions was a good idea and should be continued in the final regulations, and one agency strongly opposed clustering all exclusions from various parts of 5 CFR in a single part. This latter agency said that this format did not serve users well in terms of convenience or time, and led to frustration of all who reviewed the regulations in the agency. It recommended the traditional narrative statement of coverage in each part without numerical cross-references, even though more pieces of paper may be required for printing. In addition to these written comments, OPM has received: (1) Numerous oral questions which indicate a general misunderstanding of and misuse of the new sections (e.g., a common tendency to mix up the exceptions applicable to each part), and (2) Oral comments ranging from mildly favorable to strongly opposed, with the negative comments put much more forcefully than the positive). OPM has decided to delete these sections from the final regulation because of the lukewarm to strongly negative responses and because of the great effect and expense involved in completing this list of exclusions to show every regulatory exclusion from all parts of 5 CFR.

§ 210.101 [Amended]

Accordingly, the Office of Personnel Management is amending 5 CFR Part 210 by removing paragraphs (c), (d), and (e) from § 210.101.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

[FR Doc. 79–23839 Filed 8–2–79; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 430

Performance Appraisal

AGENCY: Office of Personnel Management.

ACTION: Final Regulations.

SUMMARY: These regulations implement the establishment of performance appraisal systems as required under 5 U.S.C. 4301. These regulations are intended to provide a broad framework in which Federal agencies can design systems to accurately evaluate job performance, to recognize and reward employees who meet high standards of performance, to assist employees in improving unacceptable performance, and to reassign, reduce in grade, or remove employees who continue to have unacceptable performance.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: ArDee Ames, Workforce Effectiveness and Development Group, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C., 20415, (202) 254–3094.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1979, the Office of Personnel Management published interim regulations to implement subchapter I of Chapter 43 of the Civil Service Reform Act of 1978, and invited comments from the public on its proposals. The Office received comments from 25 individuals and organizations.

As a result of comments and suggestions received during this period, the Office has modified the final regulations as discussed below. The Office will also supplement the regulations with guidance issued through the Federal Personnel Manual System which will address certain other concerns expressed during the public comment period.

Coverage

The interim regulations specified that this Office might exclude positions in the excepted service in the interest of good administration. In these final regulations, the Office has specified that two groups of positions will be excluded. The first are positions of a confidential, policy-determining, policy-making, or policy-advocating character because of the different basis for retention in these positions. The second are positions for which employment is not reasonably expected to exceed 120 days in a 12-month period, because the limited time to be served in these positions precludes management's ability to allow employees performing below standard time to demonstrate

acceptable performance. In addition, the Office has provided for agencies to request further exclusions in the interest of good administration. Several commentaters requested that "good administration" be further defined, or that the Office state that such exclusions will be used sparingly. The Office intends to maintain broad coverage under this Chapter, but recognizes that there may be needs for additional exclusions in the future, as performance appraisal systems are carried out.

Definitions

The Office received numerous comments about the definitions in § 430.203 in the interim regulations. The comments, and OPM's response to them are discussed as follows:

Appraisal system: Several commentaters questioned the term "previously established standards," asking whether this term encompassed standards in existence prior to the Reform Act which would automatically be carried into the new performance appraisal system. OPM has deleted "previously" to indicate that standards will be established as part of new performance appraisal systems.

Performance: One comment suggested that "assigned duties and responsibilities" should be specifically reflected in the position description. This comment is consistent with several others directed to § 430.204(c) of the interim regulations, requesting that language specifically tie standards and critical elements to position descriptions or position classification standards. While OPM agrees that there should be a high correlation between the assigned duties on which performance standards are based and the duties described in the position description, the regulation in § 430.203(c) is sufficiently clear.

Performance standards: Commentaters made one major point about this definition. Several stated that "quantity, quality, and timeliness" could not always be adequately measured for every job, and asked that the definition be so modified. The Office has made this change, and has also specified that additional standards may be appropriate.

Critical element: The definition is a clarification of the definition in the interim regulations. Same commentaters objected to the concept of a critical element as being so important that sub-standard performance on that element outweighed acceptable or better performance of other aspects of the job. Others objected that it was unreasonable to take action to reduce in grade or to remove an employee solely on the basis of sub-standard performance on one critical element. These comments point to a misunderstanding of the significance of a critical element to a job, and the steps to be taken when performance is found to be unacceptable on a critical element.

As stated in the definition, performance of a critical element is so significant within a job that management must take some remedial action whenever an employee performs at a sub-standard level for that element. The first steps are corrective in nature, and would include such efforts as counselling sessions, remedial training, more direct supervision, and, in the case of a non-grade determining element, reassigning the duty to someone else. One action which management must take is the withholding of a within-grade increase award. One of the stated purposes of the Reform Act was to base pay increases on the quality of performance rather than on the length of service. Where there is performance below standard on such significant a component of a job as a critical element, there should be no within-grade increase for this performance. This definition does not imply that an employee who has met the established performance standards is entitled to a within-grade increase; rather, it merely establishes a performance level below which an agency cannot conclude that an employee has performed at an acceptable level of competence. This definition of critical element will be reflected in the proposed regulations for Part 531.

Performance below standard on one critical element may be the basis for reduction in grade or removal of an employee, without regard to the job as a whole. Under the law, these actions cannot take place until after an employee has had an opportunity to demonstrate acceptable performance.

The Performance Appraisal Process: One commentater suggested that the use of the term "one or more appraisal systems" needed to be clarified. The Office's intent is to specify that agencies may design different appraisal systems for different positions or for obtaining information for differing purposes, such as promotion and within-grade increases.

The Office has clarified the prohibition against any controls which would require relative appraisals as opposed to appraisals against performance standards. Although several commentaters either requested annual appraisals for all employees or further clarification on appropriate uses of appraisal periods longer than a year, the Office has retained the flexibility in the interim regulations.

There was considerable discussion about obtaining performance information on employees detailed to other positions. Although one agency requested that decisions as to whether information should ever be obtained should be left to agency discretion, most commentaters asked for stricter definitions of time limits after which appraisals would be required. The Office has continued to leave these decisions to the agencies, and has expanded the requirement to include temporary assignments other than details.

One commentater questioned the use of performance appraisals in § 430.204(i)(2) in granting or withholding step increases, because he interpreted "step increases" to mean statutory comparability increases. Since this term is intended to mean step increases in the Federal Wage System, no change is necessary.

One commentater objected that the same clause referred to reassigning, reducing in grade or removing employees, without also referring to the statutory requirement to take action only after an employee has had the opportunity to improve performance. Since this requirement is clear in the law, it is not necessary to include it in this list of personnel actions.

This Office is requiring that critical elements and performance standards be designated in writing. This requirement facilitates clear communication of elements and standards to employees and is consistent with the requirement for written appraisals.

OPM Responsibilities: The law requires that OPM shall prescribe regulations to carry out the purpose of the Chapter, review agency performance appraisal systems to determine whether they meet the requirements of the Chapter, and direct agencies to implement appropriate systems or correct operations, should OPM determine that the system does not meet the requirements of the Chapter. There was considerable comment in three areas: OPM regulations beyond the letter of the law, the extent of OPM review of systems, and regulations of interim systems. On the first point, commentaters both favored more stringent regulations, such as requirements for appraising employees on detail, and objected to regulations they believed to be more extensive than intended under the Chapter. There was objection from one Federal agency on OPM requirements to inform and train supervisors and employees on the appraisal process, and to evaluate system effectiveness. It is OPM's intent to regulate only to the point of assuring that the requirements of the Chapter be carried out, and this Office has decided that the training and evaluation mechanisms specified in § 430.205 are necessary to carry out the requirements of the Chapter.

With regard to review of agency appraisal systems, there was some objection to the review of agency systems as they contribute to agency effectiveness and efficiency as well as a review for compliance with law and regulation. It is OPM's intent to assist agencies in developing systems that contribute to agency efficiency and effectiveness, and to review operating appraisal systems in this light because improvement in the quality of public service is the intention of the Civil Service Reform Act. Prior review of agency plans will necessarily be primarily directed toward statutory and regulatory areas because the systems' contributions to organizational productivity will only be apparent after the systems have begun to operate. Part 430.206(b) has been changed to state, in Part 430.206(c) of the final regulations, that OPM shall direct agencies to implement appropriate performance appraisal systems or to correct deficient operations. This change carries out the requirement of the Chapter.

One commentater suggested that the regulation allowing agencies the full 30 months provided by the law for submission of performance appraisal systems contravened the requirements in § 4302(b)(2) that agencies should submit systems "as soon as possible." This Office intends to allow each agency to determine the amount of time necessary to design an appropriate appraisal system and encourages agencies to run trial systems within the 30-month period if such systems are beneficial. On the other hand, OPM is prepared to review plans as soon as they are completed.

Employee Participation in Setting Performance Standards: Many commentaters requested clarification of the phrase "employee participation" on two points. The first concerned the extent to which employee participation will be required, and whether the mechanism for participation must be defined in the performance appraisal system. One commentater suggested that such participation be mandatory, and one agency suggested that the regulations encourage including employee feedback and identification of developmental needs in the participation process. OPM intends that the Federal agencies will carry out the legal and regulatory provisions in this area and does not believe that further definition is required.

The second point concerned the relationship of employee participation in setting performance standards to the possible negotiability and grievability of performance standards and critical elements. Several Federal agencies requested that specific language be included to stipulate that while the law requires agencies to develop appraisal systems which encourage employee participation in setting performance standards, that agencies are not obligated to negotiate with the exclusive representative on performance standards or critical elements, and that standards and elements are not grievable. On the other hand, labor organizations stated their belief that critical elements and performance standards are negotiable and grievable. The issue has not been addressed in the final regulations, since 5 U.S.C. 7117 gives the Federal Labor Relations Authority the ultimate responsibility to determine negotiability and grievability consistent with law and appropriate regulations. The reference to grievance procedures in the interim regulations has been deleted. Information on grievances under agency grievance procedures will be contained in the upcoming revision to Part 771.

One agency requested that the requirement to evaluate supervisors on their efforts in meeting equal employment opportunity goals, contained in Part 713, be repeated in these regulations. We have not repeated the requirement here, since it is currently in regulation elsewhere.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is adding 5 CFR, Part 430 as set forth below.

PART 430—PERFORMANCE APPRAISAL

Subpart A—Statutory Provisions

Sec.

430.101 Statutory provisions.

Subpart B—Regulatory Requirements of the Office of Personnel Management

430.201 Coverage.
430.202 Definitions.
430.203 The performance appraisal process.
430.204 Appraisal system documentation.
430.205 Training and evaluation.
430.206 OPM review of appraisal systems.

Subpart C—Implementation and Interim Procedures

Sec.

430.301 Implementation of this part.
430.302 Interim assignment of performance ratings.

Authority: 5 U.S.C. 4305.

Subpart A—Statutory Provisions

§ 430.101 Statutory provisions.

This subpart sets forth for the benefit of the user the provisions of Subchapter I of Chapter 43 of title 5, United States Code, relating to establishment of performance appraisal systems and appraisals of employees' performance.

(a) *Definitions.* 5 U.S.C. 4301 contains the following definitions:

For the purpose of this subchapter—
(1) "Agency" means—
(A) An Executive agency;
(B) The Administrative Office of the United States Courts; and
(C) The Government Printing Office;
but does not include—
(i) A Government corporation;
(ii) The Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or
(iii) The General Accounting Office.
(2) "Employee" means an individual employed in or under an agency, but does not include—
(A) An employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;
(B) An individual in the Foreign Service of the United States;
(C) A physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans Administration whose pay is fixed under chapter 73 of title 38;
(D) An administrative law judge appointed under section 3105 of this title;
(E) An individual in the Senior Executive Service;
(F) An individual appointed by the President; or
(G) An individual occupying a position not in the competitive service excluded from coverage of this subchapter by regulations of the Office of Personnel Management; and
(3) "Unacceptable performance" means performance of an employee which fails to meet established performance standards in one or more critical elements of such employee's position.

(b) *Establishment of performance appraisal systems.* 5 U.S.C. 4302 provides:

(a) Each agency shall develop one or more performance appraisal systems which—
(1) Provide for periodic appraisals of job performance of employees;
(2) Encourage employee participation in establishing performance standards; and

(3) Use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;

(b) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for—

(1) Establishing performance standards which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria (which may include the extent of courtesy demonstrated to the public) related to the job in question for each employee or position under the system;

(2) As soon as practicable, but not later than October 1, 1981, with respect to initial appraisal periods, and thereafter at the beginning of each following appraisal period, communicating to each employee the performance standards and the critical elements of the employee's position;

(3) Evaluating each employee during the appraisal period on such standards;

(4) Recognizing and rewarding employees whose performance so warrants;

(5) Assisting employees in improving unacceptable performance; and

(6) Reassigning, reducing in grade, or removing employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance.

(c) *Responsibilities of the Office of Personnel Management.* 5 U.S.C. 4304 provides:

(a) The Office of Personnel Management shall make technical assistance available to agencies in the development of performance appraisal systems.

(b)(1) The Office shall review each performance appraisal system developed by any agency under this section and determine whether the performance appraisal system meets the requirements of this subchapter.

(2) The Comptroller General shall from time to time review on a selected basis performance appraisal systems established under this subchapter to determine the extent to which any such system meets the requirements of this subchapter and shall periodically report its findings to the Office and to the Congress.

(3) If the Office determines that a system does not meet the requirements of this subchapter (including regulations prescribed under section 4305), the Office shall direct the agency to implement an appropriate system or to correct operations under the system, and any such agency shall take any action so required.

(d) *Regulations.* 5 U.S.C. 4305 provides:

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.".

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 430.201 Coverage.

(a) *Employees and agencies covered by statute.* (1) 5 U.S.C. 4301(1) lists agencies covered by this part.

(2) 5 U.S.C. 4301(2) lists employees covered by statute by this part.

(b) *Statutory Exclusions.* This subpart does not apply to agencies or employees excluded by 5 U.S.C. 4301(1) and (2), the United States Postal Service and the Postal Rate Commission.

(c) *Administrative exclusions.* The Office may exclude any position or group of positions in the excepted service under the authority of 5 U.S.C. 4301(2)(G). The following are excluded:

(1) Positions in Schedule C of 5 CFR, Part 213.

(2) Positions filled by Noncareer Executive Assignments under 5 CFR, Part 305.

(3) Positions for which employment is not reasonably expected to exceed 120 days in a consecutive 12-month period.

(d) *Agency requests for exclusions.* Heads of agencies or their designees may request the Director of the Office of Personnel Management to exclude positions in the excepted service. The request must be in writing, explaining why the exclusion would be in the interest of good administration.

§ 430.202 Definitions.

In this part, terms are defined as follows—

(a) "Appraisal system" means a performance appraisal system established by an agency or component of an agency under subchapter I of chapter 43 of title 5, U.S.C. and Subpart B of this part which provides for establishment of performance standards, identification of critical elements, communication of standards, and critical elements to employees, establishment of methods and procedures to appraise performance against established standards, and appropriate use of appraisal information in making personnel decisions.

(b) "Performance" means an employee's accomplishment of assigned duties and responsibilities.

(c) "Appraisal" means comparison of an employee's performance of duties and responsibilities with performance standards.

(d) "Performance standards" are the expressed measure of the level of achievement established by management for the duties and responsibilities of a position or group of positions. Performance standards may include, but are not limited to, elements such as quantity, quality, and timeliness.

(e) "Critical element" means a component of an employee's job that is of sufficient importance that performance below the minimum standard established by management requires remedial action and denial of a within-grade increase, and may be the basis for removing or reducing the grade level of that employee. Such action may be taken without regard to performance on other components of the job.

(f) "Appraisal period" means the period of time established by an appraisal system for which an employee's performance will be reviewed.

§ 430.203 The performance appraisal process.

(a) As required by 5 U.S.C. 4302(a), each agency shall establish one or more appraisal systems for appraising the work performance of employees during an appraisal period.

(b) 5 U.S.C. 4302(a) and (b) require that each appraisal system shall provide for establishing performance standards based on the requirements of employees' positions, communicating the standards of performance and the critical elements of the position at the beginning of each appraisal period, and appraising employees based on a comparison of performance with the standards established for the appraisal period. An agency shall encourage participation of employees in establishing performance standards.

(c) Performance standards and critical elements must be consistent with the duties and responsibilities contained in employees' position descriptions.

(d) An appraisal system shall not permit any preestablished distributions of expected levels of performance (such as a requirement to rate on a bell curve) that interfere with appraisal of actual performance against standards.

(e) 5 U.S.C. 4302 requires that each appraisal system shall provide for periodic appraisals of performance. Employees shall generally be appraised on at least an annual basis. Agencies may provide for longer appraisal periods when duties and responsibilities of a position or the tour of duty of a position so warrant.

(f) Critical elements and performance standards shall be in writing.

(g) Periodic appraisals shall be in writing and shall be provided to the employee.

(h) A system shall provide for obtaining information about performance of employees detailed or temporarily assigned to different positions when assignments are of sufficient duration to provide information about performance, and agencies shall give appropriate consideration to this information in making personnel decisions.

(i) Performance appraisals shall be used:

(1) To provide employees with information on their performance and how it may be improved.

(2) As a basis for decisions to grant awards; grant or withhold pay increases, i.e., within-grade increases, step increases, and quality step increases; grant merit pay; reassign; promote; train; retain in reduction in force; and reduce in grade or remove.

§ 430.204 Appraisal system documentation.

(a) Each appraisal system must include statements of:

(1) The employees that it covers;

(2) The method or procedure by which performance standards and critical elements are established and employees are appraised;

(3) The ways in which employees are advised of performance standards and critical elements, are kept informed of their performance, and are notified of their appraisals;

(4) The supervisory officials, by definition or category, who are responsible for appraising performance and, if applicable, reviewing or approving appraisals;

(5) The records to be kept and the uses of those records; and

(6) The manner in which appraisals are used as a basis for personnel decisions, or reference to where this information may be found.

§ 430.205 Training and evaluation.

To assure that the requirements of the law will be effectively implemented, agencies must provide appropriate training and information to supervisors and employees on the appraisal process, and must establish methods and procedures to evaluate periodically the effectiveness of their appraisal system(s) and to improve the system(s).

§ 430.206 OPM review of appraisal systems.

(a) Agencies must submit proposed systems to the Office of Personnel Management for review as conforming to the requirements of this part. Submissions may either be agency-wide appraisal systems or requirements which the systems of subordinate organizations must meet. The Office will normally review these systems within 30 days.

(b) The Office will review the operation of appraisal systems and supporting documentation with respect to compliance with the requirements of this part, contribution to agency effectiveness and efficiency, and appropriate use of performance information in personnel decisions.

(c) As provided by 5 U.S.C. 4304(b)(3), if the Office determines that an agency system does not meet the requirements of this part, it shall direct the agency to implement an appropriate system or to correct operations under the system. The agency shall take any action so required.

Subpart C—Implementation and Interim Procedures

§ 430.301 Implementation of this part.

Each agency covered by subparts A and B of this part shall submit proposed appraisal systems to the Office for review on or before July 31, 1981. Each agency must implement an approved system or systems on or before October 1, 1981, and must inform all employees covered by this part of the performance standards and critical elements of their positions as soon as the system is approved, but, in no event, later than October 1, 1981. Nothing herein prohibits an agency from developing and implementing critical elements and standards for particular positions prior to the development and implementation of critical elements and standards for all positions within the agency. Once critical elements and standards are developed for particular positions, they may be used as a basis for agency action including reducing in grade and removing employees. Critical elements and performance standards developed for particular positions prior to the establishment of a complete system must be reduced to writing an provided to the employee before an agency proposes to take an action based on these elements and standards.

§ 430.302 Interim assignment of performance ratings.

The requirement for and the system of assigning summary adjective performance ratings which were in effect on January 10, 1979, shall continue in effect until the agency implements an appraisal system which conforms to the provisions of this part.

[FR Doc. 79-23980 Filed 8-2-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 432

Reduction in Grade and Removal Based on Unacceptable Performance

AGENCY: Office of Personnel Management.

ACTION: Final Regulations.

SUMMARY: 5 CFR Part 432 replaces interim Part 432 which has been modified because of comments, suggestions, and experience in its application. The part implements Subchapter I of Chapter 43 of the Civil Service Reform Act of 1978 and provides regulations governing reduction in grade and removal based solely on unacceptable performance.

DATE: These regulations will be effective August 3, 1979.

FOR FURTHER INFORMATION CONTACT: Wilma Lehman, (202) 632–5623, Workforce Effectiveness and Development Group, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

SUPPLEMENTARY INFORMATION: Part 432 was issued on January 16, 1979, on an interim basis with comments invited for final rulemaking. Part 432 was published as an interim regulation to permit agencies to take actions based on unacceptable performance subsequent to the effective date of the Civil Service Reform Act of 1978. Comments have been received from labor organizations, professional and public interest organizations, individuals, and Federal agencies. They have been given careful consideration and a number of modifications have been made as a result.

Two comments contained objections to removal of an employee for failure to meet the performance standards for one critical element. 5 U.S.C. 4301(3) defines "unacceptable performance" as the performance of an employee which fails to meet established performance standards in one or more critical elements of such employee's position. 5 CFR 430.202(e) defines "critical element" as a component of an employee's job that is of sufficient importance that performance below the minimum standard established by management requires remedial action and denial of a within grade increase and may be the basis for removal, reduction in grade, or other corrective action without regard to performance on other components of the job. Thus, although both the law and OPM regulations permit removal for failure to meet the established performance standards for one critical

element, neither requires the specific action of removal.

Most of the comments referred to specific sections in the interim Part 432. These are discussed below section by section.

Section Analysis

Subpart A Principal Statutory Requirements. For the convenience of the users, Subpart A of Part 432 includes the principal statutory requirements governing reduction in grade and removal based on unacceptable performance.

Subpart B Regulatory requirements of the Office of Personnel Management. Subpart B of Part 432 includes the regulatory requirements of the Office which are prescribed under authority of 5 U.S.C. 4305.

Section 432.201 Coverage. There were few comments concerning this section. Questions regarding coverage will be clarified in the guidance material in the Federal Personnel Manual. 5 CFR 430, Performance Appraisal, includes three additional exceptions to that part which will also apply to Part 432. These are positions in Schedule C of 5 CFR Part 213, positions filled by noncareer Executive Assignments under 5 CFR Part 305, and positions for which employment is not reasonably expected to exceed 120 days in a consecutive 12-month period.

Two changes have also been made in the exclusions from Part 432. First, instead of reference to master lists of exclusions in 5 CFR Part 210, § 432.201 lists those matters excluded from coverage. The change in format was made at the request of several agencies to facilitate the use of the part. In addition, the exclusion (formerly in Part 210) for actions taken by agencies at the direction of OPM under Part 754 of this title was deleted as inappropriate. An exclusion for an action which terminates a temporary promotion within a maximum period of 2 years and returns the employee to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted was added and has been substituted for the deletion.

Section 432.202 Definitions. To further clarify the provisions of statute and the regulatory requirements for actions covered by this part, two new definitions have been added for the terms "opportunity to demonstrate acceptable performance" and "reasonable time." Also, a specific reference is made to the definition of "critical element" in Part 430 of this title.

Section 432.203 Timing of Actions. This section has been revised to require that an agency identify for the employee the critical element(s) for which performance is unacceptable and give the employee a reasonable time to demonstrate acceptable performance before proposing a reduction in grade or removal based on unacceptable performance.

One comment suggested that OPM define standards for extension of the notice period. OPM has not done so because it intends to consider any requests for extension in the light of the circumstances of the particular request. OPM does not expect many such requests since the opportunity to demonstrate acceptable performance must be given prior to the notice period and since the agency has statutory authority to extend the notice period for 30 days.

Section 432.204 Procedures. Several of the comments were concerned with this section. They are summarized by subject as follows:

—Length of notice period. Several of those who commented felt that 30 days was too short for a minimum notice period and that it should be 60 or 90 days. The purpose of the notice period is to give the employee the opportunity to explain his or her views with respect to the specific instances of unacceptable performance on which the proposed action is based, to plead mitigation, and to make future plans. The employee has already had an opportunity to show acceptable performance and has, therefore, known for a period of time that reduction in grade or removal might result if performance did not improve to an acceptable level. Further, the agency has authority to extend the notice period for an additional period of 30 days. OPM has kept the minimum notice period of 30 days provided by statute.

—Length of time to reply. Several of those commenting suggested that OPM set a minimum time to reply at 15 or 20 days. The Reform Act provides a "reasonable time" as a guideline. We believe that the specific time should be determined by the agency depending on the particular circumstances of the situation. A discussion on "reasonable time" for the purpose of the reply will be placed in the Federal Personnel Manual.

—Identity of proposing and concurring officials. One comment suggested Part 432 identify the proposing and deciding officers for actions under the part. OPM will discuss in the Federal Personnel Manual the meaning of 5 U.S.C. 4303(b)(1)(D) which requires that a written decision, unless proposed by the head of an agency, be concurred in by an employee who is in a higher position than the employee who proposed the action. The identity of proposing and concurring officials will depend on agency delegations of authority.

—Representation. Several comments were made on subsection 432.204(c) which provides for disallowance of an employee's representative under certain circumstances. Comments, such as representation should be an absolute right, agencies should assist employees in obtaining representation, and a representative should be challenged only on an "actual conflict of interest" illustrate the concerns. The legislative history of the Reform Act (pp. 43, Senate Report No. 95–969) makes it clear that the right to representation is not an absolute right. The language of Subsection 432.204(c) is essentially the same as that previously provided by regulation for disallowance of representation in agency administrative grievance procedures and in appellate procedures. The provision permits a disallowance as a representative of an individual whose activities as a representative would cause a conflict of interest or position. Similar language is found in the Senate Report. It also permits disallowance of an employee of the agency as a representative whose release from his or her official position would give rise to unreasonable costs to the Government, such as the representation of an employee in Boston by an employee from Hawaii, or the representation by an employee whose priority work assignment precludes a release from official duties, e.g., an employee who must complete for publication on a specific date a report for which the employee has the sole responsibility.

An observation made in one of the comments was that the regulation would disqualify a knowledgeable individual from acting as a representative. We agree that that is possible but we realize that there are other interests involved. OPM believes that the bases for challenge will not keep an employee from good representation.

Section 432.206 Appeal and grievance rights. There were no comments on this section and no change has been made.

Section 432.207 Agency records. One comment requested that OPM require that the employee be informed in writing of the availability of records and provide one free copy if requested. OPM believes that availability for review provides ample access to all relevant documentation about an action, especially since the employee has been informed of the critical elements and performance standards, has been given an opportunity to demonstrate acceptable performance, has received a notice which identifies specific instances of unacceptable performance, and has been given a written decision.

Another comment requested OPM to amend this section to state that parties to a collective bargaining agreement are free to negotiate minimum standards for disclosure. OPM does not consider this a subject for regulation.

As a result of comments and suggestions, Part 432 has been amended as shown below. Further questions not of a regulatory nature, raised either in writing or orally, will be discussed in the Federal Personnel Manual in Chapter 432.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is adding 5 CFR Part 432 as follows:

PART 432—REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Subpart A—Principal Statutory Requirements

Sec.
432.101 Principal Statutory Requirements.

Subpart B—Regulatory Requirements of the Office of Personnel Management

432.201 Coverage.
432.202 Definitions.
432.203 Timing of actions.
432.204 Procedures.
432.205 Interim procedures.
432.206 Appeal and grievance rights.
432.207 Agency records.

Authority: 5 U.S.C. 4305.

Subpart A—Principal Statutory Requirements

§ 432.101 Principal statutory requirements.

(a) *Opportunity to demonstrate acceptable performance.* 5 U.S.C. 4302(b)(6) requires that, under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for reassigning, reducing in grade, or removing employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance. (Pub. L. 95–454, Oct. 13, 1978, 92 Stat. 1132.)

(b) *Actions based on unacceptable performance.* 5 U.S.C. 4303 provides:

(a) Subject to the provisions of this section, an agency may reduce in grade or remove an employee for unacceptable performance.

(b)(1) An employee whose reduction in grade or removal is proposed under this section is entitled to—

(A) 30 days' advance written notice of the proposed action which identifies—

(i) Specific instances of unacceptable performance by the employee on which the proposed action is based; and

(ii) The critical elements of the employee's position involved in each instance of unacceptable performance;

(B) Be represented by an attorney or other representative;

(C) A reasonable time to answer orally and in writing; and

(D) A written decision which—

(i) In the case of a reduction in grade or removal under this section, specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based, and

(ii) Unless proposed by the head of the agency, has been concurred in by an employee who is in a higher position than the employee who proposed the action.

(2) An agency may, under regulations prescribed by the head of such agency, extend the notice period under subsection (b)(1)(A) of this section for not more than 30 days. An agency may extend the notice period for more than 30 days only in accordance with regulations issued by the Office of Personnel Management.

(c) The decision to retain, reduce in grade, or remove an employee—

(1) Shall be made within 30 days after the date of expiration of the notice period, and

(2) In the case of a reduction in grade or removal, may be based only on those instances of unacceptable performance by the employee—

(A) Which occurred during the 1-year period ending on the date of the notice under subsection (b)(1)(A) of this section in connection with the decision; and

(B) For which the notice and other requirements of this section are complied with.

(d) If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advance written notice provided under subsection (b)(1)(A) of this section, any entry or other notation of the unacceptable performance for which the action was proposed under this section shall be removed from any agency record relating to the employee.

(e) Any employee who is a preference eligible or is in the competitive service and who has been reduced in grade or removed under this section is entitled to appeal the action to the Merit System Protection Board under section 7701 of this title.

(f) This section does not apply to—

(1) The reduction to the grade previously held of a supervisor or manager who has not completed the probationary period under section 3321(a)(2) of this title,

(2) The reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less, or

(3) The reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions.

(Pub. L. 95–454, Oct. 13, 1978, 92 Stat. 1133.)

(c) Regulations. 5 U.S.C. 4305 provides that the Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 432.201 Coverage.

(a) *Actions covered.* This part covers reduction in grade and removal of an employee based solely on unacceptable performance.

(b) *Employees and agencies covered.* The employee and agency coverage of this part is identical with that of subsection 430.201(a) of Part 430 of this title.

(c) *Exclusions.* (1) This part does not apply to actions excluded by 5 U.S.C. 4303(f).

(2) This part does not apply to employees and agencies excluded under subsection 430.201 (b), (c), and (d) of Part 430 of this title.

(3) This part does not apply to the following:

(i) An action initiated under the authority of 5 U.S.C. 1206;

(ii) An action taken under 5 U.S.C. 7521 against an administrative law judge;

(iii) An action taken under 5 U.S.C. 7532 in the interest of national security;

(iv) An action taken under a provision of a statute, other than one codified in title 5 United States Code, which excepts the action from the provisions of title 5 United States Code;

(v) A removal from the Senior Executive Service to a civil service position outside the Senior Executive Service under Part 359 of this title;

(vi) A reduction-in-force action governed by Part 351 of this title;

(vii) A voluntary action initiated by the employee;

(viii) An adverse action for cause taken under Part 752 of this title;

(ix) An action which terminates a temporary promotion within a maximum period of 2 years and returns the employee to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a

different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted;

(x) An involuntary retirement because of disability under Part 831 of this title;

(xi) A termination in accordance with terms specified as conditions of employment at the time the appointment was made;

(xii) An action against a reemployed annuitant;

(xiii) An action against a National Guard Technician.

§ 432.202 Definitions.

Critical element is defined in section 430.202(e) of Part 430 of this title.

Opportunity to demonstrate acceptable performance means a chance for the employee to show that he or she can meet established minimum performance standards for the critical elements of the job.

Reasonable time as used in subsection 432.203(b) of this subpart means an amount of time commensurate with the duties and responsibilities of the employee's job which is sufficient to allow the employee to show whether he or she can meet minimum performance standards.

Reduction in grade means the involuntary assignment of an employee to a position at a lower classification or job grading level.

Removal means the involuntary separation of an employee from employment with an agency except when taken as a reduction-in-force action.

Unacceptable performance is defined in 5 U.S.C. 4301(3).

§ 432.203 Timing of actions.

(a) *At any time.* Pursuant to the requirements of this subpart, an employee may be reduced in grade or removed at any time during the performance appraisal cycle that the employee's performance in one or more critical elements of the job becomes unacceptable.

(b) *Reasonable time.* The agency shall identify for the employee the critical element(s) for which performance is unacceptable and give the employee a reasonable time to demonstrate acceptable performance before proposing a reduction in grade or removal under this part.

(c) *One-year limitation.* 5 U.S.C. 4303(c)(2) places a one year time restriction on the use of instances of unacceptable performance by an employee.

(d) *Decision.* 5 U.S.C. 4303(c)(1) provides that the decision on the proposed action must be made within 30 days after the date of expiration of the notice period.

§ 432.204 Procedures.

(a) *Statutory requirements.* An employee under this part whose reduction in grade or removal is proposed under this part is entitled to the procedures specified in 5 U.S.C. 4303(b)(1).

(b) *Extension of notice period.* 5 U.S.C. 4303(b)(2) provides that the agency may extend the notice period for a reduction in grade or removal under this part for a period not to exceed 30 days. The agency may further extend the notice period with prior approval of the Office of Personnel Management.

(c) *Representation.* 5 U.S.C. 4303(b)(1)(B) provides that an employee covered by this part is entitled to be represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or position or an employee whose release from his or her official position would give rise to unreasonable costs to the Government or whose priority work assignment precludes his or her release from official duties. 5 U.S.C. 7114(a)(5) and the terms of any applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

§ 432.205 Interim procedures.

Until the date, but no later than October 1, 1981, that an agency has established a performance appraisal system under Part 430 of this title which covers an employee against whom an action is contemplated:

(a) A notice of action under this part may be proposed only after:

(1) The agency has discussed with and communicated to the employee the critical elements of the employee's job and the performance standards for the one or more critical elements for which the employee's performance is unacceptable and

(2) The employee has been given a reasonable time and opportunity to demonstrate acceptable performance.

(b) An action may be effected under this part only in accordance with all other requirements of this part.

§ 432.206 Appeal and grievance rights.

(a) *Appeal rights.* 5 U.S.C. 4303(e) provides for an appeal of an action under this part to the Merit Systems Protection Board.

(b) *Grievance rights.* 5 U.S.C. 7121(e)(1) requires an aggrieved employee to elect to appeal under this part or when applicable, to file a grievance under the negotiated grievance procedure, but not both.

§ 432.207 Agency records.

(a) *When the action is effected.* The agency shall preserve all relevant documentation concerning a reduction in grade or a removal which is based on unacceptable performance and make it available for review by the affected employee or his or her representative. As a minimum, the agency's records shall consist of a copy of the notice of proposed action, the answer of the employee when it is in writing, a summary thereof when the employee makes an oral reply, the notice of decision and the reasons therefor, and any supporting material including documentation regarding the opportunity afforded the employee to demonstrate acceptable performance.

(b) *When the action is not effected.* 5 U.S.C. 4303(d) governs agency records when an action under this part is not effected.

[FR Doc. 79-23736 Filed 8-2-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

Domestic Quarantine Notices; Pink Bollworm; Miscellaneous Amendments to Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the supplemental regulations which designate generally infested regulated areas and suppressive regulated areas subject to the Pink Bollworm Quarantine and regulations by deleting 15 counties in Arkansas and 1 parish in Louisiana from the list of suppressive regulated areas. Based upon surveys by Federal and State inspectors, these areas have been declared free of pink bollworm and it is no longer necessary to regulate these areas in order to prevent the spread of the pink bollworm.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, Regulatory Support Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782 (301) 436-8247.

SUPPLEMENTARY INFORMATION: The pink bollworm (*Pectinophora gossypiella* Saunders) is one of the most destructive and widespread insect pests of cotton in the world. This insect spread to the United States from Mexico in 1917 and now occurs throughout most of the cotton-producing States west of the Mississippi River.

Surveys conducted by the United States Department of Agriculture and State agencies established that the pink bollworm no longer occurs in the regulated areas of 15 counties in Arkansas and 1 parish in Louisiana. Therefore, it no longer appeared necessary to regulate these counties and parish in order to prevent the spread of the pink bollworm, and it was proposed in a notice published in the **Federal Register** (44 FR 17714) on March 23, 1979, to remove the following counties and parish: Clark, Conway, Faulkner, Franklin, Greene, Hempstead, Jefferson, Lafayette, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, and Pulaski Counties in Arkansas; and De Soto Parish in Louisiana.

No comments were received in response to the proposed rule. The proposed amendments are hereby adopted without change.

Accordingly, § 301.52a–2 of 7 CFR is amended to read as set forth below:

§ 301.52–2a Regulated area; suppressive and generally infested areas.

The civil divisions and part of civil divisions described below are designated as pink bollworm regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below.

* * * * *

Arkansas

(1) Generally infested area. None.
(2) Suppressive area.
Yell County. The entire county.

* * * * *

Louisiana

(1) Generally infested area. None.
(2) Suppressive area.
Bossier Parish. The entire parish.
Caddo Parish. The entire parish.
Natchitoches Parish. The entire parish.
Red River Parish. The entire parish.

* * * * *

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 37 FR 28464, 28477; 38 FR 19141; 7 CFR 301.52–2.)

The amendments should be made effective promptly in order to relieve persons in suppressive areas, where pink bollworm no longer occurs, from further unnecessary restrictions.

Accordingly, pursuant to the administrative procedure provisions of 5 U.S.C. 553, good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Further, this final rule has been reviewed under the USDA criteria established to implement E. O. 12044, "Improving Government Regulations," a determination has been made that this action should not be classified "significant" under this criteria. A Final Impact Statement has been prepared and is available from the Plant Protection and Quarantine Programs, APHIS, Room 633, Federal Building, Hyattsville, MD 20782, 301–436–8247.

Done at Washington, D.C. this 30th day of July, 1979.

James O. Lee, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-23942 Filed 8-2-79; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 210]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 5–11, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 5, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on July 31, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is strong.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

§ 910.510 Lemon Regulation 210.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period August 5, 1979, through August 11, 1979, is established at 275,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: August 2, 1979.

Charles R. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-24258 Filed 8-2-79; 11:34 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1435

Price Support for 1979 Crop Sugarbeets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the terms and conditions under which the Commodity Credit Corporation (CCC) will support prices to domestic producers of 1979 crop sugarbeets and sugarcane through nonrecourse loans made by CCC to sugar processors.

Sugar processed from the 1979 crop is ineligible for loan under the 1978 crop price support loan program and substantial quantities of the 1979 crop sugar would not be available for coverage under price support now being considered in the Congress. This rule, implemented under existing statutory authorities, ensures continuity of price support coverage for sugarbeet and sugarcane producers.

Participating processors must pay all producers who deliver sugarbeets and sugarcane to them at least the prices per ton prescribed by this rule. Regional loan rates and support prices apply to the sugarbeet and sugarcane processing regions as established for the 1978 crop. Loans will mature on the last day of the ninth month after the month of disbursement.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Laurence E. Ackland, ASCS, PSD, (202–447–5647), P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: The effective date of price support under proposed sugar legislation now before Congress would be October 1, 1979—the beginning of the 1979 sugar supply year. Timing of the initiation of the sugar supply year concept would include, under current crop year concepts, most of the 1979 crop with notable exceptions. Puerto Rican producers and processors will have completed, long before October 1, 1979, harvesting and processing their 1979 sugarcane crop. A major part of the Hawaiian sugarcane crop and substantial quantities of sugarbeets in California and Arizona will have also been harvested and processed. Such sugar will not, therefore, be covered by new legislation but would be covered under this rule. If new legislation should fail to be enacted, all sugar of the 1979 crop will be covered under this rule.

Because of this "gap" in price support availability, the Secretary of Agriculture gave notice on May 9, 1979 (44 FR 27125) that he was considering a proposal to support prices to domestic producers of 1979 crop sugarbeets and sugarcane. All interested persons were invited to comment on the proposal.

As was stated in the proposed rule, the authority for the establishment of a 1979 crop price support program is the discretionary authority contained in Section 301 of the Agricultural Act of 1949, as amended (7 U.S.C. 1447).

Section 401(b) of the Act (7 U.S.C. 1421(b)) requires, in the case of any commodity for which price support is discretionary, that the following factors be taken into consideration in determining whether a price support operation shall be undertaken and the level of such suppport:

(1) The supply of the commodity in relation to demand therefor.

(2) The price levels at which other commodities are being supported.

(3) The availability of funds.

(4) The perishability of the commodity.

(5) The importance of the commodity to agriculture and the national economy.

(6) The ability to dispose of stocks acquired through a price-support operation.

(7) The need for offsetting temporary losses of export markets.

(8) The ability and willingness of producers to keep supplies in line with demand.

The proposed rule detailed the Department's consideration of all the above factors within the range of loan rates (13.0 to 14.25 cents per pound for raw cane sugar; 15.15 to 16.52 cents per pound for refined beet sugar) and resulting sugarcane and sugarbeet support prices (equivalent to 43 to 47 percent of estimated July 1979 parity) from which the final loan rates and support prices are herein established.

Summary of Comments to Proposed 1979 Crop Sugar Price Support Program

Of the more than 80 responses to the proposed rule (tabulated as of June 4, after the deadline for comments) only two (those responding in the refiner/user category) favored a loan program within the proposed range of loan rates. Almost all other respondents generally observed that the level of support directly or indirectly indicated by the loan rates was unacceptably low. The several comments received later than June 4 included no items not previously mentioned in the comments received prior to June 4.

Producers

Comments were received from 41 individuals, all cane producers in Florida, Louisiana, or Texas. All felt the range of loan rates was too low. Recurring observations were that the range of loan rates proposed (1) either represented the Administration's price objective or, because of past failure to achieve stated price objectives, would become the price objective for all practical purposes; (2) are below what is necessary to cover cost of production and/or reflected a lower percentage of parity than did the rates at which price support was made available for 1977 and 1978 crops; and (3) would result in little or no benefit to producers and would contribute to the demise of the domestic sugar industry.

Texas producers also commented on the precarious state of their processing cooperative because of low prices and weather misfortunes.

Producer Associations and Other Producer Groups

The 20 respondents in this category represent sugarbeet and sugarcane growers in all producing areas except Puerto Rico. The American Sugarbeet Growers Association did not object to the basic loan rate being established at a somewhat lower level than the market price objective if adequate actions were taken to attain the market price objective. Most other respondents commented on the loan levels proposed and observed that such levels were too low for the same reasons cited by individual producers.

Additionally, the Michigan and Ohio Sugar Beet Growers Associations contended that if the settlement basis of the eastern area participating contract was not recognized in establishing price support requirements, producers in that area would receive no benefit from the loan program.

The California Beet Growers Association, Ltd., observed that indication should be made by the Department that the loan rate established would be subject to upward adjustment if legislation was achieved which provided a higher floor.

The Glades Association of Independent Sugar Cane Growers, Inc., objected to the past withholding by processors from producers of what they felt was too high a percentage of loan proceeds. They suggested that regulations should deal with this matter as well as with some means for making the loan program available directly to producers.

Sugro, Inc., a Federation of Sugarbeet Marketing Cooperatives, commented that transportation costs used in the calculation of sugarbeet processing region 3 differential loan rates (Draft Impact Analysis) were too high because of an abnormal sales year in 1977 when sugar was shipped to the east coast rather than to the normal Chicago-west marketing area.

Processors, Processor Groups, and Processor/Producer Groups

The 15 respondents generally had the same objections to the proposed rule as the producers and producer groups. It was additionally contended that the proposal contravenes the CCC charter and that the one reason for the low loan levels proposed was to achieve for CCC the ability to sell 1978 crop loan sugar anticipated for forfeiture. A respondent representing the Florida Sugar Marketing and Terminal Association claimed that the proposed storage rate was less than that negotiated for the storage of 1977 crop sugar already forfeited.

Sugarbeet processors who use "Eastern area" participating contracts, whereby producers share in proceeds on all products of the beet and also in the efficiency or inefficiency in extracting sugar from the beets, felt that failure to provide a waiver from minimum price support requirements could prevent or at least delay their participation in the loan program. They pointed out that if sugar extraction and/or by-product prices are low the processor might not realize enough to pay the specified price support. Florida industry representatives objected to deletion of the waiver which was included under the 1977 and 1978 crop programs because they contended that under some grinding and tolling agreements the result could be the same; and further, that failure to provide a waiver would nullify payment provisions of certain existing contracts.

Sugarbeet processor representatives suggested that the incremental increase in freight rates used in the Draft Impact Analysis should be 9 percent rather than 7.6 percent per year; and that the maturity date of loans should be shortened, with possible renewal options, so that maturity dates would not fall beyond settlement years and so that space could be freed in time for subsequent crop processing. Concern was expressed that any loans applied for prior to the effective date of a program which was implemented under subsequently enacted legislation should be allowed to be completed and disbursed.

A sugarbeet processor operating in regions 3 and 5 contended that transportation costs used in the Draft Impact Analysis for establishing loan rates for those regions were artificially high, thus resulting in artificially low loan rates.

Florida respondents stated that the $0.82 per cwt. transportation cost to market used in the Draft Impact Analysis as a basis for Florida's differential loan rate was erroneously high. Based upon the weighted costs projected for transportation of the 1979 crop to Northeastern markets, to Savannah, Georgia, and to local refineries, a cost of $0.46 to $0.47 per cwt. was suggested.

Puerto Rican respondents objected to what they believed to be an inaccurately high transportation cost used in computing their regional loan rate.

It was requested by a Florida respondent that it be made clear in the regulations that all costs of removal and delivery of loan collateral in accordance with instructions by CCC be for the account of CCC.

Members of Congress

Several members of the Louisiana Congressional delegation saw the range of loan rates proposed as inadequately low. Such rates were felt to be insufficient to cover cost of production and lower in percentage of parity than rates for other commodities. Concern was expressed that the rates could determine market prices if adequate action is not taken to achieve more reasonable and higher prices to processors and producers.

Refiners and Firms Using Sugar

The two responses in this category were generally in favor of a loan program and were in favor of loan rates at the low end of the range proposed.

Included in the response on behalf of some refiners was the view that an artificially high price will have an environmental impact, particularly with regard to development of additional sugarcane acreage in Florida.

Miscellaneous Comments

The Western Region of USDA's Office of Inspector General commented on the necessity of establishing a loan rate in proper relationship to the price objective. A basic raw sugar loan rate of 13.5 cents per pound was suggested as compatible with a price objective of 15.0 cents per pound.

Three other respondents, two apparently associated with Texas banking interests and one with the distribution of Florida vegetables, generally asserted that the proposed loan levels were too low to maintain a viable domestic sugar industry.

Department's Response to Major Issues

Loan rate/Price Support Levels Claimed to be too Low

Those respondents who felt the range of proposed loan rates was too low either erroneously equated such loan levels with market price objectives, or, where the difference was recognized, expressed little confidence that prices higher than the loan rates would be achieved.

The Department recognizes that market price objectives for processors and producers must be higher than the levels represented by the loan rate ranges presented in the proposed rule and that such higher objectives must be achieved if a viable domestic industry and a viable price support loan program are to be maintained. This concept is consistent with proposed sugar legislation supported by the Administration which recognizes, for the 1978 supply year, a raw value price objective of 15.0 cents per pound and which seeks to achieve, through import and other actions, a market price objective for the 1979 supply year of 15.8 cents per pound.

Proposed legislation also provides for a basic loan rate of not less than 89 percent of the market price objective. Since the current market price objective is unchanged from the 15.0 cents in effect at the time of the proposed rule, the loan and price support levels finally adopted on an interim basis must, to be generally consistent with proposed legislation, be (1) lower than the price objective and (2) at levels which will permit loan redemptions when the price objective is achieved. A basic raw cane sugar loan rate of 13.0 cents per pound (with the basic refined beet sugar loan rate and price support rates for sugarbeets and sugarcane calculated from this figure) is accordingly adopted.

Requirement That Processor Pay Producers No Less Than Specified Price Support Rates

Under the 1977 and 1978 crop loan programs, a processor could be relieved of the requirement to pay no less than the price support rate specified by CCC if "normal and traditional customs or practices agreed upon between the producer and processor with respect to the marketing of sugarbeets and sugarcane or the products processed therefrom * * * would cause any reduction in the specified support price."

This waiver provision was not included in the 1979 crop proposal.

Sugarbeet processors who use "Eastern area" participating contracts, whereby producers share in the price received on all products of the beet and also in the efficiency or inefficiency of the processor in extracting sugar, felt that deletion of the waiver could prevent or at least delay their participation in the loan program. Florida industry representatives contended that under some grinding and tolling agreements the result may be the same.

The Department considers that only under the eastern area (Region 1) participating sugarbeet purchase contract could processors achieve insufficient funds to pay specified price support rates even though the price objective for sugar was achieved in the market. In the event that sugar extraction and/or prices of by-products (beet pulp and molasses) are low, the processor might not realize enough to pay a specified support price to producers. In all sugarbeet and sugarcane processing regions other than the Eastern region, the price producers receive is not dependent on any major factors other than the price of sugar and the sucrose content of the sugarbeets or sugarcane. Under Eastern Area contracts, however, the total net returns from sale of the sugar (not the net price) are shared with each producer according to the sugar content relationship of his beets to the average sugar percentage of all beets delivered. Also, in return for the producer bearing the risk of pile loss and sucrose extraction, the processor shares with producers the net returns from the beet by-products.

The Department has concluded that since basic price support protection is guaranteed through a guaranteed price for sugar placed under loan, price support protection for the Eastern Region should reflect what is achievable through the refined beet sugar loan rate for the region under existing producer/processor contractual arrangements. Accordingly, though a minimum support price is specified for the Eastern Region, provision is made for its adjustment if sugar extraction or by-product returns are below recent historical levels.

Calculation of Regional Loan/Support Rates

As was the case for the 1978 program, loan and support rates were proposed to vary between regions because of differences in transportation costs to marketing areas. No respondents objected to this principle. The transportation costs for sugarbeet regions 3 and 5 and for Florida and Puerto Rico were alleged to be too high and/or not representative of current marketing patterns.

For the 1978 program for beet sugar, 1976 costs collected by the Economics, Statistics, and Cooperative Service of USDA were projected to 1978 by increasing such costs at an annual rate of 7.6 percent. For the 1979 crop proposal, 1977 costs were projected for 1979 using the same percentage increment. For the cane areas, estimated 1978 costs were increased by 7.6 percent for 1979.

Specific rates for each region did not appear in the proposed rule but are in the Draft Impact Analysis on the proposed rule. The rate used for Florida gave major weight to northeastern markets, which are likely to become increasingly significant for Florida sugar. However, the fact that the single largest Florida processor continues to deliver its entire production to the Savannah refinery under a long-term contract was not taken into account by the Department. Neither was the production which is refined locally in Florida.

The rate finally adopted for Florida is the result of allocating (for weighing purposes only) Florida's estimated production delivered to Savannah (300,000 tons), northeastern markets (400,000 tons) and to local refiners (200,000 tons). The weighted rate, .58 cent per pound, equals .62 cent per pound when increased by 7.6 percent. As was stated, northeastern markets are of increasing importance in the disposition of Florida sugar. Overstating the extent of such markets would make Florida's loan rate unrealistically low. Understating would tend to discourage redemption and increase the possibility of loan forfeitures. Changing market patterns make it difficult to project sales. However, there is little doubt that the 200,000 ton figure projected for local refining is reasonable and that at least 300,000 tons will go to Savannah.

The transportation rate for Puerto Rico has been adjusted downward in accordance with information supplied by the Sugar Corporation of Puerto Rico and other elements of the industry.

With respect to sugarbeet regions 3 and 5 the Department does concur that 1977 marketings reflected unusual shipments at higher freight rates than would be the case for normal sales. This fact has been taken into account along with adjustments for sugarbeet regions where factories have closed and transportation data for such factories were previously included.

Maximum Storage Rate for Forfeited Sugar

For the 1977 and 1978 programs a maximum storage rate of $.01 per pound per year ($.000833 per pound per month) was established. Adequate data was not then available to establish a rate based on experience. It has since developed that warehousing rates have been negotiated by CCC on an actual weight basis for the 1977 crop loan sugar forfeited. The rate for raw cane sugar stored in Jacksonville, Florida, is $.0072 per pound per year ($.0006 per pound per month). The negotiated rate for forfeited raw cane sugar in Texas is $.0084 per pound per year ($.0007 per pound per month).

Although the Department considers that prior negotiated rates should be a guideline in the negotiation of long-term warehousing, a maximum rate of $.01 per pound per year has been adopted. This maximum is regarded as a "distress rate," to be considered only for short-term emergency storage. Providing a "high" maximum rate also gives some latitude which may be needed to meet unknown circumstances.

Terms of Loans

For the 1977 and 1978 crops, loans matured on the last day of the eleventh month following the month of disbursement. This same term was proposed for the 1979 crop. After consideration of comments, however, the Department agrees that the loan term should be shortened. The term established provides for loan maturity on the last day of the ninth month following the date of disbursement. This is consistent with the loan term provided for most other CCC loan commodities. Additional advantages are that loans will generally mature before the end of a processor's contract settlement year with producers and before the storage space is needed for a subsequent crop's production. Realization of price support benefits by producers and necessary actions to free needed storage space will be facilitated.

As to other issues raised in comments, the Department's position is as follows:

The Department intends that if a higher loan rate is provided under a succeeding program, producers will be offered the opportunity to apply for any increase with respect to any outstanding loans of the 1979 crop year.

The Department encourages prompt sharing by processors of loan funds with producers but can only require that total settlement be in compliance with required price support rates. A producer cannot participate directly in the loan program because sugarbeets and sugarcane cannot be stored for any length of time and because once delivered and processed they generally no longer belong to the producer.

Failure to provide a "price support waiver" provision for Florida does not nullify payment provisions of certain existing contracts. Participation in the program is voluntary.

It is provided in the regulations that loans applied for before the date of a succeeding program may be completed and disbursed if any delay is solely due to the time necessary for the loan making office to make disbursement available.

The Department believes the loan rates established reflect a percentage of parity and cost of production within the range of, and consistent with, loan rates for other commodities.

The incremental increase in freight rates used in the Draft Impact Analysis is supported by data in the possession of the Department.

Other comments received were not sufficiently clear to determine the respondents' concern or were not germane to the specific issues of the price support program for the 1979 crop of sugarbeets and sugarcane.

The 1979 crop price support program resulting from the proposed rule and considerations described above is generally patterned after the 1978 crop program and includes the following major provisions.

(1) The basic loan rate established for refined beet sugar reflects the long-term relationship (1.10 to 1.00) between refined beet sugar net selling prices and raw cane sugar prices. After adjustment to reflect the proper price relationship, the estimated average 1979 crop fixed marketing costs (which are incurred by beet processors regardless of the disposition of a loan) are added to make up the loan rate for refined beet sugar.

(2) Regional loan rates and specified minimum support prices for sugarbeets and sugarcane apply to the sugarbeet and sugarcane processing regions as established for the 1978 crop. Differential loan rates are based on the estimated average cost of transporting 1979 crop sugar from the processing region to market destinations.

(3) Since Section 301 of the Agricultural Act of 1949, as amended, does not specifically authorize the establishment of minimum wage rates for sugar fieldworkers, such provisions as those mandated by the Food and Agriculture Act of 1977 for the 1977 and 1978 sugar crops do not apply to the operations of the 1979 loan program.

(4) Payment to producers of less than the specified minimum support price per ton of sugarbeets or sugarcane because of an existing marketing custom or practice is not permitted. However, for Region 1 of the sugarbeet area, the required minimum support price can be adjusted if sugar extraction or by-product returns fall below specified levels.

(5) Loans will be made and serviced by State and county ASCS offices.

(6) The 1979 crop of sugarbeets and sugarcane is defined according to normal harvesting periods. However, loans under the proposed program would be allowed only for that sugar processed from the 1979 crop harvest that is offered for loan prior to the effective date of any succeeding loan program authorized by new legislation.

(7) The normal maturity date for each loan shall be the last day of the ninth month following the month of disbursement.

In consideration of the foregoing, 7 CFR Part 1435 is amended by adding a new Subpart—Price Support Loan Program for 1979 Crop Sugarbeets and Sugarcane—to read as follows:

PART 1435—SUGAR

Subpart—Price Support Loan Program for 1979 Crop Sugarbeets and Sugarcane

Sec.

1435.55 General statement.
1435.56 Administration.
1435.57 Definitions.
1435.58 Level and method of support and loan rates.
1435.59 Eligibility requirements.
1435.60 Availability, disbursement, and maturity of loan.
1435.61 Quantity for loan.
1435.62 Loan maintenance and liquidation.
1435.63 Processor storage agreement.
1435.64 Miscellaneous provisions.
1435.65 Applicable forms.

Authority: Secs. 301–303 and 401 et seq. of the Agricultural Act of 1949, as amended (7 U.S.C. 1447 et seq., 1421 et seq.).

§ 1435.55 General statement.

This subpart contains the regulations which set forth the requirements with respect to price support for the 1979 crop of sugarbeets and sugarcane. The Commodity Credit Corporation (CCC) will offer to eligible processors nonrecourse loans which must be evidenced by notes and security agreements and secured by the pledge of eligible sugar in eligible storage.

§ 1435.56 Administration.

(a) The Procurement and Sales Division, Agricultural Stabilization and Conservation Service (referred to as "ASCS"), will administer this subpart under the general direction and supervision of the Deputy Administrator, Commodity Operations.

(b) In the field, this subpart will be administered by the Kansas City Commodity Office and the Management Field Office (referred to as KCCO and MFO respectively) and designated Agricultural Stabilization and Conservation State and county committees (referred to as State and county committees).

§ 1435.57 Definitions.

(a) "1979 crop" means domestic sugarbeets and sugarcane, the substantial portion of which is harvested in the areas indicated below during the following periods:

Sugar Producing Area and Harvesting Period

Sugarbeets:
All States, excluding California and Arizona, September through November 1979.
California, excluding southern area, July 1979 through June 1980.
Southern California,[1] March through September 1979.
Arizona-lowland area, April through August 1979.
Arizona-upland area, September 1979 through January 1980.

Sugarcane:
Florida, October 1979 through May 1980.
Louisiana, October 1979 through January 1980.
Texas, October 1979 through May 1980.
Hawaii, calendar year 1979.
Puerto Rico, calendar year 1979.

(b) "Eligible producers" means the owner of a portion or all of the sugarbeets or sugarcane, including share rent landowners, at the time of harvest and delivery to the processor.

(c) "Sugar" means refined beet sugar or raw cane sugar, cane syrup or edible molasses which is processed from domestically produced sugarbeets and sugarcane, which is not contaminated and does not contain chemicals or other substances poisonous to man or animals.

(d) "Processor" means a person who commercially proceses sugarbeets into refined sugar or sugarcane into raw sugar, cane syrup or edible molasses.

(e) "Raw value" of any quantity of sugar means its equivalent in terms of ordinary commercial raw sugar testing ninety-six degrees by the polariscope.

(f) "Sugarbeets of average quality" means sugarbeets containing 15.44 percent sucrose.

(g) "Sugarcane of average quality" means (1) for Florida, sugarcane containing 13.97 percent sucrose in

[1] Southern California includes the counties of Imperial, San Diego, Riverside, Orange, San Bernardino, and that part of Los Angeles lying south of the San Gabriel Mountains.

normal juice; and (2) for Louisiana, sugarcane containing 12.79 percent sucrose in normal juice of 78.69 percent purity.

(h) "Secretary" means the Secretary of Agriculture or an official who has been designated to act on his behalf.

§ 1435.58 Level and method of support and loan rates.

(a) *Level of support.* Prices to domestic producers of 1979 crop sugarbeets and sugarcane will be supported at an average level estimated to be equivalent to 43 percent of the estimated parity prices for sugarbeets and sugarcane as of July 1979. The general support prices for sugarbeets and sugarcane are as specified in § 1435.59(b).

(b) *Method of support.* The support to domestic producers of 1979 crop sugarbeets and sugarcane will be made available through nonrecourse loans to eligible processors.

(c) *Loan rates.* The basic (weighted average) loan rates for the 1979 crop shall be 15.15 cents per pound for refined beet sugar and 13.00 cents per pound for cane sugar, raw value, including the cane sugar, raw value, equivalent contained in cane syrup and edible molasses.

(d) *Location differentials.* (1) The loan rate applicable to eligible sugar shall be the rate specified in subparagraphs (2) and (3) of this paragraph for the region in which such sugar was processed: *Provided,* That in the case of refined or specialty sugar made from raw cane sugar which would otherwise be eligible for loan except that it is no longer in its raw form, the loan rate shall be the appropriate regional loan rate applied to the cane sugar, raw value, equivalent of the refined or specialty sugar. Such sugar must have been manufactured by a cane sugar refining facility that is cooperatively owned by its raw cane sugar processors or by a processor of sugarcane who is also a refiner.

(2) The processing regions and applicable loan rates for refined beet sugar shall be as listed below:

Region number and description	Cents per pound
1—Michigan and Ohio	15.87
2—Minnesota and the eastern half of North Dakota	15.00
3—Northeastern quarter of Colorado; northwestern quarter of Kansas; Nebraska, and the southeastern quarter of Wyoming	14.78
4—Southeastern quarter of Colorado; and Texas	14.95
5—Montana and the northwestern quarter of Wyoming	14.89
6—That part of Idaho east of the eastern boundary of Owyhee county and of such boundary extended northward; and Utah	14.80
7—That part of Idaho west of the eastern boundary of Owyhee county and of such boundary extended northward; Oregon; and Washington	14.80
8—Arizona and California	15.66

(3) The processing regions and applicable loan rates for cane sugar, raw value, shall be as listed below, except that for such sugar processed in Hawaii or Puerto Rico but placed under loan on the mainland of the United States, the applicable loan rate shall be 13.00 cents per pound:

Region	Cents per pound
Florida	13.08
Louisiana	13.30
Texas	12.89
Hawaii	12.89
Puerto Rico	12.30

§ 1435.59 Eligibility requirements.

(a) The quantity of sugar which is eligible to be placed under the 1979 Price Support Loan Program is a quantity which is equivalent to the quantity processed from that part of the 1979 crop grown by eligible producers. Such sugar must be processed and owned by an eligible processor (or jointly owned by an eligible processor and eligible producers) tendering the sugar as collateral for loan, and must be in eligible storage.

(b) Eligible processors for the 1979 crop are those who pay to all eligible producers who deliver to them for processing sugarbeets and sugarcane of average quality in the following locations, not less than:

(1) For sugarbeets in the regions described in paragraph (d)(2) of § 1435.58, the following rates per net ton: Region 1, $21.22: *Provided,* That, if (i) the sugar extracted by a processor from 1979 crop sugarbeets yields, on the average, less than 254.17 pounds per net ton of beets delivered and accepted by the processor or (ii) the processor's net return on by-products per net ton of beets delivered and accepted by the processor averages less than $6.34 per net ton, the required minimum price support rate per net ton of sugarbeets may be adjusted. The adjusted rate will be determined by (A) multiplying $.1502 (the loan rate per pound less $.0085 considered as fixed marketing costs) times the average pounds and hundredths of pounds of sugar extracted per net ton, (B) adding thereto the net return to the processor on by-products per net ton of sugarbeets delivered and accepted, and (C) multiplying the result times 53.1 percent. To the extent that the resulting rate represents other than average quality sugarbeets as defined according to these regulations, such rate may be adjusted accordingly.

Region 2, $22.46.
Region 3, $22.10.
Region 4, $22.39.
Region 5, $22.30.
Region 6, $22.16.
Region 7, $22.16.
Region 8, $23.45.

(2) For sugarcane in Florida, $17.92 per net ton;

(3) For sugarcane in Louisiana, $16.04 per net ton;

(4) For sugarcane in Texas, the amount determined by multiplying 7.734 cents times the average pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by all producers, as adjusted by the processor to reflect the quality of the juice (normal juice sucrose and normal juice purity) extracted from the individual producer's sugarcane.

(5) For sugarcane in Hawaii, the amount determined by multiplying the total pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by the individual producer times (i) 8.5074 cents where the delivery point is at the mill, or (ii) 6.5739 cents where the cane is delivered by loading into trucks in the field; and

(6) For sugarcane in Puerto Rico, that price determined in accordance with the provisions of Puerto Rico Law No. 426—also known as the Puerto Rico Sugar Law—and the rules issued thereunder by the Sugar Board of Puerto Rico;

Provided, however, That the foregoing prices may be adjusted for sugarbeets or sugarcane of nonaverage quality on the method agreed upon by the producer and processor.

(c) Eligible storage shall consist of a storage structure or space which is determined by the State committee to be committed to the storage of such quantity of the processor's eligible sugar as is offered for loan or maintained under loan and which is safe for storage of the product.

§ 1435.60 Availability, disbursement, and maturity of loan.

(a) *Obtaining price support.* To obtain price support on eligible sugar, an eligible processor must file a request for a loan with the State committee of the State where he is headquartered; and must execute a note, security agreement, and storage agreement as prescribed by CCC. Such request must be filed no later than 90 calendar days after the processor completes processing the 1979 crop: *Provided,* That loans can be made under this subpart only if disbursed prior to the effective date of any superseding loan program. A loan applied for prior to the effective date of a succeeding loan program may nevertheless be disbursed if any delay is solely due to the time necessary for the loan making office to make disbursement available.

(b) *Redeemed loan collateral.* A processor may not reoffer as security of repledge to CCC as collateral any sugar that has been redeemed from CCC loan.

(c) *Disbursement of loans.* Disbursement will be made by means of sight drafts drawn on CCC.

(d) *Maturity of loans.* Loans will mature on the last day of the ninth calendar month following the month in which the loan was disbursed. Whenever the final date falls on a weekend or Federal holiday, the date shall be extended to the next workday.

§ 1435.61 Quantity for loan.

Loans shall not be made on more than the quantity which an eligible processor certifies is eligible, available, and properly stored, and for which processor's weight and polarization records, or such other records satisfactory to CCC, are furnished. Sugar pledged as collateral for a loan is not required to be stored identity preserved; however, a processor's outstanding loan quantity may not exceed his total eligible storage capacity less ineligible sugar in storage.

§ 1435.62 Loan maintenance and liquidation.

(a) *Maintenance of the commodity under loan.* A processor shall maintain in eligible storage eligible sugar of sufficient quality and quantity to cover the loan except that, if prior permission is obtained from the loan-making office, the processor may substitute other sugar of the same or a subsequent crop year which is located at a different storage facility: *Provided,* That such sugar is of at least equal quantity and quality as the sugar which was originally put under loan: *Provided, further,* That the processor may request and obtain prior written approval of the loan-making office on a form prescribed by CCC to remove a specified quantity for the purpose of delivering it to a buyer prior to repayment of the loan. The loan-making office shall not approve a request unless the buyer of the sugar agrees to pay to CCC an amount, not in excess of the purchase price, necessary to satisfy the processor's loan indebtedness on the sugar purchased. Any such approval shall not constitute a release of CCC's security interest in the sugar or release the processor from liability for any amounts due on his loan indebtedness if full payment of such amounts is not received by the loan-making office.

(b) *Loan liquidation.* (1) CCC may at any time accelerate the time for repayment of price support loan indebtedness. In the event of any such acceleration, CCC will give the processor notice of such acceleration at least 10 days in advance of the accelerated loan maturity date. Upon maturity of the loan, the processor is required to pay off his loan or deliver to CCC a quantity of eligible sugar equivalent to that pledged as collateral for loan, title to which shall, without a sale thereof, immediately vest in CCC. If the processor wishes to deliver the commodity to CCC he must, on or before maturity, give the State committee notice in writing of his intention to do so. Notwithstanding any of the provisions of this section, the State committee may on request of the processor authorize delivery prior to maturity if the processor loses control of the storage structure or if there is insect infestation that cannot be controlled, danger of flood, damage to the storage structure, or deterioration of the quality of the stored commodity beyond the control of the processor, or for any other reason deemed sufficient by the Deputy Administrator, Commodity Operations.

(2) At his option, a processor may, at any time prior to maturity, redeem all or any part of his loan.

(3) The interest rate until loan maturity for each 1979 crop sugar loan shall be the 1979 crop CCC price support interest rate in effect at the time the loan is disbursed.

(c) *Storage costs.* Storage costs through the loan maturity date shall be borne by the borrower.

(d) *Processor incorrect certification or unauthorized removal.* If CCC determines, by actual measurement or otherwise, that the actual quantity serving as collateral for loan is less than the loan quantity, then CCC may call the loan. If CCC feels the seriousness of the matter so justifies it, CCC may call other outstanding loans of the processor and may deny further loans for one year or more.

(e) *Loss or damage.* The processor is responsible for any loss in quantity or quality of sugar under loan, except that CCC will bear its pro rata share of any loss in the case of sugar stored on a commingled basis, less any insurance proceeds and salvage value of the sugar to which CCC may be entitled, if the processor establishes to the satisfaction of CCC each of the following conditions: (1) The loss or damage occurred without fault or negligence on the part of the processor; (2) the loss resulted solely from an external cause (other than insect infestation, vermin, or animals) such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (3) the processor gave the State committee immediate notice of such loss or damage; and (4) the processor made no fraudulent representation in the loan documents or in obtaining the loan.

(f) *Settlement of loan.* If the loan rate value of the sugar delivered to CCC, plus loss assumed by CCC according to paragraph (e) of this section, is equal to or greater than the outstanding loan balance, the loan shall be considered as fully satisfied. The loan rate value of the collateral delivered to CCC in excess of that required to satisfy the loan will be paid to the processor.

(g) *Foreclosure.* If the loan indebtedness is not satisfied in accordance with provisions of this section, CCC may, upon notice, with or without removing the collateral from storage, sell it at either a public or private sale. CCC may become the purchaser. If the net proceeds are less than the amount due on the loan the borrower shall pay the difference to CCC.

§ 1435.63 Processor storage agreement.

(a) The borrower shall (1) maintain the loan collateral in eligible storage while it is under loan in accordance with the provisions of § 1435.62(a) and, as deemed necessary by CCC, after maturity of the unredeemed loan, and (2) remove and physically deliver loan collateral in accordance with written instructions by CCC.

(b) CCC shall make monthly storage payments to the processor for the time he stores the commodity for CCC after the maturity date of the unredeemed loan. The storage payment rate shall not exceed $.000833 per pound, per month.

§ 1435.64 Miscellaneous provisions.

(a) *Insurance.* CCC will not require the processor to insure the sugar pledged as collateral; however, if the processor insures such sugar and an indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest, after first satisfying the processor's equity in the sugar involved in the loss.

(b) *Subterfuge.* The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this subpart

through any subterfuge or device whatsoever.

(c) *Processor indebtedness.* The regulations issued by the Secretary governing setoffs and withholding, Part 13 of this title, shall be applicable to the program.

(d) *Liens.* Waivers of liens or encumbrances on the sugar tendered as collateral for loans must be obtained which will fully protect the interest of CCC. A lienholder, in lieu of waiving his prior lien on sugar tendered as collateral for a loan, may execute a Lienholder's Subordination Agreement (Form CCC–864) with CCC in which he subordinates his security interest to the rights of CCC. No liens or encumbrances shall be placed on the sugar pledged as collateral after the loan is approved.

(e) *Appeals.* A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations in Part 780 of this title.

(f) *Records and inspection thereof.* ASCS shall reserve the right to have access to the premises of the processor, in order to inspect, examine, and make copies of the books, records, accounts, and other written data as are deemed necessary by ASCS to determine compliance with the requirements of this subpart. Such books, records, accounts and other written data shall be retained by the processor for not less than 3 years.

(g) *False certifications.* Any false certification, which is made for the purpose of enabling a processor to obtain any loan to which he is not entitled, will subject the person making such certification to liability under applicable Federal civil and criminal statutes.

(h) *Handling payments and collections not exceeding three dollars.* In order to avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the processor will be paid only upon his request. Deficiencies of $3 or less including interest, may be disregarded unless demand for payment is made by CCC.

(i) *Death, incompetency, or disappearance.* In case of death, incompetency, or disappearance of any processor who is entitled to the payment of any sum in settlement of a loan payment shall, upon proper application to the State committee, be made to the persons who would be entitled to such processor's payment under the regulations contained in Part 707 of this title—Payment Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1435.65 Applicable forms.

The CCC forms for use in connection with this program will be made available by the State committee.

An approved Final Impact Statement on this rule is available from Thomas W. Little, Room 5977—South Building, USDA, Washington, D.C. 20250.

Note.—This regulation has been determined significant under the USDA criteria implementing Executive Order 12044.

Signed at Washington, D.C. on July 26, 1979.

Jim Williams,
Acting Secretary.

[FR Doc. 79–23721 Filed 8–2–79; 8:45 am]

BILLING CODE 3410–05–M

Food Safety and Quality Service

7 CFR Part 2852

United States Standards for Grades of Fruit Jelly [1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the grade standards for fruit jelly. The action is taken at the request of the Technical Committee of the International Jelly and Preserve Association. The revised rule will expand the number of types and kinds of jellies covered by the grade standards.

EFFECTIVE DATE: September 3, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas E. Crider, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–6248.

SUPPLEMENTARY INFORMATION: The current U.S. Standards for Grades of Fruit Jelly have been in effect since January 2, 1948, with only minor amendments to reflect changes in Food and Drug Standards of Identity and USDA inspection procedures. In recent years there has been a significant change in consumer preferences. Today, there are many kinds and types of jellies marketed that were strictly "home recipe" items 20 years ago.

As proposed in the **Federal Register** of July 21, 1978 (43 FR 31343–31344), the revision adds a nonstandardized fruit category and a nonstandardized nonfruit category to the grade standards. The addition of these two new categories will allow for greater flexibility in the grading and certification of these items, all of which are legally permitted under the regulations of the Federal Food, Drug, and Cosmetic Act.

Descriptive terms, such as "U.S. Fancy," have been eliminated to conform to consumer preference for a single letter grade designation. Minor editorial changes which do not change any of the requirements that were proposed have been made.

Two written responses were received subsequent to the publication of the proposed rule. One, from the International Jelly and Preserve Association, stated concurrence on behalf of its membership. The other, from the Defense Personnel Support Center, pointed out an inadvertent omission of a word in the U.S. Grade B color requirements.

After careful consideration of the data received, the revision to the United States Standards for Grades of Fruit Jelly is adopted, with minor editorial changes, as set forth below:

Sections 2852.1081 through 2852.1092 (7 CFR Part 2852), are revised and the Table of Contents is revised accordingly, as follows:

Sec.
2852.1081 Identity.
2852.1082 Types and kinds of jelly.
2852.1083 Kinds of fruit jelly—Standardized.
2852.1084 Grades of jelly.
2852.1085 Recommended fill of container.
2852.1086 Determining the grade.
2852.1087 Determining the rating for each factor.
2852.1088 Consistency.
2852.1089 Color.
2852.1090 Flavor.
2852.1091 Determining the grade of a lot.
2852.1092 Score sheet for fruit jelly.

Authority: Agricultural Marketing Act of 1946, secs. 203, 205; 60 Stat. 1087, as amended, 1090, as amended; (7 U.S.C. 1622, 1624)

§ 2852.1081 Identity.

(a) *"Fruit jelly (standardized)"*, means fruit jelly as defined in the definitions and standards of identity for fruit jelly (21 CFR 150.140), issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(b) *"Fruit jelly (nonstandardized)"*, means and includes jelly made from any suitable fruit(s) not covered by the definitions and standards of identity for fruit jelly (21 CFR 150.140), issued pursuant to the Federal Food, Drug, and Cosmetic Act. Such nonstandardized fruit jelly shall, except for the kind of fruit used, otherwise comply with all of the provisions of the definitions and standards of identity for fruit jelly previously cited: *Provided,* That a fruit/sugar ratio of 27/55 for black current may be used.

(c) *"Nonfruit jelly (nonstandardized)"*, means a jelly made from any suitable nonfruit ingredient whose characterizing flavor is not fruit and which contains no artifical flavor. The nonfruit ingredient shall be prepared in a manner similar to that of a fruit for use in fruit jelly. The finished product shall have a soluble solids content of not less than 65 percent and have organoleptic properties typical of the name of the product.

(d) Federal inspection certificates will indicate compliance wih the standard of identity and with the identity statements in paragraphs (b) and (c) of this section to establish the ingredients or proportion of ingredients only when these factors are determined during the process of manufacture.

(e) Nonstandardized fruit or nonstandardized nonfruit jelly identified in paragraphs (b) and (c) of this section that are prepared by using abnormally large amounts of pectin or acid, or both, are not covered by these standards.

§ 2852.1082 Types and kinds of jelly.

(a) *Type I*—Standardized. Prepared from a single variety of fruit juice ingredient (21 CFR 150.140).

(b) *Type II*—Standardized. Prepared from a mixture of two or more varieties of fruit juice ingredients (21 CFR 150.140).

(c) *Type III*—Nonstandardized. Prepared from a single variety of fruit or nonfruit juice ingredient.

(d) *Type IV*—Nonstandardized. Prepared from a mixture of two or more varieties of fruit and/or nonfruit juice ingredient(s), and which may include one or more of the fruits listed in § 2852.1083.

§ 2852.1083 Kinds of fruit jelly—Standardized.

Apple.
Apricot.
Blackberry (other than dewberry).
Black raspberry.
Boysenberry.
Cherry.
Crabapple.
Cranberry.
Damson, damson plum.
Dewberry (other than boysenberry, loganberry, and youngberry).
Fig.
Gooseberry.
Grape.
Grapefruit.
Greengage, greengage plum.
Guava.
Loganberry.
Orange.
Peach.
Pineapple.
Plum (other than damson, greengage, and prune).
Pomegranate.
Prickly pear.
Quince.
Raspberry, red raspberry.
Red currant, currant (other than black currant).
Strawberry.
Youngberry.

§ 2852.1084 Grades of jelly.

(a) *U.S. Grade A* is the quality of jelly that has a good consistency; has a bright typical color; is free from defects; has a distinct and normal flavor; and scores not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) *U.S. Grade B* is the quality of jelly that has a reasonably good consistency; has a reasonably bright typical color; is free from defects; has a reasonably good and normal flavor; and scores not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) *Substandard* is the quality of jelly that fails to meet the requirements of U.S. Grade B.

§ 2852.1085 Recommended fill of container.

It is recommended that the container be filled with jelly as full as practicable without impairment of quality and that the product occupy not less than 90 percent of the capacity of the container.

§ 2852.1086 Determining the grade.

The grade of jelly may be determined by considering, in addition to the requirements of the respective grade, consistency, color, and flavor. The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given for each factor is:

Factors	Points
Consistency	40
Color	20
Flavor	40
Total Score	100

§ 2852.1087 Determining the rating for each factor.

The essential variations within each factor are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor is inclusive (for example, "36 to 40 points" means 36, 37, 38, 39, or 40 points).

§ 2852.1088 Consistency.

(a) *General.* The factor of consistency refers to the gel strength of the product.

(b) *Grade A.* Jelly that has a good consistency may be given a score of 36 to 40 points. "Good consistency" means that the jelly has a tender to slightly firm texture and retains a compact shape without excessive syneresis ("weeping").

(c) *Grade B.* Jelly that has a reasonably good consistency may be given a score of 32 to 35 points. Jelly that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good consistency" means that the jelly may lack firmness but it is not sirupy; and that it may be more than slightly firm but is not tough or rubbery.

(d) *Substandard (SStd).* Jelly that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 2852.1089 Color.

(a) *Grade A.* Jelly that has a bright typical color may be given a score of 18 to 20 points. "Bright typical color" means that the color is characteristic of the juice ingredient(s) and that the jelly has a sparkling luster or may be not more than slightly cloudy, and is free from any dullness of color.

(b) *Grade B.* Jelly that has a reasonably bright typical color may be given a score of 16 or 17 points. Jelly that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably bright typical color" means that the color is characteristic of the juice ingredient(s) and that the jelly may be more than slightly cloudy and may have a slight dullness of color.

(c) *Substandard (SStd).* Jelly that is definitely off-color for any reason and fails to meet the requirements of paragraph (b) of this section may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 2852.1090 Flavor.

(a) *Grade A.* Jelly that has a distinct and normal flavor may be given a score of 36 to 40 points. "Distinct and normal flavor" means that the product has a good distinct flavor characteristic of the fruit or nonfruit ingredient(s) after preserving and is free from any caramelized flavor or any objectionable flavor of any kind.

(b) *Grade B.* Jelly that has a reasonably good and normal flavor may be given a score of 32 to 35 points. Jelly that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

product (this is a limiting rule). "Reasonably good and normal flavor" means that the product has a reasonably good flavor characteristic of the fruit or nonfruit ingredient(s) after preserving and may have a slightly caramelized flavor but is free from any bitter flavor or other objectionable flavor or off-flavor of any kind.

(c) *Substandard (SStd).* Jelly that fails to meet the requirements of paragraph (b) of this section may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 2852.1091 Determining the grade of a lot.

The grade of a lot of jelly covered by these standards is determined by the procedures set forth in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (§§ 2852.1 through 2852.83).

§ 2852.1092 Score sheet for fruit jelly.

Size and kind of container .....
Container code or marking .....
Label .....
Net weight (in ounces) .....
Vacuum reading (in inches) .....
Type .....
Kind .....
Soluble solids .....

Factors		Points	
Consistency	40	(A)	36–40
		(B)	32–35 [1]
		(SStd)	0–31 [1]
Color	20	(A)	18–20
		(B)	16–17 [1]
		(SStd)	0–15 [1]
Flavor	40	(A)	36–40
		(B)	32–35 [1]
		(SStd)	0–31 [1]
Total score	100		

Grade .....

[1] Indicates limiting rule.

(Agricultural Marketing Act of 1946, secs. 203, 205; 60 Stat. 1087, as amended, 1090, as amended; (7 U.S.C. 1622, 1624))

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations". A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Thomas E. Crider, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C.; on July 30, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-23900 Filed 8-2-79; 8:45 am]

BILLING CODE 3410-DM-M

Animal and Plant Health Inspection Service

9 CFR Part 51

Brucellosis Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rulemaking.

SUMMARY: This document amends the regulations governing the payment of indemnity for cattle destroyed because of brucellosis and provides alternative procedures for the identification and handling of such cattle prior to their destruction.

This action is needed to expedite the disposition of certain brucellosis-infected herds of cattle which are scheduled for herd depopulation, the destruction of which is now impeded by individual animal identification procedures now required by the regulations.

The intended effect of this action will be to speed up the process of eliminating large brucellosis-infected herds and thus reduce the possibility of disease spread from such herds.

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, Staff Veterinarian, National Brucellosis Eradication Program, Federal Building, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: Brucellosis is a contagious, infectious, and communicable disease which affects animals and man and is caused by bacteria of the genus brucella. A National Cooperative State-Federal Brucellosis Eradication Program to eliminate brucellosis from cattle and swine of the United States is being carried out in each of the various States. Among the tools being used to eradicate brucellosis in the various States is the testing of cattle and swine herds for brucellosis with identification and destruction of infected and exposed animals with the payment of indemnities to owners of animals destroyed.

The regulation presently requires that all cattle for which indemnity is paid be "B" branded on the left jaw and eartagged with a metal reactor tag. This has been considered necessary to prevent diversion of these diseased and exposed animals in marketing channels. With the increased use of herd depopulation as an eradication tool, experience has shown that alternate methods of identification and handling may be safely used to prevent diversion and reduce the labor burden caused by "B" branding and application of metal reactor eartags for both herd owners and animal health officials.

An emergency currently exists because of a large beef herd of over 2,000 head of cattle located in a certified brucellosis-free State which herd has been actively infected with brucellosis for more than 2 years with no success achieved in freeing the herd of disease using normal testing procedures. This is a range herd and should be immediately depopulated before susceptible cattle return from summer range in order to avoid further spread of the disease. To require each animal to be "B" branded and a reactor tag applied as is now required by the regulations will delay depopulation of this herd because appropriate facilities with which to conduct such branding and tagging in an expeditious manner are not available.

Therefore, alternate procedures for identification and handling of cattle herds approved for herd depopulation whereby cattle may be individually identified by approved USDA backtags and either accompanied directly to slaughter by a Veterinary Services or State representative or moved directly to slaughter in vehicles closed with official seals are added to the regulations. An official seal is a serially numbered, metal strip consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged, and which cannot be reused if opened. Such seals should be adequate to insure that a vehicle moving cattle has not been diverted and other cattle substituted.

Accordingly, Part 51, Title 9, Code of Federal Regulations, is amended as follows:

§ 51.1 [Amended]

1. In § 51.1, a new paragraph (bb) is added to read:

* * * * *

(bb) *Official seal.* A serially numbered metal strip consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged, which cannot be reused if opened, and is applied by a representative of the Veterinarian in Charge or the State animal health official.

2. In § 51.5, paragraph (b) is amended to read:

§ 51.5 Identification of animals to be destroyed because of brucellosis.

* * * * *

(b) Cattle shall be identified by branding the letter "B" on the left jaw not less than 2 nor more than 3 inches high and by tagging with an approved metal tag bearing a serial number and inscription "U.S. Reactor" or a similar State reactor tag suitably attached to the left ear of each animal: *Provided, however,* That in lieu of branding with the letter "B" and tagging with an approved metal tag, cattle in herds scheduled for herd depopulation, may be identified by USDA-approved backtags and either accompanied directly to slaughter by a Veterinary Services or State representative or moved directly to slaughter in vehicles closed with official seals.

* * * * * *

(Secs. 3, 4, 5, 11, and 13, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 3, 76 Stat. 130 (21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b, 37 FR 28464, 28477; 38 FR 19141))

These amendments are necessary and must be issued immediately to reduce the risk of the spread of brucellosis and to relieve unnecessary restrictions.

Therefore, pursuant to the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and the Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 27th day of July 1979.

E. A. Schilf,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-23901 Filed 8-2-79; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 97

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

Correction

In FR Doc. 79–8366 appearing on page 17652 in the issue of Friday, March 23, 1979 make the following correction:

In the third column the list for "Outside Metropolitan Area," the listing for "One Hour" and "Two Hours" should have read as follows:

Outside Metropolitan Area

One Hour

Add: Brownsville and Brownsville International Airport, Texas (served from Harlingen and San Benito, Texas).

Add: Hidalgo, Texas (served from Edinburg, Mission and McAllen, Texas).

Two Hours

Add: Hidalgo, Texas (served from Rio Grande City, Texas).

BILLING CODE 1505-01-M

Food Safety and Quality Service

9 CFR Part 309

Ante-Mortem Inspection; Residue Program

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule with request for comments.

SUMMARY: This is to inform the public that in accordance with the requirements of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the U.S. Department of Agriculture intends to modify procedures employed in its monitoring and surveillance program to detect biological residues in the Nation's meat supply. The detection of these compounds generally requires the use of sophisticated equipment and laboratory analytical techniques, a process which can be both costly and time-consuming. Therefore, the Department is instituting a pilot "STOP" (Swab Test on Premises) program which will utilize inplant screening procedures to detect the presence of these residues at levels which cause products to be considered adulterated under the FMIA. The adoption of these procedures should serve to reduce delay and expense in this area and facilitate more effective monitoring for these types of violations.

The program will be implemented immediately on a trial basis in 10 States and will involve those facilities which engage in the slaughter of dairy cattle. The program is being initiated in these facilities because departmental data indicate that dairy cattle have a traditionally high rate of residue violations.

DATES: Effective date: August 3, 1979. Comments must be received on or before September 3, 1979.

ADDRESS: Comments must be sent in duplicate to the Executive Secretariat, Attn: Annie Johnson, Food Safety and Quality Service, Room 3807 South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Dr. John E. Spaulding, Acting Director, Residue Evaluation and Surveillance Division, Science, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447–2807.

SUPPLEMENTARY INFORMATION: Pursuant to section 4 of the FMIA (21 U.S.C. 604), the Secretary of Agriculture conducts post-mortem inspection of carcasses and parts of cattle, sheep, swine, goats, horses and other equines for the purposes of detecting adulterated products and preventing their use in commerce.

The inspection program has placed an increased emphasis on the monitoring of the meat supply to detect unlawful biological residues in response to increased public concern regarding the safety of such substances. The presence of such substances in meat in excess of prescribed tolerances, renders such products adulterated within the meaning of this statute and subjects them the condemnation.

The program currently utilizes USDA laboratories for the testing and analysis for such residues. When there is a basis to suspect that such products are adulterated because of the presence of such residues, the products are retained pending the receipt of test results on samples of the products. Despite various efforts to expedite the process, the use of such procedures is often costly and time-consuming. In order to improve these procedures, the Department has encouraged the development of rapid inplant screening procedures which can be employed at the time of inspection to determine which products are suspected of being adulterated and should therefore be retained pending further

laboratory testing and which should be inspected and passed.

The Microbiology Division of the Science Program of FSQS has developed such an inplant screening procedure with respect to antibiotic residues. Inspectors utilizing this procedure will conduct a swab test designed to give a rapid indication of the presence of antibiotic residues. Positive test results will necessitate retention of the product pending laboratory testing, while those tests which are negative (no presence of antibiotic residues indicated) will be released. The adoption of these procedures should have the effect of increasing the program's ability to detect violations while at the same time facilitating the processing of wholesome product.[1]

The program is to be implemented immediately in 19 States and will involve federally inspected facilities which engage in the slaughter of dairy cattle. The reason for initiating the procedure in these facilities is the fact that dairy cattle have traditionally been found to contain high levels of antibiotic residues.

Section 309.16(d) of the Federal meat inspection regulations (9 CFR 309.16(d)) is amended to indicate that such procedures will be utilized in the residue program. Results of the pilot program will be analyzed and evaluated to determine whether such procedures should be applied more widely throughout the Meat and Poultry Inspection Program.

Accordingly, § 309.16(d) of the Federal meat inspection regulations is amended by adding the following sentence at the end thereof to read:

§ 309.16 Livestock suspected of having biological residues.

* * * * *

(d) * * * Such analysis may include the use of inplant screening procedures designed to detect the presence of antibiotic residues in dairy cattle.

(Sections 4 and 21, 34 Stat. 1260, 1264, as amended, 21 U.S.C. 604, 621; 42 FR 35625, 35628, 35631)

This amendment is designed to benefit the public health and the meatpacking industry by improving and expediting the procedures for detecting and eliminating illegal antibiotic residues from the meat supply, and should be made effective immediately in order to avoid unnecessary delay in the marketing of wholesome and otherwise unadulterated meat products.

This amendment has been designated "significant," and this final rulemaking is being published under emergency procedures as authorized by Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. Donald L. Houston, Acting Administrator, FSQS, that the emergency nature of this amendment warrants publication without waiting for public comment. This amendment is scheduled for immediate review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Comments concerning this amendment are presently being sought as part of this review and must be received on or before September 3, 1979.

Interested persons are invited to submit written comments concerning this amendment. Comments must be sent in duplicate to the Executive Secretariat, Attn: Annie Johnson, Food Safety and Quality Service, Room 3807 South Building, U.S. Department of Agriculture, Washington, DC 20250. Comments should bear a reference to the date and page number of this issue of the **Federal Register.** All comments made pursuant to this document will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

An approved Final Impact Analysis Statement has been prepared and is available from Dr. John E. Spaulding, Acting Director, Residue Evaluation and Surveillance Division, Science, FSQS, U.S. Department of Agriculture, Washington, DC 20250 (202) 447–2807.

Therefore, pursuant to authority in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this amendment at this time are impracticable and contrary to the public interest and good cause is found for making this amendment effective on or before September 4, 1979.

Done at Washington, D.C., on: July 27, 1979.

Donald L. Houston,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 79-23901 Filed 8-2-79; 8:45 am]

BILLING CODE 3410-DM-M

[1] Copies of the study concerning this procedure, "A New Screening Procedure for the Detection of Antibiotic Residues in Meat and Poultry Tissues," and copies of booklets outlining procedures for its implementation, "Performing the Swab Test (on Premises) for Antibiotic Residues," "Receiving, Modifying, and Stabilizing the S.T.O.P. Incubator," and "Receiving, Checking, and Storing S.T.O.P. Supplies," may be obtained from Dr. John E. Spaulding, Acting Director, Residue Evaluation and Surveillance Division, Science, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

9 CFR Parts 318, and 381

Substance for Use in Meat and Poultry Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat inspection regulations and the poultry products inspection regulations to permit the use of tertiary butylhydroquinone (TBHQ) as an approved antioxidant in the preparation of certain meat food products and poultry food products. This action will allow meat and poultry processors to use TBHQ as an antioxidant to retard rancidity in certain meat and poultry products under proper label declaration.

EFFECTIVE DATE: September 3, 1979

FOR FURTHER INFORMATION CONTACT: Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: On May 9, 1978, a notice of proposed rulemaking was published in the **Federal Register** (43 FR 19858–19860) indicating that the Administrator had been requested to approve tertiary butylhydroquinone (TBHQ) as an approved antioxidant to retard rancidity in the preparation of certain meat food products and poultry food products.

Because of inadvertent errors in the May 9, 1978, proposal, the Administrator published a second proposal in the **Federal Register** regarding the use of this substance on February 2, 1979 (44 FR 6735–6737). The new proposal also reflected corrections recommended by the four comments received to the original proposal. The February 2 proposal was commented on by one respondent who was in favor of adoption.

Since no written objections have been received, the proposed regulations published in the **Federal Register** of February 2, 1979, are hereby adopted without change and are set forth below.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under these criteria. A Final Impact Statement has been prepared and is available from Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, D.C., on July 30, 1979.

Donald L. Houston,

Acting Administrator, Food Safety and Quality Service.

§ 318.7 [Amended]

In § 318.7(c)(4), in that portion of the chart dealing with the "Class of Substance," "Antioxidants and oxygen interceptors," the following information is added to the appropriate columns in alphabetical order and the revised table is as shown:

Class of substance	Substance	Purpose	Products	Amount	
Antioxidants and oxygen interceptors	BHA (butylated hydroxyanisole)	To retard rancidity.	Dry sausage	0.003 percent based on total weight.	.006 percent in combination.
	BHT (butylated hydroxytoluene)	...do	...do	...do	
	Propyl gallate	...do	...do	...do	
	TBHQ (tertiary butylhydroquinone).	...do	...do	...do	0.006 percent in combination only with BHA and/or BHT.
	BHA (butylated hydroxyanisole)	...do	Rendered animal fat or a combination of such fat and vegetable fat.	0.01 percent	0.02 percent in combination.
	BHT (butylated hydroxytoluene)	...do	...do	...do	
	Glycine	...do	...do	...do	
	Propyl gallate	...do	...do	...do	
	Resin guaiac	...do	...do	...do	
	TBHQ (tertiary butylhydroquinone).	...do	...do	...do	0.02 percent in combination only with BHA and/or BHT.
	Tocopherols	...do	...do	0.03 percent	A 30 percent concentration of tocopherols in vegetable oils shall be used when added as an antioxidant to products designated as "lard" or "rendered pork fat."
Antioxidants and oxygen interceptors	BHA (butylated hydroxyanisole)	...do	Fresh pork sausage, brown and serve sausages, Italian sausage products, pregrilled beef patties, and fresh sausage made from beef or beef and pork.	0.01 percent based on fat content.	0.02 percent in combination based on fat content.
	BHT (butylated hydroxytoluene)	...do	...do	...do	
	Propyl gallate	...do	...do	...do	
	TBHQ (tertiary butylhydroquinone).	...do	...do	...do	0.02 percent in combination only with BHA and/or BHT based on fat content.
	BHA (butylated hydroxyanisole)	...do	Dried meats	0.01 percent based on total weight.	0.01 percent in combination.
	BHT (butylated hydroxytoluene)	...do	...do	...do	
	Propyl gallate	...do	...do	...do	
	TBHQ (tertiary butylhydroquinone).	...do	...do	...do	0.01 percent in combination only with BHA and/or BHT.

§ 381.147 [Amended]

In § 381.147(f)(3), in that portion of the table dealing with the "Class of Substance," "Antioxidants and oxygen interceptors," the following information is added to the appropriate columns in alphabetical order and the revised table is as shown:

Class of substance	Substance	Purpose	Products	Amount	
Antioxidants and oxygen interceptors	BHA (butylated hydroxyanisole)	To retard rancidity.	Various	0.01 percent based on fat content.	0.02 percent in combination with any other antioxidant listed in this table based on fat content.
	BHT (butylated hydroxytoluene)	...do	...do	...do	Do.
	Propyl gallate	...do	...do	...do	0.02 percent in combination with any other antioxidant listed in this table, except TBHQ, based on fat content.
TBHQ (tertiary butylhydroquinone).		...do	...do	...do	0.02 percent in combination only with BHA and/or BHT based on fat content.
	Tocopherols	...do	...do	0.03 percent based on fat content.	0.02 percent in combination with any other antioxidant listed in this table, except TBHQ, based on fat content.

[FR Doc. 79-23882 Filed 8-2-79; 8:45 am]

BILLING CODE 3410-DM-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 715, 741, and 747

Suspension or Revocation of Charter, Involuntary Liquidation; Requirements for Insurance and Rules of Practice and Procedure; Correction

AGENCY: National Credit Union Administration.

ACTION: Final Rule; Correction.

SUMMARY: In FR Doc. 79–22230, appearing on page 41760 and published July 18, 1979, an error appeared in the first column on page 41761, under the heading "Effective Date." The error misstates the effective date of the final rule, by stating that such rule would be effective as of June 11, 1979. Although, as noted on page 41762 the amendments made in this final rule were procedural in nature, and thus excepted from the provisions of 5 U.S.C. 553, such amendments cannot be effective before publication in the **Federal Register.** Accordingly, the effective date of this final rule is corrected to read July 18, 1979.

EFFECTIVE DATE: July 18, 1979.

FOR FURTHER INFORMATION CONTACT:
Jay C. Keithley, Office of the General Counsel, National Credit Union Administration, Washington, D.C. 20456. Telephone (202) 632–4870.

Lawrence Connell,
Chairman.

July 27, 1979.

[FR Doc. 79–23976 Filed 8–2–79; 8:45 am]
BILLING CODE 7535–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Reg. PS–86; Amdt. No. 65]

Statements of General Policy; Payments for Non-Air Transportation Services for Air Cargo

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB issues a policy statement that it will not continue to prohibit the practice of payments made to shippers or to intermediaries by U.S. or foreign direct air carriers for non-air transportation services. The final rule is in response to a petition filed by the Air Freight Forwarders Association.

DATES: Effective: September 2, 1979. Adopted: July 30, 1979.

FOR FURTHER INFORMATION CONTACT:
Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: Under the Act (section 403; 49 U.S.C. 1373), the payment of commissions to shippers to cargo intermediaries, such as freight forwarders or cooperative shippers associations, is considered a return to the user of the air transportation of part of the purchase price published in the air carrier's tariff: a prohibited rebate. The payment of fees for the performance of pre-transportation services has also been prohibited as a method that could disguise rebates. Cargo agents, on the other hand, have always been permitted to receive commissions from the carrier, based on the dollar amount of the shipment, for acceptance of the shipment on behalf of the carrier. A forwarder has also been permitted to receive a commission on an individual shipment when acting as the agent of the carrier. A forwarder has not been allowed, however, to receive a commission when tendering a shipment on its own behalf, since the forwarder itself is using the carrier's transportation, and not merely acting as the arm of the carrier in the transaction.

The Board has in the past varied in its approach as to what constitutes a rebate, or what should be prohibited as a preventive measure. In view of the recent statutory and competitive changes in the air transportation industry, especially in the cargo sector, the public interest is best served by a flexible approach, and by not prohibiting practices merely because of the possibility that they might make it easier for rebating to occur. For this reason, we are issuing a statement of policy to make clear that we do not consider fees for ancillary pre-transportation services to be in connection with air transportation, and therefore that they should not be prohibited.

This statement of policy is based on a rulemaking proceeding that began in response to a petition filed by the Air Freight Forwarder Association, asking that the Board permit either commissions or "ready-for-carriage" fees to forwarders on international consolidated shipments. The Board issued Advance Notice of Proposed Rulemaking EDR–330 (42 FR 38600, July 29, 1977), asking for comment on this question, and on the kinds of services performed by the various cargo intermediaries and individual shippers. After review of the comments received in response to the advance notice, the Board issued Notice of Proposed Rulemaking PSDR–54 (44 FR 3724, January 18, 1979), proposing a policy statement to the effect that "ready-for-carriage" payments are for services ancillary to air transportation, and are not prohibited.

Comments in response to PSDR–54 have been received from British Airways, The Flying Tiger Line, Behring International, the Pillsbury Company, 3M Corporation, the International Airforwarder and Agents Association, Trans World Airlines, Lufthansa German Airlines, the Air Freight Forwarder Association, Air Express International Corporation, Pan American World Airways, Scandinavian Airlines System, Airborne Freight Corporation, and American Airlines. The commenters opposing this action argued that contrary to the Board's interpretation, pre-transportation service fees would be rebates. They asserted that there is no economic need for them, and that they would increase the dominance of air freight forwarders and raise the costs of carriers and small shippers. Several commenters, while supporting payments to forwarders, opposed permitting shippers who perform similar services to receive the same types of payments. For example, Lufthansa argued that shippers do not, and cannot, do such services as "accept a shipment" for the carriers, and therefore are not in the same position as the forwarder to be paid by the carrier. The proposal was, however, supported by several direct carriers, as well as by forwarders and shippers.

While it is true that a shipper may not be able to do all the services that are available through a forwarder, many shippers do make their own shipments ready for carriage before tendering them to the carrier. No sufficient reason has been presented for differences in eligibility for payments for such services based on the type of organization that performs them. These payments should be available to anyone performing such services. Also, allowing the shipper to receive the payments creates more of a competitive incentive for the forwarder to pass any cost benefits it receives on to its customers. Otherwise, shippers will prepare their own shipments and receive the payments from the carriers.

Since the start of this rulemaking, fundamental changes have taken place in domestic air cargo transportation. In 1977, the cargo deregulation amendments (Pub. L. 95–163) were enacted, deregulating domestic cargo route authority and limiting the Board's authority over tariffs. In 1978, the Airline Deregulation Act was passed, changing the policy guidance under which the Board works, expanding the Board's exemption power, and ending all Board jurisdiction over air transportation by 1985. In response to these statutory changes, the Board substantially deregulated domestic cargo transportation (see ER–1080, 43 FR 53628, November 16, 1978; ER–1094, 44 FR 6634, January 31, 1979). These two regulations among other things, relieved direct air carriers and air freight forwarders from the rule and tariff filing provisions of section 403. In view of these changes in the regulatory environment, the previous prohibition against making non-air transportation service payments, intended to prevent disguised rebating, no longer has any place in domestic cargo transportation.

In international transportation there has been no similar deregulation, although the Board has relieved international air freight forwarders from the tariff filing provisions of section 403. Direct all-cargo carriers, however, remain subject to these requirements. It is not, however, in the interest of shippers, forwarders, or air carriers, in the international area, any more than it was for those in the domestic area, to prohibit practices because they might disguise rebating. Adequate protection can be provided in other ways with fewer anti-competitive effects. For example, in *General Mills, Inc. and Trans-Mark Services, Inc.* (Docket 32881, Order 79–2–92, February 15, 1979), the Board permitted an in-plant travel agency to pay the salary of a plant employee detailed to work for the agency, where there was an audit trail of the funds, and no danger of forced rebating.

Similar elements provide protection here. First, the money paid to the forwarder or shipper is to be based on specific services rendered, not their value, as in the case of a commission arrangement that may cover, among other things, general overhead and business expenses. The non-air transportation service payment is not related to the cost of the air transportation purchases by the forwarder or shipper. In adopting this statement of policy we are not requiring the carriers to make these payments. The carrier can choose whether to enter such an arrangement with a forwarder or shipper, and to determine at what level the payments will be set. Also, the true costs of such services performed can be checked to prevent an inflated service rate rebate. Further, since the payment of non-air transportation service fees by the carrier is to be for work done for itself, as in the GMI/Trans-Mark case, it is similar to the case of a carrier buying goods from an independent contractor that uses the carrier's air transportation. That type of an arrangement is not a rebate. For these reasons, we remain of the opinion, as expressed in PSDR–54, that commissions are rebates of filed tariffs when paid to the user of the transportation, and do not fall into the category of payments authorized in this statement of policy.

As stated in PSDR–54, the economic benefits of allowing these payments far outweigh the need to prevent the possibility of disguised rebating. With the various statutory and regulatory changes, the domestic air freight industry is becoming more competitive. Although more slowly, international air travel will also move in the direction of, and be more responsive to, price competition. Last year the Board disapproved inter-carrier agreements setting fixed commission rates (Order 78–8–87, August 17, 1978). Removal of the prohibition against payment of non-air transportation service fees is one more step in our effort to sharpen price competition within the more restrictive atmosphere of international air transportation. This in turn will create competitive incentives to reduce unnecessary costs in shipment handling to the benefit of shippers, forwarders, and carriers alike.

Pan American World Airways (Pan Am), while supporting the concept of the proposal, made two suggestions, one of which we are denying, and the other, granting. Pan Am stated that payments made under this rule should be according to tariff filings with accompanying economic justification. That type of arrangement, however, would work against the intent of this rule. A tariff-inclusion scheme would be inflexible and artificial, and would force a regulatory decision about what specifically constitutes an eligible service. It would also encourage uniform fees and limit the carriers' options in offering a range of fee levels for a range of services. Definition of services and fee options are best left to individual negotiations within the market.

Pan Am's second suggestion was to avoid the term "ready-for-carriage" in describing the services for which these payments are to be made. Pan Am argued that the term is confusing and is based on usage not related to these services. We agree, and have changed the term from "ready-for-carriage" to "non-air transportation" service.

Another suggestion mentioned in several comments was that the services for which payment is eligible should be specified. One argument for specifying the services was to be sure that eligible services are confined to those benefiting, and normally performed by, the carrier, and are only to the extent of the cost, thus not disguising rebates. They further argued that the Board should make clear that fees may be paid for each individual shipment in a container, and that fees should be greater for heavier and larger shipments.

Again, definition of these services and of the terms of the contract by the Board would work against the intent of allowing such payments. Since these payments are permissive, not required, the types of problems presented in the comments are best left to individual negotiations between the carrier, forwarder, and shipper. They allow the greatest flexibility, and increase the competitive impact of the payments.

The International Airforwarder and Agents Association (IAAA) suggested that the payments be made only according to a schedule filed under Part 253 (14 CFR 253), which requires that payments (commissions or other) made for the sale of air transportation conform to schedules filed with the Board. IAAA argued that if the schedules or formulas for these payments are not filed, Part 253 could easily be evaded by sweetheart contracts between large forwarders and carriers.

Historically, our primary means of enforcement against discriminatory rate practices and rebating has not been tariffs or posted schedules at the Board, but complaints by other shippers, forwarders, and carriers. We will monitor the operation of this practice for abuse. Any information needed by the Board can be collected *ad hoc* under section 407 of the Act. Also, in EDR–376 (44 FR 28670, May 16, 1979), we have proposed to eliminate Part 253. We stated there that advance disclosure of the type in Part 253 tends to restrict competition by creating a signalling device for a form of price leadership. This same reasoning applies here.

In response to a comment from British Airways, the policy statement is worded so as to make clear that foreign air carriers may also make such payments.

The Board therefore amends 14 CFR Part 399 to read as follows:

1. The Table of Contents is revised by adding new § 399.86 to Subpart G to read:

Subpart G—Policies Relating to Enforcement

* * * * *

Sec.
399.86 Payments for non-air transportation services for air cargo.

2. A new § 399.86 is added to Subpart G to read:

Subpart G—Policies Relating to Enforcement

§ 399.86 Payments for non-air transportation services for air cargo.

The Board considers that payments by air carriers and foreign air carriers to

shippers, indirect air carriers, or foreign indirect air carriers for non-air transportation preparation of air cargo shipments are for services ancillary to the air transportation, and are not prohibited under section 403 of the Act. (Secs. 102, 204, 403, and 404 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 758, 760; (49 U.S.C. 1302, 1324, 1373, 1374))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23979 Filed 8-2-79; 8:45 am]

BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1203

Information Security Program

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule; correction.

SUMMARY: This amendment changes the Index of 14 CFR Part 1203, and corrects a reference related thereto.

DATE: June 18, 1979.

ADDRESS: Director, Security Division, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Arnold K. Daue, telephone (202) 755-3400.

SUPPLEMENTARY INFORMATION: This amendment corrects 14 CFR 1203 published in the **Federal Register** on June 18, 1979 (44 FR 34913-34922) by changing the title of § 1203.410 in the Index from "Identification and Marking" to "Prohibitions," and reserving § 1203.411.

PART 1203 [Amended]

1. 14 CFR 1203 is amended by changing the title of § 1203.410 in the Index from "Identification and Marking" to "Prohibitions," and reserving § 1203.411.

§ 1203.200 [Amended]

2. 14 CFR Part 1203 is amended by correcting the reference cited in § 1203.200(b)(5) from § 1203.411 to § 1203.410.

Joan E. Cavanaugh,

Federal Register Liaison Officer.

[FR Doc. 79-23800 Filed 8-2-79; 8:45 am]

BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-5997, 34-16047, 35-21163, IC-10797, AS-268]

Presentation in Financial Statements of "Redeemable Preferred Stocks"

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission hereby adopts rules, encompassing certain amendments to Regulation S-X, to modify the financial statement presentation of preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer. The rules adopted do not impact present reporting practices of registrants not having such securities outstanding. Registrants having such securities outstanding are required to present separately, in balance sheets, amounts applicable to the following three general classes of securities: (i) Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer; (ii) preferred stocks which are not redeemable or are redeemable solely at the option of the issuer; and (iii) common stocks. A general heading, stockholders' equity, is not to be used and presentation of a combined total for equity securities, inclusive of redeemable preferred stocks, is prohibited. In addition, the rules required disclosure of redemption terms, five-year maturity data, and changes in redeemable preferred stocks in a separate note to the financial statements captioned "Redeemable Preferred Stocks."

There is a significant difference between a security with mandatory redemption requirements or whose redemption is outside the control of the issuer and conventional equity capital. The Commission believes that it is necessary to highlight the future cash obligations attached to this type of security so as to distinguish it from permanent capital. It is expected that the amended rules will provide more meaningful presentation of the financial obligations of those companies which finance operations through the use of such securities.

EFFECTIVE DATE: Effective for financial statements for fiscal periods ending on or after September 15, 1979.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Best, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D. C. 20549 (202-472-3782).

SUPPLEMENTARY INFORMATION: In a release issued on November 28, 1978,[1] the Commission invited public comment on proposed amendments to Regulation S-X which would require all registrants to present separately in balance sheets filed with the Commission amounts applicable to three general classes of securities: (i) preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer (hereinafter referred to as "redeemable preferred stocks"); (ii) preferred stocks which are not redeemable or are redeemable solely at the option of the issuer; and (iii) common stocks. The proposed amendments would prohibit showing a combined total of amounts applicable to these three general classes of securities and the use of stockholders' equity as a general heading. Also, certain additional footnote disclosures were proposed.

These amendments were proposed as a result of the Commission noting an increase in the issuance, by registrants, of preferred stocks to finance operations, consummate mergers and acquisitions, or to restructure existing debt arrangements. Many of the preferred stock issues have included terms which require the issuer to redeem the stock at a fixed or determinable price on a fixed or determinable date. Other issues require the issuer to redeem the stock at the option of the holder or at the time certain prescribed conditions are met which are not necessarily within the control of the issuer, such as attainment of a specified level of earnings.

The Commission believes that redeemable preferred stocks are significantly different from conventional equity capital. Such securities have characteristics similar to debt and should, in the opinion of the Commission, be distinguished from permanent capital. The Commission believes that traditional financial reporting practices do not provide the most meaningful presentation of the financial obligations attached to these types of securities and that improvement in the financial statement presentation of redeemable preferred stocks is necessary.

A total of 67 letters of comment were received. The majority of the commentators were from industry and related interest groups (40), banking (11) and public accounting (10). Comments

[1] Release Nos. 33-6000, 34-15358, 35-20791, IC-10495 (November 28, 1978) [43 FR 57612, December 8, 1978].

included in these letters have been considered and changes have been reflected in the final rules adopted by the Commission.

The final rules are intended to highlight the future cash obligations attached to redeemable preferred stock through appropriate balance sheet presentation and footnote disclosure. They do not attempt to deal with the conceptual question of whether such a security is a liability. Further, the rules do not attempt to deal with the income statement treatment of payments to holders of such a security or with any related income statement matters, including accounting for its extinguishment. The Commission is cognizant of these conceptual problems in determining the appropriate accounting for and reporting of redeemable preferred stock and believes that these matters can best be addressed by the Financial Accounting Standards Board ("FASB"). As an interim measure, the amendments require that the amounts applicable to redeemable preferred stock be presented in financial statements as a separate item—and not combined with equity investments not having similar redemption requirements. The Commission believes the presentation required by the amendments will highlight the redemption obligation and the fact that amounts attributable to these securities are not part of permanent capital.

Definitions

The following definitions apply to the terms listed below as they are used in this release:

Preferred Stocks Subject to Mandatory Redemption Requirements or whose Redemption is Outside the Control of the Issuer (or "Redeemable Preferred Stock" as referred to in the textual portion of this release). The term "preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer" means any stock which (i) the issuer undertakes to redeem at a fixed or determinable price on a fixed or determinable date or dates, whether by operation of a sinking fund or otherwise; (ii) is redeemable at the option of the holder; or (iii) has conditions for redemption which are not solely within the control of the issuer, such as stocks which must be redeemed out of future earnings.[2]

Preferred Stocks Which Are Not Redeemable or Are Redeemable Solely at the Option of the Issuer (or "Non-Redeemable Preferred Stock" as referred to in the textual portion of this release). The term "preferred stocks which are not redeemable or are redeemable solely at the option of the issuer" means any preferred stock which does not meet the criteria for classification as a "preferred stock subject to mandatory redemption requirements or whose redemption is outside the control of the issuer."

[2] Under this definition, preferred stocks which meet one or more of the above criteria would be classified as "preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer" regardless of their other attributes such as voting rights, dividend rights or conversion features.

Exemptions provided in adoption of final rules

Certain of the comment letters identified the appropriate reporting of preferred stocks with mandatory redemption requirements to be the primary focus of the proposed amendments to Regulation S-X. These commentators expressed agreement with the Commission's view that there exists a significant distinction between redeemable preferred stocks and the other classes of securities defined in the release. Certain other commentators provided meaningful statistical data which emphasized that the majority of registrants do not have securities which meet the definition of a "redeemable preferred stock." As a consequence, the Commission has concluded that the necessary refinements concerning the presentation in financial statements of amounts applicable to redeemable preferred stocks should not impact the present reporting practices of registrants who do not use such securities to finance their operations. The Commission has, therefore, adopted rules which affect only registrants having redeemable preferred stocks. Registrants not having such securities may continue to use the general heading "Stockholders' Equity" and show a combined total.

In addition, many of the commentators expressed criticism that our proposal offered little justification for prohibiting, where redeemable preferred stocks are outstanding, the combining of non-redeemable preferred stocks, common stocks and other equity accounts. In consideration of these comments, the Commission will not prohibit the combining of these items under an appropriately designated caption (e.g., "Non-Redeemable Preferred Stocks, Common Stocks, and Other Stockholders' Equity") provided that any combination be exclusive of redeemable preferred stocks.

Footnote disclosure of future cash obligations

The majority of comment letters expressed support for the Commission's proposal to highlight the future cash obligations attendant with redeemable preferred stocks through relevant footnote disclosure. In the interest of clear and prominent disclosure of the future cash obligations attendant with these types of securities, the proposed amendments have been revised to require disclosure of the terms of redemption, five-year maturity data, and changes in these securities in a separate note to the financial statements captioned "Redeemable Preferred Stocks." It should be noted that although in the past a registrant may have disclosed changes in redeemable preferred stocks in a statement of stockholders' equity, such changes are now required to be disclosed in a separate note as described above.

Coordination with the FASB's conceptual framework project

Certain of the comment letters expressed strong objection to the proposal as a preemption of the FASB's conceptual framework project. Other letters of comment expressed disappointment that such proposal did not require the classification of redeemable preferred stock as a liability. It is not the Commission's present intention to deal with the conceptual issue of whether redeemable preferred stock is a liability.

The Commission in its "Report to Congress on the Accounting Profession and the Commission's Oversight Role" [3] stated its belief that the initiative for establishing and improving accounting standards should remain in the private sector, subject to Commission oversight. Further, the Commission in its Report supported the efforts of the FASB to establish a conceptual framework for financial accounting and reporting. This project should help to improve the financial accounting and reporting system in general and, in particular, by defining the elements of financial statements, it should help to address issues such as the most appropriate balance sheet classification of redeemable preferred stocks. Rather than address the conceptual issue of appropriate classification, the amendments are intended to highlight the future cash obligations attendant with redeemable preferred stocks. These amendments are intended to represent only an interim solution until the FASB, in connection with its conceptual framework project, addresses the related conceptual issues.

[3] Securities and Exchange Commission Report to Congress on the Accounting Profession and the Commission's Oversight Role, prepared for the Subcommittee on Governmental Efficiency and the District of Columbia of the Committee on Governmental Affairs of the United States Senate, July 1979.

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Related accounting matters

Certain of the comment letters suggested that the adoption of any final rules include requirements which establish or clarify the appropriate method of accounting in related areas of stockholders' equity (e.g., appropriate presentation of paid-in capital, determination of carrying value of redeemable preferred stock, etc.). It should be reemphasized that the scope of the Commission's current action is limited to the appropriate reporting of the future financial obligations of those companies which finance operations through the use of redeemable preferred stocks. It is not the Commission's present intention to alter existing practice or authoritative guidelines relative to accounting for elements of stockholders' equity.

Problems with existing loan agreements

In response to the specific invitation to comment on potential problems with existing loan agreements which registrants may encounter as a result of the adoption of the proposed amendments, certain respondents identified the calculation of required debt-equity ratios under restrictive covenants of loan agreements as potentially burdensome. As previously indicated, it is not the Commission's present intention to establish whether redeemable preferred stocks are liabilities or components of equity. Therefore, the amendments should not require any change in the calculation of debt-equity ratios under existing loan agreements. Further, the Commission believes that creditors already consider the distinctive characteristics of the types of securities which comprise a company's capital structure when evaluating a potential loan.

Other

Where certain ratios or other data involving amounts attributable to stockholders' equity are presented as required (such as pursuant to Item VI of Guides 3 and 61 of the Guides for Preparation and Filing of Reports and Registration Statements under the Securities Act of 1933 and the Securities Exchange Act of 1934, "Statistical Disclosure by Bank Holding Companies—Return on Equity and Assets") or are optionally presented in filings with the Commission, such ratios or other data should be accompanied by an explanation as to their basis of calculation. If material amounts of redeemable preferred stock are combined with amounts applicable to non-redeemable preferred and common stocks for purposes of computing a ratio, there should also be presented a similar ratio which excludes amounts applicable to redeemable preferred stock from equity and includes such amounts as debt. This would also apply to any financial information such as tables, charts, graphic illustrations and ratios presented in annual reports to shareholders if such reports are to meet the requirements of Rule 14a–3 [17 CFR 240.14a–3] of the General Rules and Regulations under the Securities Exchange Act of 1934.

In addition, the Commission is not amending its rules, regulations and releases to the extent that they provide for various materiality tests for disclosure purposes (such as in Article 9, "Banks and Bank Holding Companies" [17 CFR 210.9–02–5(e) and 210.9–02–9]) using a percentage of total stockholders' equity. In making these tests, registrants may use amounts applicable to all classes of capital stock.

Effective Date

These amendments shall be applicable to financial statements for fiscal periods ending on or after September 15, 1979. Financial statements for fiscal periods ending prior to September 15, 1979 which are included for comparative purposes shall include reclassifications to conform to the current period's presentation.

COMMISSION ACTION: The Commission hereby amends Part 210 of Chapter II of Title 17 of the Code of Federal Regulations (Regulation S–X) as follows:

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

Rules of General Application

1. Paragraph (f) of § 210.3–16 is revised to read as follows.

§ 210.3–16 General notes to financial statements. (See Release No. AS–4.)

* * * * *

(f) *Preferred shares.* (1) The dividend rate and whether participating, cumulative or noncumulative shall be stated. If callable, the date or dates and the amount per share at which such shares are callable shall be stated. If convertible, the terms of conversion shall be stated briefly. If voting, a general description of the voting rights shall be stated.

* * * * *

Commercial and Industrial Companies

2. Section of § 210.5–02 designated as Stockholders' Equity including paragraphs 38, 39, and 40 is replaced by the following paragraphs 38, 39, 40, 41, and 42.

§ 210.5–02 Balance sheets.

* * * * *

Redeemable Preferred Stocks

38. *Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer.* (a) Include under this caption amounts applicable to any class of stock which has any of the following characteristics: (1) it is redeemable at a fixed or determinable price on a fixed or determinable date or dates, whether by operation of a sinking fund or otherwise; (2) it is redeemable at the option of the holder; or (3) it has conditions for redemption which are not solely within the control of the issuer, such as stocks which must be redeemed out of future earnings. Amounts attributable to preferred stock which is not redeemable or is redeemable solely at the option of the issuer shall be included under § 210.5–02.39 unless it meets one or more of the above criteria.

(b) State on the face of the balance sheet the title of each issue, the carrying amount, and redemption amount. Show also the dollar amount of any shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. If the carrying value is different from the redemption amount, describe the accounting treatment for such difference in the note required by § 210.5–02.38(c). State on the face of the balance sheet or in the note, referred to herein, for each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate [See § 210.3–14 and § 210.3–15].

(c) State in a separate note captioned "Redeemable Preferred Stocks" (1) a general description of each issue, including its redemption features (e.g. sinking fund, at option of holders, out of future earnings) and the rights, if any, of holders in the event of default, including the effect, if any, on junior securities in the event a required dividend, sinking fund, or other redemption payment(s) is not made; (2) the combined aggregate amount of redemption requirements for all issues each year for the five years following the date of the latest balance sheet; and (3) the changes in each issue

for each period for which an income statement is required to be filed. [See also § 210.3–16(f).]

(d) Securities reported under this caption are not to be included under a general heading "stockholders' equity" or combined in a total other than prescribed by § 210.5–02.42.

Non-Redeemable Preferred Stocks

39. *Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer.* State on the face of the balance sheet the title of each issue and the dollar amount thereof. Show also the dollar amount of any shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. State on the face of the balance sheet or in a note, for each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate [See § 210.3–14 and § 210.3–15]. Show in a note or statement referred to herein the changes in each class of preferred shares reported under this caption for each period for which an income statement is required to be filed. [See also § 210.3–16(f).]

Common Stocks

40. *Common stocks.* For each class of common shares state, on the face of the balance sheet, the title of the issue, the number of shares authorized, the number of shares issued or outstanding, as appropriate [see § 210.3–14 and § 210.3–15], and the dollar amount thereof, and, if convertible, the basis of conversion [see also § 210.3–16(f)(3)]. Show also the dollar amount of any common shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. Show in a note or statement referred to herein the changes in each class of common shares for each period for which an income statement is required to be filed.

Other Stockholders' Equity

41. *Other stockholders' equity.* (a) Separate captions shall be shown for (1) additional paid-in capital, (2) other additional capital and (3) retained earnings (i) appropriated and (ii) unappropriated. [See § 210.3–16(h).]

(b) If undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons are included, state the amount in each category parenthetically or in a note referred to herein.

(c) For a period of at least 10 years subsequent to the effective date of a quasi-reorganization, any description of retained earnings shall indicate the point in time from which the new retained earnings dates and for a period of at least three years shall indicate the total amount of the deficit eliminated.

(d) A summary of each account under this caption setting forth the information prescribed in § 210.11–02 shall be given in a note or statement referred to herein, for each period for which an income statement is required to be filed.

42. *Total liabilities, reserves and stockholders' equity.*

* * * * *

3. Paragraph (d) is amended by revising Schedule XIII to read as follows:

§ 210.5–04 What schedules are to be filed.

* * * * *

(d) * * *

Schedule XIII. Capital shares. The schedule prescribed by § 210.12–14 shall be filed in support of captions 38, 39 and 40 of the balance sheet.

4. Section of § 210.7–03 designated as Stockholders' Equity including paragraphs 19, 20 and 21 is replaced by the following paragraphs 19, 20, 21, 22, and 23.

* * * * *

Insurance Companies Other Than Life Insurance Companies

§ 210.7–03 Balance sheets.

* * * * *

Redeemable Preferred Stocks

19. *Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer.* The classification and disclosure required by § 210.5–02.38 shall be given.

Non-Redeemable Preferred Stocks

20. *Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer.* The classification and disclosure required by § 210.5–02.39 shall be given.

Common Stocks

21. *Common stocks.* For each class of common shares state, on the face of the balance sheet, the title of the issue, the number of shares authorized, the number of shares issued or outstanding, as appropriate [see § 210.3–14 and § 210.3–15], and the dollar amount thereof, and, if convertible, the basis of conversion [see also § 210.3–16(f)(3)]. Show also the dollar amount, if any, of common shares subscribed but unissued, and show the deduction of subscription receivable therefrom. Show in a note or statement referred to herein the changes in each class of common shares for each period for which an income statement is required to be filed.

Other Stockholders' Equity

22. *Other stockholders' equity.* (a) Separate captions shall be shown for (1) additional paid-in capital, (2) other additional capital, (3) unrealized appreciation or depreciation of investments, less applicable deferred income taxes, (4) retained earnings, (i) appropriated and (ii) unappropriated.

(b) If undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons are included, state the amount in each category parenthetically or in a note referred to herein.

(c) Include in subcaption (a)(4)(i) above or in a note the purpose for which retained earnings have been appropriated.

(d) For a period of at least 10 years subsequent to the effective date of a quasi-reorganization, any description of retained earnings shall indicate the point in time from which the new retained earnings dates and for a period of at least three years shall indicate the total amount of the deficit eliminated.

(e) See Rule 7–05–2.

(g) A summary of each account under this caption setting forth the information prescribed in § 210.11–02 shall be given in a note or statement referred to herein, for each period for which an income statement is required to be filed.

23. *Total liabilities, other credits and stockholders' equity.*

5. Paragraph (d) of § 210.7–06 is amended by revising Schedule VIII to read as follows:

* * * * *

§ 210.7–06 What schedules are to be filed.

* * * * *

(d) * * *

Schedule VIII. Capital Shares. The schedule prescribed by § 210.12–14 shall be filed in support of captions 19, 20, and 21 of the balance sheet.

* * * * *

6. Section of § 210.7a–03 designated as Stockholders' Equity including paragraphs 21, 22 and 23 is replaced by the following:

Life Insurance Companies

§ 210.7a–03 Balance sheets.

* * * * *

Redeemable Preferred Stocks

21. *Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer.* The classification and

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disclosure required by § 210.5–02.38 shall be given.

Non-Redeemable Preferred Stocks

22. *Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer.* The classification and disclosure required by § 210.5–02.39 shall be given.

Common Stocks

23. *Common stocks.* For each class of common shares state, on the face of the balance sheet, the title of the issue, the number of shares authorized, the number of shares issued or outstanding, as appropriate [see § 210.3–14 and § 210.3–15], and the dollar amount thereof, and, if convertible, the basis of conversion [see also § 210.3–16(f)(3)]. Show also the dollar amount, if any, of common shares subscribed but unissued, and show the deduction of subscription receivable therefrom. Show in a note or statement referred to herein the changes in each class of common shares for each period for which an income statement is required to be filed.

Other Stockholders' Equity

24. *Other stockholders' equity.* (a) Separate captions shall be shown for (1) additional paid-in capital, (2) other additional capital, (3) unrealized appreciation or depreciation of investments, (4) retained earnings (i) appropriated and (ii) unappropriated.

(b) If undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons are included, state the amount in each category parenthetically or in a note referred to herein.

(c) Include in subcaption (a)(4)(i) above or in a note the purpose for which retained earnings have been appropriated.

(d) Exclude deferred income taxes from subcaption (a)(3) (see caption 16).

(e) For a period of at least 10 years subsequent to the effective date of a quasi-reorganization, any description of retained earnings shall indicate the point in time from which the new retained earnings dates and for a period of at least three years shall indicate the total amount of the deficit eliminated.

(f) See Rule 7A–05–2.

(g) A summary of each account under this caption setting forth the information prescribed by § 210.11–02 shall be given in a note or statement referred to herein for each period for which an income statement is required to be filed.

25. *Total future policy benefits, liabilities, other credits, and stockholders' equity.*

* * * * *

7. Paragraph (d) of § 210.7a–06 is amended by revising Schedule IX to read as follows:

§ 210.7a–06 What schedules are to be filed.

* * * * *

(d) * * *

Schedule IX. Capital Shares. The schedule prescribed by § 210.12–14 shall be filed in support of captions 21, 22 and 23 of the balance sheet.

* * * * *

8. Section of § 210.9–02 designated as Stockholders' Equity including paragraphs 19, 20, 21 and 22 is replaced by the following.

* * * * *

Bank Holding Companies and Banks

§ 210.9–02 Balance sheets.

* * * * *

Redeemable Preferred Stocks

19. *Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer.* The classification and disclosure required by § 210.5–02.38 shall be given.

Non-Redeemable Preferred Stocks

20. *Preferred stocks which are not redeemable or are redeemed solely at the option of the issuer.* The classification and disclosure required by § 210.5–02.39 shall be given.

Common Stocks

21. *Common stocks.* The classification and disclosure required by § 210.5–02.40 shall be given.

Other Stockholders' Equity

22. *Other stockholders' equity.* The classification and disclosure required by § 210.5–02.41 shall be given.

23. *Total liabilities and stockholders' equity.*

* * * * *

9. Schedule V of § 210.9–05 is revised as follows:

§ 210.9–05 What schedules are to be filed.

* * * * *

Schedule V. Capital Shares. The schedule prescribed by § 210.12–14 shall be filed in support of captions 19, 20 and 21 of the balance sheet.

* * * * *

10. Section 210.11–01 is revised as set forth below:

Content of Statements of Other Stockholders' Equity

§ 210.11–01 Application of Article 11.

This article prescribes the content of the statements of other stockholders' equity specified in § 210.5–02.41, § 210.6–22.26, § 210.7–03.22, § 210.7a–03.24 and § 210.9–02.22.

* * * * *

These amendments are adopted pursuant to authority in Sections 6, 7, 8, 10 and 19(a) [15 U.S.C. 77f, 77g, 77h, 77j, 77s] of the Securities Act of 1933; Sections 12, 13, 15(d) and 23(a) [15 U.S.C. 78*l*, 78m, 78*o*(d), 78w] of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) [15 U.S.C. 79e, 79n, 79t] of the Public Utility Holding Company Act of 1935; and Sections 8, 30, 31(c) and 38(a) [15 U.S.C. 80a–8, 80a–29, 80a–30(c) and 80a–37(a)] of the Investment Company Act of 1940. Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these amendments on competition and is not aware of any burden that they would impose on competition.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc 79–23971 Filed 8–2–79; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 74 and 201

[Docket No. 77N–0009]

FD&C Yellow No. 5; Labeling in Food and Drugs for Human Use; Change in Effective Date for Drugs for Human Use

AGENCY: Food and Drug Administration.

ACTION: Change in Effective Date of Final rule.

SUMMARY: This document revises the effective date of FDA's final regulation requiring the declaration of FD&C Yellow No. 5 in the labeling of foods and drugs, insofar as the rule applies to drugs. The effective date for drugs is being revised in response to a petition by the Pharmaceutical Manufacturer's Association (PMA) by deleting the phrase "or at the next printing of the labeling, whichever occurs first." As revised, the regulation is effective as to drugs initially introduced or initially delivered for introduction into interstate commerce on or after June 26, 1980.

EFFECTIVE DATE: August 3, 1979.

ADDRESS: The PMA petition may be reviewed at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paul O. Fennel, Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 26, 1979 (43 FR 37212), the Food and Drug Administration (FDA) published a final regulation requiring the label declaration of FD&C Yellow No. 5 when used to color foods for human use and drugs for human use that are administered orally, nasally, vaginally, or rectally. The regulation was to be effective as to foods and drugs initially introduced or initially delivered for introduction into interstate commerce on or after the following dates: for foods, July 1, 1981; for drugs, June 26, 1980 or at the next printing of the labeling, whichever occurs first.

The PMA has petitioned FDA to stay the effective date of this regulation for drugs for human use (21 CFR 74.1705 and 21 CFR 201.20) until June 26, 1980. The petition states that the phrase "at the next printing" does not allow sufficient time to plan and carry out the labeling changes because of the considerable amount of planning and coordination necessary to implement the label declaration in all labeling for products containing FD&C Yellow No. 5. If the effective date of June 26, 1980 is employed rather than "the next printing," the petition states that manufacturers would have sufficient time to make the changes in an orderly fashion.

In addition, the petition states that the effective date as published results in a non-uniform application of the provisions because not all labeling pieces are printed at the same time. Thus, labels for the drug might be printed before the package inserts, resulting in the label having an appropriate statement, but not the insert.

Further, the petition states that those manufacturers who decide to reformulate their drug products may be faced with two labeling changes; one for the duration of the product containing FD&C Yellow No. 5 and one for the product when the color is no longer used.

The petition also states that granting the requested action would not have a detrimental impact on the public health because the final regulation already provides for June 26, 1980 as an effective date if the manufacturer does not undertake any new printing until June 26, 1980.

FDA promulgated the FD&C Yellow No. 5 regulation on the basis of evidence of a causal relationship between FD&C Yellow No. 5 and serious allergic-type responses in certain susceptable individuals. An effective date of 1 year was considered sufficient for industry to make the necessary label revisions. However, in an attempt to achieve the label declaration as soon as possible, without requiring the destruction of large supplies of labeling, a proviso for making the requirements effective "at the next printing" was included in the effective date. Because of the unforeseen problems this proviso has created for the industry, however, as noted by PMA, the agency has decided to change the effective date of the FD&C Yellow No. 5 regulation for drug products to June 26, 1980. The agency does not view the change as significantly detrimental to the public health because under the original regulation a firm that did not undertake any new printing would not have to comply with the regulations until June 26, 1980. The agency, however, encourages manufacturers to comply voluntarily with this regulation in advance of the effective date, to the extent possible.

Accordingly, the effective date paragraph of the final regulation as published in the **Federal Register** of June 26, 1979 (44 FR 37212) is revised to read as follows:

Effective dates. This regulation shall be effective as to foods and drugs initially introduced or initially delivered for introduction into interstate commerce on or after the following dates: For foods, July 1, 1981; for drugs, June 26, 1980, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing or objections or lack thereof will be given by publication in the **Federal Register.**

(Secs. 501, 502, 701, 706 (b), (c), and (d), 52 Stat. 1049–1051 as amended, 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 351, 352, 371, 376 (b), (c), and (d)).)

Dated: July 26, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–23940 Filed 8–2–79; 8:45 am]

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21 CFR Part 102

[Docket No. 78P–0096]

Common or Usual Name for Nonstandardized Food; Merluccius Productus

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule establishes "Pacific whiting" or "North Pacific whiting" as the common or usual name for the food fish *Merluccius productus* (*M. productus*). The intended effect of this final rule, which is based on a petition submitted to the Food and Drug Administration (FDA), is to establish an accurate name for this fish product based on the consumer's perception of its food qualities and on its relationship to similar species of fish marketed as "whiting."

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF–312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St., SW., Washington, DC 20204, 202–245–1092.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 27, 1979 (44 FR 5901), FDA issued a proposal to establish "Pacific hake" or "North Pacific hake" as the common or usual name for food fish of the species *M. productus.* The proposal was published in response to a petition received from the Pacific Coast Task Force for Whiting Nomenclature.

The petition proposed that Part 102 (21 CFR Part 102) be amended by adding the following new section:

§ *102.2*—

The common or usual name of the food fish, genus *Merluccius*, derived from the following species, is as follows:

Scientific name and common or usual name

Merluccius productus—Whiting, Pacific whiting, North Pacific whiting, hake, Pacific hake, North Pacific hake.

The agency pointed out in the proposal that the regulation recommended in the petition would permit fish of the *M. productus* species to be marketed under any of six different common or usual names and that this would defeat the purpose of establishing a common or usual name because it would create consumer confusion. The agency inferred, from the petitioner's arguments, that the intent of its request was to permit the sale of *M. productus* under the name "whiting." For purposes of the proposal, the petition was evaluated on that basis.

In response to the petition, the agency proposed a regulation establishing the name "Pacific hake" or "North Pacific hake" as the common or usual name for *M. productus*. The proposal was grounded on the agency's belief that use of the term "whiting" might result in consumer deception or confusion and because many of the *M. productus* caught off the West Coast have a mushy texture. The proposal pointed out that neither "Pacific whiting" nor "North Pacific whiting" had been ruled out by the agency as an acceptable common or usual name for *M. productus*. The proposal made a specific request for comments from consumers on their understanding of the terms "Pacific hake" and "whiting," their perception of the differences between the two types of food fish, and their opinion about whether it would be a deceptive practice to permit *M. productus* to be sold as "Pacific whiting."

The agency has identified 115 comments on the proposal. (Additional comments, filed after the comment period ended, may not have been received in time to be addressed in this document.) The majority of the comments were from West Coast consumers and from representatives of the fish industry on both the West Coast and the East Coast. Other comments were received from State and local governments, members of Congress, and one Federal agency. Fifteen comments supported the proposal, 98 opposed it, and 2 comments did not directly address it.

The agency is persuaded that, because most responding consumers believe that there is no significant difference between *M. productus* and other species sold as whiting, permitting *M. productus* to be sold as a kind of whiting would not be deceptive. The comments also persuaded FDA that the problem of mushy texture in *M. productus* can be solved with proper technology. The agency has therefore decided that "Pacific whiting" or "North Pacific whiting" is the appropriate common or usual name for *M. productus*. Consumers who believe that *M. productus* is inferior to those species that have traditionally been called "whiting" will be able to distinguish it from those species because its name will be qualified by the terms "Pacific" or "North Pacific."

A discussion of the comments received, and the agency's conclusions on them, follows:

1. The proposal specifically sought comments from consumers concerning their understanding of the terms "Pacific hake" and "whiting" and whether there are differences between the species sufficient to render it a deceptive practice to permit marketing of *M. productus* under the name "whiting" or "Pacific whiting."

The majority of consumers responding to the issue stated that they had tasted both traditional whiting and *M. productus* and that both products tasted the same and were nearly identical in all material respects; therefore, these consumers argued, no consumer deception could result from allowing *M. productus* to be labeled "whiting."

Other comments contended that *M. productus* is markedly inferior to whiting, and that *M. productus* has never been acceptable to consumers on its own merits. According to these comments, to permit *M. productus* to trade on the established reputation of whiting would be a serious deception of consumers and a major disservice to the seafood industry. Some comments contended that the inferior quality of *M. productus* would debase the name of whiting, to the disadvantage of the consuming public.

The agency acknowledges that there are differences of opinion concerning the taste and other characteristics of *M. productus* compared to traditional whiting, and differences of opinion on the question of consumer deception. The agency finds the support for the name "Pacific whiting" convincing, however. Many consumers stated that they had tasted both *M. productus* and traditional whiting, and that they had perceived no difference between the two fish. The purpose of a common or usual name is to accurately identify or describe, in as simple and direct terms as possible, the basic nature of the food or its characterizing properties (21 CFR 102.5(a)). On the basis of the comments received, use of the term "whiting" in the labeling of *M. productus* will perform this function.

Consumers will still be able to distinguish *M. productus* from other species: Because *M. productus* will have to be labeled "Pacific whiting" or "North Pacific whiting" rather than "whiting," consumers can avoid Pacific whiting if they believe that it is inferior to whiting. Although it is possible that the similarity of the names "whiting" and "Pacific whiting" will cause the two names to become blurred in consumers' minds, consumers will have a practical and effective means of avoiding *M. productus* if they so choose. Requiring the use of the distinguishing adjectives "Pacific" or "North Pacific" will also preclude sellers of *M. productus* from unfairly trading on the established reputation of "whiting." Finally, because the agency does not agree that there are material differences between the food qualities of *M. productus* and those of species traditionally sold as whiting, it does not believe that permitting the qualified use of the term "whiting" for *M. productus* will depreciate the value of the term "whiting" as it is applied to those other species.

2. Several comments stated that there is a problem in assuring the quality of *M. productus* due to a mushy texture, which has caused the fishing industry to consider the fish unsuitable for marketing. Other comments stated that the species, although delicate, can be successfully marketed if subjected to special processing and handling. One comment stated that *M. productus* differs significantly from other *Merluccius* species in that its poor keeping qualities require that it be quick-fried by the processor, a technique that limits the ways in which the consumer can prepare the fish. Another comment stated that, to assure moistness, most whiting is only partially cooked during processing and finally cooked by the consumer. Because *M. productus* must be completely cooked by the processor to avoid a mushy texture, the product may be less moist, and therefore less desirable, than other whiting. Other comments stated that industry is taking measures to control the mushy texture of *M. productus* and to assure a product of consistent quality.

Concern about the mushy texture of *M. productus* was one of the reasons cited by the agency for proposing "Pacific hake" as the common or usual name for *M. productus*. The agency is aware that under some conditions an abnormal mushy texture occurs in *M. productus* from contamination by a microscopic myxosporidian parasite, *kudoa sp.* The muscle portions of the fish infected with the parasite undergo serious proteolysis of the tissue (due to secretion by the parasite of proteolytic enzyme), with accompanying liquefaction and mushiness. This infection occurs in 20 to 40 percent of some samples. Although the condition poses no threat of illness to humans ingesting the fish, the mushy texture it causes reduces consumer acceptance of the fish.

The agency believes, on the basis of the comments responding to the proposal, that *M. productus* can be processed and stored in a manner that avoids a mushy texture. Even though the fish is delicate and the process for handling it correctly is complex and requires equipment not currently owned by many fishermen, the agency has concluded that the fishing industry will develop the capability of delivering a good quality product, for the industry will not be able to sell *M. productus* unless it does so.

As for the comments that criticized *M. productus* because it must be completely cooked by the processor to avoid a mushy texture, the agency relies on the comments from consumers who said that they found *M. productus* processed in that manner to be as desirable as other whiting. Furthermore, the labeling "Pacific whiting" or "North Pacific whiting" permits consumers to avoid *M. productus* if they so desire.

3. Many comments that supported the name "Pacific hake" as the common or usual name for *M. productus* stated that "Pacific hake" is the long established name for the *M. productus*, a fact which is evident in the petitioner's use of the term in referring to this fish. In addition, several comments argued that numerous publications, including some issued by the National Marine Fisheries Service, refer to the species as "hake."

The agency notes that *M. productus* has a very short history as a human food fish in the United States. Consequently, it really has no commonly established name in the United States as a food for human consumption, despite references to the species as "hake" in books and journals read by relatively few people. The criterion for the issuance of a common or usual name regulation (which may be a coined term) is the avoidance of consumer deception. The agency concludes, in light of the comments, that avoidance of consumer deception is a goal that would be attained by the use of the term "Pacific whiting" for *M. productus*.

4. Many comments favoring the name "Pacific whiting" argued that that name is essential to the economic well-being of the Northwest. These comments contended that the Northwest fishing industry would be revived by the creation of consumer demand for *M. productus*, which is an abundant resource, and that the additional demand would have an immense, beneficial impact on the U.S. economy. Other comments argued that it would be improper to change the name of "hake" to "whiting" for the purpose of improving the marketability of the fish and stimulating economic growth if doing so would result in consumer deception.

The agency, in the proposal, acknowledged the economic implications of this rulemaking. Under the terms of Executive Order 12044, the agency is required to consider the economic consequences of its rulemaking activities. The statutory duties imposed by the Federal Food, Drug, and Cosmetic Act, however, must be the overriding consideration in the issuance of regulations. The question is whether use of the name "Pacific whiting" deceives consumers. For the reasons already discussed, the agency has concluded that it does not. Because this final regulation establishes a different common or usual name from the one proposed, a revised regulatory analysis assessment for the common or usual name "Pacific whiting" has been prepared and placed on file in the office of the Hearing Clerk, Food and Drug Administration.

5. Several comments pointed out that if "Pacific hake" were established as the common or usual name for *M. productus*, consumers would be denied a cheap source of valuable protein.

FDA encourages innovation to provide consumers with inexpensive, nutritious foods. Although amplification of the nation's food resources is not an appropriate objective for a common or usual name regulation, the agency recognizes that permitting *M. productus* to be called "Pacific whiting" or "North Pacific whiting" may reduce an impediment to the availability of a relatively cheap source of wholesome food without permitting consumer deception.

6. Numerous comments stated that because FDA permits several *Merluccius* species to be sold as "whiting," the agency should also permit *M. productus* to be sold under that name because it is taxonomically similar. Another comment argued that although *M. productus* may share the same geneology as some *Merlucciidae* permitted to be sold as whiting, it does not taste the same.

The agency believes that there is no significant difference to the consumer between the food qualities of *M. productus* and those species of the genus *Merlucciidae* that have traditionally been sold as whiting. Section 102.5 (21 CFR 102.5) provides that common or usual names are to be uniform among all identical or similar products. The agency believes that a regulation permitting *M. productus* to be labeled "Pacific whiting" is consistent with this principle because other *Merlucciidae*, which are similar to *M. productus* in respects relevant to the consumer, are sold as "whiting."

7. Many comments that supported the name "Pacific whiting" stated that *M. productus* has been imported and sold in the United States as "whiting" for some time.

Before receipt of these comments, FDA had no reason to believe that *M. productus* was being imported and sold in the United States as whiting. If this practice has occurred, it has occurred without FDA approval. Before this regulation, fish so labeled would have been considered misbranded. The requirements for labeling "Pacific whiting" are the same whether the fish is imported or domestically produced. Accordingly, the agency will take appropriate action against any *M. productus* that is not labeled in accordance with this regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 102 is amended by adding new § 102.46 to read as follows:

§ 102.46 Pacific whiting.

"Pacific whiting" or "North Pacific whiting" is the common or usual name of the food fish *Merluccius productus*.

Effective date. This rule is effective September 4, 1979.

(Secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended 1047–1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a)))

Dated: July 30, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24131 Filed 8-1-79; 12:30 pm]

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21 CFR Parts 601, 610, and 650

[Docket No. 76N-0480]

Skin Test Antigens; Implementation of Efficacy Review

Correction

In FR Doc. 79-21201 appearing on page 40284 in the issue of Tuesday, July 10, 1979, change "effective January 7, 1979" to read "effective January 7, 1980" in the following three places:

(1) In the third column of page 40288, last line of the third full paragraph.

(2) In the first column of page 40289, last line of the second full paragraph.

(3) First column of page 40290, last line of the *Effective date* reference.

BILLING CODE 1505-01-M

21 CFR Parts 522, 558

[Docket No. 76N-0002]

Diethylstilbestrol (DES) in Edible Tissues of Cattle and Sheep; Revocations; Partial Stay of Effective Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is staying until November 1, 1979 the August 3, 1979 effective date (which applies to use of DES animal drugs and manufacture, shipment, and use of feed containing DES) of the revocation of the animal drug regulations that provide information about new animal drug applications (NADA's) for DES. This action is based on the partial stay of the effective dates for the withdrawal of approval of NADA's for DES that appears elsewhere in this issue of the Federal Register.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT: Constantine Zervos, Scientific Liaison and Intelligence Staff (HFY-31), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4490.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 6, 1979 (44 FR 39618), FDA announced the withdrawal, after an evidentiary hearing, of the approval of NADA's 10421, 10964, 11295, 11485, 12553, 15274, 31446, 34916, 44344, 45981, and 45982. These NADA's are for DES implants and liquid and dry feed premixes for use in cattle and sheep.

Concurrently, in the Federal Register of July 6, 1979 (44 FR 39387), FDA issued a final rule pursuant to 21 U.S.C. 360b(i) amending Chapter I of Title 21 of the Code of Federal Regulations in Part 522 by revoking § 522.640 *Diethylstilbestrol;* and in Part 558 by deleting paragraph (e)(3)(v) in § 558.76 *Bacitracin methylene disalicylate;* by deleting paragraph (e)(3)(iv) in § 558.78 *Bacitracin, zinc;* and by revoking § 558.225 *Diethylstilbestrol.*

The effective date of the rule was set forth as follows:

Effective date: This rule is effective with respect to the manufacture and shipment of DES animal drugs on July 13, 1979; it is effective with respect to the use of DES animal drugs and the manufacture, shipment, and use of feed containing DES on July 20, 1979; it will not be made effective with respect to the edible products of animals treated with DES solely before the effective date for use of DES animal drugs and DES-treated animal feeds.

On July 20, 1979 (44 FR 42679), FDA announced that the July 20 effective date would be stayed until August 3, 1979.

Elsewhere in this issue of the Federal Register, FDA is announcing the stay, until November 1, 1979, of the August 3, 1979 effective date for the withdrawal of approval of the NADA's for DES listed above. Accordingly, notice is hereby given that the July 20, 1979 effective date for the amendments of Parts 522 and 558 listed above is stayed until November 1, 1979.

(Sec 512, 82 Stat. 343-351 (21 U.S.C. 360b))

Dated: July 31, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-24122 Filed 8-1-79; 12:09 pm]

BILLING CODE 4110-03

21 CFR Part 556

[Docket No. 76N-0002]

Diethylstilbestrol (DES) in Edible Tissues of Cattle and Sheep; Revocation of Test Methods Regulation; Partial Stay of Effective Dates

AGENCY: Food and Drug Administration.

ACTION: Final rules.

SUMMARY: The Food and Drug Administration (FDA) is staying until November 1, 1979 the August 3, 1979 effective date (which applies to use of DES and manufacture, shipment, and use of DES-treated animal feed) of the revocation of the animal drug regulation that sets forth the methods of analysis approved for the detection of residues of DES in the edible tissues of cattle and sheep treated with DES. This action is based on the partial stay of effective dates for the withdrawal of approval of NADA's for DES that appears elsewhere in this issue of the Federal Register.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT: Constantine Zervos, Scientific Liaison and Intelligence Staff (HFY-31), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4490.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 6, 1979 (44 FR 39618), FDA announced the withdrawal, after an evidentiary hearing, of the approval of NADA's 10421, 10964, 11295, 11485, 12553, 15274, 31446, 34916, 44344, 45981, and 45982. These NADA's are for DES implants and liquid and dry feed premixes for use in cattle and sheep.

Concurrently, in the Federal Register of July 6, 1979 (44 FR 39388), FDA issued a final rule revoking § 556.190 *Diethylstilbestrol* (21 CFR 556.190), which sets forth the methods of analysis approved for the detection of residues of DES in the edible tissues of cattle and sheep treated with DES.

The effective date of the rule was set forth as follows:

Effective date: This rule is effective with respect to the manufacture and shipment of DES animal drugs on July 13, 1979; it is effective with respect to the use of DES animal drugs and the manufacture, shipment, and use of feed containing DES on July 20, 1979; it will not be made effective with respect to the edible products of animals treated with DES solely before the effective date for use of DES animal drugs and DES-treated animal feeds.

On July 20, 1979 (44 FR 42680), FDA announced that the July 20 effective date would be stayed until August 3, 1979.

Elsewhere in this issue of the Federal Register, FDA is announcing the stay, until November 1, 1979, of the August 3, 1979 effective date for the withdrawal of approval of the NADA's for DES listed above. Accordingly, notice is hereby given that the August 3, 1979 effective date for the revocation of § 556.190 is stayed until November 1, 1979.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)))

Dated: July 31, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-24123 Filed 8-1-79; 12:09 pm]

BILLING CODE 4110-03

INTER-AMERICAN FOUNDATION

22 CFR Part 1001

Employee Responsibilities and Conduct

AGENCY: Inter-American Foundation.

ACTION: Final rule.

SUMMARY: The Inter-American Foundation amends its regulations relating to employee responsibilities and conduct. The amendment is necessary to reflect internal organization and is non-substantive in nature.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT: Alejandro Palacios, (703) 841-3819.

22 CFR Part 1001 is revised to read as follows:

PART 1001—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Subpart A—General Provisions

Sec.

1001.735-1 Purpose.

Sec.

1001.735-2 Definitions.

Subpart B—Standards of Conduct

1001.735-10 General.
1001.735-11 Statutes, rules, and regulations governing conduct of employees.
1001.735-12 Outside employment and other activities.
1001.735-13 Gifts, entertainment, and favors.
1001.735-14 Financial interests.
1001.735-15 Use of Government property.
1001.735-16 Misuse of information.
1001.735-17 Indebtedness.
1001.735-18 Gambling, betting, and lotteries.
1001.735-19 General conduct prejudicial to the Government.

Subpart C—Procedures

1001.735-20 Responsibility of employees.
1001.735-21 Sources of information and advice.
1001.735-22 Statements of employment and financial interests.
1001.735-23 Employees not required to submit statements.
1001.735-24 Employee's complaint on filing requirement.
1001.735-25 Time and place of submission, and forms.
1001.735-26 Information required.
1001.735-27 Supplementary statements.
1001.735-28 Review of statements and determination as to conflicts of interest.
1001.735-29 Penalties for violation.
1001.735-30 Confidentiality of employees' statements.
1001.735-31 Effect of employees' statements on other requirements.

Authority.—E.O. 11222, 3 CFR, 1964-1965 Comp.; 5 CFR 735.104.

Subpart A—General Provisions

§ 1001.735-1 Purpose.

The maintenance of the highest standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Foundation's business and the maintenance of confidence by citizens in their government. The avoidance of misconduct and conflicts of interest on the part of employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the Foundation's regulations prescribing standards of conduct and responsibilities for its employees, and requires statements reporting employment and financial interests.

§ 1001.735-2 Definitions.

As used in this part:

(a) "The Foundation" and "Agency" mean the Inter-American Foundation.

(b) "Employee" includes anyone serving in the Agency as:

(1) A person appointed by the President and confirmed by the Senate to a position in the Agency;

(2) A person appointed by the Board of Directors;

(3) A person appointed by the President of the Foundation or by his designee to a position in the Agency;

(4) A special Government employee.

(c) "Regular officer or employee" means an employee as defined in paragraph (b) (1), (2), or (3) of this section.

(d) "Special Government employee" means a person who is retained, designated, appointed, or employed to perform for the Agency, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis.

(e) "Member of an employee's family" means a spouse, minor child, or other member of an employee's immediate household. For the purpose of these regulations, "member of an employee's immediate household" means those blood relations who are resident in the employee's household.

(f) "Counselor" means the Agency's Counselor on Ethical Conduct and Conflicts of Interest. The Counselor for the Foundation will be the General Counsel of the Agency; the Deputy Counselor will be the Executive Officer.

Subpart B—Standards of Conduct

§ 1001.735-10 General.

(a) All employees of the Foundation are required to conduct themselves in such a manner as to create and maintain respect for the Foundation and the U.S. Government; to avoid situations which require or appear to require a balancing of private interests or obligations against official duties; to be mindful of the high standards of integrity expected of them in all their activities, both personal and official; and to conform with the standards of conduct and with the applicable statutes, rules, and regulations governing their activities. Particularly, an employee shall avoid any action, whether or not specifically prohibited, which might result in or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any organization or person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality of action;

(5) Making a Government decision outside official channels;

(6) Affecting adversely the confidence of the public in the integrity of the Government;

(7) Using Government employment to coerce, or give the appearance of coercing, a person in order to gain financial self-benefit or for another person, particularly one with whom the employee has family, business or financial ties.

(b) An officer or employee of another Federal agency who is assigned or detailed to the Foundation shall adhere to the standards of conduct applicable to employees as set forth in this part.

§ 1001.735-11 Statutes, rules, and regulations governing conduct of employees.

(a) The "Code of Ethics for Government Service" set forth by the Legislative Branch in House Concurrent Resolution 175, passed in 1958; the "Standards of Ethical Conduct for Government Officers and Employees" set forth by the President of the United States in Executive Order 11222, dated May 8, 1965, and the regulations issued by the Civil Service Commission (known as the Office of Personnel Management) pursuant to this Executive order (5 CFR Part 735); and other statutes, rules, and regulations governing conduct of employees, including the Foundation regulations; shall govern Foundation employees in their service to the Government.

(b) Conflict of interest statutes: The provisions of 18 U.S.C. 203, 205, 207, 208, and 209 prohibiting conflicts of interest between an employee's Government duties and outside activities are summarized in specific sections of this Part 1001.

(c) Miscellaneous statutory provisions: In addition to the various provisions referred to above, Foundation employees must observe the following:

(1) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(2) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(3) The prohibition against striking against the Government (5 U.S.C. 7311, 18 U.S.C. 1918).

(4) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(5) The prohibitions against: (i) The disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); (ii) the disclosure of confidential information (18 U.S.C. 1905); and (iii) the disclosure of privileged information to be withheld under the exemptions of the Public Information Section of the

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Administration Procedures Act (5 U.S.C. 552).

(6) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(7) The prohibitions against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(8) The prohibitions against the misuse of the franking privilege (18 U.S.C. 1719).

(9) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(10) The prohibition against fraud or false statement in a Government matter (18 U.S.C. 1001).

(11) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(12) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(13) The prohibitions against (i) embezzlement of Government money or property (18 U.S.C. 641); (ii) failing to account for public money (18 U.S.C. 643); and (iii) embezzlement of the money or property of another person in the possession of an employee by reason of this employment (18 U.S.C. 654).

(14) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(15) The prohibitions against political activities in subchapter III of chapter 73 of title 5, United State Code, and 18 U.S.C. 602, 603, 607, and 608.

(16) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(17) The prohibition against the employment of an individual convicted of felonious rioting or a related offense (5 U.S.C. 7313).

(18) The prohibition against a public official's appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

(19) The prohibition against self-dealing with a private foundation (26 U.S.C. 4941, 4946). "Self-dealing" is defined in the statute to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses, or sale to or purchase of property, from a private foundation.

§ 1001.735–12 Outside employment and other activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform Government duties and responsibilities in an acceptable manner.

(b) A regular employee shall not receive any salary or anything of monetary value from a private source as compensation for services to the Government (18 U.S.C. 209). This section does not apply to special Government employees nor does it prevent a regular officer or employee from (1) continuing participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer or (2) receiving payments or accepting contributions, awards, or other expenses in accordance with chapter 41 of title 5, United States Code, relating to employee training.

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or regulations. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing (including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service) that depends on information obtained as a result of Government employment, except when that information has been made available to the general public or will be made available on request, or when the President gives written authorization for use of nonpublic information on the basis that the use is in the public interest.

(d) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law;

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization; or

(3) Outside employment otherwise permitted under these regulations.

§ 1001.735–13 Gifts, entertainment, and favors.

(a)(1) An employee shall not receive or solicit, directly or indirectly, for personal benefit or for persons with whom there exist family, business, or financial ties, anything of economic value as a gift, gratuity, loan, entertainment, or favor which might reasonably be interpreted by others as affecting the employee's independence or impartiality, from any person, corporation, or group, if the employee has reason to believe that the entity:

(i) Has or is seeking to obtain contractual or other business or financial relationships with the Agency;

(ii) Conducts operations or activities which are regulated by the Agency; or

(iii) Has interests which may be substantially affected by the employee's performance or nonperformance of his/her official duty.

(2) The following exceptions are permitted for all employees:

(i) Acceptance of things of economic value arising from obvious family or personal relationships (such as those between the employee and the parents, children, or spouse of the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(ii) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on a project tour where an employee may properly be in attendance;

(iii) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(iv) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(b) An employee shall not solicit a contribution from another employee for a gift to an official superior, or accept a gift from an employee receiving less pay than himself/herself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or a donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(c) An employee shall not accept a gift, present, decoration, or any other thing from a foreign government unless authorized by Congress as provided by the Constitution, 5 U.S.C. 7342, and the regulations in Part 3 of this Title 22 ("Acceptance of Gifts and Decorations from Foreign Governments").

(d) Neither this section nor § 1001.735–12 preclude an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part and for which no Government payment or reimbursement has been made. However, this paragraph does not allow reimbursement, or payment to be made on the employee's behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under Agency orders.

§ 1001.735–14 Financial interests.

(a) Neither a regular nor a special Government employee may participate in a governmental capacity in any matter in which that employee, the employee's spouse, minor child, associate or organization with whom there exists a business relationship, or person or organization with whom there exists negotiation for employment, has a financial interest (18 U.S.C. 208). Such an employee shall not (1) have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his/her Government duties and responsibilities; or (2) engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his/her Government employment.

(b) An employee may be granted exemption from these restrictions provided: (1) The President is first advised of the nature and circumstances of the particular matter and makes full disclosure of the financial interest, and (2) he/she receives in advance a written determination by the President that the outside financial interest is deemed not substantial enough to have an effect on the integrity of his/her services.

(c) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive Order 11222, this section, or these Agency regulations.

§ 1001.735–15 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him/her.

§ 1001.735–16 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 1001.735–12, directly or indirectly use, or allow the use of, official information obtained through or in connection with Government employment which has not been made available to the general public.

§ 1001.735–17 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the Agency determines does not, under the circumstances, reflect adversely on the Government as the individual's employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§ 1001.735–18 Gambling, betting, and lotteries.

An employee shall not participate while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927 and similar agency-approved activities.

§ 1001.735–19 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

Subpart C—Procedures

§ 1001.735–20 Responsibility of employees.

It is the responsibility of each employee (a) to become familiarized with the full text of applicable statutes, rules, and regulations before engaging in outside employment, financial activity which might involve a conflict of interest, or other activity which might involve a violation of standards of ethical conduct or of statutory or regulatory restrictions, and (b) to secure the advice or approval of the supervisor and the Counselor before engaging in the contemplated activity.

§ 1001.735–21 Sources of information and advice.

General information on statutes, rules, and regulations governing the conduct of employees may be obtained from the Office of the General Counsel. Specific information may be obtained from the United States Code, from the Federal Personnel Manual, and from the Foundation regulations, all of which are available in the Office of the General Counsel. A copy (or a summary) of the Foundation regulations will be furnished to each employee in accordance with the Civil Service Regulations (5 CFR Part 735). Clarification of standards of conduct and related laws, rules, and regulations and advice on their applicability to individual situations may be obtained from the Counselor or Deputy Counselor for the Agency.

§ 1001.735–22 Statements of employment and financial interests.

The following employees of the Foundation shall submit statements of employment and financial interests:

(a) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(b) Employees classified at GS–13 or above under section 5332 of title 5, United States Code, or at a comparable pay level under another authority, including employees promoted into positions whose incumbents were required to file, as well as new employees hired, who are in positions the basic duties of which impose upon the incumbent the responsibility for a government decision or taking Government action with regard to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprise; or

(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

(c) Other employees who have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflict of interest situation and carry out the

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purpose of the law, Executive Order 11222, and the Agency's regulations.

§ 1001.735–23 Employees not required to submit statements.

(a) Employees in positions that meet the criteria in paragraph (b) of § 1001.735–22 may be excluded from the reporting requirement when the President or designee determines that:

(1) The duties of the positions are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote;

(2) The duties of the position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over incumbent or the inconsequential effect on the integrity of the Government.

(b) A statement of employment and financial interests is not required by these regulations from an agency head, or a part or full-time member of a committee, board, or commission appointed by the President. These persons are subject to separate reporting requirements under section 401 of Executive Order 11222.

(c) The President may waive the requirement of this section for the submission of a statement of employment and financial interest in the case of a special Government employee who is not a consultant or an expert when he/she finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual.

§ 1001.735–24 Employee's complaint on filing requirement.

Each employee shall have the opportunity for review of a complaint that his/her position has been improperly included within § 1001.735–22 as one requiring the submission of a statement of employment and financial interests. Employees are reminded that they may obtain counseling pursuant to § 1001.735–21 prior to filing a complaint.

§ 1001.735–25 Time and place of submission, and forms.

(a) An employee shall submit his/her statement to the Counselor no later than:

(1) Ninety days after the effective date of these regulations if the person has entered on duty on or before that effective date; or

(2) Immediately prior to entrance on duty, if the employee enters on duty after that effective date.

(b) Only the original of the statement or supplement thereto required by this part shall be submitted. The individual submitting a statement should retain a copy for personal records.

§ 1001.735–26 Information required.

(a) *Employees.* The employee's statement of employment and financial interests required by these regulations shall be submitted on the form, "Confidential Statement of Employment and Financial Interests", and shall contain all the information therein required.

(b) *Interests of employee's relatives.* The interest of a member of an employee's family is considered to be an interest of the employee. The term "member of an employee's family" is defined in § 1001.735–2.

(c) *Information not known by employees.* If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his/her behalf.

(d) *Information prohibited.* The regulations in this part do not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants or money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

§ 1001.735–27 Supplementary statements.

(a) Employees shall report changes in, or additions to, the information contained in their statements of employment and financial interests in supplementary statements as of May 15 of each year. If no changes or additions occur, a negative report is required.

(b) All special Government employees shall submit a current statement at the time their appointments are extended. A supplementary report indicating any changes in, or additions to the information already submitted will be accepted in lieu of a full submission. If there are no changes or additions, a negative report is required.

(c) Notwithstanding the filing of reports required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or these regulations.

§ 1001.735–28 Review of statements and determination as to conflicts of interest.

(a) On the basis of the statement of employment and financial interests submitted by each employee, or on the basis of information received from other sources, the Deputy Counselor shall determine in the light of the duties which that employee is or will be performing, whether any conflicts of interest, real or apparent, are indicated. The Deputy Counselor shall make this determination based on the applicable statutes, Executive Order 11222, and the applicable regulations of the Office of Personnel Management and the Agency.

(b) Where the Deputy Counselor's determination in a particular case is that a conflict of interest, real or apparent, is indicated, informal discussions with the employee concerned shall be initiated. These discussions shall have as their objectives:

(1) Providing the individual with a full opportunity to explain the conflict or appearance of conflict; and

(2) Arriving at an agreement (acceptable to the Deputy Counselor, the individual, and the individual's immediate superior) whereby the conflict of interest may be removed or avoided.

(c) Where an acceptable agreement cannot be obtained pursuant to paragraph (b) of this section, the Deputy Counselor shall present his/her findings and recommendations via the Counselor to the President for decision, who shall decide what remedy is most appropriate to remove or correct that conflict or apparent conflict. Remedial action under this paragraph may include disciplinary action or any of the actions enumerated in § 1001.735–29.

(d) Written summaries of all agreements and decisions arrived at pursuant to this section and § 1001.735–29 shall be placed in the Deputy Counselor's files. Copies shall also be made available to the employee or special Government employee concerned.

§ 1001.735–29 Penalties for violation.

(a) Violations of these regulations subject employees to remedial or disciplinary action by the Foundation which may be in addition to any penalty prescribed by law.

(b) When, after consideration of the explanation of the employee and the findings and recommendations of the Deputy Counselor the President decides that remedial action is required, immediate action to end the conflicts or appearance of conflicts of interest, shall be taken. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or special Government employee of the conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

§ 1001.735–30 Confidentiality of employees' statements.

The Agency shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality only the Counselor and Deputy Counselor are authorized to review and retain the statements. The Counselor and Deputy Counselor are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. The Agency may not disclose information from a statement except as the Office of Personnel Management or the President may determine for good cause shown.

§ 1001.735–31 Effect of employees' statements on other requirements.

The statements of employment and financial interests and supplementary statements required for employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit participation in a matter in which such participation is prohibited by law, order, or regulation.

Lawrence E. Bruce, Jr.,

General Counsel.

[FR Doc. 79–23934 Filed 8–2–79; 8:45 am]

BILLING CODE 7025–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Interim Regulation on Investigation of Certain Federal Employment Discrimination Complaints Correction

AGENCY: Equal Employment Opportunity Commission.

ACTION: Correction of Typographical Errors.

SUMMARY: The Equal Employment Opportunity Commission has adopted an interim regulation governing the investigation of certain federal employment discrimination complaints. 44 FR 40498 (July 11, 1979). The Commission corrects typographical errors in this regulation.

EFFECTIVE DATE: July 11, 1979.

FOR FURTHER INFORMATION CONTACT: John Rayburn, Director, Technical Guidance Division, Office of Field Services, Equal Employment Opportunity Commission, Room 4250, 2401 E Street, N.W., Washington, D.C. 20506, (202) 634–6855.

1. On page 40498, third column, paragraph on Comment Dates, the date "January 31, 1979" is corrected to read "January 31, 1980."

2. On page 40499, third column, the first full paragraph, which begins "Based on its experience * * *" should read as follows:

"Based on its experience under this interim regulation the Commission intends to issue, in early 1980, proposed regulations which will supersede the interim regulation and which will govern the investigation of Title VII complaints of all federal agencies subject to 29 CFR Part 1613. The Commission invites comments on this pilot program from federal agencies, federal complainants, and interested members of the public. The Commission is particularly interested in receiving comments from individuals and agencies participating in or observing the pilot program. The first investigation reports on complaints investigated entirely by the Commission are expected to be sent to the agencies in early November, 1979. Since comments will be accepted until January 31, 1980, there will be ample time to receive comments from those with direct experience under the new procedures."

3. On page 40499, the last sentence of § 1613.216(c), which begins "The agency shall adopt * * *," should read as follows:

"The agency shall adopt as its proposed disposition of the complaint the Commission's recommended disposition unless within 30 days after the agency receives the investigative file and recommended disposition the complaint has been informally adjusted in accordance with § 1613.217(a), or the agency has notified the complainant of its own proposed disposition in accordance with § 1613.217(b)."

Dated: July 31, 1979.

For the Commission.

Eleanor Holmes Norton,

Chair.

[FR Doc 79–23941 Filed 8–2–79; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 810

Sale or Release of Motion Picture and Sound Track Stockfootage

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by deleting Part 810 on sale or release of motion picture and sound track stockfootage. This rule is deleted because it has been combined with Part 811 of this chapter. The intended effect of this amendment is to improve 32 CFR, Chapter VII, by removing unnecessary material.

EFFECTIVE DATE: July 25, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, Air Force Federal Register Liaison Officer, AS/DASJR, Pentagon, Washington, DC 20330. Phone: (202) 697–1861.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR Chapter VII, is amended by deleting Part 810.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–24037 Filed 8–2–79; 8:45 am]

BILLING CODE 3910–01–M

32 CFR Part 813a

Providing Air Force Reference Room Service to the Public; Deletion

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by deleting Part 813a on providing Air Force reference room service to the public. This rule is deleted because the source document is obsolete. The intended effect of this amendment is to improve 32 CFR, Chapter VII, by removing unnecessary material.

EFFECTIVE DATE: July 25, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, Air Force Federal Register Liaison Officer, AS/DASJR, Pentagon, Washington, DC 20330. Phone: (202) 697–1861.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR, Chapter VII, is amended by deleting Part 813a.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–24038 Filed 8–2–79; 8:45 am]

BILLING CODE 3910–01–M

32 CFR Part 940

Territorial and Insular Regulations Phoenix Island Regulations; Deletion

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by deleting Part 940. This rule is deleted because the Air Force ceased its current operations on the Phoenix Islands effective July 12, 1979, and there is no longer a need for the Air Force to prescribe restricted/security area regulations for certain of the Phoenix Islands and the surrounding waters. The intended effect of this amendment is to improve 32 CFR, Chapter VII, by removing unnecessary material.

EFFECTIVE DATE: July 12, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, Air Force Federal Register Liaison Officer, AS/DASJR, Pentagon, Washington, DC 20330. Phone: (202) 697–1861.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR, Chapter VII, is amended by deleting Part 940.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–24039 Filed 8–2–79; 8:45 am]

BILLING CODE 3910–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 205

[FRL 1248–8]

Transportation Equipment Noise Emission Standards for Medium and Heavy Trucks; Motor Homes: Decision on Petition for Reconsideration

AGENCY: Environmental Protection Agency.

ACTION: Notice: Denial of petition and removal of stay of effectiveness.

SUMMARY: On October 20, 1977, the Recreation Vehicle Industry Association petitioned the Administrator of the Environmental Protection Agency to reconsider the applicability of the medium and heavy trucks noise emission regulation to motor homes, and to stay such applicability pending reconsideration. The Agency granted the stay on November 23, 1977. This notice publishes the decision of the Administrator after reconsideration.

EFFECTIVE DATE: November 30, 1979.

FOR FURTHER INFORMATION CONTACT: Henry E. Thomas, Director, Standards & Regulation Division (ANR–490) Environmental Protection Agency Washington, D.C. 20460 (202) 557–7743

I. Background

Noise emission standards for newly manufactured medium and heavy trucks became effective on January 1, 1978. 40 CFR Part 205, Subparts A and B. That regulation applies to all truck types, including motor homes. Five petitions for review of that regulation are pending before the U.S. Court of Appeals for the District of Columbia Circuit, one of which was filed by the Recreation Vehicle Industry Association (RVIA) (No. 76–1875).

RVIA had petitioned EPA on May 13, 1976 to clarify whether those standards were intended to apply to motor homes and to reconsider and modify the regulation to exclude motor homes. The Administrator stated that the regulation did apply to motor homes, and on December 22, 1976 denied the petition to modify it.

RVIA on October 20, 1977 filed a second petition with EPA seeking reconsideration of the applicability of the regulation to motor homes based upon certain information that was submitted. EPA had agreed to reconsider the regulation because a portion of that information appeared inconsistent with EPA's evaluation of the motor home manufacturing industry.

RVIA's petition was accompanied by a request that EPA stay the effectiveness of the regulation with respect to motor homes. To avoid the possibility that some manufacturers might be put into noncompliance with the law for reasons over which they had no control, EPA granted RVIA's request for a stay. 42 FR 59975 (November 23, 1977).

RVIA's information primarily concerned manufacturers of Type A motor homes, i.e., those motor home manufacturers who complete motor homes upon chassis purchased from other manufacturers. The Type A motor home manufacturer creates the "vehicle" as defined in the regulation, and therefore is responsible for demonstrating compliance with the noise standard. RVIA contended that the Type A motor home manufacturer lacks control over the noise of the vehicle, because the chassis manufacturer, not the motor home manufacturer, assembles the major sources of noise. The information included the results of noise tests, indicating that some of these motor homes exceed the noise standard. RVIA alleged that these motor home manufacturers do not possess the technical and economic resources necessary to produce a complying motor home. RVIA alleged further that these manufacturers cannot afford to demonstrate compliance with the regulation through required testing, citing long distances between manufacturers and noise test facilities.

II. Response to RVIA Petition

Having analyzed carefully the information submitted by RVIA, and having independently studied the issues raised, I deny RVIA's petition to modify 40 CFR Part 205 for the reasons set forth below.

1. Approximately 95% of all Type A motor homes subject to the noise regulation are built upon chassis purchased from other manufacturers. A few manufacturers construct Type A motor homes from the ground up.

2. Chassis constructed with due consideration for noise attenuation are available from chassis manufacturers, which can be incorporated into Type A motor homes which will meet the noise standard. The two primary chassis manufacturers, who together market the vast majority of chassis for Type A motor homes, incorporate identical or similar chassis into other vehicles which have been shown to meet the noise standard, by using such noise attenuation devices as thermostatically controlled fans. According to RVIA, the motor homes exceeding the noise standard were all equipped with significantly louder direct drive fans.

Motor home manufacturers can draw upon the expertise in the truck industry developed over several years of working with noise regulations. The chassis manufacturers, manufacturers of mufflers and other components, as well as consultants and a developing body of literature are among potential resources available to the motor home manufacturers' own design experts.

3. The technical and economic burdens necessary to incorporate these chassis into complying Type A motor homes are reasonable. The availability of chassis equipped with effective noise attenuation equipment limits the technical burdens upon the Type A motor home manufacturer to the exercise of good engineering judgment. Toward this end, RVIA has assembled comprehensive guidelines which explain the types of actions motor home manufacturers should take or refrain from taking to produce a complying motor home. Added equipment costs for such items as thermostatically controlled fans, better mufflers and the like are the same costs the Agency found to be reasonable during development of the regulation.

4. Testing costs for motor home manufacturers subject to the regulation are reasonable.

A. RVIA is correct that the Type A motor home manufacturer is responsible for demonstrating compliance with the regulation through required testing. The regulation requires that the manufacturer of a "vehicle", as defined in the regulation, demonstrate compliance with the noise standard through production verification testing, the testing of a representative product from early production. By adding an operator's compartment to the purchased chassis, the Type A motor home manufacturer creates a "vehicle" as defined in the regulation, and is responsible for production verification testing.

However, the cost for the Type A motor home manufacturer to demonstrate compliance through required testing is small. Because of the great degree of chassis standardization among Type A motor homes, most manufacturers will have to perform a maximum of four production verification tests per year. Type A motor home manufacturers produce vehicles using, primarily, four different engines, two from each of the primary chassis suppliers. Standard body configurations mean that the Type A motor home manufacturer has to perform a new production verification test only when a different engine is used. The number of tests compares favorably to the rest of the truck industry, where standardization is not as great and most manufacturers have had to perform considerably more production verification tests per year.

Costs per test are reasonable. Although some motor home manufacturers are a distance from established noise test facilities, other truck manufacturers have performed valid production verification tests in large parking lots and on local airport runways which meet regulatory requirements, using relatively inexpensive sound measurement equipment.

B. The manufacturers of motor homes other than Type A are not responsible for demonstrating compliance through production verification testing. The other classes of motor homes, Types B and C, are already "vehicles", as defined in the regulation, when received by the motor home manufacturer. These motor homes, van conversions and cutaways, respectively, possess an enclosed operator's compartment when sold by the primary manufacturer. Therefore, the primary manufacturer, not the motor home manufacturer, must demonstrate compliance through production verification testing.

The Type B or C motor home manufacturer who receives a vehicle subject to the regulation need only assure that his manufacturing operations do not cause the vehicle to exceed the noise standard when he sells it. He may be required to demonstrate this through an audit of the noise level of his finished products. In this respect, the Type B or C motor home manufacturer is in no different position than any subsequent manufacturer who makes modifications to any vehicle subject to the regulation.

III. Conclusion

Therefore, I have concluded that the regulation as promulgated and as applied to motor homes is reasonable, and should not be revised. No burdens are placed upon motor home manufacturers that are not placed upon similarly situated manufacturers in the truck industry. The burdens of compliance and testing are reasonable, as assumed at the time of promulgation of the regulation, and do not interfere unreasonably with the motor home manufacturers' ability to manufacture and distribute products into commerce.

IV. Action Upon Stay

Effective November 30, 1979, the stay with respect to motor homes of the provisions of 40 CFR Part 205, Subparts A and B are removed, and motor homes will as of that date be fully covered by those provisions. This decision represents final Agency action on the petition for reconsideration of the regulation of the Recreation Vehicle Industry Association dated October 20, 1977.

Dated: July 25, 1979.

Barbara Blum,

Acting Administrator.

[FR Doc 79–23785 Filed 8–2–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78–184; RM–3034]

FM Broadcast Station in Greenville, North Carolina; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein substitutes FM Channel 300 for Channel 299 at Greenville, North Carolina, in response to a petition filed by Roy H. Park Broadcasting, Inc., licensee of a television and FM station in Greenville. The substitution of channels would avoid a spacing limitation on the present channel and would bring a second FM service to a significant area and population.

EFFECTIVE DATE: September 7, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau. (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: July 25, 1979; Released: July 31, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Greenville, North

Carolina), BC Docket No. 78-184, RM-3034.

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted June 20, 1978, 43 FR 28011, inviting comments on a proposal to substitute FM Channel 300 for Channel 299 at Greenville, North Carolina. The proceeding was initiated in response to a petition filed by Roy H. Park Broadcasting, Inc. ("petitioner"), licensee of Stations WNCT-TV and WNCT-FM, Greenville, North Carolina. Supporting comments were filed by petitioner. No oppositions to the proposal were received.

2. Greenville (pop. 30,400) is the seat of Pitt County (pop. 73,900) [1] and is located approximately 220 kilometers (137 miles) south of Richmond, Virginia.

3. Petitioner states that Stations WNCT-TV and WNCT-FM had been operated from the same tower. Then, on May 17, 1979, its application (BPCT-5087) to change the transmitter site of Station WNCT-TV to a point 22 kilometers (13.8 miles) south of its former location was granted. Petitioner asserts that it would be advantageous to relocate its FM station to this new site. However, it adds, the spacing limitations on its present channel would preclude this site change. Thus, to avoid a short-spacing of 11 kilometers (7 miles) to Station WRRC-FM on Channel 296A, Clinton, North Carolina, petitioner requested the substitution of Channel 300 or Channel 299.

4. Petitioner states that the assignment of Channel 300 would bring a second FM service to 9,060 additional persons in a 325 square kilometer (125 square miles) area. This would be due largely to an increase in the station's antenna height. No additional preclusion would occur as a result of the substitution of Channel 300 for Channel 299 at Greenville.

5. In view of the above, the Commission believes that the public interest would be served by making the proposed substitution of channels since a second FM service would be provided to a significant population.

6. Accordingly, it is ordered, that effective September 7, 1979, the FM Table of Assignments (§ 73.202(b) of the Commission's rules) is amended as follows for the community listed below:

City—Greenville, North Carolina; Channel No. 300.

7. It is further ordered, that pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Roy H. Park Broadcasting, Inc.,[2] for Station WNCT-FM, Greenville, North Carolina, is modified, effective September 7, 1979, to specify operation on Channel 300 instead of Channel 299. The licensee shall inform the Commission in writing no later than September 7, 1979, of its acceptance of this modification. Station WNCT-FM may continue to operate on Channel 299 for one year from the effective date of this action or until it is ready to operate on Channel 300, or the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 300 the licensee of Station WNCT-FM shall submit to the Commission the technical information normally requested of an applicant for Channel 300.

(b) At least 10 days prior to commencing operation on Channel 300 the licensee of Station WNCT-FM shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station WNCT-FM shall not commence operation on Channel 300 without prior Commission authorization.

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-24044 Filed 8-2-79; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

[2] Roy H. Park Broadcasting, Inc., is also licensee of an AM station in Greenville. This action modifying its license to specify the new channel is without prejudice to any action the Commission may take to amend the multiple ownership rules to prohibit AM-FM cross ownership in the same market. See *Public Notice*, FCC 79-378, Mimeo 14032, issued June 8, 1979.

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47 CFR Part 73

[BC Docket No. 79-70; RM-3262; RM-3280]

Radio Broadcast Services; FM Broadcast Station in Palmyra, Mo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Palmyra, Missouri, as its first FM assignment, in response to separate petitions filed by Mike McKenzie and James E. Janes. The assigned channel could be used to provide a first local aural broadcast service to the community.

EFFECTIVE DATE: September 7, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: July 25, 1979.

Released: July 31, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Palmyra, Missouri); BC Docket No. 79-70, RM-3262, RM-3280.

1. The Commission here considers the *Notice of Proposed Rule Making*, adopted April 2, 1979, 44 FR 21047, inviting comments on proposals to assign FM Channel 252A to Palmyra, Missouri, as its first FM assignment. The proceeding was instituted in response to separate petitions filed by Mike McKenzie and James E. Janes. Supporting comments were filed by petitioners in which they reaffirmed their intention to file for the channel, if assigned. No oppositions to the proposal were received.

2. Palmyra (pop. 3,188), seat at Marion County (pop. 28,121),[1] is located approximately 166 kilometers (103 miles) northwest of St. Louis, Missouri, and 156 kilometers (97 miles) west of Springfield, Missouri. Palmyra has no local aural broadcast service.

3. In support of their proposal, petitioners have submitted sufficient information with respect to Palmyra to demonstrate its need for a first FM channel assignment.

4. Upon careful consideration of the proposal herein, the Commission believes it would be in the public interest to assign Channel 252A to Palmyra, Missouri. An interest has been shown for its use, and such an assignment could be used to bring a first local aural broadcast service to the community.

5. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. In view of the foregoing, it is ordered, that effective September 7, 1979, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended as it pertains to Palmyra, Missouri:

[1] Population figures are taken from the 1970 U.S. Census.

City	Channel No.
Palmyra, Missouri	252A

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-24045 Filed 8-2-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 83, 87

[PR Docket No. 79-100; FCC 79-459]

Making the Restrictions Governing the Use of the Frequency 157.425 MHz (Channel 88) by Aircraft Consistent With the Restrictions Applying to Other Marine VHF Frequencies Available to Aircraft

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Amendment to our rules to make the frequency 157.425 MHz subject to the same restrictions that are applicable to other marine VHF frequencies when being used by aircraft. Our rules presently contain inconsistencies on usage of marine VHF frequencies by aircraft and this action will eliminate the inconsistencies.

EFFECTIVE DATE: September 10, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kemp J. Beaty, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: July 24, 1979.

Released: July 31, 1979.

In the matter of amendment of Parts 83 and 87 of the rules to make the restrictions governing the use of the frequency 157.425 MHz (Channel 88) by aircraft consistent with the restrictions applying to other marine VHF frequencies available to aircraft, PR Docket No. 79-100.

Introduction

1. On May 10, 1979, the Commission released a Notice of Proposed Rule Making which would subject the use of Channel 88 by aircraft, to the same restrictions that apply to the use of other marine VHF frequencies by aircraft. This action would reduce the maximum permissible power from 25 watts to 5 watts and restrict aircraft to an altitude of 1000 feet or less. The proposal was published in the Federal Register on May 18, 1979 (44 FR 29127). The period allotted for public comments has passed.

2. This rulemaking was initiated to eliminate inconsistencies in our rules regarding the use of marine VHF frequencies by aircraft. In addition, our present conditions on the use of Channel 88 are in conflict with the philosophy of the International Radio Regulations on the use of marine VHF frequencies by aircraft. We, therefore, concluded that it was only appropriate that all marine VHF frequencies that are assigned for use by aircraft be subject to the same restrictions.

Comments

3. One comment was received in response to our Notice of Proposed Rule Making from the Central Committee on Telecommunications of the American Petroleum Institute (API). This committee is composed of the representatives of 40 of the nation's leading petroleum and natural gas companies. Many of those companies represented on the committee operate substantial maritime fleets composed of tankers engaged in the movement of petroleum products. Nearly all of these vessels are equipped with VHF radio communication facilities. API supports our proposal in full, stating "* * * Insofar as the Central Committee has been able to determine, there are no operational requirements that would support continued use of Channel 88 aboard aircraft with no altitude or power restrictions." API is also in agreement with the "grandfather" period of more than five years, until January 1, 1985, for present users of the frequency.

Conclusion

4. In view of the comment received from API and the Commission's concern with minimizing any potential harmful interference to marine VHF communications we are adopting the rules as proposed. However, we wish to stress the point that the "grandfather" period until January 1, 1985, will not apply to any entity initially licensed to use Channel 88 after the effective date of this Report and Order. New licensees will be subject to the same restrictions on Channel 88 that apply to all marine VHF frequencies available for use by aircraft.

5. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone (202) 632-7175.

6. Accordingly, it is ordered, that, pursuant to the authority contained in Sections 4(i), 303(f) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth in the attached Appendix below, effective September 10, 1979.

7. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303.))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 83 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.351, paragraph (a) Table is amended to read as follows:

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency (MHz)	Conditions of use	
	Section	Limitations
* * * * *		
157.425	83.359	40, 49, 55, 72, 76

* * * * * *

2. In § 83.359, paragraphs (b) and (b)(2) are amended to read as follows:

§ 83.359 Frequencies in the band 156–162 MHz available for assignment.

* * * * * *

(b) In addition to the limitations contained in § 83.351(b)(34), (b)(55) and (b)(72) aircraft may use the frequencies 156.3, 156.375, 156.4, 156.425, 156.450, 156.525, 156.625, 156.8, 156.9 and 157.425 MHz under the following circumstances and subject to the following limitations:

* * * * * *

(2) The mean power of aircraft station transmitters shall not exceed five watts; however, a power of one watt or less shall be used to the maximum extent possible. Aircraft stations authorized the use of 157.425 MHz with equipment having an output power of more than five watts may continue to use that

equipment and higher power on that frequency until January 1, 1985.

* * * * *

PART 87—AVIATION SERVICES

In § 87.183, paragraphs (j)(2) and (j)(3)(ii) are amended to read as follows:

§ 87.183 Frequencies available.

* * * * *

(j) * * *

(2) Except in the Great Lakes and along the St. Lawrence Seaway the frequency 157.425 MHz is available for assignment to aircraft stations for communication with commercial fishing vessels while engaged in commercial fishing activities. Operations by aircraft on this frequency will be subject to the conditions appearing in subparagraph (3) of this section.

(3) * * *

(ii) The mean power of aircraft station transmitters shall not exceed five watts; however, a power of one watt or less shall be used to the maximum extent possible. Aircraft stations authorized the use of 157.425 MHz with equipment having an output power of more than five watts may continue to use that equipment and higher power on that frequency until January 1, 1985.

* * * * *

[FR Doc. 79-24047 Filed 8-2-79; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 44, No. 151
Friday, August 3, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Part 771]

Agency Administrative Grievance System

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: Part 771, Agency Administrative Grievance System, is a proposed revision of 5 CFR 771, Agency Grievance System. This regulation provides criteria for the establishment and publication of an administrative grievance system by each agency and defines the employee and action coverage to comply with those provisions of the Civil Service Reform Act of 1978 which affect employee administrative grievance rights.

DATE: Comment Date: Written comments will be considered if received no later than September 4, 1979.

ADDRESS: Send written comments to the Workforce Effectiveness and Development Group, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Wilma Lehman, (202) 632-5623.

SUPPLEMENTARY INFORMATION: Pursuant to paragraphs (b) and (d) of section 553 of title 5, U.S.C., the Director finds that good cause exists for shortening the comment period to the minimum required by statute, to provide administrative grievance procedures which are consonant with and reflect changes brought about by the Civil Service Reform Act of 1978.

Amendment of exclusion for matters subject to review outside the agency.

Part 771 currently excludes from coverage under the agency administrative grievance system a matter which is subject to final administrative review outside the agency under law or OPM regulation. The Civil Service Reform Act established the office of the Special Counsel and authorized it to receive and investigate complaints of alleged violations of prohibited personnel practices. This proposal amends the exclusion to apply only to a matter appealable to the Merit Systems Protection Board or administratively reviewable by the Office of Personnel Management or the Equal Employment Opportunity Commission. Without this amendment, employees would be excluded from the use of agency grievance procedures for matters for which complaints could be filed with the Special Counsel. This would not only be impracticable, but also it would be contrary to the public interest and the interest of Federal employees.

SES coverage. The Reform Act established a Senior Executive Service. The Act provides that a career appointee of the SES may be removed from the SES to a civil service position outside the SES either during the first year of probation or at any time for less than fully successful executive performance and gives the employee an entitlement to an informal hearing before an official designated by the MSPB. This hearing does not give an appeal right under 5 U.S.C. 7701 nor does it delay the removal action. The SES became effective on July 13, 1979, and OPM is issuing interim regulations regarding removals from the SES until the regulations can be issued in final form. To correspond with Part 359, Removal, Reinstatement, and Guaranteed Placement in the Senior Executive Service, proposed Part 771 would exclude from administrative grievance procedures matters covered by statutory procedures as implemented by Part 359 of this title. Failure to clarify the coverage of the grievance procedures would be contrary to provisions of the Reform Act and would cause unnecessary confusion concerning rights of employees.

Grievance Concerning Merit Pay. The Merit Pay programs for GS-13, 14, and 15 employees shall take effect no later than October of 1981, but the programs may be put into effect with respect to any category or categories of position(s) before that date as prescribed by the Office. The Reform Act provides that merit pay increases shall be subject to review only in accord with and to the extent provided by the head of the agency. These decisions cannot, therefore be mandated by OPM as grievable under the administrative grievance procedures. Currently, these decisions are grievable under OPM regulation. Agencies are presently making decisions regarding coverage under Merit Pay and need to know whether these decisions continue to be grievable under OPM regulations. In some agencies, the decisions are scheduled to be made by October of this year. Agencies require leadtime in order to develop and issue their own regulations and, therefore, the comment period is shortened to permit them to meet their schedules.

In addition to the above mentioned specific provisions, proposed Part 771 has been revised. It provides for the establishment, publication of, criteria governing, and OPM oversight of agency administrative grievance systems.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is proposing a revised 5 CFR Part 771 as follows:

PART 771—AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM

Subpart A [Reserved]

Subpart B—General

Sec.
771.201 Purpose.
771.202 Definitions.
771.203 Agency coverage.
771.204 Employee coverage.
771.205 Grievance coverage.
771.206 Exclusions.

Subpart C—Establishment of Agency Administrative Grievance System

771.301 Establishment and publication.
771.302 Criteria.
771.303 Review by the Office of Personnel Management.

Authority: 5 U.S.C. 1302, 3301, 3302, 7301; EO 9830, 3 CFR 1943-1948 Comp., pp. 605-624; EO 11222, 3 CFR 1964-1969 Comp., p. 306.

Subpart A [Reserved]

Subpart B—General

§ 771.201 Purpose.

This part sets forth the regulations under which each agency shall establish

an agency administrative grievance system.

§ 771.202 Definitions.

In this part:

Employee includes a former employee of an agency for whom a remedy can be provided.

Bargaining unit employee means an employee included in an appropriate exclusive bargaining unit as determined by the Federal Labor Relations Authority.

Grievance, except as provided in § 771.206 of this part, means a request by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction relating to the employment of the employee(s) which is subject to the control of agency management.

Personal relief means a remedy benefiting only the grievant and may not include a request for disciplinary or other action affecting another employee.

§ 771.203 Agency coverage.

Except as provided in § 771.206(a), this part applies to the executive agencies and military departments as defined by sections 102 and 105 of title 5, United States Code, and to those organizational units of the legislative and judicial branches having positions in the competitive service.

§ 771.204 Employee coverage.

(a) Required coverage. Except as provided in § 771.206(b), this part shall cover all nonbargaining unit employees of the agency.

(b) Discretionary coverage. An agency may extend the coverage of this part to other employees or to applicants for employment with the agency.

§ 771.205 Grievance coverage.

Except as provided in § 771.206(c), this part applies to any matter of concern of dissatisfaction relating to the employment of an employee which is subject to the control of agency management, including any matter in which an employee alleges that coercion, reprisal, or retaliation has been practiced against him or her.

§ 771.206 Exclusions.

(a) Agencies excluded. This part does not apply to the Central Intelligence Agency, the Federal Bureau of Investigation, the Defense Intelligence Agency, the National Security Agency, the Nuclear Regulatory Commission, the Tennessee Valley Authority, the Postal Rate Commission, and the U.S. Postal Service.

(b) Employees excluded. This part does not apply to:

(1) A noncitizen appointed under Civil Service Rule VIII, § 8.3 of this title;

(2) An alien appointed under section 1471(5) of title 22, United States Code;

(3) A nonappropriated-fund employee as defined in section 2105(c) of title 5 or section 4202(5) of title 38, United States Code;

(4) A physician, dentist, nurse, or other employee appointed under chapter 73 of title 38, United States Code;

(5) A member of the Foreign Service of the United States covered under the Foreign Service Grievance System as defined in Part J of Title VI of the Foreign Service Act of 1946, as amended; or

(6) An employee otherwise included under paragraph (a) of § 771.204 of this subpart when he or she is a member of a class of employees excluded from coverage by the Office on the recommendation of the head of the agency concerned.

(c) Matters excluded. This part does not apply to:

(1) A decision which is appealable to the Merit Systems Protection Board or subject to final administrative review by the Office of Personnel Managment or the Equal Employment Opportunity Commission under law or regulations of the Office or the Commission;

(2) The content of published agency regulations and policy;

(3) Nonselection for promotion from a group of properly ranked and certified candidates;

(4) An action which terminates a temporary promotion within a maximum period of 2 years and returns the employee to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted;

(5) Decisions regarding award recommendations for performance contributions, acceptance of employee suggestions or inventions, or granting of cash or honorary recognition under sections 4503–4505, or an award of the rank of meritorious or distinguished executive under section 4507 of title 5, United States Code;

(6) The receipt of or failure to receive a performance award under section 5384 of title 5, United States Code, or a quality salary increase under section 5336 of title 5, United States Code;

(7) A merit pay determination on a merit pay increase (or the lack of a merit pay increase) under the Merit Pay System, or a decision on the granting of cash or honorary recognition under Chapter 54 of title 5, United States Code, and Part 540 of this title;

(8) A return of an officer or employee from the Senior Executive Service to the General Schedule for less than fully successful executive performance under section 3592 of title 5, United States Code;

(9) The content of critical elements and performance standards of an employee's position which are in accord with the requirements of subchapter I of chapter 43 of title 5, United States Code, and Part 430 of this title;

(10) A preliminary warning or notice of an action which, if effected, would be covered under the grievance system or excluded from coverage by paragraph (c) (1) of this section;

(11) A return of an employee from an initial appointment as a supervisor or manager to a nonsupervisory or nonmanagerial position for failure to satisfactorily complete the probationary period under section 3321(a)(2) of title 5, United States Code, and Part 315 of this title unless the agency extends the coverage to any aspect of the return action.

(12) A performance evaluation under subchapter II of chapter 43 of title 5, United States Code.

(13) A separation action, unless the agency extends the coverage of its grievance system to any aspect of the action that is not appealable to the Merit Systems Protection Board or subject to final administrative review by the Office of Personnel Management or the Equal Employment Opportunity Commission under law or the regulations of the Office or the Commission.

Subpart C—Establishment of Agency Administrative Grievance System

§ 771.301 Establishment and publication.

(a) Establishment. Each agency covered by this part shall establish and administer an agency grievance system in accordance with the criteria in § 771.302 of this subpart.

(b) Publication. Each agency shall publish and make available to employees copies of its administrative grievance procedures.

§ 771.302 Criteria.

The following criteria shall govern the establishment and administration of an agency administrative grievance system:

(a) Prompt consideration of each grievance, including reasonable time limits for processing the grievance;

(b) Procedures appropriate for the matter being grieved which provide the employee a reasonable opportunity to present a grievance and receive fair consideration of the matter being grieved. The procedures shall include a hearing when appropriate. Fact-finding procedure shall be carried out by a person(s) who has not been involved in the matter being grieved and who does not occupy a position subordinate to any official who recommended, advised, or who otherwise is or was involved in, made a decision on, or was consulted about the matter being grieved.

(c) Assurance to the grievant of:

(1) Freedom from restraint, interference, coercion, discrimination, or reprisal in presenting a grievance;

(2) The right to be accompanied, represented, and advised by a representative of his or her own choosing, except that an agency may disallow the choice of an employee of that agency as a representative which would result in a conflict of interest or position, which would conflict with the priority needs of the agency, or which would give rise to unreasonable costs to the Government.

(3) A reasonable amount of official time to present the grievance if the employee is otherwise in a duty status; and

(4) The right to communicate with the servicing personnel office, a counselor of the agency, and a supervisor or management official of higher rank than the employee's immediate supervisor.

(d) Assurance to the employee's representative of:

(1) Freedom from restraint, interference, coercion, discrimination, or reprisal; and

(2) A reasonable amount of official time to present the grievance if the representative is an employee of the agency and is otherwise in a duty status.

(e) When fact-finding is utilized, establishment of a grievance file which is made available to the grievant and his or her representative for review and comment; and

(f) At any time an employee places a grievance in writing, a written decision, which includes a report of findings and reasons for the determination, made by:

(1) An offical at a higher level than any employee involved in any phase of the grievance, except when the head of the agency has been involved, or

(2) The official(s) designated to determine the disputed facts.

§ 771.302 Review by the Office of Personnel Management.

The Office of Personnel Management shall review from time to time each agency administrative grievance system developed under this part to determine whether the administrative grievance system meets the requirements of this part. The Office shall require corrective action to bring a system which fails to meet the requirements into conformity. The Office does not act on a request by an employee to review the processing of, or the decision on, an individual grievance.

[FR Doc. 79-23990 Filed 8-2-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 799]

Compliance With the National Environmental Policy Act (NEPA)

Correction

In FR Doc. 79-22977, published at page 44167, on Friday, July 27, 1979, in the first column of page 44172, in the first paragraph "NOTE", in the sixth line reading "should be classified 'significant' * * *" is corrected to read "should not be classified 'significant' * * *".

BILLING CODE 1505-01-M

Animal and Plant Health Inspection Service

[9 CFR Part 92]

Importation of Horses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposal would permit the entry of male horses (stallions over 731 days of age), into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met. This action is needed to provide an additional means of importing such stallions into the United States from CEM-affected countries when this can be done without risk to livestock of the United States. The effect of this action would be to permit the importation of certain stallions into the United States from CEM-affected countries when specified requirements are met.

DATE: Comments on or before October 2, 1979.

ADDRESSES: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. D. D. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, MD 20782 (301) 436-8170.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

Section 92.2(i)(1) of the regulations (9 CFR 92.2(i)(1)), prohibits the importation of certain horses into the United States from the countries of Australia, Belgium, Ireland, Federal Republic of Germany, France, and the United Kingdom (England, Scotland, Northern Ireland, Wales, and the Isle of Man), because of the existence of CEM in these countries.

Section 92.2(i)(2)(ii) of the regulations (9 CFR 92.2(i)(2)(ii)) provides for the importation into the United States from countries in which CEM exists, of geldings, weanlings, or yearlings whose age is certified on the import health certificate.

Section 92.2(i)(iii) of the regulations (9 CFR 92.2(i)(2) (iii) provides for the importation into the United States from the United Kingdom, Ireland, and France, of among others, stallions which among other things have individual health history records that show that since reaching 2 years of age such horses have not been on premises where breeding was carried out.

The Department has conducted studies of horses infected with CEM organisms which have included the development and evaluation of additional swabbing and culture techniques, serological tests, and the effectiveness of treatment. These studies are available by contacting Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, MD 20782.

Based on these studies, the Department has determined that stallions, which are positive to culture tests for CEM, are not physically affected by the disease, but act as mechanical carriers only. Further, certain topical treatments have been found to be effective in freeing stallions from the contagion of CEM. Therefore, it is proposed that § 92.2(i)(2)(iv) be added to the regulations to provide a method of importing stallions of any breed over 731 days of age from countries known to be affected with CEM (listed in § 92.2(i)(1) for permanent entry into the United

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States whether or not such stallions have been on a breeding premises.

Section 92.2(i)(2)(iv) would provide that the prohibition on importation of horses, set forth in § 92.2(i)(1), would not apply to any stallion over 731 days of age imported for permanent entry accompanied by a certificate which contains the information required by § 92.17, is signed by a salaried veterinary officer of the national government of the country of origin, and, in addition, states that:

(A) On 5 consecutive days the prepuce, penis, including the fossa glandis, and urethral sinus of the stallion described on the certificate were aspectically cleaned and washed (scrubbed) while in full erection with a solution of not less than 2% chlorhexidine and were then thoroughly coated (packed) with an ointment of not less than 0.2% nitrofurazone under the supervision of the veterinary officer signing the certificate;

(B) After an interim of 7 days following the fifth consecutive day of scrubbing and packing required in (A), three separate sets of three specimens each were collected from the stallion described on the certificate, at intervals of not less than 7 days between the collection of each set, from the surface of the fossa glandis, urethral sinus and the penile sheath, respectively, under the supervision of the veterinary officer signing the certificate, and that all of the 9 specimens collected were cultured negative for CEM in a laboratory approved to culture for CEM by the National Veterinary Service of the country of origin;

(C) The last of the three sets of specimens collected in (B) was cultured negative for CEM within 30 days of the date of export of the stallion described on the certificate; and

(D) The stallion described on the certificate was not used for natural or artificial insemination breeding from the time the 5 consecutive days of scrubbing and packing procedure was begun through the date of export.

The topical treatments, testing procedures and handling procedures which would be required to import a stallion under proposed § 92.2(i)(2)(iv) appears to be necessary to insure that such stallions are free of the contagion of CEM.

In proposed § 92.2(i)(2)(iv)(A) the stallion's prepuce, penis, including the fossa glandis, and urethral sinus would be required to be aseptically cleaned and washed (scrubbed) while in full erection with a solution of not less than 2 percent chlorhexidine under the supervision of the veterinary officer signing the certificate. The prepuce, penis, including the fossa glandis, and urethral sinus appear to be the parts of the stallion's anatomy which may become affected with CEM. These parts of the anatomy would be required to be cleaned and washed (scrubbed) while the stallion is in full erection. This would expand all the folds and allow a more thorough and washing. A solution of not less than 2 percent chlorhexidine would be required to be used because such a solution is a disinfectant which appears to be effective against the CEM organism.

Following the completion of this cleaning and washing (scrubbing) procedure, the same areas would be required to be coated (packed) under the supervision of the veterinary officer signing the certificate with an ointment containing not less than 0.2 percent nitrofurazone, an antibiotic which appears to be effective against the CEM organism.

The entire procedure which would be required under § 92.2(i)(2)(iv)(A) would be performed on 5 consecutive days. Experience of equine practitioners with stallions affected with CEM in Kentucky indicates that 5 consecutive days of such topical treatment gives a reasonable assurance that a stallion so treated will be free of the contagion of CEM.

Proposed § 92.2(i)(2)(iv)(B) would provide a method for testing a stallion to determine if he is affected with CEM. After an interim of 7 days following the fifth consecutive day of topical treatment which would be required by § 92.2(i)(2)(iv)(A), three separate sets of 3 specimens each would be collected from the stallion at intervals not less than 7 days between the collection of each set of specimens under the supervision of the veterinary officer signing the certificate. The interval of not less than 7 days between the topical treatment and the first collection of specimens an between each of the following sets of specimens is necessary to allow any CEM organisms which may exist after the topical treatment described in § 92.2(i)(2)(iv)(A) to grow so that they may be detected. The 3 specimens (swabs) would be taken from the surface of the fossa glandis, urethral sinus and penile sheath. As stated above, these appear to be the areas of a stallion which may become affected with CEM. The Department would require 3 sets of these 3 specimens because swabbing to collect specimens is not a precise technique. The experience of equine practitioners in Kentucky who have tested stallions affected with CEM indicates that 3 sets of 3 specimens each collected from the anatomical areas, as indicated above, at least 7 days between each set provides a sufficient diversity of specimens so that a test of such specimens for CEM would appear to be extremely accurate.

Proposed § 92.2(i)(2)(iv)(B) would also require that all of the 9 specimens collected be cultured negative for CEM in a laboratory approved to culture for CEM by the National Veterinary Service of the country of origin. A negative finding for all of the specimens is necessary because any positive result indicates that the stallion is affected with CEM. The Department would impose the requirement that the test be performed in a laboratory approved to culture for CEM by the National Veterinary Service of the country of origin to insure the accuracy of the tests.

Proposed § 92.2(i)(2)(iv)(C) would require that the last of the 3 sets of specimens which would be required by § 92.2(i)(2)(iv)(B) to be collected, be cultured negative within 30 days of the date of export of the stallion. This requirement would be imposed to reduce the likelihood of a horse becoming affected with CEM after the last test and prior to exportation. The Department believes that requiring exportation within 30 days of the last test for CEM provides an importer with a reasonable time in which to arrange for the importation and does not constitute a great risk that the stallion has become affected with CEM since the date of the last test.

Proposed § 92.2(i)(2)(iv)(D) would require that a stallion not be used for natural or artificial insemination breeding from the time the topical treatment described in § 92.2(i)(2)(iv)(A) was begun through the date of export. This requirement would insure that the stallion does not become affected with CEM at any time during the procedure in § 92.2(i)(2)(iv) (A)–(C) and through the date of exportation.

As stated above, the certificate accompanying the stallion must, among other things, state that the salaried veterinary officer of the National Government of the country of origin supervised the topical treatment and specimen collecting procedures set forth in § 92.2(i)(2)(iv) (A) and (B). the Department intends that such veterinary officer be physically present to supervise the topical treatment and specimen collection procedures which would be required by § 92.2(i)(2)(iv) (A) and (B). The Department would require the certification to insure that the procedures in § 92.2(i)(2)(iv) (A) and (B) have in fact been complied with.

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Mares have not been included in § 92.2(i)(2)(iv) because it has been determined by the Department that the requirement for a series of three negative cultures for CEM collected at intervals of 7 days from specified anatomical sites of mares used for breeding purposes does not provide satisfactory assurance that female (mares) horses used for breeding are free of the contagion of CEM.

Most mares, when exposed to the CEM organism develop the disease, shed the organism, and exhibit clinical signs of the disease, usually for not more than 5 to 15 days after infection. It has also been determined that certain mares are known to become asymptomatic carriers of the disease. Extensive culturing conducted with known asymptomatic infected mares has produced such variable results that the procedure cannot be considered to have satisfactory precision to identify all carrier mares.

Serological tests have also been developed and conducted on samples obained from infected mares. It has not been possible to consistently obtain a positive reaction to the serological test for disease confirmation purposes for a period of more than 15 to 40 days after infection. Due to the physiological changes in the system of a mare infected with the CEM organisms, it is not possible with present technology to detect the infection with precision in a mare at any given time. Therefore, the Department has determined that only those female horses that meet all of the requirements in § 92.2(i)(2)(iii) may be imported into the United States.

Section 92.2(i)(2)(iii) of the regulations provides for the permanent entry of horses into the United States from the United Kingdom, Ireland, and France which are countries affected with CEM if such horses are accompanied by an import permit and a certificate stating that the horses have not been on any breeding premises since reaching 2 years of age, and that three negative cultures for CEM were obtained from specified anatomical locations of each horse at intervals of no less than 7 days with the last negative culture test conducted within 30 days of the date of exportation.

In § 92.2(i)(2)(iii)(C) the phrase "male colts and stallions" would be deleted and the phrase "stallions over 731 days of age" would be substituted therefor. This change is for clarity only. Presently, male colts not more than 731 days of age, among other horses, are eligible for importation from countries listed in § 92.2(i)(1) under § 92.2(i)(2)(ii) as weanlings or yearlings whose age is certified on the import health certificate. These horses would remain eligible for importation under § 92.2(i)(2)(ii) but would no longer be eligible for importation under § 92.2(i)(2)(iii)(C). Since § 92.2(i)(2)(ii) contains fewer requirements for importation than § 92.2(i)(2)(iii)(C), the Department believes that this proposed change would not constitute a substantive change in an importer's ability to import male colts not more than 731 days of age from countries listed in § 92.2(i)(1). This proposal would continue to allow the importation of those stallions over 731 days of age which meet the requirements of § 92.2(i)(2)(iii).

Section 92.17 of the regulations (9 CFR Part 92.17) requires, among other things, that horses imported from any part of the world be accompanied by a certificate showing that such horses have not been in any country listed in § 92.2(i)(1) as affected with CEM during the 12 months immediately prior to their importation into the United States. Horses which are imported from countries listed in § 92.2(i)(1) under the exemptions in §§ 92.2(i)(2)(i) and 92.2(i)(2)(iii), are presently exempt from the requirement that the certificate accompanying them show that the horses have not been in any country listed in § 92.2(i)(1) during the last 12 months immediately prior to their importation into the United States.

This proposal would provide that horses imported from countries listed in § 92.2(i)(1) under the exemptions in § 92.2(i)(2)(ii) and proposed § 92.2(i)(2)(iv) would also be exempt from the requirement that the certificate accompanying them show that the horses have not been in any country listed in § 92.2(i)(1) during the last 12 months immediately prior to their importation into the United States.

The reason that such horses should be exempt from that requirement is that they appear to present no risk of spreading CEM. Therefore, there does not appear to be any reason for prohibiting the importation of such horses on the grounds that the certificate accompanying them indicates that they have been in a country listed in § 92.2(i)(1) during the last 12 months immediately prior to their importation into the United States.

Section 92.17 of the regulations now refers to exemptions in § 92.2(i)(2)(iv); however, that reference was a typographical error. It should refer to § 92.2(i)(2)(iii). The error is being corrected by this proposal.

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 92.2, paragraph (i)(2)(iii)(C) would be amended to read:

§ 92.2 General prohibitions: Exceptions.

* * * * *

(i) * * *

(2) * * *

(iii) * * *

(C) For stallions over 731 days of age, that three negative cultures were conducted from specimens collected from each of the surfaces of the urethral fossa, the urethra, and the penile sheath for each culture at intervals of no less than 7 days, and that the last of these tests was conducted within 30 days of the date of exportation; and * * *

* * * * * *

2. In § 92.2, paragraph (i)(2)(iv) would be added to read:

* * * * * *

(i) * * *

(2) * * *

(iv) Any stallion over 731 days of age imported for permanent entry, if such stallion is accompanied by a certificate which contains the information required by § 92.17, is signed by a salaried veterinary officer of the national government of the country of origin and, in addition, states that:

(A) On 5 consecutive days the prepuce, penis, including the fossa glandis, and urethrual sinus of the stallion described on the certificate were aseptically cleaned and washed (scrubbed) while in full erection with a solution of not less than 2% chlorhexidine and were then thoroughly coated (packed) with an ointment of not less than 0.2% nitrofurazone under the supervision of the veterinary officer signing the certificate;

(B) After an interim of 7 days following the fifth consecutive day of scrubbing and packing requried in (A), three separate sets of three specimens each were collected from the stallion described on the certificate, at intervals of not less than 7 days between the collection of each set, from the surface of the fossa glandis, urethral sinus and the penile sheath respectively, under the supervision of the veterinary officer signing the certificate and that all of the 9 specimens collected were cultured negative for CEM in a laboratory approved to culture for CEM by the National Veterinary Service of the country of origin;

(C) The last of the three sets of specimens collected in (B) was cultured negative for CEM within 30 days of the date of export of the stallion described on the certificate; and

(D) The stallion described on the certificate was not used for natural or

artificial insemination breeding from the time the 5 consecutive days of scrubbing and packing procedure was begun through the date of export.

3. In § 92.17, that part of the first sentence after the fourth semicolon and before the fifth semicolon would be amended to read:

§ 92.17 Horses, certification and accompanying equipment.

* * *; and except as provided in § 92.2(i)(2) (i), (ii), (iii), and (iv), the horses have not been in any country listed in § 92.2(i)(1) as affected with CEM during the 12 months immediately prior to their importation into the United States; * * *

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 821, Hyattsville, Maryland 20782, during regular hours of business (8 a.m. to 4 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301–436–8695.

Done at Washington, D.C., this 27th day of July 1979.

E. A. Schilf,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79–23883 Filed 8–2–79; 8:45 am]

BILLING CODE 3410–34–M

[9 CFR Part 113]

Viruses, Serums, Toxins, and Analogous Products; Revision of Erysipelothrix Rhusiopathiae Bacterin Potency Test

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would revise the potency test in the standard requirement for Erysipelothrix Rhusiopathiae Bacterin by amending the test procedures for 2 ml dose products and by amending the statistical method that is used to judge the validity of test results. The procedure for interpretation of test results would also be amended.

When serials of bacterin with very high potency are tested by the present standard requirement, the test is often judged to be invalid because of the statistical procedure that is used. This amendment would provide a simplified statistical procedure for judging test validity that is considered to be more appropriate for this purpose and would eliminate the problem of retesting that occurs when such serials of product are tested. It would also update the interpretation of results so that they would be consistent with the new validity test procedure and provide a more consistent and valid test procedure for the testing of 2 ml dose products.

DATE: Comments must be received on or before October 2, 1979.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulation to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:
Dr. R. J. Price, 301–436–8245.

SUPPLEMENTARY INFORMATION: The present standard requirement for Erysipelothrix Rhusiopathiae Bacterin contains a potency test that consists of a vaccination-challenge test which is conducted in mice. In this test, the number of mice protected by the test bacterin is compared to the number of mice protected by a standard reference bacterin. Before such comparisons can be made, however, test data must be evaluated to determine if the results are statistically valid. The statistical procedure that is used for this determination in the present standard is complex and does not provide the flexibility that is needed to make a proper determination when the potency of the test bacterin greatly exceeds the potency of the standard reference bacterin. When such products are tested, results are often determined to be statistically invalid when they should be considered to be satisfactory. Since product must be satisfactory by a valid test before it is released for marketing, these invalid tests require numerous retests for product that should be considered satisfactory. This amendment would simplify the statistical procedures used to determine the validity of results and provide a procedure that is more appropriate for this test. This new procedure would provide for proper evaluation of results when very high potency product is tested and thus avoid the unnecessary retesting that occurs when using the present procedure. Some editorial changes would also be made to update the interpretation of results for this test so that they would be consistent with the validity test procedures.

The present standard requirement requires that bacterins with a 2 ml recommended dose for swine be diluted 1:2.5 with physiological saline solution and then tested the same as a bacterin with a 5 ml recommended dose. This amendment would revise this procedure and require that a mouse dose for the test be ⅒ of the least dose recommended on the label for swine. This new procedure would eliminate unnecessary dilution of 2 ml dose products and provide for more valid and consistent test results.

Section 113.104 would be amended by revising the introductory portion of paragraphs (d)(1), (d)(2), (d)(4), and (d)(5) and deleting subparagraphs (d)(4) (i), (ii), (iii), (iv), and (v) to read:

§ 113.104 Erysipelothrix Rhusiopathiae Bacterin.

* * * * *

(d) * * *

(1) A mouse dose in this test shall be ⅒ of the least dose recommended on the label for swine. Such swine dose shall not be less than 1 ml. At least three threefold dilutions shall be made with the Standard and the same threefold dilutions shall be made with the Unknown. Dilutions shall be made with physiological saline solution.

(2) For each dilution of the Standard and each dilution of the Unknown, a group of at least 10 mice, each weighing 16–20 grams shall be used. Each mouse in a group shall be injected subcutaneously with one mouse dose of the appropriate dilution.

* * * * *

(4) Test for valid assay: At least two dilutions of the Standard shall protect more than 0 percent and two dilutions shall protect less than 100 percent of the mice injected. The lowest dilution of the Standard shall protect more than 50 percent of the mice. The highest dilution of the Standard shall protect less than 50 percent of the mice.

(5) Determine the total number of surviving mice in three consecutive dilutions of the Standard that satisfy validity requirements of subparagraph (4). Determine the total number of surviving mice in the same three dilutions of the Unknown. If the total number of survivors for the Standard exceeds the total number of survivors for the Unknown by a number greater than six, the Unknown is unsatisfactory.

* * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 25th day of July 1979.

Note—This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." Under those criteria, this action has been designated for Agency oversight. A Draft Impact Analysis Statement has been prepared and is available from Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, Hyattsville, MD 20782.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79–23602 Filed 8–2–79; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 545 and 563]

[No. 79–401]

Federal Savings and Loan System; Insurance of Accounts; Securing Eurodollar Deposits

July 26, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed amendments.

SUMMARY: These proposed amendments would authorize Federal savings and loan associations to give security for marketable certificates of deposit if such deposits are Eurodollar deposits and would permit FSLIC-insured institutions, where authorized by State law, to give security for Eurodollar deposits. Eurodollar deposits are deposits by persons who are not United States nationals or residents of the United States of America, its territories and possessions, including any corporation or other entity organized under the laws thereof or any political subdivision thereof. The giving of security for such deposits would assist in enabling the savings and loan industry to take advantage of international financing sources. In view of the current rate of return in the Eurodollar market, such financing would be a cost-competitive alternative source for associations.

DATE: Comments must be received by October 1, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:
Douglas P. Faucette, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Telephone number (202) 377–6410.

SUPPLEMENTARY INFORMATION: These amendments would amend Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) by adding a new § 545.24–4 and by amending § 545.24 and would amend Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) and by amending §§ 563.3–3(g) and 563.7–2.

New § 545.24–4 would authorize Federal savings and loan associations to collateralize or secure savings deposits issued pursuant to § 545.1–4 only if such deposits are made by nonresident aliens. Sections 563.3–3(g) and 563.7–2 would permit Federal Savings and Loan Insurance Corporation insured institutions, where State law authorizes the securing of savings deposits, to issue marketable certificates of deposit which are secured.

The statutory authority for permitting Federally-chartered savings and loan associations to secure savings accounts is section 5(b)(2) of the Home Owners' Loan Act of 1933, as amended. This section confers upon the Bank Board an express statutory authority to authorize the giving of security, either by regulation or advice in writing. The regulatory precedent for permitting the giving of security for a savings account was established when the Bank Board authorized the securing of public unit accounts in December of 1974 by adding § 545.24–2 to the Federal Regulations. The Bank Board authorized the giving of security for public unit accounts in order to afford savings and loan associations the same authority which other financial institutions had and thereby the ability to fairly compete for such deposits.

The extension of the right of savings and loan associations to give security for savings accounts to include Eurodollar savings deposits has the potential to enable the industry to find new sources of funds. Collateralized savings accounts could prove particularly important to the savings and loan industry, which currently lacks the legal authority allowed commercial banks to establish foreign branches and off-shore subsidiaries, which are able to attract foreign deposits.

Due to the unfamiliarity of European investors with the United States savings and loan industry, the ability of many, if any, associations to effectively market certificates of deposit on an unsecured basis is questionable. Thus, in order to facilitate the marketing of the Eurodollar certificates, the proposed regulations would permit the certificates to be secured. However, institutions could secure Eurodollar certificates only if in the aggregate the assets of the issuing association securing these certificates of deposit, outstanding certificates of deposit, and all borrowings from sources other than the Federal Home Loan Banks or a State chartered central reserve institution do not exceed 20 percent of the issuing association's total assets at the time of issuance of the certificates.

Under the proposed regulations, savings and loan associations could issue certificates of deposits in denominations of $100,000 or more to a foreign purchaser, who, in turn, could issue to non-United States purchasers only, through intermediaries, interests or participations in smaller denominations. However, the proposed regulations would establish a minimum participation interest level of $10,000. The participations would mirror the characteristics of the certificates of deposits with respect to maturity, interest rate, and the nature of the secured interest.

The proposed regulations provide rules related to the nature of the collateral securing the certificates, and also set forth procedures for limiting the beneficial ownership of these certificates to non-resident aliens.

As savings accounts, the certificates of deposit would be insured but only to the extent of $40,000. Each participation would not be a separate insurable account, but would be insured only for the portion equal to the ratio of $40,000 to the amount of the entire certificate. As insured accounts, the certificates of deposit would be subject to the payment of insurance premiums, and also to the limitation that only 5 percent of the total of all savings accounts in an institution may be solicited by use of any broker or brokers.

The proposed regulations demonstrate a continuing commitment to the well-articulated Bank Board policy of assisting the savings and loan industry develop new capital markets to meet its capital needs. Thus, to assist the industry in reaching a new capital market at a cost-competitive rate and

thereby raise new funds for housing, the Bank Board proposes to permit the securing of Eurodollar deposits.

The section numbers referred to in this proposed regulation are based on the amended Rules and Regulations for the Federal Savings and Loan System which were adopted May 31, 1979, and published in the **Federal Register** July 3, 1979 (44 FR 39108–39149), to be effective August 3, 1979.

Accordingly, the Bank Board hereby proposes to amend 12 CFR Parts 545 and 563 by adding a new § 545.24–4 and amending §§ 545.24, 563.3–3(g) and 563.7–2, as set forth below.

PART 545—OPERATIONS

1. Amend the last sentence of § 545.24 by inserting immediately before the period the following: "and § 545.24–4".

2. Add new § 545.24–4 as follows:

§ 545.24–4 Eurodollar deposits.

(a) *Definitions.* As used in this section:

(1) "Certificate" means any and all certificates of deposit issued pursuant to § 545.1–4, and any and all interests or participations therein;

(2) "Eurodollar deposits" means deposits by persons who are not United States nationals or residents of the United States of America, its territories and possessions, including any corporation or other entity organized under the laws thereof or any political subdivisions thereof;

(3) "United States person" means any national or resident of the United States of America, its territories and possessions, including any corporation, trust, estate, or other entity organized under the laws thereof or of any political subdivision thereof.

(b) *General.* A Federal association which is a deposit association within the meaning of that term as used in § 545.1–2 may give security for deposits authorized by § 545.1–4 if such deposits are Eurodollar deposits, notwithstanding any other provision of this part.

(c) *Limitations.* (1) A Federal association issuing certificates of deposit pursuant to § 545.1–4 may secure these certificates under this section only if in the aggregate the assets of the issuing association securing these certificates of deposit, outstanding certificates of deposit, and all borrowings from sources other than the Federal Home Loan Banks or a state-chartered central reserve institution do not exceed 20% of the issuing association's total assets at the time of issuance of the certificates.

(2) The minimum denomination of all interests or participations in certificates of deposit issued pursuant to this section shall be $10,000.

(3) At the time of issuance, the collateral pool securing the certificates of deposit shall be fixed and composed of whole mortgages upon real estate; thereafter it may also contain other securities.

(4) There shall be no provision for mandatory substitution or addition or supplemental payments to the collateral pool. However, the association and holders of the certificates of deposit may agree that: (i) The association may, in its discretion and without requirement by the holders of the certificates of deposit or trustee, choose to substitute for the pool collateral any collateral having at the time of substitution a market value not in excess of the current market value of collateral withdrawn from the pool, and such substitution may be made subject to acceptance by holders of the certificates of deposit or trustees; and (ii) an amount no greater than the accumulated principal repayment from mortgages or other securities in the collateral pool may be replaced in the pool in the form of mortgages or other securities, with the value of the replacement securities based on their market value at the time of replacement.

(5) The collateral pool securing the certificates of deposits shall be subject to sale or other disposition by or on behalf of the secured certificate holders only after the Federal Savings and Loan Insurance Corporation has received prompt written notification of any default on the certificates of deposit, and, before a sale or other disposition of all or any portion of the collateral, has had 30 days after written notice of a proposed sale or other disposition to exercise a right to purchase the collateral at the price to be paid at the sale or to acquire the collateral at the value to be assigned to it in such other disposition.

(6) In exercising authority under this section, a Federal association shall require in writing an undertaking from purchasers of the certificates who are dealers or underwriters, to the effect that each dealer or underwriter will not purchase or allot any certificates for the account of United States persons and that they have not offered or sold, and agree that they will not offer, sell or deliver, any certificates purchased by them or allotted to them in the United States of America or to any United States person. Each dealer or underwriter shall further agree that they will not, as principal or as agent, make any offers, sales or deliveries of any certificates in the United States of America or to any United States person or to others for offering, resale or delivery, directly or indirectly, in the United States or to any United States person.

(7) Each underwriter shall also agree to deliver to each purchaser of one or more certificates from them a written confirmation stating substantially the following:

> The Certificate(s) have been issued pursuant to a regulation of the Federal Home Loan Bank Board which requires that the Certificate(s) or any interest or participation therein be sold only to purchasers who are not U.S. persons. Accordingly, if you are not a dealer, you agree that you will not offer, sell or deliver such Certificate(s) directly or indirectly in the United States of America or its territories or possessions or to nationals or residents thereof, including any corporation, trust, estate or other entity organized under the laws thereof or of any political subdivision thereof. If you are a dealer, you represent that you have not offered, sold or delivered, and agree that you will not offer, sell or deliver, any such Certificate(s) directly or indirectly in the United States of America or its territories or possessions or to nationals or residents thereof and you are not purchasing any such Certificate(s) for the account of any such nationals or residents. Further, if you are a dealer, you agree that you will include on any confirmation delivered to purchasers of such Certificate(s) (a) if such purchaser is not a dealer, the first two sentences of this paragraph, and (b) if such purchaser is a dealer, this entire paragraph.

(8) Upon completion of the distribution of any certificates issued pursuant to this section the lead or managing underwriter shall deliver to the issuing association a certification as to the sale stating substantially the following:

> This is to certify that to the knowledge of the undersigned no beneficial owner or owners of the Certificate(s) is a United States person; and, further, that the undersigned has not sold or offered for sale and will not sell or offer for sale, the Certificate(s) to any United States person.

(9) To the extent beneficial ownership of a certificate of deposit or participation or interest therein is acquired by a United States person the return payable thereon will be the rate of return payable on a regular passbook account from the time ownership is acquired by the U.S. person. Each underwriter, dealer, trustee and agent, if any, shall undertake in writing, prior to issuance of any certificates, that it will promptly inform the issuing association of any such beneficial ownership. The issuing association shall take the necessary and appropriate action to insure that the interest paid on a account beneficially owned by a United States person is at the rate of return payable on a regular passbook account.

(d) *Requirements as to certificates.* Each certificate, including a temporary certificate, evidencing a certificate of deposit or any interest or participation therein which is secured pursuant to this section shall bear on its face, in boldface type, the following legend:

> This Certificate has been issued pursuant to a regulation of the Federal Home Loan Bank Board which requires that the Certificate be sold, and interest at the amount stated hereon paid, only to purchasers who are not United States nationals or residents and may not be directly or indirectly offered or sold in the United States of America, in its territories or possessions, or to persons who are nationals or residents thereof.

(e) *Requirements as to coupons.* Each coupon attached to a certificate shall bear the following legend:

> To the extent beneficial ownership of the Certificate is acquired by a United States national or resident of United States of America or its territories and possessions, including any corporation or other entity organized under the laws thereof or any political subdivision thereof, the return payable thereon will be the rate of return payable on a regular passbook account.

(f) *Relationship to other provisions.* The provisions of § 545.24 and § 545.1–2 which prohibit the giving of security for any savings accounts shall not be applicable to a marketable certificate of deposit which is in conformity with this section.

PART 563—OPERATIONS

3. Amend the last sentence of § 563.3–3(g) to read as follows and insert thereafter the following sentence:

§ 563.3–3 Marketable fixed-rate, fixed-term accounts.

* * * * *

(g) *Ancillary provisions.* * * * No savings account shall be accepted pursuant to the approval granted by this section and no certificate shall be issued pursuant to such approval, except as provided in the last sentence of this paragraph, if such acceptance or such issuance is accompanied by the giving by the insured institution of security for such savings account or such certificate or by any contract or agreement for the giving of any such security by such institution. An insured institution may accept an account which is secured, provided that with respect to such account the institution complies, as if it were a Federal association, with the requirements of § 545.24–4.

* * * * *

4. Amend the first sentence of § 563.7–2 to read as follows:

§ 563.7–2 Form, return, and maturity of securities.

Securities of any insured institution which are (a) in conformity with § 563.3–1, § 563.3–2, § 563.8–1, § 545.24 or § 545.24–4 of this chapter, (b) issued in connection with any borrowing which is in conformity with § 563.8.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1728, 1730. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 79-24128 Filed 8-1-79; 2:52 pm]

BILLING CODE 6720-01-M

CIVIL AERONAUTICS BOARD

[14 CFR Part 312]

[PDR-56A; Docket No. 32602; Dated: July 30, 1979]

Implementation of the National Environmental Policy Act of 1969; Proposed Reissuance of the Part

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to revise the CAB's environmental regulation to adjust for the Board's new policies and experience gained since the regulation was first adopted and take into account the Council on Environmental Quality's new regulations. This rulemaking was initiated by an Advance Notice of Proposed Rulemaking issued in response to a petition for rulemaking filed by National Airlines.

DATES: Comments by October 2, 1979.

ADDRESSES: Twenty copies of comments should be sent to Docket 32602, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Comments may be examined in Room 711 at the address above as they are received. Individuals may submit their views as consumers without filing multiple copies.

FOR FURTHER INFORMATION CONTACT: Steven Rothenberg (202) 673–5858; Laurence J. Aurbach (202) 673–5858; or Arnold G. Konheim (202) 673–6089, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In PDR–56[1] we announced our intention to revise our environmental regulation to adjust for our recent policy initiatives and conform to the Council on Environmental Quality's (CEQ) new regulations. Our Advance Notice of Proposed Rulemaking cited the problems that multiple permissive awards create in forecasting traffic as one reason for amending Part 312. The Notice stated that by postponing the issuance of a proposed rule we would also be able to (1) take advantage of experience gained in dealing with environmental issues then before us and (2) combine the amendments related to the Board's new policies with those necessary to conform Part 312 with CEQ's regulations.

The proposed revision is also necessary to make Part 312 consistent with the revisions to our mandate made by the Deregulation Act of 1978, Pub. L. 95–504. The Deregulation Act eases entry into new markets and reduces the Board's role in the regulation of fares. These changes make part of the Board's functions ministerial, thereby reducing the Board's discretionary control over the environmental implications of individual actions. This new regulatory framework calls for increased attention to the cumulative impact of Board actions and diminishes the need for detailed studies of individual actions.

Our proposed revision uses both CEQ's regulations and our experience with Part 312 to simplify our environmental procedures while providing maximum assurance that our decisions are consistent with the National Environmental Policy Act (NEPA). The proposed revision streamlines Part 312 to make it easier to comprehend and also includes all of the safeguards that CEQ has indicated are needed to protect the environment.[2]

One change made by the proposed revision is the elimination of the requirement that applicants for route authority and certain other Board actions file environmental evaluations. While those evaluations greatly facilitated the Board's environmental analyses when Part 312 was first adopted, their value has diminished substantially in recent months. Environmental evaluations, which were usually based on the assumption that only one carrier would be awarded new authority, became less useful in predicting the environmental impact of Board actions as the Board began to consider awarding multiple authority in more of its route proceedings. It was this problem which led National Airlines to petition us to amend Part 312. Even if

[1] 43 FR 38025, August 25, 1978.

[2] We should note that while we, as an independent agency, are not bound by CEQ's regulations, we have drafted our rules to conform with them. We have used them as a model for our Part 312 because we desire to assure that our procedures provide the greatest possible protection of the environment.

those evaluaitons were based on the assumption that multiple awards will be granted, they are not a reliable indicator of the change in the total number of operations which will result from a Board action since they disregard the incumbents' response to the awards.

More importantly, however, we have used environmental evaluations submitted by carriers in nearly one hundred formal cases and many more other actions since Part 312 was adopted and have found only five route proceedings where an environmental impact statement was required. In three of those cases we prepared our own independent analysis of the proposed action because the proceeding involved the possibility that multiple awards would be made in a large number of markets.[3] Close scrutiny of environmental effects was desirable because of the novelty of the free entry policy at that time. Another case involved first time jet service to a noise sensitive environment, a situation that does not arise often.[4] And the fifth pertained to an agreement among some air carriers to limit and allocate frequencies in certain transcontinental markets, an action not likely to be repeated in the future.[5] Although the evaluations may have been useful in our early learning days, we think they have served their purpose and should no longer be routinely required. By eliminating the need for applicants to submit them we will reduce the amount of paperwork to which applicants are subjected.

The elimination of the filing of environmental evaluations does not constitute a lessening of our vigilance to examine environmental matters. On the contrary, we are proposing increased vigilance in three ways. First, we are increasing the general public's participation in the process of deciding whether an impact statement should be prepared. The proposed revision includes a new section which invites any member of the public to present the Board with information believed to demonstrate that a proposed action may significantly affect the environment.[6] Section 312.8 serves to maximize public participation by providing that the responsible official shall mail notices of proposed Board actions likely to be highly controversial on environmental grounds to those who may have an environmental interest in the proceeding. The revision encourages the public to become involved earlier in the environmental process.

Second, we will permit a person submitting evidence to calculate environmental impact in any reasonable way.[7] Persons submitting environmental information are free to define the proposed action to include any number of reasonably foreseeable individual actions in order to allow an evaluation of the cumulative impact of Board actions. This should facilitate the use of methodologies more suited to the task at hand and will avoid the need for environmental intervenors to justify their departure from any established Board methodology.

Finally, the proposed revisions will expand the information base available to the Board by giving our staff members responsible for preparing environmental assessments and environmental impact statements express authority to require carriers to submit whatever information is needed to prepare the environmental document. By limiting the carriers' obligation to supply information to those cases in which the responsible official has determined that an impact statement or assessment is required, the proposed revisions reduce the burden on applicants without preventing the Board from securing information necessary to do a meaningful analysis.

Perhaps the most significant revision is contained in § 312.6, which states that the only cases which normally require the preparation of an environmental impact statement or assessment are those (1) involving first time service to an airport, (2) involving first time jet, SST, helicopter or V/STOL service to an airport and (3) in which the responsible official finds, based on information submitted by the public and otherwise available, that the proposed action may significantly change the scope of operations at an airport or otherwise have a significant impact on the environment. This section, in effect, creates a rebuttable presumption that none of the Board's actions, other than authorization of first time service and first time authorization of specified types of equipment, significantly affect the environment. As we noted above, we believe that our experience justifies this presumption.

It should be emphasized that our proposed environmental regulations do not supplant our companion responsibility to consider environmental matters as an element of the public convenience and necessity. See *Palisades Citizens Association* v. *CAB*, 420 F.2d 188 (D.C. Cir. 1969). In one case, for example, the Board elected to place a restriction on the noise levels of aircraft a carrier could employ despite the agreement of all parties that the case did not involve a major Federal action significantly affecting the environment.[8]

We are confident that the proposed revision, with its encouragement of increased public participation, will enable us to identify the need for an environmental impact statement or assessment in important cases in the future. Allowing the public to submit evidence based on the cumulative impact of Board actions will also allow us to identify other Board actions where environmental impacts deserve a closer look.

We would also note that we are currently in the process [9] of preparing an Environmental Impact Statement assessing the environmental consequences of adopting a policy of granting domestic route authority to all qualified applicants. If, in preparing that impact statement, reviewing information submitted by the public or analyzing the impacts of our other actions, we discover additional areas which warrant more intensive study we will supplement the requirements of Part 312 and undertake whatever analyses are required by NEPA.

In addition, we will continue to make our staff available to airport proprietors who desire assistance in fulfilling their responsibility to mitigate the environmental impact of operations at their airport in a reasonable, non-discriminatory manner and without unduly burdening interstate or foreign commerce. Our data base, forecasting expertise and familiarity with the types of restrictions that may legally be imposed by airport proprietors enables us to work with proprietors to assure that the restrictions they adopt will both protect the local environment and be consistent with national public interest considerations.

Proposed Rule

The Civil Aeronautics Board proposes to revise Part 312 to Chapter II, Title 14, Code of Federal Regulations, to read as follows:

[3] See *Oakland Service Case*, Docket 30699 *Chicago-Midway Low-Fare Route Proceeding*, Docket 30277, and *Caribbean Area Service Investigation*, Docket 30697.

[4] See *Lake Tahoe Service Investigation*, Docket 29000.

[5] *Capacity Reduction Agreements Case*, Docket 22908.

[6] Part 312.8.

[7] We are proposing to eliminate the noise and air pollutant screening tests which we have been using to make our initial determinations regarding environmental impact. Those tests have been the subject of much criticism and are not well adapted to the current regulatory environment. We are, however, in the process of developing new procedures to help us in making this initial determination. We will publish a notice proposing to add those new procedures to this regulation when they are sufficiently developed.

[8] See Applications of Colonial Airlines, Orders 78-6-183/184 and 78-8-116.

[9] See 43 FR 59864, December 22, 1978.

PART 312—IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Subpart A—General Provisions

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312.1 Purpose
312.2 Relationship to other Statutes and proceedings in progress.
312.3 Waivers or exemptions.

Subpart B—Designation of Responsible Officials

312.4 Designation of Responsible Officials.

Subpart C—Environmental Procedures

312.5 Actions which normally require the preparation of an environmental impact statement.
312.6 Actions which normally require the preparation of either environmental impact statement or an environment assessment.
312.7 Actions which normally do not require the preparation of an environmental impact statement or an environmental assessment.
312.8 Public participation.
312.9 Initial determination with respect to environmental impact.
312.10 Environmental assessments.
312.11 Environmental impact statements.
312.12 The use of environmental documents in Board decisionmaking.
312.13 Obtaining information and status reports on the NEPA process.

(Sections 204 and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat 743 and 788, 49 U.S.C. 1324 and 1482; the National Environmental Policy Act of 1969, 83 Stat. 352 *et seq.*, 42 U.S.C. 4321 *et seq.*; and Executive Order 11514.)

PART 312—IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Subpart A—General Provisions

§ 312.1 Purpose.

The purpose of this regulation is to provide a framework for compliance by the Civil Aeronautics Board (CAB or Board) with the National Environmental Policy Act (NEPA), 83 Stat. 852, 42 U.S.C. section 4321, et. seq.

§ 312.2 Relationship to other statutes and proceedings in progress.

(a) *Other statutes.* Findings concerning environmental impacts required by other statutes will be incorporated in the environmental impact statement or finding of no significant impact whenever possible.

(b) *Proceedings in progress.* This regulation governs all proceedings in which an environmental document has not been issued prior to the effective date of the regulation. All other proceedings will be governed by the procedures set forth in the previous Part 312 of the Board's Regulations. In neither case, however, shall the provisions of this paragraph relieve any person from complying with Board orders, rulings of an administrative law judge or requests by the responsible official directing the submission of environmental impact data.

§ 312.3 Waivers or exemptions.

The Board or the responsible official may, upon application of any interested person or upon its own initiative, grant such waivers or exemptions from the regulations of this part, including changes in the time allowed for filing evidence, as it determines are authorized by law and otherwise in the public interest.

Subpart B—Designation of Responsible Officials

§ 312.4 Designation of Responsible Officials.

(a) Each Bureau director shall be responsible for:

(1) Preparing necessary environmental documents, and otherwise complying with NEPA, when acting under authority delegated by the Board; and

(2) Preparing necessary environmental documents, and otherwise complying with NEPA, for all other Board actions within their jurisdiction.

(b) Overall review of agency NEPA compliance shall be the joint responsibility of the General Counsel and the Director of the Office of Economic Analysis.

Subpart C—Environmental Procedures

§ 312.5 Actions which normally require the preparation of an environmental impact statement.

There are no Board actions which normally require the preparation of an environmental impact statement.

§ 312.6 Actions which normally require the preparation of either environmental impact statement or an environment assessment.

Actions which normally require the preparation of either an environmental impact statement or an environmental assessment are those that allow Board discretion and which:

(a) Involve first time service to an airport:

(b) Involve first time jet, SST, helicopter or V/STOL service to an airport; or

(c) The responsible official finds may signficantly change the scope of operations at an airport or otherwise significantly affect the environment.

§ 312.7 Actions which normally do not require the preparation of an environmental impact statement or an environmental assessment.

(a) Except in extraordinary circumstances, actions which do not require the preparation of an environmental impact statement or an environmental assessment are those:

(1) In which the Board' role is ministerial, such as registering air taxis and air freight forwarders and granting dormant authority or automatic market entry;

(2) Having an impact primarily on points outside of the United States, unless they signficantly affect the environment of

(i) Global commons,

(ii) A foreign nation not participating in the action, or

(iii) Ecological or natural resources designated for protection by the President or Secretary of State;

(3) Taken to enforce existing laws or regulations;

(4) Approving or establishing carrier fares or rates;

(5) Approving a carrier agreement, acquisition of control, merger, consolidation or interlocking relationship;

(6) Determining essential air service, subsidy eligibility, or subsidy need under section 419 of the Act;

(7) Authorizing carriers to serve airports already receiving the type of service authorized;

(8) Authorizing operations by air taxis, commuter air carriers or Canadian air carrier transborder operations with small aircraft;

(9) Authorizing operations for a period of two years or less or granting other emergency or temporary authority; and

(10) Authorizing a suspension or termination of service.

(b) If the responsible official finds that any of the actions listed above will significantly change the scope of operations at an airport or otherwise significantly affect the environment in the United States, he or she shall initiate the preparation of an environmental impact statement or environmental assessment.

§ 312.8 Public participation.

To maximize the public's involvement in the Board's consideration of the environmental implications of its actions

(a) The responsible offical shall notify those who may have an environmental interest in a Board proceeding of proposed actions that may be highly

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controversial on environmental grounds. Whenever possible, this shall include actual notice by mail to the Environmental Protection Agency, state and local agencies and clearinghouses, and known private environmental groups in the affected area;

(b) Any person may present the Board with any information believed to demonstrate that a proposed Board action or group of actions will significantly affect the environment. Such submissions must be filed with any timely filed responsive document authorized by Part 302 of the Board's Procedural Regulations or as specified by the Board or responsible official. Persons submitting evidence pursuant to this paragraph should state:

(1) The source of the information relied upon,

(2) Any assumptions used and the justification for using those assumptions, and

(3) The base period to which the proposed action is being compared. The base period should be one which does not include unusual factors such as strikes, economic recessions, equipment shortages or other unusual circumstances. The proposed action may be defined to include a group of individual actions in order to allow evaluation of the cumulative impact of Board actions.

§ 312.9 Initial determination with respect to environmental impact.

(a) After an application is filed requesting Board action and the public has had an opportunity to submit evidence concerning the environmental impact of the proposed action, the responsible official shall make an initial determination with respect to environmental impact. If the responsible official determines that additional information is necessary to make this determination, he may require the applicant or other person with relevant information to supply him with such information. If the responsible official determines that the action falls within one of the categories in § 312.7(a) and that there is no basis for finding that it will significantly affect the environment, he need take no further action.

(b) Environmental assessments and impact statements. If the responsible official determines that the proposed action may have a significant impact on the environment, he shall initiate the preparation of either an environmental assessment or an environmental impact statement. The responsible official shall notify parties to the proceeding and all persons who submitted environmental evidence that an environmental assessment or impact statement is to be prepared. The responsible official shall also notify the Environmental Protection Agency and the **Federal Register** that an environmental impact statement is to be prepared.

§ 312.10 Environmental assessments.

(a) As soon as the responsible official becomes aware that he is unable to determine, from environmental evidence submitted by the public and other information readily available to him, whether an environmental impact statement should be prepared, he shall initiate the preparation of an environmental assessment to provide him with the additional information necessary to make that determination.

(b) In preparing environmental assessments, the responsible official

(1) May require the applicant or other person with information needed to evaluate the impact of the proposed action to supply him with such information; and

(2) Shall include discussions of the need for the proposal, alternatives to the proposal, the environmental impact of the proposed action and its alternatives, and agencies and persons consulted in preparing the assessment.

(c) Finding of no significant impact. If, after preparing an environmental assessment or receiving environmental evidence from the public, the responsible official concludes that an environmental impact statement need not be prepared, he shall issue a "Finding of No Significant Impact" briefly presenting the reasons why the action will not have a significant impact on the quality of the human environment. The responsible official shall notify all persons who submitted environmental evidence that a Finding of No Significant Impact has been issued.

(d) If, after preparing an environmental assessment, the responsible official concludes that a proposed action will significantly affect the quality of the human environment, he shall initiate the preparation of an environmental impact statement.

§ 312.11 Environmental impact statements.

(a) The responsible official shall begin the preparation of a draft environmental impact statement as soon as possible after he determines that a proposed major Board action or series or actions will significantly affect the quality of the human environment.

(b) In preparing an environmental impact statement the responsible official

(1) May require the applicant or other persons with information needed to prepare the impact statement to supply him with such information;

(2) Shall announce the availability of impact statements by publishing a notice in the **Federal Register** and providing news releases to newspapers and other media in the affected area;

(3) Shall file the draft and final impact statements with the Board's Docket Section and distribute copies of the impact statements as follows:

(i) The administrative law judge and any party or rule 14 participant in the proceeding (1 copy or as directed by the judge);

(ii) EPA (5 copies);

(iii) Federal agencies that have a special expertise or jurisdiction by law with respect to any environmental impacts involved (1 copy);

(iv) State and local agencies authorized to develop and enforce relevant environmental standards (1 copy);

(v) Appropriate State and regional clearinghouses (5 copies);

(vi) The Department of State, where the proposed action may significantly affect the quality of the human environment outside of the United States (1 copy); and

(vii) Any other person requesting a copy (1 copy);

(4) Shall include in each impact statement an explanation of the public's right to appeal the Board's final decision on the proposed action; and

(5) Shall prepare a supplement to the draft or final impact statement if

(i) There is a substantial change in the proposed action,

(ii) Significant new circumstances arise, or

(iii) Significant new information is discovered.

§ 312.12 The use of environmental documents in Board decisionmaking.

(a) To assure that Board decisions are consistent with NEPA, all environmental documents shall:

(1) Be filed in the appropriate docket(s), served upon parties to the proceedings and, if appropriate, transmitted to the administrative law judge and be part of the record in formal rulemaking or adjudicatory proceedings;

(2) Accompany the proposal through the agency review process;

(3) Include all of the alternatives considered by the decisionmaker, when the document includes an evaluation of alternatives to the proposed action; and

(4) Be filed at least fifteen days before that portion of any hearing dealing with the environmental impact of the proposed action.

(b) To further assure that Board decisions are consistent with NEPA, no final action having a significant impact on the environment shall be taken until

(1) At least ninety days after publication in the **Federal Register** of a notice announcing the filing of the draft environmental impact statement; and

(2) At least thirty days after publication in the **Federal Register** of a notice announcing the filing of the final environmental impact statement unless earlier action is required to comply with the Board's statutory mandates.

(c) All initial, recommended and final decisions in proceedings requiring the preparation of an environmental document shall include findings on the environmental impact of the action and its relationship to the decision. The responsible official shall notify the Environmental Protection Agency when a final decision is made on an action for which an environmental impact statement was prepared.

§ 312.13 Obtaining information and status reports on the NEPA process.

(a) Interested persons may obtain information or status reports on environmental documents prepared by the Board by writing to:

Associate General Counsel, Legal Counsel Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

Such requests should identify the proposed action by docket number whenever possible.

(b) Environmental documents will be made available to the public without charge to the extent practicable or at a fee not exceeding actual reproduction costs.

(Secs. 204, 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 788, (49 U.S.C. 1324 and 1482); the National Environmental Policy Act of 1969, 83 Stat. 352 *et seq.*, (42 U.S.C. 4321 *et seq.*); and Executive Order 11514)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23978 Filed 8-2-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 101]

[Docket No. 75N-0232]

Bulk Flavor Labeling: Extension of Effective Date for Compliance

AGENCY: Food and Drug Administration.

ACTION: Notice of Extension of effective date for compliance.

SUMMARY: This notice extends until July 1, 1981, the effective date for compliance with the bulk labeling requirements for all flavor ingredients that appear in reliable industry association composite listings of ingredients regarded as generally recognized as safe (GRAS), and are included by the Food and Drug Administration (FDA) in its food ingredients safety review.

DATE: Compliance by July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Section 101.22(g)(2) (21 CFR 101.22(g)(2)) requires that a flavor consisting of two or more ingredients shipped to a food manufacturer or processor (but not to a consumer) for use in the manufacture of a fabricated food must be labeled to declare the identity of each ingredient or bear the statement, "All flavor ingredients contained in [the] product are approved for use in a regulation of the Food and Drug Administration." Non-flavor ingredients and flavors not approved by a regulation must be listed separately.

The history of § 101.22(g)(2) was summarized in a notice published in the **Federal Register** on February 3, 1976 (41 FR 4954). The effective date of this labeling regulation was extended on February 3, 1976 for all flavors that are listed as being GRAS in a reliable industry association list. The extension was implemented to allow FDA time to review the safety of the flavor ingredients. FDA has recognized, as reliable industry GRAS lists, Flavor Extract Manufacturers' Association (FEMA) GRAS Lists Nos. 3 through 11 which have been published in *Food Technology* and were acknowledged by FDA in the **Federal Register** of February 3, 1976 (41 FR 4954), October 18, 1977 (42 FR 55643), and May 26, 1978 (43 FR 22784)

In the February 3, 1976 notice (41 FR 4954), FDA recognized that the safety evaluation of flavor ingredients could not be completed by July 1, 1979. Additionally, the agency advised that further extension of the deadline for compliance with § 101.22(g)(2) and of reliance on reliable published industry association lists would be announced when appropriate. FDA currently estimates that this safety review will require at least another two years to complete

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the effective date of July 1, 1979 for compliance with paragraph (g)(2) of § 101.22 Foods; labeling of spices, flavorings, colorings and chemical preservatives, as published in the **Federal Register** of February 3, 1976 (41 FR 4954), is extended to July 1, 1981 if the label of the product bears a statement certifying that the ingredients are listed as GRAS in a reliable published industry association list and if FDA has included the ingredients in its safety review of flavor substances.

A list of the flavor substances included in the FDA safety review, and therefore covered by this extension, is available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. The list may be reviewed in this office between 9 a.m. and 4 p.m., Monday through Friday. The list includes the name of the substance and, where appropriate, one or more of the following: The FEMA Scientific Literature Review monograph number, the FEMA GRAS list number, and/or a citation of a regulation in Title 21 of the Code of Federal Regulations (21 CFR).

Dated: July 31, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24115 Filed 8-1-79; 11:57 am]

BILLING CODE 4110-03-M

[21 CFR Parts 173 and 189]

[Docket No. 78N-0208]

Hydrazine; Proposed Removal from Food Additive Use

Correction

In FR Doc. 79-18154 appearing on page 33693 in the issue of Tuesday, June 12, 1979, in the third column of that page,

second line from the bottom, "hydrazine salts" should have read "hydrazine or hydrazine salts".

On page 33694, first column, six lines from the bottom of the first full paragraph, ". . . any human drug. . ." should have read "any human drug product. . ."

In the middle column, in paragraph (b) of § 189.150, ". . . **Federal Register** of August 13, 1979." should have read ". . . **Federal Register** of (insert date of publication of final regulation in the **Federal Register**)."

BILLING CODE 1505-01-M

[21 CFR Part 250]

[Docket No. 78N-0384]

Hydrazine in Human Drug Products; Declaration of New Drug Status

Correction

In FR Doc. 79-18152 appearing on page 33694 in the issue of Tuesday, June 12, 1979, the docket number in the heading should have read "Docket No. 78N-0384" instead of "Docket No. 78-0384".

BILLING CODE 1505-01-M

[21 CFR Part 680]

[Docket No. 79N-0097]

Allergenic Products; Antigen E Potency Test

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the biologics regulations concerning Allergenic Products to require potency, labeling, and lot-by-lot release standards for short ragweed pollen extracts and extracts prepared from equal parts of giant and short ragweed pollen. The proposed amendments would provide a more precise and reliable potency test for these products.

DATE: Comments by October 2, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: Allergenic Products (extracts), which have been licensed since the early 1900's, are administered to humans for the diagnosis, prevention, or treatment of allergies. Current licenses for allergenic extracts prepared from short ragweed pollen require that the potency of the extract be expressed on the label as either a simple ratio of raw source material to volume of extracting fluid (e.g., 1 gram (g) of pollen extracted in 10 milliliters (mL) of extracting fluid would be labeled as a 1:10 extract) or the protein nitrogen units (PNU) of the extracts. A more precise and reliable potency test is now available for measuring allergenic extracts prepared from short ragweed pollen.

Antigen E is the major component in short ragweed pollen. Data from published studies demonstrate the importance of antigen E for the treatment of individuals sensitive to such pollen. Antigen E has been demonstrated to liberate histamine from the peripheral leukocytes of ragweed pollen sensitive individuals, initiating an allergenic reaction (see Refs. 3 through 6). In addition, the potency of allergenic extracts prepared from short ragweed pollen correlate with the antigen E values present in the extracts when measured by reactions of skin tests in allergenic human subjects (see Ref. 2). Accordingly, antigen E is demonstrated to be effective for the immunotherapy of ragweed pollen sensitive individuals and as an indicator to identify such individuals. The antigen E content of commercially prepared short ragweed pollen extracts currently varies significantly (Ref. 1), and the required potency tests do not relate to the antigen E values in the extracts. Consequently, the existing potency test based on the ratio of raw source material to volume of extracting fluid or the PNU of the extracts should be changed to a test based on the antigen E content of the extracts.

The effectiveness of a radialimmunodiffusion test to measure the antigen E content of short ragweed pollen extracts is established as a reproducible assay procedure. On October 6, 1970, the assay procedure was distributed by the Division of Biologics Standards (DBS, subsequently the Bureau of Biologics) to all manufacturers of allergenic extracts. The procedure was also discussed with the Pharmaceutical Manufacturers Association (PMA) in December 1970. The assay procedure was demonstrated and discussed in detail with manufacturers at a workshop held on February 9, 1971. On March 16, 1971, a memorandum was sent by DBS to manufacturers requesting that they submit samples of extracts and the results of their antigen E assays for comparative assay. A second letter was sent on June 15, 1971, to those manufacturers who had not submitted samples with test results, giving them a second opportunity to do so. The results of the collaborative study, demonstrating the reliability and accuracy of the radialimmunodiffusion test for measuring the antigen E content in short ragweed pollen extracts, were distributed to each manufacturer on August 27, 1971. Since then, a number of manufacturers and potential manufacturers have received copies of the assay procedure and samples of the proposed U.S. Reference preparations.

On the basis of the published data and the results of studies performed by the Bureau of Biologics and manufacturers, FDA is proposing to amend the biologics regulations in Part 680 (21 CFR Part 680) by adding a new § 680.4 to Subpart A to require potency, labeling, and lot-by-lot release standards for short ragweed pollen extracts and extracts prepared from equal parts of giant and short ragweed pollen. The potency will be based on the quantity (units/mL) of antigen E present in those extracts compared to a standard preparation with a known quantity of antigen E.

Proposed § 680.4(a) would require the performance of, and detail the procedure for, the radialimmunodiffusion potency test for direct measurement of the antigen E content of each lot of short ragweed pollen extract or extract prepared from equal parts of giant and short ragweed pollen. Under proposed § 680.4(a)(6), an alternative test may be used if it is based on an immunological or physical-chemical test that directly or indirectly measures antigen E and can be demonstrated to give equivalent results. Based on the analysis of many lots of extracts by the Bureau of Biologics, the minimum concentration of antigen E required will be 135 units /mL (1 unit is equal to approximately 1 microgram) for a 1:10 extract.

Proposed § 680.4(b)(1) would require that information on final container and package labels include the antigen E content in addition to either the dry weight of pollen to volume of extracting fluid or PNU value. Because the antigen E will deteriorate if extracts are warmed, proposed § 680.4(b)(2) would require that the package insert recommend storage at 2° to 8° C at all times, even when the product is being used. The proposed potency test may not be sensitive enough to test very dilute extracts for antigen E. Accordingly, the package insert would require a statement that the antigen E content of these dilute extracts is obtained by calculation from the antigen

E content of a more concentrated extract. The more concentrated extract must have been assayed for antigen E and officially released by the Director, Bureau of Biologics.

To ensure the presence of a required minimum quantity of antigen E in each lot of extract, proposed § 680.4(c) would require that manufacturers submit to the Director, Bureau of Biologics, samples of each manufactured lot of extract for FDA testing and a protocol consisting of a summary of the history of the manufacture and testing of the lot. The protocol should include at least the test results for antigen E, safety, sterility, preservative, and, when applicable, residual moisture, vacuum, and PNU. In addition, manufacturers must obtain from the Director of the Bureau an official release for each lot of extract before marketing the lot. Lot-by-lot release procedures are authorized by §§ 610.1 and 610.2 (21 CFR 610.1 and 610.2).

FDA believes that this proposed amendment to the regulations will (1) create greater uniformity in the antigen E potency of available extracts because a minimum quantity of antigen E would be required; (2) reduce or eliminate systemic reactions because the labeled potency will inform the physicians of the reactivity to be anticipated; and (3) permit effective cost control because the price of an extract can be related to the purchase of a known quantity of allergen.

The minimum dating period currently provided for Allergenic Extracts under § 610.53(a) (21 CFR 610.53(a)) will not apply to extracts prepared from short ragweed pollen once the rules proposed in this document become effective. A new dating period for each manufacturer's product will be determined by FDA as a result of appropriate license amendments supported by data from stability studies performed by manufacturers on the antigen E content of their extracts. FDA advises manufacturers of short ragweed extract that stability studies must be performed on at least two lots of such extract. Manufacturers of extracts prepared from equal parts of giant and short ragweed pollen must perform stability studies on at least two lots of such mixture. The protocol for each stability study must be submitted to the Director, Bureau of Biologics, for approval. The results of the stability studies must be submitted at regular intervals to the Director, Bureau of Biologics, and a license amendment for a dating period must be submitted by each manufacturer based on its own studies.

To permit manufacturers a reasonable period of time to solve any technical problems that they may have in performing the potency test for antigen E, and to obtain an approved license amendment for a dating period and revised labeling for their products, the effective date for these rules will be 180 days after the date of publication in the **Federal Register** of the final regulation based on this proposal. The final regulation will apply to each filling of each lot of short ragweed pollen extract, or extract prepared from equal parts of giant and short ragweed pollen, that is in the manufacturer's possession on or after the effective date. Manufacturers will be permitted to continue to prepare other mixtures of extracts of giant and short ragweed pollen, in addition to those prepared from equal parts, provided that the lot of short ragweed pollen extract used in such mixtures has been officially released by the Director, Bureau of Biologics, and the final mixed product includes appropriate antigen E labeling.

The background data, information, and references on which the agency relies in this proposal may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

References

(1) Baer, H., H. Godfrey, C. J. Maloney, P. S. Norman, and L. M. Lichtenstein, "The Potency and Antigen E Content of Commercially Prepared Ragweed Extracts," *Journal of Allergy*, 45:347, 1970.

(2) Gleich, G. J., J. B. Larson, R. T. Jones, and H. Baer, "Measurement of the Potency of Allergy Extracts by Their Inhibitory Capacities in the Radioallergosorbent Test," *Journal of Allergy and Clinical Immunology*, 53:158, 1974.

(3) Norman, P. S. and L. M. Lichtenstein, "Capacity of Purified Antigens and Whole Pollen Extracts to Release Histamine from Leukocytes of Hayfever Patients," *Journal of Allergy and Clinical Immunology*, 52:94, 1973.

(4) Norman, P. S., L. M. Lichtenstein, and K. Ishizaka, "Diagnostic Tests in Ragweed Hayfever," *Journal of Allergy and Clincial Immunology*, 52:210, 1973.

(5) Norman, P. S., W. L. Winkenwerder, and L. M. Lichtenstein, "Immunotherapy of Hayfever with Ragweed Antigen E: Comparisons with Whole Pollen Extract in Placebo," *Journal of Allergy*, 42:93, 1968.

(6) Reisman, R. E., K. Wicher, and C. E. Arbesman, "Immunotherapy with Antigen E," *Journal of Allergy*, 44:83, 1969.

FDA has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 701, 52 Stat. 1050-1051 as amended, 1055-1056 as amended (21 U.S.C. 352, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 680 be amended in Subpart A by adding new § 680.4 to read as follows:

§ 680.4 Short ragweed pollen extracts.

(a) *Potency test.* A potency test for determining the quantity of antigen E in each lot of short ragweed pollen extract and extract prepared from equal parts of giant and short ragweed pollen shall be performed within 6 weeks of the date of extraction. The test shall be performed in sextuplicate on each lot of extract diluted to a concentration of 20 units per milliliter (±10 units) of antigen E and a U.S. Reference preparation or in-house reference preparation for antigen E in the same concentration range as follows:

(1) *U.S. Reference preparations.* The following U.S. Reference preparations shall be obtained from the Bureau of Biologics, Food and Drug Administration, for use in the potency test for determining antigen E or for use in the preparation of an in-house reference system:

(i) A U.S. Reference preparation of anti-antigen E serum; and,

(ii) A U.S. Reference preparation with a labeled concentration of antigen E.

(2) *Preparation for the test.* (i) Melt a mixture of 1 percent agar and 1 percent sodium azide in boiling water and cool in a water bath at a temperature of 50° to 55° C.

(ii) Transfer 0.2 milliliter of the U.S. Reference preparation of anti-antigen E serum (or the in-house reference anti-antigen E serum) into a 100x13 millimeter test tube and warm briefly in the 50° to 55° C water bath.

(iii) Transfer 2 milliliters of the agar-sodium azide solution described in paragraph (a)(2)(i) of this section into the test tube containing the reference anti-antigen E serum and stopper the tube.

(iv) Mix the solution in the test tube by rapidly inverting the test tube five times, and pour the mixture onto a microscope slide (approximately 25x76 millimeters) that has been coated with a solution of 0.1 percent agar and

permitted to air dry on a level surface as determined by a spirit level.

(v) After the agar-sodium azide solution has hardened, transfer the microscope slide onto a sheet of graph paper that has a template with five evenly spaced dots.

(vi) Push a metal cutter designed to cut a hole 3 millimeters in diameter into the hardened agar-sodium azide solution at each dot on the template and remove the plug with suction applied to a glass capillary that has been placed inside the metal cutter.

(3) *The test.* (i) Using a fine capillary tube to which a rubber bulb has been attached, transfer a volume of an appropriate dilution of extract or U.S. Reference for antigen E (or the in-house reference antigen E) into the holes on the microscope slide in a manner that fills the holes but does not overflow them.

(ii) Place the microscope slide inside a petri dish which has wet filter paper on the bottom and incubate at 20° to 25° C for at least 48 hours.

(iii) Place the microscope slide inside a staining dish and cover with 10 percent acetic acid for not longer than 2 minutes.

(iv) Wash the microscope slide with a solution of 1 percent sodium chloride.

(v) Under a fluorescent light against a dark background, measure the diameter of the circles of precipitate to the nearest 0.1 millimeter with a micrometer or other instrument capable of measuring to the nearest 0.1 millimeter.

(4) *Calculations.* (i) A dose-response curve shall be obtained using the U.S. Reference preparations.

(ii) An in-house reference system may be prepared and used in the potency test for antigen E if the in-house reference antigen E preparation has a dose-response curve with a slope that does not differ from that of the U.S. Reference antigen E at the 95 percent confidence limits.

(iii) Lots submitted for release shall also have dose-response curves with slopes that do not differ from that of the U.S. Reference antigen E at the 95 percent confidence limits.

(iv) The relation of the slopes shall be determined by transforming the dose-response curves to a log-linear form.

(v) The concentration of antigen E shall be determined by calculation from the formula of the dose-response curve in log-linear form.

(5) *Requirements.* (i) The assayed value of the U.S. Reference for antigen E shall be ±25 percent of the labeled value.

(ii) The claimed antigen E content of the lot of short ragweed pollen extract being assayed shall be no less than 135 units per milliliter for a 1:10 extract or 67.5 units per milliliter for a 1:20 extract.

(iii) The claimed antigen E content of a lot of extract prepared from equal parts of giant and short ragweed pollen shall be no less than 67.5 units per milliliter.

(iv) When the lot of extract is assayed at the Bureau of Biologics, the antigen E value shall be ±25 percent of the claimed value.

(6) *Alternative method.* If a lot of extract is prepared by a procedure that does not permit measurement of the antigen E content by the potency test described in this paragraph, a manufacturer may use an alternative method that is based on a test that measures antigen E and can be demonstrated to give equivalent results that are useful for release of the lot provided that prior approval for such an alternative method, in the form of an amendment of the product license, is obtained from the Director, Bureau of Biologics.

(b) *Labeling.* In addition to the applicable labeling provisions of this subchapter, the following information is required:

(1) *Final container label and package label.* The final container label and package label shall include the following:

(i) The antigen E content, expressed as units per milliliter.

(ii) A dry weight of pollen to volume of extracting fluid designation (w/v), or the protein nitrogen unit value (PNU).

(iii) A reference to the enclosed package insert.

(2) *Package insert.* The package insert shall include the following:

(i) Information concerning the proper use of antigen E in the diagnosis and treatment of allergy.

(ii) Information concerning possible systemic reactions and their management.

(iii) A statement recommending that extracts be maintained at a temperature of 2° to 8° C at all times, even during use.

(iv) A statement that the antigen E content of very dilute extracts is obtained by calculation from the antigen E content of a more concentrated extract that was analyzed, officially released by the Director, Bureau of Biologics, and subsequently diluted.

(c) *Samples and protocols; official release.* (1) For each lot of extract, the following material shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, Building 29A, 8800 Rockville Pike, Bethesda, MD 20205.

(i) *Samples.* A 20-milliliter sample representative of each lot of short ragweed pollen extract at a concentration of 1:10 for extracts that contain no glycerin, or at a concentration of 1:20 for extracts that contain 50 percent glycerin or that are made from equal parts of giant and short ragweed pollen.

(ii) *Protocols.* A protocol consisting of a summary of the history of the manufacture of the product, including the dates and results of all tests required by the Director, Bureau of Biologics.

(2) *Official release.* The product shall not be issued by the manufacturer until written notification of official release is received from the Director, Bureau of Biologics.

Interested persons may, or or before October 2, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 25, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–23951 Filed 8–2–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 801]

[Docket No. 79N–0274]

Premarket Approval of Alpha-Fetoprotein Test Kits; Notice of Intent

AGENCY: Food and Drug Administration.

ACTION: Notice of intent.

SUMMARY: The Food and Drug Administration (FDA) is publishing a notice of its intent to publish a proposed regulation establishing restrictions on the sale, distribution, and use of alpha-fetoprotein test kits.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Bureau of Medical Devices (HFK–70), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7114.

SUPPLEMENTARY INFORMATION: Since October 1978, FDA has received a number of applications for premarket approval of alpha-fetoprotein (AFP) kits. Since that time, FDA has received numerous comments on AFP kits. On February 26, 1979, FDA held a public hearing before an advisory committee to permit public discussion of approval of AFP kits. FDA has also received the recommendations of the advisory committee. After considering the applications, the comments, the recommendations of the advisory committee, and all the relevant information available, FDA has decided to propose a regulation under section 520(e) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360j(e)), establishing restrictions on the sale, distribution, and use of AFP test kits as a condition of approval of any applications. The regulation establishing restrictions will be published in a future issue of the **Federal Register.**

Dated: July 30, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79–23804 Filed 7–30–79; 12:06 pm]

BILLING CODE 4110–03–M

[21 CFR Part 1000]

Diagnostic X-ray Systems; Proposed Amendment of Assembly and Reassembly Provisions

Correction

In FR Doc. 79–11677 appearing on page 22755 in the issue of Tuesday, April 17, 1979, in the first column of page 22758, complete the twelfth line from the top of the page as follows: ". . . the installation of specified components into an x-ray system on an exchange [basis] . . .".

BILLING CODE 1505–01–M

[21 CFR Part 1020]

[Docket No. 79N–0148]

Diagnostic X-ray Systems and Their Major Components; Amendments to Performance Standard

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the performance standard for diagnostic x-ray systems and their major components to (1) revise the definition of a "radiation therapy simulation system"; (2) raise the maximum allowed aluminum equivalent thickness for radiation therapy simulator table tops; (3) exempt radiation therapy simulator light localizers from requirements concerning minimum illumination; and (4) exempt fluoroscopic therapy simulator systems from requirements concerning maximum allowable entrance exposure rates. The amendments would bring applicable provisions of the standard into agreement with existing manufacturing, marketing, and clinical practices as well as with existing FDA interpretations and variances.

DATE: Comments by October 2, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert Phillips, Bureau of Radiological Health (HFX–460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Since the diagnostic x-ray equipment performance standard (§§ 1020.30, 1020.31, and 1020.32 (21 CFR 1020.30, 1020.31, and 1020.32)) was proposed (36 FR 19607, October 8, 1971), several questions have been raised by manufacturers and other interested parties concerning the applicability of specific requirements of the performance standard to radiation therapy simulators. In particular, petitions for variance were submitted by four radiation therapy simulator manufacturers before the effective date of the standard (August 1, 1974). All four products were fluoroscopic x-ray systems designed exclusively for therapy simulation, and all four petitions dealt with essentially the same aspects of fluoroscopic x-ray system performance. FDA determined at that time that the arguments given by manufacturers in their petitions were valid, i.e., compliance with the standard would impair the accuracy and effectiveness of the simulation while the additional dose to the patient resulting from the relaxed requirements for radiation therapy simulators would not be significant when compared to the dose received from the radiation therapy treatment itself.

Therefore, a notice of proposed rulemaking was published in the **Federal Register** of July 22, 1974 (39 FR 26851) and the proposed amendments were published as a final rule (39 FR 36008) on October 7, 1974. The amendments stated that radiation therapy simulators were:

(1) Fluoroscopic x-ray systems intended for localizing the volume of tissue to be irradiated during radiation therapy (§ 1020.30(b)(50));

(2) Exempt from the requirements of § 1020.31(g) (21 CFR 1020.31(g)) for spot-film devices;

(3) Exempt from the requirement for a primary protective barrier (§ 1020.32(a)(1) (21 CFR 1020.32(a)(1))) if operated remotely and if appropriate information was provided to users;

(4) Exempt from the field alignment requirement for image-intensified fluoroscopy (§ 1020.32(b)(2)); and

(5) Allowed to have a cumulative on-time timing device that did not produce an audible signal after 5 minutes of x-ray production (§ 1020.32(g)).

Although these amendments recognized the need for specific provisions in the performance standard for the radiation therapy simulator, the agency has since become aware of other problems relating to this type of equipment that should be addressed by further amendments to the standard. FDA, therefore, proposes the following specific amendments:

(1) The definition for a radiation therapy simulator system in § 1020.30(b)(50) would be revised by changing the phrase "fluoroscopic x-ray system intended for" to read "radiographic or fluoroscopic x-ray system primarily intended for."

The current definition of a radiation therapy simulator in § 1020.30(b)(50) recognizes only fluoroscopic-type simulator systems. Some radiation therapy simulator systems now being marketed, however, are radiographic rather than fluoroscopic. Because radiographic therapy simulator systems do not fit the current definition and because radiographic type therapy simulators are designed for the visualization of any part of the body, under current regulations they would be classified as general purpose radiographic x-ray systems. The systems would then be subject to the positive beam limitation (PBL) requirements of § 1020.31(e)(2). The October 1974 amendment to the standard recognized that fluoroscopic therapy simulators should be relieved from the beam limitation requirements of §§ 1020.31(g)

and 1020.32(b)(2) because the requirement interfered with the accurate use of the device and relief from these requirements would not significantly increase the radiation exposure to the patient. The agency believes that the same arguments apply to radiographic therapy simulator systems and the PBL requirements of the performance standard. Furthermore, all known radiographic x-ray systems designed for therapy simulation have radiopaque markers permanently mounted in the useful x-ray beam. These markers are used to outline the therapy treatment field on a simulator film and preclude the use of these systems as general purpose systems. In recognition of these conditions, an advisory opinion was sent to manufacturers on July 22, 1976, stating that radiographic radiation therapy simulator systems would be considered "other than" general purpose radiographic x-ray systems and thus subject to the field limitation and alignment requirements of § 1020.31(f)(4) rather than § 1020.31(e)(2). This proposal would formalize that advisory opinion by changing the definition of radiation therapy simulators to include radiographic systems.

(2) Section 1020.30(n) currently limits radiation therapy simulation system table tops to 1.5 millimeters (mm) maximum aluminum equivalent thickness of material between the patient and image receptor. The agency proposes to raise this value to 5.0 mm.

Recently, a variance was granted to EMI Therapy Systems, Inc. (43 FR 9862, March 10, 1978) allowing the manufacture of therapy simulator tables whose thickness exceeded the limits allowed by § 1020.30(n). The variance was granted because it was demonstrated that the positional stability necessary for accurate simulation could not be obtained with a cantilevered table whose thickness was less than 1.5 mm aluminum equivalent. In addition, it was shown that the net increase in dose to the patient from the significantly thicker table proposed by the manufacturer would be much less than one percent of any anticipated treatment dose. FDA has determined that the arguments made in the variance petition would be applicable to all radiation therapy simulator tables. The agency, therefore, proposes to raise the maximum aluminum equivalence limit of § 1020.30(n) for radiation therapy simulator table tops to 5.0 mm.

(3) The proposed amendment to § 1020.31(d)(2)(ii) would exempt radiation therapy simulator systems from the requirements specifying minimum illumination for defining x-ray fields.

Several manufacturers have indicated difficulty in meeting the minimum illumination requirement of § 1020.31(d)(2)(ii) and still manufacture equipment capable of accurately defining the simulated treatment field. The minimum illumination requirement leads to the use of light bulbs with fairly large filaments for adequate heat dissipation. However, radiation therapy simulators provide various scales and visual guides projected in the light field which are used in the simulation. Because of penumbra effects, the accuracy of the scales and guides is lost when a large filament bulb is used. Therefore, the minimum illumination requirement can lead to less accurate and effective treatment planning. The agency believes that because the light field is an essential feature in the simulation, it must necessarily be bright enough to be visible under ambient lighting conditions. It is unlikely that a therapy simulator would be manufactured with a light field that will not adequately define the x-ray field. The minimum illumination requirement is therefore unnecessary and detrimental to proper radiation treatment planning.

(4) Fluoroscopic radiation therapy simulators would be exempt from the maximum exposure rate limits specified in § 1020.32(d).

Some types of fluoroscopic radiation therapy simulators are designed to simulate a very wide range of treatment types. Such systems must necessarily provide a large range of source-to-skin distances (SSD's). If the system is adjusted to meet the exposure rate limits of § 1020.32(d)(1) at the smallest SSD, an inadequate image could be produced at the largest SSD. One possible solution would be to tie the x-ray source output into an x-ray source position sensor, but this would add unnecessary complexity and expense to the system. Other types of solutions are possible, but they also add considerable expense and/or do not allow the most effective means of simulation. FDA believes that, because these devices are used only on patients who are scheduled to receive radiation therapy doses of hundreds to thousands of rads, the slight increase in patient dose that will result from relaxing the entrance exposure limit for fluoroscopic therapy simulator systems is not significant. Therefore, the agency proposes to exempt fluoroscopic radiation therapy simulators from the requirement of § 1020.32(d).

FDA proposes that these amendments become effective on the date of publication of the final rule in the **Federal Register**. This early effective date is considered feasible because the new provisions contained in the regulation are for clarification and are consistent with interpretations that have been issued previously.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 1020 be amended as follows:

1. In § 1020.30 by revising paragraphs (b)(50) and (n) to read as follows:

§ 1020.30 Diagnostic x-ray systems and their major components.

* * * * * *

(b) * * *

(50) "Radiation therapy simulation system" means a radiographic or fluoroscopic x-ray system intended primarily for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

* * * * * *

(n) *Aluminum equivalent of material between patient and image receptor.* The aluminum equivalent of each of the items listed in Table II, which are used between the patient and image receptor, shall be determined by x-ray measurements made at a potential of 100 kilovolts peak and with an x-ray beam that has a half-value layer of 2.7 millimeters of aluminum. This requirement applies to front panel(s) of cassette holders and film changers provided by the manufacturer for patient support or for prevention of foreign object intrusions. It does not apply to screens and their associated mechanical support panels or grids.

Table II

Item	Aluminum equivalent (millimeters)
Front panel(s) of cassette holder (total of all)	1.0
Front panel(s) of film changer (total of all)	1.0
Stationery tabletop	1.0
Moveable tabletop (including stationary subtop)	1.5
Cradle	2.0
Radiation therapy simulator tabletop	5.0

2. In § 1020.31 by revising paragraph (d)(2)(ii) to read as follows:

§ 1020.31 Radiographic equipment.

* * * * * *

(d) * * *

(2) * * *

(ii) When a light localizer is used to define the x-ray field, it shall provide an average illumination of not less than 160 lux (15 footcandles) at 100 centimeters or at the maximum SID, whichever is less. The average illumination shall be based upon measurements made in the approximate center of each quadrant of the light field. Radiation therapy simulation systems are exempt from this requirement.

3. In § 1020.32 by adding new paragraph (d)(4) to read as follows:

§ 1020.32 Fluoroscopic equipment.

* * * * * *

(d) * * *

(4) *Exemptions.* Fluoroscopic radiation therapy simulation systems are exempt from this requirement.

* * * * * *

Interested persons may, on or before October 2, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 25, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-23041 Filed 8-2-79; 8:45 am]

BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1290-7]

Implementation Plan Revisions for Nonattainment Areas in the Commonwealth of Puerto Rico; Availability

AGENCY: Environmental Protection Agency.

ACTION: NOTICE.

SUMMARY: EPA announces today that the Puerto Rico plan revision, due for submittal by January 1, 1979 under the requirements of the Clean Air Act, as amended August 7, 1977, has been received and is available for public inspection. A notice of proposed rulemaking describing the revision will be published in the **Federal Register** at a later date at which time the public will be formally invited to submit written comments; the period for the submittal of written comments will extend for 60 days from the date of publication of the Notice of Proposed Rulemaking.

ADDRESSES: The Puerto Rico submittal may be examined during normal business hours at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Room 906, Region II Office, 26 Federal Plaza, New York, New York 10007.

U.S. Environmental Protection Agency, Caribbean Field Office, Fernandez Juncos Avenue Stop 8½, Pta. De Tierra, San Juan, Puerto Rico 00902.

Puerto Rico Environmental Quality Board, 204 Del Parque St. corner of Pumarada, Santurce, Puerto Rico 00910.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

All comments should be addressed to: Eckardt C. Beck, Regional Administrator, Region II Office, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007 (212) 264–2517.

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended August 7, 1977, requires that states submit revisions to their implementation plans by January 1, 1979 to provide for attainment of national ambient air quality standards in areas designated as nonattainment. The Administrator designated a number of areas in Puerto Rico as nonattainment on March 3, 1978 (43 FR 8962). These were subsequently modified and further clarified on January 25, 1979 (44 FR 5119). Puerto Rico has responded to this requirement by preparing an implementation plan revision. The purpose of this notice is to call the public's attention to the fact that this revision has been formally submitted and is available for public inspection. A description of the revision will be published in the **Federal Register** at a later date as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502).)

Dated: July 27, 1979.

Eckardt C. Beck,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 79-24082 Filed 8-2-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1290-4]

Proposed Rulemaking for State of Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: On May 14, 1979, the State of Oregon submitted to EPA proposed revisions to the field burning regulations which are presently enforceable as part of the Oregon State Implementation Plan (SIP). These regulations had been adopted by the Environmental Quality Commission (EQC) on December 15, 1978, and were amended by the EQC on May 25, 1979. On June 29, 1979 the regulations were again amended and were submitted to EPA on June 28, 1979 and July 5, 1979 respectively. EPA is proposing to approve the Oregon submittal.

The public is invited to submit written comments regarding this proposed rulemaking from the date of this Notice until thirty (30) days after EPA publishes in the **Federal Register** Notice that the comment period will close in thirty (30) days. This notice that the comment period will close in thirty (30) days will be issued after EPA receives adequate documentation from the State of Oregon that the procedural, technical, and regulatory problems discussed in the "Supplemental Information" section below have been adequately addressed. It is expected that the State will provide EPA with such adequate documentaton within a reasonable period of time.

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DATE: Comments will be accepted up to and incuding the 30th day after EPA publishes in the Federal Register Notice that the comment period will close in thirty days.

ADDRESSES: The Oregon submittal may be examined during normal business hours at the following locations.

Public Information Reference Unit, Library System Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.
Library, Environmental Protection Agency Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.
State of Oregon, Department of Environmental Quality, 522 S.W 5th Avenue, Yeon Building, 4th Floor, Portland, Oregon 97207.

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: George C. Hofer, Air Programs Branch, M/S 625, Environmental Protection Agency 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442–1125, (FTS–399–1125).

SUPPLEMENTAL INFORMATION:

Background

The open burning of grass seed fields in the State of Oregon has been recognized as a very sensitive and complex air pollution problem for a number of years. EPA's involvement in a control program for Oregon open field burning dates from 1972. In May 1972, the Administrator of EPA approved the Oregon State Implementation Plan (SIP) which had been submitted to EPA in accordance with Section 110 of the Clean Air Act. Included in that plan were Oregon Revised Statutes, 449.930 through 449.43, Field Burning, and Oregon Adminstrative Rules, 26–005 through 26–020, Field Burning, and control strategy for total suspended particulate (TSP) which called for a total ban on open field burning in the Willamette Valley as of January 1, 1975.

The 1975 session of the Oregon Legislature, however, amended the applicable statute to eliminate the total ban and to replace it with a program to phase down the number of acres burned each year so that by 1978 and each year thereafter no more than 50,000 acres could be open burned. These legislative changes, as reflected in administrative regulations which substituted a phase down program for a total ban of open field burning, were submitted to EPA on August 1, 1975 and February 17, 1976 as proposed revisions to the Oregon SIP. After determining that these revisions met the requirements of Section 110 of the Clean Air Act and EPA's public participation provisions (40 CFR Part 51) the Administrator approved the revisions on April 18, 1977.

In 1977, the Oregon Legislature again amended the State statute regarding field burning. The major changes included: (1) Increasing the maximum number of acres allowed to be burned to 195,000 in 1977 and 180,000 in 1978 and leaving it up to the Environmental Quality Commission (EQC) to determine the number to be burned in subsequent years. (2) Changing the language of the previous statute so that the EQC must authorize the maximum allowable acreage "unless the EQC finds after hearing that other reasonable and economically feasible alternatives to the practice of annual open field burning have been developed" (ORS 468.475). Previous wording of the statute allowed maximum acreage to be authorized "only if" the EQC found that reasonable alternatives to open burning were not available.

Thereafter, on July 15, 1977 the EQC amended the state administrative regulation OAR, 340–26–005 through 260–030, to comply with the 1977 statute. These regulations were then submitted to EPA for consideration as a proposed SIP revision on October 6, 1977. EPA reviewed the amended regulation and determined that it did not meet either the substantive or the procedural requirements of the Clean Air Act and therefore would have to be disapproved.

On January 27, 1978 EPA informed the State of Oregon of its findings and provided the State an opportunity to correct the noted procedural and substantive deficiencies. The Oregon Department of Environmental Quality (DEQ) decided not to correct the proposed SIP revision prior to the 1978 burning season, but opted instead to develop an interim control strategy for the 1978 field burning season. The EQC approved a one year interim control strategy, which in conjunction with a number of additional control measures and a comprehensive study, provided for the burning during the 1978 burning season of up to 180,000 acres of grass fields. This compromise between interested parties, which included the Oregon Seed Council and the City of Eugene, Oregon, resulted in the recorded burning of 154,000 acres during the 1978 season.

During the above noted SIP revision activity, EPA issued a notice of violation (NOV) to the State of Oregon for violation of its SIP provisions during the 1977 field burning season by permitting the burning of 171,500 acres in the Williamette Valley, substantially in excess of the 95,000 acres SIP limitation approved by EPA in April 1977.

The State DEQ, following its statutory mandate, again submitted to EPA a revision to the Oregon SIP on May 14, 1979 which was adopted by the EQC on December 15, 1978. The SIP revision for field burning would provide for the burning of 180,000 acres during the 1979 burning season and would provide for the imposition of various control measures. On June 28, 1979 DEQ resubmitted to EPA its proposed SIP revision as amended on May 25, 1978. This June 28, 1979 proposed revision was in response to several issues raised by EPA staff subsequent to EPA's receipt of the May 14 submittal. In an associated action, on June 29, 1979, the EQC adopted temporary rules with respect to field burning (340 OAR 26–005,015). These temporary rules were submitted to EPA on July 5, 1979 as amendments to the June 28, 1979 submittal.

In a SIP-related matter, on July 17, 1979, EPA issued a NOV to the State of Oregon for violation of the prohibition in the SIP against the issuance of permits for more than 50,000 acres during the 1979 field burning season.

Rationale for Action

This Notice of Proposed Rulemaking will explain EPA's approach and intended action regarding field burning in the State of Oregon. Based on data from previous field burning seasons, EPA believes that it is possible for the State of Oregon to Technically support a proposed SIP revision which provides for the burning of 180,000 acres annually.

However, EPA has a number of substantive concerns regarding the Technical Support Documents for the proposed revision as well as the proposed field burning regulations themselves. These various concerns make it difficult to determine at this time whether the proposed SIP relaxation would satisfy all applicable Clean Air Act requirements. Further, EPA has identified procedural problems associated with the proposed State submittal. These issues are outlined below and where appropriate, EPA has made suggestions and recommendations concerning actions which the State may wish to explore in resolving these problems. In short, this action provides the State with an opportunity to resolve the problems which EPA believes exist in the proposed field burning SIP revision.

Criteria for Final Approval

A relaxation of a State Implementation Plan is permissible if it will not cause or contribute to concentrations of pollution which violate a National Ambient Air Quality Standard (NAAQS) or a Prevention of Significant Deterioration (PSD) increment. [PSD increments are the amount of deterioration of air quality which is better than the NAAQS that is permitted under Section 163 of the Clean Air Act (42 U.S.C. 7473) and 40 CFR 51.24, 52.21 as revised 43 FR 26380, 26388 (June 19, 1978)]. Further, any approvable SIP revision must ensure the use of all reasonably available constant emission control methods. The imposition of such measures would either improve the ability to achieve a NAAQS or achieve any NAAQS in a more expeditious manner. Finally, the public must be afforded an adequate opportunity to review and comment on the proposed SIP revision (40 CFR 51.4).

Procedural Issues.

There are two procedural problems with the current field burning submittal. First, while the public did have an opportunity to review and comment on the field burning regulation itself prior to adoption on December 15, 1978 and amendment on May 25, 1979, the public was not afforded an opportunity to review and comment on the data and the technical analysis which the State ultimately submitted to EPA as part of the SIP REVISION.

Second, the amendments adopted on June 29, 1979 were not preceeded by adequate notice as specified by Clean Air Act regulations (Section 110, 40 CFR 51.4).

Substantive Issues

As previously indicated, there are substantive issues or problems with the field burning regulation and with the technical support documents.

The proposed regulation: 1. The proposed regulation provides exemptions to certain regulatory requirements for days classified as having "unlimited ventilation." However, the proposed regulation appears to preclude a classification of unlimited ventilation thus making the exemptions inoperative. Therefore the exemptions should be removed or the ability to classify a day as unlimited ventilation should be established. If a new classification of unlimited ventilation is established, then regulations covering those conditions need to be developed.

2. If a classification of unlimited ventilation is established and the exemption to requirements for burning techniques, moisture content and acreage restrictions, become operative parts of the regulations, the constant emission control requirements of the Clean Air Act may not be satisfied.

3. The proposed regulations only limit the amount of acreage that can be burned experimentally for the 1979 season. Therefore, after 1979, there would be no limit on the amount of experimental burning allowed thus making the SIP revision unapprovable since it could not show continuing maintenance of the standards.

4. The proposed regulation would allow the EQC to establish new annual acreage limitations every other year and thus preempt the Administrator's statutory responsibility to review and approve the proposed SIP revision in accordance with the Clean Air Act [Clean Air Act Section 110(a)(3)(A)].

5. It is EPA's understanding that the State intends to control field burning emissions through the use of relative humidity as a surrogate for fuel moisture content. However, the means whereby the State intends to implement its proposed approach are unclear. Also, if implemented in the manner suggested in the proposed regulations, it is unlikely to be effective in reducing actual emissions. It is suggested that, rather than classifying days as prohibition conditions based on relative humidity, the burning of individual fields within a local fire district be restricted based on relative humidity in a manner similar to the rainfall restriction.

The technical support documents: 1. The demonstration of attainment of the 24-hour NAAQS and of the 24-hour PSD increment does not appear to include consideration of all reasonable worst case scenarios.

2. Several demonstrations focus on days with highest recorded TSP levels, without a clear demonstration that this method included the maximum impact of field burning.

3. It is not clear that all of the demonstrations of attainment make full use of available data and analytical techniques.

4. The demonstration of attainment and other supporting documentation contain some apparent inconsistencies.

Some aspects of the approach used in the technical support information need to be further documented. Specifically documentation is needed showing the validity of the approach of increasing 24-hour TSP levels on days with the highest values in proportion to the annual acreage increase. This showing should address an approach which evaluates the 24-hour impact of field burning on individual monitors, and applies a reasonable worst case burning quota release scenario allowed by the regulation to these data. This would involve analyzing days with probable field burning impact and the conditions which resulted in such impact.

The technical support documents appear to contain some conflicting information and results. Different approaches and analytical techniques may produce results not supported by other data included in the documents. Therefore all available data and the results from all analysis conducted (for example chemical mass balance results, nepholometer readings, and days with known smoke intrusions) should be utilized to the full extent possible.

Corrective Measures

The problems identified above can best be remedied by the State. Concurrent with the public comment period initiated with this notice, it is suggested that the State of Oregon consider taking the following steps:

1. Review and revise if appropriate in its judgment the technical support documents upon which the SIP revision is to be justified. Consideration should be given to the problems identified above and to any others that may be brought to the State's attention by other interested parties.

2. Provide notice and schedule a new public hearing. The specific purpose would be to give the public opportunity to review and comment on the technical support document and on the field burning regulation, as previously adopted or with changes prompted by consideration of the problems identified in this Notice.

3. Resubmit its SIP revision request on the basis of steps 1 and 2, augmented with comment as the State deems appropriate in response to this Notice.

If these steps are taken and if in EPA's judgment the results meet the Criteria for Final Approval stated earlier in this Notice, a subsequent Notice would be published in the **Federal Register** to inform the public that the comment period will close in thirty (30) days. Following EPA's consideration of all comments to the proposed rulemaking, EPA will promulgate a final rule regarding the proposed SIP revision.

Call for Comments and Information

EPA solicits comment on the entire scope of the proposed Oregon field burning regulations currently pending before EPA. As EPA is recommending State action to resolve many of the

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issues identified herein, it is requested that all comments and information provided to EPA also be submitted to the Oregon Department of Environmental Quality.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502)).

Dated: July 28, 1979.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 79-24085 Filed 8-2-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 81]

[FRL 1291-3]

Air Quality Control Regions, Criteria and Control Techniques; Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: As required by Section 107(d) of Clean Air Act, as amended, on March 3, 1978 (43 FR 8962) and, subsequently, on January 25, 1979 (44 FR 5119), the Environmental Protection Agency promulgated a list of air quality attainment status designations for all areas of New York State. These designations specified for each area whether or not the national ambient air quality standards for total suspended particulates, sulfur dioxide, carbon monoxide, nitrogen dioxide, and ozone had been attained.

Through these promulgations, the entire State of New York was designated as "nonattainment" for ozone. However, this designation was based on an ozone standard which subsequently was revised, as announced by the Environmental Protection Agency in the February 8, 1979 **Federal Register** (44 FR 8202). This revision resulted in a May 2, 1979 request from New York State to redesignate certain areas as either attaining the revised ozone standard or as not being capable of classification. The purpose of this notice is to propose redesignation of portions of New York State regarding their attainment status with respect to the revised national ambient air quality standard for ozone.

DATES: Comments must be received on or before September 4, 1979.

ADDRESSES: All comments should be addressed to: Bekardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

Copies of the proposal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II, 26 Federal Plaza, New York, New York 10007.
U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.
New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007, (212) 264-2517.

SUPPLEMENTAL INFORMATION: Section 107(d) of the Clean Air, as amended, directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of and supporting information on the attainment status with respect to each national ambient air quality standard for every area within the state. EPA received this information and promulgated such attainment status designations in the March 3, 1978 **Federal Register** (43 FR 8962). Subsequent to this promulgation, the areas administered by EPA, Region II (New York, New Jersey, Puerto Rico, and the Virgin Islands) requested that modifications be made to their designations. EPA published these revisions, corrections and elaborations in the January 25, 1979 **Federal Register** (44 FR 5119). In both of these **Federal Register** notices the entire State of New York was designated as "nonattainment" for ozone. This designation was based on ambient air monitoring data and analyses indicating statewide violation of the ozone standard.

In the February 8, 1979 **Federal Register** (44 FR 8202), EPA announced revision of the ozone standard from 0.08ppm to 0.12ppm. Upon reviewing its air quality data base in relation to the revised ozone standard, New York State determined that several portions of the State had ambient air quality levels below the revised standard and that other areas could not be classified with confidence as either "nonattainment" or "attainment." Consequently, on May 2, 1979 the New York State Department of Environmental Conservation formally requested that EPA redesignate several areas. Such redesignations are authorized under Section 107(d)(5) of the Clean Air Act.

The areas that are proposed to be redesignated as "Better Than National Standards" are:

Southern Tier East Air Quality Control Region (the entire area).
Central Air Quality Control Region (the Counties of Herkimer, Lewis, Jefferson, and Cortland).
Hudson Valley Air Quality Control Region (the Counties of Fulton, Montgomery, Schoharie, and the northern two thirds of Saratoga).
Northern Air Quality Control Region (the entire area except the County of Washington).

The areas that are proposed to be redesignated as "Cannot Be Classified" are:

Southern Tier West Air Quality Control Region (the entire area).
Central Air Quality Control Region (the Counties of Oswego, Madison, and Oneida).
Northern Air Quality Control Region (the County of Washington).

The remainder of the state will remain designated as "Does Not Meet Primary Standards."

The request for redesignation to "attainment" is based on an analysis of measured air quality data which shows that ambient levels in the affected areas are better than the revised ozone standard. The request for redesignation to "unclassifiable" is based on the absence of concrete evidence of ozone standard violations. For the Southern Tier West Air Quality Control Region (AQCR) and the County of Washington in the Northern AQCR, no ambient air quality data is available. For the Central AQCR, monitoring results show attainment of the standard; however, it is believed that these readings are unduly influenced (depressed) by the presence of nearby sources of nitrogen oxide. Inasmuch as all the areas proposed to be redesignated as "unclassifiable" are located nearby and downwind of areas designated as "nonattainment" and do not contain any major urban centers, further evaluation of their attainment status is believed warranted.

BPA finds the State's request to be reasonably supported by adequate data and, therefore, proposes to revise its previous designations.

The State Implementation Plan (SIP) for areas designated as "nonattainment" is required by Part D of the Clean Air Act to be revised to provide for attainment (for further information on such revisions, see 44 FR 20372, published on April 4, 1979). If these proposed redesignations are ultimately promulgated, the areas redesignated either as "attainment" or "unclassifiable" will no longer be subject to these SIP revision requirements. However, the redesignated areas will be subject to Prevention of Significant Air Quality Deterioration (PSD) requirements (43 FR 26380, June 19, 1978). Further, the areas redesignated as "unclassifiable" are subject to PSD monitoring requirements to determine their actual attainment status. Should these monitoring studies indicate "nonattainment," a plan revision will be required within nine months of such a finding.

Because the data supporting the State's request for redesignations had been previously available for public inspection and comment with regard to the original designations and because these proposed redesignations, if promulgated, relieve the State of the need to revise its SIP to meet Part D Clean Air Act requirements in the affected areas, only a 30-day public comment period is being established. EPA will continue to review and process the applicable SIP revisions recently submitted by the State to meet these requirements unless and until final approval of this proposal is published in the **Federal Register.**

Interested persons may participate in this rulemaking by submitting written comments to the EPA Region II Office as indicated in the "Addresses" section of this notice. All comments received on or before September 4, 1979, will be considered. Comments received by EPA will be available for public inspection during normal business hours at the EPA Region II Office.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA has reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 107(d), 171(2), 301(a), of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7501(2), 7601(a))

Dated: June 25, 1979.

Eckardt C. Beck,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 79-24077 Filed 8-2-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 120]

[FRL 1290-5]

Water Quality Standards, Surface Waters of the State of Ohio

AGENCY: Environmental Protection Agency.

ACTION: Public Hearing Notice.

SUMMARY: On August 8, 1978, the Regional Administrator for Region V of the United States Environmental Protection Agency (EPA), approved the water quality standards adopted by the State of Ohio except for several provisions. On July 6, 1979, the Agency proposed rules to correct the deficiencies in the non-approved portions. The EPA will hold three public hearings in the State of Ohio, to receive comments on the Proposed Rulemaking for Ohio Water Quality Standards.

DATES: The public hearings will take place during the afternoon and evening on September 17, 1979, in Columbus, September 19, 1979, in Dayton, and September 21, 1979, in Akron. All written comments received on or before October 5, 1979, will be considered in the preparation of the final rulemaking. Comments should be submitted to the person listed immediately below.

HEARING ADDRESSES: The Columbus hearing will be held at Ohio State University, in the Fawcett Center for Tomorrow, 2400 Olentangy River Road. The Dayton hearing will be held at the University of Dayton, in the Boll Theatre, John F. Kennedy Memorial Union, 300 College Park Avenue. The Akron hearing will be held at the University of Akron; the afternoon session will be held in the Summitt Lounge, Gardner Student Center and the evening session, at the Olin Auditorium, Room Number 124.

FOR FURTHER INFORMATION CONTACT: William Benjey, Water Division, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312-353-2172).

SUPPLEMENTARY INFORMATION:

The EPA will hold three public hearings in the State of Ohio, to receive comments on a Proposed Rulemaking for Ohio Water Quality Standards.

The substantive provisions of the Proposed Rulemaking would increase the stringency of the dissolved oxygen and cyanide criteria from warmwater habitat protection, provide for consistent methodologies in determining thermal and non-thermal mixing zones, set the definition of low-flow streams at 0.1 cubic foot per second for the flow which occurs over 7 days each 10 years, and would require the State to evaluate more thoroughly, justifications submitted to EPA for beneficial use downgradings of stream segments.

A copy of the full text of the Proposed Rulemaking has been sent to the main public library in each county in Ohio and will be available for review there. The same document may also be obtained by writing, calling, or visiting:

William Benjey, Water Division, EPA, 230 S. Dearborn, Chicago, Ill. 60604 (312-353-2172).

This document is available at no cost to the public.

The public hearings will take place during the afternoon and evening on September 17, 1979, in Columbus, September 19, 1979, in Dayton, and September 21, 1979, in Akron. The Columbus hearing will be held at Ohio State University, in the Fawcett Center for Tomorrow, 2400 Olentangy River Road. The Dayton hearing will be held at the University of Dayton, in the Boll Theatre, John F. Kennedy Memorial Union, 300 College Park Avenue. The Akron hearing will be held at the University of Akron; the afternoon session will be held in the Summitt Lounge, Gardner Student Center and the evening session at the Olin Auditorium, Room 124. All afternoon sessions will run from 1-4:30 p.m. and the evening sessions from 7-10:30 p.m.

Persons or groups wishing to make oral presentations or submit prepared statements may do so at these hearings. Please contact William Benjey on or before September 7, 1979, to be scheduled to speak at one of the hearings. A period of time will be set aside for unscheduled speakers. Those wishing to make oral presentations are encouraged to submit a written copy to the USEPA. Presentations should be brief (less than 10 minutes) to allow all parties to participate. A time limit may be imposed, based upon the number of individuals wishing to speak.

Interested persons who are unable to attend may submit their comments to William Benjey. The deadline for receipt of all written comments on the Proposed Rulemaking is October 5, 1979.

Dated: July 27, 1979.

John McGuire,

Regional Administrator, Region V, United States Environmental Protection Agency.

[FR Doc. 79-24207 Filed 8-2-79; 8:45 am]

BILLING CODE 6560-01-M

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FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 60]

[Docket No. FEMA-8]

Criteria for Land Management and Use in the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.

ACTION: Proposed rulemaking.

SUMMARY: This rule proposes a revision to the National Flood Insurance Program's flood plain management regulations to allow dry-floodproofed residential basements in identified special flood hazard areas. Advance Notice of Proposed Rulemaking was given at 41 FR 46962 (October 26, 1976).

DATE: Comments received on or before October 2, 1979 will be considered prior to the publication of the final rule.

ADDRESS: Comments should be mailed or delivered to Donald L. Collins, Division of Policy Analysis and Consumer Affairs, Office of Federal Insurance and Hazard Mitigation, Room 5136, 451 Seventh Street SW., Washington, D.C. 20410, for inclusion into the Rules Docket.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755–5581 or Toll-Free line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program's flood plain management criteria, set forth at 44 CFR 60.3, previously 24 CFR 1910.3, presently require that the lowest floor (including basement floor) of residential structures be elevated to or above the 100-year flood (i.e., base flood) elevation. Thus, the construction of residential basements is prohibited below the base flood elevation unless the community is granted an exception from that prohibition by the Administrator.

The proposed rule would modify that present requirement so as to permit basements below the level of the base flood without requiring an exception, if the basements are dry floodproofed to the base flood elevation. Therefore, residential and nonresidential structures would be treated in a similar manner for flood plain management and insurance rating purposes.

Originally, residential basements were prohibited because there was uncertainty over the effectiveness of basement floodproofing, as well as uncertainty over the cost of construction. However, a recently completed study prepared for the Department of Housing and Urban Development, *Manual for the Construction of Residential Basements in Non-Coastal Flood Environs*, prepared by the National Association of Home Builders Research Foundation, Washington, D.C. (U.S. Government Printing Office, March, 1978) has concluded that dry floodproofed residential basements can be safe and not inordinately expensive. Copies of the manual are available upon written request to the Federal Emergency Management Agency, Office of Federal Insurance and Hazard Mitigation, 451 Seventh St. SW., Washington, D.C. 20410.

It is to be noted that there is an unexpectedly high demand for construction of floodproofed residential basements in most northern States. This demand results from climatic conditions, including efficient placement of furnaces in basements and protection from tornadoes. Additionally, since excavations are made to place footings 5 to 6 feet below grade in order to properly anchor homes from frost heave in those climates, it is practical to allow for construction of basements since basements are customary in most northern States, and without them, homes are difficult to sell.

It has been determined that this proposed rule does not have a substantial impact upon the quality of the environment. A finding to that effect is included in the formal docket file and is available for public inspection and copying at the Division of Policy Analysis and Consumer Affairs, Office of Federal Insurance and Hazard Mitigation, Room 5136, 451 Seventh Street SW., Washington, D.C. 20410.

Interested persons may participate in this rulemaking by submitting written data, views, or arguments to the above address. Each person submitting a comment should include his name and address and refer to the document by the docket number indicated in the heading and give reasons for any recommendations. Comments received on or before October 2, 1979, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons. This proposed rule may change in light of the comments received. Accordingly, Part 60 of Title 44 of the Code of Federal Regulations is proposed to be amended as follows:

1. Section 60.3(c)(2), (4) and (7) are revised to read as follows:

§ 60.3 Flood plain management criteria for flood-prone areas.

* * * * *

(c) * * *

(2) Require that all new construction and substantial improvements of residential structures within Zones A1–30 on the community's FIRM (i) have the lowest floor (including basement) elevated to or above the base flood level; or (ii) together with attendant utility and sanitary facilities be designed so that the first floor is at or above the base flood level and any basement area passage of water without reliance on human intervention. The basement area below the base flood level shall employ structural components with the capability to resist hydrostatic and hydrodynamic loads and the effects of buoyancy for the base flood.

(3) * * *

(4) Provide that where floodproofing is utilized for a particular structure either (i) a registered professional engineer or architect shall certify that the floodproofing methods used in the structure's design satisfy the floodproofing standards of Paragraphs (c)(2)(ii), (c)(3)(ii), (c)(7)(ii) or (c)(8)(ii) of this section, whichever is applicable, or (ii) the floodproofing methods used in the structure's design shall satisfy a legally enforceable local regulation, to be submitted to the Administrator, which is certified to by a registered professional architect or engineer as containing the detailed floodproofing standards of paragraphs (c)(2)(ii), (c)(3)(ii), (c)(7)(ii) or (c)(8)(ii), of this section.

(5) * * *

(6) * * *

(7) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of residential structures (i) have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the community's FIRM; or (ii) together with attendant utility and sanitary facilities be designed so that the first floor is elevated above the crown of the nearest street to or above the depth number specified on the community's FIRM and any basement area below that level be floodproofed to satisfy the criteria of paragraph (c)(2)(ii) of this section.

§ 60.6 [Amended]

4. Section 60.6(b)(3) is deleted.

(42 U.S.C. 4001 et seq.; and Executive Order 12127 (44 FR 19367).)

Issued: July 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23943 Filed 8-2-79; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[DB Docket No. 79-185; RM-3310]

FM Broadcast Station in West Union, Ohio; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM channel to West Union, Ohio, in response to a petition filed by Harold Parshall. The proposed channel could be used to bring a first full-time local aural broadcast service to West Union.

DATES: Comments must be filed on or before September 25, 1979, and reply comments must be filed on or before October 15, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 25, 1979.

Released: July 31, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (West Union, Ohio), BC Docket No. 79–185, RM–3310.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Harold Parshall ("petitioner"), proposing the assignment of Channel 276A to West Union, Ohio, as its first FM assignment. An opposition to the proposal was filed by Highland Broadcasting Company ("Highland"), licensee of Stations WSRW and WSRW–FM, Hillsboro, Ohio.

(b) The channel can be assigned in compliance with the minimum distance separation requirements.

(c) Petitioner states that he will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* West Union, seat of Adams County, is located approximately 161 kilometers (100 miles) south of Columbus, Ohio.

(b) *Population.* West Union—1,951; Adams County—18,957. [2]

(c) *Present Local Aural Broadcast Service.* There is no local aural broadcast service in West Union or Adams County.

3. *Economic Considerations.* Petitioner asserts that although Adams County has been an economically depressed area, it is improving due to continuing construction of the Appalachian Highway. He states that two large power generating plants are under construction on the Ohio River at the southern edge of Adams County. He also notes that a number of housing subdivisions are nearing completion around West Union. Petitioner points out that the proposed channel could be used to provide an outlet for self-expression, public affairs programs, agricultural programs, weather and market reports, sports programs and service to minority groups.

4. In its opposition, Highland argues that the petition is technically deficient. It states that petitioner submitted no study to show what preclusion would be caused by assigning Channel 276A to West Union. It contends that petitioner also failed to state exactly what power and antenna height will be proposed, thus making it impossible to determine the population and area to be served.

5. We cannot agree with the objections which have been raised. Under current Commission policy, a preclusion study is not required for a first Class A assignment if it is not located near a large metropolitan area. Nor, in a case like this one, is a petitioner expected to provide a showing of the station's expected coverage. A showing of proposed facilities and the coverage to be provided is only called for when issues regarding first or second FM or aural service are significant to the decision on whether to assign the channel. Such is not the case here.

6. In view of the above and the fact that the proposed FM channel assignment would provide for a first full-time aural broadcast service to West Union, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the rules, with regard to West Union, Ohio, as follows:

City	Channel No.	
	Present	Proposed
West Union, Ohio		276A

7. Since West Union is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 276A to West Union, Ohio, requires coordination with the Canadian Government before it can be adopted.

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before September 25, and reply comments on or before October 15, 1979.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if

[1] Public Notice of the petition was given on January 30, 1979, Report No. 1162.

[2] Population figures are taken from the 1970 U.S. Census.

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advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. Comments and reply comments; service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 79-24046 Filed 8-2-79; 8:45 am]

BILLING CODE 6712-01-M

MARINE MAMMAL COMMISSION

[50 CFR Part 530]

Procedures Supplementing the National Environmental Policy Act Regulations

Correction

In FR Doc. 79-23577, published at page 44916, on Tuesday, July 31, 1979, on page 44917, in the first column, under "DATES", the comment period reading July 31, 1979, should be corrected to read "August 30, 1979".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 44, No. 151
Friday, August 3, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

East Kentucky Power Cooperative; Negative Determination

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination with regard to the need for an environmental impact statement by REA in connection with the construction and operation of a Flue Gas Desulfurization System (FGD) at Spurlock Station Unit No. 2 of East Kentucky Power Cooperative (EKPC).

REA has conducted a field inspection of the proposed site and prepared an Environmental Assessment on the proposed project. EKPC has prepared numerous studies to evaluate FGD and sludge disposal alternatives. An Environmental Analysis of the proposed action was prepared in which REA had extensive input and it was reviewed by the Environmental Protection Agency (EPA). The Environmental Analysis is in compliance with REA's environmental guidelines and EKPC will comply with the commitments set forth in the Environmental Analysis to satisfy Federal, State and local requirements.

As a result of document review and site visitation, REA has concluded that the proposed flue gas desulfurization and disposal systems can be constructed and operated without significantly affecting the quality of the human environment.

Based on REA's independent evaluation and experience with projects of this type and the subsequent environmental effects, a negative determination was made under Section V.K.(2) of REA Bulletin 20-21:320-21.

Copies of the Environmental Assessment and Environmental Analysis may be secured on request when submitted to Mr. Joe S. Zoller, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Final REA action with respect to this matter may be taken fifteen (15) days from the date of this notice, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 25th day of July, 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-23875 Filed 8-2-79; 8:45 am]

BILLING CODE 3410-15-M

Draft Environmental Impact Statement, Alabama

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a request by Alabama Electric Cooperative, Inc. (AEC), P.O. Box 550, Andalusia, Alabama 36420, for a reclassification of existing guaranteed loan funds to provide long-term financing for the purchase of a leasehold interest in coal property. The properties are located in northeastern Marion County, southeastern Franklin County, southeast Winston County, northeast Lamar County, and southern Marion County, Alabama.

The project involves an ongoing mining activity. Alabama Electric Cooperative will not mine the coal nor purchase or own equipment associated with mining and transportation of the coal. Alabama Electric will contract for the mining of the coal on the properties.

Additional information may be secured on request, submitted to Mr. Joe S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Evironmental Quality Guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 5908, or at the borrower address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Joe S. Zoller at the address given above. Comments must be received on or before September 17, 1979, to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 27th day of July, 1979.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-23874 Filed 8-2-79; 8:45 am]

BILLING CODE 3410-15-M

Brazos Electric Power Cooperative, Inc.; Negative Determination

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination as to the need for an Environmental Impact Statement by REA in connection with possible financing assistance to Brazos Electric Power Cooperative, Inc. (Brazos) of Waco, Texas, for ownership participation in the Comanche Peak Steam Electric Station, Units 1 and 2, a nuclear generating facility now under construction in Hood and Somervell Counties, Texas. Brazos proposes to own 3.8 percent (43.7 NW) of each unit, and would also participate in ownership of certain transmission facilities associated with the Comanche Peak

Station. Other ownership participants are Texas Power & Light Company, Texas Electric Service Company, Dallas Power & Light Company (all subsidiaries of Texas Utilities Company); and the Texas Municipal Power Agency. Texas Utilities Generating Company (also a Texas Utilities subsidiary) is Project Manager, responsible for construction and operation.

In accordance with REA Bulletin 20–21, Section V.K., REA prepared an assessment regarding the environmental impact associated with REA's provision of financing assistance for Brazos' 3.8 percent participation in Comanche Peak. REA concluded that REA financing assistance in this case does not constitute a major federal action significantly affecting the quality of the human environment and that, in this case, no REA Environmental Impact Statement is necessary.

Copies of REA's record setting forth this decision and reasons for the determination are available to the public upon request to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

No final REA action will be taken with respect to this matter until 15 days after publication of this notice.

Dated at Washington, D.C., this 30th day of July 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-24036 Filed 8-2-79; 8:45 am]

BILLING CODE 3410-15-M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12:00 p.m., on August 31, 1979, at the Western Regional Office, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is to review and edit the State Advisory Committee report on immigration.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 31, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-23952 Filed 8-02-79; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 10:00 p.m., on September 12, 1979, at the Tavern Motor Inn, Montpelier, Vermont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is for program planning for FY–80 Vermont SAC. Report of Teacher Training and Affirmative Action sub-committees. Report of NERO SAC Chairpersons Conference of August 7, and input into the National SAC Chairpersons Conference—October 22–23.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 30, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-23953 Filed 8-02-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Number of Employees, Payrolls, Geographic Location, Current Status, and Kind of Business for the Establishments of Multiestablishment Companies; Determination for Surveys

In conformity with title 13, United States Code, sections 182, 224, and 225 and due notice of consideration having been published on April 23, 1979 (44 FR 23909), I have determined that a 1979 Company Organization Survey is needed to update company and establishment changes to the multiestablishment companies in the Standard Statistical Establishment List. The survey, which has been conducted for many years, is designed to collect information on the number of employees, payrolls, geographic location, current status, and kind of business for the establishments of multiestablishment companies. The data will have significant application to the needs of the public and to governmental agencies and are not publicly available for nongovernmental or governmental sources.

Report forms will be furnished to firms included in the survey and additional copies of the form are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that a survey be conducted for the purpose of collecting these data.

Dated: July 30, 1979.

Daniel B. Levine,

Acting Director, Bureau of the Census.

[FR Doc. 79-24033 Filed 8-2-79; 8:45 am]

BILLING CODE 3510-07-M

Water Use in Manufacturing: 1978; Water Use in the Mineral Industries: 1978; Determination

In conformity with title 13, United States Code, sections 131, 224, and 225, and due notice having published in the **Federal Register** on May 25, 1979 (44 FR 30401), I have determined that the data received from this survey will provide detailed information on water intake, recirculation, and discharge, as well as costs incurred in water treatment by all large industrial users. The information in this survey will be tabulated by industry, State, and water use region for 1978. The last survey covered the year 1973. These data are not available from other governmental or nongovernmental sources.

The sample will include all manufacturing and mining operations that reported water intake of 20 million gallons or more in the 1977 Censuses of Manufacturers and Mineral Industries.

Copies of the report forms are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed this survey be conducted for the purpose of collecting the data hereinabove described.

Dated: July 30, 1979.

Daniel B. Levine,

Acting Director, Bureau of the Census.

[FR Doc. 79-24032 Filed 8-2-79; 8:45 am]

BILLING CODE 3510-07-M

National Oceanic and Atmospheric Administration

Intent To File an Environmental Impact Statement, Washington State Coastal Zone Management Program

The Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), intends to prepare a draft environmental impact statement (DEIS) on the proposed amendment of the Grays Harbor Estuary Management Plan (plan) to the Washington State Coastal Zone Management Program.

The plan which is currently being developed by the Grays Harbor Regional Planning Commission in cooperation with local governments, State and Federal agencies, is a comprehensive plan for the management of land and water use activities and resources in Grays Harbor. It has been determined that the plan if implemented would have a significant impact on the environment and Federal approval of the plan by NOAA and other resource agencies would constitute a major action. While the plan is designed to preserve, protect and restore the major parts of the estuary, it calls for the filling of approximately 500 acres of privately owned tidelands north of the Bowerman Air field for port expansion over a 50 year period of time.

Alternatives to Federal approval include no action or denying approval, alternative plan concepts including greater or lesser development opportunity, dispersal or concentration of development opportunities, locating industrial areas away from the estuary and community, and alternate locations for industrial use within the estuary.

Interested parties who wish to submit suggestions, comments, or substantive information concerning the scope or content of this proposed environmental impact statement should do so prior to August 31, 1979. Comments may be submitted in writing or by telephone to: Dr. Robert K. Kifer, Officer of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235, (Telephone: 202/634–4253).

OCZM has held several scoping meetings with relevant Federal agencies (the Corps of Engineers, the Environmental Protection Agency, the Fish and Wildlife Service, and the National Marine Fisheries Service are cooperating agencies) and public interest groups. No additional scoping meeting is therefore scheduled unless specifically requested by other interest groups not hertofore contacted. Public hearings will be held on the DEIS after it is circulated.

Dated: July 30, 1979.

M.P. Snidero,

Acting Assistant Administrator for Administration.

[FR Doc. 79-23974 Filed 8-02-79; 8:45 am]

BILLING CODE 3510-08-M

Intent To Prepare an Environmental Impact Statement

The Office of Coastal Zone Management (OCZM) in the National Oceanic and Atmospheric Administration (NOAA) is preparing and intends to distribute a draft environmental impact statement (DEIS) on the proposed approval of the Louisiana Coastal Resources Program (LCRP) under the provisions of Section 306 of the Federal Coastal Zone Management Act of 1972 (Pub. L. 92–583, as amended.)

Federal approval of the LCRP would allow program administrative grants to be awarded to the State, and require that Federal actions be consistent with the program. This DEIS will include a copy of the program which is a comprehensive management program for coastal land and water use activities. It consists of numerous policies on diverse management issues which are enforced by various State laws, and is the culmination of five years of program development. The LCRP will condition, restrict or prohibit some uses in parts of the coastal zone, while encouraging development and other uses in other parts. The program will improve decision-making processes for determining appropriate coastal land and water uses in light of resource considerations and increase public awareness in coastal resources. The program will result in some short-term economic impacts on coastal users but will lead to increased long-term protection of the State's coastal resources. Federal alternatives include delaying or denying approval if certain requirements of the Coastal Zone Management Act have not been met. The State could modify parts of the program or withdraw their application for Federal approval if either of the above Federal alternatives results from the circulation of the DEIS.

It was intended that the DEIS be distributed in July, 1979, but due to some delays, the document will not be printed and distributed until August, 1979. Therefore, the requirements of the Council on Environmental Quality Regulations 40 CFR 1501.7 and 1508.22 pertaining to the scoping process and this notice of intent apply to the proposed issuance of DEIS concering the LCRP. OCZM has made every effort to meet the requirements of the scoping process discussed in 40 CFR 1501.7 including but not necessarily limited to the following:

a) The provision of public participation elements in each annual Section 305 program development grant awarded by OCZM over the last five years. Such elements have provided the public, interest groups and all governmental agencies including Federal agencies with an opportunity to be informed as to the development of the LCRP and provide comment.

b) The issuance of a State hearing draft in March of this year, describing the full scope of the proposed program. The OCZM and the State have considered all verbal and written comments received at two public hearings on the above document and all written comments subsequently received by the State. OCZM and the State have also considered all comments received pursuant to the subsequent publishing of revised Coastal Use Guidelines which are the core policy base of the LCRP.

c) OCZM has also met with or conversed with several Federal agencies and State and National interest groups over the last several months concerning a broad array of issues concerning the proposed approval of the LCRP.

d) Finally the OCZM believes that the experience gained in the issuance of environmental impact statements concerning the 15 similar state coastal zone management programs approved to date by OCZM when combined with the specific actions noted above, provide the OCZM with an accurate range of actions, alternatives and impacts which must be considered in the proposed DEIS. In order to provide for the broadest possible range of input, however, OCZM requests that any interested party submit comments (written or verbal) by August 6, 1979 to: Mr. James Murley or Mr. William Millhouser, Gulf-Islands Region, Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20234 (202/254–7546).

Because of the short time involved, any comments which arrive after the above date will be considered as comments on the DEIS and responded to accordingly.

Dated: July 30, 1979.

M. P. Snidero,

Acting Assistant Administrator for Administration.

[FR Doc. 79-23975 Filed 8-02-79; 8:45 am]

BILLING CODE 3510-08-M

Pacific Fishery Management Council's Anchovy/Jack Mackerel Advisory Subpanel and Billfish Advisory Subpanel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established Billfish and Anchovy/Jack Mackerel Advisory Subpanels (AP's) which will hold separate meetings to discuss the draft Billfish and Anchovy/Jack Mackerel Fishery Management Plans (FMP's).

DATES: The Anchovy/Jack Mackeral AP will meet on Tuesday, August 28, 1979, from 10 a.m. to approximately 5 p.m. The Billfish AP will meet on Thursday, August 30, 1979, from 10 a.m. to approximately 5 p.m. The meetings are open to the public.

ADDRESS: The meetings will take place at the California Fish and Game Office, 350 South Golden Shores, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 528 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: July 30, 1979.

Winfred H. Meibohm,

Executive Director National Marine Fisheries Service.

[FR Doc. 79-23936 Filed 8-2-79; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Termination of Advisory Committee

Notice is hereby given of the termination of the Advisory Committee on Federal Policy on Industrial Innovation, effective July 1, 1979.

The Committee has completed its mission and issued a final report, in accordance with the terms of its charter.

Persons desiring further information concerning the committee's termination should contact Ms. Florence Feinberg, Room 3864, U.S. Department of Commerce, 14th and Constitution Avenue, N.W. Washington, D.C. 20230, Telephone (202) 377-5065.

Dated: July 25, 1979.

Guy W. Chamberlin,

Assistant Secretary for Administration.

[FR Doc. 79-23972 Filed 8-2-79; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Further Amending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement With India

July 31, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending the bilateral textile agreement with India to increase the consultation levels for Categories 335 (women's, girls' and infants' other cotton coats), 342 (women's, girls' and infants' cotton skirts), 359 (other cotton apparel such as mufflers, scarves, and rainwear, among others), 442 (women's, girls' and infants' wool shirts), 442 (women's, girls' and infants' wool skirts) 447 (men's and boys' wool trousers), 627 (specialty fabrics of man-made fibers, such as lace, netting and elastic, among others), 641 (women's, girls' and infants' woven blouses of man-made fibers) and 666 (other furnishings of man-made fibers, such as blankets, bedspreads, sheets, among others). In the case of the apparel categories, it is only those visaed with the circular visa that are affected by the increase.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: The Governments of the United States and India have exhanged notes further amending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, to increase the consultation levels established under the agreement for Categories 335, 342, 359, 442, 447, 627, 641 and 666 during the agreement year that began on January 1, 1979 and extends through December 31, 1979.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT: Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5421).

SUPPLEMENTARY INFORMATION: On January 9, 1979, there was published in the **Federal Register** (44 FR 2003) a letter dated January 5, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established import restraint levels for certain cotton, wool and man-made fiber textile products, produced or manufactured in India and exported to the United States during the twelve-month period which began on January 1, 1979. The letter published below directs the Commissioner of Customs to increase the previously established levels of restraint for Categories 335, 342, 359, and 666 and to establish levels for Categories 442, 447, 627 and 641 according to the terms of the amended bilateral agreement. The designated levels of restraint have not been adjusted to reflect any entries after December 31, 1978. Entries during the period which began on January 1, 1979 and extends through the effective date of this action will be charged.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 31, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229,

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on January 5, 1979 by the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in India and exported during the twelve-month period that began on January 1, 1979.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on August 3, 1979 and for the twelve-month period which began on January 1, 1979 and extends through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 335, 342, 359, and 666, produced or manufactured in India, in excess of the following, amended levels of restraint:

Category and Amended Twelve-Month Level of Restraint [1]

(Visaed) 335—24,213 dozen.
(Visaed) 342—66,315 dozen.
(Visaed) 359—434,783 pounds.
666—320,513 pounds.

You are further directed to prohibit, effective on August 3, 1979 and for the twelve-month period which began on January 1, 1979 and extends through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in Categories 442, 447, 627, and 641, produced or manufactured in India, in excess of the following levels of restraint:

Category and Twelve-Month Level of Restraint [1]

(Visaed) 442—6,333 dozen.
(Visaed) 447—6,333 dozen.
627—384,615 pounds.
(Visaed) 641—66,966 dozen.

Textile products in Category 627 that have been exported prior to January 1, 1979 shall not be subject to this directive.

Textile products in Category 627 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The actions taken with respect to the Government of India and with respect to imports of cotton, wool, and man-made fiber textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-24092 Filed 8-2-79; 8:45 am]

BILLING CODE 3510-25-M

[1] The levels of restraint have not been adjusted to reflect any entries after December 31, 1978.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERLY HANDICAPPED

Procurement List 1979; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severly Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1979 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 5, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTRACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to procurement List 1979, November 15, 1978 (43 FR 53151):

Class 7530

Paper, Writing, Grain Long, 7530-01-047-3738.

C. W. Fletcher,

Executive Director.

[FR Doc. 79-23958 Filed 8-2-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from Procurement List.

SUMMARY: This action deletes from Procurement List 1979 a commodity produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 3, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTRACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 15, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (44 FR 34626) of proposed deletion from Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from Procurement List 1979:

Class 7520

Pencil, Mechanical, 7520-00-634-3475.

C. W. Fletcher,

Executive Director.

[FR Doc. 79-23957 Filed 8-2-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 3, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR INFORMATION CONTACT: C. W. Fleetcher, (703) 557-1145.

SUPPLMENTARY INFORMATION: On April 27, 1979 and June 1, 1979 the Committee for Purchasd from the Blind and Other Severely Handicapped published notices (44 FR 24905 and 44 FR 31689) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter, presented, the committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1979:

Class 7110

Blackboard, 7110-00-132-6851, (Increase from 60% to 100% of Government's Requirements.)

Class 3990

Pallet 48" × 40" × 36", (Requirements for Social Security Administration, Baltimore, Maryland only.)

C. W. Fletcher,

Executive Director.

[FR Doc. 79-23959 Filed 8-2-79; 8:45 am]

BILLING CODE 6820-33-M

COUNCIL ON WAGE AND PRICE STABILITY

Pay and Price Standards: A Compendium

AGENCY: Council on Wage and Price Stability.

ACTION: Notice of publication of Compendium of final Pay and Price Standards, Procedural Rules,

Implementation Guide, and Questions and Answers.

SUMMARY: In order to facilitate compliance with the anti-inflation program, the Council has published a Compendium of the final version of its standards, rules, and supplementary material. The Compendium is available from the Council's Office of Public Affairs at the address given below.

FOR FURTHER INFORMATION CONTACT: Office of Public Affairs, Council on Wage and Price Stability, Winder Building, 600 17th Street, N.W., Washington, D.C. 20506, 202/456–6757.

SUPPLEMENTARY INFORMATION: The Compendium of Pay and Price Standards is a compilation of materials published in the **Federal Register** during the first program year. This text reflects certain minor changes, principally editorial rather than substantive.

EFFECTIVE DATE: August 3, 1979.

(Council on Wage and Price Stability Act, Pub. L. 93–387, as amended (12 U.S.C. 1904, note); E.O. 12092)

Issued in Washington, D.C., July 30, 1979.

Barry Bosworth,

Director, Council on Wage and Price Stability.

[FR Doc. 79–23959 Filed 8–02–79; 8:45 am]

BILLING CODE 3175–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel (Consairway)

In accordance with Pub. L. 95–202, Section 401 (The G.I. Bill Improvement Act of 1977), and under the provisions of DODD 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel, the Secretary of the Air Force determined on July 23, 1979 that the service of Consairway shall not be considered active military service in the Armed Forces of the United States for purposes of all laws administered by the Veterans' Administration.

For further information contact: Captain Mary C. Pruitt, USAF, telephone: 694–5204 or 694–5074, Office of the Secretary of the Air Force Personnel Council, (SAF/MIPC), The Pentagon, Washington, DC 20330.

Carol M. Rose,

Air Force Federal Register Liaison Officer

[FR Doc. 79–24171 Filed 8–2–79; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Flood Control Project, Waimea River, Island of Kauai, Hawaii

July 23, 1979.

AGENCY: U.S. Army Corps of Engineers, DOD, Honolulu Engineer District.

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY: 1. Brief Description of the Proposed Action. The proposed action is a flood damage reduction project on the Waimea River, Waimea, Island of Kauai, Hawaii. The project currently considers the following alternatives: (1) Partial or complete deepening of the river channel, (2) Raising the height of the existing levee by means of an "I"-wall, and (3) A combination of both the channel deepening and "I"-wall alternative also involving the construction of a new levee between the mouth of the river and the second set of floodgates, and (4) A non-structural alternative. Total length of the project is 7,000 feet along the course of the river.

2. Brief Description of Reasonable Alternatives. Alternatives considered would include non-structural and structural measures:

a. *No Action.* Would allow flooding of portions of the town of Waimea to continue as in the past.

b. *Floodproofing.* This is a non-structural plan that would consist of elevation of buildings, walls around structures, and waterproof panels and sealing around structure openings.

c. *Channel Deepening.* Would consist of deepening of the river channel by excavation along the partial or entire length within the project area.

d. *Raising of the Existing Levee.* Would consist of a new "I"-wall constructed along the top of the existing levee to raise its total height.

e. *Construction of a New Levee.* Both the channel deepening and the "I"-wall alternatives would include the construction of a new levee between the mouth of the river and the second set of floodgates.

3. Brief Description of the Corps Scoping Process which is Reasonably Foreseeable for the DEIS.

a. Proposed Public Involvement Program. The program will involve coordination with the sponsoring agencies, other governmental agencies, community organizations, and the general public. Activities include informal meetings, workshops, formal public meetings, issuance of public notices and letter responses. All pertinent agencies were notified of study initiation. A workshop session was held with interested agencies and the public on January 25, 1979.

b. Identification of Significant Environmental Issues to be Analyzed in Depth in the DEIS.

(1) Effect of alternatives on known and unknown archaeological and historic sites.

(2) Relationship of alternatives to the Captain Cook Landing Site Monument.

(3) Effect of project on aquatic/marine flora and fauna.

(4) Assessment of Waimea community responses to alternatives.

c. Possible Assignments for Input into the EIS under Consideration Among the Lead and Cooperating Agencies.

(1) *U.S. Fish and Wildlife Service:* Provision of the Fish and Wildlife Coordination Act 2(b) report.

(2) *Hawaii Historical Preservation Officer:* Identification and evaluation of previous surveys and recommendations for new surveys.

(3) *National Park Service:* Historic site evaluation report.

d. Identification of Other Environmental Review and Consultation Requirements.

(1) "Protection of Historic and Cultural Properties," 36 CFR Part 800 (44 FR, January 30, 1979), pursuant to Section 106 of the National Historic Preservation Act of 1966.

(2) Section 404 (Clean Water Act of 1977).

(3) Endangered Species Act coordination.

4. A scoping meeting will not be held on this project. Significant agencies involved in the planning process are already informed of the potential action. These agencies include the sponsoring agency, State Historic Preservation Officer, National Park Service and the U.S. Fish and Wildlife Service.

5. Under the present schedule the DEIS will be made available to the public in August of 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Harvey Young, Hydraulic Engineer, U.S. Army Engineer District, Honolulu, Building 230, Fort Shafter, Hawaii 96858. Telephone: (808) 438–9526/1307.

Dated: July 23, 1979.

Peter D. Stearns,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79–23909 Filed 8–2–79; 8:45 am]

BILLING CODE 3710–30–M

Department of the Army

U.S. Army Medical Research and Development Advisory Panel; Closed Meeting

In acccordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Name of committee: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Chemical Warfare Agent Antidotes.

Date of meeting: August 21, 1979.

Time and place: 0900, Room 3092, Walter Reed Army Institute of Research.

Proposed agenda: This meeting will be held from 0900 until 1130 and 1300 until 1630, on 21 August 1979.

In accordance with the provisions set forth in Section 552b. (c)(1), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the entire meeting on 21 August 1979, will be closed to the public for a review, discussion, evaluation and formulation of recommendations concerning procurement, handling and use of Chemical Warfare Agent Antidotes, matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense and in fact properly classified pursuant to such Executive order.

Dr. Howard Noyes, Associate Director, Walter Reed Army Institute of Research, Building 40, Room 111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576–3061) will furnish summary minutes, roster of Committee members, and substantive program information.

For the Commander.

John N. Albertson, Jr.,

Colonel, MSC, Chief of Staff.

[FR Doc. 79–23903 Filed 8–2–79; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Armstrong Firms; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: July 18, 1979. Comments by: September 4, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. [phone] 214/767–7751.

SUPPLEMENTARY INFORMATION: On July 18, 1979 the Office of Enforcement of the ERA executed a Consent Order with the Armstrong Firm of San Antonio, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and the Armstrong Firms wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with the Armstrong Firms effective as of the date of is execution by the DOE and the Armstrong Firms.

I. The Consent Order

The Armstrong Firms, have in the past done business as Robert W. Armstrong dba Armstrong and Associates and as Armstrong Enterprises, Inc., and Pioneer Refining, Inc. The Armstrong Firms, with home offices in San Antonio, Texas, were firms which engaged in the refining and sales of crude oil and refinery products. During the period June 13, 1973, through August 19, 1973, and November 1, 1973, through May 31, 1975, the Armstrong Firms were resellers and retail marketers of No. 2 diesel fuel. As refiners and reseller/retailers, the Armstrong Firms are subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of the Armstrong Firms as resellers and retail marketers of No. 2 diesel fuel, the Office of Enforcement, ERA, and the Armstrong Firms entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was June 13, 1973, through August 19, 1973, and November 1, 1973 through May 31, 1975, and it included all of its sales of No. 2 diesel fuel which was purchased for resale to approximately 51 firms.

2. The Armstrong Firms incorrectly established it classes of purchaser and/or improperly applied the provisions of 6 CFR Section 150.359 and 10 CFR 212.93 and 140.10 when determining the prices to be charged for its No. 2 diesel fuel purchased for resale, and as a consequence overcharged certain of its customers on some of their purchases.

3. The former shareholders of Pioneer Refining, Inc. agree to refund to the DOE $35,700, including interest and penalty, within 30 days of the effective date of this Consent Order, July 18, 1979.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, the former shareholders of Pioneer Refining, Inc. agree to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. l. above, the sum of $35,700 within 30 days of the effective date of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determinaton of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchases or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199l(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund

amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7751.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on the Robert W. Armstrong Firms Consent Order." We will consider all comments we received by 4:30 pm, local time, on September 4, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas TX on the 25th day of July 1979.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 79-24031 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

Joe Webster, d.b.a. JW Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Joe Webster, d.b.a. JW Oil Company (JW), Box 2239, Casper, Wyoming 82601. This Proposed Remedial Order charges JW with pricing violations in the amount of $174,475.54, connected with production and sale of domestic crude oil during the time period January 1, 1974 through April 30, 1976, in the State of Wyoming.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Kenneth E. Merica, District Manager of Enforcement, 1075 South Yukon Street, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226, phone number 303–234–3195. On or before August 20, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 26th day of July 1979.

Robert D. Gerring,

Acting Director, Enforcement Program Operations.

[FR Doc. 79-24026 Filed 8-2-79; 8:45 a.m.]

BILLING CODE 6450-01-M

Loeb & Mitchell Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: July 25, 1979.

COMMENTS BY: September 4, 1979.

ADDRESS: Send to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816) 374–5932.

SUPPLEMENTARY INFORMATION: On July 25, 1979, the Office of Enforcement of the ERA executed a Consent Order with Loeb and Mitchell Oil Company of Albion, Illinois. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Loeb and Mitchell Oil Company, with its home office located in Albion, Illinois, is a firm engaged in the production and sale of domestic crude oil, and is subject to the Mandatory Petroleum and Allocation Regulations at 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Loeb and Mitchell Oil Company the Office of Enforcement, ERA, and Loeb and Mitchell Oil Company entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the production and sales of domestic crude oil by Loeb and Mitchell Oil Company during the period September 1, 1973 through December 31, 1975, from the North Maud property, such sales being made to Ashland Oil Company.

2. The reason for the overcharges was Loeb and Mitchell Oil Company's erroneous characterization of said property as a stripper well lease, as defined at 6 CFR 150.54(s) and at 10 CFR 210.32.

3. It is understood that Loeb and Mitchell Oil Company does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Loeb and Mitchell Oil Company agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $270,182.12, together with interest as specified in paragraph's 1 and 4 of the Consent Order. The refunds shall be made in monthly installments, with the refund completed by February 1, 1981. Such refunds will be made to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industy's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this consent order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling (816) 374–5932.

You should identify your comments or written notification of a claim on the outside of your envelop and on the documents you submit with the designation, "Comments on Loeb and Mitchell Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 4, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Alan L. Wehmeyer,

Acting District Manager, Central Enforcement District, Economic Regulatory Administration.

[FR Doc. 79-24030 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

Loveladdy Oil Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Concert Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: July 26, 1979.
Comments by: August 25, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX 75235 [Phone] 214/767–7751.

SUPPLEMENTARY INFORMATION: On July 26, 1979, the Office of Enforcement of the ERA executed a Consent Order with Loveladdy Oil Co., Inc. of Center, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Loveladdy Oil Co., Inc. wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Loveladdy Oil Co., Inc. effective as of the date of its execution by the DOE and Loveladdy Oil Co., Inc.

1. The Consent Order

Loveladdy Oil Co., Inc., with its home office in Center, Texas, is a firm engaged in the resale of petroleum products, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Loveladdy Oil Co., Inc. as a reseller-retailer of petroleum products, the Office of Enforcement, ERA, and Loveladdy Oil Co., Inc. entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was November 1, 1973, through April 30, 1974, and it included sales of motor gasoline and No. 2 diesel fuel to five classes of purchasers.

2. Loveladdy Oil Co., Inc. improperly applied the provisions of 10 CFR 212.93 (6 CFR 150.359 prior to January 15, 1974) when determining the prices to be charged for its petroleum products, and as a consequence certain of its customers were overcharged on some of their purchases.

3. Loveladdy Oil Co., Inc. agrees to refund to the DOE $25,000, including interest and penalties. Of this amount, $5,000 will be refunded within 30 days of the effective date of the Consent Order, August 25, 1979. The remaining $20,000 will be refunded into escrow as monthly payments equivalent to $0.005 per gallon on the allocated monthly volume of motor gasoline and $0.005 per gallon on all sales of diesel fuel until the entire $20,000 is refunded. The monthly payments should be postmarked no later than ten (10) days following the end of the month for which the payment is being submitted.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Loveladdy Oil Co., Inc. agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of $25,000 in the manner described in I. 3. above. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the

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Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P. O. Box 35228, Dallas, TX. 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7751.

You should identify your comments or written notification of a claim on the outside of your envolope and on the documents you submit with the designation, "Comments on Loveladdy Oil Co., Inc. Consent Order." We will consider all comments we receive by 4:30 p.m. local time, on August 25, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, TX on the 26th day of July, 1979.

Herbert F. Buchanan,

Deputy District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 79-24027 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

Petroleum Corp. of Texas; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provide an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: July 26, 1979. Comments by: September 4, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone 214/767–7745.

SUPPLEMENTARY INFORMATION: On July 26, 1979, the Office of Enforcement of the ERA executed a Consent Order with Petroleum Corporation of Texas of Breckenridge, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Petroleum Corporation of Texas wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Petroleum Corporation of Texas effective as of the date of its execution by the DOE and Petroleum Corporation of Texas.

I. Consent Order

Petroleum Corporation of Texas with its home office in Breckenridge, Texas is a firm engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Part 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and Petroleum Corporation of Texas entered into a Consent Order to resolve certain civil actions which could be brought by ERA as a result of its audit of the crude oil sales by Petroleum Corporation of Texas. This Consent Order settles those matters relative to Petroleum Corporation of Texas' production and sale of crude during the period September 1, 1973 through May 31, 1977.

The significant terms of the Consent Order with Petroleum Corporation of Texas are as follows:

1. Petroleum Corporation of Texas improperly applied the provisions of 10 CFR 212.73 and its predecessor, 6 CFR 150.353 when determining the prices to be charged for certain domestic crude oil.

2. Petroleum Corporation of Texas understands and agrees to refund $100,000.00 to the DOE by certified check. This amount is in full settlement of any and all civil liability within the jurisdiction of the DOE in regard to actions that might be brought by the DOE arising out of the specified transactions for the following properties:

J. B. Walker
Payne "G"
Bates Federal
L. H. Jones
Maymie Lammers Gas Unit
C. F. Williams
Red Lake Gas Unit #1
Sovilla Barron
Harry Hudgins et al #4
F. G. Wilson
Bert Brooks
Shaheen-Wilhelm
Baggett "29"
Harley Brown
Stagner
L. E. Jones
Henderson
H. Hudgins #2
W. S. Jasper
Lillie Cason
H. T. "A" State
State S.C.
D. F. Barr
C. C. Workman
C. R. Franklin

3. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

Refunded overcharges as described in 2. above will be made in four equal installments of $25,000.00 each. The first payment is due 90 days after the effective date of the Consent Order and each 90 days thereafter until the total

refund has been completed. Delivery of such payments shall be to the Assistant Administrator for Enforcement, Economic Regulatory Administration, in the form of a certified check made payable to the United States Department of Energy.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "person" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected person, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established.

Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/???

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on the Petroleum Corporation of Texas Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on or before September 4, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas, on the 26th day of July 1979.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 79-24028 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

M. C. Milam; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: July 24, 1979.

COMMENTS BY: September 4, 1979.

ADDRESS: Send to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. Phone 816 (374–5934).

SUPPLEMENTARY INFORMATION: On July 24, 1979, the Office of Enforcement of the ERA executed a Consent Order with M. C. Milam of Casey, Illinois. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

M. C. Milam, with its home office located in Casey, Illinois, is a firm engaged in the production and sale of domestic crude oil, and is subject to the Mandatory Petroleum and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of M. C. Milam the Office of Enforcement, ERA, and M. C. Milam entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the production and sales of domestic crude oil by Milam during the period September 1, 1973 through December 31, 1975, from the F. Holman lease and the W. S. Holman lease, such sales being made to Union Oil Company.

2. The reason for the overcharges was Milam's erroneous characterization of each of said properties as a stripper well lease, as defined at 6 CFR 150.54(s) and at 10 CFR 210.32.

3. It is understood that Milam does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, M. C. Milam agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1 above, the sum of $50,863.15, together with interest as specified in paragraph's 1 and 3 of the Consent Order. The refunds shall be made in monthly installments, with the refund completed by February 1, 1982. Such refunds will be made to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the

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overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this consent order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling (816) 374–5934.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on M. C. Milam Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 4, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR § 205.9(f).

Alan L. Wehmeyer,

Acting, Manager, Central Enforcement District, Economic Regulatory Administration.

[FR Doc. 79–23929 Filed 8–2–79; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 2924]

Electric Plant Board of the City of Glasgow, Ky.; Application for Preliminary permit

July 3, 1979.

Take notice that on April 4, 1979, the Electric Plant Board of the City of Glasgow, Kentucky, filed an application [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)—§ 825 (r) (1976)] for a preliminary permit for a proposed hydroelectric power project, to be known as the Rough River Lake Dam Project (FERC Project No. 2924). The proposed project would be located on the Rough River in Grayson County, Kentucky. Correspondence with the Electric Plant Board should be directed to Mr. H. Jefferson Herbert, Jr., Wilson, Herbert, Garmon & Sparks, Richards Building, Glasgow, Kentucky 42141.

Purpose of Project— The Electric Plant Board would provide the total power generated at the project to its consumers.

Proposed Scope and Cost of Studies Under Permit—The Electric Plant board seeks issuance of a preliminary permit for a period of 24 months, during which time it proposes to study the feasibility of installing hydroelectric generating units at the existing Rough River Lake Dam of the United States Army Corps of Engineers. The Electric Plant Board estimates that the proposed studies would cost $137,500.

Project Description—The Rough River Lake Dam Project would consist of: (1) a powerhouse, to be constructed, housing hydroelectric generating units (number, size, and type to be determined in course of the study) with a preliminary estimate of an installed capacity of 14,000 kW; and (2) appurtenant facilities. the estimated annual output of the proposed project is 73,584,000 kWh. The Electric Plant Board estimates the cost of the project at $41,000 000. The Electric Plant Board proposes that the project's generating station be operated in coordination with the interconnected system of the Tennessee Valley Authority. The Board would use the total power generated at the project.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, the Applicant seeks a 24-month permit.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. A copy of the application may be obtained directly from the Applicant. Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR. § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before September 4, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–23914 Filed 8–2–79; 8:45 am]

BILLING CODE 6450–01–M

Grace Petroleum Corp. et al.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 25, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Alabama Oil and Gas Board

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–12924
2. 01–057–20092–
3. 102
4. Grace Petroleum Corporation
5. T E Jones 16–6
6. Bluff
7. Fayette AL
8. 120.0 million cubic feet
9. July 17, 1979
10. Warrior Drilling & Eng Co Inc

1. 79–12925
2. 01–057–20105–
3. 102
4. Grace Petroleum Corporation
5. Arvil Moore 24–3
6. Bluff
7. Fayette AL
8. 434.0 million cubic feet
9. July 17, 1979
10. Southern Natural Gas Co

1. 79–12926
2. 01–057–20136–
3. 102
4. Warrior Drilling & Eng Co Inc
5. Sallie Moore
6. Bluff
7. Fayette AL
8. 772.0 million cubic feet
9. July 17, 1979
10. Southern Natural Gas Company

Louisiana Office of Conservation

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–12874
2. 17–093–20184–
3. 102
4. Cayman Exploration Corp
5. S L 7671 No. 1
6. College Point St James
7. St James LA
8. 730.0 million cubic feet
9. July 16, 1979
10. United Gas Pipeline

1. 79–12875
2. 17–097–20479–
3. 102
4. Omni Drilling Part Nos 1977–1–2–3
5. C R Bourque No. 1
6. Lewisburg Field
7. St Landry Parish LA
8. .0 million cubic feet
9. July 16, 1979
10. Texas Eastern Gas Pipeline Company

Montana Board of Oil and Gas Conservation

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–13002
2. 25–041–21264–
3. 108
4. Tricentrol United States Inc
5. Oneil 4–15–31–17
6. Tiger Ridge
7. Hill MT
8. 17.0 million cubic feet
9. July 18, 1979
10. Northern Natural Gas Company

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–12873
2. 30–025–25517
3. 103 Denied
4. Amoco Production Company
5. State /C/ Tract 11 No. 5
6. Eumont Queen
7. Lea, NM
8. 577.0 million cubic feet
9. July 16, 1979
10. Northern Natural Gas Co.

1. 79–13046
2. 30–015–00000
3. 108
4. Kersey & Company
5. ASUA No.1
6. Vandagriff Keyes
7. Eddy, NM
8. .4 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Co.

1. 79–13047
2. 30–015–22134
3. 103
4. C & K Petroleum, Inc.
5. Carlsbad 12 No. 1
6. South Carlsbad Morrow
7. Eddy, NM
8. .0 million cubic feet
9. July 12, 1979
10. Transwestern Pipeline Co.

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–13048
2. 30–155–20498–0014
3. 103
4. Ohio Industrial Energy Inc.
5. Glaze Unit No. 1–41081
6.
7. Trumbull, OH
8. 24.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp., Copperweld Steel Company, Ohio Steel Tube

1. 79–13049
2. 34–105–21767–0014
3. 103
4. BJVC Energy Management Corp.
5. B & L Lambert No. 1
6.
7. Meigs, OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission

1. 79–13050
2. 34–019–20575–0014
3. 108
4. MB Operating Co., Inc.
5. D & H Laubacher Unit No. 1
6.
7. Carroll, OH
8. 1.8 million cubic feet
9. June 27, 1979
10. East Ohio Gas Co., Republic Steel Corp., Columbia Gas Company

1. 79–13051
2. 34–103–21996
3. 103
4. Flint Oil & Gas, Inc.
5. G & J Filous No. 1—Well No. 2110
6.
7. Medina, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp.

1. 79–13052
2. 34–067–20341
3. 103
4. J. S. Marfy and NEFG GMBH
5. G. Palmer No. 1
6.
7. Harrison, OH
8. 14.6 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co.

South Dakota Department of Natural Resource Development

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser (s)

1. 79–12973
2. 40–063–20159
3. 102
4. Alma McCutchin
5. Heikkila #1

6. West Short Pine Hills
7. Harding, SD
8. 182.6 million cubic feet
9. July 16, 1979
10. Montana Dakota Utilities

1. 79–12974
2. 40–063–20168
3. 103
4. Alma McCutchin
5. Heikkila #2
6. West Short Pine Hills
7. Harding, SD
8. 73.0 million cubic feet
9. July 16, 1979
10. Montana Dakota Utilities Co.

1. 79–12975
2. 40–063–20186
3. 103
4. Alma McCutchin
5. Heikkila 1–18
6. West Short Pine Hills
7. Harding, SD
8. 182.0 million cubic feet
9. July 16, 1979
10. Montana Dakota Utilities Co.

1. 79–12976
2. 40–063–20190
3. 103
4. Alma McCutchin
5. Heikkila #4
6. West Short Pine Hills
7. Harding, SD
8. 146.0 million cubic feet
9. July 16, 1979
10. Montana Dakota Utilities Co.

1. 79–12977
2. 40–063–20192
3. 103
4. Alma McCutchin
5. Heikkila 1–21
6. West Short Pine Hills
7. Harding, SD
8. 200.0 million cubic feet
9. July 16, 1979
10. Montana Dakota Utilities Co.

1. 79–12978
2. 40–063–20195
3. 103
4. Alma McCutchin
5. Forest State 1–16
6. West Short Pine Hills
7. Harding, SD
8. 18.0 million cubic feet
9. July 16, 1979
10. Montana Dakota Utilities Co.

Utah Division of Oil, Gas and Mining

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–13053
2. 40–047–00000
3. 102 Denied
4. Belco Development Corp.
5. Natural Buttes Unit 32–138
6. South Blanco Pictured Cliff
7. Uintah, UT
8. .0 million cubic feet
9. July 5, 1979
10.

1. 79–13054
2. 48–047–00000
3. 102
4. Gas Producing Enterprises, Inc.
5. Natural Buttes Unit 27 A–33–9–21
6. South Blanco Pictured Cliffs
7. Uintah, UT
8. .0 million cubic feet
9. July 6, 1979
10. Southern Union Gas Co.

Virginia Department of Labor and Industry, Division of Mines and Quarries

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–12927
2. 45–051–20246–8003
3. 103 Denied
4. Philadelphia Oil Company
5. P–59 Vicey M Page
6. Nora
7. Dickenson, VA
8. 14.1 million cubic feet
9. June 8, 1979
10. Kentucky West Va Gas Company

1. 79–12928
2. 45–051–20254–8003
3. 103 Denied
4. Philadelphia Oil Company
5. P–62 C C Rose
6. Nora
7. Dickenson, VA
8. 119.3 million cubic feet
9. June 8, 1979
10. Kentucky West Va Gas Company

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated annual volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–12876
2. 47–040–17300
3. 108
4. HNG Oil Company
5. Camden L Harper #1 et al
6. Collins Settlement
7. Lewis, WV
8. 8.6 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp

1. 79–12877
2. 47–041–21722
3. 108
4. HNG Oil Company
5. Mary C Wilson #1
6. Collins Settlement
7. Lewis, WV
8. 9.0 million cubic feet
9. July 16, 19789
10. Consolidated Gas Supply Corp

1. 79–12878
2. 47–041–21719
3. 108
4. HNG Oil Company
5. Archie & Ethel Mae Mayle #1
6. Collins Settlement
7. Lewis, WV
8. 8.1 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp

1. 79–12879
2. 47–041–21637
3. 108
4. HNG Oil Company
5. George L Strader #1 Et al
6. Collins Settlement
7. Lewis, WV
8. 6.7 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp

1. 79–12880
2. 47–097–21656
3. 108
4. Union Drilling Inc
5. Union Drilling Inc 1374
6. Union District
7. Upshur, WV
8. 2.0 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp

1. 79–12881
2. 47–097–21525
3. 108
4. Union Drilling Inc
5. Shomo & Odell 1312
6. Union District
7. Upshur, WV
8. 8.1 million cubic feet
9. July 16, 1979
10. Partnership Property Corp

1. 79–12882
2. 47–097–21511
3. 108
4. Union Drilling Inc
5. John D Heavner #2 1309
6. Union District
7. Upshur, WV
8. .7 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12883
2. 47–097–21501
3. 108
4. Union Drilling Inc
5. John D Heavner 1308
6. Union District
7. Upshur, WV
8. 6.3 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12884
2. 47–097–21499
3. 108
4. Union Drilling Inc
5. Hymes & Napier Est 1306
6. Union District
7. Upshur, WV
8. 12.2 million cubic feet
9. July 16, 1979

10. Columbia Gas Transmission Corp

1. 79–12885
2. 47–097–21468
3. 108
4. Union Drilling Inc
5. Leta Millican 1289
6. Union district
7. Upshur, WV
8. 7.5 million cubic feet
9. July 16, 1979
10. Partnership Property Corp

1. 79–12886
2. 47–097–21363
3. 108
4. Union Drilling Inc
5. Stewart J Gould 1245
6. Washington district
7. Upshur, WV
8. 2.2 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12887
2. 47–097–21034
3. 108
4. Union Drilling Inc
5. W H Aspinall Jr 1151
6. Meade District
7. Upshur, WV
8. 4.4 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12888
2. 47–097–21556
3. 108
4. Union Drilling Inc
5. Hattie Phillips Estate 1320
6. Meade District
7. Upshur, WV
8. 4.8 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12889
2. 47–097–21549
3. 108
4. Union Drilling Inc
5. Gore Corp 1319
6. Meade District
7. Upshur, WV
8. 2.3 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12890
2. 47–097–21548
3. 108
4. Union Drilling Inc
5. Ruth G Cross Agent 1317
6. Washington District
7. Upshur, WV
8. 8.2 million cubic feet
9. July 16, 1979
10. Equitable Gas Co

1. 79–12891
2. 47–097–21522
3. 108
4. Union Drilling Inc
5. Bert Tenney Jr 1 399
6. Washington District
7. Upshur, WV
8. 14.3 million cubic feet
9. July 16, 1979
10. Equitable Gas Co

1. 79–12892
2. 47–097–21348
3. 108
4. Union Drilling Inc
5. Ruth Johnston Linger 1239
6. Buckhannon District
7. Upshur, WV
8. 3.4 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12893
2. 47–097–21569
3. 108
4. Union Drilling Inc
5. Shomo & Odell #2 1333
6. Union District
7. Upshur, WV
8. .5 million cubic feet
9. July 16, 1979
10. Partnership Properties Corp

1. 79–12894
2. 47–041–20950
3. 108
4. Union Drilling Inc
5. Stalnaker Funeral Parlor 1943
6. Skin Creek District
7. Lewis, WV
8. 19.9 million cubic feet
9. July 16, 1979
10. Equitable Gas Co

1. 79–12895
2. 47–041–20914
3. 108
4. Union Drilling Inc
5. Homer Marple 1041
6. Hackers Creek District
7. Lewis, WV
8. 10.3 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12896
2. 47–041–20736
3. 108
4. Union Drilling Inc
5. R J Vassar 1038
6. Hackers Creek District
7. Lewis, WV
8. 5.2 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12897
2. 47–041–20690
3. 108
4. Union Drilling Inc
5. Ollie Smith 1028
6. Berlin District
7. Lewis, WV
8. 7.5 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Co

1. 79–12898
2. 47–041–20641
3. 108
4. Union Drilling Inc
5. E J Darnall 1037
6.
7. Lewis, WV
8. 4.7 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12899
2. 47–041–20629
3. 108
4. Union Drilling Inc
5. W L Clark
6. Skin Creek District
7. Lewis, WV
8. 4.9 million cubic feet
9. July 16, 1979
10. Equitable Gas Co

1. 79–12900
2. 47–001–20674
3. 108
4. Union Drilling Inc
5. Virgil & Mary Marks 1330
6. Pleasant District
7. Barbour, WV
8. 6.1 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp

1. 79–12901
2. 47–041–20974
3. 108
4. Union Drilling Inc
5. A J Reeder 1046
6. Skin Creek District
7. Lewis, WV
8. 13.5 million cubic feet
9. July 16, 1979
10. Equitable Gas Co

1. 79–12902
2. 47–001–20670
3. 108
4. Union Drilling Inc
5. Lillian W Post #5 1326
6. Pleasant District
7. Barbour, WV
8. 15.5 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp

1. 79–12903
2. 47–041–21231
3. 108
4. Union Drilling Inc
5. Edwin Smith 1074
6. Hackers Creek District
7. Lewis, WV
8. 5.5 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12904
2. 47–097–21644
3. 108
4. Union Drilling Inc
5. Wilbert Zickefouse 1367
6. Washington District
7. Upshur, WV
8. 3.2 million cubic feet
9. July 16, 1979
10. Equitable Gas Co

1. 79–12905
2. 47–097–20914
3. 108
4. Union Drilling Inc
5. Nellie Mick #2 1118
6. Warren District
7. Upshur, WV
8. 1.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp

1. 79–12906
2. 47–097–20849
3. 108
4. Union Drilling Inc
5. Nita Jones 1092
6. Meade District
7. Upshur, WV
8. 4.9 million cubic feet
9. July 16, 1979
10. Columbia Gas Transportation Corp

1. 79-12907
2. 47-097-20846
3. 108
4. Union Drilling Inc
5. B H Ervin 1091
6. Banks District
7. Upshur, WV
8. 6.7 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp
1. 79-12908
2. 47-097-21624
3. 108
4. Union Drilling Inc
5. Lawrence Wilfong 1350
6. Union District
7. Upshur, WV
8. 14.7 million cubic feet
9. July 16, 1979
10. Columbia Gas Distribution Corp
1. 79-12909
2. 47-097-21642
3. 108
4. Union Drilling Inc
5. Hattie Phillips Estate #2 1365
6. Meade District
7. Upshur, WV
8. 15.0 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp
1. 79-12910
2. 47-097-21603
3. 108
4. Union Drilling Inc
5. S C Rusmisell 1344
6. Union District
7. Upshur, WV
8. 13.1 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp
1. 79-12911
2. 47-097-21764
3. 103
4. Union Drilling Inc
5. Archie Hyre 1402
6. Meade District
7. Upshur, WV
8. 33.2 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp
1. 79-12912
2. 47-041-21632
3. 108
4. Union Drilling Inc
5. Kenneth T & Mary K Hall 1189
6. Freemans Creek District
7. Lewis, WV
8. 9.1 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp
1. 79-12913
2. 47-041-21435
3. 108
4. Union Drilling Inc
5. Clark W. Smith #2 1119
6. Skin Creek District
7. Lewis County, WV
8. 5.2 million cubic feet
9. July 16, 1979
10. Equitable Gas Co
1. 79-12914
2. 47-041-21351
3. 108
4. Union Drilling Inc
5. Edna Radabaugh 1097
6. Skin Creek District
7. Lewis, WV
8. 3.4 million cubic feet
9. July 16, 1979
10. Equitable Gas Co
1. 79-12915
2. 47-097-21345
3. 108
4. Union Drilling Inc
5. Elva J Black 1238
6. Washington District
7. Upshur, WV
8. .8 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp
1. 79-12916
2. 47-097-21333
3. 108
4. Union Drilling Inc
5. Gore Corp #2 1237
6. Washington District
7. Upshur, WV
8. 3.1 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp
1. 79-12917
2. 47-097-21313
3. 108
4. Union Drilling Inc
5. Basil & Pauline Heavner 1231
6. Washington District
7. Upshur, WV
8. 5.9 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp
1. 79-12918
2. 47-097-21299
3. 108
4. Union Drilling Inc
5. Ruth B Alleman 1000
6.
7. Upshur, WV
8. 6.2 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp
1. 79-12919
2. 47-097-21048
3. 108
4. Union Drilling Inc
5. W H Aspinall Jr #2 1154
6. Meade
7. Upshur, WV
8. 4.4 million cubic feet
9. July 16, 1979
10. Columbia Gas Transmission Corp
1. 79-12920
2. 47-041-21747
3. 108
4. HNG Oil Company
5. Camden D Hull #1
6. Collins Settlement
7. Lewis, WV
8. 3.2 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp
1. 79-12921
2. 47-041-21750
3. 108
4. HNG Oil Company
5. Georgie E Wilson #1 et al
6. Collins Settlement
7. Lewis, WV
8. 3.1 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp
1. 79-12922
2. 47-041-01737
3. 108
4. HNG Oil Company
5. George L Strader #3 et al
6. Collins Settlement
7. Lewis, WV
8. 6.9 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp
1. 79-12923
2. 47-041-21736
3. 108
4. HNG Oil Company
5. George L Strader #2 et al
6. Collins Settlement
7. Lewis, WV
8. 3.9 million cubic feet
9. July 16, 1979
10. Consolidated Gas Supply Corp
1. 79-12929
2. 47-001-20544
3. 108
4. Union Drilling Inc
5. Nellie B Queen 1241
6. Pleasant District
7. Barbour, WV
8. 6.0 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12930
2. 47-091-20106
3. 108
4. Union Drilling Inc
5. John O Schnautz 1335
6. Flemington District
7. Taylor, WV
8. 4.1 million cubic feet
9. July 17, 1979
10. Fourco Glass Co
1. 79-12931
2. 47-091-20120
3. 108
4. Union Drilling Inc
5. James B Pepper #2 1361
6. Flemington District
7. Taylor, WV
8. 19.9 million cubic feet
9. July 17, 1979
10. Fourco Glass Co
1. 79-12932
2. 47-091-20121
3. 108
4. Union Drilling Inc
5. Chester Sinsel 1362
6. Flemington District
7. Taylor, WV
8. 10.9 million cubic feet
9. July 17, 1979
10. Fourco Glass Co
1. 79-12933
2. 47-001-20140
3. 108
4. Union Drilling Inc
5. Kathleen Nutter 1064
6. Elk District
7. Barbour, WV
8. 6.0 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12934

2. 47-041-21342
3. 108
4. Union Drilling Inc
5. F A Clark 1095
6. Skin Creek District
7. Lewis, WV
8. 7.0 million cubic feet
9. July 17, 1979
10. Equitable Gas Co
1. 79-12935
2. 47-041-21319
3. 108
4. Union Drilling Inc
5. Esta Lawson 1088
6. Skin Creek District
7. Lewis, WV
8. 5.7 million cubic feet
9. July 17, 1979
10. Equitable Gas Co
1. 79-12936
2. 47-041-21309
3. 108
4. Union Drilling Inc
5. Mabel R Clark 1087
6. Skin Creek District
7. Lewis, WV
8. 1.3 million cubic feet
9. July 17, 1979
10. Equitable Gas Co
1. 79-12937
2. 47-041-21631
3. 108
4. Union Drilling Inc
5. W F Snyder et al 1187
6. Freemans Creek District
7. Lewis, WV
8. 18.3 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12938
2. 47-001-20556
3. 108
4. Union Drilling Inc
5. Charles F Hoffman 1248
6. Pleasant District
7. Barbour, WV
8. 11.7 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12939
2. 47-001-20665
3. 108
4. Union Drilling Inc
5. Sadie C Lake 1314
6. Pleasant District
7. Barbour, WV
8. 7.4 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12940
2. 47-097-21805
3. 103
4. Union Drilling Inc
5. Iva M Sayre 1428
6. Meade District
7. Upshur WV
8. 40.1 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp
1. 79-12941
2. 47-097-21828
3. 103
4. Union Drilling Inc
5. C W Hymes #4 M-417
6. Washington District
7. Upshur WV
8. .6 million cubic feet
9. July 17, 1979
10. Equitable Gas Co
1. 79-12942
2. 47-001-20937
3. 103
4. Union Drilling Inc
5. Jessie Fleming 1425
6. Pleasant District
7. Barbour WV
8. 22.6 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12943
2. 47-001-20941
3. 103
4. Union Drilling Inc
5. Wm E & Margaret Mayle #2 1427
6. Pleasant District
7. Barbour WV
8. 18.7 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12944
2. 47-033-21021
3. 103
4. Union Drilling Inc
5. James A Griffin 7106
6. Eagle District
7. Harrison WV
8. 24.1 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12945
2. 47-097-21802
3. 103
4. Union Drilling Inc
5. Union Drilling Inc 1379
6. Meade District
7. Upshur WV
8. 6.8 million cubic feet
9. July 17, 1979
10. Equitable Gas Co
1. 79-12946
2. 47-097-21777
3. 103
4. Union Drilling Inc
5. C W Hymes #3 M-416
6. Washington District
7. Upshur WV
8. 8.2 million cubic feet
9. July 17, 1979
10. Equitable Gas Co
1. 79-12947
2. 47-097-21758
3. 103
4. Union Drilling Inc
5. Hattie Phillips Heirs #4 1401
6. Meade District
7. Upshur WV
8. 61.6 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp
1. 79-12948
2. 47-097-21806
3. 103
4. Union Drilling Inc
5. Iva M Sayre 1429
6. Meade District
7. Upshur WV
8. 37.8 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp
1. 79-12949
2. 47-017-00598
3. 108
4. Allegheny Land & Mineral Co
5. A-154
6. Grant District
7. Doddridge WV
8. 4.0 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12950
2. 47-001-00184
3. 108
4. Allegheny Land & Mineral Co
5. A-259
6. Union District
7. Barbour WV
8. 5.7 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12951
2. 47-083-00174
3. 108
4. Allegheny Land & Mineral Co
5. A-515
6. Roaring Creek District
7. Randolph WV
8. 16.2 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp
1. 79-12952
2. 47-041-00667
3. 108
4. Allegheny Land & Mineral Co
5. A-129
6. Freeman Creek District
7. Lewis WV
8. 4.0 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12953
2. 47-041-00856
3. 108
4. Allegheny Land & Mineral Co
5. A-157
6. Freemans Creek District
7. Lewis WV
8. 2.7 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12954
2. 47-017-01163
3. 108
4. Allegheny Land & Mineral Co
5. A-258
6. McClellan District
7. Doddridge WV
8. 2.6 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12955
2. 47-033-01176
3. 108
4. Allegheny Land & Mineral Co
5. A-721
6. Sardis District
7. Harrison WV
8. 3.2 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp
1. 79-12956
2. 47-085-01989

3. 108
4. Allegheny Land & Mineral Co
5. A–20
6. Union District
7. Ritchie WV
8. 6.3 million cubic feet
9. July 17, 1979
10. Equitable Gas

1. 79–12957
2. 47–041–00791
3. 108
4. Allegheny Land & Mineral Co
5. A–148
6. Court House District
7. Lewis WV
8. 3.0 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp

1. 79–12958
2. 47–083–00188
3. 108
4. Allegheny Land & Mineral Co
5. A–648
6. Roaring Creek District
7. Randolph WV
8. 10.7 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12959
2. 47–041–01344
3. 108
4. Allegheny Land & Mineral Co
5. A–256
6. Freemans Creek
7. Lewis WV
8. 2.4 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp

1. 79–12960
2. 47–041–00774
3. 108
4. Allegheny Land & Mineral Co
5. A–146
6. Court House District
7. Lewis WV
8. 1.6 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp

1. 79–12961
2. 47–039–22838
3. 103
4. Quaker State Oil Refining Corp
5. Kelly #2 62815–2
6. Elk District
7. Kanawha WV
8. 8.6 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12962
2. 47–039–22834
3. 103
4. Quaker State Oil Refining Corp
5. Nunley #4 62075–4
6. Blue Creek
7. Kanawha WV
8. 9.5 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12963
2. 47–039–22817
3. 103
4. Quaker State Oil Refining Corp
5. Sutton #3 62200–3
6. Elk District
7. Kanawha WV
8. 10.0 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12964
2. 47–039–22818
3. 103
4. Quaker State Oil Refining Corp
5. Sutton #4 62200–4
6. Elk District
7. Kanawha WV
8. 10.0 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12965
2. 47–039–22819
3. 103
4. Quaker State Oil Refining Corp
5. Gilbert #7 62200–7
6. Elk District
7. Kanawha WV
8. 10.0 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12966
2. 47–039–22833
3. 103
4. Quaker State Oil Refining Corp
5. Nunley #3 62075–3
6. Blue Creek
7. Kanawha WV
8. 9.5 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12967
2. 47–039–22824
3. 103
4. Quaker State Oil Refining Corp
5. E Douglas #3 62075–3
6. Elk District
7. Kanawha WV
8. 6.4 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12968
2. 47–039–22826
3. 103
4. Quaker State Oil Refining Corp
5. B Osborne #6 62075–6
6.
7. Kanawha WV
8. 6.4 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12969
2. 47–039–22827
3. 103
4. Quaker State Oil Refining Corp
5. B Osborne #7 62075–7
6. Elk District
7. Kanawha WV
8. 7.9 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12970
2. 47–039–22829
3. 103
4. Quaker State Oil Refining Corp
5. L C Wilson #14 62115–1
6. Elk District
7. Kanawha, WV
8. 7.9 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12971
2. 47–039–22823
3. 103
4. Quaker State Oil Refining Corp
5. Sutton #2 62200–2
6. Elk District
7. Kanawha, WV
8. 10.0 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12972
2. 47–039–22820
3. 103
4. Quaker State Oil Refining Corp
5. Gilbert #8 62200–8
6. Elk District
7. Kanawha, WV
8. 6.0 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12987
2. 47–097–01708
3. 108
4. Union Drilling Inc
5. Artie J Norvell 1389
6. Washington District
7. Upshur, WV
8. 2.4 million cubic feet
9. July 17, 1979
10. Equitable Gas Co

1. 79–12988
2. 47–097–21753
3. 108
4. Union Drilling Inc
5. Danford Lopen Zirkle 1400
6. Meade District
7. Upshur, WV
8. 16.8 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12989
2. 47–097–21754
3. 108
4. Union Drilling Inc
5. S F Simons Heirs 1396
6. Meade District
7. Upshur, WV
8. 19.1 million cubic feet
9. July 17, 1979
10. Columbia Gas Transmission Corp

1. 79–12990
2. 47–001–20548
3. 108
4. Union Drilling Inc
5. Daniel R Stewart 1244
6. Elk District
7. Barbour, WV
8. 8.2 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp

1. 79–12991
2. 47–001–20654
3. 108
4. Union Drilling Inc
5. Sadie C Lake #3 1310
6. Pleasant District
7. Barbour, WV
8. 14.2 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp

1. 79–12992
2. 47–001–20553
3. 108
4. Union Drilling Inc

5. O B & Ada Goodwin 1246
6. Pleasant District
7. Barbour, WV
8. 2.8 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp

1. 79–12993
2. 47–041–21346
3. 108
4. Union Drilling Inc
5. W L Clarke #2 1096
6. Skin Creek District
7. Lewis, WV
8. 4.9 million cubic feet
9. July 17, 1979
10. Equitable Gas Co

1. 79–12994
2. 47–041–21238
3. 108
4. Union Drilling Inc
5. F A Clarke 1076
6. Skin Creek District
7. Lewis, WV
8. .4 million cubic feet
9. July 17, 1979
10. Equitable Gas Co

1. 79–12995
2. 47–041–21735
3. 108
4. HNG Oil Company
5. Kenneth & Carol Williston #1
6. Collins Settlement
7. Lewis, WV
8. 10.8 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp

1. 79–12996
2. 47–041–21738
3. 108
4. HNG Oil Company
5. Ethel Mae Mayle #2
6. Collins Settlement
7. Lewis, WV
8. 5.7 million cubic feet
9. July 17, 1979
10. Consolidated Gas Supply Corp

1. 79–13003
2. 47–041–01639
3. 108
4. Union Drilling Inc
5. Kenneth T & Mary K Hall #2 1192
6. Freemans Creek
7. Lewis, WV
8. 9.1 million cubic feet
9. July 18, 1979
10. Consolidated Gas Supply Corp

1. 79–13004
2. 47–041–21102
3. 108
4. Union Drilling Inc
5. Ishmael V Hull 1053
6.
7. Lewis, WV
8. 3.7 million cubic feet
9. July 18, 1979
10. Equitable Gas Corp

1. 79–13005
2. 47–041–21058
3. 108
4. Union Drilling Inc
5. Mary Ann Hinzman 1054
6. Hackers Creek District
7. Lewis, WV
8. 4.3 million cubic feet
9. July 18, 1979
10. Columbia Gas Transmission Corp

1. 79–13006
2. 47–001–20838
3. 108
4. Union Drilling Inc
5. Claribel Corder 1393
6. Pleasant District
7. Barbour, WV
8. 10.4 million cubic feet
9. July 18, 1979
10. Consolidated Gas Supply Corp

1. 79–13007
2. 47–041–21266
3. 108
4. Union Drilling Inc
5. W S Golden 1078
6. Hackers Creek District
7. Lewis, WV
8. 2.4 million cubic feet
9. July 18, 1979
10. Columbia Gas Transmission Corp

1. 79–13008
2. 47–041–21241
3. 108
4. Union Drilling Inc
5. F A Hardman 1077
6. Skin Creek District
7. Lewis, WV
8. 4.9 million cubic feet
9. July 18, 1979
10. Equitable Gas Co

1. 79–13009
2. 47–041–21187
3. 108
4. Union Drilling Inc
5. Lewis H Stalnaker 1069
6. Skin Creek District
7. Lewis, WV
8. 1.9 million cubic feet
9. July 18, 1979
10. Equitable Gas Co

1. 79–13010
2. 47–041–21146
3. 108
4. Union Drilling Inc
5. F C McNemar 1063
6. Skin Creek District
7. Lewis, WV
8. 7.3 million cubic feet
9. July 18, 1979
10. Equitable Gas Co

1. 79–13011
2. 47–041–21104
3. 108
4. Union Drilling Inc
5. Hocus Hawkins 1062
6. Skin Creek District
7. Lewis, WV
8. 5.4 million cubic feet
9. July 18, 1979
10. Equitable Gas Co

1. 79–13012
2. 47–041–20613
3. 108
4. Union Drilling Inc
5. Arnett Mace 1026
6. Skin Creek District
7. Lewis, WV
8. 9.8 million cubic feet
9. July 18, 1979
10. Equitable Gas Co

1. 79–13013
2. 47–041–20602
3. 108
4. Union Drilling Inc
5. Leda S Beach #2 1020
6. Skin Creek District
7. Lewis, WV
8. 11.7 million cubic feet
9. July 18, 1979
10. Equitable Gas Co

1. 79–13014
2. 47–041–20529
3. 108
4. Union Drilling Inc
5. A L Clark 1023
6. Skin Creek District
7. Lewis, WV
8. 9.7 million cubic feet
9. July 18, 1979
10. Equitable Gas Co

1. 79–13015
2. 47–097–01587
3. 108
4. Union Drilling Inc
5. Lonnie J Hinkle 1340
6. Union District
7. Upshur, WV
8. 11.6 million cubic feet
9. July 18, 1979
10. Columbia Gas Transmission Corp

1. 79–13016
2. 47–097–21586
3. 108
4. Union Drilling Inc
5. Kenneth E Martz 1338
6. Union District
7. Upshur, WV
8. 2.3 million cubic feet
9. July 18, 1979
10. Columbia Gas Transmission Corp

1. 79–13017
2. 47–097–21658
3. 108
4. Union Drilling Inc
5. Shomo & Odell #3 1375
6. Union District
7. Upshur, WV
8. 14.2 million cubic feet
9. July 18, 1979
10. Partnership Properties Corp

1. 79–13018
2. 47–097–21674
3. 108
4. Union Drilling Inc
5. Ted R Fultineer 1383
6. Union District
7. Upshur, WV
8. 10.2 million cubic feet
9. July 18, 1979
10. Columbia Gas Transmission Corp

1. 79–13019
2. 47–097–21675
3. 108
4. Union Drilling Inc
5. Elbert Zirkle 1384
6. Washington District
7. Upshur, WV
8. 4.3 million cubic feet
9. July 18, 1979
10. Equitable Gas Co

1. 79–13020
2. 47–097–21684
3. 108
4. Union Drilling Inc
5. Hattie Phillips Estate #3 1377

6. Meade District
7. Upshur, WV
8. 14.5 million cubic feet
9. July 18, 1979
10. Columbia Gas Transmission Corp

1. 79–13021
2. 47–097–21703
3. 108
4. Union Drilling Inc
5. Martin W. Zickefoose 1390
6. Washington District
7. Upshur, WV
8. 3.9 million cubic feet
9. July 18, 1979
10. Equitable Gas Co

1. 79–13055
2. 47–085–02081
3. 108
4. Allegheny Land & Mineral Co
5. A–50
6. Appalachian Basin
7. Ritchie, WV
8. 4.5 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp

1. 79–13056
2. 47–041–00693
3. 108
4. Allegheny Land & Mineral Co
5. A–115
6. Appalachian Basin
7. Lewis, WV
8. 3.4 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp

U.S, Geological Survey Metairie, La.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–13022
2. 17–715–40215–0000–0
3. 102
4. Gulf Oil Corporation
5. OCS–G–1570 No 1
6. South Timbalier
7. 186
8. 3000.0 million cubic feet
9. July 19, 1979
10. Texas Eastern Transmission Corp

1. 79–13023
2. 17–710–40655–0000–0
3. 102
4. Forest Oil Corporation
5. Eugene Island Block 292 B–11–D
6. Eugene Island
7. 292
8. 2000.0 million cubic feet
9. July 19, 1979
10. Columbia Gas Transmission Corp, Columbia Gas Transmission Corp, Texas Gas Transmission Corp

1. 79–13024
2. 17–700–40201–0000–0
3. 102
4. Gulf Oil Corporation
5. OCS–G–1859 #3
6. West Cameron Blk 45
7. 21
8. 292.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas Pipeline Company

1. 79–13025
2. 17–710–40653–0000–0
3. 102
4. Forest Oil Corporation
5. Eugene Island Block 292 B–9
6. Eugene Island
7. 292
8. 650.0 million cubic feet
9. July 19, 1979
10. Columbia Gas Transmission Corp, Columbia Gas Transmission Corp, Texas Gas Transmission Corp

1. 79–13026
2. 17–706–40222–0000–0
3. 102 Denied
4. CNG Producing Company
5. A–7D2
6. Vermilion
7. 313
8. 1118.0 million cubic feet
9. July 19, 1979
10. Consolidated Gas Supply Corp

1. 79–13027
2. 17–706–40202–0000–0
3. 102 Denied
4. CNG Producing Company
5. A–1S1
6. Vermilion
7. 313
8. 1520.0 million cubic feet
9. July 19, 1979
10. Consolidated Gas Supply Corp

1. 79–13028
2. 17–715–40172–0000–0
3. 102
4. Gulf Oil Corporation
5. OCS–G–3177 #A–7
6. South Timbalier
7. 163
8. 365.0 million cubic feet
9. July 19, 1979
10. Texas Eastern Transmission Corp

1. 79–13029
2. 17–708–40373–0000–0
3. 102
4. Pogo Producing Company
5. Pennzoil Co C–12
6. South Marsh Island SA
7. 128
8. 5.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13030
2. 17–705–40282–0000–0
3. 102
4. Houston Oil & Minerals
5. OCS G–3392 #E–1 (#9)
6. Vermilion Area
7. 50
8. 1100.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission

1. 79–13031
2. 17–715–40142–0000–0
3. 102
4. Mobil Oil Exp & Prod
5. South Timbalier Block 36 B–3
6. South Timbalier
7. 36
8. 402.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas P/L Co, Texas Eastern Transmission, Southern Natural Gas Co

1. 79–13032
2. 17–705–40253–0000–0
3. 102
4. Houston Oil & Minerals
5. OCS–G–3392 (#4) B–2A
6. Vermilion Area
7. 50
8. 260.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission

1. 79–13033
2. 17–707–40253–0000–0
3. 102
4. Houston Oil & Minerals
5. OCS–G–2303 (#2) A–1
6. South Marsh Island
7. 257
8. 700.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas Pipeline, Tennessee Gas Pipeline Company, Tennessee Gas Pipeline Company

1. 79–13034
2. 17–700–40328–0000–0
3. 102
4. Gulf Oil Corporation
5. W Cameron 198 Well A–2 OCS 3284
6. West Cameron Blk 198
7. 197
8. 7300.0 million cubic feet
9. July 19, 1979
10. Texas Eastern Transmission Corporation

1. 79–13036
2. 17–715–40207–0000–0
3. 102
4. Mobil Oil Exp & Prod Southeast
5. South Timbalier Block 37 A–9–D
6. South Timbalier
7. 37
8. 135.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas P/L Co, Texas Eastern Transmission, Southern Natural Gas Co

1. 79–13038
2. 17–706–40284–0000–0
3. 102
4. Gulf Oil Corporation
5. Vermilion 260 G 3552 #1 (A–1)
6. Vermilion
7. 260
8. 4380.0 million cubic feet
9. July 19, 1979
10.

1. 79–13039
2. 17–704–04404–0300–0
3. 102
4. Gulf Oil Corporation
5. OCS G–3540 #1
6. East Cameron
7. 330
8. 3650.0 million cubic feet
9. July 19, 1979
10.

1. 79–13040
2. 17–701–40028–0000–0
3. 102
4. Gulf Oil Corporation
5. West Cameron Blk 409 G–3281 #1
6. West Cameron Blk 409
7. 406
8. 1095.0 million cubic feet
9. July 19, 1979
10. Texas Eastern Transmission Corp

1. 79–13041
2. 17–703–40107–0000–0
3. 102
4. Sonat Exploration Company
5. OCS G–2038 No A–16
6. East Cameron
7. 231
8. 339.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Company

1. 79–13042
2. 17–708–40350–0000–0
3. 102
4. Pogo Producing Company
5. Pennzoil Co C–10
6. South Marsh Island SA
7. 128
8. 70.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13043
2. 17–708–40376–0000–0
3. 102
4. Pogo Producing Company
5. Pennzoil Co A–23
6. South Marsh Island SA
7. 125
8. 1100.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13044
2. 17–708–40236–0000–0
3. 102
4. Pennzoil Oil & Gas Inc
5. Pennzoil Co A–12
6. South Marsh Island SA
7. 128
8. 160.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13045
2. 17–708–40282–0000–0
3. 102
4. Pogo Producing Company
5. Pennzoil Co A–17
6. South Marsh Island SA
7. 125
8. 80.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13035
2. 42–711–40213–0000–0
3. 102
4. Union Oil Company of California
5. A–3
6. East High Island
7. A–334
8. 1825.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission Corp, El Paso Natural Gas Company, Michigan Wisconsin Pipe Line Co

1. 79–13037
2. 42–709–40287–0000–0
3. 102
4. Gulf Oil Corporation
5. High Is Blk A–517 OCS–3481 #A–1
6. High Island
7. A–517
8. 5340.0 million cubic feet
9. July 19, 1979
10.

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field, or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–12869
2. 30–025–04348–0000–0
3. 108 Denied
4. Warrior Inc.
5. Federal D Account A #4
6. Eumont Yates Seven Rivers Queen
7. Lea, NM
8. 1.0 million cubic feet
9. July 16, 1979
10. Phillips Petroleum Co.

1. 79–12870
2. 30–025–04352–0000–0
3. 108 Denied
4. Warrior Inc.
5. Federal D Account A #3
6. Eumont Yates Seven Rivers Queen
7. Lea, NM
8. 2.0 million cubic feet
9. July 16, 1979
10. Phillips Petroleum Co.

1. 79–12871
2. 30–039–00000–0000–0
3. 108 Denied
4. Kimbell Oil Co.
5. Salazar Federal No. 1 Chacra
6. Otero Chacra J–22–25–6
7. Rio Arriba, NM
8. 19.9 million cubic feet
9. July 16, 1979
10. El Paso Natural Gas Company

1. 79–12872
2. 30–039–07839–0000–0
3. 108
4. El Paso Natural Gas Co.
5. SJ 30–4 Unit #26
6. Blanco East-Pictured Cliffs, NM
7. Rio Arriba, NM
8. 4.0 million cubic feet
9. July 16, 1979
10. El Paso Natural Gas Company

1. 79–12079
2. 30–045–22578–0000–0
3. 103
4. William C. Russell
5. Russell #41–A Hammond
6. Blanco Mesa Verde
7. San Juan, NM
8. 100.0 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Company

1. 79–12980
2. 30–045–23088–0000–0
3. 103
4. Hixon Development Company
5. Phillips Federal Well No. 1
6. WAW-Fruitland-PC
7. San Juan, NM
8. 36.0 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Company

1. 79–12981
2. 30–015–22132–0000–0
3. 103
4. Gulf Oil Corporation
5. Pacheco Federal No. 1
6. Angell Ranch Morrow
7. Eddy, NM
8. 80.0 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Company

1. 79–12982
2. 30–015–22313–0000–0
3. 103
4. Gulf Oil Corporation
5. Grynberg A Federal Well No. 1
6. Richard Knob Atoka-Morrow
7. Eddy, NM
8. 22.0 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Company

1. 79–12983
2. 30–039–05899–0000–0
3. 108
4. Kimbell Oil Co.
5. Jicarilla Federal No. 1
6. Basin Dakota M–20–25N–5W
7. Rio Arriba, NM
8. 13.9 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Co.

1. 79–12984
2. 30–039–00000–0000–0
3. 108
4. Kimbell Oil Co.
5. Liberman Federal No. 1
6. Basin Dakota P–4–25N–7W
7. Rio Arriba, NM
8. 11.2 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Co.

1. 79–12985
2. 30–039–00000–0000–0
3. 108
4. Kimbell Oil Co.
5. Liberman Federal No. 2
6. Ballard Pictured Cliffs M–4–25N–7W
7. Rio Arriba, NM
8. 4.9 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Co.

1. 79–12986
2. 30–015–22131–0000–0
3. 103
4. Gulf Oil Corporation
5. Keohane C et al Fed Com #1
6. North Shugart Atoka
7. Eddy, NM
8. 443.0 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Company

1. 79–12997
2. 30–045–20854–0000–0
3. 108
4. El Paso Natural Gas Company
5. Sellers #7
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 20.0 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Company

1. 79–12998
2. 30–039–07206–0000–0
3. 108
4. El Paso Natural Gas Company

5. SJ 27–4 Unit 19 PC & MV
6. Tapacito PC & Blanco MV Gas
7. Rio Arriba, NM
8. 14.0 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Company
1. 79–12999
2. 30–005–00000–0000–0
3. 103
4. Petroleum Development Corporation
5. Hudson Federal #1
6. Mescalero Sands Mississippian
7. Chaves, NM
8. 220.0 million cubic feet
9. July 17, 1979
10. Tuco, Inc.
1. 79–13000
2. 30–005–00487–0000–0
3. 102
4. Petroleum Development Corporation
5. Hudson Federal #1
6. Mescalero Sands Mississippian
7. Chaves, NM
8. 220.0 million cubic feet
9. July 17, 1979
10. Tuco, Inc.
1. 79–13001
2. 30–039–00000–0000–0
3. 108
4. Kimbell Oil Co.
5. Liberman Federal No. 3
6. Ballard Pictured Cliffs D–5–25N–7W
7. Rio Arriba, NM
8. 8.0 million cubic feet
9. July 17, 1979
10. El Paso Natural Gas Co.
1. 79–13057
2. 30–039–00000–0000–0
3. 108
4. Southland Royalty Co.
5. Arizona Jicarilla #2
6. Blanco Pictured Cliffs
7. Rio Ariba, NM
8. .0 million cubic feet
9. June 12, 1979
10. Gas Company of New Mexico
1. 79–13058
2. 30–039–06580–0000–0
3. 108
4. Southland Royalty Co.
5. Arizona Jicarilla B #B–2
6. Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 14.0 million cubic feet
9. June 12, 1979
10. Gas Company of New Mexico

U.S. Geological Survey, Casper, Wyo.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79–13059
2. 25–071–21561–0000–0
3. 102
4. Midlands Gas Corporation
5. 0370 #1 Federal
6. Bowdoin
7. Phillips, MT
8. 30.0 million cubic feet
9. May 16, 1979
10. Kansas-Nebraska Gas Co., Inc.
1. 79–13060
2. 49–037–20832–0000–0
3. 107
4. Champlin Petroleum Company
5. #6 Higgins 22–14
6. Higgins
7. Sweetwater, WY
8. 365.0 million cubic feet
9. May 16, 1979
10. Colorado Interstate Gas Co.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before August 20, 1979.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–23920 Filed 8–2–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. RP72–140]

Great Lakes Gas Transmission Co.; Proposed Changes in PGA Gas Tariff Under Purchased Gas Adjustment Clause Provisions

July 27, 1979.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes"), on July 20, 1979, tendered for filing Thirty-First Revised Sheet No. 57, to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective August 11, 1979. On July 25, 1979, Great Lakes amended its filing of July 20, 1979, solely to reflect a change in the proposed effective date to September 1, 1979.

Great Lakes states that its sole supplier of natural gas, TransCanada PipeLines Limited ("TransCanada"), will increase the rates for gas purchased by Great Lakes effective August 11, 1979. The increase is the result of the announcement by the Canadian Government that the border price of natural gas exported shall be at the rate of $2.80 per MMBtu in United States currency effective August 11, 1979. Great Lakes is seeking waiver of the Commission's Regulations in order to make the increase effective September 1, 1979.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before August 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Acting Secretary.

[FR Doc. 79–23921 Filed 8–2–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. RP 79–79]

Michigan Wisconsin Pipe Line Co.; Filing of Revised Tariff

July 27, 1979.

Take notice that Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) on July 16, 1979 tendered for filing First Revised Sheet Nos. 8–13, 15–20, Original Sheet No. 20A, First Revised Sheet Nos. 21–26, 29, 31–44, 46, 48, 49, 60–62 and 65–67 to its FERC Gas Tariff, Original Volume No. 1. The proposed Tariff Sheets would provide for a change in Michigan Wisconsin's billing and operations from a volumetric (Mcf) to a dekatherm basis, according to the company.

Copies of this filing have been mailed to each of Michigan Wisconsin's jurisdictional customers and to appropriate State Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC, 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before August 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–23922 Filed 8–2–79; 8:45 am]

BILLING CODE 6450–01–M

Northern Natural Gas Co; Application

[Docket No. CP79–394]

July 25, 1979.

Take notice that on July 5, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79–394 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transfer of natural gas service from North Central Public Corporation (North Central) to Wisconsin Gas Company (Wisconsin Gas) for the communities of Browntown, South Wayne, and Monroe, Wisconsin, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it is presently authorized to sell and deliver natural gas to North Central for resale and distribution in the Browntown, South Wayne, and Monroe communities. However, North Central has entered into an agreement with Wisconsin Gas for the sale of the distribution facilities serving the Wisconsin communities.

Consequently, Applicant proposes to transfer natural gas service consisting of 2,170 Mcf of contract demand under its CD–1 Rate Schedule, a 306 Mcf season service demand under Rate Schedule SS–1, and a 70 Mcf winter period service under Rate Schedule WPS–1 for the Wisconsin communities from North Central to Wisconsin Gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–23915 Filed 8–2–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP79–398]

Panhandle Eastern Pipe Line Co.; Application

July 26, 1979.

Take notice that on July 6, 1979, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79–398 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to the City of Louisburg, Kansas, in lieu of Louisburg Gas Company (Louisburg Gas), all as more fully set forth in the application on file with the Commission and open to public inspection.

Pursuant to authorization granted in Docket Nos. G–254 and CP66–358, Applicant presently sells natural gas to Louisburg Gas under Applicant's SG–3 Rate Schedule. However, Applicant has been advised by Louisburg Gas that its gas sales contract dated November 1, 1965, with Applicant has been assigned to the City of Louisburg, Kansas. Consequently, Applicant now proposes to sell natural gas to the City of Louisburg.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 21, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–23923 Filed 8–2–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP79–382]

South Georgia Natural Gas Co.; Application

July 25, 1979.

Take notice that on June 25, 1979, South Georgia Natural Gas Company (South Georgia), P.O. Box 1279, Thomasville, Georgia 31792, filed in Docket No. CP79–382 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a storage and related transportation service for certain customers of South Georgia, all as more fully set forth in the

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application which is on file with the Commission and open for public inspection.

It is indicated that Southern Natural Gas Company (Southern) has offered to provide a storage service for its customers in compliance with the stipulation and agreement approved on January 21, 1977, in Docket No. CP 71–68, *et al.*

The application indicates that two of South Georgia's customers, the City of Albany (Albany) and Atlanta Gas Light Company (Atlanta), have elected to participate in the storage service and South Georgia has entered into 50 and/or 100-day storage service agreements and storage transportation agreements with Southern as of June 1, 1979, for the purpose of making available to Albany and Atlanta the storage service offered by Southern. As of June 1, 1979, South Georgia has also entered into service and transportation agreements with its two customers for the purpose of providing the benefit of Southern's storage service to them.

South Georgia asserts that the services and transportation contemplated to be rendered by South Georgia for the benefit of its two customers would not have a material effect on South Georgia's operations and its present facilities are adequate to render the services proposed and, further, South Georgia anticipates that the services contemplated would not result in any increased costs or charges to any of its other customers.

The agreements between South Georgia and its two customers are cost of service tariffs and provide for charges which flow through to Albany and Atlanta the percentage of charges from ANR Storage Company (ANR) and Michigan Wisconsin Pipe Line Company (Mich Wis) attributable to the storage and transportation services performed for Southern for the benefit of South Georgia and its customers. Each of Southern's storage customers, including South Georgia, is also required to provide Southern with fuel gas equivalent to the fuel gas which Southern must provide ANR and Mich Wis to perform storage and transportation services for Southern for the benefit of storage customers, it is stated. The rate and fuel gas provisions of Southern's storage service agreements are designed so that any changes in the charges and/or fuel gas ANR and Mich Wis charges Southern flow through automatically to storage customers on a *pro rata* basis. Similarly, the rate and fuel gas provisions of the South Georgia 50-day and 100-day storage service agreements are designed to flow through automatically changes in charges and/or fuel gas which the Commission authorized Southern to charge South Georgia.

South Georgia's storage transportation agreements provide for the flow-through to Albany and Atlanta of Southern's charges for the proposed transportation service and any changes in those charges that may be authorized for Southern to charge South Georgia.

There are no additional charges for fuel gas included for South Georgia in its agreements with Albany and Atlanta.

The stipulation and agreement also provided that the customers which participated in the storage service offered by Southern would have included in Southern's Index of Requirements the customers' appropriate storage injection requirements. Southern has filed its application in Docket No. CP79–374 which reflects the storage injection requirements to be included in Southern's Index of Requirements for South Georgia and other customers. Accordingly, South Georgia requests that the Commission authorize it to file appropriate changes in the current Index of Requirements to its Commission authorized curtailment plan reflecting the appropriate summer season storage injection requirements for Albany and Atlanta.

South Georgia asserts that the service offered by Southern, which South Georgia has offered to its customers and which has been accepted by two of its customers, Albany and Atlanta, would assist those customers in meeting winter season high-priority requirements. Further, South Georgia asserts that it is appropriate to allow South Georgia to flow-through automatically to Albany and Atlanta the charges to be charged to South Georgia by Southern for storage and transportation services.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for South Georgia to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23916 Filed 8-2-79, 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-397]

Southern Natural Gas Co.; Application

July 26, 1979.

Take notice that on July 6, 1979, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79–397 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport approximately 90 billion Btu's equivalent of natural gas per day or such lesser or greater volumes of gas as the operating and transmission conditions of its pipeline facilities and its system capacity requirements allow, which gas United has available in Blocks 72, 73 and 74, Main Pass Area, offshore Louisiana (Block 72 Field), pursuant to the terms of a transportation agreement dated May 9, 1979, between Applicant and United. Applicant proposes to take delivery of the gas for United's account at a point on Applicant's existing pipeline facilities in Block 72, Main Pass Area, and redeliver the gas to United at the existing point of interconnection between the facilities of United and Applicant adjacent to Applicant's Shadyside Compression Station, St. Mary Parish, Louisiana.

United would pay Applicant for the proposed transportation 19.9 cents per Mcf of gas redelivered, it is stated. Applicant indicates that it would retain 3.5 percent of the volumes of gas delivered to it for transportation to account for fuel, company-used and lost or unaccounted-for gas, corrected for differences in Btu content between the point of delivery and the point of redelivery of such gas.

Applicant asserts that the proposed service would permit United to take delivery of additional gas without having to construct facilities which would be duplicative of Applicant's existing facilities near the new gas supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 21, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23924 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-64; (PGA79-2) (DCA79-2)]

Southern Natural Gas Co.; Informational Filing in Reference to July 1, 1979 PGA Filing

July 27, 1979.

Take notice that Southern Natural Gas Company (Southern) on July 17, 1979, filed information regarding a rate change filing pursuant to Commission order of June 29, 1979. Such filing is for informational purposes only and does not contain a change in Southern's rates which have previously been allowed to become effective on July 1, 1979.

Southern states that the adjustments made by Southern's pipeline suppliers would result in an increase in Southern's commodity and one-part rates above those previously allowed to become effective July 1, 1979. Therefore, Southern requests that the Commission permit it to retain in effect the July 1, 1979 rates previously conditionally approved.

Copies of the filing are being served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-23925 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CI78-520, et al.]

Southland Royalty Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

July 25, 1979.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI78-520, C, 10/30/78	Southland Royalty Company, *et al.*, 1000 Fort Worth Club Tower, Fort Worth, Texas 76102.	El Paso Natural Gas Company, Angell Ranch and Parkway Fields, Eddy County, New Mexico.	(1)	14.65
CI78-671, C, 8/7/78	Ashland Exploration, Inc., P.O. Box 1503, Houston, Texas 77001.	Colorado Interstate Gas Company, Hugoton Field, Hamilton, Haskell and Kearney Counties, Kansas.	(1)	14.65
CI78-671, C, 10/23/78	Ashland Exploration, Inc	Colorado Interstate Gas Company, Hugoton Field, Haskell County, Kansas.	(1)	14.65
CI78-1033, C, 11/8/78	Marathon Oil company, 539 South Main Street, Findlay, OHio 45840.	Colorado Interstate Gas Company, Wamsutter Arch Field, Carbon and Sweetwater Counties, Wyoming.	(1)	15.025

(1) Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

Filing Code: A—Initial Service. B—Abandonment C—Amendment to add acreage D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 79-23917 Filed 8-2-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-405]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Application

July 26, 1979.

Take notice that on July 10, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-405 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the inclusion of the costs thereof in its rate base, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Tennessee indicates that it proposes to construct and operate 29.9 miles of 30-inch pipeline, 0.4 mile of 16-inch tie-in line and certain metering facilities and to include the costs thereof in its rate base. Such facilities, estimated to cost a total of $40,529,000, would permit the attachment by Tennessee of gas to be purchased by Tennessee from Tenneco Oil Company (Tenneco Oil). The proposed 30-inch pipeline would originate near Tenneco Oil's West Cameron Block 493 (WC 493) platform, offshore Louisiana, and the 30-inch line would be tied into the WC 493 platform by means of 0.4 mile of 16-inch line and would extend to an existing subsea side valve on Texas Eastern Gas Pipeline Company's (TETCO) 24-inch pipeline in East Cameron Block 227 where gas would be deliverable, for the account of Tennessee, to TETCO, it is asserted. The related metering facilities would be located on the offshore platform at WC 493.

Pursuant to the gas purchase and sales agreement between Tennessee and Tenneco Oil it is expected that it would reflect a dedication for sale to Tennessee of 75 percent of the reserves available and 100 percent of the deliverability available.

Tennessee asserts that in the event Tenneco Oil is permitted in the future to utilize all or part of the reserves presently being retained by it, the said facilities would continue to be utilized for the purpose of handling gas for itself and Tenneco Oil.

Tennessee estimates that approximately 110,000,000 Mcf of gas reserves (dry), as of January 1, 1979, would be available for delivery to Tennessee from WC 493 and that the maximum daily deliverability would be 150,000 Mcf of gas per day.

Tennessee and TETCO entered into an exchange agreement, dated October 17, 1974, under which Tennessee is permitted to deliver to TETCO at East Cameron Block 245, offshore Louisiana, up to a total of 230,000 Mcf per day. Tennessee and TETCO would amend such agreement to establish an additional point of delivery by Tennessee to TETCO at East Cameron Block 227 so that the gas available to Tennessee from WC 493 can be received by TETCO and exchanged with Tennessee.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 21, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice, that pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23926 Filed 8-2-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. RP78-87 and RP79-5]

Texan Eastern Transmission Corp.; Order Consolidating Proceedings

July 25, 1979.

On April 12, 1979, Texas Eastern Transmission Corporation (TETCO) filed a motion for consolidation of rate proceedings in Docket Nos. RP78-87 and RP79-5, stating that the same issues are involved in both dockets. TETCO asserts that the filing docketed RP79-5 was submitted in compliance with a Commission suspension order of September 29, 1978 issued in Docket No. RP78-87. TETCO further states that the Staff served related cost of service top sheets simultaneously in the two dockets, and that settlement discussions in both dockets have proceeded jointly. No participant in these proceedings opposes TETCO's motion.

Pursuant to the authority delegated to the Secretary in Section 3.5 of the Commission regulations governing Organization and Delegations of Authority, the Secretary, upon review of TETCO's motion, concludes that as the issues involved in both dockets are interrelated, the proceedings would be handled more expeditiously on a consolidated basis. Accordingly, it is ordered that the two dockets be consolidated for purposes of hearing and decision.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23918 Filed 8-2-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-407]

Transcontinental Gas Pipe Line Corp.; Application

July 25, 1979.

Take notice that on July 12, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-407 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco requests authority to construct, install, and operate miscellaneous gas purchase facilities to attach new supplies to its system.

The proposed facilities are as follows:

Field/Location	
ONSHORE:	
North Rucias, Brooks County, Texas.	6.50 miles of 8-inch, 1.53 miles of 6-inch, 1.92 miles of 4-inch line and meter station
Charline, Live Oak County, Texas.	7.46 miles of 16-inch, 0.99 mile of 12-inch line and meter station
East Morgantown Prospect, Marion County, Mississippi.	5.63 miles of 10-inch line and meter station
OFFSHORE LOUISIANA:	
Block 619, West Cameron Area.	2.30 miles of 4-inch line
Block 330, West Cameron Area.	2.94 miles of 12-inch line and meter station
Block 22, West Cameron Area.	6.77 miles of 4-inch line and meter station
Block 310B, Vermilion Area.	2.10 miles of 12-inch line and meter station
Block 120K, Ship Shoal Area.	5.41 miles of 16-inch line and meter station
Block 10L, High Island Area.	0.45 mile of 8-inch line and meter station
Block A-313, High Island Area.	1.90 miles of 12-inch line and meter station
Block A-273, High Island Area.	5.60 miles of 8-inch line and meter station
OFFSHORE TEXAS:	
Block 193L, High Island Area.	2.31 miles of 10-inch line
Block 110B, High Island Area.	1 mile of 16-inch line and meter station
Block 185S, South Timbalier Area.	2.80 miles of 8-inch line
Block 34, West Delta Area.	4.78 miles of 8-inch and 0.06 mile of 6-inch line

The total cost of the facilities is estimated to be $32,350,000.

The proposed facilities would be financed initially through short-term loans and available cash. Permanent financing would be undertaken as part of an overall long-term financing program at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23919 Filed 8-2-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RM78-12; Order No. 31]

Determination of Incentive Rate of Return, Tariff, and Related Issues

Issued: June 8, 1979.

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Order Setting Values for Incentive Rate of Return, Establishing Inflation Adjustment and Change in Scope Procedures, and Determining Applicable Tariff Provisions

I. *Introduction*

By this Order, the Federal Energy Regulatory Commission (Commission) resolves three complex and interrelated issues concerning the segments [1] of the Alaska Natural Gas Transportation System (ANGTS) located in the United States: (1) the structure of the initial tariffs to be applied to the transportation of Alaskan gas; (2) the Incentive Rate of Return (IROR) mechanism and the values to be applied to the separate elements of that mechanism; and (3) the rate of return on equity to be applied once the system becomes operational.

A. Scope of Order

This Order is divided into six major sections. Section II is concerned with the Incentive Rate of Return, its rationale and mechanism. The four parts to this section explore and define the incentive concept (Part A), the six IROR parameters (Part B), and the implementation of the incentive mechanism (Part C). Sections III and IV deal with particular adjusting mechanisms which are required for the proper implementation of the Incentive Rate of Return. These are the Adjustments for Inflation (Section III) and Change in Scope mechanisms and procedures (Section IV). Section V provides a general overview of the result of the IROR mechanism. Taken together, these four sections supplement the basic framework for an incentive mechanism, specified in Commission Order No. 17,[2] which is designed to reward project sponsors for good management and effective control of costs.

The project sponsors' proposed tariffs are addressed in Section VI. The focus of that section is to resolve important issues which affect the risk to be borne by project sponsors in the construction and initial operation of the ANGTS. The relationship between the tariff issues and the IROR mechanism is important.

The last section (Section VII) addresses two procedural issues. These concern the use of the rulemaking process, and the relationship of this rulemaking to other pending proceedings pertinent to certification of the ANGTS.[3]

The resolution of tariff, incentive rate, and rate of return on equity issues for the Alaskan Northwest and Northern Border segments of the ANGTS are embodied in the text of this Order, and implemented through the ordering paragraphs and the terms and conditions.

The project sponsors have earnestly sought that this Order, especially as it relates to the tariff structure, provide assurance to prospective equity investors and lenders. The concern of the sponsors is wellfounded. The Commission fully recognizes that equity investors and lenders will make critical decisions respecting the financing of construction of the ANGTS in reliance on this Order.

The Commission has articulated in great detail its rationale for this Order. Where reasoned alternatives were available, we have provided a thorough analysis of the issues and the basis for our conclusions. This thoroughness provides the investors' best security in relying on this Order.

B. *Background*

The Prudhoe Bay Field, on the north slope of Alaska, contains the largest single gas reservoir ever discovered on the North American Continent. Virtually every estimate exceeds 26 trillion cubic feet of proven, recoverable natural gas reserves. This large deposit of natural gas could supply more than two billion cubic feet of natural gas per day (approximately five percent of the nation's current gas requirements) over a 25-year period.

In recognition of the potential importance of this domestic energy source, Congress passed the Alaska Natural Gas Transportation Act (ANGTA), Pub. L. No. 94–586, 90 Stat. 2903 (1976) (15 U.S.C. §§ 719–719m), which authorized the President to recommend a natural gas system to transport Alaskan natural gas to the contiguous lower-48 States. In September of 1977, the President rendered a decision that the Alcan Pipeline Company, because its proposal was environmentally and economically superior to competing proposals, should be granted the certificate to construct the ANGTS.[4] Congress, by joint resolution, approved and adopted the President's selection in November of that year, H.J. Res. 621, Pub. L. No. 95–158, 91 Stat. 1268 (1977).

The ANGTS will be 4,800 miles in length, orginating on the north slope of Alaska and passing through Canada to the lower-48 states.[5] This system is expected to deliver about 2.4 billion cubic feet of natural gas per day to markets in the lower-48 States. At the time of the President's *Decision* the capital costs were estimated at $10.5 to $13.9 billion,[6] which would make the project the largest privately financed project in history.[7]

[1] These segments are on the Alaskan segment and the Eastern leg (Northern Border). The only tariffs currently before the Commission for approval are those filed by Alaskan Northwest Natural Gas Transportation Company on behalf of the Alaskan segment, and by Northern Border Pipeline Company on behalf of the Northern Border segment.

[2] Federal Energy Regulatory Commission, Order No. 17, "Order Attaching Incentive Rate of Return Conditions to Certificates of Public Convenience and Necessity, Docket No. RM78–12 (Dec. 1, 1978) *confirmed*, Order No. 17–A (Jan. 12, 1979).

[3] These proceedings focus upon issues surrounding the building of natural gas facilities which, prior to transporting gas as a part of the ANGTS, will be used to transport Canadian gas. *See* Northwest Alaskan Pipeline Company, Docket Nos. CP78–123, *et al.*, "Order Consolidating Proceedings, Establishing Procedures, Granting Interventions and Initiating Hearings." (April 20, 1979.)

[4] Executive Office of the President, Energy Policy and Planning, *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (September 1977) [hereinafter cited as *Decision*]. The present sponsors for the Alaskan segment are the successors to the Alcan Pipeline Company; *see*, Northwest Alaskan Pipeline Company, Docket No. CP78–123, *et al.*, "Order Transferring Conditional Certificate of Public Convenience and Necessity from Alcan Pipeline Company to Alaskan Northwest Natural Gas Transportation Company, Reviewing Relevant Portions of Underlying Partnership Agreement and Granting Intervention," (June 30, 1978). The sponsor for the Eastern Leg Segment is the Northern Border Pipeline Company.

[5] The ANGTS will be a chilled, buried, natural gas pipeline that will run parallel to the Trans-Alaska Oil Pipeline, to Delta Junction, just south of Fairbanks. From there, it will run parallel to the existing Alcan Highway through southern Alaska and northwestern Canada to Caroline junction, near Calgary, Alberta. (In addition to transporting Alaskan gas, this section may also carry Canadian gas from the Mackenzie Delta region to the Trans-Canada Pipeline at Empress, Alberta.) At Caroline Junction, the system will divide into two legs: the Eastern Leg (Northern Border pipeline in the United States), which will carry approximately two-thirds of the gas eastward to a point near Chicago, and the Western Leg, which will parallel an existing Pacific Gas Transmission Company pipeline, carrying the remaining one-third from Alberta to California. *See Decision* at 6–12.

The pipeline system in the U.S. will be built by three major pipeline companies. The Alaska segment, from Prudhoe Bay to the Yukon Border, will be constructed by the Alaskan Northwest Natural Gas Transportation Company. The Western Leg will be built by the Pacific Gas Transmission Company. The Northern Border segment will be built by the Northern Border Pipeline Company.

[6] *Decision* at 157.

[7] The sponsors state they are unable to provide current cost estimates, which have increased since 1977, reflecting inflation and changes in original cost estimates as well as changes in project design. Letter of Mr. Rush Moody, Jr., Counsel representing Alaskan Northwest and Northern Border, to Mr. John B. Adger, Jr., Director, Alaskan Gas Project Office, Federal Energy Regulatory Commission (May 3, 1977).

In the course of deciding the issues presented in this Order, the Commission has reviewed an extensive record compiled over the past serveral years in numerous proceedings. This includes the record developed prior to the President's *Decision* during the lengthy Alaska natural gas hearing in which the Commission first considered project alternatives,[8] and the *Recommendation* submitted by the Federal Power Commission to the President prior to the President's *Decision*.[9] In addition, there is the record of comments submitted to the President on the Commission's *Recommendation*, comments on the President's *Decision* submitted by this Commission and others to the Congress, and the hearings held by Congress pursuant to approving the *Decision*. Finally, there is the extensive record compiled in this rulemaking, a record which consists of comment submitted to the Commission during the proceedings initiated on May 8, 1977,[10] six studies or reports dealing with IROR issues,[11] a special tariff report of the Commission's Alaska Delegate, and comments and reply comments submitted to the Commission pursuant to the April 6, 1979 Notice.

The *Decision* was the final product of a process, stipulated by Congress in ANGTA,[12] that included written comments from Federal Officers and agencies, as well as State governors, and certain separate evaluations by the council of Environmental Quality. These comments and reports covered matters such as environmental and safety considerations, financing, and the relationship of any decision on the ANGTS to other aspects of national energy policy. These submissions formed an important part of the record from which the President's *Decision*, with all ot its attendant terms and conditions, was developed.

The FPC's *Recommendation* found that the net national economic benefit (NNEB) was large and positive for any of the three alternatives which the Commission had considered, and it recommended that one of the two overland routes be constructed.[13] However, several of the July 1, 1977, reports to the President explored the impact of higher-than-anticipated costs on the benefits of the proposed projects. In particular, task forces studying construction delay and cost overruns on the one hand,[14] and national economic impact on the other,[15] combined forces in preparing an evaluation of the effects of cost overrun and schedule delay on NNEB.[16]

Effect on NNEB of Expected Cost Overrun and Worst Case Overrun

[Billions of 1975 dollars]

	Discount rate		
Arctic:			
Expected overrun	10.4	5.3	3.9
Worst case	2.6	−2.2	−3.4
Alcan:			
Expected overrun	12.3	4.8	2.0
Worst case	6.6	.7	−1.1
El Paso:			
Expected overrun	10.4	3.8	1.5
Worst case	7.8	1.8	−.1

Source: Federal Energy Administration, Department of Commerce, Department of the Interior—U.S. Geological Survey, Department of Transportation, Department of Treasury, Energy Research and Development Administration, "Report of the Working Group on Supply, Demand and Energy Policy Impacts of Alaska Gas." Table II–13, at 138 (July 1, 1977).

The President's *Decision* responded to the possibility of overruns in two ways. First, an analysis of the potential for cost overruns and time delay for the selected project, as well as discussion of comparisons with the oil pipeline experience, was incorporated in the *Report* which accompanied the *Decision*.[17] From That evaluation came an estimate of cost overruns under expected conditions, or an "expected overrun."

Second was the explicit recognition of the risk that cost overruns could be much different than the President's expected case, and the requirement that a framework be divised to minimize that risk. The framework, provided in the President's *Decision*, calls for the allocation of the project's risks among its various beneficiaries, and the organization of Federal Government interactions with the project to reduce those risks.[18]

The structure of government involvement includes a series of approvals designed to ensure that appropriate planning and analysis has been completed prior to construction, and an organization of the government's enforcement responsibilities in a manner which will provide coordinated and efficient action.[19] It is this framework in its entirety—reduction of risks as much as possible through appropriate government involvement, and allocation of residual project risks among the project's various beneficiaries—that will provide the greatest likelihood of obtaining the expected positive benefits of the project.

The President's *Decision* places a number of requirements on the

[8] *See*, El Paso Alaska Company, Docket Nos. CP75–96, *et al.*, *Initial Decision on Proposed Alaska Natural Gas Transportation Systems* (Feb. 1, 1977). On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. No. 95–91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission ceased to eixist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and this Commission, which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The Commission was assigned all relevant authority not granted to it under the DOE Act respecting action concerning the ANGTS. Department of Energy Delegation Order No. 0204–8 (effective Oct. 1, 1977) 42 FR 61491 (Dec. 5, 1977).

[9] FPC, *Recommendation to the President, Alaska Natural Gas Transportation Systems* (May 1, 1977) [hereinafter cited as *Recommendation*].

[10] Federal Energy Regulatory Commission, "Incentive Rate of Return from the Alaska Natural Gas Transportation System" Notice of Proposed Rulemaking, Docket No. RM78–12 (May 8, 1978), 43 FR 20245 (May 11, 1978), revised Sept. 15, 1978.

[11] The reports received were: Alaska Gas Project Office FERC, "Price Indices for Adjusting the Cost Performance Ratio of the Alaska Gas Pipeline: Analysis and Recommendations" (March 29, 1979) [hereinafter cited as Alaska Gas Project Office Report]; J. Hass, "Risk, Return and the IROR Plan: A Report to the Federal Energy Regulatory Commission" (March 1979) [hereinafter cited as Hass Report]; James D. McCullough, Institute for Defense Analysis, "On the Treatment of Risk, and Uncertainty in Determining Change in Scope Allowability and Center Point Establishment in the Alaska Gas Pipeline IROR Mechanism" (March 1979) [hereinafter cited as McCullough Report]; Northwest Alaskan Pipeline Company, "Allowable Cost Estimate Revisions Under the Incentive Rate of Return Procedure (March 3, 1979) [hereinafter cited as Northwest Alaskan, Allowable Cost Estimate Revisions"]; Northwest Alaskan Pipeline Company, "Determining the Project Risk Premium for the Alaska Segment of the Alaska Natural Gas Transportation System" (March 7, 1979) [hereinafter cited as Northwest Alaskan, "Determining Project Premium"]; Northwest Alaskan Pipeline Company, "Recommended Inflation Adjustment Under the Incentive Rate of Return (IROR) Procedure" (March 7, 1979) [hereinafter cited as Northwest Alaska "Recommended Inflation Adjustment"]. All of these reports were served on interested parties of record. *See* Federal Energy Regulatory Commission, "Determination of Incentive Rate of Return, Tariff and Related Issues For the Alaska Natural Gas Transportation System," Docket No. RM78–12 at 18 n. 24 (mimeo) (April 6, 1979) [hereinafter the April 6 Notice.]

[12] ANGTA, Section 6 (15 U.S.C. § 719d).

[13] *Recommendation*, Chapter IV. NNEB is defined as "the present value of the benefits derived less the present value of resources employed in undertaking the project." *Decision* at 174.

[14] Department of the Interior and Department of Transportation, "Alaska Natural Gas Transportation System: White House Task Force Lead Agency Report on Construction Delay and Cost Overruns," (July 1977).

[15] Federal Energy Administration, Department of Commerce, Department of the Interior, Department of Labor, "Working Group: National Economic Impact of Alaskan Natural Gas Transportation Systems," (June 30, 1977).

[16] This table is included to illustrate the genesis of the President's concern over the impact of cost overruns on the project's NNEB as evaluated at the time of the *Decision:*

[17] The *Report*, following page 84 of the *Decision*, accompanied the *Decision* to Congress and may be regarded as authoritative legislative history. Midwest Gas Transmission Co. v. FERC, 589 F.2d 803, 811 n.23 (D.C. Cir. 1978).

[18] *Decision* at 201–205.

[19] Reorganization Plan No. 1 of 1978, submitted by the President to the Congress on April 2, 1978 pursuant to the provisions of 5 USCA § 901 *et seq.*

Commission to implement the framework within which the project is to proceed. One of the most important is to establish a variable or incentive rate of return mechanism to relate the allowed rate of return for equity for this project to the actual capital cost as compared with projected cost.[20]

The consideration of the incentive rate of return mechanism and the project company tariffs will further assign appropriate risks to the project sponsors, and will establish the share of the cost overrun risk to be borne by gas consumers. The principal matters which remain for Commission consideration are consideration of the shipper company tariffs (including pass-through of charges under the tariffs approved herein),[21] and the costs of processing and conditioning the gas for pipeline entry. The latter of these two matters is the subject of a rulemaking proceeding currently pending before the Commission in Docket No. RM79–19.[22]

The final or ultimate cost of this project is now unknown; the best that can be done is to specify a probability distribution of possible final cost outcomes. The range of possible costs for a pipeline such as Northern Border is probably very narrow, whereas the range for the Alaska segment, with its inherent uncertainties regarding system design and logistics of construction, is likely to be much broader.

Cost estimates for most large projects tend to increase as more is known about the detailed design of the system. The classic example in this respect is the Trans-Alaska Oil Pipeline System (TAPS). The General Accounting Office (GAO) reports that, from an initial estimate of just over $1 billion at the time it was first planned in 1968, the cost estimates had risen to over $4 billion by May 1974 largely due to more detailed system definition and design, additions to the system size and sophistication, delay costs, and route and design changes. By the time the base control budget was established in early 1975, the cost estimates had grown to over $6 billion.[23] The GAO reports that this tendency is not restricted to the oil pipeline, but is a common feature in other large projects.[24]

As discussed in considerably more detail in Section II.B.2 (the Center Point), the President's *Decision* took this tendency into account by allowing for expected overruns from the March 1977 estimates. Further review by the Commission suggests that 1.3 times the March 1977 estimate is a reasonable allowance for cost growth after this estimate is corrected for inflation and scope changes. However, as Alaskan Northwest points out, the estimate might well be expected to grow as more is known about the detailed requirements for the project's design.

The Commission's problem is to be fair to the project sponsors, given the realities of the cost estimation process, while protecting gas consumers from being exposed to an uneconomic project. The Commission's approach has been to structure the IROR mechanism to accommodate changes in cost estimates attributable to increasing knowledge of design requirements, through adoption of a liberal design change policy prior to the commencement of construction. However, the Commission insists that realistic cost estimates be provided to the government prior to the commencement of construction. This result is achieved by severely constraining the circumstances in which scope changes will be considered once construction has commenced.

The Commission views the IROR mechanism as one of a number of policy tools that the Federal government will use to ensure that the construction of the ANGTS continues to be in the public interest. The Commission believes that the IROR mechanism it has developed can legitimately be expected to achieve the following objectives:

The development of the best possible cost estimates prior to commencement of construction; and

The provision of a workable incentive to construct the ANGTS within the parameters provided by approvals or authorizations which may be granted by the Commission and the Federal Inspector.

The President and the Congress found that adequate assurance of continued project viability, and appropriate completion guarantees from the project's direct beneficiaries, should allow the project to be financed in the private market. The Commission recognizes that, in order to achieve a privately financed project, debt service must be assured in all events once the system is complete. The Commission also recognizes that such assurance requires the approval of appropriate project company *pro forma* tariff provisions and service agreements, as well as assurance that the shippers who sign the service agreements can pass charges incurred under them through to their customers. The Commission observes that the parties are essentially unanimous in agreeing that assurance of pass-through is necessary. However, certain mechanical and timing aspects of pass-through, as well as appropriate provisions for pass-through of charges incurred in Canada, of necessity are reserved for future proceedings when all tariffs are before the Commission.

The Commission recognizes the essential role of the project company tariffs with all of their attendant conditions in securing financing for the project. In its comments on the President's *Decision*, the Commission recognized that the *Decision* and the *Agreement on Principles* with Canada[25] anticipated that these will be cost-of-service tariffs, as opposed to a stated rate, to ensure that revenues available to the project companies are adequate to meet their expenses irrespective of fluctuations in throughput volume or costs. We recognize that funds are to be advanced in reliance upon the regulatory approvals provided in this Order.

The size and potential importance of the ANGTS to U.S. energy supplies has led it to receive special regulatory attention and priority.[26] The

[20] In the words of the *Decision*, the Commission was to fix "a variable rate of return on equity that will reward the applicant for project completion under budgeted cost and penalize the applicant for project completion above bedgeted cost. The variable return shall be set to provide substantial incentive to construct the project without incurring overruns * * *" *Decision* at 36.

[21] The shipper companies have not yet filed their tariffs with the Commission.

[22] Before the Section 7 certification process for the ANGTS facilities is complete, the Commission must also approve (1) the certification cost and schedule estimates, and (2) the financing plans for the project's segments. Procedures for submission and consideration of certification costs and schedule estimates are being completed by the Commission's Alaska Delegate. These estimates could be filed now for the Northern Border and Western Leg segments of the ANGTS. For the Alaskan segment, these estimates must await the resolution of questions as to the maximum allowable operating pressure of that segment, and the proximity of that segment to the existing oil pipeline. The Commission has noticed for comment (in Northwest Pipeline Co., Docket No. CP78–123, *et al.*) a report on system design issues (pipe diameter and operating pressure), and the Department of the Interior has expressed its intention to resolve, in the near future, at least provisionally, the proximity question. Financing plans for the "pre-built" portions of Northern Border and Western Leg (i.e., southern segments to be built in advance of the Alaska segment, to transport gas from Canada pending completion of the full system) are presently being considered in a proceeding before the Commission in Northwest Alaskan Pipeline Co., Docket No. CP78–123, *et al.* Other financing plans will be considered as they are filed.

[23] Comptroller General of the U.S., *Report to the Congress: Lessons Learned From Constructing the Trans-Alaska Oil Pipeline* at 10 (June 15, 1978).

[24] *Id.* at 19–20.

[25] The *Decision* incorporated an "Agreement on Principles" between the United States and Canada. Agreement on Principles Applicable to a Northern Natural Gas Pipeline, *Decision*, Section 7 at 47–83 (Sept. 20, 1977).

[26] Both the President and Congress have singled out the ANGTS for special treatment. The most obvious instance is the special legislation incorporated in ANGTA and Congressional

Footnotes continued on next page

Commission has created special administrative arrangements to expedite regulatory decisions and to assure that all necessary administrative resources are devoted to the analysis and resolution of matters in controversy. The Commission reaffirms its commitment to carry out its responsibilities under the President's *Decision* and ANGTA, as well as its general statutory responsibilities under the Natural Gas Act and the Natural Gas Policy Act as they pertain to this project, with maximum dispatch and full cognizance of the significance of this project for consumers and the nation as a whole. We believe we have provided in this Order the opportunity for the system equity capital suppliers to earn truly generous rates of return if they perform, and for U.S. energy users to obtain valuable natural gas supplies at a reasonable cost.

II. The IROR Mechanism

A. Concept and Structure

1. *Concept.* The President's *Decision* requires the use of a "variable" or incentive rate of return to deter cost growth during construction.[27] The concept expressed in the President's *Decision* is straightforward: in order to provide an incentive for management to reduce costs, rates of return on equity should be increased if the actual construction costs of the project are controlled so as to be at or below the target estimates. In creating the incentive, the President sought to offer the project sponsors a positive reward for superior cost and schedule control, in a format that is not available under conventional public utility ratemaking practices.[28]

The traditional tool for cost control in natural gas pipeline construction has been regulatory oversight, with its attendant threat to disallow investments imprudently incurred during construction. Under traditional regulation, before any costs may be disallowed for inclusion in rate base they must be shown to have been imprudently incurred. This approach, resting on hindsight, implies that only those costs attributable to patently unreasonable management action may be disallowed.

In competitive industries the rate of return on equity is usually related to cost control. The IROR attempts to establish the same rate-control relationship in a regulated situation. To reach this goal, the Commission has made use of the following principles in designing the IROR:

The IROR should provide incentives to reward cost control performance and avoid or minimize cost overruns;

The IROR should provide just and reasonable compensation for investors so that sufficient capital may be attracted to finance the project; and

The cost to consumers should be lower where cost overruns have been minimized and investors have received an incentive return.

To facilitate future regulation of the project, the IROR will be implemented by an equivalent one-time adjustment to the equity portion of the project's capital costs instead of varying the allowed rate of return on equity.[29]

The IROR, then, is designed to complement the disallowance-of-cost mechanism by offering economic rewards for holding down costs. In addition to the standard process of allowing or disallowing costs according to the prudently-incurred standard, project managers will be rewarded for eliminating avoidable costs even though those costs (had they been incurred) might later withstand an allegation that they were not "prudent."

The consumer should be the chief beneficiary of the IROR. Under conventional regulatory practice, consumers may be forced to bear all cost overruns. Consumers traditionally bear not only the return and taxes associated with the additional capital necessary to finance the overruns, but also the depreciation expense associated with the return of that investment. Using IROR, however, the burden of costs overruns will be distributed between consumers and equity investors. While consumers will continue to bear the depreciation expense associated with such prudently incurred investment, they will bear only a portion of the return on the investment to finance such cost overruns. Thus, the IROR should lead to savings in construction costs, which will be divided between lower overall costs to consumers and higher returns to investors. The ultimate effect of applying the IROR will be to provide lower cost natural gas to consumers, with just and reasonable returns to investors.

2. *Structure.* The IROR mechanism should provide significant incentives to control costs without placing risks on investors that inordinately increase the cost of capital since that cost is ultimately paid by consumers. The IROR mechanism cannot be examined in a vacuum. Because the mechanism affects risk and the allowed rates of return on equity, it must be related to other factors that affect the rates, such as applicable tariff provisions. While the IROR mechanism must be evaluated in its entirety and not just on a component-by-component basis, the major elements should be examined before evaluating the expected end-result on rates.

The basic elements of the IROR mechanism are the Cost Performance Ratio and the associated IROR schedule of rates of return. The Cost Performance Ratio is the ratio of Actual Capital Costs (derived from the final construction costs) to the Projected Capital Costs (derived from estimated costs at the start of construction).[30] The Cost Performance Ratio measures how well project management has succeeded in controlling the costs of the project. A ratio greater than 1.0 indicates that actual costs are greater than projected or budgeted costs; a ratio less than 1.0 indicates that actual costs are less than projected or budgeted costs.

The IROR schedule specifies an allowed rate of return for each Cost Performance Ratio. With an IROR mechanism, the lower the value of the Cost Performance Ratio, the higher will be the allowed rate of return, and vice-versa. Figure 1 illustrates this concept by showing a hypothetical IROR schedule. The curve in the figure slopes upward to the left, indicating that rates of return increase as actual costs are reduced to, or fall below, targeted costs (that is, the smaller the Cost Performance Ratio, the greater the rate of return).

Footnotes continued from last page

approval of the *Decision; see also* the provisions of Title I of the Natural Gas Policy Act of 1978, Pub. L. No. 95–621, 92 Stat. 3550 (1978). The Department of Energy, *National Energy Plan II* (May 7, 1979) designates it as the top priority among potential supplemental sources of natural gas.

[27] *Decision* at 36.

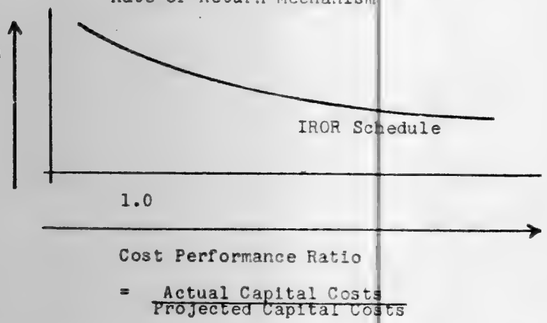
[28] The Commission recognizes that additional incentives to control the cost of gas delivered by this project are created by the sponsors' interest in ensuring marketability for the delivered gas and by the need to stay within the pool of funds committed by investors for construction.

[29] As explained more fully below, Section II.C., the adjustment is calculated from the discounted present value of the sums of return on equity and return of equity when the appropriate value from the IROR schedule is applied to the equity component of capital cost.

[30] As explained in more detail below, in Sections III and IV, the ratio is adjusted for both inflation (an adjustment to Actual Costs) and for design and other scope changes (an adjustment to Projected Costs).

Figure 1

Hypothetical Incentive
Rate of Return Mechanism



The Projected Capital Costs of the project are based on the Certification Cost Estimates submitted to the Commission for approval prior to the issuance of final certificates of public convenience and necessity. These will be submitted in base-year prices and will not incorporate an allowance for future inflation. In addition to the direct construction costs, an interest or finance charge will be included to create an incentive to minimize delays in construction. Under the *Decison*, the Certification Cost Estimate must be compared to the earlier cost estimate submitted by the project sponsors in 1977, to see if the new estimate "materially and unreasonably exceeds" the earlier estimate. (*Decision* at 36–37.)

The Actual Capital Costs of the project are the direct costs of construction determined after two adjustments. First, since Projected Costs are calculated in base-year prices with no allowance for inflation, the Actual Capital Costs must be adjusted downwards (or deflated) to remove the effects of general inflation in the U.S. economy, in order to produce a measure of cost overrun for the project absent the effects of inflation. It is not equitable to penalize investors for their inability to estimate future inflation rates; thus, an inflation adjustment mechanism is specified to remove the effects of economy-wide inflation from Actual Capital Costs. Second, finance or interest charges are added to the direct costs.

Finally, it is unreasonable to penalize the equity investors for certain major events beyond their control that significantly increase construction costs if such events could not reasonably have been anticipated by the project sponsors in preparing their cost estimates. Examples of such events include war, natural disasters, design changes compelled by changes in government laws or regulations, and delays caused by government. Such events are defined as Changes in Scope, and the Projected Capital Costs will be adjusted to reflect these changes. This Order specifies the allowed Change in Scope events, and the procedures for altering the Projected Capital Costs to reflect these changes.

A full specification of the IROR structure must begin with the concept that the IROR schedule is to provide an opportunity for project sponsors to earn a rate of return adequate to attract capital so as to compensate investors for the financial and business risks of the project.[31] This return would be earned at the expected Cost Performance Ratio. This rate of return is termed the Center Rate of Return (and the associated Cost Performance Ratio is the Center Point). If the realized Cost Performance Ratio is greater than the Center Rate, the IROR will be less than the Center Rate and vice-versa.

By this Order the Commission establishes a value for the Center Rate of Return which should compensate equity investors for the financial and business risks of investing in this project. This will be the sum of an "Operation Phase Rate" and two "risk premiums," a "Project Risk Premium" and an "IROR Risk Premium". The Operation Phase Rate is a rate of return to compensate investors for the risks incurred during the operaton of the pipeline after construction is complete.

The *Decison* contemplates that tariff provisions during operation of the pipeline will be such that the risks during operation will be shared by gas consumers and equity investors. The service interruption provisions of the project tariffs will guarantee debt service once operations commence, but equity will remain at risk. The return on equity will be proportionate to the level of service performed, and for extended total service interruptions the return of equity will also be at risk. The Commission in this Order evaluates the remaining risks borne by investors, and compares them with the risks of investing in conventional lower-48 natural gas pipelines in order to determine a reasonable value for the Operation Phase Rate. This rate of return will be the rate actually used to calculate the transportation charges of the project under the initial tariff approved by the Commission. This rate will also be used to calculate the allowance for equity funds used during construction in determining the rate base of the project.[32]

The Project Risk Premium is to compensate investors for the unusual risks of non-completion, and other risks borne by investors during the construction of the pipeline. It will be added to the Operation Phase Rate. The *Decision* requires that construction risks are to be borne by investors or other project beneficiaries and not by consumers during construction, (*Decision* at 120–21) and that charges to customers may not commence prior to the "completion and commissioning of operation of the system" (*Decision* at 37–38).[33] In this Order the Commission evaluates these risks, and establishes values for the Project Risk Premium to compensate equity investors for bearing them.

Because the final costs of construction are unknown, the use of the IROR mechanism introduces uncertainty as to

[31] This requirement is fully discussed below; *see* Section II B.3 (the Operation Phase Rate).

[32] While it will be the rate applied to the pro forma tariffs, the Operation Phase Rate may change over time once the pipeline is in operation, to remain comparable with rates of return earned on other investments having similar risks. *See* Section VI.B.8. (Review of Equity Rate of Returns).

[33] *See* Section VI.A.1 (Billing Commencement Date) for an analysis of this phrase.

the ultimate rate of return that will be earned by the sponsors. For this reason, a second premium is added to the Operation Phase Rate, an IROR Risk Premium. This will compensate investors for risks created by the use of an IROR mechanism.

The Center Rate of Return is the sum of the Operation Phase Rate, the Project risk Premium, and the IROR Risk Premium. This will be the rate of return allowed when actual costs (adjusted for inflation) equal expected costs (adjusted for scope changes). For higher values of the Cost Performance Ratio, the Incentive Rate will be reduced; cost growth will result in lower rates of return on equity. The extent of this reduction (or increase, if the Cost Performance Ratio is less than the Center Point) is determined by the Marginal Rate of Return.

The Marginal Rate of Return is an analytical concept used to derive the IROR schedule. It is the rate of return implicitly allowed on incremental investment either above or below base estimates. A low Marginal Rate would mean that the Incentive Rate will decline rapidly as cost increases occur; a high Marginal Rate would mean that the Incentive Rate will decline only slightly as cost increases occur.

The Commission does not intend to use two rates of return, one on projected costs and one on overruns or underruns. Rather, a single Incentive Rate will be earned on all investment in the project; but this rate will be a weighted average of the Center Rate and the Marginal Rate. By simple mathematics, the averaging process gives more weight to the Marginal Rate as the Cost Performance Ratio increases. Thus, the Marginal Rate plays the major role in determining the incentive to reduce costs. To provide this incentive, the Marginal Rate must be low enough to make an investment in cost increases unattractive.

Though the President's *Decision* contemplated that the allowed rate of return would be variable, the Commission has previously recognized that an unusually high or low rate of return allowed over the 25-year (or longer) operating life of the pipeline could create complications for both future Commission regulation of the pipeline and future financing of expansions or additions.[34] Consequently, the Commission introduced the concept of a one-time adjustment to rate base that would have the same effect as varying the allowed rate of return over the operating life of the pipeline. The one-time adjustment is based on the principle that the same level of profitability can be achieved by allowing the Incentive Rate to be earned on a normal, unadjusted rate base, or by allowing the Operation Phase Rate to be earned on an appropriately adjusted rate base. By adjusting the rate base the same effect can be achieved as varying the allowed rate of return.

The one-time adjustment to the equity investment in the rate base of the project will be made shortly after the operation of the pipeline commences. Thereafter the Operation Phase Rate will be earned on the adjusted rate base. The size of the adjustment to the equity investment in the rate base will be derived from standard discounted cash-flow analyses. The one-time adjustment is such that the present worth of the return on equity and return of equity over the operating life of the pipeline (based on the Operation Phase Rate) is equivalent to the present worth of the returns from applying the Incentive Rate to the normal, unadjusted rate base.

B. Components

1. *The Cost Performance Ratio.* The basic concept of the Cost Performance Ratio was described above. This section provides a more specific description of its determination and use.

The Cost Performance Ratio is used to measure the degree of cost growth or reduction from the projected costs of the project. It is also used to measure the success of project management in reducing or controlling costs of construction. The measurement of cost growth or the success of management in reducing costs must take into account the following four factors:

(1) Cost growth due to general inflation within the economy can not be reduced or controlled by management and should not be included in the measurement of management's performance in reducing costs.

(2) Cost growth due to an extension of the construction schedule is as important as an increase in direct construction costs and should be included in the measurement of management's cost control performance. A longer construction schedule adds finance or interest charges to total costs, and these will be paid by the gas consumer.

(3) Certain major events may occur which could not have been anticipated by management, the cost impact of which are largely beyond the control of management, and which substantially increase costs. The impact of these events should not be included in the measurement of management's performance in controlling costs.

(4) The measurement of cost growth should be as simple and as uncomplicated as possible to avoid controversy about its use, and thereby avoid major administrative burdens on the Commission, the Federal Inspector, and the project management in implementing the IROR mechanism.

The measurement of cost growth established by the Commission in this Order (the Cost Performance Ratio) meets these four criteria. The Cost Performance Ratio is simply the ratio of actual costs to projected costs: Cost Performance Ratio equals the Deflated Actual Capital Costs divided by the Projected Capital Costs.

The Deflated Actual Capital Costs for the project will be calculated in three steps. First, the direct construction costs (labor, materials, services, etc.) actually incurred in the construction of the project will be totaled for each quarter.[35]

Second, these quarterly expenditures will be deflated back to base-year prices by the use of a composite inflation index. This index is discussed in greater detail below in Section III. This index is designed to remove the effect of general inflation on those construction costs.

Finally, an interest charge or finance charge will be added to the total direct costs of the project. This charge, hereafter referred to as the Finance Charge, will be based on a Real Rate of Return.[36] Since the effect of inflation has been removed from the calculation of direct costs, the rate of interest or return on equity used to calculate the Finance Charge will be a "real" rate with the effect of inflation also removed. Actual market rates of interest in our economy today reflect or compensate investors for their expectations about future rates of inflation since inflation reduces the worth of their return from the investment.

The Projected Capital Costs (the denominator of the Cost Performance Ratio) will be calculated in four steps. First, the direct costs included in the Certification Cost Estimate, to be submitted to the Commission prior to the receipt of a final certificate of public convenience and necessity, will be

[34] *See* Order No. 17 (Docket No. RM78–12) (Dec. 1, 1978); *see also* Notice of Proposed Rulemaking, Docket No. RM78–12 (May 8, 1978); Revised Notice of Proposed Rulemaking, Docket No. RM78–12 (Sept. 15, 1978).

[35] In their initial comments, the project sponsors request the Commission to clarify when a particular expenditure will be deemed to have occurred since this is important for the inflation adjustment mechanism (Joint Comments at Tab. 2, p. 24). The Commission agrees with the sponsors that an expenditure for materials or services should be deemed to have occurred when the actual payment for those materials or services is made.

[36] This Finance Charge was referred to as an allowance for funds used during construction (AFUDC) in the Notice of April 6.

divided into quarters depending on when they are expected to be incurred. Since these costs are already calculated from base-year prices, no adjustment for inflation is required.

Between the time Certification Cost Estimate is prepared and the time when the final design and cost estimate is submitted to the Federal Inspector,[37] certain changes in design or schedule may occur. The second step will be to adjust the Certification Cost Estimate to reflect these changes in design or schedule.[38]

After construction begins, certain events may occur which the Commission defines to be Changes in Scope for the project. (For a more complete description of these events, see Section IV.) Direct costs in the Certification Estimate will, in the third step, be adjusted to reflect the impact of these Changes in Scope should they occur.

Finally a Finance Charge will be added to the adjusted direct costs using the Real Rate of Return to obtain the Projected Capital Costs.

The Commission believes that the ratio of these two measures of capital costs (Deflated Actual Capital Costs and Projected Capital Costs) provides the best practical measure of cost growth or overruns to be used to determine the extent of the project management's success in controlling costs. This cost Performance Ratio meets the four criteria discussed above.

The Commission believes that it is important to include some type of interest charge or finance charge in the calculation of the Cost Performance Ratio since these charges are just as much a cost to consumers as is the cost of steel, labor, valves, etc. However, the Finance Charge should be calculated from a "real" or inflation-free rate of return. Calculation of such a real rate return is inherently imprecise. The "real" rate is derived by subtracting an estimate of the rate of future inflation expected by current investors from current market rates of interest and rates of return.

The Commission estimates the Real Rate to be 5 percent. This esitmate is based on the following assumptions: (1) 25 percent equity capitalization earning a 14 percent return (a rate of return generally representative of current rates required by equity investors); (2) 75 percent debt capitalization earning an 11 percent interest rate (a rate generally representative of current rates of interest, for example the prime rate); and (3) an investor expectation of a long term inflation rate of 7 percent (a rate representative of recent rates of inflation in the U.S. economy). The Real Rate can then be derived from:

(0.25) (14%−7%)+(0.75) (11%−7%)=(0.25) (7%)+(0.75) (4%)=1.75%+3%=5% (rounded)

The project sponsors, with almost no justification, propose instead a rate of 1 percent. Though we are not confident that 5 percent is precisely the correct number, we are certain that 1 percent is too low.

A second criticism by the sponsors, put forward as a footnote, concerns the "cut off" date for accrual of the Finance Charge.[39] The intent of this footnote is unclear, but it shows a misunderstanding of the relationship between the accrual of the Finance Charge in calculating the Cost Performance Ratio, the accrual of AFUDC in the rate base of each pipeline segment, and the billing commencement date. The distinction between these concepts is important, and any confusion must be dispelled. Accrual of a Finance Charge in the Actual Capital Costs, and thus in the numerator of the Cost Performance Ratio, will cease for each segment of the project (Alaska or Northern Border) when construction of that segment has been completed even if, for whatever reason, another segment is not complete. The intent of this provision is to avoid penalizing investors in one segment for delay in another segment or in the start-up of gas production.[40]

This procedure for including a Finance Charge derived from the Real Rate of Return in the Cost Performance Ratio of each segment must not be confused with Commission procedures for the inclusion of AFUDC in the actual rate base of each segment. Inclusion of AFUDC in the actual rate base will be calculated from rates of interest actually incurred during construction on project debt and the rate of return on equity allowed for purposes of calculating AFUDC. Accrual of AFUDC in the rate base of each segment will continue until billing under the full cost-of-service provisions of the tariff commences. For a more complete discussion of the billing commencement date, see Section VI.A.1.

2. *The Center Point.* The Center Point Cost Performance Ratio should represent the best current estimate of the actual costs of the project, including any cost overruns relative to the Certification Cost Estimate approved by the Commission.[41] This ratio has two significant functions.

First, if the Certification Cost Estimate, including likely cost overruns, "materially and unreasonably exceeds" the March, 1977 cost estimate filed by the project sponsor with the Federal Power Commission, then the Commission must carry out the mandate in the President's *Decision* to review the project and determine whether a certificate of public convenience and necessity should be granted.[41a] In this review, both the Certification Cost Estimate and the Center Point Cost Performance Ratio are highly significant. The Certification Cost Estimate is important because it indicates, when compared with the March, 1977 estimate and after making proper allowances for price inflation, the growth in the projected costs as a result of the study and work on this project between March 1977 and the preparation of the Certification Estimate.

The Center Point Cost Performance Ratio is important to this review because it also may have changed as a result of the study and work on the project. The Certification Cost Estimate will likely have grown from March, 1977 as a result of detailed planning and design, but the expected cost overrun associated with that estimate may have been altered, and hopefully reduced, by that planning and design. Thus, the Commission believes that the Center Point Cost Performance Ratio must be a part of the comparison of the Certification Cost Estimate with the March 1977 estimate since that review should consider whether or not the expectation of cost overrun has changed from that associated with the March 1977 cost estimates.

Second, the Center Point Ratio is important because it is the target outcome of the project. For example, a Center Point of 1.2 would indicate that a further 20 percent increase in costs is expected from the Certification Estimate, and that this would be the target for IROR purposes. The President's *Decision* envisioned that the Certification Cost Estimate would be used as the "basis for fixing a variable rate of return on equity that would reward the applicant for project completion under budgeted cost and penalize the applicant for project completion above the budget cost."[42] The Commission, therefore, after having determined that the Certification Cost Estimate does not unreasonably exceed the 1977 estimate, must select from all the possible outcomes a target Cost Performance Ratio to use as the Center Point in structuring the IROR schedule.

Common observation as well as historical and statistical studies [43] of many different types of large projects have revealed a tendency for the estimates of total cost-to-completion to increase as a project moves over time from initial conception to completion. In the early stages of a project this growth often reflects the study required to turn an idea into a detailed set of plans and specifications. In the process of research, evaluation, planning, and budgeting, natural initial optimism is tempered by more realistic appraisals; and in the usual case, unperceived complexities are discovered and the difficulty of the required tasks becomes better understood.

It would have been unrealistic had the President's *Decision* used the project sponsors' cost estimate in March 1977 as the basis for evaluating the economics of the project. Instead, the *Decision* factored in cost growth estimates of approximately 30 percent for the Alaska segment and 10 percent for the Northern Border segment, in the evaluations leading to approval of the project.[44] The estimates that cost growth in excess of 30 percent for Alaska and 10 percent for Northern Border were not likely to occur were one basis for the finding that the project was in the public interest.

Several implications follow. Looking at the project at the time of submission of the Certification Estimate with the benefit of two or more years of intensive study, evaluation, planning, programming, and budgeting by the sponsors, it would be surprising if the new estimate did not reveal some cost-growth compared to the March, 1977 estimate, even allowing for price inflation. This would be a natural phenomenon reflecting, at a minimum, a better understanding and perspective on the project.[45]

Another implication is that after two or more years of work on this project, the Certification Cost Estimate should be a more accurate estimate of what the actual cost of the project will be upon its completion than the cost estimate made in 1977. It would be surprising to realize as large an amount of cost growth from the Certification Estimate as the expected amount of cost growth from the 1977 estimates.[46]

Because the Certification Cost Estimate will be the basis of the Commission's certification proceeding and the cornerstone of the allowed rate of return for this project, it is vital that the Commission have the most accurate and realistic set of cost estimates that can be obtained. There is need to deter both overly optimistic projections which might be offered in the hope that they would promote final certification of the project, and overly pessimistic projections which provide a large margin for error in cost estimates or an implicit allowance for large cost increases. The latter type of estimate would vitiate the intended motivational aspects of the IROR and could result in unreasonably high rates of return.

Considering that a 30 percent allowance for cost growth on the Alaska segment and 10 percent on Northern Border were allowed for in the President's *Decision*, it is unlikely that, on the sole basis that estimated costs had increased by 30 percent for the Alaska segment and 10 percent for Northern Border, the Commission could make a negative finding concerning the public interest of the project. On the other hand, if there were to be a substantial increase in the Certification Estimate over the March 1977 estimate without a substantial decrease in the expected cost overrun from the Certification Estimate, it would seem to follow that either the initial cost estimates used in the 1977 evaluation were badly mistaken or the nature of the project had changed considerably. In either situation the Commission would need to take these developments into consideration in connection with its certification responsibilities.[47]

The Commission has embodied these considerations in a procedure for determining the Center Point. It is contained in Condition No. 12 of the attached Terms and Conditions. The Incentive Rate of Return is based solely on the Certification Cost Estimate. However, in determining the value of the Center Point Cost Performance Ratio, the Commission will take into consideration the relationship between the Certification Cost Estimate and the March 1977 estimate, i.e., the cost growth between these two estimates during the intervening period. If a substantial amount of cost growth had already occurred, it would seem in accord with the basic thrust of the Presidential *Decision* to assume that most of the projected 30 percent cost growth had already occurred and that it would be unreasonable to expect a sizable amount of cost growth in the future. Conversely, should the two estimates show very little cost growth in the intervening period, it would seem reasonable to expect that most of the 30 percent cost growth envisioned in the Presidential *Decision* would occur in the future.[48]

The formula in Condition No. 12 expresses this concept mathematically. For example, if the Certification Cost Estimate were to exceed the March 1977 estimate for the Alaska segment by 20 percent, then in accord with the

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[37] The final submission is mandated by the President's *Decision*. *Decision* at 29.

[38] Prices, however, will not be changed from those that prevailed in the base year for cost estimation.

[39] Joint Comments at 21 n. 12.

[40] The Commission Staff in their comments propose a variation on this approach which would add the "real" Finance Charge no longer being accrued in the Cost Performance Ratio of a completed segment, to the Cost Performance Ratio of those segments not completed, including if possible segments in Canada. (Initial Staff Comments at 48) This idea has some theoretical appeal since it would require the late segments to bear an even greater Finance Charge in the Cost Performance Ratio, and thus give the investors even greater incentive to complete construction. However, insofar as we would be obliged to further compensate investors for the additional risk this requirement would add, we do not believe its additional incentive benefits outweigh the additional costs that further compensation may impose on customers.

[41] In statistical terms the Center Point is obtained by adding together each possible level of the Cost Performance Ratio multiplied by the probability of that Cost Performance Ratio occurring.

[41a] *Decision* at 36.

[42] *Decision* at 37.

[43] *See, e.g.*, W. Mead, G. W. Rogers, & R. Z. Smith, *Transporting Natural Gas from the Arctic: The Alternative Systems*, 89–94 (1977).

[44] The President's *Decision* contains two estimates of the extent of likely cost overruns in Alaska. The *Report* accompanying the *Decision* states that "[o]verall, it has been estimated that cost overruns of 30 percent or more should be expected in Alaska and Canada . . ." *Decision* at 150. The table of capital cost estimates on p. 157 of the *Report*, however, shows a 24 percent cost increase from the Base Case estimate in current or inflated dollars for Alaska. For Northern Border, the expected overrun is 10 percent. All of these estimates include finance charges or an allowance for funds used during construction derived from market rates of interest and rates of return on equity. The State of New York in its initial comments (p. 5) points out that the estimates of cost overruns in the *Decision* do not include an adjustment for inflation and route changes or other changes in scope. These points, however, do not mean that to the extent the Commission excuses cost increases resulting from design changes or change in scope events, the expected overruns should be less than estimated in the *Decision*. Inflation is fully accounted for in the *Decision* by the use of constant 1975 prices; moreover we cannot presume that the *Decision* considered change in scope variables in estimating costs for a given system.

[45] The comments by the project sponsors list a number of reasons why they now expect the Certification Estimate to exceed the March 1977 estimate: (1) cost of restoring Alyeska work camps; (2) cost of restructuring Alyeska communications system; (3) higher estimate of costs to obtain Governmental approvals; and (4) greater project management expenses. Joint Comments at 11–15.

[46] The project sponsors, however, seem to expect as much cost growth from Certification Estimate as did the President from the March 1977 estimate. Joint Comments at 31. They argue that a 30 percent increase is likely from the Alaskan Certification Estimate and 20% for Northern Border.

[47] In this connection, the Commission notes with concern the sponsors' comments regarding cost growth cited in footnotes 45 and 46, *supra*.

[48] In response to earlier concern by the project sponsors, the Commission, in Order No. 17, made it clear that the Certification Estimate will be the basis for the IROR mechanism. Order No. 17, "Order Attaching Incentive Rate of Return Conditions to Certificates of Public Convenience and Necessity," Docket No. RM 78–12 (Dec. 1, 1978). The Projected Capital Costs will be derived from the Certification Estimate. However, the Commission believes that it must consider the *Decision's* findings concerning likely overruns in choosing a Center Point.

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President's *Decision*, the Center Point would be set so as to anticipate a further 10 percent cost growth between the time of the Certification Cost Estimate and completion of the project.[49] To cite another hypothetical example, were the Certification Cost Estimate to exactly equal the March 1977 estimate then the formula would imply that the Center Point should be 1.3, which would provide for the 30 percent cost growth the Presidential *Decision* estimated would take place.

Of course, it may be that the project had so changed in nature and scope that the two cost estimates could be linked in the process of setting the Center Point. If this were so, the project sponsors should so inform the Commission and provide a detailed explanation of the nature of the changes which had caused the discontinuity in the project so that the Commission could have this information in conjunction with the certification function as well as for establishing a Center Point.

In the absence of an assertion of a major change in the basic nature of the project from that assumed in the *Decision*, the Commission will relate its determination of the Center Point to the cost growth that has taken place during the last two years. The mathematical relationship for the Alaska segment will be: Center Point = 1.3 × (March 1977 estimate in base year prices + Finance Charge) / (Certification Cost Estimate + Finance Charge). For the Northern Border segment the relationship will be: Center Point = 1.1 × (March, 1977 estimate in base year prices + Finance Charge) / (Certification Cost Estimate + Finance Charge). Base-year prices are those used in preparing the Certification Estimate, and the Finance Charge is calculated from the Real Rate of Return defined below.[50]

In their comments on the Commission's April 6 notice, where the above procedure for determining the Center Point was proposed, the project sponsors criticize this proposal as basing the IROR mechanism on the March 1977 estimates submitted to this Commission and the President. As we stated in Order No. 17, the Commission does not intend to base the IROR mechanism on the March 1977 estimates. The attached terms and conditions clearly state that the Projected Capital Costs and the Cost Performance Ratio will be based on the Certification Estimates to be submitted to the Commission sometime in the future.

The Commission must have some basis, however, for determining the Center Point of the IROR schedule. The only information available to us now about the likely cost growth or the ultimate costs of the project including overruns are the conclusions reached in the President's *Decision* based on the March 1977 estimates. Those conclusions were based upon reasoned comparisons between the cost estimates of the competing projects, actual experience in the Alyeska System, the *Recommendation* submitted to the President by this Commission, and a number of intragency task force studies and numerous other information sources. Using this information, the Commission has established the above procedure to determine the Center Point.

The Commission, however, anticipates that additional information will be made available to us by the project sponsors about the expected ultimate cost of the project at the time they submit the certification cost estimates. If this information is substantially different from that relied upon by the President in reaching his conclusions about cost growth, then the Commission would have to reconsider the issue of where the Center Point should be set.[51] In such a situation the Commission would envision setting the Center Point as part of its overall review of Project costs using a procedure such as that set out below.

If the project sponsors believe that a major change in the basic nature of the project from that assumed in the *Decision* has occurred, and thus the above procedure for setting the Center Point is no longer applicable, then the sponsors, as part of their respective submissions of certification cost estimates, must at a minimum present evidence to the Commission on the following subjects:

(1) The nature of the changes in the project from that assumed at the time of the *Decision*, including a detailed explanation of why the Certification Cost Estimate has changed from the March, 1977 estimate. The Commission will later specify certain cost formats which the sponsors shall follow in submitting their Certification Estimates in order to allow the Commission to better assess the reason for the change in costs. (*See* Condition 8 of the attached terms and conditions). This information will assist the Commission in determining if the Certification Estimates materially and unreasonably exceed the March 1977 estimates as required by the *Decision*.

(2) The value or benefit to the Nation and gas consumers of construction of this project in light of the revised cost estimates. In other words, the sponsors must demonstrate that the project is still in the public interest given the changes in the project since the *Decision*.

(3) The cost increases or cost overruns above the Certification Estimates that may reasonably be expected to occur. The sponsors should explain what eventualities or contingencies are provided for in the Certification Estimates and the contingencies for which no costs have been included. As part of the Certification Estimate, the sponsors should provide an analysis of the events that could cause cost increases from the Certification Estimate, the likelihood of these events, and their impact on costs. The Commission expects that the Certification Estimates will only include costs resulting from normal conditions to be expected during construction. Abnormal or unlikely events that could increase costs will be analyzed as part of the sponsors' submission concerning potential cost overruns from the Certification Estimate.[52] The sponsors' analysis of the potential for cost increases from the Certification Estimate will then be used by the Commission in determining the Center Point. If a convincing case is made that the potential for cost increases beyond the Certification Estimate is substantial, then a reasonable value for the Center Point may be substantially greater than one. In any event, the Commission considers it unlikely that the Center Point would be less than one if the Certification Estimate is based on normal or probable conditions.

3. *The Operation Phase Rate.* The Operation Phase Rate of return on equity is that rate which will compensate equity investors for the risks incurred during the actual operation of the pipeline. This rate will be used to calculate transportation charges pursuant to the tariff approved by the Commission after the one-time adjustment to the rate base.[53]

By way of background, the Commission notes that the natural gas transmission industry has had limited experience with project financing; the most expensive projects undertaken have been in the $500 million to $1.5 billion range. However, the ANGTS project is unique in that no other project of this magnitude and character has been undertaken.

The Commission has adopted a general approach for determining the Operation Phase Rate. First, an estimate was made of the range of rates of return that appears reasonable, considering current financial market conditions and the risks of investing in conventional lower-48 natural gas pipelines. Second, the Commission has compared the operating risks of the Alaskan gas pipeline with the risks normally encountered during operation of conventional pipelines. Based on this comparison of risks, the Commission has determined that the Operation Phase Rate should be within the range of rates that is reasonable for conventional pipelines.[54]

A survey of rate cases (mostly settlements) during the years 1977, 1978, and early 1979, discloses that the rates of return allowed for lower-48 natural gas pipelines have been between 10.68 percent and 15.0 percent. The majority of returns fell within the narrower range of 12 to 14 percent. This survey is the point of departure for our analysis.

Apart from simply reviewing values allowed in the past, there are a number of alternative approaches used by financial analysts for estimating rates of return for utility ratesetting purposes. Without attempting to select a preferred approach from the array of methodological options, the Commission has examined three procedures to see what each implies as an appropriate reference value for lower-48 pipelines. No procedure can precisely determine a just and reasonable rate of return. Therefore, the Commission must exercise its judgment after reviewing the relevant information in order to determine an appropriate value for the Operation Phase Rate.

The general standards for establishing a just and reasonable return on common equity were set forth by the Supreme Court:

> [T]he return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, morever, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract captial.[55]

At the outset, it is readily acknowledged that assembling samples of enterprises "with corresponding risks" is a formidable task. It is difficult to specify risk measures that are both conceptually valid and also work. For this reason, virtually all methods used for recommending allowed rates of return share the weakness of relying on data for entities that may not be precisely comparable in risk.

The often-used "comparable earnings approach" examines rates of return on common equity earned in other businesses or industries with risks comparable to those of the natural gas pipeline industry. In their comments, Alaskan Northwest and Northern Border provided information as to returns earned by industry groups for the years 1973–1978. Looking at the average rate of return for all industries combined over the six-year period, the range has been approximately 11.7 to 15.4 percent.[56]

Another popular technique is the familiar "discounted cash flow" approach. This method attempts to determine the investors' required rate of return by estimating their expected return (dividends and capital appreciation) on the market price of common stock. The application of the discounted cash flow approach to the ANGTS indicates that the investors' required rate of return for natural gas pipeline companies is somewhere in the range of 14 to 16 percent.[57]

The third approach examined by the Commission involves estimating the difference in return that equity investors require over the rate of interest prevailing on bonds. Since market-determined rates of interest are widely available and accepted as meaningful, a measure of the differential between equity return and prevailing interest rates using this information is practical and provides a plausible guide to the equity investors' required return.

Based on the proposition that over long periods an equilibrium is established between investors' earned returns and their required returns, one way to determine a differential between equity and debt returns is to observe the difference between returns realized on riskless investments (such as U.S. Government bonds) and returns realized on investments in common stock, namely, dividends and capital appreciation. Using U.S. Treasury bond interest rates as the riskless rate measure, the equity differential has averaged between 5 and 6 percent over lengthy historical periods.[58] Thus, adding these equity differentials to

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[49] In all cases allowance should be made for inflation so that the comparisons involve calculation of real growth, *i.e.*, growth in resource requirements and not prices.

[50] The Commission Staff in its initial comments (pages 58 and 60) supports this procedure and puts forth a number of the arguments given here advocating this procedure.

[51] The project sponsors in their comments seem to advocate that the Commission now set a Center Point of 1.3 for Alaska and 1.2 for Northern Border based on the certification cost estimates which have not yet been submitted to us. The Commission has no factual basis or evidence to support such a determination. Since the *Decision* is the best estimate of the cost of the project available to us, the procedure or formula described above is the only method we can justify for setting the Center Point until such a time the project sponsors may provide us with additional evidence.

[52] Since the Certification Estimate will be revised as a result of design changes and other events prior to the final Design, and for a limited number of Change in Scope events after the final design (*see* Section IV), the analysis of cost overruns should distinguish between events that are covered by the Change in Scope mechanism and those that are not.

[53] This rate will also be used to determine the equity component of the Allowance For Funds Used During Construction in the rate base of the project. Originally in Order No. 17, the Commission required that the AFUDC rate would be the Operation Phase Rate plus the Project Risk Premium. However, the methodology for determining the Project Risk Premium proposed by the project sponsor required knowing the AFUDC rate before calculating the Project Risk Premium. In order to solve this dilemma, the Commission now requires the use of the Operation Phase Rate to calculate AFUDC. However, as a compensating adjustment, the Project Risk Premium, and thus the Center Rate, have been increased from what they would have been assuming the higher AFUDC rate. *See* Section II.B.4., discussing the Project Risk Premium.

[54] Order No. 17 provides that the Operation Phase Rate shall be set by the Commission "within the general range of rates of return for other pipelines with similar operating risks" (Terms and Conditions, No. 12).

[55] FPC v. Hope Natural Gas Co., 320 U.S. 591 (1944).

[56] Joint Comments, Tab. 1. Data for natural gas utilities show returns in the range of 11.9–16.2 percent.

[57] Based on recent years' data for Moody's Natural Gas Transmission Company Average, it appears reasonable that investors might expect return on book equity to be 15–16 percent and dividend payout ratios to be 40–50 percent. (*See* Moody's Public Utility Manual at a16 (1978).) Using growth from retained earnings as a proxy for growth in dividends, such data implies an expected growth in dividends of 7.5 to 9.6 percent. (Growth from retained earnings equals return on book equity times the retention rate, or 15 to 16 percent multiplied by 1 minus 40 to 50 percent.) Combined with the average dividend yield of 6.7 percent for the first quarter of 1979, a range of 14.2 to 16.3 percent is produced. Since the market-to-book ratio of Moody's Natural Gas Transmission Company Average in recent years has fluctuated around 1.0, there is reason to believe that this calculated range is reasonable insofar as it approximates the earned returns on book equity in recent years.

Sponsors' consultant also using a discounted cash flow approach, arrived at a range of 15.7 to 16.7 percent. (Joint Comments, Tab A.) In our judgment, this selection of a 9 to 10 percent expected growth in dividends is biased on the high side because of an incomplete and inadequate implementation of this approach. For example, we note the absence of historical book value growth rates for Moody's Natural Gas Transmission Company Average even after the sponsors' favorable comments concerning the merit in using them to smooth fluctuations in earnings and to provide a longer term view of potential growth. (Joint Comments at Tab A.) Using the least-squares growth rate in average book value of 8.4 percent for the 1968–1977 period, we can derive an estimate of 15.1 percent for the investor's required return. Furthermore, the assumption of a dividend payout ratio as high as 60 percent in the analysis of the expected dividend growth rate was completely unsupported.

[58] Ibbotson & Sinquefeld, "Stocks, Bonds, Bills and Inflation: Year by Year Historical Returns (1926–1974)," *Jnl. Bus.* (Jan. 1976); "Stocks, Bonds, Bills and Inflation: The Past (1926–1976) and the Future (1977–2000)," *The Financial Analysts Research Foundation*, 1977; *see also* Levy "Stocks, Bonds, Bills and Inflation Over 52 Years," *Jnl. Portfolio Mngt.* at 18–19 (Summer 1978).

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current Treasury bond interest rates of about 9 percent produces a required equity return in the range of 14 to 15 percent.[59]

Sponsors' consultant employed the capital asset pricing model, a variant of the risk premium approach, and arrived at a rate of return of 17.33 percent for conventional lower-48 pipeline companies. (Joint Comments, Tab A.) Incorporated in this analysis was a market risk premium of 8.5 percent. The support for a required premium of this magnitude, however, was largely undocumented and unpersuasive. Substituting the 5 to 6 percent premium cited above, the result is a range of 13.9 to 14.9 percent. (Riskless Rate plus Beta times Market Risk Premium or 9.0 percent plus 0.98 times 5 to 6 percent.)

In summary, the Commission's recently allowed rates of return for lower-48 natural gas pipelines have generally fallen within the range of 12–14 percent. In addition, data for recent earned rates of return on common equity and two methods for estimating investors' required rates of return for lower-48 pipelines yield the following ranges:

Estimation Approach and Range of Rates

Comparable Earnings—12 to 15 percent.
Discounted Cash Flow—14 to 16 percent.
Equity Risk Premium—14 to 15 percent.

Given this range of estimates, the Commission must exercise its judgment of determining the reference value for lower-48 pipelines. On balance, the Commission believes that under current market conditions a rate of return in the range of 12 to 15 percent is appropriate to use as a basis for setting the Operation Phase Rate for the ANGTS.

To use this range as a guide for setting the Operation Phase Rate, the Commission must assess how the risk exposure of investors in the ANGTS project during operation compares to the risk-exposure of pipeline investors in the lower-48 states. The Commission believes that the greatest risks faced by investors in the ANGTS will occur during the construction phase.[60] The risk exposure the Commission is attempting to evaluate here concerns the relative risks of the ANGTS and lower-48 pipelines during the operational phase. To compare risks, we first examine why the Alaska project may have greater operating risks than lower-48 pipelines, then examine why risks during operation may be less than those faced by other pipelines. Finally, we weigh and balance the various factors.

Operating aspects of the Alaska project that may be regarded as more risky than operating conditions for lower-48 pipelines are the following:

Arctic operating environment. The project in Alaska will be operating in a harsh environment. The ANGTS could experience problems such as thaw settlement or frost heave affecting the reliability of operations. Innovative techniques such as gas refrigeration will have to be used because of the environment. Environmental restrictions, remote locations, and severe climate may affect the ability to repair the pipeline in the event of a service interruption.

High pressure pipeline. The project will be operating at higher pressure than is conventional. Although the Commission does not expect the higher pressure to affect operating reliability, confirmation will only come through operating experience.

High cost gas. Because of relatively high transportation costs, the gas transported through this system will be expensive compared to other sources of supply. Large cost overruns or partial service interruptions could result in even greater cost per unit of gas. Though the tariff approved by the Commission will allow for rates to recover the full cost of service once service commences (with the exception of equity charges in the event of service interruptions), difficulties in marketing the gas or in collecting the allowed revenues could conceivably occur.

Low equity capialization. The proportion of equity in the capitalization of the pipeline is expected to be approximately 25 percent, in contrast to an industry average of about 50 percent. In the absence of other considerations, the higher degree of leverage increases the risks to equity investors should there be a diminution of revenues because the fixed costs of the project, including debt service must be paid prior to any retuen to equity.[61]

There are also very significant risk-reducing features of this proposal. The most important are:

Cost-of-service form of tariff. By this Order, the project is granted a cost-of-service form of tariff instead of the conventional fixed-rate form. The cost-of-service tariff allows the project to charge rates adequate to recover its full cost of service, even if costs or throughput change over time, without the need for first filing a new rate schedule or obtaining this Commission's approval. In contrast to the fixed-rate tariff, changes in costs or throughput volumes are reflected immediately in the pipeline's rates, rather than after some period required for processing a rate-change application.

The commitment to allow a cost-of-service tariff is a major factor that offsets much of the risk exposure of investors in the ANGTS. The cost-of-service mechanism greatly reduces the risk of inability to earn an allowed return due to increases in cost or reduction in volumes.[62]

With respect to the proposed capitalization, sponsors' consultant urges that the Commission continue to acknowledge the risk increasing effects of financial leverage by allowing a higher equity return for the "thinner" equity of the project. However, we feel that there is much merit in the Staff's argument that the cost-of-service and service interruption provisions in the tariff largely offset the financial risks associated with debt financing. Considering the risks associated with the relative proportions of debt to equity in the capital structure, we believe that the cost of service tariff provisions offset the high degree of leverage proposed by the sponsors and consequently, we feel that ANGTS will face lower financial risks than would conventional pipelines with the same equity capitalization but without the cost of service tariff.

Tracking of costs by shippers. In order to further assure that revenues are adequate to cover the cost of service of the project, the Commission's policy will be to allow automatic tracking of Alaska gas transportation costs in the tariffs of gas shippers who are interstate piplelines under our jurisdiction. The exact form or nature of the tracking mechanism must await specific applications from shippers to modify or amend their tariffs and may differ from shipper to shipper.

Large reserves-to-production ratio. The reserves of gas at Prudhoe Bay are very large (at least 26 trillion cubic feet) and can supply gas for the pipeline at a rate of 2.4 billion cubic feet per day for at least 20 years without exhausting the reserves. This reserve-to-production ratio is much larger than for most other natural gas pipelines and provides assurance that gas supply will be adequate to allow the full recovery of capital investment in the project. Thus, as compared to most pipelines that have reserve commitments that generate significant risk-exposure, the ANGTS is in an enviable position.

Rolled-in pricing. In order to reduce marketing risks for this relatively high cost gas, the Congress, as part of the Natural Gas Policy Act, directed that the transportation cost and wellhead price for this gas will be "rolled-in" or averaged with cheaper sources of supply and sold to higher priority users. Thus, even if this gas is more expensive than some other sources of supply, potential problems of marketability are reduced since shippers are assured that they will not have to market this gas separately from other sources of supply.

Weighing all the risk-increasing and the risk-reducing factors, the Commission concludes that the risk exposure of ANGTS investors during the operation phase of the Alaska segment of the project will be somewhat higher than the risk-exposure of investors in the typical or average lower-48 pipeline. Thus, the Commission believes that an allowed Operation Phase Rate near the upper end of the range of rates discussed previously for lower-48 pipelines (12 to 15 percent) is reasonable for the Alaska segment of the project. The Commission selects 14 percent as the Operation Phase Rate for the Alaska segment.[63]

The Commission also concludes that the operation phase risk exposure of investors in the Northern Border segment is lower than the risk exposure of investors in the Alaska segment. The environmental and other risk-increasing factors pertinent to the Alaska segment are not as important here. The major risk imposed on investors by the tariff is that the return on equity or the return of equity may be reduced because of service interruptions.

The Northern Border system will be located in an area which is geologically more stable and readily accessible for any repair work which might be required. Along most of Northern Border's route, it will traverse areas which are already served by one or more of the major pipeline systems in the lower-48 transmission network. We believe that because of its location, the operating problems of the Northern Border segment will not be significantly greater than for other lower-48 pipelines. Consequently, the cost-of-service tariff, tracking provisions, and rolled-in pricing reduce the risks of this segment below that of the Alaska segment. The Commission finds, therefore, that 13 percent is a reasonable Operation Phase Rate for the Northern Border segment.

4. *Project Risk Premium.* The Project Risk Premium is added to the Operation Phase Rate to compensate investors for their risk exposure during the construction of the pipeline. The possibility of not completing the pipeline is the major risk faced by investors in the ANGTS. A key feature of the President's *Decision* is its emphasis that this risk of non-completion shall be borne by equity investors and other beneficiaries of the project, such as the State of Alaska or the producers at Prudhoe Bay, rather than by gas consumers or the general public through government loan guarantees.[64] Consequently, the *Decision* states that charges may be levied on consumers only after the "completion and commissioning of operation of the system."[65] If the project is abandoned prior to the initiation of service, investors cannot expect to recover their investment through charges on gas consumers.

The sponsors of the Alaskan segment presented a basic approach or methodology for determining these values of the Project Risk Premium in a paper submitted to the Alaskan Delegate on March 7, 1979, and distributed to all interested parties.[66] The Commission adopts the general methodology earlier used by the project sponsors, but disagrees with certain key parameter values.[67] Use of more appropriate values results in a Commission estimate of the Project Risk Premium substantially lower than the sponsor's estimate.[68]

First, the Commission has assumed a seven-year schedule of testing and construction, beginning in 1978 and ending in 1984, instead of the longer eight-year schedule assumed by the project sponsors. Even a seven-year schedule is significantly greater in length than the schedule that was

[59] Implicit in Hass' analysis of an Operation Phase Rate is a current required return of 15.7 percent for diversified natural gas transmission companies (a "riskless" rate of 9 percent plus an equity "risk" premium" of 6.7 percent). *See* Hass Report at 16–20.

[60] The Project Risk Premium is intended to compensate investors for these risks. See Section II.B.4 (Project Risk Premium).

[61] Leverage should not be evaluated alone; it must be considered along with other factors of which the most important is the cost-of-service tariff which largely reduces the risk associated with a high proportion of equity investment.

[62] Some risk that estimated throughput volumes may not be attained continues to exist. For example, as discussed more fully in the section on tariffs, the segment may be unable to transport the contract quantities because of a pipeline operating problem. If the diminution of service over a one month period amounts to more than 10 percent of contract throughput, the return on equity will be proportionately reduced. Provision is made for possible makeup transportation at a later date. If all service is interrupted for more than 30 days (a most unlikely event), the return of equity may also be forfeited if the Commission finds that the cause of the interruption was within the project sponsors' control.

[63] Sponsors' asserted that the implementation of the comparable earnings approach confirmed the reasonableness of a previously deduced 18% return on common equity for the ANGTS project (as opposed to typical lower-48 pipelines). (Joint Comments at Tab A.) They initially contended, without adequate support, that the ANGTS project should be viewed as a relatively risky enterprise during its operation. This unsubstantiated position presumably underlies the 18% return recommendation. They then attempt to further justify this recommendation merely by noting that the 18% value falls in the upper deciles of the earned returns on common equity for over four thousand publicly held corporations. The apparent rationale here is that risk and earned returns on common equity are directly related. The sponsors nowhere establish, however, that high earned returns on common equity are necessarily associated with high risk.

Hass recommended 14.4% as the Operation Phase rate for the Alaska segment and 12.5% for the Northern Border segment, Hass Report at 20, while Staff contended that 11.5% and 10.5 percent, respectively, are more appropriate. Initial Comments of the Commission Staff on Company Tariffs and Incentive Rate of Return, Docket No. RM 78–12 at 76–77 (May 4, 1979). [Hereinafter Staff Initial Comments]. Both took the position that investors, primarily because of the cost-of-service tariff, would perceive the ANGTS project as being a less risky investment than investments in lower-48 pipelines. However, while Hass' analysis enables one to see the steps leading to his conclusion, Staff's analysis is wholly subjective and no attempt is made to justify the current appropriateness of a 13% allowed return for conventional pipeline companies or how Staff's risk analysis led it to conclude that 10.5–11.5 percent is a reasonable range for the ANGTS project. Although the Commission recognizes the risk reducing nature of many of the issues discussed by Staff, we believe that Staff's qualitative analysis does not give sufficient consideration to how the uncertainties associated with the ANGTS project will impact on investors' required returns.

Staff attempted to confirm the reasonableness of its recommendation by duplicating, with some adjustments, the type of risk premium approach employed by Hass. We believe, however, that Staff's version of the Hass approach is flawed in several respects. For example, the 12.9% figure that Staff used as representative of allowed return for natural gas pipelines in 1975 was not shown to be equal to the investors' required return. Furthermore, for the risk premium approach to have any validity, investors' required returns for debt and equity securities must be compared during the same time period. Staff, however, relates this 12.9% figure to a current riskless rate rather than the riskless rate prevailing in 1975, as Hass did. Finally, Staff's downward adjustment of its derived 3.9% equity risk premium for the alleged lower risks of the ANGTS project by the same absolute percentage points as reflected in Hass' analysis, rather than by the same relative percentage, is questionable.

Hass also suggested the use of a rate indexed to interest rates, rather than a fixed-rate. Given current uncertainties with regard to inflation and capital market developments, there is undoubtedly some merit to such a proposal, as evidenced by the increasing use of variable or "floating" interest rates for long-term debt instruments. The Commission is aware that certain portions of the financial community are becoming more interested in the concept of indexing. At this point, however, the Commission does not believe that such a mechanism is necessary. Should the project sponsors discover that such a mechanism would facilitate project financing, the sponsors are certainly free to petition the Commission to impose such a condition.

[64] *Decision* at 124, Part IV Change in Scope, A. mechanism.

[65] *Decision* at 38.

[66] A similar but more elaborate methodology was proposed by Hass. Hass Report at 20–40.

[67] Since the project sponsors in their comments make no reference to this methodology nor comment on the Commission's use of this approach, it is not clear whether they still advocate this approach.

[68] The April 6 Notice identified four issues the Commission believes are important in determining the Project Risk Premium and invited comments on these issues. Based on a review of these comments, the Commission has altered its view of the Project Risk Premium in a number of signficant respects.

presented to the President and the Congress as part of the March 1977 cost estimate. That estimate was based on a construction schedule that would be essentially complete by the end of 1981, with some additional work on compressor stations in 1982.

Second, the Commission has based its calculations on the assumption that there is at least a 67 percent chance that the current sponsors will be able to complete the system. In their paper, the sponsors assumed only a 30 to 40 percent probability of completing the system. The Commission's utilization of 67 percent by no means indicates its belief that the odds for completion of the project are two out of three. However, the Commission also cannot accept the sponsors' representation of a one out of three probability of project completion. The assumption chosen here merely makes certain that the Project Risk Premium compensates for a reasonable estimate of non-completion risk.[69] The Commission believes that the low probability of success assumed by the sponsors contradicts the assurances given to the President and the Congress, at the time of the President's *Decision*, that this project could be privately financed under the conditions imposed by the *Decision*. Consequently, the Commission cannot accept the sponsors' assumptions, and does not believe that it is reasonable to allow a large Project Risk Premium on the basis that it is needed to compensate investors for an assumed small chance of successful completion.

Third, in calculating the Project Risk Premium the Commission makes no provision for the possibility that the sponsors could recover part of their investment through charges on existing customers in the event of abandonment. The Commission believes that the President's *Decision* did not contemplate such charges, and that plans and present decisions should be made on the assumption that cost recovery from rate-paying consumers will not be allowed in case of abandonment. The Commission recognizes, however, that substantial tax savings could accrue to investors in the event of abandonment. The lost investment is a loss for tax purposes and would reduce the tax payments of the project sponsors by an amount approximately equal to one-half of the investment.[70]

Fourth, the project sponsors' paper and the Commission's April 6 Notice assumed substantially different values for the rate of return used to calculate the allowance for the funds used during construction (AFUDC) included as part of the "risk adjusted rate base."[71] The project sponsors proposed 15 percent, while the Notice proposed a lower rate of 9.5 percent.[72] The Commission stated in the Notice that the risk of non-completion was essentially the only risk faced by investors during construction, and that this was compensated for by the "risk adjusted rate base" and the resulting Project Risk Premium. Under this concept, an equity AFUDC rate for calculating the "risk adjusted rate base" should be very low and incorporate no explicit compensation for risk. The Commission used 9.5 percent, which is comparable to the rate obtainable on low risk government securities.

The project sponsors, on the other hand, asserted that the methodology for calculating the Project Risk Premium only explicity compensated for the extraordinary risk of non-completion for this project, and that any compensation for the normal risks of building a pipeline, including a competitive pre-decision risk, must be incorporated in the value of the AFUDC equity rate.[73] The Commission has been persuaded by these arguments and had used an equity AFUDC rate to caculate the "risk adjusted rate base" that is equal to the Operation Phase Rate of 14 percent.

Based primarily on the project sponsors' methodology, and using most of the same parameter values, with one important exception, the Commission has calculated a Project Risk Premium of 2.0 percentage points for the Alaska segment.[74]

For the Northern Border segment, the construction phase risks are considerably less than for the Alaska segment. Essentially, Northern Border will be of conventional pipeline design, traversing areas where natural gas pipelines have previously been constructed. Thus, the likelihood of project abandonment during construction due to extreme cost overruns is virtually non-existent.

The required expenditures on pipeline design, engineering, and testing for Northern Border are of a lower magnitude relative to total costs than for the Alaskan segment. Hence, if Northern Border has to be abandoned during the early stages of pipeline design and engineering, the lost investment relative to total cost would be less than for Alaska.

The Northern Border segment also has the potential for transporting gas from two sources of supply, Western Canada as well as Alaska. Because of the possibility of "pre-building" most of Northern Border to carry Canadian gas in advance of Alaska gas, the risk of abandonment of Northern Border will be obviated sooner than the risk of abandonment of the Alaska segment.

Weighing all of these factors, the Commission concludes that the appropriate Project Risk Premium for the Northern Border segment is 1.5 percent.

5. *IROR Risk Premium.* The IROR Risk Premium is to compensate equity investors for the risks introduced by the variability in the allowed rate of return created by the IROR mechanism. The IROR Risk Premium, when added to the Operation Phase Rate and the Project Risk Premium, yields the Center Rate.[75]

The IROR Risk Premium compensates for the various uncertainties attendant to implementing a new regulatory mechanism. For example, since the Inflation Adjustment and Change in Scope mechanisms established in this Order have no prior history, some uncertainty exists regarding their implementation and their effects on the return that will finally be realized by investors in this project. As is discussed more fully in Section III, the composite inflation index required by the Commission may over or underestimate the actual inflationary experience of the project during construction. This creates additional uncertainty about the final outcome of the IROR mechanism. This uncertainty is the major reason why the Commission has decided to increase the IROR Risk Premium for Alaska from the 0.5 percent proposed in the April 6 Notice to the figure, established in this Order, of 1.5 percent. Similarly, the IROR Risk Premium for Northern Border has been increased from 0.25 percent to 0.5 percent.

Suppliers of very large sums of equity capital are likely to be risk averse. If presented two investments, both of which have the same average expected rate of return but one has a wide range of possible outcomes and one has a smaller range, most investors would prefer the latter. This would be true even if possible positive returns balance possible negative returns. Most investors prefer relative certainty to variability; therefore variable rates of return have to be higher than relatively sure rates of return.

Adoption of an IROR schedule confronts investors with a variable allowed rate of return in the form of a schedule of rates depending on cost control performance, rather than the single allowed rate of return as provided in the usual situation for public utility investment. Moreover, while in the usual utility investment, actual or realized rates of return may vary from allowed rates of return due to unanticipated inflation, demand shifts, or other economic changes, this project could have mnore variance due to the inflation and Change in Scope adjustments. Thus, an IROR Risk Premium is necessary to attract private equity investment in the project as compensation to investors for the risk created by the variable allowed rate of return.

There is no clear basis for determining the trade-off between a single allowed rate of return and a schedule, but the Commission in its judgment has concluded that a 1.5 percent IROR Risk Premium is appropriate for the Alaskan segment and that a 0.5 percent IROR Risk Premium is appropriate for the Northern Border segment.[76] These figures, when added to the Non-Incentive Rate, yield Center Rates of 17.5 percent and 15.0 percent, for the Alaskan and Northern Border segments, respectively.

The State of Alaska has argued in its comments that the IROR Risk Premium is unnecessary and inconsistent with the rationale presented for it by the Commission. It states that the expected rate of return, in the statistical sense, can never be less than the Non-Incentive Rate (that is, the sum of the Operation Phase Rate and the Project Risk Rate) and will probably exceed the Non-Incentive Rate. It concludes that there is no downside risk inherent in the IROR mechanism and that even a schedule which embodied no IROR Risk Premium would offer investors a schedule of returns which are higher than necessary to induce equity investment in the project.

The Commission is not persuaded by these arguments because they fail to address the fundamental issue of the variability of the earned rate of return relative to the Center Rate. The actual Cost Performance Ratio, and thus the Incentive Rate which will be achieved, is by no means known with certainty. By definition, there is some probability of a Cost Performance Ratio in excess of the Center Point. Therefore, investors face the possibility of receiving a rate of return less than the Center Rate, even though the expected rate of return (by the narrow statistical definition) may be in excess of the Non-Incentive Rate. The IROR mechanism does confront investors with downside risk, and thus, a reasonable IROR Risk Premium is appropriate.[77]

The Commission Staff has proposed that no IROR Risk Premium should be incorporated into the IROR schedule. They assert that upside variance in returns (i.e., the contribution to that variance due to returns above the expected level) is a desirable feature to investors. They contend that since the upside variance due to the IROR mechanism is proportionally much greater than the downside variance (i.e., the contribution to total variance due to returns below the expected level), no IROR Risk Premium is needed.

[69] The Commission notes, in this regard, that comments on the reasonableness of the assumptions concerning the probability of project abandonment and construction schedules were sought from the sponsors in the *Notice of Proposed Rulemaking* (at 28). None were forthcoming.

[70] The only exception would be if a partner did not have a taxable income larger than the lost investment. Even in this event, loss carry forward provisons would allow the loss to be deducted from past and future income.

[71] The equity AFUDC rate is conceptually quite different from the actual rate the Commission will allow for determining AFUDC and it is used only to derive the theoretical construct of the 'risk adjusted rate base".

[72] Staff's arguments in their initial comments recommending a 4.5 percent after-tax risk free equity AFUDC rate in calculating the risk adjusted rate base are not persuasive. Staff Initial Comments at 80. Staff is confused by the fact that the equity investors in the Alaska gas project are themselves likely to be corporations (the sponsors companies) rather than individual stockholders and thus must pay the corporate profits tax on any interest in come at a rate of approximately 50 percent. Staff's argument is that a low risk alternative to an equity investment in the Alaska gas project would be an investment in government bonds from which the interest income would be subject to the corporate profits tax rate. This is misleading since the sponsoring companies can best be thought of as intermediaries for their own stockholders. The choice to a stockholder in a sponsor company is to invest in the Alaska project indirectly through the sponsor company or to invest in a low risk government security. From the prespective of a stockholder in a sponsor company, the interest income and the return on equity are both on the same tax basis (after corporate tax but prior to the personal income tax) and are in fact comparable.

[73] One particular risk for which this higher value of the equity AFUDC rate compensates is the risk incurred during competitive proceedings before this Commission. The Commission regards this risk as one of the normal risks of the pipeline business, for which the normal rate of return allowed regulated gas pipelines, and thus the Operation Phase Rate for this project, provides compensation. Thus, the Commission's calculation of the "risk adjusted rate base," and the Project Risk Premium, in this Order does not explicitly consider the probability of abandonment prior to the *Decision* and the issuance of the conditional certificates of public convenience and necessity in December 1977. In their initial comments, both the State of New York and the Upper Tanana Development Corporation argued against a higher Project Risk Premium to compensate for this risk, and no party argued for it.

[74] The time profile of equity investment is taken from the response of the sponsor to an interrogatory from the Alaskan Delegate (dated May 3, 1979) which was served on all parties. As stated earlier, the probability of successful completion is assumed to be approximately 67 percent, making the chance of abandonment approximately one-in-three. The equity AFUDC rate used to calculate the "risk adjusted" and normal rate base is the Operation Phase Rate of 14 percent.

The calculations necessary to derive the Project Risk Premium for the Alaskan segment discussed herein are as follows:

	1978	1979	1980	1981	1982	1983	1984
Equity investment (percent of total)	9.0	5.3	5.3	20.1	27.5	20.1	12.7
Normal rate base (RBN) (14.0 percent AFUDC rate)	10.26	17.74	26.26	52.85	91.80	127.34	159.64
Risk of abandonment	.06	.12	.12	.05	.03	.01	.005
Risk adjusted rate base (RBA) (14.0 percent AFUDC rate)	10.63	19.66	31.00	59.23	100.89	138.56	173.42

Project risk premium = .1931 (173.42/159.64 − 1) = .0167.

Applying a *higher* equity AFUDC rate (e.g., 14 percent vs 13 percent) to the RBA/RBN ratio results in a *lower* Project Risk Premium, other factors being equal. Under the conditions above, as an example: Project Risk Premium at 14% = 1.67; at 13% = 1.87. As indicated above, the fact that the Commission specifies a lower AFUDC Rate than contemplated in Order No. 17, results in a higher Project Risk Premium and a higher Center Rate. The premium of 1.67% would be fair compensation for the risk-neutral investor who was willing to accept a fair gamble in the narrow statistical sense. The Commission, however, believes that the premium must be higher to compensate risk averse investors and has selected a value of 2.0%. For more information about the methodology, *see* Northwest Alaskan, "Determining Project Risk Premium," cited at n.11 above.

[75] In order for the ANGTS to obain private equity financing, the IROR schedule must be designed in such a way that the statistical concept of the expected discounted stream of revenues (i.e. depreciation and return on equity) is at least equal to the expected discounted equity investment. Because of the design of the IROR schedule, the discounted expected returns to equity investors will exactly equal the expected equity investment if the Center Rate equals the cost of equity capital to the project, given the risks of the project.

[76] Hass concludes that ". . . the IROR Risk Premium does not need to be very high and could be set to zero with justification." Hass Report at 42. Project sponsors, on the other hand, have expressed a concern that uncertainties asssociated with the IROR mechanism compound the already formidable task of arranging private financing for the project.

[77] In addition, the Commission does not agree with the State of Alaska that an IROR schedule which embodied a zero IROR Risk Premium would offer investors higher returns than necessary. Although it is true, as the State of Alaska notes, that the statistical concept of the expected rate of return is likely to exceed the Center Rate, rational investors are not likely to base their investment decisions on the expected rate of return, *per se*. The expected rate of return is a weighted average of all possible rates of return, using as weights the assumed probabilities of each rate of return being received. Such a procedure does not take into consideration the different levels of investment associated with different allowed rates of investment return. A rate of return in excess of the Center Rate would be received on a smaller rate base than a rate of return which is less than the Center Rate. Thus, the dollar amount of gain, in an opportunity cost sense, from achieving a Cost Performance Ratio less than the Center Point by a certain percentage would be smaller than the dollar amount of loss resulting from achieving a Cost Performance Ratio in excess of the Center Point by the same percentage. In order to induce investment in the project, the expected discounted dollar amount of return to investors from the project must be at least equal to the expected discounted dollar amount of incremental investment. As was shown in the April 6 Notice, a zero IROR Risk Premium would produce an expected discounted return just equal to the investment.

This approach for assessing risk is one with which the Commission has had no previous experience. Even if the ratio of good or upside variance to bad or downside variance is a useful measure of risk, the Commission is uncertain as to how it should be employed in determining the IROR Risk Premium. While the Staff's approach is interesting, it is not sufficiently developed to constitute a reliable basis for Commission action.

In sum, in light of those attributes of the rate of return mechanism for this project that could produce a variance between actual and allowed rates of return greater than the variance usually observed in regulated situations, it is appropriate to establish a special IROR Risk Premium. The Commission's judgment is that on the basis of an overall assessment of the project, 1.5 percent is reasonable for Alaska and 0.5 percent is reasonable for the Northern Border.

6. *Marginal Rate.* a. *Definition.* The Marginal Rate is the return on the incremental dollar invested in moving from one Cost Performance Ratio to another. Alternatively, it can be thought of as the rate of return allowed on cost overruns or the rate of return enjoyed if costs can be reduced. However, as previously discussed in Section I, a single Incentive Rate will be earned on all investments in the project. The marginal rate is merely an analytical device for determining, in part, what the rate of return will be depending on cost performance.

This order establishes an overall schedule of rates of return called the IROR schedule, but implicit in any schedule is one or more Marginal Rates of Return. To illustrate this relationship between the overall IROR schedule and the Marginal Rate, consider the following abbreviated IROR schedule where the marginal rate is constant at 8 percent. When the marginal rate is applied to the additional equity investment, the average rate of return on equity (IROR) is reduced.

Equity share of captial costs	Cost performance ratio	IROR
$1.2 millions	1.2	15.29
1.3 millions	1.3	17.50
1.4 millions	1.4	16.82

Assume that the Cost Performance Ratio of 1.3 has already been reached shortly before project completion and the equity share of these costs is $1.3 million. But in order to complete the project, additional funds equal to 10 percent of projected costs must be expended. The equity share of this increase is $100,000. This increases the Cost Performance Ratio to 1.4. Because of this increase in costs, the IROR is reduced from 17.50 percent to 16.82 percent. This reduction occurs because the Marginal Rate implicit in this schedule is 8 percent and the equity investor will only earn an 8 percent return on his $100,000 investment.[78] Conversely, if the project sponsor can find some way to reduce construction costs so as to reduce the Cost Performance Ratio from 1.4 to 1.3, then the equity investor will have avoided investing $100,000 at the low Marginal Rate of 8 percent.

b. *Impact of the Marginal Rate.* The Marginal Rate plays three important roles in the IROR mechanism:

(1) *Incentive to reduce costs.* Because the Marginal Rate is the implicit rate of return allowed on all equity to finance increases in costs, this rate primarily determines the incentives to reduce costs created by the IROR. If the cost of capital is more than the allowed return, investors have a strong incentive to avoid making that investment. In addition to any other incentives already in existence, the Marginal Rate will create an incentive to reduce costs if the Marginal Rate is set below the cost of capital.[79]

(2) *Slope of IROR schedule.* The Marginal Rate determines the steepness of the IROR curve. A low marginal Rate will mean that the Incentive Rate will decline more rapidly as cost overruns occur. A high Marginal Rate will mean that the Incentive Rate will decline slowly as cost increases occur. From another perspective, a low Marginal Rate creates greater risk or uncertainty about the final outcome since the range or variability of rates is large. A high Marginal Rate creates little or no variability, and provides a substantial likelihood that even if there is substantial cost growth relative to the projected costs the earned rate will be close to the Center Rate.

(3) *Floor of the IROR schedule.* If a constant Marginal Rate is used, the Marginal Rate then becomes the floor on the IROR schedule. Since the Marginal Rate is effectively the rate allowed on all cost increases, the Incentive Rate can never be reduced below the level of the Marginal Rate no matter how large the Cost Performance Ratio becomes.

(c) *Alternative Marginal Rates.* In the Commission's April 6, 1977 Notice, in the comments received pursuant to this Notice, and in comments received in the earlier rulemakings dealing with the IROR, a number of different methodologies or approaches have been advocated for determining the Marginal Rate. The fundamental principal in choosing a Marginal Rate is that it should be less than the cost of equity capital. However, the comments demonstrate considerable controversy about the appropriate measure of the cost of capital and how much less the Marginal Rate must be. Here, we will review briefly the alternative approaches suggested to the Commission and discuss their merits. The Commission, however, must exercise its best judgment and choose a reasonable value from the various values presented in the comments.

The highest value for the Marginal Rate has been advocated by the project sponsors, Northern Border and Northwest Alaska. That rate is 12 percent. Their argument is that the Marginal Rate only needs to be slightly less than the "rate potential investors will require to accept the Project's risks," or, in other words, only slightly less than the Operation Phase Rate plus the Project Risk Premium. (Initial Comments, page 30.) This order specifies that rate to be 16.0 percent for the Alaskan segment and 14.5 percent for Northern Border.

The Commission, however, believes that there are three compelling reasons why the Marginal Rate must be substantially less than the Operation Phase Rate plus the Project Risk Premium to create a significant incentive. First, the risk of an investment in this project is reduced substantially as the project nears completion.[80] In fact, an investment just prior to completion has avoided all of the construction phase risks and is only confronted with the operation phase risks. Even adopting the sponsors' argument that the Marginal Rate need only be slightly less than the rate required to compensate for the risks of the project, the relevant rate is the Operation Phase Rate. This Order specifies an Operation Phase Rate of 14.0 percent for Alaska and 13.0 percent for Northern Border.

Second, the Commission believes that the incentive to reduce costs increases as the difference between the Marginal Rate and the rate that would otherwise be adequate compensation for the risks of investment increases. A Marginal Rate only slightly less than the Operation Phase Rate will only create a slight incentive to avoid overruns. In order to create a substantial incentive, the Marginal Rate must be substantially less than the Operation Phase Rate.[81]

Third, the Commission believes that it may be appropriate in determining the Marginal Rate to examine the cost of the funds used to make the equity investment in the project. If the equity investor can borrow a substantial portion of the funds to make the investment, then the average cost of funds could be much less than the Operation Phase Rate. In the Commission's September 15, 1978, Revised Notice of Proposed Rulemaking (at page 45), an example was presented where equity investors could borrow 60 percent of the funds to make an equity investment in the Alaska gas project. This produced a weighted cost of capital funds of about 8 percent.[82]

The lowest value of the Marginal Rate was advocated in the comments by the Staff. The Staff argued that a zero Marginal Rate was appropriate by analogy to the proposed tariff provisions that would reduce equity return in the event of a service interruption. Since the return on equity is reduced proportionately to the reduction in throughput resulting from a service interruption, the return on equity per thousand cubic feet (Mcf) of throughput would be constant.[83] This provision provides an incentive for sponsors to minimize or reduce service interruptions. The Staff argues that the same incentive should be provided to sponsors to reduce construction costs. A zero Marginal Rate would effectively keep the total dollar equity return constant for all levels of cost overruns or underruns and thus all levels of equity investment.

Though this analogy with the service interruption provision of the tariff is interesting, the Commission believes that the circumstances surrounding the two situations are quite different. In setting the Marginal Rate, the primary criterion is to reduce the equity return on cost increases to a level less than what equity can earn in other investments of similar risk. This same criterion is not relevant for the service interruption tariff provision. The Commission believes that a zero Marginal Rate would be unnecessarily below the rate of return necessary to create a substantial incentive to avoid cost overruns.

The project sponsors, in their initial comments argue that a low Marginal Rate may well prevent the project from obtaining both equity and debt financing (Initial Comments, Tab 4, pp. 7–8, and pp. 18–21). The Commission believes that the IROR schedule will prevent equity financing only if potential investors preceive such a high probability of large cost overruns that the IROR mechanism would result in a low average rate of return. The Marginal Rate has been set at a relatively high level in part to assure that the Incentive Rate—the rate that the project will actually earn—will decline only gradually as actual costs exceed projected costs. As will be discussed in the later section dealing with the overall impacts of the IROR mechanism, the allowed rate of return for the project is competitive with other project investments in the gas industry and the economy in general. If investors perceive a high probability of such large overruns that the realized rate of return will be low, then it would seem to follow that the projected costs and estimates of cost overruns have grown to such an extent since the President's *Decision* that the construction of this project may not still be in the public interest.

The project sponsors list three reasons why a low equity return may prevent debt financing even if equity financing is available.[84] All of these reasons are only relevant if there is a significant probability that large cost overruns will reduce the Incentive Rate to a low level. The project sponsors however, fail to mention what the Commission considers to be the greatest deterrent to the attraction of debt capital for this project, the threat of such a large amount of cost growth that the economic viability of the project would threaten the security of the debt investor. The IROR mechanism requires the project sponsors and other equity investors to suffer a low rate of return only if large cost overruns occur. If the equity investor is willing to go ahead with the project, then he must be confident that the cost estimates for the project are accurate and large cost overruns will not occur. The existence of equity investment, then, should assure the debt investors that large cost overruns will not occur. Thus the debt investment should be secure.

The Commission, in choosing a Marginal Rate, must balance the requirement in the *Decision* that the IROR mechanism provide "substantial incentives" with the need to attract equity and debt financing. The Commission has set a relatively high Marginal Rate. An 8 percent Marginal Rate will not lower the levels of the Incentive Rates unless very large cost overruns occur. However, we believe that an 8 percent Marginal Rate is sufficiently below the rates of return that equity investors could earn elsewhere so as to provide a significant incentive for superior cost control.[85]

7. *Synopsis of Components.* The following table presents the determined values for the IROR parameters:

[78] The IROR for the Cost Performance Ratio of 1.4, i.e., 16.82%, can be calculated as the weighted average of the 17.50% return allowed for the 1.3 Cost Performance Ratio and the 8% Marginal Rate earned on the $100,000 increase in costs.

The weights in the average are the share of the total investment earning each of the two rates of return.

$(1.3/1.4) \times (17.50\%) + (0.1/1.4) \times (8.0\%) = (0.92\%) \times (17.50\%) + (0.071) \times (8.0\%) = 16.25\% + 0.57\% = 16.82\%$

Again, however, there is only one overall rate of return, in this case 16.82%.

[79] In their joint initial comments, the sponsors argue that the fundamental incentive to reduce or control costs is the need to remain within the pool of funds committed to the project. (Joint Comments at 36). We agree that this financial restriction will create powerful and practical incentive. Marginal Rate is designed to discourage the expenditure of funds which exceed the cost estimates upon which the project was certificated. This is a separate and distinct issue from that raised by the sponsors of whether the funds will be available to finance will be available to finance cost overruns. The President's *Decision* is clear that the IROR must be constructed so as to create "substantial incentives" to reduce costs. The Commission, to meet this requirement, must consider the implicit Marginal Rate in the IROR schedule and compare it with the cost of equity captial for this project.

[80] *See, e.g.,* Northwest Alaskan, "Determination Project Risk Premium" at 39.

[81] *See,* Initial Comments of the People of the State of California and the Public Utilities Commission of the State of California at 3 (May 4, 1979) which, for a similar reason, advocated a Marginal Rate of 5%.

[82] This figure is derived from: (share of equity) x (equity rate of return) + (share of debt) x (after-tax cost of debt) = (0.4) x (13%) + (0.6) x (5%) = 8.2%.

[83] The reduction in equity return only occurs if the service interruption reduces throughput to less than 90% of the contracted quantities.

[84] Initial Comments, Tab 4, at 7. These reasons are:

(1) The project must offer an equity return high enough to attract completion capital from investors who did not participate in the initial financing. The Commission's response is that the original investors may have to sacrifice some of their return in order to make the project attractive to new investors in the event of large overruns or else face the loss of their investment due to abandonment. A similar argument was made by the State of California in its initial comments (p. 3).

(2) Debt amortization schedules may require that the debt principal payments be funded in part from the equity returns. The Commission notes that the IROR mechanism does not interfere with return of equity through depreciation but only reduces the return on equity. It would seem to be very unlikely that debt amortization would exceed the total depreciation expense for the project.

(3) Debt investors will consider debt coverage ratios in their decision to invest and the IROR may reduce these ratios. The Commission believes that the cost of service tariff for this project reduces the importance of conventional measures of debt coverage.

[85] The State of New York suggests that the Marginal Rate should be reduced for large values of the Cost Performance Ratio, but does not explain what specific benefit would result from this proposal. Comments of the Public Service Commission of the State of New York on Proposed Values for Incentive Rate of Return, Change of Scope and Inflation Adjustment and Tariff Issues, Docket No. RM78–12 at 6 (May 4, 1979). During this and the previous rulemakings dealing with the IROR mechanism, the Commission has examined a number of proposals for a non-constant Marginal Rate. Upon close re-examination of this issue, the Commission fails to see any significant benefits that would result from a non-constant Marginal Rate.

Parameter	Segment	
	Alaskan	Northern Border
Center Point [56]	1.30	1.10
Operation Phase Rate	14.00	13.00
Project Risk Premium	2.00	1.50
IROR Risk Premium	2.00	.50
Center Rate	17.50	15.00
Marginal Rate	8.00	8.00
Equity AFUDC Rate	14.00	13.00

[56] These values for the Center Point are used only for illustration. The values for this component for each of the segments will be determined at a later date. *See* section II.B.2.

With these values the entire range of the IROR schedule can be calculated.[57] The result of the calculation is produced below in tabular form:

Incentive Rate of Return

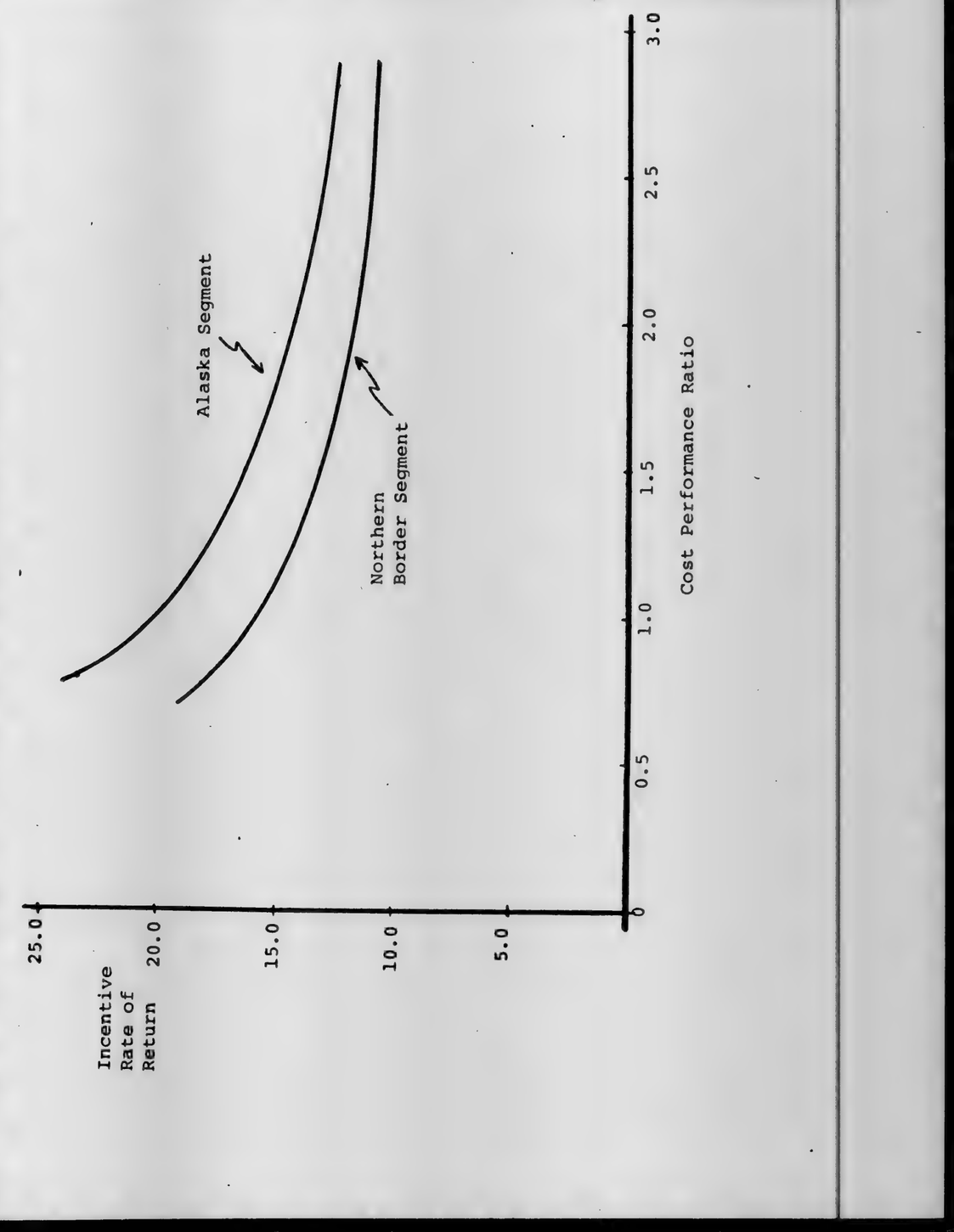
Cost performance ratio	Alaska	Northern Border
0.8	23.44	17.62
0.9	21.72	16.56
1.0	20.35	15.70
1.1	19.23	15.00
1.2	18.29	14.42
1.3	17.50	13.92
1.4	16.82	13.50
1.5	16.23	13.13
1.6	15.72	12.81
1.7	15.26	12.53
1.8	14.85	12.28
1.9	14.50	12.05
2.0	14.17	11.85
2.1	13.88	11.67
2.2	13.61	11.35
2.3	13.37	11.35
2.4	13.15	11.21
2.5	12.94	11.08
2.6	12.75	10.96
2.7	12.57	10.85
2.8	12.41	10.75

[57] The formulas by which the calculation would be made gives any Cost Performance Ratio (A) would be:

(1) For Alaska: $R=[(17.5)(1.3)+8(A-1.3)]/A=8+12.35/A$

(2) For Northern Border: $R=[(15.00)(1.1)+8(A-1.1)]/A=8+7.7/A$.

Where: R = the incentive rate of return.



C. One-Time Adjustment to Rate Base

Order No. 17 specifies a procedure for determining a one-time adjustment to the rate base of the project, in lieu of using the Incentive Rate during the operating life of the project. This section reviews the rationale for this procedure, and describes how the one-time adjustment will be calculated, including examples. Also, this section discusses certain accounting, ratemaking, and tariff implications of the one-time adjustment that were not included in Order No. 17.

The preceding analysis of the IROR mechanism is based on the premise that the Incentive Rate would be applied to the actual equity component of the project's rate base to determine the cost of service. However, Order No. 17 requires an alternative but equivalent procedure. Instead of applying the Incentive Rate to a normal rate base, the Operation Phase Rate will be applied to an adjusted rate base. The adjustment to the capital structure and rate base will be such that the present worth of the future income or cash flow to equity investors will be the same as would result from using the Incentive Rate and an unadjusted rate base. The one-time adjustment would be amortized with the annual amortization charge included in the cost of service and the Operation Phase Rate would be earned on the unamortized portion of the one-time adjustment.

The Commission has adopted the one-time adjustment approach for two reasons. First, the use of a one-time adjustment simplifies the determination of just and reasonable rates of return in the future, because the risks attached to the construction phase, including the risk of the IROR mechanism itself, are already recognized in the adjusted capital structure and rate base. By compensating for these risks through an adjustment to the project's rate base, future rate of return determinations need only address project risks and financial market conditions at the time of determination, not those risks associated with the construction of the project which took place in the past.

The second reason is to simplify future financing for, and rate determinations on, expansions or looping of the ANGTS. The risks of participation in this project prior to and during construction are significantly different from the risks associated with project investments made in the future when in an operational phase.[88] The IROR mechanism is a concept developed to recognize the project sponsors' performance in the initial construction phase only, and the resulting adjustment should not affect the return on future investment in an expansion of that project. The one-time adjustment ensures this result without the need for separate return determinations for investments made in the ANGTS at different times.

The Commission believes that the adjustment should be the present value of expected future cash flows [89] resulting from the application of the difference between the Incentive Rate of Return and the Operation Phase Rate as applied to the equity-supplied capital of the system.[90] Table 1 illustrates how to calculate the one-time adjustment that is equivalent to an Incentive Rate of 17 percent when the Operation Phase Rate is 14 percent. Instead of earning a 17.5 percent return on the unadjusted equity investment in the project, the investor will earn a 14 percent return on a larger adjusted equity investment. Based on the assumption that the equity investment in the project will be reduced on a straight line basis over a 25-year period, Table 1 shows that the one-time adjustment should equal 18.3 percent of the original investment.[91]

Table 2 shows the one-time adjustment to the equity investment that results for each possible value of the Incentive Rate for both the Alaska segment and Northern Border. In the case of the Alaska segment, a Cost Performance Ratio less than 2.1 will result in an Incentive Rate greater than the Operation Phase Rate (14 percent), and thus in a positive one-time adjustment. For Cost Performance Ratios greater than approximately 2.1, the Incentive Rate will be less than the Operation Phase Rate, and the one-time adjustment will be negative.

[88] The project sponsors have already provided some recognition of the changing nature of project risks as the project progresses with the discount schedule for late entry which was made part of their Partnership Agreement. The Commission endorsed that concept in approving the relevant portion of the Partnership Agreement, by Order of June 30, 1978, in Docket No. CP78-123 (at pp. 7–11), and seeks to reinforce it with the rate base adjustment methodology.

[89] The expected cash flow includes both the return on and the return of the one-time adjustment. The one-time adjustment is, in effect, additional equity provided to the project as a result of the performance of the sponsors during construction.

[90] Some of the comments argue that uncertainties about the future operation of the pipeline will make the present value of the return of equity and the return to equity uncertain, and thus make the precise size of the one-time adjustment uncertain. The Commission agrees that it is impossible to predict with certainty such things as throughput, tax rates, operation costs, or ultimate capacity. However, the type of cost-of-service tariff that this Commission is likely to approve will provide a high degree of certainty as to the return of equity and the return to equity over the life of the project, once the size of the equity investment and the allowed rate of return have been finalized.

[91] Using a 14 percent discount rate, the present worth of the return of and return on equity resulting from a 17.5 percent rate of return on an unadjusted equity investment of $100.00 is the same as the present worth of the return of and return on equity resulting from a 14 percent rate of return on an adjusted equity investment of $118.13.

Table 1.—*Example of One-Time Adjustment Calculation*

Assumptions:
- Operation phase rate ..... 14 pct.
- Incentive rate ..... 17.5.
- Equity investment ..... $100.
- Depreciation period ..... 25 years.

	Return of equity	Return on equity [1]	Total	Discounted total [2]
Year:				
1	$4.00	$17.50	$21.50	$18.86
2	4.00	16.80	20.80	16.00
3	4.00	16.10	20.10	13.57
4	4.00	15.40	19.40	11.49
5	4.00	14.70	18.70	9.71
6	4.00	14.00	18.00	8.20
7	4.00	13.30	17.30	6.91
8	4.00	12.60	16.60	5.82
9	4.00	11.90	15.90	4.89
10	4.00	11.20	15.20	4.10
11	4.00	10.50	14.50	3.43
12	4.00	9.80	13.80	2.86
13	4.00	9.10	13.10	2.39
14	4.00	8.40	12.40	1.98
15	4.00	7.70	11.70	1.64
16	4.00	7.00	11.00	1.35
17	4.00	6.30	10.30	1.11
18	4.00	5.60	9.60	.91
19	4.00	4.90	8.90	.74
20	4.00	4.20	8.20	.60
21	4.00	3.50	7.50	.48
22	4.00	2.80	6.80	.38
23	4.00	2.10	6.10	.30
24	4.00	1.40	5.40	.23
25	4.00	.70	4.70	.18
Total	100.00	227.50	327.50	118.13

One-time adjustment = $18.13

[1] Computed on remaining balance of one-time adjustment as of January 1 of each year.
[2] 14 pct discount rate.

Table 2.—*One-Time Adjustment as Percent of Equity Investment*

	Alaska		Northern border	
	Incentive rate	One-time adjustment percent [1]	Incentive rate	One-time adjustment percent [2]
Cost performance ratio:				
0.8	23.44	48.88	17.62	25.15
0.9	21.72	40.00	16.56	19.33
1.0	20.35	32.89	15.70	14.88
1.1	19.23	27.07	15.00	10.87
1.2	18.29	22.23	14.42	7.70
1.3	17.50	18.13	13.92	5.02
1.4	16.82	14.61	13.50	2.72
1.5	16.23	11.57	13.13	.73
1.6	15.72	8.90	12.81	−1.02
1.7	15.26	6.55	12.53	−2.56
1.8	14.86	4.46	12.28	−3.93
1.9	14.50	2.59	12.05	−5.15
2.0	14.17	.91	11.85	−6.25
2.1	13.88	−.62	11.67	−7.25
2.2	13.61	−2.00	11.50	−8.15
2.3	13.37	−3.26	11.35	−8.98
2.4	13.15	−4.42	11.21	−9.74
2.5	12.94	−5.49	11.08	−10.44
2.6	12.75	−6.47	10.96	−11.06
2.7	12.57	−7.38	10.85	−11.68
2.8	12.41	−8.23	10.75	−12.23

[1] 14 pct discount rate.
[2] 13 pct discount rate.

For accounting purposes, the one-time adjustment can be actually recorded as an adjustment to the original cost of plant in the accounting records of the project. This one-time adjustment could be entered into just one of the plant accounts specified by the Commission's Uniform System of Accounts or spread over a number of the plant accounts. Since the tariff of the project relies on the cost of plant as recorded according to Uniform System of Accounts, the one-time adjustment would be incorporated into the rate base of the project for ratemaking purposes. Thus, application of the provisions of the tariff to the project's rate base as specified by the adjusted account(s) would then yield the appropriate revenue streams.

The Commission rejects this approach for a number of reasons. First, it could result in a distorted picture of the actual earnings of the project. To record the adjustment as an increase in the orginial cost of the plant would be contrary to generally accepted accounting principles, since it would not be in accord with the cost concept of asset accounting. Also, it would violate the original cost concept of regulatory accounting. Other problems might arise in the future if there was a significant change in the project plant, such as an extraordinary retirement or replacement of a significant component of the project plant. If the original cost of this component also included some part of the one-time adjustment, special recognition of this fact must be given in order to ensure continued recognition of the impact of the IROR on rates of return.

The Commission proposes instead to record the one-time adjustment as a memorandum entry in the project's accounts to be used for ratemaking purposes only. The purpose of the one-time adjustment is to reward or penalize the project sponsors for their performance during the construction phase of the project, and to compensate the investors for unusual risks involved in building a project of such magnitude. Under this proposal, the one-time adjustment would be treated as a matter of rates and rate of return on a given investment, not an adjustment of that investment.

The use of the memorandum entry concept will require modification of the tariffs to include a schedule of the one-time adjustment and its amortization over the project's life. Also, the definition of rate base will be changed to include the average remaining balance of the IROR one-time adjustment, and the definition of the components of cost of service will include the scheduled amortization of the IROR one-time adjustment for the tariff computation period. Finally, the equity in the project to be used for the rate determination will include the unamortized one-time adjustment as an adjustment to book equity.[92]

III. Adjusting for Inflation

The Commission believes that it is not reasonable to penalize project sponsors for cost increases resulting from general inflation in the nation's economy. As proposed in our Notice of April 6, the Commission will adjust the Actual Capital Costs to eliminate the effect of general inflation before calculating the Cost Performance Ratio and the IROR.

Extensive research has been done on this subject, and there is substantial information in the record on the appropriate inflation adjustment procedure. Both the Alaskan Delegate and the project sponsors have prepared papers on the inflation adjustment mechanism, and the comments received pursuant to the Commission's Notice of April 6 discuss the inflation adjustment mechanism in considerable detail.

The Commission has evaluated potential inflation adjustment mechanisms against four criteria. These are: (1) the accuracy with which the mechanism would adjust the actual costs of construction for general inflation in the nation's economy; (2) the extent to which it would provide incentives to reduce construction costs; (3) the burden on the Government and the sponsors of administering the inflation adjustment mechanism; and (4) the attendant risk and uncertainty to investors and lenders. Different proposals rank differently when judged by these criteria individually. The Commission must balance the conflicts or differences to arrive at the best possible solution under all of these criteria.

The Commission's proposal for an inflaiton adjustment mechanism has been criticized (for different reasons) by both the sponsors and the Commission's Staff in their comments. While the Commission has made some modifications in response to the technical criticisms of the sponsors, the Commission still believes that the

[92] The one-time adjustment to rate base is a means of obtaining a desired result in an uncomplicated manner. The Commission realizes that there are many variables in the ratemaking process which will affect the results of any method used to implement the IROR. The Commission believes that the one-time adjustment, amortized over the life of the project, will result in the closest approximation of the desired results, and any differences will be minimal when reviewed over time.

proposal in the Notice achieves the best balance among the four goals.

The Commission's inflation adjustment mechanism has the following major features:

- A hybrid composite index of construction costs for this project will be constructed.
- This index will be used to deflate Actual Capital Costs back to base year price levels for comparison with the Projected Capital Costs, also in base year prices.
- The composite index will be a weighted average of 42 indices currently available from the Government or other recognized sources.
- Each of the 42 indices will measure the price increase for one category of construction costs (*e.g.*, valves, line pipe, welders, cement, and so forth).
- The weights to constuct the average will change from quarter to quarter and will be based on the proportion of that cost category in the total costs for the project as taken from the estimates in the Certification Cost Estimate. (For example, if valves amount to 15 percent of total costs for a particular period, valves would be given a weight of 15 percent in the composite index for that period.)
- Weights to be used for any construction occurring after the end of the estimated construction period would be those weights used for the last year of construction in the estimated schedule.

This inflation adjustment mechanism is based in large part on the proposal made by the project sponsors in a paper submitted to the Alaskan Delegate on March 7 and later distributed to all other interested parties.[93] In their comments on the April 6 Notice, the project sponsors are critical of the Commission's deviation from their proposal. The Commission's major reason for deviating from the sponsor's proposal is that the proposal would not adequately realize the goals of creating incentives to reduce costs and of limiting administrative burdens. The Commission's procedure results in some attendant uncertainty about the final outcome of the IROR mechanism or, in other words, uncertainty about the realized rate of return. As discussed in Section II.B.5. on the IROR Risk Premium, this is one reason why the Commission has increased the IROR Premium.

The first difference between the mechanisms specified in this Order and that proposed by the sponsors is the weights to construct the composite index. The sponsors advocate using the actual costs incurred in each category during construction to determine the weights, while the Commission's procedure is the use the estimate of costs in each category found in the Certification Cost Estimate. There are two major advantages to using estimated costs rather than actual costs to derive the weights.

First, the use of actual costs as weights does not give any incentive to substitute low-cost items in one cost category for high-cost items in another category since the weights would be adjusted to offset this change. Using fixed weights based on estimated costs gives the sponsors a greater incentive to substitute low for high-cost items whenever possible, and thus to achieve a lower Cost Performance Ratio (and a higher IROR).

Second, the determination of the weights prior to the start of construction as part of the certification process means that there will be one less issue or potential controversy to resolve during construction. In general, the project sponsors have emphasized the need to resolve all IROR parameters as soon as possible.

The use of actual costs to determine weights could result in a more accurate measure of inflation for each cost category than using estimated cost weights. However, we believe the overall accuracy of the estimates will be good, since any underestimation of inflation for one of the 40 or more categories will probably be offset by an overestimation in another category. Also, any inaccuracies are just as likely to benefit the project sponsors by overestimating inflation as to harm the sponsors by underestimating inflation.

The second and more important difference between the sponsor's proposal and the Commission's mechanism is in the use of actual prices paid as a measure of inflation. The sponsors argue that no existing index accurately measures their likely inflationary experience for steel prices and wage rates for labor. Though there is merit to this argument, the Commission cannot reconcile the use of actual prices to measure inflation with the requirement in the *Decision* that the IROR mechanism must provide "substantial incentives" to reduce costs. Labor costs and steel costs will likely account for more than 75 percent of the total costs of this project. By using actual prices paid to measure inflation for these two cost categories, the Commission would in effect be eliminating any extra incentive created by the IROR mechanism [94] for the sponsors to negotiate for lower wage rates or lower steel prices.

We do not believe that the use of existing indices for these two cost categories creates an inordinate amount of risk for the sponsors. Prices for all steel products generally follow the same price trends, and labor rates in all parts of the country for all skill categories also generally increase together. We do not deny that there may be some divergence in growth rates, but the sponsors are just as likely to benefit from differences as to be penalized.

As we stated in the April 6 Notice, the Commission expects that the Certification Cost Estimate will incorporate a premium for labor rates or steel prices if it can be shown that wages or steel prices for this project can be expected to be higher than other wage rates or steel prices incurred in other major construction projects in the lower-48 states. Labor prices in Alaska will be higher than in the lower-48, and prices of 48-inch pipe exceed the prices for 36-inch pipe (the largest diameter for which price indexes are available).[95] However, there is no evidence that future increases in Alaska labor rates or future changes in prices for 48-inch steel would be greater than increases in other wage rates or other steel prices. In fact, there is at least some probability that increases will be smaller and that the sponsors will benefit from the inflation adjustment mechanism required by this Order.[96]

The sponsors also object to the Commission's requirement to use the weights for the last scheduled period of construction to deflate costs during any period of schedule overrun. This may introduce some error, but again, the sponsors are just as likely to benefit as to be harmed. It is doubtful that any inaccuracies as a result of this arrangement could be substantial. The types and quantities of labor and material used during any period of schedule overrun should be similar to the types and quantities estimated to be used for the last period of the planned construction schedule.[97]

In their initial comments, the sponsors raise some technical issues concerning a few of the price indices proposed by the Commission in the Notice of April 6. Upon review, the Commission finds the sponsor's criticisms to be valid and the table of price indices included in Condition No. 18 has been modified to correct these errors.

[93] Northwest Alaskan, "Recommended Inflation Adjustment."

[94] There may be other powerful incentives to bargain for lower wages and prices, but the IROR mechanism would not add to them in this case.

[95] In estimating the prices for labor or steel to be used in the Certification Cost Estimate, we believe that a reasonable procedure would be to estimate the premium (in percentage terms) that will have to be paid for Alaskan labor or 48-inch pipe above lower-48 prices for labor or 36-inch pipe during actual construction. These premiums should then be added to the base year prices for lower-48 labor or 36-inch steel pipe to determine base-year prices for Alaskan labor or 48-inch pipe. The Trans-Alaska Oil Pipeline experience could provide a starting point for determining the premium for labor.

[96] The sponsors argue that incorporating premiums for Alaskan labor or 48-inch pipe in their cost estimates will put them at a competitive disadvantage in their negotiations with labor unions or pipe manufacturers. Joint Comments at Tab 2, p. 10. Even if there was no IROR mechanism, and thus no inflation adjustment mechanism, the Commission would still expect the Certification Estimates to contain the best estimates possible for labor rates and steel pipe prices, including any premiums that the sponsors expect to pay over other more common labor rates or prices. Even assuming, *arguendo*, that the sponsors are correct, the argument would seem to apply with even more force to the situation where wage and price increases could be passed through to ratepayers by means of an inflation adjustment mechanism with no adverse impact on earnings.

[97] The Commission Staff in their initial comments (pp. 45–47) argue for a method of adjusting for inflation that would impose a much more severe penalty for schedule delay than would the Commission's mechanism. The Staff would not only use the same weights in the schedule overrun as used in the last scheduled period, but would also use the same values for the cost indices. In other words, there would be no adjustment for any inflation that occurred during the schedule overrun period. This proposal would result in an unnecessarily severe penalty for schedule delay. The true cost of schedule delay is measured by the time value of money, interest charges, or discount rates. The sponsors will be penalized for this cost since the Finance Charge will continue to be added to the Actual Capital Costs, thus increasing the Cost Performance Ratio and lowering the IROR. However, the increased costs due simply to inflation can not be considered an increase in the real costs of the project. In money terms, the costs have increased due to inflation, but then so have all other prices as well as the incomes of gas consumers. Since incomes are likely to increase in step with inflation, consumers are not really worse off simply because inflation has increased construction costs.

[98] *See* April 6 Notice at 43–45 (mimeo).

IV. Change in Scope

A. Mechanism

The Change in Scope mechanism is an essential part of the overall Incentive Rate of Return mechanism. Its purpose is to protect the project sponsors against reductions in their rate of return caused by major events that drastically increase the cost of the project.

In formulating the Change in Scope mechanism the Commission had four goals in mind.[98] The first was to avoid dilution of the incentive to reduce costs. The second was to limit the administrative burden of implementing the Change in Scope mechanism. The third was to develop clear and unambiguous rules, in order to minimize controversy and disagreement over when a Change in Scope event had occurred. The final goal was to avoid inadvertent, perverse incentives that might have a capricious effect on the project.

To best achieve and balance these four goals, the Commission proposed a Change in Scope mechanism that would only adjust the target cost for cost increases resulting from four events. If any of these four events occur the Projected Capital Cost of the project will be altered prior to determining the Cost Performance Ratio. The events are (1) wars, (2) any disaster declared by the President of the United States pursuant to the Disaster Relief Act of 1974, Pub. L. 93–288, 88 Stat. 143, (3) major design changes compelled by changes in Federal or State laws or regulations applicable to natural gas pipelines enacted or adopted subsequent to the Federal Inspector's approval of the Final Design of the pipeline, and (4) major changes in pipeline routing or capacity ordered by Federal or State Governments for the ANGTS from that approved by the Federal Inspector in the Final Design of the pipeline. For the reasons stated below, this Order adds a fifth Change in Scope event: delay in the issuance of a government permit or certificate necessary for completion of the pipeline system, when such delay (a) occurs subsequent to approval of the Final Design, (b) occurs through no fault of the project sponsors, and (c) causes significant cost increases.

The Staff's comments seek clarification as to the nature and consequences of design changes and cost estimate revisions that occur subsequent to approval of the Certification Cost Estimate but prior to the approval of the Final Design. This concern is also reflected in many of the comments of the project sponsors. These comments raise an important point which must be clarified at the outset.

The Change in Scope mechanism set forth above applies solely to changes that occur subsequent to the approval of the Final Design. Changes that occur *subsequent* to that date will be governed by the Change in Scope mechanism set forth in Condition No. 10, as implemented through the Change in Scope procedure set forth in Condition No. 11. Changes that occur *prior* to approval of the Final Design are governed by Condition No. 9. Such changes, for instance, could include design changes generated by new technology or further study by the project sponsors.

Condition No. 9 provides a strong incentive, and wide latitude, for the project sponsors to consider seriously and study intensively all of the problems and risks that they will confront, and to evaluate, propose and justify any design changes that they deem necessary and appropriate, including all of the cost consequences of such proposed changes. If properly justified as desirable changes in design that cause real changes in cost, those cost changes will then be reflected in revisions to the Certification Cost Estimate and the Projected Capital Costs (but not in the Center Point).

During the period between approval of the Certification Cost Estimate and approval of the Final Design, major permits or approvals from government agencies may be granted, including terms and conditions attached thereto. Thus, the sponsors can incorporate the effect of these terms and conditions in their final design and cost estimates. If the granting of the major permits takes longer than anticipated in the Certification Cost Estimate, thus delaying the final design, the Commission expects that the final design cost estimate will incorporate the effect of such delay, both in direct costs, in schedule, and in the projected allowance for funds used during construction. (The final construction schedule should also contain a schedule for the issuance of government permits during construction.) The Commission's goal is that, at the time of approval of the Final Design, all possible uncertainties surrounding the pipeline, whether the result of governmental permitting processes or inherent technical problems, will have been resolved to the maximum extent possible. Once the Final Design and cost estimate revisions have been approved, the project sponsors will be expected to build the pipeline, following that Final Design and construction plan, without significant deviation.

In sum, design changes prior to approval of the Final Design can be proposed by either the project sponsors or the Federal Inspector (through the process of the Inspector's review and approval of the Final Design). The Inspector's determination will be Final Design). The Inspector's determination will be final (subject only to applicable judicial review), with respect to both changes in the design itself as well as cost revisions resulting from such changes. The Federal Inspector will make these determinations pursuant to such procedures as he may adopt. The Inspector will advise the Commission of his determinations, but they will not be subject to administrative review by the Commission.

Once the final design has been approved, however, the energies of the project sponsors, the Federal Inspector and the Commission should be devoted, to the maximum extent possible, to the expeditious construction of the pipeline system. By then, the project sponsors will have had ample opportunity to fully consider and evaluate all of the risks and problems inherent in the project, including the attendant cost implications. Thus, as of that point in

time, all subsequent IROR cost changes will be governed by the much more restrictive provisions set forth in Conditions No. 10 and 11.

The Upper Tanana Development Corporation, while generally approving the concept of a limited scope change mechanism, proposes in its comments that "socio-economic expenditures" should be allowable as a fifth category of Change in Scope events. For the reasons discussed below, prudent expenditures of that nature should be included in the Certification Cost Estimate at the outset, and should not be included in the Change in Scope mechanism.

The project sponsors, in their comments, urge a substantially expanded range of events that would qualify as Changes in Scope. In particular, they urge inclusion of:

(1) Changes caused by government requirements, delays in government approvals, and reimbursement for government oversight.

(2) Standard force majeure conditions such as acts of God, earthquakes, abnormal weather, terrorism, sabotage, riots and civil disturbances, and embargos, strikes, work stoppages and slowdowns.

(3) Field conditions not ascertainable at the time of final design.

(4) Right-of-way acquisition where rights of eminent domain may not exist.

The Change in Scope mechanism must be examined in its proper context. First of all (unlike the scope change concept in the normal government contract context), it applies solely to determining the rate of return, and not the rate base itself. For instance, in the event of a small flood, fire, or landslide, etc., in which the project sponsors pruduently incur unanticipated costs, those costs will be fully recoverable through inclusion in the rate base. All that is at issue here is the effect of such an occurrence on the allowed rate of return.

In this regard, the Commission is faced with a basic choice of alternatives. One alternative is to adopt the very broad range of eligible scope changes proposed by the sponsors, and to take account of that generous and protective approach by adopting a less generous Center Rate and Center Point. The other alternative is to impose a higher degree of risk on the sponsors, by restricting the range of scope changes, and to reflect that higher risk in determining the Center Rate of Return and the Center Point. We have chosen the latter course.[99] Our reasons for that choice can best be explained through illustratives discussion of the project sponsors' proposed alternative.

We start with "abnormal weather." Arctic weather can be brutal.[100] The project sponsors know that it is brutal; that is a risk that they can and must evaluate in planning the cost of the project, and it is a risk for which they are being compensated in their rate of return. Scope change applications and controversies in the context of the Alaska pipeline project would plunge the sponsors and the Federal Inspector into potentially endless inquiries into comparative temperatures, wind/chill factors, and thaw conditions (for which historic weather data may or may not be available), measured in terms of consecutive days of such weather, at particular geographic locations, over the past 20, 50 or 100 years, with commensurate time and motion studies of the effects of abnormally brutal weather (versus normally brutal weather) on labor productivity. This is precisely the diversion of engineering, scientific and legal time, expertise and expense that the Commission seeks to avoid. The project sponsors should evaluate weather problems realistically (including a factor for delays caused by abnormal weather) when preparing their Certification Cost Estimate (including the Center Point). Then, when abnormal weather occurs, the efforts of all concerned can be focused exclusively on coping with it.

Similarly, fires, floods, landslides and other "acts of God," as well as "terrorism, sabotage, riots and civil disturbances, and embargos, strikes, work stoppages and slowdowns" are all risks that the project sponsors can evaluate in advance, in the sense of considering a reasonable cost factor for some level of unanticipated and undesirable events that may occur during the course of the project. Some of these events can be influenced to at least some extent by the sponsors; others cannot, but steps can be taken to cope with their effects. With respect to truly catastrophic events which cannot reasonably be factored into cost planning, such as a war, or a severe earthquake or tsunami, etc., the Change in Scope mechanism affords protection of the rate of return.

With respect to field conditions, there is an economic trade-off. Field conditions can be ascertained in advance through sampling and other scientific techniques. On the other hand, there comes a point at which the cost of elaborate advance ascertainment would exceed the cost of coping with whatever unexpected conditions may eventually be encountered. The project sponsors are in the best position to strike the proper balance between incurring the cost of totally comprehensive ascertainment in advance versus coping later with unanticipated conditions that had not been fully ascertained. The project sponsors should be the ones to make that judgment, to estimate their costs accordingly, and to bear the responsibility for whatever unanticipated conditions they eventually encounter.

Similarly, right-of-way acquisition is a problem that the project sponsors can and should evaluate when preparing their Certification Cost Estimate (including the Center Point).

Finally, regarding "changes caused by government," the Change in Scope mechanism does in fact provide rate of return protection with respect to major design changes compelled by changes in government laws or regulations applicable to gas pipelines, and with respect to government ordered major changes in the (Alaska segment) pipeline routing or capacity. During the course of construction, it is probably inevitable that the Federal Inspector will require, and the project sponsors will themselves propose, numerous minor changes in design or routing, or even capacity. Again, this is an eventuality that the project sponsors should consider in preparing their Certification Cost Estimate, and one that the Commission itself has considered in setting the Center Rate and Center Point procedure. when minor changes are determined to be either necessary or desirable, the energies of all concerned ought to be devoted to making those changes, unencumbered by diversions into the processing of scope change applications.

B. Provision for Delay

In their comments, the project sponsors also take the Commission to task for failing to fulfill an "unconditional assurance with regard to delays caused by the government."[101] In response to the valid aspect of that criticism, the Commission has added a fifth Change in Scope event.

Most permits and certificates will be issued prior to approval of the Final Design. To the extent that delays occur in the issuance of those certificates or permits—and regardless of the cause of those delays—the project sponsors will have ample opportunity to seek appropriate adjustments in the Projected Capital Cost up to and at the time of approval of the Final Design. That procedure was discussed above.

[99] As discussed previously, this is policy reflected in the IROR Risk Premium; see Section II.B.5.

[100] *See, e.g.,* J. London, *To Build a Fire;* R. Service, "The Cremation of Sam McGee."

[101] Joint Comments at 20-22.

Some permits, however, will not be applied for or granted until during the construction period. The Commission expects that a detailed timetable for application and issuance of the necessary permits will be established and agreed to by the project sponsors and government agencies, including State agencies as necessary and appropriate, as part of approval of the Final Design and Cost Estimates.[102]

Commission representatives have had extensive discussions with representatives of other government agencies regarding their permitting processes and the importance of timely issuance of permits, particularly during the construction period. Those agencies have been uniformly responsive to requirements for adhering to a permitting timetable. However, any agency's ability to adhere to the agreed schedule is directly related to the timely filing of all relevant applicant information by the project sponsors.

It is the Commission's expectation that all applications will be timely filed and all permits timely granted. If receipt of a permit is delayed because an application was not timely filed, or if the case for issuing the permit is not adequately set out, then the resulting increase in costs (and in Cost Performance Ratio) is a consequence of action (or inaction) by the project sponsors and should count against them. If, on the other hand, issuance of a permit during construction is delayed by the permitting agency, which fails to process the application to a conclusion, and the cost consequences of such action (or inaction) are significant, then some adjustment is appropriate. This Order revises the April 6 Notice by providing the Federal Inspector with discretion to treat as an allowable scope change event, government failure to take action toward issuing a required government permit, if such delay has significant cost consequences. Under no circumstances, however, shall a government denial of a permit or certificate be construed as a Change in Scope event, unless such denial is sebsequently reversed by a court on review; this provision is directed solely to delay in processing of applications, and not to denial of the permit sought.

The IROR mechanism fully protects the project sponsors from one other form of delay that could otherwise have a potentially serious impact on the rate of return. The project sponsors or investors in any one segment, Alaskan or Northern Border, of the pipeline will not be responsible for cost increases resulting from construction delays in the other segments, or from a delay in the initiation of gas production at Prudhoe Bay. This is accomplished by defining the Actual Capital Cost for a segment as those costs incurred up to the point that that segment is capable of rendering service, even though other segments are not yet capable of delivery from Prudhoe Bay. In other words (for IROR purposes only), AFUDC will cease to be added to the Actual Capital Costs for a segment when that segment is complete and ready to begin transporting gas even if, for whatever reason, it is not actually transporting gas. (AFUDC will, of course, continue to accrue for rate base purposes.)

C. Procedure

When the project sponsors believe that a Change in Scope event (as defined above) has occurred, the project sponsors shall submit to the Federal Inspector both an explanation of the alleged Change in Scope and an estimate of the increase in Projected Captial Costs for the project. The Federal Inspector will evaluate the information submitted, and determine whether the event qualifies as a Change in Scope event and, if so, the appropriate adjustment to the Projected Capital Cost.

The Commission intends for the Federal Inspector to act on each Change in Scope case as expeditiously as possible after the alleged Change in Scope has occurred, pursuant to whatever appropriate procedural regulations the Inspector may promulgate. The Federal Inspector's decision will constitute final agency action, subject to applicable judicial review but not subject to review by the Commission. This procedure is designed to ensure prompt resolution of all Change in Scope issues.

The Staff's comments seek clarification of these procedures, on several points. First, the Staff suggests the possibility of the Federal Inspector, or some third party, seeking to obtain a *reduction* in the Projected Capital Costs. Such a reduction presumably would be premised on potential—and sizable—construction cost savings that might emanate from (a) a war, (b) a natural disaster, (c) involuntary major design changes after the final design is approved, or (d) major changes in pipeline routing or capacity after the final design is approved. While the hypothetical symmetry of the Staff's suggestion is not devoid of surface appeal, we do not readily perceive how any of the above enumerated events could significantly reduce the total cost of the project. Moreover, even if a major change in design, routing or capacity could in fact significantly reduce the total cost, we would not want to discourage such changes by reducing the rate of return if such a change is implemented. Accordingly, and in order to preclude hypothetical uncertanties in this aspect of the IROR formula, we are limiting the Change in Scope procedure to changes submitted by the project sponsors.

Second, the Staff inquiries as to whether interested parties, including the Staff, will be afforded an opportunity to participate in the Change in Scope proceedings before the Federal Inspector, and finally, whether the Inspector's decision could be appealed to the Commission.

The Change in Scope procedure is premised on Reorganization Plan No. 1 of 1979, as submitted by the President to the Congress on April 2, 1979. Section 102 of the Plan transfers to the jurisdiction of the Federal Inspector "[s]uch enforcement of functions of . . . the Federal Energy Regulatory Commission related to compliance with: the certificates of public convenience and necessity, issued under Section 7 of the Natural Gas Act. . . ." By incorporating the Change in Scope Mechanism and Procedure into conditions attached to the project sponsors' certificates, it is the Commission's intent and purpose to transfer to the Federal Inspector the jurisdiction to enforce and implement those conditions, by transferring to the Inspector's jurisdiction the authority to make the Change in Scope determinations. The Commission and the Inspector may, in the future, seek to further clarify the precise boundaries of their respective jurisdiction, on this or other matters, through means of an interagency agreement, as authorized by the last sentence of section 202 of the Reorganization Plan:

> Upon agreement between the Federal Inspector and the head of any agency, that agency may delegate to the Federal Inspector any statutory function vested in such agency related to the functions of the Federal Inspector.

While the Commission would have no objection to—indeed, would welcome—the opportunity for its Staff and other interested parties to participate in the Federal Inspector's deliberative processes, the Inspector should have the latitude to determine, in whatever appropriate procedural regulations the

[102] Such a timetable, and establishing responsibility for adherence to that timetable, is within the contemplation of § 202(b) of Reorganzation Plan No. 1 of 1979, transmitted by the President to the Congress on April 2, 1979.

Inspector may promulgate, the nature and extent (if any) of such participation.

While it would not be implausible for the Commission to retain the power to make the Change in Scope determinations itself, the worst possible procedure would be for *both* the Inspector *and* the Commission to participate in that decisionmaking through *seriatum* administrative deliberations. ANGTA and the President's *Decision* mandate expedition in decisionmaking, and the project sponsors and their lenders and investors are entitled to receive the promptest possible determinations consistent with applicable requirements of due process. The Federal Inspector and his staff will be located at the scene of the pipeline, monitoring its construction on a full time, day-to-day basis. They will be in the best position to render prompt determinations of Change in Scope events and adjustments. Those determinations should be final, subject only to judicial review.

Finally, as indicated in the preceding section of this Order, the above described procedures will also be generally applicable to the Federal Inspector's approval of design changes, including resultant revisions in the Certification Cost Estimate, pursuant to the Inspector's approval of the Final Design.

V. End Results

In responding to the Commission's proposal for an Incentive Rate of Return mechanism, the project sponsors have emphasized that, individuals parameters aside, it is the end result which is all important: "[t]he end result * * * [should be] the final determination of an equitable, practical, and definitive IROR mechanism which will not prohibit financing." [103] The Commission believes that the IROR mechanism and values established by this Order will in fact increase the prospects of obtaining private project financing. It remains the responsibility of the project sponsors to convince potential debt and equity investors of their ability to complete the project within a range of construction costs at which the average rate of return is comparable to that which could be earned in alternative investment opportunities of comparable risk. [104]

As noted in the Introduction section of this Order, the *Decision* was written against a backdrop of concern for the impact of cost overruns on the economic benefits of ANGTS. In response to that concern, the President imposed a framework for project implementation designed to insure that the project would be of economic benefit to the nation. The IROR mechanism and values established by this order play their role in that framework by providing "* * * substantial incentives to construct the project without incurring overruns." [105]

In evaluating the project's economic benefits to the nation, the President found that "* * * Alcan's direct costs could increase almost 124 percent over the cost overrun case before it would become socially uneconomic; * * *" [106] The project sponsors have insisted that they not be exposed to the risk of earning less than 13 percent on equity. [107] As Table 3 shows, rates of return less than 13 percent will not be reached until costs overrun the March 1977 estimates in the *Decision* by 140 percent in Alaska and 60 percent for Northern border. [108] Such large overruns approach the levels at which the analysis in the President's *Decision* suggests that the economics of the entire project should be reviewed.

If the project sponsors believe that the probability of earning less than 13 percent on equity is substantial, the procedure for setting the Center Point allows the project sponsors to argue for a different Center Point and thus a different IROR schedule. The project sponsors may offer such arguments at the time they present their Certification Cost Estimates. Until such information or evidence concerning the ultimate costs of the project are presented, the Commission cannot conclude that the IROR mechanism required in this Order creates a significant probability that the Incentive Rate will be less than the 13 percent floor requested by the sponsors.

[103] Joint Comments of Alaskan Northwest Natural Gas Transportation Co., and Northern Border Pipeline Co. at 7 (Docket No. RM78-12) (May 4, 1979) [hereinafter cited as Joint Comments]; *see also* Joint Comments at 6-7, 26-27, 30; Alaska Northwest Natural Gas Transportation Co., "Petition for Expedited Rulemaking and Issuance of Final Order Establishing Rate of Return Range" (Docket No. RM78-12) (Feb. 15, 1979).

[104] In this vein, the Commission recognizes that not even Federal government debt instruments are completely free of uncertainty, and where the project sponsors to be able to find investments which were totally free of uncertainty and ambiguity, the Commission expects that the rates of return on those investments would be a mere fraction of those contained in this Order.

[105] *Decision* at 37.

[106] *Decision* at 180. The "Alcan" system referred to here is the precurser of the system proposed by the sponsors and now referred to as the ANGTS. See June 30 order.

[107] Joint Comments at 8.

[108] Note that the measurement of overruns excludes the effects of inflation, design changes prior to the final design, and certain changes in scope for the project.

Table 3.—*Comparative IROR schedule proposed*

	Commission		Projected sponsors		Staff	
	Alaska	North border	Alaska	North border	Alaska	North border
Center rate (percent)	17.5	15.0	18.0	17.0	12.5	11.0
Center point	[1] 1.3	[1] 1.1	[2] [1] 2	[2] 1.2	1.3	1.1
Marginal rate (percent)	8.0	8.0	12.0	12.0	0	0
Cost performance ratio:	Incentive rate of return (percent)					
0.8	23.4	17.6	21.8	19.6	20.3	15.1
0.9	21.7	16.6	20.7	18.7	18.1	13.4
1.0	20.4	15.7	19.8	18.0	16.3	12.1
1.1	19.2	15.0	19.0	17.5	14.8	11.0
1.2	18.3	14.4	18.5	17.0	13.5	10.1
1.3	17.5	13.9	18.0	16.6	12.5	9.3
1.4	16.8	13.5	17.6	16.3	11.6	8.6
1.5	16.2	13.1	17.2	16.0	10.8	8.1
1.6	15.7	12.8	16.9	15.8	10.2	7.6
1.7	15.3	12.5	16.6	15.5	9.6	7.1
1.8	14.9	12.3	16.3	15.3	9.0	6.7
1.9	14.5	12.1	16.1	15.2	8.6	6.4
2.0	14.2	11.9	15.9	15.0	8.1	6.1
2.1	13.9	11.7	15.7	14.9	7.7	5.8
2.2	13.6	11.5	15.5	14.7	7.4	5.5
2.3	13.4	11.3	15.4	14.8	7.1	5.3
2.4	13.2	11.2	15.3	14.5	6.8	5.0
2.5	12.9	11.1	15.1	14.6	6.5	4.8
2.6	12.8	11.0	15.0	14.3	6.3	4.7
2.7	12.6	10.9	14.9	14.2	6.0	4.5
2.8	12.4	10.8	14.8	14.1	5.8	4.3

[1] These values are based on March 1977 cost estimates. They will be revised late upon the Certificate Cost Estimates if appropriate.

[2] Project sponsors propose that the Commission set these values now.

The sponsors have requested a floor of 13 percent on the Incentive Rate. They argue that the IROR must be within a "zone of reasonableness." [109]

In deciding rates of return, the Commission must balance the need to protect the consumer from unreasonably high rates while maintaining the financial integrity of the project and providing the investors an adequate return on investment. The Commission believes that this classic balancing test must be applied to the IROR in a manner consistent with the mandate of the President's *Decision* to establish an incentive to control costs. While the Commission must consider the financial integrity of the project, this consideration is tempered in light of the purpose of the incentive; the result must be just and reasonable and must not be confiscatory.

The IROR mechanism, with its inflation adjustment and scope change procedures, strikes the required balance. As advocated by the sponsors, the mechanism does have a *de facto* floor; this is the practical consequence of the Marginal Rate. More importantly, however, the IROR schedule provides, over the range of reasonable Cost Performance Ratios, a rate of return equal or greater to that advocated by the sponsors. This is the practical result of applying an average incentive rate over the range of Cost Performance Ratios. Given this result, the mechanism provided here cannot be considered either unjust or unreasonable; it certainly cannot be construed as confiscatory. Investors, if they perform, are afforded ample opportunity to earn generous rates of return, while consumers will be able to obtain the natural gas they need at an acceptable price.

VI. Tariff Issues

This section of the Order addresses the proposed tariffs submitted by the project sponsors for the Alaskan and Northern Border segments of ANGTS. [110] The Commission will accept the tariffs, subject to conditions described herein. The Commission shares the project sponsors' assessment of the importance and relevance of the tariffs. The tariffs are indeed the "economic lifeline" of the project. There must therefore be a degree of certainty for project sponsors and potential financers adequate to ensure that there will be a flow of revenues sufficient to service debt and pay all other current expenses once billing has been allowed to commence. The mechanisms for providing this assurance are described in the tariffs themselves and the Commission's considerations herein.

The Commission will resolve in this Order four tariff issues identified by the Alaskan Delegate as affecting the risk to be borne by project sponsors. The Commission will also decide in this Order certain other tariff issues that have been identified in the comments of parties and by the Commission's own analysis of the proposed tariffs. [111]

Not all tariff issues are to be decided in this rulemaking. The Commission reaffirms the April 6, 1979 Notice that reserved for resolution in a separate proceeding the issue of the depreciation rate to be used to calculate the cost of service for "pre-delivery" of Canadian gas transported through the Northern Border pipeline (Notice at 60–61). Further, the Commission will defer to the proceedings in *Northwest Alaskan Pipeline Company*, Docket Nos. CP78–123, *et al.*, the question of whether, and to what extent, there should be any apportionment of costs of Northern Border's "pre-delivery" facilities between deliveries of "Canadian bubble" gas and future deliveries of Alaskan gas. The Commission views these issues to the more closely related to the questions to be decided in that certificate proceeding; hence, that proceeding is the more appropriate forum for their resolution.

Another issue that will not be resolved here concerns specific mechanism(s) for shipper tracking. [112] A tracking mechanism involves questions of the timing of any flow-through of charges, the necessity of being assured that there will be a matching of costs and revenues, and recognition that appropriate tracking mechanisms for individual shippers may vary because rate designs and rate forms will differ among shippers. Thus, appropriate flow-through arrangements can only be properly addressed when the individual shipper tariffs are filed with the Commission.

Although it would be premature to specify appropriate methods at this time, the Commission can state, however, that it is in basic agreement with the concept that any amounts paid ANGTS under a tariff approved by this Commission will be allowed to be included in the rates of those shippers that are interstate gas pipeline companies, subject to appropriate reconciliation of all other aspects of ratemaking to ensure that there is no overcollection of costs attributable to the tracking arrangements themselves. Interstate gas pipeline companies shipping through the ANGTS system will be expected to pay all charges properly due to ANGTS. Any such amounts paid ANGTS will be allowed to be included in the rates of those shippers that are interstate gas pipeline companies. Allowance of those amounts will require that there is a matching of costs and revenues in order that overcollection or undercollection of fixed costs of the shipper company does not occur. [113]

[109] Alaskan Northwest Natural Gas Co., "Petition for Expedited Rulemaking and Issuance of Final Order Establishing Rate of Return Range" (Docket No. RM78–12) (Feb. 15, 1979). In arguing for a "zone of reasonableness," Alaskan Northwest directs our attention to the standards of FPC v. Hope Natural Gas Co., 320 U.S. 591 (1944). Presumably the sponsors have in mind the following passage: "The rate-making process under the [Natural Gas] Act, i.e., the fixing of "just and reasonable" rates, involves a balancing of the investor and the consumer interests. Thus we stated in the Natural Gas Pipeline Co. case that "regulation does not insure that the business shall produce net revenues." * * * But such considerations aside, the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock * * * . By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital." (320 U.S. 608) (citations omitted)

[110] The proposed tariffs were filed on March 12, 1979, pursuant to the Commission's Order set forth in "Notice of Delegate Report and Order Directing Tariff Filing", Docket No. RM78–12 (February 22, 1979) [hereinafter Delegate's Report].

[111] The Alaskan Delegate provided notice of those issues in letters addressed to the project sponsors. Those letters were dated April 20, 1979 and April 27, 1979. Copies of each were sent to all parties of record in this docket as well as in Northwest Alaskan Pipeline Company, Docket Nos. CP78–123, *et al.*

[112] The Commission has previously addressed this issue. By motion dated April 18, 1979, Alaskan Northwest and Northern Border requested reconsideration of the Notice of Proposed Rulemaking in this docket. Specifically, petitioners requested that the Commission "provide for inclusion in [Docket No. RM78–12] of issues relating to shipper company recovery of all amounts paid under the Alaskan Northwest and Northern Border tariffs." (Motion at 2.)

By order dated April 27, 1979, the Commission denied the motion but indicated that parties would not be precluded from commenting on the flow-through issue or from the filing of *pro forma* tariffs by the shippers. Parties filed comments on this issue but *pro forma* shipper tariffs were not filed.

[113] The possibility of ovecollection (or undercollection) of fixed costs arises because the commodity charges included in interstate pipeline rates typically recover certain of the fixed costs. For example, under the *United* 25/75 cost apportionment approach 75 percent of the fixed costs of a shipper would be assigned to the commodity rates of the shipper. The *unit amount* of fixed costs to be recovered would be determined in a rate proceeding on the basis of the projected costs and throughput of the pipeline for the test period. As Alaskan gas begins to flow through the shipper's

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The Commission also defers to a later date the resolution of the question of the permissible level of CO_2 that is to be contained in the gas.[114] This issue was addressed in the comments of both the State of Alaska and Sohio Natural Resources Company.[115] The permissible level of CO_2 is a significant issue that involves an evaluation of the impact of the different CO_2 levels on capital and operating costs. However, because of the absence of adequate data available on this record to enable complete evaluation of this issue, the Commission recently requested the parties to file additional information on this matter.[116] The evaluation of the data filed in response to that request has not yet been completed. The Commission will, therefore, issue a separate order on this issue rather than withhold issuance of its disposition of the other issues raised in this rulemaking. An order establishing the CO_2 quality standard(s) will be issued as soon as the Commission can complete its evaluation of the additional material.

Finally, the Commission will decide in Docket No. RM79-19 the issue of cost responsibility for processing Prudhoe Bay gas to pipeline quality standards. The Notice of Proposed Rulemaking in Docket No. RM79-19 specified that the cost responsibility issue would be decided in that docket.[117] The record being compiled in that rulemaking will provide the Commission with the information necessary to resolve the issue. Accordingly, the Commission will defer decision on those portions of the tariff that affect this issue. After the issue is resolved in Docket No. RM79-19, a supplementary order in this proceeding will be issued to reflect that resolution in the tariffs of the project sponsors.

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pipeline, it will recover the unit fixed costs included in the effective rates. Should the Alaska natural gas volumes not have been included in the billing determinants underlying the "base" charges, the result could be an over recovery of fixed costs, i.e., the fixed costs would be recovered by greater billing determinants than had been used to develop rates. The Commission will require assurance that any mechanism use to flow-through ANGTS costs will not result in this or a comparable situation.

[114] Questions concerning other quality standards are discussed at Section VI.B.5.

[115] Initial Comments of the State of Alaska at 6-7 (Docket No. RM78-12) (May 4, 1979); Comments of Sohio Natural Resources Company on Notice of Proposed Rulemaking Issued April 6, 1979, at 2 (Docket No. RM78-12) (May 7, 1979).

[116] Order Requesting Further Submission of Data, Views, and Comments (Docket Nos. RM78-12 and RM79-19) (issued May 16, 1979).

[117] Federal Energy Regulatory Commission, "Treatment of Certain Production-Related Costs for Natural Gas to be Sold and Transported through the Alaska Natural Gas Transportation System: Notice of Proposed Rulemaking and Statement of Policy" (Docket No. RM79-19) (issued Feb. 2, 1979).

A. Issues identified by the Alaskan Delegate

The four major tariff issues identified by the Alaskan Delegate are: (1) determination of the date on which the project sponsors will be permitted to commence billing their shipper-customers; (2) whether an interim rate should be imposed during the initial build-up phase of the project; (3) the extent to which the effect of a service interruption should be shared by the project sponsors as well as by shippers and consumers; and (4) the billing procedure to be used to levy charges for transportation services.[118]

1. *Billing Commencement Date.* At issue here is the appropriate interpretation of the President's *Decision* and the setting of the billing commencement date. The Alaskan and Northern Border segments of the system will be project financed, which means their debt will primarily be secured by the revenues they collect. Commencement of the collection of those revenues is triggered by the commencement of billing, and is, therefore, important to an assessment of project risk. The sooner billing can commence, the less risky the project will appear to potential investors.

The third finance condition in the President's *Decision* prohibits any payments by the purchaser or ultimate consumer of Prudhoe Bay gas "prior to completion and commissioning of operation of the system".[119]

Definition of this phrase does not appear in ANGTA, the President's *Decision*, the Natural Gas Act, or the Commission's Regulations. The Report of the Alaskan Delegate, however, offers four possible interpretations of when billing might commence:

1. Charges begin when all segments of the pipeline are complete and gas is being transported.
2. Charges begin when all segments are capable of rendering service, even if no gas is flowing.
3. Charges begin for each segment when it is complete and capable of rendering service.
4. Charges begin at a date certain.

[118] Report of the Alaskan Delegate on Tariff and Operation Phase Rate Issues 6-7, accompanying Notice of Delegate Report and Order Directing Tariff Filing (Docket No. RM78-12) (issued Feb. 22, 1979).

[119] The third finance condition provides: "3. Neither the successful applicant nor any purchaser of Alaska gas for transportation through the system of the successful applicant shall be allowed to make use of any tariff by which or any other agreement by which the purchaser or ultimate consumer of Prudhoe Bay natural gas is compelled to pay a fee, surcharge, or other payment in relation to the Alaska natural gas transportation system at any time prior to completion and commissioning of operation of the system." *Decision* at 37-38.

The proposed tariff of Alaskan Northwest provides that "completion and commissioning" shall occur when the "Company's pipeline is capable of rendering service even if, for whatever reason, gas is not being delivered to, or transported through Company's pipeline system." (Section 1.10 of the General Terms and Conditions.) The tariff of Northern Border contains an identical provision (Section 1.10 of the General Terms and Conditions). Both tariffs would thus prescribe a billing commencement date that follows the third definition suggested by the Alaskan Delegate.

The project sponsors assert in their joint comments that the billing commencement date contemplated in the respective tariffs is both consistent with the President's *Decision* and promotes financing of the system. The sponsors argue initially that neither the *Decision* nor its accompanying Report address the specific question of the initiation of billing once a segment has been completed.[120] Considering that argument, together with the requirement that the project must be privately financed, the sponsors contend that the Commission must be presumed to have been given broad discretion in approving or fashioning conditions that would encourage private financing. Private financing can best be achieved, according to the sponsors, through Commission assurance that the billing commencement date for one segment will not be tied to the billing commencement date for another segment.[121]

Staff, on the other hand, relies on the President's *Decision* and accompanying Report to contest the billing commencement date set forth in the tariffs.[122] Staff argues that in designating different companies to construct and operate different portions of the system, the President was fully aware of the distinction between the "system" and "portions" thereof. According to Staff, the President maintained that distinction in the third finance condition, which precludes any fee, surcharge, or other payment in relation to the ANGTS before completion and commissioning of operation of the system.

[120] Joint Comments at 48.

[121] *Id.* at 49-50, 52-55.

[122] Staff, Initial Comments at 8-9. Staff also cites to the Initial Decision in *El Paso Alaska Company*, to the effect that until a company begins to provide service a "natural gas company" does not exist within the meaning of the Natural Gas Act and, consequently, no effect can be given to a tariff provision of a company that has not yet attained jurisdictional status. *Id.* at 8. The Commission finds it unnecessary to address this question in light of the determinations made here.

The Public Service Commission of the State of New York also challenges the tariff provisions defining the billing commencement date. While New York has no objection to "appropriate" billing should Northern Border "pre-build" all or a portion of its pipeline to transport Canadian gas, New York advocates billing consumers only for actual services rendered.[123]

In reaching its conclusion, the Commission has considered these arguments as well as the requirements of the President's *Decision*, its legislative history,[124] and the impact of alternative resolutions upon the financeability of the project.

The Commission's resolution of the billing commencement date begins with the Commission's interpretation of the phrase "completion and commissioning of operation of the system." The Commission believes that the *Decision* is precise concerning the definition of the term "system." The *Decision* both refers to the system in its entirety and to the various segments in the United States and Canada that comprise the system.[125] Thus, when the Decision uses the term "system," it is clear that the reference is to the entire system including all segments in the United States and Canada. The Commission concurs with Staff on their definition of the term "system."

However, neither the *Decision* nor the legislative history provides similar certainty in defining the phrase "completion and commissioning of operation." Thus, in specifying a billing commencement date, the Commission has had to consider the broad goals of ANGTA, principles of public utility regulation as well as the objectives of this project as identified in the *Decision*.

Specifically, the Commission has considered the need to (1) equitably treat all parties including the project companies, their investors, the shippers and owners of the gas, and gas consumers; (2) provide incentives to avoid delay both in the completion of construction of all segments and in the start-up of gas production; and (3) reduce the ultimate cost to consumers. Billing commencement at the time when all segments are complete, tested and proved capable of operation satisfies these goals better than the other alternatives posited by the Alaskan Delegate and discussed by the Staff, the sponsors, and other parties.

Prior to commissioning the system for operation, all pipeline segments must be tested and proved to be capable of operation. The Commission will rely upon the Federal Inspector to certify that the system is capable of performing the services for which it was certificated. In establishing this billing commencement date, the Commission limits the rate to be charged before initiation of service to a "Minimum Bill." The Minimum Bill shall be equal to actual operation and maintenance expenses, current taxes, plus debt service including interest and scheduled retirement, if the Federal Inspector certifies that the system is capable of performing the service even though no gas has been tendered for transportation. The Commission concludes that this is a reasonable and fair burden to place on the various parties. First, sponsors have control over the coordination of the construction schedules of the various segments. Shippers or consumers should not be asked to bear the cost of poor coordination in the construction of the entire system.[126] Once the system is complete, however, it would be unfair to impose a further burden on the project sponsors who are only the transporters of the gas for the shippers and who depend on shippers to tender gas to them. The Minimum Bill (equal to actual operation and maintenance expenses, current taxes, plus interest and scheduled retirement of debt) will allow the project companies to pass this portion of the total cost to the shippers. The mechanism and timing of the flow-through of the Minimum Bill is specifically reserved until such time as the proposed shipper tariffs are presented to the Commission.[127]

Finally, the Commission concludes that the specification of the date for billing commencement strikes the necessary balance between various costs to be borne by the consumer and risks to be borne by project sponsors.

This provision reduces the risk borne by investors in the project, especially debt holders, and this reduction in risk should facilitate the private financing of the project and thus the expeditious construction of this important source of natural gas. Also, this reduction of risks will tend to reduce both the rates of interest and rates of return necessary to attract private debt and equity investors.[128] Interest charges and return on equity is a major portion of the cost of service for this pipeline. A lowering of such costs of financing could mean a substantial savings to consumers.[129] The Minimum Bill will provide for debt service and thus reduce the finance charges to be borne by consumers (AFUDC) when service commences.[130]

This choice of a billing commencement date does create the possibility of the project companies billing shippers during a period when transportation service has not commenced. However, the commission concludes that a long delay in the initiation of service after completion and commissioning is very unlikely. Incentives created by this definition of billing commencement, and the various controls and oversight authority granted to the Federal Inspector encourage coordination and timely commencement of service. First, insofar as most shippers are also going to be sponsors with an equity interest in the project, it would obviously be to their benefit to have the gas flowing at an early date rather than deferring cash flow to be realized from their equity share of the project. Thus, the Minimum Bill, which provides no return of or on equity, creates a cash flow incentive for the sponsors to consummate, in a timely manner, the necessary agreements with the gas producers and the transporter, as well as any new arrangements that may be required with the shippers' customers.

Additionally, it would appear to be in the producers' best interest to have producer-shipper contracts finalized at an early date and the conditioning plant ready when the system is prepared to transport gas. This is because of the expected flow of revenues to be realized by the producers from the sale of the gas and also because of the long-range planning required for efficient reservoir management of the Prudhoe Bay field.

Based upon the previous analysis and reasoning, the Commission concludes that the project companies may

[123] New York, Initial Comments at 6-7.

[124] The relevant legislative history accompanying the President's *Decision* consists of the *Report Accompanying the Decision*, as well as the House and Senate Reports to H.J. Res. 621 (P.L. 95-158, 91 Stat. 1268), which approved the *Decision*. The Congressional debates on H.J. Res. 621 do not focus oin when billing should commence.

[125] For example, the *Decision* defines the system as an overland pipeline from Prudhoe Bay, Alaska, through Canada, to the Midwest and Western sections of the continguous United States (*Decision* at 6). Also, the *Decision* defines each of the separate segments and specifies the companies to own and operate each segment.

[126] The Commission's choice of billing commencement date is not inconsistent with our earlier interpretation of the President's *Decision* in Alcan Pipeline Company, Docket Nos. CP78-123, *et al.*, "Order Dismissing Petition for Declaratory Order" (March 24, 1978). In that order the Commission stated that the *Decision* precludes the shifting of the risk of noncompletion to gas consumers. Once the system has been constructed and is capable of rendering service, that risk will have passed. It is at just that point that we have allowed charges to commence.

[127] *See*, Section VI introduction, *supra*.

[128] *See*, El Paso Alaska Company, Docket Nos. CP75-96, *et al.*, Tr. at 29,820.

[129] *See*, New York, initial Comments at 1.

[130] *See*, El Paso Alaska Company, Docket Nos. CP75-96, *et al.*, Tr. at 35,514.

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commence billing after the entire system is completed and tested for service. Tested for service does not require that the line be packed. The Commission's resolution also appears to be harmonious with the approach previously taken by the National Energy Board of Canada (NEB). The NEB uses the terminology "leave to open" as the regulatory event which signifies the NEB's judgment that construction has been completed, the facility has been tested and is ready for service. It is noteworthy that the Foothills' proposed tariff provides that billing may commence only after all nine segments in Canada have been completed and commissioned for operation.[131]

During the period between completion of the entire system and actual transportation of gas, the Minimum Bill will equal the actual operation and maintenance expenses, current taxes, and amounts necessary to service debt, including interest and scheduled retirement of debt. This level of reduced billing will continue until gas is tendered for transportation and service commences. Upon the initial transportation of gas by the system, the project sponsors will then be allowed to charge an interim rate. The next section of this Order specifies the level and duration of the interim rate.

2. *Interim Rate.* We have determined that charges should be permitted only after all segments of the system are completed and capable of rendering service. Next to be addressed are the related questions of the level of the charges to be initially imposed. At issue is whether the tariffs should provide for fixed, reduced charges during the initial operating period of the system, or, alternatively, for full cost-of-service charges. For the reasons discussed below, the Commission will require that the tariffs provide for an interim rate scheme, which includes both a Minimum Bill to cover current expenses and debt service, and a fixed unit-rate to be applied to the actual gas throughput during the first year of operation or until the design throughput is attained. The rationale for requiring the interim rate scheme is that it recognizes that at the commencement of billing, either the gas throughput may be less than the design capacity, or the pipeline start-up and testing procedures may be completed prior to the ability of the shippers to tender gas for transportation.

During the proceedings in *El Paso Alaska Company*, Docket Nos. CP75–96, *et al.*, two interim rate proposals were advanced. The first was a phasing proposal in which some portion of depreciation expense and return on rate base would be been deferred until full throughput capacity was reached. The second proposal would have imposed a fixed reduced unit charge on the smaller initial volumes, with those revenues credited against the construction work in progress account. That reduced charge would have lasted for not more than one year.

The second proposal was endorsed by the Administrative Law Judge in his initial decision in *El Paso Alaska Company*.[132] The President's *Decision* does not discuss the issue. The FPC's *Comments* on the *Decision* suggest, however, that an interim rate should be given consideration.[133]

The proposed tariffs of Northern Border and Alaskan Northwest each provide that billing would commence at the full cost-of-service charges. Although the project sponsors acknowledge that an interim rate provision can be incorporated into the tariffs, they are of the view that an interim rate would produce no material changes in the charges that would otherwise be collected under the tariffs. That view is based on the project sponsors assumption that beginning with the initial billing commencement date, their respective segments of ANGTS will be used essentially at their full design capacity.

The Commission, however, will require an interim rate because there are no assurances about the level of throughput that will be achieved during the initial period of operation.[134] This is true particularly in light of the fact that charges will be permitted to commence upon completion and commissioning of operations. Because of the sheer size and complexity of this project it is reasonable to expect that the system may not be able to attain its design capacity throughput during the initial months of operation. Any throughput below the design capacity would result in higher unit charges to gas consumers if charges to the shippers were based upon the full cost-of-service computations.

To guard against that event, the Commission will require that an interim rate structure be established to be effective commencing upon completion and commissioning of operation,[135] and terminating on the earlier of the first year of operation or upon attainment of design capacity throughput, whichever occurs earlier.[136] The level of that interim rate is to be computed on the basis of the projected cost-of-service for the first twelve months of operation divided by the system's design capacity throughput. The interim rate is to be a fixed unit charge (i.e., dollars per dekatherm) and is to be applied to the actual quantities of gas delivered through the system. The interim charge so computed will be effective commencing with the initial delivery of gas through the system. During the interim rate period, the expenses and revenues experienced by the transporter should be treated as "earnings and expenses during construction" and AFUDC should continue to be recorded in accordance with 18 CFR Part 201, Gas Plant Instructions 3(17) and 3(18).

The Commission recognizes, however, that—for some unknown and unforeseeable occurrence—there could be a lapse between the time of competition and commissioning of operation of the system and the time when gas deliveries commence. As previously explained,[137] such an event is unlikely because there are adequate incentives placed upon the transporters, shippers, and producers to commence gas deliveries at an early date. If, however, there were a delay in gas deliveries, no revenues would be generated from the interim rate described above. Additionally, if the quantity of initial gas flow were very small, the revenues might not be adequate to service debt and cover current expenses. The Commission will, therefore, permit the transporters to collect, as a "Minimum Bill," charges equal to actual operation and maintenance expenses, actual current taxes, and actual amounts necessary to service debt. It is the Commission's opinion that the tariffs should provide for a "Minimum Bill" as an aid in obtaining financing for this project.

The Commission also recognizes that a portion of the cost of service may have to be capitalized to the extent that costs exceed revenues. On balance, however, the interim rate adopted here appears preferable. It attains a reasonable balance between the need to obtain financing and protection for the consumers against excessive transportation charges during the system's start-up and testing period. Any capitalization of costs in excess of revenues would effectively be spread on a pro-rata basis to all shippers utilizing the system. An interim rate would also likely reduce the burden on those shippers utilizing the system to transport relatively small volumes of gas. Additionally, such a rate would tend to reduce inequities that may occur as a result of, possibly, different, higher charges imposed on shippers that initially use the system as compared to those that later use the system.

The type of interim rate prescribed by the Commission will operate as an incentive to the transporters to maximize the throughput because the revenues recouped from this type of rate will be increased as throughput is increased. The commission's formula for developing an interim rate should also encourage early utilization of the system because the unit charge would be lower during this period as compared to full cost of service charges. The interim rate adopted by the Commission is also superior to alternatives proposed in the comments of parties and Staff. Further, the Commission's interim rate fully considers the concerns expressed by the project sponsors in their comments on an interim rate.

Staff supports the interim rate concept.[138] The essential difference between the recommendation of Staff and the interim rate adopted by the Commission is that Staff would compute the interim rate based on the projected full cost of service for the first year of operation divided by the aggregate of the maximum annual contract entitlements.

The Commission is not persuaded that the result of dividing costs by maximum contract entitlements will achieve adequate protection against a high level of transportation charges during the initial months of operation of the system. It is not known at this time the extent to which the capacity of the system will be contracted for during those initial months of operation. That is one of the reasons underlying the Commission's determination that the interim rate prescribed here provides a significant measure of consumer protection without impairing the financeability of the project.

The interim rate adopted here also appears superior to the proposal of the Public Service Commission of the State of New York. New York argues neither for nor against adoption of an interim rate at this time. It suggests, rather, that a final determination on this matter be postponed to the future.[139] Postponenment can be achieved, according to New York, if the Commission were to provide that an interim rate would be prescribed if circumstances at the start-up date so warrant. To assess those circumstances New York proposes that the sponsors would be required, by a date set by the Commission, to file data about the expected level of initial operation.[140]

The Commission believes that its determination herein is more appropriate. In the Commission's view, the project sponsors and the financial community need a determination, at this time, about whether an interim rate will be required. Further, the interim rate prescribed here is sufficiently flexible so that the level of the rate will automatically adjust to the initial level of operation.

The Commission prescribed interim rate will also satisfy the concerns expressed by the State of California. California states that it has no basis for proposing implementation of a "complex" interim rate approach in the early months of operation.[141] The interim rate described above is not complex. It strikes the necessary balance between protecting consumer interests during the initial months of operation of the system and the requirements for a revenue flow for the project sponsors.

California also cautions that the Commission should assure itself that the design capacity throughput will be achieved within a short period after the gas begins flowing.[142] As stated above, this Commission does not have any assurances at this time about the number of months that will be required for the system to reach its design capacity. For this reason, the Commission will require the implementation of the interim rate described above, the effect of which will be that the average charge for gas transported through the system during the initial period of operation will not be excessively high.

Finally, the interim rate adopted here will provide the project sponsors with the assurances they sought. The sponsors state that they do not deny that an interim rate can be incorporated into the project tariffs provided that the interim rate expires on a date certain.[143] The interim rate that the Commission will impose will expire, as indicated, upon the attainment of design capacity throughput or the end of the first year of operation, whichever occurs earlier. The Commission has also provided resolution of this issue at this time so that, as the sponsors argued, their ability to arrange timely financing for the project would not be impeded. The interim rate structure provided for here should be an aid in securing financing for the project. Further, should the project sponsors prove correct in their assumption, that the system will be used to its then-available capacity once operations begin, the revenues generated by the interim rate will equate to the full cost-of-service.

3. *Service Interruption.* The third issue identified by the Alaskan Delegate involves whether equity investors of either the Northern Border or Alaskan Northwest segment should be subject to a reduced return on equity if that segment is unable to fulfill its contract obligation to transport Alaska gas. Both the Administrative Law Judge in *El Paso Alaska Company* and the FPC in its *Recommendation to the President* endorsed such a provision.

Section 5 of Rate Schedule T–1 of each proposed tariff adopts the concept and provides for a reduction in charges should the pipeline be unable to accept and transport the contract gas tendered to it. The tariff provision reducing the charges to shippers would be applicable, however, only in those instances when the reduction in service for any one month was greater than 10 percent.[144] In that event the adjustment to the monthly bill would reduce the return on equity and associated taxes. That reduction would be proportional to the percentage of volumes tendered but not transported. If the transporter is able subsequently to transport the volumes of gas to which a billing adjustment had previously been applied, the charge for that "Make-up

[131] Foothills Pipelines (Yukon) Ltd., Gas Transportaton Tariff, Sheet No. 201, filed April 1, 1979 (Section (1) (1.4). General Terms and Conditions): "The term Billing Commencement Date shall mean the date when all Canadian Segments required in the transportation of that U.S. Gas have been completed and commissioned for operation . . ." The continuation of regulatory consultations as provided for in Section 9 of the *Agreement Between the United States of America and Canada on Principles Applicable to a Northern Natural Gas Pipeline* may result in a closer coordination of billing commencement in the U.S. and Canada.

[132] El Paso Alaska Co., Docket Nos. CP75–96, *et al.*, "Initial Decision on Proposed Alaska Natural Gas Transportation Systems," at 409 (Feb. 1, 1977).

[133] *Comments* at 63.

[134] *See Decision* at 145–47.

[135] It must be made clear that this discussion pertains only to the methodology of the interim rate itself. The timing of the flow-through by the shippers of any charges resulting from the interim rate and the actual mechanics of the flow-through are not addressed in this order.

[136] *See* discussion in Section VI.A.1 (Billing Commencement).

[137] See Section VI.A.1. (Billing Commencement).

[138] Staff Initial Comments at 25–28.

[139] New York, Initial Comments at 7.

[140] *Id.*

[141] California, Initial Comments at 5. The State of Alaska did not comment on the interim rate *per se*. Rather, Alaska's comments were directed to whether an attempt should be made to levelize the costs over the life of the project. Alaska, Reply Comments at 5–6. The interim rate issue that is addressed by the Commission should not be confused with any attempt to levelize costs over the whole life of the project. Rather, the interim rate is intended to guard against excessive transportation charges during the initial period of operation of the system.

[142] *Id.*

[143] Joint Comments at Tab 3, Pt. 2 at 7.

[144] Any failure by the pipeline to accept less than 100% but more than 90% of the gas tendered by a shipper would be accounted for in the Make-Up Gas provision of the respective tariffs. This gas—referred to as "No Billing Adjustment Gas"—would be transported in subsequent months at no added charge to the shipper.

Gas" transportation would be computed by using the same billing adjustment (i.e., the same $/Dekatherms). In summary, the tariffs have the effect of reducing charges to the shipper if the pipeline is unable to operate at 90 percent of the contracted transportation level, but permits the pipeline to recoup any such billing credits by transporting volumes in excess of the contract level in subsequent months.

Commission Staff argues that the service interruption provision of each of the proposed tariffs is inadequate. Staff contends that, under the proposed tariff arrangement the possibility exists that ultimate consumers may not receive gas because of the failure of one transporter to perform. Those consumers, however, would still be required to pay (1) the full costs of service of those segments able to perform; (2) a portion of the costs of that segment responsible for the service interruption; and (3) depending on the terms of the gas purchase contracts between producers and shippers (*e.g.*, "take-or-pay clauses"), some or all of the shipper's contract obligation.

To recognize this potential burden on consumers, Staff argues that a premium must be placed on performance. Staff, therefore, proposes that the tariff provide both a proportional reduction in return on equity for minor interruptions and a total cessation of recovery of equity investment for interruptions of 60 percent or more of the contract quantities.

In Staff's view the loss of equity investment is compatible with the President's *Decision*. The *Report* accompanying the *Decision* is said to establish that equity investment is to be placed at risk in all circumstances, including service interruption, and should interruption occur, only debt service would be maintained (*see Report* at 100–101).

There is no dispute about the necessity for a tariff provision that reduces the return on equity for service interruptions, and such a provision must be included in the tariff. The Commission views this tariff provision as striking a necessary and appropriate balance between the need to provide an incentive for maintaining uninterrupted service and yet realistically appraise the operating character of the pipeline.[145] A reduction in charges to shippers would provide an economic incentive for the project sponsors to maintain uninterrupted service to the maximum extent possible. The provision would simultaneously recognize that a pipeline cannot transport 100 percent of its contract gas every day. It would thus afford some measure of operating flexibility to the transporter through use of the 90 percent billing adjustment "ratchet" without any apparent long-term operating or economic hardship on the shippers.

As proposed by the project sponsors, another feature of the 90 percent billing adjustment ratchet is that there would be no limit imposed on the time available to transport the make-up volumes. Staff objects to that provision, arguing that the period for transporting make-up volumes should be limited to one year. According to Staff, the make-up volumes can be obtained only from "storage, reinjection, improved field deliverability or new discoveries." Each of these sources of increased gas supply will impose additional costs on shippers and producers. In such circumstances, Staff argues, the transporters should not be entitled to an unlimited make-up period because it would be contrary to the intent of a Minimum Bill provision and would also shift risks of interruption to the consumer.

Contrary to Staff's argument, the Commission concludes that a time limit for transporting make-up volumes should not be included in either of the tariffs. If the transportation of make-up gas has no time limitations, a transporter will be required to discharge all obligations under the make-up gas provision of Rate Schedule T–1 before a charge can be assessed pursuant to Rate Schedule OT–1. The make-up gas provision of the Rate Schedule T–1 is to the consumer's benefit since the OT–1 charge would be higher than the make-up gas charge for "Billing Adjustment Gas" (i.e., gas which had been tendered but not transported, and for which an adjustment had been provided, equal to a proportional reduction in return on equity and associated taxes). Further, a transporter operating under an indefinite make-up period will be under a continuing obligation to ship "no billing adjustment gas" which had previously been tendered by a shipper. A shipper is not charged for the transport of this gas, because no credit was received by the shipper at the time these volumes were tendered but not transported.

Consumers may also benefit from an indefinite make-up period. To the extent that make-up gas can be transported at a lower charge than other volumes of Prudhoe Bay gas, the lower costs and increased volumes would lower the average cost of all gas. That possibility would be cut off, however, were a one-year limit imposed on transporting make-up gas.

Finally, the Commission disagrees that the indefinite make-up period now provided in the *pro forma* tariffs will not put a premium on performance. Transporters are not likely to delay the transportation of make-up gas, because such delay prevents recovery of the return on equity. Thus, any make-up provision is self-enforcing. Further, since there is a time value of money, the indefinite make-up provisions of the tariffs might provide a continuing incentive for transporters to perform make-up activities as quickly as possible, so that revenues will be forthcoming for their use sooner rather than later. That continuing obligation would not exist, however, if after one year from the service interruption the transporter, although permanently losing a portion of the return on equity, was also discharged from his make-up obligation and could charge at the then current transportation rates.

For the reasons set forth above, the Commission therefore approves the *pro forma* tariff provisions regarding the reduction in return on equity. Except for the period of time permitted to transport make-up volumes, there is unanimous agreement among participants that such a tariff provision is both fair and necessary.

There is substantial disagreement among participants, however, about whether there should be a loss of equity investment for major service interruptions. As discussed above, Staff would require a permanent reduction in the return of equity whenever transporters fail to transport 60 percent or more of their contract volumes. Tariff provisions similar to that proposed by Staff were discussed in the initial decision in *El Paso Alaska Company* [146] and in the FPC's *Recommendation*. [147]

The Commission has carefully examined this issued and concludes that in the event of an extended, total service interruption, the public convenience and necessity may require a reduction of, not only the return on equity, but also a disallowance of the return of equity. A tariff provision of this nature was before the President [148] and complies with the conditions under which private financing was expected to occur:

[145] The Commission recognizes also the balancing of transporter/shipper interest provided through the "Tender Deficiency" provision under Section 3.1 of Rate Schedule OT–1, which permits the shippers to make up any deficiencies in the volumes of gas tendered for transportation during the same month in which the tender deficiency occurred or in the next following month.

[146] Docket Nos. CP75–96, *et al.*, Initial Decision at 404 (Feb. 1, 1977).

[147] *Recommendation* at XII, 43.

[148] The private financing model discussed in the *Recommendation* would have reduced debt service.

1. The equity investment in the project would be placed at risk under all circumstances and the budgeted equity investment be considered the first funds spent. The rate of return on equity would compensate sponsors for bearing this risk.

* * * * *

4. Provision of debt service in the event of service interruption would be borne by consumers through a tariff that becomes effective only after service commences.[149]

Unlike the Staff's proposal to reduce charges whenever the level of gas throughput falls below 60 percent of contract amounts, the reduction in charges described below will become effective only in the event of an extended total cessation of service. As already discussed, the 90 percent billing adjustment ratchet for any service diminution below 90 percent of tendered gas will reduce charges to eliminate return on equity. However, once the transporters wholly fail to provide any service, it is appropriate that return of equity be subject to forfeiture.

The provision adopted here will be activated only in the event of the failure of the Alaskan segment or Northern Border segment to transport tendered volumes, and only when there is a total cessation of service for thirty consecutive calendar days. The provision would apply prospectively from the thirty-first day of service interruption, and would continue until such time as gas is again transported. Further, this provision will apply solely to that segment directly responsible for the service interruption.[150] Specifically, the Commission will require that commencing with the thirty-first day of total service interruption, that portion of the transporters' charges attributable to equity costs (that portion of depreciation expense not necessary for debt service and associated taxes) shall be collected, subject to refund. Under no circumstance would debt service be impaired.

A Commission hearing will be convened as soon as practicable after the end of the first month of total cessation of service. At that time, the transporter will be provided the opportunity to demonstrate that the extremity of the circumstances surrounding the service interruption warrants retention of equity costs by the transporter. If the transporter can demonstrate that the failure to provide service was beyond the control of prudent managment, the revenues collected subject to refund will be retained by the transporter. If such a showing is not made, the revenues collected subject to refund must be returned to the shippers together with appropriate interest.

While the Commission recognizes that consumers will be required to pay a portion of the transportation charges during the period that the Commission is considering whether equity costs should be refunded, that period should not be long. The ANGTA mandate to expedite will continue in force. The continued collection of equity costs by the transporter may also assist it in having revenues available to make necessary, and perhaps expensive, repairs to restore service.

Consumers, on the other hand, will have the assurance that refunds, with interest, will be provided should the transporter fail to demonstrate that the total cessation of service was not the result of management imprudence.

In that event, fairness requires that the appropriate transportation charge only recover actual operation and maintenance expenses, current taxes, and debt service. This reduced level of charges would continue until service is restored.

This procedure provides the assurance to investors that debt service will be covered in all events as was contemplated in the President's *Decision*.[151] It also provides that shippers and consumers would not bear equity costs when management is unable to demonstrate that events surrounding the service interruption justify the retention of such equity costs by the transporter.

4. *Billing Procedure.* The selection of the period and method to calculate shippers' transportation charges is the fourth issue affecting risk allocation for the Northern Border and Alaskan segments of the ANGTS project.[152] According to the Alaskan Delegate, two alternative procedures were presented during the hearings in *El Paso Alaska Company*, Docket No. CP75–96, *et al.*

The first would be to estimate the cost of service of the pipeline over a future six month period and then fix a constant monthly charge to recover this estimated six month cost of service. In the event that the estimate deviated from the actual cost of service, any accumulated undercharge would be added to, or any overcharge subtracted from the charge levied over the following six month period.

The second approach . . . would be to simply bill shippers monthly for the actual costs of service incurred during the previous month. . . . This could result in charges changing from month to month but would avoid any overcharging or undercharging. (Delegate's Report at 13.)

The Initial Decision in that proceeding recommended adoption of the six-month billing procedure.[153] The Presiding Judge found that the six-month billing affected only the timing of recovery of the charged rates and, therefore, no adequate justification had been presented for rejecting the proposal. He further postulated, however, that the monthly billing procedure would have also been acceptable.[154]

Each of the proposed tariffs before the Commission provides for a six-month billing procedure (see Section 6.8 of the General Terms and Conditions of the tariffs of Northern Border Pipeline and Alaskan Northwest Natural Gas Transportation Company). Commission approval of each of the tariff provisions is urged by the project sponsors as providing a mechanism to permit shipper tariff tracking provisions with transportation costs attributable to ANGTS. The proposal is also tentatively supported by New York.[155]

Staff acknowledges that the six-month billing procedure is neither unfair nor illegal. Staff contends, however, that billing shippers for the previous month's actual costs provides certain advantages: (1) it would simplify the tariff by eliminating the surcharges and carrying charges which occur with a six-month billing procedure; (2) it would reduce billing controversies regarding methods of estimation; and (3) it would simplify review of transporters' rates.

Initially, the Commission agrees that the project sponsors' proposed method of billing is neither illegal nor unfair. Each transporter will determine monthly the difference between its actual cost of service and the total charges collected. That difference will be accounted for in the transporter's working capital allowance in rate base and, therefore, carrying charges will be recovered by the transporter when there have been undercollections or by the shipper when there have been overcollections.

Moreover, while Staff's arguments in favor of a monthly billing procedure are credible, the Commission finds that on balance the six-month billing procedure will be adopted. Although cost-of-service billing is typically done on an actual basis, a six-month billing a procedure here would provide the transporter with a relatively stable flow of revenues. It would also enable the

[149] *Recommendation* at XII, 43.

[150] For example, if the Alaskan segment of the system were inoperable but the Northern Border segment were operational, no adjustment would be made to the charges by Northern Border. Likewise, if one or more of the Canadian segments of the system were inoperable but the Alaskan segment and the Northern Border segment were operational, no adjustment would be made to the charges by either Alaskan Northwest or Northern Border.

[151] *Decision* at 100–101.

[152] *See* Delegate Report at 13.

[153] Initial decision at 407–408.

[154] *Id.*

[155] New York, Initial Comment, at 8.

shippers to more accurately estimate their revenue requirements for the immediate future.[156]

The six-month billing procedure would also benefit the consumer by reducing the possibility of wide variations in monthly transportation charges. Such variations could be a result of the planned maintenance and scheduled down time proposed in the tariffs. Section 1.14 of the General Terms and Conditions of the Alaskan Northwest tariff and section 1.15 of the General Terms and Conditions of the Northern Border tariff show how the planned maintenance and scheduled down-time factors vary from month to month for the pipelines.
Notwithstanding those monthly down-time variances, the January–June billing period contemplates effective operating days [157] that are essentially identical to the effective operating days for the July–December billing period. Thus, the proposed six-month billing period—which uses an estimating and subsequent balancing approach—would tend to level off the monthly bills, and would appear to be consistent with and a desirable accompaniment to the planned operation of the pipeline.

The Commission will permit the billing procedures proposed by the transporters. However, the proposal to compute working capital allowance on the accumulated differences between the estimated cost-of-service and the actual cost-of-service will not be approved. Rather, carrying charges on such differences will be permitted in accordance with the Commission's Regulations. This approach is the normal treatment for similar amounts.

B. Other Tariff Issues

As noted at the outset of this discussion, several tariff issues have been identified through the comment procedure of this rulemaking, and as a result of the Commission's analysis of the proposed tariffs. Those issues are considered below.

1. *Availability of Transportation Services.* The Alaska Natural Gas Transportation Act states at Section 13(a) that "no person seeking to transport natural gas in the Alaska natural gas system shall be prevented from doing so or be discriminated against in the terms and conditions of service on the basis of the degree of ownership, or lack thereof, of the Alaska natural gas transportation system." A question has arisen about whether the availability clauses of the *pro forma* tariffs (§ 1 of the Rate schedule T–1 and § 1 of the Rate Schedule OT–1) comply with this provision of ANGTA.

The *pro forma* tariffs each indicate that services will be available to any shipper under its service agreement. The tariffs do not specifically indicate, however, whether a service agreement will be available on a nondiscriminatory basis. It is thus possible that the availability provisions of the *pro forma* tariffs do not comply with Section 13(a) of ANGTA.

In their joint comments, Alaskan Northwest and Northern Border state that the intent of each of the tariff provisions was not to deny access to any person seeking to transport natural gas.[158] Rather, the intent was to recognize that each transporter is a contract carrier.

Staff expresses its belief that the availability provisions were not intended to deny access to the pipeline but suggests that as now drafted the tariff provisions are ambiguous. Staff, therefore, proposes alternative language.[159] For Rate Schedule T–1, Staff proposes:

> 1. Availability. This Rate Schedule is available to any person desiring service as provided for by Section 13(a) of the Alaskan Natural Gas Transportation Act of 1976 after execution of a service agreement with the Company.

And for Rate Schedule OT–1, Staff further proposes:

> 1. Availability. This Rate Schedule is available to any Shipper that is receiving service and has executed a service agreement under Rate Schedule T–1.

The Commission has reviewed the proposed changes offered by Staff. These changes better reflect the intention that the services should be made available on a nondiscriminatory basis. The proposed changes of Staff should be substituted for the availability provisions now contained in each of the *pro forma* tariffs.

2. *Cost Allocation.* Several cost allocation issues have been raised by the filing of the transporters' tariffs and the comments thereon. The central issues to be decided are:

(a) Should costs be allocated to various shippers on the basis of the relative volume units (Mcf) transported through the system or, alternatively, on the basis of relative energy units (Dekatherms) transported through the system?

(b) Should Alaskan Northwest's system be segregated into two zones for rate purposes, or should the costs be composited and allocated to various shippers on the basis of the number of miles of system used by each shipper?

The determination of each of these issues has a greater impact upon the State of Alaska than any other party. The issues are created, in the first instance, by the expected delivery of Prudhoe Bay gas within Alaska. As Alaska stated in its initial comments:

> Alaska has been pursuing and evaluating proposals to utilize natural gas liquids from Prudhoe Bay in Alaska as a feedstock for a new petrochemical facility.[160]

The Commission agrees with the statements included in Alaska'a initial comments to the effect that the Alaskan Northwest portion of ANGTS is not contemplated to be a "dual-phase transportation facility" and that Alaskan Northwest's tariff is "constructed on the assumption that there would not be a separate transport of liquids."[161] It is the Commission's understanding that all the fluids moving through the Alaskan Northwest pipeline will be in a gaseous state. There will be no droplets, slugs, or phases (or any portion of the fluid to which any similar term can properly be applied) in the pipeline which will be in liquid form.

What must be considered, however, is that certain portions of the gaseous stream being transported are *liquefiable* in a hydrocarbon extraction plant. It seems apparent from Alaska's statements that it intends to extract, or cause to be extracted, certain liquefiable hydrocarbons from the total gas stream passing from Prudhoe Bay through the State of Alaska. The central question that must be addressed is how should transportation costs be allocated to any "off-take" of gas within Alaska[162] if the composition of the gas is changed by extraction operations occuring after the gas has entered ANGTS.[163] Alaska states in its reply comments:

> The cost allocation methodology is of no great consequence because whatever the cost allocation methodology, the bottom line will be that the entire cost of service is recovered.[164]

Alaska goes on to State:

> There is no question that Alaska must be charged a just and reasonable rate for its shipment.[165]

The Commission agrees with the latter statement but cannot accept the former assertion. The tariffs must provide a mechanism for allocating ANGTS's costs that gives proper recognition to the planned utilization of the project and the attendant cost responsibility. The consequence of an improper cost allocation method would be that certain shippers would be effectively subsidizing the operations of other shippers. Furthermore, it is important that guidance be given to the potential users of Alaskan gas so that they may evaluate their participation in this project.

For the reasons explained below, the Commission determines that energy units (Dekatherms) rather than volume units (Mcf) should be used as the basic allocation units for apportioning Alaskan Northwest's cost-of-service. Additionally, the Commission will require that distance (miles) be factored into the cost allocation procedures. Finally, the Commission will require that Northern Border's cost-of-service also be allocated on a Dekatherm-mile basis.

Consideration of the essential purpose of ANGTS and certain elementary chemical facts is basic to properly resolving the issue of cost allocation. The ANGTS is being constructed as a transportation system to deliver *energy* to Alaska and the contiguous forty-eight States. The value of the system to most of the gas consumers is the amount of *energy* that will be made available through the system. Various industrial customers could benefit more by extracting certain of the constituents from the gas stream because of the chemical and physical properties peculiar to those constituents. Therefore, the value of the ANGTS to certain industrial customers is derived more from the discrete chemical and physical properties of the components that can be extracted from the gas stream rather than from the heat energy value of the total gas stream being transported.

Products that normally would be removed in a hydrocarbon extraction process (ethane, propane, butanes and pentanes-plus) have a higher heat value per unit of volume than the principal constituent remaining after processing (methane).[166] This is obvious from the following:

Gas component	Heating value (dekatherms per Mcf)
Methane	1.0
Ethane	1.8
Propane	2.5
Butanes	3.3
Pentanes-plus	5.0[1]±

Based upon the information presented in the proceedings before the FPC involving the competitive applications to construct an Alaska gas transportation system,[167] the gas available at a gas processing and conditioning plant could have the following composition of hydrocarbons:

Gas component	Percent [168]
Methane	85.1
Ethane	7.8
Propane	4.0
Butanes	1.2
Pentanes-plus	.2

[168] Docket No. CP75–96, *et al.*, transcript at 19,496 (testimony of Exxon Corp.). Percentages do not add to 100% because carbon dioxide and nitrogen, which do not have any heating value, have been omitted.

The gas leaving Prudhoe Bay is sufficiently rich in liquefiable hydrocarbons (ethane and heavier hydrocarbons) to make extraction somewhere on ANGTS attractive. Alaska indicates that it may be economical to extract certain of the hydrocarbons within the State of Alaska.[169] It is quite obvious from comparing the heating value of the various gas components with the indicated composition of gas leaving Prudhoe Bay, that removal of all or any portion of the components other than methane would significantly affect the heating value of the remaining gas stream. For example, the gas stream after processing at a hydrocarbon extraction plant could essentially have the following hydrocarbon composition:

Gas component	Percent [170]
Methane	93.5
Ethane	3.0
Propane	1.0
Butanes	0.5
Pentanes-plus	0

[170] As before, the percentages do not add to 100% because of the omission of carbon dioxide and nitrogen.

The heating value of gas leaving a hydrocarbon extraction plant with the above illustrative composition would have a heating value of approximately 1054 Btu per cubic foot (1.054 Dekatherms/Mcf). The gas leaving Prudhoe Bay with the compostion shown at page 195 would have a heating value of 1148 Btu per cublic foot. The extraction operation depicted by this example results in a loss in heating value of 94 Btu per cubic foot, or eight percent.

The implied results of any extraction operation that removes any "heavy" hydrocarbons (ethane, propane, etc.) are quite clear. Those customers purchasing gas downstream from the extraction operation must purchase greater volumes of processed gas to produce the same amount of heat energy that lesser volumes of unprocessed gas would produce. The type of extraction operations described above would effectively deprive other gas consumers of useable amounts of heat energy. As has been shown, the magnitude of deprivation of usable heat energy is not in proportion to volumes of liquefiable components removed in the extraction operation but is related to the heating value of the components removed. Therefore, allocation of the ANGTS costs on a volumetric basis would not be proper if extraction operations change the composition of the gas received into the system.

Recognizing the potential that some processing of Alaska gas to remove liquefiable hydrocarbons will likely occur at some place along the ANGTS,[171] the Commission decided to address the cost allocation issue in that context in this Order.[172] The Commission's goal is to require a cost allocation method that most equitably apportions ANGTS costs to all shippers. Failure to resolve the issue at this time would result in uncertainties of cost allocation and could result in the institution of another proceeding to deal with the issue.

This Commission does not know what form or to what extent extraction operations may eventually be conducted along the ANGTS, either in Alaska or at other locations. If the State of Alaska, or others, conduct hydrocarbon extraction operations similar to those illustrated

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[156] This feature may have significance in the Commission's consideration of the mechanics of flow through of the systems' charges by the shippers. The question of shipper tracking is discussed above. *See* Introduction to Section VI.

[157] Effective operating days are determined by multiplying calendar days for each month by the corresponding maintenance and down time factor. Effective operating days should translate, essentially, into relative volume throughput in each month.

[158] Joint Comments, Tab 3, Pt. 2 at 1–2.

[159] Staff Initial Comments at 42–43.

[160] Alaska, Initial Comments at 7; *see also* Alaska, Initial Comments at 10.

[161] *Id.* at 7 (statement attributed to Alaskan Northwest).

[162] *See* Alaska, Initial Comments at 8–9 for detailed discussion of "Off-Take" considerations and legal requirement to permit in-state withdrwal of royalty gas.

[163] The determination of this question does not require the establishment of a "separate liquids rate," which was suggested as a possibility by Alaska.

[164] Alaska, Reply Comments at 4.

[165] *Id.*

[166] Substantial amounts of methane could also be required in a fertilizer manufacturing complex.

[167] Docket Nos. CP75–96, *et al.*

[169] Alaska, Initial Comments at 7.

[171] See, e.g., Alaska, Initial Comments; *see also* proposed gas purchase contract between Northern Natural Gas Company and Exxon Corporation filed with the Commission May 25, 1979.

[172] The Commission is also aware that cost allocation may be sensitive to the carbon dioxide content of the gas being transported. If gas were injected into the pipeline with a carbon dioxide content above that now contemplated by Alaskan Northwest's Tariff (1%), the system would have a greater capacity to transport liquefiable hydrocarbons. The system would then however, be transporting a larger quantity of inert gases.

The Commission also recognizes that resolution of the cost allocation issue could impact the economic considerations of the carbon dioxide issue. Interested parties are invited to address this interrelationship in their reply comments on this issue pursuant to the Notice issued May 16, 1979, in this docket.

above, equity and sound regulatory policy require that ANGTS costs be allocated on a heat energy or thermal (Dekatherm) basis rather than a volumetric basis. To guard against any inequitable apportionment of ANGTS costs which could be attendant with a volumetric cost allocation approach, the Commission will require that the costs of Alaskan Northwest and Northern Border be allocated on a thermal (Dekatherm) basis.

The Commission's determination to require that ANGTS costs be allocated on a heat energy (Dekatherm) basis rather than a volumetric (Mcf) basis is not reached based on an extensive review of incremental costs of transporting liquefiable hydrocarbons. Rather, the Commission views the heat energy basis as the most equitable method of allocating costs incurred by this system in rendering the services permitted under the *pro forma* tariffs. It may be argued, for example, that there is no substantial increase in the cost of transporting the various constituents of natural gas. What must be considered, however, is that the tariffs now proposed by the transporters are for the transportation of a common supply of natural gas.[173] There are no announced plans for any shipper to tender discrete hydrocarbons or other gases for movement through the system. Therefore, any upstream off-take of liquefiable hydrocarbons would effectively mean that shippers with delivery points downstream of the extraction operations would have to contract for the delivery of a greater volume of gas to produce the same amount of heat energy that a lesser volume of unprocessed gas would produce. This feature is the basis for the Commission determination that energy units rather than volume units should serve as the basic cost allocation unit for the ANGTS.

Having determined that energy units (Dekatherm) rather than volume units (Mcf) should be used for cost allocation, the "zones versus mileage" issue must be decided. Three of the most commonly used methods of allocating an interstate gas pipeline's cost-of-service to sales and services performed in different geographical areas are (a) zone-gate method, (b) system-wide method, and (c) Mcf-mile or Dekatherm-mile method.

The zone-gate method allocates costs attributed to the first upstream zone between sales and services performed in that zone and sales and services performed in all downstream zones. The costs incurred in the second upstream zone, together with costs allocated to that zone from the first upstream zone, are composited and allocated between sales and services performed in the second upstream zone and sales and services performed in all zones downsteam of that zone. The process is continued, sequentially, for all zones, resulting in the last downstream zone being assigned all costs incurred within that zone plus costs allocated to that zone from all upstream zones. This Commission has approved the zone-gate method in the past for a very limited number of interstate gas pipelines based upon the peculiar circumstances surrounding their operations and expansion.[174] This method would typically allocate more costs to downstream customers than other methods.

The system-wide method of cost allocation makes no distinction between the geographical locations where sales and services are performed. This method has been approved by the Commission for those pipelines whose diverse sources of gas supplies and whose operations are of such an integrated nature as to effectively reduce or greatly minimize any differences in the cost of providing sales and services in different geographical locations.[175]

The most commonly used cost allocation method for long-distance interstate gas pipelines is the Mcf-mile or Dekatherm-mile method. This method is premised on two essential principles: (1) the pipeline is a *system* designed to provide sales and services over a long distance, and (2) the costs of providing sales and services vary in relation to distance or the length of the system required to provide the particular sales or services.

Alaskan Northwest proposes to allocate costs between its proposed two zones essentially on a zone-gate method. For the reasons set forth below, the Commission does not approve Alaskan Northwest's proposed zone-gate approach but will require that Alaskan Northwest's total cost-of-service be allocated on an energy-distance basis (Dekatherm-miles) between any gas delivered in Alaska and gas delivered to the Foothills system at the Alaska-Yukon border. There are not sufficient reasons at this time supporting the establishment of rate zones on any basis (zone-gate or otherwise) within the State of Alaska. Separate rate zones are normally supported by recognizing that precise allocation of costs cannot be made for a large number of delivery points over a relatively short distance, and by recognizing the administrative advantage (for both the seller and purchasers) of billing a particular customer or group of customers at the same rate for as much gas as possible.[176] The gas delivery points in Alaska will likely be small in number;[177] therefore, no administrative advantages of separate rate zones are apparent. Additionally, it is reasonable to expect that proper cost responsibility can be ascertained for each gas delivery point in Alaska under the Dekatherm-miles basis. In summary, the circumstances of Alaskan Northwest do not conform to criteria historically utilized by the Commission for establishing zones.

The justifications offered by Alaskan Northwest for establishing two rate zones within the State of Alaska are generally as follows:[178]

(1) The cost of providing transportation service for gas delivered in Alaska can be more accurately ascertained by attributing the costs incurred within each zone to the shippers using the facilities in each zone;

(2) Alaskan Northwest will likely provide two categories of transportation service: gas transported for use in Alaska, and gas that completely transits the state;

(3) Substantial variations are expected in costs associated with the northern and southern portions of the Alaskan pipeline, with the portion north of Delta Junction being the highest cost in terms of investment per mile or investment per unit of capacity.

The Commission is not persuaded that Alaskan Northwest's proposed zones will result in an equitable distribution of costs. Alaskan Northwest's suggestion that its proposed method of cost allocation may produce more accurate results is not totally convincing, because as Alaskan Northwest indicates, even under its proposed method, certain types of costs are not directly assignable to each zone and will have to be allocated. The company has proposed that such costs be assigned to each zone "in proportion to plant in service or the levels of contract service," without showing that the method would result in a fair and proper distribution of costs.

[173] Joint Comments Tab 3, Pt. 2 at 4–5.

[174] *See, e.g.* United Gas Pipe Line Company, Docket No. C–9547, 25 FPC 26 (Jan. 4, 1961).

[175] *See, e.g.*, Consolidated Gas Supply Corporation Opinion No. 819 (Aug. 12, 1977).

[176] The feature recognizes the intergrated nature of many distributor customers who have multiple gas receipt points.

[177] Alaska, Reply Comments at 3.

[178] "Responses to Data Requests by Alaskan Northwest and Northern Border" in response to a letter from the Commission's Director of the Alaska Gas Project Office, dated April 20, 1979; Joint Comments, Tab A, Pt. 2.

More important, however, is the fact that Alaskan Northwest's proposed cost allocation method does not adequately recognize the conditions under which the system will be designed, constructed and operated. During at least the initial operation of the system, it is anticipated that Alaska's share of gas will be shipped to the contiguous forty-eight States. Capacity will be provided for Alaskan royalty gas in not only the northern portion of Alaskan Northwest's pipeline but also in the southern portion. The extent to which Alaska may continue to utilize the southern portion of the system will obviously depend upon how much of its royalty gas entitlement it chooses to "off-take" from the northern portion of Alaskan Northwest's pipeline. [179] Alaska could very well choose to continue to ship a portion of its royalty gas through the southern portion of Alaskan Northwest's pipeline, either for use within the portion of the State south of Delta Junction [180] or for shipment to the Alaskan-Yukon border for delivery into the Foothills system.

Alaskan Northwest's characterization of two categories of transportation service is not adopted. The transportation services are essentially the same. Any differences in the services pertain only to the portion of the system (miles) used to provide the services, and the cost allocation method required by the Commission is intended to fully compensate for any such differences.

Differences in the costs of constructing and operating the northern portion versus the southern portion of the Alaskan Northwest pipeline do not, in themselves, require the establishment of zones. The higher costs of the northern portion (in terms of investment per mile or investment per unit of capacity) results from the planned long-term operation of ANGTS, and not because of discrete considerations relative to any "off-take" of gas by Alaska. Alaskan Northwest's proposed zones would likely mean higher cost assignment to Alaska over the long-term than would a distance-of-transportation allocation method. The likely results of Alaskan Northwest's proposed cost allocation method have not been justified.

Weighing all of the considerations, it is the Commission's judgment that Alaskan Northwest's proposed zone-gate method of cost allocation should not be approved. The Commission concludes that the most equitable procedure for allocating Alaskan Northwest's cost-of-service is embodied in an energy-distance basis (i.e., Dekatherm-miles), without the establishment of seperate rate zones.

Northern Border proposes to allocate costs on an Mcf-mile basis. The Commission adopts the distance-weighing portion of Northern Border's proposal (i.e., miles), but, for the reasons already explained with respect to the effects of any hydrocarbon extraction operations, will require that energy units (Dekatherms) rather than volume units (Mcf) be used as the basic allocation unit. The Commission is not aware of any extraction operation plans on the Northern Border system. If gas entering and leaving the Northern Border system is not processed and remains of the same chemical composition, it would not matter whether volume units or energy units were used for cost allocation, because the results would be the same. However, the cost allocation method required by the Commission puts all parties on notice of the economic context in which any contemplated extraction operations must be evaluated.

As a final point on cost allocation, it must be made clear that the Commission views the cost allocation requirements for the Alaskan Northwest and Northern Border segments of ANGTS to be quite distinct from the cost allocation requirements for the Foothills system. The Commission's determination that Alaskan Northwest's and Northern Border's costs-of-service should be allocated on an energy-distance basis (Dekatherm-miles) is dictated by the fact that there will likely be some extraction of various components of Prudhoe Bay gas. Even with extraction operations occuring in Alaska, the gas delivered to the Foothills system at the Alaska-Yukon border would probably have a higher heating value than any gas originating in the Mackenzie Delta area and introduced into the ANGTS at Whitehorse, Yukon Territory. The same heating value disparity could also be attendant with any other gas originating in other areas of Canada and introduced into the Foothills system. The reverse could also conceivably occur if gas input in Canada had a heating value higher than Alaska gas delivered at the Alaska-Yukon border.

In any event, the Agreement Between the United States of America and Canada on Principles Applicable to a Northern Gas Pipeline (Agreement on Principles) has a firm mechanism established to give full recognition to any difference in the composition and quality of gas received by the system. [181] If Canadian gas entered the pipeline system with a heating value less than the heating value of Alaska gas entering the pipeline system at the Alaska/Yukon border, the Agreement on Principles requires that any dilution in the heating value of Alaska gas would be fully recognized in the allocation of Foothills' cost-of-service and in gas deliveries. This adjustment would be necessary so that a disproportionate share of Foothills' cost-of-service would not be imposed on the American consumers. Specifically, the Agreement on Principles provides in pertinent part:

> It is agreed that the following principles will apply for purposes of cost allocation used in determining the cost of service applicable to each shipper on the Pipeline in Canada:
>
> a) The Pipeline in Canada and the Dempster Line will be divided into zones as set forth in Annex II. Except for fuel and except for Zone 11 (the Dawson-Whitehorse portion of the Dempster Line), the cost of service to each shipper in each zone will be determined on the basis of volumes as set forth in transportation contracts. The volumes used to assign these costs will reflect the original BTU content of Alaskan gas for U.S. shippers and Northern Canadian gas for Candian shippers, and will make allowance for the change in heat content as the result of commingling. Each shipper will provide volumes for line losses and line pack in proportion to the contracted volumes transported in the zone. Each shipper will provide fuel requirements in relation to the volume of his gas being carried and to the content of the gas as it affects fuel consumption. [182]

The Commission's determination with respect to cost allocation for the Alaskan Northwest and Northern Border segments of the ANGTS does not in any way change the interpretations or the application thereof, of the cost allocation methods defined and agreed to by the United States and Canada. The cost allocation procedures set forth in the Agreement on Principles for the Foothills segment are required because of the potential dilution of Alaska gas caused by commingling of that gas and Canadian gas that will likely have a lower heating value. While the cost allocation procedures required by the Commission for the Alaskan Northwest and Northern Border segments of ANGTS are necessary to properly allocate costs to any extraction operations that may be conducted on those two segments, it is the Commission's understanding that no extraction operations will be conducted on any ANGTS gas in transit through Canada. If any extraction operations

[179] *See* Alaska, Initial Comments at 8–9.

[180] Delta Junction is the point selected by Alaskan Northwest as the division between the two proposed zones.

[181] *Decision* at 47–66.

[182] *Id.* at 57–58.

were conducted, however, the allocation of Foothills' cost-of-service should fully account for any such operations.

3. *Accounting and Rate Treatment for Line Pack.* The Staff's initial comments raised an issue related to line pack. The issue is succinctly described in the Staff's example:

> Suppose shippers A & B initially hold title to 100% of the line pack worth $10,000,000. Each files a rate application with the Commission to include $5,000,000 in rate base to recover carrying charges (return & taxes) on their line pack investment. Three months later, Shipper C, a new user of the system, begins transporting gas, and is assigned one-third of the existing line pack. Shipper C files a rate case and claims $3.3 million in rate base attributable to line pack. Unless Shippers A & B voluntarily reduce rates under Section 4 of the Act, the Commission, under current law would be required to approve the rate treatment sought by Shipper C without legal right to automatically lower the rates of Shippers A and B.[1] Thus consumers would bear carrying charges on $13.3 million in total jurisdictional rate bases when the aggregate line pack investment is only $10 million.
>
> [1] The Commission's only recourse would be to establish an investigation under Section 5 of the Natural Gas Act and order any resulting rate reduction to become effective prospectively after hearing. The hearing may involve a lengthy inquiry into all aspects of the Shippers' costs of service.[183]

The Staff's initial comments suggested two different approaches for handling the costs of line pack:

> . . . Either require ANGTS sponsors to pay 'rent' or carrying charges on line pack used by the system (these carrying charges would then be an operating expense for the pipeline and recoverable through the cost of service tariff) or require ANGTS shippers to automatically 'track' changes in line pack.[184]

The reply comments of Northern Border and Alaskan Northwest assert that this issue should not be considered in this rulemaking. Instead, the project sponsors argue the matter should be decided in the proceeding that addresses the shipper tracking issue.[185]

Shippers will incur substantial costs in providing natural gas for line pack in order for their gas to be transported through the ANGTS. It is important that the shippers be able to recover the costs actually incurred. Therefore, any method for recovery should provide for adjustment when a shipper's line pack obligation changes (either increases or decreases) with attendant changes in cost. Staff has presented an alternative which would have the transporters compensate the individual shippers for the carrying costs on their separate line pack contributions and recover the amounts through the transportation tariffs. This would have the advantage of facilitating recovery of the actual costs borne by the shippers, but it would impose an unnecessary added cost recovery burden upon the transporters.

In the discussion on tracking of costs by shippers, the Commission expressed a receptiveness to proposals for automatic flow-through of ANGTS charges for shippers subject to the Commission's jurisdiction, provided such shippers make an appropriate showing that the flow-through mechanism will result in a matching of costs and revenues. The mechanism could also provide for recovery of actual costs attributable to line pack.[186] The Commission will, therefore, defer the specification of any particular recovery mechanism pending receipt of the ANGTS cost flow-through proposals by individual shippers based upon their particular circumstances. Such proposals should include methods for recovery of line pack costs that will reflect actual cost incurrence based upon actual line pack obligations.

4. *Lateral Line Policy.* The *pro forma* tariff of Alaskan Northwest contains the following provision:

> Company will construct, operate and maintain lateral delivery lines on a nondiscriminatory basis and render related service under an appropriate Rate Schedule. Nothing in this policy statement shall require Company to file an application for a certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act. . . . (Section 19.2 of the General Terms and Conditions)

By letter dated April 27, 1979, the Director of the Commission's Alaska Gas Project Office requested Alaskan Northwest to explain this provision. The primary concern was that the proposed tariff language could be interpreted as establishing a waiver of Alaskan Northwest's obligation to file for a certificate of public convenience and necessity if lateral delivery lines were constructed.

The joint reply comments of Alaskan Northwest and Northern Border responded to the inquiry, indicating that the referenced language was only intended to clarify that Alaskan Northwest was under no obligation to file for a § 7(c) application at the request of a shipper or other party. If the company were to choose to construct lateral delivery lines, the comments assure the Commission that appropriate certificates of public convenience and necessity would first be sought.[187]

The Commission accepts the explanation set forth in the comments of the project sponsors. In order to avoid any subsequent confusion or controversy however, Alaskan Northwest should revise its tariff in accordance with the explanation provided in the comments and accepted by the Commission.

5. *Certain Quality Standards Other Than CO_2 Content.* The Commission indicated at the outset of this discussion of tariff issues that it would defer resolution of the issue of the permissible level of CO_2 content in the gas stream. Other issues related to quality standards can, however, now be addressed.

Questions have been raised by Sohio related to the quality standards for water content and sulfur (hydrogen sulfide, mercaptan sulfur, and total sulfur). Sohio contends that the tariff standards are excessive and not justified. Further, Sohio objects to the water quality standard being stated on a volume basis (pounds per Mcf) rather than on a dew-point temperature basis (degrees Fahrenheit), and the mercaptan sulfur standard being stated on a mass basis (grains per 100 cubic feet of gas) rather than a volume basis (parts per million).[188] The quality standards stated in the *pro forma* tariffs are the standards that have been known to the parties for the past several years, and no other quality standards have been advanced and supported by any party.

The joint reply comments of Alaskan Northwest and Northern Border state:

> The project company tariffs have proposed stringent quality requirements because we believe it the obligation of the ANGTS project to provide the lowest possible reasonable cost of transportation. If producers such as Sohio have a proposal which would be consistent with the public interest which would demonstrate some benefit to the consuming public by relaxation of ANGTS quality standards, certainly Alaskan Northwest and Northern Border would be willing to consider such a proposal.[189]

The exact quality standards required for gas to be transported through ANGTS will, of course, depend upon the final design of the system. Absent a showing that the quality standards stated in the *pro forma* tariffs are not compatible with the approved final design of ANGTS, the Commission has no basis for ordering different standards. Accordingly, the water and sulfur standards proposed by the transporters will be permitted to be included in the tariffs subject to any revisions that may be required to

[183] Staff, Initial Comments at 28–29.
[184] *Id.* at 29.
[185] Joint Reply Comments at 36.
[186] *See* Section VI. Introduction.
[187] Joint Reply Comment at 51.
[188] Sohio, Initial Comments at 1–3.
[189] Joint Reply Comments at 22.

comport with the final pipeline system design.

6. *Modification of Article 4 of the Service Agreement.* Article 4 of the service agreement of each *pro forma* tariff contains language that has generated comments from the Staff and the States of Alaska and California. Article 4 in each agreement obligates a shipper to make payments to a transporter in accordance with the tariff "Rate Schedules, the General Terms and Conditions and the other applicable provisions of [the] Agreement".

The State of Alaska is concerned that there is no express recognition in Article 4 that a shipper's obligation to pay is qualified by the adjustments set forth in Section 5 of Rate Schedule T–1. Alaska, therefore, proposes that each service agreement be modified to state that the obligation of a shipper to pay is subject to the adjustments provided in Section 5 of Rate Schedule T–1 of each tariff.[190]

The reply comments of the project sponsors indicate that Section 5 billing adjustments are recognized in the service agreements because of the reference in each agreement to "Rate Schedules." The sponsors state that Article 4 of each agreement is neither intended to override nor qualify in any way the billing adjustments provided in Section 5 of Rate Schedule T–1.[191]

If the Commission determines, however, that explicit reference should be given to the relationship between the two provisions, then the project sponsors agree with Alaska that the relationship should be recognized in Article 4 of each service agreement. However, the sponsors disagree with Alaska about where the modification should appear.

The modification proposed by the State of Alaska provides:

> Shipper shall make payments to company in accordance with the rate schedules, the general terms and conditions and the other applicable terms and provisions of this agreement. Shippers obligation to pay its allocable share of company's cost of service shall be absolute and unconditional under any and all circumstances (subject only to the adjustments expressly provided for in Section 5 of Rate Schedule T–1) . . . .[192]

The project sponsors' alternative states:

> Shipper shall make payments to Company in accordance with the Rate Schedules (including Section 5 of Rate Schedule T–1), the General Terms and Conditions, and the other applicable terms and provisions of this Agreement.[193]

The sponsors argue that their proposed alternative is preferable. In their view, the language proposed by Alaska will not recognize that a shipper's payment obligation can be affected by tariff provisions other than Section 5. They cite Section 6 of the General Terms and Conditions—which also addresses billing and payment matters—as an example of a tariff provision that also affects a shipper's payment obligation.[194]

The Commission views modifications of the type proposed by Alaska to be beneficial whem ambiguities can be clarified and possible disputes thereby avoided. On that basis, it appears appropriate to provide express recognition of the relationship between Article 4 of the service agreement and Section 5 of Rate Schedule T–1. However, because the method of clarification proposed by Alaska may itself create ambiguities, the alternative modification proposed by the project sponsors will be accepted.

Staff also voices concern with Article 4. Staff argues that Article 4 is duplicative of other provisions in the *pro forma* tariffs, *e.g.* § 6.3 of the General Terms and Conditions. Staff further argues that Article 4 should expressly release a shipper from his obligation to pay if there is a willful refusal on the part of a transporter to perform.[195]

The project sponsors respond that Article 4 is necessary to explicitly recognize that the obligation of a shipper to pay will be absolute and unconditional. The sponsors assert that the provision was insisted upon by the sponsors' financial advisors as a means of aiding the financing of the project.

Staff may be correct that Article 4 is duplicative of other provisions in the tariff. However, when that is the sole objection and there is no contention that Article 4 is contradictory of other tariff provisions or that it creates ambiguities, then the Commission is not inclined to order the deletion of the provision in the circumstances presented here. To the extent that Article 4 will aid the financing of the project and is merely duplicative of other provisions, the Commission will permit its retention in the tariffs.

The sponsors also respond to the proposal of Staff that a release of payment obligations should occur if there is a willful refusal to transport gas. The sponsors argue that explicit recognition of a willful refusal to perform will not affect the reliability of service, since it is unlikely that a willful refusal would occur. That is so, according to the sponsors, because there could be private actions for damages and there is already included in the tariffs a provision that reduces the return on equity should a transporter fail to accept tendered gas. Finally, should there be a willful refusal to perform, the sponsors assert that the Commission can institute an investigation and issue a remedial order, if necessary.[196]

Although the Commission agrees that shippers should not be subject to a payment obligation where there is a willful refusal by a transporter to perform, the Commission cannot endorse the proposal of Staff. In the Commission's analysis, the unlikelihood of a willful refusal, together with the potential problems that may result from adoption of Staff's proposal, adequately argue against the proposal.

As stated by the project sponsors, the likelihood is small that transporters would willfully refuse to perform. More importantly, however, the prospective definition of a "willful" failure to perform, and an appropriate remedy, is difficult, if not impossible.

In light of these considerations, the Commission is of the view that the better course of action would be to recognize that any shipper contending there was a willful failure to perform can seek appropriate relief through the Commission.

The State of California argues that Article 4 of the service agreement should not be construed to limit the Commission's authority to review recovery of equity investment in the event of project failure after operations commence.[197] The Commission's review obligations under the Natural Gas Act, however, shall continue. California's concerns, therefore, are unnecessary.

7. *Failure to Deliver Gas.* Another issue identified by Staff concerns whether equity costs should be reduced because of a failure by a transporter to deliver gas, rather than a failure to take receipt of tendered gas. Staff argues that the shippers should be given "explicit protection against diversion or loss of gas supply after it enters the control of transporters."[198]

In their reply comments the project sponsors contend that this provision is unnecessary. They assert that no gas will knowingly be accepted that cannot be delivered. Further, the sponsors argue that a billing adjustment keyed to gas receipt rather than gas delivery would be easier to administer. If the billing adjustment were keyed to gas deliveries rather than gas receipts, the sponsors

[190] Alaska, Initial Comments at 9–10.
[191] Joint Reply Comments at 32–35.
[192] Alaska, Initial Comments at Attachment B.
[193] Joint Reply Comments at 33.
[194] Joint Reply Comments at 33.
[195] Staff Initial Comments at 17–19.
[196] Joint Reply comments at 34–35.
[197] California, Initial Comments at 6.
[198] Staff, Initial Comments at 17.

itemize three considerations that would complicate billing adjustments: "(i) the possibility of multiple delivery points, (ii) variations in fuel use and losses, and (iii) variations in seasonal capacity."[199]

The Commission agrees with the project sponsors. The billing adjustment procedure for failure to accept tendered gas presents a relatively simple approach to protect the shipper, and any modifications to the tariff that complicate that mechanism are not desirable. That factor, taken together with the unlikelihood that the transporters would accept gas when there is an anticipation that it cannot be delivered, is sufficient reason to reject Staff's proposal.

8. *Review of Equity Rate of Return.* After completion and commissioning of operation, the rate of return on equity allowed by the Commission is termed the Operation Phase Rate. The value of this rate should be comparable to rates of return allowed for other pipelines with similar operating risks. Once in operation this rate should be altered to reflect any changes in rates allowed for other pipelines with similar risks or if risk factors for this project change. The issue first raised in the letter to the project sponsors from the Director of Alaska Gas Project Office (April 27, 1979) is what procedure should be used to review this rate of return and determine if a change is reasonable.

The Staff's initial comments argue that the Operation Phase Rate should automatically be adjusted through a formula tied to changes in capitalization.[200] Though capitalization is an important factor in determining rates of return, this procedure would ignore other equally important factors such as overall changes in required rates of return in the nation's economy due to changes in inflationary expectations or changes in risk factors.[201]

The project sponsors argue that the only review of the Operation Phase Rate should be by Commission action under Section 5 of the Natural Gas Act.[202] The disadvantage of this approach is that the burden of proof would be placed upon the Commission and any redetermination of rate of return would have prospective effect only.

A third approach, discussed in more detail in Section II.B.3, is suggested in a paper prepared for the Alaska Gas Project Office by Professor Jerome Hass.[203] This approach would tie or index the Operation Phase Rate to interest rates. As interest rates change, the Operation Phase Rate would adjust automatically. Though interest rates are an important guide to equity rates of return, this indexing would still not adjust for many other important factors affecting rates of return. Thus, an additional review of some sort would be necessary in addition to this formula which would tie the Operation Phase Rate to interest rates.

After evaluating the above three approaches, the Commission has determined that a periodic rate of return review is a superior approach. On a periodic basis, the project companies shall submit a Section 4 application which shall justify the appropriate Operation Phase Rate to be applied during that prospective period. A portion of revenues collected during the period prior to a Commission determination of the appropriate rate of return for that period will be subject to refund pending a final disposition of the rate of return issue. The revenues subject to refund will be only those attributable to the rate of return on equity and associated taxes.

Though the Commission has determined that the tariffs shall provide for a periodic rate of return review, the Commission will not specify at this time the length of the period but will defer that decision to the final project certification proceeding after the submittal of a financing plan. The financing plan may contain information that is relevant to this determination.[204]

The Commission's disposition of this issue reflects a reasoned balancing of consumer protection and financing considerations. In their analysis of this issue, the project sponsors argued that three principles are critical in any future review of the Operation Phase Rate:

(a) All matters affecting the rate sould be considering not just capitalization as suggested by Staff.

(b) Any review must be limited to the Operation Phase Rate without express or implied review or reconsideration of the tariff or service agreement.

(c) Any review must not result in impairment of the project economics which formed the basis for investments.

The Commission agrees that any future review should generally abide by these principles, and that it should conduct its review specifically subject to (a) and (b). It is the Commission's intention that during any future rate of return review the proper impact of all matters that affect the return on equity would be considered. Further, it is the Commission's intention that any review of the Operation Phase Rate would be limited to establishing the proper level of that rate.

The Commission determination here to require review of the project's Operation Phase Rate is not a new concept.[205] The review procedure should in no way "result in impairment of the project economics which formed the basis for the investment," because there is no inference or intent in the review of the Operation Phase Rate to disallow from the project's cost of service any actual and proper expenses.[206]

9. *Certain Issues Raised by California.* California questioned whether a payment delinquency charge under Section 6.4 of the tariffs would be computed at 125 percent of the interest rate applicable to delinquencies but any repayments to the shippers would be at 100 percent of the same interest rate.[207] Alaskan Northwest and Northern Border answered in their reply comments that "the shipper would recover, with interest, any amounts paid to the transporter, *including* the penalty interest itself if the non-payment is excused by order or otherwise."[208] No

[199] Joint Reply Comments at 30–31.

[200] Staff, Initial Comments at 36–41.

[201] At the time of the submission of a financing plan the Commission will also review the proposed capitalization over the life of the project.

[202] Joint Initial Comments, Tab 3, Pt. 3.

[203] Hass Report at 14–16.

[204] A relevant precedent is the three-year review required in purchased gas adjustment clauses. A similar period does not seem unreasonable for this cost-of-service tariff but a final decision will not be made at this time.

[205] *See, e.g.*, Southern Energy Company, Docket No. CP71–264, "Order Amending Prior Order" (February 13, 1978). In that case, the event that "triggered" a rate of return review was any change in equity capitalization in excess of two and one-half percentage points.

[206] While this Order sets out the Commission's position on matters which can currently be resolved, other details of regulatory oversight remain to be determined. For example, review of certain cost of service expenditures are of this nature. In this regard, the Commission may benefit from Canadian resolution of this common regulatory problem. As previously indicated, the Commission has conducted regulatory consultations with the NEB pursuant to Section 9 of the Agreement Between the United States of America and Canada on Principles Applicable to a Northern Natural Gas Pipeline. (*See*, Incentive Rate of Return for the Alaska Natural Gas Transportation System, Docket No. RM78–12, Revised Notice of Proposed Rulemaking, 5 n.1a (Sept. 15, 1978) (Erratum Notice, Oct. 6, 1978). The NEB is currently proposing that estimates of certain costs, such as operation and maintenance expenses, be submitted annually for review and approval prior to being incorporated in the transportation charge. (*See*, National Energy Board of Canada's "Proposed Method for the Regulation of the Tolls and Tariffs of the Foothills Pipeline," 7–8 (issued April 16, 1979)).

Pending further consideration of this matter, the Commission presently contemplates utilizing auditing procedures to determine proper accounting classification of costs in accordance with the requirements of the Uniform System of Accounts. General instruction (2)(e) thereof prescribes that only just and reasonable amounts may be included in the accounts. This audit effort, coupled with the Commission's remedial powers under the Natural Gas Act, may be sufficient to satisfy the requirement that all costs, including operation and maintenance expenses, be prudently incurred.

[207] California, Initial Comments at 7.

[208] Joint Reply Comments at 48 (emphasis in original).

party commented on the provision. The Commission accepts the clarification offered by the transporters.

Two other issues raised by California relate to whether the operation and maintenance expenses and company use gas claimed by the transporters will be subject to audit and verification.[209] The Commission has addressed this matter in the lengthy footnote above, note 206, *supra*, and will not reiterate its reasoning here.

VII. Procedural Matters

This section considers certain procedural issues which have been raised in the course of this rulemaking. These include the relationship of this rulemaking to proceedings now underway to consider issues on construction of the Northern Border segment, the rationale for use of rulemaking procedures, and future Commission action under this Order.

A. Relation to Pre-Building

The purpose of this rulemaking is to (1) resolve outstanding issues concerning the Incentive Rate of Return mechanism for the Alaskan and Northern Border segments of ANGTS, and (2) resolve certain issues attendant to the Commission's approval of the tariffs submitted by Alaskan Northwest and Northern Border pursuant to the Commission's Order of February 22, 1979.

In Order No. 17, the Commission specified certain terms and conditions on a finding that both the Alaskan Northwest and Northern Border projects should be subject to an IROR mechanism. The Commission recognized that the specific values to be included in the IROR mechanism would be established in future proceedings.

By Order of February 22, 1979, the Commission requred that the sponsors of the Alaskan and Northern Border segments of the ANGTS file proposed tariffs, to facilitate a thorough evaluation of risk for financing purposes. The Alaskan Delegate's Report attached to that Order recognized the possibility that certain of the southern segments of the ANGTS may be "pre-built" to transport Alberta gas, as well as the possibility that "charges may begin for these segments in advance of completion of the other segments." On March 12, 1979, Alaskan Northwest and Northern Border filed *pro forma* tariffs, pursuant to the Commission's Order. The tariff filed by Alaskan Northwest would apply to the transportation of Alaskan natural gas, whereas the Northern Border tariff would initially apply to the transportation of Canadian gas (if made available by the Canadian Government through approval of applications presently before the National Energy Board of Canada), and would undoubtedly require some modification once the transportation of Alaskan gas commenced.

The April 6 Notice indicated that the Commission would address each of the issues presented by the two filed tariffs with the exception that the depreciation rate reflected in Northern Border's tariff would be reserved for separate consideration in the "pre-build" proceeding in Docket Nos. CP78–123, *et al.* The Notice recognized the relationship between the depreciation rate and the financing of the prebuild facilities. In its initial comments, Staff raises questions regarding the pre-building of certain Northern Border facilities to transport Canadian "bubble" gas. More particularly, Staff questions the need for the particular facilities contemplated, and raises a question as to whether the construction of temporarily excessive capacity or unnecessary facilities constitutes a fee or surcharge in violation of the President's Decision.

This rulemaking is not the appropriate place to determine the nature and size of facilities to transport Canadian gas. That is an issue to be addressed in Docket Nos. CP78–123, *et al.* The facilities authorized in that proceeding will have to be found to be necessary and required by the public interest. The depreciation rate found appropriate in Docket Nos. CP78–123, *et al.*, will apply until modified by the Commission. In this rulemaking, we establish the tariff provisions applicable to the transportation of Alaskan and Canadian gas. While the issue of whether Canadian gas will be transported through certain "pre-build" facilities is still pending before both the NEB and this Commission, it is clear that before Alaskan gas can be transported through the Northern Border facilities the project sponsors will be required to show that the tariff provisions approved herein are appropriate for the transportation of Alaskan gas.

B. Rulemaking Procedures

This proceeding implements certain financial conditions stipulated in the President's *Decision*, and is necessary for, and related to, the construction and initial operation of the transportation system approved by the President's *Decision*. The proceeding, therefore, comes within the scope of the Alaska Natural Gas Transportation Act (ANGTA) (15 U.S.C. §§ 719–719m). For this reason, it is incumbent upon the Commission to proceed as expeditiously as possible.

Section 403(c) of the Department of Energy Organization Act (DOE Act) authorizes the Commission to utilize rulemaking procedures to establish rates and charges under the Natural Gas Act. The setting of the incentive rate, as well as the consideration of *pro forma* tariffs for the ANGTS, is an establishment of a "rate or charge" within Section 7 of the Natural Gas Act and, *per force*, Section 403(c) of the DOE Act. Rulemaking provides, in this instance, an expeditious procedure for resolving the issues. Accordingly, in performing its functions under ANGTA, pursuant to ANGTA's mandate for expedition, the Commission chose the rulemaking process authorized by Section 403(c) of the DOE Act.

We recognize that Section 403(c) is not without some limits. On its face, it requires "full consideration of the issues and an opportunity for interested persons to present their views." While this proceeding has been the focal point of numerous rounds of comments, reply comments and special studies, we recognize that the issues are both serious and complex. For that reason, the Commission is staying the effective date of this Order for a period of 60 days, to afford interested parties the opportunity to apply for rehearing. Such applications must be filed on or before September 4, 1979.

The Commission Finds:

(1) For the reasons set forth above, the Commission finds it necessary and appropriate and in the public interest, in administering the Natural Gas Act and the Alaska Natural Gas Transportation Act, to adopt and incorporate into the conditional certificates of public convenience and necessity issued by the Order of December 16, 1977 (Docket Nos. CP78–123, *et al.*), the terms and conditions set forth in the attachment to this Order.

(2) For the reasons set forth above, the Commission finds it necessary and appropriate and in the public interest, in administering the Natural Gas Act and the Alaska Natural Gas Transportation Act, to require the tariffs under which Alaskan Northwest Natural Gas Transportation Company and the Northern Border Pipeline Company will render service to conform to the conditions and requirements set forth and discussed above in this Order.

[209] California, Initial Comments at 6–7.

The Commission Orders:

(A) The terms and conditions set forth in the attachment to this Order shall be incorporated into the conditional certificates of public convenience and necessity issued by the Commission on December 16, 1977 in Docket Nos. CP78–123, *et al.*, to become effective 60 days from the date of issuance of this Order. These terms and conditions supplement and supersede the terms and conditions incorporated in the conditional certificates by the Commission's Order No. 17, issued in this Docket on December 1, 1978.

(B) No later than twelve months prior to initiating service, Alaskan Northwest Natural Gas Transportation Company and Northern Border Pipeline Company shall submit for Commission approval, tariffs modified to conform with the requirements set forth in this Order. This ordering paragraph number (2) shall become effective 60 days from the date of issuance of this Order.

(C) Parties to Docket No. RM78–12 may file petitions for rehearing of this Order within 30 days of the date of issuance of this Order, pursuant to the procedures set forth in section 1.34 of the Commission's Rules of Practice and Procedure.

(Department of Energy Organization Act, Pub. L. No. 95–91, 91 Stat. 565. E.O. 12009, 42 FR 46267 (Sept. 15, 1977); Natural Gas Act, 15 US § 717, *et seq.*; Alaska Natural Gas Transportation Act, 15 USC § 719(g); President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, H.J. Res. 621, Pub. L. No. 95–158, 91 Stat. 1268 (1977).)

By the Commission.

Kenneth F. Plumb,

Secretary.

Determination of Incentive Rate of Return, Tariff, and Related Issues; Docket No. RM78–12

Chairman Curtis, *concurring.*

Although I am willing to accept the vote of the majority, I want to note my preference for a marginal rate of 6% coupled with an 18% center rate. Because a marginal rate of 6% would exert greater incentive for cost containment than would result from an 8% marginal rate, I believe it is appropriate to account for this effect by a one-half point adjustment to the risk premium factor, thus yielding a center rate of 18%.

The IROR scheme adopted by the Commission would allow a lower rate of return as construction costs increase thereby creating an incentive to control costs during construction. The marginal rate represents the incentive portion of the IROR mechanism and is an important determinant of the overall rate of return on equity. I am concerned that the marginal rate of 8% selected by the Commission may provide too little incentive to control construction costs.

With an 18% center rate and a 6% marginal rate, the resulting IROR Schedule would allow higher rates of return than the majority's schedule for a cost performance ratio of 1.3 to one of 1.6, (or for about 30% above the center point) for cost performance ratios greater than 1.6, this schedule would yield lower rates of return on equity. If there is true expectation that the pipeline can be constructed within a cost performance ratio of 1.6, I would think the sponsors would prefer the higher returns.

Notwithstanding my preference for this alternative, I recognize that the question is one of judgment and have determined to abide by the determination of my colleagues on this matter, recognizing that the issue may be represented to the Commission in the course of the rehearing procedure set out in the rule.

Charles B. Curtis,

Chairman.

Comparison of Two Combinations of Center Rates and Marginal Rates in the IROR Schedule for the Alaskan Segment of the Pipeline

Cost performance ratio	Allowed rates of return on equity [1]		
	For a 17.5% center rate and an 8.0% marginal rate (percent)	For an 18% center rate and an 6% marginal rate (percent)	Column (2) minus column (1) (percent)
	(1)	(2)	(3)
1.0	20.35	21.60	1.25
1.1	19.23	20.18	.95
1.2	18.29	19.00	.71
1.3	17.50	18.00	.50
1.4	16.82	17.14	.32
1.5	16.23	16.40	.17
1.6	15.72	15.75	.03
1.7	15.26	15.18	-.08
1.8	14.86	14.67	-.19
1.9	14.50	14.21	-.29
2.0	14.17	13.80	-.37
2.1	13.88	13.43	-.45
2.2	13.61	13.09	-.52
2.3	13.37	12.78	-.59
2.4	13.15	12.50	-.65
2.5	12.94	12.24	-.70

[1] Assumes a 1.3 CPR as the center point

Terms and Conditions

1. *Applicability.* The Incentive Rate of Return (IROR) will apply to two of the three segments of the Alaskan Natural Gas Transportation System within the United States, as defined in the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (referred to hereinafter as the *Decision*). These segments are: (1) the portion of the system within the State of Alaska, and (2) the portion of the system from the United States/Canadian border near Monchy in the Province of Saskatchewan to a point near Dwight in the State of Illinois. In the following terms and conditions, the term "pipeline" refers to each of these two segments, and all terms and conditions herein apply to each.

2. *Cost Performance Ratio.* As required by the second finance term and condition of the *Decision* (at page 36), the rate of return on equity during the operating period of the pipeline will be increased if the pipeline is completed under projected cost and reduced if the pipeline is completed over projected cost. The relationship between projected cost and completed cost will be determined by a Cost Performance Ratio. The Cost Performance Ratio is the ratio of the Deflated Actual Capital Costs (see Condition 3, below) to the Projected Capital Costs (see Condition 4, below).

3. *Deflated Actual Capital Costs.* The Deflated Actual Capital Costs will be determined at the start of operations as the sum of direct construction costs actually incurred in the construction of the pipeline after conversion into base-year prices (see Condition 5 below) plus a Finance Charge calculated from the Real Rate of Return (see Condition 6 below). The Finance Charge will be calculated quarterly, based on the Deflated Actual Capital Cost incurred prior to the beginning of the quarter. When a segment (see Condition 1, above) is completed and tested, accrual of the Finance Charge and any other costs in the Deflated Actual Capital Costs will cease for that segment.

4. *Projected Capital Costs.* The Projected Capital Costs will be determined at the start of operations as the sum of direct construction costs included in the Certification Cost and Schedule Estimate approved by the Commission pursuant to Condition 7, below, and after any adjustments for Changes in Scope (see Condition 10, below) or resulting from design changes prior to the Final Design (see Condition 9, below), plus a Finance Charge calculated from the Real Rate of Return (see Condition 6, below). The Finance Charge will be calculated quarterly, based on the Projected Capital Costs estimated to be incurred prior to the beginning of the quarter.

5. *Inflation Adjustment.* The direct construction costs actually incurred, excluding interest during construction, will be deflated to base-year prices, where the base year will be that used in calculating the Certification Cost Estimate. The inflation index will be a composite index calculated as a weighted average of existing published indices or price data. The attached schedule (see Condition 18 below) contains the categories of cost to be used and the index or prices to be used for each category. When the project sponsors submit their Certification Cost Estimate, all projected costs will be divided into each of the cost categories for each year or quarter. The proportion of total costs in that year or quarter for each cost category will be used as the weight for that cost category. For any construction that occurs beyond the projected construction schedule for the project, the weights specified for the last year of the projected construction period will be the weights used.

6. *Real Rate of Return.* The Real Rate of Return to be used to calculate the Finance Charge included in the Projected Capital Costs and the Deflated Actual Capital Costs shall be five percent (5%). The Real Rate of Return shall only be used in determining the Cost Performance Ratio in the IROR mechanism, and will not be used to calculate the allowance for funds used during construction (AFUDC) included in the rate base for cost of service.

7. *Certification Cost and Schedule Estimate.* Pursuant to the second finance condition in the *Decision*, the applicant for a certificate of public convenience and necessity for the pipeline shall submit to the Commission a Certification Cost and Schedule Estimate, adjusted to reflect any design changes resulting from the Agreement on Principles with Canada and any addendum thereto, for comparison with the capital cost estimates filed by Alcan with the Federal Power Commssion on March 8, 1977. This estimate will include costs actually incurred prior to submission of the estimate. This Certification Cost and Schedule Estimate will be submitted in 1978 or 1979 base-year prices and with costs set forth according to formats to be specified by the Commission (see Condition 8, below). The March 1977, cost estimate referred to in the second finance term and condition in the *Decision* must also be resubmitted in the same format, and recalculated in the same base-year prices for comparability with the certification estimate. An explanation of any significant differences between the March 1977 estimate, and the Certification Cost and Schedule Estimate, must be provided. The date of the base-year period for submitting costs may be determined by the applicant. With these estimates, the applicant shall also provide a Construction Plan and Pipeline Design which show the techniques and procedures the applicant proposes to use in constructing the pipeline, and provide a detailed description of the pipeline as it will appear when completed.

8. *Cost Estimate Format.* All cost estimates shall be submitted to the Commission according to a Cost Estimate Format to be determined by the Commission. Prior to submittal of the Certification Cost and Schedule Estimate, the applicant may submit to the Commission a proposal for the Cost Estimate Format. The Cost Estimate Format will specify the functional categories or components into which the total cost estimate must be divided, according to the time period in which the costs are estimated to occur. The breakdown of costs shall be in sufficient detail such that the Commission may compare the various cost estimates and determine the reasonableness of any changes.

9. *Final Design.* After the submission to and acceptance of the Final Design by the Federal Inspector as required by the *Decision*, the Certification Cost and Schedule Estimate will be altered to reflect changes in quantities or types of materials, labor, and services, and changes in project development or construction schedule and construction techniques, resulting from changes in design or schedule (including changes in the time necessary to obtain the required government approvals and permits) between the time the Certification Cost Estimate was prepared and the approval of the Final Design. Prices of labor, materials, or services used in the Certification Estimate will not be altered unless the Final Design requires a type of labor or material input not assumed to be used in the Certification Estimate. In that event, base year prices for that new type of input will be used to the extent practicable.

The project sponsors shall submit the revised Certification Estimate, including both an explanation of the alleged design or schedule change and an estimate of the change in costs or schedule, to the Federal Inspector. The Federal Inspector will approve or disapprove the inclusion in Projected Capital Costs of such changes in cost or schedule, pursuant to procedures to be determined by the Inspector, and his decision will be final. The Federal Inspector will promptly notify the Commission of his determinations, including an explanation of the respective changes in design and schedule, and the resultant changes in costs.

10. *Change in Scope Mechanism.* The Change in Scope Mechanism is applicable to changes caused by events that occur subsequent to the date on which the Federal Inspector approves the Final Design. The Projected Capital Costs shall be increased in an amount equal to the amount of cost increases attributable to Change in Scope events beyond the control of the project sponsors. Such Change is Scope events shall be limited to (1) wars, (2) any disaster declared by the President of the United States pursuant to the Disaster Relief Act of 1974, Pub. L. No. 93–288, 88 Stat. 143, (3) major design changes compelled by changes in Federal or State laws or regulations applicable to natural gas pipelines enacted or adopted subsequent to the Federal Inspector's approval of the Final Design of the pipeline, (4) major changes in pipeline routing or capacity ordered by Federal or State Governments for the Alaska Natural Gas Transportation System from that approved by the Federal Inspector in the Final Design of the pipeline, and (5) delay in the issuance of a government permit or certificate necessary for completion of the pipeline system, when such delay (a) occurs subsequent to approval of the Final Design, (b) occurs through no fault of the project sponsors, and (c) causes significant cost increases. To the maximum extent practicable, cost increases attributable to Change in Scope events shall be calculated based upon the assumptions and parameters used to calculate the Certification Cost Estimate.

11. *Change in Scope Procedure.* Whenever the project sponsors believe a Change in Scope event (as defined above) has occurred, the project sponsors shall submit to the Federal Inspector an explanation of the alleged Change in Scope and an estimate of the increase in Projected Capital Costs for the project. The Federal Inspector will approve or disapprove the inclusion of such increases in Projected Capital Costs, pursuant to procedures to be determined by the Inspector, and his decision will be final. The Federal Inspector will promptly notify the Commission of his determinations, including an explanation of the Change in Scope events and the resultant changes in costs.

12. *Center Point.* Based upon the findings of the President's *Decision*, the Center Point (CP) for the Alaska segment shall be calculated from the following formula:

Center Point = [1.3 × (March 1977 Cost Estimate + Finance Charge)]/

[Certification Cost Estimate + Finance Charge]

where the March 1977 Cost Estimate is in base-year prices.

The Center Point for the Northern Border segment will be calculated from the following formula:

Center Point = [1.1 × (March 1977 Cost Estimate + Finance Charge)]/[Certification Cost Estimate × Finance Charge]

where the March 1977 Cost Estimate is in base-year prices.

The base-year prices shall be those utilized in the preparation of the Certification Cost Estimate. For purposes of this condition, the March 1977 estimate and the Certification Cost Estimate shall include a Finance Charge calculated from the Real Rate of Return (see Condition 6, above).

At the time the Certification Cost Estimate is submitted to the Commission (see Condition 7 above), the Commission will consider adjustments to the value of the Center Point derived from the above formulas if a showing is made that unanticipated developments have altered the basic nature and scope of the project from that assumed in the preparation of the March 1977 estimate. If the project sponsors believe that a major change in the project has occurred, the sponsors, as part of their submission of a Certification Cost Estimate, should present: (a) the nature of the changes in the project subsequent to the President's *Decision*, including a detailed explanation of why the Certification Cost Estimate has changed from the March 1977 estimate; (b) the nature or benefit to the nation and to gas consumers of construction of the project in light of the revised cost estimates; and (c) the cost increases or cost overruns above the Certification Cost Estimate that may occur, including explanation and analysis of the contingencies for which costs have and have not been included, the likelihood of such contingencies occurring, and their respective impact on costs.

13. *Operation Phase Rate.* The Operation Phase Rate is the rate of return on equity that will be allowed after the pipeline is in operation and after the one-time adjustment to the rate base has been made. The Operation Phase Rate initially shall be 14 percent (14%) for the Alaska segment and 13 percent (13%) for the Northern Border segment.

14. *IROR Formula.* The incentive Rate of Return shall be set equal to [(17.5)(CP) + 8 (ACP)/A for the Alaska segment and [(15)(CP + 8 (ACP)]/A for the Northern Border segment, where A is the Cost Performance Ratio (see Condition 2, above) and CP is the Center Point (see Condition 12, above).

15. *Financing Plan.* The financing plan submitted pursuant to the Commission's Regulations (18 CFR 157.14(a)(14)[1978]) as part of the application for a certificate of public convenience and necessity under Section 7 of the Natural Gas Act shall describe how the applicant proposes to finance the etimateds cost of the project and any overruns, and in particular the proportions of debt and equity financing to be used. If the actual proportions of debt and equity used to finance the projcet deviate significantly from the financing plan submitted to, and approved by, the Commission, the Commission reserves the right to alter these terms and conditions.

16. *Cost of Service Calculations.* The allowed rate of return on equity used to calculate cost of service during operation of the pipeline will be the Operation Phase Rate defined above in Condition 13. The rate used to calculate the equity portion of the allowance for funds used during construction shall be the Operation Phase Rate defined above in Condition 13. The rate base will include an allowance for funds used during construction, and will also include the one-time adjustment calculated pursuant to Condition 17 less the cumulative amortization thereof. The cost of service for the pipeline shall include amortization of the one-time adjustment on a straight-line basis over the project life. An amount equal to the one-time adjustment net of related accumulated provisions for amortization will be considered as common equity in the rate of return calculation.

17. *Adjustment to Rate Base.* Upon completion of construction and initial operation of the pipeline, a one-time adjustment to the rate base will be calculated in three steps. First, for each year in the assumed 25-year operating life of the pipeline, a revenue stream for equity will be derived assuming that the equity investment including AFUDC in the pipeline at the start of operation is fully recovered by depreciation over a 25-year period in equal annual installments at the end of each year, and that an annual return on equity is derived by applying the Incentive Rate to the depreciated equity investment at the beginning of each year. Second, the present worth of this revenue stream will be calculated using a discount rate equal to the Operation Phase Rate specified in Condition 13 above. Third, the difference between this present worth sum and the equity investment including equity AFUDC at the start of operations will be added to the rate base of the project and the equity investment. If the difference is negative, the rate base and the equity investment will be reduced by the difference.

Within six months after condition and testing of the pipeline, the one-time adjustment and a schedule of amortization of the adjustment must be submitted for approval by the Commission. If the Commission reduces the one-time adjustment, the excess in transportation charges incurred during the intervening period will be subtracted from the one-time adjustment. Similarly, any shortfall will be added to the one-time adjustment.

18. *Cost Categories and Index/Prices.*

Cost category	Index or price	Source
1. Labor		Engineering News Record
a. Welders and Helpers.	Ironworkers Structural and Reinforcing.	
b. Operators and Oilers.	Motor Graders	
c. Drillers and Power Men.	Skilled Laborer	
d. Pipe Fitter	Steamfitter	
e. Carpenters	Carpenters	
f. Electricians	Electricians	
g. Truck Drivers	Truck Drivers, Teamsters, for Dump, rear, over 4 cylinders.	
h. Station Mechanics	Skilled Labor	
i. Other Skilled Labor	Skilled Labor	
j. Other Unskilled Labor.	Common Labor	
2. Salaried Employees	Executive Compensation Survey for Similarly Skilled Personnel Categories.	Bureau of Labor Statistics and Amercan Management Association
3. Line Pipe	36" Line Pipe F.O.B. McKeesport, Pennsylvania.	U.S. Steel
4. Gas Turbine Compressor Sets and Auxiliary Equipment.	Gas Compressor (Centrifugal Uncooled).	PPI 11410105
5. Gas Refrigeration Systems and Auxiliary Equipment.	Pumps, Compressors and Equipment.	PPI 1141
6. Generation Systems.	Generators and Generator Sets.	PPI 117302
7. Supervisory Control and Data Acquisition Instrumentation and Metering Communications and Other Electrical Equipment.	Electrical Machinery.	PPI 117
8. Valves, Flanges and Fittings.	Valves and Fittings	PPI 114901
9. Pipe Insulation and Coating.	Plastic Resins and Materials.	PPI 006.
10. Building and Utilities Including Building Systems (e.g., HVAC, Water, Sewage).	Construction Materials.	PPI, Special Commodity Groupings
11. Cement Not Used for Building.	Portland Cement	PPI 1322013114
12. Miscellaneous Fabricated Metal Products.	Fabricated Metal Products.	PPI, Special Commodity Groupings.
13. Other Miscellaneous Materials.	Construction Materials.	PPI, Special Commodity Groupings.

Cost category	Index or price	Source
14. Air Transportation		Interim Financial Results of Certified Air Carriers (CAB).
a. Passenger	Average Revenue per Passenger Mile Flown in U.S.	
b. Air Cargo	Average Revenue per Ton Mile Flown in U.S.	
15. Surface Transportation		Transportation Statistics in the U.S. (ICC).
a. Water	Average Revenue per Ton Mile Shipped by Water in the U.S.	
b. Rail	Average Revenue per Ton Mile Shipped by Rail in the U.S.	
c. Truck	Average Revenue per Ton Mile Shipped by Truck in the U.S.	
d. Bus	Average Revenue per Ton Mile Shipped by Bus in the U.S.	
16. Facilities		
a. Government Owned	Department of Commerce Composite Index.	Table S-11 of Survey of Current Business
b. Food Supplies	Processed Foods	PPI, Special Commodity Grouping.
c. Other	CPI—All Items—U.S.	Bureau of Labor Statistics.
d. Leased Facilities	Department of Commerce Composite Index.	Table S-11 of Survey of Current Business.
17. Crawler Type Tractors	Tractors, other than Farm, Crawler type, Diesel 260 Net Engine HP and Over.	PPI 11280217
18. Other Heavy Construction Equipment.	Construction Machinery and Equipment.	PPI 112.
19. Transportation Equipment.	Transportation Equipment.	PPI 14.
20. Miscellaneous Construction Machinery and Equipment.	Construction Machinery and Equipment.	PPI 112.
21. Diesel Fuel	Diesel to Commercial Customers: Pacific.	PPI 0573030108
22. Other Petroleum, Oil and Lubricants.	Petroleum Products Refined.	PPI 057.
23. Other Miscellaneous Consumables (e.g., explosives, tires, welding rods, etc.).	Industrial Commodities, less Fuel and Power.	PPI, Special Commodity Grouping.
24. State, Municipal and Native and Private Land	Farm Real Estate Developments Index.	Average Value Per Acre by State, U.S. Department of Agriculture
25. Purchased Field Data	CPI—All Items—U.S.	Bureau of Labor Statistics.

Note.—PPI: Producer Price Index—Source Bureau of Labor Statistics—Available Monthly.

Engineering News Record: Simple 20 City Average—available Quarterly.

CPI—Consumer Price Index: Available Monthly from Bureau of Labor Statistics.

U.S. Steel Line Pipe price is a list price available on request; actual selling price may be different.

American Management Association Executive Compensation Survey is available once a year; Linear interpolation for quarterly estimates.

Interim Financial Results of Air Carriers available quarterly from the Civil Aeronautics Board (CAB).

Transportation Statistics in the U.S. published by the Interstate Commerce Commission (ICC).

Farm Real Estate Index: Source U.S. Department of Agriculture—Available Semi-annually; Linear Interpolation for quarterly estimates.

[FR Doc. 79-23851 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

California Department of Conservation et al.; Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 27, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

California Department of Conservation, Division of Oil and Gas

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-13102
2. 04-011-20126-
3. 103
4. Husky Oil Company
5. Gas Prod Ent Arbuckle #1
6. Grimes
7. Colusa, CA
8. 134.0 million cubic feet
9. July 19, 1979
10. Pacific Gas & Electric

1. 79-13103
2. 04-095-00000-
3. 103
4. Amerada Hess Corporation
5. Arco—Peterson #4
6. Lindsey Slough
7. Solano, CA
8. 164.0 million cubic feet
9. July 19, 1979
10. Pacific Gas and Electric Company

1. 79-13104
2. 04-095-20350-
3. 103
4. Amerada Hess Corporation
5. Rio Vista Gas Unit #184
6. Rio Vista
7. Solano, CA
8. 1,118.0 million cubic feet
9. July 19, 1979
10. Pacific Gas & Electric Company

1. 79-13105
2. 04-095-20355-
3. 103
4. Amerada Hess Corporation
5. M E Wineman #2
6. Maine Prairie
7. Solano, CA
8. 734.0 million cubic feet
9. July 19, 1979
10. Pacific Gas and Electric Company

1. 79-13106
2. 04-011-20126-
3. 103
4. Gas Producing Enterprises Inc
5. Arbuckle #1
6. Grimes (SW)
7. Colusa, CA
8. 73.0 million cubic feet
9. July 19, 1979
10. Pacific Gas & Electric

1. 79-13107
2. 04-011-20108-
3. 103
4. Gas Producing Enterprises Inc
5. Henshaw 2-10
6. Moon Bend
7. Colusa, CA
8. 94.0 million cubic feet
9. July 19, 1979
10. Pacific Gas & Electric

1. 79-13108
2. 04-095-20365-
3. 103
4. Gas Producing Enterprises Inc
5. Venture-Texaco Unit #1
6. Millar
7. Soland, CA
8. 110.0 million cubic feet
9. July 19, 1979
10. Pacific Gas & Electric

1. 79-13109
2. 04-095-20355-
3. 102
4. Amerada Hess Corporation
5. M E Wineman #2
6. Maine Prairie
7. Solano, CA
8. 734.0 million cubic feet
9. July 19, 1979
10. Pacific Gas and Electric Company

Montana Board of Oil and Gas Conservation

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-13101
2. 25-041-21842
3. 108
4. Tricentrol United States Inc
5. State 29-1-32-15
6. Bullhook Unit—Tiger Ridge
7. Hill, Mt
8. 19.8 Million cubic feet
9. July 19, 1979
10. Northern Natural Gas Company

Nebraska Oil and Gas Conservation Commission

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–13110
2. 26–033–06113
3. 102
4. Chain Oil Inc.
5. Schoen Well No. 1
6. Rush Creek
7. Cheyenne, NB
8. .0 million cubic feet
9. July 19, 1979
10.

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–13111
2. 30–015–00000
3. 108
4. Great Western Drilling Company
5. Burton State Com #1
6. Burton Flat Morrow
7. Eddy, NM
8. 1.1 million cubic feet
9. July 19, 1979
10. El Paso Natural Gas Company

1. 79–13112
2. 30–025–25540
3. 103
4. Amoco Production Company
5. State Dr No 1
6. Und-Lusk-Morrow
7. Lea, NM
8. 615.0 million cubic feet
9. July 19, 1979
10. Phillips Petroleum Company

1. 79–13113
2. 30–025–25975
3. 103
4. Amoco Production Company
5. State /C/ Tract 11 No. 7
6. Hardy Blinebry
7. Lea, NM
8. 876.0 million cubic feet
9. July 19, 1979
10. Northern Natural

1. 79–13114
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Myers Langlie-Mattix No. 119
6. Langlie Mattix
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. El Paso Natural Gas Company

1. 79–13115
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Myers Langlie-Mattix No. 155
6. Langlie Mattix
7. Lea, NM
8. 2.0 million cubic feet
9. July 19, 1979
10. El Paso Natural Gas Company

1. 79–13116
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Skelly Penrose A Unit No. 18
6. Langlie Mattix
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. Getty Oil Co. Natural Gas Plant

1. 79–13117
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 94
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. Phillips Petroleum Company, Warren Petroleum Corporation

1. 79–13118
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 104
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. Phillips Petroleum Company, Warren Petroleum Corporation

1. 79–13119
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 110
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. Phillips Petroleum Company, Warren Petroleum Corporation

1. 79–13120
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 914
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. Phillips Petroleum Company, Warren Petroleum Corporation

1. 79–13121
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Skelly Penrose B Unit No. 37
6. Langlie Mattix
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. Getty Oil Company Natural Gas Plant

1. 79–13122
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 25
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. Phillips Petroleum Company, Warren Petroleum Corporation

1. 79–13123
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 88
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. Phillips Petroleum Company, Warren Petroleum Corporation

1. 79–13124
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 20
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. Phillips Petroleum Company, Warren Petroleum Corporation

1. 79–13125
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 24
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. July 19, 1979
10. Phillips Petroleum Company, Warren Petroleum Corporation

North Dakota Geological Survey

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–13127
2. 33–007–00264
3. 102
4. Gulf Oil Corporation
5. Tarnavsky 2–9–10
6. Little Knife
7. Billings, ND
8. 122.0 million cubic feet
9. July 19, 1979
10. Montana Dakota Utilities

1. 79–13128
2. 33–025–00131
3. 102
4. Gulf Oil Corporation
5. Alvin Sabrosky 1–32–3B
6. Little Knife
7. Dunn, ND
8. 216.0 million cubic feet
9. July 19, 1979
10. Montana Dakota Utilities

1. 79–13129
2. 33–007–00317
3. 102
4. Gulf Oil Corporation
5. Radloff 4–21–4B
6. Little Knife
7. Billings, ND
8. 59.0 million cubic feet
9. July 19, 1979
10. Montana Dakota Utilities

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–13132
2. 47–097–01728
3. 103
4. Union Drilling Inc
5. RF & Jennie Nesbitt 1398
6. Union District
7. Upshur, WV
8. 24.0 million cubic feet
9. July 20, 1979
10. Columbia Gas Distribution Co

1. 79–13133
2. 47–033–21024
3. 108
4. Union Drilling Inc
5. E E Ogden 7108
6. Eagle District
7. Harrison, WV
8. 1.5 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Co

1. 79–13134
2. 47–001–20541
3. 108
4. Union Drilling Inc
5. Mabel Cleavenger 1234
6. Pleasant District
7. Barbour, WV
8. 12.9 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Co

1. 79–13135
2. 47–001–20168
3. 108
4. Union Drilling Inc
5. Oval Cleavenger 1089
6. Elk District
7. Barbour, WV
8. 3.6 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Co

1. 79–13136
2. 47–041–20810
3. 108
4. Union Drilling Inc
5. W E Bott 1034
6. Skin Creek District
7. Lewis, WV
8. .7 million cubic feet
9. July 20, 1979
10. Equitable Gas Co

1. 79–13137
2. 47–041–20459
3. 108
4. Union Drilling Inc
5. Leda S Beach 1019
6. Skin Creek District
7. Lewis, WV
8. 7.7 million cubic feet
9. July 20, 1979
10. Equitable Gas Co

1. 79–13138
2. 47–001–20151
3. 108
4. Union Drilling Inc
5. W E Talbott 1072
6. Elk District
7. Barbour, WV
8. 5.4 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Corp

1. 79–13139
2. 47–001–20179
3. 108
4. Union Drilling Inc
5. Raymond Chess 1093
6. Elk District
7. Barbour, WV
8. 5.4 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Corp

1. 79–13140
2. 47–097–20696
3. 108
4. Union Drilling Inc
5. Maynard Post 1047
6. Warren District
7. Upshur, WV
8. 1.3 million cubic feet
9. July 20, 1979
10. Columbia Gas Transmission Corp

1. 79–13141
2. 47–097–20711
3. 108
4. Union Drilling Inc
5. Nola Lane 1048
6. Buckhannon District
7. Upshur, WV
8. 7.2 million cubic feet
9. July 20, 1979
10. Columbia Gas Transmission Corp

1. 79–13142
2. 47–041–21734
3. 108
4. HNG Oil Company
5. Ethel Mae Mayle #3
6. Collins Settlement
7. Lewis, WV
8. 2.7 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Corp

1. 79–13143
2. 47–041–21721
3. 108
4. HNG Oil Company
5. Lillie J Marsh #1
6. Collins Settlement
7. Lewis, WV
8. 14.0 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Corp

1. 79–13144
2. 47–097–21618
3. 108
4. Union Drilling Inc
5. Hattie Phillips Estate 1347
6. Meade District
7. Upshur, WV
8. 9.8 million cubic feet
9. July 20, 1979
10. Columbia Gas Transmission Corp

1. 79–13145
2. 47–097–01600
3. 108
4. Union Drilling Inc
5. Jesse Wingfield 1343
6. Washington, District
7. Upshur, WV
8. 2.4 million cubic feet
9. July 20, 1979
10. Equitable Gas Co

1. 79–13146
2. 47–097–21614
3. 108
4. Union Drilling Inc
5. Zula Greene 1346
6. Meade District
7. Upshur, WV
8. 3.7 million cubic feet
9. July 20, 1979
10. Equitable Gas Co

1. 79–13147
2. 47–097–21553
3. 108
4. Union Drilling Inc
5. Waugh & Morris 1321
6. Buckhannon District
7. Upshur, WV
8. 8.4 million cubic feet
9. July 20, 1979
10. Corhart Refractories

1. 79–13148
2. 47–097–21564
3. 108
4. Union Drilling Inc
5. Ernest & Gatha Phipps 1323
6. Meade District
7. Upshur, WV
8. 13.5 million cubic feet
9. July 20, 1979
10. Columbia Gas Transmission Corp

1. 79–13149
2. 47–097–21551
3. 108
4. Union Drilling Inc
5. Ruth G Cross Agent #2 1324
6. Washington District
7. Upshur, WV
8. 10.9 million cubic feet
9. July 20, 1979
10. Equitable Gas Co

1. 79–13150
2. 47–097–21530
3. 108
4. Union Drilling Inc
5. Ira N Westfall 1313
6. Union District
7. Upshur, WV
8. 9.7 million cubic feet
9. July 20, 1979
10. Columbia Gas Transmission Corp

1. 79–13151
2. 47–041–20419
3. 108
4. Union Drilling Inc
5. Mary Smith 1017

6. Skin Creek District
7. Lewis, WV
8. 5.2 million cubic feet
9. July 20, 1979
10. Equitable Gas Co

1. 79–13152
2. 47–001–20675
3. 108
4. Union Drilling Inc
5. A I Swiger 1329
6. Pleasant District
7. Barbour, WV
8. 6.5 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Corp

1. 79–13153
2. 47–097–20781
3. 108
4. Union Drilling Inc
5. H A Casto 1066
6. Warren District
7. Upshur, WV
8. 2.9 million cubic feet
9. July 20, 1979
10. Columbia Gas Transmission Corp

1. 79–13154
2. 47–097–20660
3. 108
4. Union Drilling Inc
5. Rex Koon 1035
6. Warren District
7. Upshur, WV
8. 3.3 million cubic feet
9. July 20, 1979
10. Equitable Gas Co

1. 79–13155
2. 47–097–20591
3. 108
4. Union Drilling Inc
5. Julia Dawson 1021
6. Warren District
7. Upshur, WV
8. .4 million cubic feet
9. July 20, 1979
10. Columbia Gas Transmission Corp

1. 79–13156
2. 47–097–20245
3. 108
4. Union Drilling Inc
5. J S Lane 1005
6. Banks District
7. Upshur, WV
8. 6.8 million cubic feet
9. July 20, 1979
10. Columbia Gas Transmission Corp

1. 79–13157
2. 47–033–21022
3. 103
4. Union Drilling Inc
5. Glen T Griffin 7105
6. Eagle District
7. Harrison, WV
8. 39.2 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Corp

1. 79–13158
2. 47–041–20997
3. 108
4. Union Drilling Inc
5. A J Gould 1049
6. Hackers Creek District
7. Lewis, WV
8. 4.4 million cubic feet
9. July 20, 1979
10. Columbia Gas Transmission Corp

1. 79–13159
2. 47–033–21023
3. 103
4. Union Drilling Inc
5. G B Coffman 7107
6. Eagle District
7. Harrison, WV
8. 24.0 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Corp

1. 79–13160
2. 47–033–21157
3. 103
4. Union Drilling Inc
5. Wilson & Rexroad 1423
6. Eagle District
7. Harrison, WV
8. 11.4 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Corp

1. 79–13161
2. 47–033–21163
3. 103
4. Union Drilling Inc
5. Mable & Edward Martin 1422
6. Eagle District
7. Harrison, WV
8. 10.7 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Corp.

1. 79–13162
2. 47–041–02100
3. 103
4. Union Drilling Inc
5. Roy J. Linger 1391
6. Skin Creek District
7. Lewis, WV
8. 24.1 million cubic feet
9. July 20, 1979
10. Consolidated Gas Supply Corp.

1. 79–13163
2. 47–097–21713
3. 103
4. Union Drilling Inc
5. Billy Reger 1365
6. Meade District
7. Upshur, WV
8. 4.9 million cubic feet
9. July 20, 1979
10. Equitable Gas Co.

1. 79–13164
2. 47–097–21726
3. 103
4. Union Drilling Inc
5. D. F. Huffman 1353
6. Banks District
7. Upshur, WV
8. 36.5 million cubic feet
9. July 20, 1979
10. Columbia Gas Distribution Co.

U.S. Geological Survey, Metairie, La.

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area name
7. County, State or Block No.
8. Estimated Annual volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–13061
2. 17–710–40518–0000–0
3. 102
4. Forest Oil Corporation
5. Eugene Island Block 314 G–6–A
6. Eugene Island
7. 314
8. 19.0 million cubic feet
9. July 19, 1979
10. Columbia Gas Transmission Corp, Texas Gas Transmission Corp, Consolidated Gas Supply Corp

1. 79–13062
2. 17–705–40242–0000–0
3. 102
4. Houston Oil & Minerals
5. OCS G–3392 #B–1 (2)
6. Vermilion Area
7. 50
8. 1,670.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission Corp

1. 79–13063
2. 17–705–40280–0000–0
3. 102
4. Houston Oil & Minerals
5. OCS G–3392 #D–2 (#7)
6. Vermilion Area
7. 50
8. 680.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission Corp

1. 79–13064
2. 17–705–40265–0000–0
3. 102
4. Houston Oil & Minerals
5. OCS–G–2303 (#3) A–2
6. South Marsh Island
7. 257
8. 700.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas Pipeline Co

1. 79–13065
2. 17–707–40268–0000–0
3. 102
4. Houston Oil & Minerals
5. OCS–G–2303 (#4) A–3
6. South Marsh Island
7. 257
8. 500.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas Pipeline Co

1. 79–13066
2. 17–703–40126–0000–0
3. 102
4. Sonat Exploration Company
5. OCS G–2038 NO A–18
6. East Cameron
7. 231
8. 1,699.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13067
2. 17–705–40251–0000–0
3. 102
4. Houston Oil & Minerals
5. OCS G–3392 #C–2 (3)
6. Vermilion Area
7. 50
8. 30.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission Corp

1. 79–13068
2. 17–703–40115–0000–0
3. 102

4. Sonat Exploration Company
5. OCS G–2038 NO A–17
6. East Cameron
7. 231
8. 1,501.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13069
2. 17–708–40261–0000–0
3. 102
4. Pennzoil Oil & Gas Inc
5. Pennzoil Co A–14
6. South Marsh Island, SA
7. 128
8. 90.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13070
2. 17–708–40282–0000–0
3. 102
4. Pogo Producing Company
5. Pennzoil Co A–17 D
6. South Marsh Island, SA
7. 125
8. 1,100.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13071
2. 17–708–40286–0000–0
3. 102
4. Pogo Producing Company
5. Pennzoil Co C–1
6. South Marsh Island, SA
7. 128
8. 90.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13072
2. 17–708–40313–0000–0
3. 102
4. Pogo Producing Company
5. Pennzoil Co C–6D
6. South Marsh Island, SA
7. 128
8. 90.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13073
2. 17–708–40161–0000–0
3. 102
4. Pogo Producing Company
5. Pennzoil Co A–6
6. South Marsh Island, SA
7. 128
8. 180.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13074
2. 17–708–40344–0000–0
3. 102
4. Pogo Producing Company
5. Pennzoil Co A–22
6. South Marsh Island, SA
7. 125
8. 150.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13075
2. 17–708–40344–0000–0
3. 102
4. Pennzoil LA and TX Offshore
5. Pennzoil Co A–22D
6. South Marsh Island, SA
7. 125
8. 100.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13076
2. 17–708–40129–0000–0
3. 102
4. Pennzoil LA and TX Offshore
5. Pennzoil Co A–15D
6. South Marsh Island, SA
7. 128
8. 150.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13077
2. 17–722–40024–0000–
3. 102
4. Chevron USA Inc
5. OCS–G–2184 #A–1
6. South Pass
7. 78
8. 279.0 million cubic feet
9. July 19, 1979
10.

1. 79–13078
2. 17–710–40530–0000–0
3. 102
4. Forest Oil Corporation
5. Eugene Island Block 309 G–11
6. Eugene Island
7. 309
8. 246.0 million cubic feet
9. July 19, 1979
10. Columbia Gas Transmission Corp, Texas Gas Transmission Corp, Consolidated Gas Supply Corp

1. 79–13079
2. 17–705–40280–0000–0
3. 102
4. Houston Oil & Minerals Corp
5. OCS G–3392 #D–2D (#7)
6. Vermilion Area
7. 50
8. 1,450.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission Corp

1. 79–13080
2. 17–721–40131–0000–0
3. 102
4. Shell Oil Co
5. OCS 0694 NO 177
6. South Pass
7. 28
8. 40.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas Pipeline Co

1. 79–13081
2. 17–721–40136–0000–0
3. 102
4. Shell Oil Co
5. OCS 0694 NO 188
6. South Pass
7. 28
8. 360.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas Pipeline Co

1. 79–13082
2. 17–715–40144–0000–0
3. 102
4. Mobil Oil Exp & Prod
5. South Timbalier 36 B–2–D
6. South Timbalier
7. 36
8. 1,413.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas Pipeline Co, Columbia Gas Trans Corp, Texas Eastern Transmission, Southern Natural Gas Co

1. 79–13083
2. 17–704–40320–0000–0
3. 102
4. Pogo Producing Company
5. Pennzoil Co C–8
6. South Marsh Island, SA
7. 128
8. 150.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13085
2. 17–703–40123–0000–0
3. 102
4. Sonat Exploration Company
5. OCS G 2038 NO A–7
6. East Cameron
7. 231
8. 1,799.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co

1. 79–13086
2. 17–715–40144–0000–0
3. 102
4. Mobil Oil Exp & Prod
5. South Timbalier 36 B–2
6. South Timbalier
7. 36
8. 2,256.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas Pipeline Co, Columbia Gas Trans Corp, Texas Eastern Transmission, Southern Natural Gas Co

1. 79–13087
2. 17–715–40220–0000–0
3. 102
4. Gulf Oil Corporation
5. OCS G–3336 well No E–3
6. South Timbalier Block 37
7. 35
8. 401.0 million cubic feet
9. July 19, 1979
10. Texas-Eastern Transmission Corp

1. 79–13088
2. 17–705–40242–0000–0
3. 102
4. Houston Oil & Minerals
5. OCS G–3392 #B–1D (#2)
6. Vermilion area
7. 50
8. 30.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission Corp

1. 79–13089
2. 17–710–40655–0000–0
3. 102
4. Forest Oil Corporation
5. Eugene Island Block 292 B–11
6. Eugene Island
7. 292
8. 2000.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission Corp

1. 79–13090
2. 17–719–40099–0000–0
3. 102
4. Gulf Oil Corporation
5. OCS G–1988 well 6
6. West Delta
7. 36
8. 47.0 million cubic feet
9. July 19, 1979

10. Texas Eastern Transmission Corp
1. 79-13091
2. 17-721-40119-0000-0
3. 102
4. Shell Oil Co
5. OCS 0694 No 182
6. South Pass
7. 28
8. 20.0 million cubic feet
9. July 19, 1979
10. Tennessee Gas Pipeline Co
1. 79-13092
2. 17-705-40264-0000-0
3. 102
4. Houston Oil & Minerals
5. OCS G-3392 #D-1 (#6)
6. Vermilion area
7. 50
8. 1110.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission Corp
1. 79-13093
2. 17-705-40261-0000-0
3. 102
4. Gulf Oil Corporation
5. OCS-G-3543 #1
6. Vermilion block 39
7. 24
8. 10600.0 million cubic feet
9. July 19, 1979
10. Texas Eastern Transmission Corp
1. 79-13094
2. 17-700-40319-0000-0
3. 102
4. Gulf Oil Corporation
5. W Cam 197 OCS-G-3264 #2
6. West Cameron Block 198
7. 197
8. 9125.0 million cubic feet
9. July 19, 1979
10. Texas Eastern Transmission Corp
1. 79-13095
2. 17-700-40200-0000-0
3. 102
4. Gulf Oil Corporation
5. W Cam 198 OCS-3265 #A-1
6. West Cameron
7. 198
8. 4015.0 million cubic feet
9. July 19, 1979
10. Texas Eastern Transmission Corp
1. 79-13096
2. 17-708-40253-0000-0
3. 102
4. Pennzoil Louisiana and Texas Offsho
5. Pennzoil Co B-16D
6. South Marsh Island, SA
7. 128
8. 1500.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co
1. 79-13097
2. 17-708-40240-0000-0
3. 102
4. Pogo Producing Company
5. Pennzoil Co A-13
6. South Marsh Island, SA
7. 128
8. 50.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co
1. 79-13098
2. 17-708-40286-0000-0
3. 102
4. Pogo Producing Company
5. Pennzoil Co C-1D
6. South Marsh Island, SA
7. 128
8. 100.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co
1. 79-13099
2. 17-708-40240-0000-0
3. 102
4. Pogo Producing Company
5. Pennzoil Co A-13D
6. South Marsh Island, SA
7. 128
8. 100.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co
1. 79-13100
2. 17-708-40373-0000-0
3. 102
4. Pogo Producing Company
5. Pennzoil Co C-12D
6. South Marsh Island, SA
7. 128
8. 150.0 million cubic feet
9. July 19, 1979
10. Sea Robin Pipeline Co
1. 79-13130
2. 17-702-40375-0000-0
3. 102
4. Amoco Production Company
5. OCS-G-2231 No A-2D
6. West Cameron
7. 605
8. 1670.0 million cubic feet
9. July 19, 1979
10. Columbia Gas Transmission Corp
1. 79-13084
2. 42-711-40161-0000-0
3. 102
4. Union Oil Company of California
5. A-1
6. East High Island
7. A-334
8. 1825.0 million cubic feet
9. July 19, 1979
10. Texas Gas Transmission Corp; El Paso Natural Gas Co; Michigan-Wisconsin Pipeline Co

U.S. Geological Survey, Albuquerque, N.M.
1. Control Number (F.E.R.C./State)
2. API well No
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-13131
2. 30-045-11718-0000-0
3. 108
4. Tenneco Oil Company
5. Hamner #5
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 10.0 million cubic feet
9. July 20, 1979
10. El Paso Natural Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before August 20, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24052 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-52]

State of Virginia, § 108 NGPA Determination, Applicant: Ray Resources, Division of Flying Diamond Oil Corp., Consol Ray #9 Well, JD79-9241; Preliminary Finding

Issued: July 26, 1979.

On June 18, 1979, the State of Virginia Department of Labor and Industry, Division of Mines, submitted to the Commission a notice of determination which states that the Ray Resources' Consol Ray #9 well qualifies for a maximum lawful price for stripper well natural gas under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published Virginia's notice on July 3, 1979. The notice then was published in the Federal Register on July 12, 1979.

Section 108(b)(1) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf per production day during a 90-day production period. The well also must have been producing at its maximum rate of flow during the same period. Section 271.804(d)(2) of our interim regulations provides that a well which has produced non-associated gas at an average rate of 60 Mcf per day or less during the 90-day period is presumed to be producing at its maximum efficient rate of flow if, during the 12-month period ending concurrently with the 90-day period, the well produced nonassociated natural gas at an average rate of 60 Mcf per day or less.

The production records accompanying the notice of determination show that the average daily production of natural gas from the Consol Ray #9 well during the 90-day period upon which the application is based was 54.86 Mcf per day. However, no current production capability test establishing a maximum efficient rate of flow was reported and production records for the 12 month period, ending on the last day of the 90-day qualifying period, show an average production of 70.60 Mcf of gas per day.

Thus, it appears that the record does not contain substantial evidence to support Virginia's determination that the well qualifies as a stripper well under section 108 of the NGPA.

Accordingly, the Commission hereby makes a preliminary finding, pursuant to 18 C.F.R. § 275.202(a)(1)(i), that the determination submitted by the State of Virginia Department of Labor, Division of Mines that the Ray Resources' Consol Ray #9 well qualifies as a stripper well under section 108 of the NGPA is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24038 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-50]

State of West Virginia, § 108 NGPA Determination, Ashland Exploration, Inc., W. M. Ritter Lumber Co. #176 Well, JD79-8089; Notice of Preliminary Finding

Issued: July 26, 1979.

On June 11, 1979, the State of West Virginia Department of Mines, Oil & Gas Division (West Virginia) submitted to the Commission, a notice of determination that the Ashland Exploration, Inc., W. M. Ritter Lumber Co. #176 well qualifies as a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of West Virginia's determination on June 27, 1979.

Generally, a well qualifies as a stripper well under section 108 of the NGPA only if, among other requirements, the well did not produce natural gas at a rate exceeding 60 Mcf per production day during a certain recent 90-day period. Production day is defined in section 108(b)(3) of the Act of as any day during which the well produced natural gas, and any day during which natural gas was not produced because of a recognized State conservation practice or an applicable State law.

The information, Accompanying West Virginia's determination, indicates that the well produced 4,657 Mcf of natural gas during the relevant 90-day period. The information also reveals that the well did not produce at all for 13 days during the same 90-day period; but there is no indication in the record that the subject well did not produce during those 13 days because of any recognized State conservation practice or applicable State Law. Consequently, the record on which West Virginia based its determination suggests that the well produced natural gas at a daily average of 60.48 Mcf during the 77 production days in the relevant 90-day period. Thus, it appears that the well produced natural gas at a rate exceeding 60 Mcf per production day during the relevant 90-day period.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to 18 C.F.R. of § 275.202(a)(i)) that the determination submitted by the State of West Virginia Department of Mines, Oil & Gas Division—that the Ashland Exploration, Inc., W. M. Ritter Lumber Co. #176 well qualifies as a stripper well under section 108 of the NGPA—is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary

[FR Doc. 79-24049 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP79-53 and RP79-54, et al.]

Arkansas Louisiana Gas Co., et al.; Further Extension of Time

July 30, 1979.

On April 11, 23, and May 11, 1979, extensions of time were granted for compliance with the filing requirement of Ordering Paragraph (N) of the Commission's order of March 30, 1979.

Notice is hereby given that a further extension of time is granted to and including August 31, 1979, for compliance with Ordering Paragraph (N) by all pipelines to which the Paragraph applies.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24053 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-528]

Cincinnati Gas & Electric Co.; Filing

July 30, 1979.

Take notice that the Cincinnati Gas & Electric Company (CG&E) on July 20, 1979, tendered for filing proposed changes in its FERC Electric Tariff, First Revised Volume No. 1 which cancel and supersede the rate schedules in said tariff applicable to wholesale electric service to: The Villages of Bethel, Blanchester, Georgetown, Hamersville and Ripley, Municipalities in the State of Ohio; Union Light, Heat and Power Company, a wholly owned subsidiary of CG&E which ultimately serves retail consumers within the Commonwealth of Kentucky; and, West Harrison Gas and Electric Company, a wholly owned subsidiary of CG&E which ultimately serves retail consumers within the State of Indiana.

The proposed tariff revisions will increase annual electric jurisdiction revenues approximately $5.7 million based upon the estimated twelve month period ended December 31, 1979, according to CG&E.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24054 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EL79-8]

Central Power and Light Company, et al.; Order Instituting Investigation, Granting Intervention, Granting Motion To Dismiss in Part, Denying Motion To Dismiss in Part, and Establishing Hearing Procedures

July 26, 1979.

Before the Commission is an application for exemptions from orders of the Texas Public Utility Commission and a request for orders requiring interconnection, wheeling and related relief filed by Central Power and Light ("CPL"), Public Service Company of Oklahoma ("PSO"), Southwestern Electric Power Company ("SWEPCO") and West Texas Utilities Company ("WTU") (collectively referred to as "the CSW Companies").[1] This order directs the Commission Staff to investigate the issues underlying the application and establishes hearing procedures.

I. Introduction

A significant portion of the electric energy produced, transmitted, and sold in the State of Texas is provided by electric utilities which are not interconnected with the public utilities under Part II. or with systems of other states. These exclusively intrastate utilities include Dallas Power & Light Company (DPL), Texas Electric Service Company (TESCO) and Texas Power & Light Company (TPL) (collectively referred to as TU Companies)[2] and Houston Lighting and Power Company (HPL). The TU Companies and HLP are directly or indirectly interconnected with each other and are members of the Electric Reliability Council of Texas ("ERCOT"). Those utilities with generating capacity are also members of the Texas Interconnected System (TIS). Agreements among the TIS companies contain provisions which either prohibit or require notice before a member can transmit or sell power in interstate commerce.

Historically, applicant WTU was comprised of two independent divisions: the Northern Division which operated in interstate commerce and the Southern Division which was interconnected with other utilities operating solely in intrastate commerce in the State of Texas. Applicant CPL is directly interconnected with WTU's Southern Division, and both CPL and the Southern Division of WTU are members of both TIS and ERCOT. Applicants PSO and SWEPCO are members of the Southwest Power Pool (SWPP), an interstate coordinated and intercorrected group of utilities adjoining ERCOT's territory in Oklahoma and Louisiana.

On May 4, 1976, WTU energized certain radial ties and began transmitting power from its Southern Division to PSO for resale to customers in Oklahoma. Upon discovering the interstate connection effectuated by WTU, the TU companies and HLP disconnected their electric systems from systems interconnected with CPL and WTU and from each other.

On July 21, 1976, the Commission issued its "Order Rejecting In Part And Accepting In Part Application For Action Pursuant to Section 202" in Docket No. E-9558. By this order the Commission determined that WTU and CPL were "public utilities" as defined by Section 201(e) of the Federal Power Act, and thus subject to Commission jurisdiction. The Commission also held that HLP and the TU Companies were not "public utilities" as defined by the Federal Power Act and were not subject to Commission jurisdiction. The Commission authorized the voluntary temporary reconnection of HLP and the TU companies with CPL and WTU pursuant to Section 202(d) of the Federal Power Act, related to emergency interconnections, emphasizing that such interconnection would not cause these utilities later to be found as "public utilities" under the Federal Power Act, subject to Commission jurisdiction. The Commission denied CPL and WTU's petition for permanent and emergency interconnections pursuant to Section 202 (b) and (c) and ordered that the Commission Staff prepare a Section 202(a) study updating and amending a 1972 report concerning the proposed interconnection of ERCOT and SWPP.[3]

On May 2, 1977, June 2, 1977, and July 11, 1977, the Public Utility Commission of Texas (Texas PUC) entered interim, final, and amended final orders in Docket No. 14. These orders prohibited WTU from re-establishing the interstate connection between its Southern Division and Northern Division unless:

A. The contractual prohibitions against interstate sales shall finally be adjudicated to be void or voidable.

B. This Commission [PUC] shall authorize or the Federal Power Commission shall order a connection, or

C. A court of competent jurisdiction shall order WTU to take action inconsistent with the foregoing prohibition.[4]

On February 9, 1979, the CSW companies filed an application for relief under Section 205 of the Public Utility Regulatory Policies Act of 1978 ("PURPA"),[5] and Sections 202, 210, 211, and 212 of the Federal Power Act ("the Act"), as added by Sections 202, 203, and 204 of PURPA (16 U.S.C. Sections 824–a–1, 824h, 824i, 824j, and 824k).[6] Under Section 205(a) of PURPA, the Commission has the authority to exempt electric utilities from any state law, rule or regulation that prohibits or prevents the voluntary coordination of electric utilities. The CSW Companies seek an exemption under this section from three orders issued by the Public Utilities Commission of Texas (Texas PUC) which the Companies claim prevents CPL and WTU from interconnecting with any interstate source of electricity. These orders have allegedly prevented the CSW Companies from proceeding to develop voluntary coordination among themselves.

In addition, the CSW Companies have requested the Commission to order a general interconnection, including wheeling and related relief, among members of ERCOT and SWPP. The Commission's authority to order such interconnection under Section 202(b) of the Federal Power Act has been expanded under PURPA, Sections 202, 203 and 204 which created Sections 210, 211 and 212 of the Federal Power Act.

Between February 9, and April 13, 1979, twenty-nine petitions to intervene were filed in this docket from a variety

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[1] "Application Of Central Power And Light Company And Others For Exemption From State Commission Orders Preventing Voluntary Coordination Pursuant To Section 205 Of The Public Utility Regulatory Policies Act Of 1978, And Interconnection Of Facilities, Provision Of Transmission Services And Related Relief Pursuant To Sections 202, 210, 211, and 212 Of The Federal Power Act," filed February 9, 1979.

CPL, WTU, PSO and SWEPCO are all operating subsidiaries of a public utility holding company, Central and Southwest.

[2] DPL, TESCO and TPL are all operating subsidiaries of a public utility holding company, Texas Utilities.

[3] The Staff report, prepared by the Ft. Worth Regional Office, is entitled "Staff Report on Electric Reliability Council of Texas Interconnection and Reliability Evaluation." (March, 1978).

By order issued September 17, 1976, the Commission denied rehearing of its July 21, 1976 order. Petitions for review of the Commission's orders were filed and the United States Court of Appeals for the District of Columbia Circuit remanded the Commission's order for clarification and, if necessary, further development of the record Central Power and Light Company, et al., v. Federal Energy Regulatory Commission 575 F. 2d 937 (D.C. Cir. 1978), cert. denied sub. nom. (Docket No. 78-318 November 27, 1978).

[4] Final Order, Docket 14 at 8.

[5] Public Law No. 95-617 (1978).

[6] Notice of the application was issued on February 22, 1979, with protests or petitions to intervene to be filed no later than March 30, 1979. On April 2, 1979, the Commission extended the time in which to file petitions and protests to April 13, 1979.

of investor-owned utilities, electric cooperatives, municipal systems, state regulatory bodies, private citizens and consumer groups.[7] These petitions raise a number of issues concerning the merits of the application, the need for an evidentiary hearing and the scope of that proceeding and will be discussed below. We find that participation by these petitioners would be in the public interest and will, therefore, grant intervention.

II. Discussion

A. *Request For Relief Under Section 205 of PURPA.*

Pursuant to Section 205 of the PURPA,[8] applicants request an order exempting CPL and WTU from those provisions of the Texas PUC orders which they claim prevent WTU and CPL from voluntarily operating electric interconnections outside ERCOT and which, therefore, have the effect of preventing applicants from voluntary coordination among and between themselves. Applicants request that such exemption be granted in a summary or expedited manner by this Commission "since such orders stand as preliminary obstacles to the pursuit of any voluntary coordination by applicants whatever."[9]

Petitioners raise a variety of arguments against the requested relief. Petitioners HLP[10] and the TU Companies[11] argue in favor of dismissal of the Section 205 application based on prior judicial proceedings involving issues raised in this application. HLP argues that the question of whether to grant relief under Section 205 has been mooted by the decision and order of the United States District Court for the Northern District of Texas in *West Texas Utilities Co.* v. *Texas Electric Service.*[12] The final order in that case prohibits CPL from transmitting any electricity received by it from the South Texas Project Nuclear Plant into interstate commerce. That order, the, prevents CPL from interconnecting outside ERCOT when and if CPL begins to receive power from the yet to be constructed South Texas Project. Since the order prohibits interconnection only at some uncertain point in the future—viz, when the CPL receives power from the project, it does not decide the question of whether CPL and WTU meet the standards for exemption from the Texas PUC order as stated in Section 205.

The TU Companies point to another prior judicial proceeding to support their motion to dismiss the CSW application for relief under Section 205. The Texas PUC orders are currently the subject of an appeal in the Texas state court[13] as well as the subject of collateral attack in the federal courts.[14] With regard to the federal court action, the United States District Court for the Western District invoked the abstention doctrine to withhold consideration of the appeal's merits until the matter is resolved by the Texas state court. The decision of the Western District was upheld on appeal.

According to TU, this Commission should follow the lead of the federal courts and defer any action under Section 205 until the state court has acted. We disagree. The doctrine of abstention applies to the relationship between the state and federal courts and is properly invoked where an unconstrued state statute is susceptible of a construction by the state judiciary which might avoid, in whole or in part, the necessity for federal constitutional adjudication, or at least materially change the nature of the problem. *Railroad Commission of Texas* v. *Pullman*, 312 U.S. 496 (1941). The Commission's consideration of the Section 205 application in this case involves an agency's interpretation of its own statute: it does not involve consideration of the state law or constitutional law questions present in the judicial proceedings in the state or federal courts. We reject, therefore, the argument advanced by TU and will not defer consideration of CSW's Section 205 application.

Several other arguments have been made in favor of dismissal of the Section 205 application which go to the merits of the application and cannot be decided without an evidentiary accord. These include HLP's argument as to whether or nor the statutory requirements of Section 205 have been met. In addition, the Texas PUC has argued that the Section 205 application should be dismissed because the Docket 14 orders do not prevent voluntary interconnection but, instead, merely require CPL and WTU to interconnect in accordance with their contractual agreement with members of ERCOT. These issues cannot be resolved on the basis of the pleadings and must be litigated in an evidentiary hearing. We will, therefore, institute proceedings to investigate and decide the merits of CSW's request for Section 205 relief.

B. Applicant's Request for Relief under Sections 202, 210, 211, and 212 of the Act.

1. Jurisdiction

The Commission's jurisdiction over ERCOT members DPL, TESCO and TPL has been challenged by petitioner Texas PUC[15] and the TU Companies.[16] Both petitioners argue that the Commission is without authority to order interconnection, wheeling and related relief which would affect these utilities because DPL, TESCO and TPL are not operating in interstate commerce and are, therefore, not subject to the Commission's jurisdiction under Section 201 of the Federal Power Act.[17]

Since the Commission's authority to order interconnection under section 202(b) is conditioned upon a jurisdictional finding under Section 201, the argument raised by petitioners warrants dismissal of applicant's request for relief under Section 202 of

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[7] See Appendix A. Among the twenty-nine petitioners, sixteen support the CSW application in whole or in part, six oppose the application, and seven have not taken a position at this stage.

[8] Section 205(a) of the PURPA provides, in pertinent part, that the Commission may exempt electric utilities from any provision of State laws, rules or regulations which prohibit or prevent the voluntary coordination of electric utilities "if the Commission determines that such voluntary coordination is designed to obtain economical utilization of facilities and resources in any area." No such exemption may be granted if the Commission finds that such provision of State law rule or regulation—

(1) is required by any authority of Federal law, or

(2) is designed to protect public health, safety, or welfare or the environment or conserve energy or is designed to mitigate the effects of emergencies resulting from fuel shortages.

[9] Application at 11.

[10] "Response of Houston Lighting and Power Company to application of Central Power and Light Company, et al., and Request for an Order Scheduling Conference," filed April 2, 1979.

[11] "Motion To Dismiss of Dallas Power & Light Company, Texas Electric Service Company and Texas Power & Light Company," filed March 30, 1979

[12] The provision of the WTU contract with TESCO providing that neither can sell power in interstate commerce is the subject of a suit brought in the United States District Court for the Northern District of Texas pursuant to the Sherman Act (15 U.S.C. 1): West Texas Utilities Co., *et al.*, v. Texas Electric Service Co., *et al.*, No. CA3-78-0633 F (N.D. Texas, January 30, 1979).

[13] Central Power & Light Co., et al., v. The Public Utility Commission of Texas (Travis County Docket Nos. 261, 605).

[14] Central Power & Light Co., et al., v. The Public Utility Commission of Texas, No 78-2319 (5th Cir. March 28, 1979).

[15] "Notice Of The Public Utility Commission Of Texas Of Its Amendment To Protest Of The Public Utility Commission of Texas, And, In The Alternative, Notice Of Intervention And Request For Relief Adding Request For Declaratory Order Disclaiming Jurisdiction And Dismissing Application Or, In The Alternative, Request For Severance Of Issue Of Federal Energy Regulatory Commission Jurisdiction," filed April 20, 1979.

[16] See n.9.

[17] Section 201(b) of the Act, provides for federal regulation of electric utility companies over "the transmission of electric energy in interstate commerce and . . . the sale of electric energy at wholesale in interstate commerce." Section 201(c) of the Act, 16 U.S.C. § 824(c), defines energy transmitted in interstate commerce as energy "transmitted from a state and consumed at any point outside thereof."

the Act. While the jurisdictional status of TPL is being challenged in another proceeding before this Commission,[18] DPL, TESCO and TPL are not currently public utilities within the meaning of Section 202(b) of the Act. We will, therefore, dismiss the applicants' request for relief under Section 202(b) of the Act without prejudice to renew if the jurisdictional status of any of the utilities subject to the Section 202 request is changed.

The arguments raised by petitioners, however, address the Commission's jurisdiction only with respect to Section 202 of the Act and fail to consider the expansion of the Commission's authority to order interconnection and wheeling under Sections 210 and 211 of the Act as added by PURPA. As CSW points out, "whether or not the 'instrastate' ERCOT companies are subject to the jurisdiction of this Commission for purposes other than the ordering of interconnection or wheeling [under Sections 210 and 211] is irrelevant."[19] Sections 210 and 211 of the Act clearly state that interconnection and wheeling orders issued pursuant to those sections may apply to any electric utilities if the stated criteria are met.[20] Section 201(22) of PURPA defines electric utility as "any person or state agency which sells electric energy." Clearly, electric utilities as used in Sections 210 and 211 include both intrastate and interstate utilities.[21] We find no merit, then in the arguments for dismissal on jurisdictional grounds with respect to relief available under Sections 210 and 211 and such motions will be denied. For the same reason, the Texas PUC's request for severance of the jurisdictional issue is also denied.

2. Sufficiency of Application

TU argues in favor of dismissal of the application on the ground that the allegations contained therein are contrary to certain findings of fact and conclusions of law contained in *West Texas Utilities, supra*. With respect to Judge Porter's findings as to the sufficiency and merit of the CSW study, no such study is required to support CSW's application at this stage of the proceeding. CSW will be required to support its allegations with a study at a later stage but any decision on the *res judicata* or collateral estoppel effect of Judge Porter's findings will have to await submission of that study.

With regard to those findings made by Judge Porter under PURPA, it is clear that since no relief was sought under PURPA in that suit, those findings were neither within the scope of the pleadings nor actually litigated by the parties and thus provide no support for dismissal on either collateral estoppel or *res judicata* grounds.[22] *See, Diplomat Electric Inc.* v. *Westinghouse Electric Supply Co.*, 430 F. 2d 38, 45 (5th Cir. 1970).

Further, it is a well-established principle that a court cannot make findings on matters which Congress has set aside exclusively for an administrative agency. *See, FTC* v. *Sperry Hutchinson Co.*, 405 U.S. 233, 249 (1972); *Burlington Trucklines* v. *United States*, 371 U.S. 156, 169 (1962). We find, then, that Judge Porter's findings with regard to PURPA were outside the scope of the case before him and were beyond the jurisdiction of that court and are, therefore, not binding in this proceeding.

Both HLP and TU object to the CSW application on the grounds that it is statutorally deficient and lacks sufficient specificity. As CSW points out, the application specifically identified the interconnections and other relief CSW is requesting the Commission to order and thus satisfies Section 32.1 and 32.3 of the Rules of Practice and Procedure. Further, CSW's application states that these interconnections and other relief would satisfy the specific criteria contained in Sections 210, 211, and 212 of PURPA. Since the Commission has not yet adopted regulations which define the degree of specificity required for applications under Sections 210 and 211 of the Act, we cannot require CSW to make a showing beyond that which is required by our current regulations under Section 202 of the Act and that which is required by the language in Sections 210 and 211. In addition, it is clear that no decision on the merits of CSW's application will be made on the basis of the application alone. We find, therefore, that CSW's application for relief under Section 210 and 211 merits investigation. We will direct the Staff to conduct such an investigation and will institute proceedings to develop a record on all issues presented by the request for relief under these sections.

3. Scope of Investigation

With regard to the scope of the investigation, the proceeding will be limited to an examination of the issues presented by the criteria listed in Sections 210, 211, and 212 as they relate to the relief requested in CSW's application. In addition, the petitions to intervene raise several additional issues.[23] To the extent that these issues address the general issue of whether CSW's requested relief meets the criteria of Sections 210, 211, and 212, these issues will be addressed in the course of the hearing. Finally, the issues to be decided in this proceeding are of great importance to both parties and non-parties. We find, therefore, that the assistance of Staff in developing a

[18] Texas Power & Light Co., Docket No. E-9576 (relating to the location and operation of the Denison Dam).

[19] "Response of Central Power and Light Company, *et al.* To Notice Of The Public Utility Commission Of Texas," filed April 30, 1979, at 2.

[20] With regard to the Commission's interconnection authority, Section 210(a)(1) provides that:

"Upon application of any electric utility, Federal Power marketing agency, qualifying cogenerator, or qualifying small power producer, the Commission may issue an order requiring—

"(A) the physicaly connection of any cogeneration facility, any small power production facility, or the transmission facilities of *any electric utility*, with the facilities of such applicant. . .."

With regard to the Commission's authority to order wheeling, Section 211(a) provides that: Any electric utility or Federal power marketing agency may apply to the Commission for an order under this subsection requiring *any other electric utility* to provide transmission services to the applicant (including any enlargement of transmission capacity necessary to provide such services). (emphasis added)

[21] Section 212(b)(2) indicates that the application of Sections 210 and 211 to utilities that are non-jurisdictional for purposes of "pre-PURPA" Sections of the Act was clearly contemplated:

The provisions of Sections 210, 211 and 212 shall apply to the entities described in such provisions, and such entities shall be subject to the jurisdiction of the Commission for purposes of carrying out such provisions and for purposes of applying the enforcement authorities of this Act with respect to such provisions. Compliance with any order of the Commission under the provisions of Section 210 or 211, shall not make an electric utility or other entity subject to the jurisdiction of the Commission for any purpose other than the purpose specified in the preceding sentence.

[22] It should be noted that PURPA did not take effect until November 9, 1978—six weeks after the antitrust trial in the Western District began and only three court days before the conclusion of the evidentiary presentation.

[23] On March 27, 1979, the City of El Paso petitioned to intervene in support of the general request for relief in the CSW application and indicated that the City "may require an order specifically recognizing its particular needs." (Petition at 6).

The Electric Consumers of Texas, (ECT) petitioned to intervene on March 29, 1979, supporting the CSW application and, in addition, requesting the Commission to investigate, *inter alia*, the feasibility of less reliance on nuclear power in Texas, whether the generating capacity of ERCOT and TIS is excessive, and the level of electric reliability of ERCOT and TIS as it relates to certain power failures experienced by the member utilities in 1977 and 1979.

On March 30, 1979, the City of Brownsville, Texas petitioned to intervene in this proceeding. Brownsville supported the CSW application and, in addition, requested that the Commission to "fashion its relief to guarantee generally that the advantages of interconnection transmission, full coordination and central dispatch are shared equitably with small systems by addressing the obligation of larger systems, when requested so to do, to include smaller systems in joint planning and coordination. and to make available transmission facilities and service, transmission of purchased power, and standard interchange services, in an equitable way." (Petition at 4).

complete record on all issues is of particular importance.

C. *Miscellaneous Issues.*

1. Need for Environmental Impact Statement

The relief requested by applicants may, if granted, constitute a major federal action significantly affecting the quality of the human environment. We will, therefore, direct the applicant to prepare a detailed report of the environmental factors specified in Section 4.41 of the Rules of Practice and Procedure.[24] The Staff shall make an initial review of the applicant's environmental report and, if necessary, require the applicant to correct deficiencies in the report.

The application will be made available to all relevant federal and state agencies and the public with the opportunity for comment on the environmental effects of the proposed relief. The applicant will be given an opportunity to respond to these comments. The Staff will then analyze such material to determine whether the proposed interconnections, if granted, would constitute a major federal action significantly affecting the quality of the environment. If it is so determined, the Staff will then prepare a draft environmental impact statement. After an appropriate comment period, Staff will prepare a final Environmental Impact Statement (EIS) which shall be based on a detailed independent analysis of the action as well as any comments submitted. All Staff members involved in the preparation of the EIS shall be available for cross-examination at hearing.

2. Requests Under Section 319 of the Act

Petitioner ECT requests compensation for reasonable attorney's fees, expert witness fees, and other costs of intervening and participating before the Commission under Section 319 of the Act, as added by Section 212 of PURPA. Under the terms of that Section, any such compensation must be made post-hearing and after a determination as to the nature of the intervenor's contribution to the proceeding. We will, therefore, decline the request for compensation at this time without prejudice to renew after completion of the hearing.

3. Hearing Site

Several petitioners request that all or part of the hearing in this docket be held in some location in the Southwestern United States for the convenience of the majority of parties and interested citizens.[25] While we will defer to the Presiding Judge as to scheduling and specific location, we suggest that a significant portion of the hearing be held in the Southwestern United States to accommodate the interests asserted.

The Commission orders: (A) The Motion to Dismiss of Dallas Power & Light Co., Texas Electric Service Co., and Texas Power & Light Co., and the Public Utility Commission of Texas is hereby granted with respect to Applicant's request for relief under Section 202 and denied in all other respects.

(B) The Request for Declaratory Order Disclaiming Jurisdiction and Request for Severence of Jurisdictional Issue of the Public Utility Commission of Texas is hereby denied.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the application of the Central and Southwest Companies for exemption from orders of the Texas Public Utility Commission under Section 205 of the Public Utility Regulatory Policies Act and orders requiring interconnection, wheeling and related relief under Sections 210, 211 and 212 of the Federal Power Act.

(D) A Presiding Adminstrative Law Judge designated by the Chief Administrative Law Judge for that purpose shall convene a prehearing conference in this proceeding to be held thirty days from the issuance of the order (or as soon as possible thereafter at the Judge's discretion) for the purpose of delineating the issues including the submittal of all alternative proposals for interconnection and other matters to aid in expediting the orderly conduct and disposition of the proceeding.

(E) The applicant, Central South West Company, shall prepare an Environmental Report as described herein and submit such report within one hundred and twenty (120) days of this order.

(F) After notice and comments on the environmental effects of the proposed relief, the Staff shall determine whether the proposed action would constitute a major federal action significantly affecting the human environment. If such a determination is made, the Staff shall prepare a draft and final Environmental Impact Statement as described in Sections 2.80 of the Commission's Rules of Practice and Procedure.

(G) The request by petitioner Electric Consumers of Texas for attorney's fees, expert witness' fees and related relief under Section 319 of the Federal Power Act is hereby denied without prejudice to its renewal at a later time.

(H) The petitioners, as listed in Appendix, are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; Provided, however, that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and provided, further, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(I) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[24] While this Section deals with environmental "Exhibit W's" to be included in application for licenses for hydroelectric projects, the factors listed would also be appropriate to examine in connection with an application for interconnection and wheeling.

[25] City of El Paso; Consumers Union; Texas Association Of Community Organizations For Reform Now; James Scott; Electric Consumers of Texas.

Appendix—*Petitions To Intervene*

Petitioner	Date filed
Arkansas Public Service Co.	March 23.
Southwestern Power Administration	March 26.
El Paso Electric Co.	March 27.
City of El Paso	March 27.
James Morgan Scott, Jr.	March 29.
Corporation Commission of Oklahoma	March 29.
Electric Consumers of Texas	March 29.
City of San Antonio	March 29.
Texas AFL-CIO	March 29.
Texas Associations of Community Organizations for Reform Now (ACORN)	March 29.
Arkansas Electric Coop. Corp.	March 30.
South Texas Electric Coop. & Medina Electric Coop. (STEC-MEC)	March 30.
Arkansas-Missouri Power Co. (Ark-Mo) Arkansas Power & Light (LPL), Mississippi Power & Light Co. (MP&L), New Orleans Public Service, Inc. (NOPSI).	March 30.
Public Utilities Board of the City of Brownsville, Texas	March 30.
Dallas Power & Light, Texas Electric Service Co., Texas Power & Light	March 30.

Appendix—Petitions To Intervene—Continued

Petitioner	Date filed
Texas Cooperatives	March 30.
Comm. on Power for the Southwest Inc.; Assoc. of Louisiana Electric Coops.; Oklahoma Assoc. of Electric Coops.; Municipal Electric Systems of Oklahoma; Arkansas Electric Coops., Inc.	March 30.
Cajun Electric Power Coop.; West Farmers Coop.; KAMO Electric Coop.; Grand River Dam Authority	March 30.
Texas Environmental Coalition	April 2.
Lower Colorado River Authority	April 2.
Public Utility Comm. of Texas	April 2.
Consumers Union of U.S	April 2.
City of Austin	April 2.
Gulf States Utilities Co	April 3.
Houston Lighting & Power Co	April 3.
Madeline Bass Framson	April 5.
National Rural Electric Coop., Assoc	April 13.
American Public Power Assoc	April 13.
Northeastern Texas Electric Coop	April 15.*

*Untimely.

[FR Doc. FR Doc. 79-24069 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-20]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 27, 1979.

Take notice that on July 20, 1979, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Sixth Revised Sheet No. 1
Fifty-fourth Revised Sheet No. 16
Second Revised Sheet No. 16A
Original Sheet No. 16B
Second Revised Sheet No. 17
Fifth Revised Sheet No. 18
Sixth Revised Sheet No. 19
Fifth Revised Sheet No. 30
Third Revised Sheet No. 32
Fifth Revised Sheet No. 33
Fourth Revised Sheet No. 34
First Revised Sheet No. 36
Third Revised Sheet No. 37
First Revised Sheet No. 39
First Revised Sheet No. 41
Second Revised Sheet No. 44
Second Revised Sheet No. 44A
Sixth Revised Sheet No. 64
Twenty-fourth Revised Sheet No. 64A
First Revised Sheet No. 65

Said tariff sheets bear an issue date of July 20, 1979, and an effective date of July 1, 1979. Columbia also tendered for filing Seventh Revised Sheet No. 64 which bears an issue date of July 20, 1979, and an effective date of July 29, 1979.

Columbia states that these tariff sheets are being filed pursuant to the Commission's Letter Order of July 3, 1979 in Docket Nos. RP78-19 and RP78-20, approving without modification (i) the March 30, 1979 Stipulation and Agreement which was certified to the Commission on April 2, 1979, and (ii) a May 7, 1979 Supplemental Stipulation and Agreement which was certified to the Commission on May 11, 1979. In addition, Columbia states that certain of the sheets tendered by it reflect changes in its tariff to reflect the fact that Columbia has added a new tariff sheet for the purpose of reflecting its currently effective rates.

Finally, Columbia states that Sixth Revised Sheet No. 64 which Columbia proposes to make effective July 1, 1979, reflects the language changes set out on page 1 of Appendix E to the March 30, 1979 Stipulation and Agreement. Columbia proposes, however, to supersede Sixth Revised Sheet No. 64 with Seventh Revised Sheet No. 64 effective July 29, 1979. Columbia states that Seventh Revised Sheet No. 64 reflects the same language changes as does Sixth Revised Sheet No. 64, but, in addition, reflects the revision filed by Columbia on June 28, 1979, to be effective July 29, 1979, relative to the applicability of the Purchased Gas Cost Adjustment provision of Columbia's EX Rate Schedule.

Columbia requests that the Commission grant such waivers of its Regulations as it deems necessary to permit the revised tariff sheets to become effective on the dates requested.

Copies of the filing were served by Columbia upon its jurisdictional customers, interested state commissions and all parties to the proceeding at Docket Nos. RP78-19 and RP78-20.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24070 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-19 et. al.]

Columbia Gulf Transmission Co. Proposed Changes in FERC Gas Tariff

July 27, 1979.

Take notice that on July 20, 1979, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following tariff sheets to its FERC Gas Tariffs, to be effective June 1, 1978 on Original Volume No. 1 and July 1, 1979 on Original Volume No. 2:

Original Volume No. 1

Twenty fifth Revised Sheet No. 7

Original Volume No. 2

Sixth Revised Sheet No. 72
Sixth Revised Sheet No. 73
Third Revised Sheet No. 92
Third Revised Sheet No. 93
Third Revised Sheet No. 126
Fourth Revised Sheet No. 145
Fourth Revised Sheet No. 146
Third Revised Sheet No. 263
Second Revised Sheet No. 320
Second Revised Sheet No. 337
Second Revised Sheet No. 338
Second Revised Sheet No. 386
Second Revised Sheet No. 387
Second Revised Sheet No. 440
Second Revised Sheet No. 484
Second Revised Sheet No. 493
Second Revised Sheet No. 567
Second Revised Sheet No. 596
First Revised Sheet No. 628
First Revised Sheet No. 750
First Revised Sheet No. 848
First Revised Sheet No. 849

Columbia Gulf states that these tariff sheets are being filed pursuant to the Commission's Letter Order of July 3, 1979 in Docket Nos. RP78-19 and RP78-20, approving without modification (i) the March 30, 1979 Stipulation and Agreement which was certified to the Commission on April 2, 1979 and (ii) a May 7, 1979 Supplemental Stipulation and Agreement which was certified to the Commission on May 11, 1979.

Columbia Gulf requests that the Commission grant such waivers of its Regulations as it deems necessary to permit the revised tariff sheets to become effective on the dates requested.

A copy of this filing was served on each of Columbia Gulf's jurisdictional customers.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 and 1.10). All such petitions or protests should be filed on or before August 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24071 Filed 8-02-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1764]

Earl A. Borgman; Application

July 26, 1979.

Take notice that Earl A. Bormang on May 25, 1979, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions.

Position, Corporation and Classification

Senior Vice President, Cincinnati Gas & Electric Company, Public Utility.
Senior Vice President, Union Light, Heat & Power Company, Public Utility.
Senior Vice President, Miami Power Corporation, Public Utility.

Any persons desiring to be heard or to protest said application should file a petition intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24055 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP71-15 (PGA79-2) and RP75-28 (DCA79-2)]

East Tennessee Natural Gas Co.; Revision to Rate Filing Pursuant to Tariff Rate Adjustment Provisions

July 30, 1979.

Take notice that on July 25, 1979, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Substitute Twenty-Ninth Revised Sheet No. 4 to Sixth Revised Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1979.

East Tennessee states that the sole purpose of this revised tariff sheet is to revise its May 31, 1979 filing in these dockets to reflect the change in rates filed by its supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. on July 25, 1979, and to correct East Tennessee's May 31, 1979 filing to reflect the flow-through of transportation revenues received by East Tennessee during the period October 1, 1978 through March 31, 1979. East Tennessee states that in all other respects the instant filing reflects the same rate adjustments as were reflected in its May 31, 1979 filing.

East Tennessee also states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24056 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP74-192]

Florida Gas Transmission Co.; Limited Further Hearing

July 26, 1979.

On August 20, 1979, Commissioner George R. Hall will convene a limited further hearing on Florida Gas Transmission Company, Docket No. CP74-192. An Order Providing for Limited Further Hearing was issued on July 18, 1979 but the time and place of the hearing was inadvertently omitted from the order. The hearing will begin at 10:00 a.m., Monday August 20, 1979 in Hearing Room A (the hearing will continue August 21, 1979, if necessary), at the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24057 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1696]

Frank J. Ficadenti; Application

July 26, 1979.

Take notice that Frank J. Ficadenti on May 15, 1979, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation and Classification

Senior Vice President, Atlantic City Electric Company, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24058 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EL79-23]

Georgia Power Co.; Filing of Application to Sell Facilities

July 31, 1979.

The filing Company submits the following:

Take notice that on July 2, 1979, Georgia Power Company (GPC) tendered for filing an application for an Order authorizing the sale of approximately 165 miles of transmission lines, 9 delivery point substations, and 2 transmission substations to the Municipal Electric Authority of Georgia (MEAG).

GPC states that the proposed sale is the third of such transactions with MEAG pursuant to an Integrated Transmission System Agreement which provides for the establishment of an integrated transmission system operated by GPC to carry the loads of GPC, MEAG and the other participants therein free of charge (subject to the conditions of the Transmission Agreement), and which requires an aggregate investment by each party in transmission facilities comprising the integrated transmission system in the proportion of the load of each (as defined in the Transmission Agreement) bears to the aggregate load on such system. GPC further states that MEAG's aggregate investment in such facilities has fallen below the required amount, and that the proposed sale will bring MEAG's aggregate investment closer to such required amount, thereby reducing the amount of MEAG's payment for transmission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24058 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP72-140]

Great Lakes Transmission Co.; Proposed Changes in PGA Gas Tariff Under Purchased Gas Adjustment Clause Provisions

July 27, 1979.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes"), on July 20, 1979, tendered for filing Thirty-First Revised Sheet No. 57, to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective August 11, 1979.

Great Lakes states that its sole supplier of natural gas, TransCanada Pipelines Limited ("TransCanada"), will increase the rates for gas purchased by Great Lakes effective August 11, 1979. The increase is the result of the announcement by the Canadian Government that the border price of natural gas exported shall be at the rate of $2.80 per MMBtu in United States currency effective August 11, 1979. Great Lakes is seeking waiver of the Commission's Regulations in order to make the increase effective August 11, 1979.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure 18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24072 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1566]

Jack F. Rowe; Application

July 26, 1979.

Take notice that Jack F. Rowe on June 25, 1979, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation, and Classification

President, Chief Executive Officer, Member and Chairman of Board of Directors, Minnesota Power & Light Company, Public Utility.

Chairman and Member of Board of Directors, Superior Light and Power Company, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24059 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1589]

James F. Smith; Application

July 26, 1979.

Take notice that James F. Smith on May 11, 1979, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation, and Classification

Vice Chairman of Board of Directors and Chief Financial Officer, Orange and Rockland Utilities, Public Utility.

Vice Chairman of the Board of Directors and Chief Financial Officer, Rockland Electric Company, Public Utility.

Vice Chairman of the Board of Directors and Chief Financial Officer, Pike County Light & Power Company, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24060 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP71-16]

Midwestern Gas Transmission Co., Filing to Track Canadian Supplier Rate Increase

July 30, 1979.

Take notice that on July 25, 1979, Midwestern Gas Transmission Company (Midwestern) tendered for filing Ninth Revised Sheet No. 5A to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective August 11, 1979. Midwestern states that the purpose of the revised tariff sheet is to reflect in its Northern System rates an increase in the rates charged to Midwestern by its Canadian pipeline supplier.

Midwestern states that Ninth Revised Sheet No. 5A reflects a Current Purchased Gas Cost Rate Adjustment pursuant to Section 2 of Article XVIII which is based on an increase, effective August 11, 1979, to $2.80 (U.S.) per MMBtu in the price which Midwestern is required by action of the Canadian Government to pay for gas to its Northern System supplier, TransCanada Pipelines, Ltd.

Midwestern requests waiver of Section 1.3 of Article XVIII of the General Terms and Conditions in its FERC Gas Tariff and various Commission Regulations, to make such filing effective as proposed.

Midwestern states that copies of the filing have been mailed to all of its juridictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24061 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP71-16(PGA79-2) and RP74-29(DCA79-2)]

Midwestern Gas Transmission Co.; Revision to Rate Filing Pursuant to Tariff Rate Adjustment Provisions

July 30, 1979.

Take notice that on July 25, 1979, Midwestern Gas Transmission Company (Midwestern) tendered for filing Substitute Twenty-Fifth Revised Sheet No. 5 to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective July 1, 1979.

Midwestern states that the purpose of the revised tariff sheets is to revise its May 31, 1979 filing in these dockets to reflect the change in the rates filed by the supplier of its Southern System, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., on July 25, 1979. Midwestern states that in all other respects the instant filing reflects the same rate adjustments as were reflected in its May 31, 1979 filing.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before August 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are availale for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24062 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-529]

Mississippi Power & Light Co.; Filing

July 30, 1979.

The filing Company submits the following: Take notice that on July 23, 1979, Mississippi Power & Light Company (MP&L) tendered for filing an Interconnection Agreement (Agreement) between it and South Mississippi Electric Power Association SMEPA) dated July 18, 1979, that provides for the delivery and sale of Emergency, Maintenance and Economy Energy between the parties. Said Agreement also includes two transmission delivery service schedules (Service Schedule TS-1 and Service Schedule TS-2). Service Schedule TS-1 provides for the use of MP&L's transmission facilities to transmit power and energy from any SMEPA Off-System Generating Resource to any SMEPA Off-System Delivery Point or to any Interconnection Point, or from any Interconnection Point to any SMEPA Off-System Delivery Point. Service Schedule TS-2 provides for Long-Term Firm, Short-Term Firm and Non-Firm Transmission arrangements involving MP&L, SMEPA, and one or more third party entities.

MP&L requests the waiver of the Commission's Notice requirement requiring sixty days (60) notice in order to allow the Agreement to become effective on July 23, 1979, the anticipated date of initial service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 20, 1979. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24083 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP71-125 (PGA No. 79-2]

Natural Gas Pipeline Co. of America; Purchased Gas Cost Adjustment and a Revised Louisiana First Use Tax Adjustment to Rates and Charges

July 27, 1979

Take notice that on July 23, 1979, Natural Gas Pipeline Company of America (Natural) submitted for filling as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Substitute Thirty-eighth Revised Sheet No. 5, to be effective September 1, 1979.

The tariff sheet reflects Base Rates in effect subject to refund in Docket No. RP78-78.

The purpose of this filing is twofold: (1) to track producer and pipeline supplier price changes and to recover the accumulated deferred purchased gas cost for the six month period ending May 31, 1979 and (2) to revise the Louisiana First Use Tax Adjustment for the six month period beginning September 1, 1979. The Purchased Gas Cost Adjustment and the Louisiana First Use Tax Adjustment are computed pursuant to the provisions of Natural's Purchased Gas Cost Adjustment Clause (Sec. 18) and Natural's Louisiana First Use Tax Adjustment Clause (Sec. 27), respectively.

Natural requests waiver of the Commission regulations to the extent, if any, required to put the proposed tariff sheets into effect on September 1, 1979.

A copy of this filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24074 Filed 8-03-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2310]

Pacific Gas & Electric Co.; Application for Amendment of License

July 26, 1979.

Take notice that an application was filed on May 8, 1979, by Pacific Gas and Electric Company for an amendment of its license for Project No. 2310 to increase the storage capacity of Fordyce Dam, one of the developments of this project. Copies of correspondence concerning this application should be sent to: Mr. W. M. Gallavan, Vice President-Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106. The Fordyce Dam is located on Fordyce Creek in Nevada County, California, in Tahoe National Forest, about 85 miles northeast of Sacramento.

Licensee proposes to improve Fordyce Dam (a) by increasing the maximum storage capacity of the reservoir about 2,200 acre-feet through raising the elevation 3 feet by installing a new flashboard structure, (b) by installing a 4-foot high parapet wall on the crest of the dam to provide adequate freeboard during spill periods to increase spillway capacity, and (c) by applying gunite to the lower two-thirds of the dam's upstream concrete facing to reduce leakage.

Licensee wishes to increase the generation of the project by increasing the storage capacity of Lake Fordyce and thereby also reduce or eliminate the amount of water spilled at downstream reservoirs during good water years.

All of the proposed work would be done after Lake Fordyce has been adequately drawn down so that the work can be done free and clear of the water. At maximum drawdown the water pool remaining (about 1,000 acre-feet) would be of sufficient size and depth to maintain the existing fish population.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before Sept. 3, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24084 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-104]

Pacific Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff Pursuant to Purchased Gas Cost Adjustment Provision

July 27, 1979.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on July 16, 1979 tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following sheet:

Third Revised Sheet No. 38

Pacific Interstate states that this tariff sheet is issued pursuant to the Purchased Gas Cost Adjustment (PGCA) Provision as set forth in Section 16 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 2. The Proposed effective date of this tendered tariff sheet is August 15, 1979.

Pacific Interstate states that the sole purpose of this filing is to change the notice requirements for filing PGA revisions from 45 days to 30 days as authorized by Section 154.38(d)(4)(v) of the Regulations Under the Natural Gas Act.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before August 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24085 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1854]

Samual Huntington; Application

July 26, 1979.

Take notice that Samual Huntington on May 18, 1979, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following position:

Position, Corporation, and Classification

Director, New England Power Company, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24086 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-53; JD79-9087]

State of Mississippi; Marathon Oil Co.; Preliminary Finding

July 26, 1979.

On June 11, 1979, the State of Mississippi Oil and Gas Board (Mississippi) submitted to the Commission a notice of determination which states that the Marathon Oil Company Maxie Unit SE 31 No. 1-E well qualifies for a maximum lawful price for stripper well natural gas under Section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published Mississippi's notice on July 3, 1979. The notice then was published in the **Federal Register** on July 12, 1979.

Section 108(b)(1) of the NGPA provides that in order to qualify as a stripper well, a well must among other things, produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf per production day during a 90-day production period. The well also must have been producing at its maximum rate of flow during the same period. Section 271.804(d)(2) of our interim regulations provides that a well which has produced nonassociated gas at an average rate of 60 Mcf per day or less during the 90-day period is presumed to be producing at its maximum efficient rate of flow if, during the 12-month period ending concurrently with the 90-day period, the well produced nonassociated natural gas at an average rate of 60 Mcf per day or less.

The production records accompanying the notice of determination show that the average daily production of natural gas from the Maxie Unit SE 31 No. 1-E well during the 90-day period upon which the application is based was 46.34 Mcf per day. However, no current production capability test establishing a maximum efficient rate of flow was reported and production records for the 12-month period, ending on the last day of the 90-day qualifying period, show an average product of 63.39 Mcf of gas per day.

Thus, it appears that the record does not contain substantial evidence to support Mississippi's determination that the well qualifies as a stripper well under section 108 of the NGPA.

Accordingly, the Commission hereby makes a preliminary finding, pursuant to 18 CFR § 275.202(a)(1)(i) that the determination submitted by the State of Mississippi Oil and Gas Board that the Marathon Oil Company, Maxie Unit SE 31 No. 1-E well qualifies as a stripper well under section 108 of the NGPA is not supported by substantial evidence in the record in which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24087 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-51; JD 79-8055]

State of New Mexico; Dugan Production Corp.; Preliminary Finding

Issued: July 26, 1979.

On June 8, 1979, the State of New Mexico Oil Conservation Division submitted to the Commission a notice of determination that a Dugan Production Corporation well, Ojo-He-He #4 (JD79-8055) and met all the requirements of a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA) and the Commission regulations implementing this section.

Section 108(b) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce at its maximum efficient rate of flow (MER) during the 90-day production period upon which the application is based. Section 271.804(d) of the Commission's regulations stipulates the methods by which a jurisdictional agency may find that a well produced at its MER during the 90-day period. These methods are: (1) determination of MER in accordance with recognized conservation practices established by the jurisdictional agency; (2) determination of MER if during the 12-month period ending concurrently with the 90-day production period the well produced at a rate not exceeding an average of 60 Mcf per production day; or (3) determination of MER based on flow tests or other substantial evidence which measures the capability of the well to produce natural gas. If none of these methods is appropriate or available, a jurisdictional agency should defer making a determination and designate a 12-month period during which the applicant secures relevant data pursuant to method (2).

The record indicates that neither production capability tests nor production records for a full 12 calendar months were submitted in support of the application. Accordingly, since the MER has not been established and 12 months of records are not available to evidence a rate of production of 60 Mcf per production day or less, the State of New Mexico should defer making an affirmative determination as to the well until the required data has been submitted.

Accordingly, the Commission hereby makes a preliminary finding, pursuant to 18 C.F.R. § 275.202(a)(1)(i), that the determination submitted by the State of New Mexico Oil Conservation Division, that the subject wells qualifies as a section 108 stripper well, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24068 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP73-114 (PGA79-2) et al.]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Compliance Filing

July 30, 1979.

Take notice that on July 25, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing Substitute Twenty-Fifth Revised Sheet Nos. 12A and 12B to Ninth Revised Volume No. 1 of its FERC Gas Tariff to be effective on July 1, 1979.

Tennessee states that these tariff sheets are filed to revise those originally submitted May 31, 1979, herein in compliance with the Commission's June 29, 1979 order in this proceeding. Tennessee states that the revisions result in a total Net PGA rate adjustment of 53.03 cents per Mcf in lieu of the 53.22 cents per Mcf rate adjustment originally filed.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the procedding. Any person wishing to become a party must file a petition to intervene: provided however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24050 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-393]

Transcontinental Gas Pipe Line Corp., et al; Application

July 20, 1979.

Take notice that on July 3, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, Columbia Gas Transmission Corporation (Columbia Gas), P.O. Box 1273, Charleston, West Virginia 25235, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001 filed in Docket No. CP79-393 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to exchange and transport natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants seek authorization to exchange and transport natural gas in accordance with the provisions of a gas exchange and transportation agreement dated June 21, 1979, among them.

Transco has secured the right to purchase gas from Marathon Oil Company's (Marathon) interests in Block 619, West Cameron Area (WC), South Addition, offshore Louisiana. Marathon owns 100 percent of the reserves in WC Block 619. Transco would cause to have constructed, a pipeline between Marathon's B production platform in WC Block 619 and Marathon's A production platform in WC Block 620. Texas Eastern Transmission Corporation (Texas Eastern) has agreed to transport the gas through its existing 12-inch pipeline from the A platform to its underwater interconnection with Columbia Gulf in WC Block 606. Additionally, Transco is negotiating with General American Oil Company of Texas to purchase a 10 percent share of the reserves in Block 287, Vermilion Area (V), South Addition, offshore Louisiana.

The gas would be transported from V Block 287 to V Block 267 through a proposed 8-inch pipeline to be owned by Transco and others, which would tie-in with Columbia Gulf's 16-inch line in V Block 267 by way of an underwater sidetap. Columbia Gas is currently purchasing gas from V Block 313 and from Blocks 8 and 13, South Pelto Area, offshore Louisiana.

It is stated that the agreement provides that thermally equivalent quantities of gas not to exceed 20,000 Mcf per day would be exchanged at the following points of receipt:

Points of Receipt Where Transco Would Receive Gas: (1) Flanges or welds connecting Transco's facilities with the producers' facilities in South Pelto Block 13 (SP point of receipt)—For gas produced from SP Blocks 8 and 13.

(2) Point in Block 66, South Marsh Island (SMI), offshore Louisiana, where Transco's extension from V Block 331 connects with its existing Southeast Louisiana Gathering System (SMI point of receipt)—For gas produced from V Block 313.

Points of Receipt Where Columbia Gulf Would Receive Gas: (1) Existing underwater side tap in V Block 267 (V point of receipt)—For gas produced from V Block 287.

(2) Columbia Gulf's WC Block 606 underwater sidetap on the existing 30-inch pipeline between WC Block 601 and the producer platform in WC Block 616 (WC point of receipt)—For gas produced from WC 619.

It is asserted that Columbia Gulf would recieve at the point of receipt Transco's volume of WC Block 619 gas not exceeding 15,000 Mcf per day and Columbia Gulf would receive at the point of receipt Transco's volume of V Block 287 gas not exceeding 5,000 Mcf per day. Transco would receive at the SP point of receipt and the SMI point of receipt Columbia Gas' volumes of SP Blocks 8 and 13 and V Block 313 gas not exceeding 20,000 Mcf per day.

Applicants state that the volumes of gas would be exchanged by the parties on a thermally equivalent basis in the following order:

(1) Volumes received at the SP point of receipt would be exchanged with volumes received at the WC point of receipt.

(2) Volumes received at the SMI point of receipt would be exchanged first with volumes received at the V point of receipt and then with volumes received at the WC point of receipt which have not been exchanged pursuant to (1) above.

Applicants further state that to the extent excess volumes remain after effectuation of the above exchanges, Transco and/or Columbia Gulf would transport such excess gas on a thermally equivalent basis to the other for delivery at existing authorized points of delivery onshore.

It is said that the Agreement provides that transportation of gas thereunder would not include Columbia Gas' SMI Block 66 which is currently being transported by Transco pursuant to a transportation agreement dated May 23, 1978, and Commission certification

issued on September 1, 1978, in Docket No. CP78-384. Thus, the only transportation would be from the SP point of receipt to the points of delivery and such transportation would supercede and replace the current transportation service being rendered by Transco for Columbia Gas pursuant to the certification issued on May 8, 1979, in Docket No. CP79-181.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 14, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24075 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-97]

Tucson Electric Power Co.; Compliance Filing

July 31, 1979.

Take notice that Tucson Electric Power Company (TEPC), by letter dated July 16, 1979, filed with the Commission Amendment No. 1 to the Tucson-San Diego Ten Year Power Sale and Interconnection Agreement to amend the rate schedule of TEPC originally designated Tucson Gas & Electric Company Rate Schedule FERC No. 26. TEPC indicates that this filing is made to comply with condition 2 of ordering paragraph (A) of the Commission's order of June 25, 1979, in the above docket.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). Any such protests should be filed on or before August 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24076 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER 79-530]

Tucson Electric Power Co.; Filing

July 30, 1979.

The filing Company submits the following:

Take notice that Tucson Electric Power Company ("TEP") on July 23, 1979, tendered for filing a Letter of Agreement dated May 21, 1979, for the sale by TEP of nonfirm energy to Tri-State Generation & Transmission Association, Inc. ("Tri-State"). The primary purpose of this Agreement is to establish terms and conditions between TEP and Tri-State relative to the delivery of nonfirm energy during the period July 1, 1979 to September 30, 1979. TEP states that copies of the filing were served upon Tri-State.

Any person desiring to be heard or to make any application with reference to said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24051 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Parker-Davis Project; Amendment to the Notice of Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration (WAPA), Department of Energy.

ACTION: Notice of an Amendment to the Notice of Proposed Power Rate Adjustment for Parker-Davis Project.

SUMMARY: The Notice of Proposed Power Rate Adjustment for Parker-Davis Project, which was published at 44 FR 34192 (June 14, 1979), is hereby amended for the purpose of including the following:

Persons interested in speaking at the Public Comment Forum to be held in Phoenix, Arizona, on August 31, 1979, should make a request, by telephone or in writing, to Mr. Robert A. Olson, Area Manager, Western Area Power Administration, Boulder City Area Office, 1660 Nevada Highway, P.O. Box 200, Boulder City, NV 89005, Telephone: (702) 293-8475, no later than August 28, 1979, so a witness list can be developed. The chairman may allow others to speak at the Forum if time permits.

Issued in Golden, Colorado, July 27, 1979.

Robert L. McPhail,

Administrator.

[FR Doc. 79-24029 Filed 8-2-79; 8:45 am]

BILLING CODE 6450-01-M

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 1290-4]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of July 23 to 27, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from August 3, and will end on September 17, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review A-104, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of July 23 to 27, 1979 the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted and extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: July 31, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix I.—EIS's Filed With EPA During

The Week of July 23 to 27, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, DC. 20250, (202) 447-3965.

Forest Service

Draft

Sheyenne National Grassland, Land Mgmt., Custer NF, Ransom and Richland Counties, N. Dak., July 24: Proposed is a land management plan for the Sheyenne National Grassland located in the Custer National Forest, Ransom and Richland Counties, North Dakota. The Grassland encompasses 70,180 acres, use of which has been centered around livestock grazing. The alternatives considered include: 1) continuing current management: 2) emphasizing wildlife, recreation and other amenity values; 3) emphasizing commodity production; 4) balancing livestock production with consideration of amenity values; and 5) reflecting management of the area if a dam were constructed. (DES-01-08-79-12.) (EIS Order No. 90764.)

Final

Elgin unit plan, Umatilla and Wallowa-Whitman NFS, Union, Umatilla, and Wallowa Counties, Oreg., July 26: proposed is the implementation of a comprehensive land management plan for the 326,760 acres of Forest Service land within the Elgin Planning Unit of the Umatilla and Wallowa-Whitman National Forests in the Counties of Union, Umatilla, and Wallowa, Oregon. There are an additional 26,348 acres of land in other ownership within the boundaries of the planning unit. Nine alternatives are analyzed each offering a different combination of managment activities allocated to lands which yield wood, water forage, wildlife habitat, and outdoor recreation opportunities. (USDA-FS-R6-FES(ADM) (78-2).) Comments made by: AHP, USDA, DOE, FERC, EPA, COE, DOC, DOI, State, and local agencies, groups, individuals and businesses. (EIS Order No. 90788.)

Final

McLoughlin-Klamath unit, Rogue R. and Winema NFS, Klamath and Jackson Counties, Oreg., July 27: The proposed action provides for the designation of 418,445 acres (net) of National Forest Land on the Winema and Rogue River National Forests. The preferred alternative provides for the following primary allocations: 1) wilderness-139,414 acres, 2) special management areas—10,128 acres, and 3) multisource areas—264,903 acres. This alternative provides for a possible mix of allocations which places some emphasis on the less tangible values provided by the retention of natural conditions, in a blend with the production of tangible goods and services. (USDA-FS-R6-FES-(ADM)-77-9.) Comments made by: AHP, COE, HUD, DOT, USDA, State and local agencies, groups, individuals and businesses. (EIS Order No. 90808.)

Rural Electrification Administration

Draft

Coal property leases, purchase of leasehold interest, several counties in Alabama, July 27: proposed is the issuance of financial assistance to provide long-term financing for the purchase of a lease hold interest by the Alabama Electric Corporation from the Kinlock Coal Company. The leaseholds involve three operating mines all located in Alabama. The mines are: 1) Bear Creek located in Marion and Franklin Counties, 2) Wilson Bend located in Winston County, and 3) Hamilton located in Lamar and Marion Counties. Coal reserve estimates reveal approximately 8.5 million tons in the mines to be purchased. The coal will be used for the three unit 495 MW, total net, Tombigee Station near Jackson, Alabama. The coal would be transported by rail and/or barge. (USDA-REA-EIS-(ADM)-79-1-D.) (EIS Order No. 90792.)

Soil Conservation Service

Draft

Tehachapi Watershed Flood Protection Plan, Kern County, Calif., July 24: Proposed is a flood protection plan for the Tehachapt Watershed located at the junction of the Sierra Nevada and Tehachapi Mountain Ranges in Kern County, California. The structural program will include a grade control structure in Blackburn Canyon, floodwater retarding structures with diversion inlets at the mouths of Antelope and Blackburn Canyons, 0.2 miles of channel enlargement, and 20.5 acres of wildlife habitat development. Land treatment measures will be installed by landowners. The alternatives considered are: (1) No project, (2) Land treatment only, (3) Non-structural flood prevention, and (4) Ten alternative structural measures (EIS Order No. 90765.)

Llagas Creek Watershed Flood Prevention, Santa Clara County, Calif., July 24: Proposed is a watershed protection and flood prevention plan for the Llagas Creek Watershed located in the cities of Morgan Hill and Gilroy, Santa Clara County, California. The project consists of three main components: (1) Providing land treatment measures to reduce erosion and sediment production in the watershed; (2) Modifying about 29.4 miles of Llagas Creek and its major tributaries to increase capacity, and constructing setback levees to limit the flood-plain width along about 2.8 miles of Llagas Creek, and (3) Raising Chesbro Dam 11 feet to accommodate an additional 3,620 acre-feet of storage for flood control purposes (EIS Order No. 90768.)

U.S. Army Corps of Engineers

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, NW., Washington, D.C. 20314, (202) 272-0121.

Draft

Bayou Boeuf Fabrication Yard Expansion, Permit, Assumption Parish, La., July 26: Proposed is the issuance of a permit for the expansion of the Bayou Roeuf fabrication yard near Amelia in Assumption Parish, Louisiana. The expansion would involve the addition of 310 acres of land to be developed primarily as a fabrication yard for the construction of offshore structures whose lengths exceed existing yard capacity. These structures will be used in oil and gas production in deep water. Approximately 280,000 cubic yards of dredged material will be relocated from existing storage areas to proposed deposit areas in the expansion area (New Orleans District). (EIS Order No. 90783.)

Mermentau River Basin, O/M of Four Projects, Several Parishes, La., July 24: Proposed are four operation and maintenance projects for the Mermentau River Basin in southwestern Louisiana. The projects are known as: (1) The Mermentau River; (2) Mermentau River, Bayous Nezpique and Des Cannes; (3) Bayou Plaquemine Burie; and (4) Bayou Queue De Tortue. The actions consist of maintenance dredging, flood control, operation of water control structures, and clearing and snagging in four existing projects. The alternatives consider no action and five methods for the disposal of dredged material (New Orleans District). (EIS Order No. 90763.)

Draft

Baltimore Harbor/Channels Navigation Improvements, Maryland, Virginia, July 23: Proposed are navigational improvements for the Baltimore harbor and channels in the States of Maryland and Virginia. The remaining measures include: (1) Dredging the connecting channel from its present 27 foot depth and 400 foot width, to 35 by 600 feet, (2) Dredging of the approach channels, (the Swan Point and Tolchester sections), from the present 35 foot depth and 450 width to 600 feet wide, and (3) placement of 1.03 million cubic yards of dredged material into the Chesapeake Bay at the Pooles Island deep. The alternatives considered include: (1) The proposed action, (2) No action, and (3) Several disposal methods for the dredged material (Baltimore District). (EIS Order No. 90759.)

Snake River snagging and clearing for flood control, Marshall, Polk, Pennington Counties, Minn., July 27: Proposed is a flood control project for the Snake River in Marshall, Polk and Pennington Counties, Minnesota. The project involves snagging and clearing all non-rooted trees and snags in the primary channel. Standing timber in the primary channel would be cut within 6 inches of the ground. Pilings and rooted stumps in the wetted part of the channel would be cut as close to ground level as practicable. Shelterbelts would be planted along reaches of the river unprotected from drifting snow (St. Paul District). (EIS Order No. 90807.)

Wallisville Lake, Trinity River, Tex., July 27: Proposed is the completion of the Wallisville Lake project located in the delta of the Trinity River, Texas. Several major changes to the project include deferral of navigation improvements, deletion of the fish and wildlife enhancement purpose, and reduction in the size of the reservoir. The project was authorized for the purposes of Salinity control, navigation, water supply, fish and wildlife enhancement, and recreation (Galveston District). (EIS Order No. 90795.)

Draft

Weyerhaeuser export facility at DuPont, permit, Pierce County, Wash., July 26: Proposed is the issuance of a permit for the construction and operation of an export facility at DuPont, Pierce County, Washington. The project includes replacement of the existing dock and loading equipment: construction of a marshalling area for finished products and logs; a debarker; a materials handling system to move products to the docks; a terminal area for receiving, handling and storage of forest products; the necessary supporting road access from the interstate system; and rail access. (Seattle District) (EIS Order No. 90781.)

Final

Imperial Beach, erosion control, San Diego County, Calif., July 23: Proposed is a beach erosion control project for Imperial Beach, San Diego County, California. The project will involve the construction of an offshore, 5,000 foot long submerged breakwater consisting of alternating high and low rubblemound segments. An existing rock groin will be extended by 100 feet to connect with the north end of the breakwater, and a new 600 foot long groin will be constructed from the shoreline to the south end of the breakwater. The alternatives includes (1) groin field configurations, (2) shoreline revetment, (3) periodic beach nourishment. (4) offshore nonsubmerged, and (5) no action. (Los Angeles District.) Comments made by: AHP, DOC, DOI, DOT, HUD, EPA, state and local agencies. (EIS Order No. 90761.)

E. San Rafael Baylands development. Marin County, Calif., July 26: Proposed is the development of the East Baylands of San Rafael, Marin County, California, into residential, commercial, industrial, and open space uses. The project will involve fill, dredging, and development in accordance with the emerging San Rafael redevelopment agency plan for the area. The statement also serves as the final EIS for the draft statement. No. 41807, filed 12-3-74, concerning the San Quentin Landfill. The San Quentin Disposal Company applied for a COE permit for the use of 21 acres for fill and industrial development. (San Francisco District.) Comments made by: EPA, DOI, DOC, HEW, USDA, DOT, AHP, State and local agencies, groups. (EIS Order No. 90790.)

Draft Supplement

Grays Harbor/Chehalis River, O/M dredging (DS-1), Grays Harbor County, Wash., July 26: This statement supplements a final EIS, No. 51683, filed 11-20-75, concerning the operation and maintenance of the Grays Harbor and Chehalis River navigation project located in Grays Harbor County, Washington. This statement addresses the continuance of the operation and maintenance of the project through the use of the Grays Harbor long-range maintenance dredging program (LRMDP). The LRMDP provides for maintenance dredging along each of the separate navigation channel reaches in the estuary and considers methods, disposal sites and seasonal restrictions. Provisions are made for wetland habitat on dredged material and dredging water quality. (Seattle District.) (EIS Order No. 90778.)

DEPARTMENT OF DEFENSE

Contact: Dr. Carlos Stern, Deputy for Environment and Safety, Department of the Air Force, Room 4C885, Pentagon, Washington, D.C. 20330, (202) 697-9297.

Air Force

Draft

Beale AFB, operation of the Pave Paws radar system, Yuba County, Calif., July 27: Proposed is the operation of the Pave Paws radar system at the Beale Air Force Base in Yuba County, California. The purpose of the system is to detect, track, and provide early warning of sea-launched ballistic missiles. A secondary purpose of the system is to assist the USAF spacetrack system by tracking objects that are orbiting the earth. With the Pave Paws in operation, older radars at three other locations would be retired. (EIS Order No. 90796.)

Holloman AFB, Morenci area, supersonic operations, Carton County, N. Mex., July 27: Proposed is supersonic training in the northeastern portion of the Morenci military

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operations area of the Holloman Air Force base located in Carton County, New Mexico. Three hundred supersonic F–15 sorties per month are projected to be flown in the area during daylight hours only resulting in an estimated 750 sonic booms per month. In addition to no action, eight other alternatives are considered. (EIS Order No. 90797.)

Holloman AFB, Valentine area, supersonic operation, several counties in New Mexico, July 27: Proposed is supersonic training in the Valentine military operations area/air traffic control assigned airspace area of Holloman Air Force base, New Mexico. The airspace overlies the counties of Jeff Davis, Presidio, Culberson, and Hudspeth. It is proposed that three hundred supersonic sorties per month be flown to the area above 15,000 feet mean sea level. In addition to no action, seven alternatives are considered. (EIS Order No. 90796.)

Army

Contact: Col. Charles E. Sell, Chief of the Enviornmental Office, Headquarter Dean-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694–4269.

Draft

Fort Wainwright installation utilization, Alaska, July 27: Proposed is the continued operation of the cantonment area and adjacent lands of Fort Wainwright, Alaska. The current Mission of Fort Wainwright is to command, train, and maintain assigned units at the required state of readiness, and to prepare and maintain specified mobilization, contingency, and operations plans. The current activities include use of the Fort primarily by elements of the 172nd infantry training and maneuver exercises. These activities are supported by a wide range of facilities on the main post area, including office space, housing, logistical support and community services. (EIS Order #90799.)

Fort Greely installation utilization, Alaska, July 27: Proposed is the continuation of the ongoing activities of Fort Greely, Alaska. The current mission of Fort Greely provides factilities required for operations conducted by the cold regions test center (CRTC), The Northern Warfare Training Center (NWTC), and the 172nd infantry brigade. The CRTC is responsible for testing men, material and equipment under conditions of extreme cold. The NWTC is responsible for training forces for action in arcitic and subarctic regions in the event of war. (EIS Order #90801.)

Fort Richardson installation utilization, Alaska, July 27: Proposed is the continued installation utilization at Fort Richardson, Anchorage, Alaska. The 62,605 acre Fort is used for military training purposes by the 172nd infantry brigade. The 172nd Infantry Brigade is the Army's only arcitic and mountain fighting force. This unit consists of three infantry battalions, a field artillary battalion, support battalion, air cavalry troop, and an aviation battalion. These combat units are supported by engineer, military police, signal, and other general support force elements. (EIS Order #90803.)

Draft

Fort Belvoir ongoing mission, Fairfax County, Va., July 27: Proposed is the continuance of the ongoing mission of Fort Belvoir in Fairfax County, Virginia. The 9,237 Acre Fort houses the US army engineer school, which trains officers and enlisted personnel of the US Army as well as members of other US Armed Forces and allied nation armed forces. Also located at Fort Belvoir are numerous tenant organizations to include research and development activities, and services and support activities. (EIS Order #90800.)

Fort Lee ongoing mission, Virginia, July 27: Proposed is the continuance of ongoing operations at Fort Lee, Virginia. Fort Lee houses the US Army Quartermaster Center and school and numerous other US Armed forces units and activities. Some of the units include: 1) US Army logistics management center, 2) US Army logistics center, 3) 20th Norad Region/20th air division, 4) US Army troop support agency, 5) facilities engineer support agency, 6) Gerow US Army reserve center, 7) readiness group Lee, and 8) others. (EIS Order #90806.)

Fort McCoy ongoing mission, Sparta, Monroe County, Wis., July 27: Proposed is the continuation of the ongoing mission of the installations of Fort McCoy located in Sparta, Monroe County, Wisconsin. Fort McCoy is maintained on a continuous basis in support of permanent complement, tenant, active component, national guard, and army reserve activities for Wisconsin, Iowa, Minnesota, and upper Michigan. The alternatives considered are: 1) continuation of current on-going mission, 2) mobilization of troops into active status for continuous use by active army organizations on the installation, and 3) deactivate the installation except for a caretaking detachment to be retained in support of mobilization requirements. (EIS Order #90802.)

Draft

Fort Eustis ongoing mission, James City County, Va., July 27: Proposed is the continuation of the ongoing mission of Fort Eustis, James City County, Virginia. The mission of the Fort is to organize, train and equip all units and individuals to perform assigned missions, assure achievement of assigned combat readiness posture in assigned and attached units, accomplish planning, as directed, for the mobilization mission, and support civil authorities in domestic emergencies. Fort Eustis houses the US Army transportation center, the US Army communications command detachment, and the health services command. (EIS Order #90804.)

Navy

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 697–3689.

Final

Long Beach Naval Station, reestablishment, Los Angeles County, Calif., July 24: The proposed project involves the reopening of the Long Beach Naval Station as an active Homeport. The Naval Station is located in Los Angeles County, California. Approximately 9,000 military and civilian personnel, plus dependents and 27 ships are involved in this proposal. The initial ship arrivals are scheduled to coincide with the regular Over-Haul program and the other ships scheduled for arrival will be newly constructed and will assume their Homeport Station upon the successful completion of the Shakedown Cruises. The Homeport ships will be cold ironed while in port. Comments made by: USN, DOC, EPA, DOT, DOI, State and local agencies, individuals. (EIS order No. 90772.)

Trident dredging, Thames River Channel, Groton, New London County, Conn., July 24: The proposed action is the proposed dredging of the Thames River Channel, located near Groton and New London, New London County, Connecticut. The proposed action will increase the channel depth from a present 36 feet to 40 feet at mean low water. This action will permit safe and unencumbered transit of the Trident submarine from the Navy's ship construction contractor at Groton to the open sea. Other than the proposed channel dredging the only alternative is a modification to the Trident Sea Trial program to allow movement of the submarine in the present channel. Comments made by: DOI, USDA, HEW, DOC, DOT, State and local agencies, groups. (EIS order No. 90769.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station E–201 GTN, Washington, D.C. 20545, (202) 376–5998.

Final

Mound facility, Miamisburg, Montgomery County, Ohio, July 26: The purpose of this statement is to describe the ongoing work of all operations at the Mound facility, Miamisburg, Montgomery County, Ohio, and to analyze and evaluate the impacts on the environment that continuation of this work entail. Mound facility is operated to produce nuclear weapon components for the Nuclear Weapons program, perform surveillance on Weapon Components, manufacture radioactive-fueled heat sources for the Nuclear Weapon program and the National Space program, and to market nonradioactive isotopes to the scientific community. The plant is bordered by undeveloped agricultural lands and residential housing. (DOE/EIS–0014F) Comments made by: HEW, DOI, NRC, EPA, USDA, local agencies. (EIS order No. 90787.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Charles L. Gray, Director, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 374–8404.

Draft

1983/Later model year light-duty Trucks, emission, regulatory, July 23: Proposed are emission regulations for 1983 and later model year light-duty trucks. The action will tighten the HC and CO exhaust emissions standards. The regulations will establish the following exhaust emissions standards: 1) HC—0.8 G/mile, 2) CO—10 G/mile, 3) NOX—2.3 G/mile, 4) idle HC—970 parts per million as carbon, 5) idle CO—0.47%, and 6) diesel crankcase—zero emissions. Aslo proposed are: 1) Revisions to the definitions of "useful life" to apply to virtually the full working life of the vehicle, 2) changes to assembly-line testing in the form of revised selective enforcement auditing sampling, and 3) a system of nonconformance penalties. (EIS order No. 90760.)

Final

Contact: Mr. Clinton Spotts, Region VI, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2716.

Willow Bend Chemical Complex, NPDES permit, St. John the Baptist Parish, La., July 26: Proposed is the issuance of a new source NPDES permit for the discharge of treated effluent into the Mississippi River from Shell Oil Company's proposed Willow Bend Chemical Manufacturing Complex located in St. John the Baptist Parish, near Edgard, Louisiana. The complex will be used for the manufacture of chemical intermediates and low molecular weight polymers. The alternatives considered are: 1) No action; 2) site alternatives; 3) process alternatives; and 4) fuel, feedstock, and transportation alternatives. Comments made by: AHP, FERC, COE, DOC, DOI, DOT, State and local agencies. (EIS order No. 90788.)

WWT Facilities, St. Mary Parish, grant, St. Mary Parish, La., July 26: Proposed is the issuance of five grants for the design and construction of sewerage facilities in St. Mary Parish, Louisiana. The project is split into five areas each with a different sewerage plan. They are: 1) Morgan City and Amelia—two distinct systems; 2) wards 5 and 8—served by a single, centrally located treatment plant; 3) Franklin and vicinity—two distinct systems; 4) Baldwin and vicinity—separate treatment plants in the eastern and western subareas; and 5) Cypremort Point—a single plant. Comments made by: AHP, USDA, DOC, COE, DOE, HUD, DOI, DOT, FERC, State and local agencies, businesses. (EIS order No. 90789.)

Draft

Contact: Ms. Alexandria Smith, Region X, Environmental Protection Agency, 1200 6th Avenue, Seattle, Washington 98101, (206) 442–1285.

Reeder Reservoir maintenance operations, Ashland, Jackson County, Oreg., July 26: Proposed is the approval or disapproval of the Reeder Reservoir element of the Roque Valley water quality management plan for the city of Ashland, Jackson County, Oregon. This element of the plan involves the cleaning of the Reeder Reservoir by means of draining in the early spring of relatively wet years with the sediments being sluiced through the reservoir outlet to be carried downstream in Asland Creek into Bear Creek, and eventually into the Roque River. The alternatives consider the various discharge times which would move the sediments in the least harmful manner. (EPA–10–OR–Jackson–Ashland–WQMP–79.) (EIS order No. 90782.)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S–22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275–4150.

Draft

Prudhoe Bay Sales Gas Conditioning Facility C/O, Alaska, July 26: Proposed is the issuance of a certificate of public convenience and necessity for the construction and operation of a sales gas conditioning facility at Prudhoe Bay, Alaska. The facility would consist of four processing trains using the selexol process to condition the gas and refrigeration to separate the hydrocarbons. An operations/living center and construction camp would also be constructed. The site alternatives considered are at the Yokum River near the Taps Bridge and at Fairbanks. Pipeline pressure and process alternatives are also considered. (FERC/EIS–0009D.) (EIS order No. 90780.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6306.

Draft

West Point subdivision, mortgage insurance, Franklin County, July 25: Proposed is the issuance of HUD home mortgage insurance for the development of the West Point subdivision located in the Prairie Township of Franklin County, Ohio. The Development would include both recreational and commercial development on a 657 acre tract of land. West Point will include the construction of about 2,135 dwelling units of which 95 percent are expected to be single-family detached with the remainder being constructed as either twin singles or multiple-family units with 8 to 12 families per structure. Approximately 37 acres are planned for commercial development (HUD–RO–5–EIS–79–07–(D).) (EIS ORDER # 90775).

Final

Frederick Heights housing project, Frederick County, Md., July 24: Proposed is the issuance of HUD home mortgage insurance for the Frederick Heights housing project, Frederick County, Maryland. The Project will involve the construction of 1121 living units on a 102 acre tract of land. The Project will also include two community recreational centers, a 10 acre school site, and interior open space system, with playground facilities. Comments made by : EPA, HEW, USDA, DOI, State and local agencies (EIS ORDER # 90770).

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Indian Affairs

Draft

Havasupai Indian Reservation addition, Arizona, July 23: Proposed is a land use plan for 185,000 acres which are to be added to the Havasupai Indian Reservation, Arizona. The plan includes 20 divisions, each addressing a separate type of action for developing or preserving the reservation addition. These divisions include: (1) Agriculture, (2) Cultural resources, (3) Domestic and stock water development, (4) Energy, (5) Visitor use, (6) Public access to adjacent National park lands, and (7) Others (DES–76–42). (EIS ORDER No. 90756.)

Bureau of Land Management

Draft

Nellis Air Force Base bombing range land withdrawal, Clark, Nye, Lincoln Counties, July 27: Proposed is the renewal of the 2,945,726 acre Nellis Air Force Base range land withdrawal in Clark, Nye and Lincoln Counties, Nevada for a period of 15 years with an option to renew for an additional 10 years. Nellis AFB consists of two units: The north range (1,959,158 acres) and the south range (986,568 acres). The south range includes 826,000 acres of the Desert National Wildlife Range. A maintenance personnel complex would be built to provide for equipment repair, housing and administration. About 315 miles of existing roads would be repaired to provide access to the existing targets and approximately 60 miles of new roads would be built to the proposed electronic warfare sites (EIS ORDER # 90794).

Bureau of Reclamation

Draft

Animas-La Plata water supply project, Animas River, San Juan County, N. Mex., La Plata and Montezuma Counties, Colo., July 25: Proposed is the Animas-La Plata Water Supply Project located in San Juan County, New Mexico and La Plata and Montezuma Counties, Colorado. The project would involve the diversion of water from the Animas River to the La Plata and Mancos Rivers drainages and would include Two off-stream reservoirs, two pumping stations, three conveyance systems, a power transmission line, and two diversion dams on the La Plata River. The project would provide water for irrigation, and municipal and industrial use, in addition to recreational opportunities. (DES–79–45.) (EIS Order # 90774.)

Upalco unit irrigation, Lake Fork River, Ashley NF, Duchesne County, Utah, July 25: Proposed is an irrigation and water supply project for the Upalco unit of the central Utah project located in Duchesne County, Utah. The project plan includes the construction of Taskeech Reservoir on the Lake Fork River and 2 auxiliary canals, modification of 14 high country lakes in the Ashley National Forest, and Rehabilitation of about 10 miles of existing canals. The main purpose of the project is to provide supplemental irrigation on a total of 42,610 acres of land; in additional water would be supplied to the

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Town of Roosevelt for municipal and industrial use. Flood control would be provided on the Lake Fork River. (DES–79–46.) (EIS Order # 90776.)

Polecat Bench area, irrigation, Park County, Wyo., July 24: Proposed is the conversion of 19,260 acres of rangeland to irrigated cropland within the Polecat Bench Area in Park County, Wyoming. Water would be diverted from Buffalo Bill Reservoir and conveyed through the existing Shoshone Canyon conduit and Heart Mountain Canal of the Shoshone extensions unit project. Principal features include Polecat Bench Canal, Holden Reservoir, Holden Canal, and a conveyance system for the Polecat Bench and Frannie Loop areas. The alternatives considered: 1) no development, 2) alternate sources of surface water, 3) modification of project facilities, and 4) sprinkler irrigation on Polecat Bench. (INT–DES–79–43.) (EIS Order # 90766.)

Draft

Modification of Buffalo Bill Dam, Shoshone project, Park County, Wyo., July 24: Proposed is the modification of Buffalo Bill Dam, a part of the Shoshone project, in Park County, Wyoming. The dam would be raised 25 feet and the conservation pool enlarged. Other features include: 1) replacement of the existing powerplant, 2) establishment of a visitor center at the top of the dam, 3) allocation of water to industrial and downstream fishery enhancement, 4) enlargement of the spill way, and 5) creation of subimpoundments at the upper end of the reservoir. The alternatives considered are: 1) no development, 2) the combination of one or more components, and 3) the proposed plan with additional development. (DES–79–44.) (EIS Order # 90767.)

National Park Service

Draft

Green and Yampa wild and scenic rivers study, several counties, in Colorado and Utah, July 27: Proposed is a wild and scenic river study for the Green and Yampa Rivers located in Colorado and Utah. It has been recommended that a 91-mile segment of the Green River and approximately 29,120 acres of adjacent land in Colorado and Utah and a 47-mile segment of the Yampa River and approximately 15,040 acres of adjacent land in the State of Colorado be included in the national wild and scenic rivers system. The area would be 91 miles of wild river area, 15 miles of scenic river area, and 32 miles of recreational river area. (EIS Order # 90805.)

New England River Basin Commission

Contact: Mr. John Ehrenfeld, Chairman, New England River Basin Commission, 53 State Street, Boston, Massachusetts 02109, (617) 223–6244.

Draft

Long Island Sound, disposal of dredged material, New York and Connecticut, July 27: Proposed is an interim plan for the disposal of dredged material in Long Island Sound, New York and Connecticut. The Plan is a short-term agreement among the legally responsable Federal, State, and interstate agencies on a set of policies and operational procedures to govern the open water disposal of dredged material into the sound. The plan includes: A classification system to determine the relative toxicity of material, guidelines for disposal operations, a monitoring program, designation of three interim open water disposal areas, and the creation of an inter-agency committee to collectively address dredging and disposal problems. (EIS Order # 90793.)

Tennessee Valley Authority

Contact: Dr. Harry G. Moore, Jr., Acting Director, Division of Environmental Planning, Tennessee Valley Authority, 268 401 Building, Chattanooga, Tennessee 37401, (615) 755–3161, FTS 854–3161.

Final

Ocoee No. 2 hydro plant, rehabilitation, Polk County, Tenn., July 25: Proposed is the rehabilitation work that would restore the flume and crib dam of the Ocoee No. 2 hydro plant located in Polk County, Tennessee to a safe integral part of the TVA hydroelectric generating system. Three alternatives are considered which include: 1) facility retirement consisting of the removal of the crib dam and flume, sealing of penstocks and sale of equipment; 2) a rockfill dam addition, and replacement of trestles and 4.6 miles of existing wooden flume; and 3) construction of a new concrete dam, and replacement of trestles and 1,800 feet of wooden flume. Comments made by: EPA, AHP, FERC, DOI, COE, DOT, State and local agencies, groups, individuals, and businesses. (EIS Order # 90777.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Aviation Administration

Final

Babelthuap-Koror Airport, Pacific Islands; U.S. territory, July 23: The proposed actions are the improvement and development of the Babelthuap-Koror Airport, Babelthuap Island, Palau District, Trust Territory of the Pacific Islands. The project includes: (1) construction of a 1,200 foot extension and reconstruction of the existing 6,000 foot runway with a turnaround area, connecting taxiway, and terminal apron; (2) establishment of a runway safety area; (3) installation of perimeter fencing and security fencing; (4) construction of an air carrier apron and associated taxiway, and general aviation apron and taxiway; (5) road relocation; (6) installation of approach/navigational aids, and (7) construction of 25 foot runway shoulders and 200 by 150 feet blast pads. Comments made by: DOI, DOT, DOC, COE, HUD, USDA, HEW, local agencies. (EIS Order #90762.)

Federal Highway Administration

Draft

FL–563, Lakeland north-south route, Polk County, Fla., July 23: Proposed is the construction of a six mile extension of FL–563 from its present terminus at Lime Street in downtown Lakeland, extending south to FL–37 in Polk County, Florida. From FL–563 to Forest Park Street the facility would be constructed as an urban four-lane, controlled access arterial. From Forest Park Street southward to FL–37 the facility would be a rural four-lane, controlled access arterial. Approximately 25 percent of the project will be on new alignment. The alternatives consider two alignments along Central Avenue and Dorman Road. (FHWA–FLA–EIS–78–1–D.) (EIS Order #90757.)

Draft

Mayhew-Maplecrest corridor, IN–37 to I–69, Allen County, Ind., July 23: Proposed are two projects for the Mayhew-Maplecrest corridor from IN–37 (Stellhorn Road) north to I–69 in Allen County, Indiana. From the intersection of Rothman and Maplecrest new construction would be involved to join St. Joe Road, Mayhew Road, and Maplecrest Road at or near the intersection of St. Joe and Mayhew Roads. Alternatives are addressed for roadway alignment in the vicinity of the existing Mayhew Road from St. Joe Road north to Leo Road including the need for a new bridge over the St. Joseph River. The area between Leo Road and I–69 along Dupont Road is being considered to provide a link between the Mayhew-Maplecrest corridor and I–69. (FHWA–IND–EIS–78–10–D.) (EIS Order #90755.)

Fariss Road to Butler Road connector, Gresham, Multnomah County, Oreg., July 26: Proposed is the construction of the Fariss Road to Butler Road connector within the city of Gresham, Multnomah County, Oregon. The project would begin at the Fariss Road and Fairview Avenue intersection and would be constructed as a four lane arterial with left turn lanes following a new alignment between 223rd and 221st Avenues south to Powell Boulevard, for a total distance of 1.16 miles. From Powell Boulevard the roadway would be constructed as a three lane facility with left turn lanes to the Towle Road alignment at Johnson Creek. The existing bridge over Johnson Creek would be replaced and Towle Road would be improved to Butler Road. (FHWA–OR–EIS–79–09–D.) (EIS Order #90779.)

Highway connector, Isle of Palms to U.S. 17/701, Charleston County, S.C., July 27: Proposed is the construction of a new highway connector which will extend from the Isle of Palms (Highway 703) to U.S. 17/701 in Charleston County, South Carolina. The project length is approximately 3.88 miles. The entire facility will initially be two lanes, will be on a bridge structure for the limits of the wetlands it will traverse, will utilize normal cut and fill construction operations on the mainland and Isle of Palms, and will involve new construction within a new roadway corridor. It is proposed that the roadway be located within a four lane highway right-of-way. (FHWA–SC–EIS–79–02–D.) (EIS Order #90791.)

Draft

Lomas Verdes Avenue, PR–174 to PR–176, Puerto Rico, July 25: Proposed is the construction of Lomas Verdes Avenue from PR–174 in the municipality of Bayamon on the west to PR–176 in the municipality of San Juan on the west within Puerto Rico. The project is approximately 6.4 miles in length and will be a six lane, divided, arterial highway classified locally as an avenue. Access to the facility would be uncontrolled except within, and at approaches to, major intersections. Throughout most of the length of the project, the roadway will overlie the two to four lane highway which would be replaced. (FHWA–PR–EIS–79–01–D.) (EIS Order #90773.)

TN–32, U.S. 25E, Appalachian corridor "S," Grainger County, Tenn., July 23: Proposed is the improvement of TN–32 (U.S. 25E, Appalachian corridor "S") from the Holston River bridge to Briar Fork Creek in Grainger County, Tennessee. The length of the project is 10.3 miles. The facility proposed includes two twenty-four foot traffic lanes with twelve foot shoulders and a sixty-four foot median. The alternatives consider no build and three corridor alignments. (FHWA–TN–EIS–78–05–D.) (EIS Order #90758.)

Final

NC–160 relocation, Charlotte, Mecklenburg County, N.C., July 24: Proposed is the relocation of NC–160 in conjunction with the expansion of Douglas Airport in Charlotte, Mecklenburg County, North Carolina. The project would be completed in two stages. Stage I would be a two-lane roadway on four-lane right-of-way and would include realignment of approaches on Piney Top Drive. Stage II would include the extension of Airport Drive, relocation of the Horseshoe Lane and Wilmount Road intersection, and improvement of approaches on Wilmount Road. A portion of West Boulevard may also be relocated. (FHWA–NC–EIS–78–03–F.) Comments made by: USDA, COE, DOT, HEW, HUD, FEA, State and local agencies. (EIS Order #90771.)

Final

Appalachian corridor J, Soddy-Daisy to Dunlap, Hamilton, Bledsoe, and Sequatchie Counties, Tenn., July 26: Proposed is the construction of approximately 19 miles of a section of Appalachian corridor "J" from Soddy-Daisy to Dunlap, in Hamilton, Bledsoe and Sequatchie Counties, Tennessee. The proposed project extends in a northwesterly direction from a point near FAS 4340 approximately 0.5 mile east of TN–29 in the city of Soddy-Daisy, to a western terminus at TN–28 approximately 1.0 mile north of the city of Dunlap. The highway will be a four-lane facility with full control of access on new location. (FHWA–TN–EIS–78–4–F.) Comments made by: HEW, HUD, EPA, DOT, TVA, USDA, DOI, State and local agencies. (EIS Order #90784.)

Loop 340, from U.S. 77 to TX–6, Waco and Robinson, McLennan County, Tex., July 26: Proposed is the construction of a four lane divided highway consisting of two 24 foot roadways with paved shoulders and interchange structures to be known as Loop 340 in the cities of Waco and Robinson, McLennan County, Texas. The project will begin at U.S. 77 south of Waco and extend northwest for approximately 5 miles ending at TX–6. The alternatives include three alternate routes and no-build. (FHWA–TEX–EIS–78–01–F.) Comments made by: COE, USDA, DOI, EPA, State agencies. (EIS Order #90785.)

EIS's Filed During the Week of July 23 to 27, 1979

(Statement Title Index—By State and County)

State	County	Status	Statement title	Accession No.	Date filed	Orig Agency No.
Alabama	Several	Draft	Coal Property Leases, Purchase of Leasehold Interest.	90792	07–27–79	USDA
Alaska		Draft	Prudhoe Bay Sales Gas Conditions Facility C/O	90780	07–26–79	FERC
		Draft	Fort Wainwright Installation Utilization	90799	07–27–79	USA
		Draft	Fort Greely Installation Utilization	90801	07–27–79	USA
		Draft	Fort Richardson Installation Utilization	90803	07–27–79	USA
Arizona		Draft	Havasupai Indian Reservation Addition	90756	07–23–79	DOI
California	Kern	Draft	Tehachapi Watershed Flood Protection Plan	90765	07–24–79	USDA
	Los Angeles	Final	Long Beach Naval Station, Reestablishment	90772	07–24–79	USN
	Marin	Final	East San Rafael Baylands Development	90790	07–26–79	COE
	San Diego	Final	Imperial Beach, Erosion Control	90761	07–23–79	COE
	Santa Clara	Draft	Llagas Creek Watershed Flood Prevention	90768	07–24–79	USDA
	Yuba	Draft	Beale AFB, Operation of the Pave Paws Radar System.	90796	07–27–79	USAF
Colorado	Montezuma La Plata	Draft	Animas-La Plata Water Supply Project, Animas River.	90774	07–25–79	DOI
	Several	Draft	Green and Yampa Rivers, Wild and Scenic Rivers Study.	90805	07–27–79	DOI
Connecticut		Draft	Long Island Sound, Disposal of Dredged Material	90793	07–27–79	
	New London	Final	Trident Dredging, Thames River Channel, Groton	90769	07–24–79	USN
Florida	Polk	Draft	FL–563, Lakeland North-South Route	90757	07–23–79	DOT
Indiana	Allen	Draft	Mayhew-Maplecrest Corridor, IN–37 to I–69	90755	07–23–79	DOT
Louisiana	Several	Draft	Mermentau River Basin, O/M of Four Projects	90763	07–24–79	COE
	ST. John the Baptist	Final	Willow Bend Chemical Complex, NPDES Permit	90755	07–26–79	EPA
	St. Mary	Final	WWT Facilities, St. Mary Parish, Grant	90709	07–26–79	EPA
	Assumption	Draft	Bayou Boeuf Fabrication Yard Expansion, Permit	90783	07–26–79	COE
Maryland	Frederick	Draft	Baltimore Harbor/Channels Navigation Improvements.	90759	07–23–79	COE
		Final	Frederick Heights Housing Project	90770	07–24–79	HUD
Nevada	Clark	Draft	Nellis Air Force Base Bombing Range Land Withdrawal.	90794	07–27–79	DOI
	Lincoln	Draft	Nellis Air Force Base Bombing Range Land Withdrawal.	90794	07–27–79	DOI
	Nye	Draft	Nellis Air Force Base Bombing Range Land Withdrawal.	90794	07–27–79	DOI
New Mexico	Several	Draft	Holloman AFB, Valentine Area, Supersonic Operation.	90798	07–27–79	USAF
	Carton	Draft	Holloman AFB, Morenci Area, Supersonic Operations.	90797	07–27–79	USAF
	Montezuma	Draft	Animas-La Plarita Water Supply Project, Animas River.	90774	07–25–79	DOI
Minnesota	Marshall	Draft	Snake River Snagging and Clearing for Flood Control.	90807	07–27–79	COE
	Pennington					
	Polk					
New York		Draft	Long Island Sound, Disposal of Dredged Material	90793	07–27–79	
North Carolina	Mecklenburg	Final	NC–160 Relocation, Charlotte	90771	07–24–79	DOT
North Dakota	Ransom	Draft	Sheyenne National Grassland, Land Mgmt., Custer NF.	90764	07–24–79	USDA
	Richland	Draft	Sheyenne National Grassland, Land Mgmt., Custer NF.	90764	07–24–79	USDA
Ohio	Franklin	Draft	West Point Subdivision, Mortgage Insurance	90775	07–25–79	HUD
	Montgomery	Final	Mound Facility, Miamisburg	90787	07–26–79	DOE

EIS's Filed During the Week of July 23 to 27, 1979—Continued

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig Agency No.
Oregon	Jackson	Draft	Reeder Reservoir Maintenance Operations, Ashland.	90782	07-26-79	
	Jackson	Final	McCloughlin-Klamath Unit, Rogue R. and Winema NFS.	90808	07-27-79	USDA
Klamath		Final	McCloughlin-Klamath Unit, Rogue R. and Winema NFS.	90808	07-27-79	USDA
	Multnomah	Draft	Farias Road to Butler Road Connector, Gresham	90779	07-26-79	DOT
	Umatilla	Final	Elgin Unit Plan, Umatilla and Wallowa-Whitman NFS.	90786	07-26-79	USDA
	Union	Final	Elgin Unit Plan, Umatilla and Wallowa-Whitman NFS.	90786	07-26-79	USDA
	Wallowa	Final	Elgin Unit Plan, Umatilla and Wallowa-Whitman NFS.	90786	07-26-79	USDA
Puerto Rico		Draft	Lomas Verdes Avenue, PR-174 to PR-176	90773	07-25-79	DOT
Regulatory		Draft	1983/Later Model Year Light-Duty Trucks, Emissions.	90760	07-23-79	EPA
South Carolina		Draft	Highway Connector, Isle of Palms to U.S. 17/701	90791	07-27-79	DOT
Tennessee	Bledsoe	Final	Appalachian Corridor J, Soddy-Daisy to Dunlap	90784	07-26-79	DOT
	Grainger	Draft	TN-32, U.S. 25E, Appalachian Corridor "S"	90758	07-23-79	DOT
	Hamilton	Final	Appalachian Corridor J, Soddy-Daisy to Dunlap	90784	07-26-79	DOT
	Polk	Final	Ocoee No. 2 Hydro Plant, Rehabilitation	90777	07-25-79	TVA
	Sequatchie	Final	Appalachian Corridor J, Soddy-Daisy to Dunlap	90784	07-26-79	DOT
Texas		Draft	Wallisville Lake, Trinity River	90795	07-27-79	COE
	McLennan	Final	Loop 340, from U.S. 77 to TX-6, Waco and Robinson	90785	07-26-79	DOT
U.S. Territory		Final	Babelthuap-Koror Airport, Pacific Islands	90762	07-23-79	DOT
Utah	Duchesne	Draft	Upalco Unit Irrigation, Lake Fork River, Ashley NF	90776	07-25-79	DOI
	Several	Draft	Green and Yampa Rivers, Wild Scenic Rivers Study	90805	07-27-79	DOI
Virginia		Draft	Baltimore Harbor/Channels Navigation Improvements.	90759	07-23-79	COE
		Draft	Fort Lee Ongoing Mission	90806	07-27-79	USA
	Fairfax	Draft	Fort Belvoir Ongoing Mission	90800	07-27-79	USA
	James City	Draft	Fort Eustis Ongoing Mission	90804	07-27-79	USA
Washington	Grays Harbor	Supple	Grays Harbor/Chehalis River, O/M Dredging (DS-1).	90778	07-26-79	COE
	Pierce	Draft	Weyerhaeuser Export Facility at Dupont, Permit	90781	07-26-79	COE
Wisconsin	Monroe	Draft	Fort McCoy Ongoing Mission, Sparta	90802	07-27-79	USA
Wyoming	Park	Draft	Polecat Bench Area, Irrigation	90766	07-24-79	DOI
	Park	Draft	Modification of Buffalo Bill Dam, Shoshone Project	90767	07-24-79	DOI

Appendix II.—*Extension/Waiver or Review Periods on EIS's Filed with EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF DEFENSE, AIR FORCE					
Dr. Carlos Stern, Deputy for Environment and Safety, Department of the Air Force, Room 4C885, Pentagon, Washington, D.C. 20330, (202) 697-9279.	Beale AFB, Operation of the Pave Paws Radar System, Yuba County, California.	Draft 90796	Aug. 3, 1979, see apppendix I.	Extension	Oct. 1, 1979.
ENVIRONMENTAL PROTECTION AGENCY					
Mr. Charles L. Gray, Director Emission Control Technology Division, Office of Mobile Source Air Pollution Control, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 374-8404.	1983/Later Model Year Light-Duty Trucks, Emissions.	Draft 90760	Aug. 3, 1979, see appendix I.	Extension	Oct. 10, 1979.
NEW ENGLAND RIVER BASIN COMMISSION					
Mr. John Ehrenfeld, Chairman, New England River Basin Commission, 53 State Street, Boston, Massachusetts 02109, (617) 223-6244.	Long Island Sound, Disposal of Dredged Material.	Draft 90793	Aug. 3, 1979, see appendix I.	Extension	Oct. 31, 1979.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
U.S. ARMY CORPS OF ENGINEERS				
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, N.W., Washington, D.C. 20314 (202) 272-0121.	Borg-Warner Plastics Plant, Saverton, Ralls County, Missouri, Permit.	Draft 90002	Jan. 15, 1979	July 19, 1979.

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
U.S. ARMY CORPS OF ENGINEERS				
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, N.W., Washington, D.C. 20314, (202) 272-0121.	Beach Erosion Control Project, Anna Maria Key, Manatee County, Florida.	Final supplement 90805	June 29, 1979	The final supplement EIS was not distributed at the time the notice of availability was published in Federal Register. The EIS was resubmitted for filing on July 25, 1979. The date review terminates is Aug. 24, 1979.

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF AGRICULTURE				
Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965.	Escalante Generating Plant and Related Transmission Facilities, New Mexico.	Draft 90715	July 20, 1979	In appendix II the date review terminates was listed as 10-9-79. The correct date that review terminates is Sept. 3, 1979.
NUCLEAR REGULATORY COMMISSION				
Mr. John B. Martin, director, Division of Waste Management, Nuclear Regulatory Commission, Washington, D.C. 20555.	Uranium Milling, Generic Statement, Programmatic.	Draft 90412	July 27, 1979	In appendix II the date review terminates was listed as 7-26-79. The correct date that review terminates is Sept. 24, 1979.

[FR Doc. 79-24080 Filed 8-2-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1290-8]

Plant Closings Attributable to Environmental Regulations; Request for Information

The U.S. Environmental Protection Agency (EPA) is attempting to identify all industrial closings that have resulted from Federal, State, or local pollution control regulations. The EPA promptly transmits the information to the U.S. Department of Labor so that adverse employment effects can be minimized. This interagency reporting system is known as the Economic Dislocation Early Warning System (EDEWS). The information generated by the EDEWS is also essential in evaluating the effects of pollution control regulations on specific industries.

EPA is aware that plant closings generally result from a combination of factors, one of which may be the requirement to comply with environmental regulations. Because of the complexity of the subject and the unique circumstance of each decision to close a plant, EPA is not attempting to set forth guidelines as to what, in its view, may constitute a plant closing attributable to regulations for environmental protection. EPA would like to hear from any firm which has closed or plans to close a facility where inability to meet pollution control regulations is a substantial factor. The EPA would also appreciate any information regarding such situations from sources other than the firms themselves.

Please mail or phone the firm's name and address to the EPA contact in the appropriate region listed below.

Dated: July 31, 1979.

William Drayton, Jr.,

Assistant Administrator for Planning and Management.

Economic Dislocation Early Warning System

EPA Regional Representatives

Ms. Mary Vance, Enforcement Division, U.S. EPA—Region I, Room 2103, John F. Kennedy Building, Boston, Mass. 02203, 617/223-3479.

Ms. Cathy Callahan, Chief, Planning and Evaluation, Management Division, U.S. EPA—Region II, 26 Federal Plaza, Room 1013, New York, N.Y. 10007, 212/264-3052.

Mr. Fred Knapp, Management Division (3MA30), U.S. EPA—Region III, Curtis Building, (6th and Walnut Streets), Philadelphia, Pa. 19106, 215/597-8217.

Mr. Alan W. McCluney, Jr., Program Planning, Development, and Evaluation, U.S. EPA—

Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308, 404/881–3776.
Ms. MaryLu Lageman, Program Development Branch, U.S. EPA—Region C, 230 South Dearborn Street, Chicago, Illinois 60604, 312/353–2040.
Mr. Henry Holman, Chief, Planning, Budgeting and Evaluation Branch, U.S. EPA—Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270, 214/729–2702.
Mr. Ray Hurley, Management Division, U.S. EPA—Region VII, 1735 Baltimore Street, Kansas City, Missouri 64108, 816/758–5825.
Mr. Duane Traylor, Management Division, U.S. EPA—Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203, 303/837–5928.
Mr. Clyde Eller, Enforcement Division, U.S. EPA—Region IX, 215 Fremont Street, San Francisco, Calif. 94105, 415/556–0102.
Mr. Dan Bodien, Permits Branch, Enforcement Division, U.S. EPA—Region X, 1200 6th Avenue, Seattle, Washington 981–01, 206/442–1270.

[FR Doc. 79–24081 Filed 8–2–79; 8:45 am]
BILLING CODE 6560–01–M

Science Advisory Board, Environmental Pollutant Movement and Transformation Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given of a meeting of the Subcommittee on Groundwater Research of the Environmental Pollutant Movement and Transformation Committee of the Science Advisory Board. The meeting will be held on August 21–23, 1979 in Conference Room 5417 of the New Federal Court House on North 4th Street and Broadway in Oklahoma City, Oklahoma, beginning each date at 9:30 a.m.

The meeting is open to the public. The agenda includes discussions on the relationships between future EPA groundwater research with needs for development of various studies and strategies for groundwater monitoring associated with the control of leachates from disposal of hazardous and radioactive wastes. Also to be discussed and reviewed by the Subcommittee are proposed research planning concepts that will guide EPA internal and extramural research funding in groundwater for the next three to five years.

Because seating capacity is limited, persons desiring to attend must pre-register and be given a confirmed reservation by the Executive Secretary of the Subcommittee, Dr. Joel L. Fisher. He may be reached at (202) 472–9444. Deadline for preregistration is close of business on August 10, 1979.

Richard M. Dowd,
Science Advisory Board.
July 30, 1979.

[FR Doc. 79–24087 Filed 8–2–79; 8:45 am]
BILLING CODE 6560–01–M

[FRL 1290–6]

Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA, under the provisions of a federally promulgated regulation published in the June 4, 1979 **Federal Register** (44 FR 31979), and corrected in the July 2, 1979 **Federal Register** (44 FR 38471), requires the State of New Jersey to submit to EPA a copy of the permit application for specific coal conversions, together with an air quality analysis employing methodology acceptable to EPA. On June 12, 1979, the New Jersey Department of Environmental Protection submitted the permit and an air quality analysis for the conversion from oil to coal of two boilers at Atlantic City Electric Company's Deepwater Generating Station, Deepwater, New Jersey. EPA has reviewed the impact of the proposed conversion and determined on the basis of the air quality modeling results that the proposed coal conversion will not interfere with the attainment or maintenance of air quality standards and will not cause any Prevention of Significant Deterioration (PSD) increment to be exceeded.

(Sections 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601)).

Dated: July 25, 1979.

Eckardt C. Beck,
Regional Administrator, Environmental Protection Agency.

[FR Doc. 79–24083 Filed 8–2–79; 8:45 am]
BILLING CODE 6560–01–M

[FRL 1288–4]

Update of Power Plants Potentially Subject to Section 120 Noncompliance Penalties; Availability

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of availability of information updated in support of proposed rule for Section 120 noncompliance penalties.

SUMMARY: EPA released, in support of the proposed rule for Section 120 noncompliance penalties, an economic impact analysis prepared by Temple, Barker & Sloane, Inc., in March 1979. That report included an analysis of utility companies based on compliance status information as of August 1978. Since developing that list of power plants, it has become apparent that the status of several of the utility companies listed in that report should be updated. Therefore, notice is hereby given that the USEPA has made available information representing a compliance status update of all power plants included in last year's analysis based on the best information available as of June 1979. The information is available for public inspection and copying during normal business hours in Room 2903–B, Waterside Mall, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, docket number EN–79–1.

FOR FURTHER INFORMATION CONTACT: Howard Wright, Chief, Compliance Analysis Section, Division of Stationary Source Enforcement, Environmental Protection Agency at (202) 755–0103.

Dated: July 27, 1979.

Marvin B. Durning,
Assistant Administrator for Enforcement (EN–329).

Subject: Supplementary Information to Notice of Availability to Update Power Plants Potentially Subject to Section 120 Noncompliance Penalties.

The proposed rule for the assessment and collection of Noncompliance Penalties under Section 120 of the *Clean Air Act*, as amended in August 1977, was published March 21, 1979, in the **Federal Register** (44 FR 17310). In support of the proposed regulations, an economic impact analysis was prepared by Temple, Barker & Sloane, Inc. (TBS) for the U.S. EPA, and made available in March 1979. One key source category addressed in the TBS study was utility companies. The TBS analysis focused on power plants initially identified as being in violation of applicable air pollution control requirements in the July 1978 compliance status summary of the EPA's Division of Stationary Source Enforcement (DSSE). Plants that were not on the July summary were not considered any further, although Section 120 would be applicable to those plants as well if they fail to maintain compliance.

For each plant identified, potential Section 120 penalties were calculated and were included in TBS's impact assessment model. However, a refinement of the July summary occurred prior to TBS running their model. DSSE verified through EPA's regional offices

in August 1978 the compliance status of those plants not scheduled to be in compliance prior to August 1979 or not in compliance with schedules included as part of an EPA-approved state implementation plan (SIP). During this verification, DSSE requested supplementary input data where it existed for computing penalties on the noncomplying plants. These data included final compliance schedule dates, number of days of violation, existing and planned control equipment, and capital and O&M costs.

In cases where a power plant was identified as in violation and information was not available as to the plant's proposed means and timetable for compliance, EPA made projections of the source's control equipment needs, their costs, and compliance schedules. EPA used the information formulated for the NSPS power plant standard revision, adjusted for retrofit situations, to make these projections.

Once compliance schedules, final dates, capital costs and annual O&M expenditures were calculated for the violating plants earlier identified, DSSE computed penalities for two enforcement scenarios. One scenario estimated penalties for violating power plants scheduled to achieve final compliance as expeditiously as practicable. The other scenario, depicting a worst case situation, assumed delayed final compliance by an additional twelve months.

Since developing DSSE's initial list of plants potentially subject to Section 120 penalties, it has become apparent that compliance status of several identified utility companies should be updated. Therefore, we have made the following information available concerning all power plants included in last summer's Section 120 calculations. Please note that these data reflect the best information available to EPA as of June 1979. In addition, this update does not consider plants which were identified as in compliance last summer, but have subsequently fallen out of compliance. In any case, this information in no way exempts any power plant from possible penalty assessment should noncomplying conditions ever occur. Furthermore, there are no automatic exemptions from Section 120 penalties for those sources on coal conversion orders, consent decrees, or delayed compliance orders extending past August 7, 1979.

1. According to information available to the USEPA, the following sources are in final compliance with applicable SIP regulations. If such compliance is maintained, there will be no assessment of noncompliance penalties:

- Alabama Power
  AL—Barry
- Baltimore G&E
  MD—Wagner
- Duke Power
  NC—Cliffside
- Public Service of N.J.
  NJ—Hudson
- Metropolitan Edison
  PA—Titus
- Appalachian Power
  WV—Amos
- Upper Peninsula
  MI—Warden
- Columbus and S. Ohio
  OH—Picway
  OH—Poston
- Boston Edison
  MA—South Boston Stations (New Boston, L Street)
- Lansing Board of W&L
  MI—Ottawa St.
- Detroit Public Lighting
  MI—Mistersky
- Georgia Power
  GA—Hammond
- PEPCO
  VA—Potomac River
- N. Michigan Electric Coop
  MI—Advance
- Niagara Mohawk
  NY—Albany Street

2. According to information available to the USEPA, the following sources are on Delayed Compliance Orders with final compliance dates prior to August 7, 1979. If final compliance is achieved and maintained, no noncompliance penalties will be assessed.

- Orrville Municipal Utilities
  OH—Vine Street
- Indiana-Kentucky Electric
  IN—Clifty Creek (particulates only, cross-referenced listing in #5)
- PEPCO
  MD—Dickerson
- S.C. Public Service
  SC—Jefferies
- Central Operating
  WV—Sporn
- Empire District
  KS—Riverton

3. According to information available to the USEPA, the following sources are in compliance with EPA-approved SIP schedules. If compliance with these schedules is maintained, no noncompliance penalties will be assessed:

- Golden Valley Electric
  AK—Healy
- Atlantic City Electric
  NJ—England
- Consumers Power
  MI—Campbell
  MI—Weadock
  MI—Cobb
  MI—Karn
- Monongahela Power [1]
  WV—Harrison
- Detroit Edison
  MI—Harbor Beach
  MI—Monroe
- Springfield W. L & P [1]
  IL—Lakeside
- Delmarva Power & Light
  DE—Indian River

4. According to information available to the USEPA, the following sources are in violation of EPA-approved SIP schedules. If compliance with schedules is not achieved prior to August 7, 1979, and maintained thereafter, noncompliance penalties will be assessed:

- Associated Electric Coop
  MO—New Madrid
  MO—Thomas Hill
- Holland Board of Public Works
  MI—De Young

5. According to information available to the USEPA, the following sources are in violation of applicable SIP regulations. If compliance is not achieved prior to August 7, 1979, and maintained thereafter, noncompliance penalties will be assessed:

- TVA
  AL—Widows Creek
  KY—Paradise
  KY—Shawnee
  TN—Cumberland
  TN—Johnsonville
- Penn Power and Light
  PA—Brunner Island
- Delmarva Power and Light
  DE—Delaware City
- Guam Power
  GU—Cabras
- Toledo Edison [2]
  OH—Acme Front
  OH—Bayshore
- Ohio Valley Electric [2]
  OH—Kyger Creek
- Ohio Power [2]
  OH—Cardinal
  OH—Muskingum
- Cleveland Electric Ill.[2]
  OH—East Lake
  OH—Avon Lake
  OH—Lakeshore
  OH—Ashtabula
- Danville W. G&E
  VA—Brantly
- Niagara Mohawk
  NY—Oswego
- Guam Power
  GU—Tanguisson
- Kansas City G&E
  KS—Quindaro
  KS—Kaw River
- Union Electric
  MO—Labadie
  MO—Meramec
  MO—Sioux
- University of Missouri
  MO—Columbia
- Carolina P&L

[1] On unapproved schedule calling for final compliance before August 7, 1979.
[2] Source is on Delayed Compliance Order with final compliance date past August 7, 1979.

NC—Roxboro
- PEPCO
DC—Benning Road
- Duquesne Light
PA—Cheswick
- Philadelphia Electric
PA—Cromby
PA—Eddystone
- Penn Power & Light
PA—Holtwood
- U.S. Department of Navy
GU—Piti
- Public Service of Colo.
CO—Cherokee
- Public Service of Indiana
IN—Wabash River
- Ohio Edison
OH—Mad River
OH—Edgewater
OH—Niles
OH—Gorge
OH—E. Palestine
OH—Norwalk
OH—Toronto
OH—Burger
OH—Sammis
- Cincinnati Gas and Electric
OH—Beckjourd
- Penn Power
PA—New Castle
- West Penn Power
PA—Mitchell
- U.S. Department of Transportation
CT—Cos Cob
- Arizona Public Service
NM—Four Corners
- Lansing Board of Water & Light
MI—Eckert
MI—Erickson
- Springfield Utilities
MO—James River
- Columbus & S. Ohio
OH—Conesville
- Hawaiian Electric
HI—Kahe
- Maui Electric
HI—Kaahalui
- No. Indiana Public Service
IN—Bailly
- Commonwealth Edison
IL—Joliet
IL—Kincaid
IL—Romeoville
IL—Waukegan
- Western Ill. Elec.
IL—Pearl
- Indiana-Kentucky Elect.
IN—Clifty Creek (sulfur dioxide only, cross-referenced listing in #2)
- Indianapolis P&L
IN—Stout
IN—Perry K
IN—Perry W

[FR Doc. 79-24086 Filed 8-2-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed Between State of Hawaii and Matson Terminals, Inc.

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 13, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. T-3813-A.

Filing Party: Ryokichi Higashionna, Director, State of Hawaii, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813.

Summary: Agreement No. T-3813-A, between the State of Hawaii (State) and Matson Terminals, Inc. (Matson), provides for the lease of land and facilities at Sand Island in the Port of Honolulu for use by Matson as a container handling terminal. Effectuation of this agreement will consolidate all Matson container operations at Sand Island. The term of the lease is for 35 years, and Matson will pay the State an annual rental of $503,625 for the first fifteen years of the lease (after which the rental is subject to renegotiation); Matson will also pay all other applicable charges, including dockage, wharfage, storage and pipeline tolls as set forth in State's tariff. Should Matson furnish crane services to other common carriers by water, such services will be provided at the rates and under the terms and conditions established by Matson and approved by the State.

By Order of the Federal Maritime Commission.

Dated: July 30, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-23905 Filed 8-2-79; 8:45 am]
BILLING CODE 6730-01-M

[Docket No. 79-80]

Salou Trading Corp. v. Sea-Land Service, Inc.; Filing of Compliant

Notice is given that a complaint filed by Salou Trading Corporation against Sea-Land Service, Inc., was served July 27, 1979. Complainant alleges that respondent wrongfully assessed freight rates for the carriage of feathermeal in bulk in violation of 46 U.S.C. 817 (section 18 of the Shipping Act, 1916).

Hearing in this matter, if any is held, shall commence on or before January 27, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-23904 Filed 8-2-79; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Annual Report; Availability

Pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 463) and Circular A-63, revised, of the Office of Management and Budget notice is hereby given to the availability of the Federal Prevailing Rate Advisory Committee 1978 Annual Report.

The Report summarizes the activities and recommendations of the Committee to the Director, Office of Personnel Management in dealing with the Federal prevailing rate systems for craft, trade, and labor employees paid from either appropriated or nonappropriated funds during calendar year 1978.

Single copies of the Report will be furnished without charge. Multiple copies can be furnished at a fair and equitable fee upon written request addressed to the Chairman, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E St. NW., Washington, D.C. 20415.

The Report may be otherwise examined and/or copies obtained at the above office and address between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday, legal holidays excluded.

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

July 30, 1979.

[FR Doc. 79-23901 Filed 8-2-79; 8:45 am]
BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their view on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 27, 1979.

A. *Federal Reserve Bank of Boston*, 30 Pearl Street, boston, Massachusetts 02106:

First National Boston Corporation, Boston, Massachusetts (financing, servicing loans, and investment advisory activities; Florida, Georgia, North Carolina, South Carolina, Virginia, Tennessee, Alabama, Mississippi, Arkansas, and Louisiana): to engage, through its subsidiary, First of Boston Mortgage Corporation, in the following activities: (a) making, acquiring and servicing for its own account, or for the account of others, loans and other extensions of credit including those secured by mortgages of residential or commercial properties or leasehold interests therein; (b) furnishing economic or financial information on real estate matters; (c) providing portfolio investment advice concerning real estate matters; and (d) providing all such other services and engaging in all such other activities as are incidental to any of the foregoing. Such activities will be conducted from a new office located in Boca Raton, Florida. The principal geographic areas to be served include the states of Florida, Georgia, North Carolina, South Carolina, Virginia, Tennessee, Alabama, Mississippi, Arkansas, and Louisiana.

B. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York, (trust company activities; Florida): to engage, through a wholly-owned subsidiary in the following activities: activites that may be performed or carried on by a trust company, including activities of a fiduciary, agency or custodian nature and/or of an investment advisory business. Such activities will be conducted at an office proposed to be located at One South East Third Avenue, Miami, Florida 33131. Dade, Palm Beach, and Broward Counties will be the Trust Company's primary service area.

2. Citicorp, New York, New York (financing activities; Florida): to engage, through its subsidiary Citicorp Person-to-Person Financial Center of Florida, Inc. in making consumer installment personal loans; purchasing and servicing for its own account consumer installment sales finance contracts, making loans for the account of others, such as one-to-four family unit mortgage loans; to individuals and businesses secured by real and personal property, the proceeds of which may be for purposes other than personal, family or household usage; and the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers to the extent permissible under applicabl estate insurance laws and regulations. These activities would be conducted from an office in Pinellas Park, Florida, serving the entire State of Florida.

C. *Federal Reserve Bank of Philadelphia*, 100 North 6th Street, Philadelphia, Pennsylvania 19105:

New Jersey National Corporation, Trenton, New Jersey (mortgage banking and servicing activities; lending in Pennsylvania, New Jersey, Maryland, Delaware, New York and servicing nationwide): to engage, through its subsidiary, Underwood Mortgage & Title Company in making, acquiring, and servicing loans and other extensions of credit, for its own account and for the account of others, secured by real estate mortgages. These activities would be conducted at an office located in Bala Cynwyd, Pennsylvania, serving Pennsylvania, New Jersey, Maryland, Delaware, New York and for servicing only, nationwide.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 26, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23044 Filed 8-2-79; 8:45 am]
BILLING CODE 6210-01-M

Chemical Financial Corp.; Acquisition of Bank

Chemical Financial Corporation, Midland, Michigan, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares of the successor by merger to Citizens Bank and Trust Company, Clare, Michigan. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 26, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23945 Filed 8-2-79; 8:45 am]
BILLING CODE 6210-01-M

Chemical Financial Corp.; Acquisition of Bank

Chemical Financial Corporation, Midland, Michigan, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Citizens Bank and Trust Company, Clare, Michigan. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 26, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23950 Filed 8-2-79; 8:45 am]
BILLING CODE 6210-01-M

First Neches Bancorp Shares, Inc.; Formation of Bank Holding Company

First Neches Bancorp Shares, Inc., Vidor Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80–100 percent of the voting shares (less directors' qualifying shares) of Vidor State Bank, Vidor, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 27, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23948 Filed 8-2-79; 8:45 am]
BILLING CODE 6210-01-M

Lawson Bancshares, Inc.; Formation of Bank Holding Company

Lawson Bancshares, Lawson, Missouri, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of the Lawson Bank, Lawson, Missouri. The factors that are condsidered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 27. 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 27, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23946 Filed 8-2-79; 8:45 am]
BILLING CODE 6210-01-M

Patriot Bancorporation; Formation of Bank Holding Company

Patriot Bancorporation, Boston, Massachusetts, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Brookline Trust Company, Brookline, Massachusetts, and New Harbor National Bank ("Bank"), Boston, Massachusetts, after Harbor National Bank, Boston, Massachusetts, merges into Bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 27, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23949 Filed 8-2-79; 8:45 am]
BILLING CODE 6210-01-M

Southeast Banking Corp.; Acquisition of Bank Holding Company

Southeast Banking Corporation, Miami, Florida, has applied for the Board's approval under § 3 of the Bank Holding Company Act (12 U.S.C. § 1842) to acquire 80 per cent or more of the voting shares of First Bancshares of Florida, Inc., Boca Raton, Florida, through the merger of its inactive subsidiary, Southeast Merger Company, Miami, Florida, into First Bancshares of Florida, which will be the surviving entity. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 25, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23947 Filed 8-02-79; 8:45 am]
BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Palm Beach Incorporated is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Haspel Brothers, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination submitted by both parties to the transaction. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: July 25, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require that notice of this action be published in the **Federal Register.**

By direction of the Commission.
Carol M. Thomas,
Secretary.
[FR Doc. 79-23985 Filed 8-2-79; 8:45 am]
BILLING CODE 6750-01-M

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Flag Associates, L.P. is granted early termination of the 30-day waiting period perovided by law and the premerger notification rules with respect to its proposed acquisition of certain assets of Monumental Properties Trust. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Flag Associates, L.P. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: July 25, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require the Commission to publish notice of this action in the **Federal Register.**

By direction of the Commission.
Carol M. Thomas,
Secretary.
[FR Doc. 79-23986 Filed 8-2-79; 8:45 am]
BILLING CODE 6750-01-M

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Mobil Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain assets of Food Fair, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Food Fair, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: July 25, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation. Bureau of Competition. Room 394, Federal Trade Commission, Washington, D.C. 20580, (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require the Commission to publish notice of this action in the **Federal Register.**

By direction of the Commission.
Carol M. Thomas,
Secretary.
[FR Doc. 79-23987 Filed 8-3-79; 8:45 am]
BILLING CODE 6750-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on July 26, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collecting of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC, ICC, and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before August 21, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General

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Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Communications Commission

The FCC requests an extension without change clearance of Form 400, Application for Radio Station Authorization with Safety and Special Radio Services. Form 400 is required by sections 89.59(a), 91.56(a), and 93.56(a) of the FCC Rules and Regulations. The form is used to file for a new station license or for modifying an existing station license in the General Mobile, Public Safety and Land Tranportation, and Industrial and Business Radio Services. The FCC estimates respondent burden will average approximately 6 hour per response and that the Commission receives approximately 50,000 applications annually.

The FCC requests an extension without change clearance of Form 400–S, Supplemental Information for Trunked and Conventional Systems. Form 400–S is required when making application for trunked or conventional systems of communications to operate in the 806–821 MHz and 851–866 MHz frequency bands in accordance with provisions of Section 89.701 of the FCC Rules and Regulations. The FCC estimates respondent burden will average approximately one hour per response and that approximately 400 applications are filed annually.

The FCC requests an extension without change clearance of Form 402, Application for License in the Private Operational Fixed Microwave Radio Service. Form 402 is required by section 94.27 of the Commission's Rules and Regulations. It is filed when applying for a new station license, modifying an existing station license, or for authorization to operate one or more fixed stations at temporary locations in the Private Operational Fixed Microwave Radio Service. The FCC estimates respondent burden will average approximately 8 hours per response and that approximately 3,900 applications are filed annually.

The FCC requests an extension without change clearance of Form 425, Application for Radio Station Authorization. Form 425 is required by sections 21.14(a), 74.404, 89.60, 91.57, 93.57 and 95.19 of the FCC Rules and Regulations. The form is used to file for a new, renewal of, or modification to a radio station authorization in the Chicago Regional Area and 470–512 MHz bands. The FCC estimates respondent burden will average approximately 7 hours per response and that the Commission receives approximately 19,360 applications annually.

Interstate Commerce Commission

The ICC requests an extension without change clearance of Form OP–FC–1, Application in Proceedings Under Section 206(a), 212(b) and 211 of the Interstate Commerce Act, for: (1) Transfer or Lease of Motor Carrier Certificates of Registration; (2) Transfer or Lease of Motor Carrier Operating Rights; and, (3) Transfer of Brokers' Licenses or Approval of a Change in Control of a Company Holding a Broker's License. The present form was created by combining two previous forms, since most of the same information was required by both. The Commission's rules and regulations governing use of the application form are set forth in Chapter X, Title 49 of the Code of Federal Regulations, sections 1132.1 through 1132.7; sections 1132.10 through 1132.14; and sections 1045.11 and 1133. The ICC estimates that approximately 800 applications are filed annually and that the time required to prepare an application averages 8 hours.

Nuclear Regulatory Commission

The NRC requests clearance of new application requirements in 10 CFR Part 70, Domestic Licensing of Special Nuclear Material. Section 70.22(g) requires that each application for a license that would authorize the transport or delivery to a carrier for transport of special nuclear material in an amount specified in section 73.1(b)(2) include a description of the plan for physical protection of special nuclear material in transit in accordance with sections 73.30 through 73.36, 73.47 (a) and (e), 73.47(g) for 10 kg or more of special nuclear material of low strategic significance, and 73.70(g). Section 70.22(k) requires that each application for a license to possess or use at any site or contiguous sites subject to control by the licensee special nuclear material of moderate strategic significance of 10 kg or more of special nuclear material of low strategic significance as defined under paragraphs 73.2 (x) and (y) of the regulations, other than a license for possession or use of such material in the operation of a nuclear power reactor licensed pursuant to Part 50 shall include a physical security plan which shall demonstrate how the applicant plans to meet the requirements os subsections 73.47 (d), (e), (f) and (g), as appropriate, of Part 73. The NRC estimates the number of applications received annually requiring the submission of a plan will be 56 for each section and that the burden for preparation of either plan will be 30 hours.

The NRC requests clearance for reporting requirements cotained in new amendments to 10 CFR Part 73, Physical Protection of Plants and Materials. The NRC is amending its regulations to require physical protection measures to detect theft of special nuclear material of moderate and low strategic significance. The amendments are primarily to show U.S. endorsement of physical protection procedures recommended by the IAEA in INFCIRC/225. The amendments apply to the possession and use of such material at fixed sites and to transportation between sites, including import and export shipments. The technical justification for the adoption of the proposed amendments has both a domestic and international component, which are closely interrelated. Current NRC physical protection regulations apply primarily to strategic special nuclear material (uranium enriched in the isotope U–235 to 20 percent or greater, U–233, and plutonium) in quantities of five formula kilograms or greater. There are no specific physical protection requirements for quantities in lesser amounts. Yet, a 4.9 formula kilogram quantity of SSNM is almost as important a quantity as 5.0 formula kilograms. Multiple thefts of such materials in less than formula quantities could result in the accumulation of more than a formula quantity. The proposed detection requirements are considered to provide sufficient protection with minimum added cost so as not to adversely affect educational and research programs. Section 73.47(c)(1) requires certain licensees to submit a security plan (or a revised plan) describing how the licensee will comply with the requirements of sections 73.47(d), (e), (f), and (g); section 73.47(e)(1)(i) and 73.47(g)(1)(i) require licensees to provide advance notification to receivers of planned shipment; sections 73.47(e)(1)(ii) and 73.47(g)(1)(ii) require confirmation from the receiver prior to the commencement of the planned shipment; sections 73.47(e)(2)(ii) and 73.47(g)(2)(ii) require the receiving licensee of Special Nuclear Material to notify the shipper of receipt of the material; sections 73.47(e)(3)(vi) and 73.47(g)(3)(iii) require licensees to file reports on the results of trace investigations; sections 73.47(e)(4) and 73.47(g)(4) require that licensees who export Special Nuclear Material must comply with the requirements of sections 73.47(c), 73.47(e)(1), and 73.47(e)(3); sections 73.47(e)(5) and 73.47(g)(5) require each licensee who imports Special Nuclear Material to notify the exporter who delivered the material to a carrier for transport of the arrival of the material; section 73.71 requires, from both Category II and III licensees, that a report filed concerning the trace investigation; section 73.72 requires, from Category II licensees, advance notification for each planned shipment. The NRC estimates the respondent burdern for each section as follows: section 73.47(c)(1), 30 hours; section 73.47(e)(1)(i), 2 hours; section 73.47(e)(1)(ii), 1 hour; section 73.47(e)(2)(ii), 1 hour; section 73.47(e)(3)(vi), 1 hour; section 73.47(e)(4), 2 hours, 1 hour and 24 hours; section 73.47(e)(5), 1 hour; section 73.47(g)(1)(i), 2 hours; section 73.47(g)(1)(ii), 1 hour; section 73.47(g)(2)(ii), 1 hour; section 73.47(g)(3)(iii), 1 hour; section 73.47(g)(4), 2 hours, 1 hour, and 24 hours; section 73.47(g)(5), 1 hour; section 73.71, 24 hours; and section 73.72, 2 hours. NRC estimates respondents to number approximately 56.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79–23937 Filed 8–2–79; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

Delegations of Authority

Notice is hereby given that pursuant to the authority delegated on May 19, 1979 by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health (44 FR 31321), the Assistant Secretary for Health delegated on July 24, 1979 to the following officials, with authority to redelegate, all of the authorities, excluding the authority to promulgate regulations, vested in the Secretary of Health, Education, and Welfare under Section 301 of the Public Health Service Act (42 USC 241), as amended by Public Law 95–622, insofar as they apply to the functions assigned to their respective organizations:

(1) Director, Center for Disease Control;

(2) Administrator, Health Resources Administration;

(3) Administrator, Health Services Administration; and

(4) Director, National Institutes of Health.

Provision was made for the supersession of previous delegations to the Director, Center for Disease Control; Administrator, Health Resources Administration; Administrator, Health Services Administration; and Director, National Institutes of Health, of authority under Section 301 of the Public Health Service Act. Provision was also made for the continuation of previous redelegations of such authority to other officials in the Center for Disease Control, Health Resources Administration, Health Services Administration, and National Institutes of Health for no longer than 90 days from July 24, 1979.

Dated: July 24, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79–23973 Filed 8–2–79; 8:45 am]

BILLING CODE 4110–85–M

Food and Drug Administration

[FDA–225–79–8400]

Good Laboratory Practices; Memorandum of Understanding With Health and Welfare Canada

Correction

In FR Doc. 79–19966 appearing on page 37976 in the issue of Friday, June 29, 1979, five lines from the bottom of the first column of page 37976, ". . . Department of Health, Education, and Welfare" should have read ". . . U.S. Department of Health, Education, and Welfare.".

BILLING CODE 1505–01–M

[Docket No. 77F–0387]

Mitsui Petrochemical Industries, Ltd.; Withdrawal of Petition for Food Additives

Correction

In FR Doc. 79–19965 appearing on page 37977 in the issue of Friday, June 29, 1979, the docket number in the heading reading "Docket No. 77E–0387" should have read "Docket No. 77F–0387". Also, under *Supplementary Information*, the address for Mitsui Petrochemical Industries, Ltd. should have been "200 Park Ave." instead of "200 Part Ave.".

BILLING CODE: 1505–01–M

[Docket No. 79N–0251]

Safety of Certain Food Ingredients; Opportunity for Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an opportunity for public hearing on the safety of carotene (β-carotene) to determine if it is generally recognized as safe (GRAS) or subject to a prior sanction. This action accords with procedures of a comprehensive safety review that the agency is conducting. Interested persons are invited to give their views on the safety of this substance.

DATE: Requests to make oral presentations at the public hearing must be postmarked on or before September 4, 1979.

ADDRESSES: Written requests to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20015, and to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 26, 1973 (38 FR 20053), FDA issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (the Select Committee), about the safety of ingredients used in food to determine if they are GRAS or subject to a prior sanction. The agency now announces that the Select Committee is prepared to conduct a public hearing on the following category of food ingredients: Carotene (β-carotene) for direct food use. The public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person(s) to present scientific data, information, and views on the safety of this substance, in addition to those previously submitted in writing under notices published in the **Federal Register** of July 26, 1973 (38 FR 20051, 20053), April 17, 1974 (39 FR 13798), and March 26, 1978 (43 FR 12941).

The Select Committee has reviewed all the available data and information on the category of food ingredients listed above and has reached one of the following five tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to

suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. (This finding does not apply to the substances covered by this notice.)

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted. (This finding does not apply to the substances covered by this notice.)

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced. (This finding does not apply to the substances covered by this notice.)

5. The information available is not sufficient to make a tentative conclusion. (This finding does not apply to the substances covered by this notice.)

The following table lists the ingredient, the Select Committee's tentative conclusion (keyed to the five types of conclusions listed above), and the available information on which the Select Committee reached its conclusions:

Substance	Select Committee tentative conclusion	Scientific literature review (order No.; price code; price) *	Animal study report (order No.; price code; price)	Other information (order No.; price code; price)*
Carotene (β-carotene)	1	PB-241-950/AS; $9.25		1. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemical Generally Recognized as Safe (GRAS)" available from the National Technical Service. PB 221-920 (set) E99; $173.00. 2. Letters, dated January 16, 1979, from K. R. Fulton, National Research Council, Washington, DC. 3. Letter, dated February 22, 1978, from S. F. Riepma, National Association of Margarine Manufacturers, Washington, DC. 4. Hoffmann-La Roche, Inc., 1960. The use of beta-carotene in margarine.

*Price subject to change.

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161.

In addition to the information contained in the above table, the Select Committee supplemented, where appropriate, its revews with specific information from specialized sources as announced in a previous hearing opportunity notice published in the **Federal Register** of September 23, 1974 (39 FR 34218).

The Select Committee's tentative report on carotene (β-carotene) for direct food use is available for review at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and also at the Public Information Office, Food and Drug Administation, Rm. 3807, 200 C St., SW., Washington, DC 20204. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review at the office of the Hearing Clerk.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the time requested to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation should inform the Select Committee in writing addressed to the Select Committee on GRAS Substances, Life Sciences Research Offices, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each request will be sent to the Hearing Clerk (address above) and all requests will be placed on public display in that office. Any such request must be postmarked on or before September 4, 1979, must state the substance(s) on which an opportunity to present oral views is requested, and must state how much time is requested for the presentation. Requests should specify the docket number found in brackets in the heading on this notice. As soon as possible after the requested deadline, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the **Federal Register.**

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for an opportunity to make oral presentation, the Select Committee may reduce the time requested for any presentation. Because of time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which will be considered by the Select Committee. Three copies of such written views, identified with the docket number found in brackets in the heading of this notice, are to be addressed to the Select Committee at the address noted above, and must be postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views are to be sent to the Hearing Clerk, Food and Drug Administration, and will be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of such hearing may be purchased directly from the reporting service and will be placed on public display in the office of the Hearing Clerk, Food and Drug Administration

Dated: July 25, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-23625 Filed 8-2-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78N-0026]

Crockett Laboratories Co. et al.; Certain New Animal Drug Applications for Products Containing Phenothiazine; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of certain new animal drug applications (NADA's) for products containing phenothiazine for which no written appearances or requests for hearing were filed in response to a notice of opportunity for a hearing.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV–101), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4313.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 14, 1978 (43 FR 10620), the Food and Drug Administration (FDA) issued a notice of opportunity for a hearing proposing to withdraw approval of certain new animal drug applications for products containing phenothiazine on the grounds that the sponsors failed to submit certain required reports. Reports were required by a notice published in the **Federal Register** of July 9, 1966 (31 FR 9426). The notice provided that holders of NADA's that were cleared through new animal drug procedures between 1938 and October 10, 1962 were required to submit certain data, including data supporting efficacy of the products to ease review of such products by the National Academy of Sciences/National Research Council. The companies failed to submit reports for the listed products as required by said notice, and in fact there has been no correspondence to FDA from any of the holders of the listed new animal drug applications in over 30 years. Consequently, each listed firm has also failed to comply with § 510.310 *Records and reports on new animal drugs and antibiotics for use in animals for which applications or certification Forms 5 and 6 became effective or were approved prior to June 20, 1963* (21 CFR 510.310). This regulation requires submission of a report containing certain information from the holder of the application for each new animal drug or antibiotic approved prior to June 20, 1963.

No response to the notice of opportunity for a hearing on the proposal to withdraw the named phenothiazine-containing new animal drug products was received, since no sponsor filed a written appearance or request for hearing in response to the notice within the 30-day period provided, as required by § 514.200 *Contents of notice of opportunity for a hearing* (21 CFR 514.200). Such failure is construed as an election by the sponsors not to avail themselves of the opportunity for a hearing and is grounds for entering a final order without further notice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.200 *Contents of notice of opportunity for a hearing* and § 514.116 *Notice of withdrawal of approval of application* (21 CFR 514.116), notice is given that approval of the following new animal drug applications and all supplements thereto is withdrawn:

1. Crockett Laboratories Co., San Antonio, TX 77505, NADA 3–544V, PETRO–ZINE (phenothiazine and liquid petrolatum).

2. Double Kay Chemical Co., P.O. Box 149, Circleville, OH 43113, NADA 3–759V, Double Kay NO. 3 for Worms in Sheep (phenothiazine and refined mineral oil).

3. Florida Chemical Industries, Sparr, FL 32690, NADA 4–129V, Helminex Liquid (phenothiazine).

4. G. C. Heberling Co., Bloomington, IL 61701, NADA 4–155V, Phenothiazine Emulsion.

5. Washington Cooperative Egg and Poultry Association, 201 Elliott Avenue West, Seattle, WA 98119, NADA 4–391V, Phenothiazine.

6. The Shores Co., Inc., 712 16th St. NE., Cedar Rapids, IA 52402, NADA 3–289V, Korn King Phenothiazine Tablets for Sheep.

Dated: July 25, 1979.

Marvin A. Norcross,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-23626 Filed 8-2-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0254]

Mammographic Phantoms; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an open meeting to discuss procedures for evaluating the imaging characteristics of existing mammographic phantoms in the clinical environment.

DATE: The meeting will be held on August 30, 1979, and will convene at 10 a.m.

ADDRESS: The meeting will be held at the Bureau of Radiological Health, Rm. 400, 12720 Twinbrook Parkway, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Priscilla F. Butler, Bureau of Radiological Health (HFX–70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2436.

SUPPLEMENTARY INFORMATION: The Bureau of Radiological Health sees a need for an inexpensive mammographic phantom which can be used by either radiologists or technologists to evaluate mammographic image quality at their facility and to monitor changes in image quality over a period of time. To date, reports comparing existing phantoms in the clinical setting have not been made available. The implementation of evaluation procedures will be discussed and plans will be outlined for reporting on the limitations of each phantom. Interested persons planning to attend are asked to contact the Bureau of Radiological Health in advance.

Dated: July 26, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-23627 Filed 8-2-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0229]

Medtronic, Inc.; Premarket Approval of Byrel Atrioventricular Pacemaker

AGENCY: Food and Drug Administration.

ACTION: Notice.

V 4 4 / 1 5 1 A G 3 7 9 UMI

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Model 5992 Byrel Atrioventricular Pacemaker, sponsored by Medtronic, Inc., Minneapolis, MN. After reviewing the Cardiovascular Device Classification Panel's recommendations, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by September 4, 1979.

ADDRESS: Petitions for administrative review may be sent to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFK–402), Department of Health, Education, and Welfare, Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION: The sponsor, Medtronic, Inc., Minneapolis, MN 55940, submitted an application for premarket approval of the Model 5992 Byrel Atrioventricular Pacemaker to FDA on November 21, 1978. The application was reviewed by the Cardiovascular Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On March 27, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

FDA has concurred in the Cardiovascular Device Classification Panel's recommendation to approve the premarket approval application subject to the following condition:

In one year the company shall provide the FDA with post-marketing clinical followup registry data for all of these pacemakers.

A summary of the information on which FDA's approval is based is available upon request from the Hearing Clerk (address above). Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitoner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petition must designate the form of review that the petitioner requests (hearing or independent advisory committee) and must be accompanied by supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing any petition, FDA will decide whether to grant or deny the petition and publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will indicate the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 4, 1979, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 27, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–23931 Filed 8–2–79; 8:45 am]

BILLING CODE 4110–03–M

[FDA–225–79–0011]

National Toxicology Program; Memorandum of Understanding With National Toxicology Program

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding (MOU) with the National Toxicology Program. The purpose of the memorandum is to delineate responsibilities for conducting an evaluation of toxicological problems.

DATE: The agreement became effective May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Gary Dykstra, Regulatory Operations Section (HFC–22), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md 20857, 301–443–3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the Federal Register of the October 3, 1974 (39 FR 35697) stating that future memoranda of understanding and agreements between FDA and others would be published in the Federal Register, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

Memorandum of Understanding Between the National Toxicology Program and the Food and Drug Administration

I. Purpose

The purpose of this memorandum of understanding is to delineate the responsibilities of the National Center for Toxicological Research, Food and Drug Administration, in conducting the evaluation of toxicological problems as a part of the National Toxicology Program (NTP).

II. Background

On November 15, 1978, the Secretary of HEW announced a new initiative: the National Toxicology Program. Resources totaling $41 million from four agencies were dedicated to the new program. The participating agencies are the Food and Drug Administration, National Cancer Institute, National Institute for Environmental Health Sciences, and the National Institute for Occupational Safety and Health. The chief goal of the National Toxicology Program is to strengthen the numerous Departmental activities related to the development and validation of new and improved toxicological test methods. FDA's commitment to the new program is represented by resoures dedicated by the National Center for Toxicological research (NCTR). This resource commitment totals $7 million. Therefore, it is deemed appropriate to specify the nature of the NCTR commitment to the National Toxicology Program via a memorandum of understanding.

III. Substance of Agreement

The following NCTR units and projects with associated costs represent the FDA/NCTR commitment to the National Toxicology Program:

1. *Chemical Selection and Intelligence*—The office of Scientific Intelligence, directed by Dr Larry Fishbein, will direct its efforts to the gathering and evaluation of toxicological data concerning compounds of interest to the National Toxicology Program. In addition, this staff will assist in the development of protocols used by the Division of Chemical Toxicology to conduct experimental studies on compounds selected for study by the NTP. Dr. Fishbein will function as the liaison officer with NTP. Costs for this effort:

a. 10 man years ($1,000,000),

b. $400,000 for library services contractrual effort.

2. *Toxicology Data Management Systems (TDMS)*—The NTP requires the use of an efficient and cost effective data management and analysis system. NCTR has assembled, under TDMS, the necessary expertise, hardware, and software to meet the needs of NTP. Mr. Al Konvicka will function as the TDMS liaison officer with NTP. Therefore, to meet existing needs and to develop the system to accommodate the special requirements of NTP, the NCTR will allocate the following resources:

a. 7 man years ($700,000),

b. $1,500,000 for contractual efforts.

3. *Teratology Studies*—Guidelines for testing in reproduction and teratology have not directly or specifically addressed postnatal functional alterations following prenatal exposures. NCTR proposes to attack the problem of standardization and validation of test procedures in a collaborative fashion using scientists from government, academia, and industry. Several behavioral test methods which appear to have the greatest potential utility as screening tests will be selected; standardized protocols will be written, and contracts to perform the tests will be awarded. After completion of the three year project, the data will be presented at a conference and recommendations will be made concerning the incorporation of behavioral teratology testing guidelines.

Current teratologic methods do provide meaningful data about the teratogenic potential of chemicals. To ensure that all scientific data gathered during these evaluations are utilized effectively, a comprehensive literature review and evaluation of chemicals for which there is definitive human and animal teratology information will be performed.

In addition, existing laboratory data bases will be examined to determine the range of dose parameters that indicate linearity of response and permit the development or identification of appropriate biomathematical procedures for low dose risk estimation. Dr. Joe Holson will serve as liaison officer with NTP for each of these activities. The following resources will be committed:

a. 4 man years ($400,000),

b. $300,000 for contractual efforts.

4. *Heritable Translocation Assay*—There are currently only two in vivo mammalian assays which can be employed to assess true mutagenic damage: The mouse specific locus test and the heritable translocation assay. The end-point measured by the heritable translocation test is transmitted to live progeny and provides unequivocal evidence of true mutational damage. This property, chromosome breakage and reciprocal exchange of the borken parts, together with the low spontaneous occurrence of translocations allow for a definitive evaluation of mutagenicity which is a necessity in making regulatory decisions.

The NCTR will develop a planned approach to conducting a collaborative study to determine the feasibility of using the heritable translocation assay as a means of approaching risk assessment for genetic events. Dr. Jack Bishop will function as the liaison officer with NTP. The following resources will be dedicated to this effort:

a. 5 man years ($500,000),

b. $100,000 for contractual efforts.

5. *Compound Evaluation*—The unique capabilities of NCTR in conducting toxicological evaluations will be brought to bear on chemicals requiring more than the chronic bioassay for carcinogenesis. The Divison of Chemical Toxicology at NCTR, in conjunction with other operational units at NCTR, will have primary responsibility for conducting toxicological evaluations of compounds selected for study in the National Toxicology Program. Dr. Neil Littlefield will function as the liaison officer with NTP. The following compounds are among those to be studied initially at NCTR: Gentian violet, rotenone, sulfamethazine, caffeine, cinnamaldehyde, butyl nitrite, capsaican, cineol, ethyl benzene, trimellitic anhydride, and gluteraldehyde, chloramine, and 2,3,7,8-tetrachloro dibenzodioxin. The following resources will be dedicated to this effort: 21 man years ($2,100,000).

The proceeding declaration of resources represents 47 man years, $4,700,000 in salaries and overhead, and $2,300,000 in contractual costs as shown in the following table:

Cost Summary

Commitment	Man years	Salaries plus overhead	Additional costs contractual
Chemical Selection & Intelligence	10	$1,000,000	$400,000
Toxicology Data Management Systems	7	700,000	1,500,000
Teratology Studies	4	400,000	300,000
Heritable Translocation Assay	5	500,000	100,000
Compound Evaluation	21	2,100,000	0
Subtotals	47	4,700,000	2,300,000
Grand Total			7,000,000

IV. Name and Addresses of Participating Activity

Department of Health, Education, and Welfare, Public Health Service, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709.

Department of Health, Education, and Welfare, Public Health Service, Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20857.

V. Liaison Officers

Dr. John Moore, Deputy Director, National Institutes of Health, National Toxicology Program, Research Triangle Park, North Carolina 27709 (919–541–3267).

Dr. Jeffrey A. Staffa, Associate Director for Research Operations & Planning, National Center for Toxicological Research, Food and Drug Administration, 5600 Fishers Lane, Room 9–39, Rockville, Maryland 20857 (301–443–3155).

VI. Period of Agreement

This agreement, when accepted by both parties, will have an effective period of performance from date of signature until September 30, 1979, and may be modified by mutual consent by both parties or may be terminated by either party upon a 45-day advance notice to the other. The resources committed to the NTP shall be established by amendment or a new agreement at the beginning of each fiscal year.

Dated: May 23, 1979.

Approved and Accepted for the National Toxicology Program.

David P. Rall,

Director NTP.

Dated: May 7, 1979.

Approved and Accepted for the Food and Drug Administration.

Dorald Kennedy,

Commissioner of Food and Drugs.

Effective date. This Memorandum of Understanding became effective May 7, 1979.

Dated: July 30, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–23932 Filed 8–2–79; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 78P–0403]

Bacitracin Zinc-Polymyxin-Neomycin Topical Ointment; Exemption From Certification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of Dow Chemical U.S.A.'s petition requesting that its drug product Neo-Polycin, topical antibiotic ointment (bacitracin zinc-neomycin sulfate-

polymyxin B sulfate) be exempted from the batch certification requirements for antibiotic drugs. The agency has reviewed pertinent information and has concluded that the petitioner meets the conditions for exemption specified in the antibiotic drug regulations. The agency has notified the petitioner by letter that the petition has been approved and is issuing this notice in compliance with the regulations.

EFFECTIVE DATE: August 3, 1979.

ADDRESS: A copy of the petition may be seen at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nathan M. Kight, Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.

SUPPLEMENTARY INFORMATION: Section 507(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 357(a)) requires batch certification of all antibiotic drugs and any derivative thereof. To be certified, the drug must have the charateristics of identity, strength, quality, and purity as have been prescribed by regulation as necessary to ensure the safety and efficacy of the drug. Under section 507(c) of the act, the Commissioner of Food and Drugs may promulgate regulations exempting an antibiotic drug from certification if the Commissioner concludes that certification is not necessary to ensure safety and efficacy of use. The antibiotic drug regulations in § 433.1 (21 CFR 433.1) establish procedures for obtaining exemption from batch certification of topical antibiotic drugs.

On November 9, 1978 Dow Chemical U.S.A., Indianapolis, IN, filed a petition requesting that Neo-Polycin topical antibiotic ointment (bacitracin zinc-neomycin sulfate-polymyxin B sulfate) be exempt from the batch certification requirements of § 448.513c (21 CFR 448.513c). A copy of the petition is on file at the office of the FDA Hearing Clerk (address above).

The agency has reviewed the data and information submitted as part of the petition, as well as the certification history of the drug. Based on authority provided in section 507 of the act and under the conditions of § 433.1, the agency has concluded that batch certification of bacitracin zinc-neomycin sulfate-Polymyxin B sulfate topical ointment, manufactured by Dow Chemical, is not necessary to ensure safety and efficacy of the drug.

In accordance with section 507(e) of the act and § 433.1(f), any antibiotic-containing drug for human use exempted under § 433.1 is considered subject to section 505 of the act (21 U.S.C. 355). This action also constitutes an approval of an abbreviated new drug application under § 314.1(f) (21 CFR 314.1(f)) for the exempted antibiotic-containing drug.

The agency has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)) and, therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

The petitioner has been notified that the petition is granted and batch certification of Neo-Polycin, topical antibiotic ointment (bacitracin zinc-neomycin sulfate-polymyxin B sulfate), manufactured at the Dow Chemical U.S.A., Indianapolis, IN, facility is no longer required.

Dated: July 27, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–23930 Filed 8–2–79; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 76N–0002]

Diethylstilbestrol (DES) in Edible Tissues of Cattle and Sheep, Withdrawal of Approval of New Animal Drug Applications; Partial Stay of Effective Dates

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is staying until November 1, 1979 the effective date for the withdrawal of approval of new animal drug applications with respect to the use of DES animal drugs in cattle and sheep and the manufacture, shipment, and use of finished feed containing DES. Elsewhere in this issue of the Federal Register, FDA is also staying the effective date of the revocation of regulations concerning the use of DES in animals.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT: Constantine Zervos, Scientific Liaison and Intelligence Staff (HFY–31), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4490.

SUPPLEMENTARY INFORMATION: FDA gave notice in the Federal Register of July 6, 1979 (44 FR 39618) that the agency was withdrawing, after an evidentiary hearing, the approval of new animal drug applications (NADA's) 10421, 10964, 11295, 11485, 12553, 15274, 31446, 34916, 44344, 45961, and 45982. These NADA's are for DES implants and liquid and dry feed premixes for use in cattle and sheep.

The notice advised that withdrawal of approval of the NADA's would be effective with respect to the manufacture and shipment of DES animal drugs on July 13, 1979; withdrawal of approval would be effective with respect to the use of DES animal drugs and the manufacture, shipment, and use of feed containing DES on July 20, 1979. The FDA announced that the July 20 date would be stayed automatically for 2 weeks until August 3, 1979, if petitions for stay of that date were received by the agency. Such petitions were received, and stay of this second effective date until August 3, 1979, was announced in the Federal Register of July 20, 1979 (44 FR 42781). The FDA is staying the latter effective date a further 90 days until November 1, 1979. The withdrawal of approval of the NADA's for DES will not be effective with respect to animals treated with DES before November 1, 1979, but will be effective with respect to animals administered DES on or after November 1, 1979.

Two of the four manufacturers holding new animal drug applications for DES had reportedly abandoned marketing the drug prior to the withdrawal of approval of the DES NADA's. The other two manufacturers (Rhone-Poulenc, Inc., Hess & Clark Division and Vineland Laboratories) submitted petitions for stay of the effective date with respect to manufacture and shipment of DES. Those petitions were denied. Along with those petitions, however, these two manufacturers submitted information about their existing stocks of DES and about their production of DES during the first 6 months of 1979, 1978, 1977 and 1976. These manufacturers asked that the data they submitted be considered confidential, and the agency has granted that request. The information they provided shows that there was not a large increase in production during the 6-month period prior to the Commissioner's Decision when compared to comparable periods of previous years. Thus, I conclude that manufacturers of DES have not increased production during the last few months in order to create stockpiles of DES in the expectation that the NADA's for DES would be withdrawn and that FDA would allow existing supplies to be used up. The information submitted by

the manufacturers also shows that they hold negligible amounts of finished DES.

The agency has received over 200 petitions from livestock producers and others for stay of the second effective date. Some petitioners have asked for extensions for specific periods of time. For example, several trade associations of cattle producers have asked that the effective date of the decision be extended for 120 days with respect to DES feed additives and for 180 days with respect to the DES implants. Other petitions have requested an extension until a specific date. The following dates have been suggested (the number after each date is the number of petitioners who have sought the use of that date): July 20, 1979 (1); August 3 (1); August 15 (2); August 30 (1); August 31 (1); September 1 (2); September 9 (1); September 13 (1); September 15 (7); October 1 (2); October 9 (1); October 10 (1); October 15 (3); October 19 (1); October 31 (2); October (1); November 1 (15); November 7 (1); November 10 (3); November 11 (1); November 12 (1); November 14 (1); November 15 (22); November 16 (1); November 17 (1); November 18 (1); November 19 (21); November 20 (2); November 29 (1); November 30 (5); November (3); end of November (2); December 1 (5); December 15 (2); December 31 (2); January 1, 1980 (5); January 31 (1); January (1); February 1 (1). The FDA's Bureaus of Foods and Veterinary Medicine oppose any extension beyond August 3, 1979, of the effective date of the withdrawal of approval of the DES NADA's.

In order to obtain necessary information about the amounts of DES presently held in this country—*cf. Environmental Defense Fund, Inc.* v. *EPA*, 548 F. 2d 998, 1012 (D.C. Cir. 1976)—the Commissioner's Decision provided for the submission, pursuant to 21 CFR 10.35, of petitions for stay of the effective date for use of DES. The regulation relied upon sets out criteria to be used in judging a petition for stay (21 CFR 10.35(e). The petitions submitted by those other than manufacturers of DES are not, however, of the type contemplated by that regulation. These petitioners are not challenging the Commissioner's Decision in court. They seek an effective date for that decision that allows them some time to use existing stocks of DES and to adjust to the unavailability of DES. For that reason, I conclude that the criteria set out in 21 CFR 10.35(e) are not applicable to these petitions.

(Considerations of those criteria would, in any case, justify the decision I have reached. Those criteria require, in addition to a finding that the petitioner is pursuing a nonfrivolous case in good faith, in effect a balancing of public interests, including harm to the petitioner and public health considerations (21 CFR 10.35(e)). I find that the 90-day extension I am granting is appropriate in light of these public policy considerations.)

Without question, not all holders of DES have filed petitions with the agency. Most petitioners included in their petition, in compliance with the agency's request, a statement of the amount of DES that they held. The totals from the petitions are as follows: 2,534,024 15-milligram implants; 891,659 pounds DES premix (65,694 pounds of which is identified as liquid premix); 828,100 pounds of DES-treated animal feed. As these figures suggest, and as several petitions state explicitly, it is industry practice for cattle producers to buy animal drugs such as DES in bulk or premixes and hold substantial inventories of these drugs or premixes.

It is clear that each of the petitioners seeks an extension of time sufficient to allow it to use up existing supplies of DES. FDA has concluded that, due to the health risk posed by the continued use of DES, it is not appropriate to adopt a principle of allowing all DES stocks to be used up. The agency is, however, sensitive to the possibility that an immediate ban of DES would result in economic disruption in the cattle production industry. As has been done in other circumstances (e.g., the 90-day transition period allowed at the time that the drug phenformin was declared an imminent hazard, In re: New Drug Applications for Phenformin, Order of the Secretary Suspending Approval, at 59 (July 25, 1977)), I am providing for a phaseout period for DES to allow those who use it an opportunity to adjust to its unavailability.

The agency has sought to lessen the adverse impact of the removal of DES from the market on people who legitimately relied upon the fact that DES was approved at the time they purchased the drug by implementing the three-step effective date system announced in the Commissioner's Decision. First, manufacture and shipment of DES were stopped expeditiously. Thus, no more DES is being introduced into the channels of distribution. Second, the extension of the effective date for use of DES and for the manufacture, shipment, and use of feed treated with DES until November 1, 1979 (125 days after the announcement of withdrawal) allows producers to use up some (though probably not all) of the DES already manufactured and shipped by manufacturers of the drug. This delayed effective date is designed to allow a reasonable period for transition from the use of DES to alternative growth promotants or to the production of beef without the use of growth promotants. Moreover, an attempt by FDA to enforce a ban on use of existing stocks of DES in the hands of middlemen and cattle raisers would be resource-intensive and less than fully successful. Third, the NADA's will remain in effect with respect to the meat of animals treated with DES prior to the effective date for the ban on the use of DES; such meat may thereafter be introduced into and distributed in interstate commerce.

I conclude that the 90-day extension, coming as it does after a 35-day grace period following the announcement of the Commissioner's Decision, provides an adequate but not unduly prolonged opportunity for cattle producers to make arrangements for continuing their operations when DES is no longer available. It is noteworthy that 15 of the petitions in fact asked for a November 1 date and 28 petitions asked for dates prior to November 1. Under all the circumstances, 90 days appears to be a reasonable transition period. In light of the risk involved, I conclude that it would not be appropriate to allow the unlimited continued use of remaining stocks of DES.

Dated: July 31, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79–24124 Filed 8–1–79; 12:09 pm]

BILLING CODE 4110–03–M

National Institutes of Health

Estrogen Use and Postmenopausal Women; Conference

Notice is hereby given of the conference on Estrogen Use and Postmenopausal Women, sponsored by the National Institute on Aging, September 13–14, 1979, in the Masur Auditorium at the National Institutes of Health, Bethesda, Maryland.

This conference is open to the public on September 13, from 8 a.m. to 5 p.m. and on September 14, from 9 a.m. to 11 a.m. Attendance is limited to space available. This conference, part of a consensus development series sponsored by the Office for Applications of Medical Research, NIH, brings together biomedical researchers, practicing physicians, the public and others in an effort to reach general agreement on the benefits and risks of estrogen therapy in managing

menopausal and postmenopausal conditions. The topics of discussion will include benefits of estrogen use, hazards of estrogen use, relative risks and benefits of various types of estrogen therapy, and contraindications to estrogen use.

Dr. Joan Cornoni-Huntley, Senior Research Epidemiologist, Epidemiology, Demography and Biometry Program, National Institute on Aging, Building 31, Room 5C12, Bethesda, Maryland 20205, phone (301) 496–1178, or Dr. Barbara Gastel, Office of the Director, National Institute on Aging, Building 31, Room 5C27, Bethesda, Maryland 20205, phone (301) 496–9322 will provide additional information.

Dated: July 26, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-23908 Filed 8-02-79; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 3818]

California; Order Providing for Opening of Lands

July 27, 1979.

By virtue of the authority contained in Section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. 818 (1970), and in accordance with the authority delegated to me by the State Director, California State Office, Bureau of Land Management, dated January 13, 1977 (42 F.R. 3901), as amended, and pursuant to the determination of the Federal Power Commission in Federal Register publication (34 F.R. 9726, June 21, 1969), it is ordered as follows:

1. In its finding published on June 21, 1969, the Federal Power Commission determined that the withdrawal of the following described lands pursuant to Project 71 served no useful purpose and ordered vacation of Power Project 71 in its entirety.

Mount Diablo Meridian

T. 17 N., R. 7 E.,
Sec. 1, Lots 5 and 6 and SW¼SE¼;
Sec. 12, Lots 2, 5, 6, and 11, and NW¼NE¼;
Sec. 14, N½SW¼;
Sec. 23, Lot 2 and NE¼SE¼ (now Lot 4);
Sec. 24, Lot 1 (now Lot 9 and E½NW¼NW¼).
T. 17 N., R. 8 E.,
Sec. 6, Lots 1, 2, 5, 6, 7, and 15 (now Lots 18, 19, 23, 24, 25, and 26);
Sec. 7, Lots 1 and 3.
T. 18 N., R. 8 E.,
Sec. 25, SW¼NE¼, SE¼NW¼, and S½;
Sec. 26, S½ (now Lots 6, 7, 8, 9, 10, 11, and 12, and NE¼SW¼);
Sec. 27, NW¼SW¼, S½SW¼, and SE¼;
Sec. 28, NE¼SE¼ and S½SE¼;
Sec. 32, SW¼ (now Lots 3 and 4, and E½SW¼);
Sec. 33, SW¼.
T. 18 N., R. 9 E.,
Sec. 13, SW¼ and NW¼SE¼;
Sec. 14, SW¼NE¼, N½S½, and SE¼SE¼;
Sec. 30, W½SW¼ (now Lots 5 and 12).

The area aggregates approximately 2,652 acres in Yuba and Nevada Counties, California.

2. At 10 a.m. September 5, 1979, the following described National Forest land, which lies within the boundaries of the Tahoe National Forest, shall be open to such disposition as may be made of National Forest land:

T. 18 N., R. 9 E.,
Sec. 14, SW¼NE¼.

3. At 10 a.m. on September 5, 1979, the following described unappropriated, unreserved public lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and classification, and the requirements of applicable law:

T. 17 N., R. 7 E.,
Sec. 12, Lots 5, 6, and 11;
Sec. 23, Lot 2 and NE¼SE¼ (now Lot 4);
Sec. 24, Lot 1 (now Lot 9, NE¼NW¼NW¼, and W½SE¼NW¼NW¼).
T. 17 N., R. 7 E.,
Sec. 6, Lots 18, 24, 25, and 26.

4. The following described lands remain withdrawn from appropriation under the public land laws for Federal Power Project and National Forest purposes. They have been open to the mining and mineral leasing laws:

T. 17 N., R. 7 E.,
Sec. 12, Lot 2 and NW¼NE¼;
Sec. 14, N½SW¼.
T. 17 N., R. 8 E.,
Sec. 6, Lots 19 and 23.
T. 18 N., R. 8 E.,
Sec. 32, Lots 3 and 4, and E½SW¼.
T. 18 N., R. 9 E.,
Sec. 13, NW¼SE¼ and SW¼;
Sec. 14, N½SW¼, NW¼SE¼, and E½SE¼.

5. The following described lands remain withdrawn from all forms of appropriation under the public land laws and the mining laws for Federal power and National Forest purposes:

T. 18 N., R. 8 E.,
Sec. 26, W½SW¼ and SE¼ (now Lots 6, 7, 8, 9, 10, 11, and 12);
Sec. 27, N½SW¼SE¼;
Sec. 28, E½SE¼ and SW¼SE¼.
T. 18 N., R. 9 E.,
Sec. 30, Lots 5 and 12.

6. Of the lands described in paragraph 1, the following are privately owned and not subject to disposition under the public land laws:

T. 17 N., R. 7 E.,
Sec. 1, Lots 5 and 6, and SW¼SE¼;
Sec. 24, E½SE¼NW¼NW¼.
T. 17 N., R. 8 E.,
Sec. 7, Lots 1 and 3.
T. 18 N., R. 8 E.,
Sec. 25, SW¼NE¼, SE¼NW¼, and S½;
Sec. 26, NE¼SW¼;
Sec. 27, W½SW¼, SE¼SW¼, N½SE¼, S½SW¼SE¼, and SE¼SE¼;
Sec. 33, SW¼.

The State of California has waived its preference right of application for highway right-of-way or material sites afforded it by Section 24 of the Federal Power Act.

All lands not otherwise withdrawn or reserved have been open to application and offers under the mineral leasing laws and to locations under the United States mining laws, subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning these lands should be addressed to the Bureau of Land Management, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Joan B. Russell,

Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-23910 Filed 8-2-79; 8:45 am]

BILLING CODE 4310-84-M

[U-0145311]

Utah; Proposed Withdrawal and Reservation of Lands

July 24, 1979.

The Bureau of Land Management, Department of the Interior has filed an application, Serial Number U–0145311, for withdrawal of the following described public lands from settlement, sale, location, or entry under the general land laws, including the mining laws but not the mineral leasing laws, subject to valid existing rights:

Salt Lake Meridian, Utah

T. 9 S., R. 8 W.,
Sec. 7, lot 4, SE¼SW¼, S½SE¼;
Sec. 17, W½NW¼, NW¼SW¼;
Sec. 18, lots 1, 2, NE¼, E½NW¼, NE¼SW¼, N½SE¼.

The area described aggregates approximately 709.74 acres in Tooele County, Utah.

The applicant desires the withdrawal to protect existing and planned recreation developments within the Simpson Springs Recreation Site. These consist of campground, picnic area, restored Pony Express Station/Overland Stage Stop, Civilian Conservation Corps' Camp ruins, and adjacent public land. On or before September 5, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM manual, § 2351.16B.

The Department of the Interior's regulations provide that the authorized office of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency.

The determination of the Secretary on the application will be published in the **Federal Register.**

For a period of 2 years from the date of publication of this notice in the **Federal Register,** the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, the segregation will remain in effect for a period of 20 years from the date of such approval.

All communications in connection with this proposed withdrawal should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

William G. Leavell,

Associate State Director.

[FR Doc. 79-23911 Filed 8-2-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68632]

Wyoming; Application

July 24, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 6⅝ inch O.D. pipeline, a 4' by 6' meter house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming.

T. 39 N., R. 91 W.,
Sec. 27, SW¼NE¼, NW¼SE¼ and S½SE¼;
Sec. 34, E½NE¼.

The proposed pipeline will transport natural gas from the Lookout No. 1–27 Well located in the NE¼ of section 27 to a point of connection with a proposed pipeline in the NE¼ of section 34. The proposed 4' by 6' meter house and related metering and dehydration facilities are to be located entirely within the proposed 50 foot right-of-way in the NE¼ of section 27, all within T. 39 N., R. 91 W., Fremont County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23912 Filed 8-2-79; 8:45 am]

BILLING CODE 4310-84-M

[INT FES 79–28]

Proposed Leasing of Coal in the Carbon Basin Area Wyoming; Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability Final Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a final environmental statement on the proposed leasing of coal in the Carbon Basin area of south central Wyoming.

The final statement analyzes environmental impacts that would result from the leasing of coal reserves in an area near Elk Mountain, Wyoming. The statement further analyzes the regional environmental impact of the proposed lease and other regional developments.

Copies of the final statement are available at the following locations:

Bureau of Land Management

Denver Service Center Library, Building 50, Denver Federal Center, Denver, Colorado 80225, (303) 234–4578.
Rawlins District Office, 1300 Third Street, Rawlins, Wyoming 82301, (307) 324–7171.
Lander Resource Area, Lander, Wyoming 82520, (307) 332–4220.
Washington Office of Public Affairs, 18th & C Street NW., Washington, D.C. 20240, (202) 343–4151.
Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001, (307) 778–2220, Ext. 2385.

Geological Survey:

Area Mining Supervisor, Building 25, Denver Federal Center, Denver, Colorado 80225, (303) 234–4435.
Regional Manager's Office, 7200 West Alabama Avenue, (Villa Italia), Lakewood, Colorado 80226, (303) 234–2855.

Public Libraries:

Albany County Library, 405 Grand Avenue, Laramie, Wyoming 82070.
Carbon County Library, Courthouse, Rawlins, Wyoming 82301.
University of Wyoming Library, University Station, Box 2334, Laramie, Wyoming 82070.
Saratoga Public Library, 104 West Elm, Saratoga, Wyoming 82331.
Encampment Branch Library, Encampment, Wyoming 82331.
Wyoming State Library, Government Publications, Supreme Court & State Library Building, Cheyenne, Wyoming 82001.

Single copies of the final statement may be obtained from the State Director, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

Dated: July 31, 1979.

Ed Hastey,

Associate Director, Bureau of Land Mangement.

Approved:

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-23983 Filed 8-2-79; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Oil and Gas Lease Sale Offshore the North Atlantic States; Availability of Final Supplement to Environmental Statement for Proposed Oil and Gas Lease Sale No. 42

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final supplement to the environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale offshore southeastern New England. The proposed sale consists of 128 tracts encompassing 294,912 hectares of submerged lands in an area of the OCS known as Georges Bank.

Single copies of the final supplemental statement can be obtained from the Office of the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Suite 32–120, New York, New York 10007, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved:

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-24034 Filed 8-02-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Animas-La Plata Project; Public Hearings on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement, for the Animas-La Plata Project. This statement (INT DES 79–45, dated July 25, 1979) was made available to the public on July 25, 1979.

The draft environmental statement deals with the proposed construction in southwestern Colorado of two off-stream reservoirs in the San Juan River Basin, one about 3 miles southwest of Durango, Colorado, and one on the Colorado-New Mexico state line about 18 miles north of Farmington, New Mexico; two major pumping plants; and three major conveyance systems. The project would supply water for irrigation, for municipal and industrial users in local communities, and for industrial use on the Southern Ute and Ute Mountain Ute Indian Reservations. The project would provide recreation and fishing at both reservoirs. Mitigation plans for wildlife and cultural resources would be developed concurrently with project features.

Public hearings will be held to receive views and comments from interested organizations or individuals relating to the environmental impacts of this project. The hearing in Farmington, New Mexico, will be held on September 4, 1979, at the City Council Chambers, Municipal Building, 800 Municipal Drive, beginning at 2:00 p.m., and resuming at 7:30 p.m. The hearing in Durango, Colorado, will be held on September 5, 1979, at the Fairgrounds Exhibit Hall, 2500 North Main, beginning at 2:00 p.m., and resuming at 7:30 p.m. The hearings will continue until all comments from interested organizations or individuals have been heard. Oral statements at the hearings will be limited to periods of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comments after all persons wishing to comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request whenever possible. Any scheduled speakers not present when called will lose their privilege in the scheduled order, and their names will be recalled at the end of the scheduled speakers. Request for scheduled presentation will be accepted up to 4:30 p.m., August 31, 1979, and any subsequent requests will be handled on a first-come-first-served basis following the scheduled presentation.

Organizations or individuals desiring to present statements at the hearing should contact Elaine Van Stelle, Bureau of Reclamation, Durango Projects Office, 835 Second Avenue, Durango, Colorado 81301, telephone (303) 247–0247, and announce their intention to participate. Written comments from those unable to attend, and from those wishing to supplement their oral presentation at the hearing should be sent to the above address or to the Regional Director, Bureau of Reclamation, Room 7201, 125 South State Street, Salt Lake City, Utah 84147, by October 20, 1979, for inclusion in the hearing record.

Dated: July 31, 1979.

David R. Schuster,

Acting Commissioner.

[FR Doc. 79-23980 Filed 8-3-79; 8:45 am]

BILLING CODE 4310-09-M

[INT DES 79-50]

San Luis Unit, Central Valley Project, California; Availability of Draft Supplement to the Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft supplement to the final environmental statement on a proposed amended water supply contract for the purpose of furnishing an additional 250,000 acre-feet per year of irrigation water supply to the Westlands Water District in water-deficient portions of the San Joaquin Valley, California. Additionally, the statement discusses the enlargement of Kesterson Reservoir and completion of the San Luis Drain from Kesterson Reservoir to the western Sacramento-San Joaquin Delta near Chipps Island. Written comments may be submitted to the Regional Director (address below) on or before September 17, 1979.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240.

Division of Management Support, Library Branch, Code 950, E&R Center, Denver Federal Center, Denver, CO 80225. Telephone (303) 234–3019.

Office of the Regional Director, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825. Telephone (916) 484–4792.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: July 30, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-23961 Filed 8-2-79; 8:45 am]

BILLING CODE 4310-09-M

Contract Negotiations With Lewiston Orchards Irrigation District, Lewiston Orchards Project, Idaho; Intent To Begin Contract Negotiations for Repayment of a Small Reclamation Project Loan

It is the policy of the Department of the Interior to afford the general public an opportunity to provide input into the decisionmaking process regarding Bureau of Reclamation repayment and water service contracts.

The Department of the Interior, through the Bureau of Reclamation, intends to open negotiations with Lewiston Orchards Irrigation District, Lewiston, Idaho, leading to a contract pursuant to the Small Reclamation Projects Act of 1956 (70 Stat. 1044), as amended. The contract will provide for the repayment of a loan for the construction of a pumping plant, discharge line, siphon, domestic water reservoir, and the lining of a canal.

The proposed loan program will supplement the district's present water supply and ensure that the water users have an adequate dry year supply. The supplemental water supply will also permit future expansion of the district's service area. It is estimated that an additional 1,200 acres could be served. Costs of the program are estimated to be $7 million of which the district proposes to borrow $6,904,000.

The public may observe any negotiating sessions. Advance notice of such meetings, if any, will be furnished on request. Requests must be in writing at least one week prior to a scheduled session and must specify that the requesting party is interested in the proposed Lewiston Orchards contract. Inquiries should be addressed to the Regional Director, attention code 440, Bureau of Reclamation, 550 W. Fort Street, Box 043, Boise, Idaho 83724.

A proposed draft contract will be made available for public review. Thereafter, a 30-day period will be allowed for receipt of written comments from the public.

For further information on scheduled negotiating sessions and copies of the proposed contract form, please contact: Mr. Lowell Oamek, Agricultural Economist, Division of Water, Power and Lands, at the address shown above; telephone 208–384–1161.

Dated: July 30, 1979.

David R. Schuster,

Acting Assistant Commissioner of Reclamation.

[FR Doc. 79-23927 Filed 8-3-79; 8:45 am]

BILLING CODE 4310-09-M

North Platte Project Rehabilitation and Betterment Program, Wyoming-Nebraska; Intent To Prepare an Environmental Impact Statement (EIS)

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an EIS for the North Platte Project Rehabilitation and Betterment (R&B) Program, Wyoming-Nebraska. The purposes of the proposed R&B program are to reduce project seepage losses, stabilize canal banks, reduce operation and maintenance costs, and restore system capacity. Completion of the R&B program could eliminate the need for the Guernsey silt runs. The silt runs consist of lowering the water level in Guernsey Reservoir until silt on the reservoir bed is sluiced into the North Platte River. The silt-laden water is diverted from the river at Whalen Diversion Dam into the North Platte Project irrigation distribution system to reduce seepage losses and to stabilize the banks of the distribution system.

Alternatives to be considered in the EIS include continuation of the silt runs; modification of the silt runs; discontinuation of the silt runs and the structural modification of the project irrigation distribution system, such as the use of pipe in lieu of open laterals and lining the system; direct injection of silt into the irrigation water being carried by the distribution system; use of additional return flows; and water management and conservation measures.

Environmental studies and preparation and processing of the required environmental documents for this proposed R&B program will be accomplished under the Council on Environmental Quality (CEQ) regulations published in the **Federal Register** on November 29, 1978. Pursuant to these CEQ regulations and in accordance with Office of Management and Budget Circular No. A–95, "Evaluation, Review, and Coordination of Federal and Federally Assisted Program," we are soliciting the active participation of Federal, State, and local agencies; affected private groups; and individuals in a process to determine the scope and the significant issues to be analyzed in depth in the EIS and to identify and eliminate from detailed study those issues which are not significant.

The scoping process will begin with a public meeting at the Panhandle Station Auditorium, 4502 Avenue I, Scottsbluff, Nebraska, on August 16, 1979, at 7:30 p.m. all interested parties are invited to attend. Further public meetings and interagency coordination activities will be scheduled as needed.

Anyone with suggestions as to significant environmental issues should write to: Charles R. Isler, Project Leader, Bureau of Reclamation, P.O. Box 25247, Denver Federal Center, Denver, Colorado 80225.

Dated: July 27, 1979.

Clifford I. Barrett,

Acting Commissioner.

[FR Doc. 79-23928 Filed 8-2-79; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Availability of Environmental Assessments for Wildlife Restoration Projects

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of Availability for Inspection and Public Comment.

SUMMARY: This notice provides a listing of Environmental Assessments available for public review to supplement those previously listed in the **Federal Register**, July 20, 1979. The Assessments and Findings of No Significant Impact were prepared on certain projects conducted by State fish and wildlife agencies under the Federal Aid in Wildlife Restoration program. The public is invited to comment, and information is provided on the locations at which the documents may be reviewed.

DATE: Comments must be received at the locations indicated by September 4, 1979.

ADDRESSES: The assessments are available for inspection at the following locations:

FWS Federal Aid Office, 1000 N. Glebe Road, Arlington, Virginia 22201

Region 1, FWS, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232

Region 2, FWS, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103

Region 3, FWS, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111

Region 4, FWS, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303

Region 5, FWS, 1 Gateway Center, Suite 700, Newton Corners, Massachusetts 02158

Region 6, FWS, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225

Alaska Area Office, FWS, 1011 E. Tudor Road, Anchorage, Alaska 99507

Central headquarters office of the State fish and wildlife agency

Interested persons are invited to submit comments to the appropriate Regional Director at the above regional

addresses within 30 days. Copies of the assessment may be obtained at the Regional Offices upon payment of reasonable reproduction costs pursuant to 43 CFR, Part 2, Appendix A. Copies of any Finding of No Significant Impact will be provided free of cost.

FOR FURTHER INFORMATION CONTACT:
Mr. Charles K. Phenicie, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703–235–1526.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the U.S. District Court for the District of Columbia issued an order dismissing Civil Action No. 78–430 involving the Federal Aid in Wildlife Restoration program. The dismissal effected an agreement by plaintiffs and defendants which included a provision that the Fish and Wildlife Service would publish in the **Federal Register** a notice of availability of certain Environmental Assessments for inspection and public comment. Pursuant to the stipulated agreement, this notice lists Environmental Assessments prepared to date and will be supplemented as other assessments are prepared.

The principal author of this notice is Dr. Robert J. Sousa, U.S. Fish and Wildlife Service, Division of Federal Aid, Washington, D.C. 20240, telephone 703–235–1526.

Notice is hereby given of availability for inspection and comment of environmental assessments for the following Federal Aid projects funded in part by the U.S. Fish and Wildlife Service (FWS) under the Pittman-Robertson Federal Aid in Wildlife Restoration Act, 16 U.S.C. 669 et seq: (Activities listed are not exclusive.)

Region 3

Illinois FW–9–D

This project involves a 23,000-acre flood control lake 19,549 acres of which the State leases from the U.S. Army Corps of Engineers for outdoor recreation and fish and wildlife conservation. Riprap implacement will protext certain areas from wave action, and eight new water control structures will facilitate water management. Routine maintenance will include planting wildlife food and cover crops, vegetation control, road grading, and the repair of buildings, levees, channels, boat ramps, parking lots and nesting structures.

Illinois W–51–D

This project is designed to maintain faunal and floral diversity on small acreages throughout the Shawnee National Forst of sourthern Illinois. Activities include maintaining and constructing new forest openings, waterholes and public access roads.

Illinois W–86–R

Approximately 1,641 acres of former cropland donated to the Illinois Department of Conservation is being managed to revert back to natural prairie grassland habitat. This is a research project studying the impact of cropland conversion on certain species such as the prairie chicken, upland sandpiper, marsh hawk and short-eared owl. Project activities include planting native prairie grasses, removal of undesirable vegetation, development of surface water areas and systematic walk-through searches for nests of prairie chickens and associate grassland fauna.

Illinois W–80–D

This project involves 6,321 acres leased by the State from the U.S. Army Corps of Engineers for fish and wildlife conservation. Development involves the construction of a small dike, two storage buildings, a parking lot and a small pond. Other activities include wildlife food and cover plantings, nest site enhancement, water level management and vegetation control. Also, parking lots, boat ramps, roads, dikes, drainage channels, signs and buildings will be maintained as required.

Illinois W–83–D

At the Rend Lake Wildlife Management Area in Jefferson and Franklin Counties, 16,895 acres of U.S. Army Corps of Engineers land and water are managed for upland and migratory wildlife. Approximately 3,070 acres are planted and flooded to provide a food source for waterfowl. Other management activities include vegetation control, water level regulation and the provision of food and cover crops. Buildings, levees, ditches, roads, bridges, fences and public use facilities are routinely maintained as required.

Indiana W–27–D

This project is designed to restore abandoned farmland to productive wildlife habitat within the successional forests of Indiana. Basic management and activities include waterhole and marshland development, wildlife clearings and restocking of native wildlife species. Maintenance will consist of the routine repairs of buildings, dikes, roads, fences and public use facilities. Vegetation control and managed public use are also considered routine project operations.

Minnesota W–41–D

The emphasis of this project is placed on preservation and management of waterfowl habitat, native prairies and woodland. Activities include limited crop production, tree and shrub planting, water level manipulation, vegetation control, and maintenance of trails, roads and public use facilities.

Ohio W–109–D

This project will manage wildlife resources and provide public access on 18 wildlife management units involving a total of 40,230 acres in 19 counties in southeastern Ohio. Management activities provide food and cover crops for wilflife, vegetation control, and the regulation of public use. Routine maintenance will be carried out on buildings, roads, bridges, signs and public use facilities.

Ohio W–110–D

This project involves 5 wildlife management areas in 13 counties of central Ohio comprising a total of 12,719 acres. Management includes the maintenance and improvement of wildlife habitat and provision of public access for hunting and other outdoor recreation. Activities include maintenance of fences, buildings, roads and vegetation control. It also provides technical assistance, seeds, trees and shrubs to cooperating landowners.

Ohio W–111–D

This project area includes 10 major wildlife management units totaling 15,231 acres. The project goal is to provide optimum wildlife diversity, abundance and distribution and to provide hunting and other wildlife-related recreational opportunities. Management activities include prescribed burning and other vegetation control techniques, wildlife food and cover crops, routine maintenance of buildings, roads, bridges, signs and public use facilities. Tree and shrub seedlings, seed packets and technical advice is provided to landowners upon request.

Wisconsin W–141–R

This statewide wildlife research project is comprised of 21 studies to provide information that will facilitate effective decisionmaking concerning upland farm, forest and wetland wildlife species and the monitoring effects of: agricultural pesticides on wildlife; fire on plant succession; timber harvesting patterns on forest regeneration; and population trends of certain wildlife species.

Addenda to Projects Published in the Federal Register, July 20, 1979

Arizona W–78–R

A supplement to the environmental assessment deals with a pronghorn antelope mortality study in which predator-prey relationships are investigated in the Anderson Mesa area.

Texas W–109–R

A supplement to the environmental assessment was developed to cover a study on the net productivity of known-age female white-tail deer of the Post Oak Savannah ecological area of southeastern Texas.

Dated: July 31, 1979.

Robert S. Cook,
Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-23982 Filed 8-2-79; 8:45 am]
BILLING CODE 4310-55-M

Geological Survey

[INT FES 79–29]

Availability of Final Environmental Impact Statement for Colstrip Project

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and section 69–6504 R.C.M. 1947 of the Montana Environmental Policy Act of 1971, the Department of the Interior, in cooperation with the Bonneville Power Administration, has completed the final environmental impact statement (EIS) on the proposed construction and operation of the Colstrip generating units 3 and 4 in Rosebud County, Montana, and the associated coal mine and electric power transmission system (proposed Colstrip Project). The final EIS consists of three volumes (volumes 1, 2, and 3). Volumes 1 and 2 were originally distributed in January 1979 as the draft EIS. Volume 3 is a supplement to volumes 1 and 2. It contains changes to volumes 1 and 2 in the form of revisions, additions, deletions, or corrections. It also responds to the public and agency comments received during the public review period. The draft EIS was issued on January 5, 1979, and the public comment period ended on March 17, 1979.

During the review time, letters commenting on the draft were received at the Colstrip EIS Manager's Office, P.O. Box 758, Kalispell, Mont. 59901. Also, public meetings were held February 26, 1979, in Butte, Mont.; February 27, 1979, in Helena, Mont.; February 28, 1979, in Missoula, Mont.; March 1, 1979, in Billings, Mont.; and March 3, 1979, in Forsyth, Mont. The transcripts from these public meetings are available for review at the Colstrip EIS Manager's Office, P.O. Box 758, Kalispell, Mont. 59901, and the Public Information Office, Bonneville Power Administration, 1002 North East Holladay St., Portland, Oreg. 97208.

Also, the Rural Electrification Administration (REA) has participated in the preparation of this EIS as Cooperating Agency No. USDA–REA–EIS (ADM 79–8–F), and intends to use it to fulfill its requirements under the National Environmental Policy Act. In this case, REA's anticipated potential actions are those of guaranteeing loan funds for two power generation and transmission cooperatives, Central Montana G and T and Upper Missouri G and T; the first having indicated an interest to buy equity into the Colstrip Project for a power share of 7 percent, and the latter for a power share of 3 percent.

Copies of the final EIS are available for public inspection at designated Federal depositories: Forest Service, Region 1, Federal Bldg., Missoula, Mont.; Lolo National Forest, Bldg. 24, Fort Missoula, Missoula, Mont.; Helena National Forest, 616 Helena Ave., Helena, Mont.; Deerlodge National Forest, Federal Bldg., Butte, Mont.; Lewis and Clark National Forest, 215 First Ave. North, Great Falls, Mont.; Gallatin National Forest, Federal Bldg., Bozeman, Mont.; Bureau of Land Management, Montana State Office, U.S. Courthouse and Federal Bldg., 316 North 26th St., Billings, Mont.; Bureau of Land Managemnt, Butte District Office, 220 North Alaska, Butte, Mont.; Bureau of Land Management, Miles City Ditrict Office, West of Miles City, Miles City, Mont.; Bureau of Land Management, Lewistown District Office, Bank Electric Building, Lewistown, Mont.; Bonneville Power Administration, Kalispell District Office, Highway 2 East, Kalispell, Mont.; Department of the Interior Library, 18th and C Streets, N.W., Washington, D.C.

Copies of the final EIS are also available for public inspection at the following libraries in Montana: Hearst Free Library, Fourth and Main Sts., Anaconda; Billings Public Library, Billings; Eastern Montana College Library, 1500 North 30th, Billings; Paul M. Adams Memorial Library, Rocky Mountain College, Billings; Montana State University Library, Bozeman; Henry Malley Memorial Library, Broadus; Butte Free Public Library, 106 West Broadway St., Butte; Montana College of Mineral Sciences and Technology Library, Butte; Glacier County Library, 21 First Ave., S.E., Cut Bank; William K. Kohrs Memorial Library, Missouri Ave. and Fifth St., Deer Lodge; Dillon Public Library, Dillon; Rosebud County Library, 201 North Ninth Ave., Forsyth; Flathead County Free Library, 37 First St. West, Kalispell; Laurel Public Library, 111 West First St., Laurel; Carnegie Public Library, 701 West Main, Lewistown; Lincoln County Free Library, 220 West Sixth St., Libby; Northwest Federation of Libraries, Lincoln County Free Library Bldg.; 220 West Sixth St, Libby; Miles City Community College, Miles City; Miles City Public Library, 1 South Tenth St., Miles City; Missoula Public and Missoula County Free Library, Pattee St., Missoula; Environmental Library, University of Montana, 758 Eddy St., Missoula; University of Montana Library, Documents Division, Missoula; and Plains Public Library, Box 399, Plains; Glasgow City-County Library, 408 Third Ave. South, Glasgow; Glendive Public Library, Glendive; Dawson Community College Library, Glendive; Great Falls Public Library, Second Ave. North and Third St., Great Falls; College of Great Falls Library, 1301 20th St. South, Great Falls; Big Horn County Public Library, 419 North Custer, Hardin; Havre Public Library, 447 Fourth Ave., Havre; Hill County Library, 300 Fourth St., Havre; Northern Montana College Library, Northern Montana College, Havre; Library, Carroll College, Helena; Lewis and Clark Library, 120 South Last Chance Mall, Helena; Montana State Library, 930 East Lyndale Ave., Helena; Polson City Library, Polson; Ronan City Library, Ronan; Toole County Free Library, 229 Maple Ave., Shelby; Sidney Public Library, Sidney; Thompson Falls Public Library, Thompson Falls; Thompson-Hickman Free County Library, Virginia City; Whitefish Public Library, 406 Second St., Whitefish; Western Montana College Library, Dillon.

The final EIS is being furnished to various Federal, State, and local agencies which have environmental expertise or are likely to be interested in or affected by the proposed project. Copies of the document are also being furnished to State and local clearinghouses and to other interested groups and individuals.

A limited number of single copies are available for distribution and may be requested by contacting the Colstrip EIS Manager, P.O. Box 758, Kalispell, Mont. 59901.

Dated: July 31, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-23984 Filed 8-2-79; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

[INT FES 79-30]

Proposed Colorado River Management Plan, Grand Canyon National Park, Ariz.; Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for the proposed Colorado River Management Plan, Grand Canyon National Park, Arizona.

The final environmental statement considers the phaseout of motorized craft; an increase in total use of the river; an increase in non-commercial allocations; increased use of the river during the winter season; and measures for resource protection.

Copies are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102.
Southern Arizona Group Office, National Park Service, 1115 North First Street, Phoenix, Arizona 85004.
Grand Canyon National Park, P.O. Box 129, Grand Canyon, Arizona 86023.

Dated: July 31, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-24043 Filed 8-2-79; 8:45 a.m.]

BILLING CODE 4310-70-M

Sleeping Bear Dunes National Lakeshore, Mich.; Availability of the Proposed General Management Plan, Assessment and Review of Alternatives, and Notice of Public Meetings

Notice is hereby given that the National Park Service has prepared an assessment to consider alternative proposals for the preservation, public use, development, and management of Sleeping Bear Dunes National Lakeshore. The assessment states planning problems, issues, and constraints; describes significant resources which may affect, or be affected by, the alternative proposals; and addresses the probable environmental impacts of the proposals.

Alternatives are considered for the management of natural and cultural resources, for public educational and visitor use programs, and for the general development of the National Lakeshore, based on six geographical planning units.

Also available are the Review of Alternatives, which details the proposals preferred by the National Park Service, and the proposed General Management Plan, derived from the alternatives analysis. The assessment, review, and proposed plan, which are available for public review and comment, will be the subjects of a series of public meetings to be held in the National Lakeshore region on the dates and at the places noted in the following:

August 14, 1979, 7:30 p.m., Leland High School Auditorium, Leland, Michigan.
August 15, 1979, 7:30 p.m., Glen Lake High School Auditorium, Glen Lake, Michigan.
August 16, 1979, 7:30 p.m., Frankfort High School Community Room, Frankfort, Michigan.

Copies of the proposed General Management Plan and the Assessment and Review of Alternatives will be available for review at the Office of the Superintendent, Sleeping Bear Dunes National Lakeshore, 400 Main Street, Frankfort, Michigan. A limited number of the Assessment and Review of Alternatives will be published for distribution; however, copies will be on hand for review at these locations:

Traverse City Public Library, 322 Sixth Street, Traverse City, Michigan.
Frankfort City Public Library, 630 Main Street, Frankfort, Michigan.
Leelanau School and Library Foundation, Glen Arbor, Michigan.

Written comments may be made regarding the three documents. Such comments will be received until August 31, 1979, and should be mailed to the Office of the Superintendent at the address stated in the foregoing. All comments will be considered. Substantive comments, pertinent to the issues, will be reflected as appropriate in the General Management Plan which will be prepared subsequent to the public review period.

Dated: July 24, 1979.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 79-23980 Filed 8-2-79; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

[INT DES 79-47]

Public Land Withdrawal, Nellis Air Force Bombing Range, Nye, Clark, and Lincoln Counties, Nev.; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared, in cooperation with the Department of the Air Force, a draft environmental statement for withdrawal of approximately 2,945,726 acres of public lands and wildlife range for the Nellis Air Force Bombing Range. The proposal involves continuance of Air Force operations similar to those occurring under the previous withdrawals. These lands have been utilized as an Air Force bombing range continuously since 1940.

The Department of the Interior invites written comments on the draft environmental statement to be submitted to the State Director, Bureau of Land Management, Federal Building, Room 3008, 300 Booth Street, Reno, Nevada 89509.

A limited number of copies will be available upon request to the State Director at the above address.

Public reading copies will be available for review at the following location: Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, Telephone: (202) 343-5717.

Dated: August 1, 1979.

Larry E. Meierotto,

Assistant Secretary.

[FR Doc. 79-24094 Filed 8-2-79; 8:45 am]

BILLING CODE 4310-84-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

A special meeting of the Advisory Committee on Actuarial Examinations will meet at Room 4125, Department of the Treasury, 15th Street and Pennsylvania Avenue, Washington, D.C., on August 6, 1979 beginning at 9:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion in the Joint Board's examinations in actuarial mathematics and methodology, referred to in Title 29, U.S. Code, Sections 1242(a)(1) (B) and (C). A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in Title 5, U.S. Code, Section 552(b)(5), and that the public interest requires such meeting be closed to public participation. Because of exigencies incumbent on the Joint Board in completing the examination, it was necessary to schedule this special meeting without opportunity for full notice.

Dated: August 1, 1979.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 79-24203 Filed 8-2-79; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

Uniroyal, Inc.; Debarment

On June 28, 1979, for violation of Executive Order 11246, as amended, the Secretary of Labor ordered that:

Uniroyal's present Government contracts and subcontracts be cancelled, terminated or suspended and that Uniroyal be declared ineligible from further contracts and subcontracts, and from extensions or modifications of any existing contracts and subcontracts, until such time that it can satisfy the Director of OFCCP that it is in compliance with Executive Order 11246 and the Secretary of Labor's regulations issued pursuant thereto.

The sanctions invoked herein shall be applicable to Uniroyal, its officers, subsidiaries and divisions and all purchasers, successors, assignees and transferees.

Subsequently, Uniroyal petitioned the Federal district court at Washington, D.C., to review the order of the Secretary of Labor, and sought an injunction against enforcement of the order. A copy of the district court opinion and order and a copy of the Secretary of Labor's Decision and Administrative Order are attached.

Dated: July 27, 1979.

Robert J. Brown,

Under Secretary of Labor.

U.S. Department of Labor

[Case No. OFCCP 1977-1]

In the matter of U.S. Department of Labor Office of Federal Contract Compliance Programs, Complainant, and Uniroyal, Incorporated, Respondent.

Decision and Administrative Order of the Secretary of Labor

Preliminary Statement

This matter arises under Executive Order 11246, as amended (hereinafter referred to as the Order), which prohibits employment discrimination based on race, color, religion, sex, or national origin by Government contractors. The Order also imposes affirmative action obligations on Government contractors to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. The Secretary of Labor and Director of the Office of Federal Contract Compliance Programs are responsible for issuance and enforcement of regulations under the Order, found at 41 FR Chapter 60.

This is an action brought by the United States Department of Labor, Office of Federal Contract Compliance Programs (hereinafter referred to as the OFCCP) against Uniroyal, Incorporated (hereinafter referred to as Uniroyal), to cause the termination of Uniroyal's existing contracts and subcontracts and to have Uniroyal declared ineligible for all future Government contracts and subcontracts under section 209(a) (5) and (6) of the Order, until such time as its Mishawaka, Indiana facility is brought into full compliance with the Order and regulations issued pursuant thereto.

The Notice of Intent to Debar, dated July 28, 1976, issued by the OFCCP Director, numerated numerous deficiencies found during compliance reviews of Uniroyal's Mishawaka, Indiana facility in September 1972, and February 1976.

Generally, the Notice of Intent to Debar alleged that Uniroyal utilized discriminatory employment practices against its production and white collar female employees and applicants for employment and that Uniroyal discriminated against minority group persons and that Uniroyal failed to take the required affirmative action in violation of the Order and the regulations issued pursuant thereto.

After issuance of the Notice of Intent to Debar on July 28, 1976 and Uniroyal's subsequent request for a hearing, formal prehearing discovery was commenced by the OFCCP in November 1976. Thereafter, Uniroyal and the OFCCP each filed various requests for production of documents and interrogatories. On May 10, 1977, Uniroyal advised the OFCCP and the Administrative Law Judge (hereinafter referred to as the Judge) that it would no longer cooperate with prehearing discovery because it had determined that the prehearing discovery regulations, 41 CFR Part 60-30, were invalid. There upon, Uniroyal moved to vacate the March 10, 1977 order of the Judge compelling compliance with discovery. In four separate motions, the OFCCP moved for Executive Order sanctions based on Uniroyal's refusal to cooperate with discovery requirements. A hearing was held in South Bend, Indiana on November 1, 2, 3, and 4 and November 14 and 15, 1977 on motions seeking an order recommending termination of Uniroyal's current Government contracts and subcontracts and its debarment from future Government contracts and subcontracts.

All parties were represented by counsel at the hearing and afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues involved. Upon the entire record, including observation of the witnesses and their demeanor, and briefs submitted on behalf of Uniroyal and the OFCCP, regarding the four motions for sanctions, the Judge found that Uniroyal is not in compliance with section 202(6) of the Order and the implementing rules, regulations and orders, and recommended that Uniroyal's present Government contracts be cancelled, terminated or suspended and that Uniroyal be declared ineligible from further contracts until such time that it can satisfy the Director of OFCCP that it is in compliance with the Order and the regulations issued pursuant thereto.

Summary of the Facts

Uniroyal is a New Jersey Corporation in the business of manufacturing and storing plastics and rubber products at its Mishawaka, Indiana facility and throughout the United States. A substantial part of Uniroyal's business is comprised of contracts and subcontracts with the United States Government and its agencies, and has been at all times material herein, a Government contractor subject to the Order and the implementing regulations, 41 CFR Chapter 60.

The Notice of Intent to Debar dated July 28, 1976, issued by the OFCCP Director, enumerated numerous deficiencies found on compliance reviews of Respondent's Mishawaka, Indiana facility in September 1972, and February 1976. In general, it alleged that Uniroyal is a Government contractor subject to the Order and that Uniroyal has utilized employment practices which: (1) Discriminate against its

production and white collar female employees and applicants for employment by assigning and restricting them to lower level jobs than those held by males of comparable ability and seniority; (2) discriminates against minority group persons in violation of the Order. Further, it was alleged that Uniroyal failed to take the required affirmative action and to provide appropriate relief for compliance with the Order and the implementing regulations.

After issuance of the Notice of Intent to Debar on July 28, 1976, the Uniroyal's subsequent request for a hearing, formal prehearing discovery was commenced in November 1976. On January 18, 1977, Uniroyal filed Requests for Production of Documents and on February 7, 1977, Uniroyal served interrogatories on the OFCCP. The OFCCP responded to Uniroyal's discovery requests.

The OFCCP on November 5, 1976 served its First Set of Interrogatories and its First Set of Requests for Production of Documents on Uniroyal. The Judge found that these discovery requests sought relevant information concerning Uniroyal's employment practices at its Mishawaka, Indiana facility. By orders of November 30, 1976 and January 28, 1977, Uniroyal was granted an extension of time to February 25, 1977, to answer the OFCCP's interrogatories and requests for production of documents. Uniroyal's motion to excuse itself from answering the OFCCP's interrogatories was denied by an order dated January 3, 1977. In its February 25, 1977 Answer and Objections to Complainant's Interrogatories and First Set of Requests for Production of Documents, Uniroyal objected to certain interrogatories and requests, failed to answer twenty-five interrogatories in their entirety, and refused to supply information regarding twenty-eight other interrogatories and fourteen request items for time periods predating January 1, 1975.

Between February 25 and March 1, 1977, OFCCP representatives scheduled interviews of sixteen white collar employees held from March 3 through March 5, 1977. These interviews were arranged for the stated purpose of discussing and seeking information as to the interviewees's knowledge of Uniroyal's employment practices as part of the OFCCP's administrative enforcement proceeding against Uniroyal.

Upon learning of the scheduled interviews, John Sellers, Factory Manager of Uniroyal's Mishawaka facility, and Donald L. Frey, Manager of Industrial Relations and Equal Opportunity Administrator at Uniroyal's Mishawaka facility, called a staff meeting to determine what should be done regarding the scheduled interviews. It was determined that a uniform approach throughout the plant was needed.

It was also decided that it should be suggested to prospective interviewees that they attend the OFCCP interviews in the presence of an attorney; that the company would pay for such legal services; that Uniroyal management or supervisory personnel should recommend legal counsel to them; and that the legal counsel to be recommended was Timothy Woods.

The law firm with which Mr. Woods is employed has served as Uniroyal's local counsel since at least 1967. The firm has represented the company for a number of years and has entered an appearance in an action brought against Uniroyal pursuant to Title VII of the Civil Rights Act of 1964, *Chrapliwy* v. *Uniroyal, Inc.*, 458 F. Supp. 252 (N.D. Ind. 1978). Mr. Frey was aware of this fact. The firm subsequently entered an appearance in *Uniroyal, Inc.* v. *Marshall*, 579 F. 2d 1060 (7th Cir. 1978).

Timothy Woods was advised by Mr. Frey that the OFCCP would be conducting interviews with certain Uniroyal employees between March 3 and 5, 1977, and he had referred several to him and Mr. Blackmond, who is also employed by the law firm. With Uniroyal's attorneys present, it was alleged by the OFCCP that 11 of the 12 interviews conducted were curtailed or not pursued as to details of Uniroyal's employment practices. At the conclusion of the March 3, 1977 interviews, Woods went to Uniroyal's Mishawaka facility and discussed with Mr. Frey some of the events that had taken place while interviewing.

At a prehearing conference on March 10, 1977, the Judge established that the period for which Uniroyal would be required to provide information and documents requested in interrogatories and requests for production of documents would be October 14, 1968[1] until the present time. This was clarified by orders dated April 14, 1977, and April 21, 1977

Uniroyal's Supplemental Answers and Objections to the OFCCP's First Set of Interrogatories and First Set of Requests for Production of Documents were filed on April 11, 1977, and failed to provide any information regarding twenty of the interrogatories. At the May 3, 1977 prehearing conference, the Judge ordered Uniroyal to supply information postdating October 14, 1968, sought in the OFCCP's First Set of Interrogatories and Requests for Production of Documents. The Judge also ordered Uniroyal to allow the OFCCP access to its records within 15 days.

On May 10, 1977, Uniroyal requested a stay in discovery proceedings so it could file a motion challenging the OFCCP's prehearing discovery regulations. On May 17, 1977 it filed a Motion to Stay Discovery, challenging the OFCCP's discovery regulations and enforcement thereof. Uniroyal's request for a stay of discovery was denied on May 23, 1977, on the ground that Uniroyal had contractually agreed to provide the requested information.

On May 25, 1977, the Judge entered a notice enlarging the scope of the appeal to determine whether there was sufficient basis for a recommendation to cancel and suspend all of Uniroyal's Government contracts because of its refusal to comply with discovery requirements of its contracts, the Order, and regulations.

On May 26, 1977, OFCCP filed its Motion for an Order Recommending Cancellation, Termination and Suspension of All Contracts Between Uniroyal and the Government as a result of Uniroyal's interference with the development and presentation of OFCCP's case. The Judge thereupon directed OFCCP representatives to return to Mishawaka to complete its investigation and to interview other female white collar Uniroyal employees. Of nine females contacted none agreed to a personal interview although one did consent to be interviewed by phone. The Judge concluded that Uniroyals' actions resulted in interviewees and potential interviewees not reponding favorably to subsequent OFCCP requests.

The OFCCP, between May 25 through May 28, 1977, sought on three occasions to obtain information to its First Set of Interrogatories and Requests for Production of Documents and to gain entry to the Mishawaka facility for the purpose of inspecting and photographing documents and job descriptions and information. The requested discovery was refused on advice of counsel. In addition, the OFCCP noticed Uniroyal and five of its officers, agents or employees to appear at depositions beginning May 25, 1977, pursuant to 41 CFR 60–30.11. Uniroyal conceded its officers, agents or employees had been served notice, but failed and refused to produce its officers, agents or employees who were properly noticed. On June 10, 1977, the OFCCP filed a Notion for an Order Recommending the Cancellation, Termination and Suspension of All Contracts Between Uniroyal and the Government for Uniroyal's failure to produce its personnel at the OFCCP's depositions.

[1] October 14, 1968, was the effective date of Executive Order 11375, which amended Executive Order 11246 to add "sex" as one of the prohibited grounds of discrimination.

On June 11, 1977, the OFCCP filed a Motion for an Order Recommending Cancellation, Termination and Suspension of All Contracts and Subcontracts Between Uniroyal and the Government because of Uniroyal's failure to comply with the court's orders directing it to admit or deny the OFCCP's requests. This was followed by a motion by the OFCCP on September 29, 1977, to have requests for admission 7, and 9 through 15 admitted and by an order dated October 21, 1977, declaring requests for admission 7 and 9 through 15 admitted. Uniroyal obtained a temporary restraining order from the United States District Court for the Northern District of Indiana, on June 22, 1978, on the basis of its challenge to the prehearing discovery regulations. However, the District Court denied Uniroyal's Motion for a Preliminary Injunction on August 15, 1977.[2] Thereafter, the OFCCP contacted Uniroyal to determine if the Company would now permit entry and discovery to take place before a hearing was rescheduled. Uniroyal refused to permit such discovery and a hearing was subsequently noticed and held in South Bend, Indiana on November 1, 2, 3, and 4 and November 14 and 15, 1977 on the OFCCP's four separate motions seeking an order recommending termination of Uniroyal's current Government contracts and subcontracts and its debarment from future Government contract activity. The four OFCCP sanction motions were:

Motion No. 1

This motion filed on May 19, 1977 sought to cancel, terminate and/or suspend all of Uniroyal's Government contracts because of its failure to provide full and complete responses to the OFCCP's First Set of Interrogatories and First Set of Requests for Production of Documents.

Motion No. 2

This motion filed on June 10, 1977, sought the cancellation, termination and/or suspension of Uniroyal's current Government contracts and subcontracts and debarring it from future Government contracts and subcontracts for Uniroyal's failure to present its officers, agents, and employees for the OFCCP's properly noted depositions.

Motion No. 3

This motion filed on June 11, 1977 sought the cancellation, termination and/or suspension of Uniroyal's current Government contracts and subcontracts and debarring it from future Government contracts and subcontracts for Uniroyal's failure to comply with the Judge's orders of May 12, and 19, 1977, directing it to answer the OFCCP's requests for admission 7 and 9 and their accompanying interrogatories.

Motion No. 4

This motion filed May 26, 1977 sought the cancellation, termination and/or suspension of all of Uniroyal's Government contracts for Uniroyal's interference with the OFCCP's development of its case by interjecting Uniroyal's attorneys in the OFCCP's interviews of potential witnesses.

In the course of the hearing, Uniroyal stipulated or the Judge found that Uniroyal admitted that it:

—Failed and refused to provide the information requested in 20 of the OFCCP's First Set of Interrogatories and that there was no acceptable justification for its failure;
—Failed and refused to provide documents for inspection and copying requested in five of the OFCCP's First Set of Requests for Production of Documents and that there was no acceptable justification for this failure;
—Blocked out information relating to active employee histories in violation of the Judge's prior instructions and failed to furnish supplemental information when the violation was called to Uniroyal's attention;
—Failed to provide what the Judge found to be important portions of "white collar" employee personnel file and information;
—Prevented OFCCP representatives from returning to its Mishawaka facility to inspect and copy documents which Uniroyal previously failed to make available, even after the Judge's order of May 3 to do so and the decision of the District Court on August 15, 1977.

In addition, the Judge found that contrary to Uniroyal's assertion in its initial and supplemental answer to interrogatories 26 through 33 of the OFCCP's First Set of Interrogatories that it has not maintained since October 14, 1968, a policy or practice whereby it restricted and/or designated any jobs as male only or female only or male (female) jobs, the evidence overwhelmingly established this response was untrue. The Judge found that Uniroyal segregated employee folders and individually tabulated seniority lists on the basis of sex, until at least November 1970 and that it utilized a system of classifying male employees as Class A and females as Class B for selection, hiring, placement and recall of production and maintenance employees.

Discussion

Uniroyal, a Government contractor, has been charged by the OFCCP with substantive violations of its contractual equal employment opportunity obligations under the Order. Uniroyal has requested and been granted an administrative hearing on these substantive violations. Having itself invoked this administrative remedy, and having itself served prehearing discovery requests on the OFCCP, Uniroyal nevertheless has refused to comply with the OFCCP's discovery requests primarily on the ground that the regulations providing for discovery are invalid because not specifically authorized. The OFCCP, in an effort to enforce those regulations, has moved for sanctions against Uniroyal for its refusal to comply.

Section 201 of the Order provides that the Secretary of Labor shall be responsible for the administration of Part II of the Order which deals with "Nondiscrimination in Employment by Government Contractors and Subcontractors," and it authorizes him to "adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes" of the Executive Order.

Section 202 sets forth the Equal Employment Opportunity (EEO) clause, which is to be included in all non-exempt Government contracts. The EEO clause prohibits discriminatory practices, requires affirmative action to provide equal employment opportunities, and requires compliance with the implementing regulations and orders of the Secretary of Labor; see sections 202 (1) and (4). Section 202(5) requires government contractors to furnish all information regarding compliance which the enforcing authority may require.

According to section 206(a), the Secretary is empowered to "investigate the employment practices of any Government contractor or subcontractor * * * to determine whether or not the contractual provisions specified in section 202 of this Order have been violated."

Section 206 of the Order authorizes the Secretary of Labor to provide for hearings prior to imposing sanctions,

[2] Affirmed, *Uniroyal, Inc.*, v. *Marshall*, 579 F.2d 1060 (7th Cir. 1978).

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and specifically prohibits any order for debarment of any contractor from further Government contracts "without affording the contractor an opportunity for a hearing." Indeed, even prior to the commencement of formal enforcement proceedings, the contracting agency is required to make reasonable efforts to eliminate the problems through informal methods and conference, conciliation, mediation and persuasion; see section 209(b).

Pursuant to the power granted him in section 201, the Secretary of Labor has issued regulations implementing the Executive Order (see, 41 CFR Parts 60–1, *et seq.*) and except for his regulation-making power, the Secretary of Labor has assigned responsibility for enforcement of Executive Order 11246 to the OFCCP; see 41 CFR 60–1.2.

The regulations provide that no order of debarment from further contracts or subcontracts shall be issued without the opportunity for a formal hearing before an administrative law judge, with rights to counsel, to present evidence and to cross-examination; see 41 CFR Part 60–30. In order that the administrative hearing may be fair and meaningful, the regulations also provide for prehearing discovery by both sides; see 41 CFR Part 60–30.

Uniroyal argues that these discovery regulations are outside the scope of the Order. In support of this proposition Uniroyal does not cite any provision of the Order with which the regulations conflict or which narrow the scope of the Order so as to exclude such regulations, but merely argues that they are unauthorized. However, it has been held by the courts that the Executive Order program has the force and effect of law. *Contractors Ass'n of Eastern Pa.* v. *Secretary of Labor*, 442 F. 2d 159 (3rd Cir. 1971), *cert. denied*, 404 U.S. 854 (1971); *Farkas* v. *Texas Instrument, Inc.*, 375 F. 2d 629 (5th Cir. 1967); *Farmer* v. *Philadelphia Electric Co.*, 329 F. 2d 3 (3rd Cir. 1964); *United States* v. *New Orleans Public Service, Inc.*, (NOPSI) 553 F. 2d 459 (5th Cir. 1977), *United States* v. *Local 189, Papermakers*, 282 F. Supp. 39 (E.D. La. 1968), *aff'd* 416 F. 2d 980 (5th Cir. 1969), *cert. denied*, 397 U.S. 919 (1971). I also find that the regulations promulgated thereunder, which are not unlawful and plainly unreasonable or inconsistent with underlying authority, also have the force and effect of law. *Maryland Casualty Co.* v. *United States*, 251 U.S. 342 (1919); *Commissioners* v. *So. Texas Lumber Co.*, 333 U.S. 496 (1948); *United States* v. *NOPSI, supra.*

I would note that in other instances where courts have been asked to hold an Executive Order implementing regulation invalid on the ground of lack of express statutory authorization, the courts have refused to so hold. For instance, in *Contractors Ass'n of Eastern Pa., supra*, it was argued that the Secretary exceeded his authority in issuing a regulation requiring affirmative action goals and timetables for remedying underutilization of minorities, since the Executive Order does not specifically mention goals and timetables. The Third Circuit held that such a regulation was authorized under the broad delegations of authority in section 201, 442 F.2d at 175. See also; *Southern Illinois Builders Ass'n* v. *Ogilvie*, 327 F. Supp. 1154, aff'd; 471 F.2d 680 (7th Cir. 1972). Similarly, in *United States.* v. *Duquesne Light Co.*, 423 F. Supp. 507 (W.D. Pa. 1976), the court held that the fact that backpay was not specifically mentioned as a possible remedy under the Executive Order did not mean that backpay was unauthorized, 423 F. Supp. at 510.

While no court has yet considered the validity of the particular regulatory provisions here at issue (except to the extent that *NOPSI, supra*, broadly upholds the regulations containing the prehearing discovery provisions), I know of no provision of the Executive Order or of other law with which they conflict, and Uniroyal has pointed to none. Thus, under the rational of *Contractors Ass'n of Eastern Pa., supra*, and *NOPSI, supra*, I conclude that they are valid.

Indeed, far from conflicting with other law, regulations are specifically authorized under section 201. The regulations in issue here supplement and complement section 202(5) of the Order itself, which expressly requires Government contractors to supply all information which the Government may request pursuant to the implementing regulations and in connection with any compliance investigation. Section 202(5) was held to be valid in *NOPSI, supra.*, 553 F.2d at 465. The appellant in that case had argued, *inter alia*, that section 202(5) was unconstitutional because it had not been specifically authorized by statute. The Fifth Circuit held that argument to be "without merit in light of the pattern of Congressional approval for the Executive Order program * * *." 553 F.2d at 472, n.12. Likewise, the absence of specific references to prehearing discovery in the Order or other statutes should not be interpreted as any indication of an intent to preclude it.

The prehearing discovery regulations also complement section 208 of the Order, which authorizes the Secretary of Labor to hold hearings, and section 206, which authorizes investigations. Section 208 gives the Secretary authority to decide how to conduct hearings, and places no limits on his ability to provide for prehearing discovery.

Furthermore, administrative discovery is a widespread and favored procedure. Virtually all major Federal agencies signficantly involved in Government procurement have promulgated regulations regarding disputes procedures which include prehearing discovery of some sort. Like the Executive Order discovery regulations, the discovery regulations of other agencies are deemed to be part of Government contracts, and the regulations are promulgated on the basis of general rulemaking authority. E.g., 38 CFR 1.77.4; 41 CFR Part 5A–60, Rule 14; 45 CFR Part 16.

I conclude that the regulations are authorized by the provisions of the Order authorizing regulations (section 202(1)), requiring contractors to disclose information (section 202(5)) and authorizing hearings (section 208). Moreover, Uniroyal has contracted to comply with these regulations, and they do not conflict with underlying authority.

Having resolved the fundamental issue of the validity of the regulations, I will now address the exceptions to the Judge's "Recommended Decision," filed by the parties.

I would note that the Judge's findings and conclusions are based upon his personal observations and conclusions as to witness credibility and the facts, as developed during the course of the hearing. Therefore, his findings will not be disturbed if supported by the record.

I would also note that the regulations confer broad discretion upon the Judge to ensure that a fair hearing is conducted. Therefore, findings and conclusions made pursuant to this discretion will not be disturbed unless the Judge has abused his discretion.

Uniroyal's Exceptions

Uniroyal's Exception No. 1

Uniroyal excepts to the failure of the Judge to define the class of alleged discrimination as those present and former employees employed at the Company on or after January 28, 1976, which is 180 days prior to the filing of the Notice of Intent to Debar on July 28, 1976.

The Exception is denied.

Uniroyal asserts that this limitation is consistent with Title VII of the Civil Rights Act of 1964, which must be given controlling weight in the instant proceeding. Aside from Uniroyal's characterization of applicable limitations on the Executive Order, I find that the Executive Order is limited only by the express prohibitions of Title VII. See, e.g., *Contractors Ass'n of Eastern Pa., supra.* I further find that neither Title VII, the Congressional history surrounding it, nor the authority cited by Uniroyal evidence an intent by Congress or the courts to make Title VII applicable to the Executive Order with respect to Uniroyal's assertion of a 180 day limitation on enforcement actions brought by the OFCCP. Therefore, I hereby deny Uniroyal's exception.

Uniroyal's Exception No. 2

Uniroyal excepts to the failure of the Judge to confine the scope of discovery to the period after January 1, 1975, and to his failure to limit the discovery of information relevant to the issues delineated in the Notice of Intent to Debar.

The Exception is denied.

Uniroyal asserts that the alleged deficiencies in the instant proceeding arose from a compliance review conducted in January, 1976. On the basis of this assertion, Uniroyal unilaterally determined that the proper scope of the proceedings is limited to one year prior to the compliance review. However, the Company's position is inaccurate and ignores the fact that affected class violations were first outlined to the Company during a compliance review at Uniroyal's Mishawaka facility in September, 1972. These violations, in addition to those violations alleged as a result of the 1976 compliance review, were contained in the Notice of Intent to Debar which is the basis of the instant proceeding.

In any event, the law is clear that discovery is not limited to the issues raised by the pleadings and that the correct test for the scope of discovery is relevancy to subject matter of the suit. *Goldinger* v. *Boron Oil Co.*, 60 F.R.D 562 (W.D. Pa. 1973). Discovery rules, particularly with respect to the complex issues involved in employment discrimination cases, are to be construed liberally in favor of the party seeking discovery. *Rich* v. *Martin Marietta Corp.*, 522 F.2d 333 (10th Cir. 1975); *Burns* v. *Thiohol Chemical Corp.*, 483 F.2d 300 (5th Cir. 1973); *Blue Bill Borts, Inc.* v. *Equal Employment Opportunity Commission* 418 F.2d 355 (6th Cir. 1969). Thus, the Judge correctly recognized that discovery addressing past conduct which may have created an affected class is necessary and appropriate in order to show any present effects of past discrimination. See, *United States* v. *Jacksonville Terminal*, 451 F.2d 418 (5th Cir. 1971), *cert. denied* 406 U.S. 906 (1971).

Uniroyal also relies on *Equal Employment Opportunity Commission* v. *Packard Electronics Division*, 569 F.2d 315 (5th Cir. 1978). in support of its position. *Packard, supra* concerns a review by the Fifth Circuit on whether to affirm a district court judge's exercise of discretion in refusing to grant discovery requests by the EEOC. The Court of Appeals found that the district court had based its decision on the criterion of relevance and concluded that the district court's determination would be upheld because it was not clearly erroneous. By the same standard, I find that the Judge, in the March 10 hearing, expressly considered relevance, in addition to burdensomeness to the Company, and therefore, affirm his refusal to further limit the scope of discovery.

Furthermore, section 202(5) of the Order imposes upon Uniroyal a contractual commitment to:

> furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

I note that the Order contains no time limits on the periods that the Government can engage in discovery, so long as the discovery is related to the contractor's compliance with the Executive Order. I also note that the applicable regulations vest broad discretion in the Judge in conducting such hearings. See generally, 41 CFR 60–30.15.

I conclude that although the Judge could have reasonably required broader discovery, the Judge exercised permissible discretion in defining the scope of discovery.

Uniroyal's Exception No. 3

Uniroyal excepts to all evidentiary and procedural rulings made by the Judge in response to objections made by Uniroyal.

The Exception is denied.

Uniroyal presumably excepts to the discretion exercised by the Judge. The applicable regulations allow the Judge to exercise broad discretion in conducting a hearing. I note that the regulations provide, in section 60–30.18, *inter alia*, that "formal rules of evidence shall not apply."

Insofar as the record does not disclose a particular evidentiary or procedural ruling (nor has Uniroyal cited any) which prejudiced or denied Uniroyal's right to a fair hearing, Respondent's exception is denied.

Uniroyal's Exception No. 4

Uniroyal excepts to the assumption of jurisdiction by the Judge, with respect to the allegations contained in OFCCP's Motion No. 4, and to the expansion of the hearing beyond the issues delineated in the Notice of Intent to Debar.

The Exception is denied.

As noted previously, OFCCP's Motion No. 4 for sanctions is based upon Uniroyal's failure to adhere to the requirements of 41 CFR 60–1.32. Presumably, Uniroyal, in its exception, is relying upon 41 CFR 60–1.20(b) which requires the Government to "attempt to resolve the matter, where appropriate, through the conciliation procedure set out in this chapter," before initiating an enforcement proceeding. However, the incidents which are the basis of OFCCP's Motion No. 4 occurred after this enforcement proceeding had been initiated. Therefore, the relevant regulations at that stage in the proceedings are those found at 41 CFR 60.30, entitled *Rules of Practice for Administrative Proceedings To Enforce Equal Opportunity Under E.O. 11246*, which relate to the procedures and rules to be followed after administrative enforcement proceedings are instituted. These regulations define the scope of the Judge's jurisdiction broadly and, *inter alia*, confer the general power to impose appropriate sanctions for violations of regulations arising out of the discovery process.

Therefore, I conclude that no attempt to conciliate was required under the circumstances of this case at this stage of the enforcement proceedings under applicable regulations.

Uniroyal's Exception No. 5

Uniroyal excepts to Finding of Fact No 1 wherein the Judge stated that sex and racial discriminating practices are those involved in this proceeding.

The Exception is denied.

Uniroyal asserts that the Judge was limited to matters alleged in OFCCP pending motions. However, I find that the Notice of Intent to Debar, alleging race and sex discrimination, conferred upon the Judge the jurisdiction to make a substantive determination of relevant issues. In addition, the evidence that the OFCCP presented to show that Uniroyal had filed under oath false answers to OFCCP's interrogatories is a sufficient basis for the Judge to make a

substantive determination of these issues. Therefore, I hereby affirm the Judge's Finding of Fact No. 1.

Uniroyal's Exception No. 6

Uniroyal excepts to Finding of Fact No. 5 wherein the Judge found that the OFCCP's First Set of Interrogatories sought relevant information.

The Exception is denied.

Uniroyal asserts that OFCCP's interrogatories may not seek information outside the issues raised in the February 22, 1976, Show Cause Notice. However, in view of the nature of the case, the broad scope of permissible discovery and the discretion vested in the Judge, I hereby affirm the Judge's ruling that the interrogatories sought relevant information.

Uniroyal's Exception No. 7

Uniroyal excepts to Finding of Fact No. 8 and the failure to find that Uniroyal's objections to certain interrogatories and request for admissions were based on valid legal grounds and therefore could limit its answer accordingly.

The Exception is denied.

The record clearly confirms Uniroyal's failure to answer twenty-five interrogatories in their entirety and that it refused to supply information regarding twenty-eight other interrogatories and fourteen request items for a time period predating january 1, 1975. It also discloses that the Judge considered and rejected the legal grounds Uniroyal interposed to justify its failure to provide the information. Therefore, I hereby affirm Finding of Fact No. 8 for the reasons set forth in my ruling on Uniroyal's Exception No. 2.

Uniroyal's Exception No. 8

Uniroyal excepts to that portion of Finding of Fact No. 9 wherein the Judge confirmed his previous orders requiring Uniroyal to supply the Government with all requested information postdating October 14, 1968.

The Exception is denied.

As noted in my discussion of Uniroyal's Exception No. 2 where there is an allegation of employment discrimination which has created an affected class entitled to relief, it may be necessary to inquire into past conduct in order to fully examine the discriminatory system which created the affected class and to determine whether the affected class is suffering the present effects of past discrimination. Such inquiry into past conduct may, in some instance, predate the effective date of the Order. In the instant case, the Judge ruled that Uniroyal would be required to provide information and documents requested by the OFCCP only from October 14, 1968, the effective date of the amendments to the Order which, *inter alia*, prohibited discrimination on the basis of sex. In view of my discussion in connection with Uniroyal's Exception No. 2, I hereby affirm the Judge's rulings requiring Uniroyal to supply all requested information postdating October 14, 1968.

Uniroyal's Exception No. 9

Uniroyal excepts to Finding of Fact No. 10 and the failure to find that Uniroyal's objections to the submission of any information regarding certain interrogatories was based on valid legal grounds and therefore could be limited accordingly.

The Exception is denied.

Uniroyal asserts that it was legally justified in refusing to supply the information, an argument it previously presented in support of Uniroyal's Exceptions Nos. 2 and 7. In view of my earlier rulings on these exceptions, I hereby affirm the Judge's rulings for the reasons stated in my rulings on Uniroyal's Exceptions Nos. 2 and 7.

Uniroyal's Exception No. 10

Uniroyal excepts to Finding of Fact No. 11 wherein the Judge found that Uniroyal failed to provide OFCCP with relevant material during OFCCP's inspection and copying trip to Uniroyal's Mishawaka facility and that the Uniroyal was ordered to furnish certain information contained in employee histories.

The Exception is denied.

Uniroyal asserts that representatives of OFCCP made two trips to Mishawaka and that counsel for OFCCP testified they had ample opportunity to copy any and all documents in OFCCP's personnel files, but chose not to do so. However, testimony of OFCCP's counsel indicated all the documents were not made available for inspection and copying to the representatives of OFCCP and was corroborated by Uniroyal's witness, Mr. Edgar L. Kavanaugh.

Uniroyal also asserts that the Judge expressly stated that it had never been ordered to refrain from blocking out portions of employee histories. However, the record discloses that the Judge intended that if records include information prior to October 14, 1968, such information would be disclosed (Tr. pp. 228–229).

Thus for the reasons contained herein, I hereby affirm Finding of Fact No. 11.

Uniroyal's Exception No. 11

Uniroyal excepts to Findings of Fact No. 19 which states that Uniroyal admitted or stipulated during the hearing that it failed and refused to provide the information requested in twenty of OFCCP'S First Set of Interrogatories and that there was no acceptable justification for its failure.

The Exception is denied.

Uniroyal asserts that it provided most of the information sought during the prehearing administrative proceedings, including settlement discussions. However, the testimony of Mr. Kavanaugh, who had primary responsibility for preparing answers to OFCCP's First Set of Interrogatories establishes that Uniroyal failed to provide information requested in specific interrogatories. Kavanaugh had failed to provide such information because Uniroyal had objected to the period of discovery and the information deemed relevant. However, the Judge overruled such objections. I hereby find that such rulings are not an abuse of discretion and therefore affirm Finding of Fact No. 19.

Uniroyal's Exception No. 12

Uniroyal excepts to Finding of Fact No. 19 which states that Uniroyal admitted or stipulated at the hearing that it failed and refused to provide documents for inspection and copying requested in five of OFCCP's First Set of Requests for Production of Documents and that there was no acceptable justification or showing for this failure.

The Exception is denied.

Uniroyal Asserts that it did not provide requested documents on the ground that the information sought was irrelevant. As noted earlier, this objection was a basis for Uniroyal's objection to OFCCP's First Set of Interrogatories and was considered and rejected by the Judge.

Uniroyal also asserts that the remaining requested information either did not exist or was made available to OFCCP during its inspection visit.. However, the record supports the finding of fact that there was no acceptable justification for Uniroyal's failure to make requested information or documents available or to block out portions of documents made available.

In view of my previous rulings denying Respondent's Exceptions Nos. 10 and 11, I hereby affirm Finding of Fact No. 19.

Uniroyal's Exception No. 13

Uniroyal excepts to Finding of Fact No. 20 which states that Uniroyal

stipulated at the hearing that it blocked out information relating to active employee histories, that this action violated the court's prior instructions; and that when this violation was called to Uniroyal's attention, it refused to supply the information.

The Exception is denied.

As noted in my ruling on Uniroyal's Exception No. 10, the record clearly discloses that the Judge intended that if the records made available included information prior to October 14, 1968, such information would be disclosed. Therefore, I hereby affirm Finding of Fact No. 20.

Uniroyal's Exception No. 14

Uniroyal excepts to Finding of Fact No. 21 that "important portions" of white collar employees personnel files were not made available to OFCCP.

The Exception is denied.

Uniroyal asserts that no evidence was introduced at the hearing to prove that important portions of personnel files were kept from the OFCCP and that OFCCP's Exhibit No. 27 is not an official company document and thus cannot support the finding. However, the record supports the conclusion that Government's Exhibit No. 28, entitled "Salaried Personnel Status Form," is a true and correct copy of a company document regularly maintained in each employee's personnel file. In addition the company's own witness, Mr. Kavanaugh, admitted that "Salaried Personnel Status Forms" and portions of personnel files were not made available to OFCCP at its Mishawaka facility. Therefore, I hereby affirm Finding of Fact No. 21.

Uniroyal's Exception No. 15

Uniroyal excepts to Finding of Fact No. 22 which states that Uniroyal failed to provide its "salaried personnel status forms" which consolidated important personnel information about white collar employees although they had been specifically requested by OFCCP.

The Exception is denied.

Uniroyal asserts that such documents where never sought by OFCCP by way of a formal request for production of documents and that OFCCP counsel "simply mentioned" the document during the inspection visit to the Mishawaka facility. Uniroyal also asserts that the Company's Manager of Employment was not aware of the existence of such documents at the time, but did subsequently determine that the form was used at the corporate headquarters in Connecticut and consequently unavailable. However the record shows that OFCCP sought written "employment histories" in their First Set of Interrogatories, interrogatories 50 through 52, and in their First Set of Requests for Production of Documents, request 12. In response, the record indicates that the Company represented that such documents would be available at its Mishawaka facility. Further, there is support in the record for the conclusion that such documents were, in fact, maintained at the Mishawaka facility and never produced for OFCCP. Thus, I hereby affirm Finding of Fact No. 22.

Uniroyal's Exception No. 16

Uniroyal's excepts to Finding of Fact No. 33 which states that Uniroyal failed to provide to OFCCP position description or job specifications and requirements for all of its jobs as requested by OFCCP in interrogatory 2 and request for production of documents 1.

The Exception is denied.

Uniroyal asserts that its Manager of Employment testified without contradiction that it did not have job description for every job and that all available job descriptions and job specifications had been provided. However, the record indicates that Mr. Kavanaugh's testimony was equivocal. In view of the testimony of OFCCP's counsel wherein he stated that the position descriptions provided the Government were "substantially incomplete" and interrogatory 2 which asked Uniroyal to "individually list the descriptions and/or specifications" for the jobs without written position descriptions, I hereby affirm Finding of Fact No. 23.

Uniroyal's Exception No. 17

Uniroyal excepts to that portion of Finding of Fact No. 24 that held that it had previously failed to make available to OFCCP documents for inspection and copying.

The Exception is denied.

In support of its exception, Uniroyal relies on its prior exceptions to Findings of Fact Nos. 19 through 23. In view of my decisions to deny applicable exceptions, I hereby affirm Finding of Fact No. 24.

Uniroyal's Exception No. 18

Uniroyal excepts to Finding of Fact No. 25 which states that contrary to its assertions in its answers to interrogatories, Uniroyal segregated employee folders and individually tabulated seniority lists on the basis of sex until at least November 1970 and that it utilized a system of classifying male employees and female employees for selection, hiring, placement and recall of production and maintenance employees.

The Exception is denied.

Uniroyal asserts that this finding goes to the merits of the case which the Judge reserved for consideration at a later date. However, Finding of Fact No. 25 is based upon the evidence that OFCCP presented to show that Uniroyal had filed, under oath, false answers to OFCCP's interrogatories. I find that Uniroyal had the opportunity to support its denial that it had maintained a sex segregated employment system in violation of the Executive Order. I further find that the Judge exercised permissible discretion in making a finding based upon the evidence presented by OFCCP, in particular the cross examination of company witnesses Kavanaugh and Hoffer. Therefore, I hereby affirm the Judge's Finding of Fact No. 25.

Uniroyal's Exception No. 19

Uniroyal excepts to the Judge's failure to find that the notices of deposition referred to in Finding of Fact No. 26 were accompanied by administrative subpoenas and that OFCCP never sought to enforce such subpoenas in a court of law.

The Exception is denied.

Uniroyal asserts that the Administrative Procedure Act and the Executive Order require that OFCCP seek to enforce such subpoenas in a court of law. However, as a government contractor, Uniroyal had made a contractual commitment to comply with the applicable regulations. These regulations include 41 CFR 60–30.11(a) which provides that a party may depose a representative of another party through the issuance of proper notice and that the use of administrative subpoenas are permitted, but not required. Furthermore, 41 CFR 60–30.11(b) provides, in part, that "it shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person." Therefore, I hereby affirm Finding of Fact No. 26.

Uniroyal's Exception No. 20

Uniroyal excepts to the failure of the Judge to include in Finding of Fact No. 27 the fact that Uniroyal's failure to supply its officials was based upon its legal challenge to the validity of the regulations pending in the Federal courts.

The Exception is denied.

Finding of Fact No. 27 provides that "Uniroyal stipulated that it received the Notices to appear at the Government's depositions and that it failed and refused to produce its officers, agents or employees who were properly noticed" and is not disputed. Uniroyal's basis for such failure was repeatedly considered and rejected by the Judge. I find that the Judge did not err in failing to include Uniroyal's justification in his statement of Finding of Fact No. 27 and therefore, hereby affirm Finding of Fact No. 27.

Uniroyal's Exception No. 21

Uniroyal excepts to the failure of the Judge to find in Finding of Fact No. 32 that Uniroyal had legitimate reasons for not responding to certain requests of OFCCP for admissions based on pending legal challenges to the OFCCP discovery regulations in the Federal courts. Respondent also excepts to the failure of the Judge to find that Uniroyal came into compliance with the Order by answering requests for admissions.

The Exception is denied.

Finding of Fact No. 32 states that Uniroyal failed to respond to the OFCCP's Request for Admissions in a timely manner, in contravention of orders of the court. In failing to respond to the requests in a timely manner, Uniroyal relied on the same justifications as those presented throughout the hearing and considered herein; an argument repeatedly raised before the Judge, considered and dismissed. In addition, Finding of Fact No. 32 accurately reflects Uniroyal's failure to respond in a timely manner. Therefore, I hereby affirm Finding of Fact No. 32.

Uniroyal's Exception No. 22

Uniroyal excepts to the failure to note in Finding of Fact No. 35 that the female employees contacted by the OFCCP's representatives were unable to distinguish between the instant action and the Title VII action, *Chrapliwy*, v. *Uniroyal, Inc., supra.* Uniroyal also states that Finding of Fact No. 35 ignores the testimony of two female employees who testified that their decision to attend the OFCCP's interviews accompanied by attorneys was made immediately after speaking with the OFCCP representatives and before mentioning the interviews to Uniroyal officials.

The Exception is denied.

The record supports Finding of Fact No. 35 in all respects. It is my conclusion that it was not erroneous for the Judge to fail to include the points raised by Uniroyal. Therefore, I hereby affirm Finding of Fact No. 35.

Uniroyal's Exception No. 23

Uniroyal excepts to the failure of the Judge to note in Finding of Fact No. 37 that the female employees contacted by the OFCCP officials became upset and sought the advice of their supervisors. Uniroyal also excepts to the failure of the Judge to note that the women viewed OFCCP's investigation as connected with the Title VII litigation in which these particualr women were not involved and wanted to stay uninvolved.

The Exception is denied.

The record supports Finding of Fact No. 37 in all respects. It is my conclusion that it was not erroneous for the Judge to fail to include the points raised by Uniroyal. Therefore, I hereby affirm Finding of Fact No. 37.

Uniroyal's Exception No. 24

Uniroyal excepts to Finding of Fact No. 38. Finding of Fact No. 38 states that Uniroyal determined that a uniform approach through the plant regarding the scheduled interviews was needed. It also states that Uniroyal decided to suggest to prospective interviewees that they attend the OFCCP interviews in the presence of an attorney; that Timothy Woods would be recommended as legal counsel; and, that the Company would pay for his services.

The Exception is denied.

Uniroyal also asserts that the record shows that the Company only recommended specific attorneys by name when an employee did not have a personal lawyer, that Uniroyal made clear to the employees that they could use their own attorneys and that, in either event, the Company would pay their legal expenses.

However, the record supports Finding of Fact No. 38 in all respects. It is my conclusion that it was not erroneous for the Judge to fail to include the points raised by Uniroyal. Therefore, I hereby affirm Finding of Fact No. 38

Uniroyal's Exception No. 25

Uniroyal excepts to the failure to note in Finding of Fact No. 39 that the employees chose to have Mr. Woods as their attorney after full disclosure of his relationship with Uniroyal and to the failure to find that the employees had a right to attend the interview with counsel.

The Exception is denied.

Finding of Fact No. 39 states that the law firm with which Mr. Woods is employed and associated represented the Company for a number of years and has entered an appearance in *Chrapliwy*, v. *Uniroyal, Inc., supra*, and *Uniroyal, Inc.* v. *Marshall, supra.* These facts are supported by the record and are not disputed by Uniroyal. I conclude that it was not erroneous for the Judge to fail to include the points raised by Uniroyal. Therefore, I hereby affirm Finding of Fact No. 39.

Uniroyal's Exception No. 26

Uniroyal excepts to the failure to find in Finding of Pact No. 40 that of the sixteen or seventeen employees interviewed, four or five of them were interviewed without the presence of any counsel and further excepts to the finding that the interviews were curtailed because they were conducted in the presence of private counsel.

The exception is denied.

The record supports Finding of Fact No. 40 in all respects. It is my conclusion that it was not erroneous for the Judge to fail to include the points raised by Uniroyal. Therefore, I hereby affirm Finding of Fact No. 35. Consideration of the legal issues raised by Uniroyal in the exception dealing with section 60–1.31 is deferred until Uniroyal's Exception No. 38 which more properly excepts to the Judge's conclusion of law.

Uniroyal's Exception No. 27

Uniroyal excepts to Finding of Fact No. 41 which states that Mr. Woods discussed the interviews with Mr. Frey and that Uniroyal sought and was in fact furnished information regarding the substance of the interviews. Uniroyal further excepts to the Judge's apparent reliance upon the OFCCP assertion that Uniroyal had knowledge of the interviews because of the detailed affidavits of attorneys Woods and Blackmond.

The Exception is denied.

The Judge's Findings are based upon his personal evaluation of the credibility of the witnesses. The record indicates that Mr. Wood had occasion to discuss the interviews with Mr. Frey. I decline to endorse Uniroyal's speculation concerning such a basis. Therefore, I hereby affirm Finding of Fact No. 41.

Uniroyal's Exception No. 28

Uniroyal excepts to the implication of Finding of Fact No. 43 that the Company had any part in other female employees subsequently declining to be interviewed by the OFCCP.

The Exception is denied.

Finding of Fact No. 43 states that "Uniroyal's actions resulted in female, interviewees and potential interviewees not responding favorably to Government subsequent requests, with Government representatives in the presence of Uniroyal attorneys." The record supports Finding of Fact No. 43 in all respects. It is my conclusion that it was not erroneous for the Judge to find that Uniroyal's actions resulted in female interviewees and potential interviewees not responding favorably to subsequent OFCCP requests. Therefore, I hereby affirm Finding of Fact No. 43.

Uniroyal's Exception No. 29

Uniroyal excepts to the statement in the "Discussion and Conclusions" portion of the Recommended Decision that Uniroyal's actions constituted a refusal to cooperate and that the facts in this proceeding are not in substantial dispute. Uniroyal further excepts to the statement that it had contracted to comply with prehearing discovery regulations.

The Exception is denied.

Uniroyal asserts that its actions were based on good faith legal challenges to the regulations. As discussed earlier, these legal challenges were considered and rejected by the Judge. Thus, it cannot be disputed that Uniroyal has failed to provide requested information in the fact of repeated orders of the Judge. I conclude that Uniroyal's actions have frustrated the purposes and intent of the instant proceeding and find no error in the Judge's characterization that these actions constitute "a refusal to cooperate."

As evidenced by Uniroyal's Exceptions Nos. 4 through 27, it was inappropriate for the Judge to state that the facts in this proceeding are not in substantial dispute. However, I conclude that such error was harmless in nature.

In addition, as discussed and concluded herein, Uniroyal is a Government contractor subject to the provisions of Executive Order 11246 and the rules and regulations issued pursuant thereto. As such, Uniroyal agreed to comply with the EEO clause of its Government contracts wherein it agreed to "comply with the rules, regulations and relevant orders of the Secretary of Labor." Therefore, I hereby deny Uniroyal's Exception 29.

Uniroyal's Exception No. 30

Uniroyal excepts to the characterization of the governing law in Conclusion No. 3 which states that the regulations of a Federal agency which do not conflict with the authorizing provisions of Federal law have the force and effect of law.

The Exception is denied.

Uniroyal asserts that the proper test of the validity of any regulation under the Order is whether it is authorized by Congress or whether it is within the scope of the Order. Uniroyal, in support of its position, cites cases which state that regulations have validity only to the extent that they remain within the scope of the Executive Order. See *Pan American World Airway* v. *Marshall*, 15 FEP Cases 1607 (S.D.N.Y. 1977); *NOPSI, supra.* Although I would note that there is little, if any, distinction between the standards urged by the Uniroyal and the standard adopted by the Judge, I hereby affirm the Judge's Conclusion No. 3. I conclude that it is well established that regulations used by government agencies, pursuant to Federal law, have the force and effect of law unless thay are in conflict with the authorizing provisions. *Maryland Casualty Company* v. *United States*, 251 U.S. 342 (1920); *Leslie Miller* v. *Ash*, 352 U.S. 187 (1956); *Paul* v. *United States*, 371 U.S. 245 (1963); *G. L. Christian and Associates* v. *United States*, 312 F.2d 418 (Ct. Cl. 1963); *Barclay* v. *United States*, 333 F.2d 847 (Ct. Cl. 1964).

Uniroyal's Exception No. 31

Uniroyal excepts to Conclusion No. 4 which states, *inter alia*, that the prehearing discovery regulations, issued pursuant to Order do not conflict with the provisions of the Executive Order and therefore have the force and effect of law. Uniroyal also excepts to the characterization of its position in reliance on the *NOPSI, supra*, decision.

The Exception is denied.

It is my view that the Judge is correct in his conclusion as to the validity of the regulations. Far from conflicting with the Order, the regulations are specifically authorized by the provision of the Order authorizing the Secretary of Labor to adopt such rules and regulations as he deems necessary and appropriate to achieve the purposes of the Order (section 201).

In addition, the regulations in issue supplement and complement the provision of the Order which expressly requires Government contractors to supply all information which the Government may request pursuant to the Secretary of Labor's regulations and in connection with any compliance investigation (section 202(5)). Section 202(5) was held to be valid in *NOPSI, supra.* The appellant in that case argued, *inter alia*, that § 202(5) was unconstitutional because it had not been specifically authorized by statute. The Fifth Circuit held that argument to be "without merit in light of the pattern of Congressional approval for the Executive Order program * * *" 553 F.2d at 472, N.12. While the Court of Appeal's Decision in *NOPSI* was recently vacated and remanded by the Supreme Court for reconsideration of the Company's Fourth Amendment argument in light of the Court's holding in *Marshall* v. *Barlow's Inc.*, 436 U.S. 307 (1978), the portion of the holding of the Court of Appeals cited by the Judge in Conclusion No. 4, and relied upon herein, was not vacated.

The prehearing discovery regulations also complement section 208 of the Executive Order, which authorizes the Secretary of Labor to hold hearings, and section 206, which authorizes investigations. Section 208, in particular, gives the Secretary authority to decide how to conduct hearings, and places no limits on his ability to provide for prehearing discovery.

The Order explicitly gives the Secretary of Labor broad power to engage in fact-gathering during the investigative stage to ascertain compliance and to hold enforcement hearings to prosecute violations discovered during those investigations. In view of the broad rulemaking authority conferred upon the Secretary and given the detailed enforcement scheme and broad investigative powers established by the Executive Order, the prehearing discovery rules at issues are both reasonable and appropriate. Therefore, I hereby affirm the Judge's Conclusion No. 4.

Uniroyal's Exception No. 32

Uniroyal excepts to Conclusion No. 8 that it is contractually required to comply with the prehearing discovery regulations.

The Exception is denied.

Pursuant to section 202(4) of the Executive Order, Uniroyal has agreed to:

> * * * comply with all provisions of Executive Order 11246 * * * and of the rules, regulations, and relevant orders of the Secretary of Labor.

Given its clear contractual commitment to comply with the Secretary's regulations, and in view of any earlier conclusion that the prehearing discovery regulations are valid, I hereby affirm the Judge's Conclusion No. 8.

Uniroyal's Exception No. 33

Uniroyal excepts to Conclusion No. 9 which states that based on Findings of Fact No. 5 through 25, Uniroyal has breached its duty as a Government contractor to fully and completely answer OFCCP interrogatories and requests for production of documents, violated at least five court orders, and further, refused to permit entry by OFCCP representatives to inspect and copy records in accordance with the

terms of the contracts and applicable regulations.

The Exception is denied.

In view of previous rulings upholding the applicable Findings of Fact, I hereby affirm Conclusion No. 9.

Uniroyal Exception No. 34

Respondent excepts to the reaffirmation in Conclusion No. 11 of the Judge's Order denying Uniroyal's Motion to Stay Discovery.

The Exception is denied.

In support of its exception, Uniroyal relies on the reasons stated in its Exception No. 28. In view of my previous rulings affirming the applicable Findings of Fact and denying said exception, I hereby affirm Conclusion No. 11.

Uniroyal's Exception No. 35

Uniroyal excepts to Conclusion No. 12 that it provided false and misleading answers to certain OFCCP interrogatories.

The Exception is denied.

In support of its exception, the Uniroyal states that it relies on the reasons stated in Exception No. 17. However, the reasons stated in Exception No. 18 are more applicable and presumably the Uniroyal intends to rely on the reasons stated therein. In Exception No. 18, Uniroyal excepts to Finding of Fact No. 25 and states, *inter alia,* that the Judge failed to delineate or analyze the evidence relied on to establish that Uniroyal's responses to interogatories 26 through 33 were untrue. In view of my previous ruling affirming Finding of Fact No. 25, I hereby affirm Conclusion No. 12.

Uniroyal's Exception No. 36

Uniroyal excepts to the statement in Conclusion No. 13 that it breached any duty under the regulations to produce its officers, agents or employees for depositions.

The Exception is denied.

In support of its exception, Uniroyal relies on the reasons stated in its Exceptions Nos. 18 and 19. However, the reasons stated in Exceptions 19 and 20 are more applicable and presumably it intends to rely on the reasons stated therein. Uniroyal, in Exceptions Nos. 19 and 20, excepts to Findings of Fact Nos. 26 and 27: the failure of the Judge to find that OFCCP never sought to enforce its administrative subpoenas in a court of law, and that its reason for failure to supply its officials was based upon its pending legal challenge to the regulations. In view of my previous rulings affirming the applicable findings of fact and denying said exceptions, I hereby affirm the Judge's Conclusion No. 13.

Uniroyal's Exception No. 37

Uniroyal excepts to Conclusion No. 14 which states that based upon Findings of Fact 29 through 34 and the record, Uniroyal breached its duty to properly answer the court's orders when it failed and refused to timely admit or deny the OFCCP's Requests for Admissions.

The Exception is denied.

In support of its exception, Uniroyal relies on the reasons set forth in exceptions to Findings of Fact Nos. 19 through 34. In view of my previous rulings affirming the applicable findings of fact and said exceptions, I hereby affirm the Judge's Conclusion No. 14.

Uniroyal's Exception No. 38

Uniroyal excepts to the statements in Conclusion No. 15 that Uniroyal "orchestrated" the hiring of counsel, that its activities have been tantamount to interference under 41 CFR 60–1.32 and to the Judge's interpretation of said provision.

The Exception is denied.

In order to prove a violation of 41 CFR 60–1.32, OFCCP must establish that the contractor has failed to take all necessary steps to ensure that no person intimidates, threatens, coerces or discriminates against any individual for the purpose of interfering with, *inter alia,* furnishing information, or assisting or participating in any manner in an investigation or hearing. In order to conclude that this section has been violated, it is not necessary to base that conclusion on a finding of actual coercion. A failure to take all appropriate action to avoid possible coercion or intimidation constitutes a violation of 41 CFR 60–1.32, regardless of whether Uniroyal successfully coerced or intimidated any employees.

From a thorough review of the entire record, I conclude that the Judge's conclusion that § 60–1.32 was violated is supported by the facts underlying the Judge's conclusion that Uniroyal "orchestrated" the hiring of counsel for the employees which OFCCP sought to interview. These facts include, but are not limited to, Uniroyal's suggestion to its employees that they be represented by the same attorneys who represented Uniroyal in the prior Title VII action, *Chrapliwy* v. *Uniroyal, Inc., supra,* and the presence of those attorneys while the representatives of OFCCP attempted to interview Uniroyal employees.

In addition, I would note that the special nature of the employment relationship makes certain conduct, under appropriate circumstances, more coercive and intimidating than would otherwise be the case, e.g., *Blue Flash Express, Inc.,* 109 NLRB 591 (1954); *Struksnes Construction Co.,* 165 NLRB 1062 (1967); *Wirtz* v. *Continental Finance and Loan Co.,* 326 F.2d 561 (5th Cir. 1964).

Therefore, I hereby affirm the Judge's conclusion that the totality of Uniroyal's conduct constituted a violation of 41 CFR 60–1.32.

Uniroyal's Exception No. 39

Uniroyal excepts to the failure to hold in Conclusion No. 16 that cancellation, termination, suspension or debarment from Government contracts is an improper sanction for violation of the contractual provisions of section 202 of the Executive Order.

The Exception is denied.

Pursuant to section 202(4) of the Order, Uniroyal has a contractual commitment to "comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor."

In addition, pursuant to section 202(6) of the Executive Order, Uniroyal has contractually agreed that "in the event of the contractor's noncompliance with the EEO clauses of this contract or with any of such rules, regulations, or orders," appropriate sanctions, including those specified in Conclusion No. 16 may be imposed. Therefore, I hereby affirm said conclusion.

Uniroyal's Exception No. 40

In Conclusion No. 17, Uniroyal excepts to the following conclusions:

—That a class action for monetary relief is maintainable under the Order;
—That an enforcement action under the Order cannot be conducted without discovery;
—That an authorized compliance review was conducted by the OFCCP at Uniroyal's Mishawaka facility in 1977;
—That Uniroyal refused to cooperate in the prehearing discovery proceedings;
—That the subpoena power is not an issue in this proceeding;
—That the Secretary of Labor's prehearing discovery regulations are valid, and that Uniroyal violated them;
—That a hearing on the merits without benefit of discovery would be fruitless;
—That Uniroyal breached its contractual obligations by failing to comply with prehearing discovery requirements, and that such violation constitute a contract breach of the type warranting the application of sanctions;
—That the prehearing discovery regulations are not unlawful or unreasonable and that they do not conflict with or go beyond underlying authority;
—That Uniroyal's conduct warrants sanctions against it as authorized by section 202(6) of the Order.

Regarding those exceptions concerning monetary relief under the Order, section 202(6) of the Order provides, *inter alia,* that where a contractor violates the Order or the rules and regulations issued pursuant thereto, the Secretary may impose sanctions and invoke remedies not only provided by the Order but also provided "by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law." In view of applicable regulations which provide for such relief, in addition to long standing practice and judicial support, I hereby conclude that a class action for monetary relief is maintainable under the Order. See, 41 CFR 60–2.1(b); *United States* v. *Allegheny-Ludlum Industries, Inc.,* 517 F.2d 826 (5th Cir. 1975); *United States* v. *Duquesne Light Co.,* 423 F. Supp. 507 (W.D. Pa. 1976). In addition, in view of my rulings, contained herein, addressing the remaining issues raised by Uniroyal's Exception No. 40, I hereby affirm Conclusion No. 17.

Uniroyal's Exception No. 41

Uniroyal excepts to the conclusion and recommendations of the Judge contained in Conclusion No. 18 which concludes that Uniroyal is not in compliance with the rules, regulations and orders. Based upon section 202(6) of the Order, he recommended that Uniroyal's present Government contracts be cancelled, terminated or suspended, and that Uniroyal be declared ineligible from further contracts until such time as it can satisfy the Director of OFCCP that it is in compliance with the Order and the Secretary's regulations issued pursuant thereto.

The Exception is denied.

For the reasons stated herein, I find that the Judge's recommendations are appropriate under the circumstances and I hereby adopt his conclusions and recommendations as contained in Conclusion No 18.

In addtion to the above exceptions, Uniroyal filed Supplemental Exceptions on June 22, 1978. OFCCP has correctly asserted that these exceptions, Nos. 42 and 43, are untimely and not in accordance with 41 CFR 60–30.26. The OFCCP further asserts that Uniroyal failed to appropriately move for an extension of time to file its Supplemental Exceptions. Accordingly, OFCCP urges the Secretary not to consider Uniroyal's Supplemental Exceptions Nos. 42 and 43. However, in view of the lack of any attendant prejudice, I hereby waive the above-mentioned regulation and consider Uniroyal's Supplemental Exceptions.

Uniroyal's Exception No. 42

Uniroyal excepts to the Judges's reliance on *NOPSI, supra,* wherein the Court stated that "there has been implied Congressional approval of the (Executive Order) program; it can even be argued that there has been express ratification."

The Exception is denied.

Uniroyal asserts that the implied Congressional approval of the Executive Order program has been overruled by the recent Supreme Court case, *Securities and Exchange Commission* v. *Sloan,* 436 U.S. 103 (1978). However, Uniroyal does not state in its exception how the Court's ruling in *Sloan* affects the Executive Order program. Presumably, Uniroyal is relying upon the case because the Supreme Court found that a sufficient showing of Congressional awareness of the Securities and Exchange Commission's (SEC) construction of an Act had not been made. The Court stated that the SEC construction "would result in a construction of the statute which is not only at odds with the language of the section in question and the pattern of the statute taken as a whole, but is extremely far reaching in terms of the virtually untrammelled and unreviewable power it would vest in a regulatory agency."

The instant case is clearly different. As indicated in the *NOPSI* case and more recently the Supreme Court in *Regents of the University of California* v. *Bakke,* 98 S. Ct. 2733 (1978), (Brennan, White, Marshall and Blackman concurring in part and dissenting, p. 2781, n.28), Congressional ratification of the Executive Order program is evident.

Furthermore, the regulations in question are clearly consistent with the detailed enforcement scheme and broad investigative powers conferred by the Executive Order. In addition, the regulations do not expand this agency's powers but are consistent with those adopted by other agencies. Therefore, I hereby affirm my earlier rulings affirming applicable conclusions of the Judge.

Uniroyal's Exception No. 43

Uniroyal excepts to Conclusion No. 9 which states, *inter alia,* that Uniroyal refused to permit entry by OFCCP representatives at its Mishawaka plant premises to inspect and copy records in accordance with the terms of the contracts and regulations issued pursuant to the Order.

The Exception is denied.

In support of its exception, Uniroyal asserts that its refusal to permit entry by OFCCP representatives at its Mishawaka plant was justified since OFCCP representatives did not have a search warrant as required by *Marshall* v. *Barlow's Inc.,* 436 U.S. 307 (1978).

However, the *Barlow's* decision is not applicable to the present case and can be distinguished in that *Barlow's,* concerned the right of the agency to inspect the facility in the investigative, pre-enforcement stage whereas the present case concerns a refusal after the issuance of the administrative complaint.

In addition, *Barlow's* requires Occupational Safety and Health Administration compliance officers to obtain a search warrant when the employer fails to give its *consent* to the search. As a government contractor, Uniroyal has specifically consented to permit the Government to examine its records to determine if it has violated the Executive Order or regulations promulgated pursuant thereto.

In any event, Uniroyal had made no mention, until the filing of its Supplemental Exceptions, that its refusal was based upon its belief that the OFCCP was required to have a search warrant prior to inspection of its records, thus foreclosing the OFCCP even the opportunity to secure such a warrant had it decided to do so.

Further, as noted above, Uniroyal had made a contractual commitment to adhere to the provisions of the Executive Order and the prehearing discovery regulations. Therefore I hereby affirm Conclusion No. 9.

Exception of the Complainant, the Office of Federal Contract Compliance Programs

The OFCCP excepts to the Judge's determination that the OFCCP waived Uniroyal's violation of 41 CFR 60–1.32.

The Exception is granted.

The OFCCP asserts that its representatives sufficiently manifested their objection to the presence of Uniroyal's counsel during the March 1977 interviews. In any event, the OFCCP contends that the interference allegation is a continuing violation in this instance and that the OFCCP never manifested a waiver of Uniroyal employer actions and attendant effects. In addition, OFCCP asserts that public policy dictates that, as a matter of law,

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it cannot waive a violation of this nature.

I conclude that it was not until the final interview of March 5, 1977, conducted with Ms. Belinda Dolke, that the representatives of OFCCP were confronted with an unequivocal statement from a witness that the attorneys present actually represented Uniroyal. At that point, I find that the representatives of the OFCCP manifested sufficient objection to preclude a finding of waiver of any violation of 41 CFR 60–1.32.

In addition, I find that as a matter of law, Uniroyal's violation of 41 CFR 60–1.32 cannot be waived by the Government as a result of the acts of its agents. The regulation in question serves a substantial public interest in that it is intended to assure the public and affected employees, that they are free to come forward without threat of intimidation or interference and cooperate with a Government investigation, and thereby protect the public interest in ensuring that equal employment opportunities are afforded by all Government contractors. Therefore, I hereby overrule the Judge's determination that the OFCCP waived Uniroyal's violations of 41 CFR 60–1.32.

Exception of the Intervening Female Workers

The intervenors except to the Judge's failure to strike Uniroyal's defense and to recommend cancellation, termination, and debarment for the separate and additional reason that the company already has litigated and lost in United States District Court the issue it seeks to raise by its defense and relitigate in this proceeding.

The exception is denied.

In view of the Judge's conclusion "that Uniroyal is not in compliance with the Secretary's rules, regulations and orders," I find no prejudicial error in the Judge's failure to strike the Company's defense. Accordingly, I hereby deny the intervenor's exception.

Conclusion and Administrative Order

After review of the record, I accept and adopt the Recommended Decision of the Administrative Law Judge, except for Conclusion No. 15 which is modified herein. Therefore, I hereby order, in accordance with sections 209(a)(5) and (6) of the Order and 41 CFR 60–1.26 and 60–30.30, that:

Uniroyal's present Government contracts and subcontracts be cancelled, terminated or suspended and that Uniroyal be declared ineligible from further contracts and subcontracts, and from extensions or modifications of any existing contracts and subcontracts until such time that it can satisfy the Director of OFCCP that it is in compliance with Executive Order 11246 and the Secretary of Labor's regulations issued pursuant thereto.

The sanctions invoked herein shall be applicable to Uniroyal, its officers, subsidiaries and divisions and all purchasers, successors, assignees and transferees.

Signed at Washington, D.C., this 28th day of June, 1979.

Ray Marshall,
Secretary of Labor.

Certificate of Service

I hereby certify that on June 28, 1979, a copy of the foregoing Decision and Administrative Order of the Secretary of Labor, was mailed, postage prepaid, to the following:

Carin A. Clauss, Solicitor of Labor, James D. Henry, Associate Solicitor, Louis G. Ferrand, Counsel for Civil rights, Ira Sherman, Esquire, Sheila Berman, Esquire, U.S. Department of Labor, Room 2414, 200 Constitution Avenue, N.W., Washington, D.C. 20210.
For the U.S. Department of Labor.
Harry N. Turk, Esquire, Steve Horner, Esquire, Arthur, Dry and Kalish, P.C., 1230 Avenue of the Americas, New York, New York 10020.
Rody P. Biggert, Esquire, Seyfarth, Shaw, Fairweather, and Geraldson, 55 East Monroe Street, Chicago, Illinois 60603.
For the Respondent Uniroyal, Incorporated.
Harley M. Kastner, Esquire, General Counsel, URW, 87 South High Street, Akron, Ohio 44308.
For the Intervenor, United Rubber Workers.
Thomas R. Ewald, Esquire, Suite 1200, 1156 15th Street, N.W., Washington, D.C. 20005.
For the Intervenor, Female Plant Workers.
Rhea M. Burrow, Administrative Law Judge, Suite 700, 1111 20th Street, N.W., Washington, D.C. 20036.

United States District Court for the District of Columbia

Uniroyal, Inc., Plaintiff, v. *F. Ray Marshall, et al.*, Defendants.

Civil Action No. 79–1702.

Opinion

This case presents the question whether a major government contractor may be debarred from existing and future government contracts for refusing to comply with demands for discovery in the context of an ongoing proceeding in which it is being charged with employment discrimination. As such, it is a case of first impression. Specifically, the action is one to review an order of the Secretary of Labor terminating plaintiff's present government contracts and declaring plaintiff ineligible for future government contracts, and it seeks an injunction against enforcement of the order.

I

Plaintiff Uniroyal, Inc., is one of the largest manufacturers of rubber and related products in the United States and it employs some 24,000 persons. Since at least 1968, it has had contracts and subcontracts with the United States government in the amount of several million dollars each year. On July 28, 1976, a complaint issued initiating a formal administrative process charging Uniroyal with failure to comply with Executive Order 11246 which prohibits discrimination by government contractors.[1]

The complaint alleged that Uniroyal discriminated against its female and minority employees based in its Mishawaka, Indiana, plant. After some discovery was had, Uniroyal advised the government, on May 10, 1977, that it would no longer comply with the pretrial discovery regulations issued by the Secretary of Labor because it considered them invalid.

Concurrently Uniroyal initiated an action in the U.S. District Court for the Northern District of Indiana challenging the validity of these regulations. That court granted summary judgment to the government (*Uniroyal* v. *Marshall*, E.P.D. ¶7798 (N.D.Ind. 1977)), and the U.S. Court of Appeals for the Seventh Circuit affirmed, largely on exhaustion of administrative remedies grounds. *Uniroyal* v. *Marshall*, 579 F.2d 1060 (7th Cir. 1978).[2]

The government meanwhile filed four motions before the Administrative Law Judge hearing the Uniroyal matter in the Department of Labor seeking to have Uniroyal's government contracts terminated because of its refusal to provide discovery. The first motion alleged that Uniroyal improperly declined to provide full and complete responses to government interrogatories and requests for production of documents and that it refused to permit the government to return to the Mishawaka plant or to inspect and photograph documents there. The second motion was based on Uniroyal's refusal to present its officers and employees for scheduled depositions; the third motion dealt with additional refusals of Uniroyal to respond to requests for admissions and accompanying interrogatories; and the fourth motion alleged that Uniroyal improperly interfered with the government's preparation of its case by interposing interested counsel in interviews by government attorneys of potential witnesses.

Hearings were held on the debarment motions in November 1977. On April 11, 1978, the Administrative Law Judge filed a recommended debarment. In her 21-page

[1] Executive Order 11246, which was issued by President Johnson on September 24, 1965, is the latest in a series of such Orders. Three Executive Orders pertaining to fair employment practices were issued by President Franklin Roosevelt; three by President Truman; two by President Eisenhower; and two by President Kennedy. In 1965 President Johnson transferred enforcement of the policy to the Secretary of Labor. For a brief history of the Executive Orders, *See AFL–CIO* v. *Kahn*, (D.C.Cir. No. 79–1564, June 22, 1979) (slip opinion pp. 14–15, notes 32, 33).

[2] The opinion of the Court of Appeals is discussed in somewhat greater detail below.

opinion, the ALJ found that the government had sustained the first three motions but had waived its rights with respect to the fourth motion. The Secretary of Labor, on June 28, 1979, adopted the ALJ's recommendations save for her ruling on the government's fourth motion, overruled some 43 exceptions filed by Uniroyal, and held that the company had violated the Executive Order and the rules and regulations issued pursuant thereto in the four respects alleged by the government. In accordance with his findings and conclusions, he ordered Uniroyal suspended from all existing contracts "until such time that it can satisfy the Director of the [Office of Federal Contract Compliance Program] that it is in compliance with" the Executive Order and the regulations issued pursuant thereto.

Uniroyal filed this action in this Court on July 2, 1970. After a hearing, the Court stayed execution of the Secretary's debarment order for a period of ten days. On July 12, 1979, a hearing was held on plaintiff's motion for preliminary injunction and the government's motion for summary judgment.[3] At that time, the Court extended the stay for an additional ten days pending its decision on the merits.[4]

This case presents two principal issues [5] first, whether in a proceeding under the Executive Order the contractor may be required to submit to the inspection of records and documents, to answer interrogatories, and to participate in depositions; and second, if a power to compel discovery exists, whether a refusal to comply with discovery may be punished by debarment from government contracts.

II

There can be no serious question about the authority of the Administrative Law Judge under the Executive Order and the regulations to require Uniroyal both to permit the inspection of pertinent documents and records and to require it to participate in depositions and other discovery. At least two of the provisions of the Executive Order establish such power.

Section 202(5) of the Order provides that:

The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain, compliance with such rules, regulations, and orders.

Similarly, section 208(a) grants to the Secretary or his designees the power to "hold hearings, public or private, as the Secretary may deem advisable for compliance [or] enforcement * * * purposes." Obviously that hearing authority would be largely meaningless without the concomitant power to compel the production of evidence both from the government and from the contractor who is a party to the hearing. For that reason it may be assumed that, in granting to the Secretary of Labor and his designees in that Department the authority to hold hearings, the President intended to provide them also with the necessary ancillary authority to compel discovery. The regulations implement that construction. See 41 CFR 60–30.9, 30.10, 30.11, 30.15.

Thus, if the Executive Order and the implementing regulations are valid, the discovery ordered by the Administrative Law Judge is likewise valid and binding on plaintiff. The more difficult question on this aspect of the case is whether the President had the authority to promulgate the various discovery provisions of the Executive Order. Examination and analysis of the Executive Order itself and of prior judicial decisions interpreting that Order and other delegations of agency authority compel an affirmative answer.

The Executive Order has the force and effect of law. *United States* v. *New Orleans Public Service, Inc.* (NOPSI), 553 F.2d 459 (5th Cir. 1977); *vacated and remanded on other grounds*, 436 U.S. 942 (1978); *Contractors Ass'n of Eastern Pa.* v. *Secretary of Labor*, 442 F.2d 159(3rd Cir. 1971), *cert. denied*, 404 U.S. 854 (1971); *Farkas* v. *Texas Instrument, Inc.*, 375 F.2d 629 (5th Cir. 1967); *Farmer* v. *Philadelphia Electric Co.*, 329 F.2d 3 (3rd Cir. 1964). Regulations which are promulgated pusuant to the Order likewise have the force and effect of law, provided that they are not inconsistent with the Order or otherwise plainly unreasonable. *Maryland Casualty Co.* v. *United States*, 251 U.S. 342 (1919); *Commissioners* v. *So. Texas Lumber Co.*, 333 U.S. 496 (1948); *Contractors Ass'n of Eastern Pa.* v. *Secretary of Labor, supra.*

Executive Order 11246 and regulations promulgated pursuant thereto have survived a number of challenges to their underlying authority similar to that raised in this litigation.

For example, in the *NOPSI* case, *supra*, the court upheld a regulation which provided for the incorporation by reference into government contracts of the equal opportunity clause of the Order, and the court likewise sustained the provisions of section 202(5) of the Order and implementing regulations against a challenge that they authorized unreasonable searches and seizures in violation of the Fourth Amendment. In so ruling, the court noted (553 F.2d at 465) that in determining the validity of regulations under the Order, it was obligated to "give special deference to the Labor Department's interpretation of the Order which that department was charged to administer." *See also United States* v. *Mississippi Power & Light*, 553 F.2d 480 (5th Cir. 1977).

Similarly, the Executive Order was held to authorize a directive requiring affirmative action goals and timetables for remedying underutilization of minorities under the broad delegation granted to the Secretary of Labor in Section 201 to "adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes thereof." *Contractors Ass'n of Pa.* v. *Secretary of Labor, supra. See also Southern Illinois Builders Ass'n* v. *Ogilvie*, 471 F. 2d 680 (7th Cir. 1972); *United States* v. *Duquesne Light Co.*, 423 F. Supp. 507, 510 (W.D. Pa. 1976).

In this regard, it is interesting to note that in the previous Uniroyal case (*Uniroyal, Inc.* v. *Marshall, supra*) the court stated (579 F.2d at 1066–67):

* * * Uniroyal can point to no section of the Order with which those regulations are in explicit conflict. The APA requirement of legal authorization does not clearly require express statutory authority, and the Order gives him broad power both to engage in fact-gathering during the investigative stage to ascertain compliance, and to hold enforcement hearings to prosecute violations discovered during those investigations. For the Secretary to adopt discovery rules in the gap between an investigation and a hearing does not clearly expand the agency's powers.

While this language cannot be considered dispositive because the decision turned on Uniroyal's failure to exhaust administrative remedies,[6] it does buttress the government's position on this issue.

Plaintiff relies to the contrary on *Federal Maritime Commission* v. *Anglo-American Shipping Co.*, 335 F.2d 255 (1963), where the Court of Appeals for the Ninth Circuit was faced with the question of the authority of the Federal Maritime Commission to promulgate rules to require common carriers to produce documents for inspection and copying. Answering that question in the negative, the court held, that, absent an explicit congressionally-conferred power to order the production of documents, a Federal agency does not possess such authority. In the opinion of that court, general rulemaking authority does not suffice.

There are, however, several reasons for concluding that the *Anglo-American Shipping* decision is not controlling or even persuasive.

In the first place, unlike there, the entity which is the subject of the present administrative discovery order is a government contractor. Government contracts have traditionally occupied a special place in the law, and the government has generally been deemed to be vested with far greater powers with respect to such contractors than it is with respect to others, including those merely subject to general administrative regulations. See *infra*. Moreover, there are significant differences between the Merchant Marine Act and the Executive Order.[7] The Act empowered the Commission to issue general rules and regulations and it provided the authority to issue subpoenas duces tecum. It could well be argued, and the court in that case

[3] The United Rubberworkers of America, AFL–CIO–CLC, were permitted to intervene as a party plaintiff, and Alta Chrapliwy (representing a class of 521 female workers presently and formerly employed in production and maintenance jobs at Uniroyal's Mishawaka, Indiana, plant) was permitted to intervene as a party defendant, and both participated in the hearing.

[4] Upon inquirey by the Court, plaintiff indicated that it did not wish to file an opposition to defendants' motion for summary judgment and was prepared to have the Court decide the merits on the basis of the papers previously submited and the arguments previously made.

[5] There are also a number of subsidiary issues which are discussed *infra*.

[6] As indicated *supra*, the action deals with there was brought while Uniroyal's case was still pending before the Administrative Law Judge.

[7] In view of its express or implicit ratification by the Congress (see *AFL–CIO* v. *Kahn*, *supra*, slip opinion at p. 16), the Executive Order may be said to have quasi-legislative status.

determined, that the general rule-making power was inadequately explicit, and that, to the extent that specific authority was granted, it was limited to a single discovery device—the subpoena duces tecum. By contrast, the Executive Order more expansively and directly requires a contractor (section 202(5)) to "furnish all information and reports required by Executive Order 11246 and by the rules, regulations, and orders of the Secretary of Labor * * * for the purposes of investigation to ascertain compliance * * *," and it further authorizes the Secretary to prescribe reports and procedures for investigations and hearings (sections 203, 206 and 208). Beyond that, the *Anglo-American Shipping* decision has been both considerably undermined and severly criticized in recent years. Thus, in *Federal Communications Commission* v. *Schreiber*, 381 U.S. 279 (1965), the Court held that a provision of law [8] empowering the FCC to "conduct its proceedings in such a manner as will best conduce to the proper dispatch of business and the ends of justice" gave the Commission wide latitude to conduct its proceedings as it saw fit. 381 U.S. at 289–294. The Court went on to state, as it had done previously (*Federal Communications Commission* v. *Pottsville Broadcasting Co.*, 309 U.S. 134, 143 (1940)), that administrative agencies "should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties."

Other courts, too, have followed this principle in determinating the parameters of agency authority. *See also, National Petroleum Refiners Ass'n.* v. *Federal Trade Commission*, 482 F.2d 672 (D.C. Cir. 1973); *Contractors Ass'n. of Eastern Pa.* v. *Secretary of Labor, supra; United States* v. *Mississippi Power & Light Co., supra.* For specific criticism of the *Anglo-American Shipping* decision, see Mezines, Stein and Gruff. 4 *Administrative Law* § 23.01[5], 1977; Tomlinson, "Discovery in Agency Adjudication," 1971 Duke L.J. 89 (1971).

The government's position as to the authority of the Executive Order is further strengthened by the principle, noted above, that its authority with respect to contractors is extensive and that it may set the terms upon which those wishing to deal with it must operate. *See Perkins* v. *Lukens Steel Co.*, 310 U.S. 113 (1940); *AFL–CIO* v. *Kahn, supra*, slip op. at 23; *United States Brewers Ass'n. Inc.* v. *EPA*, —— *F.2d* —— (D.C. Cir No. 77–1867, May 23, 1979) (slip opinion, pp. 19–20); *see also King* v. *Smith*, 392 U.S. 309, 333 (1963). Here, the government, acting through the President's Executive Order and the Secretary of Labor's regulations has determined that one whishing to do business with the government must agree to mutual prehearing discovery. While, to be sure, the government has no power by contract to bind others to abide by invalid regulations,[9] regulations are likely to be regarded as reasonable and valid if they operate in an area where the government has extensive authority, and the field of government contracts is, obviously, such an area. Cf. *Northeast Construction Co.* v. *Romney, supra; Contractors Ass'n. of Eastern Pa.*, v. *Secretary of Labor, supra.*

The principal regulations here at issue, moreover, were issued not by a subordinate official but they stem directly from an Executive Order promulgated by the President. That Order has a special status. It has been determined validly to implement the Federal Property and Administrative Service Act of 1949 (FPASA), 40 U.S.C. § 486(a). *Contractors Ass'n. of Eastern Pa.*, v. *Secretary of Labor, supra*, 442 F.2d at 170; *AFL–CIO* v. *Kahn, supra*, slip op. at 14–17. The Court of Appeals for this Circuit, in the recent *AFL–CIO* case which validated President Carter's Executive Order establishing voluntary wage and price standards, emphasized the broad discretion possessed by the President under the Act. In that case the court stated that Section 205 of the Act "grants the President particularly direct and broad-ranging authority over those larger administrative and management issues that involve the Government as a whole. And that direct presidential authority should be used in order to achieve a flexible managment system capable of making sophisticated judgments in pursuit of economy and efficiency" (footnote ommitted)[10] *See also Northeast Construction Co.* v. *Romney, supra*, 485 F.2d at 760–61.

In examining the validity the discovery provisions [11] of the Executive Order and its implementing regulations,[12] it is useful also to note the prevalence of such pretrail procedures throughout the administrative sphere.[13] In fact, as early as 1963, the temporary Administrative Conference of the United States, Committee on Compliance and Enforcement, urged federal agencies to adopt as much of the discovery portion of the Federal Rules of Civil Procedure as seemed appropriate.[14] This liberal attitude toward discovery is represented in several recent decisions. *See Smith* v. *Schlesinger*, 513 F.2d 462, 475–76 (D.C. Cir. 1975) and cases cited.

Based upon these considerations, the Court concludes that the applicable Executive Order and the implementing regulations are valid, and that they sustain the validity of the orders of the ALJ and the Secretary which require Uniroyal to produce records and documents, answer, interrogatories, and produce personnel for depositions.

III

Plaintiff further argues that, even assuming the discovery regulations to be valid, neither they nor the Executive Order authorize debarment as a sanction for their violation.[15] More specifically, plaintiff claims that the authority to debar found in sections 202(6) and 209(a)(6) and extends only to violations of the substantive nondiscrimination provisions of the Order, as distinguished from violations of discovery or inspection orders. That contention is not persuasive for, insofar as the debarment sanction is concerned, the Orders makes no such distinction.

A. Section 209 of the Executive Order provides in subsection (5) for the debarment of a contractor who fails "to comply with equal employment opportunity provisions of the contract." Those provisions are set forth in section 202,[16] and they contain in provision (4) a requirement that the contractor comply with all rules, regulations, and relevant orders of the Secretary, and in provision (5) requirements that the contractor furnish all information and reports required by the Executive Order and the rules, regulations and orders of the Secretary, and permit access to its books, records, and accounts. Moreover, section 212 provides that the Comptroller General shall be notified when a contractor is debarred "because of noncompliance with the contract provisions specified in Section 202 * * *," not merely, as plaintiff would have it, only because of noncompliance with the substantive provisions of that section.

Subsection (6) of section 202 reaffirms that "in the event of noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders * * *" the contractor may be debarred.

The phrase in subsection (6) "such rules, regulations, or orders"—plainly refers to those which the Secretary of Labor is

[8] Section 4(j) of the Communications Act of 1934, as amended 48 Stat. 1068, 47 U.S.C. 154(j) (1958 ed.).

[9] *Ernst & Ernst* v. *Hochfelder*, 425 U.S. 185 (1976); *People's Bank* v. *Eccles*, 161 F. 2d 636 (D.C. Cir. 1947), *rev'd on other grounds*, 333 U.S. 426 (1948).

[10] If, as that court held, the President has the power to establish wage and price guidelines in order to effectuate the purposes of the statute, he can hardly be held to lack the far less intrusive authority to give content and meaning to the government's nondiscrimination policy by requiring mutual prehearing discovery where a contractor has been charged with a violation of that policy.

[11] Contrary to plaintiff's contentions, the regulations at issue here are not the equivalent of an excercise of subpoena power for they do not reach third parties. Compare Rules 33, 34, 38 with Rule 45, F.R. Civ. P.

[12] The basic authority for the discovery imposed by the ALJ can be found in the Executive Order itself; the regulations merely give detailed content to the provisions of that Order.

[13] Other agencies having similar discovery provisions include: Department of Agriculture, 7 CFR 24.21, Rule 12 (1978); Department of Commerce, 15 CFR 3.14–.15 (1978); Energy Research and Development Administration, 10 CFR 3.14–.15 (1978); Federal Communications Commission, 47 CFR 1.311–.325 (1977); Federal Trade Commission, 16 CFR 3.31–.38 (1978); General Services Administration, 41 CFR 6A–60, Rule 14 (1977); Department of Interior, 43 CFR 4.115–.116 (1977); United States Postal Service, 39 CFR 955.15–.16 (1977); Department of Transportation, 41 CFR 12–60.212 (1977); and the Veteran's Administration, 38 CFR 1.774, Rules 14–15 (1977).

[14] Report of the Committee on Compliance and Enforcement Proceedings in Support of Recommendation No. 30, S. Doc. No. 24, 88th Cong., 1st Sess. at 15 (1963). *See* Bennett, "Post-Complaint Discovery in Administrative Proceedings: the FTC As A Case Study," 1975 Duke L.J. 329 (1975); Tomlinson, *supra.*

[15] Debarment is, of course, a significant sanction which may be imposed only for good reason and in accordance with appropriate procedures. *Gonzales* v. *Freeman*, 334 F.2d 570 (D.C. Cir. 1964); *Art Metal USA, Inc.* v. *Solomon*, 25 Contract Cases Federal ¶82, 723 (D.D.C. October 6, 1978).

[16] The introductory clause to section 202 provides that "* * * all Government contracting agencies shall include in every Government contract hereafter entered the following provisions * * *," and it may appropriately be concluded that all such provisions are the "equal employment opportunity provisions of the contract."

empowered, and indeed required, by section 201 to adopt to achieve the purposes of the Order. The same "rules, regulations, and orders" are repeatedly referred to throughout the Order, *e.g.*, in sections 202 (4) ("rules, regulations and relevent orders"), 202 (5) ("rules, regulations, and orders"), 202(6) ("such rules, regulations, or orders"), 202(7) ("rules, regulations, or orders"), 202(5) ("implementing rules, regulations or orders") 202(7) ("rules regulations, or orders"), 202(5) ("implementing rules, regulations or orders"), 208(a) ("rules, regulations, or orders") and 209(a) ("such rules, regulations, or orders"), for a variety of purposes. They clearly refer to *all* rules, regulations, and orders validly promulgated by the Secretary under the Executive Order, and not, as plaintiff contends, to all rules except those regarding discovery procedures.

In this regard, the Court must also consider the purpose of the Executive Order and of the program which it implements. From the very outset and through its various amendments and reenactments the Order was designed, in the context of government contracts, to provide a speedier and more efficacious means of redressing discrimination than was possible through other means, including court litigation.[17] Over $100 billion is distributed each year through federal contracts and grants. As was stated in Morgan, "Achieving National Goals Through Federal Contracts: Giving Form to an Unconstrained Administrative Process," 1974 Wisc. L. Rev. 301, 303–4 (1974):

> If Blacks truly are guaranteed equal employment opportunities in all federally-funded programs * * * that in itself will be a major start toward equal opportunity in society. If each federal contractor is required to be 'clean' in his nongovernment business as well, the potential impact of an equal opportunity clause will be even greater * * * Achieving social objectives by contract may meet less delay than seeking out and punishing criminally those who violate particular standards * * * It may still be true, however, that compliance with particular standards is easier to achieve when the requirements are made apart of something the contractor wants and the cost of compliance is borne at least in part by the government.

The government's power with respect to its procurement contracts is broad. Such contracts may be terminated by the government for its convenience, *e.g.*, 41 CFR 1–8.700 *et seq.*, and contractors may be debarred by the government from receiving further contracts as long as the debarment is effected in accordance with due process and the government's own regulations. To require the government to go to federal court to debar a contractor who is in noncompliance with its contract with the government would not only subvert the process of Executive Order 11246 but turn government contract law on its head.

[17] Indeed, the effect of the contract compliance program has been that federal contractors have attained a better record of minority hiring than have non-federal contractors. See the authorities cited in Note, *A proposal for Reconciling Affirmative Action with Nondiscrimination Under the Contractor Antidiscrimination Program*, 30 Stan. L. Rev. n. 2 (1978).

Plaintiff's claim that the debarment sanction is not authorized for noncompliance with procedural regulations under the Order at either the investigatory or adjudicatory stage of the administrative proceedings runs counter to these purposes. To be sure, the Secretary of Labor may in this respect be able to impose lesser sanctions, such as the exclusion of certain parties or testimony, or the striking of certain claims or defenses. See 41 CFR 60–30.15(j). However, particularly during the investigatory stage, these options are likely to be unavailable as a practical matter.

During investigations the Department will typically be acting solely based upon single or small groups of employees' complaints of widespread discrimination. Prior to their verification, the government could not, in good faith, allege a pattern or practice of discrimination, nor could such an allegation, if made, rationally serve as an admission by the contractor on account of his failure to supply requested documents. Since the sole means for verifying such complaints is reference to personnel and other employment records of the contractor, access to them is essential if the administrative procedure is to advance at all.[18] Yet if plaintiff is correct, the only meaningful sanction that may be employed against a recalcitrant government contractor who refuses such access is to begin the cumbersome and time-consuming process of seeking enforcement of its discovery requests in federal district court.[19] Such a procedure would substantially undermine the purposes and the effectiveness of the Executive Order, and a construction of the Order mandating it should therefore not be adopted unless clearly required. Far from being required under the instant regulatory scheme, such a construction is expressly contradicted by the language of the Executive Order.[20]

Plaintiff additionally claims that the Secretary's own regulations, 41 CFR Part 60 *et seq.*, do not authorize debarment. In that respect, plaintiff refers primarily to the fact that § 60–30.15(j) of the regulations does not specifically list debarment as a sanction. That circumstance is inconsequential, however, for the provision does not purport to be exhaustive.[21] There is no reason to include debarment in a section obviously intended to enlarge upon sanctions (such as debarment) which are already authorized elsewhere.[22]

Moreover, other sections of the regulations clearly contemplate the possibility of debarment in the circumstances of this case. Section 60–1.26(a)(1), for example, provides that violations of the Order or the implementing OFCCP regulations "may result in the institution of administrative proceedings" to seek appropriate relief. Once it is determined that the Order or regulations have been violated, appropriate sanctions may be imposed through an administrative enforcement proceeding,[23] and if there is reason to believe that substantial or material violations (or the threat of substantial or material violations) of the contractual provisions of the Order or of the rules, regulations, or orders issued pursuant thereto, have occurred, the matter may either be referred to the Solicitor of Labor to institute administrative enforcement proceedings or to the Department of Justice for court action.[24] Section 60–1.26(a)(2). By including the proviso that "no order for debarment from further contracts or subcontracts pursuant to section 209(a)(6) of the Order shall be made without affording the contractor an opportunity for a hearing, either administrative or judicial," this section both sanctions and sets forth the proper procedure for use of the debarment remedy in those circumstances. That procedure was complied with in the instant case.

B. Plaintiff further contends that even if debarment was generally authorized, the Secretary abused his discretion in failing to consider other, lesser sanctions. That argument is not, however, available here.

First, it is clear from the careful consideration which the Secretary gave to this matter, in a 68-page opinion which comprehensively examined Uniroyal's repeated violations, that he regarded debarment to be an appropriate sanction. At issue was more than a casual refusal to comply with a relatively insignificant discovery request. The documents sought by the government from Uniroyal went to the heart of the matters pending before the Administrative Law Judge. Among these were the personnel records of the male and female employees of Uniroyal's plant and the

[18] In this respect, it is important to distinguish this procedure from the typical judicial proceeding in which both sides generally have sufficient knowledge to at least formulate their pleadings.

[19] Resort to federal court will likely be more expensive and time-consuming than the less formal administrative procedures. Moreover, the agency which is familiar with the case will obviously be in a better position to effect a speedy detemination of a claim than will a federal judge who learns of the matter, for the first time, when the enforcement proceeding is begun. To require resort to the courts in connection with every discovery request that is contested would therefore almost inevitably so burden the enforcement program as to undermine its intended simplicity and efficiency.

[20] *Cf. Alexander* v. *Gardner-Denver Co.*, 415 U.S. 36 (1974); *United States* v. *New Orleans Public Service Inc., supra* (Congress deliberately rejected the option of a suit in federal court under Title VII of the Civil Rights Act of 1964 as the exclusive remedy for acts of employment discrimination).

[21] Section 60–30.15 gives the ALJ "all powers necessary" to conduct a fair hearing and includes, but is "not limited to," those listed. Section 60–30.15(j) lists the power to "impose appropriate sanctions * * *" which *may* include" the three specified sanctions.

[22] See § 60–1.26 of the regulations and Executive Order sections 202 (4) and (6). The five examples listed in the regulation are the kinds of sanctions which, in addition to those authorized elsewhere, may be peculiarly appropriate to the conduct of a fair hearing (such as excluding testimony of an evasive witness or striking certain claims or defenses).

[23] "OFCCP, notwithstanding the requirements of this chapter, may go directly to administrative enforcement proceedings to enjoin the violations, to seek appropriate relief, and to impose appropriate sanctions, or any of the above." Section 60–1.26(a)(2).

[24] The Secretary did not abuse his descretion in finding that Uniroyal's patent lack of cooperation and flagrant violation of the discovery rules was "substantial or material", as used in this provision.

records containing their job descriptions—both obviously necessary for any determination of sex discrimination.

Indeed, Uniroyal had refused to provide access to these documents to the government for several years.[26]

Second, Uniroyal's recalcitrance and discriminatory policies has already been the subject of judicial proceedings and had been documented in court opinions. Thus, in *Uniroyal* v. *Marshall*, the Court of Appeals for the Seventh Circuit had found that (579 F. 2d at 1062):

While the government has responded to Uniroyal's discovery requests, Uniroyal in turn has been largely uncooperative and dilatory. By securing several extensions of time, it delayed its response to the government's request for more than three months. When it did respond, Uniroyal refused to supply large blocks of information, contending that the requested information was irrelevant, confidential, beyond the scope of the proceedings, or physically unavailable. The government subsequently procured several orders from the administrative law judge compelling Uniroyal to provide more complete answers. Uniroyal was still unwilling to accommodate, and on May 10, 1977, it raised for the first time the contention that the Secretary of Labor lacked authority to issue the prehearing discovery rules.

Likewise, in *Chraplewy* v. *Uniroyal, Inc.*, 458 F. Supp. 252 (N.D. Ind. 1977), the District Court for the Northern District of Indiana found that Uniroyal, aided and abetted by the United Rubberworker's Union, engaged in massive sex discrimination in violation of Title VII at the very plant under scrutiny here.

Under those circumstances it cannot be said that the Secretary abused his discretion in imposing the sanction of debarment instead of some other, lesser sanction, or by not making specific findings with respect thereto.

C. Uniroyal argues with considerable force and conviction that an important public interest is at stake—the right to fair and equal access to the market represented by the various government agencies. It further contends with equal vigor that, while no one has an absolute right to a particular contract, every contractor does have a right not to be debarred, that is blacklisted, from generally retaining or receiving government contracts without good and sufficient reason. That much is certainly true.

However, there is also another public interest involved here, one of equal significance and import. A number of Presidents of the United States, beginning with Franklin D. Roosevelt (see note 1 *supra*), have made it a primary national objective that the government shall not buy from those engaged in systematic racial or other improper discrimination. That presidential policy has consistently been endorsed by the Congress, either by express action or by implied consent. Yet it is evident that this policy and program would be nothing more than an empty shell, an abstract statement of principles, unless it is backed by adequate means of enforcement. Effective enforcement, in turn, depends, first, on access to the employment, personnel, and similar records of the contractors; and second, on the availability of meaningful sanctions when such access is denied.

What this case, in the end, comes down to is that Uniroyal, through its obdurate refusal to permit adequate inspection and discovery and thus the conduct of full and fair hearings into charges that it is guilty of discrimination, has stalemated the government's effort to seek to verify whether it is or is not dealing with a company which engages in fair employment practices. By that refusal, it left the government with no choice but to terminate its contractual relationships with Uniroyal, and it left the Court with no choice but to uphold that governmental action.

One final issue remains to be considered. Plaintiff argues that the debarment order is unduly vague, violates due process, and permits arbitrary and capricious action. Actually, it appears that in this respect Uniroyal objects only to that part of the order which debars it from existing and future government contracts "until such time that it can satisfy the Director of OFCCP that it is in compliance with Executive Order 11246." That objection is well taken.

Neither Uniroyal nor the Court has been able to elicit a definitive response as to the meaning of that language. The Court was advised that in order for Uniroyal to be reinstated, the Secretary may well require discovery going beyond that which is the subject of the instant proceeding, and counsel for the government did not exclude the possibility that Uniroyal might be compelled to comply with unspecified substantive requirements—including antidiscrimination measures and various kinds of affirmative action—which may be imposed by the Secretary. The government relies for this broad interpretation upon language in Section 209(a)(5) that "continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor." See also 41 CFR 60–1.26 and 60–30.30.

Whatever may be the authority of the Secretary to impose substantive conditions upon a contractor who has been debarred for failing to comply with substantive nondiscrimination provisions of the Executive Order, the Court concludes that he has no such authority where, as here, the contractor was debarred solely for failure to comply with discovery orders. To construe the Executive Order, the regulations, and the Secretary's powers more broadly would raise serious problems of due process and would open the door wide to arbitrary action. The government cannot bootstrap its way from the failure of a contractor to comply with a discovery order to the imposition of substantive affirmative action requirements. Further, a party must be told more than that, in order to be removed from a government blacklist, it must satisfy an administrative official of its compliance with unknown, unspecified, and unpredictable conditions.

To be sure, the Secretary could have imposed the sanction of deeming certain allegations of discrimination to be admitted and, based upon those allegations, made a finding of discrimination. But he did not do so here.[26] Inasmuch as Uniroyal was debarred for not complying with the Secretary's prehearing discovery regulations and orders, it is clear that it is entitled to be relieved from debarment upon compliance with those same regulations and orders. The remedy of debarment must be coextensive with ther violation.

The Court therefore finds that Uniroyal need only remedy the discovery violations found by the Administrative Law Judge [27] to be relieved from debarment.[28] However, unless and until it recifies those violations by complying in full with the inspection and discovery orders of the Administrative Law Judge, its debarment stands.

July 20, 1979.

Harold H. Greene,

United States District Judge.

U.S. District Court for the District of Columbia

Uniroyal, Inc., Plaintiff v. *F. Ray Marshall, et al.*, Defendants.

Civil Action No. 79–1702.

Order

Upon consideration of defendants' motion for summary judgment, plaintiff's motion for injunctive relief, the oppositions thereto, and the entire record herein, it is this 20th day of July, 1979, in accordance with the Court's Opinion issued this date.

Ordered that plaintiff's motion for injunctive relief by and it is hereby denied. and it is further,

Ordered that defendants' motion for summary judgment be and it is hereby granted and that judgment be and it is hereby entered in favor of defendants, and its is further,

Ordered that the debarment order issued by the Secretary of Labor shall stand and be effective until such time as plaintiff comes into compliance with defendants' regulations implementing Executive Order 11246 in the manner described in the Court's Opinion in this matter.

Harold H. Greene,

United States District Judge.

[FR Doc. 79–23757 Filed 8–2–79; 8:45 am]

BILLING CODE 4510–27–M

[26] It is not significant that the company professes a good faith desire to litigate the legal issue. From the point of view of the government, it has been frustrated in its effort to secure resolution of this discrimination matter for a long period of time. Moreover, as the Court of Appeals for the Seventh Circuit acknowledged in *Uniroyal* v. *Marshall, supra*, 579 F. 2d at 1062, it was not until May 10, 1977, after Uniroyal had repeatedly thwarted the government's discovery attempts on a number of grounds, that it raised for the first time the contention that the Secretary lacked authority to issue prehearing discovery rules.

[27] While the Administrative Law Judge did make reference to Uniroyal's practice of maintaining sex-segregated employee folders, and having a sex-based employment classification system (Finding of Fact #25), she did not recommend debarment on that basis. In any event, the Secretary's adverse decision in this case was not at all based upon findings of discrimination, but solely upon Uniroyal's failure to comply with the discovery orders.

[28] With respect to Motion No. 4—which purported to order debarment for Uniroyal's interference with the government's development of its case by interjecting Uniroyal's attorneys in the government's interviews of potential witnesses—the Court is of the opinion that, since there is no way in which Uniroyal may subsequently come into compliance, the Secretary abused his discretion in ordering debarment on that basis. The Executive Order clearly did not intend debarment to be used in a punitive fashion—but rather to induce compliance with the rules promulgated thereunder. See Section 209(a)(6). Where, as here, compliance is no longer possible, the imposition of the debarment sanction is clearly punitive. Moreover, there is a serious question whether on that issue the Secretary's action [which overruled the recommendation of the ALJ] was not substantively arbitrary and unsupported by substantial evidence.

[29] The Administrative Law Judge found debarment appropriate based soley on these three violations and that findings is amply sustained by the record.

Mine Safety and Health Administration

[Docket No. M–79–81–C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, Dante, Virginia 24237 has filed a petition to modify the application of 30 CFR 75.326 (mine entries) to its McClure No. 1 Mine located in Dante, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95–164.

The substance of the petition follows:

1. The petitoner's mine consists of a slope and two shafts, all of which, except one shaft, are still under construction.

2. A concrete block wall separates the belt haulage conveyor from the track haulage system in the petitioner's mine.

3. To provide adequate ventilation during the development of two sets of entries from the slope to the intake air shaft, the petitioner proposes to use the track side of the slope as an intake airway and the belt side as a return airway. About 78,000 c.f.m. of air will be coursed through the belt entry to a fan installed on the surface.

4. All electrical components in the portion of the belt entries used for return airways will be the permissible type or approved as intrinsically safe.

5. The haulage system used for mantrips and supplies will be located in the intake (track) side of the slope. A hoist will be used, and no trolley wires will be installed.

6. All electric wires on the intake side, except the high voltage cable, will be routed through metal conduit.

7. The petitioner states that its alternative will achieve no less protection for its miners than that provided by the standard, as well as affording the following advantages:

(a) More than ample ventilation will be provided during the development of the entries between the slope and intake airway.

(b) The possibility of belt air reaching the working face is eliminated.

(c) The permissible type or intrinsically safe electrical components on the belt entry will decrease the possibility of shock hazards and electrical fires.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 26, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79–23671 Filed 8–2–79; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–79–107–C]

Old Ben Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Old Ben Coal Company, 125 South Wacker Drive Chicago, Illinois 60606 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas well barriers) to its Nos. 21, 24, 25, 26, 27 Mines located in Franklin County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95–164.

The substance of the petition follows:

1. Numerous boreholes of abandoned gas and oil wells penetrate the coal seams the petitioner intends to mine.

2. A barrier of coal around these boreholes as required by the standard would interfere with the petitioner's longwall mining plans and ventilation plans. Such barriers are also less efficient and secure than other methods available to prevent gas leaks from abandoned wells.

3. As an alternative, the petitioner proposes to plug and mine through the boreholes following procedures detailed in a joint USBM–ERDA report, "Plugging Techniques That Should Allow Mining Through Wells" (MERC/RI–77/1).

4. These procedures include plugging the boreholes with cement and careful monitoring of the boreholes for the presence of methane.

5. The petitioner states that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 26, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79–23670 Filed 8–01–79; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–79–21–M]

Sunshine Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Sunshine Mining Company, P.O. Box 1080, Kellogg, Idaho 83837 has filed a petition to modify the application of 30 CFR 57.12–82 (power lines) to its Sunshine Mine located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95–164.

The substance of the petition follows:

1. The petition concerns the insulation or separation of power lines from water lines and air lines.

2. The armored cables used in the petitioner's mine are constructed with an external conductive sheath. Should any conductor fail electrically, the leakage current would follow the low resistance path of the external conductive sheath to the ground.

3. Any significant current leakage would cause an immediate opening of a safety switch in the petitioner's power system.

4. For these reasons, the petitioner believes that properly installed armored cable provides the same measure of protection as the standard and therefore requests relief from the application of the standard to such cables at its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before (September 4, 1979). Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson

Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 26, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-23873 Filed 8-02-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-91-C]

ELRO Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Elro Coal Corporation, Drawer 230, Appalachia, Virginia 24216 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations) to its No. 1 Mine located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. Due to bad roof conditions, about 1,400 feet of the return airway in the petitioner's mine cannot be safely traveled for examination.

2. As an alternative, the petitioner proposes to examine the portions of the airway where bad roof conditions begin and end on a daily schedule. The petitioner would travel and examine the remainder of the airway according to the standard.

3. The proposed examination would include air volume measurements, methane checks and a visual inspection of roof and ribs. Any change in the structure of the roof or ribs would result in corrective action by the petitioner.

Request for Comments

Persons interested in this petition may funish written comments on or before September 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 27, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-23994 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-110-C]

Mathies Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Mathies Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15214 has filed a petition to modify the application of 30 CFR 75.1704 (escapeways) to its Mathies Mine located in Washington County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the requirement that at least two separate and distinct travelable escapeways connect an underground mine with the surface.

2. The petitioner has constructed two circular ventilation shafts to provide additional ventilation at its mine. The shafts are 15 feet in diameter, rimmed with 9 inches of reinforced concrete. One shaft is designated for return air, while the other is designated for intake air.

3. An elevator installed in the intake shaft to hoist miners is intended to also function as the emergency escape hoist for the intake escapeway. It is equipped with both front and rear doors.

4. The design of the bottom area of the mine provides for two separate and distinct escape routes leading to the elevator: a primary or intake escapeway and a secondary escapeway which is the track haulageway.

5. In the event of an emergency, the "back door" of the elevator in the intake shaft will allow miners to enter the elevator directly from the intake escapeway. Miners using the secondary route will enter the elevator using the normal entrance (the "front door").

6. All surface facilities at the mine will be constructed with fireproof materials. Additionally, all materials located inside the elevator shaft are of fireproof construction. Consequently, the possibility of a fire occurring in the area extending from the shaft bottom to the shaft collar is remote.

7. The elevator will also be equipped with a secondary power source (a diesel generator) to permit hoisting of miners in the event of an emergency coupled with a power failure.

8. The petitioner states that its escape plan will always achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 27, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-23995 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-98-C]

Van Mulvehill Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Van Mulvehill Coal Company, Inc., Route 1, Box 240, Trafford, Ala. 35172, has filed a petition to modify the application of 30 CFR 75.500 (permissible electric equipment) to its Black Creek No. 1 Mine located in Blount County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164. The substance of the petition follows:

1. The petition concerns the requirement that hand-held electric drills used in by the last open crosscut must be permissible.

2. The petitioner is mining coal seams varying from 12 to 22 inches in height.

3. At present, the petitioner is unable to purchase workable hand-held permissible drills. It may be that such drills are no longer manufactured. Also, as the petitioner's existing permissible drills wear out, they can no longer be repaired.

4. The petitioner proposes to use non-permissible handheld drills at its face areas as long as methane gas is not detected.

5. In view of the unavailability of hand-held permissible drills, the petitioner believes the application of the standard to its mine would result in a diminution of safety to its miners for the following reasons:

(a) The use of heavy and large permissible drills would result in body and arm strains to miners in the confined working areas of the mine.

(b) Handling of large drills could result in the displacement of mine timbers, some possibly falling on miners.

(c) To accommodate the size of large permissible drills, the top or bottom of rooms would have to be excavated, causing disturbances to the roof or bottom.

(d) Excessive crawling and handling of large and heavy permissible drills would result in increased worker fatigue, possibly causing miners to take hazardous shortcuts

Request for Comments

Persons interested in this petition may furnish written comments on or before September 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 27, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-23996 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-67-C]

V & R Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

V & R Coal Corporation, 815 Quarrier Street, Charleston, West Virginia 25301, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its 19B 002 Mine located in Wyoming County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the installation of lighting on the petitioner's mining machines.

2. The petitioner states that there is not sufficient clearance between the top of the equipment and the mine roof to allow for installation of the lighting.

3. If lighting were installed, it would collide with the mine roof, resulting in diminished safety to the miners involved.

4. For this reason, the petitioner requests relief from the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 27, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-23997 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-5690]

Alberto, Incorp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 26, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored suits and coats at Alberto, Incorporated, Baltimore, Maryland. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Alberto assembles men's tailored made to measure dress and sport coats and Mennonite dress coats for various manufacturers. It was determined during the investigation that none of the customers of Alberto purchase imported coats or utilize offshore contractors to produce coats.

Conclusion

After careful review, I determine that all workers of Alberto, Incorporated, Baltimore, Maryland are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-23998 Filed 8-02-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 13, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below,

not later than August 13, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of July 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner; Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
B & B Lorry's (workers)	Garden City, N.Y	7/26/79	7/6/79	TA-W-5,783	Retail store—men's clothing.
Budd Company (UAW)	Gary, Ind	7/25/79	7/19/79	TA-W-5,784	Component parts for automobiles.
Dartmouth Finishing Corporation (Machine Printers & Engravers Association).	New Bedford, Mass	7/26/79	7/18/79	TA-W-5,785	Printing of textile cloth.
Derrom Warehouse (workers)	Paterson, N.J	7/26/79	7/20/79	TA-W-5,786	Preparation of knitted textiles.
Duro Textile Printers, Inc. (Machine Printers & Engravers Association).	Fall River, Mass	7/26/79	7/18/79	TA-W-5,787	Printing of textile cloth.
Gorham Packing Corp. (company)	Gorham, N.Y	7/26/79	7/9/79	TA-W-5,788	Slaughtering, boneing cattle and boneing and selling boneless beef
Midsouth Coating Corp. (company)	Louisville, Ky	7/26/79	7/18/79	TA-W-5,789	Coating of oil pipe lines.
Regency Handbag Corp. (Leather Goods, Plastics, Handbags & Novelty Workers Union).	Brooklyn, N.Y	7/10/79	7/5/79	TA-W-5,790	Ladies' handbags.
Slab Fork Coal Company, Slab Fork Gaston (UMWA).	Wyoming County W. Va	7/18/79	7/12/79	TA-W-5,791	Mining of coal.
Slab Fork Coal Company, Preparation Plant #3 (UMWA).	Wyoming County, W. Va	7/18/79	7/12/79	TA-W-5,792	Cleaning of coal.
Slab Fork Coal Company, Preparation Plant #2 (UMWA).	Raleigh County, W. Va	7/18/79	7/12/79	TA-W-5,793	Cleaning of coal.
Slab Fork Coal Company, Preparation Plant #1 (UMWA).	Raleigh County, W. Va	7/18/79	7/12/79	TA-W-5,794	Cleaning of coal.
Slab Fork Coal Company, Slab Fork #8 Mine (UMWA).	Raleigh County, W. Va	7/18/79	7/12/79	TA-W-5,795	Mining of coal.
Slab Fork Coal Company, Slab Fork #10 Mine (UMWA).	Raleigh County, W. Va	7/18/79	7/12/79	TA-W-5,796	Mining of coal.
Teledyne Ryan Aeronautical Co., Division of Teledyne Industries, Inc. (UAW).	San Diego, Calif	7/25/79	7/20/79	TA-W-5,797	Doppler velocity censor radar navigation system.
W. W. Williams Co. (workers)	Beckley W. Va	7/23/79	7/19/79	TA-W-5,798	Sell and repair heavy equipment used in production of coal mining.

[FR Doc. 79-23999 Filed 8-2-79; 8:45 a.m.]

BILLING CODE 4510-28-M

[TA-W-5553]

Bee & Jay Sportswear; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 12, 1979 in response to a worker petition received on June 5, 1979 which was filed on behalf of workers and former workers producing men's sportcoats at Bee & Jay Sportswear, Philadelphia, Pennsyvania. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of manufacturers that contracted Bee & Jay Sportswear in 1977 and 1978. Some of the manufacturers responding to the survey indicated decreased purchases of men's sportcoats from the subject firm in 1978 compared to 1977 and increased purchases of imported sportcoats. These customers represented an insignificant proportion of the subject firm's decline in sales.

Conclusion

After careful review, I determine that all workers of Bee & Jay Sportswear, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24000 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5559]

Black Diamond Service Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 14, 1979 in response to a worker petition received on June 11, 1979 which was filed on behalf of workers and former workers producing roof bolting machinery and reselling used mining machinery at the Black Diamond Service Company, Incorporated, Fayetteville, West Virginia. In the following determination, at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

United States imports of roof bolting machinery are included in a larger import basket category "Mining Machinery." Imports of mining machinery declined both absolutely and relative to domestic production in 1978 compared to 1977. In 1978, the value of exports exceeded that of imports by over four and one half times.

Conclusion

After careful review, I determine that all workers of Black Diamond Service Company, Incorporated, Fayetteville, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-24001 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5515]

Brockton Stay Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 22 of the Act must be met.

The investigation was initiated on June 7, 1979 in response to a worker petition received on May 24, 1979 which was filed on behalf of workers and former workers producing shoe trims and vamps of leather and vinyl at Brockton Stay Corporation, Haverhill, Massachusetts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of shoe trimmings are negligible. Shoe trimmings are not a separately identifiable product in the official trade statistics but are instead imported under a variety of classifications. Moreover, a recent survey of industry spokesmen and the U.S. Customs Service revealed that there have been virtually no imports of shoe trimmings in the 1970's.

The low level of imports of shoe trimmings is largely explained by the fact that the time lag involved in importing these products would cause considerable delays in the shoe production process. In addition, shoe trimmings can be made cheaply by domestic producers and therefore shoe manufacturers have little incentive to import.

Conclusion

After careful review, I determine that all workers of Brockton Stay Corporation, Haverhill, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24002 Filed 8-02-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5499]

CSE Mine Service; Division of CSE Corp., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 4, 1979, in response to a worker petition received on May 29, 1979, which was filed on behalf of workers and former workers of CSE Mine Service, Beckley, West Virginia, engaged in repairing and distributing health and safety equipment for the coal mining industry. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The CSE Corporation is a manufacturer and distributor of coal mining health and safety equipment. CSE Mine Service, Beckley, West Virginia, division of the CSE Corporation, performs a sales function and also formerly performed repairs of such equipment until May 1979, when this repair work was consolidated to another company facility.

With respect to the repair function formerly performed at Beckley, an insignificant portion of the items repaired were products manufactured by CSE Corporation. The repair shop accepted for repair suitable products of any manufacturer. Furthermore, there is no requirement that customers buying products from CSE Corporation have them repaired by a CSE Corporation repair facility. Customers are free to, and do have repairs performed anywhere.

With respect to the sales function performed by CSE Mine Service workers in Beckley, a significant portion of total product sales revenue in Beckley is derived from the sale of CSE-produced products. Furthermore, the company sells nearly all of its products through its own sales facilities.

With the exception of the period of the UMWA strike from December 7, 1977 to March 27, 1978, sales of products produced by the CSE Corporation by the CSE Mine Service Division in Beckley, West Virginia, increased.

Conclusion

After careful review, I determine that all workers of CSE Mine Service, Beckley, West Virginia, Division of CSE Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-24003 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5704]

Consolidation Coal Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 5, 1979 in response to a worker petition received on June 18, 1979 which was filed by the United Mine

Workers of America, on behalf of workers formerly producing metallurgical coal at Consolidation Coal Company's Beechfork Mine, McDowell County, West Virginia.

The attorney for the petitioners requested termination of the investigation regarding Consolidation Coal Company's Beechfork Mine. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 27th day of July 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-24004 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5633]

Distro Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 22, 1979 in response to a worker petition received on June 7, 1979 which was filed on behalf of workers and former workers cutting material at the Distro Company, Paterson, New Jersey.

The Notice of Investigation was published in the **Federal Register** on June 29, 1979 (44 FR 38009). No public hearing was requested and none was held.

The petitioner has not been employed by the Distro Company since November 10, 1970. The two other names on the petition were not recognized by company officials as present or former employees of the Distro Company. The petitioner is not a duly authorized worker representative.

Section 221(a) of the Trade Act of 1974 states that a petition for a certification of eligibility may be filed with the Secretary of Labor by a group of workers or recognized union or other duly authorized representative.

This petition was not filed in accordance with the guidelines set forth in Section 221(a) and is therefore invalid. The investigation is therefore terminated.

Signed at Washington, D. C. this 27th day of July 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-24005 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5395]

Heppenstall Co.; Negative Determination Regarding Application for Reconsideration

By an application dated July 9, 1979, the petitioning union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing materials handling equipment at the Heppenstall Company, Pittsburgh, Pennsylvania. The determination was published in the **Federal Register** on June 29, 1979 (44 FR 38016).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioning union claims that there was integrated production between the materials handling division and the steel forging division of the Heppenstall Company, Pittsburgh, Pennsylvania and, as such, workers in the materials handling division should be included under that part of the notice of determinations, TA-W-3866 issued on December 13, 1978, which certified workers at the Heppenstall Company who were engaged in the production of steel forgings. (The remaining part of the determination, TA-W-3866 denied eligibility for trade adjustment assistance to workers engaged in the employment related to the production of materials handling devices at Heppenstall Company, Pittsburgh, Pennsylvania.)

The Department's review of the original investigation revealed that the union petitioned for trade adjustment assistance for workers in the materials handling division on May 7, 1979 and that this petition was denied on June 25, 1979. The materials handling worker group failed to meet the "contributed importantly" test since none of Heppenstall's major domestic customers for materials handling equipment purchased any imported materials handling equipment in 1976, 1977, 1978 or in the first four months of 1979.

The Department made further inquiries which revealed that there was virtually no integration of production between the materials handling division and the steel forging division. Company officials indicated that the steel forging division has had its own tongs for the past 15 to 20 years and that for all practical purposes did not use the tongs produced by the materials handling division Tongs made by the materials handling division and used in the forge in the last several years would represent an insignificant portion of the materials handling division's output.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or or misinterpretation of the law which would justify reconsideration of the department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 26th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24006 Filed 8-02-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5486]

Jay Lind Veal Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 29, 1979 in response to a worker petition received on May 21, 1979 which was filed on behalf of workers and former workers producing lamb and veal products at Jay Lind Veal Corporation, New York, New York. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey was conducted of a sample of the customers which purchased lamb and veal from Jay Lind Veal Corporation. Most of the customers surveyed did not purchase imports. Those customers that did purchase imports did not substitute purchases of imports for purchases from the subject firm. None of the customers surveyed felt that imports had contributed to declines in purchases from the subject firm.

Conclusion

After careful review, I determine that all workers of Jay Lind Veal Corporation, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24007 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5488B, TA-W-5488, and 5488A]

McNeil Garment Corp., Shreveport Garment Manufacturers of Louisiana; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 31, 1979 in response to a worker petition received on May 24, 1979 which was filed on behalf of workers and former workers producing blue jeans and other fashion jeans for misses and juniors at McNeil Garment Corporation, Mansfield, Louisiana. The investigation revealed that McNeil Garment in Mansfield also produced work shirts for men. The investigation was expanded to include workers at McNeil Garment's second plant in Shreveport, Louisiana and at Shreveport Garment Manufacturers of Louisiana, also located in Shreveport. It is concluded that all of the requirements have been met.

Imports of men's and boys' cotton and man-made fiber work shirts increased absolutely in 1977 compared with 1976 and increased absolutely and relative to domestic production in 1978 compared with 1977.

Imports of men's and boys' woven cotton and man-made fiber work trousers and one-piece suits increased absolutely and relative to domestic production in 1977 compared with 1976 and in 1978 compared with 1977.

Imports of women's, misses', and children's slacks and shorts increased absolutely and relative to domestic production in 1977 compared with 1976 and in 1978 compared with 1977.

A Department survey revealed that retail customers of Shreveport Garment Manufacturers of Louisiana increased purchases of imported men's work shirts, men's work pants and women's fashion jeans in 1978 compared with 1977 and in the first half of 1979 compared with the like period in 1978. These customers reduced their purchases from Shreveport Garment Manufacturers during the same periods of comparison.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's work shirts, men's work pants and women's fashion jeans produced at McNeil Garment Corporation, Mansfield and Shreveport, Louisiana and at Shreveport Garment Manufacturers of Louisiana, Shreveport, Louisiana contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

"All workers of McNeil Garment Corporation, Mansfield and Shreveport, Louisiana and of Shreveport Garment Manufacturers of Louisiana, Shreveport, Louisiana who became totally or partially separated from employment on or after May 21, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 30th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24008 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5489]

Meyer D. Mehrman & Son; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 31, 1979 in response to a worker petition received on May 24, 1979 which was filed on behalf of workers and former workers producing men's and ladies' tailored garmets at Meyer D. Mehrman and Son, Allentown, Pennsylvania. The investigation revealed that the company has only produced men's suits and men's coats during the period under investigation. It is concluded that all of the requirements have been met.

Imports of men's and boys' tailored suits decreased in 1978 as compared to 1977, but increased during the first quarter of 1979 as compared to the same quarter in 1978.

Imports of men's and boys' tailored dress coats and sportcoats increased in 1978 as compared to 1977. The ratio of imports to production of men's and boys' tailored dress coats and sportcoats was 29.6 in 1978.

Results of a U.S. Department of Labor survey indicated that a significant customer of Meyer D. Mehrman and Son, who totally discontinued purchases of men's suits from the subject firm in 1978 reported a large increase in its purchases of imported men's suits.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits and men's coats produced at Meyer D. Mehrman and Son, Allentown, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers

of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Meyer D. Mehrman and Son, Allentown, Pennsylvania who became totally or partially separated from employment on or after September 16, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 26th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24009 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5025 and 5026]

Michael Berkowitz Co., Inc.; and Revised Determinations of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273), on May 21, 1979 the Department of Labor issued a certification of eligibility to apply for worker adjustment assistance applicable to workers producing men's sleepwear at Uniontown, Pennsylvania Plants #1 and #3 of Michael Berkowitz Company, Incorporated, New York, New York. The investigation revealed that major customers of men's sleepwear decreased purchases from Michael Berkowitz and increased their purchases of imported men's sleepwear. The investigation did not reveal that men's sleepwear had been produced at Uniontown Plant #2 during the relevant time period; therefore, the original investigation was not expanded to included Plant #2.

On June 5, 1979 the Office of Trade Adjustment Assistance received an inquiry requesting coverage under the certification for workers producing men's sleepwear at Uniontown, Pennsylvania Plant #2 of Michael Berkowitz Company, Incorporated. Further investigation in June 1979 revealed that men's sleepwear was produced at Plant #2 from January 1978 through January 1979. Production of men's sleepwear declined in the last quarter of 1978 compared to the previous quarter and then ceased in February 1979. Average employment of production workers producing men's sleepwear also declined in the fourth quarter of 1978 compared to the third quarter of 1978. Employment related to the production of men's sleepwear ceased in February 1979. Plant #2 closed in April, 1979.

U.S. imports of men's and boy's pajamas and other nightwear increased absolutely in each year from 1975 through 1978 and increased relative to domestic production in each year from 1975 through 1977. The import-to-domestic production ratio is not currently available for 1978.

The Department conducted a survey of customers purchasing men's sleepwear from Michael Berkowitz Company, Incorporated. The survey revealed that major customers decreased purchases from Michael Berkowitz and increased their purchases of imported men's sleepwear from 1977 to 1978 and in the first quarter of 1979 compared to the like period in 1978.

The certification is therefore revised to extend coverage to workers producing men's sleepwear at Uniontown, Pennsylvania Plant #2 of Michael Berkowitz Company, Incorporated, who were not previously covered in the original certification.

The revised certification applicable to TA-W-5025 and TA-W-5026 is hereby issued as follows:

"All workers producing men's sleepwear at Uniontown, Pennsylvania Plants #1 and #3 of the Michael Berkowitz Company, Incorporated, New York, New York who became totally or partially separated from employment on or after August 5, 1978, and all workers producing men's sleepwear at Uniontown, Pennsylvania Plant #2 of the Michael Berkowitz Company, Incorporated, New York, New York who became totally or partially separated from employment on or after September 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 26th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24010 Filed 8-02-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5490]

National Tanning & Trading Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 31, 1979 in response to a worker petition received on May 25, 1979 which was filed on behalf of workers and former workers tanning and finishing leather hides at National Tanning and Trading Corporation, Peabody, Massachusetts. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that declines in company operations were due to the inability of National Tanning to secure raw materials (cattlehides and calfskins).

Conclusion

After careful review, I determine that all workers of National Tanning and Trading Corporation, Peabody, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economist Research.

[FR Doc. 79-24011 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5491]

Poliplast; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 31, 1979 in response to a worker petition received on May 25, 1979 which was filed on behalf of workers and former workers molding and finishing shoe bottoms at Poliplast, Lawrence, Massachusetts. It is concluded that all of the requirements have been met.

Imports of non-leather bottomstock materials for footwear increased absolutely and relative to domestic production in 1978 compared with 1977.

The Department conducted a survey of customers of Poliplast. The survey revealed that some customers decreased purchases from Poliplast and increased purchases of imported non-leather bottomstocks for shoes.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with non-leather bottomstocks for shoes produced at Poliplast, Lawrence, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the povisions of the Act, I make the following certification:

"All workers of Poliplast, Lawrence, Massachusetts who became totally or partially separated from employment on or after December 15, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 27th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24012 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5492]

Sheldon Hall Clothes, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 31, 1979 in response to a worker petition received on May 24, 1979 which was filed on behalf of workers and former workers producing men's and ladies' tailored garments at Sheldon Hall Clothes, Incorporated, Allentown, Pennsylvania. The investigation revealed that the company primarily produced men's vests. It is concluded that all of the requirements have been met.

Imports of men's and boys' tailored suits vests increased in 1977 as compared to 1976, decreased in 1978 as compared to 1977, and increased again during the first quarter of 1979 as compared to the same quarter in 1978.

Results of a U.S. Department of Labor survey indicated that a major customer of Sheldon Hall Clothes totally discontinued contracts with the subject firm and commenced contracts with foreign sources for the production of men's vests both in 1978 and during the period January through May 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's vests produced at Sheldon Hall Clothes, Incorporated, Allentown, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Sheldon Hall Clothes, Incorporated, Allentown, Pennsylvania who became totally or partially separated from employment on or after August 25, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 26th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24013 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5656-8]

Sterling Smokeless Coal Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 26, 1979 in response to a worker petition received on May 18, 1979 which was filed by the United Mine Workers of America on behalf of workers formerly mining metallurgical coal and coke at Mine #10, Mine #12, and Mine #17 of Sterling Smokeless Coal Company, Incorporated, Raleigh County, West Virginia. The investigation revealed that Sterling Smokeless Coal Company, Incorporated does not produce coke. It is concluded that all of the requirements have been met.

U.S. imports of metallurgical coal are negligible. However, in accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. U.S. imports of coke increased in quantity and relative to domestic production from 1976 to 1977 and from 1977 to 1978. Imports of coke were higher in quantity in the first quarter of 1979, compared with the same period in 1978.

The Department of Labor conducted a survey of major domestic customers of Sterling Smokeless Coal Company. From 1977 to 1978, major domestic customers increased purchases of imported coke and decreased purchases of metallurgical coal from Sterling.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal mined at Mine #10, Mine #12 and Mine #17 of Sterling Smokeless Coal Company, Incorporated, Raleigh County, West Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers at those mines. In accordance with the provisions of the Act, I make the following certification:

"All workers at Mine #10, Mine #12 and Mine #17 of Sterling Smokeless Coal Company, Incorporated, Raleigh County, West Virginia who became totally or partially separated from employment on or after February 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 27th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-24014 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5573]

Toler, Browning & Toler Mining Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 14, 1979 in response to a worker petition received on June 7, 1979 which was filed on behalf of workers and former workers producing coal for Toler, Browning, & Toler Mining Company, Wharncliff, West Virginia. The investigation revealed that the mine is located in Logan County, West Virginia. It is concluded that all of the requirements have been met.

U.S. imports of metallurgical coal are negligible. However, in accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Therefore, imports of coke as well as imports of metallurgical coal should be considered in determining import injury to workers producing metallurgical coal.

U.S. imports of coke increased in 1977 from 1976 and again in 1978 from 1977, both absolutely and relative to domestic production.

The Department of Labor conducted a survey of the major customers purchasing metallurgical coal from the Toler, Browning & Toler Mining Company. Some customers ceased purchasing from Toler, Browning & Toler Mining Company and increased purchases of imported metallurgical coal and/or coke during 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal produced at Toler, Browning & Toler Mining Company, Logan County, West Virginia, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Toler, Browning & Toler Mining Company, Logan County, West Virginia, engaged in employment related to the production of metallurgical coal who became totally or partially separated from employment on or after April, 20, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 27th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-24015 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5464]

Tred 2, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 24, 1979 in response to a worker petition received on May 18, 1979 which was filed on behalf of workers and former workers producing athletic shoes at the Dover, New Hampshire plant of Tred 2, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of athletic shoes decreased from 51.4 million pairs in 1977 to 43.7 million pairs in 1978 and from 11.7 million pairs in the first quarter of 1978 to 10.5 million pairs in the first quarter of 1979. The ratio of imports to domestic production decreased from 349.7 percent in 1977 to 248.3 percent in 1978 and from 300.0 percent in the first quarter of 1978 to 238.6 percent in the first quarter of 1979.

During 1978, Tred 2, Incorporated ended all company imports of athletic shoes and expanded domestic production with the addition of the Dover, New Hampshire plant. The Dover plant introduced both the running and racquetball shoes to the company's product line in 1978 and was to begin production of tennis shoes in 1979. During 1979, Tred 2, Incorporated made the decision that a new production location could best handle its backlog of shoe orders. By May 25, 1979, the Dover, New Hampshire plant was shutdown permanently and a new plant in DeQueen, Arkansas began production on June 4, 1979. Sales of both running and racquetball shoes increased in the first half of 1979 compared with the second half of 1978.

Conclusion

After careful review, I determine that all workers at the Dover, New Hampshire plant of Tred 2, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24016 Filed 8-02-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5484 and 5493]

Universal Shirt Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 29, 1979 in response to a worker petition received on May 23, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers formerly producing girls' and children's tops and shirts at Universal Shirt Company, Incorporated of Elizabeth, New Jersey. The investigation revealed that girls' blouses were the principal garments produced at the company's two plants located at West Grand Street (TA-W-5484) and Trumbull Street (TA-W-5493). It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased from 30,849 thousand dozen in 1977 to 35,823 thousand dozen in 1978.

A survey of major customers who purchased blouses from Universal Shirt Company, Incorporated revealed that many customers increased purchases of imported blouses and decreased purchases from Universal Shirt.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girls' blouses produced at Universal Shirt Company, Incorporated of Elizabeth, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Universal Shirt Company, Incorporated, Elizabeth, New Jersey, who became totally or partially separated from employment on or after November 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 27th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24017 Filed 8-02-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-40; Exemption Application No. D-241]

Cochran Electric Co., Inc., Profit Sharing Trust; Exemption

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts the loan of $3,700 by the Cochran Electric Co., Inc. Profit Sharing Trust (the Trust) to Cochran Electric Co., Inc. (the Employer). The loan was entered into before the effective date of the Employee Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8530. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 15, 1979, notice was published in the **Federal Register** (44 FR 34655) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the retrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the empoloyees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F), of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective, January 1, 1975, to the loan of $3,700 by the Trust to the Employer that was entered into on September 5, 1974, and was repaid in September 1976.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 27th day of July, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-23940 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-29-M

Office of Pension and Welfare Benefit Programs

Proposed Exemption for Certain Transactions Involving A. B. Dick Products of Des Moines Employees Profit Sharing Plan and Trust Agreement (Application No. D-722)

AGENCIES: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed, temporary exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt the purchase by the A. B. Dick Products Company of Des Moines Employees Profit Sharing Plan and Trust Agreement (the Plan) of certain leases of equipment from A. B. Dick Products Company of Des Moines (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor (the Department) on or before September 3, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-722. The application for exemption and the comments received with be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Robert N. Sandler, (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Requested Exemption

Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and (2), and 407(a) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The pending exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Representations

The application contains representations with regard to the pending exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Employer is in the business of selling and leasing duplicating equipment and high speed typewriters. The Employer, prior to the effective date of the Act, sold a number of leases of duplicating equipment and high speed typewriters to the Plan. The leases that the Plan proposes to purchase from the Employer will involve Employer equipment which is leased to third parties. These leases vary in length from 12 to 36 months, depending on the cost of the equipment, and will be sold to the Plan for cash. The Plan proposes to invest for a five year period up to 50 percent of Plan assets in such leases with the condition that no more than 10 percent of Plan assets be invested in the leases of any one customer. There have been no defaults on leases purchased by the Plan from the Employer over the past five years. The leases are completely net to the Plan and have averaged a net rate of return to the Plan of more than 20 percent per annum over the past five years.

2. The purchase price of a lease will be based upon the retail price of the equipment being leased. In addition, no commissions will be paid to any Plan fiduciaries as a result of sales of leases to the Plan. The rental for the leases purchased by the Plan will be calculated by the same method used to calculate the rental for the Employer's leases. Rentals will be comparable to what the Plan could obtain in a direct transaction with an unrelated third party.

3. The subject property of each lease will be secured by a perfected security interest which will name the Plan as the secured party. If the security would be foreclosed upon, in the event of default, the value and liquidity of the security will be such that it may reasonably be anticipated that loss of principal or interest will not result.

4. The Plan will assume the position of lessor with the attendant rights and obligations under the terms of the leases. However, the Employer will be liable under the warranty clauses of that agreement and all warranty work will be performed by the Employer at no charge to the Plan. Furthermore, if a default would occur, the Plan would have full recourse against the Employer and the Employer has agreed to repurchase any lease defaulted upon at the purchase option price, pursuant to the terms of the lease, and also to indemnify the Plan for any loss suffered.

5. The Plan trustee, the South Des Moines National Bank (the Trustee), has advanced and will continue to advance credit to the Employer. As security for such credit, the bank held 82.3 percent of the Employer's leases as of June 1, 1977. This line of credit would not be affected if the Plan acquired a portion of the Employer's leases, because the Plan would not acquire any leases which are held as collateral by the Trustee.

6. All of the Employer's leases will be forwarded for review to National Association of Credit Management, Iowa Unit, Inc. (NACM), prior to any purchases by the Plan. The Employer is a member of NACM and has the necessary authorization to request NACM to make an independent credit review. NACM is a national organization whose function involves credit interchange and reporting services, adjustment bureaus and collection services for its members. NACM's credit interchange department will conduct an independent review of each lease including a review of the customer-lessee's financial status based upon references provided by the customer to the Employer. NACM will contact the credit references, and make a determination regarding current financial condition and appropriate credit limits. While the Trustee has the power and responsibility to make investment decisions for the Plan, neither the Employer nor the Trustee will at any time have any influence upon the decisions of the Board of Directors of NACM, whose decisions regarding the leases will control their purchase or rejection by the Plan.

7. At the end of the initial lease term, the lessee has three options, with the following consequences to the Plan: (a) The customer may renew the lease with the Plan's rights and obligations remaining the same as during the initial term; (b) the customer may purchase the equipment at the purchase option price, in which case the Plan would receive the proceeds; and (c) the customer may choose not to renew the lease or purchase the equipment, in which case the Employer would purchase the equipment from the Plan at the purchase option price.

8. In summary, the applicant represents that the proposed sales of equipment leases by the Employer to the Plan meet the requirements of section 408(a) of the Act, because: (a) The sales will be limited to a five year period and will be limited to 50 percent of Plan assets with the condition that no more than ten percent of plan assets be invested in the leases of any one customer; (b) NACM will review all Employer equipment leases and make an independent, binding decision on behalf of the Plan as to which leases the Plan will purchase; (c) perfected security interests will be filed on the equipment; (d) the Employer will guarantee the payment of the leases upon the lessee's default or termination of the lease; and (e) the leases are net to the Plan and have averaged a net return of more than 20 percent to the Plan over the past five years.

Notice to Interested Persons

Notice of the pending exemption and the right to comment and/or request a hearing regarding the pending exemption will be given to all interested parties, including the Trustee of the Plan and all active and retired participants or their beneficiaries within ten days of the publication of this notice in the **Federal Register**, by posting of the notice in all locations customarily used for employee communications and by first class mail to any former employees who are currently participants in the Plan, or their beneficiaries.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to the plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the representations in the applciation, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471 April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (2), and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(C)(1)(A) through (E) of the Code shall not apply until five years after the effective date of the exemption to the above-described purchase of equipment leases from the Employer by the Plan or the repurchase of such leases or the equipment being leased by the Employer pursuant to paragraph (D) below, provided that the following conditions are met:

A. Upon request by the Department, the Trustee or other appropriate fiduciaries of the Plan shall submit to the Department such additional information regarding transactions subject to this exemption as may be requested. All requests for additional information shall be in writing.

B. Any sale of equipment leases to the Plan will be on terms at least as favorable to the Plan as an arm's length transaction with an unrelated third party would be.

C. The acquisition of an equipment lease from the Employer shall not cause the Plan to hold: (i) More than 50 percent of the current value (as that term is defined in section 3(26) of the Act) of Plan assets in equipment leases of the Employer; and (ii) more than 10 percent of Plan assets (as defined above) in equipment leases of any one lessee.

D. Upon default by the lessee on any payment due under the lease, the Employer guarantees in writing the immediate payment of all remaining rental payments and all other amounts due and owing under the lease. A lease shall be deemed to be in default for purposes of this section, if a payment due under the terms and conditions of the lease is past due for 30 days; or in the event the lessee shall become insolvent, commit an act of bankruptcy, make an assignment for the benefit of creditors or a liquidating agent, offer a composition or extension to creditors, make a bulk sale; or in the event any proceeding, suit or action at law, in equity or under any of the provisions of the Bankruptcy Act or of amendments thereto for reorganization, composition, extension, arrangements, receivership, liquidation, or dissolution shall be begun by or against the lessee; or in the event of the appointment under any jurisdiction at law or in equity of any receiver of any property of the lessee; or in the event the condition of affairs of the lessee shall so change as to, in the

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opinion of the Plan Trustee or other appropriate Plan fiduciaries, impair its security or increase its credit risk.

E. The Plan receives adequate security for the property underlying the lease. For purposes of this exemption, the term adequate security means that the property is secured by a perfected security interest in the property leased, so that, if there is a default on the lease, and the security is foreclosed upon, or otherwise disposed of, the value and liquidity of the security is such that it may reasonably be anticipated that the Plan will experience no loss.

F. Insurance against loss or damage to the leased property from fire or other hazards will be procured and maintained by the lessee, and the proceeds from such insurance will be assigned to the Plan.

G. The Plan shall maintain or cause to be maintained for a period of six years from the date of each transaction such records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

1. A prohibited transaction will not be deemed to have occurred if due to circumstances beyond the control of the Trustee or other Plan fiduciaries, such records are lost or destroyed prior to the end or such six year period; and

2. The Employer shall not be subject to civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph H below.

Signed at Washington, D.C. this 27th day of July, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-23939 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-29-M

MINIMUM WAGE STUDY COMMISSION

Meeting

July 30, 1979.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Commission meeting:

Name: Minimum Wage Study Commission.
Date: August 14, 1979.
Time: 10 a.m.
Place: 1430 K St. NW., Washington, D.C. 20005.

This meeting will be a closed Executive Session for the purpose of reviewing potential research proposals.

Original notification of this meeting appeared in the **Federal Register** June 18. A cancellation notice appeared in the **Federal Register** July 25. Due to the number of proposals received there was a need to reschedule the meeting.

All communications regarding this Commission should be addressed to: Mr. Louise E. McConnell, Executive Director, 1430 K St. NW., Washington, D.C. 20005, (202) 376-2450.

Louis E. McConnell,

Executive Director.

[FR Doc. 79-23938 Filed 8-2-79; 8:45 am]

BILLING CODE 4510-23-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Event; Nuclear Accident at Three Mile Island

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). Paragraph 3(a) of the General Statement of Policy notes that an event will be considered an abnormal occurrence if it involves a major reduction in the degree of protection of the public health or safety. The following description of the event also briefly lists the remedial actions taken to date.

The information presented below should be considered preliminary since the sequence of events and the causes remain under extensive investigation. The total extent of corrective actions is dependent on the findings of ongoing investigations.

Date and Place—At about 7:09 a.m. on March 28, 1979, the NRC Region I office was notified by the licensee (Metropolitan Edison Company) of an event at the Three Mile Island Unit 2 (TMI-2) plant. At approximately 4:00 a.m. on March 28, 1979, the Three Mile Island Unit 2 nuclear power plant experienced a loss of the feedwater which led to a turbine trip and later a reactor trip. Subsequently, a series of events took place that resulted in off-site releases of radioactivity and significant damage to portions of the reactor core. The sequence of events which led to core damage involved equipment malfunctions, design related problems and operational errors that, to varying degrees, all contributed to the consequences of the accident. Because plant conditions were substantially degraded, improvised operating modes for post-accident recovery were required.

Since low but intermittently changing radiation levels were measured off the plant site, and in view of the uncertainty associated with information then available on the evolving events, the Governor of Pennsylvania advised as a precautionary measure that young children and pregnant women within a 5-mile radius of the plant should evacuate this area. Four employees of the licensee received radiation exposures somewhat in excess of the NRC's quarterly occupational exposure limits during primary coolant sampling operations which took place during the early stages of the accident.

Nature and Probable Consequences

Background

Three Mile Island Unit 2 is a pressurized water nuclear power plant located in Dauphin County, Pennsylvania, about 10 miles southeast of Harrisburg. The operating license (DPR-73) for TMI-2 was issued on February 8, 1978; initial criticality was achieved on March 28, 1978 and the facility went into commercial operation on December 30, 1978.[1] The licensed power level of the facility is 2772 MWt with a design net electrical rating of 906 MWe. The nuclear steam supply system of TMI-2 was designed by Babcock & Wilcox Company (B&W). The architect/engineer for the balance of the plant was Burns & Roe.

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[1] The date of commercial operation is the date the facility was declared by the utility owner to be available for the regular production of electricity; it is usually related to satisfactory completion of qualification tests as specified in the purchase contract and to accounting policies and practices of the utility. Utilities sometimes declare commercial operation prior to the facility achieving full power operation. However, this was not the case with TMI-2; full power operation was achieved for a few days during December 1978.

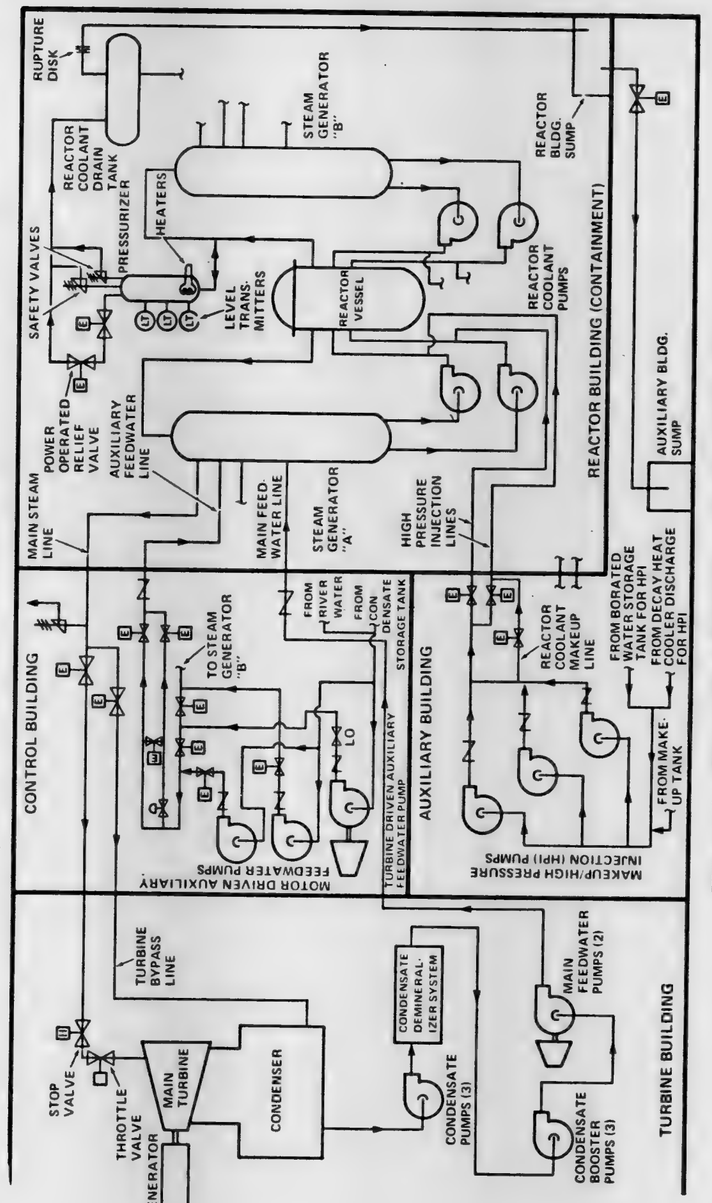


Figure 1. Simplified RCS/Steam/Feed Systems

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Figure 1 is a simplified diagram of the TMI–2 reactor plant. There are two loops in the primary coolant system. Water is pumped by the primary coolant pumps (2 in each loop) through the core where it absorbs the heat emitted by the fuel rods. The water passes through the primary side inside the tubes of the steam generators (1 in each loop) and flows back to the primary coolant pumps. Pressure in the primary system is controlled by the pressurizer. Instrumentation in the pressurizer gives an indication of the amount of water in the pressurizer. A separate system, the Emergency Core Cooling System (ECCS), is connected to the primary system to inject water while pressurized in the event of a loss-of-coolant accident. The ECCS consists of the high-pressure injection (HPI), the low-pressure injection (LPI) and the core flooding systems (CF) collectively. Following a loss-of-coolant accident (LOCA), the ECCS is automatically actuated. During the initial injection phase either the HPI, the LPI or the CF system will initiate, depending on reactor pressure. HPI and LPI take suction from the borated water storage tank (BWST) (see dotted portion of Fig. 2). When the BWST is exhausted the LPI/Decay Heat Removal (DHR) pumps take suction from the reactor building sump and will provide recirculation through the DHR coolers to the reactor vessel (see Fig. 2), thus providing long-term cooling of the core. The decay heat removal system (Figure 2) is operable at low reactor coolant temperatures and pressures. The system can be used both in normal operating modes (plant startup from cold shutdown, plant shutdown, and scheduled refueling/maintenance of the reactor) and in an emergency mode (to supply low pressure injection water into the reactor coolant system).

In the secondary system, feedwater pumps supply water to the secondary side of the steam generators. The heat from the primary water is transferred to the secondary water which subsequently becomes steam. The secondary steam travels to the turbine (which turns the electrical generator) and on to a condenser in which the steam condenses back into water. The condensed water returns to the feedwater pumps via the condensate pumps and cleanup system. In the event of a malfunction in the main feedwater system, the auxiliary (emergency) feedwater system is designed to deliver secondary coolant to the plant's two steam generators to remove heat from the reactor core.

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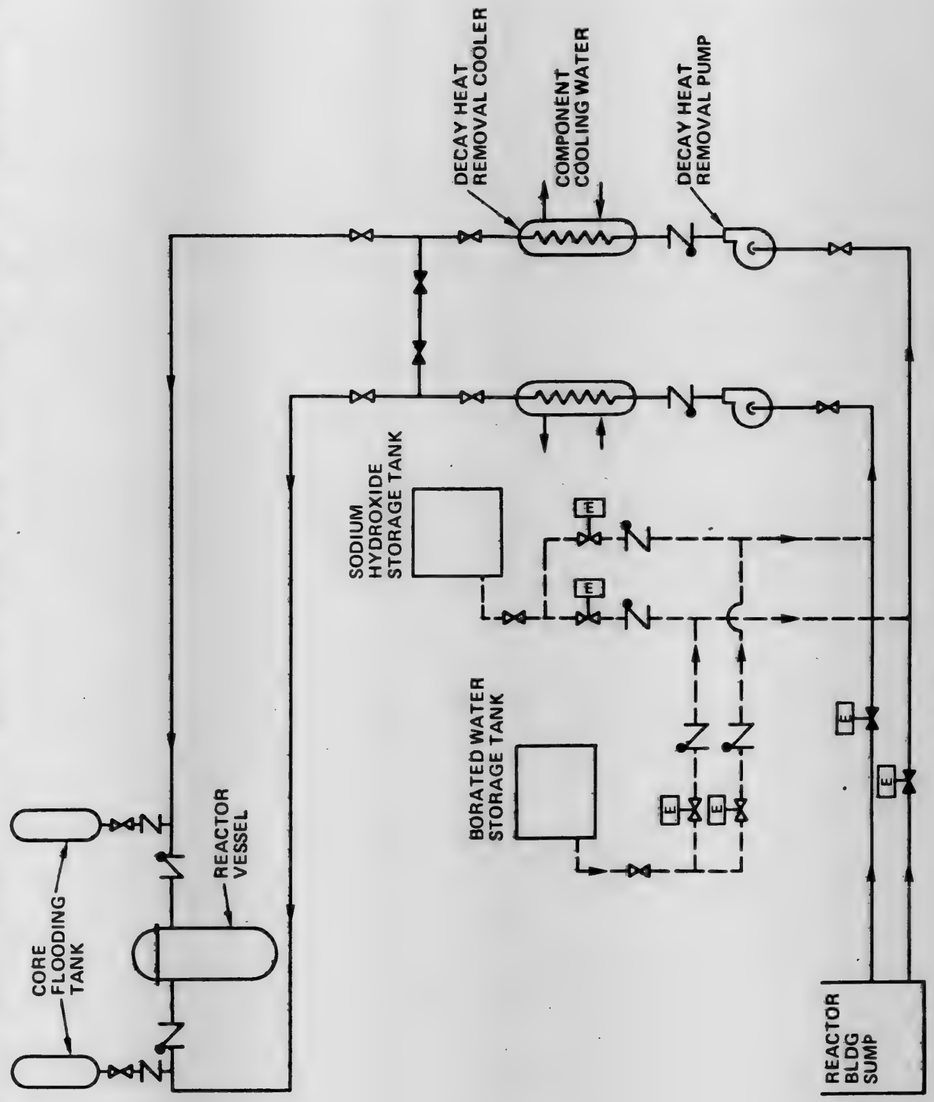


FIGURE 2. SIMPLIFIED DECAY HEAT REMOVAL SYSTEM

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Nature of Initial Events

The following is a preliminary summary of the significant events that occurred at the Three Mile Island No. 2 nuclear facility on March 28, 1979, and in the days that followed.

At about 4:00 a.m. on March 28, 1979, the secondary (non-nuclear) cooling system of the Three Mile Island facility suffered a malfunction. The function and flow pattern for this system were discussed previously (see Figure 1). The malfunction was a loss of a condensate pump in the feedwater return system, apparently due to moisture in the control air of a valve.

The malfunction in the condensate system caused the feedwater pumps to turn off (trip), which in turn caused the turbine-generator to turn off and stop generating electricity. Since the steam generators were not removing heat due to the stoppage of feedwater flow, the heat generated in the reactor caused system pressure to increase and the pressurizer relief valve opened to reduce reactor pressure. The reactor turned off by the rapid insertion of the plant's control rods (scrammed) as designed and the nuclear chain reaction stopped leaving behind principally redisual, or decay heat. These events all occurred within the first 30 seconds following the initial event.

The sequence to this point is normal and plant response was as expected. If the normal sequence were to continue, the auxiliary feedwater system—the pumps of which started within a few seconds of loss of main feedwater—should deliver secondary coolant to the plant's two steam generators to remove heat. In addition, the pressurizer relief valve should close as reactor pressure decreases.

However, all three of the auxiliary feedwater pumps which had started were unable to deliver flow to the steam generators because their flow paths were blocked by closed valves. After about 8 minutes, the operator established auxiliary feedwater flow by opening the valves. In addition, the pressurizer relief valve failed to close resulting in a loss of coolant flow path; this also allowed the reactor coolant system pressure to continue to decrease.

As the reactor pressure reached a preset value (about 1600 psi), the plant's Emergency Core Cooling System (ECCS) started as designed and began to inject cold water into the reactor. It is at this point that an indication of a rapidly rising pressurizer level apparently led the plant operators to terminate or throttle the ECCS flow. The volume of water in the pressurizer is normally used as an indication of total water inventory in the reactor coolant system. This is based on the entire reactor coolant system being full of sub-cooled water (i.e., below the boiling point for the pressure being maintained in the reactor coolant system) except for a steam volume in the top of the pressurizer. In the pressurizer, the water is heated to the boiling point by electrically powered heaters. During this transient, the pressure in the reactor coolant system was reduced to approximately the saturation pressure for the temperature of the coolant leaving the reactor core. This allowed steam voids, or bubbles, to form within the primary coolant system. Under these conditions the pressurizer level is not a reliable indication of the water inventory within the reactor coolant system. At this point, the Three Mile Island accident had been underway for 11 to 12 minutes.

Between about 1 and 2 hours after the turbine trip, the operators noted an increase in vibration in the four large pumps (Reactor Coolant Pumps) which circulate the reactor coolant through the reactor, and turned them off to prevent any damage to the pumps. The operators thought that natural circulation through the core would ensue. Two of these pumps are located in each of the primary coolant loops. It is following this action that damage to the nuclear fuel began. (See subsequent discussion for more details.) For the next several hours there was a large temperature difference between the coolant entering and exiting the nuclear core, indicating little or no flow of coolant through the core.

The continued discharge of primary coolant through the stuck-open pressurizer relief valve caused the level and pressure in the reactor coolant drain tank to increase. This eventually caused the reactor coolant drain tank relief valve to lift and the rupture disc to fail, as designed, permitting the primary coolant to flow into the reactor building sump. About 8100 gallons of reactor coolant were automatically pumped from the reactor building sump to the auxiliary building sump tank. This transfer was terminated at 4:38 a.m. prior to any major fuel damage and was not resumed. The auxiliary building sump tank overflowed to the auxiliary building sump, causing water containing a relative low concentration of radioactivity to back up through floor drains onto the fuel handling building and auxiliary building floors.

Following fuel damage the concentration of radioactivity in the reactor coolant increased by several orders of magnitude. A flow of this highly contaminated reactor coolant was maintained from the primary coolant system, through the letdown system and returned to the primary coolant system via the makeup system for several days following the accident. This flow was required to ensure adequate cooling of the reactor coolant pump bearings. Gases evolving from the reactor coolant in the makeup and letdown system were collected in the waste gas system. Small leaks in these systems were of little radiological significance during normal operation. However, following the accident, these leaks caused very high radiation levels inside the auxiliary and fuel handling buildings and resulted in much higher than normal environmental releases via the ventilation exhausts from these buildings. This flow was the principal pathway by which radioactivity passed from the damaged reactor core to the auxiliary building, fuel handling building and to the environment.

Between 2 and 3 hours after the turbine trip, substantial increases in radiation levels were being observed at locations both on- and off-site. These readings reached values of 30 to 36 mrem/hr at the site north gate and 20 to 35 mrem/hr across the Susquehanna River in Goldsboro, Pennsylvania. The dome monitor inside the containment building was indicating radiation levels interpreted to be thousands of R/hr—the readings were scaled up on the basis of the monitors being shielded—while the monitor at the operating deck inside containment was indicating radiation levels at tens of R/hr.

About 3 hours after the turbine trip, there were many indications of a sudden increase in in-plant radiation levels. Based on these increased radiation levels and consistent with the licensee's Emergency Plan, a Site Emergency was declared by the Metropolitan Edison shift supervisor in coordination with the Unit 2 Superintendent, Technical Support. About 30 minutes later a General Emergency was declared by the Station Manager based upon a containment dome monitor reading of greater than 8 R/hour. This was consistent with the requirements of the licensee's General Emergency Procedure.

About 2.3 hours after turbine trip, the pressurizer relief valve was discovered to be open and a block valve in that same line was closed to stop the release of reactor coolant to the drain tank. Through the afternoon and early evening of March 28, 1979, the licensee attempted to depressurize the reactor coolant system sufficiently to be able to

turn on the decay heat removal system (this system operates at low pressure and temperature). The decay heat removal system is the long-term cooling system. The system can not be activated as long as the pressure in the reactor is high. The pressure in the reactor could not be reduced because there was not enough coolant to cool the core. Without adequate cooling the primary system was repressurized. Loss of sufficient coolant resulted in fuel damage and subsequent release of hydrogen and other gases. The formation of these gases further prevented the circulation of coolant around the core.

After repressurization (about 8:00 p.m. on March 28, 1979), one of the main reactor coolant pumps in loop A was restarted and flow through the reactor core was established. Heat was being transferred out of the reactor through one steam generator, through the turbine bypass line, and to the condenser. The primary system was maintained at a pressure of 1000 psi and a temperature of 280°F.

Reactor cooling essentially remained in this mode until approximately 2:00 p.m. on April 27, 1979 when the reactor coolant pump was intentionally tripped and reactor core cooling was through natural circulation of the primary coolant initially through two steam generators. After approximately 12 hours, one steam generator was isolated. By early July 1979, core flow was being provided by natural circulation; core cooling was being maintained by steaming the "A" steam generator through the turbine bypass valve to the main condensor. Average coolant temperature was 165°F and the highest incore thermocouple indication was 270°F. Primary pressure was about 275 psi. Preparations are now almost completed for the next phase of the cool down process. To accomplish this cool down the piping to the "B" S.G. has been modified. The modification will allow water from the tube side of a new heat exchanger to be circulated through the secondary side of the "B" S.G. to remove the heat of the reactor coolant. The system will be a closed loop and that portion of the system that will remove heat directly from the steam generator has been designed to operate at a higher pressure than the reactor coolant system pressure, thus assuring that if there were any leakage it would be into the reactor coolant system instead of out of that system.

NRC Response to Accident

At about 7:00 a.m. on March 28, 1979, the licensee notified the State of Pennsylvania. At 7:09 a.m., the licensee reached the NRC Region I office in King of Prussia, Pennsylvania, and by 8:15 a.m. the NRC Incident Response Center in Bethesda, Maryland, was operating. By 10:05 a.m., the first NRC Response Team was on the site, a group of five inspectors from the NRC Region I office. NRC had 11 people and a mobile laboratory van (for radiological analysis of air and other environmental samples) from the Region I office onsite by evening; radiological assistance teams from Brookhaven National Laboratory were monitoring the site vicinity from mid-afternoon of March 28, 1979. NRC strength at the site increased to 29 on Thursday and 83 on Friday, March 30, 1979. On March 31, NRC placed thermoluminescent dosimeters at 37 locations off-site to supplement those already placed by the licensee, in accordance with its license, and those of other agencies that were monitoring the site and its environs.

Initial Consequences

From March 28, 1979 on, there were continuing releases of radioactive gas evolving from the reactor coolant and being released from the letdown and makeup systems. Efforts to halt these releases were unsuccessful and the releases increased. On Firday morning, March 30, 1979, this situation led to a decision by Governor Thornburgh to recommend a precautionary evacuation of preschool children and pregnant women from within the 5-mile zone nearest the reactor.

NRC received the cooperation of Pennsylvania State government officials as well as other Federal agencies. Nowhere was this cooperation more apparent than in the vitally important area of radiological monitoring. In addition to the licensee's off-site monitoring stations and surveys on- and off-site, the Department of Energy's Aerial Monitoring Survey airplane was on station over the site within a few hours. Personnel from the Pennsylvania State Bureau of Radiological Health were making measurements from Thursday afternoon onward. Radiological monitoring efforts were also carried out by NRC, DOE, HEW, and EPA monitoring teams. The assessment of off-site releases of radioactivity is discussed in more detail in a subsequent section.

On Friday, March 30, 1979, it was recognized that the early overheating of the reactor had resulted in the formation of a substantial quantity of hydrogen gas, some of which was thought to have collected in the reactor pressure vessel above the core. Reaction of overheated zirconium with steam or water results in formation of zirconium oxide and hydrogen (the reaction starts at about 1800°F). One concern was that if the reactor pressure was decreased, the hydrogen bubble would expand and thus interfere with the flow of cooling water through the core. Another was that if oxygen (O_2) generated by radiolysis of water accumulated, there would be the potential for forming an explosive mixture of hydrogen and oxygen. This latter concern was later determined to be unwarranted since further analysis indicated that the O_2 generated by radiolysis of primary water would recombine in the hydrogen-rich conditions of the reactor system, and little, if any, free oxygen could be evolved to collect in the bubble.

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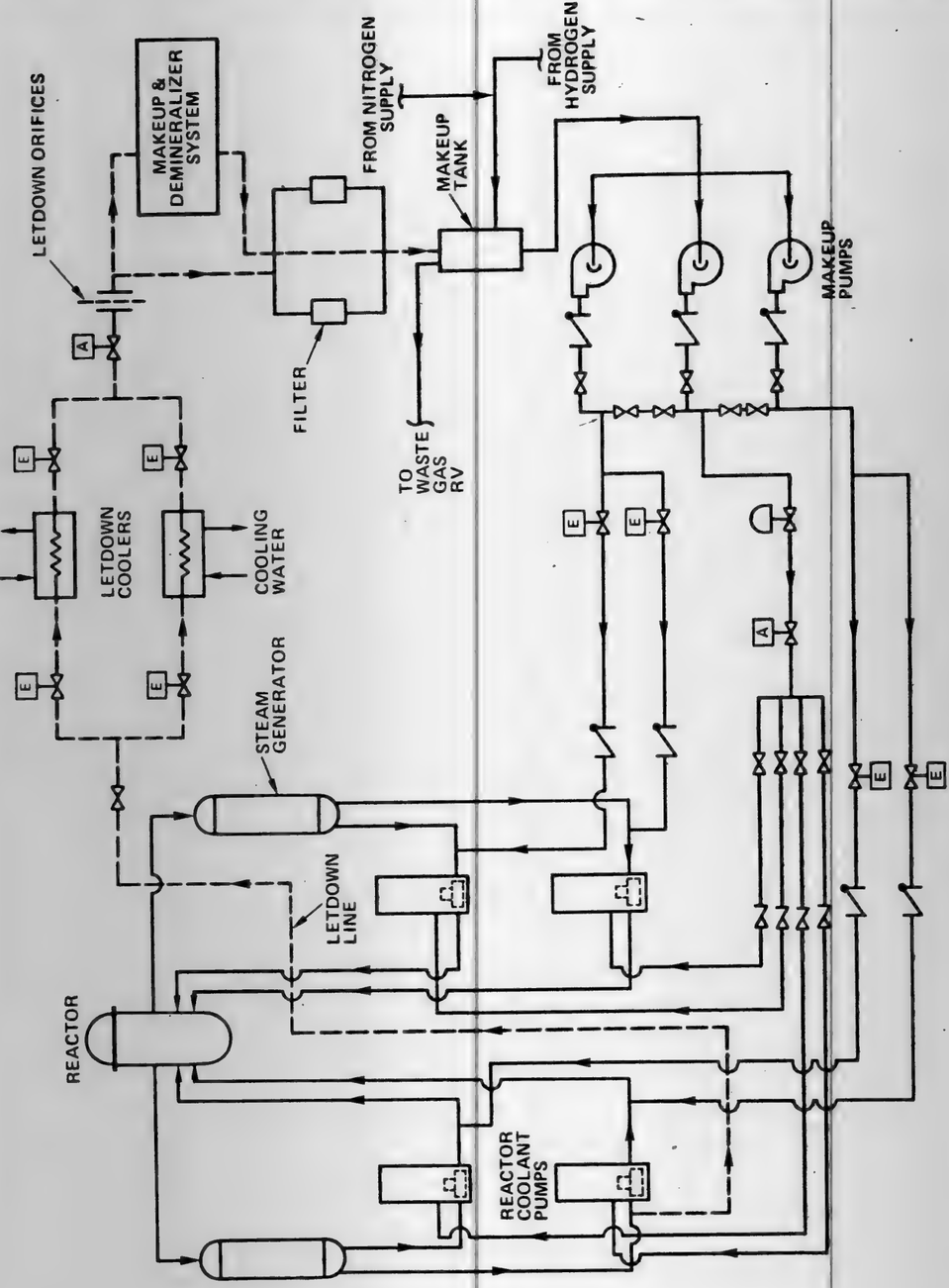


FIGURE 3. SIMPLIFIED MAKEUP & PURIFICATION SYSTEM

Over the following few days, the bubble was reduced to negligible size by degassing with the pressurizer spray and letdown flow (see Figure 3) and by gas dissolving in the reactor coolant water. Some degassing takes place when the coolant is sprayed into the pressurizer. The spray condenses some of the steam lowering the pressure and increasing the surface area of the coolant in the pressurizer which releases some hydrogen and other non-condensible gases. These gases collect at the top of the pressurizer and are vented to the pressurizer relief tank. Apparently because the rupture disc on the relief tank had ruptured, the pressurizer was being vented into containment periodically. Degassing can also take place in the letdown flow, which is one of the functions of the makeup, purification and chemical addition systems. The letdown flow first passes through the letdown coolers where it is cooled and reduced in pressure (see dotted lines of Fig. 3). The pressure is further reduced by passing through the letdown orifices. This reduction in pressure releases hydrogen and other gases. The flow can then either go directly through the filters or through the demineralizer system and into the makeup tank. The makeup tank contains a layer of hydrogen. The hydrogen blanket is established by raising the tank water level and purging with nitrogen gas. The hydrogen introduced in the makeup tank is dissolved in the coolant by combining with any free oxygen while the fission gases present are removed by continuous venting of the makeup tank to the waste gas processing system. The pressurizer was vented to the containment periodically. Subsequently, a hydrogen recombiner was made operational to reduce the hydrogen concentration in the containment building atmosphere. A hydrogen recombiner is part of the gas waste processing system. The contaminated hydrogen gas in the makeup tank mixes with the nitrogen present and is pumped to the recombiner where oxygen is added to reduce the hydrogen content by oxidizing it to water vapor. Thus, the period of immediate crisis passed and the reactor cooldown process could proceed without the hydrogen bubble posing any safety problems.

Preliminary Evaluation of TMI–2 Fuel Damage

Examinations of data from core thermocouples, incore and excore ion chambers, and analyses of core parameters such as primary coolant pressure for the first dozen hours of the transient show three time periods where a significant fraction of the core was uncovered; that is, three time periods during which portions of the fuel assemblies were cooled by steam rather than by pressurized water (which is the normal cooling method).

It was during these periods of deficient cooling that extensive damage to the fuel is thought to have occurred. This damage occurred primarily by oxidation of zirconium alloy components of the fuel assemblies which were embrittled and lost structural integrity in the affected regions of the core. Estimates of the extent of damage were calculated from fission product and hydrogen releases inside the plant and radiochemical analysis of the reactor coolant water. These analyses indicated that severe cladding oxidation occurred and that most, if not all, fuel rods sustained some damage. The preliminary conclusion,[2] is that there is a region of extensive structural damage, probably concentrated in the upper 40% of the core with greater damage toward the center region of the core. However, the lower and peripheral portions of the core are believed to have retained their basic structural integrity. The highest fuel temperature during the transient is estimated to be well below the 5100° F fuel melting point.

Preliminary Assessment of Consequences of Off-Site Releases

The primary radioactive materials released from TMI–2 to the environment appear to have been xenon-133 (half-life 5.3 days) and xenon-135 (half-life 9.2 hours) and traces of radioactive iodine, primarily iodine-131. This is substantiated by consideration of the known course of events, knowledge that the effluents were released through particulate and iodine filters, and from subsequent environmental measurements in the diffusing radioactive plume. Particulate radionuclides, such as strontium-90 and alpha emitters, should either have been retained in the fuel or if released from the fuel should have remained in the coolant water. EPA has been designated by the White House as the lead agency for coordinating the collection and documentation of the environmental radiation data obtained by all the Federal agencies involved in monitoring in the vicinity of Three Mile Island. The NRC plans to request that they ensure appropriate measurements are made to confirm this position on strontium and alpha-emitter levels. These elements have not been detected in the environment in the vicinity of TMI nor in the reactor containment or gas decay tanks. Based on the physical and chemical nature of these radionuclides, they would not be released from the plant under the conditions of the TMI accident. Some of the radioactive krypton isotopes such as krypton-87, krypton-85m and krypton-88 may have been released with the radioactive xenons. However, these are all relatively short-lived radionuclides and none of the reported gamma-ray spectral analyses detected any measurable quantities of these krypton isotopes.

An interagency team from the NRC, the Department of Health, Education, and Welfare (HEW), and the Environmental Protection Agency (EPA) has estimated the collective radiation dose received by the approximately 2 million people residing within 50 miles of the Three Mile Island Nuclear Station resulting from the accident of March 28, 1979 (see NUREG–0558). The estimates are for the period from March 28 through April 7, 1979, during which releases occurred that resulted in increased exposure to the offsite population. The principal dose estimate is based upon ground level radiation measurements from integrating thermoluminescent dosimeters located within 15 miles of the site. These estimates assume that all the exposure recorded by the dosimeters was from gamma radiation. This assumption would overestimate the total body dose in a situation where beta radiation was contributing to the dosimeter response.

The collective dose to the total population within a 50-mile radius of the plant has been estimated to be 3300 person-rem. This is the mean of four separate estimates that range between 1600 and 5300 person-rem. The range of the collective dose values is due to different methods of extrapolating from the limited number of dosimeter measurements. An estimate provided by the Department of Energy (2000 person-rem) also falls within this range. The maximum hypothetical individual dose off-site was less than 100 mrem due to the accident, as compared to the natural background radiation dose of about 100 to 125 mrem per year for the area.

The projected number of excess fatal cancers due to the accident that could occur over the remaining lifetime of the population within 50 miles is approximately one. The number of fatal cancers that would be normally expected in a population of this size over its remaining lifetime had the

[2] Firm, final conclusions as to the condition of the fuel cannot be reached until the fuel is removed from the reactor. It may be quite some time before that can be accomplished.

accident not occurred is estimated to be 325,000. The projected total number of excess health effects, including all cases of cancer (fatal and non-fatal) and genetic ill health to all future generations, is approximately two.[3]

These health effects estimates were derived from intermediate risk estimates within the ranges presented in the 1972 report of the Advisory Committee on the Biological Effects of Ionizing Radiation (BEIR) of the National Academy of Sciences. Preliminary information on the recently updated version of this report indicates that these estimates will not be significantly changed.

It should be noted that there exists a small minority of the scientific community that believes the risk factors may be as much as two to ten times greater than the estimates of the 1972 BEIR report. There also exists a larger minority of the scientific community that believes that the estimates in the 1972 BEIR report are two to ten times larger than they should be for low doses of gamma and beta radiation.

Cause or Causes—The details of the accident continue to be extensively investigated. However, based on the partial investigations to date, there are six main factors that appear to have caused or increased the severity of the accident. The apparent factors include combinations of personnel error, design deficiencies, and component failures. Specifically, they are:

1. At the time of the initiating event, loss of feedwater, both of the auxiliary feedwater systems, a total of three separate valves, were valved out of service. This was a violation of the plant Technical Specifications which are part of the facility's Operating License.

2. The pressurizer relief valve, which opened during the initial pressure surge, failed to close when the pressure decreased below the actuation level. It was over 2 hours before the operators discovered that the valve did not reseat.

3. Following rapid depressurization of the pressurizer, the pressurizer level indication may have led to erroneous inferences of high level in the reactor coolant system. The pressurizer level indication apparently led the operators to prematurely terminate high pressure injection flow, even though substantial voids existed in the reactor coolant system.

[3] Comparable numbers for population within a 5-mile radius of the plant are as follows: The average individual dose was 17 mrem to the about 28,820 people in the area, resulting in about 490 person rems. The normally expected number of fatal cancers (exclusive of the accident) would be about 4300. The projected number of excess fatal cancers due to the accident is about 0.1 and the projected total number of excess health effects is about 0.2 to 0.3.

4. Gases continue to be evolved from the primary coolant via the letdown system. Leaks in the waste gas system allowed this highly radioactive gas to enter the auxiliary building and fuel handling building atmosphere. Ultimatley the gases were discharged to the evironment via the ventilation systems after being filtered. This was the principal source of the offsite release of radioactive noble gases.

5. Subsequently, the high pressure injection system was intermittently operated attempting to control primary coolant inventory losses through the pressurizer relief valve, apparently based on pressurizer level indication. Due to the presence of steam and/or noncondensible voids elsewhere in the reactor coolant system, this led to a further reduction in primary coolant inventory.

6. Tripping of all reactor coolant pumps during the course of the transient to protect against pump damage due to pump vibration led to fuel damage since voids in the reactor coolant system prevented effective core cooling by natural circulation.

Actions Taken To Prevent Recurrence

Licensee/Vendor—Both the licensee and the nuclear steam supply system supplier (B&W) continue to actively investigate the accident to achieve a full understanding of the incident and to take appropriate corrective actions. B&W is studying changes necessary both at this plant and the other plants it has designed. Licensees with B&W plants have been shut down (as described below) and have been directed to make changes in operator training, procedures, and equipment design. The licensee of TMI–2 is also investigating procedures for cleanup of radioactive contamination within the plant, removal of the damaged core, and recovery operations.

NRC—An extensive investigation of the accident is being conducted by the NRC, not only to determine the design and procedural changes required of the licensee/vendors, but also to reexamine NRC's current regulations and nuclear power plant review procedures, NRC's incident response procedures, evacuation procedures for the populations around nuclear sites, etc.

However, certain actions have been determined appropriate with regard to nuclear plants similar to Three Mile Island to prevent recurrence of this accident and NRC has taken or is taking the following specific steps:

By April 2, an inspector was assigned full time at each operating plant having a B&W reactor.

An NRC Inspection and Enforcement (IE) Bulletin (79–05) was transmitted on April 1 directing licensees operating B&W reactors to perform a series of specific reviews and actions. NRC onsite inspectors are monitoring compliance with this Bulletin. The NRC headquarters staff is reviewing the responses and are acting on them accordingly.

A second IE Bulletin (79–05A) was transmitted to all B&W reactor operators on April 5 to provide specific operating instructions based on our present understanding of the events at Three Mile Island.

To assure that the Bulletins are fully understood and followed, the full-time inspector at each of the operating plants having B&W reactors will receive or have received additional assistance from the NRC regional offices to assure that some inspection activities will occur during each shift. The assigned inspector at each plant will thus be in a position to assure that plant operations on all shifts reflect a clear awareness of the factors which contributed to the situation at Three Mile Island. The NRC regional and headquarters staffs will stay in close touch with the NRC inspectors onsite to ensure that the NRC instructions to the licensees are understood and are being followed.

The Commission has sent a telegram to each of the licensees with B&W reactors to underscore the seriousness with which the Commission views this situation.

Additional IE Bulletins (79–06, 79–06A, 79–06B) were transmitted on April 11 and April 13 to all operators of Westinghouse and Combustion Engineering designed pressurized water power reactors (PWRs), relating aspects of the accident having general applicability to PWRs and identifying certain actions to be taken.

An additional IE Bulletin (79–08) was transmitted on April 14 to all operators of boiling water reactors (BWRs) relating aspects of the accident having applicability to BWRs and identifying certain actions to be taken.

An additional IE Bulletin (79–05B) was transmitted on April 2 to all B&W plants with operating licenses for action and all other plants with operating licenses or construction permits for information.

Additionally, an NRC Task Force on Generic Review of Feedwater Transients in B&W Reactors was formed in early April to examine the reactor and plant systems at these plants that provide protection against feedwater transients. The Task Force issued its report (NUREG–0560) with finding and recommendation on May 11, 1979. The recommendations for longer term study are being reviewed at this time. An NRC status report on feedwater transients in B&W plants was issued on April 25, 1979. Since early April and continuing into May, the NRC staff has conducted a series of meetings with licensees and vendors to discuss the licensee response to the I&E Bulletins. The staff has initiated its review of response to the I&E Bulletins.

Based upon the NRC status report on feedwater transients in B&W plants and initial review of the I&E Bulletin responses for the operating B&W plants, further procedural, training and design changes appeared to be required. As a result, the licensees of the operating B&W facilities indicated that they would voluntarily shut down. Those plants that were already shut down for maintenance or refueling indicated that they would remain down, until these changes were made in their facility's design and procedures. Confirmatory shutdown orders were issued by the NRC to Duke Power Company operating Oconee Units 1–3 and the Sacramento Municipal Utility District operating Rancho Seco on May 7, 1979. On May 18, 1979, a letter was sent to Duke Power Company which allowed for the continued operation of Oconee Unit 1 and restart of Oconee Units 2 and 3. Confirmatory shutdown orders were issued to Arkansas Power and Light (Arkansas Unit 1) on May 18, 1979, Florida Power Company (Crystal River Unit 3) and Toledo Edison (Davis Besse Unit 1) on May 17, 1979. Appropriate action will be taken with respect to Metropolitan Edison (TMI–1 and 2). Plant restarts are being or have been approved on a case-by-case basis.

The NRC is continuing to have on-site staff at TMI to assure that: (1) TMI–2 achieves a safe cold shutdown condition, and (2) radwaste cleanup and recovery operations are conducted in a safe manner such that occupational exposures and releases off-site are as low as reasonably achievable.

As indicated, there are continuing investigations of this accident underway. In addition, the NRC staff is reviewing the implications of this accident to all licensed power reactors. Further actions will be considered and implemented as necessary based on the ongoing staff studies, and the ongoing Presidential, Congressional and NRC investigations. An interim sequence of events developed by NRC's Office of Inspection and Enforcement investigation team for operating events which occurred at TMI–2 on March 28, 1979 was presented to the Commission on May 17, 1979. A further briefing, which included radiological monitoring at TMI–2, was given to the Commission on June 21, 1979 by NRC's Office of Inspection and Enforcement.

Updates on TMI–2 and its impacts on operating reactors and the reactor licensing process will be provided in the quarterly Abnormal Occurrence Reports to Congress.

Dated at Washington, D.C., this 30th day of July 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79–23977 Filed 8–2–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. S50–599, S50–600]

Atomic Safety and Licensing Board, Commonwealth Edison Co., et al. (Carroll County Site); Order Rescheduling Special Prehearing Conference

The Board's Order, dated July 10, 1979, scheduling a Special Prehearing Conference in this matter on August 15, 1979 in Savanna, Illinois is rescinded.

Pursuant to 10 CFR § 2.751a, on September 19, 1979 (and on September 20, 1979, if necessary) beginning at 9:30 a.m., local time, a Special Prehearing Conference will be held in the Nahman Diehl Auditorium, Intersection of U.S. 64 and Illinois 78, Mt. Carroll, Illinois 61053, in order to:

1. Permit identification of the key issues in the proceeding;

2. Take any steps necessary for further identification of the issues;

3. Consider all intervention petitions to allow the presiding officer to make such preliminary or final determinations as to the parties to the proceeding as may be appropriate; and

4. Establish a schedule for further actions in the proceeding.

Further, pursuant to 10 CFR § 2.7149(b), as amended, not later than fifteen (15) days prior to the holding of the Special Prehearing Conference, any person who filed a petition for leave to intervene shall file a supplement to his petition to intervene which must include a list of contentions which petitioner seeks to have litigated in the matter and the bases for each contention set forth with reasonable specificity.

Limited appearance statements will not be received at the above mentioned conference, but will be received at any subsequent prehearing and/or at the beginning of the evidientiary hearing.

It is so ordered.

Dated at Bethesda, Maryland this 30th day of July 1979.

For The Atomic Safety and Licensing Board.

John F. Wolf,

Chairman.

[FR Doc. 79–23963 Filed 8–2–79; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–269, 50–270 and 50–287]

Duke Power Co., Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 77, 77, & 74 to Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, issued to Duke Power Company, which revised the Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications by upgrading the qualifications of the Site Health Physicist (Radiation Protection Manager).

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 21, 1979, (2) Amendments Nos. 77, 77, & 74 to Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the

U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 20th day of July 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 79-23084 Filed 8-2-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment modifies the Technical Specifications to upgrade flow rate test requirements associated with emergency core cooling system modifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 13, 1979, (2) Amendment No. 22 to License No. DPR—72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Crystal River Public Library, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addrssed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23rd day of July 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 79-23085 Filed 8-2-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Provisional Operating License No. DPR-16, issued to Jersey Central Power & Light Company (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment: (1) adds a limiting safety system setting for the automatic initiation of the Isolation Condenser on a reactor low-low water level signal (Section 2.3), (2) revises Table 3.1.1 to reflect the change in (1) above, (3) adds the assembly Average Power Void Relationship for all fuel types in the reactor (Section 3.10.c), (4) removes Figure 3.10-2 and the reference to Figure 3.10-2 from Section 3.10.A, and (5) removes the word interim from Figure 3.10-9, which was inadvertantly included in the title of this Figure during the issuance of License Amendment No. 35, dated May 30, 1979.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 23, 1979, and the licensee's submittal dated May 19, 1979, (2) Amendment 39 to License No. DPR-16, (3) the Commission's related Safety Evaluation, (4) Amendment Nos. 35 and 36 dated May 30, 1979 and the related Safety Evaluations, and (5) the Commission's letter and Safety Evaluation Report dated May 30, 1979. All of these are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. A copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 23rd day of July 1979.

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-23086 Filed 8-2-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-568 and STN 50-569]

New England Power Co., et al., Suspension of Schedule for Receipt of Comments on Draft Environmental Statement (NUREG-0529)

In the **Federal Register** published June 5, 1979 (44 FR 32327) a due date of August 7, 1979, was set up for receipt of comments on the Draft Environmental Statement (NUREG-0529) related to the proposed construction of NEP 1 and 2. This due date is hereby suspended until further notice.

If this review is reactivated, another **Federal Register** notice will be published initiating a new comment period.

Dated at Bethesda, Maryland, this 30th day of July, 1979.

For the Nuclear Regulatory Commission.

Phillip C. Cota,

Acting Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-23087 Filed 8-2-79; 8:45 a.m.]

BILLING CODE 7590-01-M

[Docket Nos. 50-245 and 50-336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 63 and 54 to Provisional Operating License No. DPR-21 and Facility Operating License No. DPR-65, respectively, to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit Nos. 1 and 2, located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

The amendments revise the provisions contained in Section 6 of the Technical specifications to reflect recent organizational changes within the Northeast Nuclear Energy Company.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated February 28, 1979, and (2) Amendment Nos. 63 and 54 to License Nos. DPR-21 and DPR-65, respectively, including the Commission's letter of transmittal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of July 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 79-23088 Filed 8-2-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8698]

Plateau Resources, Ltd.; Availability of Final Environmental Statement for Shootering Canyon Uranium Project

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Final Environmental Statement prepared by the Commission's Office of Nuclear Material Safety and Safeguards related to the Shootering Canyon Uranium Project in Garfield County, Utah, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. The Final Statement is also being made available at the Utah State Clearinghouse, ATTN: Lorayne Tempest, Assistant State Planning Coordinator, 124 State Capital, Salt Lake City, Utah 84111, and the Five County Association of Governments Organization, P.O. Box 0, 620 South 400 East, St. George, Utah 84770.

The notice of availability of the Draft Environmental Statement for the Shootering Canyon Uranium Project and requests for comments from interested persons was published in the **Federal Register** on February 20, 1979 (44 FR 10443). The comments received from Federal agencies, State and local officials, and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (Document No. NUREG-0583) may be purchased for $10.75 a printed copy and $3.00 for microfiche from the National Technical Information Service, Springfield, VA. 22161, on or about August 17, 1979.

Dated at Silver Spring, Maryland this 26th day of July 1979.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 79-23089 Filed 8-2-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. PRM-34-1]

Tech/Ops; Denial of Petition for Rulemaking With Regard to the Surface Radiation Level Limit for Radiographic Exposure Devices

Notice is hereby given that a petition for rulemaking, submitted to the Nuclear Regulatory Commission by letter dated April 15, 1977, by Tech/Ops, Radiation Products Division, 40 South Avenue, Burlington, Massachusetts, has been denied. The petition requested the NRC to amend its regulations in 10 CFR Part 34, "Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations." This petition is being denied by the Executive Director for Operations in accordance with 10 CFR 1.40(o).

The petitioner requested the NRC to revise 10 CFR 34.21, "Limits on levels of radiation for radiographic exposure devices and storage containers," to read as follows:

> With the sealed source in the shielded or "off" position, radiographic exposure devices and storage containers for sealed sources shall have no radiation level in excess of 100 milliroentgens per hour at five centimeters from any exterior surface of the device and 10 milliroentgens per hour at one meter from any exterior surface of the device. Compliance with the exposure limits shall be determined by measurements averaged over a cross sectional area of ten square centimeters with no linear dimension greater than five centimeters.

A notice of filing of petition, Docket No. PRM-34-1, was published in the **Federal Register** on May 19, 1977 (42 FR 25787). The comment period expired July 18, 1977. No public comments were received on this petition although 6 comments were received on a similar petition (PRM-20-9) to amend Part 20.

The petitioner said that it is not possible to measure radiation exposure levels exactly on the surface of a radiographic exposure device using a detector of finite size. It is also not possible to measure the radiation exposure level at each and every point on the surface with a finite size detector because the detector must necessarily average the radiation exposure over the volume of the detector. The petitioner stated that a measurement at 5 centimeters from the surface and averaged over a cross-sectional area of

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10 centimeters is possible to make with commonly available instruments.

The petitioner has stated that the present regulation results in inconsistent measurements between people using different size detectors. At times these inconsistencies have resulted in disagreements over whether a radiographic exposure device met the requirements of § 34.21.

The petitioner also filed a petition for rulemaking (PRM–20–9) for a similar change in § 20.205(c)(2), which deals with allowable radiation levels for packages to be transported. This petition was denied on April 13, 1979 (44 FR 22232).

The staff has considered the advantages and disadvantages in changing the radiation exposure level limit in § 34.21 from 200 milliroentgens per hour at the surface to 100 milliroentgens per hour at a distance of 5 centimeters from the surface of radiographic exposure devices. It has been concluded that such a change would not be advisable based on the following considerations:

(1) Making the suggested change in Part 34 while not making the corresponding change in Part 20 would mean that radiographic exposure devices shipped without an overpack would have to meet two different requirements for limits on radiation levels. Changing only Part 34 would not solve the petitioner's problem because the devices would still sometimes be covered by Part 20 while being transported. In addition, added complexity and confusion would result from having two different sets of requirements.

(2) The proposed change would require licensees to use specific types of radiation detection instruments with small diameters and limited sensitive volumes; e.g., it would eliminate the use of ionization-chamber instruments for surface radiation level measurements. Many licensees would have to purchase replacements for their present monitoring instruments. In addition, it would require monitoring personnel to keep the center of the sensitive volume of the detector at 5 centimeters from the surface. The current practice is to place an instrument detector touching the surface of the device and pass the detector over the device surfaces to assure the level on each surface is within the limit. This present method is simple, easily understood, and allows the use of any type radiation detector.

(3) The suggested change to NRC's regulations would make NRC regulations inconsistent with Department of Transportation regulations. This would cause a hardship on NRC licensees with little resulting benefit.

(4) A change in the regulations would require people to learn and use a new measurement technique which is not as simple as the existing technique and offers no real improvement in health or safety.

However, the staff recognizes the potential difficulty certain licensees may have in interpreting the regulation in 10 CFR 34.21 as to whether a precise determination of surface radiation level is required.

In a letter to the petitioner dated December 5, 1977, the staff stated, "As with any regulation, the (safety) limits must be given as exact, precise values. The methods of demonstrating compliance with these limits are usually left to the regulated person. Any method which provides a reasonable demonstration of compliance will be accepted. In most cases exact measured values are not required."

The staff indicated that precise measurements exactly on the surface of the packages are not necessary nor required under 10 CFR 34.21. Measurements at some distance from the surface are acceptable if it can be shown from the measured value that the radiation level on the surface is likely to meet the regulatory limit.

The petitioner also suggested that the radiation levels be determined by measurements averaged over a cross-sectional area of 10 square centimeters with no linear dimension greater than 5 centimeters. The staff believes that the averaging of radiation levels over the cross-sectional area of a probe of reasonable size is acceptable for demonstrating compliance with the requirements specified in 10 CFR 34.21. A probe of reasonable size is one for which (1) the sensitive volume of the probe is small compared to the volume of the package to be measured and (2) the largest linear dimension of the sensitive volume of the probe is no greater than the smallest dimension of the device.

The staff recognizes that this interim guidance will not completely solve the petitioner's problem. The problem will be dealt with in more detail and in a more appropriate manner and time when design criteria for radiographic exposure devices are considered. An advance notice of proposed rulemaking on design criteria was published for public comment on March 27, 1978 (43 Federal Register 12718). Publication of the final design criteria for comment is planned for 1980. The design criteria will include how measurements should be made to assure compliance with Parts 20 and 34 of NRC regulations.

In view of the foregoing, the NRC hereby denies the petition for rulemaking filed by Tech/Ops on April 15, 1977. Copies of the petition for rulemaking and the NRC's letter of denial are available for public inspection in the NRC's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md. this 9th day of July 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79–23970 Filed 8–2–79; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Establishment of Prescribed Minimum Educational Requirements; Recreation/Creative Arts Therapist Series, GS–638

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management has established a prescribed minimum educational requirement for recreation/creative arts therapists employed within the Federal service. Recreation/Creative Arts Therapy is a new professional occupation and the prescribed requirement will assure fair and equitable recruitment and placement actions with respect to the duties of individual positions.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT: Robert M. Howard, Personnel Management Specialist, Standards and Selection Methods, U.S. Office of Personnel Management, 1900 E Street NW., Washington, D.C., 20415, 202–632–5632.

SUPPLEMENTARY INFORMATION: In accordance with Section 3308 of Title 5, United States Code, the Office of Personnel Management has established a prescribed minimum educational requirement for recreation and creative arts therapists employed within the Federal service. The requirement, the duties of the positions, and the reasons for the Office of Personnel Management's decision that the requirement is necessary are set forth below:

Recreation/Creative Arts Therapist Series, GS–638, GS–5 Through GS–15

Minimum Educational Requirement: Candidates for positions as recreation therapists must have completed successfully a 4-year course of study in an accredited college or university leading to a bachelor's degree in recreation therapy *or* in recreation *with therapeutic emphasis or concentration* (e.g., geriatrics, gerontology, or special populations). Candidates for positions as creative arts therapists in art, dance, or music must have completed successfully a 4 year course of study in an accredited college or university leading to a bachelor's degree in art therapy, dance therapy, or music therapy, *or* in art, dance, or music *with therapeutic emphasis or concentration.* Candidates for positions as creative arts therapists in psychodrama must have completed successfully a 4-year course of study in an accredited college or university leading to a bachelor's degree in psychodrama, in drama or the dramatic arts, or in psychology or any social science field *with therapeutic emphasis or concentration.* These various degree programs must have included or been supplemented by a minimum of 15 semester hours of course work in the physical, biological, and/or social sciences, the emphasis on course work in one or more of these science fields depending upon the therapy specialization involved.

Duties: Recreation therapists and creative arts therapists (art, dance, music, and psychodrama) perform professional work requiring application of either (1) a knowledge of the concepts, principles, and practices of *recreational therapy,* and the use of recreational modalities to maintain the physical and/or mental health or to achieve the physical and/or mental rehabilitation/treatment of patients; or (2) a knowledge of the concepts, principles, and practices of a *creative arts therapy* in art, dance, music, or psychodrama, and the use of appropriate creative arts modalities to maintain the physical and/or mental health or to achieve the physical and/or mental rehabilitation/treatment of patients. These therapists evaluate the history, interests, aptitudes, skills, and physical and mental/emotional handicaps of patients by interviews, inventories, tests, and measurements, and use such findings, along with medical records and the therapy orders of physicians or nurses, to develop and implement suitable recreational/creative arts therapy services for individual patients. These several therapy approaches are directed toward achieving such therapeutic objectives as diminishing emotional stress of patients, providing a sense of achievement, channeling energies and interests into acceptable forms of behavior, aiding self-analysis and group analysis, and promoting physical and mental rehabilitation and successful community reentry.

Reason for Establishing Requirement: The duties of these positions require the application of highly technical therapy knowledges and skills. These can only be acquired through the successful completion of a course of study leading to a baccalaureate degree in an accredited college or university which has thoroughly trained instructors who give expert guidance, evaluate progress competently, and provide the technical and scientific course work, laboratory and library research, and course-related practicum necessary to the acquisition of professional competence.

U.S. Office Of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79–23982 Filed 8–2–79; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 680]

Coordinator for Refugee Affairs, Migration and Refugee Assistance; Delegation of Authority No. 107–6

By virtue of the authority vested in me by the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601 et seq.) (hereinafter referred to as the Act), Executive Order No. 11077 of January 22, 1963 (3 CFR 1959–1963 Compilation 698) hereinafter referred to as the Order), section 4 of the Act of May 26, 1949, as amended (22 U.S.C. 2658), and as Secretary of State, it is ordered as follows:

Sec. 1. *United States Coordinator for Refugee Affairs.* The United States Coordinator for Refugee Affairs is delegated all statutory and other authorities of the Secretary of State for the overall direction, coordination, and supervision of inter-agency refugee and migration activities of the United States Government, to the full extent permitted by law.

Sec. 2. *Director of Refugee Programs.* Exclusive of the functions otherwise delegated herein, there are hereby delegated to the Director of Refugee Programs all functions vested in the Secretary of State by the Act and the Order. In carrying out such functions, the Director for Refugee Programs shall receive policy guidance from the Coordinator for Refugee Affairs.

Sec. 3. *Under Secretary of State for Management.* The following functions are delegated to the Under Secretary of State for Management:

(a) The functions enumerated in section 5(a)(1) of the Act and reserved to the Secretary of State by section 1(a)(1) of the Act and by section 1(a)(3) of the Order insofar as they relate to compensation, allowances, and travel of personnel whose services are utilized primarily for the purposes of the Act.

(b) The functions enumerated in sections 5(a) (2), (3), (4), and (5) of the Act and reserved to the Secretary of State by section 1(a)(3) of the Order.

Sec. 4. *General Provisions.* (a) Any officer to whom functions are delegated by this Delegation of Authority, to the extent consistent with law, may redelegate any of the delegated functions.

(b) Except to the extent that they may be inconsistent with this Delegation of Authority, all delegations, redelegations, determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into with respect to any functions affected by this Delegation of Authority shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

(c) This Delegation of Authority supersedes and cancels Delegation of Authority No. 107–5 of May 4, 1979 (Public Notice No. 670, 44 FR 32059), No. 107–4 of December 11, 1976 (Public Notice No. 510, 42 FR 918), and Delegation of Authority No. 107–3 of August 15, 1975 (Public Notice No. 401, 40 FR 40557). This delegation shall be deemed to be effective on July 30, 1979.

Dated: July 30, 1979.

Cyrus R. Vance,

Secretary of State.

[FR Doc. 79–24119 Filed 8–2–79; 8:45 am]

BILLING CODE 4710–10–M

[Public Notice CM–81207]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on safety of navigation of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Friday,

August 24, 1979, in Room 8334 of the Department of Transportation, (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to:

Consider matters for the forthcoming SUB NAV XXIII, scheduled for September 3–7, 1979, in particular:

Collision avoidance systems.
Routing of ships.
Matters related to the 1972 Collision Regulations.
Ship movement reporting systems.
Omega differential correction systems.
Shipborne navigational aids and related equipment.
Accuracy requirements and harmonization of radionavigations systems.
World-wide VHF navigational channel.
Matters related to search and rescue.
Any other business.

Requests for further information should be directed to Captain D. B. Charter, Jr., c/o Commandant (G–WLE/73), United States Coast Guard, 400 Seventh Street, SW., Washington, D.C. 20590, telephone (202) 426–1934.

The Chairman will entertain comments from the public as time permits.

John Lloyd, III,

Acting Director, Office of Maritime Affairs.

July 25, 1979.

[FR Doc. 79–23913 Filed 8–2–79; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. #79–215]

Reimbursable Services—Excess Cost of Preclearance Operations

July 30, 1979.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning August 12, 1979.

Installation	Biweekly excess cost
Montreal, Canada	$20,066.00
Toronto, Canada	24,745.00
Kindley Field, Bermuda	6,042.00
Freeport, Bahama Islands	11,245.00
Nassau, Bahama Islands	12,060.00
Vacouver, Canada	7,260.00
Calgary, Canada	5,099.00
Winnipeg, Canada	2,675.00

Jack T. Lacy,

Assistant Commissioner of Customs (Administration).

[FR Doc. 79–24035 Filed 8–2–79; 8:45 am]

BILLING CODE 4810–22–M

VETERANS ADMINISTRATION

Laundry Engineering Facility, VAMC, Manchester, N.H.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of the Laundry Engineering Facility at the Veterans Administration Medical Center (VAMC), Manchester, New Hampshire.

The project consists of a two-story building which will house laundry, warehouse and Engineering facilities. Also proposed are two loading docks and a tunnel connecting the Laundry Engineering Facility to the main hospital complex.

Development of the project will have impacts on the human and natured environments as it affects vehiclar circulation, soil stability, erosion, vegetation and noise levels. During the constructional phase, additional noise, fumes, odors, dust, traffic and visual impacts will exist. Mitigating actions include implementation of thorough erosion control methods, dust and fume emission controls, onsite noise abatement techniques, landscaping, and compatible architectural and open space design.

Findings conclude that the proposed action will not cause significant adverse effects on the human and physical environments. Further investigation of the site, in the form of an Environmental Impact Statement, is not required. This action was recommended by the Environmental Assessment Determination Board and the final evaluation was conducted by the Environmental Planning Division after preparing an Environmental Assessment on the proposed project. The Assessment was performed in accordance with the requirements of Section 102 of the National Environmental Policy Act and VA Manual MP–1, Part 1, Chapter 9.

A "Finding of No Significant Impact" was concluded on the basis of the information presented in this assessment. The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions and requests for single copies of the Environmental Assessment may be obtained on request to the above office.

Dated: July 26, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79–24642 Filed 8–2–79; 8:45 am]

BILLING CODE 8320–01–M

INTERSTATE COMMERCE COMMISSION

[Notice No. 117]

Assignment of Hearings

July 30, 1979.

Cases assigned for hearing, postponement, cancelation or oral argument appear below and will be published only once. This list contains prospective assignmets only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 103051 (Sub-462F), Fleet Transport Company, Inc., now assigned for hearing on August 1, 1979 at Nashville, TN, is postponed indefinitely.
MC 145838 (Sub-1F), Ohio Container Service, Inc., now assigned for hearing on October 3, 1979 (3 days) at Cleveland, OH, in a hearing room to be later designated.
MC 59135 (Sub-37F), Red Star Express Lines of Auburn, Inc., transfered to modified procedure.
MC 139923 (Sub-58F), Miller Trucking Co., Inc., transfered to modified procedure.
MC 109373 (Sub-3F), National Trucking, Inc., is dismissed.
AB–7 (Sub-71F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul & Pacific Railroad Company. Debtor Abandoment near Ripon Junction & Oshkosh in Fond Du Lac & Winnebago Counties, WI, now assigned for hearing on August 20, 1979 at Oshkosh, WI is postponed to August 21, 1979 (4 Days) at Oshkosh, WI in a hearing room to be designated later.
MC 31389 (Sub-263F), McLean Trucking Company, transfered to Modified Procedure.
MC 29643 (Sub-13F), Walsh Trucking Service, Inc., transfered to Modified Procedure.
MC 29568 (Sub-6F), Associated Transfer & Storage Company, Inc., Application dismissed.
MC F 13808, B. J. McAdams, Inc.—Control—Hughes Refrigerated Express, Inc., now being assigned for hearing on September 24, 1979, at the Offices of the Interstate Commerce Commission in Washington, D.C.
MC 116004 (Sub-52F), Texas Oklahoma Express, Inc., now being assigned for hearing on October 9, 1979 (9 Days), at Houston, TX in a hearing room to be designated later.
MC 128007 (Sub-130F), Hofer, Inc., transfered to Modified Procedure.
MC 143088 (Sub-4F), Robert Tarbox D/B/A Tarbox Trucking, now being assigned for hearing on September 17, 1979 (2 Days), at Philadelphia, PA, New U.S. Courthouse, 601 Market Street.
MC 113158 (Sub-33F), Todd Transport Company, Inc., now being assigned for hearing on September 19, 1979 (3 Days), at Philadelphia, PA, New U.S. Courthouse, 601 Market Street.
MC 120924 (Sub-4F), B&W Carage Co., Inc., now being assigned for hearing on October 9, 1979 (2 Days), at Chicago, IL in a hearing room to be designated later.
MC 41406 (Sub-118F), Artim Transportation System, Inc., now being assigned for hearing on October 11, 1979 (2 Days), at Chicago, IL in a hearing room to be designated later.
MC 114273 (Sub-543F), CRST, INC., now being assigned for hearing on October 15, 1979 (2 Days), at Chicago, IL in a hearing room to be designated later.
MC 105407 (Sub-17F), Hannibal Quincy Truck Lines, Inc., now being assigned for hearing on October 17, 1979 (3 Days), at Chicago, IL in a hearing room to be designated later.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–23954 Filed 8–02–79; 8:45 am]

BILLING CODE 7035–01–M

[Notice No. 118]

Assignment of Hearing; Correction

July 30, 1979.

MC 112989 (Sub-78F), West Coast Truck Lines, Inc., appearing page 41005 July 13, 1979 is corrected as follows; No. MC 112989 (Sub-78F), West Coast Truck Lines, Inc., now being assigned for continued hearing on September 11, 1979 (6 days), at the Hilton Hotel, 150 West Fifth South, Salt Lake City, Utah (instead of September 9, 1979).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–23955 Filed 8–2–79; 8:45 am]

BILLING CODE 7035–01–M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 151
Friday, August 3, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

July 31, 1979.

COUNCIL ON ENVIRONMENTAL QUALITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 146, July 27, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: August 2, 1979, 11:30 a.m.

PLACE: Conference Room, 722 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Foster Knight, (202) 395-4616.

CHANGES IN THE MEETING: The meeting has been rescheduled for August 16, 1979 at 11:30 a.m. in the Conference Room, 722 Jackson Place NW., Washington, D.C. 20006.

MATTERS TO BE CONSIDERED:

1. Old business.
2. Briefing on status of agencies' NEPA procedures.
3. Briefing on release of *Our Nation's Wetlands.*
4. Briefing on status of the Toxic Substances Strategy Committee Report.

[S-1548-79 Filed 8-1-79; 11:06 am]
BILLING CODE 3125-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 1, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda, Item No., and Subject

Assignment and Transfer—2—Title: (1) Applications for consent to the assignment of license and/or the transfer of control to Viacom Broadcasting, Inc. (VBI) of certain stations licensed to Sonderling Broadcasting Co. (SBC); (2) Applications for the assignment of license and the transfer of control of stations WOPA and WBMX(FM), Oak Park, Illinois, from SBC to Sonderling Radio Corporation; (3) Applications (BAL-790608GI) for the voluntary assignment of license of station WOL, Washington, D.C., from SBC to WOL, Inc.; Summary: SBC has proposed to merge into Viacom International, Inc. with Viacom acquiring all of SBC's broadcast facilities except WOPA and WBMX(FM), Oak Park, Illinois, and WOL, Washington, D.C.

Additional information concerning this item may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: July 31, 1979.

[S-1551-79 Filed 8-1-79; 3:29 pm]
BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 1, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, Item No., and Subject

Television—3—Title: Western Communications, Inc., for extension of previously ordered deadline for terminating operations of Station KORK-TV, Las Vegas, Nevada. Summary: The proposed memorandum considers the issue of whether Westen should be afforded a further short extension of operating authority until the Commission can fully consider on the merits at its first September agenda meeting Western's "Request for Expedited Action to Permit Continuation of KORK-TV Operations" until a successor licensee is ready to begin operations on Channel 3.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: August 1, 1979.

[S-1552-79 Filed 8-1-79; 3:29 pm]
BILLING CODE 6712-01-M

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., August 9, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Branch Office—Central DuPage Federal Savings and Loan Association, Wheaton, Illinois.

Application for Insurance of Accounts—Southside Savings and Loan Association, Austin, Texas.

Request for a Commitment to Insure Accounts—Franklin Savings and Loan Association, Jefferson City, Tennessee.

Application for Withdrawal From Membership—Heritage Savings and Loan Association, Cincinnati, Ohio.

Application for Amendment of Charter—Brookfield Federal Savings and Loan Association, Brookfield, Illinois.

Application for Authority to Incur Debt—Mountain States Financial Corporation, Albuquerque, New Mexico.

No. 259, August 1, 1979.

[S-1553-79 Filed 8-1-79; 3:29 pm]
BILLING CODE 6720-01-M

5

FEDERAL MARITIME COMMISSION.

TIME AND DATE: August 7, 1979, 10 a.m.

PLACE: Room 12126—1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public; the rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Docket No. 79-29: Angel Alfredo Romero—Independent Ocean Freight Forwarder Application and Foreign Freight Forwarders, Inc.,—Possible Violations of Section 44, Shipping Act, 1916—Consideration of request to enter into settlement negotiations.
2. Docket No. 79-30: Independent Ocean Freight Forwarders License No. FMC 1728, I.M.S., Inc.—Consideration of request to enter into settlement negotiations.

Portions Closed to the Public

1. Agreement No. 10320-1: Modification of a cargo revenue pooling and sailing arrangement in the trade from Brazil to the United States Gulf to provide for participation of nonnational flag lines.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-1547-79 Filed 8-1-79; 10:25 am]
BILLING CODE 6730-01-M

6

July 20, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., July 27, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor v. Massey Sand & Rock Co.* Docket No. DENV 78-575-PM. (Petition for Discretionary Review)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-1546-79 Filed 8-1-79; 10:25 am]
BILLING CODE 6820-12-M

7

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 3 p.m., Friday, July 27, 1979.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Proposed revisions to a contract between a Federal Reserve Bank and an employee.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 27, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-1549-79 Filed 8-1-79; 12:11 p.m.]
BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, August 8, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Revision of a proposed amendment to Regulation T (Credit by Brokers and Dealers) to permit options specialists to both purchase and sell short the stock underlying the options in which they specialize, with a 25 percent margin requirement. (Proposed earlier for public comment; Docket No. R-0054).
2. Proposed amendment to Regulation T (Credit by Brokers and Dealers) to allow broker-dealers to extend credit on mutual fund shares. (Docket No. R-0158).
3. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of Bank of Conway, Conway, North Carolina, with First-Citizens Bank & Trust Company, Raleigh, North Carolina.
4. Any agenda items carried forward from a previously announced meeting.

Note. This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 31, 1979.

Theodore E. Allison,
Secretary of the Board.

[S-1550-79 Filed 8-1-79; 12:11 pm]
BILLING CODE 6210-01-M

9

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 45292, August 1, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Friday, August 3, 1979, 9 a.m. [NM-79-25]

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires that the agenda of this meeting be revised and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first three items will be open to the public; the remaining three items will be closed to the public under the Government in the Sunshine Act. Exemption 10.

MATTERS TO BE CONSIDERED:

1. *Letter* to Materials Transportation Bureau re closeout of seven Hazardous Materials Recommendations.
2. *Letter* to Materials Transportation Bureau re Notice of Proposed Rulemaking. Notice No. 79-9, Dkt. No. HM-126A.
3. *Letter* to Federal Railroad Administration re Notice of Proposed Rulemaking, Dkt. LI-6, locomotive inspections.
4. *Opinion and Order*—Petition of Welch, Dkt. SM-2280; disposition of Administrator's appeal.
5. *Opinion and Order*—Commandant v. Woods, Dkt. ME-69; disposition of pilot's appeal.
6. *Opinion and Order*—Commandant v. Taylor, Dkt. ME-68; disposition of master's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

August 1, 1979.

[S-1554-79 Filed 8-1-79; 3:57 pm]
BILLING CODE 4910-58-M

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federal register

Friday
August 3, 1979

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federal Assisted Construction

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wages rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494 as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act: and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impracticial and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obained concerning changes in prevalling hourly wages rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 224–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas Decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Goernment Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Mississippi	MS79–1115
Missouri	MO79–4071; MO79–4072

Modifications to General Wage Determination Decisions

The numbers of the decisons being modified and their dates of publication in the Federal Register are listed with each State.

Alabama	AL 78–1080	September 22, 1978.
	AL79–1068	April 13, 1979.
Arizona	AR79–5100	February 9, 1979
Iowa	IA78–4100	November 24, 1978
Nevada	NV79–5102; NV79–5107.	March 9, 1979.
Oklahoma	OK78–4068	June 16, 1978.
Pennsylvania	PA78–3027	April 21, 1978.
	PA78–3064; PA78–3066.	September 22, 1978.
	PA78–3070	September 29, 1978.
	PA78–3069	October 6, 1978.
	PA79–3096	March 30, 1979.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas	AR78–4071 (AR79–4057).	July 21, 1978.
Nebraska	NE78–4107 (NE79–4075).	August 6, 1976
North Dakota	ND78–5113 (ND79–5128).	July 21, 1978.
Oklahoma	OK79–4024 (OK79–4073).	February 2, 1979.
	OK78–4054 (OK79–4074).	June 9, 1978.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 27th day of July 1979.

William G. Blackburn,

Acting Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION
STATE: Missouri
DECISION NO.: MO79-4071
DESCRIPTION OF WORK: Building projects, (excluding single family homes and apartments up to and including 4 stories)
COUNTIES: Pettis and Saline
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.67	.60	1.55		.05
BOILERMAKERS	12.00	1.15	1.00		.03
BRICKLAIERS, Stonemasons, tilelayers	10.60		.35		
CARPENTERS (Pettis County):					
Carpenters	9.95	.33	.15		
Millwrights	10.45	.33	.15		
Piledrivers	10.075	.33	.15		
CARPENTERS (Saline County):					
Carpenters	10.625	.50	.30		.05
Millwrights & piledriver-men	11.00	.50	.30		.05
CEMENT MASONS	10.13				
ELECTRICIANS (Pettis County):					
Contracts not exceeding 2000 man hours	11.77	.54	3%+.51	.95	.10
Contracts exceeding 2000 man hours	12.77	.54	3%+.51	.95	.10
Electricians (Saline County):					
Contracts not exceeding 2000 man hours	11.77	.54	3%+.51	.95	.10
Contracts exceeding 2000 man hours	12.77	.54	3%+.51	.95	.10
ELEVATOR CONSTRUCTORS:					
Elevator constructors, helpers	12.71	.745	.56	3%+a	.025
Elevator constructors' helpers (prob).	70%JR	.745	.56	3%+a	.025
GLAZIERS	50%JR	.61	.89	18.7%	.04
IRONWORKERS	10.72	.75	1.40	1.00	.05
PAINTERS:	11.60				
Brush	10.75				
Spray; sandblasting	11.75				
Machine taping; outside work on swing stages, window jacks, with belts or boat-swain's chair	11.25	.67	1.50		.10
PIPEFITTERS	12.89				
PLASTERERS	9.00				
PLUMBERS	13.82	.97	1.15		.12
ROOFERS	11.60	.75	.75		.14

NEW DECISON
STATE: Mississippi
DECISION NO.: MS79-1115
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories
COUNTIES: *See below
DATE Date of Publication

*Calhoun, Carroll, Grenada, Holmes, Lafayette, Le Flore, Montgomery, Panola, Tallahatchie and Yalobusha

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	4.78				
Cement masons	3.32				
Drywall Finishers	4.00				
Drywall Hangers	5.00				
Electricians	4.00				
Ironworkers, reinforcing	4.25				
Laborers	3.32				
Painters, brush	3.60				
Plumbers and pipefitters	6.00				
Sheet metal workers	3.50				
Soft floor layers	4.00				
Welders - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Bulldozer	5.50				
Trenching machine op.	4.75				

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	12.83	.75	1.10		.08
LATHERS	10.85				
MARBLE & TILE SETTERS	12.65	5%	4.25%		
MARBLE & TILE SETTERS FINISHERS	10.85				
TERRAZZO WORKERS	12.31	5%	4.25%		
LABORERS (Pettis County):					
GROUP 1	7.225	.60	.60	.50	.10
GROUP 2	7.325	.60	.60	.50	.10
GROUP 3	7.55	.60	.60	.50	.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Carpenter tenders; track men; wreckers (alterations or entire project); reinforcing rod carriers; all other general laborers
GROUP 2 - Plumber laborers; stonemasons tenders; air tool operators; sewer work; water lines; conduit pipe; drain tile & duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; scaleman; jackhammer; chipping hammer operators; material batch hopper man; spreader or screed man on asphalt machine; brush feeders on pulverizers; swining scaffold; cement handlers (bulk or sack); laser beam man; chain or concrete saw
GROUP 3 - Plaster tenders; hod carriers; brick tenders; cutting torch & burner men; asphalt rakers; barco tamper; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzleman; head pipe layer on sewer work; men working in tunnels; head form setters & stringline men; hot tar applicator

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Saline County):					
GROUP 1	9.35	.45	.40	.50	.10
GROUP 2	9.50	.45	.40	.50	.10
GROUP 3	9.65	.45	.40	.50	.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Common labor; wire mesh handlers or setters, carpenter tender; trackmen; flagmen; signalmen; salamander tenders; floor cleaners; landscape men; sod layers; wreckers (for alteration or entire projects
GROUP 2 - Plumber laborers (conduit pipe, sewer work , drain tile & duct lines, digging & back filling); power tool operators; pier hold diggers (over 10 ft.); vibrator, jackhammer & chipping hammer operators; chain saw operators, concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch witch operators; swinging scaffolds; cutting torch or burner men; georgia buggies (self-propelled): fork lift, hoseman; insulation men
GROUP 3 - Fork lift (masonry); brick tenders; plasterer tenders; stone mason tenders; barco, Jackson or similar tamp operators; asphalt raker; powdermen; mastic hot kettlemen; sandblasting & gunite nozzle men; wagon & churn drill operators

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Master Mechanic	13.20	.75	1.00	.75	.10
Crane-tower or climbing	12.70	.75	1.00	.75	.10
GROUP 1	12.20	.75	1.00	.75	.10
GROUP 2	11.85	.75	1.00	.75	.10
GROUP 3	9.45	.75	1.00	.75	.10
GROUP 4	9.95	.75	1.00	.75	.10
GROUP 5	10.20	.75	1.00	.75	.10
GROUP 6	12.45	.75	1.00	.75	.10
GROUP 7	12.10	.75	1.00	.75	.10
GROUP 8	12.70	.75	1.00	.75	.10
GROUP 9	11.95	.75	1.00	.75	.10
GROUP 10	11.70	.75	1.00	.75	.10
GROUP 11	9.70	.75	1.00	.75	.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Asphalt paver & spreader; asphalt plant mixer oper.; asphalt plant operator; back fillers; backhoe, all types; barber-green loader (similar type); blade-power, all types; boats-power; boilers (2); boring machines (all types); cableways; cherry pickers (all types); chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks & derrick cars (power operated); ditching machines; dozers; dredges-any type power; grade-all-similar type; hoist, endless chain power oper. with power travel; loaders, all types; mechanic & welder; mucking machine; orange peels; pumps-material-all types; push cat.; scoop-all types; self-propelled rotary drill; shovel power; side boom; skimmer scoop; test-hole machines; throttle man; locomotives, all types

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONTD

GROUP 2 - Boilers (1); brooms-power oper. (all types); chip spreader, (front man); clef plane oper; compressor (1) 105' or over; compressors(2) 105 ft. or over not more than 20' apart; compressors - tandem (any sizes); compressors single, truck mounted; concrete saws, self-propelled; crab-power oper.; curb finishing machine; elevator; finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain-power operated; hopper-power operated; hydra-hammer (all types); lad-a-vator-similar type; rollers-all types; siphons, jets & jennies; sub grader; tractors over 50 h.p.
GROUP 3 - Oiler
GROUP 4 - Fork lift-masonry; oiler driver-all types
GROUP 5 - A frame trucks; forklift-all types and sizes except masonry mixers (with side loaders); pumps (with well points) dewatering systems, test or pressure pumps; tractors; (except when hauling material) less than 50 h.p.
GROUP 6 - Clamshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl. jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft. of boom or over (incl. jib)
GROUP 7 - Hoists-each additional drum over 1 drum
GROUP 8 - Crane or rigs, over 200 ft. of boom
GROUP 9 - Ready mixed concrete plants: crane operator
GROUP 10 - Loader operator & plant man
GROUP 11 - Conveyor operator

FOOTNOTE: a-Employer contributes 8% of basic hourly rate for over 5 years service and 6% of basic hourly rate for 6 months to 5 years as Vacation Pay Credit. Also 7 Paid Holidays.

NEW DECISION

STATE: Missouri COUNTY: Greene
DECISION NO.: MO79-4072 DATE: Date of Publication
DESCRIPTION OF WORK: Building projects, (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.97	.50	1.00		.04
BOILERMAKERS	12.00	1.15	1.00		.03
BRICKLAYERS, Stonemasons & tuck pointers	11.07		.30		
CARPENTERS:					
Carpenters	10.30	.50	.40		.08
Millwrights & piledrivermen	10.63	.50	.40		.08
CEMENT MASONS	8.75				
ELECTRICIANS:					
Electricians	11.705	.47	3%+.75	6%	.02
Cable splicers	12.195	.47	3%+.75	6%	.02
ELEVATOR CONSTRUCTORS:					
Elevator constructors	12.71	.745	.56	3%+a	.025
Elevator constructors' helpers	70%JR	.745	.56	3%+a	.025
Elevator constructors' helpers (prob).	50%JR				
GLAZIERS:					
Outside	10.00				
Inside	7.30				
IRONWORKERS	11.485	.75	1.40	1.00	.05
LATHERS	11.25				
MARBLE MASONS, Tile layers & terrazzo workers	10.92		.30		
PAINTERS:					
Brush, roller & tapers	9.90	.50			
Spray, sandblasting, paperhangers, hazardous materials, elevator shafts	10.40	.50			
PLASTERERS	8.85				
PLUMBERS & Pipefitters	12.44	.35	.25		.03
ROOFERS	7.90	.46	.20		
SHEET METAL WORKERS	9.75	.83	.55		.04
LABORERS:					
GROUP 1	7.20	.60	.60	.50	.10
GROUP 2	7.48	.60	.60	.50	.10
GROUP 3	7.63	.60	.60	.50	.10
GROUP 4	7.80	.60	.60	.50	.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Common labor, handling and carrying of reinforcing steel pumps of all types and heaters
GROUP 2 - Asphalt raker, crusher feederman, cement finisher tender, jackhammer and air tool operator, power tamper operator, pipe layer (concrete or clay), sand blast and gunnite nozzlemen, vibrator operator, wagon drill operator, cat-drill operator, and all work of a semi-skilled nature not listed
GROUP 3 - Mason tenders: Including plasterer tender, mortar mixer and fork lift operator
GROUP 4 - Powderman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	10.48	.50	.75		
GROUP 2	10.00	.50	.75		
GROUP 3	9.40	.50	.75		
GROUP 4	8.80	.50	.75		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Crane, dragline; derrick; drum or tower hoist (2 drum); power shovel or back hoe (on tracks); piledriver; ~~power blade, motor patrol; mechanic; hydraulic, self-propelled~~ crane, stringer or cherry picker crane
GROUP 2 - Bulldozer; dirt scoop or pan; elevating grader; drum or tower hoist (1-drum); loader (track or rubber tire); tractor pusher; roller (asphalt); tractor or backhoe (on rubber tires); tractor (compaction roller or pull blade track)
GROUP 3 - Fork lift; roller; industrial tractor; tractor (compaction roller or pull blade-rubber tire); distributor (bituminous); finishing machine (concrete paving); concrete saw (self-propelled); air compressor (600 cu. ft. or over); small machine (operator)
GROUP 4 - Oiler, oiler-driver

FOOTNOTE: a - Employer contributes 8% of basic hourly rate for over 5 years' service, and 6% of basic hourly rate for 6 months to 5 years Vacation Pay Credit, also 7 Paid Holidays.

MODIFICATIONS P. 1

DECISION No. AL78-1080- Mod. #3 (43 FR 43152 - September 22, 1978) Calhoun County, Alabama	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians	12.05	.55	3%+.40		½ of 1%
DECISION NO. AL79-1066-Mod.#1 (44 FR 22307 - April 13, 1979) Madison County, Alabama					
Change:					
Electricians, Lineman	11.30	.50	3%+.55		1%
DECISION #AZ79-5100-Mod. #4 (44 FR 8482 - February 9, 1979) Statewide, Arizona					
Change:					
Boilermakers	$14.36	$1.175	$1.00	$1.00	.03
Bricklayers:					
Phoenix Area:					
Bricklayers; Manhole Builders; Stonemasons:					
Zone A	12.52	.65	1.10		.09
Zone B	13.54	.65	1.10		.09
~~Zone C~~	~~14.17~~	~~.65~~	~~1.10~~		~~.09~~
Zone D	14.81	.65	1.10		.09
Zone E	15.32	.65	1.10		.09
Zone F	16.34	.65	1.10		.09
Lathers:					
North of a line crossing the state drawn through Ajo, Randolph and Springerville; except as follows: north-east of a line drawn from Springerville to a point 4 miles north-east of Keams canyon	12.49	.75			.06
Line Construction:					
Zone 1:					
Groundmen	10.22	1.00	3%+1.50		1/2%
Equipment Operator; Powdermen; Mechanics	12.07	1.00	3%+1.50		1/2%
Linemen; Technicians; Crane Operators	13.60	1.00	3%+1.50		1/2%
Cable Splicers	14.00	1.00	3%+1.50		1/2%
Zone 1-A:					
Groundmen	11.06	1.00	3%+1.50		1/2%
Equipment Operators; Powdermen; Mechanics	12.84	1.00	3%+1.50		1/2%
Linemen; Technicans; Crane Operators	14.42	1.00	3%+1.50		1/2%
Cable Splicers	14.90	1.00	3%+1.50		1/2%

MODIFICATIONS P. 2

DECISION #AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 2:					
Groundmen	$11.84	$1.00	3%+1.50		1/2%
Equipment Operators; Powdermen; Mechanics	13.63	1.00	3%+1.50		1/2%
Linemen; Technicians; Crane Operators	15.22	1.00	3%+1.50		1/2%
Cable Splicers	15.65	1.00	3%+1.50		1/2%
Painters:					
Flagstaff Area:					
Zone A:					
Brush; Soft Floor Layers	11.60	.90	.80		.20
Brush, steel & bridge	12.10	.90	.80		.20
Spray	12.05	.90	.80		.20
Spray, steel & bridge	12.60	.90	.80		.20
Zone B:					
Brush, Soft Floor Layers	12.35	.90	.80		.20
Brush, steel & bridge	12.85	.90	.80		.20
Spray	12.80	.90	.80		.20
Spray, steel & bridge	13.35	.90	.80		.20
Zone C:					
Brush; Soft Floor Layers	13.35	.90	.80		.20
Brush, steel & bridge	13.85	.90	.80		.20
Spray	13.80	.90	.80		.20
Spray, steel & bridge	14.35	.90	.80		.20
Zone D:					
Brush; Soft Floor Layers	13.60	.90	.80		.20
Brush, steel & bridge	14.10	.90	.80		.20
Spray	14.05	.90	.80		.20
Spray, steel & bridge	14.60	.90	.80		.20
Terrazzo Workers; Tile Setters:					
Phoenix Area	10.91	.65	1.10		.19

DECISION #AZ79-5100 (Cont'd) MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Sheet Metal Workers:					
Zone Bases: From the Administration Building or City Hall in Flagstaff, Kingman; Phoenix, Prescott and Yuma:					
Zone 1: 0-25 miles excluding Luke and Williams Air Force Bases	$11.70	.90	$1.30		.10
Zone 2: 25-50 miles including Luke and Williams Air Force Bases	12.35	.90	1.30		.10
Zone 3: 50 miles and over	14.20	.90	1.30		.10
Add:					
Sheet Metal Workers:					
Apache, Coconino, Gila, Graham County (north of 33rd Parallel), Greenlee County (north of 33rd Parallel), Maricopa, Mohave, Navajo, Pinal County (north of 33rd Parallel), Yavapai, Yuma Counties:					
Zone 1:0 to 25 radius miles, excluding Luke and Williams Air Force Bases, from the following base points: the intersection of 56th St. and Indian School Road in Phoenix, and the City Hall in Flagstaff, Kingman, Prescott and Yuma	13.23	1.00	1.40		.12
Zone 2: 25 to 50 radius miles from the base points listed in Zone 1; also Luke and Williams Air Force Bases	$13.88	$1.00	$1.40		.12
Zone 3: 50 radius miles and over from the base points listed in Zone 1	15.73	1.00	1.40		.12

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MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA78-4100-Mod. #3 (43 FR 55161-November 24, 1978) Building Black Hawk County, Iowa					
CHANGE:					
Carpenters	$10.09	.45	1.40		.03
Millwrights	10.69	.45	1.40		.03
Piledrivermen	10.69	.45	1.40		.03
DECISION #NV79-5102-Mod. #2 (44 FR 13221 - March 9, 1979) Clark County (does not include the Nevada Test Site), Nevada					
Change:					
Boilermakers	$14.36	$1.175	$1.00	$1.00	.03
Electricians:					
Electricians; Technicians	15.71	.98	3%+1.80		.08
Cable Splicers	16.04	.98	3%+1.80		.08
Ironworkers:					
Fence Erectors	11.61	1.39	2.82	1.90	.07
Ornamental; Reinforcing; Structural	12.50	1.39	2.82	1.90	.07
Painters:					
Brush; Roller	14.24	.80	.70		.06
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Tapers	14.59	.80	.70		.06
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 1	11.60	1.10	2.60	.85	.14
Group 2	11.88	1.10	2.60	.85	.14
Group 3	12.17	1.10	2.60	.85	.14
Group 4	12.31	1.10	2.60	.85	.14
Group 5	12.53	1.10	2.60	.85	.14
Group 6	12.64	1.10	2.60	.85	.14
Group 7	12.76	1.10	2.60	.85	.14
Group 8	12.93	1.10	2.60	.85	.14
Group 9	13.06	1.10	2.60	.85	.14
Sheet Metal Workers	14.00	1.14	1.62	2.00	.17
Sprinkler Fitters	16.72	.75	1.05		.08

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV79-5107-Mod. #2 (44 FR 13225-March 9, 1979) Nevada Test Site including Tonopah Test Range in Clark, Lincoln and Nye Counties, Nevada					
Change:					
Boilermakers	$14.36	$1.175	$1.00	$1.00	.03
Ironworkers:					
Ornamental; Reinforcing; Structural	12.50	1.39	2.82	1.90	.07
Laborers:					
Group 1	9.88	.81	1.25	1.25	
Group 2	9.93	.81	1.25	1.25	
Group 3	9.96	.81	1.25	1.25	
Group 4	9.98	.81	1.25	1.25	
Group 5	10.00	.81	1.25	1.25	
Group 6	10.01	.81	1.25	1.25	
Group 7	10.03	.81	1.25	1.25	
Group 8	10.06	.81	1.25	1.25	
Group 9	10.07	.81	1.25	1.25	
Group 10	10.09	.81	1.25	1.25	
Group 11	10.14	.81	1.25	1.25	
Group 12	10.17	.81	1.25	1.25	
Group 13	10.19	.81	1.25	1.25	
Group 14	10.22	.81	1.25	1.25	
Group 15	10.24	.81	1.25	1.25	
Group 16	10.305	.81	1.25	1.25	
Group 17	10.33	.81	1.25	1.25	
Group 18	10.40	.81	1.25	1.25	
Power Equipment Operators:					
Group 1	11.63	1.10	2.60	.35	.04
Group 2	11.87	1.10	2.60	.35	.04
Group 3	12.11	1.10	2.60	.35	.04
Group 4	12.22	1.10	2.60	.35	.04
Group 5	12.41	1.10	2.60	.35	.04
Group 6	12.51	1.10	2.60	.35	.04
Group 7	11.21	1.10	2.60	.35	
Group 7-A	10.92	1.10	2.60	.35	
Group 7-B	10.81	1.10	2.60	.35	
Group 7-C	10.57	1.10	2.60	.35	
Sprinkler Fitters	16.72	.75	1.05		.08

MODIFICATIONS P. 6

DECISION #NV79-5107 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit					
Painters:					
Brush; Roller Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers; Buffing; Sandblasters, Steel	$10.76	.75	.65	$1.50	.06
	11.11	.75	.65	1.50	.06
Add:					
Painters:					
Brush; Rollers Paperhangers; Spray; Steel; Sandblasters;	11.71	.80	.70	1.50	.06
Swing Stage; Tapers Buffing, Steel; Sandblasters, Steel	12.06	.80	.70	1.50	.06
	12.32	.80	.70	1.50	.06
DECISION NO. OK78-4058 - Mod.#6 (43 FR 26258 - June 16, 1978) McIntosh County, Oklahoma					
Change modification No. 4 published July 20, 1979 to read "Modification No. 5"					
DECISION NO. PA78-3037 - Mod. #4 (43 FR 17239 - April 21 1978) Blair County, Pennsylvania					
Change:					
DESCRIPTION OF WORK: Building Erection and Foundation (does not include single family homes and garden type apartments up to and including 4 stories).					
Carpenters & Soft Floor Layers	10.95	6%	8%	10%	1½%
Laborers	8.95	10%	9%		
Sheet Metal Workers	11.06	1.42	1.18		.14

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA78-3064 - Mod. #7 (43 FR 43224 - September 22, 1978) Schuylkill County, Pennsylvania					
Change:					
Electricians:					
Pine Grove & Tremont Township	10.09	.65	3%+.67		½%
Sprinkler Fitters	13.30	.75	1.05		.08
DECISION NO. 78PA-3066 - Mod. #10 (43 FR 43228 - September 22, 1978) Columbia, Montour, Snyder Counties Pennsylvania					
Change:					
Electricians:					
Zone III	11.36	.65	3%+.67		½%
Sprinkler Fitters	13.30	.75	1.05		.08
DECISION NO. PA78-3069 - Mod. #7 (43 FR 46475 - October 6, 1978) Berks County, Pennsylvania					
Change:					
Electricians:					
Marion, Tulpehocken & Bethel Twps.	10.09	.65	3%+.67		½%
Sprinkler Fitters	13.30	.75	1.05		.08

MODIFICATIONS P. 8

DECISION NO. PA78-3070 - Mod. #7
(43 FR 45162 - September 29, 1978)
Lancaster County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians: That portion northwest of a line extending from the Susquehanna River to the intersection of State Highways 441 and 241 along 241 to the Borough of Elizabethtown around the linits of Elizabethtown on the west and north side, but including the Masonic Homes in Elizabethtown, continuing along State Highway 241 to Lebanon County and that portion north of the Pennsylvania Turnpike, but including all building on the Turnpike, from Lebanon County line West Calico ~~township~~	11.36	.65	3% + .67		½ of 1%
Sprinkler Fitters	13.30	.75	1.05		.08

DECISION NO. PA79-3006 - Mod. #4
(44 FR 19099 - March 30, 1979)
Franklin County, Pennsylvania

Change:					
Carpenters	10.95	6%	8%	10%	1½%
Electricians	11.36	.65	3%+.67		½%
Laborers	8.70	10%	9%		

SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Union and Ouachita
DECISION NO. AR79-4057 DATE: Date of Publication
Supersedes Decision No. AR78-4071 dated July 21, 1978 in 43 FR 31550
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.85	.50	1.00		.02
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS	8.65	.40	.35		.04
CARPENTERS:					
Carpenters	8.52	.45	.35		.04
Millwrights & Piledrivermen	9.02	.45	.35		.04
CEMENT MASONS	8.67	.25			.03
ELECTRICIANS:					
Electrical contracts $20,000 or less:					
Electricians	11.59		3%		4%
Cable splicers	11.89		3%		4%
Electrical contracts over $20,000:					
Electricians	12.38		3%		4%
Cable splicers	12.68		3%		4%
IRONWORKERS	10.75	.45	.95		.06
LABORERS:					
Group I	6.25	.33	.60		
Group II	6.50	.33	.60		
Group III	6.65	.33	.60		
Group IV	6.75	.33	.60		
Group V	7.05	.33	.60		
Group VI	7.15	.33	.60		
Group VII	6.82	.33	.60		

LABORERS CLASSIFICATION DEFINITIONS

Group I - Construction laborers, concrete labor, wrecking labor, mechanics, labor, excavating labor, plumbers' labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer
Group II - Semi-skilled laborer; pipelayer, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers & shovelers, creosote wood handlers, chuck tenders
Group III - Steel form setters, curb and gutters, grout and cement muckers
Group IV - Swinging scaffold, barco, 90 lb. pavement breaker, and burners
Group V - Nozzlemen (gunnite, grout and sand blaster; concrete pump (nozzle placer)
Group VI - Powderman and blasters
Group VII - Wagon drill

DECISION NO. AR79-4057 Page 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Electrical contracts $20,000 or less:					
Cable splicers	$11.89		3%		4%
Lineman	11.59		3%		4%
Operator	11.32		3%		4%
Truck driver (pick-up & jeep), groundman	10.39		3%		4%
Electrical contracts over $20,000.00:					
Cable splicers	12.68		3%		4%
Lineman	12.38		3%		4%
Operator	12.11		3%		4%
Truck driver (pick-up & jeep), groundman	11.03		3%		4%
PAINTERS:					
Brush, roller, sheet rock work and paperhanging	8.75				
Spray painting & sandblasting	9.625				
PLASTERERS	10.50				.02
PLUMBERS & PIPEFITTERS	11.30	.75	.45		.05
POWER EQUIPMENT OPERATORS:					
Group I	10.25	.35	.35		
Group II	9.31	.35	.35		
Group III	8.88	.35	.35		
Group IV	7.34	.35	.35		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders
Group II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swing boom attachments, gradealls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size
Group III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 10S and larger, finishing machines, all boilers firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

DECISION NO. AR79-4057 Page 3

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

Group IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types & pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, lad-a-vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump euclid, pump-crete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines, light plants, pumps, all well point system, de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	9.00		.10		
SHEET METAL WORKERS	9.75	3%+.55	.40		.16
SPRINKLER FITTERS	11.44	.75	1.05		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Nebraska
COUNTIES: Hall, Howard, Hamilton and Merrick Counties
DECISION NO.: NE79-4075
DATE: Date of Publication
Supersedes Decision No. NE76-4107, dated August 6, 1976 in 41 FR 33158
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apratments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	10.00				
CARPENTERS	8.50				
CEMENT MASONS	6.00				
ELECTRICIANS	8.00	.55	3%		1%
GLAZIERS	5.00				
IRONWORKERS	6.00				
INSULATOR	5.20				
LABORERS:					
Common	4.00				
Mason tenders	4.00				
PAINTERS	6.00				
PLUMBERS & Pipefitters	7.48				
ROOFERS	7.15				
SHEET METAL WORKERS	5.92				
SOFT FLOOR LAYERS	8.50				
TILE SETTERS	8.50				
TRUCK DRIVERS	4.80				
POWER EQUIPMENT OPERATORS:					
Bulldozers	8.25				
Cranes, derricks, draglines	8.25				
Finishing machines	5.85				
Motor graders	6.20				
Oilers	5.35				
Rollers	5.45				
Tractors	5.50				

SUPERSEDEAS DECISION

STATE: North Dakota
COUNTIES: Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Walsh and Ward
DECISION NUMBER: ND79-5128
DATE: Date of Publication
Supersedes Decision No. ND78-5113 dated July 21, 1978, in 43 FR 31563
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.05	.35	.64		.005
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:					
Burleigh & Morton Counties	11.00		.30		
Grand Forks, Steele and Walsh Counties	11.15		.30		
Cass & Richland Counties	11.65	.60	.30		
Ward County	10.15		.30		
CARPENTERS:					
Burleigh & Morton Counties					
Carpenters	9.95	.65			
Piledrivermen	10.20	.65			
Grand Forks, Steele (Northern Area) and Walsh Counties					
Carpenters	10.28		.50		
Piledrivermen	10.54		.50		
Millwrights	9.86	.50	.50	.50	.02
Cass, Richland and Steele (Southern Area) Counties					
Carpenters	10.59	.13	.40		.03
Ward County					
Carpenters	9.23				.02
Piledrivermen	9.46				.02
Millwrights	9.86	.50	.50	.50	.02
CEMENT MASONS:					
Burleigh & Morton Counties	9.55				
Grand Forks, Steele and Walsh Counties	8.10		.30		
Cass & Richland Counties	9.86				
Ward County	8.75				
DRYWALL TAPERS:					
Cass, Grand Forks, Richland, Steele and Walsh Counties	10.08	.45			

DECISION NO. ND79-5128 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Cass, Grand Forks, Richland, Steele and Walsh Counties					
Zone mileage from main P.O. in the Cities of Grand Forks, Valley City, Fargo and West Fargo					
Zone A: within 0-15 miles of each main P. O.					
Electricians	$10.65	.40	3%	6%	1/2%
Cable Splicers	11.18	.40	3%	6%	1/2%
Zone B: 15-30 miles of each main P. O.					
Electricians	11.27	.40	3%	6%	1/2%
Cable splicers	11.80	.40	3%	6%	1/2%
Zone C: Over 30 miles of each main P. O.					
Electricians	12.15	.40	3%	6%	1/2%
Cable Splicers	12.68	.40	3%	6%	1/2%
Burleigh, Morton and Ward Counties					
Electricians	10.60	.40	3%+.80	6%	1/2%
Cable Splicers	11.00	.40	3%+.80	6%	1/2%
ELEVATOR CONSTRUCTORS	10.87	.895	.69	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.895	.69	a	.035
GLAZIERS:					
Burleigh County	7.22	.25			
IRONWORKERS:					
Ornamental; Structural; Reinforcing	11.90	.60	.80		.10
MILLWRIGHTS	11.26	.65	.55		.02
PAINTERS:					
Cass, Grand Forks, Richland and Steele Cos.					
Brush; Roller; Paperhangers	9.30				.02
Sandblasting; Structural Steel Spray	10.30				.02

DECISION NO. ND79-5128 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Burleigh & Morton Counties					
Brush, Roller, Paper and Vinyl Hanging	$ 8.70				
Spray Painting (more than 20 hours per week or 60 hours per month)	9.20				
Sandblast, Swing Stage; or Chair work, Structural Steel and Bridges, Stacks, Water Towers, Storage Tanks	9.20				
Ward County					
Brush	8.55				
Spray	8.90				
PLASTERERS:					
Grand Forks, Walsh and Steele Counties	8.84		.30		
Ward County	8.75				
Cass & Richland Counties	11.00				
PLUMBERS:					
Cass, Grand Forks, Richland, Steele and Walsh counties	11.54	.85	.42		.03
Burleigh & Morton Counties	13.15	.75	.65		.02
Ward County	12.15	.75	.55		.04
ROOFERS:					
Cass & Richland Counties	9.05				
SHEET METAL WORKERS:					
Burleigh, Grand Forks, Morton, Steele and Ward Counties	11.00		.25	.61	.04
Cass & Richland Counties	12.15	.60	.45		.035
SOFT FLOOR LAYERS:					
Burleigh County	8.56				
Cass & Richland Counties	8.95				
SPRINKLER FITTERS	11.90	.75	1.05		.08
TRUCK DRIVERS:					
Site Preparation Excavation and Incidental Paving					
Single Axle	6.67	.50	.35		
Tandem	6.77	.50	.35		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Con'd)					
Agitator Dumpcrete; Off Road Heavy End Dumps, 20 yards and under; Tandem Semi, Lowboy	$ 7.02	.50	.35		
Euclid, over 20 yards	7.65	.50	.35		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer credits 6% basic hourly rate for employee with 6 months to 5 years' service; 8% basic hourly rate with over 5 years' service as Vacation Credit Plan. Six Paid Holidays: A through F.

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.40	.45	3%		1/2%
Group 2	11.37	.45	3%		1/2%
Group 3	9.12	.45	3%		1/2%
Group 4	7.60	.45	3%		1/2%
Group 5	6.98	.45	3%		1/2%

Group 1: Journeyman Cable Splicers; Journeyman Lineman

Group 2: Tractor Dozer Operator, D-4 and larger; all Rigs erecting Steel Tower and "H" fixtures, also Tension pulling Machines

Group 3: Groundman - operating special equipment; Hole Digging Machines; Aerial Baskets on energized circuits; Tractors, D-4 and larger, Transmission Line Pole hauling; All fifth wheel trucks and other setting and assembly equipment excluding Steel Tower and "H" fixtures erection

Group 4: Groundman - Truck or Tractor Driver with Winch; Operators of trucks up to and including 2½ tons; Tractor including D-2 and smaller, including Wheel Tractors and Crawler Tractors

Group 5: Groundman - Truck or Tractor Driver without Winch; Operators of trucks up to and including 2½ tons D-2 and smaller, including Wheel Tractors and Crawler Tractors

LABORERS Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Grand Forks & Steele Cos.					
Group 1	$ 7.47	.35			
Group 2	7.62	.35			
Group 3	7.82	.35			
Burleigh & Morton Cos.					
Group 1	6.90	.35			
Group 2	7.00	.35			
Group 3	7.10	.35			
Cass & Richland Cos.					
Group 1	7.04	.35			
Group 2	7.14	.35			
Group 3	7.19	.35			
Ward County					
Group 1	7.04	.35			
Group 2	7.14	.35			
Group 3	7.29	.35			
Site Preparation Excavation and Incidental Paving					
Group 1	4.00				
Group 2	4.15				
Group 3	4.30				
Group 4	4.45				

LABORERS (Cont'd)
Building Construction

Grand Forks and Steele Counties

Group 1: Laborers; Concete Bucket Dumpman

Group 2: All power tools (air, gas and electric); Operators of tools that come under the Laborers' jurisdiction; Brick, Plaster and Finisher Tender; Sandblaster and Gunnite Pot Tender; Hose Tender where under the Laborers' jurisdiction

Group 3: Hod Carriers; Non-metallic Pipelayers; Gas Line Wrapping or Taping; Sand Blaster and Gunnite Nozzleman where under Laborers' jurisdiction; Cutting Torch for demolition

Burleigh and Morton Counties

Group 1: Laborers, Concrete Bucket Man

Group 2: All power tool Operators of tools that come under the Laborers' jurisdiction; Mortar Mixer; Brick and Plasterer Tenders

Group 3: Hod Carriers, Non-metallic Pipelayers; Gas Line Wrapping or Taping; Cutting Torch for demolition

Cass and Richland Counties

Group 1: Laborers; Concrete Bucket Dumpman

Group 2: All power tool Operators of tools that come under the Laborers' jurisdiction; Brick and Plasterer Tender; Mortar Mixer

Group 3: Hod Carriers; Non-metallic Pipe Layer; Gas Line Wrapping and Taping (distribution ONLY); Cutting Torch for demolition

LABORERS (Cont'd)
Building Construction (Cont'd)

Ward County

Group 1: Laborers; Concrete Bucket Dumpman

Group 2: All power tool Operators of all tools that come under the Laborers' jurisdiction; Mortar Mixer; Plasterer Tender

Group 3: Non-metallic Pipe Layer; Gas Line Wrapping or Taping (distribution ONLY); Cutting Torch for demolition

Site Preparation Excavation and Incidental Paving

Group 1: General Construction Laborer (Chip Spreader Leverman, Fine Grader, Form Grader, Landscape Worker; Pump Operator (pre-water) Tunnel Worker; Sign Erector); Reinforce Steel Setter; Sack Shaker (cement and mineral filler); Pipe Handler; Salamander Heater and Blower Tender

Group 2: Semi-skilled Laborer (Joint Filler Machine Operator, Chip Spreader Operator); Bulk Cement Handler; Conduit Layer (telephone or electrical); Form Setter (pavement); Gas, electric or pneumatic tool Operator (Chipping Hammer, Grinders and Paving Breakers, Tamper (dirt); Concrete Vibrator Operator; Chain Saw Operator; Concrete Curing Man (not water); Bituminous Worker (Shoveler, Dumper, Raker and Floater); Kettleman (bituminous or lead); Concrete Bucket Signalman; Power Buggy Operator; Brick and Mason Tender; Multi-plate Pipe Layer; Culvert Pipe Layer

Group 3: Caisson Work; Bottom Man (sanitary sewer, storm sewer, water and gas line); Concrete Mixer Operator (one bag capacity); Mortar Mixer

Group 4: Pipe Layers (sanitary sewer, storm water and gas lines); Drill Runner (including Wagon Churn or Air Track); Powderman, Gunite and Sandblaster, Nozzleman

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.30	.70	.55		
Group 2	9.35	.70	.55		
Group 3	8.75	.70	.55		
Group 4	7.75	.70	.55		
Site Preparation Excavation and Incidental Paving					
Group 1	9.50	.70	.55		
Group 2	9.35	.70	.55		
Group 3	9.20	.70	.55		
Group 4	9.15	.70	.55		
Group 5	8.90	.70	.55		
Group 6	8.67	.70	.55		
Group 7	7.74	.70	.55		
Group 8	7.59	.70	.55		
Group 9	7.49	.70	.55		
Group 10	7.15	.70	.55		

Building Construction

Group 1: Helicopter Operator, hoisting material; Truck and Crawler Cranes over 150 ft. boom, excluding jib; Traveling Tower Cranes

Group 2: Derrick, Guy or Stiff Leg; Tower Cranes; Overhead Cranes; Hoist Operator - 2 drums or more; All-Terrain Vehicle Cranes (Cherry Picker, etc.); Tractors with boom attachments; Drill Rigs-Rotary or Churn; Locomotive Operators; Hydraulic and Cable-type Backhoes 3/4 yds. and over; Truck and Crawler Cranes 150 ft. boom and under, excluding jibs

Group 3: Mechanic Welder; Hoist Operator 1 drum; Boom Truck Operator; Tractor over 75 HP; Straddle Carrier or Forklift, 3,000 lbs. or over; Concrete Batch Plant Operator; Concrete Batch Mixer or Concrete Pump Operator; Boilet Operator; R.T. Tractor Backhoe, 3/8 to 3/4 yds.; Front End Loader Operator over 1½ yds.; Any air compressed operation over 300; Well Points; Power Plant Engineer, Oiler

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POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction (Cont'd)

Group 4: Greaser; Forklift under 3,000 lbs., Self-propelled Scissor Jax; Front End Loader 1½ yds. and under; Self-propelled Compactors; Tractor 75 HP and under; Pickup Sweeper; Pump Operator over 3"; Gunite Operator; Brakeman; Air Compressor 300 and under

Site Preparation Excavation and Incidental Paving

Group 1: Cableway Operator; Crane Operator with over 135' boom, all types; Derrick (Guy and Stiff Leg)(power)(skids and stationary); Front End Loader, over 10 cu. yds.; Gantry Crane Operator; Helicopter Operator; Mole Operator, including power supply or Tunnel Mucking Machine; Power Shovel and/or other equipment with shovel type controls 3½ cu. yds.

Group 2: Concrete Mixer Stationary Plant Operator over 34E; Dredge Operator or Engineer; Dredge Operator (power and engineer); Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (paving); Concrete Paving Operator, road; Power Shovel and/or other equipment with shovels and/or other equipment with shovel type controls up to 3½ cu. yds.; Scraper Tandem; Tandem Pusher, Quad 9 or similar; Tractor Operator (pipeline); Side Boom; Truck Crane Hydrocrane Operator, 15 ton and over

Group 3: Dope Machine Operator (pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds; and over; Locomotive, all types; Pipeline Wrapping, Cleaning and Bending Machine Operator; Power actuated Horizontal Boring Machine, over 6" Operator (pipeline); Pumpcrete Operator; Refrigeration Plant Engineer; Slip Form Operator (power driven)(paving); Tandem Scraper - twin engine, 50 cu. yds. struck and over

Group 4: Asphalt Paving Machine Operator, Asphalt Plant Operator and Console Board Operator; CMI Grading Operator; Crushing Plant Operator (gravel and stone or gravel washing, crushing and screening plant operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol finishing earth work and bituminous; Mechanic or Welder (heavy duty); Rubber-tired Industrial Tractor with Backhoe attachment (water main sanitary sewer and storm sewer, truck line construcion); Scraper Operator; Tractor type or rubber tired dozer, D-6 and over; Trenching Machine Operator, sewer and water (except Ditch Witch or similar use oiler rates); Turnapull Operator (or similar type)

POWER EQUIPMENT OPERATORS (Cont'd)
Site Preparation Excavation and Incidental Paving (Cont'd)

Group 5: Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator and Spray Operator, Concrete Mixer Operator on job site 16S or over, Paving Breaker or Tamping Machine Operation including machine with power shovel attachment (power driven), Power actuated Jack Operator, Power Plant Engineer 10 K.W.H. and over (when an Engineer is in charge of Crushing or Blacktop Plant with the operation of these plants no power plant engineer shall be required); Push Tractor, self-propelled Traveling Soil Cement Stabilizer, Truck Mechanic

Group 6: Concrete Saw Operator (multiple blade)(power Operated); Distributor Operator; Fine Grade Machine; Roller, steel and self-propelled rubber, on hot mix asphalt paving; Sheepsfoot Raker with Dozer attachment tractor type or rubber tired dozer under D-6 H.P.

Group 7: Brakeman or Switchman; Concrete Batch Plant Operator (cement, rock and sand); Electronic; Concrete Mixer Operator on job site under 16S; Crane Truck Oiler; Grader Operator (motor patrol)(hauling road); Gravel Screening Plant Operator (portable unit crushing or washing); Greaser (truck or tractor); Gunnite Operator, gunall; Hoist Engineer (power); Launchman (Tankerman or Pilot license); Pick-up Sweeper, 1 yd. and over hopper capacity; Shouldering Sand Chip Spreader; Flaherty or similar; Sheepsfoot Roller or Compactor (self-propelled)

Group 8: Boom Truck Operator, Crawler type and/or Steiger or similar tractor pulling compaction or areating equipment, farm type rubber tired tractor with Backhoe attachment, off-road self-propelled rubber, on other than hot mix asphalt paving, self-propelled Vibrating Packer Operator, pad type 35 hp and over)

Group 9: Concrete Batch Operator (cement, rock and sand)(manual), Form Trench Digger (power); Front End Loader Operator, up to 1 cu. yd.; Hyster Carrier or Forklift, Leverman, Oiler (power Shovel, Crane, Dragline); Pugmill Operator; Pump Operator (well points); Self-propelled Broom

Group 10: Conveyor Operator; Curb Machine Operator (manual); Dredge Deck, hand; Farm Tractors, rubber-tired for compacting and areating; Front End Loader (Farm type rubber tired tractor); Paint Machine Striping Operator; Stump Chipper Operator; Tie Tamper and Ballast Machine Operator

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SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Garfield
DECISION NO.: OK79-4073 DATE: Date of Publication
SUPERSEDES DECISION NO. OK79-4024 dated February 2, 1979 in 44 FR 6883
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.33	.55	1.00		.04
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-Stonemasons	9.20		.30		
CARPENTERS:					
Carpenters	8.35	.45	.25		.05
Millwrights-Piledrivermen	9.90	.45	.60		.09
CEMENT MASONS	7.50				
ELECTRICIANS:					
ZONE I	11.35	.70	c		1%
ZONE II	11.60	.70	c		1%
ZONE III	11.85	.70	c		1%
CABLE SPLICERS:					
ZONE I	11.60	.70	c		1%
ZONE II	11.85	.70	c		1%
ZONE III	12.10	.70	c		1%

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I - The area within the twelve mile radius of the main Post Office located in the City of Enid.
ZONE II - the area between the twelve mile zone 1 radius to thirty mile radius of the zone 1 Post Office, except where zone 2 intercepts another zone 1 area.
ZONE III - the area outside zone 1 and 2 within the local union area.

ELEVATOR CONSTRUCTORS	10.71	.545	.35	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB).	50%JR				
GLAZIERS	9.30				
IRONWORKERS	11.30	.75	.65		.12
LABORERS:					
GROUP I	6.15	.25	.40		
GROUP II	6.40	.25	.40		
GROUP III	7.00	.25	.40		

DECISION NO. OK79-4073 Page 2

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials all cleaning, including cleaning of windows; wrecking & razing of building and all structures, cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tenders; and common laborers.
GROUP II -All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to four inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; highwork over 30 ft. from the ground or floors; cement finisher tenders;work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping teating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machine, and gunite mixing machines, including placing of concrete, handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operaing and sand blaster, except nozzle; signal men cutting torch operators in connection with laborers' work; coonrete grader
GROUP III - Wagon drill operator and powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	10.60		3%		½%
Cable splicers	11.29		3%		½%
Hole digger operator	9.62		3%		½%
Heavy equipment operators (or pole cat equivalent)	9.62		3%		½%
Line truck driver (winch op.)	8.71		3%		½%
Jack hammerman	7.93		3%		½%
Powdermen	9.62		3%		½%
Groundman	7.07		3%		½%
Truck driver (flat bed,ton and hald and under)	7.55		3%		½%
MARBLE SETTERS	10.73		.30		
PAINTERS:					
GROUP I	9.45	.50	.35	.35	.03
GROUP II	9.95	.50	.35	.35	.03
GROUP III	10.45	.50	.35	.35	.03
GROUP IV	9.95	.50	.35	.35	.03
GROUP V	10.45	.50	.35	.35	.03
GROUP VI	9.95	.50	.35	.35	.03

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PAINTERS CLASSIFICATION DEFINITIONS

GROUP I - Brush or roller, bedding and taping
GROUP II - Spray and sandblasting under 30 feet
GROUP III- Spray and sandblasting over 30 feet
GROUP IV - Hazardous work
GROUP V - Paperhangers
GROUP VI - Tapers using machine tools

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS-PIPEFITTERS	12.37	.60	.85		.10
POWER EQUIPMENT OPERATORS:					
GROUP I	11.25	.45	.50		.12
GROUP II	11.00	.45	.50		.12
GROUP III	10.75	.45	.50		.12
GROUP IV	10.50	.45	.50		.12
GROUP V	10.25	.45	.50		.12
GROUP VI	10.00	.45	.50		.12
GROUP VII	9.75	.45	.50		.12
GROUP VIII	9.35	.45	.50		.12
GROUP IX	8.75	.45	.50		.12
GROUP X	8.75	.45	.50		.12
GROUP XI	8.75	.45	.50		.12

POWER EQUIPMENT OPRATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 250' of boom or over (including jib)
GROUP II - All crane type equipment with 200' of boom or over (including jib)
GROUP III - All crane type equipment 150 - 200' of boom (including jib)
GROUP IV - All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg.), sideboom (booms 30' and over), guy derrick
GROUP V - Heavy duty mechanic, welder, crane-hood and over head monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd and over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks and chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)
GROUP VI - Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over), fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, power driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

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POWER EQUIPMENT OPRATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII - Locomotive engineer, boring machine, tug boat, mixer, 18. cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with a-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of operating engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, conveyor-operator duel,continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signalman on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications
GROUP VIII - Greaser, tilt top trailer operator
GROUP IX - Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and uncer (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continous belt bulk handling
GROUP X - Asphalt lay machine back end man, mechanic helper and welder helper
GROUP XI - Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	10.40	.60	.25		.04
SHEET METAL WORKERS	11.31	.55	.84		.07
SOFT FLOOR LAYERS (RESILIENT FLOOR LAYERS & CARPET LAYERS)	10.10	.50		.25	.03
SPRINKLER FITTERS	12.54	.75	1.05		.08
TERRAZZO WORKERS	10.73		.30		
TERRAZZO WORKERS FINISHERS	7.33				
TERRAZZO WORKERS FLOOR MACHINE OPERATOR	7.43				
TERRAZZO WORKERS BASE MACHINE OPERATOR	7.68				
TILE LAYERS	10.73		.30		
TILE & MARBLE EXPERIENCED FINISHERS	7.00				
TRUCK DRIVERS:					
GROUP I	6.92				
GROUP II	6.92				
GROUP III	6.62				

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TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Truck drivers for heavy equipment such as lowboys, heavy winch & floats
GROUP II - Heavy earth moving equipment such as dump trucks and euclids
GROUP III - Truck drivers and swampers, such as dump trucks, flat beds, stake bodies and 3/4 and 1/2 ton pick-up trucks

WELDERS - receive rate prescribed for craft to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a - 1st 6 mos. to 5 yrs. 6%; over 5 yrs. 8% of basic hourly rate. Plus 2½% of hourly rate.
b - Paid Holidays, A through F
c - 3% + 5% + .10 Pension

SUPERSEDEAS DECISION

STATE: Oklahoma

COUNTIES: Oklahoma, Cleveland Caddo, Canadian, Kingfisher, Lincoln, Logan, McClain, Grady, Seminole and Pottawatomie

DECISION NO.: OK79-4074
DATE: Date of Publication
SUPERSEDES DECISION NO.: OK78-4054 dated June 9, 1978 in 43 FR 25268
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.33	.55	1.00		.04
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-STONEMASONS:					
Oklahoma, Cleveland, Canadian and McClain Counties	10.60	.62	.75		.05
Lincoln, Pottawatomie and Seminole Counties	11.00	.62	.75		.10
Kingfisher County	9.55		.30		
Logan County	10.60	.62	.75		.05
Caddo and Grady Counties	9.50	.50	.30		.05
CARPENTERS - ZONE I					
Carpenters	8.75	.55	.25		.05
Power saw operator	9.00	.55	.25		.05
Millwrights-Piledrivermen	10.60	.55	.80		.09
CARPENTERS - ZONE II					
Carpenters	10.35	.55	.80		.09
Millwrights-Piledrivermen	10.60	.55	.80		.09
Power saw operator	10.60	.55	.80		.09
CARPENTERS - ZONE III					
Carpenters	11.26				
Power saw operator	11.51				
Millwrights-Piledrivermen	11.51				
CARPENTERS - ZONE IV					
Carpenters	8.70	.45	.25		.02
Millwrights-Piledrivermen	9.525	.45	.25		.02
CARPENTERS V					
Carpenters	9.50	.50	.30		.10
Millwrights-Piledrivermen	10.60	.55	.80		.09

CARPENTERS AREA DEFINITIONS

ZONE I - Northern 1/2 of Lincoln County bound on the South by Interstate 35 on the East of Highway 99
ZONE II - Pottawatomie County and part of Lincoln County south of Turner Turnpike; all of Oklahoma, Canadian, Kingfisher and Logan Counties
ZONE III - McClain County and Cleveland County
ZONE IV - Seminole County
ZONE V - Caddo and Grady Counties

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Lincoln, Oklahoma, McClain, Caddo, Grady, Cleveland, Canadian, Logan & Kingfisher Cos.	10.48	.60			
ELECTRICIANS:					
Zone I	11.35	.70	c		1%
Zone II	11.60	.70	c		1%
Zone III	11.85	.70	c		1%
CABLE SPLICERS:					
Zone I	11.60	.70	c		1%
Zone II	11.85	.70	c		1%
Zone III	12.10	.70	c		1%

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I - the area within the twelve mile radius of the main Post Office located in one of the cities listed as follows: El Reno, Moore, Norman, and Oklahoma City.
ZONE II - the area between the twelve mile zone 1 radius to thirty mile radius of the zone 1 post office, except where 2 intercepts another zone 1 area.
ZONE III - the area outside zones 1 and 2 within the local union area.

ELEVATOR CONSTRUCTORS	10.71	.545	.35	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB).	50%JR				
GLAZIERS	9.30				
IRONWORKERS	11.30	.75	.65		.12
LABORERS:					
ZONE I					
Group I	7.65	.25	.40		
Group II	7.90	.25	.40		
ZONE II					
Group I	6.30	.25	.40		
Group II	6.55	.25	.40		
ZONE III					
Group I	6.45	.25	.40		
Group II	6.75	.25	.40		
ZONE IV					
Group I	6.15	.25	.40		
Group II	6.40	.25	.40		

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LABORERS CLASSIFICATION DEFINITION

GROUP I - Unskilled laborers
GROUP II - Air tool operator (jackhammer-vibrator), mason tenders, mortar mixers, pipelayers (concrete and clay), plasterers tenders

AREA COVERED BY LABORERS ZONES

ZONE I - Oklahoma, Canadian, Logan, Pottawatomie Lincoln and Cleveland Counties
ZONE II - McClain, Caddo and Grady Counties
ZONE III - Seminole County
ZONE IV - Kingfisher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	11.20				.01
LINE CONSTRUCTION:					
Linemen	10.60		3%		4%
Cable splicers	11.29		3%		4%
Hole digger operator	9.62		3%		4%
Heavy equipment operator (or pole cat equivalent)	9.62		3%		4%
Line truck driver (winch op)	8.71		3%		4%
Jack hammerman	7.93		3%		4%
Powderman	9.62		3%		4%
Groundman	7.07		3%		4%
Truck driver (flat bed, ton and half and under)	7.55		3%		4%
MARBLE MASONS	10.73		.30		
PAINTERS:					
Brush	9.45	.50	.35	.35	.03
Spray under 30 feet	9.95	.50	.35	.35	.03
Spray over 30 feet	10.45	.50	.35	.35	.03
Sandblasting under 30 ft.	9.95	.50	.35	.35	.03
Sandblasting over 30 ft.	10.45	.50	.35	.35	.03
Hazardous work	9.95	.50	.35	.35	.03
Paperhanging	10.45	.50	.35	.35	.03
Tapers using machine tools	9.95	.50	.35	.35	.03
PLASTERERS	11.20				.01
PLUMBERS-PIPEFITTERS	12.37	.60	.85		.10
POWER EQUIPMENT OPERATORS:					
Group I	11.25	.45	.50		.12
Group II	11.00	.45	.50		.12
Group III	10.75	.45	.50		.12
Group IV	10.50	.45	.50		.12
Group V	10.25	.45	.50		.12
Group VI	10.00	.45	.50		.12
Group VII	9.75	.45	.50		.12
Group VIII	9.35	.45	.50		.12
Group IX	8.75	.45	.50		.12
Group X	8.75	.45	.50		.12
Group XI	8.75	.45	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 250' boom or over (including jib)
GROUP II - All crane type equipment with 200' of boom or over (including jib)
GROUP III - All crane type equipment with 150' - 200' of boom (including jib)
GROUP IV - All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick
GROUP V - Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, pile-driver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)
GROUP VI - Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications
GROUP VII - Locomotive engineer, boring machine, tug boat, mixer 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with a-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant oper., (portable), conveyor-operator dual, continous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications
GROUP VIII - Greaser, tilt top trailer operator
GROUP IX - Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2) fuelman, conveyor operator-single-continuous belt bulk handling
GROUP X - Asphalt lay machine back end man, mechanic helper and welder helper
GROUP XI - Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	10.40	.60	.25		.04
SHEET METAL WORKERS	11.31	.55	.84		.07
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	10.10	.50		.25	.03
SPRINKLER FITTERS	12.54	.75	1.05		.08
TERRAZZO WORKERS	10.73		.30		
TERRAZZO WORKERS FINISHER	7.33				
TERRAZZO BASE MACHINE MAN	7.68				
TERRAZZO FLOOR MACHINE MAN	7.43				
TILE SETTERS	10.73		.30		
TILE & MARBLE FINISHERS:					
Experienced finishers	7.00				
TRUCK DRIVERS:					
Group I	6.92				
Group II	6.92				
Group III	6.62				

TRUCK DRIVERS CLASSIFICATION-DEFINITION

GROUP I - Truck drivers for heavy equipment such as lowboys, heavy winch and floats
GROUP II - Heavy earth moving equipment such as dump trucks, and Euclids
GROUP III - Truck drivers and swampers, such as dump trucks, flat beds, stake bodies, and 3/4 and 1/2 ton pick-up trucks

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day After Thanksgiving; G-Christmas Day

FOOTNOTES: a - 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 yrs. - 8% of basic hourly rate. Plus 2% of hourly rate.
b - Paid Holidays A through G
c - 3% + 5% + .10 Pension

[FR Doc. 79-23700 Filed 8-2-79; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
August 3, 1979

Part III

Department of Health, Education, and Welfare

National Institutes of Health

Proposed Supplement to the NIH Guidelines for Recombinant DNA Research

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Proposed Supplement to the NIH Guidelines for Recombinant DNA Research

On December 22, 1978, the Director, National Institutes of Health, with the approval of the Assistant Secretary for Health and the Secretary of Health, Education, and Welfare, issued revised *Guidelines for Research Involving Recombinant DNA Molecules* (43 FR 60108). These Guidelines were accompanied in the **Federal Register** by a *Notice of Intent to Propose Regulations* issued by the Food and Drug Administration. In addition, the Secretary sent letters to Administrator Douglas Costle, Environmental Protection Agency, and to Secretary of Agriculture Bob Bergland, requesting comparable actions to ensure a commonality of standards throughout the private sector. In July the Secretary sent a similar request to Secretary of Labor Ray Marshall.

Several responses to the FDA notice questioned that agency's legal authority to regulate private research in this field. In view of these comments, NIH Director Donald S. Fredrickson and the Commissioner of Food and Drugs, Donald Kennedy, developed a draft supplement to the NIH Guidelines that would extend them on a voluntary basis to industry. This draft was reviewed by Peter Libassi, then General Counsel for the Department, who also consulted with representatives from the pharmaceutical industry and from public interest and environmental organizations. The representatives from the pharmaceutical industry considered the supplement to provide a feasible basis for voluntary compliance; the representatives from the other groups considered a voluntary system insufficient and urged that mandatory compliance be achieved through legislation or regulation.

In light of those discussions it was agreed that the draft supplement prepared by NIH and FDA should also be reviewed by the Federal Interagency Advisory Committee on Recombinant DNA Research which includes all relevant Federal research and regulatory agencies. This Committee, created in October 1976 to consider extension of the Guidelines nationally, had recommended in March 1977 that legislation be developed. On July 16, 1979, the Committee met to consider the draft supplement and alternative approaches to extend the revised NIH guidelines to the private sector. It was the Committee's unanimous opinion that NIH should proceed to publish for public comment the draft supplement to the NIH Guidelines. The conclusion was not unanimous that the voluntary approach would achieve complete compliance within the private sector.

On the basis of the recommendations by the Interagency Committee, the Director, NIH, invites public comment on the proposed supplement to the NIH Guidelines, which is set forth below. Written comments and inquiries concerning this draft supplement and the questions above should be addressed to the Director, National Institutes of Health, Bethesda, Maryland 20205. All comments received will be available for public inspection at the Director's office on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m. All comments will be considered at the next meeting of the Recombinant DNA Advisory Committee scheduled for September 6–7, when this item will be placed on the agenda for action.

Dated: July 27, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

Guidelines for Research Involving Recombinant DNA Molecules

New Sections to Be Added

IV–G–5. *Voluntary Compliance.* Any individual, corporation, or institution that is not otherwise covered by the Guidelines is encouraged to conduct recombinant DNA research activities in accordance with the Guidelines, through the procedures set forth in Part VI.

VI. Voluntary Compliance

VI–A. *Basic Policy.* Individuals, corporations, and institutions not otherwise covered by the Guidelines are encouraged to do so by following the standards and procedures set forth in Parts I–IV of the Guidelines. In order to simplify discussion, references hereafter to "institutions" are intended to encompass corporations, and individuals who have no organizational affiliation. For purposes of complying with the Guidelines, an individual intending to carry out research involving recombinant DNA is encouraged to affiliate with an institution that has an Institutional Biosafety Committee approved under the Guidelines.

Since commercial organizations have special concerns, such as protection of proprietary data, some modifications and explanations of the procedures in Parts I–IV are provided below, in order to address these concerns.

VI–B. *IBC Approval.* The NIH Office of Recombinant DNA Activities (ORDA) will review the membership of an institution's Institutional Biosafety Committee (IBC) and, where it finds the IBC meets the requirements set forth Section IV–D–2, will give its approval to the IBC membership.

It should be emphasized that employment of an IBC member solely for purposes of membership on the IBC does not itself make the member an institutionally affiliated member for purposes of Section IV–D–2–a.

Except for the unaffiliated members, a member of an IBC for an institution not otherwise covered by the Guidelines may participate in the review and approval of a project in which the member has a direct financial interest, so long as the member has not been and does not expect to be engaged in the project. Section IV–D–2–d is modified to that extent for purposes of these institutions.

VI–C. *Registration.* Upon approval of a recombinant DNA research project by the IBC, an institution may register the project by submitting to ORDA the information required in the Administrative Practices Supplement.

VI–D. *Certification of Host-Vector Systems.* A host-vector system may be proposed for certification by the Director, NIH, in accordance with the procedures set forth in Section II–D–2–a.

Institutions not otherwise covered by the Guidelines will not be subject to Section II–D–3 by complying with these procedures.

In order to ensure protection for proprietary data, any public notice regarding a host-vector system which is designated by the institution as proprietary under Section VI–F–1 will be issued only after consultation with the institution as to the content of the notice.

VI–E *Requests for Exceptions, Exemptions, Approvals.* Requests for exceptions from prohibitions, exemptions, or other approvals required by the Guidelines should be requested by following the procedures set forth in the appropriate sections in Parts I–IV of the Guidelines.

In order to ensure protection for proprietary data, any public notice regarding a request for an exception, exemption, or other approval which is designated by the institution as proprietary under Section VI–F–1 will be issued only after consultation with the institution as to the content of the notice.

VI–F. *Protection of Proprietary Data.* In general, the Freedom of Information Act requires Federal agencies to make their records available to the public upon request. However, this requirement does not apply to, among other things, "trade secrets and commercial and financial information obtained from a person and privileged or confidential." 18 U.S.C. 1905, in turn makes it a crime for an officer or employee of the United States or any Federal department or agency to publish, divulge, disclose, or make known " in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, [or] processes . . . of any person, firm, partnership, corporation, or association." This provision applies to all employees of the Federal Government, including special Government employees. Members of the Recombinant DNA Advisory Committee are "special Government employees."

VI–F–1. In submitting information to NIH for purposes of complying voluntarily with the Guidelines, an institution may designate those items of information which the institution believes constitute trade secrets or privileged or confidential commercial or financial information.

VI–F–2. If NIH Receives a request under the Freedom of Information Act for information so designated, NIH will promptly contact the institution to secure its views as to whether the information (or some portion) should be released.

VI–F–3. If the NIH decides to release this information (or some portion) in response to a Freedom of Information request or otherwise, the institution will be advised; and the actual release will not be made until the expiration of 15 days after the institution is so advised, except to the extent that earlier release, in the judgement of the Director, NIH, is necessary to protect against an imminent hazard to the public or the environment.

VI–F–4. Projects should be registered in accordance with procedures specified in the *Administrative Practices Supplement.* The following information will usually be considered publicly available information, consistent with the need to protect proprietary data:

a. The names of the institution and principal investigator.

b. The location where the experiments will be performed.

c. The host-vector system.

d. The source of the DNA.

e. The level of physical containment.

VI–F–5–a. Any institution not otherwise covered by the Guidelines, which is considering submission of data or information voluntarily to NIH, may request presubmission review of the records involved to determine whether, if the records are submitted, NIH will or will not make part or all of the records available upon request under the Freedon of Information Act.

VI–F–5–b. A request for presubmission review should be submitted to ORDA, along with the records involved. These records must be clearly marked as being the property of the institution, on loan to NIH solely for the purpose of making a determination under the Freedom of Information Act. ORDA will then seek a determination from the HEW Freedom of Information Officer, the responsible official under HEW regulations (45 C.F.R. Part 5), as to whether the records involved (or some portion) are or are not available to members of the public under the Freedom of Information Act. Pending such a determination, the records will be kept separate from ORDA files, will be considered records of the institution and not ORDA, and will not be received as part of ORDA files. No copies will be made of the records.

VI–F–5–c. ORDA will inform the institution of the HEW Freedom of Information Officer's determination and follow the institution's instructions as to whether some or all of the records involved are to be returned to the institution or to become a part of ORDA files. If the institution instructs ORDA to return the records, no copies or summaries of the records will be made or retained by HEW, NIH, or ORDA.

VI–F–5–d. The HEW Freedom of Information Officer's determination will represent that official's judgement, as of the time of the determination, as to whether the records involved (or some portion) would be exempt from disclosure under the Freedom of Information Act, if at the time of the determination the records were in ORDA files and a request were received from them under the Act.

[FR Doc. 79–23907 Filed 8–2–79; 8:45 am]

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Friday
August 3, 1979

Part IV

Department of Labor

Employment and Training Administration

Migrant and Seasonal Farmworker Programs; Submission of Preapplications for Federal Assistance for Fiscal Year 1980

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DEPARTMENT OF LABOR

Employment and Training Administration

Migrant and Seasonal Farmworker Programs; Submission of Preapplications for Federal Assistance for Fiscal Year 1980

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists organizations that have submitted preapplications pursuant to 20 CFR 689.202(b) for Fiscal Year 1980 funds under the Migrant and Other Seasonally Employed Farmworker Program, authorized by Section 303 of the Comprehensive Employment and Training Act (CETA).

FOR FURTHER INFORMATION CONTACT: Lindsay Campbell, Acting Director, Office of Farmworkers Programs, Room 6380, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: The organizations listed below have submitted preapplications for funding under Section 303 of CETA. No determination has been made as to the legal eligibility of the applicants listed; determination of eligibility will be made when the funding requests (proposals) are received.

Applicants which have submitted a Preapplication and are not listed below should contact the U.S. Department of Labor at the address provided above.

Preapplications received by the postmark date of June 25, 1979, by the Department of Labor are as follows:

Region I

Connecticut

New England Farmworkers' Council, 6 Frost Street, Springfield, Massachusetts 01105.

Maine

Penobscot Consortium Prime Sponsor, 333 Illinois Avenue, P.O. Box 1136, Bangor, Maine 04401.

Massachusetts

New England Farmworkers' Council, 6 Frost Street, Springfield, Massachusetts 01105.

New Hampshire

Community Action Program, BELKNAP-Merrimick Counties, Inc., 2 Union Street, POB 1016, Concord, New Hampshire 03301.
New England Farmworkers' Council, 6 Frost Street, Springfield, Massachusetts 01105.

Rhode Island

New England Farmworkers' Council, 6 Frost Street, Springfield, Massachusetts 01105.

Vermont

Central Vermont Community Action, Inc., 15 Ayers Street, Barre, Vermont 05641.
New England Farmworkers' Council, 6 Frost Street, Springfield, Massachusetts 01105.

Region II

New Jersey

Farmworkers Corporation, Inc., 1400 W. Landis Avenue, Vineland, New Jersey 08360.

Maryland

Migrant and Seasonal Farmworkers Association, Inc., POB 33315, 3929 Western Boulevard, Raleigh, North Carolina 27606.
State Manpower Services Council, 1100 North Eutaw Street, Baltimore, Maryland 21201.

Pennsylvania

Colonial Northampton Intermediate Unit Number 20, P.O. Box 179, 299 Industrial Park Road, Nazareth, Pennsylvania 18064.
Rural New York Farmworker Opportunities, Inc., 339 East Avenue, Suite 305, Rochester, New York 14604.

Virginia

Migrant and Seasonal Farmworkers Association, Inc., POB 33315, 3929 Western Boulevard, Raleigh, North Carolina 27606.
Virginia Employment Commission Employment Services, 703 East Main Street, Richmond, Virginia 23211.

West Virginia

Migrant and Seasonal Farmworkers Association, Inc., POB 33315, 3929 Western Boulevard, Raleigh, North Carolina 27606.
State of West Virginia Employment and Training Division, 5790-A MacCorkle Avenue, S.E., Charleston, West Virginia 25304.

New York

Mid-Hudson Rural Services, Inc., Mid-Hudson Migrant Education Center, POB 205, New Plaza, New York 12561.
Rural New York Farmworker Opportunities, Inc., 339 East Avenue, Suite 305, Rochester, New York 14604.

Puerto Rico

Commonwealth of Puerto Rico, Department of Labor and Human Resources, 414 Barbosa Avenue, Hato Rey, Puerto Rico 00917

Region III

Delaware

Migrant and Seasonal Farmworkers Association, Inc., POB 33315, 3929 Western Boulevard, Raleigh, North Carolina 27606.
State of Delaware, Intergovernmental Manpower Service, 701 Shipley Street, Wilmington, Delaware 19801.

Region IV

Alabama

Alabama Migrant and Seasonal Farmworkers Council, Inc., 1400 South Decatur Street, Montgomery, Alabama 36104.

Florida

Florida Department of Education, Vocational Division, Knott Building, Tallahassee, Florida 32304.
Florida Farmworkers Council, Inc., 1975 E. Sunrise Boulevard, Suite 650, Ft. Lauderdale, Florida 33304.
Seminole Employment Economic Development Corporation, P.O. Box 2076, Sanford, Florida 32771.

Georgia

Georgia Community Action Association, 75 Marietta Street, N.W., Atlanta, Georgia 30301.
Migrant and Seasonal Farmworkers Association, Inc., POB 33315, 3929 Western Boulevard, Raleigh, North Carolina 27606.
SEOO, 618 Ponce de Leon Avenue, N.E., Atlanta, Georgia 30308.

Kentucky

Tennessee Opportunity Programs for Seasonal Farmworker, Inc. 2803 Foster Avenue, Nashville, Tennessee 37211.

Mississippi

Mississippi Delta Council for Farmworkers Opportunities, Inc., 1933 Fourth Street, Clarksdale, Mississippi 38614.

North Carolina

Migrant and Seasonal Farmworkers Association, Inc., POB 33315, 3929 Western Boulevard, Raleigh, North Carolina 27606.

South Carolina

Migrant and Seasonal Farmworkers Association, Inc., POB 33315, 3929 Western Boulevard, Raleigh, North Carolina 27606.
Migrant and Seasonal Farmworker Organization, 18 Hanover Street, Charleston, South Carolina 29403.
Office of the Governor, CETA Division, 1800 St. Julian Place, Columbia, South Carolina 29204.

Tennessee

Tennessee Opportunity Programs for Seasonal Farmworker, Inc., 2803 Foster Avenue, Nashville, Tennessee 37211.

Region V

Illinois

Illinois Migrant Council, 202 South State Street, Chicago, Illinois 60604.

Indiana

AMOS, Inc., Department of Field Operations, 2802 North Delaware, Indianapolis, Indiana 46205.
Indiana Office of Occupational Development, Statewide Service Division, 150 W. Market—7th Floor, Indianapolis, Indiana 46204.
Indiana Rural Opportunities, Inc., Department of Field Operations, 795 Middle Drive Woodruff Place, Indianapolis, Indiana 46201.

Michigan

United Migrant for Opportunity, Inc., 908 West Jefferson Street, POB 127, Grand Ledge, Michigan 48837.

Minnesota

Hispanos en Minnesota (formerly Migrants in Action) Community-Based Nonprofit Organization, 1162 Selby Avenue, St. Paul, Minnesota 55104.
Minnesota Migrant Council, Inc., P.O. Box 1231, St. Cloud, Minnesota 564301.

Ohio

La Raza Unida De Ohio, 5340 East Main Street, Suite 200, Columbus, Ohio 43213.

Wisconsin

La Raza Unida, Inc., P.O. Box 403, Jefferson, Wisconsin 53549.
United Migrant Opportunity Services, 809 W. Greenfield Avenue, POB 04129, Milwaukee, Wisconsin 53204.

Region VI

Arkansas

Kansas Council of Farmworkers, Inc., 1200 Westpark Drive, P.O. Box 4241—Asher Station, Little Rock, Arkansas 72214.
Bluff Opportunities Industrialization Center, Inc., P.O. Box 8845, Pine Bluff, Arkansas 71611.

Louisiana

Evangeline Community Action, Inc., 403 W. Magnolia Street, Ville Platte, Louisiana 70586.
Motivation, Education and Training, P.O. Box 1749, 307 North College, Cleveland, Texas 77327.
Southern Mutual Help Association, 1604 West Main Street, Jeanerette, Louisiana 70544.

New Mexico

Home Education Livelihood Program, 5000 Marble, N.E., Suite 222, Albuquerque, New Mexico 87110.
Navajo Tribal Council, Office of Navajo Economic Opportunity, P.O. Box #589, Fort Defiance, Arizona 86504.

Oklahoma

ORO Development Corporation, 513 N.W. 12th, Oklahoma City, Oklahoma 73106.

Texas

Alamo Consortium, c/o City of Antonio, San Antonio, Texas 78204.
Colonias Del Valle, Inc., 107 W. 5th Street, POB 907, San Juan, Texas 78589.
Community Action Council of South Texas (CACST) 420 E. Main Drawer S, Rio Grande City, Texas 78582.
Community Agency for Self-Help Administration, P.O. Drawer 630 Crystal City, Texas.
Jobs for Progress of Houston, Inc., 250 W. 19th Street, Houston, Texas 77008.
Llano Estacado Farmworkers DeTejas, Inc., 1638 Main Street, Lubbock, Texas 79401.
Motivation, Education & Training, P.O. Box 1749, 307 North College, Cleveland, Texas 77237.

Texas

Pan American University, Human Resources Center, Edinburg, Texas 78539.
SER—Jobs for Progress, Inc., CETA Employment & Training Services, 1927 Ceralvo, San Antonio, Texas 78237.
Zavala County Migrant Assistance Program, P.O. Box 336, Crystal City, Texas 78839.

Region VII

Iowa

Eastern Iowa Community College District Muscatine Community Center, 152 Colorado Street, Muscatine, Iowa 52761.
Iowa Migrant Program, 113 2nd Southwest, Mason City, Iowa 50401.
Migrant Action Program, Inc., 2702 East State Avenue, P.O. Box 10334, Des Moines, Iowa 50306.
Minnesota Migrant Council, P.O. Box 1231, St. Cloud, Minnesota 56301
Proteus Adult Training, Inc., 321 So. Bridge, P.O. Box 727, Visalia, California 93279.
State of Iowa, Office for Planning & Programming, 523 East 12th Street, Des Moines, Iowa 50319.

Kansas

ORO Development Corporation, 519 N.W. 12th Street Oklahoma City, Oklahoma 73106.
SER/Jobs for Progress, Inc., 2157 No. Market, Wichita, Kansas 67214.

Missouri

Rural Missouri, Inc., 1108 Missouri Boulevard, Jefferson City, Missouri 65101.
Federation of Southern Cooperatives, P.O. Box 95, Epes, Alabama 35460.

Nebraska

Nebraska Association of Farmworkers, 200 South Silber Avenue, P.O. Box 1459, North Platte, Nebraska 69101.
Proteus Adult Training, Inc., 321 South Bridge, POB 727, Visalia, California 93279.
Migrant Action Program, Inc., 2720 East State Avenue, P.O. Box 10334, Des Moines, Iowa 50306.
Minnesota Migrant Council, P.O Box 1231, St. Cloud, Minnesota 56301.
SER/Jobs for Progress, 770 Grant, Suite 206, Denver Colorado 80203.
State of Nebraska, Department of Labor, 124 No. 11th Street, POB 82427, Lincoln, Nebraska 68501.

Region VIII

Colorado

Colorado Council on Migrant and Seasonal Agricultural Workers and Their Families, Inc., 7905 W. 44th Avenue, Wheatridge, Colorado 80033.

Montana

Department of Community Affairs, Human Resources Division, Capital Station, Helena, Montana 59601.

North Dakota

Minnesota Migrant Council, Inc., P.O. Box 1231, St. Cloud, Minnesota 56301.
North Dakota Migrant Council, 101 North Third Street, P.O. Drawer X, Grand Forks, North Dakota 58201.

South Dakota

Minnesota Migrant Council, Inc., P.O. Box 1231, St. Cloud, Minnesota 56301.
United Sioux Tribes of South Dakota Development Corporation, P.O. Box 1193, Pierre, South Dakota 57501.

Utah

SER Jobs for Progress, 233 West 200 North, Salt Lake City, Utah 84103.
Utah Migrant Council, C.E.T. A. Project, 12 East Center Street, Midvale, Utah 84047.
Navajo Tribal Council, Office of Navajo Economic Opportunity, P.O. Box No. 589, Fort Defiance, Arizona 86504.

Wyoming

Northwestern Community Action Programs of Wyoming, Inc. (NOWCAP) P.O. Box 431, Worland, Wyoming 42401.

Region IX

Arizona

MOPportunities, Inc., The Migrant Opportunity Program, 6611 South Central Avenue, Phoenix, Arizona 85040.
Navajo Tribal Council, Office of Navajo Economic Opportunity, P.O. Box No. 589, Fort Defiance, Arizona 86504.
Portable Practical Educational Preparation, Inc., Farmworker Services Department, 338 North Granada, Tucson, Arizona 85705

California

California Human Development Corporation, 9257 Windsor Road, Windsor, California 95492.
Campesinos Unidoes, Inc., P.O. Box 213, Brawley, California 92227.
Center for Employment and Training of the Central Coast Counties, 425 South Market Street, San Jose, California 95113.
Central Coast Counties Development Corporation, 1121–A North Main, Salinas, California 93906.
City of Stockton, County of San Joaquin, Employment and Training Opportunities Department—City Hall, Stockton, Calif. 95202.
Council for the Spanish Speaking Administration, P.O. Box 6066, Stockton, California 95206.
Farmworkers Institutue for Education and Leadership Development, P.O. Box 32, Keene, California 93531.
Inland Manpower Association, 336 No. La Cadena Drive, POB 350, Colton, California 92324.
Proteus Adult Training, Inc., 321 South Bridge Street, P.O. Box 727, Visalia, California 93279.
Sacramento Concilio, Inc., New Careers Program, P.O. Box 161629, 1911 "F" Street, Sacramento, California 95816.
SER—Jobs for Progress, Inc., National Office, 9841 Airport Blvd., Los Angeles, California 90045.
Westside Planning Group, Inc., Family Farm Technical Assistance Program, 1044 Fulton, Fresno, California.

Hawaii

State of Hawaii, Department of Labor and Industrial Relations, 825 Mililani Street, Honolulu, Hawaii 96813.

Nevada

Center for Employment and Training of the Central Coast Counties, 425 South Market Street, San Jose, California 95113.

Region X

Idaho Migrant Council, Inc., 715 South Capitol Blvd., Suite 405, Bosie, Idaho 83706.

California

California Human Development Corporation, 9257 Windsor Road, Windsor, California 95492.

Oregon

Migrant and Indian Coalition for Community Coordinated Child Care 13th and State Streets, POB 30 Hood River, Oregon 97031.
Oregon Rural Opportunities, 4819 River Road N., Salem, Oregon 97303.

Washington

Northwest Rural Opportunities Employment and Training Division, 804 Decatur, Sunnyside, Washington 98944.

Signed in Washinton, D.C., this 20th day of July 1979.

Lamond Godwin,

Administrator, Office of National Programs.

[FR Doc. 79-23872 Filed 8-02-79; 8:45 am]

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federal register

Friday
August 3, 1979

Part V

Office of Management and Budget

Proposed OMB Circular Regarding Federal Policy on the Cost Accounting, Cost Recovery and Inter-Agency Sharing of Multi-User Data Processing Facilities

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OFFICE OF MANAGEMENT AND BUDGET

Proposed OMB Circular; Request for Comments

AGENCY: Office of Management and Budget.

ACTION: Request for comments on proposed OMB Circular.

SUMMARY: The proposed Circular would establish a Federal policy on the cost accounting, cost recovery and interagency sharing of multi-user data processing facilities.

DATE: Comments must be received on or before September 10, 1979.

ADDRESS: Written comments should be addressed to the Information Systems Policy Division, Room 9002, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Mr. John A. Caron, Information Systems Policy Division, Room 9002, NEOB (202) 395–3785.

SUPPLEMENTARY INFORMATION: Federal agencies have been given two opportunities, in November 1978 and March 1979, to submit informal comments concerning drafts of this proposed policy. The present form of the policy reflects the suggestions of the agencies. OMB now solicits public comments prior to implementation.

OMB anticipated that implementation of this policy will institute business-like procedures for the management and use of Federal data processing facilities. Accurate cost data will assist agencies in meeting such cost studies as those required by OMB Circular No. A–76.

OMB is also establishing a policy of encouraging agencies to make increased use of data processing resources available form other agencies. Such interagency sharing should be documented and reimbursed by the recipient of the services. A management control procedure is required to ensure that interagency sharing is evaluated to support new agency applications.

The result of this policy is expected to be increased productivity and lower costs in the management and use of Federal data processing facilities.

The text of the proposed policy is set forth below.

Velma N. Baldwin,

Assistant to the Director for Administration.

OMB Circular No. A–

To the Heads of Executive Departments and Establishments

Subject: Cost Accounting, Cost Recovery and Inter-Agency Sharing of Multi-User Data Processing Facilities

1. *Purpose.* This circular establishes policy for multi-user, general management data processing facilities operated by, or on behalf of, Federal agencies. The purpose of this policy is to reduce the costs and increase the efficiency of data processing facilities by instituting business-like procedures for their management and use. This policy requires agencies to:

- Account for the full cost of operating data processing facilities;
- Allocate all costs to users according to the service they receive;
- Share their facilities with other agencies;
- Recover the cost of inter-agency sharing;
- Evaluate inter-agency sharing to support major new data processing applications.

2. *Applicability.* The policies and responsibilities established by this circular apply to all executive branch departments and agencies. Within the Department of Defense, the Military Services, Defense agencies, and the Office of the Secretary of Defense are to be considered separate agencies.

3. *Definitions.* a. *Data processing facility.* For the purpose of this circular the term "data processing facility" means the personnel, hardware, software, and physical facilities of an organizational entity, operated by or on behalf of a Federal agency, whose primary function is the operation of one of more general management computers. A data processing facility includes:

(1) The personnel who operate computers; develop and maintain software; provide user liaison and training; schedule computers; prepare and control input data; control, reproduce and distribute output data; maintain tape and disk libraries; provide security, maintenance and custodial services; and manage or provide administrative support to other personnel engaged in these activities.

(2) The owned, rented or leased computer and telecommunications hardware including central processing units; associated peripheral equipment such as control units, disk drives, tape drives, drum storage, printers, card readers and consoles; data entry equipment; data reproduction, decollation, booking and binding equipment; telecommunications equipment used for the transfer of data between remote sites and the facility including telecommunications control units, terminals, modems and dedicated phone lines.

(3) The general purpose software including operating system software, utilities, sorts, language processors, access methods, data base processors and other similar multi-user software.

(4) The physical facilities including computer rooms; tape and disk libraries; stockrooms and warehouse space; office space; physical fixtures such as desks, chairs, storage and file cabinets; general office telephones; and general office duplicating equipment, calculators, typewriters and similar office machines.

b. *Full costs.* As used in this circular the term "full costs" means all significant expenses incurred in the operation of a data processing facility. The following cost elements must be included:

(1) Personnel—including salaries, overtime and fringe benefits (both funded and unfunded) of civilian and military personnel; personnel training; and travel.

(2) Equipment—including depreciation for owned, capitalized equipment; rental costs; and direct expenses for non-capitalized equipment.

(3) Software—including depreciation for capitalized costs of developing, converting or acquiring software; rental costs for software; and direct expenses for non-capitalized acquisition of software.

(4) Supplies—including office supplies; data processing materials; and miscellaneous expenses.

(5) Contracted services—including technical and consulting services; equipment maintenance; data entry support; operations support; maintenance of multipurpose and operating system software; and the telecommunications network services.

(6) Space occupancy—including rental and depreciation of buildings, general office furniture and equipment; building maintenance; heating, air conditioning and other utilities expenses; telephone charges; and building security and custodial services;

(7) Intra-agency services and overhead—including the costs of normal agency support services either billed or allocated.

(8) Inter-agency services—including the costs of services provided by other agencies and departments whether reimbursed or estimated.

c. *User.* For the purpose of this circular, the term "user" means an organizational entity which receives service from a data processing facility. A user may be either internal or external to the agency responsible for the facility.

4. *Policy.* a. Agencies shall, to the maximum extent feasible, share their data processing facilities with users from other agencies. Sharing arrangements shall be on the basis of reimbursement for the full costs of providing services. Each sharing arrangement where the annual reimbursement exceeds $50,000 shall be documented by a written agreement which, at a minimum, identifies the services available for sharing; the service priority procedures and terms to be afforded each user; the prices to be charged for providing services; the arrangements for reimbursement of the agency providing the services; and the arrangements for terminating the sharing agreement. Insofar as possible, standard terms and conditions will be provided to all users obtaining similar services. Such sharing arrangements, when fully documented and part of a formal sharing program, can be used by the agency providing services in justifications for resource requests and allocations.

b. Agencies shall establish cost accounting procedures, which are consistent with the Federal Government Accounting Pamphlet Number 4, Guidelines for Accounting for Automatic Data Processing, United States General Accounting Office, 1978, for the operation of data processing facilities whose estimated full costs exceed $3 million per year. For data processing facilities whose estimated costs are less than $3 million per year agencies shall make an annual estimate, using cost finding techniques, of the full costs of operation.

c. Agencies shall implement a user cost allocation system to account for the full cost of providing services. The system shall follow the guidance provided by GAO in the Government Accounting Pamphlet Number 4 or as estimated using cost finding techniques where the annual full costs are less than $3 million. The user cost allocation system shall:

- Separately identify the costs of operating each computer application at the facility.
- Allocate the costs for each service provided by the facility to the users of that service on an equitable cost sharing basis commensurate with the amount of resources required to provide that service and the priority of service provided.
- Separately identify the unfunded costs resulting from equipment depreciation and software depreciation in both user charges and in reimbursements received.
- Directly allocate the full cost of such dedicated services as application systems programmers and analysts, software unique to a single application, and remote terminals and modems to the recipient of the services.

d. Agencies shall submit periodic statements to users specifying the cost of operating each user application. External agency users shall be required to reimburse the agency providing service to fully recover the costs of the services received. The transfer of funds within an agency is left to the discretion of the agency to implement wherever appropriate.

e. Budget and appropriation requests by data processing facilities shall be reduced by the amount of plannned reimbursements. The unfunded portion of planned reimbursements, arising from equipment and software depreciation, may be used for the replacement and augmentation of capital assets in the fiscal year of the reimbursement provided such usage is specifically disclosed in the budget and appropriation requests. The excess of reimbursements over actual costs, including the replacement of capital assets, in any fiscal year shall be deposited to the Treasury as miscellaneous receipts.

f. Agencies shall establish a management control procedure for determining which data processing facility will be used to support each major new application. Each agency shall define the term "major" in terms of development cost, application system life, functional or generic category, or other criterion or combination of criteria which best fits the agency's environment. This procedure will either place the authority for making this determination with a management official above the level of the functional user supported by the application and above the level of the data processing facility or will provide for an appeal to such a management official. This procedure will also insure that the basis of each such decision is documented and that such documentation is maintained in the agency's files.

5. *Agency Responsibilities.* a. Agencies shall establish internal policies, procedures and responsibilities to implement the policies contained in this Circular.

b. Agencies shall insure that contracts awarded by their procurement offices for the operation of data processing facilities under facilites management contracts include provisions for compliance with the provisions of this Circular.

c. Agencies supplying data processing services whose estimated annual costs exceed $50,000 to a user from another agency shall insure that the written sharing agreement specified in 4.a. is executed.

d. Agencies shall assure that the cost accounting procedures established for facilities subject to this policy are consistent with the GAO guidelines, and that the cost data collected using these procedures can also be used with appropriate adjustments, but without recompilation, to support any cost analysis pertaining to this facility conducted in accordance with OMB Circular A–76 and supplemental instructions thereto.

6. *General Services Administraton Responsibilities.* a. GSA shall modify existing regulations to be consistent with the policies established by this Circular.

b. GSA shall insure that data processing facilities designated as Federal Data Processing Centers pursuant to Section 111.b of Pub. L. 89–306 comply with the policies established by this Circular.

c. GSA shall insure that provisions consistent with this policy are included in agency contracts for data processing facilities wherever GSA is the contracting agency or as a condition for granting a delegation of procurement authority, and that such provisions are included in agency requests for proposals.

7. *Reporting Requirements.* Within 120 days of the publication date of this Circular agencies shall provide OMB with plans and a timetable for the implementation of the policies established in this Circular. The plans shall identify all installations subject to this policy; provide a description of the management control procedure specified in paragraph 4.f; specify the name of the official responsible for overseeing the implementation of the management control procedure; and specify the name of the official with overall responsibility for the implementation of the policies contained in this Circular.

James T. McIntyre, Jr.,

Director.

[FR Doc. 79–23988 Filed 8–2–79; 8:45 am]

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Friday
August 3, 1979

Part VI

Department of Agriculture

Food and Nutrition Service

Foodstamp Program; Performance Reporting System

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR, Chapter II

[Amdt. No. 149]

Food Stamp Program—Performance Reporting System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking sets forth the requirements for conducting quality control (QC) reviews as part of a State's Performance Reporting System under the Food Stamp Act of 1977.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT: Alberta Frost, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202) 447-8982.

SUPPLEMENTARY INFORMATION:

Introduction

On April 10, 1979 (43 FR 21504), the Department published a comprehensive and detailed proposal concerning the establishment of a Performance Reporting System by all State agencies. This proposal encompassed seven aspects of the system (Subparts A through G), Administration, Management Evaluation (ME) reviews, Quality Control (QC) reviews, Data analysis and evaluation, Corrective action, Responsibilities for reporting on program performance, and Program performance and administrative cost sharing.

The Department has determined that it is in the public's interest to issue final regulations on Subpart C of Part 275, Quality Control (QC) reviews, prior to issuing final regulations on all other aspects of the Performance Reporting System. First, many public interest groups expressed concern in their comments on the proposed rulemaking that implementation of QC reviews occur as soon as possible to ensure service to participants and potential participants is being measured.

Second, the Department is concerned that regular QC reviews be reinstated as expeditiously as possible to provide a method for States and the Department to measure the accuracy of the certification, denial, and termination of households based on the eligibility criteria as contained in regulations issued October 17, 1978 (43 FR 47846). Timely implementation of QC reviews will enable States to direct corrective action at reducing errors related to program eligibility, overissuances, and underissuances. In addition, correction of other deficiencies in program operation will impact on improving service to participants and potential participants.

Third, expeditious implementation of QC reviews is advantageous to State agencies in that entitlement to enhanced funding can be determined once States have conducted regular QC reviews for a six-month review period. The Food Stamp Act of 1977 in addressing States' QC systems has provided, for the first time, a fiscal incentive for States to maintain low QC error rates. States with QC error rates of less than 5 percent with respect to eligibility, overissuances, and underissuances are eligible for 60 percent federal reimbursement administrative costs. Thus, any delays in implementation of QC reviews will result in delaying a State's ability to claim the additional funding provided by the Act.

Comments received on the proposed regulations for Subparts A, B, D, E, F, and G of Part 275 are currently being analyzed. Final regulations on these areas of the Performance Reporting System will be issued as final rulemaking in the near future.

This preamble, therefore, only addresses comments received and changes made in the regulations on Subpart C, Part 275. A total of 73 commenters submitted concerns and recommendations on the proposed QC review regulations. Comments were received from State agencies, local agencies, advocacy groups, legal groups, Federal government offices, and the public.

This preamble provides in detail the basis and purpose for significant changes made from the April 10 proposal. The reasons supporting the provisions of the April 10 proposal which are unchanged by the final rules were carefully examined in light of the comments to determine the continued applicability of each justification. Unless otherwise stated, or unless inconsistent with the final rules or preamble, the rationale contained in the proposal should be regarded as a basis for the pertinent final rules. Therefore, a thorough understanding for the basis of these final regulations may require referencing the April 10, 1979 proposed regulations (43 FR 21504).

While all comments received concerning QC reviews were carefully considered, some comments did not contain a factual or policy justification, or a significant rationale, for certain recommendations. Other recommendations were unresponsive to the Department's justifications in the April 10 proposal. Some comments were highly technical in nature and are being considered in developing the QC handbook. For these reasons, comments of this type will not be addressed in this preamble.

Many commenters indicated that the QC regulations as proposed would necessitate increases in staff and other resources. State agencies emphasized the State Legislative budget processes and timeframes and the limitations which have been placed on staff and other resources. The Department has carefully reviewed these concerns in drafting final QC regulations. The Department believes that many of the changes which have been made in these regulations will address these concerns.

Definitions

Four individuals commented on the need to clarify several definitions related to QC reviews. Based on these comments, the definitions for "administrative deficiencies" and "review date" have been revised. The definition for "annual review period" for QC purposes has been deleted since it duplicates the definition for "review period." To distinguish between errors and variances, a definition for "variance" has been added.

Implementation

The Department proposed that States implement the provisions of Subpart C for conducting QC reviews no later than September 1, 1979. States would have been required to submit QC sampling plans prior to the September implementation date.

Comments were received from 35 individuals, State and local agencies, Federal government offices, and advocacy groups, on the proposed September 1 implementation date. One State agency approved of the September 1 date. Some commenters indicated that implementation should be as soon as possible to ensure good service to participants and potential participants. The majority of the commenters opposed the implementation date. The major concern was that implementation by September would not allow the time to train staff, prepare manuals, develop integrated sampling plans, etc. Many recommendations were made on this issue. Some commenters recommended implementation October 1 to correspond to the review period. Some commenters suggested implementation be based on receipt by the States of the FNS QC handbook and forms. Other commenters suggested lead times of 45 days, 60 days, and 90 days. Two States recommended January 1, 1980 for implementation.

Based on the comments received and the reasons cited in this preamble for issuing final QC review regulations prior to regulations on all other aspects of the Performance Reporting System, the Department has revised the implementation schedule. With the current emphasis in the Act on using States' QC error rates as a basis for determining entitlement to enhanced funding, inadequate training and preparation for implementation and the resultant data could adversely impact on reported error rates and States' chances for receiving increased federal funds. Therefore, the implementation schedule, as revised, will (1) provide States approximately 45 to 60 days lead time to implement; (2) result in aligning implementation with the beginning of a review period; (3) allow States flexibility to conduct a test phase prior to the required implementation date; and (4) expedite reinstitution of regular QC reviews so that States' error rates can be used in determining entitlement to enhanced funding.

Implementation of these regulations (by the timeframe specified in (2) below) will supersede emergency rulemaking published February 9, 1979 (43 FR 8548). Under the February 9 regulations, States were required to implement no later than March 1, 1979, modified QC reviews. The modified QC reviews were implemented to measure the number of case actions and the quality of cases converted to the requirements of the Food Stamp Act of 1977 and the October 17, 1978 Food Stamp Program regulations.

The implementation schedule for conducting QC reviews is:

(1) All States must continue to conduct modified QC reviews through August 31 and submit Form FNS-133 to FNS by September 15.

(2) All States must implement the requirements of Subpart C for conducting QC reviews no later than October 1, 1979. Each State must submit a QC sampling plan for approval to FNS no later than September 1, 1979.

(3) States may implement QC September 1. The month of September would be a test phase. These States would not be required to operate under an approved sampling plan for this testing period or submit data collected for the sample month.

Many commenters expressed concern regarding timely receipt of the QC handbook and forms. States indicated that implementation of QC reviews was dependent on the handbook and forms being available to the States in sufficient time to develop manuals, sampling plans and to provide adequate training to reviewers on the new procedures and forms. The Department recognizes this concern and is expending all efforts towards providing States with the handbook and forms at the time of publication of these regulations or soon thereafter. To ensure no delays in the development and submission of the QC sampling plan, the final regulations contain a more detailed explanation of the content of the sampling plan (description of the frame and method of sample selection) in order to assist States in meeting the required implementation schedule. It should be noted that development and submission of a sampling plan September 1 would encompass reviewing the current plan to determine where modifications are necessary. If the current sampling plan includes all required information (as identified in the regulations and described below), the State may simply resubmit the existing plan.

In identifying the frame and method of sample selection in the QC sampling plan (as specified in § 275.11(a) of these regulations), the State shall describe in detail:

(1) The lists from which the sample of food stamp cases is actually selected. The following characteristics for each population shall be described:

(a) Source(s) (e.g., list of redeemed Authorization to Participate cards (ATP's), mail issuance records, daily tally sheets);

(b) The time at which the lists are available for sample selection;

(c) The accuracy and completeness of sample lists in reference to the population(s) of interest;

(d) Whether or not the frame is constructed by combining more than one list;

(e) Where the frame is compiled (e.g., entirely in the State office, entirely in local offices, in the State office based on information supplied by local offices);

(f) The form of the frame (e.g., computer file, microfilm, hard copy). If different parts of the frame are in different forms, the form of each part must be specified;

(g) Frequency and length of delays in updating the lists or their sources;

(h) Methods of locating and deleting unwanted items from the lists; and

(i) Structure of the lists (i.e., the order of units within each list).

(2) The procedure for selecting the QC samples. If more than one selection list is used, the method of selection from each list shall be specified. A time schedule for each step in the sampling procedure shall be included. The following characteristics for each population shall be described:

(a) Procedures for estimation of caseload size;

(b) Procedures for the determination of an appropriate overpull;

(c) Procedures for the computation of sampling intervals and the determination of random starts (when using systematic sampling);

(d) Criteria for stratifying or clustering the sample;

(e) The application of selection procedures to identify sample cases;

(f) Procedures to compensate for excessive oversampling or undersampling;

(g) Any checks and controls to monitor the selection and assignment of sample cases; and

(h) The relationship, if any, between the food stamp quality control sample design and other federally mandated quality control samples (e.g., Aid to Families with Dependent Children (AFDC) or Medicaid).

Two individuals commented on the Department's proposal to review cases which have been converted via a desk review (as provided in § 272.1(g)(1)(iii)) using standard QC review procedures. As proposed, when the QC reviewer detected an error in one of these cases which resulted from an element of eligibility which was not converted and was not required to be converted, the reviewer would disregard the error. If the reviewer detected the error in an element which was or should have been converted, the reviewer would handle the error in accordance with Subpart C of Part 275. One commenter approved of the proposal but indicated the proposal was to conduct a QC desk review of desk converted cases. This was not the Department's intent. Desk converted cases would be reviewed using regular QC review procedures which includes full field review and collateral contacts. Another commenter indicated that some cases may slip the conversion process and recommended these cases be identified as "not subject to review." The Department believes cases which have not been converted as required must be subject to review and errors reflected where appropriate. Therefore, this final rulemaking includes the Department's proposal on handling desk converted cases with clarification that cases which *should have been* desk converted will also be subject to review. The regulations also refer to "variances" detected in these cases rather than "errors."

During the initial semiannual reporting periods, State agencies are required in this final rulemaking to report the monthly progress of sample selection and completion and the summary of the sample results on forms provided by FNS. The report on monthly progress of sample selection and completion will be submitted to FNS monthly, and must be received no later than 10 days after the end of each month. Each report must reflect the status of sampling and review activity in the previous month. The first report must be submitted by December 10, 1979, reflecting the activity of November 1979. The report containing a summary of the sample results must be submitted to and received by FNS no later than 90 days from the end of each semiannual reporting period. Any corrections or clarifications to the reports which are requested by FNS must be submitted by the State agency within 10 days of the request.

The Department is still interested in the submission of machine-readable data to provide access to the information on Form FMS–245 as described in the proposed regulations. Given the massive nature of automating this system, however, the Department is exploring the feasibility of a pilot test prior to full implementation. Recognizing the need within each State agency to adjust their own data compilation and processing routines during implementation, the reporting procedures described above and in the regulations are intended to serve in the interim.

Quality Control Reviews

Scope and Purpose

The proposed and final regulations require that reviews be conducted on active cases to determine at a given point in time (the review date) if households are eligible and receiving the correct allotment of food stamps. There were seven comments received on this section, two supporting the section as a whole, three raising questions on the review date for active cases and two raising technical questions on the review date for expedited service cases. One of the comments on the review date suggested that the date of review be the date of certification; another comment suggested that the month of review be changed to the month immediately following the month of certification. The Department has historically supported the most useful review date as the first day of the sample month or the day of certification, whichever is later. The review at that point yields more data on the operation of the program, i.e., it covers the reporting of changes and handling of reported changes by the State agency in addition to actions taken at certification. The Department still wishes to gather this information and consequently the final regulations retain the point in time concept. The third comment pointed out that the regulations as proposed has no provision for States using fiscal month for certification. The Department has already approved the use of the fiscal month and the language in the final regulation is reworded to define the review date for active cases as either the first day of a calendar or fiscal month, or the day of certification, whichever is later.

The Department has made three further changes in the wording of this section in the final regulations. First, to reference more specifically the Food Stamp Act of 1977, the sentence in this section concerning analyzing findings of the reviews to determine the incidence and dollar amounts of errors has been reworded in the final regulations. It now refers to determining a State's cumulative allotment error rate and eligibility for enhanced funding, and planning corrective action to reduce excessive levels of errors when cumulative allotment error rates of 5 percent or more are reported. Second, the Department, to more accurately reflect quality control objectives, has added the words "at all levels of administration" to the third objective of quality control. Finally, for purposes of clarification, the fourth step in the review process has been reworded in the final regulations to provide for the transmission of completed worksheets and schedules to the State agency for centralized data compilation and analysis.

Sampling

The Department received a total of 49 comments on the proposed quality control sampling requirements.

Sampling plan. The proposed and final regulations set forth the requirements for the preparation and submission of a quality control sampling plan and the full documentation of all sampling procedures within each State agency. This section has been expanded to provide more detailed specification of sampling plan content. It has been reorganized to emphasize the requirement that all sampling plans (as opposed to just alternatives to systematic sampling) must meet the following criteria:

(1) Conformance to principles of probability sampling;

(2) Documented methods for estimating characteristics of the population and their sampling errors;

(3) Population estimates with the same or better precision as would be obtained by a simple random sample of the size specified in the regulations. (This criteria created some confusion for a few commenters because of the variations in precision between States of different size. It should be noted that the requirement of equivalent precision will be applied to each State agency independently. The comparison will be between the precision of the State agency's estimates from a simple random sample (or its equivalent) to the precision of the estimates under the proposed sampling plan);

(4) Description of all weighting procedures and their effect on data analysis and reporting requirements; and

(5) Maintenance of current effort in other phases of the quality control process, e.g., case reviews, statistical reports and data analysis.

Several commenters requested specific deadlines for sampling plan submission to ensure FNS approval with sufficient lead time prior to implementation. The final regulations require State agencies to submit a quality control sampling plan and subsequent modifications of sample design, frame, or procedures to FNS for approval at least 30 days prior to implementation.

One commenter suggested that the quality control sample be stratified by households' food stamp classification (i.e., public assistance or nonassistance). Because public assistance workers may be performing unfamiliar food stamp-related activities, the sample stratification may provide useful postconversion data. While State agencies retain the option to stratify the sample in this fashion, it is not required in the final regulations since reasonable comparisons of the error characteristics of these strata can be made without altering the sample design. However, in recognition of the differing problems present within the two strata, separate data analysis of public assistance and nonassistance food stamp cases is being considered for final rulemaking under Subpart D (Data Analysis and Evaluation).

Universe. The proposed and final regulations define the active universe to include all households receiving food stamps during a review period with several exceptions which are not amenable to a quality control review. A few commenters recommended that the universe be defined to include all households certified eligible for benefits. This definition would expedite sample selection if a list of certified eligible households is available at the beginning of each sample month since lists of participating households are not available until after the end of the sample month. It was also noted that the list of certified eligible households would be more consistent with the AFDC payrolls generally used to select the AFDC quality control samples and would facilitate the integration of quality control sample selection.

While the Department recognizes that the use of certification lists has some advantages for timely sample selection and integrated samples, it believes that the final regulations are sufficiently flexible to permit and encourage their use without modifying the character of the universe definition. Section 273.11(c)(1)(i) allows State agencies to use a list of certified eligible households or a list of issued ATP's provided that households which do not participate are not reviewed and that households which are certified and participate after frame compilation are included in a supplemental list.

A few commenters suggested that some certified households may choose not to participate if certified incorrectly at a benefit level which cannot justify the effort to obtain food stamps. With the elimination of the purchase requirement, however, informal estimates of the rates of participation among certified eligible households indicate that the number of such cases is likely to be too small to warrant any modification of the universe definition.

The list of exclusions from the active universe has been clarified in the final regulations. It has been revised to coincide more closely with the reasons for coding a case not subject to review in Section 275.12(b)(2)(ii). The proposal to exclude all households under investigation for Federal or State benefit program fraud has been modified to exclude only households under investigation for Food Stamp Program fraud (including households with pending fraud hearings). This change was made in response to a commenter who questioned the food stamp quality control reviewer's ability to know about ongoing investigations in unrelated programs.

The proposed and final regulations exclude those households appealing a Notice of Adverse Action when the review date falls within the time period covered by continued participation pending a hearing. It should be noted that cases in which the review date falls within the 10 day period given participating households to report changes, the 10 day period given the State agency to act on reported changes or the 10 day period given households to appeal a Notice of Adverse Action are subject to review. However, QC review procedures will allow both the State agency and the households the full time periods for reporting, acting, and appealing when determining whether variances will be included in each case's error determination.

Several of the commenters noted that it may not be possible to identify some of the exclusions at the time of frame compilation and sample selection. This was equally true for the operation of quality control under the Food Stamp Act of 1964. The Department is aware that a sample frame may include cases which are not part of the universe and for which information is not desired. If such cases are selected in the sample, Section 275.11(c)(2) of the final regulations requires only that the be coded as not subject to review and reported as such. State agencies should incorporate an appropriate overpull in the required sample size to compensate for the deletion of such cases.

The proposed and final regulations define the negative universe to include all households whose application for food stamps was denied or whose certification was terminated during the review period. Again, there are certain exceptions not amenable to a quality control review.

The list of exclusions has been modified somewhat in the final regulations. The proposed regulations excluded those households which withdrew a signed application prior to the agency's determination. The final regulations exclude all households which withdraw an application (both signed and unsigned). The intent is to review only those households in which the State agency takes some action to deny or terminate participation. All voluntary withdrawals prior to the agency's decision are excludable. The proposed regulations excluded households under investigation for fraud; this has been clarified to exclude households under investigation for Food Stamp Program fraud. Finally, a sentence has been added to specifically exclude any action which changes a household's food stamp classification from nonassistance to public assistance (or vice versa) that does not interrupt the household's participation.

Frame. Two commenters objected to the proposed requirement that the active sample frame include all households which participate in the sample month. As noted above, this requirement may often entail the use of supplemental lists, particularly if a State agency elects to use a list of certified eligible households. One commenter proposed that State agencies be allowed to use incomplete sample frames provided that the number of cases excluded is small compared to the total caseload and that the percentage of excluded cases which appear in frames for subsequent months is relatively high. It was suggested that the burden of proof would be on the State agency to demonstrate their compliance with these limits. Although the Department recognizes the merit of this proposal, it is concerned with the lack of sufficient data to establish realistic limits and with the mechanism by which State agencies can demonstrate compliance. Consequently, no change has been made in the final regulations, but the Department may reconsider the issue at a later time and solicits additional comment.

Sample size. The proposed regulations eliminated the former sample size tables and substituted two equations for the determination of the active and negative quality control sample sizes. These equations took account of both caseload size and reported error rates in the sample size determination. The intent of this proposal was to concentrate the quality control sample in States with large numbers of participating households and substantial monthly issuances, smooth the abrupt changes in sample size caused by changes in caseload size, and provide an additional incentive to State agencies to reduce error rates (i.e., a smaller sample size).

Twenty-five Federal, State, and local agencies commented on this proposal. While the commenters generally supported the use of a continuous function, the overwhelming majority were opposed to the inclusion of the State agency's error rate as a determining variable. Many State agencies argued that the potential fluctuations of sample size caused by variations in error rates could not be accommodated within the States' staffing patterns and budget cycles. It was felt that resources would be misdirected to completing additional sample reviews instead of improving program administration if error rates increased. Some noted that the use of error rates in the sample size determination may inhibit an impartial identification of errors by quality control reviewers. Finally, the approach was seen as an implicit penalty for high error rates rather than an incentive for reducing error rates.

Based on these comments, the Department has modified this section in

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the final regulations. The use of a continuous function has been retained but the reliance upon error rates has been eliminated. The function below is designed to maintain current levels of precision as much as possible while minimizing any increases in sample size. The number of active cases to be selected and reviewed by each State agency during each six-month reporting period will be determined as follows:

Average monthly households	Required semiannual sample size
60,000 and over	n = 1200
10,000 to 59,999	n = 150 + 0.021 (N − 10,000)
Under 10,000	n = 150.

where (1) n is the required active sample size (the minimum number of active cases subject to review which must be selected each reporting period) and (2) N is the anticipated average monthly participating caseload subject to quality control review. If this procedure had been used during the January–June 1978 reporting period, the active sample would have been smaller in 23 States, larger in 3, and unchanged in 28.

The number of negative cases to be selected and reviewed by each State agency during each six-month reporting period will be determined as follows:

Average monthly actions	Required semiannual sample size
5,000 and over	n = 800
500 to 4,999	n = 150 + 0.144 (N − 500)
Under 500	n = 150.

where (1) n is the required negative sample size (the minimum number of negative cases subject to review which must be selected each reporting period) and (2) N is the anticipated average monthly number of negative cases subject to quality control review. If this procedure had been used in the January–June 1978 reporting period, the negative sample would have been smaller in 27 States, larger in 9, and unchanged in 17.

The Department believes that this approach will maintain the advantages of the proposal (i.e., effectively distributing the quality control sample among States of different size, smoothing abrupt changes in sample size, and facilitating the coordination and integration of sample selection procedures) while eliminating the perceived disadvantages.

A few commenters said that the proposed sample sizes, particularly for the negative sample, were excessive and provided estimates of greater precision than needed. As the preamble to the proposed regulations noted, however, the quality control sample is used to provide estimates for determining State agencies' eligibility for additional administrative funds and as the basis for planning corrective action. The quality control sample size must strike a balance between the need to support detailed analysis for corrective action planning and provide reasonably precise estimates of total error rates. Given the concerns expressed in the comments, the maximum semiannual active sample size in the final regulations has been reduced from 1400 to 1200 reviews; the maximum semiannual negative sample size has been reduced from 1200 to 800 reviews. The larger reduction of the negative sample is predicated on the uniformly low negative action error rates (excluding procedural errors) reported in the past.

Some of the State agencies of smaller States objected to the proposed increase in the minimum active and negative samples from 75 to 150 semiannual reviews. While this requirement places an additional burden on these agencies, the Department believes that the importance of a sufficiently large sample to support effective data analysis justifies the increase in the final regulations. Furthermore, the final regulations include a provision that allows State agencies to reduce the total sample size if the agency can produce estimates of equivalent precision. The smaller States, with very small caseloads, will be able to take advantage of this provision by incorporating the finite population correction factor [(N − n)/N, where N is the caseload size and n is the sample size)] into its computation of precision.

The Department recognized the difficulty of accurately predicting caseloads when determining sample size in the proposed regulations. The proposed and final regulations include a provision to account for this uncertainty. States will not be penalized if the actual caseload during a reporting period is less than 20 percent larger than the estimated caseload used to determine the semiannual sample size. If the actual caseload is more than 20 percent larger than the estimated caseload, the larger sample appropriate for the actual caseload will be used in computing the sample completion rate. A few commenters objected that the 20 percent limit was too low and that the requirement would have a minimal effect on precision. Some suggested that an average of past caseloads be used rather than an estimate of forthcoming caseloads. Given the potential for rapid changes in caseload size and the provisions included in the regulations for adjusting sample size, however, the Department believes that the procedures for caseload estimation and the 20 percent threshold are adequate.

Finally, this section was reorganized to remove all references to the use of error rates in the determination of sample sizes and to eliminate some duplication.

Sample selection. The proposed regulations required that households selected more than once in the same six-month reporting period be reviewed only once, with subsequent selections coded not subject to review. Several commenters indicated that is was time-consuming to identify such cases and that it was a source of potential bias. The inconsistency of limiting this requirement to selections within a reporting period (i.e., a household might be reviewed in both March and April, but not in April and May) was also noted. The final regulation has been revised to require that an active case be reviewed each time it is selected for the sample.

The proposed regulations included a provision that sample selection should be made no later than the 15th day of the month following the sample month. Some commenters suggested that this was too stringent, and in the final regulations, the deadline has been moved to the 20th day of the following month.

The proposed regulations left the adjustment of excessive oversampling and undersampling to the State agency's option. The final regulations have been modified to require the correction of excessive undersampling so that the minimum sample size requirements are met. The correction of excessive oversampling is left a State agency option. (It is noted, however, that the completion rate is based on the number of cases selected subject to review. A State agency which selects a larger sample will be required to complete 95 percent of all cases subject to review.) Additional emphasis is placed on the requirement that these corrections must not bias the sample results. Consequently, cases which are dropped to compensate for oversampling must be a random subsample of all cases selected (including those completed, not completed, and not subject to review). Cases which are added to the sample to compensate for undersampling must be randomly selected from the entire frame. A sentence has also been added that requires all sample adjustments to be fully documented and available for review by FNS.

Sample completion. The proposed and final regulations attempt to control the potential bias of nonresponse with a completion standard of 95 percent of both the active and negative quality control samples. This percentage is the ratio of the number of completed reviews to the number of cases selected subject to review or to the minimum number of cases computed from the sample size equations, whichever is larger. A State agency's entitlement to the increased federal share of administrative costs will depend on the satisfactory completion of at least 95 percent of the required active case reviews.

Some commenters objected to including households which cannot be located or would not cooperate in the computation of the completion rate, arguing that such factors cannot be controlled by the agency. Some suggested a standard lower than 95 percent. The Department made no change in the final regulation for two reasons. First, there is a significant concern for the potential bias of nonresponse. This concern would be aggravated by the arbitrary exclusion of households subject to review but not completed for reasons "beyond the agency's control." Second, the degree of uncertainty associated with nonresponse rises rapidly as the number of uncompleted case reviews increases. To help ensure an equitable distribution of the additional administrative funds, the Department must minimize this uncertainty. The 95 percent standard, while rigorous, is one attained by more than half of the State agencies in January–June 1978 and is, therefore, a realistic goal.

Reporting requirements. Section 275.11(g) duplicated § 275.21 of the proposed regulations. Therefore, it has been deleted from the final regulations.

Review of Active Cases

Full verification. The proposed and final regulations require that quality control verify household circumstances as of the review date. There were 17 comments on the requirement that QC reviewers use full verification, as opposed to strictly following the verification requirement in the certification regulations. The comments reflected two basic concerns: (1) that the quality control reviewer is allowed to verify more fully than the eligibility worker and thus may find more information than the eligibility worker did; and (2) that quality control's use of full verification will lead to "excessive verification" by the certification staff, in an effort to avoid errors. A complete discussion of the verification requirements in the certification regulations is contained in the preamble in the section entitled "Variances excluded from error analysis." The Department does, however, want to clearly state why full verification is considered necessary in conducting quality control reviews. The purpose of quality control is to determine households' actual eligibility and basis of issuance as of the review date and, to do this effectively, full verification is a necessary part of the review process. In addition, quality control is a management tool by which the Department measures not only the quality of certification and participation, but also identifies system and policy problems within the program structure. To accomplish this, full verification of all elements is essential, since without complete verification the Department will not have sufficient information upon which to evaluate the program and make policy changes, if necessary.

Review completed to the determination of coupon allotment. The proposed and final regulations require that, to identify all variances in an active case, the review must be completed to the point where the proper coupon allotment is determined. A discussion of this issue and why the Department expanded this concept is contained under the section of the preamble entitled, "Identification of variances."

There was also a comment on this section referring to the completion time for a review. The commenter suggested that 60 days was a more realistic expectation of the time necessary to complete a quality control review. The proposed regulations are actually flexible on this time period, stating "it is essential that reviews be made as soon as possible, usually within 30 days of assignment." Since this does provide a State with some latitude, the final regulations retain this language.

Content of the review. The largest number of comments on this section were directed towards the requirement in the proposed regulations that public assistance (PA) income be recomputed in cases containing PA income when the reviewer finds income and deduction information that indicates that the PA grant is incorrect. There were 52 comments received on this issue, 40 of the commenters were totally opposed to this, two commenters supported it and 10 commenters saw some problems with doing this but were not totally opposed to it. Those States already using integrated sampling did not feel that the recomputation presented serious problems for them but commented that this would be administratively difficult for States not using integrated sampling. They also pointed out that training would be an area of concern for all States. The 40 commenters opposing this provision identified several reasons for their opposition. The reasons most often given are as follows: (1) The process will create errors since errors in PA grants would cause an error to be reflected in the food stamp case; (2) the provision is contrary to certification policy which requires the use of income as received to compute food stamp benefits; (3) the requirement to recompute PA income but no other income is inconsistent; (4) the provision results in an administrative burden relative to training and increased time expended in reviewing a case; (5) there is no legislative basis for this provision; (6) since the process will increase completion time for a review, it could affect the completion rate for QC reviews; and (7) the requirement is not feasible unless a State has integrated sampling or multifunction reviewers and the majority of States are not presently in that position. In recognition of the predominantly negative response to the requirement to recompute the PA grant, the Department has not included this provision in the final regulations. PA income will thus be treated as all other income for QC purposes. However, the Department feels that many of the comments reflected a misunderstanding of the intent of the proposed provision and consequently the Department wants to clarify the requirement contained in the proposed regulations. The underlying reason for the proposal to recompute the PA grant (as opposed to other, nonpublic sources of income) was to reflect more accurately the total Federal program loss in the AFDC and Food Stamp Programs. For example, if a household is receiving both PA and food stamp benefits in a given month and is also receiving other income which has not been reported to the State agency, benefits will have been overissued in both programs. However, if both programs calculated corrected benefit levels and reported the amount of loss to each program independently, the total Federal loss would be overstated. This is because the Food Stamp Program bases benefit levels upon the size of the grant the household receives from PA. In the above situation, PA would determine its loss for the month based upon the household's actual circumstances, while the Food Stamp Program would determine its loss based upon the incorrect PA grant and other actual circumstances. This results in a

greater loss determination than if the corrected, lower, PA grant were used. If both program losses in this household were added together the total Federal loss would thus reflect some double counting. Assuming the above situation occurs in a substantial number of cases selected for review, the resultant error rates for the two programs continually overstate total Federal loss. The provision in the proposed regulations would have, in part, eliminated this overcounting by basing food stamp loss on a household's actual circumstances as related to their actual entitlement to PA benefits. This proposal was designed to ensure fairness to State agencies.

The Department never intended that the recomputation provision *cause* a food stamp error. The food stamp QC reviewer would only recompute the PA grant when unreported income and deduction information is discovered in an amount that would result in the occurrence of an error in the food stamp case, whether or not the PA grant was recomputed. For example, in a case where no new income is found in the household, and a computational error was made by the PA worker when determining the PA grant, then the food stamp QC reviewer would not recompute the PA grant. Not only would recomputation of the PA grant not create food stamp errors, it would result in a lower dollar loss being counted in the State's cumulative allotment error rate. This is true because recomputation of the PA grant would, in the vast majority of cases, lower the amount of the grant and the household's total income would be less than if the full grant were used, thus lowering the amount the food stamp case was overissued. There are also instances when PA and food stamp benefits are underissued due to an unreported loss of income in the household. Recomputation of the PA grant in this situation would result in adjusting the PA grant up to the correct level and thus reflecting the true underissuance to the household. While the Department recognizes the administrative burdens recomputation would palce on the States, some of the other objections, as illustrated above, were not viable in light of the Department's intent. The Department wants to stress this because, although the provision has been removed in the final regulations at this time, the Department is considering proposing this provision at a future date, with a clearer explanation of its intent, so that new comments that are not based on a misunderstanding of the provision can be obtained.

Household case record review. The Department received four comments on this section. Two of these suggested that additional guidelines be included to give the reviewer more direction in conducting the household case record review. These are procedural concerns and thus would not be addressed in the regulations which are intended to state policy only. One comment simply agreed that documents in the case record can constitute adequate documentation. The fourth comment suggested that the regulations specify that QC is not required to review circumstances past the review date and that any additional information discovered during the review be reported as discrepancies. The proposed and final regulations as written essentially address this concern; the reviewer examines the review month but any changes after the review date are reported as discrepancies.

Field investigation. The Department received nine comments on this section. Four comments were general and five comments were directed to the exception allowed Alaska relative to field investigations. Two of the general comments supported this section and two comments opposed full field investigation. The latter recommended that desk reviews be conducted instead of home visits. The Department believes that in order to correct, verify and document all the data needed for a review of an active case that a field review is necessary. For this reason the final regulations continue to require full field investigation.

Three comments stated that the exception clause for Alaska was discriminatory and that the exception provision should not be limited to Alaska. The Department recognizes that many parts of the country have severe weather of varying types for some periods of time. However, the Department feels that both the geography and inaccessibility of households in Alaska pose unique and long term problems relative to conducting field investigations. Consequently, the final regulations continue to allow this exception only for Alaska. In response to two of the comments received, the final regulations are reworded to reflect that the exception can be made based on the geography and lack of accessibility and transportation in some parts of Alaska.

Personal interviews. The Department received a total of 26 comments on this section. Three comments suggested that allowances be made for a telephone interview in certain circumstances. The Department believes that a telephone interview with the household is not an adequate method of interviewing a participant household and consequently the final regulations retain the provision precluding a telephone interview, except when the field investigation is not conducted in cases in Alaska as outlined above.

The 13 comments received on notifying the household prior to making a home visit were, for the most part, opposed to this provision for varying reasons. Some commenters felt that this requirement would add time, complexity, and expense to the review process. Specifically, since many participants do not have phones, written notification will be necessary and this results in an increase in the time it takes to complete the review and possibly increases travel time and cost when the reviewer has to go to a county once to desk review the case and send a letter to the participant, and a second time to make the home visit. These commenters suggested that the option of providing prior notification be left up to the State. Several commenters felt that unannounced home visits have proven to be an effective method of field investigation. They felt that if the participant knows when the reviewer is to make the home visit the participant may avoid the reviewer or "prepare" for the visit and consequently the reviewer may be unable to evaluate the household's true circumstances. These commenters also pointed out that specific appointments can inconvenience the participant since the reviewers, depending on their schedules, are not always able to keep appointments or be on time.

Two commenters supported the provision and one of these suggested that the households be informed that they are not being singled out for investigation but, rather, that this is part of an ongoing review process. The Department believes that the home visit should not be totally unannounced nor should it alarm or inconvenience the participant. In recognition of the varied concerns outlined above, the Department concluded that while some provision for prior notification is necessary, States should be given some latitude in how this provision is implemented. Consequently, the final regulations have been reworded to require a notification to the household that it has been selected for review, as part of an ongoing review process, and that a home visit will be made at some time in the future. The method and specificity of the notification is left up to the State agency. The Department believes that the final regulations address the concern that a home visit not be totally unannounced while, at the same time, precluding a participant from deliberately avoiding the reviewer or being inconvenienced if the reviewer is unable to keep an exact appointment.

The remaining nine comments on this section were concerned with designation of collateral contacts and the results of a household's noncooperation in this area. The first concern expressed in several comments was that under the proposed regulations the quality control reviewer is not limited to using the collateral contacts designated by the participants, as is the eligibility worker. There was a suggestion that the reviewer should be subject to the same constraints as the eligibility worker. The Department believes the participant should certainly have the opportunity to designate collateral contacts and that the QC reviewer should elicit names of collateral contacts from the participant. However, it is the Department's position that the reviewer may go beyond that and use other collateral contacts. Quality control, as a monitoring system, has an obligation to obtain the most complete information possible and from the most reliable sources. In order to accomplish this, the reviewer may have to go beyond the collateral contacts designated by the household. The final regulations have been reworded to reflect this policy, as well as to emphasize that the reviewer should elicit names of collateral contacts from the participant.

The second area of concern in the comments on collateral contacts was relative to the consequences of a household's refusal to cooperate by refusing to sign the release of information form in States where this is required. The commenters questioned if there are consequences, and if so, what they are. To clarify this area the final regulations include a reference to § 273.2(d) in the certification regulations which includes the following sentence: "The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes, recertification, or as part of a quality control review."

Collateral contacts. The Department received 27 comments on this section, all directed toward the sentence concerning resolution of conflicting information. The comments reflected differing reactions to this provision; six commenters supported the language in the proposed regulations, 10 commenters were opposed to the provision and 11 commenters had a divided reaction. Several State agencies indicated that they presently have some mechanism for resolving differing information; in most instances their QC reviewers resolve the conflicting information prior to the completion of the review and the reporting of an error. One commenter felt that the eligibility worker should resolve the conflicting information but most of the commenters felt that this should be done by the QC reviewer, both because it would be less time consuming and because it is part of the review process.

While some State agencies saw no problem with confronting the participant with differing information from a collateral source, others felt that subsequent visits with the participant would be time consuming and costly. Several commenters also pointed out that reviewers use the most reliable collateral contacts they can and when documentation from such a source is beyond question that the reviewer should be able to make the final determination.

In summary, the majority of the commenters supported resolution of conflicting information by the QC reviewer, using varying methods. The Department agrees that such resolution, before a review is completed and an error determination is made, is a procedure that the QC reviewer should follow as part of the review process. The quality control reviewer, in evaluating a case uses only fully verified and documented information, based on the most reliable data available. Obviously, the reviewer wants to present the most accurate findings possible and resolving conflicting information would contribute to this. When resolving conflicting information the reviewer must recontact the participant (unless the participant cannot be reached) and discuss the conflicting information. In the final assessment, the Department believes that reviewers must use their best judgment based on the most reliable data available. The final regulations have been reworded to reflect this position and to ensure that conflicting information is resolved before an error determination is made. The final regulations also mandate that the reviewer document the basis on which the decision is made.

Identification of variances. The terminology of this paragraph has been changed from proposed rulemaking to clarify the definitions of, and relationship between "errors" and "variances." The final regulations use the term variance to describe situations where information verified by the reviewer as of the review date differs from information used at the time of the most recent certification action or when policy has been misapplied for individual elements of eligibility and basis of issuance. Thus, if income, resources, household composition, etc. differ between the QC review date and the latest certification action, the case would contain variances. This also includes policy misapplication or computational mistakes made by the State agency staff when calculating eligibility and/or benefit levels. The term error is applied in these regulations to those cases which are ultimately determined to be ineligible or have received an incorrect allotment in the sample month based upon certification policy.

While it is obvious that variances and errors have a direct relationship (i.e., the former must exist for the latter to occur) this relationship is not absolute (existence of the former does not necessitate occurrence of the latter). It is not absolute for three reasons: (1) QC's adherence to certification policy regarding certification pending verification and reporting of changes in household circumstances; (2) the $5.00 individual case tolerance which disregards incorrect allotments of $5.00 or less; and (3) situations where two variances cancel each other out (e.g., cases with two sources of income when one is higher in the sample month and the other lower than at the time of certification). The first and second reasons given above are expanded upon later in this preamble while the third is self-explanatory.

The major modification in this section from proposed rulemaking is in the identification and reporting of variances. Under proposed regulations States would have been required to identify and list on the Form FNS-245 all variances in *error* cases without assigning priorities. This provision has been expanded in final regulations to require identification and reporting of variances in all completed cases. In both cases, the provision requires that all cases be completely reviewed, including cases determined to be ineligible early in the review for reasons such as excessive resources, residency, etc. The Department received 10 comments on the proposed provision, seven of which were negative. The primary objections were: 1) continuing the review after ineligibility is determined is not cost effective in that the variance which results in an ineligibility determination is the one corrective action should be aimed at; and 2) listing all variances without assigning priorities will not identify the primary reasons cases are in

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error, which may hinder corrective action efforts. The Department evaluated these comments and reexamined the entire area of reporting QC findings. While commenters' concerns are recognized, the Department concluded that information on variances in all cases will, in fact, provide information essential for accurate and complete corrective and/or preventive action planning. Commenters' objections to the extra time needed to identify all variances seems somewhat overstated since only 3.7 percent of the cases reported in the January-June 1978 QC reporting period were ineligible (many of which were found ineligible only after all elements of eligibility and basis of issuance were verified). Thus, more review activity would be required in only a small percentage of cases as information in all other completed cases must be fully verified regardless of reporting requirements. The additional time needed to code all variances on Form FNS–245 for all cases will also be minimal given the fact that coding involves no more than designating numbers to reflect information gathered during the review. Commenters' concern over not designating a primary variance was recognized in proposed rulemaking by providing States with an option of designating a primary variance for their own use. This provision is retained in these regulations. The reason the Department does not require identification of a primary variance is that this determination is often difficult to make in cases with multiple variances which results in inconsistent determinations and potentially skewed analysis. Conversely, coding all variances will provide objective and complete information by which States and the Department can measure the effectiveness of program policies and the accuracy with which operating procedures are adhered to.

The "Error Analysis" paragraph of the proposed regulations would have required that QC reviewers determine when errors occurred and whether the error was agency or participant caused. Further, errors would have been assigned to the State agency when inadequate documentation in the casefile resulted in the reviewer being unable to determine when the error occurred and/or who caused it. The Department received 10 comments on this provision, nine of which were negative. The commenters who opposed this provision felt that the determination of "adequate documentation" is subjective and an illogical basis for assigning errors. Commenters suggested that when reviewers cannot determine who caused the error it should, in fact, be reported as undetermined. The Department has modified this provision to direct the assignment of cause to variances rather than errors and has eliminated that part of the provision which would have assigned variances to the agency solely on the basis of the reviewer being unable to determine *when* the variance occurred. If the reviewer cannot determine whether the variance existed at the time of certification or subsequent to certification, the reviewer will simply report this independent of the determination of whether the variance was agency or participant caused. However, these regulations do retain that part of the provision which requires assignment of variances to the agency when inadequate documentation prevents a definitive determination of agency or participant responsibility for variances. The intent of this requirement is not to assign variances to agencies solely on the basis of missing documentation. Only when no other information obtained during the review enables the reviewer to determine responsibility for the variance, and documentation in the casefile is inadequate will variances be assigned to the agency. The Department believes this is reasonable in that State agencies are required to document completely and when documentation is incomplete in an element which varies it is probable that the agency could have done more to prevent the variance and must take some responsibility for its occurrence.

Variances excluded from error analysis. The proposed regulations provided for situations excluded from error analysis and reporting in the paragraph entitled "Cumulative Allotment Error Rate." The Department has set these exclusions apart to clarify the intent of this provision and to more closely follow the actual review process. The Department received 44 comments on what should be excluded from the error determination (and ultimately from the cumulative allotment error rate). While 13 commenters supported the proposed exclusions, 10 of these and the remaining 31 believed they were incomplete. Commenters felt that the following should also be excluded from the error determination: (1) Variances in elements which the State agency is not required to verify at the time of certification and (2) variances due to participants reporting inaccurate information or not reporting at all.

Since adoption of the latter of these two proposals would leave the former irrelevant (participants must supply inaccurate information before verification becomes an issue) the Department first considered exclusion of participant caused variances. While the Department recognizes the difficulty States face in ensuring participants report accurately and completely, this is a critical area of State responsibility. State agencies can influence, and to a substantial extent, control what and when participants report through effective interviewing and providing full information regarding program rules and participants' responsibilities. Further, as one commenter pointed out, the House Committee did recognize in developing the 1977 Act that participant caused variances are difficult to control (House Report No. 95–464, 95th Cong. 1st Sess., pp. 347–363). However, Congress took no action to exclude such variances from the cumulative allotment error rate, nor was there any implication that such action should be taken. Thus, any such provision that would affect the content of the cumulative allotment error rate could violate congressional intent in regard to the provisions for enhanced Federal funding based upon these error rates. It is the Department's position that Congress intended the enhanced funding to provide States with a goal which can be reached through improved program administration, including providing participants with a clear understanding of their responsibilities and improving interview techniques. For the reasons outlined above the Department can not concur with commenters' position on excluding participant caused variances from the error determination.

The Department believes, based upon commenters' reasons for proposing exclusion of variances in elements for which the certification regulations do not "require" verification, that some misunderstanding exists in regard to the verification requirements of the certification regulations. The certification regulations mandate verification of all gross nonexempt income (both earned and unearned), declared alien status, utility expenses in excess of a utility standard, student tax dependency and the eligibility of the taxpayer household when the application indicates likely student tax dependency. These regulations also mandate verification of all questionable information regarding other elements of eligibility and permit State agencies to determine their own verification policies regarding loans and liquid resources, including full verification of these elements for all households.

The final certification regulations are more stringent than the proposed regulations published May 2, 1978 (43 FR 18874) which many State agencies opposed because they felt their flexibility to verify information would be limited, thus reducing program accountability. In response to these concerns, the Department developed the verification standards outlined above which require full verification of income and other major elements of eligibility, and also require verification of any other eligibility factor which is questionable because information on the application is inconsistent with statements made by the applicant, other information on the application, previous applications, or other information received by the State agency. The provision allowing States to verify information on the application that is inconsistent with statements made by the applicant means that effective interviewing techniques can be used to detect questionable areas which are then subject to verification. Thus, State agencies need not have a document that is inconsistent with information on the application in order to verify such information.

For the reasons cited above, the Department believes it is reasonable to include all variances which States can control in the QC error determination and cumulative allotment error rates. Thus, under the final regulations, quality control will measure States' administration of the program as reflected by the effectiveness of States' interviewing techniques, case evaluations, ability to provide complete information to applicants, etc. (which, after all, is one of the primary purposes of quality control).

While the Department believes that a number of comments indicate misunderstanding and underestimation of the amount of verification permissible under the October certification rules the Department is concerned about comments on this issue. In response to these comments, the Department plans to propose modifications to the October verification rules. This proposal is planned for appearance in the **Federal Register** within 60 days. In addition, in evaluating commenters' concerns, the Department identified two situations, in addition to those in the proposed quality control regulations, in which variances will be excluded from the error determination. Variances in these situations (see § 275.12(b)(1)(iv)(D) and (E) of the final regulations) would be beyond States' ability to control in that the certification regulations require States to make eligibility and allotment level determinations based upon incomplete information, limit what participants must report, and specify allowable periods of time for reporting and State action upon such reports. The occurrence of variances in these situations will be reported as administrative deficiencies for the Department's use in evaluating related program policies.

Error analysis. The Department received 14 comments on the provisions of the proposed regulations which are retained in this section of the final regulations. These comments were primarily directed at the proposed $5.00 individual case tolerance which will be applied to the allotment certified for in the sample month and the allotment which a household should have been certified for based upon QC's application of certification policy. Seven commenters supported the provision as proposed while two recommended more closely aligning the individual case tolerance with AFDC's tolerance (i.e., a tolerance which would disregard differences of less than $5.00 rather than the proposed tolerance which disregarded differences of $5.00 or less). The reason given for this suggestion was to promote consistency between food stamp and AFDC QC. While the Department agrees that consistency is desirable between the two programs, differences in the programs' methods of dispensing benefits make consistency impossible in this instance. AFDC benefits are usually calculated to the penny while food stamp procedures require rounding to whole dollars in calculating benefits. Thus, if AFDC's tolerance were adopted, the food stamp tolerance would, in effect, disregard differences of $4.00 or less, which would be no more consistent than the tolerance as proposed. For this reason the final regulations retain the provisions of the proposed regulations for the individual case tolerance.

Five of the comments received on the $5.00 tolerance exhibited some misunderstanding in regard to the relationship between the tolerance and the $25.00 reporting requirement provided for in § 273.12(c) of the certification regulations. The $25.00 reporting requirement is used by QC to determine participants' responsibility to report changes in gross nonexempt income subsequent to certification, while the $5.00 tolerance is used to measure the effect of any variance on allotments and to determine whether a *reportable* basis of issuance error exists.

Cumulative allotment error rate. As explained earlier in this preamble, much of the content of this section contained in proposed regulations has been moved to § 275.12(b)(1)(iv) in final rulemaking. Four comments were received which apply to the remaining provision of this section. All four commenters believed that the cumulative allotment error rate should not include the value of allotments underissued and two felt that underissued allotments should be offset against the amount of overissued dollars. The Department disagrees with these suggestions for two reasons: (1) the Food Stamp Act of 1977 clearly directs that the cumulative allotment error rate include the value of underissued dollars; and (2) the Department is equally committed to providing full benefits to eligible households (this being the primary reason for having the program) as it is to ensuring that no households receive more food stamp benefits than they are entitled to. For these reasons the final regulations continue to include the value of underissuance allotments in the cumulative allotment error rate.

Identification of administrative deficiencies. The Department received 33 comments on this section of the proposed regulations, 28 of which supported the proposed definition and reporting requirements for administrative deficiencies. Based upon this support, the final regulations retain the provisions of the proposed regulations with only some technical modification.

As requested in the preamble of the proposed regulations, the Department received comments on the possible establishment of a tolerance level for the occurrence of administrative deficiencies. Nine out of ten comments received on this issue supported the idea of a tolerance. The Department is currently evaluating this issue and will address it under final regulations dealing with corrective action which will be published in the future.

Identification of discrepancies and reporting of findings on individual cases. This section of the proposed regulations received no direct comment but was expanded in final regulations to ensure that all information gathered by quality control is transmitted to the State agency for appropriate action.

Disposition of case reviews. The Department received a comment from the USDA Office of Inspector General (OIG) concerning cases selected for review in which the case record and/or the participant cannot be located. In both the proposed and final regulations, these cases are reported as not completed. OIG felt some special action is needed for these cases to ensure that allotments are being issued to eligible households. While State agencies would pursue these cases individually, OIG felt that investigations may be necessary

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and that a tolerance should be established which, if exceeded, would require some special action. While the language of the proposed regulations has been retained in these regulations, the Department believes this is a serious concern and will give this issue full consideration and address it in final rulemaking under Subpart B (Management Evaluation Reviews) and Subpart E (Corrective Action).

Two comments were received on the proposed regulations dealing with cases not subject to review. Both commenters believed that cases which have received a Notice of Adverse Action should not be subject to review when the review date falls in the 10 day period following such a notice. The reason given for this recommendation was that the QC review could interfere with the hearing process if the participant appealed the notice. While the Department agrees that the QC review should in no way disrupt the hearing process in these situations, it is believed that dropping a case because a household *may* appeal is not a sufficient reason. These are participating cases which can be reviewed and should be reviewed to ensure that QC findings are as representative of States' caseloads as possible. The modifications made to this section were in response to changes in § 275.11(b)(1) (as explained earlier in this preamble) and to correct an inconsistency between that section and this one which existed in the proposed rulemaking. The modifications were to: identify that cases receiving restored benefits but which are otherwise ineligible are not subject to review; exclude from the not subject to review category cases selected more than once in a six-month reporting period; and limit the coding of cases as not subject to review because of fraud investigations to Food Stamp Program fraud investigations only.

Review of Negative Cases

Content of the review. The Department has clarified this section of the regulations. In reviewing negative cases, the QC reviewer must examine the case record and verify, based on documentation in the file, whether the reason for the denial or termination is valid. If the denial or termination is determined valid, the reviewer is, in fact, determining that the household was ineligible. If, through the case record review, the reviewer determines the reason to be invalid, the QC reviewer must then determine whether the household was eligible or ineligible at the time of the decision to deny or terminate program benefits. This procedure was implied in the proposed regulations but not specifically identified.

Field investigation. The majority of the comments received on negative cases were directed to the Department's proposal to require a determination of the household's eligibility or ineligibility at the time of the agency's decision to deny or terminate program benefits. This proposal included requiring the reviewer to conduct a field investigation, if necessary and, compute for each household determined eligible, a coupon allotment based on the household's status at the time of the decision. Forty-three individuals commented on this proposal. Fifteen commenters approved the expanded review of negative cases indicating this approach would provide statistics on how many decisions were actually invalid and would give negative cases equal importance to active cases. Four commenters opposed the proposal and recommended field investigations be required on *all* negative cases. Twenty-four commenters either opposed the expanded review or the requirement that the QC reviewer compute a household's allotment if the household is determined eligible. Those opposing the computation of a household's allotment indicated this was the responsibility of the local staff, not the QC reviewer. These commenters recommended the QC reviewer review the case to the point eligibility is determined and then report this information to the State agency for computation of the allotment by the eligibility worker. The major concern cited by commenters opposing the expanded review was the increased time involved in conducting field reviews which would require more staff. Some commenters indicated the expanded review was not cost effective and that no benefit would be gained by the client or State agency. The majority of the commenters opposing the expanded review recommended that the review of negative cases continue to be limited to determining the correctness of the stated reason.

Requiring field investigations on all negative cases would not be feasible. First, if through examination of the case record and verification of documentation contained in the file the reviewer can determine that the household was in fact ineligible, there is no justification for requiring a full field investigation. Secondly, the purpose for the review of negative cases is to ensure eligible households are not being denied benefits or terminated from the program. This purpose can be achieved by reviewing the case record, partial field review, if sufficient, or full field investigation, if necessary.

The Department believes that some of the concerns over the expanded review increasing the review time and staff will partially be eliminated by the Department's decision to revise its proposal on determining sample size (see preamble on "Sampling" and § 275.11(d) of these regulations). The impact of this change if sample sizes had been determined as required in these regulations for the January-June 1978 reporting period, would have resulted in 27 States' negative case sample sizes decreasing, 9 States increasing, and 17 States remaining unchanged. In addition, it appears that States are overestimating the number of negative cases which may require some amount of field investigation. For the January–June 1978 reporting period, the National average for invalid decisions was 12 percent. Excluding procedural errors, the National average was less than one percent. Thus, only for those cases where the reason is determined to be invalid, which represents one percent of a States' negative sample size, would the reviewer be required to go beyond a case record review. Even if the National average were to increase to three percent and using the minimum and maximum negative case sample sizes (150 and 800 cases), each State would go beyond a case record review in only four to twenty-four negative cases during a six-month review period. A percentage of these cases may only require verifying an element(s) of eligibility which is in question by contacting a collateral source by phone. Therefore, based on the fact that a minimal number of cases would require a full field investigation, this final rulemaking remains unchanged with regard to determining a household's eligibility or ineligibility in negative cases. The expanded review of negative cases will result in providing information to the State agency for corrective action purposes on the number and types of households which are being denied or terminated when in fact they were eligible to participate. This action will result in improved service to participants and potential participants.

Regarding the comments received on requiring the QC reviewer to compute a household's allotment if determined eligible, the Department agrees that this is the responsibility of the local staff. Since the purpose for the negative case review is to determine eligibility or ineligibility, it is not necessary for the QC reviewer to compute the allotment. In determining eligibility, however, the QC reviewer may need to compute the household's net food stamp income. Therefore, the Department has deleted from these regulations the requirement that QC reviewers compute a household's coupon allotment if determined eligible.

Personal interview. The regulations, as proposed, required the reviewer, if the case record or contact by phone with a collateral contact did not prove the household ineligible, to conduct a field investigation including an interview with the household and collateral contacts. For those cases requiring a home visit, the reviewer was required to notify the household prior to the visit. Five individuals and groups commented on several aspects of the personal interview. Two commenters approved the requirements that the interview be conducted in a manner that respects the rights and privacy of the household and the requirement that the reviewer notify the household prior to making a home visit. One of these commenters recommended the regulations require the State agency to set up a time for the home visit which is convenient to both the reviewer and the household. The Department is primarily concerned that the household be notified prior to the home visit. It is felt the method and specifics of the notification for negative cases should be determined by each State agency.

Three commenters indicated households may be reluctant to cooperate since benefits were denied or terminated. The Department believes, however, that this type of reaction could be reduced if the reviewer fully explains the purpose for the review and its ultimate impact—better service to participants and potential participants. Therefore, the Department's proposal on personal interviews remains unchanged in these regulations.

Collateral contacts. Three commenters indicated they opposed the reviewer obtaining verification from collateral contacts without the household's consent. The regulations require if the case record does not prove ineligibility, the reviewer should contact by phone a collateral contact which was designated by the household and noted in the case record. In addition, during the interview with the household the reviewer is required to discuss with the household and secure information about collateral sources of verification. As discussed in the preamble under "Personal interviews" for active cases, it is the Department's position that, when necessary, the reviewer go beyond information secured from the household and use other collateral contacts. Therefore, these regulations relative to collateral contacts remain as proposed.

Error analysis. This paragraph has been revised to delete reference to the coding of the amount of underissuance for negative cases determined to be invalid. This is consistent with the Department's decision to delete the requirement that QC reviewers compute the household's coupon allotment if determined eligible.

Negative case error rate. As proposed, the negative case error rate was defined as the proportion of negative sample cases which were determined to have been eligible at the time of denial or termination. Eight commenters addressed concerns in this area. Two commenters recommended the error rate include several items defined as "administrative deficiencies," such as Notice of Adverse Action not sent or sent too late, reason incorrect, etc. The Department believes that with the purpose for negative case reviews being to determine eligibility or ineligibility, the negative case error rate cannot include procedural deficiencies which do not impact on a household's eligibility and benefit level. However, it must be emphasized that State agencies will be required to take corrective action on administrative deficiencies as well as negative case errors.

Six commenters recommended a tolerance level be established for the negative case error rate. These comments are currently being considered and will be discussed in detail with publication of final rulemaking on the remaining Subparts of Part 275.

Therefore, the final rulemaking defining negative case error rate remains unchanged.

Identification of administrative deficiencies. Ten individuals and groups commented on the Department's proposal relative to administrative deficiencies. Five commenters approved the separation of administrative deficiencies from errors which result in dollar loss to households. Some of these commenters and others recommended a tolerance level be established for administrative deficiencies. As stated previously, the Department is considering these comments and will address this issue with publication of the remaining Subparts of Part 275.

Disposition of case review. Regarding cases not subject to review, the Department has revised this paragraph to delete reference to cases under investigation for Federal or State benefit program fraud. This paragraph now refers to cases under active investigation for Food Stamp Program fraud as not subject to review. This change is consistent with the revision to § 275.11(b)(2) of these regulations (see preamble on "Sampling"). In addition, this paragraph has been revised to include situations when action is taken to change a household's classification from nonassistance to public assistance (or vice versa) which does not interrupt the household's participation. These cases will be reported as not subject to review. The preamble on the proposed regulations identified these cases as not subject to review but reference to these cases was inadvertently omitted from the regulations.

Review Schedule—Form FNS–245. Addressing the general subject of Form FNS–245, the Department, in cooperation with HEW and OMB, is in the process of developing an integrated Review Schedule. When this form has been completed it shall become the official Quality Control Review Schedule for States using integrated sampling.

The paragraph in the final regulations addressing the current Review Schedule has been revised to require the coding of all "variances" in completed cases on Form FNS–245. This is consistent with § 275.12(b)(iii) (see preamble on "Identification of variances").

Therefore, Part 271 is amended to include appropriate definitions, a new paragraph is added to Part 272, and Part 275 is amended to read as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. Section 271.2 is amended to include the following definitions and read as follows:

§ 271.2 Definitions.

"Active case" means a household which was certified for and received food coupons during the sample month.

"Active case error rate" means an estimate of the proportion of cases with an error in the determination of eligibility or basis of issuance. This estimate will be expressed as a percentage of the completed active quality control reviews.

"Administrative deficiencies" means deficiencies detected in a case which do not affect a household's eligibility for food stamps or which involve variances that are disregarded from a case's error determination.

* * * * *

"Cumulative allotment error rate" means the sum of the absolute values of the ineligible, overissuance, and underissuance allotment error rates

based upon completed quality control reviews where:

(1) The ineligible allotment error rate is an estimate of the proportion of allotments issued to ineligible households, expressed as a percentage of all allotments issued to active sample cases;

(2) The overissuance allotment error rate is an estimate of the proportion of allotments issued to eligible households to which they were not entitled, expressed as a percentage of all allotments issued to active sample cases; and

(3) The underissuance allotment error rate is an estimate of the proportion of allotments to which eligible households were intitled to but did not receive, expressed as a percentage of all allotments issued to active sample cases.

* * * * *

"Error" for active cases results when a determination is made by a quality control reviewer that a household which received food coupons during the sample month is ineligible or received an incorrect allotment. Thus, errors in active cases involve dollar loss to either the participant or the government. For negative cases, an "error" results when the quality control reviewer determines that a household which was denied or terminated from the Food Stamp Program was, in fact, eligible to participate.

* * * * *

"Negative case" means a household which was denied certification in the Food Stamp Program or whose benefits were terminated in the sample month.

"Negative case error rate" means an estimate of the proportion of denied or terminated cases where the household was in fact eligible to participate. This estimate will be expressed as a percentage of completed negative quality control reviews.

"Overissuance" means the amount by which coupons issued to a household exceeds the amount it was eligible to receive.

* * * * *

"Quality Control review" means a review of a statistically valid sample of active and negative cases to determine the extent to which households are receiving the food stamp allotments to which they are entitled, and to ensure that negative cases are not incorrectly denied or terminated.

* * * * *

"Review date" for quality control active cases means a day within the sample month, either the first day of the calendar or fiscal month or the day the household was certified, whichever is later. The "review date" for negative cases is the date of the agency's decision to deny or terminate program benefits. For no case is the "review date" the day the QC review is conducted.

"Review period" for quality control purposes means the six-month period either from October 1 through March 31 or April 1 through September 30.

"Sample frame" means a list of all units from which a sample is actually selected.

"Sample month" means the month of the sample frame from which a case is selected (e.g., for all cases selected from a frame consisting of households participating in January, the sample month is January).

* * * * *

"Underissuance" means the amount by which the allotment to which the household was entitled exceeds the allotment which the household received.

"Universe" means all units for which information is desired.

"Variance" means incorrect application of policy and/or any deviation between information verified as of the review date and that used at the most recent certification action.

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(91 Stat. 958 (7 U.S.C. 2011–2027))

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. Section 272.1 is amended to include a new paragraph and reads as follows:

§ 272.1 General terms and conditions.

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(g) *Implementation.* * * *

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(7) *Amendment 142.* Changes to States' Quality Control systems as required by this amendment shall be implemented as follows:

(i) *All* State agencies shall continue conducting modified QC reviews [in accordance with regulations published February 9, 1979 (43 FR 8548)] through August 31, 1979 and submit Form FNS–133 to FNS by September 15.

(ii) State agencies shall implement the requirements in Subpart C of Part 275 for conducting QC reviews no later than October 1, 1979. A quality control sampling plan (as specified in § 275.11(a) of these regulations) must be submitted by each State to the appropriate FNS Regional Office no later than September 1, 1979 (30 days prior to implementation). This will allow time necessary for approval of the plans prior to the October 1 implementation date.

(iii) State agencies are encouraged to implement QC September 1, if possible. States opting to implement early would not be required to operate *for this month* under an approved sampling plan. These States must, however, submit sampling plans in accordance with paragraph (ii) above. The month of September (sampling month) would serve as a test phase. Therefore, data collected for the sample month would not be required to be submitted to FNS or used in determining a State's cumulative allotment error rate.

(iv) Regulations published October 17, 1978 (43 FR 47846) which implement major aspects of the Food Stamp Act of 1977 provide for the conversion of cases via a desk review (§ 272.1(g)(1)(iii). Desk converted cases would be converted to the new eligibility criteria for income and deductions but may not have been converted to the new criteria for resources, work registration, tax dependency, etc. Therefore, States will have households participating in the program based on some of the eligibility criteria of the 1964 Food Stamp Act. Desk converted cases as provided in § 272.1(g)(1)(iii) and cases which should have been converted via desk review (some cases may not undergo the conversion process as required), shall be subject to standard QC review procedures. When the QC reviewer detects a variance in one of these cases which results from an element of eligibility which was not converted and was not required to have been converted, the reviewer shall disregard the variance. When the reviewer detects a variance in a case when an element of eligibility was, or should have been converted, the reviewer shall handle the variance like any other QC variance as identified in § 275.12 of these regulations. It is possible that desk converted cases may continue to show up in QC samples through February 1980.

(v) State agencies shall submit reports of QC review activity (one copy to the appropriate FNS Regional Office and one copy to the Deputy Administrator for Family Nutrition Programs, Washington, D.C.) as follows:

(A) Each State agency shall report the monthly progress of sample selection and completion on a form provided by FNS. This report shall be submitted to FNS so that it is received no later than 10 days after the end of each month, beginning December 10, 1979. Each report shall reflect sampling and review activity for the previous month.

(B) Each State agency shall report the results of QC review activity on a form provided by FNS. This report shall be submitted to FNS so that it is received no later than 90 days from the end of the reporting period.

(C) Corrections to information on the above reports requested by FNS must be submitted within 10 days of the request.

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(91 Stat. 958 (7 U.S.C. 2011–2027))

3. The new Part 275, Subpart C, is added to read as follows:

PART 275—PERFORMANCE REPORTING SYSTEM

Subpart C—Quality Control (QC) Reviews

Sec.
275.10 Scope and Purpose.
275.11 Sampling.
275.12 Review of Active Cases.
275.13 Review of Negative Cases.
275.14 Review Schedule (Form FNS–245).

Authority: 91 Stat. 958 (7 U.S.C. 2011–2027)

Subpart C—Quality Control (QC) Reviews

§ 275.10 Scope and purpose.

(a) As part of the Performance Reporting System, each State agency is responsible for conducting quality control reviews. For food stamp quality control reviews, a sample of households shall be selected from two different categories: Households which are participating in the Food Stamp Program (called active cases) and households for which participation was denied or terminated (called negative cases). Reviews shall be conducted on active cases to determine if households are eligible and receiving the correct allotment of food stamps. On negative cases, reviews shall be conducted to determine if households which were denied or terminated were, in fact, not eligible to participate in the Food Stamp Program. Quality control reviews measure the validity of food stamp cases at a given time (the review date) by reviewing against the Food Stamp Program standards established in the Food Stamp Act and the Regulations, as specified in each State's FNS-approved manual. FNS and the State agency shall analyze findings of the reviews to determine the incidence and dollar amounts of errors to: Determine the State's cumulative allotment error rate and eligibility for enhanced funding in accordance with the Food Stamp Act of 1977, and plan corrective action to reduce excessive levels of errors when cumulative allotment error rates of 5 percent of more are reported.

(b) The objectives of quality control reviews are to provide:

(1) A systematic method of measuring the validity of the food stamp caseload during the sample period;

(2) A basis for determining national rates of ineligibility and incorrect allotments, as well as rates for households wrongfully denied or terminated;

(3) A continuing flow of information between the States and FNS necessary to develop the solution to problems in program regulations, policies, and procedures at all levels of administration; and

(4) A basis for assisting State agencies in improving and strengthening program operations by identifying deficiencies.

(c) The review process is the activity necessary to complete reviews and document findings of all cases selected in the sample for quality control reviews. The review process shall consist of: (1) Case assignment and completion monitoring; (2) case reviews; (3) supervisory review of completed worksheets and schedules; and (4) transmission of completed worksheets and schedules to the State agency for centralized data compilation and analysis.

§ 275.11 Sampling.

(a) *Sampling plan.* (1) The State agency must be able to demonstrate the integrity of its sampling procedures. The State agency must submit a quality control sampling plan and subsequent modifications of sample design, frame, or procedures to FNS for approval at least 30 days prior to implementation. The sampling plan must include a complete description of the frame, the method of sample selection, and methods for estimating characteristics of the population and their sampling errors. The description of the sample frames shall include: source, availability, accuracy, completeness, components, location, form, frequency of updates, deletion of cases not subject to review, and structure. The description of the methods of sample selection shall include procedures for: estimating caseload size, overpull, computation of sampling intervals and random starts (if any), stratification or clustering (if any), identifying sample cases, correcting over- or undersampling, and monitoring sample selection and assignment. A time schedule for each step in the sampling procedures shall be included. In addition, the sampling plan must include a description of its relationship, if any, to other federally mandated quality control samples (e.g., Aid to Families with Dependent Children or Medicaid). All sampling procedures used by the State agency, including frame composition and construction must be fully documented and available for review by FNS.

(2) Sampling plans must meet the following criteria:

(i) Conformance to principles of probability sampling;

(ii) Documented methods for estimating characteristics of the population and their sampling errors;

(iii) Population estimates with the same or better precision as would be obtained by a simple random sample of the size specified in paragraphs (d)(1) and (d)(2) of this section;

(iv) Description of all weighting procedures and their effect on data analysis and reporting requirements; and

(v) Maintenance of current effort in other phases of the quality control process, e.g., case reviews, statistical reports and data analysis.

(3) FNS generally recommends a systematic sample design because of its relative ease to administer, and because it yields a sample proportional to variations in the caseload over the course of the reporting period. (To obtain a systematic sample, a State agency would select every kth case after a random start between 1 and k. The value of k is dependent upon the estimated size of the universe and the required sample size.) A State agency may, however, develop an alternative sampling design better suited for its particular situation.

(b) *Universe.* A universe consists of all units for which information is desired. There are two universes for the food stamp quality control program. The exceptions noted below for both universes are households not usually amenable to quality control review.

(1) The universe for active cases shall include all households receiving food stamps during a review period except those in which the participants died or moved out of the State, received food stamps by a disaster certification authorized by FNS, received benefits under a 60-day continuation of certification, are under investigation for Food Stamp Program fraud (including households with pending fraud hearings), were appealing a Notice of Adverse Action when the review date falls within the time period covered by continued participation pending the hearing, or received restored benefits in accordance with § 273.17 but were otherwise ineligible.

(2) The universe for negative cases shall include all households whose application for food stamps was denied or whose certification was terminated during the review period except those

which were closed due to the expiration of the certification period, those which withdrew an application prior to the agency's determination, those which are under investigation for Food Stamp Program fraud, and those in which all household members had died or moved out of the State at the time of the review. Actions taken to change a household's classification from non-assistance to public assistance (or vice versa) which do not interrupt the household's participation shall not be considered negative actions.

(c) *Frame.* (1) A frame is a list of all units from which a sample is actually selected. The choice of a sampling frame shall depend upon the criteria of timeliness, completeness, accuracy, and administrative burden. Complete coverage of the universes must be assured so that every household subject to quality control review has an equal or known chance of being selected in the sample. There are two frames for the food stamp quality control program:

(i) The frame for active cases shall list all households which participate during a review period except those excluded from the universe in (b)(1) of this section. State agencies may elect to use a list of certified eligible households or issuance provided that households which do not participate are not reviewed in the sample and that households which are certified eligible and participate during the sample month after the frame has been compiled are included in a supplemental list.

(ii) The frame for negative cases shall list all households whose application for food stamps was denied or whose certification was terminated during the review period except those excluded from the universe in (b)(2) of this section.

(2) A frame may include cases for which information is not desired, e.g., households which have been certified but did not actually participate during the review period. When such cases cannot be eliminated from the frame beforehand and are selected for the sample, they must be accounted for and reported as being not subject to review.

(d) *Sample size.* (1) The number of active cases to be selected and reviewed by each State agency during a six-month reporting period shall be determined by the average monthly caseload as follows:

Average monthly households	Required semiannual sample size
60,000 and over	n=1200
10,000 to 59,999	n=150+0.021 (N—10,000)
Under 10,000	n=150.

where

(i) n is the required active sample size. This is the minimum number of active cases subject to review which must be selected each six-month period.

(ii) N is the anticipated average monthly participating caseload subject to quality control review, i.e., households which are included in the active universe defined in paragraph (b)(1) of this section, during the upcoming reporting period.

(2) The number of negative cases to be selected and reviewed by each State agency during a six-month reporting period shall be determined by the monthly average number of such cases as follows:

Average monthly actions	Required semiannual sample size
5,000 and over	n=800
500 to 4,999	n=150+0.144 (N—500)
Under 500	n=150.

where

(i) n is the required negative sample size. This is the minimum number of negative cases subject to review which must be selected each six-month period.

(ii) N is the anticipated average monthly number of negative cases which are subject to quality control review, i.e., are part of the negative universe defined in paragraph (b)(2) of this section, during the upcoming reporting period.

(3) Since the average monthly caseloads (both active and negative) must be estimated at the beginning of each reporting period, unanticipated changes can result in the need for adjustments to the sample size. Recognizing the difficulty of forecasting caseloads, State agencies will not be penalized if the actual caseload during a reporting period is less than 20 percent larger than the estimated caseload used to determine sample size. If the actual caseload is more than 20 percent larger than the estimated caseload, the larger sample size appropriate for the actual caseload will be used in computing the sample completion rate.

(4) The active and negative sample size determinations assume that State agencies will use a systematic or simple random sample design. Some State agencies may be able to obtain results of equivalent reliability with a smaller sample and appropriate design, subject to FNS approval. To receive FNS approval, such proposals must provide population estimates with equivalent or better precision than would be obtained had the State agency reviewed a simple random sample of the size specified by paragraphs (d)(1) or (d)(2) of this section.

(e) *Sample selection.* (1) The quality control samples cover a six-month period, and the selection of cases shall be made separately for active cases and negative cases each month during that period. Once a household has been identified for inclusion in the sample by a predesigned sampling procedure, substitutions are not acceptable. An active case must be reviewed each time it is selected for the sample. If a household is selected more than once for the negative sample as the result of separate and distinct negative actions, it shall be reviewed each time.

(2) Quality control review of food stamp cases is most effective and most accurate when the reviews are made soon after the household has received its allotment for the sample month. If reviews are to be made as early as possible, the selection of sample cases must also be made promptly. The selection should be made no later than the 20th day of the month following the sample month.

(3) Excessive undersampling must be corrected during the six-month period. Excessive oversampling may be corrected at the State agency's option. Cases which are dropped to compensate for oversampling shall be reported as not subject to review. These corrections must not bias the sample results. Consequently, cases which are dropped to compensate for oversampling must be a random subsample of all cases selected (including those completed, not completed, and not subject to review). Cases which are added to the sample to compensate for undersampling must be randomly selected from the entire frame. All sample adjustments must be fully documented and available for review by FNS.

(f) *Sample completion.* To minimize the potential bias from nonresponse, State agencies shall complete at least 95 percent of both the active and negative quality control samples. This percentage is the ratio of the number of completed reviews to the number of cases selected subject to review or to the minimum number of cases subject to review computed in paragraph (d) of this section, whichever is larger. The completion standard is applied separately to the active and negative samples. State agencies' entitlement to the increased Federal share of administrative costs will be subject to completion of at least 95 percent of the active quality control sample.

§ 275.12 Review of active cases.

(a) A sample of households which participated in the Food Stamp Program during the sample month shall be selected for quality control review. These active cases shall be reviewed to determine if the household is eligible, and is receiving the correct allotment. Information about household circumstances must be verified as of a particular point in time, called the review date. For active cases, the review date shall always fall within the sample month, either the first day of a calendar or fiscal month or the day of certification, whichever is later.

(b) The review of active cases shall include: a case record review; an interview with the participant; verification of information, using secondary sources when necessary; a determination of the presence of any variances and coding and analysis of the variances, if applicable; a determination of eligibility and correctness of basis of issuance; and a determination of the number of administrative deficiencies, including some work registration deficiencies as defined in § 275.12(b)(1)(viii)(B). To identify all variances in a case, the review must be completed to the point where the proper coupon allotment is determined, except in the situations outlined in paragraph (b)(2) of this section. The review process becomes progressively more difficult as the time subsequent to the review date increases. Therefore, it is essential that reviews be made as soon as possible after the review date, usually within 30 days of assignment.

(1) *Content of the review.* The reviewer shall examine and verify, as of the review date, all elements of eligibility, i.e., basic program requirements, resources, income, and deductions. The elements of eligibility are specified in § 273.1 and § 273.3 through § 273.9. When changes in household circumstances occur, the reviewer shall determine whether changes were reported by the participant and handled by the agency in accordance with the rules set forth in § 273.12 and § 273.13. The reviewer shall determine, as of the review date, whether the sample case is eligible and whether the allotment was correct, and, if not, the extent of the error. In the event that a review is conducted of a household which is receiving restored or retroactive benefits, the portion of the allotment which is the restored or retroactive benefit shall be excluded from the determination of the household's eligibility and/or basis of issuance. A food stamp case in which a household member(s) receives public assistance shall be reviewed in the same manner as all other food stamp cases, using income as received.

(i) *Household case record review.* The case record review shall include all information applicable to the case as of the review month, including the application and worksheet in effect as of the review date. Documentation contained in the case record can be used as verification if it is not subject to change, and applies to the sample month. Through the review of the household case record, the reviewer shall:

(A) Analyze the household's case record;

(B) Complete the household case record sections of Form FNS–245; and

(C) Tentatively plan the content of the field investigation.

(ii) *Field investigations.* A full field investigation shall be conducted for all active cases selected in the sample to determine if the household is eligible, and is receiving the correct allotment. In Alaska an exception to this requirement can be made in those isolated areas not reachable by regularly scheduled commercial air service, automobile, or other public transportation provided one fully documented attempt to contact the household has been made. Such cases may be completed through casefile review and collateral contact. The field investigation will include interviews with the head of household, spouse or authorized representative; contact with collateral sources of information; and any other materials and activity pertinent to the review of the case. The scope of the review shall not extend beyond the examination of household circumstances which directly relate to the determination of household eligibility and basis on issuance status.

(A) *Personal interviews.* Personal interviews shall be conducted in a manner that respects the rights, privacy and dignity of the participants. Prior to making a home visit, the reviewer shall notify the household that it has been selected, as part of an ongoing review process, for review by quality control and that a home visit will be made in the future. The method of notifying the household and the specificity of the notification shall be determined by the State agency. Most interviews will be held in the home; however, interviews can be held elsewhere when circumstances warrant. Under no circumstances shall the interview with the household be conducted by phone, except in Alaska when an exception to the field investigation is made in accordance with § 275.12(b)(1)(ii) above. During the interview with the participant, the reviewer shall:

(1) Explore with the head of the household, spouse, authorized representative, or any other responsible household member, household circumstances as they affect each factor of eligibility and basis of issuance;

(2) Establish the composition of the household;

(3) Review the documentary evidence in the household's possession and secure information about collateral sources of verification; and

(4) Elicit from the participant names of collateral contacts. The reviewer shall use, but not be limited to, these designated collateral contacts. If required by the State, the reviewer shall obtain consent from the head of the household to secure collateral information. If the participant refuses to sign the release of information form, the reviewer shall explain fully the consequences of this refusal to cooperate (as contained in § 273.2(d)), and continue the review to the fullest extent possible.

(B) *Collateral contacts.* The reviewer shall obtain verification from collateral contacts in all instances when adequate documentation was not available from the participant. This second party verification shall cover each element of eligibility as it affects the household's eligibility and coupon allotment. The reviewer shall make every effort to use the most reliable second party verification available (for example, banks, payroll listings, etc.) and shall thoroughly document all verification obtained. If any information obtained by the QC reviewer differs from that given by the participant, then the reviewer shall resolve the differences to determine which information is correct before an error determination is made. The manner in which the conflicting information is resolved shall include recontacting the participant unless the participant cannot be reached. When resolving conflicting information reviewers shall use their best judgment based on the most reliable data available and shall document how the differences were resolved.

(iii) *Identification of variances.* All basic program requirements and basis of issuance elements which vary, (i.e., policy applied incorrectly and/or the information verified as of the review date differs from that used at the most recent certification action) shall be listed in all completed cases without assigning priorities. Once all elements which vary have been listed, the State may, for its own purposes, elect to identify the primary variance for those

cases determined to be in error. When the reviewer detects a variance in an element resulting from one of the situations described in paragraph (iv), that variance shall be disregarded when determining the correct eligibility and basis of issuance for the sample month and reported in accordance with paragraph (viii) rather than listing it with any other variances. For each element which varies, the reviewer shall determine whether the variance occurred at the time of certification or subsequent to certification and whether it was State agency or participant caused. If inadequate documentation in the case record prevents the reviewer from determining who caused the variance, it shall be assigned to the State agency. These determinations, with supporting documentation, shall be recorded on the Date Sheet of Form FNS–245.

(iv) *Variances excluded from error analysis.* Before the reviewer determines a case's eligibility and basis of issuance for the sample month the following variances shall be excluded from this determination and reported in accordance with paragraph (viii).

(A) Any variance resulting from the nonverified portion of a household's gross nonexempt income where there is conclusive documentation (a listing of what attempts were made to verify and why they were unsuccessful) that such income could not be verified at the time of certification because the source of income would not cooperate in providing verification and no other sources of verification were available. If there is no conclusive documentation as explained above, then the reviewer shall not exclude any resulting variance from the error determination. This follows certification policy outlined in § 273.2(f)(1)(i).

(B) Any variance resulting from an individual being included as a member of a household pending verification of citizenship where the individual is not a citizen or eligible alien. However, if the household has participated more than 2 months based upon such pending verification, the reviewer shall not exclude any resulting variance from the error determination. This follows certification policy outlined in § 273.2(f)(2)(ii)(B).

(C) Any variance in cases certified under expedited certification procedures resulting from postponed verification of an element of eligibility as allowed under § 273.2(i)(4)(i). Verification of gross income, deductions, resources, household composition, alien status or tax dependency may be postponed for cases eligible for expedited certification. However, if a case certified under expedited procedures contains a variance as a result of a residency deficiency, a mistake in the basis of issuance computation, a mistake in participant identification, or incorrect expedited income accounting, the variance shall be included in the error determination. This exclusion shall only apply to those cases which are selected for QC review in the first month of participation under expedited certification.

(D) Any variance subsequent to certification in an element of eligibility or basis of issuance which was not reported and was not required to have been reported as of the review date. The elements participants are required to report and the time requirements for reporting are specified in § 273.12(a). If, however, a change in any element is reported, and the State agency fails to act in accordance with § 273.12(c), any resulting variance shall be included in the error determination.

(E) Any variance in deductible expenses which was not provided for in determining a household's benefit level in accordance with § 273.2(f)(2)(iv)(B). This provision allows households to have their benefit level determined without providing for a claimed expense when the expense is questionable and obtaining verification may delay certification. If such a household subsequently provides the needed verification for the claimed expense and the State agency does not redetermine the household's benefits in accordance with § 273.12(c), any resulting variance shall be included in the error determination.

(v) *Error analysis.* While all variances would be coded in all completed cases (as described in paragraph (iii)) based upon information verified as of the review date, all such cases shall be determined to be either eligible, eligible with a basis of issuance error, or ineligible. If a cases contains a variance in an element which results in an ineligibility determination and there are also variances in elements which would cause a basis of issuance error, only the eligibility error shall be coded on the Form FNS–245.

(A) *Basis of issuance errors.* If the reviewer determines that food stamp allotments were either overissued or underissued in the sample month, in an amount exceeding $5.00, to eligible households, the occurrence and the amount of the error shall be coded on the Data Sheet of Form FNS–245.

(B) *Eligibility errors.* If the reviewer determines that a case is ineligible, the occurrence and the total allotment issued in the sample month shall be coded on the Data Sheet of Form FNS–245.

(vi) *Active case error rate.* The active case error rate shall include the proportion of active sample cases which were determined to be ineligible or which received an incorrect allotment (as described in paragraph (v) of this section) based upon certification policy set forth in Part 273.

(vii) *Cumulative allotment error rate.* The cumulative allotment error rate shall include the value of the allotments underissued or overissued, including overissuances in ineligible cases, for those cases included in the active case error rate.

(viii) *Identification of administrative deficiencies.* (A) In addition to the coding of any eligibility or basis of issuance errors and all variances, any deficiencies in a completed case which do not directly affect a household's eligibility and those situations in which variances are disregarded from a case's error determination (in accordance with paragraph (iv)) shall be identified as administrative deficiencies. Whenever the reviewer determines that administrative deficiencies exist in an error or nonerror case, each such deficiency shall be coded on the Data Sheet of Form FNS–245. This information shall be reported to the State agency for appropriate action on an individual case basis. For example, in a case containing an overdue subsequent certification the reviewer shall code an administrative deficiency and, if the overdue case is determined to be ineligibile, or eligible for an allotment larger or smaller than that received, shall also code an eligibility or over or underissuance error.

(B) Administrative deficiencies shall include, but not be limited to, overdue subsequent certifications, unsigned application, no current application on file, variances excluded from the error determination as described in paragraphs (b)(1)(iv) (A), (B), (C), (D), and (E) of this section, insufficient documentation, incorrect application of the verification requirements specified in Part 273, administrative work registration requirements, etc. Examples of work registration requirements which shall be coded as administrative deficiencies are: inadequate documentation of each household member's exempt status; work registration form for each nonexempt household member not completed at the time of application and every six-months thereafter; and the household not advised of its responsibility to report any changes in the exempt status of any household member. Work registration requirements shall be coded as eligibility errors when the State agency fails to disqualify households in which individuals subject to work registration requirements refuse at the time of application and once every six-months thereafter to register for employment, refuse to fulfill reporting and inquiry about employment requirements, voluntarily quits any job without good cause (if the primary wage earner), and refuse without good cause to accept an offer of employment.

(ix) *Identification of discrepancies and reporting of findings on individual cases.* All information verified during the review of an active case shall be reported to the State agency for appropriate action on an individual case basis. This includes information on all variances in elements of eligibility and basis of issuance, as well as administrative deficiencies in both error and nonerror cases. In addition, the reviewer shall note as a discrepancy that part of a variance which results from a change required to be reported, which occurs after the review date. This information shall also be reported to the State agency for appropriate action on an individual case basis.

(2) *Disposition of case review.* Each case selected in the sample of active cases must be accounted for by classifying it as completed, not completed, or not subject to review.

(i) Active cases shall be reported as not completed if: the reviewer, after all reasonable efforts, is unable to locate the case record and/or is unable to locate the participant; the participant refuses to cooperate; or if the review is not completed in time to be included in the semiannual reports. This information shall be reported to the State agency for appropriate action on an individual case basis.

(ii) Cases which are not subject to review, if they have not been eliminated in the sampling process, shall be eliminated during the review process. These cases shall be as follows: death of all members of a household if they died before the review could be undertaken or completed; the household moved out of State before the review could be undertaken or completed; the household, at the time of the review, is under active investigation for Food Stamp Program fraud, including a household with a pending fraud hearing; a household receiving restored benefits in accordance with § 273.17 but not participating based upon an approved application; a household dropped as a result of correction for oversampling; a household participating under disaster certification authorized by FNS for a natural disaster; a case incorrectly listed in the active frame; a household under appeal from adverse action when the review date falls within the time period covered by continued participation pending the hearing; nonparticipation in the review month; or a household under sixty-day continuation of certification when the review date falls within those 60 days.

§ 275.13 Review of negative cases.

(a) A negative action results each time a household is denied certification to receive food stamps or has its participation in the Food Stamp Program terminated during the certification period. Negative cases shall be reviewed to determine the household's eligibility or ineligibility at the time of denial or termination. For negative cases, the review date shall be the date of the agency's decision to deny or terminate program benefits.

(b) The review shall include a case record review; a field investigation, if required; an analysis of errors; and a determination of the number of administrative deficiencies.

(1) *Content of the review.* The reviewer shall examine the case record and verify through documentation in the file whether the reason given for the denial or termination is valid. If it is determined the reason is invalid, the reviewer must determine whether the household was eligible or ineligible at the time of the decision to deny or terminate.

(i) *Household case record review.* Through the review of the household case record, the reviewer shall:

(A) Analyze the household's case record;

(B) Complete the household case record sections of Form FNS–245;

(C) Tentatively plan the content of the field investigation, if necessary. When the case record provides acceptable documentation that the household is ineligible, a field investigation is not required. When the case record alone does not prove ineligibility, the reviewer may be able to verify the element(s) of eligibility in question by contacting by phone a collateral contact designated in the case record.

(ii) *Field investigation.* When neither the case record nor contact with a collateral contact previously designed by the household proves the household's ineligibility, a field investigation shall be conducted to determine the status of the household's eligibility at the time the decision to deny or terminate is made. The field investigation consists of an interview with the household and verification through further collateral sources of information. The reviewer shall terminate the field investigation at any point when the household is determined to be ineligible, either through an interview with the household, documentation in the household's possession, or collateral contact. However, a full field investigation, including examination and verification of each element of eligibility, is required for any household which is not proven to be ineligible as of the review date either through the case record review or a partial field investigation. The reviewer must complete the review until it can be determined whether the household was in fact eligible to participate at the time of the denial or termination. This may require the reviewer, in addition to verifying all elements of eligibility, to compute the household's net food stamp income.

(A) *Personal interviews.* Personal interviews shall be conducted in a manner that respects the rights, privacy and dignity of the household. The reviewer shall notify the household prior to making a home visit. Most interviews will be held in the home; however, exceptions can be made by the reviewer when circumstances warrant. During the interview with the household the reviewer shall:

(1) Explore with the head of the household or its representative, household circumstances to the point ineligibility is proven. If ineligibility is not proven, each factor of eligibility shall be explored; and

(2) Review the documentary evidence in the household's possession and secure information about collateral sources of verification.

(B) *Collateral contacts.* The reviewer shall obtain verification from collateral contacts where adequate verification was not available from the household. The reviewer shall make every effort to use the most reliable second party verification available; for example, banks, payroll listings, etc.

(iii) *Error analysis.* A negative case shall be considered invalid when the reviewer verifies that a household which was denied or terminated from the program was, in fact, eligible to participate. When a negative case is invalid, an error shall be coded on the Data Sheet of Form FNS–245. This information shall be reported to the State agency for appropriate action on an individual case basis, such as, recomputation of the coupon allotment and restoration of lost benefits.

(iv) *Negative case error rate.* The negative case error rate shall be the

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proportion of negative sample cases which were determined to have been eligible at the time of denial or termination based upon the certification policy as set forth in Part 273.

(v) *Identification of administrative deficiencies.* A negative action shall be considered valid when the household is, in fact, ineligible, either for the reason determined by the State agency or for some other reason. If the household is ineligible, but for a reason other than that given by the State agency, then an administrative deficiency shall be coded on the Data Sheet of Form FNS–245. Other examples of administrative deficiencies in negative cases include, but are not limited to, Notice of Adverse Action not sent, unsigned application, insufficient documentation, no application on file, etc. This information shall be reported to the State agency for appropriate action.

(2) *Disposition of case review.* Each case selected in the sample of negative cases must be accounted for by classifying it as completed, not completed, or not subject to review.

(i) Negative cases shall be reported as not completed if the review cannot be completed through an analysis of the case record and it is not possible, due to circumstances beyond the agency's control, to make a field investigation. An example of such a circumstance would be if it was necessary for the reviewer to interview the household and the household could not be located or refused to cooperate.

(ii) Negative cases shall be reported as not subject to review when the household at the time of the review, withdrew an application prior to the agency's determination, is under active investigation for Food Stamp Program fraud, was closed due to expiration of the certification period, was dropped as a result of correction for oversampling, is a household in which all members died or moved out of State at the time of the review, or when action is taken to change a household's classification from non-assistance to public assistance (or vice versa) which does not interrupt the household's participation.

§ 275.14 Review Schedule (Form FNS–245).

(a) The Quality Control Review Schedule, Form FNS–245, or an FNS approved integrated form shall be used by the reviewer to record information from the case record, plan and conduct the field investigation, and record findings which contribute to the determination of eligibility and basis of issuance. Decisions reached by the reviewer shall be coded on the Data Sheet of Form FNS–245 and substantiated by information in the narrative section of this form. For all completed cases, the reviewer shall list all elements which vary and identify whether the variance(s) is attributable to the agency or participant. In addition, for all completed cases where administrative deficiencies occurred, the reviewer shall record these deficiencies. Space is also provided for recording discrepancies and other pertinent information.

(b) In some instances, reviewers may need to supplement Form FNS–245 with other forms. The State forms for appointments, interoffice communications, release of information, etc., should be used when appropriate.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An Approved Final Impact Statement is available from Acting Deputy Administrator for Family Nutrition Programs, Alberta Frost.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Note.—Form FNS–245 and other recordkeeping and reporting requirements have been submitted to OMB for approval under the Federal Reports Act of 1942.

Dated: July 31, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79–24089 Filed 8–2–79; 8:45 am]

BILLING CODE 3410–30–M

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federal register

Friday
August 3, 1979

Part VII

Department of Energy

Office of Leasing Policy Development

Leasing; Proposed Rulemaking and Public Hearings Regarding the Acquisition and Disposition of Federal Royalty Oil

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DEPARTMENT OF ENERGY

Office of Leasing Policy Development

[10 CFR Parts 212, 375 and 391]

Leasing; Proposed Rulemaking and Public Hearing Regarding the Acquisition and Disposition of Federal Royalty Oil

AGENCY: Department of Energy.

ACTION: Proposed Rule.

SUMMARY: This proposed rulemaking is being issued pursuant to section 302(b)(5) of the Department of Energy Organization Act (DOE Act). It provides procedures for the disposal of oil royalties taken in kind by the United States from onshore and Outer Continental Shelf (OCS) oil and gas leases. In addition, these regulations amend the Department of Energy (DOE) mandatory petroleum price regulations (10 CFR Part 212), in order to provide consistent treatment of royalty oil under both the price regulations and the regulations proposed in this notice. Because these are the first regulations issued under DOE's section 302(b) DOE Act authority, a Part 375 is being proposed to describe DOE's authority in the mineral leasing area and to establish some general provisions that will be applicable to all of DOE's mineral leasing regulations, including procedures for requesting an interpretation and petitioning for the issuance, amendment, or repeal of a rule. When promulgated, these regulations will supersede the existing Department of Interior (DOI) regulations on Federal royalty oil disposal. (30 CFR Parts 225 and 225a).

For information on regional public hearings on this Proposed Rule, see the document entitled "Additional Procedural Information on Proposed Rulemaking and Public Hearing Regarding the Acquisition and Disposition of Federal Royalty Oil" published in today's issue of the **Federal Register**.

DATES: Comments are due by October 5, 1979, 4:30 p.m. Requests to speak are due by August 22, 1979, 4:30 p.m. Hearing: September 12, 1979, 9:30 a.m.

ADDRESSES: All written comments and requests to speak at the public hearing should be sent to the Office of Hearings Management, Economic Regulatory Administration, Room 2313, Box XF (Docket No. LPD–79–02), 2000 M Street, NW., Washington, D.C. 20461.

HEARING LOCATION: Room 2105, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearings Management), Economic Regulatory Administration, 2000 M Street, NW., Room 2214C, Washington, D.C. 20461. (202) 254–5201.

Susan Pearce (Regulatory Programs), Leasing Policy Development Office, U.S. Department of Energy, 12th & Pennsylvania Avenue, NW., Room 2313, Washington, D.C. 20461 (202) 633–9035.

James G. Beste (Office of General Counsel), U.S. Department of Energy, 12th & Pennsylvania Avenue, NW., Room 7140, Washington, D.C. 20461 (202) 633–8788.

Frederic C. Appel (Public Affairs), Resource Applications, U.S. Department of Energy, 12th & Pennsylvania Avenue, NW., Room 3307, Washington, D.C. 20461 (202) 633–9416.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. General Provisions—Part 375.
III. Oil Royalties Taken in Kind—Part 391.
A. General
B. Proposed Regulations—General
C. Specific Royalty Oil Provisions
IV. OCS Royalty Oil Sales to the Public.
V. Amendments to DOE Mandatory Petroleum Price Regulations Part 212.
VI. Environmental Analysis.
VII. Significance Review.
VIII. Public Comment and Public Hearing Procedures.
A. Written Comments
B. Public Hearings

I. Introduction

Sections 302 and 303 of the DOE Act (Pub. L. 95–91, 91 Stat. 578–579, 579–580, (42 U.S.C. 7152, 7153)), transferred to the Secretary of Energy certain authorities previously held by the Secretary of the Interior under the Outer Continental Shelf Lands Act (OCSLA), the Mineral Lands Leasing Act, (MLLA), the Mineral Leasing Act for Acquired Lands (MLAAL), the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act. As a result, with respect to Federal leases, the Secretary of Energy is authorized to promulgate regulations that (1) foster competition, (2) implement alternative bidding systems, (3) establish diligence requirements, (4) set rates of production, and (5) specify the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind. In addition, under section 302(c) of the DOE Act, the Secretary of Energy is granted the authority to establish rates of production for Federal leases, and under section 303(c)(1), the Secretary reviews and may approve or disapprove any term or condition of a Federal lease that relate to DOE's section 302(b) authority to promulgate regulations.

As required by section 303(b) of the DOE Act, the Secretary of the Interior was consulted during the preparation of these proposed regulations and afforded not less than 30 days to comment formally on them. The Secretary of the Interior provided comments which were considered in redrafting these regulations prior to today's publication.

II. General Provisions—Part 375

Since these are the first regulations being proposed under the authorities transferred to DOE by sections 302 and 303 of the DOE Act, the regulations introduce a general provisions Part 375 applicable to all mineral leasing regulations promulgated by DOE in Subchapter C. Part 375 describes DOE's authority in the mineral leasing area and contains general definitions and procedures for requesting an interpretation of DOE's mineral leasing regulations and petitioning for the issuance, amendment, or repeal of a rule.

Subpart A of Part 375 establishes a general framework for DOE's mineral leasing regulations. Section 375.001 of the proposed regulations describes the purposes of the General Provisions Part 375, as well as the scope of Subchapter C. In addition, this section explains the division of mineral leasing authority made by Section 303(a) of the DOE Act.

Section 375.002 states that the provisions in Subparts A and B of 375 are applicable to all the regulations in Subchapter C, unless otherwise noted.

DOE's authority in the mineral leasing area is set forth in § 375.003 of the proposed regulations. This section restates the transfers of authority made by section 302(b) and 302(c) of the DOE Act from the Secretary of the Interior to the Secretary of Energy. Further, this section describes the consultative role afforded to the Secretary of the Interior by section 303(b) of the DOE Act in the preparation of regulations by the Secretary of Energy under section 302(b) of the DOE Act.

Definitions which are applicable to all the DOE mineral leasing regulations found in Subchapter C are established by § 375.004. Definitions which are mineral or function-specific will be located in the parts or subparts applicable to the particular mineral or function.

Section 375.005 explains the effect of the DOE mineral leasing regulations on existing DOI regulations. In those cases where DOE regulations will supersede or supplement DOI regulations, such supersession or supplementation will be noted in the appropriate rulemaking.

Subpart B of Part 375 contains administrative procedures applicable to DOE's mineral leasing program. Section

375.101 of the proposed regulations would establish the procedures for filing a formal request for an interpretation of DOE's mineral leasing regulations. This section proposes that request for interpretation be filed with DOE's Office of General Counsel in accordance with Subpart F of Part 205 of Title 10, Code of Federal Regulations. This section also provides for consultation with DOI's Solicitor prior to issuance of an interpretation.

Section 375.102 proposes that a request for the issuance, amendment or repeal of a rule be filed with the General Counsel and treated as a petition for a rulemaking in accordance with the procedures of Subpart L of 10 CFR Part 205. Under Subpart L, the General Counsel or his delegate may respond to a petition for issuance, amendment or repeal by either: (1) Instituting a rulemaking as proposed or as modified, in his discretion; (2) notifying the petitioner in writing that he does not intend to institute a rulemaking as proposed or as modified and stating the reasons; or (3) notifying the petitioner in writing that the matter is under continuing consideration and that no decision can be made at that time because of the inadequacy of available information, changing circumstances or other stated reasons.

III. Oil Royalties Taken in Kind—Part 391

A. General

DOI has administered programs through the United States Geological Survey (USGC) for the disposal of the United States oil royalties taken in kind (herein "royalty oil") for over 30 years in the case of onshore royalty oil, and during the last five years for OCS royalty oil. The DOI onshore royalty oil program has been operated under the regulations at 30 CFR Part 225, which were issued under the authority of the MLLA (Act of February 25, 1920, 41 Stat. 437 (30 U.S.C. 181 *et seq.*)) and the MLAAL (Act of August 7, 1947, 61 Stat. 913 (30 U.S.C. 351 *et seq.*)), while the offshore royalty oil program has been operated under the regulations at 30 CFR Part 225a, issued pursuant to the OCSLA (Act of August 7, 1953, 67 Stat. 462 (43 U.S.C. 1331 *et seq.*)). In addition to the above statutes, the Secretary of the Interior has been guided by Sections 2 and 8 of the Small Business Act (Pub. L. 85–536, sections 2[2], 2[8], 72 Stat. 384, 389 (15 U.S.C. 631, 637)) in disposing of royalty oil to small refiners.

B. Proposed Regulations (Part 391)—General

As discussed above, with the enactment of the DOE Act, the authority to promulgate regulations "specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind" was transferred from the Secretary of the Interior to the Secretary of Energy (42 U.S.C. 7152(b)(5)). However, these proposed regulations would continue the operation and policy of the existing DOI programs regarding the sale of royalty oil to small refiners but would add a provision, to be exercised at the discretion of the Secretary of the Interior, that would allow the sale of OCS royalty oil to the public by competitive bidding. The provision for the sale of OCS royalty oil to the public has been added to conform to the recently enacted Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372, OCSLAA). In addition, those amendments require that DOE be consulted in making the determination to offer OCS royalty oil to small refiners.

As stated above, the proposed regulations would continue the policy of making OCS royalty oil available to small refiners. However, if it is determined that small refiners do have access to adequate supplies of oil at equitable prices, then OCS royalty oil may be offered, at the discretion of the Secretary of the Interior, for sale to the public by competitive bidding at not more than its regulated price or, if no regulated price applies, at not less than its fair market value. The onshore regulation provides for the sale of royalty oil only to small refiners not having their own source of supply. To participate in these royalty oil programs, a small refiner must have been certified as a small business concern by the Small Business Administration (SBA) in accordance with the provisions at 13 CFR Part 121.

The regulations in this notice would supersede the applicable DOI regulations relating to the disposal of Federal royalty oil promulgated in 30 CFR Parts 225 and 225(a).

C. Specific Royalty Oil Provisions

The existing DOI regulations on the disposition of Federal onshore royalty oil at 30 CFR Part 225 provide for, with certain exceptions, the sale of royalty oil to eligible refiners at the market price, without premium or bonus; however, in the case of contracts which become effective or which are extended on or after June 1, 1976, a charge for the cost of administration in an amount equal to one-half percent of the market price is made for each barrel of onshore royalty oil sold. Preference eligible refiners, *i.e.*, eligible refiners located in the area of production, are given a preference over other eligible refiners in the purchase of Federal royalty oil. When applications are filed by two or more preference eligible refiners for the same oil, the oil is allocated among the applicants by a drawing or on an equitable prorated basis. When applications are filed by two or more eligible refiners for the same oil, and no applications for the same oil are filed by preference eligible refiners, or the needs of preference eligible refiners have been adequately supplied with only a part of the royalty oil available, the royalty oil remaining is allocated to eligible refiners by a drawing or on an equitable prorated basis.

For OCS royalty oil, the present DOI regulations at 30 CFR Part 225a provide for its sale only to small refiners for use in their refineries and not for sale in kind, except when special circumstances warrant other action. All Federal royalty oil sales are made at the market price, without premium or bonus; however, a charge for the cost of administration of an amount equal to one-half percent of the market price is made for each barrel of OCS royalty oil sold. When applications are filed by two or more small refiners for the same oil, the oil is allocated among the applicants by a drawing or on an equitable prorated basis. OCS royalty oil produced under a section 6 lease can only be made available for disposal when the lessee or operator under the lease involved elects to pay royalty in kind to the Secretary of the Interior. OCS royalty oil produced in areas for which ownership is in dispute between the Federal Government and a State can be made available for disposal only with the concurrence of that State.

With the exception of the addition of a provision for OCS royalty oil sales to the public and the other modifications explained below, most of the revisions proposed by DOE to the existing DOI regulations (30 CFR Parts 225 and 225a) constitute a rewording or an updating of the present regulations. In considering what revisions DOE would propose to the royalty oil regulations, DOE personnel consulted at length with representatives of both DOI and SBA.

The proposed substantive revisions to the existing DOI regulations are: (1) Modification of the definition of "market price" (§ 391.202) to conform, in the case of the onshore regulation (§ 391.202), to the DOE Mandatory Petroleum Price Regulations in 10 CFR Part 212 and in

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the case of the OCS regulation (§ 391.102), to the OCSLAA; (2) removal of the requirement in the OCS royalty oil regulation that limits the amount of royalty oil that may be purchased by any one refiner to 60 percent of the refiner's capacity; and (3) modification of SBA's role to the extent that the determination and certification of a refiner's refining capacity shall be made by the Economic Regulatory Administration ("ERA") of DOE (§ 391.002).

The modification of the definition of "market price" by these regulations should not significantly affect the existing programs. With regard to the onshore regulation, a provision is added to the present DOI definition stating that the "market price" of the royalty oil shall not exceed the lawful first sale price of oil as established under the DOE price regulations (10 CFR Part 212). The OCS regulation has been modified to conform to the language of the OCSLAA by stating that OCS royalty oil shall be sold at the "regulated price" or, if no "regulated price" applies, at the "fair market value."

Regarding the removal of the current requirement in the OCS royalty oil regulations limiting the amount of offshore royalty oil purchased by any one refiner to 60 percent of its refining capacity (30 CFR Part 225a.3), DOE has been advised that the purpose of this requirement is not being satisfied as a result of the present high demand for royalty oil. The original intent of the 60 percent limitation was to avoid a situation in which the smaller independent refiners were operating only on Federal royalty oil. This limitation required small refiners to compete in the open market for at least a portion of their crude oil. However, with the present level of demand for royalty oil by eligible refiners, and because such a limitation is administratively impractical to enforce, this provision is being eliminated.

DOE has made no modifications to DOI's oil allocation policies for the small refiners who, through application, are eligible to receive royalty oil. However, DOE is interested in soliciting comments from interested parties regarding the equitability of the present allocation procedures.

Because the ERA determines and certifies the refining capacity of all refiners in the United States in connection with its administration of the DOE Mandatory Petroleum Allocation and Price Regulations, it is being proposed at § 391.002 that the determination of a small refiner's refining capacity, which is considered in SBA's certification of a refiner as a small concern, be performed by ERA. The ERA refiner certification has industry acceptance, is published quarterly, and would assure consistency in Federal programs relating to crude oil sale and allocation. If a small refiner applicant has not previously received ERA's capacity certification, the certification evaluation would specifically be performed in the course of evaluating the application. These proposed regulations would not otherwise alter the SBA role in the small refiner certification process.

DOE is aware of pending litigation regarding the applicability of the small refiner preference in the onshore regulations (*Plateau Inc.* v. *DOI*, Civil No. 76–687–M (D.N.M., November 23, 1977)). However, DOE has determined to retain the small refiner preference pending ultimate disposition of that litigation.

IV. OCS Royalty Oil Sales to the Public

Section 27 of the OCSLAA provides for the sale of OCS royalty oil to the public by competitive bidding at not more than the DOE regulated price, at the discretion of the Secretary of the Interior. As stated previously, the regulations would provide that the sale to the public be initiated only when it has been determined that small refiners have adequate access to oil at equitable prices.

Section 27(b)(3) of the OCSLAA specifies that the Secretary of the Interior must dispose of OCS royalty oil in a sale to the public "in accordance with any provision of law, or regulations issued in accordance with such provisions, which provide for the Secretary of Energy to allocate, transfer, exchange, or sell oil in amounts or at prices determined by such provision of law or regulations." It is DOE's interpretation that these proposed regulations are consistent with regulations promulgated under the Emergency Petroleum Allocation Act (Pub. L. 93–159, 87 Stat. 628 (15 U.S.C. 751 *et seq.*)).

After it has been determined that OCS royalty oil shall be sold to the public, the proposed for sale begins with a determination by DOI as to the number of equally sized allotments of OCS royalty oil to be sold. This determination is then included in the Notice of Availability of OCS Royalty Oil which DOI publishes in the **Federal Register**. Any member of the public, designated in the proposed regulation as a "purchaser," may then bid for an allotment at not more than the DOE regulated price. The allotments shall be awarded to those bidding the regulated price, or if no regulated price applies, to those bidders bidding fair market value. If two or more purchasers submit the same bid price and those bids by virtue of their amounts make the bidders eligible for allotments, a drawing shall be held to determine who shall receive allotments if there are more purchasers than allotments.

DOE is proposing that the royalty oil sold to the public may not be resold in kind (§ 391.110(b)(2)). Therefore, those receiving allotments are not required to accept the entire allotment quantity if they cannot utilize it fully. Any excess royalty oil remaining after the initial sale may, at the discretion of DOI, be combined into additional allotments and offered to other bidders. As is currently authorized, exchanges of royalty oil would be permitted, subject to DOI approval.

To assure that royalty oil for sale to the public will be widely distributed, DOE is proposing that no member of the public (purchaser) may obtain more than one allotment of oil per OCS royalty oil sale (§ 391.110(b)(5)).

V. Amendments to DOE Mandatory Petroleum Price Regulations—Part 212

The present DOI regulations provide for an administrative charge of ½ of one percent of the market price for each barrel of royalty oil sold. DOE proposes to amend 10 CFR § 212.74 to add a new paragraph (d) that would permit an adjustment to the ceiling price for crude oil sold under proposed Part 391 to reflect this administrative charge.

We are also amending § 212.74 of the Mandatory Petroleum Price Regulations to add a new paragraph that will provide that the percentages of crude oil sold at lower tier, upper tier or other prices may be the same for all owners of an interest in a property for which DOE has issued, to one or more of the owners thereof, an order specifying the percentages to be sold at each price. The Office of Hearings and Appeals of DOE has generally permitted working interest owners to sell a higher percentage of their production at upper tier or market clearing prices than would otherwise be permitted by the regulations in those situations where such exception relief has been found necessary to prevent the cessation of production. Such relief has not been extended to the owners of royalty interests on the stated basis that they have not incurred the increased costs that impair economic incentive to maintain production.

Royalty agreements themselves are contractual in nature and many such agreements might resemble more closely a rent charged the producer, calculated on the basis of the producer's actual receipts for volumes of crude oil produced from a property, than a discrete first sale of crude oil by the owner of the royalty interest. Permitting similar treatment under the DOE price regulations of volumes of crude oil associated with the royalty interest and those volumes owned by the holder of the producing interest would simplify administration of this aspect of DOE's regulatory programs and would avoid the possibility that the effect of DOE's price rules on individual royalty owners would turn upon the details of individual royalty agreements.

VI. Environmental Analysis

After reviewing the proposed regulations pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 (Pub. L. 91–190, 83 Stat. 852, (42 U.S.C. 4321 *et seq.*)), DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, DOE has determined that no environmental impact statement is required for the proposed regulations.

VII. Significance Review

DOE has determined that these proposed regulations are significant but will not have a major impact within the meaning of DOE's procedures to implement Executive Order No. 12044 on "Improving Government Regulations" (DOE Order No. 2030.1, (44 FR 1032, January 3, 1979)). The regulations will not have a major impact because they will not create any incremental economic effect on the existing regulatory environment nor adversely impact competition for royalty oil.

VIII. Public Comments and Public Hearing Procedures

A. Written Comments

You are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Written comments should be identified on the outside envelope and on the document with the designation: Box XF, "DOE Proposed Royalty Oil Regulations" (Docket No. LPD–79–02). Ten copies should be submitted. All copies received by October 5, 1979, and all other relevant information will be considered by DOE before final action is taken on these proposed regulations.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information and to treat it according to our determination.

B. Public Hearings

1. *Procedure for Request to Make Oral Presentation.* The time and place for the hearing are indicated in the "Dates" and "Hearing Location" sections at the beginning of this preamble.

If you have an interest in the propsoed amendments issued today, or represent a group or class of persons that has an interest, you may make a written request (See "Addresses") for an opportunity to make oral presentation by 4:30 p.m., August 22, 1979. Please describe the interest concerned and, if appropriate, state why you are a proper representative of a group or class of persons that has such an interest, and give a concise summary of the proposed oral presentation. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., August 24, 1979. One hundred copies of your statement labeled "DOE Proposed Royalty Oil Regulations" are due September 11, 1979 and should be delivered to the "Request to Speak" address at the beginning of this preamble. In the event any person wishing to testify cannot meet the 100-copy requirement, alternative arrangements can be made with the Office of Hearings Management in advance of the hearing by so indicting in the letter requesting an oral presentation or by calling the Office of Hearings Management at (202) 254–5201.

2. *Conduct of the Hearings.* DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., September 11, 1979. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. DOE or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the DOE and made available for inspection at the DOE Freedom of Information Office, Room GB–145, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., 20585, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

(Mineral Lands Leasing Act, ch. 85, 41 Stat. 450 (30 U.S.C. 181 *et seq.*, 1920), as amended by Act of July 13, 1946; Mineral Leasing Act for Acquired Lands, ch. 513, 61 Stat. 913 (30 U.S.C. 351 *et seq.*, 1947); Outer Continental Shelf Lands Act, ch. 345, 67 Stat. 462 (43 U.S.C 1331 *et seq.*, 1953), as amended by Pub. L. 95–372; Emergency Petroleum Allocation Act, Pub. L. 93–159, 87 Stat. 627 (15 U.S.C. 751 *et seq.*, 1973), as amended by Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133 and Pub. L. 94–163; Administrative Procedures Act, as amended by Pub. L. 89–554, 80 Stat. 383 (5 U.S.C. 553); Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C 7101 *et seq.*, 1977); E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, it is proposed to amend Chapter II, Title 10 of the Code of Federal Regulations, as set forth below,

Issued in Washington, D.C. July 28, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications, Department of Energy.

1. Chapter II of Title 10, Code of Federal Regulations, is amended by establishing a Subchapter C and adding Parts 375 and 391 thereof to read as follows:

SUBCHAPTER C—LEASING

PART 375—MINERAL LEASING: GENERAL

Subpart A—General Provisions

Sec.

375.001 Purpose and scope.
375.002 Applicability.

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Sec.

375.003 Authority.
375.004 Definitions.
375.005 Effect on Existing Regulations.

Subpart B—Administrative Procedures

375.101 Interpretation.
375.102 Rulemaking.

Authority: Pub. L. 89–554, 80 Stat. 383 (5 U.S.C. 553); secs. 302, 303 and 644, Pub. L. 95–91, 91 Stat. 578–579, 579–580, 599 (42 U.S.C. 7152, 7153 and 7254); E.O. 12009, 42 FR 46267.

Subpart A—General Provisions

§ 375.001 Purpose and scope.

(a) The purpose of this Part 375 is to describe DOE's general authority in the mineral leasing area and to establish some general provisions applicable to DOE's mineral leasing regulations in this Subchapter C.

(b) The mineral leasing regulations issued by DOE pursuant to sections 302(b) and 303 of the DOE Act will be found in this Subchapter C.

(c) Section 303(a) of the DOE Act provides that the Secretary of the Interior retains any mineral leasing authorities not transferred under section 302(b) of the DOE Act, and that he is solely responsible for the issuance and supervision of Federal leases and the enforcement of all regulations applicable to the leasing of mineral resources, including but not limited to lease terms and conditions and production rates.

§ 375.002 Applicability.

The provisions in Subpart A and Subpart B of this Part 375 are applicable to all of the regulations in Subchapter C, unless otherwise noted.

§ 375.003 Authority.

(a) Section 302(b) of the DOE Act transferred to, and vested in, the Secretary of Energy the functions of the Secretary of the Interior to promulgate regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to: The fostering of competition for Federal leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures); implementation of alternative bidding systems authorized for the award of Federal leases; the establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements); the setting rates of production for Federal leases; and the specifying of the procedures, terms and conditions for the acquisition and disposition of Federal royalty interests taken in kind.

(b) The functions of the Secretary of the Interior to establish production rates for all Federal leases was also transferred to, and vested in, the Secretary of Energy by section 302(c) of the DOE Act.

(c) Section 303(c)(1) of the DOE Act requires the Secretary of the Interior to afford the Secretary of Energy not less than thirty days, prior to the date on which the DOI first publishes or otherwise prescribes the terms and conditions on which a Federal lease will be issued, to disapprove any term of condition of such lease that relates to any matter with respect to which the Secretary of Energy has authority to promulgate regulations under section 302(b) of the DOE Act. No such term or condition may be included in such a lease if it is disapproved by the Secretary of Energy.

(d) In exercising his authority to promulgate regulations under section 302(b) of the DOE Act, the Secretary of Energy is required by section 303(b) of the DOE Act to consult with the Secretary of the Interior during the preparation of such regulations and to afford the Secretary of the Interior not less than thirty days prior to the date on which the DOE first publishes or otherwise prescribes regulations, to comment on the content and effect of such regulations.

§ 375.004 Definitions.

For purposes of this Subchapter C:

"Area" means the geographic area over which a Supervisor has jurisdiction, unless the context in which the word is used indicates a different meaning is to apply.

"Director" means Director, United States Geological Survey, Department of the Interior.

"DOE" means the Department of Energy, including the Secretary of Energy, or his or her delegate.

"DOE Act" means the Department of Energy Organization Act (Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*)).

"DOI" means the Department of the Interior, including the Secretary of the Interior, or his or her delegate.

"Federal lease" means an agreement which, for any consideration, including but not limited to, bonuses, rents or royalties conferred, and covenants to be observed, authorizes a person to explore for, or develop, or produce (or to do any or all of these) oil and gas, coal, oil shale, tar sands, and geothermal resources on lands or interests in lands under Federal jurisdiction.

"OCS" means the Outer Continental Shelf, which includes all submerged lands (1) that lie seaward and outside of the area of lands beneath navigable waters as defined in the Submerged Lands Act (Pub. L. 31–35, 67 Stat. 29 (43 U.S.C. 1301)) and (2) of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"Oil" means a mixture of hydrocarbons that exists in a liquid or gaseous phase in an underground reservoir and which remains or becomes liquid at atmospheric pressure after passing through surface separating facilities, including condensate recovered by means other than a manufacturing process.

"Supervisor" means the Area Oil and Gas Supervisor of USGS; a representative of DOI, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, USGS, and the appropriate Regional Conservation Manager, Conservation Division, USGS, authorized and empowered to supervise and direct all oil and gas operations and to perform other duties prescribed in 30 CFR Part 250.

"USGS" means the United States Geological Survey, Department of Interior.

§ 375.005 Effect on Existing Regulations.

In some instances regulations issued by DOE in this Subchapter C may supersede, in whole or in part, certain regulations which have been promulgated by DOI. The specific regulations superseded will be identified in the applicable rulemakings issued for codification in this Subchapter C.

Subpart B—Administrative Procedures

§ 375.101 Interpretation.

Any person seeking an interpretation of the mineral leasing regulations in this Subchapter C shall file a formal written request with the General Counsel of DOE (or delegate). Each such request shall be processed in accordance with the procedures established in Subpart F of 10 CFR Part 205. Prior to issuing an interpretation of these regulations, the General Counsel (or his delegate) shall afford the Solicitor of DOI not less than ten days to comment on the content and effect of such interpretation.

§ 375.102 Rulemaking.

Any person seeking issuance, amendment or repeal of the mineral leasing regulations in this Subchapter C shall file a formal written request with the General Counsel of DOE (or delegate). The request shall be filed as a petition for rulemaking and treated in accordance with the procedures, as applicable, of Subpart L of 10 CFR Part 205.

PART 391—ACQUISITION AND DISPOSITION OF FEDERAL ROYALTY INTERESTS TAKEN IN KIND

Subpart A—General Provisions

Sec.

391.001 Purpose and authority.
391.002 Definitions.

Subpart B—Disposition of Outer Continental Shelf Royalty Oil

391.101 Purpose and scope.
391.102 Definitions.
391.110 OCS royalty oil allocation.
391.120 Reimbursement to lessee for transportation.
391.130 Exchange agreements.
391.140 Application; Contents
391.141 Action by the Supervisor.
391.142 Action by DOI.
391.150 Notices.

Subpart C—Disposition of Onshore Royalty Oil

391.201 Purpose and scope.
391.202 Definitions.
391.210 Royalty oil allocation.
391.220 Exchange agreements.
391.230 Application; Contents.
391.240 Action by the Supervisor.
391.241 Action by DOI.
391.250 Notices.

Authority: Act of February 25, 1920, ch. 85, secs. 32 and 36, 41 Stat. 450, 451 (30 U.S.C. 189 and 192), as amended by Act of July 13, 1946, ch. 574, 60 Stat. 533; Act of August 7, 1947, ch. 513, secs. 3 and 10, 61 Stat. 914, 915 (30 U.S.C. 352 and 359); Act of August 7, 1953, ch. 345, secs. 5, 6 and 8, 67 Stat. 464, 465, 468 (43 U.S.C. 1334, 1335 and 1337), as amended by secs. 204, 205 and 208, Pub. L. 95–372, 92 Stat. 636–640, 640–646, 666–668; secs. 302, 303 and 644, Pub. L. 95–91, 91 Stat. 578–599, 579–580, 599 (42 U.S.C. 7152, 7153 and 7254); E.O. 12009, 42 FR 46267.

Subpart A—General Provisions

§ 391.001 Purpose and authority.

The regulations in this Part 391 specify the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind and are issued pursuant to section 302(b)(5) of the DOE Act.

§ 391.002 Definitions.

For purposes of this Part 391—"Notice of Availability of Royalty Oil" means a notice published in the **Federal Register** by DOI to advise interested parties that royalty oil is being made available for purchase by qualified small refiners or purchasers and the approximate volume of oil which may be available.

"Operator" means the designee of the lessee, who performs the necessary functions relating to oil and gas production.

"Refinery capacity" means actual certified capacity on a barrel per calendar day basis, as determined by the Economic Regulatory Administration of DOE.

Subpart B—Disposition of Outer Continental Shelf Royalty Oil

§ 391.101 Purpose and scope.

The regulations in this Subpart B establish the policy and procedures for the dispositon of royalty oil taken in kind from Federal OSC oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act, as amended by Pub. L. 95–372 (Act of August 7, 1953, 67 Stat. 462 (43 U.S.C. 1331 *et seq.*)).

§ 391.102 Definitions.

For purposes of this Subpart B:

"Allotment" means the discrete quantity of royalty oil to be sold to a purchaser. The quantity of oil in an allotment shall be determined by DOI and shall be contained in the "Notice of Availability of Royalty Oil" that is published in the **Federal Register** by DOI.

"Fair market value" means the value of oil determined by DOI (1) computed at a unit price equivalent to the average unit price at which such oil was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States Pursuant to such lease, or (2) if there were no such sales, or if DOI finds that there were insufficient number of such sales to equitably determine such vlaue, computed at the average unit price at which oil was sold pursuant to other leases in the same region of the OCS during such period, or (3) if there were no sales of oil from such region during such period, or if DOI finds that there are an insufficient number of such sales to equitably determie such value, at an appropriate price determined by DOI.

"Lessee" means the holder of a Federal OCS oil and gas lease issued under the Outer Continental Shelf Lands Act (Act of August 7, 1953, 67 Stat. 462 (43 U.S.C. 1331 *et seq.*)), as amended, who is authorized to develop and produce oil and gas, including all parties holding such authority by or through the lessee.

"OCS royalty oil" means, for a section 8 lease, an amount of oil that DOI has determined to take in kind in satisfaction of the section 8 lessee's royalty obligation. For a section 6 lease, "OCS royalty oil" means an amount of oil that the lessee elects and that DOI accepts as payment in satisfaction of the lessee's royalty obligation.

"Point of delivery" means the place at which OCS royalty oil or the quantity thereof in a commingled stream is delivered by the lessee to the United States and ownership of the OCS royalty oil is transferred simultaneously by the United States to the small refiner/purchaser. With respect to: (1) all leases issued after October 1969, the point of delivery shall be a place designated by or acceptable to the Supervisor. The deliveries normally shall be made immediately downstream from the place of measurement of such oil or of the commingled stream containing such oil, after separation and treating processes: *provided, however,* That if such measurement is at an offshore location and such oil is commingled after such measurement with other untreated oil and is transported to a treating facility for treating and final measurement, the point of delivery may be immediately downstream of the place of final measurement. However, the point of delivery may be at any other place which the Supervisor determines is practical for both the lessee and the purchaser, and which ensures proper safeguards for the environment; and (2) section 8 leases issued prior to October 1969, the point of delivery shall be a place designated by the lessee.

"Purchaser" means any member of the public who complies with § 391.140(b).

"Regulated price" means the highest price (a) at which oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, 87 Stat. 628 (15 U.S.C. 751 *et seq.*)) and any rule or order issued under such act or (b) at which Federal oil may be sold under any provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil.

"Section 6 lease" means an oil and gas lease originally issued by any State and currently maintained in effect pursuant to section 6 of the Outer Continental Shelf Lands Act, as amended by Pub. L. 95–372. (Act of August 7, 1953, ch. 345, section 86, 67 Stat. 465 (43 U.S.C. 1335)).

"Section 8 lease" means an oil and gas lease issued by the United States pursuant to section 8 of the Outer Continental Shelf Lands Act, as amended by Pub. L. 95–372. (Act of August 7, 1953, ch. 345, § 88, 67 Stat. 468 (43 U.S.C. 1337)).

"Small refiner" means an owner of an existing refinery or refineries (operating or operable at the time of application to purchase OCS royalty oil) who can

demonstrate (1) qualification as a small business concern under the rules of the Small Business Administration (13 CFR Part 121), both at the time of application and at the award of the contract to purchase such oil, and (2) inaccessibility to adequate supplies of oil at equitable prices.

§ 391.110 OCS royalty oil allocation.

(a) *Allocation to small refiners.* (1) Upon determination by DOI to offer OCS royalty oil for sale to small refiners, such oil may be sold only to small refiners upon application filed in accordance with § 391.140(a). Such oil may only be purchased for processing or use in a small refiner's refinery or refineries and may not be resold in kind.

(2) All such royalty oil sales shall be made at not more than the regulated price, or, if no regulated price applies, not less than the fair market value of the oil; however, a charge for the cost of administration of an amount equal to one-half percent of the sale price shall be levied for each barrel of OCS royalty oil sold to small refiners.

(3) When available OCS royalty oil is insufficient to satisfy the requirements of all small refiners who have made application, the oil shall be allocated among such small refiners by a drawing or on an equitable prorated basis, as determined by the Supervisor.

(b) *Allocation to purchasers.* (1) DOI may sell OCS royalty oil to purchasers only in accordance with any provision of law, or regulations issued in accordance with such provisions, that provide for DOE to allocate, transfer, exchange, or sell oil in amounts or at prices determined by such provision of law or regulations. OCS royalty oil shall not be offered for sale to purchasers if it is determined to offer such oil for sale to small refiners in accordance with paragraph (a) of this section.

(2) Upon determination by DOI to offer OCS royalty oil for sale to purchasers, such oil shall be sold only in equal allotments, by competitive bidding, to purchasers in accordance with the regulations contained in this subpart and may not be resold in kind.

(3) All bids submitted by purchasers of OCS royalty oil must be filed in accordance with § 391.140(b). All sales of royalty oil shall be made at the regulated price or, if no regulated price applies, at the fair market value of the oil.

(4) Allotments of OCS royalty oil shall be awarded to purchasers who are the highest bidders.

(5) No purchaser shall receive more than one allotment of oil for each OCS royalty oil sale.

(6) When two or more purchasers bid the same price for the offered OCS royalty oil and their bids, by virtue of their amount make them eligible for allotments, a drawing shall be held to determine which purchasers shall receive allotments if there are more purchasers than allotments.

(7) If a purchaser is selected for receipt of an allotment and if the purchaser's oil supply requirements, as stated in the application filed in accordance with § 391.140(b)(3), exceed the allotment of oil, the purchaser shall only receive an amount of oil equal to the allotment of oil.

(8) If a purchaser is selected for receipt of an allotment and if the purchaser's oil supply requirements, as stated in his application filed in accordance with § 391.140(b)(3), are less than the allotment of oil, the purchaser shall receive only that amount of oil requested in the application.

(9) If, after all allotments have been sold, an amount of oil remains that is determined by DOI to be large enough for sale, the excess oil shall be made available for sale as another allotment or allotments.

(10) A charge for the cost of administration of an amount equal to one-half percent of the sale price shall be levied for each barrel of royalty oil sold to purchasers.

(c) *Allocation from section 6 leases.* OCS royalty oil produced under a section 6 lease may be made available for sale only when the lessee elects and DOI accepts the royalty oil as payment in satisfaction of the lessee's royalty obligation. OCS royalty oil produced from areas for which there is a dispute between the United States and a State as to ownership may be made available for sale only with the concurrence of that State, and evidence of such concurrence shall be furnished in the application filed by the small refiner/purchaser applicant.

§ 391.120 Reimbursement to lessee for transportation.

(a) When the point of delivery for OCS royalty oil produced under a section 8 lease is to be other than on or immediately adjacent to from which the oil is produced, the small refiner/purchaser shall promptly reimburse the lessee for the cost of transporting the oil to the point of delivery. Such reimbursement shall be monthly or at such other interval as may be designated by the Supervisor.

(b) The cost of transportation shall be approved by the Supervisor and may be deducted from the value of the oil at the point of delivery in calculating payments to be made to the United States. The United States guarantees payment to the lessee for such cost of transportation.

§ 391.120 Exchange agreements.

(a) Notwithstanding that OCS royalty oil purchased by a small refiner/purchaser cannot be resold, a small refiner/purchaser may enter into an agreement providing for the exchange of OCS royalty oil purchased for other oil on an equivalent volume or value basis. When a small refiner/purchaser anticipates entering into an exchange agreement for any of the OCS royalty oil that it may purchase, complete information regarding such agreement shall be included with the application to purchase OCS royalty oil, unless a later date for submission of such information is specified by the Supervisor.

(b) Exchanges of OCS royalty oil shall not be authorized unless the agreement has been approved by DOI and shall become effective only upon such approval.

§ 391.120 Application; Contents.

(a) *Small refiner applications.* To apply for the purchase of OCS royalty oil offered for sale to small refiners, an applicant must file application during the application period (as specified in the Notice of Availability of Royalty Oil published by DOI in the **Federal Register**) with the Supervisor of the Area in which the oil is produced. Such application shall be filed in triplicate and shall include:

(1) Name and address of the applicant and location of its refinery or refineries, disclosure of the applicant's affiliation or association with any other refiner of oil or any other business entity if such relationship exists, a statement of the reasons which are the bases of the applicant's belief that it qualifies as a small business concern under the rules of the Small Business Administration, and a complete showing of the efforts made to purchase oil required by the small refiner in the open market, which shall include a certified statement from the chief executive officer of the small refiner, or his delegate, as to the nonavailability of adequate supplies of oil at equitable prices on the open market;

(2) Certified capacity of the applicant's refinery or refineries in crude throughput of barrels of oil per calendar day, operational status, and, in the case of idle facilities or those under construction, onstream date, all as determined by the Economic Regulatory Administration of DOE, and the amount, source and grade of all oil currently available to the applicant from the applicant's own production or by purchase, including any outstanding OCS or onshore royalty oil contracts at the time of application;

(3) Minimum amount and grade of additional oil required to meet the applicant's refining capacity and the field or fields that the applicant believes offer a potential source of OCS royalty oil supply;

(4) Available transportation facilities that the applicant proposes to utilize (For OCS royalty oil produced under section 8 leases issued prior to October 1969, this should include the proposed point of delivery.);

(5) Amount of any fees that have been or will be paid by the applicant for the transportation of the OCS royalty oil from the OCS lease to the point of delivery; and

(6) Tabulation for the last 12 months of refinery operation of the amount and grade of oil refined by the applicant each month and the kind and amount of the principal finished products.

(b) *Purchaser applications.* To receive OCS royalty oil that is for sale to the public, a purchaser applicant shall file an application during the application period (as indicated in the Notice of Availability of Royalty Oil published by DOI in the **Federal Register**) with the Supervisor of the Area in which the oil is produced. Such application shall be filed in triplicate and shall include:

(1) Name and address of the applicant;

(2) Amount of the applicant's bid per barrel per grade of oil (such bid shall not exceed the ceiling price of oil as prescribed by DOE in Part 212 of this chapter);

(3) Number of barrels and the grade of oil that the applicant desires to purchase;

(4) Available transportation facilities that the applicant proposes to utilize (For OCS royalty oil produced under section 8 leases issued prior to October 1969, this should include the proposed point of delivery.); and

(5) Amount of any fees that have been or will be paid by the applicant for the transportation of the OCS royalty oil from the OCS lease to the point of delivery.

§ 391.141 Action by the Supervisor.

(a) The Supervisor shall examine each application filed and, as appropriate, shall request additional information if the information included in the submitted application is inadequate or unsatisfactory. If an application is submitted after the close of the application period (as indicated in the Notice of Availability of Royalty Oil published by DOI in the **Federal Register**), the application shall be automatically rejected. If additional information is required by the Supervisor, it must be received within 21 days from the receipt of the request or the application shall be automatically rejected.

(b) After the close of the application period and the timely receipt of any additional requested information, the Supervisor shall furnish a report to the Director who will make appropriate recommendations to the Secretary of the Interior.

§ 391.142 Action by DOI.

After determinations are made to take OCS royalty oil in kind and to offer such oil for sale to small refiners in any area or a determination is made by DOI to sell OCS royalty oil to the public, DOI by publication of a Notice of Availability of Royalty Oil in the **Federal Register**, shall specify the manner in which the sale is to be effected, including the form of the contract to be used. In addition, the Secretary of the Interior may authorize the Supervisor or other designated official of the USGS to execute on behalf of the United States any contract for the sale of OCS royalty oil, to approve any exchange agreement, and to determine the amount and type of bond or other security to be required from a small refiner/purchaser in accordance with any contract.

§ 391.150 Notices.

(a) The Supervisor shall notify the section 8 lessees who shall be required to provide OCS royalty oil to a small refiner/purchaser under a new contract at least 30 days prior to the date on which delivery of such oil commences.

(b) When delivery of OCS royalty oil is to be terminated, the Supervisor shall, if practicable, notify the lessees who are providing such oil at least 30 days prior to the date on which delivery is to cease.

Subpart C—Disposition of Onshore Royalty Oil

§ 391.201 Purpose and scope.

The regulations in this Subpart C establish the policy and procedures for the disposition of royalty oil taken in kind from Federal onshore oil and gas leases issued pursuant to the Mineral Lands Leasing Act (Act of February 25, 1920, 41 Stat. 437 (30 U.S.C. 181 *et seq.*)), as amended, or the Mineral Leasing Act for Acquired Lands (Act of August 7, 1947, 61 Stat. 913 (30 U.S.C. 351 *et seq.*)).

§ 391.202 Definitions.

For the purposes of this Subpart C: "Lessee" means the holder of a Federal onshore oil and gas lease issued under the Mineral Lands Leasing Act (Act of February 25, 1930, 41 Stat. 437 (30 U.S.C. 181 *et seq.*)) or the Mineral Leasing Act for Acquired Lands (Act of August 7, 1947, 61 Stat. 913 (30 U.S.C. 351 *et seq.*)) who is authorized to develop and produce oil and gas, including all parties holding such authority by or through the lessee.

"Eligible refiner" means an owner of an existing refinery or refineries (operating or operable at the time of application to purchase onshore royalty oil) who can demonstrate (1) its qualification as a small business under the rules of the Small Business Administration (10 CFR Part 121), both at the time of application and at the award of a contract to purchase such oil, and (2) the inability to purchase in the open market an adequate supply of oil at an equitable price to meet the needs of the capacity or capacities of its existing refinery or refineries.

"Market price" means (1) the highest price per barrel regularly posted, published, or generally paid, or offered, by any principal purchaser of oil of like quality in the field or area where produced; or (2) if there are no postings in the field or area, the highest price posted in the nearest field or area where oil of comparable quality is produced or sold; or (3) the true value as determined by the Supervisor when in his judgement such highest price regularly posted, published, or generally paid or offered in the same field or area of the nearest field or area is found by him to be less than the true value of the royalty oil. In no event shall the "market price" be less than the estimated reasonable value that the Supervisor would determine as the value of production, pursuant to 30 CFR 221.47, if royalties on the production in question were being paid in the value by the lessee rather than being taken in kind: *Provided, however,* That with respect to oil, the first sale of which is controlled under Part 212 of this chapter, the market price shall not exceed the lawful first sale price of such oil.

"Onshore royalty oil" means an amount of oil produced from a Federal lease and saved for sale which is equivalent to the royalty rate prescribed by the lease instrument times the gross amount of oil produced from such lease.

"Preference eligible refiner" means an eligible refiner whose refinery is located in the Area in which the royalty oil offered for sale is produced.

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§ 391.210 Royalty oil allocation.

(a)(1) After a determination has been made by DOI to take onshore royalty oil in kind and to offer it for sale such oil may be sold only to eligible refiners upon application filed in accordance with § 391.230. Such oil may be purchased only for processing or use in an eligible refiner's refinery or refineries and may not be resold in kind.

(2) All such royalty oil sales shall be made at the market price without premium or bonus; however, a charge for the cost of administration of an amount equal to one-half percent of the market price shall be levied for each barrel of onshore oil sold to eligible refiners.

(b) The requirements of preference eligible refiners shall be accorded priority over those requirements of eligible refiners in the purchase of available onshore royalty oil. When onshore royalty oil available for disposal is insufficient to satisfy the requirements of all preference eligible refiners who have made application, the oil shall be allocated among such qualified preference eligible refiners by a drawing or on an equitable prorated basis as determined by the Supervisor. When all preference eligible refiners' requirements are adequately supplied with only part of the royalty oil made available for sale or if no preference eligible refiners apply for the offered oil, the royalty oil available for sale shall be allocated on a similar basis by the Supervisor to those applicants who qualify as eligible refiner applicants.

§ 391.220 Exchange agreements.

(a) Notwithstanding that onshore royalty oil purchased by an eligible refiner cannot be resold, an eligible refiner may enter into an agreement providing for the exchange of oil purchased for other oil on an equivalent volume or value basis. When an eligible refiner anticipates entering into an exchange agreement for any of the onshore royalty oil that it may purchase, complete information regarding such agreement shall be included with the application to purchase onshore royalty oil, unless a later date for submission of such information is specified by the Supervisor.

(b) Exchanges of onshore royalty oil shall not be authorized unless the exchange agreement has been approved by DOI and shall become effective only upon such approval.

§ 391.230 Application; Contents.

To apply for the purchase of onshore royalty oil offered for sale, an eligible refiner must file an application during the application period (as specified in the Notice of Availability of Royalty Oil published by DOI in the **Federal Register**) with the Supervisor of the Area in which the oil is produced. Such application shall be filed in triplicate and shall include:

(a) Name and address of the applicant and location of its refinery or refineries, disclosure of the applicant's affiliation or association with any other refiner of oil or any other business entity if such relationship exists, a statement of the reasons which are the basis of the applicant's belief that it qualifies as a small business concern under the rules of the Small Business Administration (13 CFR Part 121), and a complete showing of the efforts made to purchase oil required by the eligible refiner in the open market, which shall include a certified statement from the chief executive officer, or his delegate, as to the nonavailability of adequate supplies of oil at equitable prices on the open market;

(b) Certified capacity of the applicant's refinery or refineries in crude throughput of barrels of oil per calendar day, operational status and, in the case of idle facilities or those under construction, onstream date, all as determined by the Economic Regulatory Administration of DOE, and the amount, source, and grade of all oil currently available to the applicant either from the applicant's own production or by purchase, including any outstanding OCS or onshore royalty oil contracts at the time of application;

(c) Minimum amount and grade of additional crude oil required to meet the applicant's existing refining capacity, and the field or fields that the applicant believes offer a potential source of onshore royalty oil supply;

(d) Available transportation facilities which the applicant proposes to utilize; and

(e) Tabulation for the last 12 months of operation of the amount and grade of oil refined by the applicant each month and the kind and amount of the principal finished products.

§ 391.240 Action by the Supervisor.

(a) The Supervisor shall examine each application filed and, as appropriate, shall request additional information if the information included in the submitted application is inadequate or unsatisfactory. If an application is submitted after the close of the application period (as indicated in the Notice of Availability of Royalty Oil published in the **Federal Register**, the application shall be automatically rejected. If additional information is required by the Supervisor, it must be received within 21 days from the date of receipt of the request; otherwise the application shall be automatically rejected.

(b) After the close of the application period and the timely receipt of any additional requested information, the Supervisor shall furnish a report to the Director who will make appropriate recommendations to the Secretary of the Interior.

§ 391.241 Action by DOI.

After determinations are made to take onshore royalty oil in kind and to offer such oil for sale, DOI, by publication of a Notice of availability of Royalty Oil in the **Federal Register**, shall specify the manner in which the sale is to be effected, including the form of the contract to be used. In addition, the Secretary of the Interior may authorize the Supervisor or other designated official of the USGS to execute on behalf of the United States any contract for the sale of onshore royalty oil, to approve any exchange agreement, and to determine the amount and type of bond or other security to be required from an eligible refiner/purchaser in accordance with any contract.

§ 391.250 Notices.

(a) The Supervisor shall notify the lessees who shall be required to provide onshore royalty oil to an eligible refiner under a new contract at least 30 days prior to the date on which delivery of such oil commences.

(b) When delivery of onshore royalty oil is to be terminated, the Supervisor shall, if practicable, notify the lessees who are providing such oil at least 30 days prior to the date on which delivery is to cease.

2. Part 212 of Chapter II of Title 10, Code of Federal Regulations is amended by adding new paragraphs (d) and (e) to § 212.74 to read as follows:

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

§ 212.74 Upper tier ceiling price rule.

* * * * *

(d) Notwithstanding the provisions of § 212.73(a) and of paragraph (a) of this section, with respect to crude oil sold pursuant to the provisions of Part 391 of this chapter, a producer may charge a per barrel price that exceeds the ceiling price otherwise permitted under this subpart by no more than one half of one percent of the per barrel market price of such crude oil computed pursuant to the provisions of Part 391 of this chapter.

(e) Notwithstanding the provisions of § 212.73(a) and of paragraph (a) of this section, with respect to crude oil produced from a property or portion thereof for which DOE has issued an order that specifies the percentage of such crude oil that may be sold at the lower tier, upper tier or other prices by or for the benefit of one or more owners thereof, the same percentages of crude oil, as specified in the order, may be sold at lower tier, upper tier or other prices by or for the benefit of any other owner of an interest in such crude oil or an interest in the property from which such crude oil is produced.

(Secs. 4 and 8, Pub. L. 93–159, 87 Stat. 629, 633 (15 U.S.C. 753 and 757); Pub. L. 93–511, 88 Stat. 1608; sec. 2, Pub. L. 94–99, 89 Stat. 461; sec. 1, Pub. L. 94–133, 89 Stat. 694; secs. 401(a), 401(b)(1)–(3), 402(a), 403(a) and 451, Pub. L. 94–163, 89 Stat. 941, 946, 948; secs. 121 and 122, Pub. L. 94–385, 90 Stat. 1132, 1133; secs. 301 and 644, Pub. L. 95–91, 91 Stat. 577, 599 (42 U.S.C. 7151 and 7254); E.O. 12009, 42 FR 46267)

[FR Doc. 79–24025 Filed 8–2–79; 8:45 a.m.]

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[10 CFR Parts 212, 375 and 391]

Leasing; Additional Procedural Information on Proposed Rulemaking and Public Hearing Regarding the Acquisition and Disposition of Federal Royalty Oil

AGENCY: Department of Energy.

ACTION: Additional Information of Proposed Rule.

SUMMARY: The Department of Energy, which today proposed regulations entitled "Proposed Rulemaking and Public Hearing Regarding the Acquisition and Disposition of Federal Royalty Oil" (located in within this Part VII of today's **Federal Register**), has determined that it is appropriate to offer regional hearings in this rulemaking. Therefore, additional hearings are being proposed to be held in Denver, Colorado on August 30, 1979, and in New Orleans, Louisiana on September 5, 1979.

DATES: Hearings in Denver, Colorado on August 30, 1979, and in New Orleans, Louisiana on September 5, 1979.

ADDRESSES:

Requests to speak at the Denver hearing should be sent to: Department of Energy, 1075 South Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226, Attn: Dale Eriksen.

Requests to speak at the New Orleans hearing should be sent to: Department of Energy, 2626 W. Mockingbird Lane, P.O. Box 352228, Dallas, Texas 75235, Attn: Mac L. Lacefield.

HEARING LOCATIONS:

Denver: Federal Building, Room 239, 1961 Stout Street, Denver, Colorado 80294.

New Orleans: F. Edward Hebert Building, Room 629, 600 South Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT:

The persons to contact for further information are listed in the document entitled "Proposed Rulemaking and Public Hearing Regarding the Acquisition and Disposition of Federal Royalty Oil," published in this issue of the **Federal Register.**

SUPPLEMENTAL INFORMATION:

1. *Procedure for Request to Make Oral Presentation.* The times and places for the hearings are indicated above. If you have an interest in the proposed amendments issued today, or represent a group or class of persons that has such an interest, you may make a written request (see "Addresses" above) for an opportunity to make an oral presentation at the regional hearing. Such request should be received by 4:30 p.m., August 22, 1979. The instructions regarding the information to be included in your request can be found in the proposed rulemaking. If you are selected to be heard at the regional hearings, you will be so notified by August 24, 1979. The instructions respecting copies of your oral statment are the same as those listed in the proposed rulemaking, except that they should be brought to the respective hearing locations by 9:00 a.m. on the day of the hearing.

2. *Conduct of the Hearings.* The regional hearings will be controlled by and subject to the procedures described in the Proposed Rulemaking.

Issued in Washington, D.C. on August 1, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

[FR Doc. 79–24213 Filed 8–2–79; 8:45 am]

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Friday
August 3, 1979

Part VIII

Department of Agriculture

Animal and Plant Health Inspection Service

Proposed Revision of Definitions, Regulations, and Standards for the Humane Handling, Care, Treatment, and Transportation of Dogs, Cats, and Certain Other Warmblooded Animals

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Parts 1, 2, and 3]

Proposed Revision of Definitions, Regulations, and Standards for the Humane Handling, Care, Treatment, and Transportation of Dogs, Cats, and Certain Other Warmblooded Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the definitions, regulations, and standards under the Animal Welfare Act to assure the humane handling, care, treatment, and transportation of certain warmblooded animals used for purposes of research, teaching, exhibition, or for sale as pets. These proposed amendments contain (1) a clarification of defined terms, an amendment of the definition of "Veterinary Services representative," and an addition of the terms "indoor housing facility" and "outdoor housing facility" to the definitions; (2) provision for automatic termination of licenses for failure to pay the annual renewal fee; (3) provision for payment of license fees by means of personal check; (4) the deletion of the applicant-affidavit method for ascertaining compliance with standards for premises, facilities, and equipment; (5) provision for allowing the use of certificates of acclimation to lower temperatures by persons other than licensees, registrants, or departments, agencies, or instrumentalities of the United States; (6) provision that all certificates of acclimation must be issued by a USDA accredited veterinarian; and (7) removal of special requirements for transporting coursing hounds.

DATE: Comments on or before October 2, 1979.

ADDRESSES: Comments to Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments available for inspection at the above address during regular hours of business (8:00 a.m. to 4:30 p.m. Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8271.

SUPPLEMENTARY INFORMATION: The present regulations do not preface the list of terms which are defined in section 1.1 of Part 1, Subchapter A—Animal Welfare, Chapter 1 of the Code of Federal Regulations (CFR), with any explanation of the applicability of singular forms versus plural forms or the masculine form versus the feminine form within the context of each term's definition. In the absence of such explanation, clarity and completeness are lacking in the definition of certain terms. Therefore, in order to clarify this matter, it is proposed that within the definition of all terms in section 1.1, unless the context of the definition of an individual term otherwise requires, the singular form shall also import the plural and the masculine form shall also import the feminine. Further, it is proposed that words which are undefined within the regulations and standards shall have the meaning attributed to general usage as reflected by definition in a standard dictionary, such as "Webster's."

Definitions

In order to effectively administer and enforce the Animal Welfare Act and its regulations and standards, the Department found it necessary to employ both full-time and part-time personnel. The Department has trained a group of part-time employees whose responsibilities involve only animal welfare activities. However, section 1.1(h) of the present regulations defines the term, Veterinary Services representative to mean "any inspector or other person employed full-time by the Department who is responsible for the performance of the function involved." The Department therefore proposed to amend the regulations to change the definition of the term, Veterinary Services representative, by deleting the term "full-time."

Automatic Termination of License

The Animal Welfare Act, as amended (7 U.S.C. 2131–2156), contains provisions concerning the issuance of licenses to dealers and exhibitors. The Act requires that in order to obtain a license a dealer or exhibitor must demonstrate that his facilities comply with standards promulgated by the Secretary of Agriculture. The Secretary issues licenses to such dealers upon application and payment of a prescribed fee. The present regulations (9 CFR 2.1 and 2.6) further require that on or before each anniversary date of his license, the licensee shall submit the required annual license fee. The regulations also require the filing of an annual report by licensees within 30 days prior to the anniversary date of their license.

When a USDA licensee fails to pay the annual license fee on or before each anniversary date of the license, or to file the required annual report within the required 30-day period, present regulations provide for suspension of the license until the required fees are paid and the report is filed. Repeated failure to pay the fees and to file the report subjects the licensee to revocation of the license.

The Department's present methods of dealing with licensees who do not pay their fees or file the required annual report are burdensome and difficult to administer. The cost of the administrative process of serving complaints on delinquent licensees in an attempt to obtain compliance with the law or to revoke or suspend licenses is high. In many instances it has been impossible to serve a complaint because the business has moved from the premises without notifying the Department of a change of address and did not leave a forwarding address.

Most State, county, and municipal governments utilize licensing procedures whereby licenses are issued for a period of 1 year and renewal of such licenses is dependent upon the payment of an annual license fee and the submission of a completed form of one sort or another. Failure to pay the annual license fee or to submit the form on or before a specified date results in expiration or lapse of the license (usually after notice and opportunity to comply). In keeping with this efficient and effective method for administering licensing systems, the Department proposed to amend the regulations to state that if the required annual dealer's or exhibitor's fees are not paid or if the required report is not filed on or before the date required by the regulations, the license of such dealer or exhibitor shall automatically terminate. Prior to such termination, the licensee shall be notified by the Department and given an opportunity to comply.

Payment by Personal Check

Presently, sections 2.1, 2.4, and 2.6 of the Department's regulations provide only three methods for payment of license fees, i.e., certified check, cashier's check or money order. Dealers, exhibitors, and operators of auction sales, who are required to be licensed by the Animal Welfare Act, have complained about the inconvenience and additional cost of these allowed methods of payment, and the unreasonableness of not permitting payment by personal check. This criticism also arises from the fact that other Departments and agencies of the Federal government accept personal checks in payment of income taxes, fees, etc.

The requirement that a certified check, cashier's check or money order be the only methods of payment acceptable to the Department was promulgated to avoid problems of collection, such as might result from a personal check for which there were insufficient funds on deposit. However, the Department finds that the convenience of using personal checks to pay license fees and the ability of the Department to withhold issuance of a license pending clearance of a personal check for sufficient funding is basis for proposing to add personal checks to the already allowed methods of payment for license fees.

Inspection of License Applicant's Premises

The Animal Welfare Act provides for the issuance of licenses by the Secretary to dealers and exhibitors upon written application and payment of reasonable fees. However, no such license is to be issued until the dealers or exhibitor demonstrates that his facilities comply with standards promulgated by the Secretary. The Department subsequently allowed (reference, 9 CFR 2.3) demonstration by the license applicant that his premises, facilities, and equipment complied with standards by either of two methods, i.e., examination of the applicant's premises, facilities, and equipment by a Veterinary Services representative, or submission of an affidavit by the applicant to the effect that his premises, facilities, and equipment complied with the Department's standards.

The Department has found that the applicant-affidavit method of ascertaining compliance with standards for premises, facilities, and equipment has been misrepresented and misused by many license applicants. Consequently, the Department established a policy of issuing licenses only to those applicants whose premises, facilities, and equipment were inspected by a Veterinary Services representative and found to comply with the Department's standards. Since the applicant-affidavit method for ascertaining compliance with the standards for initial licensing proved unreliable, the Department proposes to delete this alternative procedure from section 2.3 of the regulations.

Certificates of Acclimation for Private Individuals; All certificates To Be Issued by Accredited Veterinarians

The Animal Welfare Act Amendments of 1976 contain provisions requiring the Secretary of Agriculture to promulgate standards governing the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers and carriers of animals. Consequently, the Department published proposed transportation standards for certain animals in the Federal Register. The public was given an opportunity to submit comments, arguments, or opinions regarding these standards and such comments were reviewed and all relevant material evaluated to formulate final rulemaking.

In the final rulemaking published December 1, 1978, in the Federal Register (43 FR 56213–56217), the Department provided for the use of a certificate of acclimation to colder temperatures by licensees, registrants, or agencies, departments, or instrumentalities of the United States. The Department also addressed the problem of hobby breeders and individual pet owners who were not afforded the opportunity to present to carriers and intermediate handlers a certificate of acclimation to lower temperatures when shipping an animal which is known to be so acclimated. The Department therefore proposes to provide such an option to all pet owners through a certificate of acclimation to lower temperatures executed by a USDA accredited veterinarian.

An "accredited" veterinarian is a licensed veterinarian who has been officially authorized by the Deputy Administrator of the Department's Veterinary Services to perform certain functions in connection with programs and laws which the Department administers (reference, 9 CFR 161.1). The Department would propose that certificates of acclimation to lower temperatures be required to be issued by accredited veterinarians in order to provide for a method of accountability. Only certificates of acclimation issued by an accredited veterinarian would allow a carrier or intermediate handler to accept animals for shipment. In this way, the Department could exercise control over such certificates by holding the accredited veterinarian accountable for the validity of these certificates and for any subsequent deleterious effects of temperatures lower than 45° F. on transported animals accompanied by a certificate.

Deletion of Requirements for Coursing Hounds

During the comment period prior to final rulemaking on June 21, 1977, the Department received scientific data indicating that coursing hounds with a spinal arch, i.e., greyhounds, whippets, borzois, and Italian greyhounds, were subject to spinal injury from the exertion of turning around within a confined space. Consequently, the standards in the final rulemaking published in the Federal Register (42 FR 31558–31571) on June 21, 1977, required that the primary enclosure used to transport such coursing hounds must be narrow enough to prevent the animal from turning around in its enclosure.

Upon review of additional data received after June 21, 1977, the Department acknowledged that although possible spinal weakness expressed in the form of an injury can occur during conditions wherein great force is exerted in the musculoskeletal system of the hounds, such as is encountered during actual coursing, this force exceeds that which may occur to the skeletomusculature of a coursing hound at rest or in confinement. Therefore, the Department proposes to revise section 3.12(c) of the standards by deleting the requirement from the standards that the primary enclosure for a coursing hound with a spinal arch must be narrow enough to prevent the animal from turning around in its enclosure. Thus, the primary enclosures used to transport all live dogs and cats shall be large enough to ensure that each animal contained therein has sufficient space to turn about freely in a standing position using normal body movements, to stand and sit erect, and to lie in a natural position.

Accordingly, Parts 1, 2, and 3 of Title 9, CFR, would be amended in the following respects:

PART 1—DEFINITION OF TERMS

1. Section 1.1 (9 CFR 1.1) would be amended by revising the introductory paragraph to read as set forth below and by making the following redesignations: paragraph (rr) would be redesignated (ss); paragraph (qq) would be redesignated (rr); paragraph (pp) would be redesignated (qq); paragraph (oo) would be redesignated (pp); paragraph (nn) would be redesignated (oo); paragraph (mm) would be redesignated (nn); paragraph (ll) would be redesignated (mm); paragraph (kk) would be redesignated (ll); paragraph (jj) would be redesignated (kk); paragraph (ii) would be redesignated (jj); and by adding a new paragraph (ii)

and revising paragraphs (h) and (hh) to read as follows:

§ 1.1 Definitions.

For the purposes of this part, unless the context otherwise requires, the following terms shall have the meanings assigned to them in this section. The singular form shall also import the plural and the masculine form shall also import the feminine. Words undefined in the following paragraphs shall have the meaning attributed to general usage as reflected by definition in a standard dictionary, such as "Webster's."

* * * * *

(h) "Veterinary Services representative" means any inspector or other person employed by the Department who is responsible for the performance of the function involved.

* * * * *

(hh) "Indoor housing facility" means any structure or building, housing or intended to house animals, which has the capability of controlling the environment within the enclosure created by the continuous connection of a roof, floor, and walls with at least one opening for entry and exit that is provided with a door or any movable structure used to close off the opening and typically consisting of a panel of wood, glass, metal, etc., which slides on rollers or swings on hinges: *Provided, however,* That any openings which provide natural light shall be covered with a transparent material, e.g., glass, plastic, etc.

(ii) "Outdoor housing facility" means any structure or building, housing or intended to house animals, which does not meet the definition of "indoor housing facility."

* * * * *

2. The Table of Contents cited in Part 2—REGULATIONS is amended to read as follows:

PART 2—REGULATIONS

Licensing

Sec.
2.1 Application.
2.2 Acknowledgement of standards.
2.3 Demonstration of compliance with standards.
2.4 Issuance of licenses.
2.5 Duration of license.
2.6 Annual license fees.
2.7 Annual report by licensees.
2.8 Notification of change of name, address, control, or ownership of business.
2.9 Officers, agents, and employees of licensees whose licenses have been suspended or revoked.
2.10 Licensees whose licenses have been suspended or revoked or terminated automatically.
2.11 Denial of license.

Registration

Sec.
2.25 Requirements and procedures.
2.26 Acknowledgement of standards.
2.27 Notification of change of operation.
2.28 Annual report of research facilities.

Identification of Animals

2.50 Time and method of identification.
2.51 Form of official tag.
2.52 How to obtain tags.
2.53 Use of tags.
2.54 Lost tags.
2.55 Removal of tag.

Records

2.75 Records, dealers and exhibitors.
2.76 Records, research facilities.
2.77 Records, operators of auction sales.
2.78 Records, carriers and intermediate handlers.
2.79 Health certification and identification.
2.80 C.O.D. shipments.
2.81 Records, disposition.

Compliance with Standards and Holding Period

2.100 Compliance with standards.
2.101 Holding period.

Miscellaneous

2.125 Information as to business; furnishing of by dealers, exhibitors, operators of auction sales, and research facilities.
2.126 Access and inspection of records and property.
2.127 Publication of names of persons subject to the provisions of this part.
2.128 Inspection for missing animals.
2.129 Confiscation and destruction of animals.
2.130 Minimum age requirements.

Authority. The provisions of this Part 2 issued under secs. 3, 5, 6, 11, 12, 13, 14, 16, 17, 21; 80 Stat. 351, 352, 353, 84 Stat. 1561, 1562, 1563, 1564; 90 Stat. 418, 419, 420, 423; 7 U.S.C. 2133, 2135, 2136, 2140, 2141, 2142, 2143, 2144, 2146, 2147, 2151.

Section 2.1 (9 CFR 2.1) would be amended by revising paragraph (b) to read as follows:

§ 2.1 Application.

* * * * *

(b) Any person who is not a dealer or exhibitor, but who desires to obtain a license, shall follow the requirements for dealers and exhibitors set forth in paragraph (a) of this section and in §§ 2.2 and 2.3, and shall agree in writing, on a form furnished by Veterinary Services, to comply with all requirements of the Act and the provisions of this subchapter. A license will be issued to any such applicant when the requirements of §§ 2.2 and 2.3 have been met, and when the applicant has submitted to the Veterinarian in Charge a fee of $5 by certified check, cashier's check, personal check, or money order. In addition to the fee required to be paid upon application for a license, such licensee shall submit to the Veterinarian in Charge a fee of $5, by certified check, cashier's check, personal check, or money order, on or before each anniversary date of his license. The failure of any such person to comply with any provisions of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for the suspension, cancellation, or revocation of such license by the Secretary.

Section 2.3 (9 CFR 2.3) would be revised as follows:

§ 2.3 Demonstration of compliance with standards.

Each applicant must demonstrate that his premises and any facilities or equipment used in his business comply with the standards set forth in Part 3 of this subchapter. Upon request by the Veterinarian in Charge, the applicant must make his premises, facilities, and equipment available at a time or times mutually agreeable to said applicant and Veterinary Services representative for the purpose of ascertaining compliance with said standards. If the applicant's premises, facilities, or equipment do not meet the requirements of the standards, the applicant will be advised of existing deficiencies and the corrective measures that must be taken and completed before such premises, facilities, and equipment will be in compliance with the standards.

Section 2.4 (9 CFR 2.4) would be revised as follows:

§ 2.4 Issuance of licenses.

Except as otherwise provided in §§ 2.10, and 2.11, a license will be issued to any applicant when the requirements of §§ 2.1, 2.2, and 2.3 have been met, when the Secretary has determined that the applicant's premises, facilities, and equipment comply with the standards and when the applicant has submitted to the Veterinarian in Charge the annual fee as prescribed in § 2.6 by certified check, cashier's check, personal check, or money order.

6. Section 2.5 (9 CFR 2.5) would be revised to read as follows:

§ 2.5 Duration of license.

(a) A license issued under this part shall be valid and effective unless:

(1) Said license has been revoked or suspended pursuant to section 19 of the Act.

(2) Said license is voluntarily terminated upon the request of the licensee in writing to the Veterinarian in Charge.

(b) A license issued under this part shall automatically terminate when a licensee fails to pay the annual license fee as required by §§ 2.1 and 2.6 or to file the annual report as required by § 2.7 on or before the anniversary date of his license. Prior to such termination, the licensee shall be given and an opportunity to comply with the annual license fee and reporting requirements. Failure to comply with the annual license fee and reporting requirements within 60 days from receipt of such notice shall result in an automatic termination of license.

(c) A license which is invalid under paragraph (a) of this section shall be surrendered to the Veterinarian in Charge in the State where the license was issued.

7. Section 2.6 (9 CFR 2.6(a)) is amended by revising paragraph (a) to read as set forth below and by deleting paragraph (f).

§ 2.6 Annual license fees.

(a) In addition to the fee required to be paid upon application for a license under § 2.4, each licensee shall submit to the Veterinarian in Charge the annual fee prescribed in this section, by certified check, cashier's check, personal check, or money order, on or before each anniversary date of his license.

* * * * *

8. Section 2.7(b) (9 CFR 2.7(b)) would be revised as follows:

§ 2.7 Annual report by licensees.

* * * * *

(b) A person licensed as a dealer shall set forth in his annual report the dollar amount of business, upon which the license fee is based, from the sale of animals, directly or through an auction sale, for research, testing, experimentation, or teaching purposes, or for exhibition purposes, or for use as pets, by the licensee during the preceding business year (calendar or fiscal) and such other information as may be required thereon.

* * * * *

9. Section 2.10 (9 CFR 2.10) would be revised to read as follows:

§ 2.10 Licensees whose license have been suspended or revoked or terminated automatically.

Any person whose license has been suspended for any reason will not again be licensed in his own name or in any other manner within the period during which the order of suspension is in effect, and any person whose license has been revoked shall not be eligible to apply for a new license in his own name or in any other manner for a period of 1 year from the effective date of such revocation. No partnership, firm, corporation, or other legal entity in which any such person has a substantial financial interest, will be licensed during such period. After revocation, the revoked license shall be surrendered by the holder of such license upon the request of the Secretary. Any person who desires to reinstate a license which has automatically terminated must follow the procedure applicable to new licensees as explained in § 2.1 of this part.

PART 3—STANDARDS

§§ 3.1, 3.25, 3.50, 3.75, 3.100 [Amended]

10. In § 3.1(a), 3.25(a), 3.50(a), 3.75(a), and 3.100(a) wherever the reference to "housing facilities" appears, the reference "indoor and outdoor housing facilities" would be substituted therefor.

11. Section 3.11(c) of the standards (9 CFR 3.11(c)) would be revised to read as follows:

§ 3.11 Consignments to carriers and intermediate handlers.

* * * * *

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards, may accept for transportation or transport, in commerce, any live dog or cat consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or by any person if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of this Title on a specified date which shall not be more than 10 days prior to delivery of such dog or cat for transportation in commerce, stating that such live dog or cat is acclimated to lower air temperatures than prescribed in §§ 3.16 and 3.18. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) Tag number or tattoo assigned to each dog or cat pursuant to §§ 2.50 and 2.54 of the regulations;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.)."); and

(4) The signature of the USDA accredited veterinarian, and date.

* * * * *

12. Section 3.12(d) (9 CFR 3.12(d)) would be revised to read as follows:

§ 3.12 Primary enclosures used to transport live dogs and cats.

* * * * *

(c) Primary enclosures used to transport live dogs and cats shall be large enough to ensure that each animal contained therein has sufficient space to turn about freely in a standing position using normal body movements, to stand and sit erect, and to lie in a natural position.

* * * * *

13. Section 3.35(c) of the standards (9 CFR 3.35(c)) would be revised to read as follows:

§ 3.35 Consignments to carriers and intermediate handlers.

* * * * *

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live hamster consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or by any person if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of the Title on a specified date which shall not be more than 10 days prior to delivery of such hamster for transportation in commerce, stating that such live hamster is acclimated to lower air temperatures than prescribed in §§ 3.40 and 3.42. A copy of such certificate shall accompany the shipment to destination . The certificate shall include the following information:

(1) Name and address of the consignor;

(2) The number of hamsters in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45.)."); and

(4) The signature of the USDA accredited veterinarian, and date.

* * * * *

14. Section 3.60(c) of the standards (9 CFR 3.60(c)) would be revised to read as follows:

§ 3.60 Consignments to carriers and intermediate handlers.

* * * * *

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live rabbit consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or by any person if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of this Title on a specified date which shall not be more than 10 days prior to delivery of such rabbit for transportation in commerce, stating that such live rabbit is acclimated to lower air temperatures than prescribed in §§ 3.65 and 3.67. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of rabbits in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45°. F.)."; and

(4) The signature of the USDA accredited veterinarian, and date.

* * * * *

15. Section 3.85(c) of the standards (9 CFR 3.85(c)) would be revised to read as follows:

§ 3.85 Consignments to carriers and intermediate handlers.

* * * * *

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live nonhuman primate consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or by any person if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of this Title on a specified date which shall not be more than 10 days prior to delivery of such nonhuman primate for transportation in commerce, stating that such live nonhuman primate is acclimated to lower air temperatures than prescribed in §§ 3.90 and 3.92. A copy of such certificate shall accompany the shipment to destination. The certificate shall include the following information:

(1) Name and address of the consignor;

(2) The number of nonhuman primates in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45°. F.)."); and

(4) The signature of the USDA accredited veterinarian, and date.

* * * * *

16. Section 3.111(c) of the standards (9 CFR 3.111(c)) would be revised to read as follows:

§ 3.111 Consignments to carriers and intermediate handlers.

* * * * *

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live animal consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or by any person if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of this Title on a specified date which shall not be more than 10 days prior to delivery of such animal for transportation in commerce, stating that such live animal is acclimated to lower air temperatures than prescribed in §§ 3.116 and 3.118. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of animals in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45°. F.)."); and

(4) The signature of the USDA accredited veterinarian, and date.

* * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 703, Hyattsville, MD 20782, during regular hours of business (8:00 a.m. to 4:30 p.m. Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 1st day of August, 1979.

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Deputy Administrator, USDA, APHIS, VS Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

E. A. Schilf,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-24109 Filed 8-2-79; 8:45 am]
BILLING CODE 3410-34-M

Reader Aids

Federal Register

Vol. 44, No. 151

Friday, August 3, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
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213-688-6694	Los Angeles, Calif.
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523-5230	U.S. Government Manual
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
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DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

NATIONAL CREDIT UNION ADMINISTRATION

39383 7–6–79 / Organization and operations of Federal credit unions; incorporation by reference

Rules Going Into Effect Saturday, August 4, 1979

POSTAL SERVICE

39161 7–5–79 / Provisions for requesting financial records from a financial institution

List of Public Laws

Last Listing July 30, 1979

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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Advance Orders are now Being Accepted for Delivery in About 6 Weeks

CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1979)

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_____	Title 27—Alcohol, Tobacco Products and Firearms	11.00	_____
		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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8-6-79
Vol. 44 No. 152
Pages 45917-46248

Federal Register

Monday
August 6, 1979

Highlights

45957 **Motor Gasoline** DOE/ERA is convening a public hearing relating to governors' authority to grant increases in allowable margins for retail dealers; hearing 8–20–79, requests to speak by 8–14–79

46236 **Outer Continental Shelf Oil and Gas Leasing** DOE proposes to establish three bidding systems for utilization in sales; comments by 10–9–79, requests to speak by 9–5–79, hearings 9–18, 9–20, and 9–27–79 (Part III of this issue)

46244 **Middle Distillates** DOE/ERA proposes to establish mandatory production levels and holds public hearing; comments by 8–16–79, hearing 8–15–79, requests to speak by 8–9–79 (Part IV of this issue)

45958 **State Energy Conservation Plans** DOE solicits comments on replacing minimum criteria for statewide lighting efficiency standards for public buildings; comments by 10–5–79

45922 **Natural Gas Curtailment Regulation** DOE/FERC extends dates for filing petitions for Priorities 1 and 2 treatment for certain end-users; effective 7–18–79

45947 **University Affiliated Facilities Program** HEW/HDSO amend standards; effective 8–6–79, comments by 10–5–79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202–523–5240

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46000 **Student Research** HEW/OE invites applications for new projects related to education of the handicapped; applications for first cycle awards by 10–12–79, and for second cycle awards by 3–17–80

46000 **Handicapped Personnel Preparation** HEW/OE invites applications for non-competing continuation projects and new projects; applications for non-competing awards by 9–17–79, and for new awards by 10–15–79

45999 **Field Initiated Research** HEW/OE invites applications for new projects related to education of the handicapped; applications by 10–31–79

46182 **Health Manpower Shortage Areas** HEW/HRA publishes list of areas designated under Section 332 of Public Health Service Act (Part II of this issue)

45930 **Veterans' and Survivors' Pension Improvement** VA issues rules to provide for major reform of nonservice-connected pension program; effective 1–1–79 and 6–1–79

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45944 **Tuna** EPA amends existing effluent guidelines limitations for best practicable control technology for Tuna Processing Subcategory of Canned and Preserved Seafood Processing Point Source Category; effective 8–6–79

45951 **Radio Broadcast and Cable Television Services** FCC amends rules relating to personal attack; effective 9–7–79

45917 **Melons from South Texas** USDA/AMS terminates handling regulation for 1979 season; effective 7–31–79

45923 **Sugar Content of Certain Articles Exported From Australia** Treasury/Customs informs public of amount of countervailing duty which will be assessed during period from January 1979 through June 1979; effective 8–6–79

46015 **Series M–1982 Notes** Treasury/Secy announces 9 percent per annum interest rate

46095 **Sunshine Act Meetings**

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Rules and Regulations

Federal Register
Vol. 44, No. 152
Monday, August 6, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 27

Cotton Classification Under Cotton Futures Legislation; Deferral of Effective Date for Removing Augusta, Ga. From List of Bona Fide Spot Cotton Markets

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule defers until August 1, 1981 the removal of Augusta, Georgia from the list of bona fide spot cotton markets in § 27.93 of the Regulations for Cotton Classification under Cotton Futures Legislation (7 CFR Part 27). The date for the removal of Augusta, currently scheduled for August 1, 1979, is deferred for 2 years to provide additional time to further evaluate the market information needs in the State of Georgia and to develop a responsive program to meet those needs.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Loyd Frazier, Marketing Services Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–2147).

SUPPLEMENTARY INFORMATION: On October 25, 1977, the U.S. Department of Agriculture issued a rule to remove Augusta, Georgia from the list of bona fide spot cotton markets effective August 1, 1978. The U.S. Cotton Futures Act (90 Stat. 1841–46; 7 U.S.C. 15b) requires the Secretary of Agriculture to designate bona fide spot markets which may be used to establish settlement differences for futures contracts.

On July 3, 1978, the U.S. Department of Agriculture issued a rule deferring the effective date for removing Augusta from the list of bona fide spot markets until August 1, 1979. The purpose of this deferral was to give the Department additional time to (1) further evaluate and determine the need for price information and market news in Georgia and (2) develop a market information program that will be effective, functional and responsive to the needs that are identified. It has now been determined that an additional 2 years will be needed to complete this evaluation and develop an effective market information program for Georgia.

§ 27.93 [Amended]

Accordingly, § 27.93 of the regulations (7 CFR 27.93) governing cotton classification under cotton futures legislation is amended to defer the removal of Augusta, Ga. from the list of bona fide spot cotton markets until August 1, 1981.

Dated: July 31, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-24084 Filed 8-3-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 979

Melons Grown in South Texas; Termination of Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This terminates § 979.301 Handling Regulation pertaining to melons grown in South Texas. The 1979 season is nearly over and the quantity of melons remaining is insufficient to warrant regulation. Packing, inspection and committee overhead costs would likely exceed the benefits of continuing the regulation.

EFFECTIVE DATE: July 31, 1979.

FOR FURTHER INFORMATION CONTACT: William D. Paterson (202) 447–5432.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 156 and Order No. 979 (44 FR 22038) regulate the handling of melons grown in 19 designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601–674).

Section 979.301 *Handling Regulation* (44 FR 28778) became effective May 17, 1979, and would have been terminated on August 31, 1979. However, the South Texas Melon Committee, in a telephone vote held on July 26 voted 7 to 2 to recommend terminating the regulation as soon as possible. The committee concluded that the season is nearly over and the quantity remaining is insufficient to warrant continuing the regulation.

It is hereby found that continuing § 979.301 *Handling Regulation* for the remainder of the season would no longer tend to effectuate the declared policy of the act and should be terminated. It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this termination until 30 days after publication in the **Federal Register** (5 U.S.C. 553) since the regulation is being terminated and regulatory acitivities imposed on handlers will thereupon cease.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from William D. Paterson (202) 447–5432.

§ 979.301 [Removed]

Termination of regulation: The provisions of § 979.301 Handling Regulation (44 FR 28778), are hereby terminated.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated July 31, 1979 to become effective July 31, 1979.

James S. Miller,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-24206 Filed 8-3-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

10 CFR Parts 208, 711, 1021

Compliance With the National Environmental Policy Act

AGENCY: Department of Energy.

ACTION: Notice of Final Rulemaking.

SUMMARY: The Department of Energy (DOE) hereby announces the establishment of Part 1021 of Chapter X of Title 10 of the Code of Federal Regulations, providing for the adoption of the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508) for implementing the procedural provisions of the National Environmental Policy Act (NEPA).

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of the Assistant Secretary for Environment, Room 4G–064, Forrestal Building, Washington, D.C. 20585, 202–252–4600.

Mr. Stephen H. Greenleigh, Esq., Acting Assistant, General Counsel for Environment, Room 6G–087, Forrestal Building, Washington, D.C. 20585, 202–252–6947.

SUPPLEMENTARY INFORMATION: The CEQ regulations, which were published in the **Federal Register** on November 29, 1978 (43 FR 55978), effectively replace the NEPA regulations of the predecessor agencies of DOE. Accordingly, DOE will by this rule adopt the CEQ regulations and revoke the NEPA regulations previously promulgated by its two predecessor agencies, the Energy Research and Development Administration (10 CFR Part 711) and the Federal Energy Administration (10 CFR Part 208) as well as the NEPA regulations of other predecessor agencies of DOE to the extent they had applied to functions transferred to DOE pursuant to the DOE Organization Act. Also, this rule supersedes and replaces the proposed NEPA regulations previously published by DOE in the **Federal Register** on February 21, 1978 (43 FR 7232).

The CEQ regulations, which become binding on Federal agencies as of July 30, 1979, require each Federal agency to adopt implementing procedures to supplement the regulations. DOE published proposed procedures implementing CEQ NEPA regulations in the **Federal Register** on July 18, 1979 (44 FR 42136), and will operate under these proposed procedures during the time between July 30, 1979, and DOE adoption of final procedures.

Note.—With respect to Executive Order 12044, "Improving Government Regulations", DOE has determined that this final rulemaking is a nonsignificant regulation because it is procedural in nature and is not expected to affect important policy concerns. Therefore, a regulatory analysis has not been prepared.

Issued in Washington, D.C., July 31, 1979.

Ruth C. Clusen,

Assistant Secretary for Environment.

PART 208—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT [REVOKED]

PART 711—GUIDELINES FOR ENVIRONMENTAL REVIEW [REVOKED]

In consideration of the above, the Department of Energy hereby revokes 10 CFR Parts 208 and 711 and adds a new Part 1021 to read as follows:

PART 1021—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Sec.

1021.1 Background.
1021.2 Adoption of CEQ Regulations.
1021.3 Revocation of Previous NEPA Regulations.
1021.4 Applicability.

Authority: National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*

§ 1021.1. Background.

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR Parts 1500–1508) on November 29, 1978.

§ 1021.2. Adoption of CEQ Regulations.

The Department of Energy (DOE) hereby adopts the CEQ regulations for implementing the procedural provisions of NEPA (40 CFR Parts 1500-1508).

§ 1021.3. Revocation of Previous NEPA Regulations.

DOE hereby revokes the NEPA regulations previously promulgated by the Energy Research and Development Administration (10 CFR Part 711) and the Federal Energy Administration (10 CFR Part 208) as well as the NEPA regulations of other predecessor agencies of DOE to the extent they had applied to functions transferred to DOE pursuant to the DOE Organization Act.

§ 1021.4. Applicability.

This part applies to all organizational elements of DOE, except the Federal Energy Regulatory Commission.

§ 1021.5. Effective Date.

The effective date of these regulations is July 30, 1979.

[FR Doc. 79–24259 Filed 8–3–79; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79–SO–49; Amdt. No. 39–3524]

Airworthiness Directives: Gulfstream American Corp.; Models AA–5 Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection and modification of the aileron system and deactivation of any installed autopilot system on certain Gulfstream American Corporation (GAC) Models AA–5, AA–5A, and AA–5B aircraft. The AD is needed to eliminate aileron oscillations which could possibly result in loss of control of the aircraft.

DATES: Effective August 10, 1979. Compliance required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable GAC Service Bulletin and Service Kit may be obtained from Gulfstream American Corporation, P.O. Box 2206, Savannah, Georgia 31402. A copy of the Service Bulletin and Service Kit are also contained in Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT:

Curtis Jackson, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763–7407.

SUPPLEMENTARY INFORMATION: There have been numerous reports of aileron oscillation on AA–5 series aircraft which could possibly result in loss of control of the aircraft. Since this condition is likely to exist or develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection and modification of the aileron system and deactivation of any installed autopilot system on certain GAC Model AA–5 Series aircraft.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Gulfstream American Corporation (GAC): (Formerly Grumman American Aviation Corporation): Applies to GAC Model AA–5, serial numbers AA5–0001 and subsequent, Model AA–5A, serial numbers AA5A–0001 through AA5A–0884, Model AA–5B, serial numbers AA5B–0001 through AA5B–1257, airplanes certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To eliminate the possibility of aileron oscillation and possible loss of control, accomplish the following within 50 hours time-in-service after the effective date of this AD:

1. Inspect and modify the aileron system in accordance with GAC Service Kit No. 150 dated July 13, 1979, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region. GAC Service Bulletin No. 165 also pertains to this subject.

2. An equivalent method of compliance may be used if approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

3. Any autopilot system installed in the aircraft must be disconnected in a manner which will not permit use or reconnection during flight. Install a placard in full view of the pilot utilizing a minimim of ¼ inch high letters with the wording "AUTOPILOT DEACTIVATED."

4. Make appropriate maintenance record entry.

5. The use of any autopilot system is prohibited until the STC holder provides instructions for reactivation which have been approved by the Chief, Engineering and Manufacturing Branch of the appropriate FAA Regional Office.

This amendment is effective August 10, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Georgia, on July 27, 1979.

James E. Purcell,

Acting Director, Southern Region.

[FR Doc. 79–24161 Filed 8–3–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Airworthiness Docket No. 79–ASW–4; Amdt. 39–3523]

Airworthiness Directives: SL Industries (Callair) B–1 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections and repair or replacement as necessary of the rear spar of the wing on SL Industries (Callair) B–1 series airplanes. The AD is prompted by a report of cracks in the wing rear spar which could result in failure of the wing rear spar and cause loss of the airplane.

DATES: Effective date: September 7, 1979. Compliance required within the next fifty (50) hours' time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletins may be obtained from: SL Industries, Inc., P.O. Box 32406, Oklahoma City, Oklahoma 73132. A copy of the service bulletin is contained in the Rules Docket, Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:

R. T. Weaver, Airframe Section, Engineering and Manufacturing Branch, ASW–212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone: 817–624–4911, Extension 516.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring visual and dye penetrant inspections, repair or replacement, as necessary, and modification of the rear wing spar on SL Industries (Callair) B–1 series airplanes was published in the **Federal Register** on March 8, 1979, 44 FR 12687. The proposal was prompted by reported cracks in the rear spar on SL Industries (Callair) Model B–1 series airplanes that could cause total wing failure and loss of the airplane.

Interested persons have been afforded an opportunity to participate in the making of the Amendment. No objections were received. Accordingly, the proposal is adopted without change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

SL Industries (Callair): Applies to Models B–1 and B–1A Airplanes, all Serial Numbers, certificated in all categories with over 500 hours' time in service. Airworthiness Docket No. 79–ASW–4.

Compliance required within the next 50 hours after the effective date of this AD, unless already accomplished within the last 50 hours' time in service and thereafter at intervals not to exceed 100 hours' time in service from the last inspection.

To prevent failure of the wing rear spar at the wing-fuselage attachment fitting (P/N 160049) due to cracking, accomplish the following:

(a) Inspect both rear wing spars by the following procedures:

(1) Remove the wing-fuselage fairings covering the rear spar attach bolt.

(2) Hoist the wing and jack the landing gear to relieve the load on the rear spar attach bolt and remove the rear spar attach bolt.

(3) Remove the P/N 16049–1 and –2 spar fittings by removal of (6) AN 4 bolts attaching fittings to the spar web.

(4) Visually and with dye penetrant methods, inspect the spar web in the area of the P/N 16049–1 and –2 fittings for cracks. Give particular attention to the upper and lower fasteners in the pattern of (6) fasteners attaching the P/N 16049–1 and –2 fittings to the spar web. Inspect these holes for elongation beyond .254 inch.

(5) Visually inspect the inboard 24 inches of the spar web for corrosion.

(b) Repair any discrepancies found during the inspections of paragraph (a) as follows:

(1) For cracks or elongated fastener holes in the spar web, replace the damaged spar with a new spar.

(2) For corrosion on the spar web, repair as follows:

(i) Remove corrosion in accordance with AC 43.13–1A dated 1972.

(ii) If corrosion is less than 10 percent of spar web thickness locally and reduces the

spar web cross-section area by less than 2 percent, treat the corroded spar web area with two coats of zinc chromate primer in accordance with MIL–P–6889 or MIL–P–8585A.

(iii) If corrosion exceeds 10 percent of local spar web thickness or 2 percent of spar web cross-section area, replace the spar or repair with a repair approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(iv) Reinstall the 16049–1 and –2 spar fittings with the fasteners removed as specified in paragraph (a)(3).

(v) Reinstall the wing fairings removed during paragraph (a) inspections.

Note.—(SL Industries Service Bulletin A–25 covers this same subject.)

(c) Modification of the rear spar by installation of the new wing-fuselage attach fittings of S1 Industries Service Bulletin A–25A (or equivalent modifications approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region) will remove the requirement for the 100-hour repetitive inspections.

(d) Aircraft may be flown in accordance with FAR 21.197 to a base where the requirements of this AD can be accomplished.

This amendment becomes effective September 7, 1979.

(Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Issued in Fort Worth, Texas, on July 24, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79–24178 Filed 8–3–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 79–WE–9]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of several VOR airways in the vicinity of Ontario, Calif., because the Ontario VORTAC has been renamed "Paradise." This action corrects the description of several airways that have "Ontario, Calif." in their description.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to amend the description of Victor Airways V–8, V–16, V–21, V–186, V–197, V–264 South and V–422 due to the renaming of the Ontario, Calif., VORTAC TO Paradise (Airspace Docket No. 79–AWE–4–NR). Subpart C of Part 71 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1979, (44 FR 307). In order to effect that action before the next aeronautical charting date on October 4, 1979, it is necessary to immediately adopt this rule change. Accordingly, I find good cause that notice and public procedure thereon is impracticable and unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) and amended (43 FR 58810) (44 FR 1087) (44 FR 23203) (44 FR 31944) (44 FR 34103) (44 FR 34112) (44 FR 11531) (44 FR 11530) (44 FR 24544) is further amended effective 0901 G.M.T., October 4, 1979, as follows:

Under § 71.123

V–8 "Ontario, Calif.;" is deleted and "Paradise, Calif.;" is substituted therefor.

V–16 "Ontario, Calif.;" is deleted and "Paradise, Calif.;" is substituted therefor.

V–21 "Ontario, Calif.;" is deleted and "Paradise, Calif.;" is substituted therefor.

V–186 "Ontario, Calif.;" is deleted and "to Paradise, Calif.;" is substituted therefor.

V–197 "From Ontario, Calif.;" is deleted and "From Paradise, Calif.;" is substituted therefor.

V–264 "via Ontario, Calif.;" is deleted and "via Paradise, Calif.;" is substituted therefor.

V–442 "From Ontario, Calif.;" is deleted and "Paradise, Calif.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24160 Filed 8–3–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 79–AL–10]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Control Zone, Lonely DEW Station, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a control zone at Lonely DEW Station, Alaska. This amendment is necessary to protect aircraft conducting instrument flight below 1,200 feet above the surface, within 3 miles of Lonely DEW Station airport. This action will require aircraft to obtain an ATC clearance prior to operating within the Lonely DEW Station control zone when weather conditions are below the basic VFR weather minima prescribed in FAR 91.105.

EFFECTIVE DATE: 0901 GMT, October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry M. Wylie, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271–5903.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a control zone at Lonely DEW Station, Alaska, for the protection of aircraft conducting instrument flight below 1,200 feet above the surface, within 3 miles of the Lonely DEW Station airport. The magnitude of air traffic using Lonely is anticipated to increase. The Federal Aviation Administration has determined that a control zone is necessary to provide ATC separation service to instrument flight rule (IFR) and visual flight rule (VFR) aircraft operating in the immediate vicinity of the Lonely airport when weather conditions are less than basic VFR weather minimum; thus enhancing safety of aircraft operations. The principal airport users believe prompt establishment of controlled airspace is needed. Adequate weather observations and communications are now available at the Lonely DEW Station airport to support justification for the designation of a control zone. Therefore, a 3-mile radius control zone is being designated as an interim safety measure while further consideration is being given to establish a 5-mile radius control zone, with an extension and a 700-foot transition area.

Adoption of the Amendment

§ 71.171 [Amended]

Accordingly, in the interest of flight safety, pursuant to the authority delegated to me by the Administrator, notice and public procedure hereon are unnecessary and § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 353) is amended by designating the Lonely DEW Station, Alaska, control zone as follows:

Lonely DEW Station, Alaska

Within a 3-mile radius of the Lonely DEW Station airport, latitude 70°54'40" N., longitude 153°14'20" W.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1155(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Anchorage, Alaska, on July 25, 1979.

Robert L. Faith,

Director, Alaskan Region.

[FR Doc. 79–24192 Filed 8–3–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 79–AL–9]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Control Zone, Umiat, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a control zone at Umiat, Alaska, to protect aircraft conducting instrument approach and departure procedures at the Umiat airport while operating below 1,000 feet above the surface. Adequate weather observations and communications are now available at the Umiat airport to support justification for the designation of a control zone.

EFFECTIVE DATE: 0901 GMT, October 4, 1979.

FOR FURTHER INFORMATION CONTACT: John Costello, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271–5902.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation and Regulations (14 CFR Part 71) is to designate a control zone at Umiat, Alaska, for the protection of aircraft conducting instrument approach and departure procedures while operating at the Umiat airport below 1,000 feet above the surface. Section 71.171 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1979 (44 FR 353). A Notice of Proposed Rule Making (NPRM) was published in the **Federal Register** on June 21, 1979 (44 FR 36198). No objections were received to the NPRM.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 353) is amended by designating the Umiat, Alaska, control zone as follows:

Umiat, Alaska

Within a 5-mile radius of the Umiat airport, latitude 69°22'17" N., longitude 152°08'00" W., within 3 miles each side of the 079° bearing from the Umiat NDB extending from the 5-mile radius zone to 8 miles east of the NDB; and within 3 miles each side of the 259° bearing from the Umiat NDB extending from the 5-mile radius zone to 8 miles west of the NDB.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1155(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Anchorage, Alaska, on July 24, 1979.

Robert L. Faith,

Director, Alaskan Region.

[FR Doc. 79–24176 Filed 8–3–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 91

[Docket No. 16220; Amdt. No. 91–158]

General Operating and Flight Rules; ATC Transponder Equipment; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: On March 15, 1979, the FAA published Amendment 91–155 to the Federal Aviation Regulations (44 FR 15654). That amendment, in part, deleted obsolete compliance dates from FAR 91.24 (b)(1)–(b)(4), but inadvertently failed to delete a reference to those dates in § 91.24(b).

This correction deletes the remaining reference in § 91.24(b) to compliance dates. It is editorial in nature, and achieves consistency with the intent of the amendment.

DATES: Effective date—August 6, 1979.

FOR FURTHER INFORMATION CONTACT: William E. Broadwater, Airspace and Air Traffic Rules Division (AAT–200), Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3128.

SUPPLEMENTARY INFORMATION: Amendment 91–155, published March 15, 1979, in the **Federal Register**, was part of the 1975–1976 Operation Review Program which was initiated by the FAA because of technological advances in aviation and growth in aeronautical activity.

One of the changes made by Amendment 91–155 was to delete from § 91.24 the obsolete dates for complying with the required use of ATC transponder and automatic pressure altitude reporting equipment. These dates were deleted from § 91.24 (b)(1)–(b)(4), but the lead-in paragraph to § 91.24(b), which made reference to these dates was not changed. This amendment, accordingly, corrects § 91.24(b) by deleting the reference to compliance dates which have already been deleted. No substantive change results.

Since this action merely achieves editorial consistency with Amendment 91–155, and is corrective and nonsubstantive in nature, I find that

notice and public procedure regarding this action are impractical and unnecessary. Further, since it would not be in the public interest or consistent with sound regulatory practice to delay making this editorial correction to the amendment, good cause exists for making it effective in less than 30 days after publication.

Adoption of Amendment:

Accordingly, § 91.24(b) is amended, effective August 6, 1979 by deleting the following language in the first sentence: "* * * no person may operate an aircraft in controlled airspace after the applicable dates prescribed in subparagraphs (b)(1) through (b)(4) of this paragraph * * *" and substituting in its place the following language: "* * * no person may operate an aircraft in the controlled airspace prescribed in paragraphs (b)(1) through (b)(4) of this paragraph * * *".

(Secs. 307, 313(a), and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a) and 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on July 27, 1979.

Langhorne Bond,

Administrator.

[FR Doc. 79-24162 Filed 8-3-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 281

[Docket No. RM79-15; Order No. 29-B]

Amendments to the Final Natural Gas Curtailment Regulation for Implementation of Section 401 of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission has extended the dates for filing petitions for Priorities 1 and 2 treatment of natural gas for certain end-users. The amendment to the Final Regulation postpones, for about 2 weeks, the dates by which essential agricultural users, distribution companies, and pipelines must file requests for special treatment of gas supplies dedicated to certain high-priority uses such as essential agricultural or residential uses. The amendment will make it easier for users and suppliers to protect certain gas supplies from possible curtailment.

EFFECTIVE DATE: July 18, 1979. For new filing dates, see text below.

FOR FURTHER INFORMATION CONTACT: MaryJane Reynolds, Federal Energy Regulatory Commission, Office of the General Counsel, Room 8000, 825 N. Capitol St. NE., Washington, D.C. 20426, (202) 275-4283.

Amendments to the Regulation for the Implementation of Section 401 of the Natural Gas Policy Act; Final Rule

Before Commissioners: Charles B. Curtis, Chairman; Matthew Holden, Jr., and George R. Hall.

Issued July 20, 1979.

Background

On May 2, 1979, the Federal Energy Regulatory Commission ("Commission") issued a permanent curtailment rule (44 FR 26855, May 8, 1979) which established a system of high-priority [Priority 1] and essential agricultural [Priority 2] use requirements and integrated them into the curtailment plans of interstate pipelines. This new rule requires the reordering of curtailment priorities by November 1, 1979 and applies this treatment to deliveries of natural gas beginning on that date. The new rule requires considerable data gathering and reporting by end-users, distributors and interstate pipelines. Under § 281.211(b) of the new regulations, essential agricultural users which seek Priority 2 treatment for their agricultural requirements of natural gas are required to file a request for Priority 2 treatment with their direct suppliers. Local distribution companies have two weeks to review and forward these requests to their interstate pipeline suppliers (§ 281.211(c)) and, if the pipeline purchases gas from downstream pipelines, it must request reclassification of its Priority 2 entitlements from its supplier, within two weeks of receiving information from its customers (§ 281.211(d)). Similarly, direct sale customers and local distribution companies must report Priority 1 requirements to their direct suppliers. Interstate pipelines must report Priority 1 entitlements to their upstream suppliers. Under § 281.212, the interstate pipelines must then file draft tariff sheets and an index of entitlements with the Data Verification Committee ("DVC") and distribute these documents to customers. The DVC must then review the tariff sheets, index of requirements, and the back-up data therefor. On October 1, 1979, the interstate pipelines must file new tariff sheets which implement the permanent curtailment plan protecting high priority and essential agricultural users.

On June 15, 1979, the Commission extended for 30 days the deadline for filing requests for Priority 1 and 2 treatment. Order 29-A (44 FR 37499, June 27, 1979). Under the amended rule, essential agricultural users had until July 15, 1979, to request Priority 2 treatment.

On July 10, 1979, the High Plains Gas Consumer Group *et al.* ("HPGC") [1] filed a motion for an extension of time which would postpone for two weeks, until July 31, 1979, the date by which essential agricultural users must file a request for Priority 2 treatment for natural gas to meet their essential agricultural requirements. HPGC alleges that a large number of on-farm users in the Kansas, Oklahoma, and Texas areas are unaware of the July 15 deadline for requesting Priority 2 treatment. A significant factor contributing to the alleged lack of information is that this is the season for peak agricultural activity and harvesting, keeping many farmers in the field 16-18 hours on many days.

The Commission recognizes that the permanent curtailment plan which is extended to give a preference to essential agricultural requirements in the curtailment plans of interstate pipelines is a new plan based upon a new statute. It is possible that there is not yet general familiarity with this plan embodied in the permanent curtailment rule, even though it was first proposed in January of this year. (44 FR 3725, January 18, 1979). Public hearings were held throughout the country, including one in Amarillo, Texas, in March and April. Moreover, the permanent rule requiring the filing of data by essential agricultural users was issued by the Commission on May 2, 1979. (44 FR 26855, May 8, 1979).

Nonetheless, the Commission has determined that the two week extension should be granted—to further assure the broadest possible participation in the Priority 2 requests by essential agricultural users. However, the dates

[1] HPGC *et al.* includes High Plains Consumer Group, Texas County Irrigation & Water Resources Association of Guymon, OK, American Agriculture Movement of Oklahoma, with State headquarters in Oklahoma City (AAM), Sherman County Agribusiness Energy Users Association of Stratford, TX, Beaver County Irrigation Association of Beaver, OK, and Cimarron County Irrigation Association of Boise City, OK.

for local distribution companies and interstate pipelines to make their own requests for upgrading because of requests made for Priority 2 treatment by essential agricultural users must also be extended by two weeks to August 15 and 31 respectively, since those requests are dependent upon downstream (end-user) requirements. At this time, the Commission has determined that it will not amend the rule to provide an automatic postponement of the date for the filing of the tariff sheets under the permanent curtailment rule beyond the present October 1, 1979, date prescribed in § 281.204. However, this leaves only one month between the pipeline's receipt of data necessary to prepare the Index of Requirements and the filing of the tariff sheets, and significantly shortens the time allowed the Data Verification Committee for consideration of the draft index of requirements. Accordingly, the Commission will allow for the waiver of the October 1, tariff filing for one month, to November 1, 1979 for any pipeline which notifies the Commission, through the Secretary, that the Data Verification Committee needs additional time for review of the draft sheets. Any pipeline electing to postpone implementation of its permanent curtailment plan for one month until December 1, 1979, must keep its interim plan in effect for the month of November. The Commission believes that each pipeline may best evaluate the advantages of postponement of the permanent curtailment plan for one month against the disadvantages of modifying its curtailment plan after the beginning of the winter heating season.

Section-By-Section Analysis

The amendments in this rulemaking advance the filing dates in § 281.211 (a) and (b) by approximately two weeks. Paragraph (a) is changed in clause (i) of subparagraph (1) by extending the filing date from July 15, 1979 to July 31, 1979. Paragraph (a) is changed in clause (i) of subparagraph (2) by extending the filing date from August 15, 1979 to August 31, 1979. Paragraph (b) is changed in clause (i) of subparagraph (1) by extending the filing date for essential agricultural users from July 15, 1979 to July 31, 1979, in subparagraph (2) by extending the filing date for local distribution companies to August 15, 1979, and in subparagraph (3) by extending the date for requesting reclassification of entitlements by interstate pipeline purchasers to August 31, 1979.

Section 281.212 is changed in paragraphs (b) and (c) to provide an additional two weeks until September 14, 1979, for pipelines to serve indices of entitlement and draft tariff sheets.

Section 281.204 is amended to allow that a pipeline may elect to file its proposed tariff sheets on November 1, 1979 with a proposed effective date of December 1, 1979, if the pipeline (by modification of its tariff where appropriate) continues in effect for November 1979 the interim curtailment plan implemented in accordance with Subpart A. The election is executed by written notification of the election to the Secretary of the Commission.

Effective Date

Section 553(d) of the Administrative Procedure Act requires that publication of a rule be made not less than 30 days before its effective date unless *inter alia* a rule relieves a restriction or the agency finds good cause for more expeditious action. The amendments to § 281.211 and § 281.212 are intended to make it possible for essential agricultural users to exercise their rights to priority treatment of certain gas supplies. In order that the intent of Congress that essential agricultural users be protected from curtailment of natural gas is carried out, the Commission believes that the July 15, 1979, deadline must be extended. The Commission finds good cause to make the amendments to Part 281 effective immediately.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, Department of Energy Organization Act, 42 U.S.C. § 7107 *et seq.*; E.O. 12009, 42 FR 46267; Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*)

In consideration of the foregoing, Subpart B, Part 281, Chapter 1, Title 18 of the Code of Federal Regulations is amended as set forth below, effective immediately.

By the Commission. Chairman Curtis voted present.

Kenneth F. Plumb,

Secretary.

1. Section 281.204 is amended to redesignate paragraph (a) as subparagraph (a)(1) and to add a new subparagraph (a)(2) to read as follows:

§ 281.204 Tariff filing requirements.

(a)(1) * * *

(a)(2) Notwithstanding subparagraph (a)(1) a pipeline may elect to file its tariff sheets on November 1, 1979 with a proposed effective date of December 1, 1979 if

(i) It files with the Secretary no later than October 1, 1979 written notice of its decision to file its tariff sheets on November 1, 1979; and

(ii) It continues its interim curtailment rule implemented under Subpart A in effect until December 1, 1979.

* * * * *

§ 281.211 [Amended]

2. Section 281.211 is amended in paragraph (a)(1)(i) by deleting the date "July 15, 1979" and inserting in lieu thereof "July 31, 1979."

§ 281.211 [Amended]

3. Section 281.211 is amended in paragraph (a)(2)(i) by deleting the date "August 15, 1979" and inserting in lieu thereof "August 31, 1979."

§ 281.211 [Amended]

4. Section 281.211 is amended in paragraph (b)(1)(i) by deleting the date "July 15, 1979" and inserting in lieu thereof "July 31, 1979."

§ 281.211 [Amended]

5. Section 281.211 is amended in paragraph (b)(2) by deleting the date "July 30, 1979" and inserting in lieu thereof "August 15, 1979."

§ 281.211 [Amended]

6. Section 281.211 is amended in paragraph (b)(3) by deleting the date "August 15, 1979" and inserting in lieu thereof "August 31, 1979."

§ 281.212 [Amended]

7. Section 281.212 is amended in paragraphs (b) and (c) by deleting the date "August 31, 1979" where it appears and inserting in lieu thereof "September 14, 1979."

8. Section 281.213 is amended in paragraph (c) by deleting the date "September 14, 1979" and inserting in lieu thereof "September 21, 1979" and in paragraph (e) by adding a new sentence at the end of that paragraph to read as follows:

§ 281.213 Data Verification Committee.

* * * * *

(e) * * * The Data Verification Committee shall submit its report on October 23, 1979, if the pipeline has elected under § 281.204(a) to file its tariff sheets on November 1, 1979.

[FR Doc. 79-24225 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

TREASURY DEPARTMENT

Customs Service

19 CFR Part 159

[T.D. 79-219]

Countervailing Duties—Sugar Content of Certain Articles From Australia

AGENCY: United States Customs Service.

ACTION: Net Amounts of Countervailing Duty Determined.

SUMMARY: This notice is to inform the public of the amounts of countervailing duty which will be assessed on the sugar content of certain articles exported from Australia during the period January 1979 through June 1979. Section 159.47(f) of the Customs Regulations is being amended to include this notice.

EFFECTIVE DATE: This notice will be effective on August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C., telephone (202) 566–5492.

SUPPLEMENTARY INFORMATION: The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), on the exportation during the period January 1979 through June 1979 of approved fruit products and other approved products manufactured or produced in Australia are the amounts shown in the following table. The amounts shown are in Australian dollars, per 1,000 kilograms of sugar content.

Month	Approved fruit products	Other approved products
January 1979	Aus. $2.00	Aus. $17.00.
February 1979	Aus. $17.20	Aus. $32.20.
March 1979	None	Aus. $5.50.
April 1979	None	Aus. $3.20.
May 1979	Aus. $2.10	Aus. $17.10.
June 1979	Aus. $79.50	Aus. $94.50.

The net amounts of bounties or grants on the above-described merchandise are hereby ascertained, determined, or estimated to be the rates stated in the above table. Additional duties on the above-described merchandise, whether imported directly or indirectly from that country, equal to the net amount of the bounty shown above shall be assessed and collected pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

§ 159.47 [Amended]

The table in § 159.47(f), Customs Regulations (19 CFR 159.47(f)), under "Australia—Sugar content of certain articles" is amended (1) by deleting therefrom the reference to T.D. 77–257, and (2) by adding a reference to this Treasury Decision. As amended, the last four lines of the table under this commodity will read:

Country	Commodity	Treasury decision	Action
		55716	Certain articles exempted as to shipments exported on or after July 19, 1962
		78–115	New rate.
		79–142	New rate.
		79–	New rate.

(R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624).)

R. E. Chasen,

Commissioner of Customs.

Approved:

Robert H. Mundheim,

General Counsel of the Treasury.

July 27, 1979.

[FR Doc. 79–24172 Filed 8–3–79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 78–167]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Atlantic Beach, N.C.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the North Carolina Department of Transportation, the Coast Guard is amending the regulations for the Atlantic Beach bridge, mile 206.7, Atlantic Intracoastal Waterway by extending the period when bridge openings are restricted. This change is being made because of a significant increase in vehicular traffic during the period under consideration. This action should improve the flow of vehicular traffic while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on September 3, 1979.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: On February 26, 1979, the Coast Guard published a proposed rule (44 FR 10994) concerning this amendment. The Commander, Fifth Coast Guard District, also published these proposals as a Public Notice dated March 5, 1979. Interested persons were given until March 26, 1979, and March 30, 1979, respectively, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

There were twelve responses received. Nine had no objection. Three objected to the proposal. One suggested openings every half hour rather than each hour. These objectors essentially stated that wind, tides, weather and shallow water make holding vessels in this area difficult and hazardous. This proposal does not change the hourly opening requirements that have been in effect since 1971 but only moves the restricted period starting date from May 1 back to March 15. As no objections to the existing restrictions have been received, the Coast Guard feels that this change will provide for the reasonable needs of navigation. The objections to the change, while considered, were not sufficient to warrant their adoption.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising paragraph (a)(1) of § 117.355 to read as follows:

§ 117.355 Bogue Sound (Atlantic Intracoastal), N.C., North Carolina State Highway Commission Bridge at Atlantic Beach.

(a) * * *

(1) From March 15 through June 14, on Saturdays, Sundays, and Federal holidays, from 1 p.m. to 7 p.m., the draw need open only on the hour for the passage of any accumulated vessels.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: July 25, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79–24219 Filed 8–3–79; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD279–03]

Safety Zone—Ohio River Mile 319.3 to Mile 320.7

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations establishes a safety zone on the Ohio River. This safety zone is established for the protection of the facilities in these areas.

EFFECTIVE DATE: This amendment is effective from 0900 EDT, July 10, 1979 to 1500 EDT, July 10, 1979.

FOR FURTHER INFORMATION CONTACT: LCDR STRASSER, USCG, c/o Marine Safety Office, 6th Avenue & 9th Street, Huntington, WV 25725 TEL: 304–529–5524.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rulemaking and is effective in less than 30 days from the date of publication, because public procedures on this amendment are impractical due to the short amount of time available to establish the safety zone.

DRAFTING INFORMATION: The principal person in drafting of this rule is: CDR F. J. GRADY III, Captain of the Port, Huntington, WV 25725 TEL: 304–529–5524. In consideration of the foregoing, Part 165 of Title 33 of the Code of Federal Regulations is amended by adding 165.205, to read as follows:

§ 165.205 Safety zone; Ohio River.

Pursuant to the authority contained in section 1224 of title 33 of the U.S. Code and part 165 of Title 33 of the Code of Federal Regulations, the Coast Guard Captain of the Port, Huntington, WV, has established a safety zone consisting of all of the waters of the Ohio River in the following area.

(a) Semet Solvay div. of Allied Chemical Corp., Ashland, KY mile 319.3 to Mile 320.7, left descending bank Ohio River, extending 500 feet outward from the Kentucky shoreline.

(b) No vessel may enter into or proceed within the safety zone described in subsection (a) without the express permission of the Captain of the Port, Huntington, WV, 6th Avenue & 9th Street, Huntington, WV 25725 TEL 304–529–5524.

(86 Stat. 427 (33 U.S.C. 1224), as amended by P.L. 95–474, 92 STAT. 1475; 49 CFR 1.46(n)(4).).

Dated: July 9, 1979.

F. J. Grady III,

Commander, U.S. Coast Guard, Captain of the Port, Huntington, WV.

[FR Doc. 79–24229 Filed 8–3–79; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Implementation of Procedures and Reorganization; Correction

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: Corrects citation in 36 CFR 223.9

DATES: Effective August 6, 1979.

FOR FURTHER INFORMATION CONTACT: George M. Leonard, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, (202) 447–4051.

SUPPLEMENTARY INFORMATION: When 36 CFR 221.10a was recodified to 36 CFR 223.9 on June 2, 1977, (42 FR 28252–28261) a reference to Title 41, CFR in paragraph (c) was inadvertently changed to Title 41, U.S.C. The correct reference should be to Section 1–1.604, Title 41, CFR. This notice corrects the reference in the Code of Federal Regulations.

Therefore, 36 CFR 223.9 is corrected by changing "41 U.S.C." to read "41 CFR" in paragraph c.

August 1, 1979.

M. Rupert Cutler,

Assistant Secretary.

August 1, 1979.

[FR Doc. 79–24205 Filed 8–3–79; 8:45 am]

BILLING CODE 3410-11-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 907

Policy on Environmental Quality and Control; Procedures for Implementing the National Environmental Policy Act; Interim Rule

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Interim Rule; Request for Comment.

SUMMARY: The Pennsylvania Avenue Development Corporation ("Corporation") proposes to adopt procedures for implementing the provisions of the National Environmental Policy Act (NEPA) in accordance with the latest regulations of the Council on Environmental Quality (CEQ), 40 CFR Parts 1500–1508 (43 FR 55978–56007(1978)).

DATES: Effective date: July 30, 1979. Comments or suggestions should be submitted in writing on or before September 5, 1979.

ADDRESS: Send comments to Office of the General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Suite 1148, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: David W. Briggs, Senior Staff Attorney, (202) 566–1078, Pennsylvania Avenue Development Corporation.

SUPPLEMENTARY INFORMATION: The Pennsylvania Avenue Development Corporation ("Corporation") is a wholly-owned government corporation of the United States created by Congress to develop and rejuvenate 21 blocks along the north side of Pennsylvania Avenue, N.W., Washington, D.C. The Corporation has prepared a development plan, The Pennsylvania Avenue Plan—1974 (the Plan), which has been adopted by Congress. Section 102 of the NEPA directs Federal agencies to interpret and administer the policies, regulations, and public laws of the United States in accordance with the environmental policies established in Section 101 of the Act. Section 102(2) contains "action-forcing" provisions to

make sure that Federal agencies act according to the letter and spirit of the Act. As part of the process in preparing the Plan, the Corporation, in accordance with the NEPA, conducted extensive environmental reviews culminating in the Final Environmental Impact Statement (September 1974) on the Plan.

The CEQ has now issued new implementing regulations to provide Federal agencies with "efficient, uniform procedures for translating the law (NEPA) into practical action." These regulations provide "uniform standards applicable throughout the Federal government for conducting environmental reviews."

The CEQ regulations require that each agency develop its own procedures for their implementation. The agency procedures are required to supplement the CEQ regulations and to confine themselves to implementing procedures; they should not merely paraphrase the CEQ regulations. The regulations that follow provide for the required Corporation implementing procedures for compliance with the NEPA and the CEQ regulations. They are designed to:

(a) Integrate the NEPA process with other planning and decision making processes of the Corporation at the earliest possible time.

(b) Ensure that decisions of the Corporation are made according to the letter and spirit of the NEPA, as enforced by Section 102(2) of that Act.

(c) Involve the public in the NEPA process in an appropriate, responsible manner.

These procedures cover the Corporation's decision-making process and the substantive consideration of environmental factors, the procedural requirements for environmental documentation at critical stages of the decision making process, and criteria to assist in determining the need for environmental assessments and impact statements. CEQ regulations require that these procedures be effective July 30, 1979.

36 CFR Chapter IX, Subchapter A is amended by adding a new Part 907 "Environmental Quality" to read as follows:

PART 907—ENVIRONMENTAL QUALITY

Sec.

907.1 Policy.
907.2 Purpose.
907.3 Definitions.
907.4 Designation of Responsible Corporation Official.
907.5 Specific Responsibilities of Designated Corporation Official.
907.6 Major Decision Points.
907.7 Criteria For and Indentification of Typical Classes of Corporate Actions.
907.8 Public Involvement.
907.9 Corporation Decision Making Procedures.
907.10 Approval of Private Proposals for Development.
907.11 Actions Where Lead Agency Designation is Necessary.

Authority.—Pennsylvania Avenue Development Corporation Act of 1972, as amended, Sec. 6(8), Pub. L. 92–578, 86 Stat. 1270 (40 U.S.C. 875(8)); the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321); the Council on Environmental Quality NEPA Regulations 40 CFR Part 1500 (43 FR 55978 (1978)).

§ 907.1 Policy.

The Pennsylvania Avenue Development Corporation's policy is to:

(a) Use all practical means, consistent with the Corporation's statutory authority, available resources, and national policy, to protect and enhance the quality of the environment;

(b) Ensure that environmental factors and concerns are given appropriate consideration in decisions and actions by the Corporation;

(c) Use systematic and timely approaches which will ensure the integrated use of the natural and social sciences and environmental design arts in planning and decision making for decisions and actions which may have an impact on the human environment;

(d) Develop and utilize ecological and other environmental information in the planning and development of projects implementing the Plan;

(e) Invite the cooperation and encourage the participation, where appropriate, of Federal, District of Columbia, and regional authorities and the public in Corporation planning and decision making processes, which affect the quality of the human environment; and

(f) Minimize any possible adverse effects of Corporation decisions and actions upon the quality of the human environment.

§ 907.2 Purpose.

These regulations are prepared to supplement Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended, and describe how the Pennsylvania Avenue Development Corporation intends to consider environmental factors and concerns beginning at the earliest possible point in the Corporation's decision making process.

§ 907.3 Definitions.

(a) "CEQ Regulations" means the regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969 as promulgated by the Council on Environmental Quality, Executive Office of the President, appearing at 40 CFR Parts 1500–1508 (43 FR 55978–56007) and to which this part is a supplement.

(b) "The Act of October 27, 1972" means the Pennsylvania Avenue Development Corporation Act of 1972, Pub. L. 92–578, October 27, 1972, 86 Stat. 1266 (40 U.S.C. 871).

(c) "The Plan" means The Pennsylvania Avenue Plan—1974, prepared by the Pennsylvania Avenue Development Corporation pursuant to the Act of October 27, 1972.

(d) "The Corporation" means the Pennsylvania Avenue Development Corporation, a wholly owned government corporation of the United States created by the Act of October 27, 1972.

(e) "Board of Directors" means the governing body of the Corporation in which the powers and management of the Corporation are vested by the Act of October 27, 1972.

(f) "EIS" means an environmental impact statement as defined in § 1508.11 of the CEQ Regulations.

(g) "Final EIS" means The Final Environmental Impact Statement, dated September 1974, prepared by the Corporation on the Pennsylvania Avenue Plan—1974.

(h) "Development Area" means the area under the Corporation's jurisdiction as specified in Section 2(f) of the Act of October 27, 1972 and for which The Plan has been prepared and will be implemented by the Corporation.

(i) "Decision maker" means the Board of Directors, unless a delegation to the Chairman, a member or committee of the Board of Directors, or the Executive Director has been made by the Bylaws of the Corporation, a resolution of the Board of Directors, or a written delegation of authority.

(j) "Private developer" means an individual, firm, joint venture, or other entity other than the Corporation which seeks to construct, reconstruct, rehabilitate, or restore real property within the development area.

§ 907.4 Designation of Responsible Corporation Official.

The Special Assistant to the Executive Director for Planning is the Corporation official responsible for implementation and operation of the Corporation's policies and procedures on environmental quality and control.

§ 907.5 Specific Responsibilities of Designated Corporation Official.

(a) Coordinate the formulation and revision of Corporation policies and procedures on matters pertaining to environmental protection and enhancement.

(b) Establish and maintain working relationships with the Council on Environmental Quality, the Environmental Protection Agency, and other Federal, regional and District of Columbia governmental agencies concerned with environmental matters.

(c) Develop procedures within the Corporation's planning and decision making processes to ensure that environmental factors are properly considered in all proposals and decisions in accordance with this part.

(d) Develop, monitor, and review the Corporation's implementation of standards, procedures, and working relationships for protection and enhancement of environmental quality and compliance with applicable laws and regulations.

(e) Monitor processes to ensure that the Corporation's procedures regarding consideration of environmental quality are achieving their intended purposes.

(f) Advise the Board of Directors, officers, and employees of the Corporation of technical and management requirements of environmental analysis, of appropriate expertise available, and, with the assistance of the Office of the General Counsel, of relevant legal developments.

(g) Monitor the consideration and documentation of the environmental aspects of the Corporation's planning and decision making processes by appropriate officers and employees of the Corporation.

(h) Ensure that all environmental assessments and, where required, all EIS's are prepared in accordance with the appropriate regulations adopted by the Council on Environmental Quality and the Corporation, and are submitted with all legislative proposals, review proposals before the National Capital Planning Commission on other governmental agencies, and appropriate resolutions of the Board of Directors of the Corporation.

(i) Consolidate and transmit to appropriate parties the Corporation's comments on EIS's and other environmental reports prepared by other agencies.

(j) Acquire information and prepare appropriate reports on environmental matters required of the Corporation.

(k) Coordinate Corporation efforts to make available to other parties information and advice on the Corporation's policies for protecting and enhancing the quality of the environment.

§ 907.6 Major Decision Points.

The possible environmental effects of a proposed action must be considered along with technical, economic, and other factors at the earliest planning stage. At that stage, the responsible Corporation official shall begin the necessary steps to comply with all the requirements of Section 102(2) of the National Environmental Policy Act. Corporation activities related to decision-making can generally be viewed as having four distinct stages: (a) The conceptual/schematic stage; (b) the design development/detailed planning/definition stage; (c) the development/construction/implementation stage; and (d) the operation/occupancy stage. Some activities of the Corporation have fewer, less well defined stages. These activities can still be characterized as having: (1) A general or feasibility study stage; (2) a detailed planning or definition stage; and (3) an implementation stage. Environmental review will be integrated into the decision making process of the Corporation as follows:

(i) Completion of an environmental assessment and the determination as to whether an EIS is required must be made prior to the decision to proceed from the conceptual/schematic stage or the general or feasibility study stage to the design development/detailed planning/delineation stage of a proposed action. For example, this determination would be made concurrent with;

(A) Proposing the development by the staff of an amendment to the Plan;

(B) Proposing a segment or project of the Public Improvements Program within the Development Area for design development;

(C) Staff review of a private development proposal submitted to the Corporation prior to formal submittal to the Board of Directors for its approval of that proposal; or,

(D) Proposing to the Board of Directors that a development prospectus, which solicits development proposals, be approved and issued by the Corporation.

(ii) An EIS should be completed and circulated prior to the decision to proceed from the design development/detailed planning/definition stage to the development/construction/implementation stage of a proposed action. For example, the EIS for a specific action should be completed by, and incorporated with:

(A) Proposing an amendment to the Plan to the Board of Directors for its adoption and approval;

(B) Proposing a segment or project of the Public Improvements Program within the Development Area for development/construction;

(C) Formal submission of a private development proposal to the Board of Directors for its approval; or,

(D) Selection of a developer candidate by the Board of Directors after solicitation of development proposals through a development prospectus.

§ 907.7 Criteria For and Identification of Typical Classes of Corporation Actions.

(a) Whether a proposed decision or action by the Corporation, within the meaning of the CEQ Regulations, requires the preparation of an environmental assessment, an EIS, both, or neither, will depend upon the scope of the action, and the context and the intensity of any environmental effects expected to result. A Corporation action or decision shall require an environmental assessment where the action or decision is not one that normally requires an EIS or is not one that is categorically excluded from the requirement for an environmental assessment, or EIS.

(b) Specific Corporation actions and decisions normally requiring an environmental assessment, but not necessarily an EIS:

(1) Amendments to the Plan which do not consititute a "substantial change" to the Plan.

(2) Property management activities beyond routine maintenance, repair, and upkeep of real property owned by the Corporation.

(3) Regulations promulgated by the Corporation which directly impact on the public or persons residing in the development area including businesses (i.e., relocation, affirmative action). Promulgation of regulations (i.e., development standards and controls) to implement the Plan, but which are not covered by the Final EIS.

(4) Development proposals to the Corporation by private developers which are consistent with the Plan and PADC Controls and Standards prepared by the Corporation.

(5) Activities related to the Public Improvements Program of the Corporation, but for which no previous environmental assessment or environmental assessment and EIS of a program nature has been prepared and which have not been previously approved by the Board of Directors.

(6) Contracts, work authorizations, and master agreements related to and

implementing programs, policies, and proposals for which no environmental assessments or for which no environmental assessment and EIS have been previously prepared.

(7) Acceptance of gifts or grants of property, financial benefits, or other aids of any form and from any source.

(8) Street closures, alley closures, rearrangement of public space, and transfers of jurisdiction over public space, whether of a temporary or a permanent nature.

(9) Demolition actions by the Corporation, other public agencies, or private developers prior to any approval of development proposals made by the Board of Directors.

(10) Proposals submitted to the District of Columbia Zoning Commission, The Commission of Fine Arts, and the National Capital Planning Commission.

(11) Acquisition/disposal of personal property by the Corporation not related to any specific decision, plan, or program adopted by the Board of Directors of the Corporation for which an environmental assessment or an environmental assessment and an EIS is required to be prepared.

(c) Corporation actions and decisions expected to have a significant impact upon the quality of the human environment shall require an EIS. For these actions or decisions an environmental assessment shall not be required. Criteria to be used in determining significance are given in § 1508.27 of the CEQ Regulations. Specific Corporation actions and decisions requiring an EIS are as follows:

(1) Amendments to the Plan which constitute a "substantial change" to the Plan.

(2) Supplements to the Plan which cover areas which were specified in the Plan for further study (i.e., Historic Preservation).

(3) Development proposals submitted to the Corporation which are inconsistent with the Plan and development controls and standards prepared by the Corporation.

(4) Acquisition or disposal of real property by the Corporation not related to any specific decision, plan, or program adopted by the Board of Directors of the Corporation for which an assessment or an assessment and an EIS has been prepared.

(5) Legislative proposals made to Congress and the District of Columbia Council.

(6) Any public building or other structure constructed within the development by any executive agency of the United States Government, any agency or department of the District of Columbia Government, or any other public or quasi-public entity.

(7) Any building or structure to be funded and/or constructed by the Corporation or its agents or representatives, even if that activity is consistent with the Plan and the Final EIS.

(d) Corporation actions and decisions categorically excluded from the requirements to prepare either an environmental assessment or an EIS, or both:

(1) Fit the following criteria:

(i) The action or decision is consistent with the Plan or the Act, and the environmental effects have been previously analyzed in the Final EIS, a supplement thereto, or in an environmental assessment or an EIS previously prepared; or

(ii) The total estimated cost directly attributable to the action or decision does not exceed $10,000; or

(iii) The action or decision is related solely to internal administrative operations of the Corporation.

(2) Specific Corporation actions fitting these criteria and thus categorically excluded from the requirements for environmental assessment and an EIS are:

(i) Personnel actions;

(ii) Administrative actions and operations directly related to the operation of the Corporation (i.e., purchase of furnishings, services, and space acquisition for the Corporation offices);

(iii) Property management actions related to routine maintenance, operation, upkeep, etc., of real property owned by PADC;

(iv) Review of permit applications relating to minor development activities in the development area (sign approval, interior renovations, minor exterior changes to facade, etc.);

(v) Promulgation of development controls and standards which implement the Plan as covered by the Final EIS;

(vi) Contracts, work authorizations, procurement actions directly related to and implementing proposals, programs, and master agreements for which an environmental assessment or an environmental assessment and an EIS have been prepared, or which are related to administrative operation of the agency;

(vii) Acquisition/disposal by lease, easement, or sale of real and personal property owned by the Corporation subsequent to and implementing a prior decision of the Board of Directors for which an assessment or an assessment and an EIS were prepared;

(viii) Activities directly related to and implementing the Public Improvements Program of the Corporation approved by the Board of Directors, and which are covered by a previously prepared environmental assessment or an environmental assessment and an EIS of a program nature; and

(ix) Demolition actions preparatory for development by the Corporation, other public agencies, or private developers subsequent to approval of development proposals made by the Board of Directors.

(e) Even though an action may be categorically excluded from the need for a formal environmental assessment or an EIS, it is not excluded from the requirement for an environmental analysis during the earliest planning stage. If that analysis shows that the action or decision would materially deviate from the criteria for exclusion and it is concluded that there may be significant effects, an environmental assessment must be carried out. Based upon that assessment, a determination must then be made whether or not to prepare an EIS.

(f) Where an environmental assessment has been prepared, a determination must be made as to whether or not to prepare an EIS. That determination shall be made by the appropriate Corporate official after evaluation of the following factors and the intensity to which they may be affected by the decision or action:

(1) Cultural and historical resources of the Washington, D.C. Metropolitan Area, and specifically the Pennsylvania Avenue area and its environs are adversely affected by the proposed decision or action;

(2) The Pennsylvania Avenue National Historic Site, buildings, structures, or spaces listed or eligible for listing on the National Register of Historic Places, or buildings, structures, or spaces listed or eligible for listing on the District of Columbia Inventory of Historic Sites are affected by the proposed decision or action;

(3) Federal, regional or District of Columbia law, ordinance, regulation, or requirement imposed for the protection of the environment would be violated by the proposed decision or action;

(4) Traffic generated by the proposed decision or action would represent a 10 percent increase in the average daily traffic volume on avenues and streets within the development area or its environs;

(5) Air quality in the development area and its environs is substantially affected by the proposed decision or action based upon the Council of Government's recognized standard;

(6) Solid waste disposal related to a project of the Corporation or of a developer who is constructing, reconstructing, or rehabilitating that project, affects solid waste disposal in the Washington, D.C. metropolitan area as far as capacity of a solid waste disposal site and compliance with "Solid Waste Mangement Guidelines" of the U.S. Environmental Protection Agency and related local and regional controls;

(7) Public utilities have insufficient capacity to provide reliable service to a project within the development area;

(8) A project will be inconsistent with the Zoning Regulations of the District of Columbia as they are applicable to the development area;

(9) A decision or action will not conform with the Comprehensive Plan for the National Capital Area; or

(10) District of Columbia, Washington Metropolitan Area Transit Authority, and other governmental officials indicate that one or more community services will be inadequate to serve the project or will be affected by the decision.

§ 907.8 Public involvement.

Interested persons may obtain information concerning any pending EIS or any other element of the environmental review process of the Corporation by contacting the Public Information Officer of the Corporation, Suite 1148, 425 13th Street, NW, Washington, D.C. 20004, telephone (202) 566–1218.

§ 907.9 Corporation decision making procedures.

To ensure that at major decision making points all relevant environmental concerns are considered by the decision maker, the following procedures are established.

(a) An environmental document, in addition to being prepared at the earliest point in the decision making process, shall accompany the relevant proposal through the Corporation's decision making process to ensure adequate consideration of environmental factors in the decision-making process.

(b) The decision maker shall consider in its decision making process only those decision alternatives discussed in the relevant environmental documents. Also, where an EIS has been prepared, the decision maker shall consider all alternatives described in the EIS. A written record of the consideration of alternatives during the decision making process shall be maintained.

(c) Any environmental document prepared for a project, proposal, or decision shall be made part of the record of any formal rulemaking by the Corporation, including consideration of amendments to the Plan and preparation of development controls and standards implementing the Plan.

(d) At the time of any decision by the Board of Directors, or, where a delegation occurs, by the Chairman or the Executive Director, a concise public record of the decision shall be prepared by the staff of the Corporation which incorporates the required elements of § 1505.2 of the CEQ Regulations.

§ 907.10 Approval of private proposals for development.

(a) Each submission of a development proposal by a private developer to the Corporation for approval by the Board of Directors shall include an environmental assessment, the nature of which is described in § 1508.9 of the CEQ Regulations. Nothng shall preclude a developer from submitting an environmental assessment to the Corporation prior to submission of the development proposal which it supports.

(b) The Board of Directors may not make any decision on a submitted development proposal until such time as a supporting environmental assessment submitted by the developer has been independently analyzed, reviewed, and evaluated by the staff of the Corporation, and a determination made by the responsible Corporation official as to whether an EIS must be prepared by the Corporation. If that official determines that an EIS is necessary, the EIS must be prepared by the Corporation or by a consultant for the Corporation and be submitted to the Board of Directors for its consideration at the time of its review and decision on the approval of the development proposal submitted by a private developer.

(c) An environmental assessment prepared by a private developer to support a development proposal submitted to the Board of Directors for its approval should contain brief discussions of the following:

(1) Purpose of and need for the proposal.

(2) Statement of the Plan and analysis of the proposal in light of the Plan and development controls and standards.

(3) Alternatives, including the *No Action* alternative.

(4) Environmental effects of the proposed action and alternative. The most important or significant environmental consequences of the areas listed below should be discussed. Only those areas which are relevant to the proposal should be addressed in as much detail as is necessary to allow an analysis of the alternatives and the proposal. The areas to be considered are the following:

(i) Natural/ecological features (such as floodplains, wetlands, coastal zones, wildlife refuges, and endangered species);

(ii) Air quality;

(iii) Sound levels;

(iv) Water supply, wastewater treatment and storm water runoff;

(v) Energy requirements and conservation;

(vi) Solid waste;

(vii) Transportation;

(viii) Community facilities and services;

(ix) Social and economic;

(x) Historic and aesthetic; and

(xi) Other relevant factors.

(5) Listing of agencies and persons consulted in preparation of the assessment.

(d) Consistent with CEQ Regulations 1501.8 and 1506.10, the responsible Corporation official may set time limits for environmental review appropriate to each development proposal that requires the preparation of an EIS.

(e) The responsible Corporation official shall at the earliest possible time ensure that the Corporation commences its environmental review on a proposed development project and shall provide to a private developer any policies or information deemed appropriate in order to permit effective and timely review by the Corporation of a development proposal once it is submitted to the Board of Directors for approval. The official shall designate, for the benefit of the developer, staff members of the Corporation to advise the developer with regard to information which may be required in order to accomplish the Corporation's environmental review.

§ 907.11 Actions where lead agency designation is necessary.

(a) Consistent with CEQ Regulations, § 1501.5, where a proposed action by the Corporation involves one or more other Federal agencies, or where a group of actions by the Corporation and one or more other Federal agencies are directly related to each other because of their functional interdependence or geographical proximity, the Corporation will seek designation as lead agency for those actions that directly relate to implementation of the Plan and those

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actions that relate solely to the development area.

(b) For an action which qualifies as one for which the Corporation will seek designation as lead agency, the Corporation will promptly consult with the appropriate Federal agencies such as the National Capital Planning Commission, the Department of the Interior, and the General Services Administration to establish lead agency and cooperating agency designations.

(c) Where appropriate, the Corporation shall seek a memorandum of agreement with each of the agencies named in § 907.10(b) to obtain blank designation as lead agency for broad action categories which require environmental review.

Signed in Washington, D.C., dated: July 30, 1979.

Joseph B. Danzansky,

Chairman.

[FR Doc. 79-24226 Filed 8-3-79; 8:45 am]
BILLING CODE 7630-01-M

VETERANS ADMINISTRATION

38 CFR Part 3

Pension, Compensation, and Dependency and Indemnity Compensation; Improved Pension Program

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is issuing final regulations to implement the Veterans' and Survivors' Pension Improvement Act of 1978. The new law provides for major reform of the nonservice-connected pension program. Major provisions of the new law assure all veteran pensioners a level of income above the poverty level and provide that pension benefits will never be reduced solely as a result of cost-of-living increases in social security benefits. In addition to implementing the new law, minor changes have been made in various regulations to eliminate gender reference or to indicate that the regulations are applicable to persons of both sexes.

EFFECTIVE DATES: The regulations are effective January 1, 1979, the effective date specified by Pub. L. 95-588, except that monetary rates and income limitations reflect the increased rates payable on June 1, 1979, by reason of the social security cost-of-living increase which is also effective on June 1, 1979.

FOR FURTHER INFORMATION CONTACT:
T. H. Spindle, Jr. (202-389-3005).

SUPPLEMENTAL INFORMATION: On pages 12694-12708 of the **Federal Register** of March 8, 1979, there was published proposed regulations to implement Pub. L. 95-588, the Veterans' and Survivors' Pension Improvement Act of 1978.

Interested persons were given 60 days to submit comments, suggestions or objections to the proposed regulations. Two comments were received.

One commentator believes that § 3.272 is deficient in that it fails to exclude from countable income under the improved pension program income received under the Retired Servicemen's Family Protection Plan (RSFPP). The commentator's position is based on 10 U.S.C. 1441 which exempts RSFPP income from countable income under any law administered by the Veterans Administration.

We do not believe that RSFPP income should be excluded. The improved pension program (Pub. L. 95-588) was enacted after 10 U.S.C. 1441 and, therefore, we believe that only the income exclusions specifically listed in Pub. L. 95-588 should be given effect in § 3.272.

The other commentator feels that the proposed § 3.3(b)(3)(ii) and (4)(ii) are not in conformity with 38 U.S.C. 541 since he believes that the statute does not require that compensation or retired pay be based on wartime service. We have carefully reviewed 38 U.S.C. 541, as amended by Pub. L. 95-588, and find that the requirement that the receipt of compensation or retired pay be based on service during a period of war is clearly stated in the statute.

This commentator says that he disagrees with the regulations governing determination of a child's income and net worth. Since these regulations closely follow the provisions of Pub. L. 95-588, and the intent of Congress in enacting this law, we are unable to change them.

Finally, this commentator said he had difficulty in understanding the amendment to § 3.660(b)(2). There was no substantive change made in this section. The wording was changed to eliminate obsolete section 306 pension terminology. Section 3.660(b)(2) will continue to be applied essentially as it has in the past.

Based on our own review, we have made a number of changes in the proposed regulations. Some of the changes are of a very minor nature and are being made without comment. The major changes are discussed below.

Section 3.23 has been amended to delete the rates for surviving children. This section now contains just the rates for veterans and surviving spouses.

The rates for surviving children have been placed in § 3.24. In addition this section has been amended to state that its provisions apply to children of a deceased veteran not in custody of a surviving spouse who has basic eligibility to receive improved pension. The term "basic eligibility to receive improved pension" is defined in § 3.24. In addition, § 3.24 now states that children in custody of a surviving spouse who has basic eligibility to receive improved pension do not have separate entitlement to pension. This section has also been amended to provide rules for determining the combined rate of pension payable to multiple children in custody of a person legally responsible for support. This will permit use of a consolidated award for all entitled children, an easier and more economical procedure.

Section 3.57(d) has been revised to more clearly define the term "child custody". In addition, a definition of the term "person legally responsible for support" has been added to this section. Section 3.57(d) has been further amended to indicate that a person who has custody of a child at age 18 will be presumed to retain custody for periods after the child's 18th birthday. This latter provision applies only for the purpose of determining whether pension is payable under §§ 3.23 and 3.24.

The rules for rate computation contained in § 3.273 have been simplified. Calendar year computations have been eliminated. The rate of improved pension will be determined on an annual rate of income basis for both initial and running awards.

To accommodate the annual rate of income concept, amendments have been made to § 3.272 to provide that the amount of medical expenses to be excluded must exceed 5 percent of the maximum annual rate or rates of pension for the beneficiary during the year in which the medical expenses were paid.

We have amended § 3.551(c) to provide rules for reduction because of hospitalization when a veteran is transferred from a domiciliary to hospital or nursing home or vice-versa. This section has also been amended to provide that a veteran who has a child for whom no pension is being paid by reason of the size of the child's estate (38 U.S.C. 522(b)) is not subject to reduction for hospitalization or domiciliary care.

In our amendment of § 3.551(d) we unintentionally said that periods of 60 consecutive days of treatment would be considered two calendar months of hospitalization and 90 consecutive days, three calendar months. The final regulation has been changed to substitute the word "total" for "consecutive".

Section 3.656(d) has been amended to make its provisions applicable to the improved pension program. No amendment was made to this section in the proposed regulations.

Section 3.701(a) is amended to provide that the election of improved pension by a surviving spouse controls the claims of all children including those over age 18 and those not in the custody of the surviving spouse provided that the election of improved pension by the surviving spouse shall not prejudice the rights of any children receiving an apportionment on December 31, 1978.

Section 3.713 has been amended to provide that an election of improved pension filed prior to October 1, 1979, may be effective later than January 1, 1979, if to the claimant's advantage.

The Veterans' and Survivors' Pension Improvement Act of 1978, Pub. L. 95-588, provides that whenever there is a cost-of-living increase under section 215(i) of Title II of the Social Security Act, the Veterans Administration shall, effective on the date the cost-of-living increase becomes effective, increase by the same percentage (1) the maximum annual rates of pension authorized by Pub. L. 95-588, (2) the maximum annual income limitations applicable to the pension programs in effect on June 30, 1960, and December 31, 1978, (3) the amount of the exclusion of a veteran's spouse's income in determining a couple's countable income under the provisions of the pension program in effect on December 31, 1978, and (4) the maximum annual income limitations and rate formulae applicable to parents' dependency and indemnity compensation (DIC). The Social Security Administration reported that the cost-of-living increase will be 9.9 percent and the aforementioned rates and income limitations will be increased by that percentage, effective June 1, 1979.

These increases were announced on Tuesday, May 15, 1979 (44 FR 28328). The announcement, however, failed to state that the additional $800 payable to Mexican border or World War I veteran is to be increased to $880 effective June 1, 1979. In addition, the announcement incorrectly stated that the maximum DIC rate for one parent was $179 and the maximum rate for two parents not living together was $126. The correct rates are $180 and $127, respectively.

The rate and income limitations set forth in §§ 3.23, 3.24, 3.25, 3.26 and 3.262(b)(2) are those that are effective June 1, 1979. The omission and errors noted above have been corrected in §§ 3.23 and 3.25.

The final regulations are set forth below.

Approved: July 27, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. Section 3.1 is amended as follows:

(a) By deleting the cross reference "(See § 3.3(c)(1))" and inserting "(See § 3.3(b)(4) (iii))" in paragraph (d)(2).

(b) By adding paragraphs (u), (v), (w) and (x) to read as follows:

§ 3.1 Definitions.

* * * * *

(u) *"Section 306 pension"* means those disability and death pension programs in effect on December 31, 1978, which arose out of Pub. L. 86-211; 73 Stat. 432.

(v) *"Old-Law pension"* means the disability and death pension programs that were in effect on June 30, 1960. Also known as protected pension, i.e. protected under section 9(b) of the Veteran's Pension Act of 1959 (Pub. L. 86-211; 73 Stat. 432).

(w) *"Improved pension"* means the disability and death pension programs becoming effective January 1, 1979, under authority of Pub. L. 95-588; 92 Stat. 2497.

(x) *"Service pension"* is the name given to Spanish-American War pension. It is referred to as a service pension because entitlement is based solely on service without regard to nonservice-connected disability, income and net worth. (38 U.S.C. 512, 536)

2. Section 3.2 is amended as follows:

(a) By deleting "(See § 3.3(b))" in paragraph (a).

(b) By adding an introductory portion preceding paragraph (a) to read as follows:

§ 3.2 Periods of war.

This section sets forth the beginning and ending dates of each war period beginning with the Indian wars. Note that the term "period of war" in reference to pension entitlement under 38 U.S.C. 521, 541 and 542 means all of the war periods listed in this section except the Indian wars and the Spanish-American War. See § 3.3(a)(3) and (b)(4)(i).

* * * * *

3. Section 3.3 is revised and cross references are added to read as follows:

§ 3.3 Pension.

(a) *Pension for veterans*—(1) *Service pension; Spanish-American War.* A benefit payable monthly by the Veterans Administration because of service in the Spanish-American War. Basic entitlement exists if a veteran:

(i) Had 70 (or 90) days or more active service during the Spanish-American War; or

(ii) Was discharged or released from such service for a disability adjudged service connected without benefit of presumptive provisions of law, or at the time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability. (38 U.S.C. 512)

(2) *Section 306 pension.* A benefit payable monthly by the Veterans Administration because of nonservice-connected disability or age. Basic entitlement exists if a veteran:

(i) Served 90 days or more in either the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, or served an aggregate of 90 days or more in separate periods of service during the same or during different war periods, including service during the Spanish-American War (Pub. L. 87-101, 75 Stat. 218; Pub. L. 90-77, 81 Stat. 178; Pub. L. 92-198, 85 Stat. 663); or

(ii) Served continuously for a period of 90 consecutive days or more and such period ended during the Mexican border period or World War I, or began or ended during World War II, the Korean conflict or the Vietnam era (Pub. L. 87-101, 75 Stat. 218; Pub. L. 88-664, 78 Stat. 1094; Pub. L. 90-77, 81 Stat. 178; Pub. L. 91-588, 84 Stat. 1580; Pub. L. 92-198, 85 Stat. 663; Pub. L. 94-169, 89 Stat. 1013; Pub. L. 95-204, 91 Stat. 1455); or

(iii) Was discharged or released from such wartime service, before having served 90 days, for a disability adjudged service connected without the benefit of presumptive provisions of law, or at the time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability; and

(iv) Is permanently and totally disabled (*a*) from nonservice-connected disability not due to the veteran's own willful misconduct or vicious habits, or (*b*) by reason of having attained the age of 65 years or by reason of having become unemployable after age 65; and

(v) (*a*) Is in receipt of section 306 pension or (*b*) has an application for pension pending on December 31, 1978, or (*c*) meets the age or disability requirements for such pension on December 31, 1978, and files a claim within 1 year of that date and also within 1 year after meeting the age or disability requirements.

(vi) Meets the income and net worth requirements of 38 U.S.C. 521 and 522 as

in effect on December 31, 1978, and all other provisions of title 38, United States Code, in effect on December 31, 1978, applicable to section 306 pension.

Note.—The pension provisions of title 38, United States Code, as in effect on December 31, 1978, are available in any VA regional office.

(3) *Improved pension; Pub. L. 95–588 (92 Stat. 2497).* A benefit payable by the Veterans Administration to veterans of a period or periods of war because of nonservice-connected disability or age. The qualifying periods of war for this benefit are the Mexican border period, World War I, World War II, the Korean conflict and the Vietnam era. Payments are made monthly unless the amount of the annual benefit is less than 4 percent of the maximum annual rate payable to a veteran under 38 U.S.C. 521(b), in which case payments may be made less frequently than monthly. Basic entitlement exists if a veteran:

(i) Served in the active military, naval or air service for 90 days or more during a period of war (38 U.S.C. 521(j)); or

(ii) Served in the active military, naval or air service during a period of war and was discharged or released from such service for a disability adjudged service-connected without presumptive provisions of law, or at time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability (38 U.S.C. 521(j)); or

(iii) Served in the active military, naval or air service for a period of 90 consecutive days or more and such period began or ended during a period of war (38 U.S.C. 521(j)); or

(iv) Served in the active military, naval or air service for an aggregate of 90 days or more in two or more separate periods of service during more than one period of war (38 U.S.C. 521(j)); and

(v) Is permanently and totally disabled (*a*) from nonservice-connected disability not due to the veteran's own willful misconduct or vicious habits, or (*b*) by reason of having attained age 65 or by reason of having become unemployable after age 65 (38 U.S.C. 502); and

(vi) Meets the net worth requirements under § 3.274 and does not have an annual income in excess of the applicable maximum annual pension rate specified in § 3.23.

(b) *Pension for survivors*—(1) *Indian war death pension.* A monthly benefit payable by the Veterans Administration to the surviving spouse or child of a deceased veteran of an Indian war. Basic entitlement exists if a veteran had qualifying service as specified in 38 U.S.C. 511. Indian war death pension rates are set forth in 38 U.S.C. 534 and 535.

(2) *Spanish-American War death pension.* A monthly benefit payable by the Veterans Administration to the surviving spouse or child of a deceased veteran of the Spanish-American War, if the veteran:

(i) Had 90 days or more active service during the Spanish-American War; or

(ii) Was discharged or released from such service for a disability service-connected without benefit of presumptive provisions of law, or at time of discharge had such a service-connected disability, as shown by official service records, which in medical judgment would have justified a discharge for disability. (38 U.S.C. 536, 537)

(3) *Section 306 death pension.* A monthly benefit payable by the Veterans Administration to a surviving spouse or child because of a veteran's nonservice-connected death. Basic entitlement exists if:

(i) The veteran had qualifying service as specified in paragraph (a)(2) (i), (ii) or (iii) at this section; or

(ii) The veteran was, at time of death, receiving or entitled to receive compensation or retired pay for service-connected disability based on wartime service; or

(iii) The veteran died in active service and the requirements of § 3.1(d)(2) are met; and

(iv) The surviving spouse or child (*a*) was in receipt of section 306 pension on December 31, 1978, or (*b*) had a claim for pension pending on that date, or (*c*) filed a claim for pension after that date but within 1 year after the veteran's death, if the veteran died before January 1, 1979; and

(v) The surviving spouse or child meets the income and net worth requirements of 38 U.S.C. 541, 542 or 543 as in effect on December 31, 1978, and all other provisions of title 38, United States Code in effect on December 31, 1978, applicable to section 306 pension.

Note.—The pension provisions of title 38, United States Code, as in effect on December 31, 1978, are available in any VA regional office.

(4) *Improved death pension, Pub. L. 95–588.* A benefit payable by the Veterans Administration to a veteran's surviving spouse or child because of the veteran's nonservice-connected death. Payments are made monthly unless the amount of the annual benefit is less than 4 percent of the maximum annual rate payable to a veteran under 38 U.S.C. 521(b), in which case payments may be made less frequently than monthly. Basic entitlement exists if:

(i) The veteran's service meets the requirements of paragraph (a)(3) (i), (ii), (iii) or (iv) of this section (38 U.S.C. 541(a)); or

(ii) The veteran was at time of death receiving or entitled to receive compensation or retired pay for a service-connected disability based on service during a period of war. (The qualifying periods of war are specified in paragraph (a)(3) of this section.) (38 U.S.C. 541(a)); or

(iii) The veteran died in service and the requirements of § 3.1(d)(2) are met; and

(iv) The surviving spouse or child meets the net worth requirements of § 3.274 and has an annual income not in excess of the applicable maximum annual pension rate specified in § 3.23 and § 3.24.

Cross References: Section 306 pension. See § 3.1(u). Improved pension. See § 3.1(w). Improved pension rates. See § 3.23. Improved pension rates-surviving children. See § 3.24. Frequency of payment of improved pension. See § 3.30. Relationship of net worth to pension entitlement. See § 3.274.

§ 3.16 [Amended]

4. Section 3.16 is amended by deleting "§ 3.3(b)" and inserting "§ 3.3(a)" in the first sentence.

§ 3.17 [Amended]

5. Section 3.17 is amended by deleting "by § 3.3(c)" and inserting "for pension entitlement (see § 3.3)" in the first sentence.

6. Section 3.21 is revised and cross references are added to read as follows:

§ 3.21 Monetary rates.

The rates of compensation, dependency and indemnity compensation for surviving spouses and children, and section 306 and old-law disability and death pension, are published in tabular form in appendix B of the Department of Veterans Benefits Manual M21–1 and are to be given the same force and effect as if published in the regulations (Title 38, Code of Federal Regulations). The maximum annual rates of improved pension payable under Pub. L. 95–588 (92 Stat. 2497) are set forth in §§ 3.23 and 3.24. The monthly rates and annual income limitations applicable to parents' dependency and indemnity compensation are set forth in § 3.25.

Cross References: Section 306 pension. See § 3.1(u). Old-law pension. See § 3.1(v). Improved pension. See § 3.1(w).

7. Sections 3.23, 3.24, 3.25, 3.26, 3.27, 3.28, 3.29 and 3.30 and cross references are added to read as follows:

§ 3.23 Improved pension rates.

(a) *Maximum annual rates of improved pension*—(1) *Veterans permanently and totally disabled (38 U.S.C. 521).* (i) Veteran with no dependents, $3,902; (ii) Veteran with one dependent, $5,112; (iii) For each additional dependent, $660.

(2) *Veterans in need of aid and attendance.* (i) Veteran with no dependents, $6,243; (ii) Veteran with one dependent, $7,453; (iii) For each additional dependent, $660.

(3) *Veterans who are housebound.* (i) Veteran with no dependents, $4,770; (ii) Veteran with one dependent, $5,980; (iii) For each additional dependent, $660.

(4) *Two veterans married to one another; combined rates.* (i) Neither veteran in need of aid and attendance or housebound, $5,112; (ii) Either veteran in need of aid and attendance, $7,453; (iii) Both veterans in need of aid and attendance, $9,794; (iv) Either veteran housebound, $5,980; (v) Both veterans housebound, $6,848; (vi) One veteran housebound and one veteran in need of aid and attendance, $8,321; (vii) For each child, $660.

(5) *Surviving spouse alone and with a child or children of the deceased veteran in custody of the surviving spouse. (38 U.S.C. 541).* (i) Surviving spouse alone, $2,615; (ii) Surviving spouse and one child in his or her custody, $3,425; (iii) For each additional child in his or her custody, $660.

(6) *Surviving spouses in need of aid and attendance.* (i) Surviving spouse alone, $4,183; (ii) Surviving spouse with one child in his or her custody, $4,993; (iii) For each additional child in his or her custody, $660.

(7) *Surviving spouses who are housebound.* (i) Surviving spouse alone, $3,196; (ii) Surviving spouse and one child in his or her custody, $4,006; (iii) For each additional child in his or her custody, $660.

(See § 3.24 for entitlement criteria and rate applicable to a child of a deceased veteran not in custody of a surviving spouse who has basic eligibility to receive improved pension. The term "basic eligibility to receive improved pension" is defined in § 3.24.)

(b) *Reduction for income.* The maximum rates of improved pension in paragraph (a) of this section shall be reduced by the amount of the countable annual income of the veteran or surviving spouse. (38 U.S.C. 521, 541.)

(c) *Mexican border period and World War I veterans.* The applicable maximum annual rate payable to a Mexican border period or World War I veteran under this section shall be increased by $880. (38 U.S.C. 521(g).)

(d) *Definitions of terms used in this section*—(1) *Dependent.* A veteran's spouse or child. A veteran's spouse who resides apart from the veteran and is estranged from the veteran may not be considered the veteran's dependent unless the spouse receives reasonable support contributions from the veteran. (Note that under § 3.60 a veteran and spouse who reside apart are considered to be living together unless they are estranged.) A child of a veteran not in custody of the veteran and to whose support the veteran is not reasonably contributing, may not be considered the veteran's dependent. (38 U.S.C. 521(b).)

(2) *In need of aid and attendance.* As defined in § 3.351(b).

(3) *Housebound.* As defined in § 3.351(d)(2), (f). This term also includes a veteran who has a disability or disabilities evaluated as 60 percent or more disabling in addition to a permanent and totally disabling condition. See § 3.351(d)(1).

(4) *Veteran's annual income.* This term includes the veteran's annual income, the annual income of the veteran's dependent spouse, and the annual income of each child of the veteran (other than a child for whom increased pension is not payable under 38 U.S.C. 522(b)) in the veteran's custody or to whose support the veteran is reasonably contributing (to the extent such child's income is reasonably available to or for the veteran, unless in the judgment of the Veterans Administration to do so would work a hardship on the veteran.) There is a rebuttable presumption that all of such a child's income is reasonably available to or for the veteran. (38 U.S.C. 521 (c), (h).)

(5) *Surviving spouse's annual income.* This term includes the surviving spouse's annual income and the annual income of each child of the veteran (other than a child for whom increased pension is not payable under 38 U.S.C. 543(a)(2)) in the custody of the surviving spouse to the extent that such child's income is reasonably available to or for the surviving spouse, unless in the judgment of the Veterans Administration to do so would work a hardship on the surviving spouse. There is a rebuttable presumption that all of such a child's income is available to or for the surviving spouse. (38 U.S.C. 541 (c), (h).)

Cross References: Improved pension. See §3.1(w). Child. See § 3.57(d). Definition of "living with". See § 3.60. Exclusions from income. See § 3.272.

§ 3.24 Improved pension rates; surviving children.

(a) *General.* The provisions of this section apply to children of a deceased veteran not in the custody of a surviving spouse who has basic eligibility to receive improved pension. Children in custody of a surviving spouse who has basic eligibility to receive improved pension do not have separate entitlement. Basic eligibility to receive improved pension means that the surviving spouse is in receipt of improved pension or could become entitled to receive improved pension except for the amount of the surviving spouse's countable annual income or the size of the surviving spouse's estate (See § 3.274(c)). Under § 3.23(d)(5) the countable annual income of a surviving spouse includes the countable annual income of each child of the veteran in custody of the surviving spouse to the extent the child's income is reasonably available to or for the surviving spouse, unless in the judgment of the Veterans Administration to do so would work a hardship on the surviving spouse.

(b) *Child with no personal custodian or in the custody of an institution.* In cases in which there is no personal custodian, i.e., there is no person who has the legal right to exercise parental control and responsibility for the child's welfare (See §3.57(d)), or the child is in the custody of an institution, pension shall be paid to the child at the annual rate of $660 reduced by the amount of the child's countable annual income.

(c) *Child in the custody of person legally responsible for support*—(1) *Single child.* Pension shall be paid to a child in the custody of a person legally responsible for the child's support at an annual rate equal to the difference between the rate for a surviving spouse and one child under § 3.23(a)(5)(ii), and the sum of the annual income of such child and the annual income of such person. The amount payable, however, may not exceed the amount by which $660 exceeds the child's countable annual income.

(2) *More than one child.* Pension shall be paid to children in the custody of a person legally responsible for the children's support at an annual rate equal to the difference between the rate for a surviving spouse and an equivalent number of children (but not including any child who has countable annual income equal to or greater than $660) and the sum of the countable annual income of the person legally responsible for support and the combined countable annual income of the children (but not including the income of any child whose countable annual income is equal to or

greater than $660). The combined amount payable, however, may not exceed the amount by which $660 times the number of eligible children exceeds the sum of the children's countable annual income. (38 U.S.C. 542.)

Cross References: Child. See § 3.57(d). Exclusions from income. See § 3.272.

§ 3.25 Parents' dependency and indemnity compensation rates.

Dependency and indemnity compensation (DIC) shall be paid monthly to parents of a deceased veteran in the following amounts. (38 U.S.C. 415)

(a) *One parent.* Except as provided in paragraph (b) of this section, if there is only one parent the monthly rate of DIC paid to such parent shall be $180 reduced on the basis of the parent's annual income according to the following formula:

For Each $1 Of Annual Income

	Which is more than—	But not more than—
The $180 monthly rate shall be reduced by:		
$0.00	0	$800
.03	$800	900
.04	900	1,000
.06	1,000	1,200
.07	1,200	1,500
.08	1,500	4,438

No DIC is payable under this paragraph if annual income exceeds $4,438.

(b) *One parent who has remarried.* If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under paragraph (a) or under paragraph (d) of this section, whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

(c) *Two parents not living together.* The rates in this paragraph apply to (1) two parents who are not living together, or (2) an unremarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be $127, reduced on the basis of each parent's annual income, according to the following formula:

For Each $1 Of Annual Income Of Each Parent

	Which is more than—	But not more than—
The $127 monthly rate shall be reduced by:		
$0.00	0	$800
.02	$800	1,000
.04	1,000	1,100
.05	1,100	1,400
.06	1,400	2,000
.07	2,000	2,700
.08	2,700	4,438

No DIC is payable under this paragraph if annual income exceeds $4,438.

(d) *Two parents living together or remarried parents living with spouses.* The rates in this paragraph apply to (1) each parent living with another parent; and (2) each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $120, reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:

For Each $1 Of Combined Annual Income

	Which is more than—	But not more than—
The $120 monthly rate shall be reduced by:		
$0.00	0	$1,000
.02	$1,000	1,700
.03	1,700	2,300
.04	2,300	3,300
.05	3,300	5,968

No DIC is payable under this paragraph if combined annual income exceeds $5,968.

The rates in this paragraph are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in paragraph (a) of this section for one parent.

(e) The monthly rate of DIC payable to a parent under this section shall be increased by $94 if such parent is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(f) The monthly rate of DIC payable to any parent under this section shall not be less than $5.

§ 3.26 Section 306 and old-law pension annual income limitations.

(a) *Section 306 pension income limitations.* (1) Veteran or surviving spouse with no dependents, $4,438.

(2) Veteran with no dependents in need of aid and attendance (38 U.S.C. 521(d), as in effect on December 31, 1978), $4,938.

(3) Veteran or surviving spouse with one or more dependents, $5,968.

(4) Veteran with one or more dependents in need of aid and attendance (38 U.S.C. 521(d), as in effect on December 31, 1978), $6,468.

(5) Child (no entitled veteran or surviving spouse), $3,626.

(b) *Old-law pension income limitations.* (1) Veteran or surviving spouse without dependents, or an entitled child $3,884.

(2) Veteran or surviving spouse with one or more dependents, $5,603.

§ 3.27 Automatic adjustment of benefit rates.

(a) *Improved pension.* Whenever there is a cost-of-living increase in benefit amounts payable under section 215(i) of Title II of the Social Security Act, the Veterans Administration shall, effective on the dates such increases become effective, increase by the same percentage each maximum annual rate of pension specified in § 3.23 and § 3.24. (38 U.S.C. 3112(a))

(b) *Parents' dependency and indemnity compensation*—(1) *Maximum annual income limitation and maximum monthly rates.* Whenever there is a cost-of-living increase in benefit amounts payable under section 215(i) of Title II of the Social Security Act, the Veterans Administration shall, effective on the dates such increases become effective, increase by the same percentage the maximum monthly rates of dependency and indemnity compensation for parents specified in § 3.25(a), (c) and (d), the monthly rate specified in § 3.25(e), and the annual income limitations prescribed in § 3.25(a), (c) and (d). (38 U.S.C. 3112(b)(1))

(2) *Formula adjustment.* Whenever there is an increase in the rates and income limitations applicable to parents' dependency and indemnity compensation under paragraph (b)(1) of this section, the Veterans Administration shall, effective on the date of such increase, adjust correspondingly the formulas for determining the rates of parents' dependency and indemnity compensation as specified in § 3.25(a) and (c) for a parent whose countable annual income is more than $800 but not more than the maximum specified therein, and in § 3.25(d) for a parent whose countable annual income is more than $1,000 but not more than the maximum specified therein. (38 U.S.C. 3112(b)(2)(A))

(c) *Publishing requirements.* Increases in pension rates and parents' dependency and indemnity compensation rates and income limitation made under this section shall be published in the **Federal Register.** (38 U.S.C. 3112(c)(1))

§ 3.28 Automatic adjustment of section 306 and old-law pension income limitations.

Whenever the maximum rates of pension specified in § 3.23 are increased by reason of the provisions of 38 U.S.C. 3112, the following will be increased by the same percentage effective the same date:

(a) The maximum annual income limitations applicable to continued receipt of section 306 and old-law pension; and

(b) The dollar amount of a veteran's spouse's income specified in § 3.262(b)(2) as excludable in determining the income of a veteran for section 306 pension purposes.

These increases shall be published in the **Federal Register** at the same time that increases in the rates specified in § 3.23 and § 3.24 are so published. (Section 306, Pub. L. 95–588, 92 Stat. 2497.)

Cross References: Section 306 and old-law pension rates. See § 3.26. Section 306 and old-law pension protection. See § 3.960.

§ 3.29 Rounding.

Where the computation of an increase in improved pension rates under §§ 3.23 and 3.24 would otherwise result in a figure which includes a fraction of a dollar, the benefit rate will be adjusted to the next higher dollar amount. This method of computation will also apply to increases in old-law and section 306 pension annual income limitations under § 3.26, including the income of a spouse which is excluded from a veteran's countable income, and parents' dependency and indemnity compensation benefit rates and annual income limitations under § 3.25. (38 U.S.C. 3112(c)(2)).

§ 3.30 Frequency of payment of improved pension.

(a) *Monthly.* Payment shall be made monthly if the annual rate payable is $120 or more.

(b) *Quarterly.* Payment shall be made every 3 months on or about March 1, June 1, September 1, and December 1, if the annual rate payable is at least $40 but less than $120.

(c) *Semiannually.* Payment shall be made every 6 months on or about June 1, and December 1, if the annual rate payable is at least $20 but less than $40.

(d) *Annually.* Payment shall be made annually on or about June 1, if the annual rate payable is less than $20.

(e) *Payment of less than one dollar.* Payments of less than $1 shall not be made.

Cross Reference: Pension. See § 3.3(a)(3), (b)(4).

8. Section 3.57 is amended as follows:

(a) Section 3.57 is amended by adding the words "or her" after the word "his" in paragraphs (a)(1), (c)(1) and (c)(3).

(b) By adding paragraph (d) as set forth below:

§ 3.57 Child.

* * * * * *

(d) *Definition of "child custody".* The provisions of this paragraph are for the purpose of determining entitlement to improved pension under §§ 3.23 and 3.24.

(1) Custody of a child shall be considered to rest with a veteran, surviving spouse of a veteran or person legally responsible for the child's support if that person has the legal right to exercise parental control and responsibility for the welfare and care of the child. A child of the veteran residing with the veteran, surviving spouse of the veteran who is the child's natural or adoptive parent, or person legally responsible for the child's support shall be presumed to be in the custody of that individual. Where the veteran, surviving spouse, or person legally responsible for the child's support has not been divested of legal custody, but the child is not residing with that individual, the child shall be considered in the custody of the individual for purposes of Veterans Administration benefits.

(2) The term "person legally responsible for the child's support" means a person who is under a legally imposed obligation (e.g., by statute or court order) to provide for the child's support, as well as a natural or adoptive parent who has not been divested of legal custody. If the child's natural or adoptive parent has remarried, the stepparent may also be considered a person legally responsible for the child's support. A child shall be considered in the joint custody of his or her stepparent and natural or adoptive parent so long as the natural or adoptive parent and the stepparent are not estranged and residing apart, and the natural or adoptive parent has not been divested of legal custody. When a child is in such joint custody the combined income of the natural or adoptive parent and the stepparent shall be included as income of the person legally responsible for support under § 3.24(c).

(3) A person having custody of a child prior to the time the child attains age 18 shall be considered to retain custody of the child for periods on and after the child's 18th birthday, unless the person is divested of legal custody. This applies without regard to when a child reaches the age of majority under applicable State law. This also applies without regard to whether the child was entitled to pension prior to age 18, or whether increased pension was payable to a veteran or surviving spouse on behalf of the child prior to the child's 18th birthday. If the child's custodian dies after the child has attained age 18, the child shall be considered to be in custody of a successor custodian provided the successor custodian has the right to exercise parental control and responsibility for the welfare and care of the child. (38 U.S.C. 210(c), 521(c), 541(c).)

Cross References: Improved pension rates. See § 3.23. Improved pension rates—surviving children. See § 3.24. Child's relationship. See § 3.210. Helplessness. See § 3.403(a). Helplessness. See § 3.503(c). School attendance. See § 3.667. Helpless children—Spanish-American and prior wars. See § 3.950.

§ 3.59 [Amended]

9. Section 3.59 is amended by adding the words "or her" following the word "his" in paragraph (a).

10. Section 3.60 is added to read as follows:

§ 3.60 Definition of "living with".

For the purposes of determining entitlement to pension under 38 U.S.C. 521, a person shall be considered as living with his or her spouse even though they reside apart unless they are estranged. (38 U.S.C. 521(h)(2)).

11. Immediately preceding § 3.250 and following the centerhead "DEPENDENCY, INCOME AND ESTATE" add "Regulations Applicable to Programs in Effect Prior to January 1, 1979".

12. In § 3.252, paragraph (a) is revised to read as follows:

§ 3.252 Annual income; pension; Mexican border period and later war periods.

(a) *Annual income limitations; old-law pension.* Where the right to old-law pension is payable under section 306(b) of Pub. L. 95–588 (92 Stat. 2497), pension is not payable if the pensioner's annual income exceeds the income limitations prescribed by § 3.26(b).

* * * * *

13. Section 3.262 is amended as follows:

(a) By deleting the word "widow" and inserting "surviving spouse" in the first sentence of paragraph (e)(1).

(b) By deleting the word "widow" and inserting "surviving spouse" in the first sentence and by inserting the words "or her" after the word "his" in the third sentence of paragraph (e)(2).

(c) By inserting the words "or her" following the word "his" in the third sentence of paragraph (e)(4).

(d) By deleting the word "Widows" and inserting "Surviving Spouses" in the headnote of paragraph (g)(1).

(e) By revising paragraph (b)(2) to read as follows:

§ 3.262 Evaluation of income.

* * * * *

(b) *Income of spouse.* Income of the spouse will be determined under the rules applicable to income of the claimant.

* * * * *

(2) *Veterans.* The separate income of the spouse of a disabled veteran who is entitled to pension under laws in effect on June 30, 1960, will not be considered. Where pension is payable under Section 306(a) of Pub. L. 95–588, to a veteran who is living with a spouse there will be included as income of the veteran all income of the spouse in excess of whichever is the greater, $1,413 ($1,285 after December 31, 1978, and prior to June 1, 1979) or the total earned income of the spouse, which is reasonably available to or for the veteran, unless hardship to the veteran would result. The presumption that inclusion of such income is available to the veteran and would not work a hardship on him or her may be rebutted by evidence of unavailability or of expenses beyond the usual family requirements. (38 U.S.C. 521(f); Sec. 306(a)(2)(B) of Pub. L. 95–588, 92 Stat. 2497)

* * * * *

§ 3.263 [Amended]

14. Section 3.263 is amended as follows:

(a) By inserting the words "or her" following the word "his" twice in paragraph (d).

(b) By deleting the cross reference "Children; no widow entitled. See § 3.662" following § 3.263.

15. Sections 3.270 through 3.277 and a center title are added to read as follows:

§ 3.270 Applicability of various dependency, income and estate regulations.

(a) *Sections 3.250 to 3.270.* These sections are applicable to dependency, income and estate determinations needed to determine entitlement or continued entitlement for the following programs:

(1) Parents' death compensation.

(2) Old-law pension.

(3) Section 306 pension.

(4) Parents' dependency and indemnity compensation.

Note.—Citations to title 38, United States Code in §§ 3.250 to 3.270 referring to section 306 or old-law pension generally refer to provisions of law in effect on December 31, 1978.

(b) *Sections 3.271 to 3.300.* These sections apply to income and estate determinations of entitlement to the improved disability and death pension program which became effective January 1, 1979.

Regulations Applicable to the Improved Pension Program Which Became Effective January 1, 1979

§ 3.271 Computation of income.

(a) *General.* Payments of any kind from any source shall be counted as income in the year in which received unless specifically excluded under § 3.272.

(b) *Salary.* Salary means the gross amount of a person's earnings or wages before any deductions are made for such things as taxes, insurance, retirement plans, social security, etc.

(c) *Business, farm or professional income.* (1) This includes gross income from a business, farm or profession as reduced by the necessary operating expenses such as cost of goods sold, or expenditures for rent, taxes, and upkeep, or costs of repairs or replacements. The value of an increase in stock inventory of a business is not considered income.

(2) Depreciation is not a deductible expense.

(3) A loss sustained in operating a business, profession, farm, or from investments, may not be deducted from income derived from any other source.

(d) *Income from property.* Income from real or personal property is countable as income of the property's owner. The terms of a recorded deed or other evidence of title shall constitute evidence of ownership. This includes property acquired through purchase, gift, devise, or descent. If property is owned jointly, income of the various owners shall be determined in proportion to shares of ownership of the property. The owner's shares of income held in partnership shall be determined on the basis of the facts found.

(e) *Installments.* Income shall be determined by the total amount received or anticipated during the calendar year.

(f) *Deferred determinations.* When an individual is unable to predict with certainty the amount of countable annual income, the annual rate of improved pension shall be reduced by the greatest amount of anticipated countable income until the end of the year, when total income received during the year will be determined and adjustments in pension payable made accordingly.

(g) *Compensation (civilian) for injury or death.* Compensation paid by the United States Department of Labor, Office of Workers' Compensation Programs, Social Security Administration, or the Railroad Retirement Board, or pursuant to any worker's compensation or employer's liability statute, or damages collected because of personal injury or death, will be considered income as received. However, medical, legal or other expenses incident to the injury or death, or incident to the collection or recovery of the amount of the award or settlement, may be deducted. The criteria in § 3.272(g) apply as to all medical expenditures after the award or settlement. (38 U.S.C. 210(c))

(h) *Fractions of dollars.* Fractions of dollars will be disregarded in computing annual income.

§ 3.272 Exclusions from income.

The following shall be excluded from countable income for the purpose of determining entitlement to improved pension:

(a) *Welfare.* Donations from public or private relief, welfare, or charitable organizations. (38 U.S.C. 503(a)(1))

(b) *Maintenance.* The value of maintenance furnished by a relative, friend, or a charitable organization (civic or governmental) will not be considered income. Where the individual is maintained in a rest home or other community institution or facility, public or private, because of impaired health or advanced age, money paid to the home or the individual to cover the cost of maintenance will not be considered income, regardless of whether it is furnished by a relative, friend, or charitable organization. The expense of maintenance is not deductible if it is paid from the individual's income. (38 U.S.C. 210(c), 503(a)(1))

(c) *Veterans Administration pension benefits.* Payments under chapter 15 of title 38, United States Code. (38 U.S.C. 503(a)(2))

(d) *Fire insurance.* Proceeds of fire insurance policies. (38 U.S.C. 503(a)(5))

(e) *Profit from sale of property.* Profit realized from the disposition of real or personal property other than in the course of business, except amounts received in excess of the sales price, for example, interest on deferred sales is included as income. In installment sales, any payments received until the sales price is recovered are not included as income, but any amounts received which exceed the sales price are included, regardless of whether they represent principal or interest. (38 U.S.C. 503(a)(6))

(f) *Joint accounts.* Amounts in joint accounts in banks and similar institutions acquired by reason of death of the other joint owner. (38 U.S.C. 503(a)(7))

(g) *Medical expenses.* Within the provisions of the following subparagraphs, there will be excluded from the amount of an individual's annual income any unreimbursed amounts which have been paid within the year for medical expenses regardless of the year the indebtedness was incurred. An estimate based on a clear and reasonable expectation that unusual medical expenditure will be realized may be accepted for the purpose of authorizing prospective payments of benefits subject to necessary adjustment in the award upon receipt of an amended estimate, or after the end of the year upon receipt of an income questionnaire. (38 U.S.C. 503(a)(8))

(1) *Veteran's income.* Unreimbursed medical expenses will be excluded when all of the following requirements are met:

(i) They were or will be paid by a veteran or spouse for medical expenses of the veteran, spouse, children, parents and other relatives for whom there is a moral or legal obligation of support;

(ii) They were or will be incurred on behalf of a person who is a member or a constructive member of the veteran's or spouse's household; and

(iii) They were or will be in excess of 5% of the applicable maximum annual pension rate or rates for the spouse (including increased pension for family members but excluding increased pension because of need for aid and attendance or being housebound) as in effect during the year in which the medical expenses were paid.

(3) *Children's income.* Unreimbursed amounts paid by a child for medical expenses of self, parents, brothers and sisters, to the extent that such amounts exceed 5% of the maximum annual pension rate or rates payable to the child during the year in which the medical expenses were paid.

(h) *Expenses of last illnesses, burials and just debts.* The expenses specified in paragraphs (h) (1) and (2) of this section shall be deducted from annual income for the year in which their payment is made. However if payment is made during the year following that in which the death occurred, the deduction may be taken from the annual rate of income for the year of the last illness or burial if to do so is advantageous to the beneficiary. (38 U.S.C. 210(c))

(1) *Veteran's final expenses.* (i) Amounts paid by a spouse or child before a veteran's death for expenses of the veteran's last illness will be deducted from the income of the surviving spouse or child.

(ii) Amounts paid by a surviving spouse or child of a veteran for the veteran's just debts, expenses of last illness and burial (to the extent such burial expenses are not reimbursed under chapter 23 of title 38, United States Code) will be deducted from the income of the surviving spouse or child. (38 U.S.C. 503(a)(3))

(2) *Spouse or child's final expenses.* (i) Amounts paid by a veteran for the expenses of the last illness and burial of the veteran's deceased spouse or child will be deducted from the veteran's income.

(ii) Amounts paid by a veteran's spouse or surviving spouse for expenses of the last illness and burial of the veteran's child will be deducted from the spouse's or surviving spouse's income. (38 U.S.C. 503(a)(4))

(i) *Educational expenses.* Amounts equal to expenses paid by a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, to include amounts paid for tuition, fees, books, and materials, and in the case of a veteran or surviving spouse in need of regular aid and attendance, unreimbursed amounts paid for unusual transportation expenses in connection with the pursuit of such course. Unusual transportation expenses are those exceeding the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation, if reasonably available). (38 U.S.C. 503(a)(9))

(j) *Child's income.* In the case of a child, any current work income received during the year, to the extent that the total amount of such income does not exceed an amount equal to the sum of the following:

(1) The lowest amount of gross income for which a Federal income tax return must be filed, as specified in section 6012(a) of the Internal Revenue Code of 1954, by an individual who is not married (as determined under section 143 of such Code), and is not a surviving spouse (as defined in section 2(a) of such Code), and is not a head of household (as defined in section 2(b) of such Code); and

(2) If the child is pursuing a course of postsecondary education or vocational rehabilitation or training, the amount paid by the child for those educational expenses including the amount paid for tuition, fees, books, and materials. (38 U.S.C. 503(a)(10))

§ 3.273 Rate computation.

(a) *Initial award.* For the purpose of determining initial entitlement, or for resuming payments on an award which was previously discontinued, the monthly rate of pension payable to a beneficiary shall be computed by reducing the beneficiary's applicable maximum pension rate by the beneficiary's annual rate of countable income on the effective date of entitlement and dividing the remainder by 12.

(b) *Running awards.*—(1) *Change in maximum annual pension rate.* Whenever there is a change in a beneficiary's applicable maximum annual pension rate, the monthly rate of pension payable shall be computed by reducing the new applicable maximum annual pension rate by the beneficiary's annual rate of countable income on the effective date of the change in the applicable maximum annual pension rate, and dividing the remainder by 12.

(2) *Change in annual rate of income.* Whenever there is a change in a beneficiary's annual rate of countable income the monthly rate of pension payable shall be computed by reducing the beneficiary's applicable maximum annual pension rate by the beneficiary's new annual rate of countable income on the effective date of the change in the annual rate of income, and dividing the remainder by 12.

(c) *Nonrecurring income.* The amount of any nonrecurring countable income (e.g. an inheritance) received by a beneficiary shall be added to the beneficiary's annual rate of income for a 12-month period commencing on the effective date on which the nonrecurring income is countable. (38 U.S.C. 210(c))

§ 3.274 Relationship of net worth to pension entitlement.

(a) *Veteran.* Pension shall be denied or discontinued when the corpus of the estate of the veteran, and of the veteran's spouse, are such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance. (38 U.S.C. 522(a))

(b) *Increased pension payable to a veteran for a child.* Increased pension payable to a veteran on account of a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances including consideration of the veteran's and spouse's income and the income of the veteran's child or children, it is reasonable that some part of the corpus of such child's estate be consumed for the child's maintenance. (38 U.S.C. 522(b))

(c) *Surviving spouse.* Pension payable to a surviving spouse shall be denied or discontinued when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the surviving spouse's income and the income of any child for whom the surviving spouse is receiving pension, it is reasonable that some part of the corpus of the surviving spouse's estate be consumed for the surviving spouse's maintenance. (38 U.S.C. 543(a)(1))

(d) *Increased pension payable to a surviving spouse for a child.* Increased pension payable to a surviving spouse on account of a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the surviving spouse and child and the income of any other child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of the child's estate be consumed for the maintenance of the child. (38 U.S.C. 543(a)(2))

(e) *Child.* Pension payable to a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the child, the income of any person with whom the child is residing who is legally responsible for such child's support, and the corpus of estate of such person, it is reasonable that some part of the corpus of such estates be consumed for the child's maintenance. (38 U.S.C. 543(b))

§ 3.275 Criteria for evaluating net worth.

(a) *General.* The following rules are for application in determining the corpus of estate or net worth of a veteran, surviving spouse or child under § 3.274.

(b) *Definition.* The terms "corpus of estate" and "net worth" mean the market value, less mortgages or other encumbrances, of all real and personal property owned by the claimant, except the claimant's dwelling (single family unit), including a reasonable lot area, and personal effects suitable to and consistent with the claimant's reasonable mode of life.

(c) *Ownership.* See § 3.271(d).

(d) *Evaluation.* In determining whether some part of the claimant's estate (or combined estates under § 3.274 (a) and (e)) should be consumed for the claimant's maintenance, consideration will be given to the amount of the claimant's income together with the following: whether the property can be readily converted into cash at no substantial sacrifice; life expectancy; number of dependents who meet the definition of "member of the family" (the definition contained in § 3.250(b)(2) is applicable to the improved pension program); potential rate of depletion, including unusual medical expenses under the principles outlined in § 3.272(g) for the claimant and the claimant's dependents.

(e) *Educational expenses.* There shall be excluded from the corpus of estate or net worth of a child reasonable amounts for actual or prospective educational or vocational expenses. The amount so excluded shall not be such as to provide for education or training beyond age 23. (38 U.S.C. 210(c))

§ 3.276 Certain transfers or waivers disregarded.

(a) *Waiver of receipt of income.* Potential income, not excludable under § 3.272 and whose receipt has been waived by an individual, shall be included as countable income of that individual for Veterans Administration pension purposes.

(b) *Transfer of assets.* For pension purposes, a gift of property made by an individual to a relative residing in the same household shall not be recognized as reducing the corpus of the grantor's estate. A sale of property to such a relative shall not be recognized as reducing the corpus of the seller's estate if the purchase price, or other consideration for the sale, is so low as to be tantamount to a gift. A gift of property to someone other than a relative residing in the grantor's household will not be recognized as reducing the corpus of the grantor's estate unless it is clear that the grantor has relinquished all rights of ownership, including the right of control of the property. (38 U.S.C. 210(c))

§ 3.277 Income and net worth reports.

(a) *Evidence of entitlement.* As a condition of granting or continuing pension, the Veterans Administration may require from any person who is an applicant for or a recipient of pension such information, proofs, and evidence as is necessary to determine the annual income and the value of the corpus of the estate of such person, and of any spouse or child for whom the person is receiving or is to receive increased pension (such child is hereinafter in this section referred to as a "dependent child"), and, in the case of a child applying for or in receipt of pension in his or her own behalf (hereinafter in this section referred to as a "surviving child"), of any person with whom such child is residing who is legally responsible for such child's support.

(b) *Required annual report.* It is required that every pension applicant or beneficiary file a report each year, showing:

(1) The annual income which such applicant or beneficiary (and any such person's spouse or dependent child) received during the preceding year, the corpus of the estate of such applicant or beneficiary (and of any such person's spouse or dependent child) at the end of such year, and in the case of a surviving child, the income and corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support;

(2) The applicant's or beneficiary's estimate for the then current year of the annual income such applicant or beneficiary (and any such person's spouse or dependent child) expects to receive and of any expected increase in the value of the corpus of the estate of such applicant or beneficiary (and for any such person's spouse or dependent child); and in the case of a surviving child, an estimate for the then current year of the annual income of any person with whom such child is residing who is legally responsible for such child's support, and of any expected increase in the value of the corpus of the estate of such person;

(c) *Required revised report.* It is required that any pension applicant or beneficiary promptly file a revised report whenever there is a material change in the estimated annual income of such applicant or beneficiary (or of any such person's spouse or dependent child) or a material change in such applicant's or beneficiary's estimate of the value of the corpus of the estate of such applicant or beneficiary (or of any such person's spouse or dependent child), and in the case of a surviving child, a material change in the estimated annual income or value of the corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support; it is also required that any such applicant or beneficiary applying for or in receipt of increased pension on account of a person who is a spouse or child of such applicant or beneficiary promptly notify the Veterans Administration if such person ceases to meet the applicable definition of spouse or child. (38 U.S.C. 506(a))

16. Section 3.351 is revised to read as follows:

§ 3.351 Special monthly dependency and indemnity compensation, death compensation, pension and spouse's compensation ratings.

(a) *General.* This section sets forth criteria for determining whether:

(1) Increased pension is payable to a veteran by reason of need for aid and attendance or by reason of being housebound. (38 U.S.C. 521(d), (e))

(2) Increased compensation is payable to a veteran by reason of the veteran's spouse being in need of aid and attendance. (38 U.S.C. 315(1)(I))

(3) Increased dependency and indemnity compensation is payable to a surviving spouse or parent by reason of being in need of aid and attendance. (38 U.S.C. 411(c), 415(h))

(4) Increased dependency and indemnity compensation is payable to a surviving spouse who is not in need of aid and attendance but is housebound. (38 U.S.C. 411(d))

(5) Increased pension is payable to a surviving spouse by reason of need for aid and attendance, or if not in need of aid and attendance, by reason of being housebound. (38 U.S.C. 541(d), (e))

(6) Increased death compensation is payable to a surviving spouse by reason of being in need of aid and attendance. (38 U.S.C. 322)

(b) *Aid and attendance; need.* Need for aid and attendance means helplessness or being so nearly helpless as to require the regular aid and attendance of another person. The criteria set forth in paragraph (c) of this section will be applied in determining whether such need exists.

(c) *Aid and attendance; criteria.* The veteran, spouse, surviving spouse or parent will be considered in need of regular aid and attendance if he or she:

(1) Is blind or so nearly blind as to have corrected visual acuity of 5/200 or less, in both eyes, or concentric contraction of the visual field to 5 degrees or less; or

(2) Is a patient in a nursing home because of mental or physical incapacity; or

(3) Establishes a factual need for aid and attendance under the criteria set forth in § 3.352(a). (38 U.S.C. 502(b))

(d) *Housebound, or permanent and total plus 60 percent; disability pension.* The rate of pension payable to a veteran who is entitled to pension under 38 U.S.C. 521 and who is not in need of regular aid and attendance shall be as prescribed in 38 U.S.C. 521(e) if, in addition to having a single permanent disability rated 100 percent disabling under the Schedule for Rating Disabilities (not including ratings based upon unemployability under § 4.17 of this chapter) the veteran:

(1) Has additional disability or disabilities independently ratable at 60 percent or more, separate and distinct from the permanent disability rated as 100 percent disabling and involving different anatomical segments or bodily systems, or

(2) Is "permanently housebound" by reason of disability or disabilities. This requirement is met when the veteran is substantially confined to his or her dwelling and the immediate premises or, if institutionalized, to the ward or clinical area, and it is reasonably certain that the disability or disabilities and resultant confinement will continue throughout his or her lifetime. (38 U.S.C. 502(c), 521(e))

(e) *Housebound; dependency and indemnity compensation.* The monthly rate of dependency and indemnity compensation payable to a surviving spouse who does not qualify for increased dependency and indemnity compensation under 38 U.S.C. 411(c) based on need for regular aid and attendance shall be increased by the amount specified in 38 U.S.C. 411(d) if the surviving spouse is permanently housebound by reason of disability. The "permanently housebound" requirement is met when the surviving spouse is substantially confined to his or her home (ward or clinical areas, if institutionalized) or immediate premises by reason of disability or disabilities which it is reasonably certain will remain throughout the surviving spouse's lifetime. (38 U.S.C. 411(d))

(f) *Housebound; improved pension; death.* The annual rate of death pension payable to a surviving spouse who does not qualify for an annual rate of death pension payable under § 3.23(a)(6) based on need for aid and attendance shall be as set forth in § 3.23(a)(7) if the surviving spouse is permanently housebound by reason of disability. The "permanently housebound" requirement is met when the surviving spouse is substantially confined to his or her home (ward or clinical areas, if institutionalized) or immediate premises by reason of disability or disabilities which it is reasonably certain will remain throughout the surviving spouse's lifetime. (38 U.S.C. 541(e))

17. Section 3.450 is amended as follows:

(a) By deleting "his wife" and inserting "the spouse" in paragraph (a)(1)(i).

(b) By deleting "widow" and inserting "surviving spouse" in paragraph (g).

(c) By revoking paragraph (h).

(d) By revising paragraph (a)(1)(ii) and (2), (c), and (e) to read as follows:

§ 3.450 General.

(a)(1) All or any part of the pension, compensation, or emergency officers' retirement pay payable on account of any veteran may be apportioned.

* * * * *

(ii) If the veteran is not residing with his or her spouse, or if the veteran's children are not residing with the veteran and the veteran is not reasonably discharging his or her responsibility for the spouse's or children's support.

(2) Where any of the children of a deceased veteran are not living with the veteran's surviving spouse, the pension, compensation, or dependency and indemnity compensation otherwise payable to the surviving spouse may be apportioned. (38 U.S.C. 3107)

* * * * *

(c) No apportionment will be made where the veteran, the veteran's spouse (when paid "as wife" or "as husband"), surviving spouse, or fiduciary is providing for dependents. The additional benefits for such dependents will be paid to the veteran, spouse, surviving spouse, or fiduciary.

* * * * *

(e) The amount payable for a child in custody of and residing with the surviving spouse shall be paid to the surviving spouse. Amounts payable to a surviving spouse for a child in the

surviving spouse's custody but residing with someone else may be apportioned if the surviving spouse is not reasonably contributing to the child's support.

* * * * *

(h) [Revoked]

18. Section 3.451 is revised (gender changes only) to read as follows:

§ 3.451 Special apportionments.

Without regard to any other provision regarding apportionment where hardship is shown to exist, pension, compensation, emergency officers' retirement pay, or dependency and indemnity compensation may be specially apportioned between the veteran and his or her dependents or the surviving spouse and children on the basis of the facts in the individual case as long as it does not cause undue hardship to the other persons in interest, except as to those cases covered by § 3.458(b) and (c). In determining the basis for special apportionment, consideration will be given such factors as: Amount of Veterans Administration benefits payable; other resources and income of the veteran and those dependents in whose behalf apportionment is claimed; and special needs of the veteran, his or her dependents, and the apportionment claimants. The amount apportioned should generally be consistent with the total number of dependents involved. Ordinarily, apportionment of more than 50 percent of the veteran's benefits would constitute undue hardship on him or her while apportionment of less than 20 percent of his or her benefits would not provide a reasonable amount for any apportionee.

19. In § 3.452, paragraphs (a) and (c) are revised to read as follows:

§ 3.452 Veterans benefits apportionable.

Veterans benefits may be apportioned:

(a) If the veteran is not residing with his or her spouse or his or her children and a claim for apportionment is filed for or on behalf of the spouse or children.

* * * * *

(c)(1) Where an incompetent veteran without a fiduciary is receiving institutional care by the United States or a political subdivision, his or her benefit may be apportioned for a spouse or child, or, except as provided in paragraph (c)(3), for a dependent parent, unless such benefit is paid to a spouse ("as wife" or "as husband") for the use of the veteran and his or her dependents.

(2) Where benefits for an incompetent veteran are discontinued under the provisions of § 3.557(b), because of hospitalization by the U.S. Government or any political subdivision, there may be paid to his or her dependent parent or parents on the basis of need as determined by the Veterans' Services Officer all or any part of the benefit which would otherwise be payable. (38 U.S.C. 3203(b)(2))

(3) Where a married veteran is receiving section 306 or improved pension and the amount payable is reduced under § 3.551(c) because of hospitalization, an apportionment may be paid to the veteran's spouse as provided in § 3.454(b). (38 U.S.C. 3203(a))

* * * * *

20. Section 3.454 is amended as follows:

(a) By deleting "wife, husband" and inserting "spouse" in the first and last sentence of paragraph (a).

(b) By revising the introductory portion preceding paragraph (a) and paragraphs (b) and (c) and adding paragraph (d) so that the added and revised material reads as follows:

§ 3.454 Veterans disability pension.

Apportionment of disability pension will be as follows:

* * * * *

(b) (1) Where the amount of section 306 pension payable to a married veteran under 38 U.S.C. 521(b), as in effect on December 31, 1978, is reduced to $60 monthly under § 3.551(c), an apportionment may be made to such veteran's spouse upon an affirmative showing of hardship. The amount of the apportionment generally will be the difference between $60 and the total amount of pension payable on December 31, 1978. (38 U.S.C. 3203(a))

(2) Where the amount of improved pension payable to a married veteran under 38 U.S.C. 521(b) is reduced to $60 monthly under § 3.551(c), an apportionment may be made to such veteran's spouse upon an affirmative showing of hardship. The amount of the apportionment generally will be the difference between $60 and the rate payable if pension was being paid under 38 U.S.C. 521(c) including the additional amount payable under 38 U.S.C. 521(e) if the veteran is so entitled. (38 U.S.C. 3203(a))

(c) Where section 306 pension for an incompetent veteran is subject both to reduction under § 3.551(c), and to discontinuance under § 3.557(b) because of hospitalization by the U.S. Government or any political subdivision, the rate authorized for a parent or parents will not exceed $60 monthly. (Pub. L. 86–146, 73 Stat. 297; Pub. L. 86–211, 73 Stat. 432; Pub. L. 93–177, 87 Stat. 694; Pub. L. 95–588, 92 Stat. 2497)

(d) Where improved pension for an incompetent veteran is subject both to reduction under § 3.551(c), and to discontinuance under § 3.557(b) because of hospitalization by the U.S. Government or any political subdivision, the rate authorized for a parent or parents will not exceed $60 monthly. (38 U.S.C. 3203(a), (b))

§ 3.458 [Amended]

21. Section 3.458 is amended as follows:

(a) By deleting "wife or husband" and inserting "spouse" in paragraph (b).

(b) By deleting "wife, husband," and inserting "spouse," in the first and last sentence of paragraph (c).

(c) By deleting "wife or husband" and inserting "spouse" in the first sentence of paragraph (e).

(d) By deleting "wife, husband" and inserting "spouse" in the first sentence of paragraph (f)(1).

(e) By deleting "widow or widower," and inserting "or surviving spouse," in paragraph (f)(2).

(f) By deleting "wife or husband" and inserting "spouse" in the first sentence of paragraph (g).

§ 3.459 [Amended]

22. Section 3.459 is amended by deleting "widow or widower" and inserting "surviving spouse" in paragraphs (a) and (b).

23. Section 3.460 is amended as follows:

(a) By deleting "wife or husband" and inserting "spouse" in the introductory portion preceding paragraph (a).

(b) Paragraph (b) is revised and paragraph (c) is added so that the revised and added material reads as follows:

§ 3.460 Death pension.

* * * * *

(b) *Section 306 and old-law death pension.* Appointment of benefits provided under these pension programs will be at rates approved by the Chief Benefits Director except when the facts and circumstances in a case warrant special apportionment under § 3.451. (38 U.S.C. 3107)

(c) *Improved death pension.* Apportionment of the benefits provided under this program shall be made under the special apportionment provision of § 3.451. (38 U.S.C. 3107)

24. In § 3.501, paragraph (i)(2) is revised to read as follows:

§ 3.501 Veterans.

The effective date of discontinuance of pension or compensation to or for a veteran will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * *

(i) *Hospitalization.* * * *

(2) § *3.551(c).* (i) First day of the third calendar month following admission to domiciliary care if veteran without spouse or child or, though married, is receiving pension at the rate for a veteran without dependents. (38 U.S.C. 3203(a))

(ii) First day of the fourth calendar month following admission for hospital or nursing home care if veteran without spouse or child or, though married, is receiving pension at the rate provided for a veteran without dependents. (38 U.S.C. 3203(a))

* * * * *

25. Section 3.551 is amended as follows:

(a) By deleting "wife, husband" and inserting "spouse" in the first sentence of paragraph (f).

(b) By revising paragraphs (a), (b), (c) and (d) to read as follows:

§ 3.551 Reduction because of hospitalization.

(a) *General.* Pension payable under the section 306, the old-law and the improved pension programs is subject to reduction when a veteran who has neither spouse, child nor dependent parent is hospitalized, unless the veteran is hospitalized, for Hansen's disease. The provisions of this section apply to initial periods of hospitalization and to readmissions following discharge from a prior period of hospitalization. If the veteran is hospitalized for observation and examination, the date treatment began is considered the date of admission. Special rules governing discontinuance of aid and attendance allowance are contained in § 3.552 and for discontinuance of awards for incompetent veterans in § 3.557. Except as otherwise indicated the terms "hospitalized" and "hospitalization" in §§ 3.551 through 3.559 mean:

(1) Hospital treatment in a Veterans Administration hospital or in any hospital at Veterans Administration expense.

(2) Institutional, domiciliary or nursing home care in a Veterans Administration institution or domiciliary or at Veterans Administration expense.

(b) *Old-law pension.* Old-law pension in excess of $30 monthly for a veteran who has neither spouse, child nor dependent parent shall continue at the full monthly rate until the end of the sixth calendar month following the month of admission for hospitalization. The rate payable will be reduced effective the first of the seventh calendar month to $30 monthly or 50 percent of the amount otherwise payable, whichever is greater. The reduced rate will be effective the first day of the seventh calendar month following admission. Payment of the amount withheld may be made on termination of hospitalization, as provided in § 3.556. (Sec. 306(b), Pub. L. 95–588; 92 Stat. 2497

(c) *Section 306 and improved pension.* (1) Where any veteran having neither spouse nor child, or any veteran who is married or has a child and is receiving pension as a veteran without dependents, is being furnished domiciliary care by the Veterans Administration, no pension in excess of $60 monthly shall be paid to or for the veteran for any period after the end of the second full calendar month following the month of admission for such care. (38 U.S.C. 3203(a))

(2) Where any veteran having neither spouse nor child, or any veteran who is married or has a child and is receiving pension as a veteran without dependents is being furnished hospital or nursing home care by the Veterans Administration, no pension in excess of $60 monthly shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care. (38 U.S.C. 3203(a))

(3) No pension in excess of $60 monthly shall be paid to or for a veteran having neither spouse nor child, or to a veteran who is married or has a child and is receiving pension as a veteran without dependents, for any period after the month in which the veteran is readmitted within 6 months of a period of care of not less than 2 full calendar months. (38 U.S.C. 3203(a))

(4) Where improved pension is being paid to a married veteran at the rate prescribed by 38 U.S.C. 521(b) all or any part of the rate payable under 38 U.S.C. 521(c) may be apportioned for a spouse as provided in § 3.454(b). (38 U.S.C. 3203(a))

(5) Where section 306 pension is being paid to a married veteran at a rate for a veteran without dependents all or any part of the monthly amount of pension withheld in excess of $60 may be apportioned for a spouse as provided in § 3.454(b).

(6) The provisions of paragraphs (c)(1), (2) and (3) of this section are not applicable to any veteran who has a child but is receiving pension as a veteran without a dependent because it is reasonable that some part of the child's estate be consumed for the child's maintenance under 38 U.S.C. 522(b).

(7) For the purposes of paragraphs (c)(1), (2) and (3) of this section, if a veteran is furnished hospital or nursing home care by the Veterans Administration and then is transferred to VA-furnished domiciliary care, the period of hospital or nursing home care shall be considered as domiciliary care. Similarly, if a veteran is furnished domiciliary care by the Veterans Administration and then is transferred to VA-furnished hospital or nursing home care, the period of domiciliary care shall be considered hospital or nursing home care.

(d) *Computation of period.* For purposes of computing periods of hospitalization in paragraph (c) of this section, authorized absences of 96 hours or less will be included as periods of hospitalization, and those of over 96 hours excluded. Also, for purposes of that paragraph, periods of treatment or care of 60 total days will be considered two calendar months of hospitalization and periods of 90 total days considered three calendar months, exclusive of authorized absences in excess of 96 hours.

* * * * *

26. In § 3.552, paragraphs (e) and (j) are revised to read as follows:

§ 3.552 Adjustment of allowance for aid and attendance.

* * * * *

(e) Where a veteran is in receipt of section 306 pension, the aid and attendance allowance shall be reduced to the housebound rate of $61 monthly (or $76.25 if the veteran was age 78 or older on December 31, 1978). Where a veteran is in receipt of old-law pension, the total amount payable shall be reduced to $100 monthly. Where a veteran is in receipt of improved pension, the applicable aid and attendance rate shall be reduced to the otherwise applicable rate under 38 U.S.C. 521(e). No reduction shall be made, however, for any case involving the disabilities specified in paragraph (a)(2) of this section.

* * * * *

(j) The section 306 pension aid and attendance allowance authorized by § 3.252(f) is subject to reduction for hospitalization under the provisions of this section in the same manner as the regular section 306 pension aid and attendance allowance. The amount

payable shall not be reduced to less than the housebound rate of $61 monthly (or $76.25 monthly if the veteran was age 78 or older on December 31, 1978).

§ 3.556 [Amended]

26a. Section 3.556 is amended by deleting the words "an estranged spouse" and inserting the words "a spouse" in the second sentence.

26b. In § 3.656, the introductory portion of paragraph (a) preceding subparagraph (1) and paragraph (d) are revised to read as follows:

§ 3.656 Disappearance of veteran.

(a) When any veteran has disappeared for 90 days or more and his or her whereabouts remain unknown to the members of his or her family and the Veterans Administration, disability compensation which he or she was receiving or entitled to receive may be paid to or for his or her spouse, children and parents, effective the day following the date of last payment to the veteran if a claim is received within 1 year after that date; otherwise from the date of receipt of a claim. The total amount payable will be the lesser of these amounts:

* * * * *

(d) When any veteran has disappeared for 90 days or more and the veteran's whereabouts remain unknown to members of the veteran's family and the Veterans Administration, any improved pension, section 306 or service pension which the veteran was receiving or entitled to receive may be paid to or for the spouse or children. The status of the veteran at the time of disappearance, with respect to permanent and total disability, income and net worth will be presumed to continue unchanged. Payment for the spouse or children will be effective the day following the date of last payment to the veteran if a claim is received within 1 year after that date; otherwise from date of receipt of a claim. The total amount payable will be the lesser of these amounts:

(1) The service death pension rate if the veteran was receiving service pension or the improved death pension rate if the veteran was receiving section 306 or improved pension.

(2) The amount of pension payable to the veteran at the time of disappearance. (38 U.S.C. 507)

§ 3.657 [Amended]

26c. Section 3.657 is amended by deleting the words "Widow (Widower)" and inserting the words "Surviving Spouse" in the headnote; and by deleting the words "widow (widower)" and inserting the words "surviving spouse" wherever they appear in the introductory paragraph preceding paragraph (a), paragraph (a), (a)(1) and (2), (b)(1), (b)(1)(i) and (ii), (b)(2) and (b)(2)(i) and (ii).

27. In § 3.660, paragraphs (a)(1) and (2), (b) (introductory portion preceding subparagraph (1)), (b)(2), (c) and (d) are revised to read as follows:

§ 3.660 Dependency, income and estate.

(a) *Reduction or discontinuance*—(1) *General.* A veteran, surviving spouse or child who is receiving pension, or a parent who is receiving compensation or dependency and indemnity compensation must notify the Veterans Administration of any material change or expected change in his or her income or other circumstances which would affect his or her entitlement to receive, or the rate of, the benefit being paid. Such notice must be furnished when the recipient acquires knowledge that he or she will begin to receive additional income or when his or her marital or dependency status changes. In pension claims subject to § 3.252(b) or § 3.274 and in compensation claims subject to § 3.250(a)(2), notice must be furnished of any material increase in corpus of the estate or net worth.

(2) *Contingency.* Where reduction or discontinuance of a running award of section 306 pension or old-law pension is required because of an increase in income, which increase could not reasonably have been anticipated based on the amount actually received from that source the year before, the reduction or discontinuance shall be made effective the end of the year in which the increase occurred. Where reduction or discontinuance of a running award of improved pension or dependency and indemnity compensation is required because of an increase in income, the reduction or discontinuance shall be made effective the end of the month in which the increase occurred. Where reduction or discontinuance of a running award of any benefit is required because of an increase in net worth or corpus of estate, because dependency of a parent ceased, or because dependency of another person ceased due to marriage, annulment, divorce or death, the award shall be reduced or discontinued effective the last day of the calendar year in which the increase occurred or dependency ceased. (38 U.S.C. 3012(b))

* * * * *

(b) *Award or increase; income.* Where pension or dependency and indemnity compensation was not paid for a particular year because the claim was disallowed, an award was deferred under §§ 3.260(b) or 3.271(f), payments were discontinued or made at a lower rate based on anticipated or actual income, benefits otherwise payable may be authorized commencing the first of a calendar year as provided in this paragraph. (38 U.S.C. 3010(h).) In all other cases, benefits may not be authorized for any period prior to the date of receipt of a new claim.

* * * * *

(2) *Actual income.* Where the claimant's actual income did not permit payment, or payment was made at a lower rate, for a given year, pension or dependency and indemnity compensation may be awarded or increased, effective the beginning of the next year, if satisfactory evidence is received within that year.

(c) *Increases; change in status.* Where there is change in the payee's marital status or status of dependents which would permit payment at a higher rate and the change in status is by reason of the claimant's marriage or birth or adoption of a child, the effective date of the increase will be the date of the event if the required evidence is received within 1 year of the event. Where there is a change in dependency status for any reason other than marriage, or the birth or adoption of a child, which would permit payment at a higher rate, the increased rate will be effective the date of receipt of notice constituting an informal claim if the required evidence is received within 1 year of Veterans Administration request. The rate payable for each period will be determined, as provided in §§ 3.260(f) or 3.273(c). (See § 3.651 as to increase due to termination of payments to another payee. Also see § 3.667 as to increase based on school attendance.)

(d) *Corpus of estate; net worth.* Where a claim has been finally disallowed or terminated because of the corpus of estate and net worth provisions of §§ 3.263 or 3.274 and entitlement is established on the basis of a reduction in estate or net worth, or a change in circumstances such as health, acquisition of a dependent, or increased rate of depletion of the estate, benefits or increased benefits will not be paid for any period prior to the date of receipt of a new claim.

§ 3.661 [Amended]

28. Section 3.661 is amended by adding "or § 3.271(f)" following "§ 3.260(b)" in paragraph (a)(2).

§ 3.662 [Revoked]

29. Section 3.662 is revoked.

30. Section 3.666 is amended to read as follows:

(a) By deleting "wife, (husband)" and inserting "spouse" in the introductory portion of paragraph (a).

(b) By deleting "widow (widower)" and inserting "surviving spouse" in paragraph (b) (introduction), (b)(1), (b)(2) and in the second sentence of paragraph (c).

(c) By deleting "He (she)" and inserting "The veteran" in paragraph (d)(1) and (2).

(d) By revising paragraph (a)(2) to read as follows:

§ 3.666 Penal institutions.

* * * * *

(a) *Disability pension.* * * *

(2) If the annual income of the spouse or child is such that death pension would be payable.

* * * * *

31. Section 3.700 is amended as follows:

(a) By deleting "of the 1957 looseleaf edition of the Schedule for Rating Disabilities, 1945" and inserting "of the Schedule for Rating Disabilities" in the fourth sentence of paragraph (a)(3).

(b) By adding paragraph (a)(4) and revising paragraph (b) (1) and (2) so that the added and revised material reads as follows:

§ 3.700 General.

* * * * *

(a) Veterans. * * *

(4) *Improved pension.* If a veteran is entitled to improved pension on the basis of the veteran's own service and is also entitled to pension under any pension program currently or previously in effect on the basis of any other person's service, the Veterans Administration shall pay the veteran only the greater benefit. (38 U.S.C. 521(i))

(b) *Dependents.*—(1) *Surviving spouse.* Subject to the provisions of paragraph (a)(4) of this section, the receipt of pension, compensation, or dependency and indemnity compensation by a surviving spouse because of the death of any veteran, or receipt of pension or compensation because of his or her own service, shall not bar the payment to the surviving spouse of pension, compensation, or dependency and indemnity compensation because of the death or disability of any other veteran; however, other than insurance, concurrent benefits under laws administered by the Veterans Administration may not be authorized to a surviving spouse by reason of the death of more than one veteran to whom the surviving spouse has been married. The surviving spouse may elect to receive benefits based on the death of one such spouse and the election places the right to benefits based on the deaths of other spouses in suspense. The suspension may be lifted at any time by another election based on the death of another spouse. Benefits payable in the elected case will be subject to prior payments for the same period based on the death of the other spouse where, under the provisions of § 3.400(c), there is entitlement in the elected case prior to date of receipt of the election. (38 U.S.C. 3104)

(2) *Children.* Except as provided in § 3.703 and paragraph (a)(4) of this section, the receipt of pension, compensation, or dependency and indemnity compensation by a child on account of the death of a veteran or the receipt by the child of pension or compensation on account of his or her own service will not bar the payment of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other veteran.

* * * * *

32. In § 3.701, paragraph (a) is revised to read as follows:

§ 3.701 Elections of pension or compensation.

(a) *General.* Except as otherwise provided, a person entitled to receive pension or compensation under more than one law or section of a law administered by the Veterans Administration may elect to receive whichever benefit, regardless of whether it is the greater or lesser benefit, even though the election reduces the benefits payable to his or her dependents. Such person may at any time elect or reelect the other benefit. An election by a veteran controls the rights of all dependents in that case. An election by a surviving spouse controls the claims of all children including children over 18 and children not in the custody of the surviving spouse. The election of improved pension by a surviving spouse, however, shall not prejudice the rights of any child receiving an apportionment on December 31, 1978. Termination of a marriage or marital relationship which had been the reason for terminating an award of section 306 or old-law pension does not restore to the surviving spouse the right to receive section 306 or old-law pension. The claimant's entitlement, if otherwise established, is under the current provisions of 38 U.S.C. 541. (38 U.S.C. 210(c))

* * * * *

§ 3.702 [Amended]

33. Section 3.702 is amended by deleting "widow or widower" and inserting "surviving spouse" in the first and second sentence of paragraph (b).

§ 3.708 [Amended]

34. Section 3.708 is amended as follows:

(a) By deleting "widow or widower" and inserting "surviving spouse" in the first sentence of paragraph (a)(3).

(b) By deleting "widow's or widower's" and "widow or widower" and inserting "surviving spouse's" and "surviving spouse" in the last sentences of paragraphs (a)(3) and (b)(1).

35. Section 3.711 is revised to read as follows:

§ 3.711 Improved pension elections.

Except as otherwise provided by this section and § 3.712, a person entitled to receive section 306 or old-law pension on December 31, 1978, may elect to receive improved pension under the provisions of 38 U.S.C. 521, 541, or 542 as in effect on January 1, 1979. An election of improved pension is final when the payee (or the payee's fiduciary) negotiates one check for this benefit. There is no right of reelection. Any veteran eligible to make an election under this section who is married to a veteran who is also eligible to make such an election may not receive improved pension unless the veteran's spouse also elects to receive improved pension. (Section 306(a)(1) of Pub. L. 95-588, 92 Stat. 2497)

36. Sections 3.712 and 3.713 are added to read as follows:

§ 3.712 Improved pension elections; Spanish American War pensioners.

(a) *Veterans*—(1) *General.* A veteran of the Spanish-American War who meets the service requirements of 38 U.S.C. 512(a) may elect to receive improved pension under 38 U.S.C. 521. A Spanish-American War veteran who elects to receive improved pension is not entitled to the additional rate authorized by 38 U.S.C. 521(g), however. An election of improved pension is final when the payee (or the payee's fiduciary) negotiates one check for this benefit. There is no right of reelection.

(2) *Aid and attendance.* A veteran of the Spanish-American War who meets the service requirements of 38 U.S.C. 512(a) and who is receiving or entitled to receive pension based on need for regular aid and attendance shall be paid whichever is the greater: The monthly rate authorized by 38 U.S.C. 512(a) or the monthly rate authorized by 38 U.S.C. 521 as in effect on December 31, 1978,

based on the veteran's current income and net worth. Pension under 38 U.S.C. 521, as in effect on December 31, 1978, is not payable if the current size of the veteran's estate is a bar to payment under § 3.252(b) or if the veteran's income exceeds the applicable limitation as in effect on December 31, 1978. Elections are not required for this purpose. The change in rate shall be effective the first day of the month in which the facts warrant such change. (38 U.S.C. 512)

(b) *Surviving spouses*—(1) *General.* A surviving spouse of a Spanish-American War veteran eligible for pension under 38 U.S.C. 536 may elect to receive improved pension under 38 U.S.C. 541. An election of improved pension is final when the payee (or the payee's fiduciary) negotiates one benefit check. There is no right of reelection.

(2) *Aid and attendance.* A surviving spouse of a Spanish-American War veteran who is receiving or entitled to receive pension based on need for regular aid and attendance shall be paid whichever is the greater: The monthly rate authorized by 38 U.S.C. 536 (a) and (b) and 544 or the monthly rate authorized by 38 U.S.C. 541 and 544, as 38 U.S.C. 541 and 544 were in effect on December 31, 1978, based on the surviving spouse's current income and net worth. Pension under 38 U.S.C. 541 and 544, as in effect on December 31, 1978, is not payable if the current size of the surviving spouse's net worth is a bar to payment under § 3.252(b) or if the surviving spouse's income exceeds the applicable limitation as in effect on December 31, 1978. Elections are not required for this purpose. The change in rate shall be effective the first day of the month in which the facts warrant such change. (38 U.S.C. 536)

§ 3.713 Effective dates of improved pension elections.

(a) *General.* Except as provided in paragraph (b) of this section an election to receive improved pension shall be effective the date of receipt of the election.

(b) *Persons entitled to pension on December 31, 1978.* The effective date of an election to receive improved pension filed before October 1, 1979, by a person entitled to receive either old-law pension or section 306 pension on December 31, 1978, shall be January 1, 1979, or if to the beneficiary's advantage, at any date after January 1, 1979, and before October 1, 1979. The amount of improved pension payable from the effective date of the election shall be reduced by the amount of old-law pension or section 306 pension paid to the beneficiary for such period. (Section 306(d) of Pub. L. 95–588, 92 Stat. 2497.)

§§ 3.955 and 3.956 [Revoked]

37. Sections 3.955 and 3.956 are revoked.

38. Sections 3.960, 3.961 and 3.962 are added to read as follows:

§ 3.960 Section 306 and old-law pension protection.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, any person eligible to elect improved pension under § 3.711 or 3.712 who is in receipt of section 306 or old-law pension on December 31, 1978, shall in the absence of an election to receive improved pension, continue to receive such pension at the monthly rate payable on December 31, 1978.

(b) *Termination.* Pension payable under paragraph (a) of this section shall be terminated for any one of the following reasons:

(1) A veteran pensioner ceases to be permanently and totally disabled.

(2) A surviving spouse pensioner ceases to meet the definition of "surviving spouse" in 38 U.S.C. 101(3).

(3) A child pensioner ceases to meet the definition of "child" in 38 U.S.C. 101(4).

(4) A section 306 pensioner's countable annual income, determined under §§ 3.250 to 3.270, exceeds the applicable amount stated in § 3.26(a).

(5) An old-law pensioner's countable annual income determined under §§ 3.250 to 3.270 exceeds the applicable amount stated in § 3.26(b).

(6) A section 306 pensioner has a net worth of such size that it is reasonable that some part of it be consumed for the pensioner's maintenance. Evaluation of net worth shall be made under § 3.263.

(c) *Reduction.* The pension rate payable under paragraph (a) of this section shall be reduced by the amount of any additional pension payable by reason of a dependent upon the loss of such dependent. A veteran or surviving spouse who no longer has any dependents shall not continue to receive either section 306 pension or old-law pension if countable annual income exceeds the appropriate rate in § 3.26(a)(1) or (2) or (b)(1).

(d) *Finality of termination.* Termination of section 306 pension or old-law pension for one of the reasons listed in paragraph (b) of this section precludes a person from thereafter establishing entitlement under any other pension program except the improved pension program. (Sec. 306 of Pub. L. 95–588, 92 Stat. 2497)

§ 3.961 Claims pending on December 31, 1978.

A claim for pension filed by a veteran, surviving spouse or child which is pending in the Veterans Administration on December 31, 1978, shall be adjudicated under title 38, United States Code as in effect on December 31, 1978. Any benefits determined to be payable are subject to § 3.960. (Sec. 306(c) of Pub. L. 95–588, 92 Stat. 2497)

§ 3.962 Claims filed after December 31, 1978.

(a) *No entitlement prior to January 1, 1979.* A claim for pension filed after December 31, 1978, by a veteran who became totally and permanently disabled after December 31, 1978, or by a surviving spouse or child based on the death of a veteran occurring after December 31, 1978, shall be adjudicated under the provisions of title 38, United States Code as in effect on January 1, 1979 or thereafter.

(b) *Entitlement prior to January 1, 1979.* A claim for pension filed by a veteran after December 31, 1978, and within 1 year after the date on which the veteran became permanently and totally disabled, shall be adjudicated under the provisions of title 38, United States Code as in effect on December 31, 1978, if the veteran became permanently and totally disabled prior to January 1, 1979. A claim for pension filed by a surviving spouse or by a child after December 31, 1978, and within 1 year after the date of death of the veteran through whose relationship claim is made shall be adjudicated under the provisions of title 38, United States Code as in effect on December 31, 1978, if the veteran's death occurred before January 1, 1979. Any benefits determined to be payable to a veteran, surviving spouse or child are subject to § 3.960. (Sec. 306(c) of Pub. L. 95–588, 92 Stat. 2497).

[FR Doc. 79–24159 Filed 8–3–79; 8:45 am]
BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 408

[FRL 1280–6]

Amendment to Final Rule and Response to Petition for Modification for the Tuna Processing Subcategory of the Canned and Preserved Seafood Processing Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendment to Regulations.

SUMMARY: This notice presents EPA's response to a petition for modification of the existing effluent guidelines limitations for the best practicable control technology currently available (BPT) for the Tuna Processing Subcategory of the Canned and Preserved Seafood Processing Point Source Category. In preparing this response, EPA has conducted an analysis of dissolved air flotation treatment performance data. Special consideration has been focused on the removal of five-day biochemical oxygen demand (BOD*5*) and total suspended solids (TSS) by tuna processing facilities without solubles recovery plants. Based on this analysis, the BOD*5* effluent limitations for the Tuna Processing Subcategory are withdrawn. In addition, this notice acknowledges that tuna processing facilities without solubles recovery plants were not considered in the development of the BPT effluent limitations guidelines, and therefore, case-by-case consideration must be given regarding the appropriate permit limitation for such facilities.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Calvin Dysinger, Effluent Guidelines Division (WH–552), 401 M St. S.W., Washington, D.C. 20460. Telephone (202) 426–2707.

Supplementary Information

Background

On December 1, 1975, EPA promulgated regulations providing effluent guidelines limitations for the tuna processing industry based upon the application of the "best practicable control technology currently available" (BPT) as required by section 304 (b) of the Clean Water Act (CWA). These effluent limitations guidelines were not judicially challenged during the 90 day period following promulgation as provided in section 509(b)(1)(E) of the CWA.

On August 6, 1976, Bumble Bee Seafoods, Del Monte Corporation, Neptune Packing Corporation and Star Kist Foods, Inc. submitted a petition to the Administrator of EP A requesting changes in the effluent limitations for tuna processing facilities. This submittal requested that (1) effluent limits for tuna processing plants that discharge into oceans not be based on the use of dissolved air flotation (DAF) control; and (2) current effluent limits for tuna processing plants that do not discharge into oceans be adjusted to less stringent levels for several regulated pollutant parameters including five-day biochemical oxygen demand (BOD*5*), total suspended solids (TSS), and oil and grease (O&G).

To investigate the merits of the petitioners' requests, EPA conducted an extensive investigation of the performance of existing DAF systems, including an extensive sampling effort. In addition, the petitioners submitted for EPA review self-monitoring data for processing facilities both with and without solubles recovery equipment.

After completing the analysis of all available data, EPA representatives met with the petitioners to discuss the results of the analysis. As a consequence of these meetings, EPA received a letter dated May 16, 1979, from petitioners' counsel in which petitioners withdrew all requests except (1) that the BOD*5* requirement for the 1977 effluent limitations based on the application of DAF be adjusted to less stringent levels for all processing facilities; and (2) that discharge permits for those processing facilities without solubles recovery be modified to reflect the inability of existing DAF systems at these facilities to consistently achieve the TSS limitations.

Response to Petition

This response is limited to the petitioners' requests as modified May 16, 1979.

I. *Withdrawal of the BOD5 Requirement for the 1977 Effluent Limitations* (based on non-optimized DAF treatment). In response to this petition for modification, EPA has compiled considerable data regarding BOD*5* removals by non-optimized DAF systems. Investigations by both EPA and the tuna industry indicate that the total BOD*5* in tuna processing wastewater consists of soluble BOD*5* and insoluble BOD*5*. Non-optimized DAF systems remove most of the insoluble BOD*5* but almost no soluble BOD*5*. Since the ratio of soluble to insoluble BOD*5* is highly variable, the BPT effluent limitation for total BOD*5* cannot be consistently achieved by the existing treatment systems.

This information concerning the varying BOD*5* removal efficiency was not available to EPA at the time of promulgation of the BPT effluent limitations. The 1977 limitations assumed that an average of 40 percent removal rate for BOD*5* could be achieved by DAF technology. The newly available information indicates that this removal is not consistently attainable and that the 1977 effluent limitations for BOD*5* should be withdrawn.

II. Clarification of the TSS Limitations as Applied to Tuna Processing Facilities without Solubles Recovery. In most geographical locations, tuna processing facilities find it economical to recover stickwater (generated by the cooking process). This stickwater, along with press liquor from the fish meal operation, is concentrated by a solubles plant and marketed as a profitable commodity. However, several relatively isolated processing plants (notably, in American Samoa) do not have a profitable market for concentrated solubles and consequently do not operate solubles plants. These facilities currently discharge their stickwater and press liquor as part of the total influent flow to the DAF system.

EPA's original effort in developing the 1977 effluent limitations did not consider those few facilities without soluble plants. The petitioners contend that, because of the additional waste loadings contributed by the stickwater and press liquor, these facilities are unable to consistently meet the TSS requirements of the 1977 effluent limitations. In support of this claim, the petitioners submitted to EPA effluent monitoring data for the period from January 1977 to October 1978 from the Star-Kist facility in American Samoa. The data indicate that the BPT TSS limitations were not consistently attained during this time at this facility. However, both the Star-Kist and VanCamp canneries in American Samoa have recently improved the operation of their DAF systems resulting in better removal efficiencies. Recent monitoring data show that these facilities are presently in compliance with the BPT TSS limitations.

Although the available data indicate that existing tuna facilities without solubles plants are capable of meeting the BPT TSS limitations, these facilities (with their additional waste loadings) were not considered in the development of the effluent limitations. The permit issuing office should consider this fact when writing permits for these facilities. Section 402(a)(1) of the Clean Water Act provides authority to the permit issuing office to require necessary waste control practices on a case-by-case basis for industrial facilities or waste streams not specifically covered by national technology-based standards.

Accordingly, 40 CFR Part 408, Subpart N, is amended as set forth below.

PART 408—CANNED AND PRESERVED SEAFOOD PROCESSING POINT SOURCE CATEGORY

§ 408.142 [Amended.]

In § 408.142, Effluent limitations guidelines representing the degree of effluent reduction attainable by the

application of the best practicable control technology currently available, the table in paragraph (b) is amended by deleting the entry appearing under both "Metric units" and "English units" reading "BOD5" * * * 23 * * * 9.0". The TSS, O&G, and pH limitations remain as originally promulgated.

Effective date: This regulation shall become effective on August 6, 1979.

Dated: July 25, 1979.

Barbara Blum,

Acting Administrator.

[FR Doc. 79-24237 Filed 8-3-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service,

42 CFR Parts 53, 57, 90

Updating Current Regulations

AGENCY: Public Health Service, HEW.

ACTION: Rule.

SUMMARY: This document amends the Code of Federal Regulations by deleting certain regulations. The amendments are necessary because certain provisions are obsolete, in some cases due to the expiration of statutory authorizations for appropriations. The effect of the amendments will be to update the current regulations of the Public Health Service.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT: George T. Lewis, Chief, Regulations Branch, Regulations and Committee Control Division/Executive Secretariat, Parklawn Building, Room 17B-03, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6330.

SUPPLEMENTARY INFORMATION:

PART 53—GRANTS, LOANS AND LOAN GUARANTEES FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND MEDICAL FACILITIES

The statutory authority for appropriations for grants and the awarding of loans and loan guarantees for the construction and modernization of hospitals and medical facilities has expired. Except for certain provisions relating to the Secretary's authority to waive recovery of payments and to the continuing obligations of assisted facilities to provide services to persons unable to pay and to provide a community service, the regulations of Part 53 are obsolete. Accordingly, all provisions of Part 53 are removed from Title 42 of the Code of Federal Regulations except for §§ 53.111–113, 53.135, and 53.154, which remain in effect.

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENT, SCHOLARSHIPS AND STUDENT LOANS

The statutory authorities for appropriations under the Public Health Service Act for the grant programs listed below have expired. Accordingly, the following subparts of Part 57 are removed from Title 42, Code of Federal Regulations:

Subpart A—Grants for Planning of Clinical Education Programs

Subpart R—Loan Guarantees and Interest Subsidies to Assist in Construction of Nurse Training Facilities

Subpart X—Financial Distress Grants to Schools of Nursing

Subpart EE—Grants for Development of New Schools of Medicine Emphasizing Family Medicine

In addition, the regulations of Subpart E—Grants for Construction of Nurse Training Facilities are removed from Title 42 except for § 57.409, which relates to waiver of recovery by the Secretary and which remains in effect.

PART 90—LEAD-BASED PAINT POISONING PREVENTION IN FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Authority to conduct the program under Part 90 has been transferred to the Department of Housing and Urban Development (42 U.S.C. 4831(b)), therefore, Part 90 is removed from Title 42, Code of Federal Regulations.

Dated: May 10, 1979.

Charles Miller,

Acting Assistant Secretary for Health.

Approved: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24196 Filed 8-3-79; 8:45 am]

BILLING CODE 4110-85-M

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42 CFR Part 100

Limitation on Federal Participation for Capital Expenditures; Payment of Costs of Agency Review

Correction

In FR Doc. 79-20286 appearing on page 44845 in the issue for Tuesday, July 31, 1979, third column, under DATES, delete ", effective on the date of publication in the Federal Register", and insert a period after "1979".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3422

Coal Management; Federally Owned Coal; Change in Effective Date

AGENCY: Bureau of Land Management, Interior.

ACTION: Change in effective date of provision of final rulemaking.

SUMMARY: This notice revises the effective date of that provision of 43 CFR 3422.1–1 of the final coal management rulemaking (July 19, 1979, 44 FR 42584) that relates to the timing of the request for comments on the fair market value of the tract to be held for coal lease sale.

DATES: Effective on August 6, 1979.

ADDRESS: Any comments or suggestion should be sent to: Director (141), Bureau of Land Management, 18th and C Sts., NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce Powers (202) 343–6821; or Walter Rewinski, (202) 343–6821.

SUPPLEMENTARY INFORMATION: By this notice, the effective date of the provision of 43 CFR 3422.1–1 (July 19, 1979, 44 FR 42623), requiring that the Bureau of Land Management call for comments on the fair market value of a tract offered for lease at least 30 days before publishing the notice of sale will be deferred until September 19, 1979. The clause affected by this deferral reads, "* * * and in any case not less than 30 days prior to the publication of a notice of sale * * *"

This deferral is necessary to prevent delay in the potential short-term (emergency coal lease) sales in response to lease applications that were processed under the modified court order in *Natural Resources Defense Council* v. *Hughes*, 454 F. Supp. 148 (D.D.C. 1978), which may be approved and held under the new coal program regulations, including the emergency leasing provisions. Although it was desirable to have the coal management regulations become effective upon publication, it was found that a transition period was required in order to process several pending emergency lease applications in a timely fashion. No public purpose would be served by delaying publication of notices of sale for cases being processed during the transition period provided by this notice.

This deferral of the effective date of this clause in 43 CFR 3422.1–1 does not mean that the Department will not request comments on fair market value for any sale approved during this period. The Department will fully comply with the Federal Coal Leasing Amendments Act (90 Stat. 1083–1092), as it has in all sales held since enactment of that Act, by requesting comments on the fair market value of the potential lease in the notice of sale.

Cecil D. Andrus,

Secretary of the Interior.

July 31, 1979.

[FR Doc. 79-24135 Filed 8-3-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

45 CFR Part 1388

University Affiliated Facilities Program

AGENCY: Office of Human Development Services (HDS), HEW.

ACTION: Final rules with 60 day comment period.

SUMMARY: The Rehabilitation Services Administration (RSA) in HDS is amending the regulations for the University Affiliated Facilities Program in order to provide the standards that must be met by those facilities as required by the Developmental Disabilities Assistance and Bill of Rights Act (Act). The basis for these standards is Part B of the Act. Another purpose of these regulations is to incorporate policy decisions to enhance services to persons with developmental disabilities. Both "developmental disabilities" and "university affiliated facility" are newly defined. The regulations also place the University Affiliated Facilities Program under its own part 1388; they were previously in subpart A of part 1387 of the Chapter XIII of the Code of Federal Regulations (CFR).

EFFECTIVE DATE: These regulations are effective August 6, 1979. Written comments will be accepted on or before October 5, 1979, and the regulations will be amended, if necessary.

AVAILABILITY OF COMMENTS: Comments sent in response to this final rule will be available for public inspection in: Room 3070, Mary E. Switzer Building, 330 C Street, S.W., Washington, D.C. 20201; Monday through Friday of each week, 8:30 a.m. to 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marjorie H. Kirkland Senior Program Specialist, Bureau of Developmental Disabilities, Rehabilitation Services Administration, Room 3070, Mary E. Switzer Building 330 C Street, S.W., Washington, D.C. 20201 (202) 245–0335.

SUPPLEMENTARY INFORMATION: The purpose of promulgating these regulations in Final with a 60 day comment period is to enable the Rehabilitation Services Administration to comply with the provisions of Part B of the Act. Standards for University Affiliated Facilities (UAFs) must be published before UAFs can be refunded. These rules also incorporate policy decisions that are designed to enhance providing services to persons with developmental disabilities.

Another purpose of these regulations is to put the UAF program in a new part of Chapter XIII, Title 45 of the Code of Regulations. The new part is 1388; the previous regulations were published in Subpart A of Part 1387 which now will govern only the special project grants (formerly Subpart B of Part 1387). Regulations for other programs authorized by the Act are published, as before, under Parts 1385, 1386, and 1387 of Chapter XIII of the 45 CFR.

Background Information

The university affiliated facility construction program was first authorized by the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Pub. L. 88–164). In 1970, the Developmental Disabilities Services and Facilities Construction Act (Pub. L. 91–517) was passed. It authorized grants for constructing administering and operating university affiliated facilities. The 1975 amendments (the Developmental Disabilities Services and Facilities Construction Act, Pub. L. 94–103) continued the programs of grants for administration and operation of university affiliated facilities, and in addition, authorized studies of the feasibility of establishing satellite centers in areas otherwise not served by university affiliated facilities, and authorized grants for renovation and modernization of university affiliated facilities, and satellite centers. (No appropriation was made for construction after 1969, however).

In 1978, the Act was amended by Pub. L. 95–602, Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. It is now called the Developmental Disabilities Assistance and Bill of Rights Act.

Summary of These Rules

Reasons for Dispensing with Notice of Proposed Rulemaking (NPRM)

The 30-day period prior to making final regulations effective and the NPRM are being waived, and these regulations shall become effective upon publication for several reasons. First, the law requires the promulgation of the standards in regulations within six months of enactment of the law. The law was signed November 6, 1978. Since the present grants to university affiliated facilities expired on June 30, 1979, it is urgent that the standards be published in final form as soon after that date as possible; otherwise an undue hardship will be imposed on grantees.

In addition to the standards, few requirements are being imposed that do not reflect the Act, or standard departmental policies and procedures. We considered the advisability of publishing only the standards, without other regulatory provisions. We had to reject that alternative on the basis that it would place an undue burden on applicants to determine for themselves what other requirements their projects would have to meet besides those imposed by the standards.

While we are reluctant to promulgate final regulations without giving interested persons an opportunity to comments, the standards must be in final form before grants are made, and it is not possible under government-wide rules to combine a final regulation and a proposed one. (Document Drafting Handbook, Federal Register, January 1975). The familiar and non-controversial nature of the regulations, other than the standards, is the third reason.

A fourth reason relates to the small and finite group of agencies directly involved at this time. The appropriation for the current fiscal year, ending September 30, 1979, is such that, under the Act, the only facilities eligible to receive grants are those which received grants under this program in the previous fiscal year. We know that

many other persons are also interested in and concerned with the regulations governing this program. We, therefore, encourage comments from all interested persons in order to make revisions to these regulations if necessary or desirable.

The Department is of the opinion that these reasons constitute good cause for waiving both the notice of proposed rule-making procedure and the 30-day period of delay in the effective date of final regulations, because rulemaking would be impracticable and contrary to the public interests.

Major Amendments

New or changed definitions

Several new provisions of the Act modify the university affiliated facilities program. The new definition of a university affiliated facility requires that it engage in three activities: A continuing requirement of interdisciplinary training, a broadened concept of exemplary services, and a newly mandated activity of information dissemination.

The definition of a "satellite center" refocuses its mission. Rather than providing services and training personnel to provide services to persons with developmental disabilities, a satellite center's mission is now to provide services in geographical areas where adequate services are not otherwise available.

A significant change in the university affiliated facilities program, as well as in other developmental disabilities programs, is the revised definition of developmental disability. A discussion of this definition will be included in the preamble to the proposed regulations for Parts 1385, 1386, and 1387, and is not repeated here. The language of the Act (Sec. 102(7)) is repeated to remind interested persons that disabilities attributable to a wider variety of impairments than before are included, and that the emphasis is also more clearly on persons with substantial functional limitations.

In describing the standards to be developed, the Act (Sec. 122(a)) specifies that they shall reflect the special needs of persons who are of various ages. The effect of this new requirement, when combined with the new definition of developmental disability, is to expand the variety of disabling conditions and to enlarge the variety of service needs presented by the persons to be served by university affiliated facilities.

The change in the definition does not have the result of excluding anyone who was properly included before. But it does add some persons who were formerly not eligible. This means that there is much information about the newly defined population which needs to be developed. Because many of these disability groups have not traditionally been served in a planned, coordinated way, their numbers, needs and characteristics are not known and are, therefore, now important concerns of the State developmental disabilities service systems, particularly of the State planning councils. It is crucial therefore, that university affiliated facilities and the councils maintain a continuing and active relationship to enhance their responsiveness to the needs of the population as now defined.

Standards for University Affiliated Facilities

The standards included in these regulations are the basic requirements that a university affiliated facility must meet if it is to receive a grant under this program. They relate to (1) the administration and management of the facility; (2) the interdisciplinary training program; (3) the demonstration of exemplary services; and (4) the dissemination of information concerning services and needs for service-related research.

While general standards are being issued now, the development and validation of proposed *performance* standards for programs as varied as those funded under this authority cannot be properly accomplished in the time allowed. The term "performance standards" is applied to standards and criteria which measure quality and quantity of achievements. The Rehabilitation Services Administration does not now have information adequate to develop those standards. A contract has been modified to assist in accomplishing that purpose, however, and performance standards will be published later, along with criteria and indices for measuring achievements and identifying areas needing special attention.

Minimum Grants and Restrictions on Eligibility

The Act establishes, for the first time, minimum grants for university affiliated facilities and satellite centers, and limits the facilities which can receive funds in fiscal years 1979 through 1981 to university affiliated facilities and satellite centers which received grants under this part in fiscal year 1978 (unless the appropriation exceeds amounts specified for each year).

Other amendments

Supplemental grants are authorized to conduct studies of the feasibility of establishing satellite centers; to assist in meeting the need for trained personnel; to provide service-related training of practitioners; and to conduct applied research.

The Act also requires joint review of university affiliated facility applications by all Federal agencies providing funds for the direct support of the facilities. The regulations do not address this matter, because it relates to internal Federal activities.

General Description of Subparts of Regulations

The regulations in this part have been reorganized and rewritten for clarification and simplicity in accordance with HEW's Operation Common Sense. They are divided into four subparts.

Subpart A—General

Subpart A deals with general requirements that apply to all categories of assistance under Part 1388. The basis and purpose of the requirements in each section are set forth below:

§ 1388.1 Purpose of the university affiliated program.

This section states the purpose of the university affiliated facility program. It is based on the definition of the term "university affiliated facility" stated in the Act (Sec. 102(10)).

§ 1388.2 Definitions.

Definitions needed for an understanding of the university affiliated facility program are included here. (Definitions of terms used only in other parts of the developmental disabilities program are not included. Interested persons are encouraged to refer to the regulations for Parts 1385, 1386, 1387 for more complete information.)

§ 1388.3 Eligible costs.

This section specifies the activities which are eligible for Federal support. It is based on 45 CFR Part 74, Administration of Grants, and on Section 121 of the Act.

§ 1388.4 Grant administration requirements.

This section provides a list of applicable parts of the *Code of Federal Regulations*, and is included in order to alert grantees and applicants to administrative and legal requirements. A number of parts are applicable only under certain conditions. These are cited in each part.

The list includes those parts most generally applicable to developmental disabilities programs.

§ 1388.5 Federal share.

§ 1388.6 Application content for all grants under this part.

§ 1388.7 Payments.

These sections implement various statutory and uniform administrative requirements.

§ 1388.8 Availability of funds.

Section 123 of the Act requires that the first $9 million for fiscal year (FY) 1979, $10 million for FY 1980, and $11 million for FY 1981 be used to support qualified university affiliated facilities and satellite centers which received grants in FY '78.

§ 1388.13 Standards for university affiliated facilities.

The purpose for this section, and its legal basis are described in "Major Amendments" above. In short, the standards constitute the minimum, basic ones the Department believes can be reasonably promulgated at this time, in order to meet the requirements of Sec. 122(a) of the Act. We believe that any facility unable to meet these standards within three years is incapable of carrying out the purpose of the program, and thus should not be funded as a university affiliated facility. Furthermore, as described above, performance standards will be published later. We may also revise the standards included in this section, or add others, as we gain experience.

§ 1388.14 Minimum grants.

The Act specifies that grants to qualified university affiliated facilities may not be less than $150,000 (Sec. 122(d)(1)). Additionally, Congress made clear its preference that university affiliated facilities whose grants for the fiscal year ending September 30, 1978 exceeded that amount should not have their grants reduced in order to meet the minimum grant requirement. (See H.R. Report No. 95–1780, 95th Congress, second session, p. 111).

Section 1388.14 implements these provisions and makes allowances for appropriation levels which might not permit both policies to be carried out. The Act does not, however, make provision to establish priorities among competing interests in case the appropriation is less than the amount needed to make a minimum grant to every university affiliated facility that qualifies. If such a situation should occur, the Commissioner will determine and publish the criteria for funding.

Subpart C—Supplemental Grants

A new program of discretionary grants is authorized by Section 121(b), and is implemented by this subpart.

§ 1388.20 Purpose of grants.

Section 121(b) of the Act lists four activities which may be funded under this subpart. Grants may be made for (1) conduct of a study of the feasibility of establishing a satellite center, (2) assessment of the need for trained personnel, (3) provision of service related training to practitioners, and (4) conduct of an applied research program. The purpose of the regulation is to provide to a prospective grantee all information necessary to make a decision about whether to apply for a grant.

§ 1388.21 Eligible applicants.

This section implements Section 121(b) by requiring that only university affiliated facilities being funded under Subpart B (Grants for administration and operation of university affiliated facilities) are eligible for supplemental grants.

Subpart D—Grants for Satellite Centers

Several provisions of the Act regarding satellite centers are implemented in this subpart.

§ 1388.30 Purpose of grants.

§ 1388.31 Specific requirements for applications.

These sections specify the purpose of the grants, who can apply, and what special information must be included in the application, such as a reference to the study which established the feasibility of the center. The requirements are restated from Sec. 121(b) and (c) of the Act. The sections alert grantees to special conditions which apply to these grants.

§ 1388.22 Minimum grants.

Section 122(d)(2) of the Act establishes a minimum grant for satellite centers of $75,000. The specification is included to clarify the conditions for grants.

Authority: These regulations are issued under the authority of Sec. 109 of Title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. Title I is known as the Developmental Disabilities Assistance and Bill of Rights Act.

(Catalog of Federal Domestic Assistance Program; (13.632 Developmental Disabilities—Demonstration and Training (University Affiliated Facilities.)))

Dated: July 11, 1979.

Robert Humphreys,

Commissioner, Rehabilitation Services Administration.

Dated: July 11, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

Approved: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

Part 1388 is added to title 45, Chapter XIII to read as follows:

PART 1388—THE UNIVERSITY AFFILIATED FACILITIES PROGRAM

Subpart A—General

Sec.
1388.1 Purpose of the university affiliated facility program.
1388.2 Definitions.
1388.3 Eligible costs.
1388.4 Grant administration requirements.
1388.5 Federal share.
1388.6 Application content for all grants under this part.
1388.7 Payments.
1388.8 Availability of funds.

Subpart B—Grants for Administration and Operation of University Affiliated Facilities

1388.10 Purpose of grants.
1388.11 Eligibility requirements for applicants.
1388.12 Application content for university affiliated facilities.
1388.13 Standards for university affiliated facilities.
1388.14 Minimum grants.

Subpart C—Supplemental Grants

1388.20 Purpose of grants.
1388.21 Eligible applicants.

Subpart D—Grants for Satellite Centers

1388.30 Purpose of grants.
1388.31 Specific requirements for applications.
1388.32 Minimum grants.

Authority: Pub. L. 91–517; Pub. L. 94–103; Pub. L. 95–602.

Subpart A—General

§ 1388.1 Purpose of the university affiliated facility program.

(a) The basic purposes of the university affiliated facility program are to train personnel to provide complex, high quality services to persons with developmental disabilities, and to assist in several ways, in improving the quality of services provided by other agencies which serve those persons.

(b) In order to carry out these purposes, the Act authorizes three kinds of grants:

(1) To administer and operate university affiliated facilities (See Subpart B.);

(2) To existing university affiliated facilities to carry out one or more additional specified activities (See Subpart C.);

(3) To extend the services of university affiliated facilities, through satellite centers, to unserved geographic areas (See Subpart D.).

§ 1388.2 Definitions.

For purposes of this part:

"The Act" means the Developmental Disabilities Assistance and Bill of rights Act, as amended by Pub. L. 95–602.

"Commissioner" means the Commissioner of the Rehabilitation Services Administration.

"Developmental disability" means a severe, chronic disability of a person which—

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age twenty-two;

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three or more of the following areas of major life activity: (1) Self-care; (2) receptive and expressive language; (3) learning; (4) mobility; (5) self-direction; (6) capacity for independent living; and (7) economic sufficiency; and

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

"Satellite Center" means an entity which is affiliated with one or more university affiliated facility or facilities to deliver services to persons with developmental disabilities, and their families, who reside in geographical areas where adequate services are not otherwise available.

"Standard" means a principle with which university affiliated facilities are compared in order to determine their eligibility for funding.

"State planning council" means an organization established under Sec. 137 of the Act.

"University affiliated facility" means a public or non-profit facility which is associated with, or is an integral part of, a college or university and which provides for at least the following activities:

(a) Interdisciplinary training for personnel concerned with developmental disabilities;

(b) Demonstration of the provision of exemplary services relating to persons with developmental disabilities;

(c)(1) Dissemination of findings relating to the provision of services to persons with developmental disabilities, and (2) providing researchers and government agencies sponsoring service-related research with information on the needs for further service-related research.

§ 1388.3 Eligible costs.

Grant funds, including the grantee's share, must be used only for administration and operation of a university affiliated facility or a satellite center.

§ 1388.4 Grant administration requirements.

The following parts of Title 45 CFR apply to grants funded under this part. The applicable provisions are noted in each part:

45 CFR Part 16—Department Grants Appeals Process
45 CFR Part 46—Protection of Human Subjects
45 CFR Part 74—Administration of Grants
45 CFR Part 75—Informal Grant Appeals Procedures, Subpart A (Indirect Cost Appeals)
45 CFR Part 80—Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health, Education, and Welfare—Effectuation of Title VI of Civil Rights Act of 1964
45 CFR Part 81—Practice and Procedure for Hearings under Part 80 of this title
45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance
45 CFR Part 86—Nondiscrimination on Basis of Sex in Education Programs and Activities Receiving or Benefitting from Federal Financial Assistance

§ 1388.5 Federal share.

The Federal share of any approved project may not exceed 75 percent of the necessary cost as determined by the Commissioner, except that if the project is located in and serves primarily people who live in an urban or rural poverty area, the Federal share may be as much as 90 percent of the project's cost.

§ 1388.6 Application content for all grants under this part.

An applicant for any grant under this part must submit an application at the time and in the manner and detail prescribed by the Commission in program announcements, including:

(a) An assurance that the grant will not result in any decrease in State, local, and other non-Federal funds made available to the grantee for services for persons with developmental disabilities and for training of persons to provide such services. The grantee must use grant funds to supplement and, to the extent practicable, increase the level of those funds;

(b) A plan, including a description of the methodology, to evaluate the project.

§ 1388.7 Payments.

Payments are made according to the provisions of 45 CFR Part 74.

§ 1388.8 Availability of funds.

(a) For Federal fiscal year (FY) 1979, the first $9,000,000 appropriated will be made available for grants for administration and operation of university affiliated facilities and for satellite centers. For FY 1980, and FY 1981, the corresponding amounts are $10,000,000 and $11,000,000 respectively.

(b) If the appropriation is larger than the amount specified in paragraph (a) of this section, at least 40 percent of the excess amount will be made available for supplemental grants and grants to satellite centers.

(c) Amounts and purposes of grants will be publicized each year in program announcements in the **Federal Register.**

Subpart B—Grants for Administration and Operation of University Affiliated Facilities

§ 1388.10 Purpose of grants.

The purpose of grants to university affiliated facilities is to assist them to administer and operate demonstration facilities for the provision of services to persons with developmental disabilities, and interdisciplinary training programs for personnel needed to provide specialized services for these persons.

§ 1388.11 Eligibility requirements for applicants.

A public or non-profit facility which is associated with, or is an integral part of, a college or university is an eligible applicant if it provides reasonable assurances that—

(a) The facility is in full compliance with the standards set forth in § 1388.13; *or*

(b) Progress is being made toward bringing the facility into full compliance and that it will be in full compliance within three years.

§ 1388.12 Application content for university affiliated facilities.

An application must include either of the following:

(a) A description and explanation of the ways the facility meets each of the four standards in § 1388.13; or

(b) A description and explanation of:

(1) The goals for achievement of the standards;

(2) Steps to be taken to achieve those goals; and

(3) A timetable for the steps and for achievement of each goal.

§ 1388.13 Standards for university affiliated facilities.

All university affiliated facilities must comply with the following standards within the time period specified in § 1388.11:

Standards

(a) *Administration.* The university affiliated facility must be administered effectively and economically.

(1) The administration of the university affiliated facility must be designed to provide a program in which all elements can be held accountable for performance prescribed in terms of planned, measurable goals.

(2) The university affiliated facility must base its planning on systematically acquired information in order to provide direction to allocations of staff and resources to meet its goals.

(b) *Interdisciplinary training.* The university affiliated facility shall conduct an effective interdisciplinary training program for persons concerned with developmental disabilities. The training shall enable students to:

(1) Develop skills for effective participation in interdisciplinary team processes;

(2) Become aware of, and use appropriately, the contributions of other professions in the treatment and care of the developmentally disabled; and

(3) Realize the interdependent nature of various disciplines in serving the developmentally disabled and alter the trainees' practice of their own disciplines accordingly.

(c) *Exemplary services.* The university affiliated facility shall demonstrate exemplary services relating to the special needs of persons with developmental disabilities who are of various ages.

(1) "Exemplary services" means services that are of high quality and deserving of replication. These services might include direct services such as diagnosis, evaluation, treatment, training, and remediation services, or indirect services such as prevention, public awareness, information and referral, and advocacy.

(2) The purposes of demonstrating exemplary services are: To provide evidence for improvements in services; to utilize more effective approaches to problems; to make traditional approaches more cost effective; and to show how to deliver a specialized service in a generic setting or facility not located in a university setting.

(d) *Dissemination of information.* The university affiliated facility shall disseminate to practitioners and administrators findings relating to the provision of services to persons with developmental disabilities. It shall also provide researchers with information on the needs for further service-related research. "Dissemination of findings" means the production of publications and training materials, and the holding of seminars and the like, for practitioners and administrators concerned with providing services to persons with developmental disabilities.

(1) The university affiliated facility shall make material available to practitioners, administrators, and researchers. It shall contain any necessary precautionary statements along with any claims that are made.

(2) The university affiliated facility shall develop a plan for the dissemination of information to assure that the material is relevant to practitioners, administrators, and researchers who plan, devise, or deliver services to persons with developmental disabilities.

§ 1388.14 Minimum grants.

(a) The amount of any grant under this subpart may not be less than $150,000 for any fiscal year.

(b) To the extent possible within the appropriation for the fiscal years ending September 30, 1979, 1980, and 1981, grants which exceeded $150,000 in the fiscal year ending September 30, 1978 may not be reduced.

Subpart C—Supplemental Grants

§ 1388.20 Purposes of grants.

Grants may be awarded for one or more of the following activities:

(a) To assess the need for trained personnel to provide assistance to persons with developmental disabilities;

(b) To provide service-related training to practitioners providing services to persons with developmental disabilities;

(c) To conduct an applied research program designed to produce more efficient and effective methods (1) to deliver services to persons with developmental disabilities, and (2) to train professionals, para-professionals, and parents who provide these services;

(d) To conduct a feasibility study of the ways in which a university affiliated facility, singly or jointly with other university affiliated facilities funded under Subpart B, can establish and operate one or more satellite centers located in areas not served by a university affiliated facility. The study must be carried out in consultation with the State planning council for the State in which the facility is located and where the satellite center will be established. The amount of any grant for this purpose may not be more than $25,000.

§ 1388.21 Eligible applicants.

Only a university affiliated facility receiving a grant under Subpart B is eligible to receive supplemental grants.

Subpart D—Grants for Satellite Centers

§ 1388.30 Purpose of grants.

The purpose of these grants is to assist university affiliated facilities to extend their services into geographical areas where adequate services are not otherwise available.

§ 1388.31 Application content.

(a) The applicant shall be a university affiliated facility or a satellite center.

(b) The requirements listed in § 1388.6 must be met. The application must contain the name of the university affiliated facility which carried out the study of the feasibility of establishing the satellite center, and a description of the geographical areas to be served by the center. It must also contain a description of the services to be provided and the resources available to support them.

§ 1388.32 Minimum grants.

Any grants made to a satellite center which received a grant for its administration and operation in the fiscal year ending September 30, 1978 may not be less than $75,000.

[FR Doc. 79-24198 Filed 8-3-79; 8:45 am]
BILLING CODE 4110-92-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73, 76

[BC Docket No. 78-291; FCC 79-433]

Personal Attacks and Applicability of the Fairness Doctrine to Section 315 "Uses"

AGENCY: Federal Communications Commission.

ACTION: Final rule.

V 4 4 / 1 5 2

SUMMARY: The Federal Communications Commission is amending its regulations relating to the personal attack rule. This rule provides that broadcast licensees must afford reasonable opportunity for response to persons who are personally attacked under circumstances set forth in the rule.

In addition, the adopted amendment exempts from the rule those situations covered by Section 315 of the Communications Act. Section 315 provides that licensees must afford equal opportunities to legally qualified candidates for public office. This amendment brings the personal attack rule into line with the Commission's policy that the fairness doctrine does not include legally qualified candidates using broadcast facilities.

EFFECTIVE DATE: September 7, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Edythe Wise, Broadcast Bureau, (202) 632-7586.

Report and Order

Adopted: July 12, 1979.
Released: July 30, 1979.

In the matter of amendment of Part 73 of the rules regarding Personal Attacks, and Applicability of the Fairness Doctrine to Section 315 "Uses," BC Docket No. 78-291. See 43 FR 50005, October 26, 1978.

Introduction

1. The Commission has before it a Notice of Proposed Rule Making and Notice of Inquiry[1] regarding, respectively, proposed amendments to Part 73 of the rules regarding personal attacks (47 CFR 73.1920) and the applicability of the Fairness Doctrine to Section 315 "uses."

2. Timely comments on the Notices were filed by nine parties: National Radio Broadcasters Association (NRBA), American Broadcasting Companies, Inc. (ABC); the firm of McKenna, Wilkinson and Kittner on behalf of 11 licensees (McKenna); National Association of Broadcasters (NAB); National Broadcasting Company, Inc. (NBC); Rochester Area Educational Television Association, Inc. (RAETA); Harte-Hanks Southern Communications, Inc. (Harte-Hanks Southern); CBS, Inc.; and Media Access Project (MAP), on behalf of the American Civil Liberties Union, the National Organization for Women and National Media Reform Committee. Reply comments were filed by NBC, ABC and MAP.

3. The Notices were issued in response to a request by NBC for a declaratory ruling that the personal attack rule is not applicable to broadcast "uses" covered by Section 315 of the Communications Act of 1934, as amended, and that the Fairness Doctrine and the equal opportunities requirement of Section 315(a) are mutually exclusive.

4. We indicated in the Notices that since licensees have no control over candidates' appearances because of the no-censorship clause of Section 315, we do not believe it is justifiable to impose Fairness Doctrine obligations on them in connection with Section 315 "uses." We expressed our belief that our precedents in *Gloria Sage (WHEN-TV)*, 62 FCC 2d 135 (1976), *Application for Review denied*, 63 FCC 2d 148 (1977), and the Supreme Court decision in *Farmers Educational and Cooperative Union of America, North Dakota Division* v. *WDAY, Inc.*, 360 U.S. 525 (1959) (WDAY) support our policy of considering the Fairness Doctrine and Section 315 as mutually exclusive. We further stated that, on the other hand, in *Capital Cities Broadcasting Corp.*, 13 FCC 2d 869 (1968), the Commission had decided that there should not be "an exemption or waiver in the case of an attack by a candidate on a person not a candidate or associated with a candidate." In deciding not to create such an exemption the Commission concluded that a new exemption would be unnecessary in light of the infrequency of such fact patterns. We also concluded that, "* * * the obligation to notify a person that he has been attacked and to send him a copy of the attack and an offer of an opportunity to reply is not comparable to the possible liability for large sums of money in damages which may result from civil action based on the broadcast of defamatory remarks." *Id.* at 870.[2] However, in the instant Notices we stated that since the personal attack rule is one aspect of the Fairness Doctrine,[3] and the Fairness Doctrine, in turn, depends upon licensee discretion, applying the personal attack rule to Section 315 "uses" is inconsistent with our policy of regarding the Fairness Doctrine and Section 315 "uses" as mutually exclusive. In the Notices, we proposed a rule amendment exempting Section 315 "uses" from the personal attack requirements. In addition we invited comments on our present policy of exempting Section 315 "uses" from application of the Fairness Doctrine.

5. Present Subparagraph (b) of the personal attack rule states that the requirements that licensees notify persons attacked, etc. are not applicable:

(1) To attacks on foreign groups or foreign public figures;

(2) To personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign on other such candidates, their authorized spokesmen or persons associated with the candidates in the campaign; and

(3) To bona fide newscasts, bona fide news interviews and on-the-spot coverage of a bona fide news event, including commentary or analysis in the foregoing programs.

6. In the instant Notices, we proposed to amend Subparagraph (b) to read as follows:

The provisions of Paragraph (a) of this section shall not be applicable:

(1) To attacks on foreign groups or foreign public figures;

(2) To personal attacks which are made by legally qualified candidates;

(3) To personal attacks made by the authorized spokespersons of legally qualified candidates or those associated with such candidates in the campaign on other such candidates, their authorized spokespersons, or persons associated with the candidates in the campaign; and

(4) To bona fide newscasts, bona fide news interviews and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs.)

7. Briefly stated, this proceeding raised three questions for comment: (1) Whether the Commission should continue its policy of treating Section 315 "uses" as separate from the Fairness Doctrine; (2) whether the Commission should amend § 73.1920 so as to overrule *Capital Cities, supra*, and exempt all personal attacks occurring during Section 315 "uses"; and (3) whether, if the Fairness Doctrine were to apply to Section 315 "uses," *Cullman*[4] should also apply.

[1] 43 FR 45899 (1978). Adopted September 14, 1978; Released September 28, 1978. Comments were due on or before December 15, 1978 and reply comments on or before January 16, 1979.

[2] *WDAY, supra*, stated, in effect, that licensees were not liable for remarks made during "uses" by legally qualified candidates.

[3] In the 1974 *Fairness Report*, 48 FCC 2d 1 (1974), we stated that "* * * the personal attack and political editorializing rules are a particularization of what fairness requires in these situations."

[4] *Cullman Broadcasting Co.*, 40 FCC 576 (1963) provides that: "Where the licensee has chosen to broadcast a sponsored program which for the first time presents one side of a controversial issue, has not presented (or does not plan to present) contrasting viewpoints in other programming, and has been unable to obtain paid sponsorship for the appropriate presentation of the opposing viewpoint or viewpoints, he cannot reject a presentation otherwise suitable to the licensee—and *thus leave*

Footnotes continued on next page

8. The proposal to amend the personal attack rule to exempt all "uses" and to continue the Commission policy if not applying the Fairness Doctrine to "uses" was supported by 8 of the 9 parties filing comments on it. For the most part, those responding based their support on the argument that the Fairness Doctrine is inapplicable to Section 315 "uses." They stated that, as a corollary of the Fairness Doctrine, the personal attack rule cannot be applied to "uses" if the Fairness Doctrine cannot. We will consider the question of the general applicability of the Fairness Doctrine to Section 315 "uses" first.

Comments

I. Applicability of the Fairness Doctrine to Section 315 "Uses"

A. *Statutory Language of the 1959 Amendments to Section 315.* 9. Several respondents stated that the wording of the 1959 amendments [5] to Section 315, indicates that Congress intended Section 315 "uses" and the Fairness Doctrine to be mutually exclusive. They quoted the portion of the amendment which states that the 1959 amendments were not to be "construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries and on-the-spot coverage of news events, from the obligation imposed upon them to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views of public importance." They pointed out that Congress thereby approved imposition of fairness obligations on the exempt programs, but apparently assumed that these fairness obligations do not attach to Section 315 "uses."

B. *Legislative History of the 1959 Amendments.* 10. NBC, ABC and McKenna asserted that the legislative history of the 1959 Amendment to Section 315 supports continued exemption. NBC cited the comments of Senator Pastore (then Chairman of the Senate Communications Subcommittee and Manager of the Senate's bill to exempt news programming) which were quoted by the Commission in *Gloria Sage*, 63 FCC 2d at 150. Senator Pastore stated that the "standard of fairness applies to political broadcasts not coming within the coverage of Section 315 * * *." MAP disagreed that this supports our conclusion on *Sage* and quoted a letter from the Justice Department to Chairman Magnuson of the Senate Interstate and Foreign Commerce Committee:

> Inclusion of such language (i.e., language exempting newscasts) in any amendment to Section 315 should not be construed as limiting the station's obligations to present conflicting views on public issues to the particular political situations covered in Section 315 of the Act, *or* those exempted via this legislation. S. Rep. No. 562, 86th Cong., 1st Sess. 19 (1959).

MAP stated that the Committee quoted the Justice Department's letter with approval in its report on S. 2424. NBC in reply comments asserted that MAP took the quotation out of context, and that the sentences preceding the one quoted by MAP stated:

> This general fairness standard is presently applicable to political broadcasting *not coming within the coverage of Section 315* such as speeches by spokesmen for candidates, *as contrasted with the candidates themselves.* (Emphasis added; citations omitted.) It would automatically be applicable to any additional types of political programming which might be exempted from the coverage of Section 315.

NBC contended that the letter indicates that the Justice Department understood and accepted the fact that Section 315 and the Fairness Doctrine are mutually exclusive.

C. *The Public's Right to Be Informed.* 11. The Fairness Doctrine presently applies to appearances by candidates on those news programs which are exempt from the equal opportunities provision of Section 315(a).[6] However, under *Zapple, supra*, the Commission held that when during an election campaign a licensee sells time to supporters or spokespersons of a candidate who urge the candidate's election, discuss the campaign issues, or criticize an opponent, then the licensee must afford comparable time to the spokesperson for an opponent. Known as the quasi-equal opportunities or political party corollary to the Fairness Doctrine, the *Zapple* Doctrine is based on the equal opportunity requirement of Section 315. There was general agreement among respondents that the public's right to be informed on the issue of "who among all the candidates should be elected" is adequately covered by Section 315 "equal opportunities," the *Zapple* Doctrine and the present application of the Fairness Doctrine to exempt appearances. However, MAP contended that the Fairness Doctrine should be applied to all other controversial issues of public importance brought up in Section 315 uses. MAP cited *Gloria Sage*, in which Ellen McCormack, a presidential candidate, obtained low-cost, uncensored time to express her views on abortion. MAP claimed that, like Ellen McCormack, some candidates know they cannot win, but use their candidacy to advocate one issue thus paving the way for future elections. MAP asserted than when a candidate seizes upon one controversial issue, other candidates, knowing that the one-issue candidate will not win and not wishing to damage their own chances for election, may avoid taking any position on the issue. In reply comments, NBC stated that in an election the definition of the issue as "who among all candidates should be elected" does not depend on whether the candidate campaigns on a single issue or multiple issues. NBC also commented that in *Gloria Sage* the issue of abortion, being a controversial issue of public importance, had already received balanced coverage. ABC and McKenna pointed out that since the Fairness Doctrine applies to news appearances by candidates, campaign issues are adequately covered without applying the Fairness Doctrine to "uses." Furthermore, ABC, NBC and McKenna commented that if an issue is important and controversial, it will normally be afforded treatment by broadcasters apart from appearances by candidates or their supporters not only because the Fairness Doctrine requires coverages of such issues, but also because good news and public affairs coverage would require it.

D. *Application of the Cullman Doctrine to Section 315 "Uses."* 12.

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the public uninformed—on the ground that he cannot obtain paid sponsorship for that presentation." (Emphasis in original.) However, in *Nicholas Zapple*, 23 FCC 2d 707 (1970), the Commission held that the Cullman Doctrine does not apply to the Zapple "political supporters" policy (a corollary of the Fairness Doctrine which provides "quasi equal opportunities" for candidates' supporters).

[5] The 1959 amendments exempted from equal opportunities obligations, bona fide newscasts, bona fide news interviews, bona fide news documentaries and on-the-spot coverage of bona fide news events.

[6] With respect to a broadcaster's news coverage of election campaigns, the Fairness Doctrine applies in the following ways. If a news program deals specifically with the question of why a particular candidate should or should not be elected, generally the issue presented is who among all the candidates should be elected. Each candidate constitutes a separate "view" on this issue. Since under the Fairness Doctrine licensees need only present significant contrasting views on controversial issues of public importance, the licensees have the discretion, in presenting contrasting views on such issues in their news programming, to select those candidates whom they consider significant. A candidate also may appear on news programs and discuss, in addition to viewpoints on why he or she should be elected, other controversial issues of public importance which may or may not be specifically related to his or her campaign. In these situations the general Fairness Doctrine principles cited above would apply, including the discretion which licensees have in the selection of spokespersons to present contrasting views. See *U.S. Labor Party*, 57 FCC 2d 1273 (1976); *American Independent Party and Eugene McCarthy*, 62 FCC 2d 4 (1976.)

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Although we received extensive comments on the possible problems which could arise from the application of the Cullman Doctrine to Section 315 "uses" (See Paragraph 7, *supra*) we find it unnecessary to discuss them in view of our overall decision herein as to the applicability of the Fairness Doctrine to Section 315 "uses."

II. The Application of the Personal Attack Rule to Section 315

A. The Relationship between the Fairness Doctrine and the Personal Attack Rule. 13. NBC declared that, when the Commission adopted the personal attack rule, it stated:

> The addition of (the personal attack rule) to the rules serves to codify what has long been the Commission's interpretation of the personal attack aspect of the Fairness Doctrine. (In *the Matter of Amendment of Part 73 of the Rules to Provide Procedures in the Event of a Personal Attack*, 8 FCC 2d, 721, 723 (1967).)

In that regard, ABC, Harte-Hanks, RAETA and NBC argued that, although the personal attack rule did not exist at the time of the 1959 amendments to Section 315, as a corollary of the Fairness Doctrine, the personal attack rule cannot apply to Section 315 if the Fairness Doctrine does not.[7] MAP, in reply comments, disagreed, arguing that it is not necessary to "alter regulations for the sake of symmetry."

B. Can Licensees Be Held Responsible under "Capital Cities" in View of the No-Contol No-Censorship Standard Articulated by the Court in WDAY, and the Commission in Sage? 14. All respondents agreed that there is an inconsistency between the *Sage* and *WDAY* decisions on one hand and *Capital Cities* on the other. Most of the respondents stated that the conflict should be resolved by overruling *Capital Cities* and amending the personal attack rule, thus ending all vestiges of the application of the Fairness Doctrine to Section 315 "uses." MAP, however, asserted that the Commission should resolve the conflict by overruling *Sage*, which MAP contends was based on the Commission's erroneous interpretation of the legislative history of the 1959 Amendments to Section 315.[8] MAP argued further that the *Capital Cities* does not conflict with the Court's holding in *WDAY* because the Court's purpose in holding licensees immune from libel actions rising from Section 315 "uses" was not to protect broadcasters but to guard against the threat of *de facto* censorship of Section 315 "uses" by broadcasters. Furthermore, MAP contends, the Supreme Court in *Gertz* v. *Welch*, 418 U.S. 323 (1974) ruled that a state could not impose liability without a fault standard. Therefore, argued MAP, it would have been unconstitutional to hold a broadcaster liable for Section 315 "uses." MAP pointed out that Fairness Doctrine obligations are not contingent on fault.

15. In opposition to MAP, ABC and NBC urged that the Commission overrule *Captial Cities*. NBC claimed that in applying the personal attack rule to a "use" in the *Capital Cities* case, the Commission wrongly distinguished *WDAY* on the grounds that the burden of the personal attack rule is slight compared with the threat of civil liability and is outweighed by the benefit to the public. To the contrary, stated NBC, a violation of the personal attack rule is punishable by forefitures of up to $20,000 (47 USC 503b). Harte-Hanks asserted that since the Supreme Court in *WDAY*, established licensee immunity for libelous material broadcast in "uses," it is unfair and anomalous for a station to incur administrative liability in a situation in which the Supreme Court has held it can incur no civil liability.

16. MAP contended that licensee lack of control over Section 315 "uses" is irrelevant to the question of Fairness Doctrine responsibilities since the Commission holds a licensee responsible for other programs, e.g., non-product advertisements, network programming and coverage of critical news events, which it did not produce and over which it has little control. NBC disagreed, stating that broadcasters have the right to prescreen and reject non-uses. NBC claimed that, as a matter of practice, it prescreens all materials to assure compliance with its policies. MAP contended that since the goal of the Fairness Doctrine is that the public be informed, the argument that the broadcasters should not be responsible for what they cannot censor is a logical non-sequitur since their inability to censor incresases the public need to hear the other side of the issue. MAP asserted that once the public has been subjected to a one-sided presentation, only the licensee is able to assure that the public is informed of the other side; and it is the right of the public to be informed which the Fairness Doctrine is designed to insure.

17. NBC stated that *Capital Cities* erred in its assumption that the present application of the personal attack rule is of value in informing the public of both sides of controversial isues of public importance discussed during "uses." NBC contended that the political "spot" which led to its request for a declaratory ruling is illustrative of the confusion created by the application of the personal attack rule to campaign issues. In that "spot" a political candidate, Andrew Stein, claimed that as an assemblyman he had "fought" Bernard Bergman, a non-candidate, whose "nursing homes treated sick people like animals." NBG felt that Mr. Stein's remarks constituted a personal attack on Mr. Bergman and, in accord with *Capital Cities*, offered Mr. Bergman an opportunity to respond, but questioned the wisdom of applying the personal attack rules in this situation. NBC stated that since the issue raised in the "spot" was whether the candidate was the man best suited to the office, the natural spokespersons were the candidate's opponents. NBC contends that Mr. Bergman's interest was in vindicating his reputation, which is a private right that he could have pursued in court.

18. Several of those commenting noted that in *Capital Cities* the Commission stated that personal attacks on non-candidates are rare in Section 315 "uses." Harte remarked that since such attacks are rare, the creation of the proposed exemption would not upset the present balance. ABC contended that the infrequency of personal attacks by candidates on non-candidates is not, in itself, a valid reason for not exempting such attacks from the personal attack rule.

III. Language Change

19. CBS suggested that the language of the proposed amendment be modified to make it clear that attacks made during "uses" by candidates' spokespersons are exempt.

Discussion

20. In the *Notices* we stated that the non-censorship provision of Section 315 has become the primary basis for distinguishing Section 315 "uses" from those broadcasts to which the Fairness Doctrine is applicable. See *Fairness Report, supra; Gloria Sage, supra.* A licensee has no control whatsoever over the content of a "use" by a candidate. However, it not only has control over other broadcasts, but is responsible for the content of them. It follows, therefore, that there should be a distinction between broadcasts involving Section 315 "uses" and those to which the Fairness Doctrine is applicable.

21. The Fairness Doctrine is based upon a presumption of licensee discretion in dealing with controversial issues of public importance. The personal attack rule is one aspect of the Fairness Doctrine. Generally, when a personal attack is made on an individual or group during the discussion of a controversial issue of public importance, an adequate opportunity to respond must be offered by the licensee, with three exceptions as set out in § 73.1920 (See Para. 5, *supra*). In our Report and Order adopting the personal attack rule we stated, "[t]his duty devolves upon the licensee, because other than in the case of a broadcast by political candidates, the licensee is responsible for all material broadcast over his facilities."[9] Thus, when we adopted the personal attack rule we recognized that licensees had no responsibility for the material broadcast during Section 315 "uses."

22. We see no merit in the assertion that because a licensee does not produce network programming, non-product advertising and critical news events, its lack of control over such programming is comparable to the non-censorship clause mandated by Section 315. As MAP points out, The Commisson has made it clear that a licensee may not delegate responsibility for its Fairness Doctrine Programming and is perfectly free to censor or refuse on the basis of content any programming other than a "use." The mere fact that a licensee has little or no input into the production of programming does not relieve it of its responsibility for the content of what is broadcast. Moreover, the examples cited by MAP on this point are largely concerned with the licensee's role in the production of programming; they do not go to the right and opportunity of the licensee to reject the program prior to broadcast. MAP's comparison of network programming with "uses" is particularly inapposite. Although individual licensees may not delegate responsibility for programming to a network,[10] networks are in a position to comply with the Fairness Doctrine, and frequently complaints regarding network programming are resolved at the network level. The concept that licensees are required to accept unbalanced programming from a network and are then forced to produce their own programming to provide balance is not substantiated by our experience. On the other hand, Section 315(a) prohibits censorship by the Broadcaster of any "use" by a candidate. If a station has agreed to give or sell a candidate time, it may not cancel the program because of its content or require that the program content be changed. In addition, once the broadcaster has permitted a candidate to "use" its facilities, it must allow the candidate's opponent "equal opportunities" if the candidate requests it. Furthermore, under Section 312(a)(7) of the Act, the broadcaster is required to grant "reasonable access" to federal candidates.

23. We see no reason for the Commission to change its belief, stated in *Sage* and the *Fairness Report*, that the statutory language and legislative history of the 1959 amendments to Section 315 indicate that Congress intended that Section 315 "uses" and the Fairness Doctrine be mutually exclusive. As to MAP's contention that the Justice Department's letter indicates that Congress intended that the Fairness Doctrine be applied to Section 315 "uses," although the sentence quoted by MAP may seem to support MAP's position, the preceding sentences quoted by NBC clearly indicate that the Justice Department considered Section 315 "uses" and the Fairness Doctrine to be mutually exclusive. Furthermore, suggestions from the executive branch do not control the actions of the legislative branch, and even if the letter totally supported the application of the Fairness Doctrine to Section 315 "uses," it would not, in itself, be sufficient to overcome the statutory language and the other legislative history indicating that Congress intended the Fairness Doctrine to apply where Section 315 "uses" do not.

24. We reach now the question of whether the public's right to be informed on controversial issues of public importance should take precedence over the Commission's policy of not holding licensees responsible for "uses" since they have no control over them. We see little merit in MAP's contention that unless the Fairness Doctrine is applied to "uses" a candidate paving the way for future elections might attempt to use Section 315 to accomplish an unbalanced media blitz on a controversial issue of public importance. This is highly speculative reasoning. First, the time during which such a candidate would demand time is limited. Second, if the issue is such an important one that it would be used in such a manner by a candidate, it is very likely that licensees will be covering such issues in their overall programming. In any event, we have no evidence that there has been any one-sided presentation of a controversial issue of public importance in the manner envisioned by MAP. If such situations become prevalent in the future, we of course will revisit these matters at this time.

25. Regarding the application of the personal attack rule to Section 315 "uses," we are unpersuaded by MAP's assertion that "it is unnecessary to alter regulations to achieve symmetry" between the Fairness Doctrine and the personal attack rule. It is important to remember that the Commission did not adopt the personal attack rule to provide a vehicle for the vindication of individual reputations. This is a private matter to be resolved in the courts. The personal attack rule was adopted to further the purpose of the Fairness Doctrine, which is to assure that the public be informed of contrasting viewpoints on controversial issues of public importance. As noted in paragraph 23, above, we believe that the statutory language of Section 315, read in light of its legislative history, indicates that the Fairness Doctrine does not apply to "uses." Therefore, it would be inappropriate for us to apply the personal attack rule, which is a corollary of the Fairness Doctrine, to "uses."

26. We need not attempt to resolve the potential conflict between *Cullman, supra*, and *Zapple, supra*, in relation to their application to Section 315 "uses" since we intend to remove all application of the Fairness Doctrine from Section 315 "uses."

Conclusion

27. After carefully reviewing the comments and reflecting on our own experience, we have decided to continue our policy of regarding the Fairness Doctrine and Section 315 "uses" as mutually exclusive. We have also decided to bring the personal attack rule into conformity with that policy by amending the personal attack rule as set forth below. In accordance with CBS' suggestion, although not adopting its proposed language, we have made a minor change in the language of the proposed new amendment to make clear that the exemption extends also to attacks made by non-candidates during "uses."

28. The specific changes in the rule are as follows: In Paragraph (b) words "be applicable" are changed to the words "apply to broadcast material which falls within one or more of the following categories." In paragraphs (b)(1), (2), (3), and (4), the first word, "to," is deleted. In paragraph (b)(1) "attack" is amended to read "personal attack" thus making

[7] See Paragraph 9, *supra*, in which some parties argued that the statutory language of the 1959 amendments to Section 315 indicates that Congress did not intend the Fairness Doctrine to be applied to Section 315 "uses."

[8] See paragraph 10, *supra*.

[9] Amendment of Part 73 of the Rules to Provide Procedures in the Event of a Personal Attack or Where a Station Editorializes as to Political Candidates, 28 FCC 2d 721, 723 (1967).

[10] Stations having agreements with networks under which they cannot reject programs cannot be licensed under Commission Rules [Section 73.658(e)].

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the wording parallel to the wording in the other paragraphs. In the first sentence of Paragraph (b)(2), the words, "which are made" are deleted and "occurring during uses" substituted to make clear that any personal attack made during a "use" is exempt even if the person being attacked is not a candidate or associated with a candidate. The remainder of former Paragraph (b)(2) becomes new Paragraph (b)(3), adding the words "made during broadcasts not included in (b)(2)" to retain all the exemptions in former Paragraph (b)(2). Thus, as in the previous rule, attacks not made during "uses" are also exempt if they are made by legally qualified candidates, authorized spokespersons of legally qualified candidates or those associated with them in the campaign on other such candidates, their authorized spokespersons or persons associated with the candidates in the campaign. Paragraph (b)(4) remains the same except for the deletion of the word "to."

29. For the reasons set forth above for amending our rules on broadcasts involving personal attacks, we are making similar amendments to our rules on origination cablecasts involving personal attacks, as set forth below.

30. Authority for the adoption of the amendments herein is contained in Section 4(i) of the Communications Act of 1934, as amended (47 U.S.C. 154 [i]).

31. Accordingly, It is ordered, that effective September 7, 1979, Section 73.1920, as set forth below, is amended. Further, it is ordered, that, effective September 7, 1979, § 76.209 is amended as set forth below.

32. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment: Appendix.

Parts 73 and 76 of Chapter I, Title 47, Code of Federal Regulations is amended to read as follows:

PART 73—RADIO BROADCAST SERVICES

1. Section 73.1920(b) is amended to read as follows:

§ 73.1920 Personal attacks.

* * * * *

(b) The provisions of paragraph (a) of this section shall not apply to broadcast material which falls within one or more of the following categories:

(1) Personal attacks on foreign groups or foreign public figures;

(2) Personal attacks occurring during uses by legally qualified candidates.

(3) Personal attacks made during broadcasts not included in paragraph (b)(2) of this section and made by legally qualified candidates, their authorized spokespersons, or those associated with them in the campaign, on other such candidates, their authorized spokespersons or persons associated with the candidates in the campaign; and

(4) Bona fide newscasts, bona fide news interviews, and on-the-spot coverage of bona fide news events, including commentary or analysis contained in the foregoing programs.

* * * * *

PART 76—CABLE TELEVISION SERVICE

2. Section 76.209(c) is amended to read as follows:

§ 76.209 Fairness doctrine; personal attacks; political editorials.

* * * * *

(c) The provisions of paragraph (b) of this section shall not apply to cablecast material which falls within one or more of the following categories:

(1) Personal attacks on foreign groups or foreign public figures;

(2) Personal attacks occurring during uses by legally qualified candidates.

(3) Personal attacks made during cablecasts not included in paragraph (b)(2) of this section and made by legally qualified candidates, their authorized spokespersons or those associated with them in the campaign, on other such candidates, their authorized spokespersons or persons associated with the candidates in the campaign; and

(4) Bona fide newscasts, bona fide news interviews, and on-the-spot coverage of bona fide news events (including commentary or analysis contained in the foregoing programs, but, the provisions of paragraph (b) of this section shall be applicable to editorials of the cable television system operator).

* * * * *

[FR Doc. 79-24202 Filed 8-3-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1245, 1246

[No. 37025]

Revisions to Preliminary Report of Number of Employees of Class I Railroads, and the Monthly Report of Employees, Service and Compensation, Forms A&B

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Informal Conference.

SUMMARY: The Commission is scheduling an informal conference to discuss changes contained in the final rule concerning railroad wage statistics published March 1, 1979, in the Federal Register.

DATES: Informal conference will take place at 9:30 a.m., August 15, 1979.

ADDRESSES: Informal conference will be held at the Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W., Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Tel. No. (202) 275-7448.

SUPPLMENTARY INFORMATION: The Commission published a final rule which revised two reports concerning railroad employees, the Report of Employees, Service, and Compensation (Forms A&B) and the Preliminary Report of Number of Employees of Class I Railroads (see 44 FR 11551, March 1, 1979). The revised forms were to be used for the reporting period beginning July 1, 1979. The National Railway Executives' Association raised objections to this rule which caused us not to permit the rule to take effect at that time. An informal conference was held at the Commission's office in Washington, D.C. on May 15, 1979. At that time, we entertained suggested revisions to the report forms. Another conference was held July 24, 1979, at which the NREA and the Association of American Railroads presented proposed changes to the forms. We now plan another informal conference at 9:30, August 15, 1979, to discuss the final changes. The conference will be open to anyone who wishes to attend.

Anyone not wishing to participate in the conference but desiring to express their views, may file written comments with the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24208 Filed 8-3-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 44, No. 152
Monday, August 6, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 212]

[Docket No. ERA-R-79-32]

Retailer Price Rule for Motor Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Public Hearing.

SUMMARY: On July 15, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued new rules governing the price of motor gasoline sales by retailers. The ERA is convening a public hearing with respect to the portion of the final rule that relates to the governors' authority under the rule to grant increases in the allowable margins for retail dealers. We are convening this hearing in response to comments received thus far, expressing uncertainty and concern about the scope of that provision.

DATES: Requests to speak by August 14, 1979, 4:30 p.m.; hearing date: August 20, 1979, 9:30 a.m.

ADDRESSES: All comments and requests to speak to: Economic Regulatory Administration, Office of Public Hearings Management, Docket No. ERA-R-79-32, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Hearing location: John C. Kluczinski Building, 230 S. Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214-B, 2000 M Street NW., Washington, D.C. 20461, (202) 254-5201

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 634-2170.

SUPPLEMENTARY INFORMATION:

I. Background.

II. Public Hearing Procedures.

I. Background

On July 15, 1979, the ERA issued new rules governing the price of motor gasoline sales by retailers (44 FR 42451, July 19, 1979). The cumbersome historical pricing system was abolished and the ERA adopted instead a maximum lawful price based on a nationwide fixed cents-per-gallon markup. A similar approach had been advocated by both dealers' associations and state enforcement authorities on the grounds, among others, that it was easy to understand and enforce and that the old system of banked costs was inflationary and unfair to small dealers who lacked the capability of maintaining adequate records.

The 15.4 cents margin set by the rules was calculated to reflect a fair and adequate compensation to the vast majority of retailers. But we recognized that, as with any regulatory device, there would be groups or individuals whose situations are sufficiently different from that of the majority that for them the rule may create economic hardships. (This could be the case, for example, for certain retail dealers operating in areas with unusually high rents or labor costs.) Firms in that position are entitled to file an application for exception with the Office of Hearings and Appeals ("OHA"), which was created for the purpose of giving relief to those unfairly impacted by DOE rules. Indeed, OHA has various mechanisms available to expedite consideration of requests for adjustments to the 15.4 cents margin rule, including treating large categories of retailers on a class exception basis.

Notwithstanding the availability of relief through OHA, we felt that it would be desirable to provide an additional mechanism for relief. Accordingly, we provided in 10 CFR 212.93(a)(3) that a governor or his delegate could grant increases in the allowable margin for those retailers in the state who had unusual costs or who otherwise were entitled to a higher margin. (A petition for a cost-justified increase of 10 cents or less could go into effect 10 days after the governor notifies ERA of his action and it is not disapproved by ERA. Other types of margin increases can also be granted by the governor, but only with the prior approval of ERA.)

This additional means of relief has been widely misunderstood and, as a result, has caused considerable concern among state officials and dealers. We want to make clear that it is not intended to be either the only or the principal means of obtaining relief for retailers. We expect that retailers will continue to turn to OHA for exceptions from the price rule—as from other rules. Our previous experience has been, however, that governors through their state energy offices or otherwise have frequently asked us for exceptions to rules in circumstances where inadvertent or disproportionate hardships from the rule could be more readily discerned and evaluated by state or local than by Federal officials. We believe that it is appropriate, therefore, to build into the rules an additional mechanism for obtaining exception relief. Approval by a governor of margins in excess of 15.4 cents-per-gallon was therefore made available in the new rules where the state has the capability to make the necessary cost justification determinations and where that vehicle appears more appropriate to the governor than direct petition to OHA by retailers. It is intended as being an addition to and not a substitute for the ordinary means of obtaining exception relief—the OHA.

In the final rule, DOE indicated it would accept written comments on the rule until November 16, 1979, in order to allow interested parties to submit additional comment on appropriate changes or amendments to the rules once they are in effect. The DOE has already received many comments with respect to 10 CFR 212.93(a)(3), the portion of the final rules that relates to the governors' authority. In light of the uncertainty and concern about the scope of that provision expressed in comments received thus far, we have decided to convene a public hearing on that part of the rule so as to provide a forum for interested persons to comment in person before an ERA panel. The hearing will be held in Chicago, Illinois on August 20, 1979. We will then promptly consider whether modifications of that portion of the rule are appropriate. In the meantime, OHA will remain the primary avenue for obtaining hardship relief from the regulations.

II. Public Hearing Procedures

1. *Procedure to request participation.* The time and place for the public hearing are indicated in the "ADDRESSES" and "DATES" sections of this Notice. If necessary to present all testimony, the public hearing will be

continued to 9:30 a.m. of the first business day following the hearing date shown above.

You may make a written request for an opportunity to make an oral presentation at the hearing. The request should contain a phone number where you may be contacted through the day before the hearing.

We will notify each person selected to be heard before 4:30 p.m., August 16, 1979. Persons scheduled to speak at the hearing will be required to submit one hundred copies of their statement at the hearing location before 9:30 a.m. on the day of the hearing.

2. *Conduct of the hearing.* We reserve the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing, which will not be a judicial or evidentiary-type hearing. Questions may be asked only by those officials conducting the hearing. Each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing. Questions must be submitted three days before the hearing to the same address indicated above for requests to speak. In addition, at the hearing you may submit questions, in writing, to the presiding officer. He or she will determine whether the question is relevant and whether time limitations permit it to be presented for answer. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

In the event that it becomes necessary for us to cancel the hearing, we will make every effort to publish advance notice in the **Federal Register** of such cancellation. Moreover, we will notify all persons scheduled to testify at the hearing. However, it is not possible to give actual notice of cancellations or schedule changes to persons not identified to us as participants. Accordingly, persons desiring to attend the hearing are advised to contact us on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

Issued in Washington, D.C., July 30, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

[FR Doc. 79-24107 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[10 CFR Part 420]

[Docket No. CAS-RM-79-504]

Minimum Criteria for Required Program Measures for State Energy Conservation Plans; Notice of Inquiry

AGENCY: Department of Energy.

ACTION: Notice of Inquiry.

SUMMARY: To be eligible for financial assistance under the State energy conservation plans program, each participating State is required to adopt and implement mandatory, statewide lighting efficiency standards for public buildings, which meet or exceed minimum criteria set forth in the program guidelines. The Department of Energy is considering replacing the minimum criteria for existing, but not new, public buildings. This notice of inquiry is intended to solicit public comment as to whether such a replacement is needed and, if so, what the new minimum criteria should be.

DATE: Written comments must be received by October 5, 1979, 4:30 p.m., e.d.t.

ADDRESSES: Send comments to Margaret Sibley, Office of Conservation and Solar Application, Department of Energy, Mail Stop 2221-C, Docket Number CAS-RM-79-504, 20 Massachusetts Avenue, NW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:
Dorothy H. Cronheim, State Energy Conservation Program Division, Department of Energy, Mail Stop 2221-C, 20 Massachusetts Avenue, NW, (Room 4122-C), Washington, DC 20585, 202-376-9494.

Martin Klauber, Office of General Counsel, Department of Energy, Mail Stop 2221-C, 20 Massachusetts Avenue, NW, Washington, DC 20585, 202-376-9297.

SUPPLEMENTAL INFORMATION:

I. Introduction

Department of Energy (DOE) guidelines for the State energy conservation plans program, 10 CFR Part 420, 44 FR 20055 *et seq.*, require participating States, among other things, to adopt and implement mandatory, statewide lighting efficiency standards for existing public buildings above a certain size, as determined by the State, in order to qualify for Federal financial assistance, § 420.7(a). With respect to existing public buildings, the guidelines provide that these standards shall ". . . contain the elements deemed appropriate by the State," § 420.7(a)(4). (With respect to new public buildings, § 420.7(a)(3) requires the States' standards to be no less stringent than § 9 of American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., Standard 90-75 (ASHRAE 90-75).)

On January 3, 1979, DOE published an agenda of 16 new regulatory reform initiatives based upon suggestions received from the public, 44 FR 1032 *et seq.* One of these initiatives, Initiative 13, called for DOE to "provide practical guidance to the States in the development of their respective lighting standards" for existing public buildings. Consistent with Initiative 13, DOE is considering replacing the broad minimum criteria of § 420.7(a)(4) of the program guidelines with specific minimum criteria which might be based upon various standards already in use in some States.

Before moving forward with Initiative 13, however, DOE wishes to receive public comment as to whether such a change in the program guidelines in needed and, if so, what the specific minimum criteria should be. This notice offers three standards for comment. Any specific minimum criteria adopted in the program guidelines might be based upon one or more of these standards or other standards that commenters might suggest and might also incorporate provisions supplemental to any of these standards. Examples of these supplemental provisions are also discussed in this notice.

II. Standards for Consideration

DOE would be particularly interested in comments on the acceptability of one or more of the following standards as the basis for any new minimum criteria for lighting efficiency standards for existing public buildings.

1. *EMS-4: Illuminating and Engineering Society of North America (IES) Recommended Procedure for Lighting Energy Management of Existing Buildings* (EMS-4), Illuminating Engineering Society of North America, New York, NY, April 1979.

EMS-4 is intended for use in existing buildings and is an adaptation of § 9 of ASHRAE 90-75. Section 9 of ASHRAE 90-75 is entitled "Lighting Power Budget Determination Procedure" and is intended for use in new buildings.

Experience gained with the use of § 9 of ASHRAE 90-75 may make the new EMS-4 procedure for existing buildings more readily acceptable to States and lighting and other design professionals.

2. *UPD: IES Lighting Power Budget Determination by Unit Power Density Procedure* (UPD), Illuminating Engineering Society of North America, New York, NY, July 1979.

UPD is an approved method of determining lighting power allowances in terms of watts per square foot for rooms of various sizes. This method uses a series of application tables and reference keys for various types of work tasks without requiring detailed mathematical calculations. UPD is applicable to existing buildings, as well as new buildings.

The application tables and reference keys may permit the UPD procedure to be used by building owners and lessees who do not possess formal lighting design backgrounds.

3. *MLCS: Massachusetts State Building Code Commission's Lighting Regulations for Existing Buildings,* § 2015.0 of Massachusetts State Building Code (3rd Ed. 1979), referred to as Massachusetts Lighting Code Standard (MLCS).

The MLCS establishes maximum power limits for interior and exterior illumination systems for existing buildings and maximum power connected load limits in watts per square foot for six different types of building use. Basing lighting efficiency standards on MLCS could provide non-design professionals, such as building owners or lessees, with a procedure which they can follow to achieve energy efficient lighting.

III. Questions for Public Comment

DOE is particularly interested in obtaining the views of the public, including building owners and lessees, bulding code officials and other interested persons on the questions set forth below. Such comments will be considered by DOE in determining whether to make changes in the minimum criteria for lighting efficiency standards for existing public buildings.

1. Should DOE's current broad criteria for lighting efficiency standards for existing public buildings be amended to reflect one or more of the standards discussed above, or other standards? If so, which standard or standards are preferable and why?

2. Should provisions which might not be contained in any lighting efficiency standard be incorporated into the program's minimum criteria for lighting efficiency standards for existing buildings? Examples of some supplemental provisions, which for the most part have been drawn from existing State energy conservation regulations and building codes and upon which the DOE is most interested in receiving comments, are:

- Making only cost effective changes in lighting provisions mandatory.
- Allowing variances for specified types of economic hardship cases.
- Where unit power densities (watts per square foot) are relevant, varying them so that larger rooms will have lower maximum densities than smaller rooms for the same specified task.

3. Should a grandfather clause be included to accept all State standards or codes existing as of a predetermined date? Should any grandfather clause be permanent or should it expire after an adequately long lead time for grandfathered States to come into compliance with the new minimum criteria?

4. What code enforcement provisions must be assessed by DOE to determine whether State and local governments are enforcing lighting efficiency standards systematically?

5. What are the estimated economic impacts (including energy savings) of implementation of lighting efficiency standards on building owners and lessees, manufacturers and the building trades?

6. What are the estimated costs (including compliance and enforcement costs) of implementation of lighting efficiency standards on State and local governments?

7. What are the estimated health, safety, and productivity impacts of implementation of lighting efficiency standards on building occupants and visitors?

IV. Availability of Standards

Copies of the MLCS, EMS-4 and UPD can be obtained from Mrs. Pat Hunt, State Energy Conservation Program Division, Department of Energy, Mail Station 2221-C, 20 Massachusetts Avenue, NW, Room 4113, Washington, DC 20585, 202-376-5792.

Copies of the MLCS, EMS-4 and UPD are available for inspection at DOE Freedom of Information Office, Forrestal Building, Independence Avenue and L'Enfant Plaza, SW, Washington, DC 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday and at each of the Department of Energy Regional Offices, which are located at the following addresses:

U.S. Department of Energy—Region I, 150 Causeway Street, Room 700, Boston, Massachusetts 02114.
U.S. Department of Energy—Region II, 26 Federal Plaza, Room 3200, New York, New York 10007.
U.S. Department of Energy—Region III, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102.
U.S. Department of Energy—Region IV, 1655 Peachtree Street, NE, 8th Floor, Atlanta, Georgia 30309.
U.S. Department of Energy—Region V, 175 West Jackson Boulevard, Third Floor, Chicago, Illinois 60604.
U.S. Department of Energy—Region VI, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235.
U.S. Department of Energy—Region VII, 324 East 11th Street, Kansas City, Missouri 64106.
U.S. Department of Energy—Region VIII, P.O. Box 26247—Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226.
U.S. Department of Energy—Region IX, 111 Pine Street, Third Floor, San Francisco, California 94111.
U.S. Department of Energy—Region X, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174.

Comment Procedures

All interested persons are invited to submit written comments to DOE. Such correspondence should be mailed to:

Margaret Sibley, Office of Conservation and Solar Applications, Department of Energy, Mail Stop 2221-C, Docket Number CAS-Rm-79-504, 20 Massachusetts Avenue, NW, Washington, DC 20585.

Comments should be identified on the document and envelopes submitted to DOE with the designation "Lighting Standards for Existing Public Buildings." Five (5) copies should be submitted. All written comments and related information should be received by DOE by October 5, 1979, in order to receive consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination, pursuant to DOE's regulations on confidentiality (10 CFR 1004).

If it is determined, after consideration of the comments and all other relevant information available to DOE, that the guidelines for statewide lighting efficiency standards for existing public

buildings should be amended, a notice of proposed rulemaking will be issued.

(Section 362(c)(1) of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6322(c)(1); Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*)

Issued in Washington, DC, August 1, 1979.

Maxine Savitz,

Deputy Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-24217 Filed 8-2-79; 9:15 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 79-WE-19-AD]

Airworthiness Directives; Lockheed Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require repetitive inspections and eventual modification of the pressurization system outflow valve assemblies on Lockheed L-1011 airplanes by adding reinforcement plates at both ends of each outflow valve gate. The modification will prevent the separation of the adhesive bond between the gate frame, skin, and honeycomb structure and prevent the resultant rapid decompression of the airplane in flight.

DATES: Comments must be received on or before October 3, 1979.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

ADDRESSES: The applicable service information may be obtained from:

Lockheed—California Company, Burbank, California 91520.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, telephone (213) 536-6351.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There has been a report that a Model L-1011 airplane during a ferry flight at 39,000 feet altitude experienced a rapid loss of cabin pressurization. Subsequent investigation revealed that separation of the adhesive bond between the forward pressurization outflow valve gate frame, skin, and honeycomb structure had occurred. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require repetitive inspections and eventual modification of the pressurization system outflow valve assemblies on Model L-1011-385 series airplanes.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Lockheed California—Applies to Model L-1011-385 Series airplanes certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent rapid loss of cabin pressurization in flight, accomplish the following: (a) Within 400 hours time in service after the effective date of this AD and thereafter at intervals not to exceed 400 hours time in service until modified in accordance with paragraph (b) of this AD, inspect forward and aft outflow valve gates for delamination in accordance with the instructions contained in Lockheed Service Bulletin No. 093-21-157 dated May 1, 1979, Section 2B ("Full inspection of outflow valves"). Gates found defective must be removed and replaced with a part free from bond joint separation prior to further flight.

(b) Within 1800 hours time in service after the effective date of this AD, modify the outflow valve assemblies in accordance with Hamilton Standard Service Bulletin 21-1141 dated March 28, 1979.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(d) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) Upon request of operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the initial and repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation Guidelines.

Issued in Los Angeles, California on July 25, 1979.

Benjamin Demps, Jr.,

Acting Director, FAA Western Region.

[FR Doc. 79-24193 Filed 8-3-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-GL-39]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near East St. Louis, Illinois to accommodate a proposed change to Instrument Landing System (ILS) Runway 30 and Non-Directional Beacon (NDB) Runway 30 instrument approach procedure into the Bi-States Airport, East St. Louis, Illinois. The intended effect of this action is to insure segregation of the aircraft using these approach procedures in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before August 26, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-39, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet for a distance of approximately 9 miles beyond that now depicted. The development of the revised procedure necessitates the FAA to alter the designated airspace to insure that that procedure will be contained within controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-39, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before August 26, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to supart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near East St. Louis, Illinois. Subpart G of Part 71 was published in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (44 FR 442) the following transition area is amended to read:

East St. Louis, Ill.

That airspace extending upward from the surface within a 7-mile radius of the Bi-State Parks Airport (latitude 38°34'17.8" N., longitude 90°09'34.3" W.), and within 4.5 miles N of the 116° bearing from the LOM, and 4.5 miles S of the 129° bearing from the airport, extending from the 7-mile radius to 10.5 miles SE of the LOM; excluding that portion which overlies the St. Louis, Missouri transition area and the Belleville, Illinois transition area.

(Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-39, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on July 11, 1979.

James M. Dermody,

Acting Director, Great Lakes Region

[FR Doc. 79-24191 Filed 8-3-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-NW-4]

Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend VOR Federal Airways V-269, V-330, V-357 and V-497 via a new air navigation aid to be located near Burns, Oregon, and named Wildhorse. The designation of new airway segments to Wildhorse would reduce the flight planning, communication and coordination time required to use the present off airway routes in and out of southeast Oregon.

DATES: Comments must be received on or before September 5, 1979.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Northwestern Region, Attention: Chief, Air Traffic Division, Docket No. 79-NW-4, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone; (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before September 5, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would make airway alterations as follows:

1. V–269 would be extended from Salmon, Idaho; via McCall, Idaho; Wildhorse, Oreg.; to Redmond, Oreg.
2. V–330 would be extended to begin at Wildhorse and go via Boise, Idaho, to its present terminal, the ALKAL intersection east of Mountain Home, Idaho.
3. V–357 would be extended to begin at Lakeview, Oreg., and go via Wildhorse to its present terminal at Baker, Oreg.
4. V–497 would be extended to begin at Rome, Oreg., and go via Wildhorse to its present terminal at Kimberly, Oreg.

Designation of these routes as airways will provide air traffic control services in an area of the state of Oregon that does not presently have this service. The time needed for flight planning, communication, and coordination would be reduced.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

Under V–269 "to Salmon, Idaho." is deleted and "Salmon, Idaho; McCall, Idaho; Wildhorse, Idaho; to Redmond, Oreg." is substituted therefor.

Under V–330 "From" is deleted and "From Wildhorse, Oreg., via Boise, Idaho.," is substituted therefor.

Under V–357 "From Baker, Oreg., via" is deleted and "From Lakeview, Oreg., via Wildhorse, Oreg.; Baker, Oreg.;" is substituted therefor.

Under V–497 "From" is deleted and "From Rome, Oreg. via Wildhorse, Oreg.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 30, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24179 Filed 8–3–79; 8:45 am]
BILLING CODE 4910–13–M

[14 CFR Parts 71 and 73]

[Airspace Docket No. 79–WE–7]

Proposed Restricted Area Designations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate five restricted areas in the vicinity of Florence, Arizona, for use by the Arizona Army National Guard to contain field artillery firing and tactical operations. The proposed action would provide for safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations within the area during the proposed times of use. A single area would be divided into smaller areas to permit normal use of airspace that is not being used for hazardous operations. The FAA, Albuquerque ARTC Center would be the controlling agency for all of the areas.

DATES: Comments must be received on or before September 5, 1979.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 79–WE–7, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SE., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before September 5, 1979 will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to designate restricted areas identified as R–2310A, B, C, D, and E to provide airspace for Arizona Army National Guard training. R–2310A would extend from the surface to 35,000 feet MSL and include all of the other smaller areas as one. The smaller areas (R–2310B, R–2310C, R–2310D, and R–2310E) would include fewer altitudes and be used individually or collectively according to different training requirements. This would permit public use of airspace not in use by the military. Part 71 would be amended to include the restricted area to provide for joint use of the airspace. The Arizona National Guard is the lead agency for purposes of compliance with the National Environmental Policy Act (NEPA). Comments on environmental aspects and land use relating to the proposed restricted areas should be addressed to: Lt. Col. Richard Schmidt, Aviation Support Facility, Arizona National Guard, 5636 East McDowell Road, Phoenix, Arizona 85008; telephone: (602) 272–9776.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.151 of Part 71 and § 73.23 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (44 FR 344, 672) as follows:

Under § 71.151 "R–2310A Florence, Ariz., R–2310B Florence, Ariz., R–2310C Florence, Ariz., R–2310D Florence, Ariz., R–2310E Florence, Ariz." are added.

Under § 73.23 the following restricted areas are added;

R–2310A Florence, Ariz.

Boundaries. Beginning at lat. 33°14′07″ N., long. 111°17′44″ W.; to lat. 33°14′07″ N., long. 111°14′52″ W.; to lat. 33°04′45″ N., long. 111°19′30″ W.; to lat. 33°03′40″ N., long. 111°22′40″ W.; to lat. 33°09′41″ N., long. 111°21′15″ W.; thence to the point of beginning.
Designated altitudes. Surface to 35,000 feet MSL.
Time of designation. Intermittent, activated by NOTAM 24 hours in advance.
Controlling agency. Albuquerque ARTC Center.
Using agency. Arizona Army National Guard.

R–2310B Florence, Ariz.

Boundaries. Beginning at lat. 33°14′07″ N., long. 111°17′44″ W.; thence to lat. 33°14′07″ N., long. 111°14′52″ W.; thence to lat. 33°12′20″ N., long. 111°15′45″ W.; thence to lat. 33°12′20″ N., long. 111°19′09″ W.; thence to point of beginning.
Designated altitudes. Surface to 10,000 feet MSL.
Time of designation. Intermittent, activated by NOTAM 24 hours in advance.
Controlling agency. Albuquerque ARTC Center.
Using agency. Arizona Army National Guard.

R–2310C Florence, Ariz.

Boundaries. Beginning at lat. 33°12′20″ N., long. 111°19′09″ W.; thence to lat. 33°12′20″ N., long. 111°15′45″ W.; thence to lat. 33°11′15″ N., long. 111°16′17″ W.; thence to lat. 33°11′15″ N., long. 111°20′00″ W.; thence to point of beginning.
Designated altitudes. Surface to 17,000 feet MSL.
Time of designation. Intermittent, activated by NOTAM 24 hours in advance.
Controlling agency. Albuquerque ARTC Center.
Using agency. Arizona Army National Guard.

R–2310D Florence, Ariz.

Boundaries. Beginning at lat. 33°11′15″ N., long. 111°20′00″ W.; thence to lat. 33°11′15″ N., long. 111°16′17″ W.; thence to lat. 33°06′42″ N., long. 111°18′32″ W.; thence to lat. 33°06′42″ N., long. 111°21′57″ W.; thence to lat. 33°09′41″ N., long. 111°21′15″ W.; thence to point of beginning.
Designated altitudes. 17,000 feet MSL to 35,000 feet MSL.
Time of designation. Intermittent, activated by NOTAM 24 hours in advance.
Controlling agency. Albuquerque ARTC Center.
Using agency. Arizona Army National Guard.

R–2310E Florence, Ariz.

Boundaries. Beginning at lat. 33°06′42″ N., long. 111°21′57″ W.; thence to lat. 33°06′42″ N., long. 111°18′32″ W.; thence to lat. 33°04′45″ N., long. 111°19′30″ W.; thence to lat. 33°03′40″ N., long. 111°22′40″ W.; thence to point of beginning.
Designated altitudes. Surface to 10,000 feet MSL.
Time of designation. Intermittent, activated by NOTAM 24 hours in advance.
Controlling agency. Albuquerque ARTC Center.
Using agency. Arizona Army National Guard.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 30, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24100 Filed 8–3–79; 8:45 am]
BILLING CODE 4910–13–M

[14 CFR Part 75]

[Airspace Docket No. 79–SO–33]

Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend Jet Route J–73 from Tallahassee, Fla., to Miami, Fla., via Lakeland, Fla., and LaBelle, Fla., and to realign Jet Routes J–88/J–43 from Miami over LaBelle. This action improves air traffic control efficiency by altering the jet route structure to coincide with required departure routings. This eliminates the need to issue additional time consuming clearances to each aircraft that uses the routes.

DATES: Comments must be received on or before September 5, 1979.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 79–SO–33, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regioal Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. John Watterson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before September 5, 1979, will be considered before action is taken on the proposed amendment. The proposed contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling

(202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would extend J–73 from Tallahassee, Fla., to Miami, Fla., via Lakeland, Fla., and LaBelle, Fla. Additionally, the segment of J–43 between Saint Petersburg, Fla. and Miami, and the segment of J–86 between Sarasota, Fla., and Miami would be realigned over LaBelle, Fla. The route between Miami and LaBelle is used by air traffic control as a preferred departure routing that currently requires issuance of clearances to each aircraft that uses this route. This procedure is time consuming and adds to controller workload. The action proposed would eliminate the necessity of issuing those clearances and reduces that workload.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) as follows:

1. Under Jet Route No. 43 "via St. Petersburg, Fla.;" is deleted and "via LaBelle, Fla.; St. Petersburg, Fla.;" is substituted therefor.

2. Under Jet Route No. 73 "from Tallahassee, Fla., via" is deleted and "from Miami, Fla., via LaBelle, Fla.; Lakeland, Fla.; Tallahassee, Fla.;" is substituted therefor.

3. Under Jet Route No. 86 "and Miami, Fla., 315° radials;" is deleted and "and LaBelle, Fla., 313° (312° M) radials; LaBelle;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 30, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24177 Filed 8-3-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 91]

[Petition Notice No. PR–79–8]

Petition for Rule Making of Gates Learjet Corp.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of petition for rulemaking; request for comments.

SUMMARY: This notice publishes for public comment the petition of the Gates Learjet Corporation (GLC) dated January 4, 1979, for an amendment of § 91.32(b)(1)(ii) of the Federal Aviation Regulations, (FAR) 14 CFR Part 91.32(b)(1)(ii). In particular, the GLC asks that Section 91.32(b)(1)(ii) be amended to raise the altitude restriction at which pilots are required to wear oxygen masks, from FL 410 to FL 510. This notice does not propose regulations for adoption or represent an FAA position on the merits of the petition.

DATES: Comments must be received on or before October 5, 1979.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Docket No. 18573, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Edward P. Faberman, Regulations and Enforcement Division (AGC–20), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C., 20591.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested persons are invited to submit such written data, views, or arguments on the petition for rule making as they may desire. Communications should identify the regulatory docket or petition notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C., 20591. All communications received on or before October 5, 1979, will be considered by the Administrator before taking action on the petition for rulemaking. All comments submitted will be available, both before and after the closing date for comments, in the Rule Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, Independence Ave., SW., Washington, D.C., 20591, or by calling (202) 426–8058. Communications must identify the notice number of this document.

Background Information

On January 4, 1979, the GLC submitted a petition for rulemaking, in accordance with Part 11 of the FAR, to amend a section of the FAR Part 91. This petition is published in its entirety as part of this notice.

The FAR section cited in the GLC petition is § 91.32(b)(1)(ii). Section 91.32(b)(1)(ii) sets forth the altitude limitations at which a pilot is required to wear an oxygen mask.

The FAA solicits comments on the GLC petition. In addition to comments on the petition, the FAA asks for comments on the following questions:

1. What reliability should the pressurized cabin structure have to assure that explosive cabin decompression is unlikely to occur?

2. Would the level of safety provided by the current rule be lowered by any measurable amount?

3. Does the operational advantages gained by operating at FL 510 as opposed to FL 410 in a shirt sleeve environment outweigh the safety being provided by the current rule?

4. Any information relevant to this mattter that could assist in an accurate evaluation of all safety aspects involved?

Although this notice sets forth the contents of the GLC petition as received by the FAA without changes, it should be understood that its publication to receive public comment is in accordance with FAA procedures governing the processing of petitions for rulemaking. It does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedures of Part 11 and to reach a conclusion on the merits of the GLC proposal after it has had an opportunity to carefully evaluate it in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rule-making procedures on the GLC petition, the appropriate rule-making action will be proposed by the FAA including its evaluation of the proposals.

The Gates Learjet Corporation Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for rulemaking of the Gates Learjet Corporation, dated January 4, 1979.

Issued in Washington, D.C., on July 31, 1979.

Carl B. Schellenberg,

Assistant Chief Counsel Regulations and Enforcement Division.

Petition for a Rule Change of a Certain Requirement in FAR 91.32 by Gates Learjet Corp., 8220 W. Harry St., Wichita, Kans. 67209

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I. Text of Current Rule From Which (Relief), is Sought

PART 91—GENERAL OPERATING AND FLIGHT RULES

§ 91.32 Supplemental oxygen.

(a) *General.* No person may operate a civil aircraft of U.S. registry—

(1) At cabin pressure altitudes above 12,500 feet (MSL) up to and including 14,000 feet (MSL), unless the required minimum flight crew is provided with and uses supplemental oxygen for that part of the flight at those altitudes that is of more than 30 minutes duration;

(2) At cabin pressure altitudes above 14,000 feet (MSL), unless the required minimum flight crew is provided with and uses supplemental oxygen during the entire flight time at those altitudes; and

(3) At cabin pressure altitudes above 15,000 feet (MSL), unless each occupant of the aircraft is provided with supplemental oxygen.

(b) *Pressurized cabin aircraft.*

(1) No person may operate a civil aircraft of U.S. registry with a pressurized cabin—

(i) At flight altitudes above flight level 250, unless at least a 10-minute supply of supplemental oxygen, in addition to any oxygen required to satisfy paragraph (a) of this section, is available for each occupant of the aircraft for use in the event that a descent is necessitated by loss of cabin pressurization; and

(ii) At flight altitudes above flight level 350, unless one pilot at the controls of the airplane is wearing and using an oxygen mask that is secured and sealed, and that either supplies oxygen at all times or automatically supplies oxygen whenever the cabin pressure altitude of the airplane exceeds 14,000 feet (MSL), except that the one pilot need not wear and use an oxygen mask while at or below flight level 410 if there are two pilots at the controls and each pilot has a quick-donning type of oxygen mask that can be placed on the face with one hand from the ready position within five seconds, supplying oxygen and properly secured and sealed.

(2) Notwithstanding subparagraph (1)(ii) of this paragraph, if for any reason at any time it is necessary for one pilot to leave his station at the controls of the aircraft when operating at flight altitudes above flight level 350, the remaining pilot at the controls shall put on and use his oxygen mask until the other pilot has returned to his station.

II. Gates Learjet Corp. Interest and Nature and Extent of Relief Sought

A. The Gates Learjet Corporation interest in this petition is that we be able to operate certain of our airplanes as we intended when we initiated the 51,000 ft. program, i. e., that the cabin be a "shirtsleeve" environment. GLC expended great effort and expense to certify to SST-type rules in order to accomplish this goal, and we want to be able to operate, demonstrate and sell the airplane in the manner in which it is FAA Engineering approved.

B. GLC requests that, for the aircraft listed in Section III, the altitude below which the one pilot need not wear and use an oxygen mask be increased from FL 410 to FL 510. The remainder of the text of FAR 91.32 would remain unchanged. Specifically, GLC requests that the rule, as applied to GLC, read as follows:

§ 91.32 Supplemental oxygen.

(a) *General.* No person may operate a civil aircraft of U.S. registry—

(1) At cabin pressure altitudes above 12,500 feet (MSL) up to and including 14,000 feet (MSL), unless the required minimam flight crew is provided with and uses supplemental oxygen for that part of the flight at those altitudes that is of more than 30 minutes duration;

(2) At cabin pressure altitudes above 14,000 feet (MSL), unless the required minimum flight crew is provided with and uses supplemental oxygen during the entire flight time at those altitudes; and

(3) At cabin pressure altitudes above 15,000 feet (MSL), unless each occupant of the aircraft is provided with supplemental oxygen.

(b) *Pressurized cabin aircraft.*

(1) No person may operate a civil aircraft of U.S. registry with a pressurized cabin—

(i) At flight altitudes above flight level 250, unless at least a 10-minute supply of supplemental oxygen, in addition to any oxygen required to satisfy paragraph (a) of this section, is available for each occupant of the aircraft for use in the event that a descent is necessitated by loss of cabin pressurization; and

(ii) At flight altitudes above flight level 350, unless one pilot at the controls of the airplance is wearing and using an oxygen mask that is secured and sealed, and that either supplies oxygen at all times or automatically supplies oxygen whenever the cabin pressure altitude of the airplane exceeds 14,000 feet (MSL), except that the one pilot need not wear and use an oxygen mask while at or below flight level 510 if there are two pilots at the controls and each pilot has a quick-donning type of oxygen mask that can be placed on the face with one hand from the ready position within five seconds, supplying oxygen and properly secured and sealed.

(2) Notwithstanding subparagraph (1)(ii) of this paragraph, if for any reason at any time it is necessary for one pilot to leave his station at the controls of the aircraft when operating at flight altitudes above flight level 350, the remaining pilot at the controls shall put on and use his oxygen mask until the other pilot has returned to his station.

III. Description of Each Aircraft To Be Covered

GLC requests that this exemption be applicable to any of the airplanes listed below when they are owned and/or operated by:

Gates Learjet Corporation, principal place of business: 8220 West Harry Street, Wichita, Kansas 67209.

The Models 24E/F, 25D/F and 25/29* are the models type certificated for operation to a maximum altitude of 51,000 ft. The Models 35A/36A, although limited to 45,000 ft., incorporate the same environmental control system and supplemental oxygen system (including crew pressure-demand masks) as the 51,000 ft. approved models.

Gates Learjet models	Serial numbers
24E/F	24–350 and on.
25D/F	25–230 and on.
35A	35–107, 35–113 and on.
36A	36–032 and on.
28[1]	28–001 and on.
29[1]	29–001 and on.

[1] Pending T.C. date. 28/29 to be included in this exemption if models are Type Certificated before the exemption is granted. If not, they are to be deleted from the exemption and a request will be made later to inlclude them.

IV. Information in Support of the Petition

The Gates Learjet aircraft listed in Section III have been certificated to some of the most stringent rules (with respect to pressure vessel and cabin environmental control system) of any airplane ever certificated. The rules were applied to the Learjet as Special Conditions (see Appendix I) in the 51,000 ft. maximum operating altitude certification program and were developed from the proposed rules which would have been applied to the U.S. SST. The arguments for granting this exemption are based primarily on the design and testing which was accomplished by GLC for the 51,000 ft. certification. Highlights of the design of the environmental control system and the pressure vessel itself, plus a summary of the testing conducted, will be presented in the following paragraphs.

A. Special Airframe Condition 1(c) (see Appendix I) required that, for the ultimate load tested in the static test, the normally prescribed factor of 1.33 be replaced with a factor of 1.67. This resulted in an ultimate pressure test of the fuselage to 25 psi differential, which is more than 2½ times the maximum cabin pressure relief valve setting.

B. In addresing the concern of window or windshield blowout and the resulting explosive decompression, GLC conducted a series of tests during which small firearms of various caliber (9mm, .45, .38) were fired at the windshield and windows under maximum differential pressure. The test demonstrated that even after severe damage such as described above, the windshield and windows would not blow out, and that the holes produced were smaller than the openings used in demonstrating compliance with Special Airframe Condition 1(a).

C. The normal cabin altitude at 51,000 ft. is 8,000 ft. with a cabin differential pressure of 9.4 psid, and the supplemental oxygen masks (*pressure* demand) do not supply anything except cabin air until the cabin altitude reaches 10,000 ft. The masks are "quick-don" type, i.e., they can be put on with one hand and be functioning within 5 seconds from their suspended position alongside the crew.

D. The Special Conditions required determining the maximum pressure vessel opening resulting from crack propagation for a period encompassing two normal inspections (6,000 hrs.). To accomplish this, there were 37 fail safe cuts up to 6 inches long made in the fuselage, windshield and windows. The test article was then subjected to two series of 6,000 cycles from 0 to 10 psid with one 18.7 psid cycle after each set of 6,000 cycles. After more than 12,000 cycles, the pressure vessel opening was found to have an equivalent area of 1.1 sq. in. Another test required the determination of damage resulting from a wheel and tire burst in the wheel well. Explosive charges were attached to the wheel and tire and were set off while the gear was retracted and the fuselage pressurized. No structural damage was sustained during these tests.

E. The majority of depressurizations that have occurred in the Learjet and other civil aircraft have not been the result of structural failures, but rather of failures of the pressurization air supply system. This is not surprising, since most air supply systems have a considerable amount of plumbing and numerous clamps and fittings which are subjected to extremes of pressure and temperature. In the Learjet system, two independent secondary pressurization air supply paths are provided by automatically diverting engine bleed air directly into the cabin in case of loss of pressurization. This bypasses almost all the normal system ducting and allows continued pressurization, even after component failures in the normal system.

Figure 1 shows this system in the normal pressurization mode with the cabin altitude below 9,500 feet. Engine bleed air is routed through the "3-way" valves, which are in the normal position, to the ram air heat exchanger and then into the cabin distribution ducts.

Figure 2 shows the system in the emergency pressurization mode. When the cabin altitude exceeds 9,500 ft., the pressurization aneroid switches automatically move the "3-way" valves to the emergency position. Engine bleed air is then routed directly from the engine to the cabin, bypassing all of the normal system ducting. The emergency pressurization mode can also be manually selected by the pilot.

F. The pressurization failure warning sytem is designed to provide "progressive" warning. This provides the pilot three levels of warning in the event of a depressurization. In the event of a depressurization, the following sequence would occur:

1. At 8750 feet cabin altitude, an amber CABIN ALT warning light comes on and the pressurization control reverts to manual control.

2. At 9500 feet, both pressurization aneroid switches close, automatically actuating emergency pressurization airflow. No pilot action is required to activate this system.

3. At 10,000 feet, the cabin altitude warning horn will sound. At this point, an emergency descent is required. This gives the pilot a clear indication of when to initiate an emergency descent.

For example, assume that the airplane is cruising at 51,000 ft. and a duct ruptures in the normal pressurization airflow supply system. The cabin altitude will start to rise. At 8750 ft. cabin altitude, the pilot is alerted by the CABIN ALT light, if he has not previously noticed the increasing cabin altitude. At 9500 ft. cabin altitude, both pressurization aneroid switches will close and airflow will come into the cabin through the emergency system, bypassing the failure. At this point, the cabin altitude will stabilize. The pilot can then make a normal descent or remain at altitude at his discretion. Flight tests showed the cabin temperature could be kept to comfortable levels by reducing power and/or using bleed air from only one engine.

G. Flight testing included various depressurization tets at 51,000 ft. These included:

1. Simulated dual pressurization system failure (loss of all bleed air into the cabin).

2. Simulated loss of thrust from both engines.

3. Combination single failure in pressurization system (loss of bleed air from one engine) and loss of a door seal element.

4. Pressure vessel hole, the size of which was determined in Section IV. Paragraph D, above.

5. Pressure vessel hole which yields a peak cabin altitude of 37,000 ft.

All the tests were conducted using the existing AFM emergency descent procedure, which is Thrust Levers—Idle, Autopilot—Disengage, Spoilers—Extend, Landing Gear—Down below .82 Mi or below 266 KIAS, Descent Airspeed is .79 Mi or 266 KIAS. The descent would normally be initiated when the cabin altitude aural warning sounds at a cabin altitude of 10,000 ft. However, the FAA required in tests 2, 4 and 5, above, a 17 second delay between aural warning and initiation of descent. Test 1 and 3 required no delay, but a 17 second delay was demonstrated for Test 1 and the cabin stayed well within the FAA limits.

The 17 second time delay used in these tests provides a 12 second time span for deciding to and initiating the descent after using 5 seconds to put on an oxygen mask. There is really no decision required; the procedure is to *descend* when the cabin altitude warning sounds.

The test results were all within the FAA criteria for cabin altitude vs. time after failure. Test 5 included opening a 3.5 sq. in. hole which was greater than 3 times the maximum hole size requirement per Section IV, Paragraph D, above.

Time required for an emergency descent from 51,000 ft. to 15,000 ft. is approximately three minutes.

Graphs of the test results are shown in Figures 3, 4, and 5 and 6, attached. The cabin altitude peak of 27,200 ft. in Figure 4 was acceptable to the FAA because, by integration, the time that the cabin altitude was above the limit could be offset by the time it was below the limit.

The following table of Effective Performance Time (EPT) or Time of Useful Consciousness (TUC) is taken from an FAA Physiological Training booklet. It presents average EPT for flying personnel *without* supplemental oxygen.

15,000 to 18,000 ft.—30 minutes or more.
22,000 ft.—5 to 10 minutes.
25,000 ft.—3 to 5 minutes.
28,000 ft.—2½ to 3 minutes.
30,000 ft.—1 to 2 minutes.
35,000 ft.—30 to 60 seconds.
40,000 ft.—15 to 20 seconds.
45,000 ft.—9 to 15 seconds.

When these data are considered along with the test results shown in Figures 3, 4, 5 and 6, it can be seen that even *without* supplemental oxygen, the time at the higher cabin altitudes after double failures and 17 second delays does not exceed the EPT, even in the worst case. GLC does not conclude from this that the supplemental oxygen system is unnecessary; the information is presented only for comparison purposes.

V. Comments in Public Interest

Granting this request would be in the public interest for the following reasons:

A. It would encourage operations at altitudes above 41,000 ft. where the operating economy is improved, thereby providing fuel savings. The pressure breathing masks certificated in the Learjet are uncomfortable to wear for long periods of time, so rather than climb and have to comply with the current rule, operators are remaining at FL 410.

B. The rule was written to provide the public with a certain level of safety and was written at a time when flight above FL 410 was not envisioned to be routine. The public's interest has been served by the requirements of the FAA having been included in the Special Conditions for the Learjet 51,000 ft. approval. The Learjet at 51,000 ft. has been required to be safer than any other airplane certificated at lower altitudes.

VI. Safety Enhancement

This exemption would not adversely affect safety for the following reasons:

A. The operators of the Learjets certificated to 45,000 ft. maximum operating altitude, i.e., the airplanes manufactured prior to those included in this request, are required by a limitation in the AFM to have *all passengers and crew* wear and use the oxygen masks when operating above 41,000 ft. This limitation was prescribed by the FAA EMDO which certificated the 45,000 ft. operation. When the Special Conditions for the 51,000 ft. approval were completed, the same FAA EMDO, from an engineering point of view, prescribed *no* oxygen mask use limitations for passengers or crew for operations up to the new maximum certificated altitude of 51,000 ft. The approval was commonly called a "shirtsleeve environment". The FAA engineering evaluation concluded that the safety provided by the new environmental control system, the fuselage static and cyclic tests conducted to verify fuselage integrity (even under failure conditions), and the actual in-flight depressurization test results did not warrant a Flight Manual requirement for anyone aboard the airplane to wear an oxygen mask at airplane altitudes up to 51,000 ft. The current 41,000 ft. cutoff point in FAR 91.32 is not valid for aircraft meeting engineering requirements such as the SST White Paper requirements which the Learjet met.

B. There is no additional safety provided by one crewmember wearing a pressure demand mask constantly above 41,000 ft. It was demonstrated in the tests to obtain "quick-don" status for the masks used in the 51,000 ft. Learjets that they can, with one hand, be secured on the face within 5 seconds from their withdrawal from their suspended position alongside either crewmember. In the worst case depressurization test required by the FAA Engineering Office, the cabin altitude rise to 30,000 ft. required 36 seconds. The Time of Useful Consciousness at that altitude is 1 to 2 minutes, according to the FAA Physiological Training Booklet, so there is far more than ample time for a crewmember to secure a "quick-don", 5 second mask to his face. The design and tests of the 51,000 ft. "shirtsleeve environment" Learjet have proven to provide a level of safety at 51,000 ft. which is not afforded at lower altitudes by most other airplanes.

[FR Doc. 79-24161 Filed 8-3-79; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE

Department of the Army

[32 CFR Part 513]

[AR 600–15]

Assistance of Creditor by Department of the Army

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule.

SUMMARY: The Army is revising the regulation on the policies for processing claims of delinquent indebtedness against Army members. This revision implements and expands the recent amendments of the DOD Directive 1344.9 that incorporates provision of (a) the Truth-in-Lending Act, and (b) the recently enacted Fair Debt Collection Practices Act, which prohbits debt collection agencies from contacting third parties. The revision conforms with the President's directive and DA Circular 310.9 regarding readability of Army publication.

DATES: Comments must be received on or before September 5, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Mary-Howard Critchell, Telephone: 202-325-8080, or write to Cdr. MILPERCEN, DAPC-EPA-P, 2461 Eisenhower Avenue, Alexandria, VA 22331.

Accordingly, we propose to amend 32 CFR by revising Part 513 to read as follows:

PART 513—ASSISTANCE OF CREDITOR BY THE DEPARTMENT OF THE ARMY

Sec.
513.1 Purpose.
513.2 Applicability.
513.3 Policy.
513.4 Banks and credit unions.
513.5 Fair Debt Collection Practices Act.
513.6 Locator service.
513.7 Debt processing procedures.
513.8 Debt complaints returned to creditors without action.
513.9 Exemptions from Full Disclosure and Standards of Fairness.
513.10 Action by commanders.

513.11 Referral to Department of the Army.
513.12 Appendix A—Certificate of Compliance.

Authority: The provisions of this Part 513 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012.

§ 513.1 Purpose.

This Part gives Department of the Army policy and guidance in handling debt claims against Army members. The Army Regulation (AR 600–15) complies with the Department of Defense (DOD) Directive 1344.9 contained in Part 43a, Chapter I of this title.

§ 513.2 Applicability.

(a) This Part applies to all active Army members and to creditors who seek help in processing debt complaints against Army members. Note: A debt collector is not a creditor.

(b) This Part does not apply to—

(1) Soldiers who are retired or separated from active duty unless assigned to the Reserves.

(2) Claims for support of dependents or claims by the Federal, State or local government.

§ 513.3 Policy.

(a) The Army expects soldiers to conduct their private affairs satisfactorily and pay their just debts promptly. It must be a legal debt acknowledged by the soldier in which there is no reasonable dispute as to the facts or the law, or one reduced to judgment which conforms to the Soldier's and Sailors' Relief Act (50 U.S.C. Appendix, Section 501 et seq (1970)) if applicable.

(b) The Army has no legal authority to force soldiers to pay their debts; nor can the Army divert any part of their pay even though payment was decreed by a civil court. Although the Army does not condone irresponsibility, only civil authorities can enforce payment of private debts.

(c) The Army will revoke debt processing privileges for those creditors who do not abide by the rules for processing debt complaints, or who are trying to use the Army as a debt collection agency.

§ 513.4 Banks and credit unions.

Banks and credit unions located on military bases must apply DOD Standards of Fairness, before making loans or credit agreements. Banks and credit unions which do not meet this requirement will be denied help in processing debt complaints. If soldiers are referred to off-base branches of an on-post bank or credit union, the branches must also comply with the Standards of Fairness before making loans or credit agreements.

§ 513.5 Fair Debt Collection Practices Act.

Section 43a.5(e) of this title states that the debt collector must have the prior consent of the debtor to contact the commanding officer. This consent must be in writing and include the debt collector's name.

§ 513.6 Locator service.

(a) Current military address for all active Army personnel may be obtained by writing Commander, US Army Enlisted Records and Evaluation Center (USAEREC), Fort Benjamin Harrison, IN 46249. All requests must include the soldier's full name, rank, social security number, and the date and place of birth, if social security number is not known. A $2 check or money order payable to the Treasurer of the United States must be inclosed with each request.

(b) If a debt collector knows the soldier is represented by a civilian lawyer or a military legal assistance officer, he must first contact one of them. If he does not know or cannot find out the name and address of the lawyer, or does not receive a response, he may then write to the above address. However, debt collectors must not use postcards nor state that the locator service is being sought in order to collect a debt; doing so would violate the Fair Debt Collection Practices Act.

§ 513.7 Debt processing procedures.

In addition to § 43a.6(b) and (c) of this title, creditors must submit a true copy of the signed contract. An additional paragraph has been added to the Certificate of Compliance (appendix A). (See § 513.12.) This insures that the creditor is complying with the relevant State's law regarding contact with an employer, as stated in section 43a.5(d) of this title.

§ 513.8 Debt complaints returned to creditors without action

(a) In addition to the provision in § 43a.5(c) (1) through (3), debt complaints will not be processed if:

(1) A loan or credit has been made without a credit check.

(2) A loan or credit has been made to a soldier who cannot furnish credit references or already has a delinquent debt with the creditor.

(3) The soldier was not given a chance to answer a previous inquiry (45 days for those in the contiguous 48 States and the District of Columbia; 60 days for all others).

(b) The provisions of § 43a.5(c)(1) are explained in greater detail in AR 600–15. Photostatic copies of actual correspondence, or documentary proof that every effort has been made to obtain payment by direct contact with the soldier.

§ 513.9 Exemptions from full disclosure and standards of fairness.

The following debt complaints are exempt from the Full Disclosure and Standards of Fairness. This does not prevent the debtor from questioning service charges and negotiating a fair and reasonable settlement.

(a) Claims from private parties selling personal items (e.g., car, furniture, appliances, etc.) on a one-time basis.

(b) Claims from companies furnishing services in which credit is given only to facilitate the service (e.g., utilities, milk, laundry, and related services).

(c) Claims by endorsers, co-makers, or lenders who intend only to help the soldier in getting credit. These claims, however, may not benefit the above through receipt of interest or otherwise.

(d) Contract for the purchase, sale, or rental of real estate.

(e) Claims in which the total unpaid amount does not exceed $50.

(f) Claims based on a revolving or open-end credit account. The account must show:

(1) The periodic interest rate and the equivalent annual rate.

(2) The balance to which the interest is applied to compute the charge.

(g) Liens on real property (e.g., a house). This does not include improvements or repairs.

§ 513.10 Action by commanders.

(a) Creditors, notified of the requirements of this Part, who refuse or repeatedly fail to comply with them, will be informed by the commander that no action will be taken until they comply with the provisions of this Part. Commanders receiving subsequent inquiries from Headquarters, Department of the Army (HQDA), White House, Congress, or any other source, will inform HQDA that the creditor has been informed that no action can be taken until the creditor provides the necessary data or documentation.

(b) Inquiries from creditors, no matter what the merits of the claim, which clearly show that the creditor is attempting to make unreasonable use of the debt processing privilege, will be referred to HQDA through channels, with a recommendation stating the reasons why the creditors' debt processing privileges should be revoked.

§ 513.11 Referral to Department of the Army.

(a) Creditors who have complied with these terms and are unsuccessful, after reasonable efforts to collect the debt, may request help from Commander, US Army Military Personnel Center. In such cases, the information must be the same as that furnished the unit commander. The request should be sent to Cdr, MILPERCEN, ATTN: DAPC-OPR-P, Alexandria, VA 22332 for commissioned and warrant officers, or ATTN: DAPC-EPA-P, Alexandria, VA 22331 for enlisted members. All requests must include:

(1) The soldier's full name, rank, social security number, and the date and place of birth, if social security number is not known.

(2) The amount and date of the original debt.

(3) The terms of payment.

(4) The balance due.

(5) The required documents, including copies of all correspondence.

(b) Separate letters must be written on each account for prompt and efficient processing.

(c) Inquiries which clearly show that the creditor is not conforming with this Part, or is trying to use the Army as a collection agency, will be informed that the debt processing privilege has been revoked. The Commanding General, MILPERCEN, will inform commanders world-wide by electrical message that the debt processing privilege of a specific creditor has been revoked.

§ 513.12 Appendix A—Certificate of Compliance.

I certify that the (Name of Creditor) ———— upon extending credit to (Name of soldier) ———— (Date) on ———— complied with the full disclosure requirements of the Truth-in-Lending Act and Regulation Z (or the laws and regulations of State of ————), and that the attached statement is a true copy of the general and specific disclosures provided the soldier as required by law.

I also certify that, to the best of my knowledge (Name) ———— is presently located in the State of ———— and that this inquiry conforms to the laws of that State regarding contact with the employer of a debtor.

I further certify that the Standards of Fairness set forth in appendix A of AR 600–15 have been applied to the consumer credit transaction to which this form refers. (If the unpaid balance has been adjusted as a consequence, the specific adjustments in the finance charge and the annual percentage rate should be set forth below.)

(Adjustments) ————

(Date of Certification) ————
(Signature of Creditor or Authorized Representative) ————
(Street) ————

By authority of the Secretary of Army:
Dated: July 31, 1979.

Jerry L. Quintard,
Lieutenant Colonel, US Army Chief, Personnel Actions Branch, MILPERCEN.

[FR Doc. 79–24101 Filed 8–3–79; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 79–114]

Drawbridge Operation Regulations; Yazoo River, Miss.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Flowers Transportation, Incorporated, the Coast Guard is considering revising the regulations governing the operation of the drawbridges across the Yazoo River from its mouth to Greenville, Mississippi, to require at least four hours notice at all times. This change is being considered because of an increase in commercial navigation. This action will relieve the bridge owners of having a person constantly available to open the draw while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before September 7, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri 63103.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr. Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Second Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

This regulation change requiring four hours notice is proposed because commercial navigation on the Yazoo has recently increased and is expected to continue to increase. It will provide uniformity for the operation of all drawbridges across the Yazoo River. Presently, some drawbridges are required to open on signal, one on three hours notice and two on four hours notice.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by:

1. Deleting 33 CFR 117.560(f)(18).

2. Revising 33 CFR 117.560(f)(17) to read as follows:

117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * * *

(f) * * *

(17) Yazoo River, Miss. The draws of each drawbridge shall open on signal if at least four hours notice is given. When a vessel has given notice and fails to arrive within the four-hour period specified, the draw tender shall remain on duty for two additional hours and open the draw if the requesting vessel appears. After this time an additional four-hour notice is required.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: July 27, 1979.

J. B. Hayes,
Admiral U.S. Coast Guard Commandant.

[FR Doc. 79–24221 Filed 8–3–79; 8:45 am]
BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 81]

[FRL 1241-2]

Air Quality Control Regions, Criteria and Control Techniques; Attainment Status Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Revocation of final rule.

SUMMARY: The Environmental Protection Agency (EPA) today proposes to revoke the non-attainment designation of the Tacoma, Washington area for sulfur dioxide, under Section 107 of the Clean Air Act, because of uncertainty as to whether, or to what extent, the supplementary control system operated by the ASARCO smelter to limit sulfur dioxide emissions is authorized under the Act.

DATE: Comments are due by September 5, 1979.

ADDRESSES: Comments may be sent to Clark L. Gaulding, Chief, Air Programs Branch, Environmental Protection Agency, Region 10 (M/S 629), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the supporting documents are available for inspection during normal business hours at the address above and at the following location: Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clark L. Gaulding, Telephone No. (206) 442-1230, (FTS) 399-1230.

SUPPLEMENTARY INFORMATION:

Section 107(d) of the Clean Air Act, as amended in 1977, requires the Environmental Protection Agency (EPA) to promulgate lists identifying the attainment status of all states with respect to the national ambient air quality standards (NAAQS). EPA promulgated those lists on March 3, 1978 (43 FR 8962) and amended them in part on September 11, 1978 (43 FR 40412).

On March 3, 1978 EPA designated the Tacoma, Washington area non-attainment for sulfur dioxide (SO_2) (43 FR 9043) and confirmed that designation on September 11, 1978 (43 FR 40420). EPA noted that SO_2 concentrations in the Tacoma area were influenced by the use of a supplementary control system (SCS) by the Asarco Smelter, and that because that SCS was unauthorized, the Tacoma area should be classified non-attainment.

In commenting on the designation, ASARCO objected that it was inappropriate to characterize its SCS as unauthorized. First, ASARCO noted that EPA has not yet provided any interpretation of the statutory test for determining whether an SCS is authorized. Second, ASARCO submitted technical support for its position that its SCS is in fact authorized under the Clean Air Act. EPA agrees that under the circumstances presented here, the absence of regulations interpreting the statutory test makes it impossible to determine whether, or to what extent, the ASARCO SCS is authorized. (EPA will shortly propose such regulations.) Moreover, without expressing any view on the merits of ASARCO's argument that is SCS is authorized, EPA views ASARCO's argument as non-frivolous and made in good faith. EPA is therefore proposing to revoke the non-attainment designation for the Tacoma area. Pursuant to Section 107(d)(4) of the Clean Air Act, the legal effect of this revocation will be to make the tacoma area "unclassifiable" as defined by Section 107(d)(1)(D).

Public comments on the proposed revocation of the Tacoma area non-attainment designation for SO_2 are invited for a period of 30 days. Comments should be addressed to Clark L. Gaulding at the address listed above.

(Sections 107(d), 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7601(a)).)

Dated: July 2, 1979.

L. Edwin Coate,

Deputy Regional Administrator.

[FR Doc. 79-24078 Filed 8-3-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 67]

[Docket No. FI-5208]

Proposed Flood Elevation Determinations for the Village of Lindenhurst, Lake County, Ill., Under the National Flood Insurance Program; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44 FR 13508 of the **Federal Register** of March 12, 1979.

EFFECTIVE DATE: March 12, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hastings Creek	Northern corporate limits	759

Should be corrected to read:

Hastings Creek	Northern corporate limits	758

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 12, 1979

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-24018 Filed 8-3-79; 8:45 am]

BILLING CODE 4210-01-M

[44 CFR Part 67]

[Docket No. FI-5561]

National Flood Insurance Program; Proposed Flood Elevation Determinations for the Town of Greensburg, St. Helena Parish, La.; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 35245 of the **Federal Register** of June 19, 1979 (44 FR 35245).

EFFECTIVE DATE: June 19, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 7th Street, SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Joseph Branch	Just downstream of Highway 10	180

is corrected to read:

Joseph Branch	Just downstream of North Main Street.	180

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).)

Issued: July 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-24019 Filed 8-3-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5451]

Proposed Flood Elevation Determinations for the Town of Hiram, Oxford County, Maine; Under the National Flood Insurance Program; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44 FR 27173 of the **Federal Register** of May 9, 1979.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hancock Brook	Just upstream Log Crib Dam	397

Should be corrected to read:

Hancock Brook	Just upstream Log Crib Dam	379

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 26, 1979

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc 79-24020 Filed 8-3-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5051]

Revision of Proposed Flood Elevation Determinations for The Town of Sebec, Piscataquis County, Maine; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Sebec, Piscataquis County, Maine.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 6454 on February 1, 1979, and in *The Gazette*. Published on or about February 1, 1979, and February 8, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Office, RFD 2 Box 118, Sebec, Maine 04426.

Send comments to: Mr. Dana Lovell, Chairman, Board of Selectmen, Town of Sebec, Town Office, RFD 2 Box 118, Sebec, Maine 04426.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Sebec, Maine, in accordnace with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Meadow Brook	Sebec Station Road—25 feet upstream of centerline	302
	Ladd Road (downstream crossing)—100 feet downstream from centerline	349
	Ladd Road (downstream crossing)—100 feet upstream of centerline	365
	Ladd Road (upstream crossing)—at centerline	410
	State Route 16—100 feet upstream from centerline	468

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 26, 1979

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-24021 Filed 8-3-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-4751]

Revision of Proposed Flood Elevation Determinations for the Town of Avon, Norfolk County, Mass. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Avon, Norfolk County, Massachusetts.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 43 FR 51418 on November 3, 1978, and in *The Brockton Enterprise*. Published on or about October 30, 1978, and October 31, 1978, and hence supersedes those previously published rules.

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DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Buckley Center, Avon, Massachusetts.

Send comments to: Mr. William E. Enright, Chairman, Board of Selectmen, Town of Avon, Buckley Center, Avon, Massachusetts 02322.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Avon, Massachusetts, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Beaver Brook	Pond Street—50 feet upstream from centerline.	*210
	Harrison Boulevard—50 feet upstream from centerline.	*211
	State Highway 24—50 feet upstream from centerline.	*213
	Old Railroad Grade—50 feet downstream from centerline.	*214
	Old Railroad Grade—50 feet upstream from centerline.	*226
Trout Brook	Connelly Road—50 feet upstream from centerline.	*116
	Ladge Drive—150 feet downstream from centerline.	*123

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: July 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–24022 Filed 8–3–79; 8:45 am]

BILLING CODE 4210–23–M

[44 CFR Part 67]

[Docket No. FI–5053]

Proposed Flood Elevation Determinations for the Town of Georgetown, Essex County, Mass., Under the National Flood Insurance Program; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 6455 of the **Federal Register** of February 1, 1979.

EFFECTIVE DATE: February 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bulford Brook	East Main Street*	81
Jackman Brook	Jewett Street*	57
Parker River	Bailey Lane*	85

* At centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–24023 Filed 8–3–79; 8:45 am]

BILLING CODE 4210–23–M

[44 CFR Parts 67]

[Docket No. FI–4416]

Revision of Proposed Flood Elevation Determinations for The Town of Rockingham, Windham County, Vt. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100–year) flood elevations listed below for selected locations in the Town of Rockingham, Windham County, Vermont.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100–year) flood elevations published in 43 FR 38596 on August 29, 1978, and in *The News Review*. Published on or about August 17, 1978, and August 24, 1978, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, Village Square, Bellows Falls, Vermont.

Send comments to: Mr. Peter LaHaise, Town Manager, Town of Rockingham, Town Office, P.O. Box 370, Bellows Falls, Vermont 05101.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLMENTARY INFORMATION: Proposed base (100–year) flood elevations are listed below for selected locations in the Town of Rockingham, Vermont, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified

for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100–year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Upstream Bellows Falls Corporate limits.	296
	Confluence with Williams River.	297
Saxtons River	Barbers Park Road–10 feet upstream from centerline.	396
	Hall Bridge Road–175 feet upstream from centerline.	410
	Hartly Hill Road–20 feet upstream from centerline.	467
	Private Road-at centerline	547
	Upstream corporate limits	587
Weaver Brook	State Route 121–50 feet upstream from centerline.	589
	Mill Dam–10 feet upstream from centerline.	594
William River	U.S. Route 5–50 feet downstream from centerline.	297
	U.S. Route 5–150 feet upstream from centerline.	302
	Brockways Mills Road–10 feet downstream from centerline.	443
	Brockways Mills Road–90 feet upstream from centerline.	452
	Fourth Crossing Mountain Railroad–75 feet upstream from centerline.	459
	Upstream corporate limits	512

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: July 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–24024 Filed 8–3–79; 8:45 am]

BILLING CODE 4210–23–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Institute of Museum Services

[45 CFR Part 64]

Meetings of National Museum Services Board; Notice of Proposed Rulemaking

AGENCY: Institute of Museum Services, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Institute of Museum Services proposes regulations governing meetings of the National Museum Services Board under the Government in the Sunshine Act (5 U.S.C. 552b). The regulations include provisions regarding public announcements of Board meetings, standards for closing meetings and requirements applicable when meetings are closed.

DATES: Comments must be received on or before September 5, 1979.

ADDRESSES: Comments should be addressed to Director, Institute of Museum Services, 200 Independence Avenue, S.W., Room 326H, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Ms. Peggy Loar, (202) 245–6753.

SUPPLEMENTARY INFORMATION:

Structure of Institute of Museum Services

The Museum Services Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director.

The National Museum Services Board consists of 15 members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museums and curatorial, educational and cultural resources of the United States.

In addition to the members appointed by the President, the following serve as members of the Board: The Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Secretary of the Smithsonian Institute, the Director of the National Science Foundation, and the Commissioner of Education.

The Board has responsibility for establishing the general policies of the Institute.

The Director of the Institute is appointed by the President with the advice and consent of the Senate. The Director has responsibility for the general administration of the Institute and is authorized, subject to the policy direction of the Board, to make grants to museums under the Act.

The IMS is an agency within the Department of Health, Education, and Welfare.

Applicability of Government in the Sunshine Act

The Government in the Sunshine Act, Pub. L. 94–409 (1976), amended Title 5 of the United State by adding a new section 552b. Section 552b of Title 5 U.S.C. provides in general that Federal agencies headed by collegial bodies must, subject to specified exceptions, hold their meetings *open* to public observation. The Institute of Museum Services is subject to section 552b. For the convenience of readers and commenters, section 552b is appended in full. This appendix will not be codified in Title 45 CFR.

Section 552b requires that each agency subject to its provisions issue implementing regulations. 5 U.S.C. section 552b(g). The proposed regulations set forth below are designed to fulfill this requirement for the Institute of Museum Services.

These proposed regulations, which will govern meetings of the National Museum Services Board, were considered in substance by the Board at its meeting held on November 17, 1978. Pursuant to direction of the Board, the Administrative Conference of the United States was informally consulted about these proposed regulations.

Summary of Proposed Regulations

The proposed regulations do not repeat or paraphrase all the provisions of section 552b. (These provisions are fully applicable to the meetings of the National Museum Services Board and need not be repeated in regulations in order to be made operational with respect to the Board.) Instead, the proposed regulations are designed to highlight major provisions of section 552b as they affect the public and to provide guidance to the public as to how the Board proposes to operate in accordance with the provisions of section 552b. The proposed regulations would add a new Subpart B to Part 64 of Title 45 CFR, which contains the regulations of the Institute. The new subpart would relate to meetings of the National Museum Services Board.

Provisions of the regulations. General. Section 64.40 of the proposed regulations indicates that the provisions of 5 U.S.C. section 552b apply to meetings of the National Museum Services Board. Proposed § 64.41 of the regulations states the general rule that, unless properly closed, every portion of every meeting of the Board is open to public observation. Section 64.42 states the applicability of the regulations to meetings of committees of the Board. Since certain decisions under the regulations must be taken by record vote of the National Museum Services Board, § 64.43 describes the nature of a record vote. A majority vote of the entire membership of the Board is required to constitute a record vote.

Announcement of meetings. Sections 64.44–64.47 of the proposed regulations

relate to announcement of meetings. Section 64.44 requires a meeting to be publicly announced at least one week before the meeting takes place and specifies the matters which the announcement must cover. Paragraphs (b) and (c) of § 64.44 contain exceptions to this requirement.

Sections 64.45 and 64.46 state procedures to be followed when it is necessary to change the time, place or subject matter of a meeting. Under § 64.47 any public announcement required by the regulations must be published in the **Federal Register.**

Closing meetings. Sections 64.48–64.51 govern the closing of meetings. Section 64.48 provides that the national Museum Services Board may by record vote close a meeting if the Board determines that the meeting falls within one of the exceptions stated in section 552b. Concurrence of the Assistant Secretary for Public Affairs is required before a meeting may be closed.

Exceptions, as set forth in section 52b, are listed in Appendix A to the proposed regulations. Under § 64.48(b), the Board must consider whether the public interest merits keeping a meeting open although an exception applies. Section 64.49 deals with requests to close meetings submitted by persons who believe that their interests may be directly affected by a meeting or a portion of a meeting or a portion of a meeting. Section 64.50 describes the material which must be retained by the Board if it determines to close a meeting or a portion of a meeting. In general a transcript or recording of the meeting must be kept. Where meetings are closed pursuant to exceptions (8), (9)(i), or (10) (as listed in Appendix A), minutes of the meeting are adequate. Section 64.51 deals with the disposition of such recordings, transcripts or minutes and the circumstances under which they may or may not be made available to the public.

(Catalog of Federal Domestic Assistance No. 13.923, Museum Services Program)

Dated: February 24, 1979.

George C. Seybolt,

Chairman, National Museum Services Board.

Lee Kimche,

Director, Institute of Museum Services.

Approved: July 30, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

Part 64 of Title 45 of the Code of Federal Regulations is proposed to be amended as follows:

1. The table of contents for Part 64 is amended by adding the following:

Subpart A—Program Regulations

Sec.
64.1 Purpose of museum services program.
* * * * *
64.21–64.39 [Reserved]

Subpart B—Meetings of the National Museum Services Board

General

64.40 Scope.
64.41 General rule.
64.42 Application to NMSB committees.
64.43 Record vote.

Announcement of Meetings

64.44 Public announcement of meetings.
64.45 Changes in time or place of meeting.
64.46 Changes in subject matter of meeting.
64.47 Publication of announcements.

Closing Meetings

64.48 Reasons and procedures for closing meetings.
64.49 Requests to close meetings.
64.50 Materials related to closed portions of meetings.
64.51 Opening of transcript or recording of closed meeting.
Appendix A.

Authority: Pub. L. 94–462, secs. 201–210 (20 U.S.C. 961–68); 5 U.S.C. 552b.

2. A new Subpart heading is added before § 64.1 to read as follows:

Subpart A—Program Regulations

§§ 64.21–64.39 [Reserved]

3. Sections 64.21–64.39 are reserved.

4. The following new subpart is added.

Subpart B—Meetings of the National Museum Services Board

General

§ 64.40 Scope.

5 U.S.C. section 552b, added to the United States Code by the Government in the Sunshine Act, Pub. L. 94–409 (1976), provides that Federal agencies headed by collegial bodies must, with certain exceptions, hold their meetings in public. Section 552b applies to meetings of the National Museum Services Board ("NMSB"). The regulations in this document (Subpart B of Part 64, Title 45 CFR) set forth procedures for the conduct of meetings of the NMSB in accordance with section 552b.

§ 64.41 General rule.

Unless properly closed under § 64.48, every portion of every meeting of the NMSB is open to public observation. For the purposes of this document a "meeting" means the deliberations of at least the number of members of the NMSB required to take action on behalf of the NMSB, where these deliberations determine, or result in the joint conduct or disposition of, official IMS business. (A "meeting" does not include deliberations required or permitted by subsections (d) or (e) of section 552b.)

§ 64.42 Application to NMSB committees.

This document applies to committees of the NMSB when they are authorized to make final policy decisions on the NMSB's behalf. This document does not apply to committees or informal working groups of the NMSB which are authorized to make recommendations or reports to the NMSB or to perform technical or ministerial functions on its behalf.

§ 64.43 Record vote.

(a) Certain action of the NMSB with regard to meetings under these regulations may be taken only by "record vote." For purposes of this document, a vote of the NMSB is a "record vote" if (1) it carries by a majority of all those holding office as NMSB members at the time of the vote; (2) no proxies are counted toward the necessary majority; and (3) the individual vote of each member voting is recorded.

(b) Within one day of a record vote to close, or withhold information about, a meeting, or any record vote for this purpose that does not achieve the necessary majority, the NMSB makes available to the public a written record showing the vote of each member.

(c) The NMSB may take a vote with respect to matters governed by this part (without convening) by means of circulation of a written ballot, tally sheet, or other notation procedures.

Announcement of Meetings

§ 64.44 Public announcement of meetings.

(a) Except as stated in paragraphs (b) and (c) of this section, the NMSB makes a public announcement of each meeting at least one week before the meeting. The announcement covers:

(1) The time, place, and subject matter of the meeting;

(2) What portions of the meeting, if any, are to be closed to the public; and

(3) The name and phone number of the official designated to respond to requests for information on the meeting.

(b) The announcement may be made less than a week before the meeting it announces or after the meeting only if (1) the NMSB by record vote determines that agency business requires the meeting to be called on such short or after-the-fact notice and (2) a public announcement is made at the earliest practicable time.

(c) All or any portion of the announcement of any meeting may be omitted if the NMSB by record vote determines that the announcement would disclose information which should be withheld under the same standards as apply for closing meetings under § 64.48.

§ 64.45 Changes in time or place of meeting.

The time or place of a meeting of the NMSB that has been publicly announced as provided in § 64.44 may subsequently be changed. However, the change must be publicly announced at the earliest practicable time.

§ 64.46 Changes in subject matter of meeting.

The subject matter of any portion of any meeting of the NMSB that has been publicly announced as provided in § 64.44 (or the determination whether any portion of any meeting so publicly announced will be open or closed) may subsequently be changed if (a) the NMSB determines by record vote that agency business so requires and that no earlier announcement if change was possible and (b) the NMSB publicly announces the change and the vote of each member or the change at the earliest practicable time. (Deletion or postponement of agenda items are not subject to the requirements of this section.)

§ 64.47 Publication of announcements.

Promptly following a public announcement required by these regulations, the NMSB submits, for publication in the **Federal Register,** a notice containing information regarding the announcement as required by section 552b.

Closed Meetings

§ 64.48 Reasons and procedures for closing meetings.

(a) The NMSB may, by record vote in accordance with section 552b, close any portion of a meeting if it determines that the portion falls within one of the exceptions stated in 5 U.S.C. section 552b(c). (These exceptions are listed in Appendix A.)

(b) In making a determination under paragraph (a) of this section, the NMSB considers whether the public interest merits keeping the meeting open although an exception applies. The Assistant Secretary for Public Affairs must review and approve a determination to close a meeting or a portion of a meeting.

(c) The Board addresses requests for the certification required by section 552b to the General Counsel of the Department of Health, Education, and Welfare.

(d) Within one day of a record vote closing a portion of a NMSB meeting, the NMSB makes available a full written explanation of the NMSB's action and a list of all persons it expects to attend the meeting and their affilations.

§ 64.49 Requests to close meetings.

A person who believes his or her interests may be directly affected by a meeting or a portion of a meeting may request the NMSB to close it to the public for the reason cited in paragraphs (5), (6), or (7) of Appendix A. Such requests are handled under procedures established by the NMSB in accordance with section 552b.

§ 64.50 Materials related to closed portions of meetings.

If a portion or portions of any meeting or the NMSB are closed to the public—

(a) The presiding officer of the meeting (usually the Chairman of the NMSB) furnishes a statement setting forth the time and place of the meeting and the persons present (including staff).

(b) Except where the Act authorizes minutes to be kept, the NMSB makes a complete transcript or electronic recording adequate to record fully the proceeedings of each portion of the meeting that is closed to the public.

(c) The NMSB maintains the presiding officer's statement, the General Counsel's certificate, as required by section 552b, and the transcript, recording, or minutes of the meeting for at least two years after the meeting and at least one year after the NMSB completes consideration of any proposal, report, resolution, or similar matter discussed in any closed portion of the meeting.

§ 64.51 Opening of transcript or recording of closed meeting.

(a) Except as stated in paragraph (b) of this section, the NMSB makes available for inspection the transcript, electronic recording or minutes of every portion of every closed meeting on request to any member of the public. The transcript or recording is made available in an easily accessible place. The NMSB furnishes to any member of the public on request copies of the transcript (or of a transcription of the recording) disclosing the identity of each speaker. The NMSB charges for the copies or transcriptions no more than the actual cost of duplication or transcription.

(b) The NMSB withholds the transcripts or recording of the discussion of any agenda item if the Chairman of the NMSB (or a NMSB member designated by the Chairman) determines that the discussion contains information which should be withheld under the same standards which apply for closing meetings under § 64.48. The NMSB releases the transcript or recording so withheld when the Chairman (or the Chairman's designee) determines that the grounds for withholding no longer apply.

Appendix A

A meeting may be closed if:

(1) It is likely to disclose mattters that (i) are specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to the Executive Order.

(2) It is likely to relate solely to the internal personnel rules and practices of the IMS or another Federal agency;

(3) It is likely to disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided,* That the statute (i) requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) It is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) it is likely to involve accusing any person of a crime, or formally censuring any person;

(6) It is likely to disclose personal information where the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) It is likely to disclose investigatory law-enforcement records, or information which, if written, would be contained in such records, but only to the extent provided in 5 U.S.C. 552b(7);

(8) It is likely to disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) It is likely to disclose information, the premature disclosure of which (*i*) in the case of information received from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (*a*) lead to significant financial speculation in currencies, securities, or commodities, or (*b*) significantly endanger the stability of any financial institution; or (ii) be likely to significantly frustrate implementation

of a proposed IMS action unless the IMS has already disclosed to the public the content or nature of its proposed action or is required by law to make such disclosure on its own initiative before taking final action; or

(10) Is likely to specifically concern the IMS participation in a civil action or proceeding, or action in a foreign court or international tribunal, or an arbitration.

[FR Doc. 79-24195 Filed 8-3-79; 8:45 am]

BILLING CODE 4110-24-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 161g]

Law Related Education Program; Proposed Regulations; Correction

AGENCY: Office of Education, HEW.

ACTION: Correction Proposed Regulations.

SUMMARY: In the proposed regulations published in the Federal Register Part IV on June 29, 1979, Vol. 44, No. 127, page 38142, a technical correction is needed.

FOR FURTHER INFORMATION CONTACT:
Steven Y. Winnick, telephone (202) 245-8953.

The document is corrected as follows: (1) On page 38142 first column, second paragraph entitled "Dates", the reference to "August 12, 1979" should be changed to "August 1, 1979". This is the date for the ten regional public meetings on the proposed regulations.

Dated: July 25, 1979.

(Catalog of Federal Domestic Assistance No. (not yet assigned), Law Related Education Program)

L. David Taylor,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 79-24197 Filed 8-3-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF ENERGY

[10 CFR Part 485]

[Docket No. CAS-RM-79-108]

Urban Wastes Demonstration Facilities Guarantee Program; Cancellation of Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking; cancellation of public hearing.

SUMMARY: The Department of Energy hereby cancels the public hearing on the Urban Wastes Demonstration Facilities Guarantee Program which was scheduled for Thursday, August 9, 1979, in New Orleans, Louisiana. The public hearing is cancelled due to the lack of any requests to speak at the hearing. As stated in the notice of proposed rulemaking, issued on July 11, 1979, (44 FR 42094, July 18, 1979) written comments on the proposed rulemaking must be received by 4:30 e.d.t. on September 17, 1979.

FOR FURTHER INFORMATION CONTACT:
Donald K. Walter, Program Director, Room 2252C, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20585 (202) 376-1964.

Issued in Washington, D.C., August 3, 1979.

Omi Walden,

Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-24387 Filed 8-3-79; 12:14 pm]

BILLING CODE 6450-01-M

Notices

Federal Register
Vol. 44, No. 152
Monday, August 6, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Authorization of Federal Assistance in the Installation of Works of Improvement

Federal assistance in the installation of works of improvement under the authority of the Watershed Protection and Flood Prevention Act (Pub. L. 83-566) has been authorized for the following watersheds:

Dynne Creek, Alabama,
Factory Creek, Alabama,
Kickapoo Nations, Oklahoma,
Middle Creek, Kansas,
Robinson Creek, Oklahoma,
Upper San Marcos River, Texas,
Wet Walnut Creek Subwatershed No. 2, Kansas,
Wet Walnut Creek Subwatershed No. 3, Kansas,
Wet Walnut Creek Subwatershed No. 5, Kansas.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: July 27, 1979.

Victor H. Barry, Jr.,

Deputy Administrator for Programs.

[FR Doc. 79-24104 Filed 8-3-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 36063]

Increased Excess Baggage Charges in Overseas and International Air Transportation Proposed by Pan American World Airways, Inc.; Postponement of Prehearing Conference

By letter dated July 27, 1979, in which it stated that neither Bureau Counsel nor Counsel for DHL has any objection to approval of its request, Pan Am has asked that the July 27 date for submission of prehearing conference statements be postponed to August 10, 1979, and that the prehearing conference (heretofore scheduled for August 2, 1979—44 FR 40911, July 13, 1979) be rescheduled for an appropriate date thereafter. In support of its request Pan Am asserts that it may decide to withdraw the tariffs at issue in this proceeding but that such a determination will not be made prior to August 2. The carrier also stated that if its request is approved it will agree to delay implementation of the overseas courier tariff for an additional 30 days beyond the suspension period, and that it will agree to notify all parties and the undersigned immediately if it does decide to withdraw the tariffs under investigation.

On consideration of the foregoing the request is granted. Prehearing conference statements are to be submitted on or before August 10, 1979, and the prehearing conference is postponed to a date later to be determined.

July 30, 1979

Henry M. Switkay,

Administrative Law Judge.

[FR Doc. 79-24182 Filed 8-03-79; 8:45 am]

BILLING CODE 6320-01-M

Provisional Findings and Conclusions

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 79-7-207 Adopting Supplementary Statement of Provisional Findings and Conclusions regarding the subsidy rate to be established effective July 1, 1978, under new class rate (Class Rate IX).

SUMMARY: The Board has adopted a Supplementary Statement of Provisional Findings and Conclusions in the Investigation of the Local Service Class Subsidy Rate, Docket 32484. It tentatively determines the subsidy rates applicable on and after July 1, 1978. Effective October 24, 1978, the proposed rate increases to reflect statutory provisions contained in the Airline Deregulation Act of 1978. After October 24, 1978, the rate is based solely on requirements of service to non-hub points and an additional service incentive payment is provided for continued service to small communities. Subsidy levels will be reviewed semi-annually under the provisions of the rate.

DATES: Parties must file notices of objection by August 13, 1979, and must file answers by September 4, 1979.

FOR FURTHER INFORMATION CONTACT:
John R. Hokanson or James Craun, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5368.

SUPPLEMENTARY INFORMATION: The annual subsidy level incorporated into a payment formula and the annual incentive payments to be provided contingent upon continued service to non-hub points is as follows:

	Class rate IX basic annual rate	Annual service incentive payment
Frontier	$17,308,000	$3,467,000
Hughes Airwest	8,334,000	2,631,000
North Central	14,963,000	4,182,000
Ozark	10,000,000	3,389,000
Piedmont	8,413,000	1,192,000
Southern	3,505,000	1,771,000
Total	62,523,000	16,632,000

The complete text of Order 79-7-207 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-7-207 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 31, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 24184 Filed 8-3-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 35752]

Wild Card Route Case; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on August 28, 1979, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are

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referred to the Prehearing Conference Report, served on July 10, 1979, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., July 30, 1979.

William H. Dapper,

Administrative Law Judge.

[FR Doc. 79-24183 Filed 8-3-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Surveys in Manufacturing Area; Consideration

Correction

In FR Doc. 79-22677, at page 43032, appearing in the issue of Monday, July 23, 1979, on page 43033, in the middle column, the last paragraph, the fifth line, correct "September 20, 1979" to read "August 22, 1979."

BILLING CODE 1505-01-M

Industry and Trade Administration

University of California, et al.; Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 27, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 735 at 666 11th Street, N.W., Washington, D.C.

Docket No. 79-00288. Applicant: University of California, 7000 East Avenue, Livermore, CA 94550. Article: Fluorophosphate Laser Disks. Manufacturer: Hoya Corporation, Japan. Intended use of article: The article is intended to be used for the investigation of the feasibility of producing a thermonuclear microexplosion using a uniquely high intensity laser pulse. The experiments will be conducted using the existing SHIVA laser in combination with the NOVA I laser system to obtain isentropic compression of deuterium-tritium targets to greater than 10,000 times liquid density, thereof producing for the first time in any research facility, thermonuclear reaction of as many as 10 to the 17th neutrons per microexplosion. Application received by Commissioner of Customs: June 27, 1979.

Docket No. 79-00311. Applicant: Purdue University, Purchasing Department, FREH Bldg., West Lafayette, IN 47907. Article: Dynamic Viscoelastometer, DDV-11-C with Accessories. Manufacturer: Toyo Baldwin Co., Ltd., Japan. Intended use of article: The article is intended to be used for the study of viscoelastic properties of various rubbery or glassy polymer materials. The viscoelastic properties will be measured as a function of frequency at a given temperature; subsequently, the temperature will be changed and the frequency dependence of the viscoelastic properties at this new temperature will be determined. The primary objective of these investigations will be to determine the influence of the molecular structure of the polymeric material (i.e., degree of crosslinking, amount of crystallinity, degree of swelling, etc.) on the macroscopic viscoelastic properties. The temperature and frequency dependence of the viscoelastic properties is of considerable importance. Application received by Commissioner of Customs: June 27, 1979.

Docket No. 79-00312. Applicant: Cornell University, Ithaca, New York 14853. Article: Droplet Countercurrent Chromatograph and Accessories. Manufacturer: Tokyo Rikakikai Co., Japan. Intended use of article: The article is intended to be used for studies of chemicals from insect sources such as steroids, glycosides, pterines, alkaloids and organic acids. The objectives pursued in the course of these investigations are the understanding of interactions between insects and their predators. In addition, the article will be used in a basic laboratory training course for beginning researchers. Application received by Commissioner of Customs: June 26, 1979.

Docket No. 79-00313. Applicant: State Technical Institute at Memphis, 5983 Macon Cove, Memphis, Tennessee 38134. Article: Mobile Solartest Facility. Manufacturer: Solafrin Products, Canada. Intended use of article: The article is intended to be used in the course Solar Energy I, AR 724 to train technicians to design and operate Solar Collectors. Application received by Commissioner of Customs: June 27, 1979.

Docket No. 79-00314. Applicant: Smithsonian Institution, Astrophysical Observatory, 60 Garden Street, Cambridge, MA 02138. Article: Image Intensifier Tube, Power Supplies, and Oscillator. Manufacturer: Proxitronic Funk GmbH, West Germany. Intended use of article: The article is intended to be used for studies of spectra of faint astronomical objects, with wavelength coverage from the atmospheric cutoff at 3200A to about 8500A (near IR). The experiments to be conducted will consist of observations of a variety of astronomical objects using high-efficiency spectrographs attached to large telescopes. These will include studies of galactic and extragalactic phenomena such as quasars, galaxy redshifts, cosmological evolution, interstellar absorption, and stellar or galactic chemical composition. Application received by Commissioner of Cutoms: June 27, 1979.

Docket No. 79-00315. Applicant: Carnegie-Mellon University, Department of Chemistry, 4400 Fifth Avenue, Pittsburgh, PA 15213. Article: Vibrating Densimeter, Model 02D. Manufacturer: Sodev, Inc., Canada. Intended use of article: The article is intended to be used for studies of various liquids and solutions such as polymer solutions and solutions of electrolytes in water. Actual experiments will involve the determination of the period of the tuning fork oscillations in order to obtain molecular parameters for the liquids and solutions. Application received by Commissioner of Customs: June 27, 1979.

Docket No. 79-00316. Applicant: Mt. Sinai School of Medicine of the City University of New York, 1 Gustave L. Levy Place, New York, NY 10029. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study of the structure of biological cells and tissues; including respiratory tissues and the phenomena associated with respiratory diseases; the supramolecular structure of secretory and ciliated cells; the organization of myoid filaments and proteins at the apical ends of ciliated cells; the interaction of these filaments and proteins with one another assessed by tilting the specimen and constructing stereo pairs; the structure of elastin and collagen in the lung. Experiments will be conducted to get a better understanding of respiratory disease, with particular reference to the development of emphysema and chronic bronchitis and to the underlying biological mechanisms affected, such as ciliary activity, cell-cell interaction and the entry of foreign substances into the body via the respiratory system. In addition, the article will be used in the courses "Electron Microscopy for Experimental Pathologists" and "Electron Microscopy for Pathology Residents" to introduce students to modern electron microscopy techniques in order that they may successfully undertake activities relative to their field with further supervision. Application received by Commissioner of Customs: June 27, 1979.

Docket No. 79-00317. Applicant: Sandia Laboratories, 1515 Eubank Bldg., S.E. Albuquerque, New Mexico 87123. Article: Imacon 790 High Speed Image Converter Camera System. Manufacturer: John Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used in several experiments which require photorecording of fast transients having low radiance characteristics as in neutron source and phyrotechnic studies. Fundamental physical understanding is inherently coupled to the birth and early growth of emissive systems. Application received by Commissioner of Customs: June 27, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-24095 Filed 8-3-79; 8:45 am]

BILLING CODE 3510-25-M

University of Texas Health Science Center, et al; Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 27, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m. Monday through Friday, in Room 735 at 666-11th Street N.W. Washington, D.C.

Docket No. 79-00324. Applicant: University of Texas Health Science Center, 5323 Harry Hines Blvd., Dallas, Texas 75235. Article: NMR Spectrometer, Model JNM/FX-90Q and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in support of research projects in the general areas of organic, physical, and biochemistry. The specific areas of research include:

(i) Structure elucidation of natural products;

(ii) Identification and analysis of synthetic products and chemically modified biological materials;

(iii) Study of the packing, composition, and dynamics of transport proteins;

(iv) Interactions and structure of isonitrile-metal complexes;

(v) Conformational analysis of fatty acids and related systems. Pulsed Fourier transformer NMR spectra will be obtained for ^{1}H and ^{13}C on material as required for each project. Intergration, chemical shifts, coupling constants, T_1 and T_{1-rho} relaxation times, Nuclear Overhauser. Effects, and line shapes will be measured to obtain data about the structure, purity, composition, and dynamics of the systems under investigation. Application received by commissioner of customs: June 26, 1979.

Docket No. 79-00325. Applicant: Brandeis University, 415 South Street, Waltham, MA 02254. Article: Multigas Laser Kit, K203-2 and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for studying infrared laser induced reactions of simple and complex organic molecules in the 9.2-11.0 micron (CO_2 laser) and the 5-5.6 micron (CO laser) region of the electromagnetic spectrum. This will be done in the solid, liquid, and gaseous phases. Experiments will be conducted to find new and useful chemical reactions and to scale-up known and new reactions using conventional stop-flow techniques. The article will also be used in a graduate level research chemistry course for training men and women as scientists, and to carry out research that will help advance the basic and practical aspects of the discipline. Application received by Commissioner of Customs: June 25, 1979.

Docket No. 79-00326. Applicant: University of California, San Francisco, 1438 Harbour Way South, P.O. Box 4028, Richmond, CA 94804. Article: High Purity Germanium Well Counter. Manufacturer: Enertec, France. Intended use of article: The article is intended to be used to separate out the spectra of multiple radionuclides in tissue. The experiments will consist of injecting batches of microspheres each labelled with a different gamma-emitting radionuclide. These experiments are designed to study what controls blood flow to different regions of the heart muscle, and to find out why blood flow is difficient in various types of heart disease. Application received by Commissioner of Customs: June 26, 1979.

Docket No. 79-00327. Applicant: National Aeronautics and Space Administration, Goddard Space Flight Center, Greenbelt, MD 20771. Article: Scanning Electron Microscope, Model PSEM 500X and Accessories. Manufacturer: Philips Electronics Instruments, The Netherlands. Intended use of article: The article is intended to be used in materials research program covering a broad spectrum of applications. It will also be used extensively in the failure analysis of materials and spacecraft components both as a microscope and electron microprobe.

Specific uses will include the following:

(a) To identify elements present in a specimen, determine their distribution and concentration on a microscopic level,

(b) To conduct fractographic studies of metals such as 301 and 17-7 PH stainless steels and 6061 aluminum,

(c) To conduct diffusion studies of noble metals into base metal matrices such as the diffusion of gold into Kovar (an iron-nickel-cobalt alloys),

(d) To characterize the microstructure of alloys and weldments, and

(e) To determine phase identification of grain boundary precipitates in alloy research.

Application received by Commissioner of Customs: June 26, 1979.

Docket No. 79-00328. Applicant: University of Kansas, 2095 Ave A—Campus West, Lawrence, Kansas 66044. Article: Flow Micro Calorimeter, Model LKB 2107-121 and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of the thermodynamics of bile and micellar solution, and to determine the variation of these solutions and to determine the variation of these properties with the structure of the bile salt. The enthalpy and heat capacity of these complex micellar solutions will be measured as a function of temperature, bile salt structure and added electrolyte.

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In addition, the article will be used by students enrolled in "Undergraduate Research in Pharmaceutical Chemistry", "Doctoral Dissertation" and "Post-doctoral Research in Pharmaceutical Chemistry". Application received by Commissioner of Customs: June 27, 1979.

Docket No. 79–00329. Applicant: The Buffalo General Hospital, 100 High Street, Buffalo, New York 14203. Article: Urodynamic Amplifier, Calibrator and Withdrawal. Manufacturer: Vingmed, Norway. Intended use of article: The article is intended to be used in the evaluation and treatment of secondary and atypical urinary incontinence as part of a full spectrum of study to be offered. The degree to which elasticity and distensibility of the urethra influence significantly urethal tone and intraurethral pressure. This will further evaluate the presently undetermined significance of varying degrees of urethral stricture of diverse causes in the female. Since continence is a phenomenon relating to a simultaneous comparison of intravesical and intraurethral pressure, simultaneous recordings of both are essential to its study. This study is a part of an educational program for third and fourth year medical students and first, second, third and fourth year residents in obstetrics and gynecology who are in the SUNY/AB residency program. Application received by Commissioner of Customs: June 26, 1979.

Docket No. 79–00330. Applicant: University of California, Lawrence Livermore Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: Electron Framing Camera System. Manufacturer: John Hadland Photographic Instrumentation, United Kingdom. Intended use of article: The article is intended to be used as a diagnostics tool for the Beta II machine in the Magnetic Fusion Energy Program. A plasma gun is being built for Beta II to generate a field-reversal target plasma for neutral beam heating and confinement studies. In addition to field-reversal experiments Beta II will be capable of continuing studies of plasma startup, stabilization and confinement in support of the Mirror Fusion Test Facility. The article will be used to take framing photographs of the discharge from a coaxial plasma generating gun at the rate of 8 or 16 frames per discharge. These photo diagnostics will be used to study the symmetry, size, shape, and time development of the plasma ring, and the development and confinement of the plasma. Application received by Commissioner of Customs: June 26, 1979.

Docket No. 79–00332. Applicant: University of Connecticut Health Center, 263 Farmington Ave., Farmington, Conn. 06032. Article: Electron Microscope, Model H–300 and Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used to examine a number of different biological materials, from many researchers, including fractionated cellular components, viruses, bacteria, tissue culture cell preparations, organelle tissue, whole tissue, bone and dental tissue at both the transmission and scanning electron microscope levels. Dependent upon the material to be examined, experiments will be carried out to determine:

(I) The purity of a fractionated preparation.

(II) The detection of cytomegalavirus in the urine of patients suffering from fever of undiagnosed origin.

(III) The morphology of bacterial mutants and bacteria and isolated cells after treatment with antimicrobial and chemotherapeutic agents.

(IV) The effects of cryosurgical techniques on the tissues of the teeth.

(V) The regenative capacity of pulp tissue following cryosurgery.

The aricle will also be used for education purposes in the course Electron Microscopy of Biological Materials which is designed to introduce and familiarize students with the theory, techniques and applications of electron microscopy. Application received by Commissioner of Customs: June 26, 1979.

Docket No. 79–00333. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60439. Article: Automatic Displacement Indicator. Manufacturer: Automatic Systems Laboratories, United Kingdom. Intended use of article: The article is intended to be used in the investigation of the long-term (up to six months), nonlinear and very small deformation of nuclear reactor materials. Application received by Commissioner of Customs: June 26, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-24096 filed 8-3-79; 8:45 am]

BILLING CODE 3510-25-M

Boyce Thompson Institute For Plant Research, et al.; Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Eductional, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 27, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 735 at 666–11th Street N.W. Washington, D.C.

Docket No. 79–00318. Applicant: Boyce Thompson Institute for Plant Research, Tower Road, Ithaca, NY 14853. Article: Fumigation Chamber, Controller. Manfacturer: University of Calgary, Canada. Intended use of article: The article is intended to be used for studies of the effects of air pollutants (SO_2, NO_2, HF etc.) on photosynthesis, transpiration and leaf injury in vegetation. The objectives pursued in the course of these studies are to explain differences in toxicity of pollutants by knowing the amounts of pollutants needed to cause injury and determine how the vegetation is adversely affected by air pollutants at concentrations below the levels which will cause injury—(effects on photosynthesis and transpiration [water loss]). Application received by Commissioner of Customs: June 27, 1979.

Docket No. 79–00319. Applicant: HEW-PHS Center for Disease Control, 255 East Paces Ferry Road, N.E., Atlanta, Georgia 30305. Article: Mass Spectrometer System, Model MMZAB2F and Accessories. Manufacturer: VG Organic Ltd., United Kingdom. Intended use of article: The article is intended to be used in conducting some form of masss spectral anaylsis for each of the following components: toxins in various matrices; analytes of clinical interest, impurities and contaminants in standard reference materials; and other compounds of biochemical origin related to the research being conducted. Experiments to assess reactivity will be conducted by varying the conditions in the mass spectrometer such as different inlet systems, different ionization modes, different collision gases, etc. Application received by Commissioner of Customs: June 27, 1979.

Docket No. 79–00320. Applicant: Morehouse College, School of Medicine, 223 Chestnut St., S.W., Atlanta, GA 30314. Article: Electron Microscope, Model H–300 and Accessories. Manufacturer; Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used for localization of enzymes in soft tissues by histochemical methodology (2) localization of calcium and its insoluble salts within soft tissues by cytochemical techniques and (3) descriptive analysis of skeletongensis. Research studies shall be conducted on both invertebrate the larval scleractinian coral and vertebrate the embryonic teleost and rat organisms. In these studies concentration shall be on initial signs of mineral deposition and on examination of tissue-skeletal relationships by analysis of the primary skeletal deposits. Application received by Commissioner of Customs: June 27, 1979.

Docket No. 79–00321. Applicant: University of Illinois at Chicago Circle, Department of Physics, P.O. Box 4348, Chicago, Illinois 60680. Article: Rare Gas Halide Laser, Model TE–861. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used in investigations of atoms and simple molecules in both the gaseous and liquid phases. A variety of phenomena are to be studied in these experiments including multiphoton excitation and ionization, radiative and nonradiative decay, collisional quenching and photochemical reaction kinetics. These studies are aimed at a number of objectives including basic research into atomic and molecular phenomena, studies of optimum photolytic production of excited states and collisional phenonmena of laser fusion applications, and explorations into the possibility of nonlinear generation of coherent soft X-rays. Application received by commissioner of customs: June 27, 1979.

Docket No. 79–00322. Applicant: Kansas State University, Dept. of Chemistry, Manhattan, Kansas 66506. Article: Carbon Dioxide Laser, TEA–103–2 and Accessories. Manufacturer: Lumonics Research Limited, Canada. Intended use of article: The article is intended to be used to study the influence of high power laser energy upon chemical reactions. The chemical phenomena to be studied include, but are not limited to the following:

(a) Enhancement of rates of known chemical reactions by laser radiation.

(b) Initiate new chemical reactions via laser radiation.

(c) Identification of vibrational energy transfer pathways initiated by laser radiation.

(d) Study of rotational energy transfer in diatomic and triatomic molecules.

(e) Development of laser induced reactions for synthesizing novel organic compounds and transient intermediates.

The article will also be used for training students in laser techniques as related to chemistry in the courses: Ph. D. Research in Chemistry, M.S. Research in Chemistry, problems in Undergraduate Chemistry. Application received by Commissioner of Customs: June 26, 1979.

Docket No. 79–00323. Applicant: University of Illinois, Purchasing Division, 223 Administration Building, Urbana, Illinois 61801. Article: Superconducting Solenoid. Manufacture: Oxford Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used to generate a magnetic field which is strong, spatially uniform, and steady in time in studies of wide variety of problems in the broad area of solid state physics. Application received by Commissioner of Customs: June 26, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-24097 Filed 8-3-79; 8:45 am]

BILLING CODE 3510-25-M

National Cancer Institute, et al.; Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 27, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 735 at 666–11th Street N.W., Washington, D.C.

Docket No. 79–00294. Applicant: National Cancer Institute, 9000 Rockville Pike, National Institutes of Health, Building 37, Room 5A19, Bethesda, Maryland 20014. Article: LKB 2258-041 PMV Cryo-Microtome, Type 160 and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the following investigations: (1) autoradiographic drug and chemical distribution studies of whole animals as well as fetal distribution studies of teratogenic compounds; (2) histochemical studies of hormone and enzyme localization in cells and tissues of large specimens; (3) metabolism studies of drugs and toxic or carcinogenic environmental agents; and (4) gross morphology and low powered light microscopy examination of whole human organs and animals to measure tumor metastasis. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00295. Applicant: University of Chicago Operator of Argonne National Laboratory, 9700 S. Cass Avenue, Argonne, Illinois. Article: High Temperature TG–DTA Thermal Analyzer and Accessories. Manufacturer: Rigaku Corporation, Japan. Intended use of article: The article is intended to be used for the study of the physical properties of selected actinide elements dissolved in metal alloys (Cd, Zu, Cu, Mg). Specific experiments include: (1) the establishment of phase diagrams (thorium/cadmium and thorium/cadmium/magnesium); (2) Measurement of heats of transition (thorium alloys); (3) Measurement of the losses of volatile components (cadmium/magnesium) and (4) Identification of intermetallic compounds. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00296. Applicant: Case-Western Reserve University, 2040 Adelbert Rd., Cleveland, Ohio 44106. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the investigation of several bio-medical phenomena of ongoing research projects to provide morphological information which will correlate with biochemical experiments. The objectives of the studies is to provide ultrastructural information on the various preparations itemized. The experiments to be conducted generally include the following: (1) protein synthesis will be measured in developing embryos using biochemical methodology, (2) structural

components of axons such as neurofilaments and microtubules will be isolated and their macromolecular organization, (3) studies of the ultrastructural morphology of two unique cells in the blastema (regeneration zone) of developing newt limbs, (4) studies of glycoproteins which have been isolated from developing skeletal muscle which have been characterized biochemically to be implicated in myoblast recognition, and (5) isolated neuromuscular junctions will be obtained from nerve-muscle preparations which are "quiescent" or hyper-stimulated and differences in their characteristic ultrastructural morphology will be defined. The general objectives of all these studies is to provide ultrastructural information on the various preparations itemized above so that changes in the biochemistry and physiology of the systems studied can be correlated with changes in the ultrastructural aspects of the system. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00297. Applicant: St. Francis Hospital and Medical Center, 1700 West 7th Street, Topeka, Kansas 66606. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in a variety of educational courses given to acquaint various medical personnel with the clinical usefulness of electron microscopy as follows:

1. Clinical use of electron microscopy-nursing.

2. Clinical use of electron microscopy-medical technologists.

3. Clinical use of electron microscope-medicine residents.

4. Electron microscopy clinical-pathologic correlation conference.

Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00298. Applicant: University of California, Los Angeles, 405 Hilgard Avenue, Los Angeles, Calif. 90025. Article: Reflex Klystron, Model VRT 2121A and Accessories. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used in high beta surmace experiment to probe the plasma with a microwave beam in order to measure the plasma density. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00299. Applicant: Moody College of Marine Sciences of Texas A&M University, Pelican Island, Galveston, Texas 77553. Article: Nuclear Magnetic Resonance Spectrometer, Model PS–400 and Accessories. Manufacturer: Spin Tech Electronics Ltd., Canada. Intended use of article: The article is intended to be used in conjunction with a magnet system to measure proton relaxation times T_1 and T_2 in a variety of samples including plant and animal tissues, marine sediments and hydrated minerals. The relaxation times will provide detailed information about the nature of the interactions between the protons of the water molecules and the molecular surfaces of the various samples, and in addition they will provide a measure of the restrictions imposed on the translational and rotational mobility of the water molecules themselves. Temperature studies will be conducted on the depression of the freezing point of water in the various samples. Polymerization and denaturation process in various protein solutions will also be studied with the apparatus since the relaxation times are quite sensitive to the conformational changes in the protein substrate accompanying these processes. In addition, the article will be used in at least two courses: Marine Science 485 (Special Research Problems in Marine Science) and Marine 489 (Special Topics in Electrical and Physical Measurements for the Marine Sciences. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00300. Applicant: University of California, San Diego, 3175 Miramar Road, La Jolla, California 92093. Article: VG Micromass ISOMASS 54E Thermal Ionization Mass Spectrometer and Accessories. Manufacturer: VG Micromass, United Kingdom. Intended use of article: The article is intended tq be used for the following general areas of investigation: (1) Delineation of the isotopic composition of the elements Nd and Sr in the earth's upper mantle by measurement of mantle-derived rocks from the ocean basins and continents, (2) To determine the patterns of rare-earth element concentrations by isotope dilution mass spectrometry in rocks of the earth's crust studied in (1) as a means to understand the geochemical processes occurring during their generation, and the mineralogical composition of their mantle source regions, (3) measurement of isotopic anomalies in their elements such as the rare-earths, Sr, Ca and Mg, (4) Precise measurements of the ages of crustal rocks, particularly old (Precambrian) materials from the continental crust, using the Rb-Sr and Sm-Nd geochronologic techniques. In all these tasks, the materials to be analyzed will be natural oxide or silicate minerals. The article will also be used in the courses SIO 248A (Seminar in Marine Geology), SIO 252C (Nuclear Geology) and SIO 299 (Independent Research). Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00301. Applicant: University of Houston, Purchasing Department, 4800 Calhoun, Houston, TX 77004. Article: Scleral Contact Lens Electrode and Accessories. Manufacturer: Skalar Instruments, Netherlands. Intended use of article: The article is intended to be used for the study of movement of the eye to determine if an individual can learn to control the position of one eye independently of the other when given information regarding its position, i.e., when biofeedback techniques are employed. Application received by Commissioner of Customs: June 12, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–24098 Filed 8–3–79; 8:45 am]

BILLING CODE 3510–25–M

National Radio Astronomy Observatory Associated Universities, Inc, et al.; Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 27, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 735 at 666–11th Street N.W. Washington, D.C.

Docket No. 79–00305. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85705. Article: Repair of Varian Klystron VRB 2113A30. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article will be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00306. Applicant: University of Alaska, Forest Soils Lab, O'Neill Bldg., Fairbanks, Alaska 99701. Article: Miniature Temperature Recorder, Model D, Temperature Ranges and Accessories. Manufacturer: Grant Instruments, United Kingdom. Intended use of article: The article is intended to be used to take soil temperature measurements in Alaska down to –10 to –15 C. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00308. Applicant: Medical College of Ohio—Department of Pathology, C.S. 10008, Toledo, Ohio 43699. Article: LKB 2128–010/Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigations of animal tissues (kidney, muscle, tumors, etc.) which hopefully will further basic knowledge on cell and tissue ultrastructure of diseases processes and provide a correlation with and better understanding of human ultrastructural pathology. The article will also be used in the course Diagnostic Electron Microscopy which involves the study, general principles and techniques of electron microscopy (involving ultramicrotomy), and the use of the electron microscope to study cellular ultrastructure and pathologic alterations. In addition, the article will be used as a learning base for various faculty, residents, and graduate students in the Department of Pathology and occasionally from other clinical departments in the School of Medicine. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00309. Applicant: Columbia University—Nevis Laboratories, 136 South Broadway, Irvington, New York 10553. Article: Lead Glass Blocks (130 pcs.). Manufacturer: O'Hara Optical Glass Manufacturing Co. Ltd., Japan. Intended use of article: The article is intended to be used in Elementary Particle Physics experiments in which the lead glass will be mated to photomultiplier tubes and associated electronics. The assembly will be used to detect very high energy electrons and protons which deposit all their energy in the lead glass. Application received by Commissioner of Customs: June 13, 1979.

Docket No. 79–00310. Applicant: University of California, College of Chemistry, Purchasing Department, 2405 Bowditch Street, Berkeley, CA 94720. Article: G.V. Planar Vapor Synthesis Unit, Model VSP–302 and Accessories. Manufacturer: Oxford Instruments Inc., United Kingdom. Intended use of article: The article is intended to be used for vaporizing refractory metals such as tungsten at high rates (up to 5 gm per hour) by the use of a twin electron beam with a shielding design so that none of the reactant organic molecules suffer any electron beam damage. Investigations will include critical chemical and catalytic studies of arene-transition metal complexes and the exploratory synthesis efforts in the preparation of new binary zerovalent (or low-valent) transition metal phosphine, $M(PR_3)_n$, and phosphite, $M[P(OR)_3]_n$, complexes and of new coordinately unsaturated metal clusters. Application received by Commissioner of Customs: June 12, 1979.

(Catalaog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–24099 Filed 8–3–79; 8:45 am]

BILLING CODE 3510–25–M

Medical College of Wisconsin, et al.; Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 27, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 735 at 666–11th Street N.W. Washington, D.C.

Docket No. 79–00286. Applicant: The Medical College of Wisconsin, P.O. Box 26509, 8701 Watertown Plank Road, Milwaukee, Wisconsin 53226. Article: Electron Microscope, Model EM 400 with High Magnification Goniometer and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of the following:

a. Ultrastructural and immunomorphology of human and animal malignant cells.

b. Changes of cells during differentiation.

c. Ultrastructural and cytochemical observations on mammalian and microbial cells.

d. Fine structure and elemental analysis of eucaryotic cell membranes and organelles.

e. fine structure and elemental analysis on pathogenic bacteria, viruses, bacteriophages, and proteins.

f. Ultrastructural and elemental analytical studies on tissues and cells in different immunologic and pathogenic situations.

In addition, the article will be used by graduate and post graduate students and research fellows in the courses: Ultrastructure of Microorganisms, Current Topics in Cells Biology, and Doctoral Dissertation. Application received by Commissioner of Customs: June 7, 1979.

Docket No. 79–00287. Applicant: University of New Mexico, Cancer Research and Treatment Center, 900 Camino de Salud, N.E., Albuquerque, New Mexico 87131. Article: Ultrasonic Imaging Unit. Manufacturer: Ausonics Pty. Limited, Australia. Intended use of article: Research will be conducted to evaluate the unique characteristics of this ultrasonic scanning system as applied to specific organs systems. Comparison with alternative imaging techniques will be carried out, specifically ultrasonic imaging of the neonatal brain will be compared with the CTT imaging. The efficiency of computerized ultrasound images versus CTT scans for radiation treatment planning in the abdomen and pelvis, will be evaluated. The objectives of these investigations are improved medical diagnosis and therapy. The results of the research investigations will, in themselves, be educational. Application Received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00289. Applicant: Cardinal Glennon Memorial Hospital For Children, 1465 South Grand Blvd., St. Louis, Mo. 63104. Manufacturer: JEOL Ltd., Japan. Intended use of article: The

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article is intended to be used in experiments which involve the utrastructural study of tissues from animal models in a variety of experimentally induced diseases and their comparison with similar diseases affecting children. Hospital staff pathologists will also use the articles to train pathology residents, medical students and postdoctoral fellows. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00290. Applicant: University of California—Lawrence Berkeley Laboratory, 1 Cyclotron Road, Berkeley, California 94720. High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System, Model JNM/FX–90Q(II) and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of article: The article is intended to be used specifically for studies on:

(1) naturally occurring siderophores and biomimetic synthetic highly selective sequestering agents for 3^+ and 4^+ cations;

(2) mixed hydroxo-anion aqueous complexes of fission products and actinides found in nuclear waste;

(3) actinide and lanthanide organometallic chemistry, especially borohydrides, substituted borohydrides and hydride compounds;

(4) synthesis of organo and inorganic uranium (IV and VI) compounds for laser isotope separation,

(5) magnetic resonance studies of rhodium, molybdenum and tungsten organo-metal cluster compounds;

(6) synthesis and NMR study of mixed actinide-Rh, Sn, W cluster compounds;

(7) T_1 and T_{1-rho} spin lattice relaxation studies (^{13}C, ^1H) of substituted lanthanide and actinide cyclooctratetraene compounds to determine the relationship between T_1's and conformations. The article will also be used partly for educational purposes by graduate students who will gain exposure to and/or increased competence in the use of pulsed Fourier Transform NMR. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00291. Applicant: The University of Texas Health Science Center at San Antonio, 7703 Floyd Curl Drive, San Antonio, Texas 78284. Article: LKB Ultrotome IV 2128–010 Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tumors, renal biopsies, tissue culture cells (smooth muscle) and endothelial and aortic tissue. Investigations include ultrastructural studies or normal and explorative and pathologic animal tissue. Investigations will be conducted with the objectives of understanding the early pathological alterations in cells, tissues, organs, using animals as models, and to correlate the changes with clinical data seen in human diseased tissues. In addition, the article will be used in the training and teaching of senior resident physicians in the basics of microtome and microscope operations. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00293. Applicant: Albert Einstein College of Medicine of Yeshiva University, 1300 Morris Park Avenue, Bronx, N.Y. 10461. Article: Electron Microscope, Model EM 109 R and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the ultrastructural analysis of normal and diseased animal and human tissues. Special emphasis will be placed on the underlying subcellular pathogenetic mechanisms in (a) atherosclerotic cardiovascular disease an (b) hepatic function and dysfunction. Cytochemical procedures that are applicable to electron microscopy will be utilized to visualize subcellular organelles such as lysosomes, endoplasmic reticulum, myofibrils and cyto and nuclear skeletal elements. These will be applied in conjunction with tracer studies using marker enzymes to demonstrate intracellular digestive pathways, nutritional experiments including high cholesterol diets to modify the arterial wall and all fractionation and biochemical analyses. In addition, the article will be used in the training of resident pathologists in the application of new electron microscopic techniques for the diagnosis of surgical biopsy specimens. Applications received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00303. Applicant: Case Western Reserve University, 2040 Adelbert Road, Cleveland, Ohio 44106. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the study of (1) thin sections of plastic embedded bio-medical specimens, (2) cell fractions of cells that are negatively stained and (3) freeze-fracture preparations. The various research projects will involve specimens from regenerating newt limbs and spinal cords, growing tips of regenerating axons, cultures of developing skeletal and cardiac muscle cells, the retina of developing eyes, intestinal epithelium used for transport studies, isolated ribosomes and nucleoli from developing frog embryos, hormonally treated chicken livers, neurofilaments and hormonally treated chicken livers, neurofilaments and microtubules from axons, and neuromuscular junctions. In addition, the article will be used in the course Anatomy 495, Practical Electron Microscopy to familiarize the students with techniques in electron microscopy and interpretation of information obtained from electron micrographs. Application received by Commissioner of Customs: June 12, 1979.

Docket No. 79–00304. Applicant: Medical University of South Carolina—Department of Anatomy, 171 Ashley Street, Charleston, SC 29403. Article: Electron Microscope, Model JEM 100S with Sheet Film Camera and Eucentric Side Entry Goniometer and Accessories. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is intended to be used to examine the central nervous system of experimental animals, mainly rats. The general objectives of this work are to study (a) the normal development of neural connections and how this can be upset by injury, (b) the patterns of connections of certain brain regions with particular emphasis on the transmitters involved, (c) antigens which are of developmental significance in the nervous system. The article will be used as an educational tool for graduate students postodoctoral students and visiting scientists. Application received by Commissioner of Customs: June 12, 1979.

(Catalog of Federal Domestic Assistant Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–24100 Filed 8–3–79; 8:45 am]

BILLING CODE 3510–25–M

COMMODITY FUTURES TRADING COMMISSION

Proposed Futures Contracts; Availability

The Commodity Futures Trading Commission ("Commission") is making available and requesting public comment on an application made by the New York Futures Exchange, Inc. ("NYFE") to trade futures contracts in the following seven commodities: British Pounds, Canadian Dollars, Deutsche Marks, Japanese Yen, Swiss Francs, 90-Day Treasury Bills and 20-Year Treasury Bonds. NYFE has applied to the Commission, pursuant to section 6 of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 8 (1976), for contract market designation to trade futures contracts in these commodities under section 5 of the Act, 7 U.S.C. 7 (1976).

Copies of these proposed contracts will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. The Commission will also furnish copies upon request made to the Executive Secretariat.

Any person interested in expressing views on the terms and conditions of any of these proposed contracts should send comments by October 5, 1979 to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. (202) 254–6314. Copies of all comments will be available for inspection at the Commission's Washington office.

Issued in Washington on August 1, 1979.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79–24136 Filed 8–3–79; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Statement (DES) for the Proposed Lower Platte River Flood Control Project in Nebraska

AGENCY: U.S. Army Corps of Engineers, Omaha District.

ACTION: Notice of Intent to Prepare a DES.

SUMMARY: 1. The proposed Federal action is to provide flood protection in the Lower Platte River Basin in Nebraska.

2. Reasonable structural alternatives for flood protection are construction of a ring levee around Valley, Nebraska, or rehabilitation of an existing Platte River levee west of Valley and construction of a "U" levee around Fremont, Nebraska, construction of a 5-mile long tie-back levee just west of Fremont, or construction of a 9-mile long tie-back levee 5 miles west of Fremont. Nonstructural alternatives for flood protection for these communities are flood insurance, flood proofing, and emergency evacuation.

3. To date, public involvement has included meetings and discussions with public entities, local planning agencies, and concerned citizen groups. No significant issues have yet been identified. The project will also comply with the requirements of the Historic Preservation Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, Section 404 of the 1977 Clean Water Act, Executive Order 11988 on flood plains, and Executive Order on wetlands.

4. A scoping meeting for the DES will be held on Wednesday, 8 August 1979, at 9:30 a.m. (CDT) in the City Council Chambers, 725 North Park Street, Fremont, Nebraska. The participation of the public and all interested Government agencies is invited.

5. The Omaha District estimates that the DES will be released for public review in November 1979.

ADDRESS: Questions about the proposed action, DES, or scoping meeting should be directed to Richard Gorton; Chief, Environmental Analysis Branch, Omaha District, CE; 6014 U.S. Post Office and Courthouse; Omaha, Nebraska 68102. Phone: (402) 221–4605.

Dated: July 27, 1979.

By authority of the Secretary of the Army.

Rome D. Smyth,

Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 79–24103 Filed 8–3–79; 8:45 am]

BILLING CODE 3710–GW–M

Office of the Secretary

Defense Systems Management College; Board of Visitors Meeting

A meeting of the Defense Systems Management College Board of Visitors will be held in Building 202, Fort Belvoir, VA, on Tuesday, September 18, 1979, from 8:30 a.m. until 5 p.m. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Mr. David D. Acker (703–664–1084) to reserve a seat.

Dated: August 1, 1979.

H. E. Lofdahl,

Deputy Director, Correspondence and Directives, Room 3B946, Pentagon, Washington, DC 20301.

[FR Doc. 79–24117 Filed 8–3–79; 8:45 am]

BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

[Docket No. CAS–RM–79–505]

Energy Extension Service; Coordination With Private Sector; Notice of Inquiry and Public Meeting

AGENCY: U.S. Department of Energy.

ACTION: Notice of inquiry and public meeting.

SUMMARY: The U.S. Department of Energy invites comments regarding how activities of the Energy Extension Service should be coordinated with private sector efforts and concerns. The Department specifically requests comments on potential program services to small businesses; how this program can complement the services of private sector enterprises; and areas of potential conflict between services offered by the program and those of the private sector. The comments received will be considered in formulating program policy and direction for the next year.

DATES: Written comments and requests to speak at the public meeting should be submitted by September 14, 1979, 4:30 p.m., e.d.s.t. The public meeting will be held on October 2, 1979, beginning at 9:00 a.m.

ADDRESSES: Written comments and requests to speak should be addressed to Margaret Sibley, Docket No. CAS–RM–79–505, Office of Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Room 2221C, Washington, D.C. 20585. The public meeting will be held in the Georgetown Room, Washington Hilton Hotel, 1919 Connecticut Avenue, N.W., Washington, D.C. 20009.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Reavis, Energy Extension Service, Mail Stop 2221C, U.S. Department of Energy, 20 Massachusetts Avenue, NW, Washington, D.C. 20585, telephone: 202/376–4786.

SUPPLEMENTARY INFORMATION:

1. Purpose and Background of This Notice
2. Coordination With the Private Sector
3. Comment Procedures

1. Purpose and Background of This Notice

The National Energy Extension Service Act ("Act"), 42 U.S.C. 7001 *et seq.*, requires the Department of Energy ("DOE") to:

. . . take such steps as may be necessary to insure that the comprehensive energy extension service ("EES") program is

implemented in a manner which minimizes conflict with existing services in the private sector of the economy that are similar to those provided under such program. Sec. 504(d), 42 U.S.C. 7003(d).

The DOE issued a final regulation, 43 FR 45536 (October 2, 1978), to expand the current pilot EES program to include all States. With regard to minimizing conflict with existing services in the private sector, sec. 465.3(d) provides that the Director of EES in DOE shall at least once a year (1) consult with the National EES Advisory Board, and (2) after publishing a notice of inquiry and public meeting in the Federal Register, obtain written and oral comments from the public. Today's notice is issued to solicit written and oral comments to meet the requirement of sec. 465.3(d)(2).

The purpose of the EES program is to provide information and technical assistance regarding practical energy conservation and renewable resource opportunities. The focus is on providing personalized services tailored to the needs of small-scale energy users, which include homeowners, tenants, landlords, small businesses, and local governments. Typical services include energy audits, workshops, "hotlines," practical demonstrations and personal counseling regarding energy use.

The EES program has been implemented on a pilot basis since 1977. For the pilot program, ten States were selected competitively to receive EES grants from DOE. DOE has issued a final regulation to expand the EES program to include all States. National program grants have not yet been awarded. Both the pilot programs and the regulation leave decisions concerning the EES services to be offered and who will receive them to the States, because EES should be responsive to local needs and circumstances.

2. Coordination With the Private Sector

DOE has identified three issues on which comments would be particularly useful:

A. *Potential EES Services to Small Businesses.* Small businesses are recipients of EES services. DOE would like comments on the kinds of energy problems small businesses face and the types of EES services that would be most useful. Evaluation of the EES pilot program shows that the most successful EES programs directed to small businesses involve energy audits, onsite counseling, and demonstration workshops focused on a specific topic. Examples include a boiler workshop and audit program for small commercial establishments and a program for hospitality businesses. Experience from the pilot program indicates that EES programs directed to small businesses have had a more direct influence on clients' energy conservation decisions than did those programs addressing other types of clients. Should DOE emphasize to the States the usefulness of highly focused energy audit, counseling and demonstration services for small businesses?

B. *How EES Can Complement Private Sector Enterprises.* The Act's legislative history indicates that, with proper management, EES is intended to complement and stimulate services available privately:

> . . . the EES can provide services to the individual consumer and homeowner, agricultural and rural populations, and commercial and small business operators without impinging on the market for the generally more sophisticated and fee-based services of the private sector groups. In fact, the Committee believes that the generally increased awareness of our population, particularly when coupled with the effective successful actions by individual citizens which EES should produce, will stimulate rather than depress or supplant the market for such private services. (Committee on Science and Technology, H.R. Rep. No. 1348, 94th Cong., 2d Sess., 18 (July 19, 1976)).

DOE has identified four ways in which EES can function in a complementary manner with private sector initiatives and would like comments on these, as well as other suggestions. First, EES complements private sector services by increasing clients' willingness to make investments in energy conservation or renewable resource improvements. Evaluation of the EES pilot program shows that EES clients have both made and planned more energy conservation investments than persons who did not receive an EES service.

Second, EES offers a communication channel through which private sector concerns can make relevant materials known to the States. Each month, DOE sends to the States a package of materials relevant to EES. These include reports, product brochures, manuals, pamphlets, fact sheets and news clippings. The materials are not sent for promotional purposes, but rather to keep the States informed of what is available. Private sector concerns have made numerous items available to EES, many of which have been included in the monthly packages after a review for relevance to EES. DOE encourages private sector concerns to continue sending relevant materials to EES. Private sector organizations may also contact State energy offices directly to make known their products and services relevant to EES. Is this communication channel useful to private sector organizations?

Third, private sector organizations can co-sponsor appropriate EES services with a State. Evaluation of the EES pilot program indicates that co-sponsorship of appropriate services by private sector groups can increase the credibility of the services to their target audience and help insure that the EES services are responsive to actual needs and concerns. An example of co-sponsorship in the pilot program is an energy audit program directed to selected hospitals in a pilot State. This EES program has been co-sponsored by a hospital council in the State and by a health insurance organization. By working together, the EES organization and the two co-sponsors have been able to develop a responsive and expanded energy extension service for the hospitals.

Fourth, private sector organizations can receive subcontracts from a State EES program to offer an EES service directly. An example of this approach in the pilot program is a company which received an EES contract from a pilot State to deliver a service to small businesses. What degree of interest do private sector organizations have in co-sponsoring or directly delivering an EES service?

C. *Areas of Potential Conflict.* DOE would appreciate comments on areas of potential conflict between EES services and similar services available in the private sector. On the basis of the pilot program experience, it appears to DOE that EES is being implemented in a manner that minimizes conflict with private sector services. DOE would like to ascertain through comments on this notice whether this perception is shared by others.

In addition to issuing this notice, DOE has attempted to incorporate procedures into the EES program to minimize private sector conflict. Section 465.7(c)(5) of the EES regulation requires States to provide opportunity to comment on their EES plans prior to or during development of the plans. Among the groups to be provided opportunity to comment are energy producers and other private enterprises and nonprofit organizations that are involved in active energy outreach activities. States are required in their applications for EES grant funds to list the organizations afforded an opportunity to comment and describe how the comments affected the contents of the State plans.

One reason DOE included this provision in the regulation was to provide a procedure through which States and private sector organizations would resolve potential conflicts, if any, prior to EES program implementation.

3. Comment Procedures

All interested persons are invited to present their views in writing or in person on the items discussed above. These views will be considered fully by DOE in formulating procedures to coordinate EES activities with those of the private sector over the coming year. Both written and oral comments are welcome.

Written Comment Procedures

Interested persons are invited to submit views or data concerning EES coordination with the private sector. These comments should be labeled "EES/Private Sector Coordination, Docket No. CAS-RM-79-505," on the outside of the envelope and on documents submitted to DOE. Fifteen copies should be submitted.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Written comments should be submitted by September 14, 1979, to Margaret Sibley, Docket No. CAS-RM-79-505, Office of Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Room 2221C, Washington. D.C. 20585.

Oral Comment Procedures

A public meeting will be held on Tuesday, October 2, 1979, in the Georgetown Room, Washington Hilton Hotel, 1919 Connecticut Avenue, N.W., Washington, D.C. 20009. The meeting will begin at 9:00 a.m. Attendees should register between 8:30 and 9:00 a.m. The tentative agenda is as follows:

9:00–9:30 a.m. Welcome and Purpose of the Meeting
9:45–11:30 a.m. EES Services for Small Businesses
11:30–1:00 p.m. Lunch
1:00–2:45 p.m. How EES Can Complement Private Sector Organizations
3:00–4:45 p.m. Potential Areas of Conflict Between EES and Private Sector
4:45–5:00 p.m. Concluding Remarks

Anyone may make a written request to make an oral presentation at the meeting. These presentations should not exceed 10 minutes and will be included in the agenda under the appropriate topic. Such requests should be directed by September 14, 1979, to Margaret Sibley, at the address given above. Request should be labeled, both on the document and on the envelope, "EES/Private Sector Coordination, Docket No. CAS-RM-79-505, Request to Speak." The person making the request should briefly describe the topic to be addressed; if appropriate, state how she or he represents a group or organization; and give a telephone number where she or he may be contacted through the day of the meeting. DOE will notify each person selected to appear at the meeting before 4:30 p.m. on September 21, 1979. Each person selected to be heard should bring 25 copies of her or his statement to the meeting.

DOE reserves the right to select the persons to be heard at the meeting, to schedule their respective presentations and to establish the procedures governing the conduct of the meetings. A DOE official will be designated to preside at the meetings. Questions may be asked only during those periods when comments are requested from the floor. Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the meeting will be made, and the entire record of he meeting, including the transcript, will be retained by DOE and made available for inspection at the Freedom of Information Office, Room 6A-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the transcribing reporter.

Issued in Washington. D.C., on August 1, 1979.

Maxine Savitz,

Deputy Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-24210 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Hot Springs-Bell Proposed 500-kV Transmission Line; Notice of Intent To Revise and Reissue a Draft Supplemental Environmental Impact Statement

Bonneville Power Administration (BPA) hereby gives public notice of its intent to revise and reissue its draft supplemental environmental impact statement (EIS) on the Hot Springs-Bell 500-kV transmission line. As a result of new planning considerations, BPA is starting reconnaissance and environmental studies of the proposal and alternative plans of service.

The proposed Hot Springs-Bell 500-kV transmission line was previously presented in BPA's Fiscal Year 1975 Program Environmental Statement, which was filed as a final with CEQ on March 11, 1975. Subsequently, a supplemental environmental statement presenting four location alternatives was filed on this same project with CEQ on September 16, 1975. Due to substantial delays on the Colstrip project (to which the Hot Springs-Bell transmission line is related), changes in planning, considerations, and potential right-of-way problems, a decision was made to issue a revised draft supplemental EIS.

BPA's revised supplemental EIS will address the proposed 500-kV transmission line from Hot Springs Substation in Montana to the Glenn H. Bell Substation near Spokane, Washington. These facilities are required to integrate Colstrip Generating Units 3 and 4 into the Northwest power transmission grid by May 1984. The Montana Power Company's Colstrip Coal-Fired Generating Plant is located roughly 95 miles southeast of Billings, Montana. In addition to the proposal, the following electrically feasible alternate plans of service will be studied:

A. A 500-kV double circuit line from BPA's existing transmission corridor 10 miles north of Missoula to a new substation on BPA's existing Dworshak-Hot Springs corridor. From there, a single-circuit 500-kV line would be built to either BPA's Bell Substation, or a proposed BPA substation located near Rathdrum, Idaho (Twin Lakes Substation).

B. A 500-kV single-circuit line from BPA's Hot Springs Substation to a proposed BPA substation located near Rathdrum, Idaho.

C. A plan similar to A above which terminates at a new substation near Plains, Montana, rather than at BPA's existing Hot Springs Substation.

In addition to the above alternatives, the alternative of no action will be considered as well as other alternatives which are beyond BPA's jurisdiction.

The studies and EIS will also include any effects of these plans on the integrated facilities of The Washington Water Power Company (WWP). Part of the new planning requirements being considered include service to WWP's Wallace and Pine Creek loads.

Scoping for the revised supplemental EIS on this project will include consultations with: (1) WWP to identify on a one-utility basis feasible electrical plans of service; (2) the U.S. Forest Service, the principal Federal permit-

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granting authority and cooperating agency; and (3) other involved Federal, State, regional, and local agencies as well as appropriate environmental organizations. While times and places have not yet been established, scoping meetings are also being planned. The specifics of the meetings will be announced separately at a later date.

Previous EIS work as well as locational work will be used to the extent practicable in revising this supplemental EIS. Although the draft EIS will be subject to extensive public and agency review, BPA is now soliciting input to the EIS preparation process so that concerns identified now can be fully considered in the preparation of the draft EIS. Any suggestions or questions regarding the EIS should be directed to John E. Kiley, Environmental Manager, Bonneville Power Administration, U.S. Department of Energy, P.O. Box 3621—SJ, Portland, Oregon 97208; Phone (503) 234–3361, Extension 5137.

Dated at Portland, Oregon, this 26th day of July, 1979.

Sterling Munro,

Administrator.

[FR Doc. 79-24211 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 79-CERT-070]

Anchor Hocking Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on July 23, 1979, Anchor Hocking Corporation (Anchor Hocking), 109 North Broad Street, Lancaster, Ohio, 43130, filed an application for certification of an eligible use of natural gas to displace fuel oil at its glass manufacturing plant in Winchester, Indiana, pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126–A, 2000 M Street, N.W., Washington, D.C., 20461, from 8:30 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Anchor Hocking states that the volume of natural gas for which it requests certification is up to 3,200 Mcf per day and the eligible sellers are Gas Transport, Inc., 109 N. Broad Street, Lancaster, Ohio, 43130, and Carl E. Smith, Inc., P.O. Box 4, Sandyville, West Virginia, 25275. This natural gas will displace the use of approximately 198,400 barrels of No. 2, No. 4, and No. 6 fuel oil (.3 to 2.7 percent sulfur) per year at Anchor Hocking's Winchester Plant and will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Quarrier and Dunbar Streets, Charleston, West Virginia, 25325, and Panhandle Eastern Pipe Line Company, P.O. Box 1642, 3000 Bissonnet Avenue, Houston, Texas, 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before August 17, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Anchor Hocking and any persons filing comments, and published in the **Federal Register**.

Issued in Washington, D.C., on July 31, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-24216 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No.79-CERT-073]

Consolidated Edison Co. of New York, Inc.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on July 24, 1979, Consolidated Edison Company of New York, Inc. (Con Ed), 4 Irving Place, New York, New York 10003, filed an application for certification of an eligible use of natural gas to displace fuel oil at six of its steam and electric generating facilities in New York City pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Con Ed states that the volume of natural gas for which it requests certification is approximately 10,000 dekatherms per day and the eligible seller is UGI Corporation, 225 Morgantown Road, Reading, Pennsylvania 19611. This natural gas will displace the use of approximately 483,000 barrels of residual fuel oil (.3% sulfur) for the period July 1, 1979 to June 1, 1980, at the following Con Ed steam and electric generating facilities in New York City: Astoria, East River, Narrows, Ravenswood, Waterside, and 60th Street. The gas will be transported by Texas Eastern Transmission Corporation, P.O Box 2521, Houston, Texas 77001, Consolidated Gas Supply Corporation, 445 W. Main Street, Clarksburg, West Virginia 26301, and Transcontinental Gas Pipeline Corporation, P.O Box 1396, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before August 17, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Con Ed and any persons filing comments, and published in the **Federal Register**.

Issued in Washington, D.C., on July 31, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-24215 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-068]

PPG Industries, Inc.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on July 16, 1979, PPG Industries, Inc. (PPG), One Gateway Center, Pittsburgh, Pennsylvania, 15222, filed an application for certification of an eligible use of natural gas to displace fuel oil at its Lexington Plant, Lexington, North Carolina, and its Shelby Plant, Shelby, North Carolina, pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126–A, 2000 M Street, N.W., Washington, D.C., 20461, from 8:30 a.m.—4:30 p.m., Monday through Friday, except Federal holidays.

In its application, PPG States that the volume of natural gas for which it requests certification is 1000 Mcf per day for the Lexington Plant and 1000 Mcf per day for the Shelby Plant, and the eligible seller is David S. Towner Enterprises, P.O. Box 402, 5537 Beavercrest Drive, Lorain, Ohio 44052. This natural gas will displace the combined use of approximately 3,000,000 gallons of No. 2 fuel oil (less than .5% sulfur) per year at PPG's Lexington Plant and Shelby Plant. The gas will be transported by Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027, Columbia Gas Transmission Company, P.O. Box 1273, Charleston, West Virginia, 25325, and Transcontinental Gas Pipe Line Company, P.O. Box 1396, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before August 17, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to PPG and any persons filing comments, and published in the *Federal Register*.

Issued in Washington, D.C., on July 31, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-24214 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Act; Issuance of Orders Granting Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on July 30, 1979, it issued orders granting temporary public interest exemptions pursuant to the authorities granted it by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) or the Act), 42 U.S.C. 8301 et seq., and 10 CFR 501.68 and 10 CFR 508, from the prohibitions of Section 301(a)(2) and (3) of the Act to the following powerplants:

Case number	Owner	Generating station location	Powerplant ident.	Nadde dstillate
51479-9028-21-41	Kansas Power & Light Co	Abilene (Abilene, Kansas)	CT 1	69,046
52189-0684-21-41, 52189-0684-22-41	Orlando Utilities Commission	Lake Highland (Orlando, Florida)	CT A	1,000
			CT B	1,000
50752-2848-21-41	Dayton Power & Light Co	O. H. Hutchings (Miamisburg, Ohio)	CT 1	41,867
53330-4036-01-41	Wisconsin Electric Power Co	Commerce (Milwaukee, Wisconsin)	# 1	9,524
53330-4039-29-41		Oak Creek (Oak Creek, Wisconsin)	CT 9	1,867
53330-4038-21-41, 53330-4038-22-41		Lakeside (Saint Francis, Wisconsin)	CT 21, CT 22	595, 595
50349-3559-04-41, 50349-3559-05-41, 50349-3559-06-41, 50349-3559-07-41, 50349-3559-08-41.	Public Utilities of Brownsville, Texas	Silas Ray (Brownsville Texas)	# 4	8,000
			# 5	124,000
			# 6	124,000
			# 7	140,000
			# 8	379,000
52692-3280-21-41	South Carolina Electric & Gas Co.	Canadys (Canadys, South Carolina)	CT 1	50,008
53146-3803-22-41, 53146-3803-24-41, 53146-3803-26-41, 53146-3803-27-41, 53146-3803-28-41, 53146-3803-29-41, 53146-3803-30-41.	Virginia Electric & Power Co	Portsmouth (Chesapeake, Va.)	GT 2	45,812
			GT 4	45,812
			GT 6	45,812
			GT 7	70,550
			GT 8	70,552
			GT 9	70,552
			GT 10	70,552
53146-3806-21-41, 53146-3806-22-41		Surry (Surry, Va.)	GT 1	31,495
			GT 2	48,505
51186-2063-03-41, 51186-2063-04-41	Greenwood Utilities Commission	Wright (Greenwood, Mississippi)	# 3	8,976
			# 4	9,976
51186-2062-22-41		Henderson (Greenwood, Mississippi)	CT 2	49,347
52970-9040-21-41	Tucson Gas & Electric Co	DeMoss-Petrie (Grant Road, Tucson, Arizona)	GT 1	18,927
52721-8076-21-41	Southern California Edison Co	Ellwood (Goleta, California)	CT 1	1,000
52721-0333-21-41		Garden State (Pomona, California)	CT 1	250,000
52721-0331-25-41		Etiwanda (Etiwanda, California)	CT 5	7,000
52721-0315-27-41	Southern California Edison Co	Alamitos (Long Beach, California)	CT 7	4,000
52721-0335-25-41		Huntington Beach (Huntington Beach, California)	CT 5	4,000

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Petitions were received and filed pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230) with ERA for temporary public interest exemptions for the use of natural gas as a primary energy source. Notices of the petitions and the proposed orders granting these temporary exemptions were published in the Federal Register on May 11 and June 1, 1979, (44 FR 27668 and 44 FR 31677). Written comments were requested on the proposed orders. All comments were considered by ERA.

A general comment from Allied Chemical Corporation expressed concern that the chemical industry has experienced production curtailments and plant shutdowns due to inadequate gas supplies for nonsubstitutable feedstock and process needs at the same time that DOE has concluded that excess supplies of natural gas are available. The Allied Chemical Corporation comment did not refer to any specific region nor did it specify impacts resulting from any particular petition or proposed order.

All other comments received were in support of the petitions. For example, the State of Florida Department of Environmental Regulation has stated, "The Department supports the petition and order since the combustion of natural gas would reduce the emission of air pollutants, would reduce consumption of foreign oil and would reduce utility bills for affected consumers."

The State of Wisconsin Public Service Commission's Chairman wrote, "In light of the present gas and oil supply situation, I concur that granting a temporary exemption from the prohibition against the use of natural gas contained in Section 301(a) (2) and (3) as proposed in the draft order is consistent with the public interest."

All comments that referred to specific petitions were supportive of them. However, not all the petitions listed received specific comments.

Comments which identified significant issues relating to individual petitions have been evaluated and are addressed in the individual orders granting those petitions. These temporary exemptions will allow the above-named units to burn an estimated total of 10,505,884 MCF of natural gas annually, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, displacing an estimated 1,803,964 barrels of middle distillate fuel oil.

These temporary exemptions shall become effective sixty days following publication of this notice of issuance of these orders in the Federal Register in accordance with Section 702(a) of FUA. These temporary exemptions shall be in effect for a period of five years, and are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

All of the above-named powerplants have received Decisions and Orders granting these temporary exemptions by certified mail. In addition, copies of all comments received during the public comment period and the temporary exemptions granted this date will be available for public inspection and copying in the Public Information Office located in Room B-110, 2000 M Street, N.W., Washington, D.C. 20461.

Any questions regarding these temporary exemptions should be directed to Mr. Charles A. Falcone, Director, Existing Facilities Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7450.

Issued in Washington, D.C., on July 30, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-24102 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP79-399]

ANB Gas Co.; Application

July 27, 1979.

Take notice that on July 6, 1979, ANB Gas Company, (ANB), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-399 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing ANB to operate as a "natural-gas company" and to sell up to an average of 450,000 Mcf per day of imported Canadian natural gas to United Gas Pipe Line Company (United) at Ventura, Iowa, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANB has acquired, by assignment, a gas purchase contract dated March 9, 1978, between Northwest Alaskan Pipeline Company (Northwest) and United for the purchase of up to an average of 450,000 Mcf per day of imported Canadian gas. Northwest would purchase this gas from Pan-Alberta Gas Limited (Pan-Alberta) at the international boundary near Monchy, Saskatchewan. Northwest has filed for authorization from the Commission in Docket No. CP79-170 to sell up to 800,000 Mcf per day of imported Canadian gas purchased from Pan-Alberta to United, Northern Natural Gas Company (Northern Natural), and Pahandle Eastern Pipeline Company.

ANB seeks authorization to sell and deliver to United at Ventura, Iowa, the total volume of gas it would acquire from Northwest under the March 9, 1978, gas purchase contract less gas used, lost, and unaccounted-for in transporting such gas to Ventura. ANB would purchase from Northwest on the United States side of the international border up to an average of 450,000 Mcf per day for the first two contract years and thereafter for the term of the contract up to an average of 400,000 Mcf per day and any additional volumes up to 50,000 Mcf per day which Northern Natural elects not to take during any contract year. Northwest would deliver these volumes for ANB's account to Northern Border Pipeline Company (Northern Border) near Monchy, Saskatchewan for transportation and redelivery to ANB at Ventura, Iowa.

For all gas delivered at Ventura, Iowa, ANB would charge United the sum of the cost to ANB related to imported Canadian gas purchased from Northwest near Monchy, Saskatchewan, a proportionate share of Northwest's administrative cost related to the gas purchase contract dated March 9, 1978, and the cost related to transporting the gas to United at Ventura, Iowa.

It is stated that ANB would execute a service agreement with Northern Border for the transportation and redelivery of equivalent volumes, less an allowance for fuel, lost and unaccounted-for gas, to Northern Natural for ANB's account at a proposed point of interconnection between the pipeline systems of Northern Border and Northern Natural near Ventura, Iowa. ANB would sell to United at Ventura, Iowa, the total volume of gas purchased, less fuel, lost and unaccounted-for gas, from Northwest near Monchy, Saskatchewan, and transported by Northern Border through the prebuilt portion of the Alaskan Natural Gas Transportation System.

Northern Natural and United would exchange United's share of such gas at Ventura for gas which Northern Natural would have available from production located in the offshore Gulf Coast area. Northern Natural, in a separate application, is filing for Commission authorization to deliver up to 450,000 Mcf per day of its Gulf Coast volumes to United's system at existing onshore points of interconnection with various interstate pipelines.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24139 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RI79-40]

An-Son Corp.; Petition for Special Relief

July 26, 1979.

Take notice that on June 12, 1979, An-Son Corporation, 3814 N. Santa Fe, Oklahoma City, Oklahoma 73118, filed a petition for special relief in Docket No. 79-40 pursuant to Section 2.76 of the Commission's General Policy and Interpretations.

Petitioner seeks permission to charge 79¢ per Mcf for the sale of gas from its Edna Nine No. 1 well, Laverne-Mocane Field, Beaver County, Oklahoma to Northern Natural Gas Company. Petitioner proposes to install compression facilities, at an initial cost of $1,000 plus an increase of about $1,500 per month in operating expenses due to compression rental, in order to recover the total estimated remaining reserves of 145,000 Mcf of gas and 363 barrels of liquid all from the subject well. Currently the subject gas is being sold at the rate of 49.9¢ per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 21, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426 a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to ask the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24140 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-59]

Arapahoe Drilling, Co., Schalk #94-3, Well, JD79-8417; Preliminary Finding Regarding Determination by U.S. Geological Survey, N. Mex.

Issued: July 27, 1979.

On June 12, 1979, the United States Geological Survey at Albuquerque, New Mexico submitted to the Commission a notice of determination which states that the Arapahoe Drilling Company Schalk #94-3 well qualifies for a maximum lawful price for stripper well natural gas under section 108 of the Natural Gas Policy Act of 1978 (NGPA) and Commission regulations implementing that section. The Commission published notice of the determination on June 27, 1979.

Section 108(b)(1) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf per production day during a 90-day production period. Section 108(b)(3) defines "production day" as (1) any day during which natural gas is produced; and (2) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency.

The record submitted with the determination for the subject well indicates that such well produced no natural gas during the entire 90-day production period upon which the application was based. Accordingly, the 90-day production period upon which this application is based contains no production days. Since section 108(b) of the NGPA requires that a well produce natural gas at a rate not exceeding an average of 60 Mcf *per production day*, a well's rate of production cannot be calculated where the 90-day production period contains no production days.

On the basis of the record submitted with this determination, the Commission hereby makes a preliminary finding, pursuant to 18 CFR 275.202(a)(1)(i), that the determination submitted by the U.S. Geological Survey (New Mexico) that the above-listed well qualifies as a section 108 stripper well, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24151 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-54]

Beaver Mesa Exploration Co., Preston #31-18, JD79-8277; Preliminary Finding Regarding Determination by State of Colorado

Issued: July 27, 1979.

On June 12, 1979, the State of Colorado's Oil and Gas Conservation Commission (Colorado), submitted to the Federal Energy Regulatory Commission (Commission) a notice of determination concerning a well for which classification as a new onshore production well under section 103 of the Natural Gas Policy Act of 1978 is sought. The notice states that the Beaver Mesa Exploration Company Preston #31-18 well qualifies as a new, onshore production well. The Commission

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published notice of the determination on June 27, 1979.

In order for a well to qualify as a new, onshore production well under section 103, the well must, inter alia, be a new well "the surface drilling of which began on or after February 19, 1977." The notice of determination submitted by Colorado indicates that the Preston #31–18 well was spudded on February 6, 1977. Thus, it appears that the record does not contain substantial evidence to support Colorado's determination that the Preston #31–18 well is a new, onshore production well.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to 18 CFR 275.202(a)(1)(i)) that the determination submitted by Colorado is not supported by substantial evidence in the record on which the determination is based.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–24145 Filed 8–3–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP79–56]

Chaco Plant No. 19R (JD 79–8430), Jerome P. McHugh Well; Preliminary Finding Regarding Determination by U.S. Geological Survey, Albuquerque, N. Mex

Issued: July 27, 1979.

On June 12, 1979, the United States Geological Survey at Albuquerque, New Mexico submitted to the Commission a notice of determination that the Jerome P. McHugh well, Chaco Plant #19R (JD79–8430), met all the requirements of a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA) and the Commission regulations implementing this section.

Section 108(b) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce at its maximum efficient rate of flow (MER) during the 90-day production period upon which the application is based. Section 271.804(d) of the Commission's regulations stipulates the methods by which a jurisdictional agency may find that a well produced at its MER during the 90-day production period. These methods are: (1) determination of MER in accordance with recognized conservation practices established by the jurisdictional agency; (2) determination of MER based on a presumption that a well produced at its MER if during the 12-mongh period ending concurrently with the 90-day production period the well produced at a rate not exceeding an average of 60 Mcf per production day; or (3) determination of MER based on flow tests or other substantial evidence which measures the capability of the well to produce natural gas. If none of these methods is appropriate or available, a jurisdictional agency should defer making a determination and designate a 12-month period during which the applicant secures relevant data pursuant to method (2).

The record indicates that no production capability test was reported and production records for only ten months were filed. Accordingly, the determination of eligibility by the U.S. Geological Survey was premature and the U.S. Geoligical Survey should defer making an affirmative determination until the required data has been submitted.

Accordingly, the Commission hereby makes a preliminary finding, pursuant to 18 CFR 275.202(a)(1)(i), that the determination submitted by the U.S. Geological Survey, N.M. that the subject well qualifies as a section 108 stripper well, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–24149 Filed 8–3–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP79–58]

Dugan Production Corp., Rachel No. 2, JD79–8382, Jerome P. McHugh, Jicarilla 28–3 No. 1, JD79–8197; Wells; Preliminary Finding Regarding Determination by U.S. Geological Survey (New Mexico) Issued July 27, 1979

On June 12, 1979, the U.S. Geological Survey in Albuquerque, New Mexico, submitted to the Federal Energy Regulatory Commission (Commission) two notices of determination that the Rachel #2 well, (JD79–8382) and the Jicarilla 28–3 #1 well, qualify as stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA).

Section 108(b) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce at its maximum efficient rate of flow (MER) during the 90-day production period upon which the application is based. Section 271.804(d) of the Commission's regulations stipulates the methods by which a jurisdictional agency may find that a well produced at its MER during the 90-day production period. These methods are: (1) determination of MER in accordance with recognized conservation practices established by the jurisdictional agency; (2) determination of MER based on a presumption that a well produced at its MER if during the 12-month period ending concurrently with the 90-day production period the well produced at a rate not exceeding an average of 60 Mcf per production day; or (3) determination of MER based on flow tests or other substantial evidence which measures the capability of the well to produce natural gas. If none of these methods is appropriate or available, a jurisdictional agency should defer making a determination and designate a 12-month period during which the applicant secures relevant data pursuant to method (2).

The record indicates that no production capability tests were reported and production records for only 10 months in the case of JD79–8382 and 11 months in the case of JD79–8197 were filed. Accordingly, the determinations of eligibility by the U.S. Geological Survey were premature and the U.S. Geological Survey should defer making affirmative determinations until the required data has been submitted.

Accordingly, Commission hereby makes a preliminary finding, pursuant to 18 CFR 275.202(a)(1)(i), that the notices of determination submitted by the U.S. Geological Survey for the above referenced wells are premature and are not supported by substantial evidence in the record upon which the determination were made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–24150 Filed 8–3–79; 8:45 am]

BILLING CODE 6450–01–M

[Project No. 2232]

Duke Power Co.; Application of Approval of Change in Lands Rights

July 31, 1979.

Take notice that an application for approval of a change in land rights was filed on April 28, 1979 by Duke Power Company (Applicant) (Correspondence to: Mr. John E. Lansche, Assistant General Counsel, Duke Power Company, Box 2218, Charlotte, North Carolina 28242). Applicant proposed to grant an easement to the State of North Carolina for the construction of a highway bridge. The lands that are the subject of the application are in Gaston and Mecklenburg Counties, North Carolina, on the Catawba River (Mountain Island Lake) and are located within the project boundaries of FERC Project No. 2232 (Catawba-Wateree).

The proposed bridge, a part of State Route 16, would accommodate the two lanes of southbound traffic. This bridge would be 1089 feet long, 40 feet wide and would be located approximately 70 feet downstream of the existing State Route 16 bridge. The existing bridge would remain in place and would accommodate northbound traffic. The proposed bridge right of way would be 280 feet wide and include the existing bridge right of way. Construction of the bridge approaches would require a total of approximately 55,000 cubic yards of fill, of which 7300 cubic yards would be placed below the high water mark. The filling would decrease the reservoir surface area by less than 2 acres. The proposed construction required that the Riverbend Access Area, which is outside the project boundary, be relocated. This access area has been moved to the east side of the existing bridge.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before September 25, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–24141 Filed 8–3–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP79–55]

Guernsey Petroleum Corp. and Watson 3ME JD79–8801, Watson 4ME JD79–8802; Preliminary Finding Regarding Determination by State of Ohio

Issued: July 27, 1979.

On June 13, 1979, the State of Ohio's Department of Natural Resources, Division of Oil and Gas (Ohio), submitted to the Federal Energy Regulatory Commission (Commission) a notice of determination concerning two Guernsey Petroleum Company wells, the Watson 3ME and 4ME wells, JD79–8801 and –8802, respectively. The notice states that the natural gas from the two wells qualifies as high-cost natural gas under section 107(c)(4) of the Natural Gas Policy Act of 1978, because the natural gas is produced from Devonian shale. The Commission published notice of the determination on June 3, 1979.

On June 13, 1979, in Docket No RM79–44, the Commission issued a Notice of Proposed Rulemaking in which it set forth a definition for natural gas produced from Devonian shale. However, that definition has not yet become final. Consequently, it is inappropriate at this time to classify any natural gas as being produced from Devonian shale. A final order defining Devonian shale will be issued in high-cost natural gas, Docket No. RM79–44 within 120 days. If these subject wells qualify under this definition, the Commission will not issue a final order reversing these determinations.

Based on the foregoing, the Commission hereby makes a preliminary finding, (pursuant to 18 CFR 275.202(a)(1)(i)) that these two determinations submitted by Ohio should be reversed.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–24148 Filed 8–3–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ID–1865]

Elmer B. Harris; Application

July 26, 1979.

Take notice that Elmer B. Harris on June 11, 1979, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation, and Classification

Executive Vice President, Alabama Power Company, Public Utility.
Director, Southern Electric Generating Company, Public Utility.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with the Commission's Rules of Practices and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–24142 Filed 8–3–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP79–60]

Murphy Oil Corp., Clay Colvin B No. 2–D Well, JD79–8606 and M Hoss SUF, Clay Colvin B No. 2 Well, JD 79–6292; Preliminary Finding and Order Reopening Determination Submitted by State of Louisiana

Issued: July 27, 1979.

On June 13, 1979, the Office of Conservation of the State of Louisiana Dept. of Natural Resources submitted to the Commission a notice of determination that the Clay Colvin B No. 2–D Well (hereinafter, the subject well), met all the requirements of a stripper well under Section 108 of the Natural Gas Policy Act of 1978 (NGPA) and Commission regulations implementing that section. The Commission published notice of the determination on June 28, 1979.

Section 108 of the NGPA provides that the rate of natural gas production from a stripper well shall not exceed an average of 60 Mcf per production day. Section 271.804(a) of the Commission's regulations stipulates that for purposes of determining the rate of production from a well for which a stripper well determination is sought, the total volume of natural gas produced from the well shall constitute its daily production, regardless of whether the well is completed in more than one interval.

Our review of the notice of determination for the subject well, together with our review of an earlier determination by the State of Louisiana for the M Hoss SUF, Clay Colvin B No. 2 Well (hereinafter, the earlier well),[1] indicates that these two determinations represent separate applications filed for two producing intervals of the same well. Neither application made reference to a dual completion, and each determination was based on production from only one of the producing intervals of the well. The Commission was able to

[1] The 45-day Commission review period for the determination on the well expired on July 1, 1979 and the determination became final under § 275.202(a). JD79–6292.

ascertain that the separate determinations apparently referred to the same well only after receipt of the information contained in the notice of determination for the subject well.

Section 503(d)(1)(B) of the NGPA provides that any final determination which is no longer subject to review by the Commission is binding, unless, *inter alia*, there was omitted a statement of material fact necessary in order to make the statements made not misleading to the Commission in reviewing such determination. Section 275.205 of our regulations implements this statutory provision. Accordingly, the Commission possesses the authority to reopen a determination under the circumstances described above.

On the basis of review of the data submitted with the notices of determination on these two wells, the Commission finds that:

(1) With respect to the subject well determination, the production records relied on in making the determination are applicable to production from only one of the producing intervals of the well. Accordingly, there is a lack of substantial evidence that the determination was based on the total volume of gas produced from the well.[2]

(2) With respect to the earlier well determination, there was omitted a statement of material fact which was necessary in order to make the determination not misleading to the Commission. Accordingly, there is a basis for the Commission to reopen its consideration of the determination on the well.

The Commission hereby makes a preliminary finding that, pursuant to 18 CFR 275.202(a)(1)(i), the determination submitted by the Office of Conservation of the State of Louisiana Dept. of Natural Resources that the Clay Colvin B No. 2–D well qualifies as a section 108 stripper well is not supported by substantial evidence in the record on which the determination was made. The Commission also orders that, pursuant to 18 CFR 275.205, the determination submitted by the Office of Conservation of the State of Louisiana Dept. of Natural Resources that the M Hoss SUF, Clay Colvin B No. 2 well qualifies as a section 108 stripper well be reopened.

[2] Both determinations were based on 90-day production periods ending December 1, 1978. The production records submitted indicate that if production from the first interval during that period were to be combined with production from the second interval, the well would exceed an average of 60 Mcf per production day during that period. The producer's calculations of average production, which treat voluntarily shut-in days as production days, are erroneous.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24146 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-403]

Panhandle Eastern Pipe Line Co.; Application

July 27, 1979.

Take notice that on July 9, 1979, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79–430 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delivery of line pack and the recovery by Panhandle of certain acquisition, construction, and transportation costs associated with the delivery of natural gas produced in the Province of Alberta, Canada, undertaken to expedite and assist the successful completion of the Alaskan Natural Gas Transportation System, (ANGTS) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

On March 9, 1978, Northwest Alaskan Pipeline Company (Northwest Alaskan) entered into a gas purchase agreement with Pan Alberta Gas Ltd. (Pan-Alberta) to purchase up to 800,000 Mcf per day of natural gas produced in the Province of Alberta, Canada, for delivery to eastern and mid-western areas of the lower forty-eight states. It is stated that the Northwest Alaskan-Pan-Alberta agreement is expressly tied to and supportive of the pre-building of part of the southern portion of ANGTS in accordance with its primary objective of expediting and assisting in the construction of the entire Alaska Natural Gas Transportation System and the ultimate transmission of gas produced from the Prudhoe Bay Unit of Alaska to the lower forty-eight mid-western and eastern markets.

Panhandle states that the acquisition of additional gas supplies, including the quantities available from Alberta and, ultimately Alaska, is important to Panhandle and accordingly, it has entered into an agreement dated April 14, 1978, with Northwest Alaskan wherein Northwest Alaskan would sell and Panhandle would purchase, an annual average daily quantity of 150,000 Mcf per day of such Alberta gas. On April 5, 1978, Northwest Alaskan filed an application with the Commission for authority to import such volumes at the international border near Monchy, Saskatchewan; and conditional authorization was issued by the Commission on June 7, 1978 in Docket No. CP78–123, *et al.* Northwest Alaskan has filed an application to resell such imported gas to Panhandle and other designated purchases in the immediate future, as indicated in Docket Nos. CP79–170 and CP78–123, *et al.*

The Northern Border Pipeline System (Northern Border) has sought Commission authorization to construct and operate 809 miles of 42-inch pipeline, extending from a point near Monchy, Saskatchewan to a point near Ventura, Iowa, for the primary purpose of expediting the transportation of Alaskan gas to the lower forty-eight markets. It is stated that these facilities would be adequate to permit delivery of the Alberta gas supplies directly to the pipeline system of Northern Natural Gas Company (Northern Natural) and by subsequent transportation arrangements to Panhandle. In order to effectuate this arrangement, Panhandle intends to enter into a service agreement with Northern Border, under which charges for the transportation service rendered by it would be made on a cost of service basis in accordance with its FERC gas tariff. The Northern Border tariff provides that the shipper shall furnish quantities of gas required for purge, fill and line pack on the 809-mile system. Panhandle anticipates that the total volume of line pack gas to be furnished by Panhandle would be 625,300 Mcf. Panhandle estimates the total line pack cost, based on the current border price of $2.30 per Mcf to be $1,438,190.

Additionlly Panhandle has entered into a gas transportation displacement agreement with Northern Natural dated June 26, 1979, for the transportation and redelivery by Northern Natural of Panhandle's Alberta gas supplies. The Alberta gas supplies would be transported via Northern Border to Northern Natural's system at a point near Ventura, Iowa. Northern Natural would receive such volumes of gas from Northern Border and redeliver thermally equivalent volumes to Panhandle at an existing point of interconnection between the pipelines of Panhandle and Northern Natural in Kiowa County, Kansas. As consideration for this service, Northern Natural would charge Panhandle $301,294 per month, subject to reduction at the rate of 6.6 cents per Mcf of deficiency on any day or days that Northern Natural is unable to accept for Panhandle's account the quantity of gas which Panhandle tenders to Northern Natural at Ventura, up to an annual average daily quantity of 150,000 Mcf.

Northern Natural would be responsible for the construction of some minor additional pipeline facilities in order to effect redeliveries to Panhandle. Panhandle would reimburse Northern Natural for the total costs of such facilities, currently estimated to be $334,747. Panhandle would finance such costs from funds on hand; and accordingly, Panhandle seeks authorization herein to recover, through rate base treatment, the aforementioned cost of line pack gas and the amount of reimbursement to Northern Natural. Pursuant to the gas purchase contract with Northwest Alaskan, Panhandle would pay Northwest Alaskan the price for gas exported from Canada that may be established from time to time under Canadian Federal Law, (presently $2.30 per Mcf (1,000 Btu/cu. ft.)), plus an amount to reimburse Northwest Alaskan for its administrative costs specifically associated with this sale. It is stated that the total cost of the Alberta gas to Panhandle would be that price plus the amount of transportation charges payable to Northern Border and Northern Natural. Therefore, Panhandle is also requesting Commission authorization to recover through its jurisdictional rates the total cost of the Alberta gas at the redelivery point from Northern Natural.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petitition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24143 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2932]

S. D. Warren Co.; Application for Short-Form License (Minor) for a Constructed Project

July 31, 1979.

Take notice that on May 15, 1979, S. D. Warren Company filed an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for an existing water power project known as the Mallison Falls Project, FERC Project No. 2932, located on the Presumpscot River, a navigable waterway of the United States, near Gorham and South Windham, in Cumberland County, Maine.

Correspondence with the Applicant should be directed to the following persons: Mr. William H. Marra, Vice President, S. D. Warren Company, 225 Franklin Street, Boston, Massachusetts 02101; Mr. John B. Blatz III, Associate Counsel, Scott Paper Company, Scott Plaza One, Philadelphia, Pennsylvania 19113; and Mr. Bernard A. Foster III, Ms. Nancy J. Hubbard, Ross, Marsh & Foster, 730 15th Street, N.W., Washington, D.C. 20005.

Purpose of the Project—Project energy is used by the Applicant in the operation of its Westbrook paper plant. Applicant states that because of the urban setting, industrial and commercial use of the land at the project, high population density, and the limited availability of open space, recreational opportunities are minimal.

Project Description—The existing project, constructed in the early 1900's, consists of: (1) a 20.5-foot-high, 260-foot-long dam with a crest elevation of 90.62 feet m.s.l.; (2) a headgate structure; (3) a 675-foot-long intake canal; (4) a powerhouse with an installed capacity of 800-kW; and (5) appurtenant facilities. The annual generation for the project averages 5,529,600 kWh which represents about 3% of the Westbrook paper plant's energy requirements. The project is a run-of-the-river operation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR. § 1.8 or § 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before October 5, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24144 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-57]

Transcontinental Oil Corp., Three Wells, JD79-9089, 9090, and 9091; Notice of Preliminary Finding by State of Mississippi

Issued: July 27, 1979.

On June 11, 1979, the State of Mississippi Oil and Gas Board (Mississippi) submitted to the

Commission notice of three determinations, which respectively state that three wells [1] of the Transcontinental Oil Corporation are producing new natural gas as defined in section 102 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of Mississippi's determination on July 12, 1979.

New natural gas under section 102 of the NGPA includes gas produced from new, onshore reservoirs. According to section 102(c)(1)(C), a reservoir qualifies as a new, onshore reservoir if, among other requirements, natural gas was not produced in commercial quantities from the reservoir before April 20, 1977. Under § 274.202(d)(1)(ii) of the Commission's Interim Regulations (18 CFR § 274.202(d)(1)(ii)), an applicant seeking a section 102(c)(1)(C) determination must file sufficient geological information to support a determination that the reservoir is a new onshore reservoir.

Mississippi based its three determinations on findings that the three wells are producing from new, onshore reservoirs. But the records submitted to the Commission by Mississippi with its determinations lack the geological information required to support the findings that the reservoirs involved are new, onshore reservoirs.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to 18 CFR 275.202(a)(1)(i)) that these three determinations submitted by Mississippi are not supported by substantial evidence in the records on which the determinations were made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24147 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-7]

Winter Hawk, Ltd.; Petition for Adjustment

August 1, 1979.

On June 18, 1979, Winter Hawk, Ltd. filed in Docket No. SA79-7 a petition requesting an adjustment, pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), to the requirements of section 108(b)(1) of the NGPA and Subpart H of Part 271 of the regulations implementing said section. The applicant has filed an application with the State of Colorado Oil and Gas Conservation Commission for a determination that the Zimbelman 1-A well located in Weld County, Colorado, qualifies as a stripper-well under section 108 of the NGPA. Because the subject well has not produced oil or natural gas since May 1978, the applicant is requesting an adjustment from the requirement of section 108(b) of the NGPA and section 271.804(c) of our regulations that applications for stripper-well determinations shall be based on a 90-day production period ending within 120 days prior to the date on which the application is filed. The request is more fully set forth in the application which is on file with the Commission and open to public inspection.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, Docket No. RM79-32, (March 22, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before August 21, 1979.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24187 Filed 8-3-79; 8:45 am]

BILLING CODE 6450-01-M

[1] JD Number and Well Name and Number: 79-9089—Pucket Gas Unit 5 #2; 79-9090—Pucket Gas Unit 5 #1; 79-9091—Pucket Gas Unit 5 #3.

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50438; FRL 1241-7]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 1471-EUP-64. Elanco Products Co., Indianapolis, IN 46206. This experimental use permit allows the use of 205 pounds of the herbicide fluridone on cotton to evaluate control of broadleaf weeds. A total of 820 acres is involved; the program is authorized only in the 48 contiguous States. The experimental use permit is effective from July 16, 1979 to July 16, 1980. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established. (PM-23, Willa Garner, Room: E-351, Telephone: 202/755-1347)

No. 1471-EUP-65. Elanco Products Co., Indianapolis, IN 46206. This experimental use permit allows the use of 21.2 pounds of the herbicide fluridone on contained ponds to evaluate control of aquatic weekds. The experimental use permit is effective from July 12, 1979 to July 12, 1980. (PM-23, Willa Garner, Room: E-351, Telephone: 202/755-1347)

No. 1471-EUP-66. Elanco Products Co., Indianapolis, IN 46206. This experimental use permit allows the use of 63 pounds of the herbicide fluridone on contained ponds to evaluate control of aquatic weeds. A total of 77.1 acres is involved for this permit and the one above; the programs are authorized only in the 48 contiguous States. This experimental use permit is also effective from July 12, 1979 to July 12, 1980. The permits will use the same active ingredient, but different formulations. (PM-23, Willa Garner, Room: E-351, Telephone: 202/755-1347)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: July 30, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-24209 Filed 8-3-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket Nos. 79-182, 79-183; File Nos. 214-A-RL-29 and 88-A-L-39]

J. R. Hatton, d.b.a. South Texas Airmotive and City of Alice, Tex.; Application for an Aeronautical Advisory Station To Serve Alice International Airport, Alice, Tex.; Order

Adopted: July 23, 1979.

Released: July 27, 1979.

1. J. R. Hatton d.b.a. South Texas Airmotive (hereinafter called Hatton) has filed an application for renewal of Aeronautical Advisory Station WAK6 at Alice International Airport and the City of Alice, Texas has filed an application for a new Aeronautical Advisory Station at Alice International Airport. Since § 87.251(a) of our rules provides that only one aeronautical advisory station may be authorized at an airport, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. We also have before us a Petition to Deny the renewal application of Hatton. This petition had been filed by Alice Aviation, Inc. The petition states the following:

a. Alice Aviation, Inc. and Smith Aircraft Service were not notified by Hatton of his intent to file an application for the renewal of station WAK6 as provided for in § 87.251(c) of our rules; and

b. That Hatton operates station WAK6 approximately 44 hours a week and not the 84 hours a week he has represented to the Commission.

3. With respect to the Petition to Deny filed by Alice Aviation, Inc., we make the following observations:

a. We take note of the fact that it is alleged that Hatton never provided the notification as provided for by § 87.251(c) of our rules. However, it is apparent by the Petition to Deny filed by Alice Aviation that they received some type of notice of Hatton's renewal application. It appears that the intent of the rules has been met. We are, therefore, not designating an issue on this point.

b. Regarding the second item in Alice Aviation's petition, failure to operate as represented will be addressed under a general issue concerning the manner in which Hatton has operated Station WAK6.

c. Further, we will permit Alice Aviation, Inc. to become a party to this proceeding.

4. In view of the foregoing, it is ordered, That pursuant to the provisions of Section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following comparative issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators;

(b) To determine the manner in which Hatton has operated Aeronautical Advisory Station WAK6 and whether such operations were in accordance with the rules governing the operation of this class of station.

(c) To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

5. It is further ordered, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issue (b) where the burdens are on Hatton and issue (c) which is conclusory.

6. It is further ordered, That the Petition to Deny filed by Alice Aviation, Inc. is granted to the extent indicated in this Order and is in all other respects denied.

7. It is further ordered, That to avail themselves of an oportunity to be heard, Hatton, the City of Alice, Texas, and Alice Aviation, Inc. pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 79-24175 Filed 8-3-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-60]

Home Federal Savings & Loan Association of Palm Beach; Approval of Conversion Application; Final Action

August 1, 1979.

Notice is herby given that on July 26, 1979, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 79-393 approved the application of Home Federal Savings and Loan Association of Palm Beach, Palm Beach, Florida for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W. Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 250 Peachtree Center, N.W., Atlanta, Georgia 30343.'

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-24189 Filed 8-3-79; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-61]

Palmetto Federal Savings & Loan Association; Approval of Conversion Application; Final Action

August 1, 1979.

Notice is hereby given that on July 26, 1979, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 79-394 approved the application of Palmetto Federal Savings and Loan Association, Palmetto, Florida for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 250 Peachtree Center, N.W., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-24188 Filed 8-3-79; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL LABOR RELATIONS AUTHORITY

Relating to the Issuance of a Policy Statement

AGENCY: Federal Labor Relations Authority.

ACTION: Notice Relating to the Issuance of a Policy Statement.

SUMMARY: This notice relates to the question of whether the Federal Labor Relations Authority should issue a policy statement on the effect of certain provisions of the Civil Service Reform Act of 1978 (92 Stat. 1111) on allegedly inconsistent provisions in existing collective bargaining agreements and invites written comments concerning this matter.

DATE: Written comments must be submitted by the close of business on September 4, 1979, to be considered.

ADDRESS: Send written comments to the Federal Labor Relations Authority, 1900 E Street, NW., Washington, D.C. 20424.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, Deputy Executive, Director, 1900 E Street, NW., Washington, D.C. 20424, (202) 632–3920.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority was established by Reorganization Plan No. 2 of 1978, effective January 1, 1979 (43 FR 36037). Since January 11, 1979, the Authority has conducted its operations under the Federal Service Labor-Management Relations Statute (92 Stat. 1191).

The Authority has received a request that it issue a major policy determination in accordance with 5 CFR § 2410.3(a) (1978) and sections 7105 and 7135(b) of the Statute (92 Stat. 1196, 1215). Interested persons are invited to express their views in writing as to whether the Authority should issue a policy statement, as more fully explained in the Authority's notice set forth below:

Notice

To Heads of Agencies, Presidents of Labor Organizations and Other Interested Persons

The Authority has received a request from the National Treasury Employees Union (NTEU) that the Authority issue a major policy determination as to the effect of certain provisions of the Civil Service Reform Act of 1978 (92 Stat. 1111), which became effective on January 11, 1979, on allegedly inconsistent provisions of existing collective bargaining agreements. The question before the Authority at this time is whether it should issue a policy statement on this matter. The specific matters at issue, substantially as stated by NTEU, are as follows:

1. Do the provisions of section 7114(a) of the Federal Service Labor-Management Relations Statute (92 Stat. 1202), concerning the rights accorded exclusive representatives of the employees supersede, by operation of law, inconsistent provisions of collective bargaining agreements negotiated prior to January 11, 1979, or do the inconsistent provisions of the agreements take priority over provisions of the Statute, pursuant to section 7135(a) (1) (92 Stat. 1215)?

2. Do the provisions of section 7121(b)(3)(C) of the Statute (92 Stat. 1211), providing binding arbitration for any grievance not satisfactorily settled under the negotiated grievance procedure, supersede, by operation of law, inconsistent provisions of collective bargaining agreements negotiated prior to January 11, 1979, or do the inconsistent provisions of the agreements take priority over the provisions of the Statute, pursuant to section 7135(a)(1)?

3. Do the provisions of section 4302 of the Civil Service Reform Act of 1978 (92 Stat. 1132, 1133), particulary those dealing with the rights of employees to participate in the establishment-of-performance standards, supersede, by the operation of law, inconsistent provisions of the collective bargaining agreements negotiated prior to January 11, 1979, or do the inconsistent provisions of the agreements take priority over the provisions of the Act, pursuant to section 7135(a)(1)?

4. Do the Provisions of section 7116(a)(7) of the Statute (92 Stat. 1204), providing that it shall be an unfair labor practice for an agency to enforce any rule or regulation which is in conflict with any collective bargaining agreement if the agreement was in effect before the date the Rule or Regulation was prescribed, supersede, by operation of law, inconsistent provisions of collective bargaining agreements negotiated prior to January 11, 1979, or do the inconsistent provisions of the agreements take priority over the provisions of the statute, pursuant to section 7135(a)(1)?

Before determining whether issuance of a policy statement on these matters is warranted, in conformity with 5 CFR § 2410.3(a) (1978) and section 7135(b) of the Federal Service Labor-Management Relations Statute (92 Stat. 1215), as well as section 7105 of the Statute (92 Stat. 1196), the Authority solicits your views in writing. To receive consideration, such views must be submitted to the Authority by the close of business on September 4, 1979.

Issued, Washington, D.C., July 27, 1979.

Federal Labor Relations Authority.

Ronald W. Haughton,

Chairman.

Henry B. Frazier III,

Member.

[FR Doc. 79-24108 Filed 8-3-79; 8:45 am]

BILLING CODE 6325-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 31, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before August 24, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Communications Commission

The FCC requests an extension without change clearance of Form 756, Application for Commercial Radio Operator License. Form 756 is required by § 1.83(a)(2) of the FCC's Rules and Regulations. The form is used to apply for a new, renewed, replacement, or duplicate commercial operator license other than amateur license and restricted radiotelephone permit. The FCC estimates that respondent burden will average 3 minutes per response except for the approximately 2,000 applicants that must submit a photograph pursuant to Paragraph 856 of the Radio Regulations of the International Telecommunications Union. The estimated burden for those applications is one and one-half hours per response. The FCC estimates it receives approximately 250,000 applications annually.

The FCC requests an extension without change clearance of Form 757–B, Application for Re-examination for Commercial or Amateur Radio Operator License Prior to Expiration of Waiting Period. Form 757–B is required to be filed by those seeking waiver of §§ 13.27 and 97.33 of the Commission's Rules and Regulations which require that persons who fail the examination for Commercial or Amateur Radio Operator License must wait 30 to 60 days before being re-examined. The FCC estimates that respondent burden will average 5 minutes per response and that it receives approximately 13,000 applications annually.

The FCC requests an extension without change clearance of Form 808, Application for and Certification of Overtime Services Involving Inspection of Ship Radio Equipment. Form 808 is required by § 83.74(a)(12) of the FCC's Rules and Regulations. The form is used to apply for a Commission representative to perform overtime services in connection with inspection of radio equipment and apparatus installed aboard a ship. The FCC estimates respondent burden will average 5 minutes per response and that it receives approximately 200 applications annually.

The FCC requests an extension without change clearance of Form 809, Application for Periodic Survey (Great Lakes Agreement). Form 809 is required by §§ 83.536 and 83.537 of the FCC Rules and Regulations. The form is used to request an inspection of the radio installation aboard a vessel subject to the Great lakes Agreement. The FCC estimates respondent burden will average 30 minutes per response and that approximately 500 applications are filed annually.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-24155 Filed 8-3-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Field Initiated Research; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects for support of research related to education for the handicapped.

Authority for this program is contained in sections 641 and 642 of part E of Education of the Handicapped Act (20 U.S.C. 1441, 1442).

The purpose of this program is to support a broad range of research and research-related projects focusing on the education of handicapped children.

For Further Information Contact: Max W. Mueller, Research Projects Branch, BEH, 400 Maryland Avenue SW., Washington, D.C., 20202, phone (202) 245–2275.

Closing Date for Transmittal of Applications: Applications for awards must be mailed or hand delivered by October 31, 1979.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.443C, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Hand-Delivered Applications: An application that is hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C. The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays. Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: Approximately $3,000,000 is available for support of new Field Initiated Research projects in 1980. Based on a mean grant amount in recent years of approximately $90,000 we expect that about 33 new grants will be awarded. The range of funding for 1979 projects was from approximately $10,000 to $200,000 per year. Most awards were for under $100,000 per year.

While there is no firm limit on the duration of projects, the vast majority of field-initiated projects are for one to three years. In the event that assistance is provided for multiple year projects, grant awards will be made for a budget period of a single year's duration with continuation awards made on a non-competitive basis subject to satisfactory performance as determined under 45 CFR 121h.4(b) and the availability of funds in future fiscal years.

Application Forms: Further information and application forms are available and may be obtained by writing to the Research Projects Branch, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW., (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed forty (40) pages in length. The Commissioner further urges that only the information required by the application form instructions be submitted.

Applicable Regulations: The following regulations are applicable to this program through the granting of the award:

(a) Regulations governing the handicapped education program (45 CFR Parts 121 and 121h). Final regulations for part 121h were published in the Federal Register on August 18, 1978; and

(b) Office of Education General Provisions Regulations (45 CFR 100 and 100a).

However, it is expected that grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR) when they become effective. EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

(20 U.S.C. 1441, 1442.)

(Catalog of Federal Domestic Assistance, No. 13.443, Handicapped Research and Demonstration.)

Dated: July 31, 1979.

Mary F. Berry,

Acting Commissioner of Education.

[FR Doc. 79-24156 Filed 8-3-79; 8:45 am]

BILLING CODE 4110-02-M

Handicapped Personnel Preparation; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for non-competing continuation projects and new projects under the Handicapped Personnel Preparation Program.

Closing Date for Transmittal of Applications: Applications for non-competing awards must be mailed or hand delivered by September 17, 1979. Applications for new awards must be mailed or hand delivered by October 15, 1979.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Washington, D.C. 20202. Attention: 13.451.

Proof of mailing must consist of:

(1) A legible U.S. Postal Service postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or

(3) Any other evidence acceptable to the Commissioner, such as dated shipping labels, invoices, or receipts from a commercial carrier.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

Note. The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local postal office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Authority for this program is contained in sections 631, 632, and 634 of Part D of the Education of the Handicapped Act (20 U.S.C. 1431, 1432, and 1434).

This program issues awards to institutions of higher education, private and other nonprofit training agencies, State education agencies and local education agencies.

The purpose of the awards is to improve the quality and increase the supply of special educators and support personnel at both the preservice and inservice levels.

Available funds: The estimated total amount of funds available under this grant program for Fiscal Year 1980 is $55,375,000 ($42,201,675 for non-competing continuation applications and $13,173,325 for new applications). An estimated 1,000 grants (both non-competing continuation and new) will be awarded with an average grant totaling $55,000.

The funding level and distribution of funds are predicated upon the allotment of funds and may vary according to the final appropriation made available during the year.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Division of Personnel Preparation, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed 75 pages in length. The Commissioner further urges that only the information required by the application form be submitted.

Applicable Regulations: The following regulations apply under this program:

(a) Regulations governing Training Personnel for the Education of the Handicapped (45 CFR Part 121f). Amendments to Part 121f were published in the **Federal Register** on April 19, 1977, 42 FR 20298–20300; and

(b) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a).

However, it is expected that the grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR). EDGAR was published in proposed form in the **Federal Register** on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

Further Information: For further information contact Dr. Jasper Harvey, Director, Division of Personnel Preparation, BEH, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, telephone: (202) 245-9886.

(20 U.S.C. 1431, 1432, 1434)

(Catalog of Federal Domestic Assistance No. 13.451, Handicapped Personnel Preparation)

Dated: July 31, 1979.

Mary F. Berry,

Acting Commissioner of Education.

[FR Doc. 79-24157 Filed 8-3-79; 8:45 am]

BILLING CODE 4110-02-M

Student Research; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects for support of research related to education of the handicapped.

Authority for this program is contained in sections 641 and 642 of part E of Education of the Handicapped Act (20 U.S.C. 1441, 1442).

The purpose of this program is to support a broad range or research and research-related projects focusing on the education of handicapped children.

For Further Information Contact: Max W. Mueller, Research Projects Branch, BEH, 400 Maryland Avenue, SW, Washington, DC 20202, phone (202) 245-2275.

Closing Date for Transmittal of Applications: Applications for the first cycle awards must be mailed or hand delivered by October 12, 1979. Applications for the second cycle must be mailed or hand delivered by March 17, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.443A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A ligibly dated U.S. Postal Service postmark.

(2) A ligible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily except Saturdays, Sundays, and Federal holidays. Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: Approximately $250,000 is available for support of new Student Research projects. Based on a mean grant amount in recent years of approximately $8,000 we expect that about 30 new grants will be awarded. Most awards have been under $10,000 per year.

Application Forms: Further information and application forms are available and may be obtained by writing to the Research Projects Branch, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue, S.W. (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Commissioner further urges that only the information required by the application form instruction should be submitted.

Applicable Regulations: The following regulations are applicable to this program:

(a) Regulations governing the handicapped education program (45 CFR Parts 121 and 121h). Final regulations for part 121h were published in the **Federal Register** on August 18, 1978.

(b) Office of Education General Provisions Regulation (45 CFR 100 and 100a).

However, it is expected that grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR) when they become effective. EDGAR was published in proposed form in the **Federal Register** on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

(20 U.S.C. 1441, 1442)

(Catalog of Federal Domestic Assistance, No. 13.443, Handicapped Research and Demonstration.)

Dated: July 31, 1979.

Mary F. Berry,

Acting Commissioner of Education.

[FR Doc. 79-24158 Filed 8-3-79; 8:45 am]

BILLING CODE 4110-02-M

Office of the Secretary

Protection of Human Subjects of Biomedical and Behavioral Research; Correction

AGENCY: Department of Health, Education, and Welfare.

ACTION: Correction of Notice of Report and Recommendations for Public Comment.

SUMMARY: DHEW corrects the address given for ordering published copies of the Report and Recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research published in the **Federal Register** May 25, 1979, (44 FR 30644). In the summary of that publication, an incorrect address was given for ordering published copies of the Special Study of the Ethical, Social, and Legal Implications of Advances in Biomedical and Behavioral Research and Technology. The Special Study, DHEW Publication No. (OS) 78-0015, is for sale by the National Technical Information Service, 5285 Post Royal Road, Springfield, Virginia 22161.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. F. William Dommel, Jr., J.D., Assistant Director for Regulations, Office for Protection from Research Risks, National Institutes of Health, 5333 Westbard Avenue, Bethesda, Maryland 20205, (301) 496-7005.

Dated: July 25, 1979.

L. David Taylor,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 79-24190 Filed 8-3-79; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 25948]

Public Hearing for Proposed Federal Coal Offering, Moffat County, Colo.

U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado. Notice is hereby given that a public hearing will be held on August 29, 1979, at 7:00 p.m. in the Craig Municipal Building, Craig, Colorado. The offering for competitive lease sale of certain coal resources in lands hereinafter described has been proposed. The purpose of the hearing is to obtain public comments on the Technical Examination-Environmental Assessment Report and on the following items: (1) the method of mining to be employed to obtain maximum economic recovery of the coal, (2) the impact that mining the coal in the proposed leasehold may have on the area, including impacts on the environment, agriculture, and other economic activities and community or regional services, and (3) method of evaluation of the coal to be offered. Comments will be accepted orally or in writing and will be considered prior to lease offering.

In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1-2. Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such

and stated in the first page of the submission. Comments should be sent to both the Colorado State Director, Bureau of Land Management, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than September 10, 1979.

The coal resource to be offered is limited to strippable reserves to be mined from the "Q" coal bed and any overlying coal beds in the following described land located approximately seven miles southwest of Craig, Colorado:

T. 5 N., R. 91 W., 6th P.M.
Sec. 5: Lots 5 and 8.
Containing 85.26 acres.

The estimated total strippable reserves are 376,000 tons. The coal quality is as follows: Btu—9997; Sulfur—0.29% and Ash—7.49%. The "Q" coal bed averages 8–10 feet thick.

Notice of availability: The Technical Examination-Environmental Assessment Report will be available for review in the Craig District Office, Bureau of Land Management, 455 Emerson Street, P.O. Box 248, Craig, Colorado 81625.

A copy of the Technical Examination-Environmental Assessment Report, the case file, and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter, will be available for public inspection at the Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

Jack G. Lorts,

Chief, Division of Technical Services.

[FR Doc. 79-24090 Filed 8-3-79; 8:45 am]

BILLING CODE 4310-84-M

Alabama; Call for Expressions of Leasing Interest in Coal

August 6, 1979.

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Call for Expressions of Leasing Interest in Coal.

DATE: Responses to this notice may be received until October 5, 1979.

ADDRESS: Responses should be sent to: Robert Todd, Area Manager, Bureau of Land Management, Tuscaloosa Office, 1315 McFarland Boulevard, East, Tuscaloosa, Alabama 35405.

FOR FURTHER INFORMATION CONTACT:

David George, Bureau of Land Management, Tuscaloosa Office, (205) 759–5441.

or

Fred Cicala, Bureau of Land Management, Eastern States Office, 350 South Pickett, Alexandria, Virginia, (703) 235–2866.

In 44 FR 33976, published June 13, 1979, an advance notice of intent to call for expressions of interest in coal leasing was published.

This notice is to advise you that the official call for expressions of leasing interest for the area acceptable for further consideration for coal leasing located within the North Central Alabama Land Use Analysis is now in effect. Expressions of interest under this call may be submitted until October 5, 1979, to the Area Manager, Bureau of Land Management, Tuscaloosa Office, 1315 McFarland Boulevard, East, Tuscaloosa, Alabama 35405. Telephone (205) 759–5441.

Maps and other detailed information on the above-mentioned areas found acceptable for further consideration for coal leasing may be obtained from the Tuscaloosa Office at the address given above.

This call for expressions of interest is the first step in activity planning under the new coal management program. It is being made before any tract boundaries are delineated within an area found acceptable for further consideration for coal leasing through the application of the Department of the Interior's final coal unsuitability criteria contained in 43 CFR Part 3461. The results of this call will provide significant information that will be employed in delineating tracts that might be put up for lease sale after they have been through the tract ranking, selection, scheduling and analysis processes that are integral parts of the new coal management program.

An expression of interest is not an application. The major purpose of this call for expressions of interest is to integrate potential lessees' data and needs with the process of delineating the logical mining units which will be considered prior to a lease sale. Examples of the types of concerns that may influence the delineation of tracts as proposed in expressions of interest include: the competitive nature of the tract, access needs, mining efficiency, future coal development potential, resource conservation and State preferences and priorities. BLM hopes to gain sufficient information from this call, as well as from its own site-specific analyses, to identify areas in which data are of sufficient detail to ultimately make a fair market value determination of specific tracts.

These expressions of leasing interest should include the following data where applicable:

1. Quantity needs *(total tonnage, average tons per year, and year during which production should commence) for both coal producers and users.*

2. *Quality needs (types and grades for coal) for both producers and users.*

3. *Location.* a. Tracts desired by mining companies (narrative description with delineation on a surface-minerals management status map, available for purchase from the BLM Tuscaloosa Office).

b. Public and private industry user facilities in region.

c. If no location is indicated, but other specified data are provided, the expression will still be considered. In such cases, the joint BLM/GS delineation team will locate the tract.

4. *Type of Mine.* a. Surface or underground.

b. Technique of mining (i.e., longwall, room and pillar, dragline, etc.).

5. *Proposed Uses of Coal.* a. By mining companies.

b. By public and private industries.

6. *Where coal is consumed (include extra-regional markets).*

7. *Transportation Needs (i.e., railroads, pipelines, etc.).*

a. Existing facilities.

b. Proposed facilities and development timing.

8. *Available Sources of Coal.* a. Presently operative.

b. Contingency or other sources.

9. *Information Relating to Mineral Ownership.* a. Information on surface owner consents previously granted; e.g., a description of the location of the property, whether consents are transferable, etc.

b. Commitments from fee owners of associated non-Federal coal.

Data which are considered proprietary should not be submitted as part of this expression of leasing interest.

An individual, business entity, governmental entity or public body may participate and submit expressions of leasing interest under this call.

Lowell J. Udy,

Director, Bureau of Land Management, Eastern States Office.

[FR Doc. 79-24152 Filed 8-3-79; 8:45 am]

BILLING CODE 4310-84-M

Draft Environmental Statement, Proposed Superior Oil Co. Land Exchange and Oil Shale Resource Development; Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension of comment period on the Draft Environmental Statement, Proposed Superior Oil Company Land Exchange and Oil Shale Resource Development [INT DES 79–40].

SUMMARY: The Department of the Interior published in the Federal Register [Vol. 44, page 41573, No. 138/ Tuesday, July 17, 1979] notice that the draft environmental statment was available for review and comment. This notice amends that original notice by extending the deadline for submission of written comments from August 31, 1979 to September 7, 1979.

BLM may print in the Final Environmental Statement only those portions of the Draft EIS that are changed and responses to comments. Therefore, please retain your copy of the DES so that it can be used with the FES in the event that the complete text is not fully reprinted.

Dated: July 30, 1979.

Dale R. Andrus,

State Director, Colorado State Office.

[FR Doc. 79-25154 Filed 8-3-79; 8:45 am]

BILLING CODE 4310-84-M

Federally Owned Coal Areas Under Non-Federal Surface

August 6, 1979.

This notice amends a group of Federal Register notices dated May 25, 1979 (44 FR 30590–30592) titled "Federally Owned Coal Areas Under Non-Federal Surface; Lists of Counties." The notices, covering twelve states, list counties and acreages where the United States Government holds mineral rights on coal lands under non-Federal (State or privately-owned) surface.

The second sentence of each notice is amended to read as follows: "All coal operators, exploration drillers, and those purchasing land and/or coal rights are reminded that any drilling for coal information *or coal mining* on Federally owned areas is unauthorized and constitutes trespass, unless a license *or lease* is obtained from the Department of the Interior, Bureau of Land Management, under *43 CFR Parts 3410 and 3420.*"

The lands affected are in the following twelve states:

Alabama	Maryland
Arkansas	Michigan
Illinois	Missouri
Indiana	Ohio
Iowa	Pennsylvania
Kentucky	West Virginia

For further information, contact the Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 235–2830.

[FR Doc. 79-24153 filed 8-3-79; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Revised Management Policies

AGENCY: National Park Service, Interior.

ACTION: Revision of management policies on Construction, Shoreline Processes, and Limitation of Visitor Use.

FOR FURTHER INFORMATION CONTACT:

George Gowans, Chief, Office of Management Policy, National Park Service, Washington, D.C. 20240, (202)343–7456.

INTRODUCTION: The National Park Service has revised its policies on Construction, Shoreline Processes, and Limitation of Visitor Use (stated below) to comply with Executive Order 11988, "Floodplain Management," and Executive Order 11990, "Protection of Wetlands." Notice of these proposed revisions and public comments were invited on September 11, 1978 (43 FR 40323–40324), as part of an assessment of proposed changes to various bureau documents and procedures necessary to comply with the two Executive Orders. Comments received from the public review were used to clarify the language of the Construction and Shoreline Processes policies. No comments were made on the Limitation of Visitor Use policy.

Statements of Policy

The Construction policy stated on page III–6 of the *Management Policies* is revised to read as:

Construction

Construction of park facilities shall be rigidly controlled to preclude undue damage to vegetation, soils, and archeological resources through excessive grading and alteration of contours to fit developments, and to reduce air, water, and noise pollution. The Service will adhere to all applicable Federal, State and local environmental laws, standards and emission of effluent limitations. Facilities and structures shall not be located in areas where natural processes pose a persistent threat to the facilities or structures, or to people using them, except where no practicable alternative exists for the use, enjoyment and management of a park and all safety and hazard probability factors have been considered. Such areas include, but are not limited to, unstable shorelines; unstable geological areas subject to mud slides, landslides, rock slides, or soil creep; active dunes; thermal areas, and 100 year floodplains including coastal areas. Because of potential loss of life, injury or loss of essential or irreplaceable records and objects, structures such as schools, hospitals, and museums should not be located within 500-year floodplains. Because of the fragility and natural resource values of wetlands and floodplains, impact from construction activities shall be avoided, except where no reasonable alternative exists to meet the management objectives of the park.

Where new facilities and structures must be located in such areas, their design and siting shall be based upon scientific, engineering and architectural studies; consideration to protection of human life, natural processes and cultural resources; and consideration to their planned life span. Existing structures or facilities located in such areas and needing rehabilitation, restoration or replacement will be subjected to the same scrutiny as those prescribed for new facilities or structures. In the case of historic structures, this scrutiny will be but one factor in determining their preservation. Before development in floodplains and wetlands is provided, the requirements of Executive Order 11988, "Floodplain Management," and Executive Order 11990, "Protective of Wetlands" must be fulfilled. When Structures or facilities are removed from floodplains and wetlands, the area will be restored and preserved in its natural state.

Where practical, soil and plants that are moved from a site prior to actual construction, should be stockpiled for use in back-filling and the final site grading. Any surplus soils and plants can be used for the restoration of other degraded areas within the park. If additional soil and plants are needed for the construction site, they may be obtained from other sites in the park only when it is determined that use of an in-park source will not significantly affect cultural and natural resources and ecological processes.

The Shoreline Processes policy stated on page IV–22 of the *Management Policies* is revised to read as:

Shoreline Processes

In natural zones, shoreline processes-erosion, deposition, dune formation,

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inlet formation, etc. will be allowed to take place naturally, except where control measures, required by law or Service commitment, are necessary to protect life and property in neighboring areas.

In historic zones, control measures, if necessary, will be predicated on thorough studies taking into account the nature and velocity of the shoreline processes, the threat to the cultural resource, the significance of the cultural resources, and alternatives, including costs, for protecting the cultural resource. Such studies must also determine if and how control measure would impair resources and processes in natural zones, in order that management may make an informed decision on the course of action to be followed.

In development zones, management should plan to phase out, systemically relocate, or provide alternative developments to facilities located in hazardous areas that cannot be reasonably protected. New developments will not be placed in areas subject to flood or wave erosion or active shoreline processes unless it can be demonstrated that they are essential to meet the park's purpose, as defined by its establishing act; that no practicable alternative locations are available; and that the development will be reasonably assured of surviving during its planned life span without the need of shoreline control measures. Where no practicable alternatives exists, steps will be taken to minimize safety hazards and harm to property and natural values. Before development in such area is provided, the requirements of Executive Order 11988, "Floodplain Management," and of Executive Order 11900, "Protection of Wetlands," must be fulfilled.

Where erosion control is required by law, or where present developments must be protected to achieve park management objectives, the Service will employ the most natural appearing and effective method feasible.

Most shoreline areas of the National Park System are part of larger physiographic systems, and the processes of these larger systems directly affect the management of those NPS areas contained therein. Therefore, the Service shall seek to obtain the assistance of appropriate Federal, State and local agencies in carrying out the management objectives of NPS shoreline areas.

The Service will cooperate with State and other Federal entities to develop strategies for maintaining existing transportation and utility links on barrier islands in the event of storm damage or inlet formation. Where these links are interrupted by inlet formation, the Service will recommend, within the limits of practicality, reestablishment in a manner that allows the unimpeded operation of inlet formation and closures.

Where navigation channels are established in NPS waters, the Service will work with the responsible agency to see that necessary dredging is carefully controlled and that dredged material is disposed of in such a manner as to have the least adverse impact on the aquatic ecosystem and to optimize the value of spoil deposit as wildlife habitat.

The policy on Limitation of Visitor Use, stated on page VII–1 of the *Management Policies* is revised to read as:

Limitation of Visitor Use

In order to provide an enjoyable park experience, to meet its mandate to preserve "the scenery and the natural and historic objects and the wildlife" of the parks, and to comply with the intent of the Wilderness Act, the Service will, whenever necessary, regulate the amount and kind, and time and place, of visitor use in the parks.

Such limitation will be made known to the public through publication in the **Federal Register** and/or by posting, as appropriate. A determination by the superintendent to limit visitor use will be based on considerations of public safety, and resource protection, and where possible will be supported by study and research.

Proposals for park uses shall also be assessed in terms of total costs and public benefits and weighed against the "criteria of effect" established by the Advisory Council on Historic Preservation. They shall be subject to compliance with the Council's "Procedures for the Protection of Historic and Cultural Properties," applicable laws, and Departmental regulations.

Effective Date

These changes in the National Park Service's Management Policies notebook shall become effective on May 1, 1979. Persons interested in receiving new pages for the *Management Policies* notebook containing all four policies may write the nearest regional office, after September 15, 1979.

Mid-Atlantic Regional Office, National Park Service, 143 South Third Street, Philadelphia, Pa. 19106.
Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102.
National Capital Region, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242.
North Atlantic Regional Office, National Park Service, 15 State Street, Boston, Massachusetts 02109.
Pacific Northwest Regional Office, National Park Service, 601 Fourth and Pike Building, Seattle, Washington 98101.
Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225.
Southwest Regional Office, National Park Service, 1895 Phoenix Blvd., Atlanta, Georgia 30349.
Southwest Regional Office, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87501.
Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, CA 94102.

Dated: July 26, 1979.

Ira J. Hutchison,

Acting Director, National Park Service.

[FR Doc. 79-24111 Filed 8-3-79; 8:45 am]

BILLING CODE 4310-70-M

Rocky Mountain National Park, Colo.; Boundary Change

Section 7(c) of the Land and Water Conservation Fund Act of 1965, 16 U.S.C. § 4601–9(c) as added by Section 1(5) of the Act of June 10, 1977, Pub. L. 95–42 (91 Stat. 210), provided for boundary changes of an area of the National Park System in accordance with certain requirements and publication of the boundary change in the **Federal Register.**

Notice is hereby given that the boundary of Rocky Mountain National Park is changed to accommodate the acquisition of the following described land by donation, in accordance with clause (ii) of the Act supra.

A part of the S½ of the NW¼ of Section 27, T. 4 N., R. 73 W., of the Sixth Principal Meridian, Colorado, as defined by the U.S. General Land Office dependent resurvey accepted August 6, 1928, described as follows:

Commencing at the Southwest corner of a tract described in Book 1338 at page 55 of the records in the office of the County Clerk and Recorder of Larimer County, Colorado, from whence the center ¼ corner of Section 27, T. 4 N., R. 73 W., of the Sixth Principal Meridian, Colorado, bears South 70°16' East a distance of 1392.70 feet, thence North along the west line of said tract a distance of 179.96 feet to the point of beginning, thence South 89°56' West a distance of 1335.85 feet, more or less, to the Rocky Mountain National Park boundary, being the west boundary of said section 27, thence North along said boundary a distance of 645.09 feet, more or less, to the Northwest corner of the South ½ of the NW ¼ of said Section 27, thence North 89°56' East along the north line of said South ½ of the NW¼ a distance of 1345.23 feet, more or less, to the northwest corner of said tract, thence South 645.04 feet along the west boundary of said tract to the point of beginning, containing an area of 19.85 acres, more or less.

The boundary map showing this proposed addition is numbered 121–80,021 and dated February 1979. This map was prepared by the Rocky Mountain Regional Office for the National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225.

When title to the above-described land has vested in the United States of America by donation from the present owner, Mrs. Gilbert H. Osgood the land wil be administered in accordance with the laws and regulations applicable to Rocky Mountain National Park.

Dated: July 25, 1979.

Daniel J. Tobin, Jr.,

Associate Director.

[FR Doc. 79-24110 Filed 8-3-79; 8:45 am]

BILLING CODE 4310-70-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (79–68)]

Space Science Steering Committee Venus Orbiting Imaging Radar Ad Hoc Advisory Subcommittee; Meeting

The Venus Orbiting Imaging Radar Ad Hoc Advisory Subcommittee of the Space Science Steering Committee will meet at the NASA Goddard Space Flight Center, Building 26, Room 205, on August 22, 23, and 24, 1979, from 8:30 a.m. to 4:30 p.m. on each day. The Subcommittee will discuss, evaluate, and categorize Atmospheric, Ionospheric, and Radio Science proposals submitted to NASA in response to the Announcement of Opportunity for the Venus Orbiting Imaging Radar mission. Public discussion of the professional qualifications of the proposers and their potential scientific contributions to space science would invade the privacy of the proposers and other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), as described above, it has been determined that the sessions should be closed to the public.

For further information, please contact Dr. W. L. Quaide, NASA Headquarters, Code SL–4, Washington, DC 20546, (202/755–1602).

Frank J. Simokaitis,

Acting Deputy Associate Administrator for External Afairs.

August 1, 1979.

[FR Doc. 79-24133 Filed 8-3-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Humanities Panel Advisory Committee; Meeting

August 1, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: August 24, 1979. Time: 9 a.m. to 5:30 p.m. Room: 807. Purpose: To review Fellowships in Category B applications in English Literature to 1900 submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

2. Date: August 30, 1979. Time: 9 a.m. to 5:30 p.m. Room: 807. Purpose: To review Fellowships in Category A applications in English Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-24189 Filed 8-3-79; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Notice of Publication Sales Program With the Government Printing Office

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has become a consigned sales agent for the Government Printing Office (GPO) for the printing, inventory control, and public sale of NRC publications for GPO. Articles of the NRC/GPO Consigned Sales Program have been developed to make NRC documents available on a more timely basis consistent with the provisions of Title 44 Section 1708 of the U.S. Code that govern recovery of costs related to government publications.

Deposit account service is available with the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, by establishing a minimum deposit account of $50.00 and receiving an individual deposit account number against which to charge future purchases. Monthly statements are mailed by GPO to customers with active deposit accounts. Telephone, written, or in-person orders to the NRC will be accepted on any valid deposit account.

Deposit account orders may be placed for documents by calling (301) 492–7333 or by writing to U.S. Nuclear Regulatory Commission, Division of Technical Information and Document Control, Washington, D.C. 20555 Attn: Publications Sales Manager. All orders should clearly identify the publication number and the requestor's GPO deposit account number.

Subscription account service will also be available for selected periodic NRC publications and will run on a fiscal year basis. Subscription service is now available for NRC Regulatory Guides and their revisions for fiscal year 1980 (October 1, 1979–September 30, 1980). Anyone wishing to subscribe may do so by writing to the U.S. Nuclear Regulatory Commission, Division of Technical Information and Document Control, Washington, D.C. 20555. Attn: Publications Sales Manager or by calling (301) 492–7333 to obtain pricing information and GPO subscription order forms. Further information concerning the availability of subscription services will be announced as appropriate.

As an added service, NRC plans to make special selected publications, including reports concerning the Three Mile Island incident, available for sale at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

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The Commission will continue to participate in the National Technical Information Service Program. Individuals or organizations may continue to purchase NRC documents at NTIS subject to NTIS procedures and prices.

Dated at Bethesda, Maryland, this 23rd day of July, 1979.

For the Nuclear Regulatory Commission.

Daniel J. Donoghue,

Director, Office of Administration.

[FR Doc. 79-24166 Filed 8-3-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas & Electric Corp.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Commission (the Commission) has issued Amendment No. 28 to Provisional Operating License No. DPR-18, issued to Rochester Gas and Electric Corporation (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Nuclear Power Plant (the facility) located in Wayne County, New York. The amendment is effective as of its date of issuance.

The amendment allows a change in the overpressure protection system requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 17, 1979 (transmitted by letter dated July 19, 1979), (2) Amendment No. 28 to License No. DPR-18, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 26th day of July, 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 79-24169 Filed 8-3-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the Licensees), which revised the license and Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility), located in Ottawa County, Ohio. The amendment will become effective twenty days after issuance, unless a hearing has been requested.

The amendment adds a license condition relating to the completion of facility modifications for fire protection and modifies the Technical Specifications to require at least five individuals with fire protection training be on site at all times.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensees' filings dated December 12, 1977, January 11, April 11, May 3, June 22, July 27, September 7 and 25, November 25, December 12, 1978 and January 10, February 28, April 12 and July 9, 1979, (2) Amendment No. 18 to License No. NPF-3 and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 26th day of July 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 79-24170 Filed 8-3-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act; New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect on such proposal on the privacy and other personal or property rights of individuals . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between May 28, 1979 and July 20, 1979. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60-day advance notice period begins on the report date indicated.

Department of Health, Education, and Welfare

SYSTEM NAME:

Welfare Fraud Detection File.

REPORT DATE:

June 9, 1979.

POINT-OF-CONTACT:

Mr. John M. Allen, Privacy Coordinator, Office of the Inspector General, Room 5652, North Building, 330 Independence Avenue, SW, Washington, D.C. 20201.

SUMMARY:

This new system of records will be maintained by the Inspector General's Office as part of a "multiple fraud detection program." The program will involve the creation and use of a computer program to indentify welfare recipients who may be receiving multiple benefits, based on known, past cases of welfare fraud and the use of statistical probability in comparing data elements on recipients.

SYSTEM NAME:

Initial and Continuing Disability Determination File.

REPORT DATE:

July 14, 1979.

POINT-OF-CONTACT:

Ms. Rhoda M. Greenberg, Acting Director, Office of Disability Insurance Instructions, 6401 Security Boulevard, Baltimore, MD 21235.

SUMMARY:

This existing system of records is maintained by the Social Security Administration, which proposes to expand it in order to improve case control procedures. The expansion involves the addition of individuals whose claims are already in process, the addition of quality assurance documentation, and the implementation of automated case control systems.

Department of Transportation

SYSTEM NAME:

Survey Assessing the Long-Term Effects of Relocation on Low-Income Groups.

REPORT DATE:

June 12, 1979.

POINT-OF-CONTACT:

Mr. William M. Wood, Socio-Economic Studies Division, HPP-43, Federal Highway Administration, Washington, D.C. 20590.

SUMMARY:

The Federal Highway Administration proposes this new system of records in order to evaluate the effects of relocation on low-income families who were moved due to Federal highway projects, and recommend any needed changes to the program in order to improve it. Respondents for the survey will be chosen from highway development areas, in Baltimore, MD; Wheeling, WV; St. Petersburg, FL; and Los Angeles, CA. The study will be performed by a contractor, who will be informed of the provisions of the Privacy Act, and required to comply with it.

SYSTEM NAME:

UMTA/Technology Sharing Mailing List.

REPORT DATE:

June 14, 1979.

POINT-OF-CONTACT:

Mr. Daniel S. Clark, Room 116, Organization and Management Branch, U.S. Department of Transportation, Transportation Systems Center, Cambridge, Mass. 02142.

SUMMARY:

This will be a new system of records maintained by the Urban Mass Transportation Administration (UMTA) as an integral part of UMTA's master communications program. This program will disseminate information about UMTA programs and conferences to users and beneficiaries of those programs and conferences. By using this computerized system, UMTA officials will be able to send information to the most appropriate "target audiences," better plan routine needs, produce mailing labels, and analyze the audience to provide program improvement.

Small Business Administration

SYSTEM NAME:

Automated Personnel History.

REPORT DATE:

June 13, 1979.

POINT-OF-CONTACT:

Ms. Charlene Alexander, Small Business Administration, 1441 L Street, NW, Washington, D.C. 20416.

SUMMARY:

The Small Business Administration is revising this existing system to include five additional items of information about temporary disaster employees. The information, which relates to those employees' experience with disaster assistance and SBA performance rating overall, is being added to the system to assure that the best quality people will be assigned to work on disaster programs.

Office of Personnel Management

SYSTEM NAME:

Senior Executive Service Records.

REPORT DATE:

June 27, 1979.

POINT-OF-CONTACT:

Dr. Philip A. D. Schneider, Jr., Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415.

SUMMARY:

This new system of records is being established to implement the Civil Service Reform Act and will include records on current and former appointees of the Senior Executive Service. OPM has oversight responsibility for the SES. The system will be maintained centrally at the Office of the Associate Director for Executive Personnel and Management Development, and will include demographic, appointment, and assignment information, background data on work and educational experience. In addition, the system will include information on determinations for nominations for meritorious and distinguished executive ranks, managerial qualifications; participation in sabbatical leave programs; applications for re-employment; individuals' departure from SES; and on recruitment for SES positions.

Federal Home Loan Bank Board

SYSTEM NAME:

Consumer Inquiry Records and Data.

REPORT DATE:

June 27, 1979.

POINT-OF-CONTACT:

Mr. Larry Berkow, Office of the General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552.

SUMMARY:

The FHLBB is creating a system of records by adding an indexing/retrievability capability to existing records maintained by the agency's Office of Consumer Affairs. The records

are used to follow up on consumer inquiries or complaints on federally-insured savings and loan institutions.

Canal Zone Government/Panama Canal Company

SYSTEM NAME:

Personnel Information System.

REPORT DATE:

July 13, 1979.

POINT-OF-CONTACT:

Mr. K. E. Goldsberry, Acting Agency Records Officer, (Acting Chief, Administrative Services Division), Panama Canal Company, Box M, Balboa Heights, Canal Zone.

SUMMARY:

The Canal Zone Government has established this system of records to prepare for the implementation of the Panama Canal Treaty on October 1, 1979. The system, created by computerizing employment files and records which have been maintained manually, will be used to process transfer of function, reduction-in-force, and retirement actions affecting about half of the employees of the Canal agencies.

Department of Justice

SYSTEM NAME:

Index of Prisoners Transferred Under Prisoner Transfer Treaties.

REPORT DATE:

July 17, 1979.

POINT-OF-CONTACT:

Mr. William Snider, Administrative Counsel, Management Systems Policy Staff, Office of Management and Finance, Department of Justice, Washington, D.C. 20530.

SUMMARY:

The Criminal Division proposes this new system in order to record and verify the consent of prisoners to be transferred to or from U.S. prisons under prisoner transfer treaties with other nations.

Department of Defense

SYSTEM NAME:

Commercial Entertainment Transaction Records.

REPORT DATE:

July 2, 1979.

POINT-OF-CONTACT:

Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 N. Lynn Street, Arlington, VA 22209.

SUMMARY:

The agency proposes this new system of records in order to keep track of commercial entertainers hired for its open messes and night clubs. The system will include records on performers and their agents.

WAIVER REQUESTS:

OMB procedures permit a waiver of the advance notice requirement when the agency can show that the delay caused by the 60 day advance notice would not be in the public interest. It should be noted that a waiver of the 60 day advance notice period does not relieve an agency of the obligation to publish notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60 day advance notice provision was requested by agencies for the following reports received between May 28, 1979, and July 20, 1979. Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be directed to OMB.

Environmental Protection Agency

SYSTEM NAME:

Professional Expertise Registry.

REPORT DATE:

June 13, 1979.

POINT-OF-CONTACT:

Mr. Jack Tarran, Acting Director, Management and Organization Division, Environmental Protection Agency, Washington, D.C. 20460.

SUMMARY:

This new system of records will be jointly maintained by EPA, the Consumer Product Safety Commission, the Food and Drug Administration, and the Occupational Safety and Health Review Commission, i.e., the member agencies of the Interagency Regulatory Liaison Group. The purpose of the system is to identify individuals within those agencies who have expertise appropriate for their appointment to working groups and task forces as well as consulting support on other projects. Inclusion in the system is voluntary.

WAIVER STATUS:

No action as of July 10, 1979.

David R. Leuthold,

Acting Assistant to the Director for Administration.

[FR Doc. 79-24185 Filed 8-3-79; 8:45 am]

BILLING CODE 3110-01-M

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour of less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michaels—377-4217

New Forms

National Oceanic and Atmospheric Administration
*Fishing Boat Registration On occasion
Boat owners, 500,000 responses; 4,000 hours
Richard Sheppard, 395-3211

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Groos—252-5214

New Forms

*Survey of Fuel Oil Dealer/Bulk Operators
EIA-B-M1160/1161
Monthly
Description not furnished by agency, 24,000 responses; 6,000 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Office of the Secretary
Contractor Recordkeeping Requirements—Held Property
OS-16-79
Other (see SF-83)
Contractors doing business with HEW
Richard Eisinger, 395-3214

Revisions

National Institutes of Health
Implementation of the Hospice Concept
Other (see SF-83)
Significant others of terminally ill cancer patients, 1,800 responses; 1,350 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755-5190

New Forms

Office of the Secretary
Requisition for advance of flexible Subsidy funds
9823A
Monthly
6,000 project owners/managers, 500 responses; 1,500 hours
Arnold Strasser, 395-5080

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. LaRue—633-3526

New Forms

Law Enforcement Assistance Administration
National Survey of Correctional Personnel Training Programs
LEAA 3400
Single time
1,200 State/local correctional agencies, 1,200 responses; 600 hours
Office of Federal Statistical Ploicy & Standard, 673-7974

Revisions

Federal Bureau of Investigation
*Supplementary Homicide Report
4-220
Monthly
All law enforcement agencies, 114,000 responses; 11,400 hours
Off. of Federal Statistical Policy & Standard, 673-7974

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

Revisions

Employment and Training Administration
*National Longitudinal Surveys, Survey of Work Experience of Young Women Questionnaire and Letter
MT-290C (ETA) LGT-491 & 493 (Census)
Annually
Description not furnished by agency, 15,800 responses; 6,190 hours
Off. of Federal Statistical Policy & Standard, 673-7974
Mine Safety and Health Administration
*Work Experience Certification (Training Plan Regulations)
MSHA 5000-30 MSHA 500-26
Other (See SF-83)
Coal mine operators, 25,000 responses; 11,100 hours
Arnold Strasser, 395-5080

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd I. Sandlin—376-0436

Revisions

Bureau of Customs
*Manifest of Baggage Shipped in Bond
Customs 7520
On occasion
Air and rail carriers and sales representatives, 24,000 responses, 2,400 hours
Susan B. Geiger, 395-5867

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Agency Clearance Officer—Victor Loughnan—724-0308

Reinstatements

Planning Awards Application Form
Annually
Eucational, cultural, and community organizations, 750 responses; 9,475 hours
Laverne V. Collins, 395-3214

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245-3064

Revisions

Study of Organic Compounds in Human Tissues and Body Fluids
Single time
190 Households, 190 responses; 190 hours
Edward H. Clarke, 395-5867

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

Revisions

Architect-Engineer Fee Proposal
08-6298
On occasion
Architect-Engineer firms, 250 responses; 500 hours
David P. Caywood, 395-6140

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc 79-24289 Filed 8-3-79; 8:45 am]

BILLING CODE 3110-01-M

V 4 4 / 1 5 2

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors Meeting

The Pennsylvania Avenue Development Corporation will hold a meeting of its Board of Directors on Wednesday, August 8, 1979, beginning at 9:30 a.m. The meeting will be held in the tenth floor conference room of the National Capital Planning Commission, 1325 G Street, N.W., Washington, D.C.

The primary purpose of the special meeting is for the Board to consider extending the time in which the Chairman may execute a development agreement with the Quadrangle Development Corporation and The Marriott Corporation for their proposed project on Square 254. The Square is within the Pennsylvania Avenue development area, bounded by 13th and 14th Streets, E Street and F Street.

There will also be an informal review of the status of the ongoing negotiations with the proposed developer of Square 225 (the Willard Hotel block, which is also within the Pennsylvania Avenue development area).

The meeting is open to the public.

A complete printed agenda for the meeting is available and may be obtained by request to: Ms. Barbara S. Austin, Secretary to the Board, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Suite 1148, Washington, D.C. 20004; or, by visiting the offices of the Corporation at the foregoing address.

Dated: August 1, 1979.

Peter T. Meszoly,

Assistant Director/General Counsel.

[FR Doc. 79-24212 Filed 8-3-79; 8:45 am]

BILLING CODE 7630-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 16049; SR-NYSE-79-27; SR-AMEX-79-9]

New York Stock Exchange, Inc., and American Stock Exchange, Inc.; Order Approving Proposed Rules Changes

July 27, 1979.

In the matter of New York Stock Exchange, Inc., 11 Wall Street, New York, New York 10005, and American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006.

I. Introduction

On June 7, 1979, the New York Stock Exchange, Inc. (the "NYSE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), and Rule 19b-4 thereunder, a proposed rule change (File No. SR-NYSE-79-27) to amend NYSE Rule 107, which governs Registered Competitive Market Makers ("RCMM's"). The proposed amendment would delete the provision by which such rule would expire on July 31, 1979 (the "sunset provision").[1] On June 13, 1979 the American Stock Exchange, Inc. (the "Amex") also filed a proposed rule change (File No. SR-Amex-79-9) to remove the July 31, 1979 sunset provision from its Rule 114 governing Registered Equity Market Makers ("REMM's").[2]

Subsequent to the filing of these proposed rule changes, both the NYSE and Amex amended their respective filings to extend the sunset dates until April 30, 1980, rather than to make the rules permanent as initially proposed. Thus, the Commission must determine at this time whether to grant a nine-month extension of the effectiveness of NYSE Rule 107 and Amex Rule 114, which rules otherwise would expire on July 31, 1979.

II. Background

In April of 1978, the NYSE and the Amex each filed with the Commission a proposed rule change to establish a category of floor members, known as RCMM's on the NYSE and REMM's on the Amex, who would serve as supplemental market makers in equity securities admitted to dealings on the respective exchanges. Each exchange's proposal contained a sunset provision by which its rules would expire on July 31, 1979, unless extended by subsequent rule amendments approved by the Commission. The purpose of each proposal was to allow members who had functioned principally as floor traders on the respective exchanges, to qualify as market makers under Section 11(a)(1)(A) of the Act, thereby gaining exemption from the proprietary trading restrictions of Section 11(a)(1). Under the proposals, members registering as RCMM's or REMM's would undertake certain responsibilities with respect to particular securities traded on the respective exchanges.[3] Accordingly, a member registered as an RCMM or REMM is subject to call by a floor official, or a floor broker holding an unexecuted customer order, to improve the market in a particular stock.[4] When effecting dealer trades not pursuant to call, RCMM's and REMM's generally must trade in a manner consistent with the maintenance of a fair and orderly market in the subject security.[5]

On May 1, 1978, the Commission issued an order approving both market maker rules proposals.[6] In approving the market maker rules, the Commission stressed the temporary status of the rules, because there was insufficient information at that time to determine whether they imposed obligations sufficient to assure that RCMM's and REMM's would perform a *bona fide* market making function. Under the terms of the approval order, a decision to extend either rule beyond July 31, 1979, was to be based upon the Commission's consideration of data gathered by its monitoring program, "specific data and statistics" furnished by each exchange, and comments submitted by interested persons. The exchanges' data and statistics were to address whether the supplemental market makers had acted in a manner which was consistent with the statutory definition of a market maker as set forth in Section 3(a)(38) of the Act.

III. Summary of Data and Statistics

A. The NYSE

The NYSE submission includes certain statistics which tend to demonstrate that RCMM's have traded in a manner that is beneficial to the market. The statistics show that between May 1, 1978, and April 27, 1979, 88.5% of the 87,801 RCMM trades were effected pursuant to bids or offers that "bettered" the market (28.6% in price

[1] Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 15908 (June 11, 1979)) and by publication in the **Federal Register** (44 FR 35069 (June 18, 1979)). The Commission has received no written comments regarding the proposed rule change.

[2] Notice of the proposed rule change, together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 15925 (June 14, 1979)) and by publication in the **Federal Register** (44 FR 36128 (June 20, 1979)). The Commission has received no comments regarding the proposed rule change.

[3] An RCMM undertakes those obligations for every security listed on the exchange. On the Amex, an REMM is deemed to be a market maker only in those securities in which he registers as such. A more complete description of the NYSE and Amex proposals and the basis for the Commission's temporary approval of the RCMM and REMM programs is set forth in Securities Exchange Act Release No. 14718 (May 1, 1978); 43 FR 19738 (May 8, 1978).

[4] RCMM's are obligated to respond to a call by either (1) bidding or offering so as to narrow the spread by at least the minimum trading variation or (2) improving depth by at least one unit of trading by making a bid or offer equal to the current bid or offer. REMM's on the Amex are subject to the same general obligation, but are required to equal or better the current bid or offer, as requested, only if that bid or offer was quoted by the Amex specialist for his own account.

[5] *See*, in particular, NYSE Rule 107(B)(.10)(ii) and Amex Rule 114.02(c).

[6] Securities Exchange Act Release No. 14718, n. 3 *supra*.

and 59.9% in size). A breakdown of the remaining 11.5% of RCMM transactions shows that 9.7% were trades in which the RCMM traded with the existing bid or offer, and 1.8% included trades at the opening, block clean-ups, arbitrage and transactions to offset errors. During that period, RCMM's effected a total of 811 transactions pursuant to calls by floor officials or floor brokers holding unexecuted customer's orders. The average size of the transactions effected pursuant to call was 1,005 shares, and they were effected in 257 different stocks. In the aggregate, RCMM's effected an average of 1,886 trades per week, with an average volume of 2,216,800 shares per week.

The Commission has also compiled various data and statistics relating to RCMM trading activity, based on its survey of market makers on the various national securities exchanges,[7] and its inspection of the NYSE. Among other things, those statistics show that approximately 40% of all RCMM transactions are effected indirectly, by a specialists or by another floor member acting as a broker on behalf of an RCMM. During the sample period of October and November, 1978, less than 2% of all RCMM transactions were effected pursuant to the RCMM's affirmative obligation to better the existing market, in depth or price at the request of a floor broker or floor official.[8]

The Commission's staff also observed that there appears to be a wide variance among the RCMM's as to the number of responses they have made to such calls. For example, for the period of May, 1978 through May, 1979, 43% of the 773 calls (332) on the NYSE during this period were answered by only five of the sixty RCMM's; thirteen RCMM's did not respond to any calls during this period and another nineteen RCMM's each responded to fewer than five calls. Finally, the Commission's staff also observed that a significant proportion of RCMM trading appears to occur in stocks which are among the most actively traded on the NYSE.[9] On the other hand, RCMM participation in trading situations identified by the NYSE as volatile appeared to be insignificant.[10]

B. The Amex

Although Amex Rule 114 has been in effect since May 1, 1978, Amex members did not begin to register and trade as REMM's until late November, 1978. Thus, the limited data and statistics which the Commission has been able to compile with respect to the Amex are based upon a period of approximately seven months, during which the number of individuals registered as REMM's and their trading volume has been very limited.

At the present time, only seventeen individuals are registered as REMM's. From November 20, 1978 to June 22, 1979, REMM's traded in response to calls by floor officials and floor brokers a total of eight times. The aggregate number of shares traded pursuant to these calls was 22,000 shares. Although as many as seventeen individuals have been registered as REMM's, no more than eight REMM's actually effected transactions during any given week. Moreover, in their most active week of trading, REMM's accounted for only 94,100 shares, or approximately 0.2% of twice total exchange volume (purchases and sales). These data, and the lack of more comprehensive information, suggest that further time is needed for the Amex and its members to gain experience with the REMM system, and for the Commission to review the additional information it needs to evaluate that system.

IV. Commission Findings

The Commission does not believe that the information available to it at this time or the experience of either the NYSE or the Amex to date is sufficient to support a permanent determination that RCMM's and REMM's, trading pursuant to their respective exchange rules, are performing a *bona fide* market making function as contemplated by Section 11(a)(1)(A) and as defined in Section 3(a)(38) of the Act. As noted in connection with the data summarized above, it appears that on both exchanges there is a wide disparity in performance among members registered as supplemental market makers.

In addition, most of the data and statistics available to the Commission concerning these supplemental market makers have been compiled on an aggregated basis, with little opportunity for the exchanges or the Commission to focus on the market making role of individuals or upon the role played by these supplemental market makers as a group in particular trading situations.[11] Moreover, on the basis of the Commission staff's inspection of the NYSE's regulatory program for RCMM's, questions have been raised regarding certain practices which the NYSE permits under its Rule 107.[12]

Nothwithstanding these overriding concerns with respect to the exchanges' equity market maker programs, the Commission has not been presented with or identified through its staff's efforts any information which would lead it to conclude at this time that the market makers have used their authority to initiate proprietary transactions on the floors of these exchanges in a manner which jeopardizes the maintenance of fair and orderly markets.[13] The Commission believes that the desire of the NYSE and Amex to continue their development and implementation of programs which seek

[7] *See* letter from Jerimiah J. O'Donohue, Vice President, NYSE, to Andrew M. Klein, Director of Market Regulation (April 12, 1979).

[8] Overall, between May 1, 1978 and April 27, 1979, less than 1% of all RCMM transactions were effected pursuant to calls by floor officials and floor brokers.

[9] For example, during the week ending December 15, 1978, 40.9% of the total number of RCMM transactions were concentrated in ten of the NYSE's most actively traded issues.

[10] During the period of October, 1978 through May, 1979, the NYSE identified 186 instances in which trading exceeded its depth guidelines. RCMM's were called to participate in only two of these situations and participated voluntarily (without being called) in fourteen.

[11] In its order initially approving the limited duration of RCMM and REMM programs, the Commission noted its concern that the presentation of reliable evidence that the supplemental market makers trade in a manner which contributes to the maintenance of fair and orderly markets "will be facilitated by, and may be impossible without, the implementation of audit trail mechanisms on the NYSE and Amex designed to provide a comprehensive and reliable means of monitoring trading and ensuring compliance with applicable requirements." The Commission staff's inspection of the NYSE RCMM program has highlighted this concern it appears that the availability of such an audit trail would greatly simplify the provision of information critical to a thorough analysis of supplemental market maker performance and would also alleviate a number of compliance concerns which the Commission has identified. In the absence of a comprehensive audit trail, the gathering of data to support a permanent approval of RCMM's on the NYSE or REMM's on the Amex may not be possible.

[12] In particular, the Commission questions whether a supplemental market maker is performing a *bona fide* market making function in circumstances where the market maker relies on another member to execute his transaction (designated as a market maker transaction) and the market maker is not readily available (by having placed himself off-floor or at a remote distance on the floor) for further participation in the stock in which his order was executed by another member. The Commission, concurrently with issuance of this order, has transmitted letters to both the NYSE and Amex which discuss this and other concerns and identify program modifications which the exchanges should make before the Commission gives consideration to any further extension of their respective supplemental market maker rules.

[13] Apart from the inconclusiveness of the data and statistics available concerning both RCMM's and REMM's, the Commission notes that, with respect to the Amex, the lack of data concerning the supplemental market maker program on that exchange was exacerbated by the delay in the programs's initation. An additional nine-month period should provide the Amex and its interested members a greater opportunity to weigh the contributions which its REMM's might make to that market.

to encourage *bona fide* market making on their respective floors may contribute to the maintenance of fair and orderly markets on those exchanges and may further competition among brokers and dealers. Moreover, the Commission wishes to encourage experimentation designed to promote improvements in the mechanics of exchange trading. The Commission emphasizes, however, that it approval of this extension of NYSE Rule 107 and Amex Rule 114 is for a limited nine-month period and will expire on April 30, 1980. The Commission's consideration of requests for a further extension of these programs, or requests that they be made permanent, will require sustantial evidence showing, consistent with the requirements of the Act, a positive contribution as market markers by RCMM's or REMM's on the respective exchanges.

Accordingly, the Commission finds that the proposed rule changes, insofar as they authorized a temporary extension of NYSE Rule 107 and Amex Rule 114, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular the requirements of Section 6 and 11(a) and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned rules changes be, and they hereby are, approved.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-24118 Filed 8-3-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed No. 08/08-0051]

Denver Ventures, Inc.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1979)), by Denver Ventures, Inc., 4142 Tejon Street, Denver, Colorado 80211, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. *et seq.*)

The proposed officers, directors and shareholders will be:

Name and Address, Title or Relationship and Percent of Ownership

Fausto Miranda, 4142 Tejon St., Denver, CO 80211, President, Treasurer, and Director, Less thans 1.

Leo Rodriguez, 4142 Tejon St., Denver, CO 80211, Secretary and Director.

Robert L. Hernandez, 1600 South Lowell Bldg., Denver, CO 80211, Director.

El Dorado Denver Industries, Inc., 4142 Tejon St., Denver, CO 80211, 50 of Class A (voting), 100 of Class B (non-voting).

El Dorado Denver Industries, Inc.'s (El Dorado) stock is 100 percent owned by Denver Community Development Corporation (DCDC). DCDC was founded as a community development corporation funded by the Community services Administration to promote the economic development of its federally designated Special Impact Area (SIA). El Dorado has operated as a holding company for its parent and has approached business development in the SIA by providing venture capital for a variety of business concerns.

The Applicant proposes to begin operations with a total capitalization of $1,500,000 and will be a source of equity capital and long term loans for qualified small business concerns. Of the proposed initial capital, an amount of $1,215,000 will be provided by El Dorado. DCDC will receive the $1,215,000 under Title VII of the Community Services Act of 1974, as amended, and transfer said funds to El Dorado. The sum of $285,000 will be invested by a small group of private investors not affiliated with the Applicant or its Associates, with the exception of Mr. Miranda who will invest $5,000. The Applicant intends to render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than August 21, 1979, submit written comments on the proposed SBIC to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Denver, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 30, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment

[FR Doc. 79-24137 Filed 8-3-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 06/06-0224]

Fluid Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of Fluid Capital Corporation, 1420 Carlisle Boulevard, NE., Albuquerque, New Mexico 87110, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the rules and regulations promulgated thereunder.

The proposed officers, directors and shareholder are as follows:

George T. Slaughter, Route 3, Box 50A, Arkadelphia, Arkansas 71923, President and Director.

William B. Fowler, 6313 Loftus, N.E., Albuquerque, New Mexico 87109, Vice President, Secretary, Treasurer and Director.

Charles I. Wellborn, 3819 LaHacienda Drive, N.E., Albuquerque, New Mexico 87110, Director.

Fluid Power Pump Company, 1420 Carlisle Boulevard, N.E., Albuquerque, New Mexico 87110 100 percent ownership.

There are two classes of stock authorized consisting of 225,500 shares of common stock with a par value of $10.00 per share and 10,000 shares of preferred stock with a par value of $100.00 share.

The Applicant proposes to commence operations with a private capital of $1,255,000 from the sale of 125,500 shares of common stock to Fluid Power Pump Company, a publicly-held Delaware Corporation registered under Section 12(g) of the Securities Exchange Act of 1934. This company had approximately 3,379 shareholders as of December 31, 1978.

The Applicant proposes to initially conduct its operations within the State of New Mexico. They will establish a diversified investment policy and will, as much as practicable, emphasize

equity investments with growth potential. Also, the officers and directors of the Applicant intend to provide management consulting services to clients and other small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the company in accordance with the Act and regulations.

Notice is further given that any person may, not later than August 21, 1979, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Albuquerque, New Mexico.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: July 26, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-24138 Filed 8-3-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/208]

Study Group 2 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT), Meeting

The Department of State announces that Study Group 2 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on August 23, 1979, at 10:30 a.m. in Room 1406, Department of State, 2201 C Street, N.W., Washington, D.C.

Study Group 2 is responsible for considering U.S. Government and industry views, and preparing contributions as appropriate, for meetings of those international CCITT Study Groups examining non-regulatory aspects of telegraph operations.

The purpose of the meeting on August 23 will be to discuss and approve five proposed U.S. contributions to CCITT Study Group XIV (facsimile). These papers will be discussed at the forthcoming November, 1979 Study Group XIV Working Party Meeting in Kyoto, Japan.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to August 23, 1979, members of the general public who plan to attend the meeting inform Mr. Richard H. Howarth, Office of International Communications Policy, Department of State, telephone (202) 632-1007, of their intention. All non-Government attendees must use the C Street entrance to the building.

Dated: July 30, 1979.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 79-24164 Filed 8-3-79; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/209]

Study Group 4 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on August 30, 1979, at 10:00 a.m. in Room 1406 of the Department of State, 2201 C Street NW., Washington, D.C. This Study Group deals with matters in telecommunications relating to the development of international digital data transmission services.

The agenda for the August 30 meeting will include consideration of the following:

1. Report of Modem Working Party;

2. Consideration of delayed contributions for the September 11-19, 1979 meeting of the CCITT Study Group XVII Working Parties;

3. Report on preparation for the final meeting of CCITT Study Group VII (February 7-15, 1980);

4. Any other business.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to August 30, members of the general public who plan to attend the meeting so advise Mr. T. de Haas, chairman of U.S. Study Group 4. Mr. de Haas can be contacted at the Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Boulder, Colorado 80303, telephone number (303) 499-1000, ext. 3728. Persons in the Washington, D.C. metropolitan area may contact Mr. Richard H. Howarth, Department of State, telephone number 632-1007. All non-Government attendees must use the C Street entrance to the building.

Dated: July 30, 1979.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 79-24165 Filed 8-3-79; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CG 79-113]

National Boating Safety Advisory Council's Visual Distress Signal Subcommittee; Meeting

Pursuant to section (10)(a)(2) of the Federal Advisory Committee Act (pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council's Visual distress Signal Subcommittee to be held on Tuesday, September 11, 1979, at Dining Room "C", Building Number 101, National Engineering Laboratory, National Bureau of Standards, Gaithersburg, Maryland, beginning at 9:00 a.m. and ending at 3:00 p.m. The agenda for this meeting will be as follows:

1. Observe demonstration of proposed test procedures for safety standards for pyrotechnic flares.

2. Discuss feasibility and reliability of proposed test procedure for pyrotechnic flares.

Attendance is open to the interested public, with a limited amount of space available for the public on an unreserved basis. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Subcommittee at any time. Additional information may be obtained from Commander Neal Mahan, Executive Director, National Boating Safety Advisory Council, U.S. Coast

Guard (G–BA), Washington, D.C. 20590, or by calling 202–426–1080.

Issued in Washington, D.C., on July 24, 1979.

E. A. Delaney,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating Safety.

[FR Doc. 79–24223 Filed 8–3–79; 8:45 am]

BILLING CODE 4910–14–M

[CGD 79–071]

National Plan for Navigation; Implementation of Loran-C Radionavigation System on Great Lakes

ACTION: Notice and Request for Public Comment.

SUMMARY: The Coast Guard intends to change the planned repetition rate for the Great Lakes Loran-C Chain, previously announced as 9930. Rate 9930 will cause significant signal degradation when transmitted by stations also transmitting on rate 9960 to serve another Loran-C chain. Rate 9930 has been used on the East Coast for many years and its re-use for the Great Lakes Chain would cause confusion. Comments are invited on the choice of an alternate rate.

DATES: Comments must be received on or before September 4, 1979.

ADDRESSES: Comments should be submitted to Commandant (G–CMC/TP24), U.S. Coast Guard, Washington, DC 20590. Comments will be available for examination at the Marine Safety Council (G–CMC/TP24), Room 2418, 2100 Second St., S.W., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Cdr. Brent C. Mills, Project Officer, Office of Marine Environment and Systems (G–WAN–2/73), Room 7325, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590, (202) 472–5857.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit written views, data, and comments on this change which should include the docket number (CGD 79–071) and the name and address of the person submitting the comments. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope.

Discussion

The Coast Guard has found it necessary to change the planned repetition rate for the Great Lakes Loran-C Chain. The Northeast U.S. Chain operates on rate 9960 and the close proximity of this rate to rate 9930 introduces degradations in signal accuracy. This degradation approaches system synchronization limits and has been observed in the operation of several stations which are currently transmitting on both rate 9930 and rate 9960 during the overlap period of these two rates on the U.S. East Coast. Rate 9930 has been used for over 20 years as the repetition rate for the existing East Coast Chain of the United States and has provided limited coverage of the Eastern Great Lakes. Re-use of this rate only four months after termination of its use on the East Coast will cause some confusion to mariners and other users attempting to use existing editions of Great Lakes charts or Loran tables. The overall effectiveness of the Loran-C Radionavigation System will be enhanced by this change.

On February 11, 1975, the Coast Guard published an amendment to 33 CFR Part 62, in the **Federal Register** (40 FR 6338). This amendment adopted a new expanded Loran-C rate structure, to allow establishment of additional Loran-C chains. Prior to this, there were only 48 rates possible, only 24 of which are practical for Loran-C, and many of these were technically unusable because some rates interfere with others. The Coast Guard has not used the expanded capability of the new rate structure because receivers manufactured prior to 1975 could not use the new rates without modification. The Great Lakes Chain will provide coverage on Lakes Huron, Michigan, and Superior where there has been no coverage in the past. The Coast Guard recognizes that there may be some users in this area equipped with older receivers that will require modification to allow operation on one of the new rates.

The Coast Guard desires to minimize the impact of this rate change on Loran-C users and the manufacturers and distributors of Loran-C equipment. The rate selected for the Great Lakes Chain will be determined by three factors:

(1) The rate selected should be usable by a majority of older receivers with little or no modification. Receivers in the stock of manufacturers and distributors should be considered as well as those already installed.

(2) The rate selected must be between 8130 and 9810 to minimize proximity interference between the selected rate and rates 7980 and 9960, since the Malone, FL station of the Great Lakes Chain will also operate on 7980 and the Dana, IN and Seneca, NY stations will also operate on 9960.

(3) The rate selected must be compatible with other Loran-C rates in use to minimize cross rate interference. The Coast Guard seeks comment from Loran-C users on the Great Lakes and advice from equipment manufacturers and distributors as to which rates can be accommodated by older receivers with minimum impact. Manufacturers and distributors providing this information may include the number of receivers sold or in inventory in order to allow the most equitable rate selection. Final rate selection will be determined by screening those rates that may be accommodated by older receivers and selecting a rate which will produce the least cross rate interference. The selected rate will be announced in the **Federal Register.**

Dated: July 26, 1979.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 79–24222 Filed 8–3–79; 8:45 am]

BILLING CODE 4910–14–M

[CGD 79–110]

Qualification of River Cement Co. as a Citizen of the United States

This is to give notice that pursuant to 46 CFR 67.23–7(a), issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883–1), River Cement Company, of 9900 Clayton Road, St. Louis, Missouri 63124, incorporated under the laws of the State of Delaware, did on July 19, 1979, file with the Commandant, United States Coast Guard, in duplicate, an oath for qualification of the corporation as a citizen of the United States following the form of oath prescribed in Form CG–1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States;

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, United States Coast Guard, having found this oath to be in compliance with the law and regulations, on July 19, 1979, issued to River Cement Company a certificate of compliance on Form CG–1262, as provided for in 46 CFR 67.23–7(d). The certificate and any authorization granted thereunder will expire three years from July 19, 1979, unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23–7(c).

Dated: July 27, 1979.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 79–24224 Filed 8–3–79; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Special Committee 143 Ground Based Automated Weather Observation Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 143 on Ground Based Automated Weather Observation Equipment to be held on August 29 and 30, 1979, in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Review Committee Terms of Reference; (3) Outline Work Program and Schedule for Accomplishment; (4) Assignment of Tasks; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on July 27, 1979.

Karl F. Biesach,

Designated Officer.

[FR Doc. 79–24116 Filed 8–3–79; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

[FRA Waiver Petition Docket HS–79–12]

Virginia & Maryland Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR Section 211.41 and Section 211.9, notice is hereby given that the Virginia & Maryland Railroad (V & M) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the V & M be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The V & M seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number. Docket Number HS–79–12 and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590. Communications received before August 31, 1979, will be considered by the FRA before final action is take. comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 4406, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C. on July 26, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79–24105 Filed 8–3–79; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series—No. 16–79]

Series M–1982 Interest Rate

August 1, 1979.

The Secretary announced on July 31, 1979, that the interest rate on the notes designated Series M–1982, described in Department Circular—Public Debt Series—No. 16–79, dated July 26, 1979, will be 9 percent. Interest on the notes will be payable at the rate of 9 percent per annum.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 79–24186 Filed 8–3–79; 8:45 am]

BILLING CODE 4810–42–M

Fiscal Service

[Dept. Circ. 570, 1979 Rev., Supp. No. 2]

American Fire Insurance Co.; Surety Companies Acceptable on Federal Bonds; Correction

The underwriting limitation for American Fidelity Fire Insurance Company was listed at 44 FR 38087 (June 29, 1979) as $378,000. That underwriting limitation is hereby corrected to $514,000.

Questions concerning this correction notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone (202) 634–5978.

Dated: July 31, 1979.

D. A. Pagliai,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 79–24201 Filed 8–3–79; 8:45 am]

BILLING CODE 4810–35–M

American Reserve Insurance Co.; Surety Companies Acceptable on Federal Bonds Receivership

American Reserve Insurance Company, a Rhode Island corporation, formerly held a certificate of authority as an acceptable surety on Federal bonds and was last listed as such at 43 FR 28693, June 30, 1978. The company's authority was terminated by the Department of the Treasury effective May 21, 1979. Notice of the termination was published in the **Federal Register** of June 18, 1979, page 35074.

American Reserve Insurance Company was placed in receivership by the Rhode Island Insurance Department effective June 7, 1979. Mr. Thomas J. Caldarone Jr. is the designated receiver for the company and questions concerning claims against the company may be directed to him. The address is: American Reserve Insurance Company, In Receivership, Turks Head Building, Providence, Rhode Island 02903, or he may be telephoned at (401) 273–8940. Each claimant is required to file a written statement of his claim with the Receiver at the Receiver's Office, Turks Head Building, Providence, Rhode Island 02903. The statement should set out the address of each creditor or claimant, the nature and amount of his claim, and any security or lien held by him, to which he is or claims to be entitled, and also any claim to preference or priority in payment over any other creditor or claimant. Proof of claim forms may also be filed and can be obtained from the Receiver when available. Please note that all claims against the company must be filed by June 7, 1980.

Government agencies involved in Federal surety bonding operations where third parties such as subcontractors, materialmen and suppliers may have a claim against the company are requested to use their best efforts to notify such third parties of the liquidation, assist them in filing claims, inform them of their priority status based on Sections 191 and 192 of the United States Code and provide them with copies of the notice of receivership.

Questions concerning this notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone (202) 634–5978.

Dated: July 31, 1979.

D. A. Pagliai,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 79-24199 Filed 8-3-79; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1979 Rev., Supp. No. 1]

Capitol Indemnity Corporation; Surety Companies Acceptable on Federal Bonds; Correction

At 44 FR, No. 127, in the issue of Friday, June 29, 1979, Circular 570; 1979 Revision was published. The following company and information should be added to page 38090 of the circular:

Capitol Indemnity Corportion
BUSINESS ADDRESS: Post Office Box 8, Madison, Wisconsin 53701.
UNDERWRITING LIMITATION [b]: $200,000. SURETY LICENSES [c]: Ariz., Fla., Idaho, Ill., Ind., Iowa, La., Mich., Minn., Mo., Mont., N. Mex., N. Dak., Okla., S. Dak., Tex., Wis., Wyo.
INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS [d]: D.C., Fla., nGa., Idaho, Ill., Ind., Iowa, Kans., weLa., Mich., Minn., Mont., N. Dak., wOkla., S. Dak.

Questions concerning this correction notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone (202) 634–5978.

Dated: July 31, 1979.

D. A. Pagliai,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 79-24200 Filed 8-3-79; 8:45 am]

BILLING CODE 4810-35-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications; Notices

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field offiical named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

[Notice No. 128]
July 13, 1979

MC 89693 (Sub-44TA), filed March 13, 1979, and published in the **Federal Register** issue of May 31, 1979, and republished is corrected this issue. Applicant: HARMS PACIFIC TRANSPORT, INC., 1206 E. Lytle, Pasco, WA 99301. Representative: Boyd Hartman, 10655 N.E. 4th St., Suite 210. (1) *Tallow,* in bulk, from the facilities of Iowa Beef Processors, Inc., at or near Wallula, WA to points in ID, OR and to Tacoma and Seattle, WA for export; (2) *liquid and dry fertilizer,* between points in WA in and east of the western boundary of Okanogan, Chelan, Kittitas, Yakima and Klickitat Counties, WA; points in and east of the western boundary of Wasco, Jefferson, Deschutes and Klamath Counties, OR and points in ID in and north of Idaho County, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 supporting shippers which may be examined at Headquarters in DC or at the Field Office listed. Send protests to: Shirley M. Holmes, TA, ICC, 858 Federal Bldg., Seattle, WA 98174. The purpose of this republication is to add the destination of Tacoma, WA and to correctly show the destination.

MC 111812 (Sub-539TA), filed May 11, 1979, and published in the **Federal Register** issue of July 9, 1979, and republished as corrected this issue. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant's). *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A, C and D of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of Lauridsen Foods, Inc. located at or near Britt, IA and the facilities of Armour & Co. located at Mason City, IA on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to the transportation of traffic originating at and/or destined to the facilities of Lauridsen Foods, Inc. and/or Armour & Co., for 180 days. Supporting shipper(s): Armour and Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: J. L. Hammond, DS, ICC, Rm. 455, Federal Bldg., Pierre, SD 57501. The purpose of this republication is to change the word from to between to show a radial movement.

MC 114552 (Sub-206TA), filed March 1, 1979, and published in the **Federal Register** issue of April 24, 1979, and republished as corrected this issue. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Aluminum and aluminum products, and materials, equipment, and supplies used in the manufacture, distribution, or installation of aluminum and aluminum products,* between the facilities of V.A.W. of America, Inc., in St. Johns County, FL, on the one hand, and, on the other, points in TX, OK, KS, MO, AR, TN, KY, VA, WV, NC, SC, GA, MS, AL, LA, DC and the facilities of V.A.W. of America, Inc., at Ellenville, NY, for 180 days. Supporting shipper(s): V.A.W. of America, Inc., PO.O. Box 367, St. Augustine, FL 32084. Send protests to: E. E. Strotheid, DS, ICC, Rm. 302 1400 Bldg., 1400 Pickens Street, Columbia, SC 29201. The purupose of this republication is to exclude the exception previously published.

MC 114632 (Sub-228TA), filed May 11, 1979, and published in the **Federal Register** issue of July 9, 1979, and republished as corrected this issue. Applicant: APPLE LINES, INC., 212 S.W. Second Street, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). *Frozen foodstuffs* (except commodities in bulk) from Fairmont, Winnebago, Albert Lee, Mankato, MN to Chicago, IL, Detroit, MI, Kansas City, KS, Secaucus, NJ, Indianapolis, IN, Watertown, MA and points in their commercial zones for 180 days. Supporting shipper(s): Stokely-Van Camp, Inc., P.O. Box 1113, Indianapolis, IN 46202. Send protests to: J. L. Hammond, DS, ICC, Rm 455, Federal Bldg., Pierre, SD 57501. The purpose of this republication is to show the destination as Watertown, MA in lieu of Watertown, MN as previously published.

MC 119493 (Sub-305TA), filed June 13, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, P.O. Box 1196, Joplin, MO 64801. *Fertilizer, tree and weed killing compounds, insecticides, and fungicides in bags and containers,* from: East St. Louis, IL to: LA and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift Agricultural Chemicals Corp., P.O. Box 338, E. St. Louis, IL 62202. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119493 (Sub-310TA), filed July 3, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as above). *Furniture parts, aluminum articles and aluminum and materials and supplies used in the manufacture and distribution thereof (except in bulk),* between Grafton, WI and its commercial zone on the one hand, and, on the other, AR, IN, MS, MO, NJ, PA, TN and TX, for 180 days. Supporting shipper(s): Leggett & Platt, Inc., P.O. Box 757, Carthage, MO 64836. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 119552 (Sub-4TA), filed June 21, 1979. Applicant: J.T.L. INC., 49 Rosedale Street, Providence, RI 02903. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, N.W., Washington, D.C. 20036. *Contract*-irregular, (1) *Filters, PCV Valves, transmission filters, emission control equipment, gasoline filters, oil filters, air filters,* and *component filter parts, advertising matter* and *merchandising aids* used in the sale of filter products and filter parts, tools used in the inspection, installation, change, and removal of filters and filter parts, from Dexter, MO, and Salt Lake City, UT to points in CA, CO, CT, IL, IA, IN, KS, MD, MA, MI, MN, MO, NV, NJ, NY, OH, OK, OR, PA, UT, TX, WA, and WI. (2) *Materials, equipment,* and *supplies* used in the manufacture and distribution of filters, PCV valves, transmission filters, emission control equipment, gasoline filters, oil filters, air filters, and component filter parts, from CA, CO, CT, IL, IA, MI, MN, MO, NV, NH, NY, OH, OK, OR, PA, UT, TX, WA, and WI, to Dexter, MO, and Salt Lake City, UT, for 180 days. Restriction: The operations authorized above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Campbell Filter Company, a subsidiary of Facet Enterprises, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Campbell Filter Company, a subsidiary of Facet Enterprises, Inc., 5310 East 31st Street, Suite 1100, P.O. Box 880, Tulsa, OK 74101. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset St., Room 102, Providence, RI 02903.

MC 119632 (Sub-101TA), filed May 18, 1979. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence (same as applicant). *Glassware, bottles and jars* from the facilities of Libbey Glass Div. of Owens-Illinois, Inc. at Toledo, OH to points in IL, NJ, NY, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Libbey Glass—Div. of Owens-Illinois, P.O. Box 919, 940 Ash Street, Toledo, OH 43693. Send requests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 121142 (Sub-19TA), filed June 15, 1979. Applicant: J & G EXPRESS, INC., P.O. Box 2069, Jackson, MS 39205. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Common carrier;* Regular route; *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Memphis, TN and Jackson, MS and points in their commercial zones, serving all points in MS on and north of MS Hwy 8 and on and west of I–55, and their commercial zones, as off-route points. From Memphis, TN, over I–55 to Jackson, MS and return over the same route, for 180 days. Applicant proposes to interline with other carriers at Memphis, TN and Jackson, MS. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 103 supporting shipper statements attached to this application. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 123233 (Sub-92TA), filed June 12, 1979. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d'Anjou, Quebec, Canada H1J 1C4. Representative: Gilbert G. Beriault (same address as applicant). *Cement, in*

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bags, on flatbed semi-trailers, from the ports of entry on the International Boundary Line between the United States and Canada to points in NH, NY and VT. An underlying ETA seeks 90 days authority. Supporting shipper(s): Independent Cement Corporation, P.O. Box 313, Hudson, NY 12534. Send protests to: ICC, P.O. Box 548, Montpelier, VT 05602.

MC 123272 (Sub-35TA), filed May 24, 1979. Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. *Canned, processed and manufactured foods, in containers, and canning supplies, machinery, equipment* and *parts* thereof (1) Between points in WI, IL (except Chicago, IL and points in its Commercial Zone), IN (except points within the Chicago, IL Commercial Zone), and those in MO and IA on the Mississippi River, on the one hand, and, on the other, points in WV and KY on the Ohio River and points in OH: (2) Between points in WI, IL (except Chicago, IL and points in its Commerical Zone) and those in MO and IA on the Mississippi River, on the one hand, and, on the other, points in IN and OH (except Cincinnati, OH and points in its Commercial Zone); and (3) Between points in IN (except points within the Chicago, IL Commercial Zone), on the one hand, and, on the other, points in OH (except Cincinnati, OH and points in its Commercial Zone), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Five supporting shippers. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123993 (Sub-45TA), filed June 18, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). Applicant is seeking authority to operate as a *common carrier* over irregular routes transporting *materials, parts and equipment for manufacturing textile products and textile products* between the plantsite of Amoco Fabrics Company located at or near Nashville, GA on the one hand, and on the other, points in the states of MS, LA, and TX for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Amoco Fabrics Companay, P.O. Box 836, Hazlehurst, GA 31539. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 124673 (Sub-38TA), filed June 25, 1979. Applicant: FEED TRANSPORTS, INC., Box 2167, Amarillo, TX 79105. Representative: Gail Johnson (same address as applicant). *Fish meal,* from Cameron, Dulac, and Holmwood, LA, to points in AR, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilbur-Ellis Company, Suite 890 Plaza West Bldg., Little Rock, AR 72205. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 124692 (Sub-285TA), filed May 21, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58107. *Hardwood lumber* from Minneapolis, MN to Denver, CO and Casper, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Collins Hardwood Company, 500 West Wesley, Denver, CO 80223. Send protest to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124692 (Sub-286TA), filed May 22, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58107. *Lumber, wood products and millwork* from points in WA to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 7 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124813 (Sub-208TA), filed May 3, 1979. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, IA 50533. Representative: Thomas E. Leahy, 1980 Financial Center, Des Moines, IA 50309. *Spring steel* from Detroit, MI to Omaha, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Omaha Springs Inc., 1721 Nicholas St., Omaha, NE 68102. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124813 (Sub-209TA), filed May 3, 1979. Applicant: UMTHUN TRUCKING CO., 910 S. Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Steel* from points in the Chicago, IL commercial zone to Algona, IA for 180 days. Supporting shipper(s): Snap-On Tools Corporation, 2801 80th St., Kenosha, WI 53140. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124813 (Sub-210TA), filed May 31, 1979. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, IA 50309. Representative: Wm. L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Steel* from Milwaukee, WI to points in IA and the Moline, IL commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Meeham Seaway Service Ltd., 1500 S. Lincoln Memorial Dr., Milwaukee, WI 53207. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 125023 (Sub-73TA), filed May 11, 1979. Applicant: SIGMA–4 EXPRESS, INC., 3825 Beech Avenue, P.O. Box 9117, Erie, PA 16504. Representative: Richard G. McCurdy, 3825 Beech Avenue, P.O. Box 9117, Erie, PA 16504. *Malt beverages, in containers,* from points in Onondaga and Oswego Counties, NY to points in IL, IN, KY, MI, OH, WI and *materials, supplies and equipment used in the manufacture, sale and distribution of malt beverages* (except commodities in bulk) from points in IL, IN, KY, MI, OH, WI to points in Onondaga and Oswego Counties, NY for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Miller Brewing Company, 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: J. J. England, DS, ICC, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 126822 (Sub-58TA), filed June 18, 1979. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith (same as above). *Canned goods,* from the facilities of Escalon Packer, Inc., at or near Escalon, CA, to points in MI, IL, WI, OH, NE, PA, and MN, for 180 days. Supporting shipper(s): Escalon Packers, Inc., P.O. Box 8, Escalon, CA 95320. Send protests to: John V. Barry, D/S, Interstate Commerce Commission, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 127042 (Sub-272TA), filed April 30, 1979. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98-Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). *Cleaning compounds, toilet preparations, and permanent hair waving kits (except commodities in bulk),* from Niles and Broadview, IL to Cedar Rapids and Iowa city, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Proctor & Gamble Manufacturing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St. Omaha, NE 68102.

MC 128133 (Sub-27TA), filed June 20, 1979. Applicant: H. H. OMPS, INC., Route 7, Box 295, Winchester, VA 22601. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005. *Fly ash, in bulk,* (1) from the facilities of National Mineral Corp. at or near New Alexandria, PA to pts. in MD (except pts. in Washington and Frederick Counties) and pts. in VA (except pts. in Frederick, Loudoun, Warren, Fauquier, and Prince William Counties); and (2) From the facilities of National Mineral Corp. at or near Indiana, PA to pts. in MD and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Minerals Corp., R.D. No. 4, P.O. Box 189B, Indiana, PA 15701. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 128273 (Sub-354TA), filed June 4, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *Plastic and rubber houseware products,* from Wooster, OH to all points in the states of AR, AZ, CA, CO, KS, LA, NM, NV, OK, TX & UT; Restricted to traffic orginating at the facilities of Rubbermaid, Inc., Home Products Division; 180 days. Supporting shipper(s): Rubbermaid, Inc., Home Products Division, 1147 Akron Rd., Wooster, OH 44691. Send protests to: M. E. Taylor, District Supervisor, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 128273 (Sub-356TA), filed June 14, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott KS 66701. Representative: Elden Corban (same as above). *Sugar and packages* from facilities of Imperial Sugar Co., at or near Sugar Land, TX to MO, AR & OK; for 180 days, common, irregular. Supporting shipper: Imperial Sugar Company, Sugar Land, TX 77478; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. Supporting shipper(s): Imperial Sugar Company, P.O. Box 9, Sugar Land, TX 77478. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita KS 67202.

MC 128273 (Sub-357TA), filed June 27, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *Such commodities as are used, dealt in or distributed by manufacturers and converters of paper and plastic products,* from IL, IN, OH to facilities of Brown Company at or near Kalamazoo, MI, for 180 days, common, irregular. Supporting shipper(s): Brown Company, 243 East Paterson, Kalamazoo, MI 49007. Send protests to: M. E. Taylor, District Supervisor, ICC, 101 Litwin Bldg., Wichita KS 67202.

MC 128273 (Sub-358TA), filed July 2, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *Commodities as charcoal, charcoal briquets, activated carbon, lighter fluid, hickory chips and related barbeque items,* from Romeo, FL, Ocala, FL, Pachuta, MS, Waupaca, WI and Gary, IN to points in the U.S. (except AL & HI), for 180 days, common, irregular. Supporting shipper(s): Husky Industries, Inc., 62 Perimiter Center East, Atlanta, GA 30346. Send protests to: M. E. Taylor, District Supervisor, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 128543 (Sub-18TA), filed May 31, 1979. Applicant: CRESCO LINES, INC., 13900 S. Keeler Ave., Crestwood, IL 60445. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier, irregular routes, iron and steel articles,* (a) from the Ford Motor Steel Mill at or near River Rouge, MI to the facilities of Lexington Steel Corp. at or near Bedford Park, IL; (b) from the Ford Motor Steel Mill at or near River Rouge, MI to Laurinburg, NC; (c) from Bedford Park, IL to Laurinburg, NC for 180 days. An E.T.A. has been granted for 90 days. Supporting shipper(s): Lexington Steel Corp., Bedford Park, IL. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 129032 (Sub-88TA), filed May 29, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (address same as applicant). *Plastic pellets, reprocessed,* from the facilities of Simpson Plastics, located at or near Tulsa, OK, to points in IL & MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Simpson Plastics, 5051 S. Yale, Tulsa, OK 74135. Send protests to: Connie Stanley, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129032 (Sub-90TA), filed June 6, 1979). Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). *Flat, and automotive glass,* from the facilities of Ford Motor Company Glass plant, located at or near Nashville, TN, to points in MI & OH, restricted to traffic originating at the above named location and destined to the above named states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Ford Motor Company, P.O. Box 43343, Detroit, MI 48243. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129032 (Sub-91TA), filed June 7, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). *K. D. aluminum extrusions, set up and glazed windows,* from the facilities of General Aluminum Corporation, located at or near Dallas, TX, to CA and ID, restricted to traffic originating at the above named location and destined to the above named states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Aluminum Corporation, 4850 Irving St., Boise, ID 83704. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129032 (Sub-92TA), filed June 27, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). *Malt beverages and related advertising materials,* from the facilities of Schoenling Brewing Company, located at or near Cincinnati, OH, to points in OK, restricted to traffic originating at the above named location and destined to the above named destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sooner Suds, Inc., 7120 E. 13th Street, Tulsa, OK 74112. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134022 (Sub-31TA), filed June 19, 1979. Applicant: RICHARD A. ZIMA, d.b.a. ZIPCO, P.O. Box 715, West Bend, WI 53095. Representative: Nancy Johnson, 103 E. Washington St., Crandon, WI 54520. *Malt beverages* from Ft. Wayne, IN to Sheboygan, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Topco Associated, Inc., 711 Gross Pt. Rd., Skokie, IL 60077. Send protests to: Gail Daugherty, TA, ICC, 517 E.

Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 134592 (Sub-20TA), filed May 28, 1979. Applicant: HERB MOORE AND HAZEL MOORE, d.b.a. H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, OR 97211. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. *Pulp and Paper products, i.e., toilet paper, towels, toweling, napkins, tissues, lignin sulfonate and wallboard* from facilities of Georgia-Pacific Corp. at Bellingham, WA, to Sacramento, Petaluma, Turlock, Fresno, King City, Corcoran, Kingsburg, Norwalk and Anaheim, CA. Supporting shipper(s): Georgia-Pacific Corp. Bellingham Div., P.O. Box 1236, Bellingham, WA 98225. Send protests to: R. V. Dubay, D/S, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 134592 (Sub-21TA), filed June 1, 1979. Applicant: HERB MOORE AND HAZEL MOORE, d.b.a. H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, OR 97211. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. *Canned foods* from plantsite of American Home Foods at Vacaville, CA to Medford, Roseburg, Eugene, Salem, Clackamas, Milwaukie, and Portland, OR, Bellevue, Bremerton, Kent, Tacoma, Seattle, Yakima, and Spokane, WA for 180 days. A corresponding ETA was filed this date and a permanent will be filed in the immediate future. Supporting shipper(s): American Home Foods, 685 Third Avenue, New York, NY 10017. Send protests to: R. V. Dubay, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 134922 (Sub-302TA), filed June 7, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same as applicant). (1) *Electric motors, grinders, buffers, dental lathes, dust collectors and pedestals,* (2) *Parts, accessories and attachments* for the commodities in (1) above, and (3) *Materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above (except commodities in bulk), between the facilities of Baldor Electric Co. at or near Fort Smith, AR, on the one hand, and on the other, points in the United States (except AK and HI) for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper: Baldor Electric Co., Fort Smith, AR 72901. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 134922 (Sub-303TA), filed June 11, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same as applicant). (1) *Paper, paper products, containers and pulp board* not corrugated and (2) *materials and supplies* used in the manufacture of (1) above, between the facilities of Green Bay Packaging, Inc., located in the United States (except AK and HI), on the one hand, and on the other, points in the United States (except AK and HI), restricted against the transportation of pulp board not corrugated from Oppelo, AR to Kalamazoo, MI, Fremont, OH and Cedarburg, Green Bay and Wausau, WI, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper: Green Bay Packaging, Inc., 1700 North Webster, Green Bay, WI 54305. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 134922 (Sub-304TA), filed June 13, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same as applicant). *Paper and paper products* from Hodge, LA to points in and east of IN, KY, MI, MS, and TN, for 180 days as a *common carrier* over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper: Continental Forest Industries, Mill Street, Hodge, LA 71247. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 134922 (Sub-309TA), filed June 26, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same as applicant). *Paper bags* from Sibley, IA and Crossett, AR to points in WA, OR, CA, NV, ID, UT, AZ, NM, MT, and WY for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper: Chase Bag Company, 814 Commerce Drive, Suite 111, Oak Brook, IL 60521. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 134922 (Sub-310TA), filed June 29, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same as applicant). (1) *Drugs, shaving cream and toilet preparations* (except in bulk) from Parsippany, NJ to Glendale, Phoenix, and Tucson, AZ; Bauxite, Jacksonville, Little Rock, and Springdale, AR; Portland, OR; Seattle, WA and points in CA and TX; (2) *Drugs, acids and chemicals* (except in bulk), from Brooklyn, NY and Groton, CT to Glendale, Phoenix and Tucson, AZ; Bauxite, Jacksonville, Little Rock, and Springdale, AR; Portland, OR; Seattle, WA; and points in CA and TX for 180 days. Suporting shipper: Pfizer, Inc., 235 E. 42nd St., New York, NY 10017. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 134922 (Sub-311TA), filed July 3, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same as applicant). *Such merchandise* as is sold by wholesale, retail and discount stores (except commodities in bulk and those which because of size or weight require the use of special equipment) between the facilities of Gibson, Inc. at or near Dallas, TX on the one hand, and on the other, points in the United States (except AK and HI) for 180 days. Supporting shipper(s): Gibson Co-op Warehouse, 12344 E. NW Hwy., Dallas, TX. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135082 (Sub-87TA), filed June 14, 1979. Applicant: ROADRUNNER TRUCKING, INC., 4100 Edith Blvd. NE., P.O. Box 26748, Albuquerque, NM 87125. Representative: Randall R. Sain (same as applicant). *Metal products, except commodities described in Mercer Extension Oilfield commodities, articles, because of size or weight requiring the use of special equipment and commodities in bulk in tank vehicles,* between AR, AZ, CA, CO, ID, KS, LA, MO, MT, NV, OK, OR, TX, WA, UT, WY, and NM, restricted against traffic moving between AR, KS, LA, OK, and TX, and further restricted against traffic moving between CA, ID, OR, MT, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Angeles Metal Systems, 4817 East Sheila, Los Angeles, CA 90040. Torrance Tubing & Conduit, P.O. Box 2910, Torrance, CA 90509. Rio Grande Steel Company, 7100 Second NW, Albuquerque, NM 87107. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 135082 (Sub-88TA), filed June 26, 1979. Applicant: ROADRUNNER TRUCKING, INC., 4100 Edith Blvd. NE., P.O. Box 26748, Albuquerque, NM 87125. Representative: Randall R. Sain (same address as applicant). *Trailers, trailer bodies, parts and accessories, thereof,* from the facilities of Eidal International Corporation, in Albuquerque, NM to Houston, Galveston, and Port Arthur, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting

shipper(s): Eidal International Corporation, P.O. Box 2087, Albuquerque, NM 87103. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 135212 (Sub-3TA), filed June 21, 1979. Applicant: ACADIAN EXPRESS SERVICE LIMITED, 1950 Ellesmere Road, Unit 21, Scarborough, Ontario. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. *Copy machines, parts thereof, and related materials, supplies and equipment in express service,* between ports of entry on the International Boundary line between the United States and Canada located on the Niagara River, on the one hand, and, on the other, points in Monroe County, NY, restricted to transportation between facilities of Xerox Corporation located in Monroe County, NY and the facilities of Xerox of Canada Limited located in Mississauga, Ontario, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Xerox of Canada Limited, 3130 Caravelle Drive, Mississauga, Ontario LV4 2L7. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 135213 (Sub-18TA), filed June 20, 1979. Applicant: JOE GOOD dba. GOOD TRANSPORTATION, P.O. Box 335,Lovell, WY 82431. Representative: James P. Beck, 717 17th Street, Suite 2600, Denver, CO 80202. *Contract carrier,* irregular routes: *Gypsum wallboard, joint compounds, and materials and supplies* used in the application thereof from the plantsite of Georgia-Pacific Corporation at or near Lovell, WY to points in MT, for 180 days. An underlying ETA seeks 90 days authority. Transportation to be performed under a continuing contract or contracts with Georgia-Pacific Corporation. Supporting shipper(s): Georgia-Pacific Corporation, 900 S.W. Fifth Ave., Portland, OR 97204. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm. 105 Federal Bldg & Courthouse, 111 South Wolcott, Casper, WY 82601.

MC 135803 (Sub-7TA), filed June 25, 1979. Applicant: WALLACE TRANSPORT, 9290 E. Hwy 140, P.O. Box 67, Planada, CA 95365. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials; glass fibre rovings, yarn and strands; glass fibre mats and fittings; flexible air duct* (except commodities in bulk), from the facilities of Certainteed Corp., at or near Chowchilla, CA to points in AZ, ID, NV, OR, UT, and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Certainteed Corp., P.O. Box 860, Valley Forge, PA 19482. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 136343 (Sub-166TA), filed May 10, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Such commodities as are dealt in or used by manufacturers and distributors of printed matter* (except commodities in bulk), between Kingsport and new Canton, TN on the one hand, and, on the other, points in the US east of and including the states of MS, TN, KY, IL, WI, and MN, excluding the following points: Birmingham, AL; Chicago, Elk, Grove Village, Peoria, South Holland, and Wheaton, IL; Indianapolis, Pinola, Terre Haute, and Winona Lake, IN; Gaithersburg, MD; Boston, Plympton, Waltham, and West Hanover, MA; Bellmawr, East Rutherford, Hightstown, Newark, Riverside, Somerset, and Wayne, NJ; Buffalo, Kirkwood, New York, and West Nyack, NY; Cincinnati and Columbus, OH; Fairfield (Adams County), Hanover, Mechanicsburg (Cumberland County), Philadelphia, Throop, and Scranton, PA; and Berryville, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kingsport Press, P.O. Box 711, Kingsport, TN 37662. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136602 (Sub-8TA), filed June 18, 1979. Applicant: ARIZONA WESTERN TRANSPORT, INC., P.O. Box "F", Chandler, AZ 85224. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Liquid fertilizer, in bulk, in tank vehicles,* from the facilities of Center Plains Industries near Odessa, TX to points in AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arizona Agrochemical Corp., P.O. Box 21537, Phoenix, AZ 85036. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136313 (Sub-55TA), filed June 7, 1979. Applicant: BUILDINGS TRANSPORT, INC., 409 14th Street SW., Great Falls, MT 59404. Representative: Bruce W. Shand, 430 Judge Bldg., Salt Lake City, UT 84111. *Railroad ties* (1) from the U.S.-Canada International Boundary line located at ports of entry in WA, ID and MT to points in ID, MT, OR, WA and WY; and (2) from ID and MT to ports of entry in MT and ID on the U.S.-Canada International Boundary line for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): AVF Tie Enterprises, Box 696, Rosebud, AB, Canada. Wickes Forest Industries, Drawer 'P', Townsend, MT 59644. Brand S Lumber Company, P.O. Box 1087, Corvallis, OR 97330. Niedermeyer Martin Company, 1727 NE 11th Ave., Portland, OR 97212. Canadian Pacific Ltd., 200 Granville St., Vancouver, BC, Canada V6C 2R8. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138322 (Sub-8TA), filed May 30, 1979. Applicant: BHY TRUCKING, INC., 9231 Whitmore, El Monte, CA 91733. Representative: Robert Fuller, 19215 E. Penn St., Suite 310, Whittier, CA 90602. *Common:* Irregular: *Oilfield Equipment, Machinery, and Materials, viz: oil well machinery and supplies; and mining and road building machinery and equipment, (including structural steel, pipe and well casing, but not including explosives), and used construction camp equipment, which because of size or weight require the use of special equipment,* between points in New Mexico and Arizona, for the purpose of joinder only at applicant's authorized points of service in New Mexico and Arizona, and limited to shipments to or from El Paso, TX, Odessa, TX and points in Texas and Louisiana on the south of Interstate Hwy. 20, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): IMCO Services, P.O. Box 22605, Houston, TX 77027. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 138732 (Sub-28TA), filed June 26, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 2500 Old Crow Canyon Rd., Suite 325, San Ramon, CA 94583. *Empty glass containers,* from the facilities of Glass Containers Corporation in Alameda, Contra Costa and Los Angeles Counties, California, to points in Arizona and Nevada. Supporting shipper(s): Glass Containers Corporation, 505 North Euclid Street, Anaheim, CA 92801. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 138732 (Sub-29TA), filed June 29, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 N. Cypress St., P.O. Box 5546, Orange, CA 92667.

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Representative: Michael R. Eggleton, 2500 Old Crow Canyon Rd., Suite 325, San Ramon, CA 94583. *Olivene Sand, in bags,* from Hamilton, WA, to points in Alameda, Contra Costa, and Santa Clara Counties, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): C–E Cast Industrial Products, 2401 Poplar Street, Oakland, CA 94607. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 138762 (Sub-32TA), filed June 6, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street N.W., Washington, DC 20006. *Liquid latex,* in bulk, in tank vehicles, from Beaver Valley, PA to ports of entry on the International Boundary Line between the U.S. and Canada located in NY, restricted to foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mackenzie and Feimann Limited, 1041 North Service Rd. E, Oakville, ON, Canada L6H 1A7. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138762 (Sub-33TA), filed June 6, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street N.W., Washington, DC 20006. *Inedible tallow,* in bulk, in tank vehicles, from ports of entry on the International Boundary Line between the U.S. and Canada located near Buffalo, NY to Newark, NJ, restricted to traffic in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bank Bros. & Son, Ltd., 116 Glen Scarlett Rd., Toronto, ON, Canada. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138762 (Sub-36TA), filed July 2, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street N.W., Washington, DC 20006. *Polyninyl chloride (PVC),* in bulk, in tank vehicles, from the U.S.-Canada International Boundary Line located at or near ports of entry in New York to Franklin and Mechanicsburg, PA and Buffalo, NY for 180 days. Supporting shipper(s): B. F. Goodrich Co., Chemical Group, 6100 Oak Tree Blvd., Cleveland, OH 44131. Send protests to: Paul J. Labane, D/S, ICC, 2602 First Ave. North, Billings, MT 59101.

MC 138882 (Sub-260TA), filed May 22, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Pipe, fittings, hydrants, valves and parts and accessories of these commodities,* except in bulk, from the facilities of American Cast Iron Pipe Company at or near Birmingham, AL to points to FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cast Iron Pipe Co., Inc., P.O. Box 2727, Birmingham, AL 35202. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-265TA), filed May 29, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Lumber* from Union Camp Corporation's facilities at or near Waverly, VA to points in MD and PA and from Union Camp Corporation's facilities at or near Smithfield, NC to points in VA, TN and SC, for 180 days. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-269TA), filed May 17, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Pipe and pipe fittings, valves, hydrants, parts thereof and accessories therefor,* from Birmingham, AL, to points in the U.S. in and east of ND, SD, NE, OK, KS, and NM; and *materials, equipment, machinery and supplies used in the manufacturing processing and distribution of commodities named* (except in bulk), from points in the U.S. in and east of ND, SD, NE, OK, KS, NM, to Birmingham, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 supporting shippers all of which can be examined at either the Birmingham field office or Washington. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-273TA), filed June 22, 1979. Applicant: WILEY SANDERS TRUCK LINE, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Glass containers and knocked down corrugated cartons,* from the facilities of Brockway Glass and Montgomery, AL to points in FL, GA, LA, MS, NC, SC, and TN. Supporting shipper(s): Brockway Glass Company, P.O. Box 8038, Montgomery, AL 36110. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 139023 (Sub-10TA), filed June 14, 1979. Applicant: 2–G TRANSPORTATION, INC., 12589 Rhode Island Avenue South, Savage, MN 55378. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Malt beverages* from Milwaukee, WI and points in its commercial zone to St. Paul, MN and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John McLean Distributing, Inc., 2328 Territorial Road, St. Paul, MN 55114. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 139193 (Sub-108TA), filed June 1, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Boulevard, Blue Ridge Tower, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW., Suite 300, Washington, D.C. 20006. *Citrus juices, beverages and beverage preparations,* from the facilities of Tropicana Products, Inc., located at points in Manatee County, FL, to points in TN, MS, LA, IA, KS, MN, MO, NE, ND, SD, OK, TX, WI, IL, and AL, under a continuing contract(s) with Tropicana Products, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tropicana Products, Inc., P.O. Box 338, Bradenton, Florida 33506. Send protests to: DS John V. Barry, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 139482 (Sub-129TA), filed June 15, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Samuel Rubenstein/David Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Paper and paper products and materials, equipment and supplies used and useful in the manufacture and shipping of paper and paper products* from Cincinnati, OH and Taylorville, IL to AZ, CA, CO and UT, for 180 days. Supporting shipper(s): Georgia-Pacific Corporation, 800 Summer Street, Stamford, CT 06901. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 139482 (Sub-131TA), filed June 28, 1979. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, P.O. Box 877, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. (1) *Beverages, including carbonated mineral water and beer,* from Cold Spring, MN to Marion, OH; Wilmington, DE, Kansas City, MO, and Tulsa and Oklahoma City, OK; and (2) *Glass bottles* from Terre Haute, IN to Cold Springs, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cold Spring Brewing Company, Cold Spring, MN 56320. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 139482 (Sub-132TA), filed June 29, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Household appliances and equipment, materials and supplies used in the manufacture and distribution thereof, except commodities in bulk,* from the facilities of General Electric at Louisville and Applicance Park, KY to ND, SD, NE, CO, KS, MN, IA, MO, WI, IL, IN, MI, OH, WV, MD, PA, DE, NJ, NY, CT, RI, MA, VT, NH, ME, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, Appliance Park, Louisville, KY 40225. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 139973 (Sub-75TA), filed June 22, 1979. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in CO, IA, KS, MO, NE, and OK, restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN, for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 45203. Send protests to: Vernon V. Coble, ICC, D/S, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 140193 (Sub-6TA), filed May 23, 1979. Applicant: RICH GRANT, INC., 910 West 24th Street, Ogden, UT 84401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier:* irregular routes: *Meat, meat products, meat by-products* and *articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides, inedible tallow and commodities in bulk) between the facilities of Parke Meats, Inc. at or near Ogden, UT, on the one hand, and, on the other, points in CA, NV, ID, CO, NE, SD, ND, IA, MN, WI and IL, under a continuing contract or contracts with Parke Meats, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Parke Meats, Inc., P.O. Box 1906, Ogden, UT 84401. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 140493 (Sub-4TA), filed June 22, 1979. Applicant: R & J INDUSTRIES, INC., P.O. Box 266, Elizabeth, NJ 07207. Representative: Lawrence E. Lindeman, 425 13th Street, N.W., Suite 1032, Washington, D.C. 20004. *Scrap metal* from Baltimore, MD to Fairless Hills and Steelton, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Co., American Lane, Greenwich, CT 06830. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 141033 (Sub-56TA), filed May 16, 1979. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Representative: James I. Mendenhall, 15045 E. Salt Lake Ave., City of Industry, CA 91749. *Carpet strips, molding, staples, tools, nails, adhesives, sealants, solvents, stains, wood preservatives and materials, equipment and supplies used in the manufacture, sale and distribution of the above-named commodities,* between Los Angeles, CA Harbor and Calexico, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Roberts Consolidated Industries, Inc., 600 N. Baldwin Park Blvd., City of Industry, CA 91749. Send protests to: Irene Carlos, P.O. Box 1551, Los Angeles, California 90053.

MC 141443 (Sub-19TA), filed June 14, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 Denton Street, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Charcoal briquettes, fireplace logs and hickory chips,* from Springfield, OR, to points in AZ, CA, CO, ID, MT, NV, NM, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Company, 1700 Commonwealth Building, P.O. Box 1033, Louisville, KY 40201. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141443 (Sub-20TA), filed June 14, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 Denton Street, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses* (except frozen commodities and commodities in bulk), (1) from the facilities of The Clorox Company at or near Kansas City, MO, to points in OK; (2) from the facilities of The Clorox Company, at or near Houston, TX, to points in AR, LA, OK, MS, and NM; (3) from the facilities of The Clorox Company at or near Oakland and San Leandro, CA, to points in ID, NV, OR, UT, and WA; (4) from the facilities of The Clorox Company at or near Los Angeles, CA, to points in AZ and NV; and (5) from the facilities of The Clorox Company, at or near Sparks, NV, to the facilities of The Clorox Company, at or near Los Angeles, Oakland, and San Leandro, CA, Houston, TX, and Kansas City, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway, Oakland, CA 94612. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141443 (Sub-21TA), filed June 14, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton Street, Sapulpa, OK 74066. Representative: Dean Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Wine,* from points in CA, to Oklahoma City, OK, for 180 days. Supporting shipper(s): Hirst Imports, Inc., 1140 N.W. 4th Street, Oklahoma City, OK 73106. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141443 (Sub-22TA), filed June 27, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 Denton Street, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Printed matter, paper and paper articles, plastic articles, games, toys, puzzles, writing slates, crayons, pencils, store display racks, paints, brushes, adhesive, telescopes, microscopes, and such commodities as are dealt in or used by motels,* from Coffeyville, KS, to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Publishing Co., Inc., Coffeyville Industrial Park, Coffeyville, KS 67337. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141692 (Sub-2TA), filed June 6, 1979. Applicant: MONTY COBLE, d.b.a. ARK CITY WAREHOUSE, 1201 South

First, Arkansas City, KS 67005. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. *Meat, meat by-products, and articles used and distributed by meat packinghouses,* from facilities utilized by John Morrell & Co. at or near Arkansas City, KS, to points in TX; for 180 days, *common,* irregular. Supporting shipper: John Morrell & Co., 208 S. La Salle, Chicago, IL. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 141932 (Sub-16TA), filed June 28, 1979. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: A. C. Gardner (same address as applicant). *Common carrier:* irregular routes: *Foodstuffs, frozen and exempt commodities* when moving in the same vehicle from Syracuse, NY to points in CT, ME, MA, NH, RI and VT. Restricted to shipments originating at the facilities of Empire Freezers of Syracuse, Inc., Syracuse, NY. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Empire Freezers of Syracuse, Inc., P.O. Box 4892, Syracuse, NY 13221. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 142053 (Sub-3TA), filed June 8, 1979. Applicant: NORTH GEORGIA BUS LINE, INC., 1160 Allene Avenue, Atlanta, GA 30310. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 S. Orange Ave., Orlando, FL 32802. *Passengers and their baggage in charter and special operations in round trip transportation* from points in Cobb, Gwinnett, DeKalb, Fulton, Clayton, Barrow, Clarke, Madison, Hart, Franklin, Jackson and Banks Counties, GA to points in the US including AK and return to said points of origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 27 statements in support attached to this application which may be examined at the ICC in Washington, DC or copies of which may be examined in the field office named below. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Rm. 300, Atlanta, GA 30309.

MC 142152 (Sub-4TA), filed May 31, 1979. Applicant: N.A.T. TRANSPORTATION, INC., 229 N. Main St., Bradner, OH 43406. Representative: Abraham A. Diamond, 29 S. LaSalle St., Chicago, IL 60603. *Radiators, radiator cores and heat exchangers, and equipment, material and supplies* used in the manufacture and distribution of commodities named above, between Pemberville, OH, on the one hand, and, on the other, points in the U.S., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Modine Manufacturing Co., 1500 DeKoven Ave., Racine, WI 53401. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 142232 (Sub-5TA), filed June 28, 1979. Applicant: BARRETT TEXTILE TRANSPORT, INC., P.O. Box 6, Industrial Park, Kings Mountain, NC 28086. Representative: Dr. Peter T. Barrett, 2757 Loch Lane, Charlotte NC 28211. *Contract carrier* —Irregular routes; *Synthetic fiber yarn and staple fiber, except commodities in bulk or in tank vehicles* from the facilities of Fiber Industries, Inc. at Earl, NC and S. Greenville, SC to points in GA and Chattanooga, TN, with no transportation for compensation on return, except as otherwise authorized, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fiber Industries, Inc., P.O. Box 32414, Charlotte, NC 28232. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 142283 (Sub-7TA), filed June 28, 1979. Applicant: VOORHORST, INC., 2099 East Packard Highway, Charlotte, MI 48813. Representative: Karl L. Gotting, 1200 Bank of Lansing, Building, Lansing, MI 48933. *Wheat middlings in bulk,* (1) from Chelsea, MI to Lafayette, IN and (2) from Augusta, MI to the facilities of Ralston Purina Company at or near Milford, IN. For 180 days. Underlying ETA's seek 90 days authority. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 142352 (Sub-8TA), filed June 27, 1979. Applicant: HAUSMAN TRUCKING, INC., 607 D. Ave., Vinton, IA 52349. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Malt beverages* from St. Louis, MO to Waterloo, IA for 180 days. Supporting shipper(s): Fahr Beverage, Inc., 323 W. 17th St., Waterloo, IA 50702. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 142382 (Sub-3TA), filed June 22, 1979. Applicant: SCHIERDING TRUCKING CO., 3690 W. Clay, St. Charles, MO 63301. Representative: James Schierding (address same as applicant). *Contract carrier,* irregular routes, *malt beverages,* in containers, from the facilities of Heileman Brewing Co. at or near Evansville, IN and Frankenmuth, MI to the Facilities of R. C. Fischer & Son Distributing Co. At or near St. Charles, MO, for 180 days, under a continuing contract or contracts with R. C. Fischer & Son Distributing Co. An underlying ETA seeks 180 days authority. Supporting shipper(s): R. C. Fischer & Son Distributing Co., 180 Harvester Rd., St. Charles MO 63310. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 142603 (Sub-14TA), filed June 6, 1979. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: S. Michael Richards, 44 North Ave., P.O. Box 225, Webster, NY 14581. *Contract carrier:* irregular routes: *Commodities sold by The Bendix Corporation and its affiliates* between all points in the U.S. (except AK and HI) *and materials, supplies, and equipment used in the manufacture, sale and distribution of such commodities as are sold by The Bendix Corporation* between all points in the U.S. (except AK and HI) under continuing contract with The Bendix Corporation and its affiliates. Restricted to traffic originating at or destined to the plants and warehouses of The Bendix Corporation and its affiliates, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Bendix Corporation, Bendix Center, Southfield, MI 48076. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 144682 (Sub-16TA), filed June 21, 1979, and published in the **Federal Register** issue of July 18, 1979 and republish as corrected this issue. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75245. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75235. *Potatoes, sliced, uncooked (french fries) frozen,* moving in mechanically refrigerated equipment from points in WA, ID, and Clearfield, IA, Bettendorf, IA, Mount Airy, MD, Atlanta, GA, Mount Morris, NY, to Syosset, NY, Detroit, MI, Cleveland, OH, Atlanta, GA, Houston, TX, Miami, FL, Dallas, TX, Greensboro, NC, Kansas City, MO, Denver, CO, San Jose, CA, Los Angeles, CA, Minneapolis, MN, and Bellmawr, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Burger King, Inc., P.O. Box 520843, Miami, FL 33152. Send protests to: Opal M. Jones, TA, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102. The purpose of this republication is to completely show the territorial description as previously omitted.

[Notice No. 130]
July 16, 1979

MC 35628 (Sub-412TA), filed May 24, 1979. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Avenue, SW., Grand Rapids, MI 49503. Representative: Michael P. Zell, 134 Grandville, Avenue, SW., Grand Rapids, MI 49503. *Common carrier* by motor vehicle over regular routes transporting: *General commodities,* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; between Moline, IL and Omaha, NE serving the following counties in IA as off-route points; Cerro Gordo, Black Hawk, Webster, Marshall, Linn, Jasper, Jefferson, Johnson, Muscatine, Clinton, Story, Wappello, Sioux, Woodbury, Pottawattami, Des Moines, Lee, Dubuque, Winnebago, in connection with carrier's authorized regular route operation. Applicant intends to tack and interline for 180 days. Supporting shipper(s): There are approximately 230 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 109449 (Sub-39TA), filed June 12, 1979. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th Street, Winona, MN 55987. Representative: Gary Huntbatch, (same address as applicant). *Iron and steel and such articles used in the manufacture of heavy construction equipment* from Chicago, IL and points in its commerical zone to Winona, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Badger Construction Equipment Co., Airport Industrial Park, Winona, MN 55987. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 117119 (Sub-751TA), filed June 7, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. *Chemicals,* (except in bulk), from (a) the facilities of Thiokol/Dynachem in Orange County, CA to Moss Point, MS and (b) from Moss Point, MS to Matthews and Charlotte, NC; S. Hadley Falls, MA; Lincoln, NE; Tulsa, OK; and Trenton, NJ, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thiokol Corporation, 930 Lower Ferry Road, Trenton, NJ 08650. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 118159 (Sub-339TA), filed June 15, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Paper and Paper Products, and equipment, materials and supplies used in the manufacture and distribution of paper and paper products,* between the facilities of International Paper Company, at or near Jay, ME, on the one hand, and, on the other, points in NC, VA, GA, & TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Paper Company 220 E. 42nd St., New York, NY 10017. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119988 (Sub-202TA). Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Bldg., Ft. Worth, TX 76102. *Lumber, lumber mill products, forest products, wood products, and sawmill products* from pts in CA, ID, MT, OR and WA to pts in AZ, AR, CO, IL IN, IA, KS, LA, MI, MN, MO, NE, NM, ND, OK, SD, TX, WI and WY, for 180 days. Supporting shipper(s): There are 18 statements of support attached to the application which may be examined at the I.C.C. in Washington, D.C., or at the field office named below. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 126489 (Sub-37TA), filed June 15, 1979. Applicant: GASTON FEED TRANSPORTS, INC., 1203 W. Fourth, Hutchinson, KS 67501. Representative: William B. Barker, 641 Harrison, Topeka KS 66603. (1) *Animal feed* (except in bulk), from the facilities of Kal-Kan Foods, Inc. at or near Mattoon, IL and Columbus, OH, to points in the U.S. (except AK, CT, HI, ME, MA, NH, NJ, NY, PA, RI, & VT. (2) *Equipment and materials used in the manufacture and distribution of animal feed* (except in bulk, in tank vehicles), from the destinations named in (1) above, to the facilities of Kal-Kan Foods, Inc., at or near Mattoon, IL, Columbus, OH and Hutchinson, KS. for 180 days, common, irregular. Supporting shipper: Kal-Kan Foods, Inc., Vernon, CA 90058. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days.

MC 121658 (Sub-19TA), filed June 11, 1979. Applicant: STEVE D. THOMPSON TRUCKING, INC., 1205 Percy Street (P.O. Drawer 149), Winnsboro, LA 71295. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza (P.O. Box 22628), Jackson, MS 39205. General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). An underlying ETA seeks 90 days authority. Supporting shipper(s): Approximately 141 shippers. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 133689 (Sub-279TA), filed June 12, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Solution, distilled water,* from Altavista, VA to Kansas City and St. Louis, MO and Plymouth, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s). Abbott Laboratories, 14th and Sheridan Road, North Chicago, IL 60064. Send protests to: Delores A. Poe, TA ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 135009 (Sub-6TA), filed June 4, 1979. Applicant: PEAK TRANSFER CO., INC. 57 Hathaway Street, Wallington, NJ 07866. Representative: Ronald L. Shapps, Esquire, 450 Seventh Avenue, New York, NY 10001. Contract, irregular. As per attached. Supporting shipper(s): CBS Records, A Division of CBS, Inc., 51 West 52nd St., New York, NY 10019. Send protests to: Joel Morrows, D/S.ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 136818 (Sub-74TA), Filed May 25, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ 85030. *dIron and steel articles, wire products and building paper,* from City of Commerce, City of Industry, Hayward, and Riverside, CA to points in AZ, NM, and NV (except Reno and Sparks, NV), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Davis Walker Corp., 6315 Bandini Blvd., Los Angeles, CA 90040. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136018 (Sub-52TA), filed May 23, 1979. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, 1430 33rd Street, Denver, CO 80201. Representative: Joseph W. Harvey (same address as applicant). *Meats,*

meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities utilized by Farmland Foods, Inc., at or near Carroll, Denison, Iowa Falls, Cherokee, Des Moines, Fort Dodge, and Sioux City, IA and Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 138069 (Sub-8TA), filed May 22, 1979. Applicant: LUCIUS, INC.,(9250) North Wadsworth, Broomfield, CO 80020. Representative: Richard S. Mandelson, 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. *Alcoholic beverages and non-alcoholic beverage mixes,* (except in bulk), from Louisville, KY and Lawrenceburg, IN to Denver, CO, for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Beverage Distributors Corp., 5272 Fox St., Denver, CO. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 138812 (Sub-2TA), filed January 25, 1979. Applicant: RONALD DEBOER d.b.a. RON DEBOER TRUCKING, Route 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters, and printers of paper and products (except commodities in bulk),* from the facilities of Consolidated Papers, Inc., at or near Stevens Point and Wisconsin Rapids, WI to points in AZ, CA, OR and WA and from the facilities of Nekoosa Papers, Inc. at or near Nekoosa, Port Edwards and Stevens Points, WI to points in AZ, CA, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nekoosa Papers, Inc., Port Edwards, WI 54469. Consolidated Papers, Inc., Wisconsin Rapids, WI 54494. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 138312 (Sub-3TA), filed February 2, 1979. Applicant: RONALD DEBOER d.b.a. RON DEBOER TRUCKING, Rt. 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Paper and paper products* originating at the facilities of Appleton Papers, Inc. at or near Appleton and Combined Locks, WI and destined to points in AZ, CA, NV, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Appleton Papers, Inc., P.O. Box 359, Appleton, WI 54912. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 138308 (Sub-78TA), filed May 30, 1979. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Tile* from the facilities of Armstrong Cork Company at or near Kankakee, IL to South Gate, CA, for 180 days. Supporting shipper(s): Armstrong Cork Company, P.O. Box 3001, Lancaster, PA 17604. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 139769 (Sub-1TA), filed May 9, 1979. Applicant: FALCON CHARTER SERVICE, INC., 120 Perry St., San Francisco, CA 94107. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. *Passengers and their baggage,* in the same vehicle with passengers, in charter operations, beginning and ending at San Francisco, CA and extending to points in Douglas and Washoe Counties, NV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Golden Funland Tours, 818 Clay St., San Francisco, CA 94108. Canaan Travel Service, 114 Waverly Place, San Francisco, CA 94108. Park Avenue Tours, 425 Mission St., San Francisco, CA 94105. Send protests to: District Supervisor, 211 Main Suite 500, San Francisco, CA 94105.

MC 140389 (Sub-6TA), filed June 18, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. *(1) Bakery product* and *(2) general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment, when in mixed shipments with bakery products), from Bogart, GA, to points in the United States in and west of MI, OH, KY, TN, NC, SC, GA, and FL (except AK and HI). Supporting shipper(s): JTB Associates, P.O. Box 216, Douglassville, PA 19518. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 140379 (Sub-7TA), filed June 14, 1979. Applicant: TRANSPORT SERVICE, INC., 216 Amaral Street, East Providence, RI 02914. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. Contract-irregular, *Iron, steel, zinc, lead,* and *articles or products thereof* (except in bulk); and *construction materials, supplies and equipment* (except in bulk), from the facilities of or utilized by Penn-Dixie Steel Corporation located at or near Kokomo, IN to points in CT, MA, RI, and to New York, NY and points in its commercial zone, limited to a transportation service to be performed under a continuing contract, or contracts, with Penn-Dixie Steel Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Penn-Dixie Steel Corporation, 1111 South Main St., P.O. Box 5049, Kokomo, IN 46901. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset St., Room 102, Providence, RI 02903.

MC 140829 (Sub-269TA), filed June 14, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Foodstuffs and equipment, materials and supplies utilized by the manufacturers of foodstuffs (except in bulk, in tank vehicles),* from Lowell, MA to points in IN, LA, MN, OH, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Prince Macaroni Mfg. Company, Lowell, MA 01853. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140859 (Sub-9TA), filed June 14, 1979. Applicant: WESTERN KENTUCKY TRUCKING, INC., 1245 Center Street, Henderson, Ky. 42420. Representative: William L. Willis, Atty., 708 McClure Bldg., Frankford, Ky. 40601. Plastic pipe, fittings, and accessories, between Henderson County, KY and Evansville, IN, on the one hand, and, on the other, points in IL, IN, KY, MO, and TN. An underlying ETA seeks 90 days authority. Supporting shipper(s): William O. Howard, Cresline Plastic Pipe Co., Inc., 851 U.S. 41 South, Henderson, Ky. 42420. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 141758 (Sub-4TA), filed May 31, 1979. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, Connecticut 06040. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. Contract carrier: irregular routes, *equipment, materials and supplies used in the manufacture of metal and plastic balls* from points in IL to the facility of Lydall Midwest, Inc., at Washington, IN. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lydall Midwest, Inc., 110 Southeast 3rd St., Washington, IN 47501. Send protests to: J. D. Perry, Jr., District, Supervisor, I.C.C., 135 High Street, Hartford, CT 06103.

MC 141889 (Sub-4TA), filed May 25, 1979. Applicant: RONALD DEBOER d.b.a. RON DEBOER TRUCKING, Rt. 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters, and printers of paper and paper products (except commodities in bulk)* from facilities of Nekoosa Papers, Inc. at or near Port Edwards and Stevens Points, WI to points in ID, CO, & UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nekoosa Papers, Inc., Port Edwards, WI 54469. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 142059 (Sub-77TA), filed May 23, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL, 60436. Representative: Jack Riley (same as applicant). *Air compressors, air stations, auto lifts, knocked down; electric controllers, flow meters, gasoline power measuring computers, iron body valves, iron roadway service boxes, iron machine parts, power measuring pumps, power pumps,* and *materials and supplies used in the manufacture thereof;* (except commodities which because of size or weight require specialized equipment) for 180 days. An undrlying ETA was granted for 90 days authority. Supporting shipper(s): Gilbarco, Inc., 7300 Friendly Road, Greensboro, NC 27420. Send protests to: Annie Booker, TA, Interstate Commmerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142308 (Sub-2TA), filed June 14, 1979. Applicant: BOB FORMAN ASSOCIATES, INC., 1401 Cedar Springs, Dallas, TX 75202. Representative: Jack L. Coke, Jr., 4555 First National Bank Building, Dallas, TX 75202. *New furniture* between points in TX, on the one hand, and on the other, points in OK and NM for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): FFH Corp., 1401 Cedar Springs, Dallas, TX 75202. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 142308 (Sub-3TA), filed June 14, 1979. Applicant: BOB FORMAN ASSOCIATES, INC., 1401 Cedar Springs, Dallas, TX 75202. Representative: Robert A. Forman (same as applicant). General commodities/except articles of unusual value, classes A & B explosives, commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment. Restricted to the transportation of shipments moving on Freight Forwarder or non-profit shipping associations or shippers' agents bills of lading under subchapter IV of the Interstate Commerce Act from and between Dallas, Houston, and Lubbock, TX on the one hand to all points in TX on the other hand, and from and between all points in TX on the one hand, and all points in OK and NM on the other hand for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): FFH Corporation, 1401 Cedar Springs, Dallas, TX 75202. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76201.

MC 142508 (Sub-81TA). Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. Cleaning, washing, buffing or polishing compound, textile softeners, lubricants, hypochlorite solutions, deodorants or disinfectants, paints, stains or varnishes, except in bulk from the facilities of Economics Laboratory, Inc. at or near Joliet, IL to points in IA, KS, MO, and NE. An underlying ETA seeks 90 days authority. Supporting shipper(s): William McCollum, Transportation Manager, Economic Laboratory, Inc., Osborn Building, St. Paul, MN 55102. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142508 (Sub-82TA), filed June 5, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix 1 to the Report in Descriptions in Motor Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk). From Denison, Iowa to points in IL and WI. Supporting shipper(s): Edward T. Hopkins, Traffic Manager, Dubuque Packing Company, P.O. Box 610, Highway 30, Denison, IA 51442. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142508 (Sub-83TA), filed June 7, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report on Descriptions on Motor Certification 61 M.C.C. 209 and 766 (except hides and commodities in bulk).* From the facilities of Iowa Beef Processors, Inc. at Dakota City, NE and Sioux City, IA to points in IL and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glen C. Echelbarger, Rate Analyst, Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142508 (Sub-84TA), filed June 8, 1979. Applicant: NATIONAL TRANSPORTATION INC., 10810 South 144th Street, Omaha, NE 68137. Representative: L. N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Frozen Fruit* from the facilities of Naturipe Berry Growers in Los Angeles and San Jose, CA to points in IA, IL, and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Naturipe Berry Growers, Box A, Watsonville, CA 95076, Ben Noda, Assistant Sales & Production Manager. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-85TA), filed June 13, 1979. Applicant: NATIONAL TRANSPORTATION INC., P.O. Box 37465, 10810 So. 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *(1) Cleaning, washing, buffing or polishing compounds, textile softners, lubricants, hypochlorite solutions, deodorants or disinfectants, paints, stains or varnishes, (except in bulk),* from the facilities of Economics Laboratory, Inc., at or near Avenel, NJ to points in IL, MA, MI, NY, OH, and PA, and *(2) Equipment, materials and supplies used in the manufacture of cleaning, washing, buffing or polishing compounds, textile softners, lubricants, hypochlorite solutions, deodorants or disinfectants,*

paints, stains or varnishes (except in bulk), from Boston, MA commercial zone and Manchester, NH to the facilites of Economics Laboratory, Inc., at or near Avenel, NJ, for 180 days. An underlaying ETA seeks 90 days authority. Supporting shipper: Economics Laboratory, Inc., Osborne Building, St. Paul, MN 55102. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142559 (Sub-100TA), filed May 29, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. *Paper, paper products, plastic articles and containers and materials, equipment and supplies* as are used in the manufacture and distribution thereof (except commodities in bulk), between points in the U.S. (except AK and HI) for 180 days. Supporting shipper: Container Corporation of America, 500 E. North Ave., Carol Stream, IL 60187. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142848 (Sub-11TA), filed April 19, 1979. Applicant: JAMES R. POSHARD & SON, INC., P.O. Box 69, Mt. Vernon, IN 47620. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Fertilizer and fertilizer material,* (1) from Posey County, IN, to points in IL, IN, and KY and (2) from Henderson, KY, to points in IL and IN, for 180 days. Supporting shipper(s): Triple T Chemicals, Inc., Vincennes, In 47591, Posey County Farm Bureau Cooperative, 817 West Fourth Street, Mt. Vernon, IN, 47620, N-Ren Corporation, P.O. Box "D", East Dubuque, IL 61025. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 143059(Sub-90TA), filed May 25, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: John M. Nader, Atty., 1600 Citizens Plaza, Louisville, Ky. 40202. Pipe fittings, and accessories in connection therewith, from the facilities of Certainteed Products Corp., at or near Waco. TX, to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Paul D. Bruno, Traffic Supervisor, P.O. Box 1100, Blue Bell, PA. 19422. Send protests to: Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 143058 (Sub-91TA), filed May 30, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: Louis J. Amato, Atty., P.O. Box E, Bowling Green, Ky. 42101. Iron and Steel Articles, from Baltimore, MD, to Stephensville and Houston, TX, Shreveport and New Orleans, LA, Birmingham, AL, Atlanta, Ga, Little Rock, AR, Oklahoma City and Tulsa, OK, and Minneapolis, MN. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. R. McCleary, American Seamless Tubing, Inc., 1920 Benhill Ave., Baltimore, MD 21226. Send protests to: Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 143059 (Sub-92 TA), filed May 30, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Lousiville, Ky. 40232. Representative: John M. Nader, Attorney, 1600 Citizens Plaza, Louisville, Ky. 40202. Wrought Iron Pipe, from the facilities of Unarco-Leavitt, Div. of Unarco Industries, Inc., at Chicago, IL, and its commercial zone, to points in AL, FL, GA, IA, KS, KY, NE, and TN. Supporting shipper: Donald E. Werner, Unarco-Leavitt, Div. of Unarco Industries, Inc., 1717 W. 115th St., Chicago, IL 60643. Send protests to: Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 143059 (Sub-93TA), filed June 6, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: John M. Nader, Atty., 1600 Citizens Plaza, Louisville, Ky. 40202. Plastic pipe and commodities used in the installation thereof, from the facilities of Dupont Co., at Tulsa, OK, to points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at said facilities and destined to said points. Supporting Shipper: G. W. Fillingname, E. I. DuPont De Nemours & Co., 1007 Market St., Wilmington, DE 19898. Send protests to: Mrs. Linda H. Sypher, D/S ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 143059 (Sub-94 TA), filed June 7, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. Lumber, lumber mill products, forest products, wood products, and sawmill products from points in CA, ID, MT, OR and WA, to points in AZ, AR, CO, IL, IN, IA, KS, LA, MI, MN, MO, NE, NM, ND, OK, SD, TX, WI, and WY. Supporting shipper: 18 supporting shippers' statements. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 14329 (Sub-TA), filed May 7, 1979. Applicant: JAMOUR, INC., d.b.a. QUICK COURIER SERVICE, 123 N. 23rd St., Philadelphia, PA 19103. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Business reports, records and documents,* between Boston, MA and Lowell, MA; New Haven, Hampden, Hartford, Norwich and points in Fairfield County, CT; New York, NY; Glenridge, NJ; and Philadelphia, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Datacomp Corp., 211 S. Broad St., Phila., PA. Send protests to: I.C.C., 101 N. &th St., Rm. 620, Phila., PA. 19106.

MC 143328 (Sub-17TA), filed April 19, 1979. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave. NW Washington, DC 20036. *Non-alcoholic beverages, beverage mixes, malt beverages, wine* and *brandy* from CA, IL, OR and WA to MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are eight supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143328 (Sub-18TA), filed May 24, 1979. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave. NW Washington, DC 20036. (1) *Malt beverages,* from Phoenix, AZ to points in CA, MT, OR, WA and WY; and (2) *empty containers* from points in CA, MT, OR, WA and WY to Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Carling National Breweries, Inc., 150 South 12th St., Phoenix, AZ 85034. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143328 (Sub-19TA), filed May 25, 1979. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave. NW., Washington, DC 20036. *Commodities as are dealt in by wholesale or retail grocery and food business houses* from the facilities of Hershey Foods Corporation at Oakdale, CA to MT, for 180 days. Supporting shipper: Hershey Foods Corporation, 19 East Chocolate Ave., Hershey, PA 17033. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143328 (Sub-20TA), filed June 8, 1979. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave. NW., Washington, DC 20036. *Materials and supplies incidental to the brewing and packaging of* malt beverages from CA and OR to WA; and from CA, OR and WA to Phoenix, AZ, for 180 days. An underlying ETA seeds 90 days authority. Supporting shipper(s): G. Heileman Brewing Company, Rainier Brewing Company, 3100 Airport Way South, Seattle, WA 98134. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143389 (Sub-8TA), filed May 31, 1979. Applicant: MERCHANTS DUTCH EXPRESS, INC., P.O. Box 2525, 700 Pine Street, Monroe, LA 71207. Representative: Bruce E. Mitchell, 3390 Peachtree Road, N.E., Atlanta, GA 30326. (1) *Paper and paper products,* from the plantsite and facilities of Olinkraft, Inc. at or near Monroe, LA to points in the states of AL, AR, LA, OK, MS, and TX, and (2) *Materials, equipment and supplies* used in the manufacture and distribution of paper and paper products, except in bulk, from points in AL, AR, LA. MS, OK, and TX, to the facilities of Olincraft, Inc., at or near Monroe, LA, under contract or continuing contracts with Olinkraft, Inc., of Monroe, LA, for 180 days, as a contract carrier over irregular routes. Supporting shipper: Olinkraft, Inc., P.O. Box 488, West Monroe, LA 71291. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 143499 (Sub-4TA), filed June 1, 1979. Applicant: DOUBLE NICKEL TRANSPORT LTD., 50 South Main Street, Pearl River, N.Y. 10965. Representative: John L. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Business and Office Machines, parts, supplies and materials used in the operation of business and office machines (except commodities in bulk) as shown in the attached Proposed Federal Register Caption-TA. Supporting shipper: SCM Corporation, Regional Manager, 454 South Main Street, Englewood, N.J. 07631. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 144219 (Sub-3TA), filed June 5, 1979. Applicant: B. I. T., INC., P.O. Box 968, Reedley, CA 93654. Representative: G. P. Stefflre, 700 S. Flower St., Suite 1724, Los Angeles, CA 90017. Contract carrier; irregular routes: (1) *Glass, mirrors, automobile windows and windshields;* (2) materials and supplies used in the manufacture, sale and installation of those commodities named in (1) above, between the facilities of Buchmin Industries located at or near Reedley, CA, and points in the United States, except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Buchmin Industries, Inc., P.O. Box 968, Reedley, CA 93654. Send protests to: D/S N. F. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 144398 (Sub-3TA), filed June 11, 1979. Applicant: WAYNE TRANSPORTS INC., Box 366, Milaca, MN 56353. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. *Asphalt* from the facilities of Koch Refining Co. at or near Pine Bend, MN to points in SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Koch Refining Co., P.O. Box 43596, St. Paul, MN 55164. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144599 (Sub-5TA), filed April 20, 1979. Applicant: TRANSFER, INC., 90 S. Ko-We-Ba Lane, Indianapolis, IN 46241. Representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Polyethylene plastic, except in bulk* from the facilities of U.S. Industrial Chemical Co., Tuscola, IL to Indianapolis, IN for 180 days. Supporting shipper: U.S. Industrial Chemical Co., P.O. Box 218, Tuscola, IL 61953. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144688 (Sub-25TA), filed May 22, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 S. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Cleaning, scouring and washing compounds, soap, liquid and other than liquid; softeners, textile or fabric, materials, equipment and supplies used in the manufacture, sale or distribution of the above described commodities (except in bulk)* from the facilities of The Procter & Gamble Company at or near Augusta, GA to points in the states of NC, SC and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Procter & Gamble Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 144828 (Sub-3TA), filed June 4, 1979. Applicant: FEPCO TRUCKING, INC., 3458 Moreland Avenue, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Contract* carrier: Irregular routes: *Such commodities as are dealt in or used by chemical manufacturers and distributors (except commodities in bulk)* between the facilities of Oxford Chemicals, Inc., at or near Chamblee, GA, on the one hand, and, on the other, the facilities of Oxford Chemicals, Inc., at or near Brisbane and Fresno, CA, Denver, CO, Houston, TX, Keene, NH, New Orleans, LA and Miami, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Oxford Chemicals, Inc., P.O. Box 80202, Atlanta, GA 30366. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 144858 (Sub-11TA), filed May 30, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Photographic apparatus, equipment, material, supplies and products* used solely for photographic application, manufacturing, or processing, (1) From the facilities of Eastman Kodak Company in Rochester, NY, to the facilities of Eastman Kodak Company in San Ramon, Whittier and Hollywood, CA; Dallas, TX; Oak Brook, IL; and Chamblee, GA. (2) From the facilities of Eastman Kodak Company in Windsor, CO, to the facilities of Eastman Kodak Company in Dallas, TX; Dayton, NJ; and Oak Brook, IL. (3) Between the facilities of Eastman Kodak Company in Windsor, CO, on the one hand, and on the other, the facilities of Eastman Kodak Company in San Ramon and Whittier, CA. (4) Between the facilities of Eastman Kodak Company in Windsor, CO, on the one hand, and on the other, the facilities of Eastman Kodak Company in Rochester, NY, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Eastman Kodak Company, 2400 Mount Read Boulevard, Rochester, NY 14650. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144939 (Sub-5TA), filed April 10, 1979. Applicant: Larry A. Householder, dba Householder Trucking, R.R. #1,

Fenton, IA 50539. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Hides, green or green salted* from the facilities of John Morrell & Co. at Estherville, IA to Kansas City, MO for 180 days. An underlying ETA authority seeks 90 days authority. Supporting shippers(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145048 (Sub-3TA), filed June 1, 1979. Applicant: R. D. ROGERS, d.b.a. R & E TRUCKING. Representative: John M. Madison, Jr., 411 Commercial National Bank Building, Shreveport, LA 71107. Applicant is seeking authority to operate as a contract carrier over irregular routes transporting *seasonable merchandise for Department Store Sales* from Minden, LA to Crossett, Stuttgart, and West Helena, AR; Cleveland, Greenwood, Greenville, and Natchez, MS; and Chicasaw and Mobile, AL, under a continuing contract or contracts with West and Company of Louisiana, Inc., for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): West and Co. of LA, Inc., P.O. Drawer G, Minden, LA 71055. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 145468 (Sub-12TA), filed June 7, 1979. Applicant: KSS TRANSPORTATION CORP., Route #1 & Adams Station, North Brunswick, NJ 08902. Representative: Elaine M. Conway, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. Marshmallows from Chicago, IL to points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Doumak Division, Beatrice Foods Co., 2491 Estes Avenue, Elk Grove, IL 60007. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145579 (Sub-5TA), filed May 21, 1979. Applicant: D. IRVIN TRANSPORT LIMITED, Box 8, Station T, Calgary, AB, Canada. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Short-line farm machinery (except tractors and combines) and parts and attachments for such machinery* from Sak City and Grinnell, IA; Hopkins, MN; Ashley, ND, Kohler, WI; Fort Collins, CO; and Heston, KS; to ports of entry on the International Boundary line between the U.S. and Canada at points in ND and MT, restricted to foreign commerce for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Renn Sales, 12555–127th Avenue, Edmonton, AB, Canada T5L 3E5. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 145579 (Sub-6TA), filed June 4, 1979. Applicant: D. IRVIN TRANSPORT LIMITED, Box 8, Station T, Calgary, AB, Canada T2H 2G7. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. Lumber, lumber mill products, forest products and wood products from points on the U.S.-Canada International Boundary line located in MT, ID and WA, to points in AZ, NV, NM, CA, WA, OR and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Taiga Wood Products, Ltd., 4400 Dominion St., Burnaby, BC, Canada V5M 3X6. Ralph S. Plant, Ltd., 475 W. Georgia St., Vancouver, BC, Canada V6B 3T2. Northwood Building Materials, 6146 Beresford St., Burnaby, BC, Canada V5J 1K2. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 145579 (Sub-7TA), filed June 15, 1979. Applicant: D. IRVIN TRANSPORT LIMITED, Box 8, Station T, Calgary, AB, Canada T2H 2G7. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Drilling mud* from Colony, WY to the port of entry near Sweetgrass, MT on the U.S.-Canada International Boundary line, for furtherance to Onoway, AB, Canada, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Baroid of Canada, Ltd., 850, 703–6th Ave. SW., Calgary, AB, Canada. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 145588 (Sub-16TA), filed May 29, 1979. Applicant: GULF MID-WESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. *Chemicals, NOI,* between all points in Brazoria, Harris, Jefferson, La Vaca, Orange, and Wharton Counties, TX and to all points in CA, FL, GA, MA, MI, NJ, NY, OH and between all points in CA, FL, GA, MA, MI, NJ, NY, OH and TX for 180 days. An underlying 90 day ETA seeks identical authority. Supporting shipper(s): Polymer Processing, Inc., 4119 Cason Street, Houston, TX 77005. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145588 (Sub-17TA), filed May 29, 1979. Applicant: GULF MID-WESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. *Woven synthetic material and chemicals,* from Houston, TX to AR, CA, FL, LA, NJ, PA, SC, TN, and WA; and from those States named to Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Plant Industries (Texas) Inc., 5055 Cranswick, P.O. Box 40504, Houston, TX 77040. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145588 (Sub-18TA), filed May 29, 1979. Applicant: GULF MID-WESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. *Plastic, except in bulk and liquid but in dry load quantities and plastic HDPE pipe and fittings,* from points in Brazoria, Galveston, Harris, Jefferson, La Vaca and Orange Counties, TX to points in the States of CA, GA, IL, IN, IA, LA, MI, MN, NJ, NY, NC, OH, PA, TN, WV, and WA; and between points in the following states: CA, GA, IL, IN, IA, LA, MI, MN, NJ, NY, NC, OH, PA, TN, WV and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Polydynamics, Inc. Division of Hancor, Inc., P.O Box 391, Hwy. 90 A, Hallettsville, TX 77964. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145588 (Sub-19TA), filed May 29, 1979. Applicant: GULF MID-WESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. *Chemicals, NOI,* from the Gulf Coast beginning at Brownsville, Corpus Christi, Harlingen, Kingsville, and Texas counties of Brazoria, LaVaca, Harris, Jefferson, Orange, Montgomery and Galveston counties to points in the United States and between points in the United States, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Choctaw Chemical & Sales, Inc., 27205 Paula Lane, Conroe, TX 77302. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145608 (Sub-2TA), filed April 11, 1979. Applicant: HENRY JOHNSON TRUCKING, 7701 Greenleaf Drive, Omaha, NE 68128. Representative: Melvin C. Hansen, 610 Service Life Bldg., Omaha, NE 68102. *Meat, meat products and articles distributed by meat packinghouses as described in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk),* from Sioux City, Marshalltown, and Glenwood, IA to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s):

Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 145608 (Sub-3TA), filed June 8, 1979. Applicant: HENRY JOHNSON TRUCKING, 7701 Greenleaf Drive, Omaha, NE 68128. Representative: Melvin C. Hansen, 610 Service Life Bldg., Omaha, NE 68102. *Meat, meat products and articles distributed by meat packinghouses as described in Motor Carrier Certificate 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from Sioux City, Marshalltown, and Glenwood, IA to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John H. Groth, Manager, Transportation Services, Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 145718 (Sub-2TA), filed April 10, 1979. Applicant: BRICK TRANSPORT CORPORATION, 2634 Royston Rd., Charlotte, NC 28208. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Contract* carrier-Irregular routes; *Bricks* from Van Wyck, SC to points in FL, GA, TN, NC, VA, WV, MD, KY, OH, DC and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ashe Brick Company, Van Wyck, SC 29744. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 145928 (Sub-3TA), filed June 1, 1979. Applicant: PANTEGO DISTRIBUTING COMPANY, INC., P.O Box 176, Pantego, NC 27860. Representative: Peter A. Greene, 900 17th Street, N.W., Washington, DC 20006. *Manufactured forest products,* from the facilities of Weyerhaeuser Company, Inc., in NC to points in SC, GA, FL, AL, MS, KY, TN, WV, OH, MI, IL, IN, WI, CT, VT, MA, ME, NH, RI, for 180 days. An underlying ETA has been filed seeking 90 days authority. Supporting shipper(s): Weyerhaeuser Company, P.O Box 787, Plymouth, NC 27962. Send protests to: Terrell Price, D/S, ICC, Rm CC–516 Mart Office Bldg., 800 Briar Creek Road, Charlotte, NC 28205.

[Notice No. 131]
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MC 98689 (Sub-3TA), filed April 27, 1979, and published in the **Federal Register** issue of June 26, 1979, and republished as corrected this issue. Applicant: D. A. BROWN TRUCKING CO., 4319 Rosedale Highway, Bakersfield, CA. 93302. Representative: Fred H. Mackensen, c/o MURCHISON & DAVIS, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA. 90212. *Steam generators, heaters, machinery and pipe, plus parts,* used in secondary recovery and maintenance of oil and gas wells, from Winfield, KA and Tulsa, OK, to various oilfield locations in the State of California, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Struthers Thermo-Flood Corporation, 1017 30th St., Bakersfield, CA. 93301. Send protests to: Irene Carlos, ICC, Room 1321, Federal Building, 300 North Los Angeles St., Los Angeles, CA. 90012. The purpose of this republication is to show the correct scope of the application.

MC 114569 (Sub-307TA), filed April 19, 1979, and published in the **Federal Register** issue of June 26, 1979, and republished as corrected this issue. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as above). *Confectionary, cocoa, chocolate, and related products* (except in bulk), *and materials, supplies, equipment and machinery* used in the manufacture, production, distribution or sale of the commodities described above (except in bulk), from the facilities of Hershey Chocolate Co., Y&S Candies, Inc. plant located in Lancaster County, Lancaster, PA, to points in AL, AZ, AR, Oakdale, CA, CO, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, ND, OH, OK, SD, TN, TX, WI and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hershey Foods Corp., 19 E. Chocolate Avenue, Hershey, PA 17033. Send protests to: Peter R. Guman, 600 Arch Street, Room 3238, Philadelphia, PA 19106. The purpose of this republication is to add Missouri (MS) as a destination state as previously omitted.

MC 118288 (Sub-50TA), filed May 2, 1979, and published in the **Federal Register** issue of June 21, 1979, and republished as corrected this issue. Applicant: FROST TRUCK LINES, INC., 3040 Glendale Blvd., P.O. Box 39639, Los Angeles, CA 90039. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) which are at the time moving on bills of lading of freight forwarders as defined in Section 10102(8) of the Interstate Commerce Act, from Seattle, Tacoma, Bellingham, Everett, Yakima, Pasco and Spokane, WA and points in their commercial zones; Medford, Salem, Eugene and Portland, OR and points in their commercial zones; and Boise, ID and points in its commercial zone, to Los Angeles, CA and points in its commercial zone, for 180 days. An underlying ETA seeks up to 90 days operating authority. The purpose of this republication is to show the complete territorial description. Supporting shipper(s): Coast Carloading Company, 1041 Richmond Street, Los Angeles, CA 90033. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 126118 (Sub-154TA), filed May 9, 1979, and published in the **Federal Register** issue of June 26, 1979, and republished as corrected this issue. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same as above). *Unfinished cotton, burlap or synthetic woven piece goods,* from points in AL, GA, LA, NC, SC and TN to Hutchinson, KS and points in its commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hutchinson Bag Corporation, P.O. Box 1286, Hutchinson, KS 67501. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th Street, Omaha, NE 68102. The purpose of this republication is to add North Carolina (NC) as previously omitted.

MC 140389 (Sub-60TA), filed April 26, 1979, and published in the **Federal Register** issue of June 21, 1979, and republished as corrected this issue. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses and (2) materials, ingredients, and supplies, used in the manufacture, distribution and sale of products in* (1) above between Battle Creek, MI; Lancaster and Sharonville, OH; between Battle Creek, MI; Lancaster and Sharonville, OH on the one hand, and, on the other points in AL, FL, GA, LA, MS, NC, SC, and TN; between Louisville, KY, on the one hand, and, on the other, points in AL, CO, FL, GA, IL, IA, KS, LA, MN, MS, MO, NE, NC, ND, SC, SD, TN, and WI. For 180 days. The purpose of this republication is to show the complete territorial description. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Mabel E.

Holston, T/A, ICC, 2121 Building Suite 1616, Birmingham, AL 35203.

MC 140768 (Sub-39TA), filed May 11, 1979, and published in the **Federal Register** issue of June 21, 1979, and republished as corrected this issue. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. BOX 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY, 10048. *Plastic containers and accessories,* from the plant site of Amoco Container Company at or near Seymour, IN to points in AL, CA, FL, GA, IL, IN, KY, LA, MI, MN, MO, MS, OH, OK, PA, SC, SD, TN, TX, VA, WV and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amoco Container Company, Box 1000, Seymour, IN 47274. Send protests to: Irwin Rosen, DS, ICC, 9 Clinton Street, Newark, NJ 07102. The purpose of this republication is to show Tennessee (TN) in liew of the second Indiana (IN) as previously published.

MC 142909 (Sub-6TA), filed May 16, 1979. Applicant: TIMBER TRUCKING, INC., 4100 South West Temple, Salt Lake City, UT 84107. Representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Crushed scrap* automobiles, and parts, (1) from Pocatello, ID to points in ID, UT, WY, OR, WA, and CA; (2) from UT to ID; and (3) from WY to WA, OR, and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Henry's Scrap Metals, 3633 Garrett Way, Pocatello, ID 83201. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144239 (Sub-1TA), filed May 2, 1979, and published in the **Federal Register** issue of June 21, 1979, and republished as corrected this issue. Applicant: J.L.T. CORPORATION, Route 22, White House Station, N.J. 08889. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Contract carrier: irregular routes: *cheese, cheese products, and synthetic cheese,* in vehicles equipped with mechanical refrigeration, from the facilities used by L. D. Schreiber Cheese Co., Inc. at or near Green Bay, WI to points in CT, DE, MA, ME, MD, NH, NJ, NY, OH, PA, RI, VT, WV, VA, and DC, under a continuing contract with L. D. Schreiber Cheese Co., for 180 days. An underlying ETA seeks 90 day authority. The purpose of this republication is to add the State of Virginia. Supporting shipper(s): L. D. Schreiber Cheese Co., Inc., P.O. Box 610, Green Bay, WI 54305. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 146049 (Sub-3TA), filed June 4, 1979. Applicant: SOLAR TRUCKING, INC., 211 Eighth St., Perrysburg, OH 43551. Representative: Arthur R. Cline, 420 Security Bldg., Toledo, OH 43604. Scrap metals, from Elkhart, Indianapolis, Michigan City, and South Bend, IN to Bryan and Defiance, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Isaac Corp., 715 E. Perry St., Bryan OH. Send protests to: D/S, ICC, 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 146068 (Sub-9TA), filed April 10, 1979. Applicant: CONSOLIDATED CARRIERS CORPORATION, Box 25842, Charlotte, NC 28212. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *Synthetic fiber, textile waste, plastic pellets, plastic waste, wool, wool waste and materials and supplies used in the manufacture thereof* from the facilities of Wellman, Inc. at or near Johnsonville, Hemingway, Florence, and Charleston, SC to points in the US in and east of NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wellman, Inc., 75 Federal St., Boston, MA 02110. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 146128 (Sub-4TA), filed June 4, 1979. Applicant: MERRITT FOODS COMPANY d.b.a. MERRITT REFRIGERATED SERVICE, 2840 Guinotte St., Kansas City, MO 64120. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. *Confectionery in mechanically refrigerated equipment,* from the facilities of Hollywood Brands, Inc., at Centralia, IL to Kansas City, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hollywood Brands, Inc., 836 South Chestnut, Centrailia, IL 62801. Send protests to: Vernon Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 146148 (Sub-4TA), filed May 31, 1979. Applicant: B-RIGHT TRUCKING CO., 492 Old State Route 7, Pottery Addition, Steubenville, OH 43952. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. *Iron and steel, and iron and steel articles,* (a) from the facilities of Wheeling-Pittsburgh Steel Corporation at Allenport and Monessen, PA, to points in IL, IN, MI, OH, NY, and WV; and (b) from the facilities of Wheeling-Pittsburgh Steel Corporation at Beech Bottom, Benwood, Follansbee and Wheeling, WV, to points in IL, IN, MI, OH, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corporation, P.O. Box 118, Pittsburgh, PA 15230. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 146239 (Sub-3TA), filed June 11, 1979. Applicant: INTERNATIONAL FOODS TRANSPORT, INC., P.O. Box 127, Hope, NJ 07844. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, NY 10001. Contract, irregular. *Commodities distributed and manufactured by, and, materials and supplies and equipment used in the manufacture, packaging distribution and sales of the R.T. French Company.* Between points in the US (excluding AK and HI), under a continuing contract or contracts with the R.T. French Company, for 180 days. Supporting shipper(s): R.T. French Company, One Mustard Street, Rochester, NY. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 146269 (Sub-4TA), filed May 29, 1979. Applicant: Waldorf Transportation Co., Inc., P.O. Box 353, Waldorf, MD 20601. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. *Cloth, cotton, or synthetic fibre, unfinished woven and non-woven piece goods* between North Dighton, MA, and AL, GA, KY, NC, SC, TN, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Harodite Finishing Co., Inc., North Dighton, MA 02764. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm 620, Phila., PA 19106.

MC 146409 (Sub-4TA), filed May 22, 1979. Applicant: WESTSHIP TRUCKING, INC., 3980 Quebec St., Suite 113, Denver, CO 80207. Representative: Donald K. Smith, 219 South Third St., Sterling, CO 80751. *Tires, tire casings, tubes and rubber products* between distributors of Western States Tire in Denver, CO; Scottsbluff, NE; Rapid City, SD; Ogden, Salt Lake City and Vernal, UT: Cheyenne and Rock Springs, WY on the one hand, and on the other Los Angeles, Long Beach and Oakland, CA; Jacksonville, Miami and Tampa, FL; New Orleans, LA; Baltimore, MD; New York City, NY; Portland, OR; Charleston, SC; Houston, TX; Norfolk and Richmond, VA; and Seattle, WA, for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Western States Tire Company, 5456 Seneca, Boulder, CO 80302. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 146409 (Sub-6TA), filed June 14, 1979. Applicant: WESTSHIP

TRUCKING, INC., 3980 Quebec, Suite 113, Denver, CO 80207. Representative: Donald K. Smith, 219 South 3rd St., Sterling, CO 80751. *Steel bands, hose clamps, wire, buckles, hand tools, cable and bolts* between Denver, CO and ports cities of Baltimore, MD; New York City, NY and Houston, TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Band-It Corporation, 4700 Dahlia St., Denver, CO 80216. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 146409 (Sub-7TA), filed June 14, 1979. Applicant: WESTSHIP TRUCKING, INC., 3980 Quebec, Suite 113, Denver, CO 80207. Representative: Donald K. Smith, 219 So. 3rd St., Sterling, CO 80751. *Agricultural machinery, implements and parts; raw materials used in the manufacture, production and distribution of the above* between Hesston, KS; Wabash, IN; Oregon, IL; Claremore, OK on the one hand, and on the other, Baltimore, MD; Newark and Port Elizabeth, NJ; Charleston, SC; Savannah, GA; New Orleans, LA; Houston, TX and Chicago, IL serving all intermediate port cities for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Hesston Corporation, Hesston, KS 67062. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 146438 (Sub-3TA), filed May 21, 1979. Applicant: ETV, Inc., P.O. Box 393, Comstock Park, MI 49321. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. (1) *Frozen foods* from the facilities of Lloyd J. Harriss Pie Co., at or near Saugatuck, MI and Louisville, KY to points in AL, AZ, AK, CA, CO, DE, FL, GA, ID, KS, LA, MD, MS, MO, MI, NE, NV, NJ, NM, NY, NC, ND, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, and WY; (2) *Materials and supplies* (except commodities in bulk) from the above named states to the facilities of Lloyd J. Harriss Pie Co. at or near Saugatuck, MI and Louisville, KY; (3) *Frozen foods* from the facilities of Saluto Foods Corporation at or near Benton Harbor, MI and Montgomery and Fort Payne, AL to points in CA, OR, WA, NV, UT, CO, FL, GA, AL, NC, SC, VA, MD, PA, NY, NJ, DE and DC; (4) *Equipment, materials and supplies* from above named states to the named facilites of Saluto Foods Corporation. All of the above restricted to the transportation of shipments originating at and destined to the named origin and destination points. For 180 days. Supporting shipper(s): Lloyd J. Harriss Pie Co., 350 Culver Street, Saugatuck MI 49453 and Saluto Foods Corporation, 330 West Main Street, Benton Harbor, MI 49002. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 146519 (Sub-5TA), filed April 23, 1979. Applicant: CALIANA MARKETING, INC., 2120 Prarieton Road, Terre Haute, IN 47802. Representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. Contract carrier: irregular routes: *Baking powder,* except in bulk, from the facilities of Hulman & Co., at or near Terre Haute, IN, to Arlington, Dallas, Ft. Worth, Houston, San Antonio, Lubbock, Tyler and El Paso, TX; Phoenix, AZ; Denver, CO; Fresno, Los Angeles, San Francisco, Union City and Sacramento, CA. Under contract with Hulman & Co. at Terre Haute, IN, for 180 days. Supporting shipper: Hulman & Co., 900 Wabash, Terre Haute, IN 47807. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeking 90 days is being filed.

MC 146548 (Sub-2TA), filed March 20, 1979. Applicant: BROKERS DISTRIBUTING, INC., 1020 Hall SW., Grand Rapids, MI 49503. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. *Paper and paper products and materials used in the manufacture and distribution thereof.* From S. D. Warren Paper Company, a Division of Scott Paper Company, of Muskegon, MI to the States of FL, UT, AZ, CA, WA and TX. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S. D. Warren Paper Company, 2400 Lakeshore Dr., Muskegon, MI 49441. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 146568 (Sub-4TA), filed May 21, 1979. Applicant: PHOENIX BIRD, INC., Suite 118, 1 Neshaminy Plaza, Street Rd. & Bristol Pike, Cornwells Heights, PA 19020. Representative: Ronald N. Cobert, 1730 M St., NW., Washington, DC 20036. Contract carrier, irregular routes, *chemicals* (except in bulk), from facilities of Ashland Chemical Co. at or near Easton, PA to points in AR, CA, CO, ID, KS, OR, TX, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ashland Chemical Co., Div. of Ashland Oil Inc., 5200 Blazer Parkway, Dublin, OH 43017. Send protests to: ICC, 101 N. 7th St., Room 620, Phila., PA 19106.

MC 146578 (Sub-4TA), filed June 4, 1979. Applicant: PALMETTO MOTOR LINES, INC., 7153 Lone Oak Road, P.O. Box 6445, Spartanburg, SC 29303. Representative: Nina G. Shults (same as applicant's). *Iron and steel articles,* from Greenville County, SC, on the one hand, and, on the other, points in NC, GA, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amico Cold Drawn Corp., P.O. Box 1087, Greenville, SC 29602. Send protests to: E. E. Strotheid, D/S, ICC, Rm 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 146578 (Sub-5TA), filed June 15, 1979. Applicant: PALMETTO MOTOR LINES, INC., P.O. Box 6445, Spartanburg, SC 29304. Representative: Donald E. Cross, 918 16th Street, NW., Suite 700, Washington, DC 20006. *Foodstuffs and such other commodities as are dealt in by wholesale, retail, chain, and grocery houses* from the facilities of Transales Corporation and Savannah Foods and Industries, Inc., in Chatham County, GA to points in SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Transales Corporation, P.O. Box 9177, Savannah, GA. Send protests to: E. E. Strotheid, E/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201..

MC 146639 (Sub-1TA), filed May 21, 1979. Applicant: THE LIMITED STORES, INC., One Limited Parkway, Columbus, OH 43216. Representative: Edward F. Schiff, 1333 New Hampshire Ave., NW., Washington, DC 20036. Contract, Irregular, *Merchandise as is dealt in by retail department stores and equipment, materials and supplies used in the conduct of such business, except commodities, in bulk, in tank vehicles,* from Los Angeles, CA to Columbus, OH under continuing contract or contracts with Federated Department Stores, Inc. and its divison, namely, Lazarus Dapartment Stores, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lazarus Department Stores, Town & High Streets, Columbus, OH. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 146678 (Sub-1TA), filed May 14, 1979. Applicant: SOUTHLAND TRANSPORTATION, INC., P.O. Box 7760 Washington, DC 20044. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 13th and Pennsylvania Ave., NW., Washington, DC 20004. *Canned and preserved foodstuffs,* from the facilities of Heinz USA, Division of H. J. Heinz Co. at or near Greenville, SC to points in TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send

protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 146688 (Sub-6TA), filed May 22, 1979. Applicant: ROAD WEST, INC., 1315 E. Holt Blvd., P.O. Box 3637, Ontario, CA 91761. Representative: Peter R. Atchison (same address as applicant). *Contract:* Irregular: *Industrial fasteners, auto parts and materials, equipment and supplies used in the equipment maintenance & auto parts industries,* from shipper's Elizabethtown, Kentucky plant to Bakersfield, CA; Kent, WA; & Grand Prairie, TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Bowman Distribution Div., Barnes Group, Inc., 850 E. 72nd St., Cleveland, OH 44103. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 146699 (Sub-4TA), filed May 31, 1979. Applicant: KENNETH E. JONES AND JAMES H. PARRISH, d.b.a. DESOTO TRAIL, 282 East Main St., Franklin, NC 28734. Representative: Bruce E. Mitchell, Esq.—Serby & Mitchell, P.C., 3390 Peachtree Rd., NE, Atlanta, GA 30326. *Contract* carrier-irregular routes: *Mica (except in bulk)* from the facilities of Franklin Mineral Products Company located at or near Franklin, NC to points in NY, NJ, DE, OH, KY, SC, IL, OR, CA, WA, MA, MT and MI under contract or continuing contracts with Franklin Mineral Products Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Franklin Mineral Products Company, 115 Depot St., Franklin, NC 28734. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 146838 (Sub-1TA), filed April 20, 1979. Applicant: NOBLE EXPRESS, INC., Route 3, Box 211A, Noblesville, IN 46060. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract carrier:* irregular routes: *Paper and paper products and materials, equipment and supplies (except commodities in bulk) used in the manufacture, processing, sale and distribution of paper and paper products,* for 180 days. Supporting shipper: R. R. Donnelley & Sons Co., 2223 King Drive, Chicago, IL 60616. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 146859 (Sub-1TA), filed April 23, 1979. Applicant: WESTERN STATES FREEPORT, INC., 4280 Yellowstone Avenue, P.O. Box 2618, Pocatello, ID 83201. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. *Contract carrier:* Irregular routes: *Products manufactured and/or distributed by Amway Corporation,* between Portland, OR and Kent, WA on the one hand and points in ID and MT on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Amway Corporation, 1800 East Dyer Road, Santa, Ana, CA 92705. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 146868 (Sub-1TA), filed April 26, 1979. Applicant: B & W GRAIN & FEED SERVICE INC., P.O. Box 475, Railroad St., Oakboro, NC 28129. Reprsentative: Brown, Brown, Brown, P.O. Drawer 400, Albemarle, NC 28001. *Animal, fish, and poultry feed, foodstuffs, and grain,* in dump vehicles, between points in NC, SC, and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Co., Raleigh, NC. Send protests to: Terrell Price, DS, ICC, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 146869 (Sub-1TA), filed May 11, 1979. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. (1) *New furniture;* from the plantsites and warehouse facilities of Bassett Furniture Industries of North Carolina, Inc. in Newton and Hiddenite, NC to points in the States of OH, MI, IL and IN: (2) *damaged and rejected shipments of new furniture;* from points in the States of OH, MI, IL and IN to the plantsites and warehouse facilities of Bassett Furniture Industries of NC, Inc. in Newton and Hiddenite, NC; (3) *supplies and equipment used in the manufacture and distribution of new furniture;* from points in the States of OH, MI, IL and IN to the plantsites and warehouse facilities of Bassett Furniture Industries of North Carolina Inc. in Newton and Hiddenite, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bassett Furniture Industries of N.C. Inc., P.O. Box 47, Newton, NC 28658. Send protests to: Terrell Price, D/S, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 146879 (Sub-1TA), filed May 4, 1979. Applicant: L. E. CAWOOD, d.b.a. L. E. CAWOOD PRODUCE, P.O. Box 83, Springdale, AR 72764. Representative: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 E. State Street, Columbus, OH 43215. *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and equipment, materials, and supplies used in the conduct of such business (except commodities in bulk), from Cincinnati and Columbus, OH to Little Rock, AR; St. Louis, MO; Memphis and Nashville, TN; and Dallas and Houston, TX, for 180 days as a contract carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper: The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201. Send protests to: William H. Land, Jr., D/S, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146888 (Sub-1TA), filed April 27, 1979. Applicant: GLASS CONTAINER TRANSPORT, INC., Rt. 1, Box 271, Ridgeway, SC 29130. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Insulation and insulating materials,* from Villa Rica, GA to points in AL, FL, GA, NC, SC and TN, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper: Southern Insulation Manufacturers, Inc., 905 Cannon Street, Villa Rica, GA 30180. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 146889R (Sub-1TA), filed May 11, 1979. Applicant: JAY K. REYNOLDS, Route 7, Box 225, Rogersville, TN 37857. Representative: Same as applicant. *Contract carrier:* irregular routes: *Animal feed, poultry feed, and ingredients (except in bulk, in tank)* from Louisville, KY to points in TN in and east of Roberts, Sumner, Williamson, Rutherford, Maury, Bedford, Marshall, Lincoln, and Franklin Counties, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hubbard Milling Company, 932 East Chestnut Street, Louisville, KY 40204. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 146898 (Sub-1TA), filed May 11, 1979. Applicant: MICKS SERVICE INC., 2146 Camanche Ave., Clinton, IA 52732. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. Contract authority—*Malt beverages* from Detroit, MI; Minneapolis-St. Paul, MN; and Milwaukee, WI to Clinton, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hawkeye Beverage, Inc., P.O. Box 984, Clinton, IA 52732. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146988 (Sub-1TA), filed May 11, 1979. Applicant: TARA LINES, INC., 809 Williams Street, Fredericksburg, VA 22401. Representative: L. C. Major, Jr., Suite 400, Overlook Office Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between the junction of VA Hwys 612 and 610 in Stafford County, VA and Washington, DC and return serving all intermediate points on VA Hwy 610 and its intersection with VA Hwy 612 and I-95 for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 11 supporting shippers to this application whose statements may be examined at the ICC, Washington, DC or the Richmond, Va. field office. Send protests to: Paul D. Collins, DS, ICC, Room 10-502 Federal Bldg., 400 North 8th St., Richmond, VA 23240.

MC 146989 (Sub-1TA), filed June 8, 1979. Applicant: GOLDEN-HAMMONS CARTAGE CO., INC., d.b.a. G & H CARTAGE, 1749 Florida, Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *General Commodities,* moving on freight forwarder bills of lading, between Memphis, TN; Chicago, IL; Dallas, TX; Detroit, MI; Atlanta, GA; New York, NY; and New Orleans, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Air Express International, 2912 Barris Drive, Memphis, TN. (2) WTC Air Freight, 3103 Directors Row, Memphis, TN 38131. (3) Circle Air Freight Corporation, 3021 Millbranch, Memphis, TN. Send protests to: Floyd A. Johnson, District Supervisor, ICC, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 146989 (Sub-2TA), filed June 12, 1979. Applicant: GOLDEN-HAMMONS CARTAGE CO., INC., d.b.a. G & H CARTAGE, 1749 Florida, Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Laundry dryers, and materials, equipment and supplies utilized in the manufacture or sale thereof,* between the facilities of McGraw-Edison Co. located at or near Madisonville, KY, on the one hand, and, on the other, Memphis, TN and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McGraw-Edison Co., 1275 Davis Road, Elgin, IL. Send protests to: Floyd A. Johnson, District Supervisor, ICC, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 146998 (Sub-1TA), filed May 14, 1979. Applicant: SEVERALL TRANSPORT LIMITED, 123 Rexdale Blvd., Rexdale, Ontario M9W 1P3. Representative: S. Harrison Kahn, Suite 733 Investment Bldg., 1511 K Street, NW., Washington, DC 20005. *Concrete Pipe,* from ports of entry on the Niagara Frontier between the United States and Canada and Amherst, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bestpipe Limited, Kitchener, Ontario. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron Street, Buffalo, NY 14202.

MC 146999 (Sub-1TA), filed April 26, 1979. Applicant: RATLIFF TRUCKING CORPORATION, INC., 6816 Devonshire, Canton, MI 48187. Representative: Robert P. Tiplady, 711 West Ann Arbor Trail, Plymouth, MI 48170. *Contract carrier:* irregular routes: *Motor vehicle parts and components and related material and packaging and shipping supplies,* between Rawsonville and Ypsilanti, MI, on the one hand, and, on the other, Cincinnati and Sydney, OH, South Bend, IN, and Chicago, IL, and the Commercial Zones thereof, under continuing contracts or contract with Ford Motor Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor Company, McKean & Textile Roads, Ypsilanti, MI 48197. Send protests to: C. R. Fleming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 147008 (Sub-2TA) filed April 30, 1979. Applicant: ALBERT NEAL WEBBER, JR., D.B.A. A. N. WEBBER, P.O. Box 95, Chebanse, IL 60922. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. *(1) Water heaters, house heating boilers and glass lined tanks,* from Kankakee, IL to points in MT, CO, ND, WY, that part of SD west of the Missouri River and that part of KS and NE west of U.S. 183; *(2) materials and supplies used in the manufacture of the aforesaid commodities (except commodities in bulk),* from points in CO to Kankakee, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A.O. Smith Corporation, P.O. Box 28, Kankakee, IL 60901. Send protests to: Annie Booker, TA, ICC, 1386 Dirksen Bldg. 219 So. Dearborn St., Chicago, IL 60604.

MC 147018 (Sub-1TA) filed May 18, 1979. Applicant: D K TRUCKING, 3121 E. La Palma, Unit T, Anaheim, CA 92806. Representative: Doug Nakamura, (same address as applicant). *Mobile and modular homes, modular office and school buildings,* from the Counties of Los Angeles, Orange, San Bernardino, Riverside, San Diego, CA to AZ and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Silvercrest Industries, Inc., 8700 Stanton Avenue, Buena Park, CA 90620. Hallmark Southwest Corporation, 25525 Redlands Blvd., Loma Linda, CA 92354. Fuqua Homes, 14282 E. 6th Street, Corona, CA. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 147019 (Sub-1TA), filed May 8, 1979. Applicant: WENGERT TRANSPORTATION, INC., d.b.a. CITY DELIVERY, 651—58th Avenue, S.W., Cedar Rapids, IA 52404. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *General commodities (except those of unusual value, Class A and B explosives, household goods, commodities in bulk, and those requiring the use of special equipment)* between Cedar Rapids, IA and O'Hare Field in Chicago, IL for 180 days. Restricted to transportation of traffic having a prior or susequent movement by air. An underlying ETA seeks 90 days authority. Supporting shipper(s): Airborne Freight Corporation, 1135 Army Post Rd., Des Moines, IA 50315. MGD Graphic Systems Division, Rockwell International, 4700 Bowling St., S.W., Cedar Rapids, IA 52404. Rockwell International, Collins Division, 440 Collins Rd. NE., Cedar Rapids, IA 52402. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147028 (Sub-1TA), filed May 4, 1979. Applicant: MICHAEL L. GINEVRA, d.b.a. MICHAEL L. GINEVRA TRUCKING, 4018 Midvale Street, San Antonio, TX 78229. Representative: Kellner & Stefflre, 700 S. Flower Street, Suite 1724, Los Angeles, CA 90017. *Contract carrier*—irregular routes: *Glassware, bottles, stemware, crystal, straw hats, clay pots, iron chain, metal parts, cotton wearing apparel, knock-down cartons for packing and display material,* between the facilities of Riekes Crisa Corporation at or near Laredo, TX, on the one hand, and, on the other, points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riekes Crisa Corporation, 1818 Leavenworth, Omaha, NE 68102. Send protest to: Martha A. Powell, T/A, I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 147038 (Sub-1TA), filed June 15, 1979. Applicant: CLAYTON STRANGE, Route 2, Box 38, Wallace, MI 49893. Representative: Jabas, Morrison & Schwaba, 903 Pierce Avenue, Marinette, WI 54143. *Contract Carrier:* Irregular routes: *Bulk castings and scrap borings*

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and scrap castings from foundry and machine shops: between Marinette, WI, on the one hand, and on the other hand, Budd Corporation Plant, Clinton, MI; Motor Wheel Company, Lansing, MI; Budd Company Plant, Detroit, MI; Buick Motor Division Plant, Flint, MI; Holland, MI and Saginaw, MI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Waupaca Foundry, a subsidiary of the Budd Company, Ogden Street, Marinette, WI, 54143. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 147029 (Sub-1TA), filed June 12, 1979. Applicant: WALLACE TRUCKING, INC., 941 Elbon St., Toledo, OH 43608. Representative: Arthur R. Cline, Esq., 420 Security Bldg., Toledo, OH 43604. Contract carrier, irregular routes: *Molten aluminum, aluminum ingots, pigs, sows, scrap, dross and residues, materials and supplies used in the smelting and processing of aluminum,* between points in IL, IN, KY, MI, NY, OH, PA, WV, and WI, under continuing contract(s) with U.S. Reduction Co., for 180 days. Supporting shipper(s): U.S. Reduction Company, 4610 Kennedy Ave., E. Chicago, IN 46312. Send protests to: D/S, I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 147039 (Sub-1TA), filed May 4, 1979. Applicant: TSI, 21055 West Road, Trenton, MI 48183. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030. *Automotive Parts, materials, accessories and supplies* used in the manufacture of automotive parts and automotive vehicles (1) between the sites of the Ford Motor Company plants and/or its suppliers in Michigan on the one hand and on the other Ford Motor Company plants and its suppliers in CA, GA, IL, OH, NJ, NY, FL, MN, VA, TX, KS, MO, WI, PA, TN, KY, and IN (2) Between the sites of the Ford Motor company and/or its suppliers in Toledo, and its commercial zone, and Cleveland, and its commercial zone, OH, on the one hand and on the other Ford Motor Company plants and/or its suppliers located at points in the states listed in (1) above except OH. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor Company, Rotunda Drive at Southfield, Dearborn, MI, 48121. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 147048 (Sub-1TA), filed May 21, 1979. Applicant: BOARD OF TRUSTEES OF THE GALVESTON WHARVES, 802 25th St., Galveston, TX 77553. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77002. Common carrier over irregular routes. *General commodities in ocean going containers* and empty containers for the transportation of ocean traffic between points in the commercial zone of Houston, TX, restricted to traffic having a prior or subsequent movement by water for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seatrain Lines Incorporated, 6885 Jimmy Carter Blvd., Suite 1050, Norcross, Georgia 30071. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 147049 (Sub-1TA), filed May 1, 1979. Applicant: MAN TRUCKING, INC., 90 Jacob's Addition, Ida Grove, IA 51445. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. *Construction machinery, equipment, materials, supplies and parts used in the manufacturing and distribution of construction machinery and equipment,* between the facilities of Gomaco Corp. at or near Ida Grove, IA, on the one hand, and on the other, points in the United States (except HI) and Canada, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gomaco Corp., a Division of Godberson-Smith Construction Co., Highway 59 & 175, Ida Grove, IA 51445. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 147059 (Sub-1TA), filed May 18, 1979. Applicant: NATIONWIDE FREIGHT CONSTULTANTS, 416 Windflower Lane, Placentia, CA 92670. Representative: Earl L. Bailey (same address as applicant). *Contract:* Irregular: Plastic Articles NOI. Applicant does not wish to transport commodities in bulk or tank vehicles. From points in CA on one hand to Phoenix, AZ, on the other hand, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Monsanto Company, 611 E. Cerritos, Anaheim, CA 92805. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 147068 (Sub-2TA), filed April 25, 1979. Applicant: ENERGY TRANSPORTERS, INC., 5119 N. 19th Ave., Phoenix, AZ 85015. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012. Contract, irregular, *petroleum products, in bulk, in tank vehicles, (including black oils and liquid petroleum gas),* from Contra Costa, Kern, Kings, Los Angeles, San Fransciso, Santa Barbara, Solano and Ventura Counties, CA, Denver and Mesa Counties, CO, Eddy, Lea, McKinley and San Juan Counties, NM, Bexar, Brazoria, Chambers, Dimmit, El Paso, Ector, Galveston, Gregg, Harris, Howard, Hutchinson, Jefferson, Live Oak, Moore, Nueces, Potter, Smith, Taylor, Tarrant, Titus and Ward Counties, TX, Davis and Salt Lake Counties, UT, to points in AZ. Note: Representative points in AZ to be served are: Casa Grande, Clarkdale, Flagstaff, Fredonia, Goodyear, Holbrook, Kingman, Page, Payson, Phoenix, Prescott, Safford, Sells, Sierra Vista, Stanfield, Tucson, Wickenburg, Willcox and Winslow, for 180 days. Supporting shipper: B.S. & W. Energy Corp., 5119 N. 19th Ave., Phoenix, AZ 85015. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, Az 85025.

MC 147069 (Sub-1TA), filed June 5, 1979. Applicant: CAL-THERMO EXPRESS, 17327 Ventura Blvd., Suite 301, Encino, CA 91316. Representative: Knapp, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Commodities used in the manufacture of plastic articles, except in bulk and plastic articles,* (1) between points in CA, on the one hand, and, on the other, points in TX, LA, OK, KS, MO and AR and points east of the Mississippi River; and (2) between points in TX, LA, OK, KS, AR and MO and points east of the Mississippi River, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Cal Thermoplastics, Inc., 17327 Ventura Blvd., Suite 301, Encino, CA 91316. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 147078 (Sub-1TA), filed May 9, 1979. Applicant: LOWELL CONNELL, Route 4, Box 74, Arkadelphia, AR 71923. Representative: W. H. Arnold, P.O. Box 480, Arkadelphia, AR 71923. (1) *Wood Burning Stoves and Steel products,* (2) *Parts* used in manufacturing wood burning stoves, (3) *Steel,* (1) From the facilities of Interstate Steel, Inc. at or near Arkadelphia, AR, to points in the States of TX, LA, MS and OK, (2) From Memphis, TN to the plantsite of Interstate Steel Supply, Inc., (3) From points in TX to the plantsite of Interstate Steel Supply, Inc. at or near Arkadelphia, AR, for 180 days as a contract carrier over irregular routes. Supporting Shipper(s): Interstate Steel Supply, Inc., P.O. Box 323, Arkadelphia, AR 71923. Send protests to: William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 147079 (Sub-1TA), filed May 22, 1979. Applicant: NATIONWIDE MAGAZINE & BOOK DISTRIBUTORS, INC., 2111 Rose Lane (P.O. Box 746), Irving, TX 75061. Representative: Mert Starnes, P.O. Box 2207, Austin, TX 78766. (1) *Plastic Pellets and Granules (except in bulk),* from the facilities of Bamberger Polymers, Inc., in Houston, TX, to points in the US (except AK, HI and TX); and (2) *Magazines, magazine parts, printed inserts and paperback books (except commodities in bulk),* from points in the US (except AK, AR, HI, LA, NM, OK and TX) to points in AR, LA, NM, OK, and TX for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): There are five (5) supporting shippers. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 75202.

MC 147099 (Sub-2TA), filed May 24, 1979. Applicant: RAUCH INDUSTRIES, INC., 6048 South York Rd., Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW, Washington, DC 20005. *Contract* carrier-irregular routes; *Department store merchandise* from Charleston and Hickory, NC to the facilities of M. O'Neil Company located at or near Mogadore and Akron, OH under a continuing contract(s) with M. O'Neil Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M. O'Neil Company, 226 S. Main St., Akron, OH 44308. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC147109 (Sub-1TA), filed May 14, 1979. Applicant: MIRRO MARINE DIVISION, MIRRO ALUMINUM COMPANY, 804 Pecor St., Oconto, WI 54153. Representative: James Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. Contract carrier; irregular routes; *Boats* from Anaheim, CA to Alexandria, MN under continuing contract(s) with ABW, Inc., Alexandria, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ABW, Inc., P.O. Box 399, Alexandria, MN 56308. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC147118 (Sub-1TA), filed May 16, 1979. Applicant: TRACY TRANSPORT, 348 West 162nd Street, South Holland, IL 60473. Representative: William H. Shawn, Esquire, 1730 M Street, NW., Washington, D.C. 20036. *Salt,* (1) Between Lemont, Chicago, and South Holland, IL on traffic having a prior movement by water; (2) Between Cook, Kane, and Will Counties, IL, on the one hand, and, on the other, points in MI, IN, and WI for 180 days. An underlying ETA was granted 90 days' authority. Supporting shipper(s): Hardy Salt Company, 800 South Vandeventer, St. Louis, MO. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC147179 (Sub-1TA), filed May 4, 1979. Applicant: JET SERVICES, INC., 1946 S. First St., Milwaukee, WI 53204. Representative: Wm. C. Dineen, 710 N. Plankinton Ave. Milwaukee, WI 53203. (1) *General commodities,* (except Classes A and B explosives, household goods as defined by the Commission , commodities in bulk, and commodities which because of size or weight required the use of special equipment) in containers or trailers having an immediate prior or subsequent movement by rail or water, and (2) empty containers, empty trailers and empty trailer chassis, between points in the Chicago, IL Commercial Zone and points in the Milwaukee, WI Commercial Zone, for 180 days. Supporting shipper(s): There are 23 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC147188 (Sub-1TA), filed April 19, 1979. Applicant: LOUIS J. LANE, Box 148, Trego, WI 54888. Representative: Nancy Johnson, 103 E. Washington St., Crandon, WI 54520. *Paper and paper products* from Brokaw, WI to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wausau Paper Mills Co., Brokaw, WI 54117. Send protests to: G. Daugherty, TA, ICC, Federal Bldg., 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC147189 (Sub-1TA), filed April 26, 1979. Applicant: J & M CARTHAGE, INC., 101 S.E. 4th Street, Oklahoma City, OK 73125. Representative: William P. Parker, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Contract* carrier: *irregular* routes; *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commmodities in bulk and those requiring special equipment), from Oklahoma City, OK, to Tulsa, OK, restricted to a transportation service to be performed under continuing contract or contracts with Target Stores, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Target Stores, 7120 Highway 65 N.E., Fridley, MN 55432. Send protests to: District Supervisor, ICC., Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 147198R (Sub-1TA), filed May 16, 1979. Applicant: P. & E. I. TRUCK LINES, INC., P.O. Box 158, Hoopeston, IL 60942. Representative: Albert A. Andrin, 180 North LaSalle, Chicago, Illinois 60601. *Anhydrous ammonia,* in bulk, in tank vehicles, from points in IN and IA to points in IL for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): F. S. Services, 1701 Towanda Avenue, Bloomington, IL 61701. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 147209 (Sub-2TA), filed May 23, 1979. Applicant: QUASAR EXPRESS, INC., 1812 K Avenue, P.O. Box 40, Sioux Falls, SD 57101. Representative: Lyle A. Clemetson (same address as applicant's). *Canned and preserved foodstuffs* from the facilities of Heinz USA, Div. of H. J. Heinz at or near Muscatine, and Iowa City, IA to points in MN, NE, ND and SD restricted to traffic originating at the named facilities and destined to the named states for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 147218 (Sub-2TA), filed May 31, 1979. Applicant: AMERICAN CHOICE TRANSPORT, INC., 614 East Main St., Lewisville, TX 75067. Representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, TX 75202. Contract carrier, irregular route, *Peanuts and peanut products, peanut butter, peanut and vegetable oils (except in bulk), animal feedstuffs derived from peanuts and peanut products including peanut meal feeds, pickles and honey* between the facilities of Portales Valley Mills, Inc., American Nut Corporation, and Choice Products, Inc., at or near Lewisville, TX and Portales, NM on the one hand, and on the other, CA, AZ, NM, CO, TX, OK, KS, MO, IL, WI, AR, LA, MS, TN, AL, GA, and FL for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Portales Valley Mills, Inc., 1355 North Chicago Avenue, Portales, NM 88130. American Nut Corporation, 614 East Main, Lewisville, TX 75067. Choice Products, Inc., P.O. Box 357, Celina, TX 75009. Send protests to: Opal M. Jones, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 147229 (Sub-1TA), filed June 6, 1979. Applicant: GULF COAST DELIVERY, INC., 7850 Airport Blvd., Mobile, AL 36608. Representative: David E. Upchurch, 2 Christine Circle, Mobile, AL 36619. *General commodity express shipments weighing less than 200 lbs.,* between Mobile, AL, Pensacola, FL,

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Pascagoula, MS, Gautier, MS and their commercial zones, using Interstate 10, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Singing River Hospital System, 2809 Denny Avenue, Pascagoula, MS 39567. Cleveland Electric, Rt. 9, Box 264–A, Pensacola, FL 32504. W. W. Grainger, Inc., 1236 Beltline Highway, Mobile, AL 36607. Motion Ind. Inc., 3411 Beltline Hwy., Mobile, AL 36607. Standard Product Company, Inc., P.O. Box 646, Moss Point, MS 39563. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 147238 (Sub-1TA), filed May 25, 1979. Applicant: THOMAS B. BURCHFIELD d.b.a. ROAD RUNNER'S SERVICE, 2909 Hilltop Drive, Napa, CA 94558. Representative: Marvin Handler, Handler, Baker & Greene, P.C., 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Contract carrier,* irregular routes: *Wine corks, tin lead capsules and wine nets,* Import and Export freight between ports in Oakland, Alameda, Richmond and San Francisco, CA; and between San Francisco, CA and wineries in Livermore, San Jose, Napa, Yountville, Oakville, Rutherford, St. Helena, Calistoga, Geyserville, Healdsburg, Sonoma, Santa Rosa and Guerneville, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Latchford Package Company, 1823 Egbert Avenue, San Francisco, CA 94124. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 147239 (Sub-1TA), filed May 21, 1979. Applicant: O'DELL TRANSPORT, INC., P.O. Box 20705, Phoenix, AZ 85036. Representative: David Robinson, 3003 N. Central Ave., Suite 2101, Phoenix, AZ 85012. Contract, irregular, *sugar, molasses, syrup and animal bone charcoal not in bulk tank vehicles,* between CA, on the one hand and, on the other hand, AZ, AR, CO, GA, ID, IL, IN, IA, KS, KY, LA, MA, MI, MN, MO, MT, NV, NM, NC, OH, OK, OR, PA, SC, TN, TX, UT, WA, WI and over the highways of additional states WY, AL, MS, NY, CT, WV, VA and MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: C & H Sugar Co., 1 California St., San Francisco, CA 94106. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave. Phoenix, AZ 85025.

MC 147248 (Sub-1TA). Applicant: CONTAINER SHUTTLE SERVICE CORP., 6950 College Oaks "G" Beaumont, TX 77707. Representative: Edward F. Schiff, 1333 New Hampshire Ave. NW., Washington, D.C. 20036. *Plastic materials in export containers* between Orange, TX to Houston, TX. Restricted to traffic having a subsequent movement by water in interstate or foreign commerce. An underlying ETA seeks 90 days authority. Supporting shipper: Allied Chemical Corporation, P.O. Box 1087–R, Morristown, NJ 07960. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave., #8610, Houston, TX 77002.

MC 147259 (Sub-2TA), filed June 8, 1979. Applicant: CHURCHILL TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: Gerald E. Churchill, 5000 Wyoming, Dearborn, MI 48126. *Automotive parts, materials, supplies, equipment and related articles* used in the manufacturing and production of motor vehicles; between Detroit, MI; Cleveland, OH; Ashtabula, OH; Mansfield, OH; Marysville, OH; Chicago, IL; Henderson, KY; Columbus, IN; and their commercial zones, on the one hand, and Jacksonville, FL; Ft. Lauderdale, FL; Miami, FL and their commercial zones, on the other hand. Also between Detroit, MI and the commercial zone of Detroit, on the one hand, and Jacksonville, FL; Ft. Lauderdale, FL; Miami, FL and their commercial zones, on traffic with prior or subsequent movement in foreign commerce for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor Company, One Parklane Blvd., Parkland Towers-East, Suite 200, Dearborn, MI 48126. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 49833.

MC 147268 (Sub-1TA), filed June 13, 1979. Applicant: A–AMERICAN MOVING & STORAGE, INC., 902 Harney St., Omaha, NE 68102. Representative: Walter W. Powell, (same as above). *Contract carrier:* irregular routes: *Retail store fixtures, and equipment, materials and supplies used in the manufacture thereof,* (1) between the facilities of Lozier Corporation located at or near Omaha, NE; Cucamongo, CA; Scottsboro, AL; McClure, PA; and Kansas City, MO; and (2) between the facilities at Lozier Store Fixtures, Inc., located at or near Omaha, NE; Cucamongo, CA; Scottsboro, AL; McClure, PA, on the one hand, and on the other, points in the United States (except AK and HI), under contract with Lozier Store Fixtures, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lozier Store Fixtures, Inc., 4401 No. 21st St., Omaha, NE. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 147278 (Sub-1TA), filed May 29, 1979. Applicant: GARY WETHERELL, d.b.a. Ranger Truck, P.O. Box 542, Hutchinson, MN 55350. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Boulevard, Minneapolis, MN 55416. *Iron and steel articles and aluminum* (1) from Cook and Putnam Counties, IL, Lake and Porter Counties, IN to the facilities of Keelor Steel and Aluminum Co. located at or near Minneapolis, MN; and (2) from the facilities of Keelor Steel and Aluminum Co. at or near Minneapolis, MN to points in Cook and Putnam Counties, IL, Lake and Porter Counties, IN and points in IA and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Keelor Steel & Aluminum Co., 5101 Boone Avenue North, Minneapolis, MN 55428. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, South 4th Street, Minneapolis, MN 55401.

MC 147279 (Sub-1TA), filed May 25, 1979. Applicant: LEROY O. SALO, d.b.a. Salo Trucking, Route 1, Box 49, Gilbert, MN 55741. Representative: James T. Flescher, 1745 University Avenue, St. Paul, MN 55104. *Such commodities as are dealt in, used, distributed or manufactured by lawn and garden supply houses, and the materials and supplies used in the manufacture, distribution sale or production of such commodities* between Central Lakes, MN, on the one hand, and, on the other, points in IA, IL, MI, MO, MT, NE, ND, SD, WI and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joseph A. Leoni, d/b/a Power-O-Peat, P.O. Box 956, Gilbert, MN 55741. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, South 4th Street, Minneapolis, MN 55401.

MC 147298 (Sub-1TA), filed May 31, 1979. Applicant: ROGER D. LOVEGREN d.b.a. TAG-A-LONG TRUCKING, 6034 Hazeltine Ave., Van Nuys, CA 91401. Representative: Roger D. Lovegren, 6946 Cantaloupe Ave., Van Nuys, CA 91405. *Contract:* Irregular: *Carnival merchandise,* from Los Angeles and Orange Counties to Reno, Sparks, Carson City and Las Vegas, NV and return, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Fiesta Concession Corp., 1119 25 Street, Santa Monica, CA 90403. Send protests to: Irene Carlos, T-A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 147349 (Sub-1TA), filed June 1, 1979. Applicant: VIRGINIA RAILROAD TRANSPORTATION COMPANY, INC., 201 Dial Rock Road, Box 568, Tazewell, VA 24651. Representative: C. E. Dunford, 201 Dial Rock Road, Tazewell, VA 24651. *Work crews and their equipment* for the N&W Railroad, in VA and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Norfolk and Western Railway, 800 Princeton Avenue, P.O. Box 1010, Bluefield, WV 24701. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 147369 (Sub-1TA), filed June 7, 1979. Applicant: SOUTHERN NEVADA FLY ASH, INC., 4150 S. Flamingo Crest Dr., No. 4, Las Vegas, NV 89121. Representative: Richard C. Celio, 1415 West Garvey Ave., Suite 102, West Covina, CA 91790. *Contract carrier:* irregular routes: *Cement,* in bulk, from points at or near Lucerne Valley, CA to points in Clark County, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nevada Ready Mix, P.O. Box 42755, Las Vegas, NV 89104. Tri-Delta Building Materials, Company, Inc., 4675 Wynn Road, Las Vegas, NV 89103. Send protests to: W. J. Huetig, D.S., I.C.C., 203 Federal Bldg., 705 N. Plaza St., Carson City, NV 89701.

MC 147419 (Sub-1TA), filed April 23, 1979. Applicant: GAUB TRANSPORTATION, INC., 3987 Hilldale Avenue, Oroville, CA 95965. Representative: David P. Christianson, Knapp, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Contract carrier,* irregular routes: *moulding,* and materials, supplies and equipment utilized in the manufacture and production of molding between Sutter County, CA, on the one hand, and on the other, points in WA, OR, CA, NV, ID, MT, WY, UT, CO, AZ, NM, OK and TX, for 180 days. An underlying ETA seeking 90 days is being filed. Supporting shipper(s): Eagle Molding Company No. 1, P.O. Box 252, Yuba City, CA 95991. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

W–1318 (Sub-1TA), filed April 10, 1979. Applicant: LAKE TAHOE WATERBORNE TRANSIT SYSTEM, INC., P.O. Box 3615, Stateline, NV 89449. Representative: Sergey daSilva (same address as applicant). By decision entered July 13, 1979, the Motor Carrier Board granted applicant 180-day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, of passengers, between points in Nevada and California located on the shore of Lake Tahoe. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition, any interested person may file and serve a reply thereto. Send petitions and replies to: Interstate Commerce Commission, Washington, D.C. 20423.

[Notice No. 132]
July 17, 1979

MC 14215 (Sub-51TA), filed June 18, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. *Iron and steel and iron and steel articles,* from Weirton, WV and Steubenville, OH, to points in NJ, PA and CT, and *Materials, equipment and supplies, except commodities in bulk in tank vehicles,* on return, for 180 days. Supporting shipper(s): Weirton Steel, Div. of National Streel Corp., 3 Springs Road, Weirton, WV 26062. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 14215 (Sub-52TA), filed June 18, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. *Iron and steel articles and materials, equipment, machinery and supplies used in the manufacture of iron and steel articles, except in bulk in tank vehicles,* (1) between the facilities of United States Steel Corporation located at or near Cleveland, Lorain and Youngstown, OH, on the one hand, and, on the other, points and places in IL, IN and MI; (2) between the facilities of United States Steel Corporation located at or near Braddock, Clairton, Dravosburg, Duquesne, Homestead, Irvine, Johnstown, McKeesport, McKees Rocks, Pittsburgh and Vandergrift, PA, on the one hand, and on the other, points and places in IL, IN, MI and OH, for 180 days. Supporting shipper(s): United States Steel Corporation, 600 Grant St., Pittsburgh, PA 15230. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 52704 (Sub-233TA), filed June 27, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Containers, pulpboard, and materials and supplies,* between the facilities of Container Corporation of America at or near Fernandina Beach, FL, on the one hand, and on the other, points in GA and SC for 180 days. Supporting shipper(s): Container Corporation of America, P.O. Box 1225, 5835 E. Ponce DeLeon Avenue, Stone Mountain, GA 30086. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-234TA), filed July 2, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representive: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *(1) Corrugated paper cartons,* from the facilities of St. Joe Paper Co., located at or near Lake Wales, FL, to points in AL, GA, LA, MS, NC, SC, and TN; and *(2) Materials, equipment and supplies used in the manufacture or distribution of corrugated paper cartons* (except commodities in bulk), from points in the states named in (1) above, to the facilities of St. Joe Paper Company located at or near Lake Wales, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Joe Paper Company, 4025 Highway, 60 West, Lake Wales, FL 33853. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 107064 (Sub-134TA), filed July 5, 1979. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201 *Sodium Sulfate, in bulk* from Seagraves and Brownfield, TX to Kansas City, KS for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Ozark-Mahoning Co., 1870 South Boulder St., Tulsa, OK 74119. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 107295 (Sub-930TA), filed June 25, 1979. Applicant: PRE FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr, P.O. Box 146, Farmer City, IL 61842. *Composition board,* from Orangeburg County, South Carolina, to all points in TN, IN, MI, MS, NC and VA for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper: Holly-Hill Lumber Co., P.O. Box 128, Holly Hill, SC 29059. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 107515 (Sub-1254TA), filed June 22, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Road, Atlanta, GA 30326. *Appliances, equipment and parts thereof* from the facilities of the Tappan Company at or near Murray, KY, Nashville, TN and Dalton, GA to points in the U.S. (except AK, HI, WA, OR, NV, UT, CO, WY and MT) for 180 days. An underlying ETA

seeks 90 days authority. Supporting shipper: Tappan Company, 222 Chambers Road, Mansfield, OH 44901. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1255TA), filed June 27, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby and Marc A. Pearl, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., NE, Atlanta, GA 30326. *Canned and bottled non-alcoholic beverages* from the facilities of Shasta Beverages, Inc. at or near Birmingham, AL to points in FL, GA and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Shasta Beverages, Inc., 2609 Industrial Blvd., Hayward, CA 94545. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1256TA), filed June 27, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Road, Atlanta, GA. 30326.*Fresh and cured meats* from Asheboro, NC to points in OH, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Yates County Ham, P.O. Box 61, Asheboro, NC 27203. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1257TA), filed July 2, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., NE, Atlanta, GA 30326. *Cheese analog (except in bulk)* from Humboldt, TN to points in the U.S. (except AK, HI and TN) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Anderson-Clayton Foods, P.O. Box 226165, Dallas, TX 75286. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 111545 (Sub-287TA), filed June 25, 1979. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: J. Michael May, Suite 508, 1447 Peachtree St., NE, Atlanta, GA 30309. *Trailers, designed to be drawn by passenger automobiles* from Red Lake Falls, MN and Marshfield, WI to Blue Grass Depot at or near Richmond, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DMH Company, Red Lake Falls, MN. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Rm. 300, Atlanta, GA 30309.

MC 114604 (Sub-79TA), filed June 28, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE, Atlanta, GA 30326. *Canned foodstuffs* from the facilities of Pomona Products Corp. in Spalding County, GA to points in TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weaver Traffic Department, P.O. Box 58, Griffin, GA 30223. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Rm. 300, Atlanta, GA 30309.

MC 114725 (Sub-103TA), filed June 29, 1979. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: Donald F. Swerczek (same as above). *Asphalt, in bulk, in tank vehicles* from Casper, WY to points in SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. E. Regenscheid, Vice President, Komatz Construction, Inc., P.O. Box 498, St. Peter, MN 56082. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 115654 (Sub-153TA), filed June 28, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., NW., Washington, DC 20004. *Dairy products, imitation cream and imitation fruit drinks, water ices, ice mixes, water ice bars, sherbet, frozen desserts, and delicatessen products (except commodities in bulk), in vehicles equipped with mechanical refrigeration,* from the manufacturing and warehouse facilities of The Kroger Co. at or near Indianapolis, IN, to warehouses and stores of The Kroger Company at Little Rock, AR; Atlanta, GA; St. Louis, MO; Columbus, OH; and Memphis, TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kroger Company, 1014 Vine Street, Cincinnatti, OH 45201. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 116254 (Sub-274TA), filed July 2, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Mr. Hampton M. Mills (same address as above). *Chemicals, in bulk,* in tank vehicles, from (1) the facilities of Monsanto Company located at or near Houston, TX and its commercial zone, to points in and east of LA, AR, MO, IA, and MN; (2) from the facilities of Monsanto Company located at or near Chocolate Bayou and Texas City, TX to points in AR, CT, DE, ME, MD, MA, MI, MN, NH, NY, RI, VA, VT, and the District of Columbia, for 180 days. Supporting shipper(s): Monsanto Company, 800 North Lindbergh, St. Louis, MO 63166. Send protests to: Mabel E. Holston, T/A, ICC, Suite 1616, 2121 Building, Birmingham, AL 35203.

MC 117765 (Sub-268TA), filed June 28, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Water, mineral, carbonated, in bottles, in cases,* (1) from Longview, TX, to points in OK; and (2) from Memphis, TN and Milwaukee, WI, to points in KS and OK, for 180 days. Supporting shipper: Jos. Schlitz Brewing Company, 235 W. Galena St., Milwaukee, WI 53201. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119974 (Sub-83TA), filed July 2, 1979. Applicant: L.C.L. TRANSIT CO., 949 Advance St., Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. *Liquid corn syrup and blends thereof in bulk in tank vehicles,* from facilities of A. E. Staley Mfg. Co. at Morrisville, PA to Cleveland and Orrville, OH, for 180 days. An underlying ETA seeks 90 days authority. Support shipper: A. E. Staley Mfg. Co., 2200 E. Eldorado St., Decatur, IL 62525. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 121664 (Sub-76TA), filed July 3, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35233. *Lumber,* from Crestview, FL, to points in AL, AR, GA, IL, IN, LA, MI, MO, MN, MS, NC, OH, SC, TN, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Support shipper: Fleming Lumber Company, Inc., P.O. Box 68, Crestview, FL 35236. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 123744 (Sub-60TA), filed July 3, 1979. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, PA 16881. Representative: E. Steward Butler, P.O. Box 88, Woodland, PA 16881. *Refractories* from the facilities of North American Refractories at or near (a) Womelsdorf, PA to points in Ohio, (b) Vanport, PA to points in IN, IL, MI, NY and MD (c) White Cloud, MI to points in OH, PA, MD and MI (d) Farber, MO, to points in IN. Materials and supplies used in the manufacture of refractories (except refractory scrap) from points east of ND, SD, NE, KS and NM to the facilities of North American Refractories at or near Curwensville, Mt. Union, Womelsdorf and Vanport, PA; White Cloud, MI and Farber, MO, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper: Norman E. Bruncak, North American Refractories Company, 900 Hanna Building, Cleveland, OH 44115. Send protests to: J. J. England, I.C.C., 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 124554 (Sub-37TA), filed June 28, 1979. Applicant: LANG CARTAGE CORP., P.O. Box 1465, Waukesha, WI 53187. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. Contract carrier; irregular routes; *Commercial and hobby art and paint materials, supplies, and equipment,* from New Berlin, WI to points in IA, MN and the Upper Peninsul of MI, for 180 days. An underlying ETA seeks 90 days authority. Support shipper: Tri-County Art & Paint, Inc., 2785 S. 167th St., New Berlin, WI 53151. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124964 (Sub-44TA), filed July 2, 1979. Applicant: JOSEPH M. BOOTH, d.b.a. J. M. BOOTH TRUCKING, P.O. Box 907, Eustis, FL 32726. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier,* irregular routes, *transporting frozen foods,* from Lake Winola, Fogelsville, Philadelphia, and Pottstown, PA, to points in AL, FL, GA, NC, and SC for 180 days. Under a continuing contract or contracts with Mrs. Smith's Pie Company, Pottstown, PA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mrs. Smith's Pie Co., P.O. Box 298, Pottstown, PA. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 W St Bay Street, Jacksonville, FL 32202.

MC 126305 (Sub-123TA), filed July 3, 1979. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Wire* from the facilities of National Wire Products Corporation, Atlanta, GA, to points in AL, NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Wire Products Corporation, Fischer Road & Penn Central RR, Baltimore, MD 21222. Send protests to: Mabel E. Holston, T/A, ICC Room 1616—2121 Building Birmingham, AL 35203.

MC 128095 (Sub-31TA), filed July 5, 1979. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza P.O. Box 22628, Jackson, MS 39205. (1) *Cellulose padding* from Riverside, NJ to points in MS and TN, and, (2) *Form padding* from Chicago, IL and Hyannis, MA to points in MS and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wurtzburg Brothers, Inc., 710 South Fourth Street, Memphis, TN 38101. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 129124 (Sub-25TA), filed June 27, 1979. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, Esquire, McNees, Wallace & Nurick, P.O. Box 1167, 100 Pine Street, Harrisburg, PA 17108. *Aragonite,* in bulk, in dump vehicles, from Baltimore, MD to Perth Amboy, NJ, for 180 days. An underlying ETA for 90 days has been sought. Supporting shipper(s): Thatcher Glass Manufacturing Co., A Division of Dart Industries, P.O. Box 265, Elmire, NY 14902. Send protests to: J. J. England, D/S, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 133655 (Sub-164TA), filed June 18, 1979. Applicant: TRANS–NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Plastic containers, and equipment, material, and supplies used in the manufacture and distribution of plastic containers (except in bulk),* from Riverside, NJ to points in MS and TN, and, (2) *Form padding* from Chicago, IL and Hyannis, MA to points in MS and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wurtzburg Brothers, Inc., 710 South Fourth Street, Memphis, TN 38101. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 129124 (Sub-25TA), filed June 27, 1979. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, Esquire, McNees, Wallace & Nurick, P.O. Box 1167, 100 Pine Street, Harrisburg, PA 17108. *Aragonite,* in bulk, in dump vehicles, from Baltimore, MD to Perth Amboy, NJ, for 180 days. An underlying ETA for 90 days has been sought. Supporting shipper(s): Thatcher Glass Manufacturing Co., A Division of Dart Industries, P.O. Box 265, Elmire, NY 14902. Send protests to: J. J. England, D/S, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 133655 (Sub-164TA), filed June 18, 1979. Applicant: TRANS–NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Plastic containers, and equipment, material, and supplies used in the manufacture and distribution of plastic containers (except in bulk),* from Riverside, NJ to points in MS and TN, and, (2) *Form padding* from Chicago, IL and Hyannis, MA to points in MS and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wurtzburg Brothers, Inc., 710 South Fourth Street, Memphis, TN 38101. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 133655 (Sub-165TA), filed June 18, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Weed Killing compounds and animal feed supplements (except commodities in bulk),* from Lafayette and Clinton, IN, to Lubbock, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eli Lilly Company, P.O. Box 618, Indianapolis, IN 46206. Send protests to: Martha A. Powell, T/A, ICC Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133655 (Sub-166 TA), filed June 18, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Chemical coatings and resins,* from Garland, TX, to Fairfield and Tarrant City, AL; Bartow, Orlando, and Tampa, FL; Perry, GA; Evansville, IN; Louisville, KY; Omaha, NE; Greensboro, NC; and Orange and Berkeley, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DeSoto, Inc., 1700 S. Mt. Prospect Rd., Des Plaines, IL 60018. Send protests to: Martha A. Powell, T/A, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134755 (Sub-196TA), filed June 18, 1979. Applicant: CHARTER EXPRESS, INC., 2945 Pythian, P.O. Box 3775, Springfield, MO 65802. Representative: Turner White, 910 Plaza Towers, Springfield, MO 65804. *Bakery products,* from the facilities of Nabisco, Inc., at Sandston VA to points in AL, AR, CO, GA, IA, IL, IN, KS, MO, MS, KY, LA, OK, NE, WI, OH, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nabisco, Inc., East Hanover, NJ 07936. Send protests to: John V. Barry, D/S, Interstate Commerce Commission, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 135684 (Sub-95TA), filed July 3, 1979. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Representative: Ronald L. Knorowski, P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Candy and confectionery (except in bulk), and advertising and display paraphernalia from the facilities of the Schrafft Candy Co., Boston and Woburn, MA to Philadelphia, PA and points in the New York, NY commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Schrafft Candy Company, Sullivan Square, Boston, MA 02129. Send protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Room 522, Newark NJ 07102.

MC 138104 (Sub-79TA), filed June 28, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove St., Fort Worth, TX 76106.

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Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Flange steel,* from the facilities of Kentucky Electric Steel Co., at or near Coalton, KY, to the facilities of Aztec Products, Inc., at or near Mansfield, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aztec Products, Inc., P.O. Box 659, Mansfield, TX 76063. Send protests to: Martha A. Powell, T/A, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 140755 (Sub-64TA), filed June 28, 1979. Applicant: BRAY TRANSPORTS, INC., P.O. Box 270, 1401 N. Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). (1) *liquid fertilizer solution,* in bulk, in tank vehicles, from Horn, MO, near Joplin, MO, to KS, OK, & TX; and (2) *petroleum products,* in bulk, in tank vehicles, from Coffeyville, KS, to AR, IL, IA, MO, OH, OK, TN, & WI, for 180 days, An underlying ETA seeks 90 days authority. Supporting shipper(s): Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116. Send protests to: Connie Stanley, ICC, 215 N.W. 3rd, Rm. 240 Oklahoma City, OK 73102.

MC 134755 (Sub-197TA), filed June 25, 1979. Applicant: Charter Express, Inc., 2945 E. Pythian, P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. (1) *Iron, steel, zinc lead, and articles or products thereof (except commodities in bulk); and construction materials, supplies and equipment (except commodities in bulk)* (2) *materials, supplies and equipment* (except commodities in bulk) used in the manufacture and distribution of the commodities in (1) above, between points in IL, IN, IA, MO, OH, MN and PA, restricted to the transportation of shipments originating at or destined to the facilities of Penn-Dixie Steel Corp. Supporting shipper(s): Penn-Dixie Steel Corp., P.O. Box 744, Kokomo, IN 46901. Send protests to: John V. Barry, D/S, Interstate Commerce Commission, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 141594 (Sub-3TA), filed July 2, 1979. Applicant: TRANSPORTATION SERVICES, INC., 1320 E. Glendale, Rd., Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. Contract carrier, irregular routes, *institutional food items (including frozen food items), janitorial and paper supplies,* between points in the State of NV on the one hand, and points in CA in and north of Kings, Tulare, Monterey and Inyo Counties, on the other hand, for 180 days. Supporting shipper(s): Nevada Food and Beverage, 1555 Linda Way, Sparks, NV 89431. Send protests to: DS W. J. Huetig, ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 141594 (Sub-4TA), filed July 2, 1979. Applicant: TRANSPORTATION SERVICE, INC., 1320 E. Glendale Ave., Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Dr. Carson City, NV 89701. Contract carrier, irregular routes, *general commodities,* except perishable commodities, Class A and B explosives, articles injurious to other lading, household goods, articles in bulk and articles in bulk in tank vehicles, from Reno-Sparks, NV to points in CA, AZ, OR and WA under contract with Washoe County Shippers Association, for 180 days. Supporting shipper(s): Washoe County Shippers Association P.O. Box 12096, Reno, NV 89510. Send protests to: DS W. J. Huetig, ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 142715 (Sub-59TA), filed July 3, 1979. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick, (same as applicant). *Meat, meat products, meat by-products, articles distributed by meat packinghouses, as described in Sections A, C and D of Appendix I to the report in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk),* from the facilities of Armour and Company at Worthington, MN, Huron, SD, Madison, NE and St. Joseph, MO, to points in the U.S. in and east of MI, IL, KY, TN, and AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Regional Transportation Manager, 238, Chester Street, St. Paul, MN 55107. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143594 (Sub-11TA), filed June 25, 1979. Applicant: NATIONAL BULK TRANSPORT, INC., P.O. Box, 5078 Atlanta, GA 30302. Representative: Warren Troupe, 2480 E. Commercial Blvd., Ft Lauderdale, FL 33308. *Liquid chemicals, in bulk, in tank vehicles* from the facilities of Rohm and Haas at or near Deer Park, TX to Magnolia, AR, New Britain and Stratford, CT, Pinellas and Miami, FL, Marietta and Valdosta, GA, Chicago, Melrose Park, Rock Island and Wood River, IL, St. Paul MN, Kansas City, MO, Gilbert, NC, Tulsa, Ponca City and Oklahoma City, OK, Ambler, Philadelphia, Monaca and Bristol, PA, Langley, Bath and Spartanburg, SC Chattanooga, Kingsport and Memphis, TN, Newport News, VA, Bell and Parkersburg, WV and Milwaukee and Sturtevant, WI for 180 day. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rohm and Haas Company Independence Mall West, Philadelphia, PA 19105. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 144584 (Sub-6TA), filed June 29, 1979. Applicant: WASHINGTON–CALIFORNIA EXPRESS, INC., 919 South McGarry Street, Los Angeles, CA 90029. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. *Contract:* irregular: *Mansory supplies,* from Bethany , CT to VA, MD, PA, WV and DC, for 180 days. Supporting shipper(s): Laticrete International, Inc., P.O. Box AF Woodbridge, CT 06525. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 144645 (Sub-4TA), filed July 5, 1979. Applicant: ROBERT C. HANSEN, d.b.a. ROBERT HANSEN TRUCKING, Rt. 2, Box 125, Delavan, WI 53115. Representative: Daniel Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Contract carrier; irregular routes; *Fruit drinks and fruit juices,* from facilities of Ohio Pure Foods, Inc. at Akron, OH to points in IL, MN, WI & Fargo, ND under a continuing contract with Ohio Pure Foods, Inc, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ohio Pure Foods, Inc., 1680 E. Market, Akron, OH 44305. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145465 (Sub-3TA), filed June 28, 1979. Applicant: GURN ENTERPRISES, INC., R. No. 6, Box 8, Allegan, MI 49010. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Hagerstown, Maryland, 21470. *Contract carrier:* Irregular routes: *Universal joints, materials and supplies* (except in bulk) used in the manufacture thereof; between Allegan, MI and its commercial zone, on the one hand, and, on the other, points in IN, IL, OH, KY, TN, PA and MD. For 180 days. Supporting shipper(s): Rockwell, International Corporation, 2135 Maple Road, Troy, MI 48084. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 146035 (Sub-2TA), filed June 29, 1979. Applicant: SOUTHERN DRAYAGE, INC., P.O. Box 1983, Jackson, MS 39205. Representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. *Household cleaning compounds,* except in bulk, from the facilities of Alco Chemical Products, Inc., at or near Brookhaven, MS to Philadelphia, PA and its commercial

zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alco Chemical Products, Inc., Brookhaven, MS 39601. Send protests to: Alan C. Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 146735 (Sub-2TA), filed July 3, 1979. Applicant: R. J. ANDERSON, INC., 1020 Heinz Street, Berkeley, CA 94710. Representative: William D. Taylor, Handler, Baker, Greene & Taylor, PC, 100 Pine Street, Suite 2550, San Francisco, CA 94111, PH: (415) 986–1414. *General commodities (except classes A & B explosives, household goods, items of extraordinary value and commodities in bulk),* (1) between San Francisco, Oakland, So. San Francisco on the one hand and, on the other, Monterey, Fresno and Salinas, CA and (2) between Fresno on the one hand and, on the other, Monterey and Salinas, CA, for 180 days. RESTRICTED to traffic having prior or subsequent movement by rail, water and/or motor vehicle. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are seven (7) shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 147074 (Sub-7TA), filed June 27, 1979. Applicant: E Z FREIGHT LINES, Gould & E. 46th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Plastic articles, and on return materials, and supplies used in the manufaturing, distributing and packaging thereof from Toms River, NJ to AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, OH, SC, TN, TX, VA, WV, for 180 days. Supporting shipper(s): Paeco, Inc., One Executive Drive, Toms River, NJ 08753. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147074 (Sub-8TA), filed June 28, 1979. Applicant: E Z FREIGHT LINES, Gould & E. 46th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Building and industrial wall silencers from North Brunswick, NJ to points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Gale Corporation, P.O Box 183, North Brunswick, NJ 08902. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147074 (Sub-9TA), filed June 29, 1979. Applicant: E Z FREIGHT LINES, Gould & E. 46th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. (1) Lock washers and (2) materials and supplies used in the manufacturing and distributing of commodities in (1) except in bulk (1) From North Branch, NJ to Decatur and Mobile, AL, City of Commerce, CA, Little Rock, AR, Portland, OR, and Seattle, WA and (2) from Bedford Heights, OH and Milwaukee and Saukville, WI to North Branch, NJ, for 180 days. Supporting shipper(s): National Lock Washer, P.O Box 5115, North Branch, NJ 08876. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147265 (Sub-1TA), filed May 25, 1979. Applicant: SHO-LEN, INC., d.b.a. PACIFIC TRANSPORTATION, 10869 Drury Lane, Lynwood, CA 90262. Representative: Milton W. Flack, 4311 Wilshire Blvd.,#300, Los Angeles, CA 90010. *Contract:* Irregular: *Aluminum truck frome rails,* from the facilities of Martin Metal Finishing located at Lynwood, CA, to the facilities of Freightliner Corporaton located at Portland, OR, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Reynolds Metals Company, 1703 Parham Road, Richmond, VA 23261. Send protests to: Irene Carlos, T/A, ICC P.O Box 1551, Los Angeles, CA 90053.

MC 147354 (Sub-1TA), filed June 28, 1979. Applicant: FAUBION TRUCK LINES, INC., P.O. Box 5795, Alexandria, LA 71301. Representative: James S. Holliday, One American Place, Suite 1600, Baton Rouge, LA 70825. Applicant is seeking authority to operate as a common carrier over irregular routes transporting *cold or slaughter beef* from Amarillo, Hereford, Plainview, and Freona, TX to Slidell, LA, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Thompson Meat Packers, Inc., 550 Carnation St., Slidell, LA. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 147385 (Sub-2TA), filed June 8, 1979. Applicant: D & B TRUCKING, INC., 14483 Foothill Blvd., Los Angeles, CA 91342. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Furniture, and materials and supplies used in the manufacture and distribution of furniture,* between Los Angeles, CA and Poplar Bluff, MO, on the one hand, and, on the other, points in AZ, CA, CO, KS, MO, NM, NV, OK, OR, TX, UT and WA, for 180 days. Restricted to shipments originating at or destined to the plants and warehouses of Rowe Furniture Corporation. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Rowe Furniture Corporation, 15860 Olden Street, Sylmar, CA 91342. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 147484TA, filed June 25, 1979. Applicant: MYERS TRANSFER, INC., 1241 Haines Street, Jacksonville, FL 32206. Representative: Donald L. Myers (same as applicant). *Commodities in containers, and empty containers, trailers, and chassis except Class A & B explosives. Restricted to traffic having a prior or subsequent movement by water,* between Jacksonville, FL, Brunswick, GA, Savannah, GA and Charleston, SC on the one hand, and on the other, points in FL, GA and points in that part of Al on and Southeast of a line beginning at Mobile, AL and extending along Interstate 65 to Montgomery, AL then along I–85 to the AL–GA state line including the commercial zones of Mobile and Montgomery, AL for 180 days. Supporting shipper(s): There are 25 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 147485TA, filed June 21, 1979. Applicant: TRUCK TRAIN TRANSFER, INC., Snapps Ferry Road, P.O. Box 3303, Davy Crockett Stat., Greeneville, TN 37743. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. NW., Washington, DC 20036. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* between points in Anderson, Bledsoe, Blount, Bradley, Cannon, Carter, Cocke, Cumberland, Davidson, De Kalb, Grainger, Greene, Hamblen, Hamilton, Hawkins, Jefferson, Johnson, Knox, Loudon, McMinn, Meigs, Monroe, Morgan, Polk, Putnam, Rhea, Roane, Rutherford, Sevier, Smith, Sullivan, Sumner, Unicoi, Union, Van Buren, Warren, Washington, White, Williamson, and Wilson Counties, TN; Buncombe, Haywood, Madison, Swain, and Yancey Counties, NC; Catoosa, Dade, Murray, Walker, and Whitfield Counties, GA; and Scott and Washington Counties, VA, for 180 days. NOTE: Applicant proposes to interline with railroads at Knoxville, TN, Greeneville, TN, and Bristol, VA.

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RESTRICTION: Restricted to traffic having a prior or subsequent movement by rail. Supporting shipper(s): There are 13 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 147505 (Sub-1TA), filed July 3, 1979. Applicant: WILLIAM H. MARTIN d.b.a. MARTIN TRUCKING, Route 3, Box 75, Council Bluffs, Iowa 51501. Representative: J. F. Crosby, P.O. Box 37205, I–80 and Hwy 50, Omaha, Nebraska 68137. *Carbonated beverages* from the facilities of Shasta Beverage, Inc., at Omaha, NE to points in IA, MN, ND, SD and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shasta Beverages, Inc., 4400 S. 76th Street, Omaha, NE 68127. Charles V. Benson, Shipping Supervisor. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 147514 (Sub-1TA), filed July 3, 1979. Applicant: L. E. MATCHETT TRUCKING, LTD., 844 47th Street E., Saskatoon, Saskatchewan, Canada S7K 0Xr. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. *Dry fertilizer, fertilizer ingredients, animal feed, poultry feed and animal and poultry feed ingredients,* in bulk, between points on the U.S.-Canada International Boundary line in WA and ID, on the one hand, and, on the other, points in WA, OR and ID, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Wolfkill Feed & Fertilizer Corp., P.O. Box 406, Lynden, WA 98264 and Wilbur-Ellis Co., 200 Granville St., Vancouver, British Columbia V6C 1S4. Send protests to: Paul J. Labane D/S ICC, 2602 First Ave. North, Billings, MT 59101.

MC 147625 (Sub-1TA), filed July 2, 1979. Applicant: AAA AIR ENTERPRISES, INC., P.O. Box 19130, Eppley Airfield, Omaha, NE 68119. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *General commodities, except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment* between airport terminals at Omaha, NE on the one hand, and on the other, airport terminals at Lincoln, Norfolk, Columbus, Grand Island, Hastings, Kearney and Lexington, NE; Yankton, SD; Sioux City, IA; and Kansas City, MO restricted to traffic moving on air freight forwarder bills of lading and having a prior or subsequent movement by air for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Steve Eller, District Manager, Air Borne Freight Corp., P.O. Box 19107 AMF, Omaha, NE 68119. Send protests to: District Supervisor Carroll Russell, Suite 620, 110 No. 14th Street, Omaha, NE 68102.

[Notice No. 133]

July 17, 1979

MC 908 (Sub-6TA), filed June 12, 1979. Applicant: CONSOLIDATED CARTAGE CO., INC., P.O. Box 171, Argo, IL 60501. Representative: Eugene Cohn, One North LaSalle Street, Chicago, IL 60602. *Such merchandise as is dealt in by wholesale, retail, chain food and grocery stores, drug stores; chemicals and plastic articles* between the facilities of Dry Storage Corp. in the Chicago, IL commercial zone, on the one hand, and, on the other, Madison, IL, IN, Louisville, KY, MI, and those points on and west of U.S. Hwy. 71 in OH, including Cincinnati, Cleveland, Columbus, OH and their commercial zone thereto as defined by the Commission. Restricted: against the transportation of commodities in bulk, classes A and B explosives and Household Goods as defined by the Commission for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dry Storage Corporation, 2005 West 43rd Street, Chicago, IL 60609. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 1718 (Sub-11TA), filed June 21, 1979. Applicant: ALFRED M. FLATEGRAFF, d.b.a. GARDNER TRUCK LINE, P.O. Box 22, Pine River, MN 56474. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Boulevard, Minneapolis, MN 55416. *Lumber and lumber products* from points on the International boundary line between the United States and Canada located in the State of Minnesota to Pine River, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Durkee Manufacturing Company, Inc., Box 67, Pine River, MN 56474. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 8958 (Sub-34TA), filed June 13, 1979. Applicant: THE YOUNGSTOWN CARTAGE CO., 825 W. Federal St., Youngstown, OH 44501. Representative: Philip J. Cianciolo (same address as applicant). *Iron and steel articles and articles used in the manufacturing of iron and steel articles,* between Weirton, WV and points in PA, MD, DC, DE, NJ, NY, RI, MA and CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weirton Steel Division of National Steel Corporation, Weirton, WV 26062. Send protests to: D/S, I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 18738 (Sub-60TA), filed June 5, 1979. Applicant: SIMS MOTOR TRANSPORT LINES INCORPORATED, 619 West 138th Street, Riverdale, IL 60627. Representative: Eugene Cohn, One North LaSalle, Chicago, IL 60606. *Structural beams and steel plates;* between a four-State radius of IL, IN, KY and OH; and Shelbyville, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shelby Steel, Inc., P.O. Box 480, Shelbyville, IN 46166. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 22509 (Sub-19TA), filed June 20, 1979. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Ave., St. Joseph, MO 64505. Representative: Harry Ross, Hays and Hays, 56–58 South Main Street, Winchester, KY 40391. *Containers, container ends, container closures and materials and supplies* used in manufacture and/or distribution of containers, container ends and container closures between points in IL, MO, NE, IA, MN, WI, IN, KS, OK and CO, for 180 days. Supporting shipper(s): Supporting shipper statements may be viewed in Washington, DC or in the District Office in Kansas City, MO. Send protests to: Vernon V. Coble, D/S, I.C.C., 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 30508 (Sub-9TA), filed June 7, 1979. Applicant: DEARBORN'S MOTOR EXPRESS, INC., 140 Epping Rd., Exeter, NH 03833. Representative: William M. Walsh (same address as applicant). *Common carrier:* regular routes: *Fibre glass in reels or sheets,* serving the plantsite of Kalwall Corp. at River Rd. in Bow, NH as an off-route point to applicant's existing authority, for 180 days. NOTE: Applicant proposes to interline within the commercial zone of Boston, MA and Manchester, NH. Supporting shipper(s): Kalwall Corp., Candia Rd., Manchester, NH 03103. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC30618 (Sub-20TA), filed June 19, 1979. Applicant: HENRY V. RABOUIN, INC., Richmond Road, Hancock, MA 01237. Representative: Sherwood Guernsey, II, 57 Wendell Avenue, Pittsfield, MA 01201. *Talc,* from Windham County, VT and Chester, VT to points in the States of CT, DE, ME, MD, MA, MI, NH, OH, PA, and RI, for 180 days. An underlying ETA seeks 90

days authority. Supporting shipper(s): Omya, Inc. (Vermont Talc), Chester, VT. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 41098 (Sub-48TA), filed June 22, 1979. Applicant: GLOBAL VAN LINES, INC., Number One Global Way, Anaheim, CA 92803. Representative: Denning & Wohlstetter, 1700 "K" St. NW., Suite 301, Washington, DC 20006. *Commodities used in the manufacture of computers and computer equipment in mixed loads with household goods as defined by the Interstate Commerce Commission,* between points in AZ, CA, CO, CT, IL, IN, ME, PA, MA, MN, NH, NJ, NM, NY, NC, OK, OR, RI, SC, TX, VT and WA, for 180 days. Supporting shipper(s): Digital Equipment Corp., 444 Whitney Ave., Northborough, MA 01532. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 48948 (Sub-16TA), filed May 31, 1979. Applicant: THE HOCKING CARTAGE COMPANY, R.R. 2, Box 373, Logan, OH 43138. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Clay products,* from Brazil, IN, to points in IL, KY, MI, OH, IA, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Logan Clay Products Co., P.O. Box 698, Logan, OH 43138. Send protests to: District Supervisor, I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 48958 (Sub-185TA), filed June 15, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Frozen prepared food* from the facilities of Banquet Foods Corp., at or near Carrollton, Independence, Kansas City, Macon, Marshall, Milan and Moberly, MO to points in CO, KS, NE, NM, OK and TX for 180 days. Supporting shipper(s): Banquet Foods Corp., 100 North Broadway, St. Louis, MO 63102. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 48958 (Sub-186TA) filed June 18, 1979. Applicant: ILLINOIS CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Section A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, from the facilities of Oscar Mayer & Co., Inc., at or near Des Moines and Perry, IA to points in the states of AZ, CA, CO, NM, NV, OK, TX and UT. Supporting shipper(s): Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI, 53707. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 48958 (Sub-187TA) filed June 21, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero (same as applicant). *General Commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* from Denver, CO and its commerical zone, to points in AZ, ID, NE, NM, TX, UT and WY for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Craig Imperial Acme Consolidators, Inc., 4250 Oneida St., Suite 139, Denver, CO 80216. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 52579 (Sub-186TA), filed June 13, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Herbert Burstein, Esq., One World Trade Center, Suite 2373, New York, NY 10048. Such merchandise as is dealt in by department stores from the terminal facilities of the applicant located in Secaucus, NJ to the warehouse facilities of the The Hecht Company located in Washington, D.C. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Hecht Co., P.O. Box 227, Silver Spring, MD 20907. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 52979 (Sub-19TA), filed June 19, 1979. Applicant: HUNT TRUCK LINES, INC., W. High St., Rockwell City, IA 50579. Representative: WM. L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Agricultural implements and parts and accessories for agricultural implements* from Sac City, IA to points in IL, IN, MI, MN, MO, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Noble Division—LSI, 515 N. 16th ST., Sac City, IA 50583. Send protests to: Herbert W. Allen, DS., ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 78228 (Sub-131TA), filed June 11, 1979. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. *Iron and steel articles,* from the facilities of Eastern Stainless Steel Company, Division of Eastmet Corporation, at Baltimore, MD, to points in OH, PA, MI and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eastern Stainless Steel Company, Division of Eastmet Corporation, P.O. Box 1975, Baltimore, MD 21203. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 78228 (Sub-132TA), filed June 18, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. *Iron and steel articles,* from the facilities of Eastern Stainless Steel Company, Division of Eastmet Corporation, at Baltimore, MD, to points in OH, PA, MI, IL and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eastern Stainless Steel Company, P.O. Box 1975, Baltimore, MD 21203. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 93649 (Sub-31TA), filed June 20, 1979. Applicant: GAINES MOTOR LINES, INC., P.O. Box 1549, Hickory, NC 28601. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Penn. Ave & 13th St. NW., Washington, DC 20004. *Beverage bottle caps, can ends or tops and sheet iron or steel containers,* from the facilities of Crown Cork and Seal Corp., Inc., at or near North Bergen, NJ, Philadelphia, PA and Baltimore, MD to points in GA, for 180 days. Supporting shipper(s): Crown Cork and Seal Corp., Inc., 9300 Ashton Rd., Philadelphia, PA 19136. Send protests to: Terrell Price, 800 Briar Creek Rd–Rm CC516, Mart Office Bldg., Charlotte, NC 28205.

MC 97009 (Sub-29TA), filed June 18, 1979. Applicant: HERZOG TRUCKING COMPANY, INC., 200 Delaware St., Honesdale, PA 18431. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Wooden furniture, unpainted, and materials, equipment, and supplies used in the manufacture and sale of wooden furniture (except commodities in bulk),* between the facilities of S.J. Bailey & Sons, Inc. located at or near Honesdale, PA and Walton, NY on the one hand, and, on the other, pts. in the states of CT, IL, IN, MI, OH, MA, WV, VT, NH, ME, NY, PA, NJ, RI, and MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S. J. Bailey & Sons, Inc., Clarks Summit, PA. Send protests to: I.C.C. Fed. Res. Bank Bldg, 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 107678 (Sub-73TA), filed June 20, 1979. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Edward D. Brown (Same as applicant). *Aluminum Ingots, pigs, billets, blooms, and slabs*

from Ferndale, WA to pts in CA. for 180 days. Supporting shipper(s): Intalco Aluminum Corportion, P.O. Box 937, Ferndale, WA. 98248. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 109449 (Sub-40TA), filed June 28, 1979. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th Street, Winona, MN 55987. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in IA, MN, ND, SD and WI, restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN, for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 South Arlington Avenue, Indianapolis, IN 46203. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 109818 (Sub-58TA), filed June 15, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in IL, IA, KY, MN, MO, NE, and WI for 180 days. Restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 46203. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 113089 (Sub-13TA), filed June 18, 1979. Applicant: ED GALIGHER, P.O. Box 163, Bowerston, OH 44685. Representative: Richard H. Brandon, P.O. Box 97, Dublin, OH 43017. *Contract carrier*—irregular routes: *Clay filter blocks,* from Bowerston, OH to Ft. Bragg, NC, Fuquay-Varina, NC, Charlotte, NC, Madison, IN, Florence, SC and Terre Haute, IN, for 180 days. Supporting shipper: Bowerston Shale Company, Bowerston, OH 44685. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 113828 (Sub-269TA), filed June 6, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, D.C. 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. *Liquid chemicals,* in bulk, in tank vehicles, from Chatham County, GA to points in FL, SC, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Kaiser Agricultural Chemicals, Div. of Kaiser Aluminum & Chemical Corp., P.O. Box 246, Savannah, GA 31402. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 114569 (Sub-330TA), filed June 15, 1979. Applicant: SHAFFER TRUCKING INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). *Fans, electric, N.O.I.,* from the facilities of Lasko Metal Products, at or near West Chester, PA to Nashville, TN; Miami and Largo, FL; Los Angeles and San Francisco, CA; and Dallas, Conroe, Houston, and Lubbock, TX, for 180 days. Supporting Shipper(s): Lasko Metal Products, 820 Lincoln Ave., West Chester, PA 19380. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 118899 (Sub-9TA), filed June 13, 1979. Applicant: BALTIMORE TANK LINES, INC., 180—8th Ave., Glen Burnie, MD 21061. Representative: James Wilson, Pennsylvania Ave and 13th St. NW., Suite 1032, Washington, D.C. 20004. *Liquid Petroleum Products,* in bulk, in tank vehicles, between oil terminals in Delaware City, DE and points in the State of MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: S. P. Bollinger, Apex Oil Company, 1622 S. Clinton St., Baltimore, MD 21224. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 110300 (Sub-100TA), filed June 19, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., Joplin, MO 64801. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. *Glass containers,* from the plant site of Midland Glass Co., Inc., at or near Henryetta, OK to points in the U.S. except AK, HI, AR, CO, IA, KS, LA, MS, MO, NE, TN and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: John V. Barry, D/S, Interstate Commerce Commission, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 119599 (Sub-5TA), filed June 8, 1979. Applicant: HARSHMAN-INDUSTRIAL CARTAGE CO., INC., 1617 Warren Ave., Niles, OH 44446. Representative: Robert W. Gardier, Jr., 100 E. Broad St., Columbus, OH 43215. *Fabricated metal products* from the facilities of the United States Gypsum Company located at or near Franklin Park, IL to points in MI, OH, IN, and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United States Gypsum Company, 101 St. Wacker Dr., Chicago, IL 60606. Send protest to: D/S, ICC 101 N. &th St., Philadelphia, PA 19106.

MC 119789 (Sub-612TA), filed June 19, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas TX 75266. *Frozen Foods, except in bulk* from the facilities of American Home Foods, Div. of American Home Products Corporation, located at or near Milton, PA (Northumberland County) to points and places in the states of AZ, AR, CA, CO, KS, LA, MO, OK, TX and WA for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper: American Home Foods Division of American Home Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: Opal M. Jones, Trans. Asst., ICC Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119789 (Sub-613TA), filed June 19, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Chemicals, in containers* from Arlington, TX to points in CA. Representative destinations: Los Angles, San Francisco, Sacramento, Exeter, Fairfield, Firebaugh, Mojave, Sunset Whitney Ranch, Turlock, Vacaville, and Visalia for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper: Borden Chemical, Division of Borden Inc., 180 East Broad St., Columbus, OH 43215. Send protests to: Opal Jones, Trans. Asst., ICC Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119789 (Sub-614TA), filed June 19, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newboild, Jr., (same as applicant). *Such commodities as are dealt in by electrical contractors and distributors (except commodities in bulk)* from Pittsburgh, PA and Athens, TN to Houston, TX for 180 days. An underlying ETA for 90 days authority filed. Supporting shipper: Midland Ross Corporation, P.O. Box 1548, Pittsburgh, PA 15230. Send protests to: Opal M. Jones, Trans. Asst., ICC Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 123048 (Sub-457TA), filed June 20, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John Bruemmer, 121 W. Doty St., Madison, WI 53703. *Aluminum ingots and rods* from facilities of Aluminum Co. of America at or near Rockdale, TX to Shelbyville, IN; Logans Ferry, PA and Riverdale, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Aluminum Co. of America, 1501 Alcoa Bldg., Pittsburgh, PA 15219. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 123048 (Sub-458TA), filed June 21, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John Bruemmer, 121 W. Doty St., Madison, WI 53703. *Iron and steel articles* between facilities of Crucible, Inc., Div. of Colt Industries, Midland, PA on the one hand, and, on the other, points in OH, IN, IL, WI, IA, MN, MO, KY, TN, MS, AL, GA, SC, NC & VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Colt Industries, Crucible Inc., Alloy & Stainless Steel Div., P.O Box 226, Midland, PA 15059. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-973TA), filed July 3, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Fly ash, in bulk, in tank vehicles,* from facilities of National Minerals Corp. at New Alexandria, PA and at or near Indiana, PA and in a 25-mile radius from these terminals to points in DE, DC, MD, NJ, NY, VA & WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: National Minerals Corp., R.D. 4, Box 189B, Indiana, PA 15701. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-974TA), filed June 20, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Corn products, in bulk,* between Kankakee, IL and Elkhart, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: J. R. Short Milling Co., 233 S. Wacker Drive, Sears Tower, Chicago, IL 60606. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124839 (Sub-45TA), filed June 6, 1979. Applicant: BUILDERS TRANSPORT, INC., P.O Box 7057, Savannah, GA 31408. Representative: B. M. Shirley, P.O Box 7057, Savannah, GA 31408. *Contract* carrier: Irregular routes: *Building materials and equipment materials and supplies used in the distribution or manufacture of building materials, except commodities in bulk* between points in GA, SC and VA, on the one hand, and on the other, points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MO, MS, NJ, NC, OH, PA, SC, TN, TX, VA, WV and DC under continuing contract(s) with The Continental Group, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Continental Group, Inc., P.O Box 8969, Savannah, GA 31412. Send protests to: G. H. Fauss, Jr., D/S, ICC Box 35008, 400 W. Bay Street, Jacksonville, FL 32202.

MC 125628 (Sub-6TA), filed June 20, 1979. Applicant: S.S. BAIRD & SONS, LIMITED, 1000 Hanwell Rd., Frederickton, New Brunswick E3B 2R7. Representative: Bernard J. Kompare, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Composition board* from the ports of entry on the International Boundary Line, located in ME, to points in ME, VT, NH, MA, RI, CT, NY, PA and NJ, restricted to the transportation of traffic destined to the named destinations, for 180 days. Underlying ETA seeking 90 days authority. Supporting shipper(s): Northwood Pulp and Timber Limited, Box 429, Chatham, New Brunswick E1N 3A8. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 126118 (Sub-164TA), filed June 19, 1979. Applicant: CRETE CARRIER CORPORATION, P.O Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as above). *Such merchandise as is used by and dealt in by retail and wholesale institutional suppliers (except in bulk),* from points in the United States (except AK and HI) to Lincoln, NE and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pegler & Company, 1700 Center Park Rd., Lincoln, NE 68501. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 128698 (Sub-21TA), filed June 15, 1979. Applicant: ERDNER BROS., INC., Davidson Road, Swedesboro, NJ 08085. Representative: Chester A. Zyblut, 1030 Fifteenth St., NW, Suite 366, Washington, DC 20005. *Foodstuffs (except commodities in bulk).* From the facilities of Campbell Soup Company at or near Napoleon, OH to points in VA, MD, DC, PA & NJ, for 180 days. Supporting shipper(s): Campbell Soup Company, East Maumee Avenue, Napoleon, OH 43545. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad St., Rm. 522, Newark, NJ 07102.

MC 133099 (Sub-12TA), filed June 11, 1979. Applicant: THE GLASCOW & DAVIS CO., P.O Box 1717, Salisbury, MD 21801. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, D.C. 20014. *Malt beverages,* from S. Volney, NY to points in Maryland west of the Chesapeake Bay including Cecil County for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are three (3) statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 136899 (Sub-42TA), filed June 26, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O Box 192, Richland Center, WI 53581. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Paper and paper products, of natural or synthetic fibers, and materials, equipment, and supplies used in the manufacture or distribution of paper and paper products (except in bulk)* between Marinette, Green Bay, Oconto Falls and Fond du Lac, WI on the one hand, and points in MI, OH, IL, IN, MD, SD, NE, KS, MO, IA & MN, on the other, restricted to traffic originating at or destined to facilities of Scott Paper Co., for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 138469 (Sub-154TA), filed June 20, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 West Touhy, Ave., Suite 200, Park Ridge, IL 60068. *Foodstuffs,* except in bulk, from the facilities of American Home Foods, Division of American Home Products Corporation, located at or near Vacaville, CA, to points in AZ, CO, NV, NM, OK, and TX, for 10 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Home Foods Division, of American Home Products Corporation, 685 Third Avenue, New York, NY 10017. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 140549 (Sub-16TA), filed June 21, 1979. Applicant: FRITZ TRUCKING, INC., East Highway 7, Clara City, MN 56222. Representative: Samuel

Rubenstein/David Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Fresh and frozen meat,* from the facilities of John Morrell and Company at Estherville, IA, and Worthington, MN, to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell and Company, 208 South LaSalle Street, Chicago, IL 60604. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 140829 (Sub-278TA), filed June 18, 1979. Applicant: CARGO, INC., P.O. Box 206, US Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Zinc, zinc oxide, zinc dust, zinc dross, zinc residue, zinc skimmings, lead sheet, metallic cadmium (except in bulk, in tank vehicles) and materials, equipment and supplies utilized in the production of the above commodities (except in bulk, in tank vehicles),* between the facilities of St. Joe Zinc Company located at Josephtown, PA and all points in the US in and east of ND, SD, NE, CO, and NM, except MI and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Joe Zinc Company, Two Oliver Plaza, Pittsburgh, PA 15222. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142059 (Sub-80TA), filed June 11, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (address same as applicant). *Suspended meat,* from York, NE to Birmingham , Dothan, Mobile and Montgomery, AL; Fort Lauderdale, Jacksonville, Miami, Lakeland, Tampa, St. Petersburgh, Pompano Beach, Orlando and Plant City, FL; Atlanta, Augusta and Albany, GA; Louisville, KY; Landover, MD; New Orleans and Shreveport, LA; Charlotte, Rateigh and Rocky Mount, NC; Jackson, MS and Greenville, SC for 180 days. An underlying ETA seeks 90 days authority. supporting shipper(s): Sunflower Packing Co., P.O. Box 355, York, NE 6847. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142059 (Sub-81TA), filed June 13, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same as applicant). *Aluminum ingots, billets and slabs* from facilities of Eastalco Aluminum Co. at Buckeystown, MD to Miami and Sanford, FL; Bensenville, IL; Evansville, IN; Dunkirk and Ellenville, NY; Girard, Niles, Omal and Trenton, OH; Greenville, PA; Elizabethton, Carthage and Nashville, TN and Bryan, Mansfield & Rockwall, TX for 180 days. An underlying ETA was granted for 180 days. Supporting shipper(s): Eastalco Aluminum Co., RFD 9, Box 128, Frederick, MD 21701. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142508 (Sub-87TA), filed June 19, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O Box 37665, 10810 So. 144th St., Omaha, NE 68137. Representative: Lanny N. Fauss, P.O Box 37096, Omaha, NE 68137. *Fruit and berry products (except in bulk),* from the facilities of Ocean Spray Cranberries, Inc., at Middleboro, MA and Bordentown, NJ to points in AR, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ocean Spray Cranberries, Inc., Water Street, Plymouth, MA 02360. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-88TA), filed June 19, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 So. 144th St., P.O Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O Box 37096, Omaha, NE 68137. *Fruit and berry products (except in bulk),* (1) between the facilities of Ocean Spray Cranberries, Inc., at Markham, WA and the facilities utilized by Ocean Spray Cranberries, Inc., in the Portland, OR commercial zone; and (2) from the facilities of Ocean Spray Cranberries, Inc., in the Portland, OR commerical zone, to points in AZ, CA, CO, IL, IA, KS, MN, MO, NE, ND, SD, OK, TX, UT, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ocean Spray Cranberries, Inc., Water Street, Plymouth, MA 02360. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St.. Omaha, NE 68102.

MC 142508 (Sub-89TA), filed June 19, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O Box 37465, 10810 So. 144th St., Omaha, NE 68137. Representative: Lanny N. Fauss, P.O Box 37096, Omaha, NE 68137. *Meat, meat products, and meat by-products and articles distributed by meat packinghouse as described in sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodites in bulk),* from Denison, IA to points in IL and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dubuque Packing Co., P.O Box 610, Dension, IA 51442. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142559 (Sub-103TA), filed June 15, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. (1) *Plastic flakes, plastic granules, plastic powder, and plastic articles (except commodities in bulk); and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk),* between points in the US (except AK and HI) restricted to traffic originating at or destined to the facilities of E. Helman, Inc., for 180 days. Supporting shipper(s): E. Helman, Inc., 2725 Abington Court, P.O Box 5129, Akron, OH 44313. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 142999 (Sub-18TA), filed June 22, 1979. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, Post Office Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Esquire, Suite 501, 1730 M Street NW., Washington, DC 20036. Contract, Irregular. *Chemicals* (except in bulk) and *plastic articles,* between Ashton, RI on the one hand, and, on the other, points in CA, IL, IN, TX; between Pasadena, TX on the one hand, and on the other, points in IL, IN, OH, NJ, MI, RI; between Mapleton and Peoria, IL and Gary, IN on the one hand, and, on the other, points in CA, NJ, OH, PA, RI & TX. Restriction: The authority sought herein is to be restricted to a transportation service to be performed under a continuing contract or contracts with Lonza, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lonza, Inc., 2210 Route 208, Fair Lawn, NJ 07410. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 143619 (Sub-8TA), filed June 29, 1979. Applicant: PALS BROS. TRUCKING, INC., RFD, Alexander, IA 50420. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract Authority—*Wheat middlings* from Hastings and Lake City, MN to Reinbeck, Rowan, Cresco, IA, under continuing contract(s) with Cargill, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cargill, Incorporated, P.O. Box 9300, Minneapolis, MN 55440. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 143739 (Sub-19TA), filed June 20, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter (same as applicant). *Meat, meat products, meat by-products, and articles distributed by meat packing-houses as described in Sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* between Britt and Mason City, IA on the one hand, and, on the other, points in AZ, CA, ID, IL, IN, KS, KY, MI, MN, MO, NE, NV, ND, OH, OK, OR, SD, TX, UT, WA, and WI, restricted to shipments originating at or destined to the facilities utilized by Lauridsen Foods, Inc., at or near Britt, IA, and Armour and Company at Mason City, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144848 (Sub-4TA), filed June 20, 1979. Applicant: I & L TRUCKING INC., Star Route, Utica, OH 43080. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Malt beverages and materials, equipment and supplies used in the manufacture, sale or distribution of malt beverages,* between Columbus, OH; Merrimack, NH; Newark, NJ; Williamsburg, VA; Jacksonville, FL; and St. Louis, MO; on the one hand, and, on the other points in the US. Restricted to the transportation of shipments originating at or destined to facilities used by Anheuser-Busch, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anheuser-Busch, Inc., 721 Pestalozzi St., St. Louis, MO 63118. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 144898 (Sub-2TA), filed June 20, 1979. Applicant: JACK W. BAUER, d.b.a. BAUER'S TRUCKING, Rt. 2, Medford, WI 54451. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. (1) *Sauce mix* from Medford, WI to Seville, OH and Northfield, IL and (2) *foodstuffs* from Seville, OH to Galesburg, IL; Chicago, IL and points within the Chicago, IL commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Mills, Inc., 9200 Wayzata Blvd., Minneapolis, MN 55440. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 144969 (Sub-9TA), filed June 13, 1979. Applicant: WHEATON CARTAGE CO., Wheaton Avenue, Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of East-West Shippers Association, at Chicago, IL and the facilities of West Coast Shippers Association, at Philadelphia, PA and Jersey City, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): West Coast Shippers Association, 2000 South 71st Street, Philadelphia, PA 19142. East-West Shipper's Association, 414 Plaza Drive, Suite 307, Westmont, IL 60559. Send protest to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad St., Rm. 522, Newark, NJ 07102.

MC 145338 (Sub-5TA), filed June 14, 1979. Applicant: MEDICAL EMERGENCY TRANSPORTATION CORP., d.b.a. METCOR, P.O. Box 386, Califon, NJ 07830. Representative: Michael R. Werner, Esq., 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006 Contract, irregular. *Radiopharmaceuticals, radiochemicals, diagnotic test kits, medical devices, and affiliated medical products.* From Newark International Airport at Newark, NJ; LaGuardia Airport and John F. Kennedy International Airport at New York, NY, and Philadelphia International Airport at Philadelphia, PA to points in NJ, CT, New Castle County, DE; New York, NY; points in Suffolk, Westchester, Rockland, Orange, Ulster, Sullivan, Putnam, and Dutchess Counties, NY and points in Philadelphia, Delaware, Montgomery, Bucks, Lehigh and Northampton Counties, PA, restricted to the transportation of traffic having a prior movement by air and further restricted to shipments not exceeding 300 pounds from one consignor to one consignee on any one day. Under a continuing contract or contracts with Amersham Corporation of Arlington Heights, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amersham Corporation, 2636 South Clearbrook Drive, Arlington Heights, IL 60005. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 145619 (Sub-3TA), filed June 22, 1979.. Applicant: PAUL E. MARLOWE, d.b.a. NATIONAL WAREHOUSE & DISTRIBUTION COMPANY, P.O. Box 3561, Kingsport, TN 37664. Representative: Harry W. Asquith, 810 Bank of Knoxville Bldg., Knoxville, TN 37902. *Contract carrier:* irregular routes: *Finished books and printed matter and such other commodities that are correlated and necessary in the manufacturing and distribution of books and printed matter (except commodities in bulk and in tank vehicles)* between Kingsport, and New Canton, TN on the one hand, and, on the other, points in CT, GA, IL, IN, KY, LA, MD, MA, MI, MS, NJ, NY, NC, OH, PA, TN, VA and WV, for 180 days. Supporting shipper(s): Kingsport Press, Inc., P.O. Box 711, Kingsport, TN. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 145729 (Sub-2TA), filed May 22, 1979. Applicant: SYMPLEX LEASING, INC., 90 East 5th St., Bayonne, NJ 07002. Representative: Robert B. Pepper, 160 Woodbridge Avenue, Highland Park, NJ 08904. (1) Stereos and turntable from piers located in the New York Commercial Zone, NY to Santa Claus, IN, and (2) Wood Products from points in OH and PA to Bayonne, Elizabeth and Jersey City, NJ under a continuing contract or contracts with Sound Design Corporation for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sound Design Corporation, 34 Exchange Place, Jersey City, NJ 07302. Send protests to: Mr. Robert E. Johnston, DS, I.C.C. 744 Broad Street, Newark, NJ 07102.

MC 145868 (Sub-1TA), filed June 19, 1979. Applicant: J. POSA, INC., R–2 North First Street, Fulton, New York 13069. Representative: Roy D. Pinsky, Suite 1020, State Tower Building, Syracuse, NY 13202. (1) *Malt beverages, in containers;* (2) *empty beverage containers and dunnage,* (1) from Fogelsville, PA to Maspeth, NY; (2) from Maspeth, NY to Fogelsville, PA, for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): F & M Schaefer Brewing Co., P.O. Box 2868, Allentown, PA 18001. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 146048 (Sub-2TA), filed May 31, 1979. Applicant: D. T. AUTO TRANSPORT, INC., 4200 Trenton St., Denver, CO 80216 Representative: Walter L. Jones, Esq., Suite 1044, Denver Club Building, 518 17th St., Denver, CO 80202. *Motor vehicles in initial, secondary and subsequent movements in truckaway or driveaway service, except towing service,* between points in

CO on the one hand, and on the other, points in AZ, AR, CA, CO, CN, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI and WY for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Empire Oldsmobile, Inc., 6160 E. Colfax, Denver, CO 80220, Tynan's Volkswagen, Inc., 700 S. Havana, Aurora, CO 80012, Rosen-Novak Ford, 3625 East Colfax, Denver, CO 80206, Burt Toyota, Inc., 5300 S. Broadway, Englewood, CO 80110. Send protests to: D/S Roger L. Buchanan, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 146078 (Sub-8TA), filed June 12, 1979. Applicant: CAL-ARK, INC., 854 Moline St., P.O. Box 394, Malvern, AR 72104. Representative: John Duncan Varda, 121 S. Pinckney St., Madison, WI 53703. *Paper and paper products* (except in bulk), and *products* (except in bulk) produced or distributed by manufacturers and converters of paper and paper products, from the plantsite and facilities used by Nekoosa Papers, Inc. in Little River County, AR to AZ, CA, CO, CT, FL, ID, IL, KY, MA, ME, MI, MO, NH, NY, OH, OR, PA, RI, TX, UT, VT, WA, WV, and NJ, for 180 days. Supporting shipper(s): Nekoosa Papers, Inc., 100 Wisconsin River Dr., Port Edwards, WI 54469. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC146299 (Sub-2TA), filed June 8, 1979. Applicant: D.Q. SERVICE INC., 802 East Irving Park Road, Bensenville, IL 60106. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Industrial paint finishing equipment and materials, equipment and supplies* (except commodities in bulk) *used in the installation thereof* from Plymouth, MI to Shreveport, LA for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Otto Durr, Inc., Plymouth, MI 48170. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146299 (Sub-3TA), filed June 8, 1979. Applicant: D.Q. SERVICE INC., 802 E. Irving Park Road, Bensenville, IL 60106. Representative: Donald Levine, 39 South LaSalle Street, Chicago, IL 60603. *Industrial paint finishing equipment and materials, equipment, and supplies* (except commodities in bulk) used in the installation thereof from Plymouth, MI to Waterloo, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Otto Durr, Inc., Plymouth, MI 48170. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146578 (Sub-6TA), filed June 21, 1979. Applicant: PALMETTO MOTOR LINES, INC., 7153 Lone Oak Road, Spartanburg, SC 29303. Representative: Nina G. Shults, P.O. Box 6445, Spartanburg, SC 29304. *Textile machinery and parts*, between Spartanburg County, on the one hand, and, on the other, points in NC and GA, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Zima Corporation, P.O. Box 6010, Spartanburg, SC 29301. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 147098 (Sub-1TA), filed June 4, 1979. Applicant: MORING, INC., R.R. #1, Baileyville, IL 61007. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Fertilizer and fertilizer ingredients*, from Amboy, Pekin and Fulton, IL to points in IA and WI for 180 days. Supporting shipper(s): Agrico Chemical Co., One Williams Center, Tulsa, OK 74100. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 147198 (Sub-2TA), filed June 1, 1979. Applicant: P. & E. I. TRUCK LINES, INC., P.O. Box 158, Hoopeston, IL 60942. Representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, IL 60601. *Metal containers and materials and supplies used in the manufacture and distribution of metal containers*, from the facilities of Crown Cork & Seal Company at Kankakee, IL to points in OH and KY for 180 days. Supporting shipper(s): Crown Cork & Seal Company, P.O. Box 6208, Philadelphia, PA 19136. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 147289 (Sub-1TA), filed June 14, 1979. Applicant: GEM CITY STORAGE & TRANSFER INC., P.O. Box 786, Keokuk, IA 52632. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. *Auto parts and accessories* from the facilities of Sheller Globe Corporation, at or near Keokuk, IA to Belvidere, Chicago and Quincy, IL; and all points in MI; Loraine and Lordstown, OH and Janesville, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sheller Globe Corporation, 3200 Main, Keokuk, IA 52632. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147388 (Sub-1TA), filed June 19, 1979. Applicant: EARLY BIRD FREIGHT LINES, INC., Rural Route 1, Box 49, St. Libory, NE 68872. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, 521 So. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Plastic articles (except in bulk)*, between Grand Island, NE, and Dallas, TX, and points in their respective commercial zones; restricted to the transportation of shipments originating at or destined to the facilities of GIA, Inc., a subsidiary of Burwood Industries, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): GIA, Inc., a subsidiary of Burwood Industries, 916 Shady Bend Road, P.O. Box 2095, Grand Island, NE 68801. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 147389 (Sub-1TA), filed June 20, 1979. Applicant: FRANK TRANSPORT, INC., 1902 East Overland, Scottsbluff, NE 69361. Representative: Ronald L. Bolzer, (same address as above). *Agricultural machinery and parts (except in bulk, in tank vehicles)*, from Ankeny, Des Moines, Ottumwa and Waterloo, IA; East Moline and Moline, IL to points and places in NE west of U.S. Highway 83 and to Torrington, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Frank Implement Co., 1902 East Overland, Scottsbluff, NE 69361; (2) Morrill County Implement, Inc., Box 839, Bridgeport, NE 69336; and (3) Youtz Equipment Co., Highway 26 East, Torrington, WY 82240. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 147398 (Sub-1TA), filed June 12, 1979. Applicant: A. T. TUCKER d.b.a. HOTSHOT UNLIMITED, Box 594, Mills, WY 82644. Representative: A. T. Tucker (same address as applicant). (1) *Machinery, materials, equipment and supplies* used in, or in connection with, the discovery, development, production, refining manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, including electric and geothermal energy and ore; and (2) *Machinery, materials, equipment and supplies*, used in or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in WY, CO, UT, MT, ND, SD, NM, AZ, NV and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are eight (8) shippers. Their statements may be examined at the office shown below or at Headquarters. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg & Courthouse, 111 South Wolcott, Casper, WY 82601.

MC 147498 (Sub-1TA), filed June 15, 1979. Applicant: BLUE GOOSE, INC., 6401 Centennial Blvd., Nashville, TN 37209. Representative: John G. Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. *Fiberglas bathtubs and shower stalls, accessories and materials and supplies used in the manufacture of fiberglas bathtubs and shower stalls* between Nashville, TN on the one hand, and points in the United States, on the other (except AK and HI), for 180 days. An underlying ETA seek 90 days authority. Supporting Shipper(s): Aquarius Industries, Inc., 6401 Centennial Blvd., Nashville, TN 37209. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 147499 (Sub-1TA), filed June 1, 1979. Applicant: DONALD HOOPER, d.b.a., D. H. Transfer, Rte 3 Box 231-A, Iron River, MI 49935. Representative: Donald Hooper (same address as above). (1) *hardwood flooring systems, synthetic flooring systems, hardwood and synthetic flooring*, (2) *materials and supplies used in the installation of the commodities in (1) above, and* (3) *lumber, wood products and millwork*, from the facilities of Abendroth-Gamble-Ahonen, Inc. at or near Amasa, MI to points in the United States in and west of the states of MW, WI, IL, MO, AR and LA. Supporting Shipper: AGA, INC., P.O. BOX 25, Amasa, MI 49903. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933. For 180 days.

MC 147508 (Sub-1TA), filed June 4, 1979. Applicant: K. A. TRUCKING, INC., d.b.a., K. A. TRUCKING COMPANY, 15056 Midway Place, Midway City, CA 92655. Representative: Elizabeth I. Abreu, Knapp, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Concrete meter boxes*, from Santa Ana, CA to Las Vegas, NV; Tucson, AZ; and Phoenix, AZ, for 180 days. Supporting Shipper(s): Associated Concrete Products, Inc., Mission Rock Road, P.O. Box 4157, Saticoy, CA 93001. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 147508 (Sub-2TA), filed June 4, 1979. Applicant: K. A. TRUCKING, INC., d.b.a., K. A. TRUCKING COMPANY, 15056 Midway Place, Midway City, CA 92655. Representative: Elizabeth I. Abreu, Knapp, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. Asphaltic sealer, from Houston, TX to Santa Ana, CA, for 180 days. Supporting Shipper(s): Associated Concrete Products, Inc., Mission Rock Road, P.O. Box 4157, Saticoy, CA 93001; Associated Concrete Products, Inc., 4301 West McArthur Blvd., Santa Ana, CA 92704. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 147519 (Sub-1TA), filed June 20, 1979. Applicant: WILLIAM O. SAXTON, d.b.a., SAXTON TRUCKING, 6632 E. Parlier Ave., Fowler, CA 93625. Representative: Willian O. Saxton (same address as above). Contract carrier; irregular routes: Foodstuffs, in vehicles equipped with mechanical refrigeration from the facilities of Anderson Clayton and Company at, or near Fresno, CA to points in OR, WA and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Anderson Clayton Foods, 3390 So. Chestnut, Fresno, CA 93745. Send protests to: D/S, N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 147569 (Sub-1TA), filed June 14, 1979. Applicant: Eugene P. Schreindl d.b.a., AMERICAN INDEPENDENT EXPRESS, 40849 Sundale Drive, Fremont, CA 94538. Representative: Eugene P. Schreindl (same address as applicant). *Contract* carrier, irregular routes: (1) *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A, B, C and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from facilities of Armour and Company at or near South San Francisco, CA to Mesa, Phoenix and Tempe, AZ, restricted to the transportation of shipments originating at above named origin and destined to above named destinations; (2) *Malt beverages* (except in bulk), from the facilities of Carling National Breweries, Inc., at or near Phoenix, AZ to points in Ca, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Armour and Company, Greyhound Tower, Phoenix, AZ 85077; Carling National Breweries, Inc., 3720 Dillon St., Baltimore, MD 21224. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 147589 (Sub-1TA), filed June 6, 1979. Applicant: BAER'S TRANSIT INC., 754 Airport Rd., Menasha, WI 54952. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. Contract carrier; irregular routes; *Malt beverages* from St. Louis, MO and Columbia, OH to Wausau, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Baer's Beverage Inc., 754 Airport Rd., Menasha, WI 54952. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

[Notice No. 134]

MC 5227 (Sub-54TA), filed June 27, 1979. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, 300 South Thompson Avenue, Sioux Falls, SD 57103. *Lumber and lumber products* from points in Churchill County, NV to points in NE, IA, MN, SD, ND, IL, IN, MO, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sundown Timber Company, P.O. Box 1357, Fallon, NV 89406, Fred Snider, President. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 26396 (Sub-249TA), filed May 30, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Foodstuffs* from Napoleon, OH to points in VA, NY, NC, WV, NJ, MD, DC and ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Campbell Soup Company, East Maumee Avenue, Napoleon, OH 43545. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-250TA), filed May 30, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Agricultural chemicals* from Trenton, MI to Othello, WA; Wasatch, UT; and Nampa, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-251TA), filed June 5, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Iron and steel articles* from Franklin and Pulaski, PA to points in IL, IA, KS, MN, MO, MT, NE, ND, SD and WY; and to Ports of entry on the International Boundary line between the U.S. and Canada located in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Franklin Steel Co., P.O. Box 671, Franklin, PA 16323. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

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MC 26396 (Sub-258TA), filed July 3, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Such commodities as are dealt in or utilized by irrigating, feeding, grain storage and handling system, and equipment dealers (restricted against commodities in bulk) from points in the U.S. to poinsts in ID, MT, WY, ND and SD, for 180 days. Underlying ETA's seek 90 days authority. Supporting shipper(s): Agri-Systems, 3115 First Ave. South, Billings, MT 59101. Send protests to: Paul J. Labane, D/S, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 30446 (Sub-12TA), filed May 24, 1979. Applicant: BRUCE JOHNSON TRUCKING CO., INC., 3408 North Graham St., Charlotte, NC 28225. Representative: Leon Thompson, 3408 North Graham St., Charlotte, NC 28206. *Cellulose acetate flakes, in bulk, in closed vans*, from Earl, NC to Savannah, GA and Charleston, SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Celanese Corporation, 1211 Ave., NY, NY 10036. Send protests to: Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 33566 (Sub-3TA), filed July 6, 1979. Applicant: BAY STATE TRANSFER & STORAGE CO., INC., 60 Haynes Circle, Chicopee, Massachusetts 01020. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Household goods as defined by the Commission*, between points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, MD, DE, DC, VA, WV, OH, MI, NC, SC, GA and FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are nine shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 35677 (Sub-3TA), filed May 4, 1979. Applicant: H. J. Russell's, Inc., 2275 Old Vestal Road, Vestal, NY 13850. Representative: Donald C. Carmien, Esq., 22 Riverside Drive, Binghamton, NY 13905. *Contractor, excavation, construction and road building equipment and supplies, which require special equipment due to size or weight*, from (1) facilities of L. B. Smith, Inc., Syracuse, NY to Raleigh and Charlotte, NC and Cayce, SC and (2) return from Raleigh and Charlotte, NC, Columbia, Cayce, and Conway, SC to points and places in NY, PA and NJ, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): L. B. Smith, Inc., Robert Vaber, Sales Manager, 5985 Court St., Syracuse, NY 13206. Send protests to: Interstate Commerce Commission, 338-342 Federal Bldg., 436 Dwight Street, Springfield, MA 01103.

MC 41116 (Sub-60TA), filed June 28, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). Applicant is seeking authority to operate as a *contract carrier* over irregular routes *transporting paper and paper products* from Boise Cascade Corporation at Elizabeth, LA to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MI, MS, MO, NE, NC, OH, OK, PA, SC, TN, TX, WV, and WI, for 180 days. This will be under a continuing contract or contracts with Boise Cascade Corporation. Applicant has filed an underlying ETA seeking 30 days. Supporting shipper(s): Boise Cascade Corporation, P.O. Box 7747, Boise, ID 83707. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 43706 (Sub-7TA), filed June 18, 1979. Applicant: ATKINSON FREIGHT LINES, INC., Neshaminy Plaza, Bldg. No. 1, Suite 1111, Cornwells Heights, PA 19020. Representative: Steven M. Tannenbaum, 133 North 4th St., Phila., PA 19106. *Foam rubber (except in bulk in tank vehicles)*, from the facilities of Wm. T. Burnett & Co., Inc. at Baltimore and Jessup, Md. to pts. in DE, NJ, PA, OH, NY, CT, MA, RI, VT, NH and ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): William T. Burnett & Co., Inc., 1500 Bush St., Baltimore, MD 21230. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 51146 (Sub-709TA), filed July 2, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Paterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. (1) *Charcoal, charcoal briquettes, wood chips, sawdust and wax impregnated fireplace logs (except commodities in bulk) and (2) equipment, materials and supplies used in the manufacture and distribution of the commodities named in (1) above* between the facilities of The Kingsford Co. at or near Burnside, KY on the one hand, and, on the other, points in OH, IN, MN, WI, MI, IL & IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Co., P.O. Box 1033, Louisville, KY 40201. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 61977 (Sub-20TA), filed June 15, 1979. Applicant: ZERKLE TRUCKING COMPANY, 2400 Eighth Ave., Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Steel plate or sheet pipe, viz: Culbert pipe and structural and bent steel plates*, from Canton, OH to points in KY and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Republic Steel Corp., Canton, OH 44705. Send protests: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA PA 19106.

MC 69397 (Sub-59TA), filed June 11, 1979. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh St. NW, Washington, DC 20001. *Lumber and lumber products*, (1) from pts in SC, and Savannah, GA to NC, VA, MD, DE, PA, OH, NY, NJ, CT, RI, MA, VT and NH, and (2) from Savannah, GA to SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCoy Lumber Inds., 300 E. Windover, Ave., Greensboro, NC 27420. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 78276 (Sub-15TA), filed July 3, 1979. Applicant: MAZZEO & SONS EXPRESS, 311 South River Street, P.O. Box No. 691, Hackensack, NJ 07602. Representative: Joseph Mazzeo, 311 South River Street, P.O. Box 691, Hackensack, NJ 07602. Commodities, materials and supplies used in the manufacture and sale of wearing apparel, and shoes, handbags, and wigs, when moving in mixed loads with wearing apparel, on hangers and in cartons from points in Dade County, FL and points in the New York, NY commercial zone; points in Bergen, Middlesex and Passaic Counties, NJ; points in the Philadelphia, PA commercial zone; points in GA, NC and SC for 180 days. Supporting shipper(s): There are nine (9) supporting shippers on file at the Newark, NJ field office and Washington, D.C. Send protests to: Joel Morrows, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 79477 (Sub-5TA), filed June 6, 1979. Applicant: M. J. Seiwert Cartage Co., Inc., 2029 West Hubbard Street, Chicago, IL 60612. Representative: Themis N. Anastos, 120 West Madison Street, Chicago, IL 60602. *General commodities*; (requiring protective services from heat or cold) (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, except as defined by the Commission, commodities in bulk, and commodities requiring special equipment, except as noted), from Chicago, IL commercial zone to Detroit, MI commercial zone for 180 days. Supporting shipper(s): Allied Shippers & Receivers Association, 2029 West Hubbard Street, Chicago, IL 60612. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 79477 (Sub-6TA), filed June 14, 1979. Applicant: M. J. SEIWERT CARTAGE CO., INC., 2029 W. Hubbard St., Chicago, IL 60612. Representative: Themis N. Anastos, 120 W. Madison St., Chicago, IL 60602. *General commodities (requiring protective services from the heat or cold), (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, except as noted)*, from the Chicago, IL Commercial Zone to Detroit, MI Commercial Zone for 180 days. An ETA has been granted for 15 days. Supporting shipper(s): Allied Shippers & Receivers Assn., 2029 W. Hubbard St., Chicago, IL 60612. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 100666 (Sub-476TA), filed June 18, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting *lumber, plywood, compressed woods, built-up woods, veneers, and millwork* from the facilities of Kearse Manufacturing Co., Inc., at or near Olar, SC to Center, TX, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Kearse Manufacturing Company, P.O. Box 138, Olar, SC 29843. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102567 (Sub-231TA), filed July 3, 1979. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day—Vice President, 13403 Fwy., Suite 130, Houston, TX 77040. *Distillate frel oils, aviation gasoline, and jet fuel, in bulk, in tank vehicles*, from Memphis, TX to AR, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway, Campbell Centre, Suite 522, Dallas, TX 75206. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102567 (Sub-232TA), filed July 5, 1979. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, Vice President—Traffic, 13403 Northwest Fwy—Suite 130, Houston, TX 77040. *Waste water (Industrial Chemicals)*, in bulk, in tank vehicles from W. Helena, AR, to Tulsa, OK, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): W. J. Lamberton, 2904 Fourth National Bank Bldg., Tulsa, OK 74119. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102906 (Sub-11TA), filed June 22, 1979. Applicant: McCONNELL HEAVY HAULING, INC., P.O. 463, Little Rock, AR 72203. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. Underlying ETA seeks corresponding authority for 90 days. *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, (other than oilfield equipment), and related *contractors' materials and supplies*, when their transportation is incidental to the transportation which by reason of size or weight require special equipment, between points in IL and points in AR for 180 days. Supporting shipper(s): J. A. Riggs Tractor Company, 7701 New Benton Highway, Little Rock, AR 72209. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 103826 (Sub-6TA), filed July 2, 1979. Applicant: R. O. HARRELL, INC., P.O. Box 97, South Boston, VA 24592. Representative: Richard O. Harrell III, P.O. Box 97, South Boston, VA 24592. *Petroleum products, in bulk, in tank vehicles*, from Friendship, N.C. to Halifax County, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cox Oil & Gas Co., Inc., P.O. Box 638, South Boston, VA 24592. Send protests to: Charles F. Myers, DS, ICC, Room 10-502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 105007 (Sub-60TA), filed July 2, 1979. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Avenue, Albert Lea, MN 56007. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. *Laminated beams and arches and wood decking* from El Dorado Springs, MO, to points in IN, IL, OK, TN, AR, OH, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Structural Woods Systems, General Manager, Box 87, El Dorado Springs, MO 64744. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 105807 (Sub-13TA), filed July 6, 1979. Applicant: CON. WEIMAR CORP., P.O. Box 434, 401 Commerce Road, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Chemicals, in bulk in tank vehicles, having prior movement by water from Port Elizabeth, NJ to McCook, IL, Buffalo, NY and Cincinnati, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Polyesther Corp., 49 Culver Street, South Hampton, NY 11968. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 108207 (Sub-514TA), filed June 18, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: N. W. Smith (same as applicant). *Human blood and blood plasma* between points in AZ, AR, CA, CO, IL, LA, MS, NM, KY, and TX for 180 days. Supporting shipper(s): Plasma Services, 3030 N. 67th Pl., Scottsdale, AZ 85251. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 108207 (Sub-516TA), filed July 5, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith, address same as above. *Plastic granules (except commodities in bulk) in vehicles equipped with mechanical refrigeration* from Ringwood, IL and points in its commercial zone to points in AC, CA, LA, MO, and TX for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Morton Chemical Co., Div. of Morton Norwich Products Polyset Group, 1275 Lake Ave., Woodstock, IL 60098.

MC 108937 (Sub-54TA), filed June 21, 1979. (sent to Washington, DC by mistake by carrier.) Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Representative: Jerry E. Hess, same as applicant. *Common carrier*: regular route: *Meats, meat by-products, and articles distributed by meat packinghouses, as described in Sections A, C & D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk)*, serving the facilities of Lauridsen Foods,

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Inc. at or near Britt, IA, as an off-route point in conjunction with applicant's regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Manager of Transportation, Greyhound, Tower, Phoenix, AZ 85077. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 111856 (Sub-8TA), filed June 4, 1979. Applicant: CHOCTAW TRANSPORT, INC., 800 Bay Bridge Road, Prichard, AL 36610. Representative: Ronald L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203. *Paper and paper products, equipment, materials and supplies used in the manufacture and distribution of paper and paper products,* between Mobile, AL, on the one hand, and all points in FL, on the other, for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 114457 (Sub-517F), filed May 30, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, same address as applicant. *Citrus products, beverages, and beverage preparations, in containers,* from the facilities of Tropicana Products, Inc., at Bradenton, FL to points in MO, KY, IN, IL, OH, MI, MN, WI, IA, KS, ND, SD and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tropicana Products, Inc., P.O. Box 338, Bradenton, FL 33506. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 114457 (Sub-518TA), filed June 8, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, same address as applicant. *Marine engines and such commodities as are dealt in or used by manufacturers and distributors of marine engines (except commodities in bulk)* between the facilities of Mercury Marine Division of Brunswick Corporation located at or near Stillwater, OK on the one hand, and, on the other, points in the U.S. (except AK and HI), for 180 days. Supporting shipper(s): Mercury Marine Division of Brunswick Corporation, One Brunswick Plaza, Skokie, IL 60077. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114457 (Sub-519TA), filed June 8, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, same address as applicant. *Metal containers and container ends* from the facilities of Continental Can Company at Milwaukee, WI to St. Francisville, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Can Company, 10050 Regency Circle, Omaha, NE 68114. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114457 (Sub-520TA), filed June 21, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). *Plastic bottles* from Crosby, MN to Cordova, IL, for 180 days. Supporting shipper(s): Midway Can Company, 2341 Hampden Avenue, St. Paul, MN 55114. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 115557 (Sub-21TA), filed June 20, 1979. Applicant: Charles A. McCauley, 308 308 Leasure Way, New Bethlehem, PA 16242. Representative: Henry M. Wick, Jr., Esquire, David M. O'Boyle, Esquire, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Plastic articles, equipment, materials and supplies used in the manufacture, sale or distribution of plastic articles, between Lexington, KY on the one hand, and, on the other, points in IL, GA, MN, OH and PA. Restriction: The above authority is restricted to traffic originating at or destined to the facilities of Foam Design, Inc. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foam Design, Inc., 444 Transport, Lexington, KY 40504. Send protests to: John J. England, D/S, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 116077 (Sub-415TA), Applicant: DSI TRANSPORTS, INC., 4550 Post Oaks Place/Suite 300, Houston, TX 77027. Representative: J. C. Browder, (same as applicant). *Sodium chlorate solution,* in bulk, in tank vehicles from Columbus, MS to Texarkana, TX. For 180 days. Supporting shipper(s): Hooker Chemical & Plastics Corp., P.O. Box 4289, Houston, TX 77210. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave., #8610, Houston, TX 77002.

MC 116077 (Sub-416TA), Applicant: DSI TRANSPORTS, INC., 4550 One Post Oaks Place/Suite 300, Houston, TX 77027. Representative: J. C. Browder, (same as applicant). *Methyldiiscoyantes,* in bulk, in tank vehicles from Geismar, LA to International Border of Canada for 180 days. Supporting shipper(s): Rubicon Chemical Corporation, P.O. Box 517, Geismar, LA 70734. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave., #8610, Houston, TX 77002.

MC 117676 (Sub-11TA), filed May 31, 1979. Applicant: HERMS TRUCKING, INC., 620 Pear Street, Trenton, NJ 08648. Representative: Alan Kahn, Esquire, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Charcoal briquets and hickory chips (except in bulk);* from Trenton, NJ to points in CT, MA, ME, NH, OH, RI, & VT, for 180 days. Supporting shipper(s): The Kingsford Company, 1700 Commonwealth Bldg., P.O. Box 1033, Louisville, KY 40201. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 118806 (Sub-69TA), filed June 19, 1979. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Blvd., Winnipeg, Manitoba, Canada R2J 3K4. Representative: Bernard J. Kompare, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. *Garden tractors,* from Winneconne, WI to the ports of entry on the International Boundary Line between the United States and Canada located in MD, MN and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. I. Case Company, 700 State Street, Racine, WI 53404. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 119777 (Sub-389TA), filed June 18, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer "L", Madisonville, Ky. 42431. Representative: Carl U. Hurst, Atty. (same as above). (1) Iron and steel articles from Pine Bluff, AR, to points in the United States (except AK and HI). (2) Materials, equipment and supplies (except in bulk) used in the manufacture, sale, or distribution of commodities named in (1) above, from points in the United States (except AK and HI) to Pine Bluff, AR. Supporting shipper(s): Don Woodruff, Century Tube Corp., P.O. Box 7612, Pine Bluff, AR 71611. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 120427 (Sub-28TA), filed May 21, 1979. Applicant: WILLIAMS TRANSFER, INC., 2128 East Hwy #30, Grand Island, NE 68801. Representative: John K. Walker (same address as applicant). *Boxed frozen horse meat, and prepared frozen zoo diets,* from North Platte, NE, on the one hand, and on the other, points in the United States, restricted to traffic originating at the facilities of the supporting shipper Central Nebraska Packing Co., at or near North Platte, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Nebraska Packing Company, P.O. Box 555, 2800 East 8th St., North Platte, NE 68901. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 120427 (Sub-29TA), filed May 25, 1979. Applicant: WILLIAMS TRANSFER, INC., 2128 East Hwy #30, Grand Island, NE 68801. Representative: John K. Walker (same address as applicant). *Boxed frozen horse meat, and prepared frozen zoo diets,* from North Platte, NE to Taunton and Lynn, MA; Wheeling, WV; Plainfield, CT; Washington, D.C.; Louisville, KY; Doswell and Roanoke, VA; Chicago, IL; Detroit, MI; San Francisco, Sacramento, and Lodi, CA; Jacksonville, Miami and Daytona Beach, FL; and Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Nebraska Packing Company, P.O. Box 555, 2800 East 8th St., North Platte, NE 68901. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 121626 (Sub-17TA), filed July 3, 1979. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Road, Sacramento, CA 95828. Representative: Greg A. Dickinson, Suite 610, 7171 Mercy Road, Omaha, Nebraska 68106. *Meats, meat products, meat by-products and commodities used in the manufacturing of meat products and meat by-products* in mechanical refrigerated equipment, between the facilities of H. Shenson, Inc., at Omaha, NE and San Francisco and Los Angeles, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): H. Shenson, Inc., 1955 Carroll Avenue, San Francisco, CA. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 123407 (Sub-584TA), filed June 1, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller (same address as applicant). *Metal roofing and siding and fabricated steel products,* from the facilities of Fabral located at or near Idabel, OK, to points in AR, CA, KS, LA, MO, OK, TX, and WA for 180 days. Supporting shipper(s): Fabral, 3449 Hempland Rd., Lancaster, PA 17601. Send protests to: Dave Hunt, TA, 219 Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 123407 (Sub-585TA), filed April 20, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Material fibreboard, wood fibreboard, gypsum board, and acoustical materials,* from the facilities of Acoustiflex Corporation at Hagerstown, MD to points in AL, GA, TN, KY, VA, WV, PA, DC, NJ, DE, NY, CT, MA, NC, SC, RI, VT, NH and ME, for 180 days. Supporting shipper(s): Acoustiflex Corporation, 811 Center Street, Plainfield, IL 60544. Send protests to: Annie Booker, TA, ICC, 1386 Everett Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 123407 (Sub-586TA), filed June 6, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same as applicant). Dry beverage preparations, fruit flavored beverage, non-carbonated; from Haskell, OK to Dallas, Houston, Ft. Worth, Garland, Beaumont, Lubbock, and San Antonio, TX, Kansas City, MO, Memphis and Jackson, TN and New Orleans and Harahan, LA for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): The Coca Cola Company, Foods Division, 7105 Old Katy Road—P.O. Box 2079, Houston, TX 77001. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123987 (Sub-24TA), filed June 4, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott Jr. (same address as applicant). Lumber and lumber products, from Fredonia, Payson, and Whiteriver, AZ, Craig, and Eagle, CO, and Panguitch, UT, to points in AR, IL, IA, KS, KY, MO, NE, TN, TX, & OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaibab Industries, Inc., P.O. Box 20506, Phoenix, AZ 85036. Send protests to: Connie Stanley, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 123987 (Sub-25TA), filed May 25, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott, Jr. (same address as above). *Hardboard siding and particleboard* from Diboll, TX to points in AZ and CA, for 180 days. SUPPORTING SHIPPER: Claypool and Company, 725 Broadway, Needles, CA 92363. SEND PROTESTS TO: Martha Powell, Transportation Assistant, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102. Supporting Shipper(s): Claypool and Company, 725 Broadway, Needles, CA 92363. Send protests to: Martha Powell, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 124927 (Sub-131TA), filed June 22, 1979. Applicant: JUNIOR N. LARRICK, d.b.a., LARRICK TRANSPORTATION, 200 Cook Rd., Lebanon, OH 45036. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. Contract carrier-irregular routes: *Foam and insulation, and materials, equipment and supplies used in the manufacture and processing of foam and insulation, except commodities in bulk,* between the facilities of Tri-Manufacturing and Sales Company at or near Lebanon, OH, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Tri-Manufacturing and Sales Company and Tri-Manufacturing and Sales Company, dba Southern Ohio Foam, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tri-Manufacturing and Sales Co. and Tri-Manufacturing and Sales Co., dba Southern Ohio Foam, P.O. Box 123, Lebanon, OH 45036. Send protests to: D/S, ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 125227 (Sub-14TA), filed May 22, 1979. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., 100 North Main Bldg., Suite 909, Memphis, TN 38103. *Furnaces, House Heating, Hot Air,* from Rehm Manufacturing Co. and Reyco Warehouse Co. at Ft. Smith, AR to Jackson, MI and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heat Controller, Inc., 1900 Wellworth, Jackson, MI 49203. Send protests to: Floyd A. Johnson, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 125997 (Sub-12TA), filed June 29, 1979. Applicant: L. C. FOESCH, d.b.a. FOESCH TRANSFER LINE, Box 434, Shawano, WI 54166. Representative: Michael Varda, 121 S. Pinckney St., Madison, WI 53703. Contract carrier; irregular routes; *Rough iron and iron-alloy casting* from Shawano, WI to points in MN, IL, OH and MI and on return, materials, equipment, and supplies, used or useful in the manufacture and distribution of the commodities named, from the named destination States to Shawano, WI under a continuing contract(s) with Aarrow Electric Iron Castings, Inc.,

Shawano, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aarrow Electric Iron Castings, Inc., 2900 Richmond St., Shawano, WI 54166. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 126327 (Sub-10TA), filed June 21, 1979. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: W. J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Toilet preparations; health and beauty aid products; buffing polishing and cleaning compounds; chemicals; foodstuffs; and equipment and appliances used in health and beauty care* (except commodities in bulk), from the facilities of Alberto-Culver Co., in Sparks, NV to Emeryville and Los Angeles, CA; Portland, OR; Seattle, WA; and points in their commercial zones. Supporting shipper(s): Alberto-Culver Co., 2525 Armitage Ave., Melrose Park, IL 60160. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 126736 (Sub-126TA), filed June 27, 1979. Applicant: FLORIDA ROCK AND TANK LINES, INC., P.O. Box 1559, Jacksonville, FL 32201. Representative: L. H. Blow (same as applicant). *Manganese Oxide Dust, in bulk, in dump vehicles,* from Rockwood, TN to Jerico, SC for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Stoller-Mii, Div. of Stoller Chemical Company, P.O. Box 5, Jerico, SC 29454. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 128246 (Sub-49TA), filed June 29, 1979. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box A. D., Watsonville, CA 95076. Representative: W. F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Contract carrier; irregular routes: *Foodstuffs*, from the facilities of the Grocery Products Division of McCormick and Company, Inc., at or near Salinas, CA, to the facilities of the Grocery Products Division of McCormick and Company, Inc., at or near Kansas City, Kansas/Missouri, Omaha, NE and Lubbock, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCormick & Co., Inc., 1311 Schilling Place, Salinas, CA 93901. Send protests to: D/S N. C. Foster, 211 Main — Suite 500, San Francisco, CA 94105.

MC 128837 (Sub-8TA), filed June 4, 1979. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62656. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Canned and preserved foodstuffs*, from the facilities of Heinz USA at Muscatine and Iowa City, IA to points in IL and MO (restricted to traffic originating at the facilities of Heinz USA) for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Heinz USA, Div. of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 128866 (Sub-61TA), filed June 21, 1979. Applicant: B & B TRUCKING, INC., Post Office Box 128, 9 Brade Lane, Cherry Hill, NJ 08034. Representative: J. Michael Farrell, 1725 "K" Street, N.W. Suite 814, Washington, DC 20006. Contract carrier. *Scrap aluminum.* From the plantsite of Penny Plate, Inc. at Cherry Hill, NJ; Waynesboro, VA; Deerfield, IL; Searcy and Atkins, AR, to Rockwall, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Penny Plate, Inc., Post Office Box 458, Haddonfield, NJ 08033. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 74 Broad St., Rm. 522, Newark, NJ 07102.

MC 134286 (Sub-119TA), filed June 25, 1979. Applicant: ILLINI EXPRES, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as above). (1) *Heavy thermal plastic covering material for cutting boards*, from Scranton, PA to Bay Village, OH; and (2) *Yarn and rubber (except in bulk)*, from points in NC and GA to Reading, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C & K Manufacturing Co., 27360 W. Oviatt, Bay Village, OH 44140. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 135326 (Sub-20TA), filed June 26, 1979. Applicant: SOUTHERN GULF TRANSPORT, INC., P.O. Box 7959, Shreveport, LA 71107. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Building materials, i.e. (Roofing & Siding Mtls.) except in bulk*, from Shreveport, LA to points in TX and OK, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Bird & Son, Inc., Washington, Street, East Walpole, Mass. 02032. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 135797 (Sub-235TA), filed June 18, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Underlying ETA seeks corresponding authority for 90 days. *Paper and paper products and materials, supplies, and equipment* used in the manufacture and distribution of paper and paper products (except commodities in bulk in tank vehicles) from Mobile, AL and points in its commercial zone, to points in the states of FL, MI, NC and SC for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135797 (Sub-236TA), filed June 20, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). *Appliances* from the facilities of McGraw Edison at Searcy, AR to points in CA, CT, FL, GA, IL, MA, MI, MN, NC, NJ, NY, OH, PA, SC, TX, VA, WI and WV, and from the facilities of McGraw Edison at Phoenix, AZ to points in CA, CO, ID, MT, NM, NV, OR, UT, WA and WY for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): McGraw Edison, 1275 Davis Road, Elgin, IL 60120. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135797 (Sub-237TA), filed June 27, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). *Frozen foodstuffs* from the facilities used by Campbell Soup Company at Springdale, AR to points in LA, MS, NM, OK, TN and TX for 180 days. Supporting shipper(s): Campbell Soup Company, P.O. Box G, Fayetteville, AR 72701. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135797 (Sub-239TA), filed June 29, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). *Foodstuffs* from points in Tarrant, Dallas and Harris Counties, TX to points in the United States (except AK and HI), restricted to traffic originating at the facilities of Uncle Ben's Foods for 180 days. Supporting shipper(s): Uncle Ben's Foods, P.O. Box 1752, Houston, TX 77001. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135797 (Sub-240TA), filed June 18, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Underlying ETA seeks corresponding

authority, for 90 days. *Such articles* as are dealt in by wholesale and retail grocery houses (except in bulk) (1) from Byhalia, MS to points in AL, AZ, AR, CA, CO, CT, DE, FL, ID, IA, KY, ME, MA, MI, MN, MT, NE, NV, NH, NJ, NM, NY, ND, OK, OR, PA, RI, SD, TN, UT, VT, WA, WV, WY and DC and (2) from Rialto, CA to points in AL, AZ, AR, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NV, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, UT, VT, VA, WV, WI, WY and DC for 180 days. Supporting shipper(s): Professional Mixers, Inc., 300 Chesterfield Center, Chesterfield, MO 73017. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135797 (Sub-241TA), filed June 18, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Underlying ETA seeks 90 day authority. *Such commodities* as are dealt in by retail department stores and materials and supplies used in the operation of such stores, from points in the United States (except AK and HI and MI) to the facilities of Meijer, Inc. located in MI, for 180 days. Supporting shipper(s): Meijer, Inc., 2727 Walker Road NW., Grand Rapids, MI 49504. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 136246 (Sub-29TA), filed May 15, 1979. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Liquid fertilizer, in bulk, in tank vehicles,* from Perry, NE to points in CO and KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Chemical Corporation, P.O. Box 2120, Houston, TX 77001. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 138076 (Sub-16TA), filed June 21, 1979. Applicant: HEAVY HAULING, INC., 1100 W. Grand, Salina, KS 67401. Representative: Clyde N. Christey, Suite 110L, KS. Credit Union Bldg., Topeka, KS. *Iron and steel articles* except "Mercer" commodities as defined in 74 M.C.C. 459, 543, or earth drilling commodities as described in Roy L. Jones, et al, 103 M.C.C. 825, 832, from Riley County, KS. to points in NE, OK, CO, MO and IA., common, irregular, for 180 days. Supporting shipper(s): Steel & Pipe Supply Co., Inc., Box 703, Manhattan, KS 66502. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 138157 (Sub-164TA), filed June 18, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Nutritional food supplements, personal care products, household products and materials, equipment and supplies used in the manufacture, sale and distribution of the above commodities (except in bulk),* from Hayward, CA and Norman, OK to Atlanta, GA; Dallas, TX; Chicago, IL and Lyndhurst, NJ for 180 days. Restriction: Restricted to traffic originating at or destined to the facilities of Shaklee Corp. Supporting shipper(s): Shaklee Corp., 1900 Powell St., Emeryville, CA 94608. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 138206 (Sub-8TA), filed July 2, 1979. Applicant: TRULINE CORPORATION, 4455 S. Cameron Ave., Las Vegas, NV 89103. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. *Iron and steel products,* including rebar, mesh, ladder mesh, structural steel, and related accessories, from points in Maricopa County, AZ to Clark County, NV, for 180 days. Supporting shipper(s): Steel Engineers, Inc., 716 W. Mesquite Ave., Las Vegas, NV 89106, Century Steel, Inc., 1548 Athol Ave., Henderson, NV 89015. Send protests to: DS, W. J. Huetig, ICC, 203 Federal Bldg., Carson, City, NV 89701.

MC 138377 (Sub-2TA), filed June 21, 1979. Applicant: BURRIS EXPRESS CO., Harrington, DE 19952. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Contract carrier; irregular routes: Foodstuffs, in vehicles equipped with mechanical refrigeration, between the facilities of Burris Warehouse Co. at Harrington, DE, on the one hand, and, on the other, points in and east of KS, ND, NE, OK, SD and TX, under a continuing contract or contracts with Burris Warehouse Co. and/or Burris Foods, Inc. Supporting shipper(s): John E. Burris, President, Burris Warehouse Co./Burris Foods, Inc., Rees Avenue, Harrington, DE 19952. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 138956 (Sub-14TA), filed June 11, 1979. Applicant: ERGON TRUCKING, INC., 202 E. Pearl St., Jackson, MS 39201. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Barite,* in bulk, in tank vehicles from points in TX to points in LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B & S Industries, Inc., 515 So. College—Suite 107, Lafayette, LA 70503. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 139767 (Sub-5TA), filed June 25, 1979. Applicant: FAIRWAY TRANSIT, INC., N 10 W 24730 Hwy. TJ, Pewaukee, WI 53072. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Chain link fabric (steel fencing)* from facilities of Acco Industries, Inc., Page Fence Div. at or near Monessen, PA to facilities of Century Fence Co at or near Waukesha, WI and Forest Lake, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Century Fence Co., P.O. Box 466, Waukesha, WI 53186; and Acco Industries, Inc., Page Fence Div., 1st & River St., Monessen, PA 15062. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 140166 (Sub-12TA), filed June 5, 1979. Applicant: JOHN L. SMITH, P.O. Box 186, Moreland, ID 83256. Representative: Dennis M. Olsen, 685 E. Street, Idaho Falls, ID 83401. *Animal feed and feed ingredients,* between Pocatello, ID, on the one hand, and points in OR, MT, WY, UT, NV, AZ, and CA, for 180 days. Supporting shipper(s): Ralston Purina Company, P.O. Box 11127, Parkwater Station, Spokane, WN 99211. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 140587 (Sub-15TA), filed June 25, 1979. Applicant: CECIL CLAXTON, Route 3, Box 7, Wrightsville, GA 31096. Representative: Ronald K. Kolins, 333 N. Fairfax Street, Suite 202, Alexandria, VA 22314. (1) *Newsprint paper* (2) *waste newspaper, cores and other supplies, materials and equipment used in the manufacture of newsprint paper* (1) from Laurens County, GA to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA, WV, (2) from points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA and WV to Laurens County, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeast Paper Manufacturing Co., P.O. Box 1169, Dublin, GA 31021. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 140986 (Sub-11TA), filed June 1, 1979. Applicant: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, NJ 07857. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Contract, irregular. *Adhesive, building*

materials, compostion boards, gypsum products, gypsum board paper, mineral fiber products, and paint products, packaging, installation, or distribution of the aforesaid base commodities, except in bulk, from the facilities of the United States Gypsum Company, Gypsum, OH to points in DE, MD, NY, NJ, PA, WV, VA, and DC, for 180 days. under a continuing contract or contracts with the United States Gypsum Company. Supporting Shipper: United States Gypsum Company, 101 S. Wacker Drive, Chicago, IL 60606. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 141626 (Sub-2TA), filed June 14, 1979. Applicant: J & P TRUCKING, INC., 1035–A W. Flint St., Lincolnton, NC 28092. Representative: W. G. Reese, III, P.O. Box 3004, Charlotte, NC 28203. *Foodstuffs, group,* from the counties of Frederick & Rockingham, VA, Beckley, WV, and Lincoln, NC to points and places located on, south of or east of a line beginning at Galveston, TX then along Hwy 45 to Dallas, TX, East along Hwy 67 to Little Rock, AR, east on I–40 to Nashville, TN, south on US 41 to Atlanta, GA, south on I–75 to St. Petersburg, FL and NC, and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: National Fruit Products Co., Inc., Box 2040, Winchester, VA 22601. Send protests to: Terrell Price, 800 Briar Creek Rd.–Rm. CC516, Charlotte, NC 28205.

MC 141076 (Sub-28TA), filed June 1, 1979. Applicant: ROGERS MOTOR LINES, INC., R. D. #2, P.O. Box 388 D2, Hackettstown, NJ 07840. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10040. *Vegetable oil, vegetable shortening, and margarine (except in bulk),* from the facilities of Capital City Products Company at or near Columbus, OH to points in NY on and South of Interstate Hwy 84 and those in NJ on and North of NJ Hwy 33 for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Capital City Products Company, P.O. Box 569, Columbus, OH 43216. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 142416 (Sub-5TA), filed May 21, 1979. Applicant: HAMILTON TRANSFER STORAGE & FEEDS, INC., P.O. Box H, Torrington, WY 82240. Representative: Rufus P. Brott (same address as applicant). *General commodities,* except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, (1) Between Denver, CO and Cheyenne, WY, via U.S. 87 and I–25 serving no intermediate points other than Denver, CO and Cheyenne, WY commercial zones, (2) Between Cheyenne, WY and Torrington, WY via U.S. 85 also via U.S. 87 and I–25 to Jct. U.S. 26, serving all intermediate points and off route points in Goshen County and Missouri Basin Power Project in Platte County, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 15 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Paul A. Naughton, DS, ICC, Rm. 105 Federal Bldg., 111 South Wolcott, Casper, WY 82601.

MC 142977 (Sub-3TA), filed July 3, 1979. Applicant: HOOSIER FREIGHT LINES, INC., P.O. Box 16006, Louisville, KY 40216. Representative: Leroy Barringer, Traffic Mgr., Dover Corp., 2700 Laudeer Dr., Madison, IN 47250. (1) Automobile Lifts (KD), and miscellaneous parts & supplies for automobile lifts from the plantsite of Dover Corporation, Rotary Lift Div., Madison, IN to Cincinnati, OH and Louisville, KY, and points in their commercial zones, and points in IN. (2) Paints, steel, wiring, cardboard boxes (KD), oil and oil products, miscellaneous parts and supplies for authomobile lifts, from Cincinnati, OH and Louisville, KY and points in their commercial zones, and points in IN, to the plantsite of Dover Corp., Madison, IN. Supporting shipper: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 143236 (Sub-35TA), filed June 13, 1979. Applicant: WHITE TIGER TRANSPORTATION, INC., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Elizabeth Eleanor Murphy, 40 Hackensack Avenue, Kearny, NJ 07032. Swimming pool parts and accessories from the facilities of Hayward Mfg. Co. in or near Elizabeth, NJ and points in IN, OH, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hayward Manufacturing Co., Inc., 900 Fairmount Avenue, Elizabeth, NJ 07207. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 143267 (Sub-79TA), filed June 5, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, Atty., 1155 15th St., N.W., Washington, DC 20005. *Iron and steel articles* (1) from the facilities of Republic Steel Corporation at or near Buffalo, NY, to points in IN and IL, and (2) from the facilities of Republic Steel Corporation at or near Cleveland, Warren and Youngstown, OH, to points in IL, IN, IA, and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Republic Steel Corp., P.O. Box 6778, Cleveland, OH 44101. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 143267 (Sub-80TA), filed June 6, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, Esq., 1155 15th St., N.W., Washington, DC 20005. *Refractory products,* from the facilities of Kaiser Aluminum & Chemical Corporation at or near Gary, IN, to points in IL and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kaiser Aluminum & Chemical Sales, Inc., 9700 S. Harlem Ave., Bridgeview, IL 60455. Send protests to: D/S I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 143276 (Sub-19TA), filed June 7, 1979. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, GA 30080. Representative: James L. Brazee, Jr., 3355 Lenox Road, Suite 795, Atlanta, GA 30326. *Steel sheets and coils* from Savannah, GA to all points in GA and from the facilities of Pacesetter Steel Service, Inc., Marietta, GA to all points in the states of LA, AR, TX, OK, MI, IL, IN, KY, TN, MO, IA, WI, AL, MS, MN, KS, NE, CO, OH, NC, SC and FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Pacesetter Steel Service, Inc., P.O. Box 6865, Marietta, GA 30065. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 143276 (Sub-18TA), filed May 18, 1979. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, GA 30080. Representative: James L. Brazee, Jr., 3355 Lenox Road #795, Atlanta, GA 30326. *Asphalt saturated felt and packaged asphalt* from the facilities of Warrior Roofing Manufacturing Company, Inc., located in Tuscaloosa County, AL to points in the states of AL, AR, FL, GA, KY, LA, MS, MO, NC, SC, TN, TX, VA and OK for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Warrior Roofing Manufacturing Company, P.O. Box 3161, Tuscaloosa, AL 35404. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 144407 (Sub-14TA), filed July 2, 1979. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 412

Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Books with paper or paperboard covers, and materials, equipment, and supplies used or useful in the manufacture thereof, between Willard, OH and Crawfordsvill, IN, on the one hand, and, on the other, points in the states of CA, CT, FL, IN, MA, NJ, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: R. R. Donnelley & Sons, 1145 Conwell, Willard, OH 44890. Send protests to: Joel Morrows, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 144726 (Sub-5TA), filed June 22, 1979. Applicant: K. K. W. TRUCKING, INC., 516 West 140th St., Gardena, CA 90243. Representative: James P. Beck, 717 17th Street, Suite 2600, Denver, CO 80202. *Common:* Irreguler: *Kitchen cabinets, bathroom cabinets and vanities, packaged or in cartons, and accessorial parts and materials used in the installation thereof,* from the facilities of Triangle Pacific Corporation, to points in Arizona and Nevada, for 180 days. An underlying ETA seeks 90 days operating authority. Supporting shipper: Triangle Pacific Corp., 4255 LBJ Freeway, Dallas, TX 75234. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053

MC 144827 (Sub-24TA), filed June 22, 1979. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Memphis, TN 38118. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. (1) *Such merchandise as is dealt in by retail and wholesale food business houses, except foodstuffs, and (2) Foodstuffs, except frozen foods and meat and packing house products as described by the Commission, moving in mixed loads with the commodities described in (1) above,* from the facilities of Arrow Industries, Inc. at or near Dallas, TX to Washington, D.C.; points in MD on and east of US Hwy 83; points in PA on and east of US Hwy 81; points in NJ; and points in NY on and east of US Hwy 87, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Arrow Industries, Inc., P.O. Box 34489, Dallas, TX 75234. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145437 (Sub-6TA), filed June 22, 1979. Applicant: JWI TRUCKING INC., 8100 N. Teutonia Ave., Milwaukee, WI 53209. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. Contract carrier; irregular routes: (1) *Wearing apparel, footwear and related advertising materials and supplies and display units* when shipped therewith from facilities of Rainfair, Inc., a subsidiary of Koracorp at or near Racine, WI to points in the U.S. (except AK & HI); (2) *Materials, equipment and supplies* used or useful in the manufacture, sale or distribution of wearing apparel and footwear from points in the U.S. (except AK & HI), to the facilities of Rainfair, Inc., a subsidiary of Koracorp at or near Racine, WI and Wynne, AR; (3) *Wearing apparel, footwear and related advertising materials and supplies and display units* when shipped therewith from facilities of Rainfair, Inc., a subsidiary of Koracorp at or near Wynne, AR to facilities of Rainfair, Inc., a subsidiary of Koracorp at or near Racine, WI, restricted to service to be performed under a continuing contract(s) with Rainfair, Inc., a subsidiary of Koracorp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Rainfair, Inc., 1501 Albert St., Racine, WI. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145637 (Sub-1TA), filed June 18, 1979. Applicant: B & B EXPRESS, INC., P.O. Box 5552, Greenville, SC 29606. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 13 and Pennsylvania Ave., N.W., Washington, D.C. 22204. *Synthetic staple fibers, synthetic fiber yarn and synthetic plastic,* from the facilities of Allied Chemical Corp., Fibers Division, at or near Irmo SC, to points in CA, for 180 days. Supporting shipper: Allied Chemical Corp., Fibers Division, St. Andrews Road, Columbia, SC 29210. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 146326 (Sub-4TA), filed June 4, 1979. Applicant: JOHN ALGER SR. d.b.a. ALGER TRANSPORTATION, 14625 Grover Street, Omaha, Nebraska 68144. Representative: Marshall Becker, Suite 610, 7171 Mercy Road, Omaha, Nebraska 68106. *Cable and wire* (except commodities in bulk, in tank vehicles) from Omaha, NE to ND and SD and empty reels and cores from ND and SD to Omaha, NE on return. Supporting shipper(s): Western Electric Co., Inc., P.O. Box 14000, Omaha, NE 68114, A. C. Dodge, Resident Transportation Supervisor. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 146327 (Sub-5TA), filed June 21, 1979. Applicant: UNITED TRUCKING COMPANY, P.O. Box 1158, Miles City, MT 59301. Representative: John K. Addy, Anderson, Brown, Gerbase, Cebull & Jones, 100 Transwestern Bldg., Billings, MT 59101. *Wine, champagne and brandy* from Seattle, WA to all points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clan Imports, Inc., P.O. Box 22305, Tigard, OR 97223. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 146616 (Sub-2TA), filed May 23, 1979. Applicant: B & H MOTOR FREIGHT, INC., 3314 East 51st Street, Suite B, Tulsa, OK 74135. Representative: Fred Rahal, Jr., 525 South Main, Tulsa, OK 74103. *Contract carrier: irregular route:* (1) *bolts and nuts,* from the facilities of Modulus Corporation at Gary, IN, to points in KS, MO, OK, & TX; (2) *metal articles,* from the facilities of Structural Metals, Inc., at Sequin, TX, to points in AR, MO, & OK; (3) *containers, roll-off frames, waste equipment and handling units, parts and supplies,* and equipment, materials and supplies used in the production and distribution of the commodities immediately named above, from the facilities of Scott and Hill Steel Corporation at Bartlesville, OK, to points in IL, IN, MI, MO, OH, & WI; and (4) *structural steel and steel towers, with parts and accessories,* and materials and supplies used in the production and distribution of the commodities immediately named above, from the facilities of Riverside Industries, Inc., at Tulsa, OK, to points in IL, MI, OH, & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Modulus Corporation, P.O. Box 270, Gary, IN 46401; Riverside Industries, Inc., P.O. Box 2265, Tulsa, OK 74101; Structural Metals, Inc., P.O. Box 911, Sequin, TX 78155; Scott & Hill Corporation, P.O. Box 1235, Bartlesville, OK 74003. Send protests to: Connie Stanley, Room 240, Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 146646 (Sub-4TA), filed June 25, 1979. Applicant: BRISTOW TRUCKING COMPANY, P.O. Box 63558, Birmingham, AL 35217. Representative: Henry Bristow, Jr. (same address as applicant). *Charcoal briquets,* (except commodities in bulk) from the facilities of the Kingsford Company located at or near Dothan, AL; Parson, WV; Ridley, WV, Trenton, NJ; Fairless Hills, PA; Burnside, KY; and Corssville, TN; to points in and east of AR, IA, LA, MN, and MO, for 180 days. Supporting shipper(s): The Kingsford Company, P.O. Box 1033, Louisville, KY 40201. Send protests to: Mabel E. Holston, T/A, ICC,

Room 1616—2121 Building, Birmingham, AL 35203.

MC 146956 (Sub-2TA), filed April 26, 1979. Applicant: WEST EXPRESS TRUCKING COMPANY, General Delivery, Island, KY 42350. Representative: Ed Hodskins, Attorney, 209 W. Fourth St., Owensboro, Ky. 42301. *Steel bars, rods, and bolts,* from the facilities of Illinois Birmingham Bolt Company at or near Kankakee, IL, to points and places in KY. Supporting shipper(s): Cecil W. Shaw, Plant Manager, Illinois Birmingham Bolt Company, P.O. Box 628, Kankakee, IL 60901. Send protests to: Linda H. Sypher., 428 Post Office Building, Louisville, KY 40202.

MC 147067 (Sub-2TA), filed June 28, 1979. Applicant: MACMILLAN OIL COMPANY, INC., P.O. Box 4968, Des Moines, IA 50306. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Asphalt and asphalt products, in bulk, in tank vehicles,* from the facilities of Amoco Oil Company, at or near Linwood, IA to points in Bureau, Carroll, Fulton, Hancock, Henderson, Henry, Joe Daviess, Knox, LaSalle, Lee, Marshall, McDonough, Mercer, Ogle, Peoria, Putnam, Rock Island, Stark, Stephenson, Tazewell, Warren, Winnebago, Whiteside, Woodford Counties, IL for 180 days. Supporting shipper(s): Amoco Oil Company, 200 E. Randolph Dr.—Mail Code 1402, Chicago, IL 60601. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147086 (Sub-4TA), filed May 9, 1979. Applicant: BLACKFORD FARMS, INC., R.R. #3, Marion, IA 52302. Representative: Richard P. Moore, P.O. Box 1943, Cedar Rapids, IA 52406. *Petroleum and petroleum products in tank vehicles* from Decatur and Pana, IL to Cedar Rapids, Center Point, Lisbon, Marion, Martelle, Palo, Prairieburg, and Walker, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Linn Coop Oil Co., 325 35th St., Marion, IA 52302. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147207 (Sub-1TA), filed June 22, 1979. Applicant: KLASSEN TRUCKING, LTD., Box 1797, Winkler, Manitoba, Canada RDG 2X0. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Feed and feed ingredients,* from Mankato, Savage and Dawson, MN, to ports of entry on the U.S.-Canadian border in Kittson County, MN, and ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Pillsbury Company, 7900 Xerxes Avenue South, Bloomington, MN 55400; L. V. Patteson Ltd., 360 Dawson Road, Winnipeg, Manitoba, Canada. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Rooms 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 147367 (Sub-1TA), filed June 21, 1979. Applicant: YELLOW CAB COMPANY, 550 Seventh St., Des Moines, IA 50309. Representative: Robert E. Mannheimer, 1600 Financial Center, Des Moines, IA 50309. *Railroad train crews and their hand baggage* between points in IA, on the one hand, and, on the other, points in MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chicago and North Western Transp. Co., P.O. Box 10001, Des Moines, IA 50306. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147376 (Sub-1TA), filed June 7, 1979. Applicant: LLOYD P. SALISBURY d.b.a. Winona Delivery & Transfer Co., 404 West 4th Street, Winona, MN 55987. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Contract carrier:* Irregular routes: (1) *New furniture* from the facilities of Valley Furniture Manufacturing at or near Winona, MN to points in IL and WI; and (2) *Materials and supplies used in the manufacturing of new furniture (except commodities in bulk)* from Chicago, IL and its commercial zone to the facilities of Valley Furniture Manufacturing at or near Winona, MN, under continuing contract(s) with Valley Furniture Manufacturing, Winona, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Valley Furniture Manufacturing, 52 Walnut, Winona, MN 55987. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 147377 (Sub-1TA), filed June 7, 1979. Applicant: T & W CONTRACT CARRIERS, INC., 54 Furnace Street, Danielson, CT 06239. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neeah, Wisconsin 54956. Contract carrier: Irregular routes, *(1) Office furniture, furnishings and interior partitions* between Taftville, CT, on the one hand, and, on the other, Denver and Pueblo, CO; Dover, Newark and Wilmington, DE; Minneapolis-St. Paul, MN; Oklahoma City and Tulsa, OK; Seattle and Spokane, WA; Madison, Milwaukee and Racine, WI, and their respective commercial zones and points in AL, AZ, AR, CA, DC, GA, IL, IN, KS, KY, LA, MD, MA, MI, MO, NJ, NY, NC, OH, PA, TN, TX and VA, and *(2) Materials and supplies used in the manufacture, sale and distribution of commodities named in (1)* from New York, NY, and its commercial zone, Grand Rapids, MI and Allentown, PA to Taftville, CT., for 180 days. Supporting shipper(s): Helikon Furniture Company, Inc., Taftville, CT 06380. Send protests to: J. D. Perry, Jr., District Supervisor, I.C.C., 135 High Street, Hartford, CT.

MC 147416 (Sub-1TA), filed June 14, 1979. Applicant: MERIC TRUCKING & LEASING CORP., 300 Winston Drive, Cliffside Park, NJ 07010. Representative: Arthur J. Piken, Esq., Piken & Piken, Esquires, One Lefrak City Plaza, Flushing, NY 11368. Contract, irregular. (1) *Expanded foam* from East Rutherford, Carlstadt, and Rockaway, NJ to points in CT, MA, RI and NH. (2) *Plastic articles (polyvinyl)* from Newton, MA to points in NJ and NY. (3) *Raw materials, and such commondities as are used in the process and manufacture of expanded foam,* from points in CT, MA, RI and NH to East Rutherford, Carlstadt and Rockaway, NJ. Restriction: Restricted against the transportation of commodities in bulk. Service to be performed under a contract or continuing contracts with Tenneco Chemicals, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tenneco Chemicals, Inc., West 100 Century Road, Paramus, NJ 07652. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 147487 (Sub-TA), filed June 18, 1979. Applicant: SPIKES, INC., P.O. Box 759, Hugoton, KS 67951. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln, Denver, CO 80264. *Potash,* in bulk, from points in Eddy and Lea Counties, NM to KS and NE; commom, irregular, for 180 days. Supporting shipper(s): Slanker & Associates, P.O. Box 508, Jefferson City, MO 64101. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 147517 (Sub-1TA), filed June 26, 1979. Applicant: TEXAS HIGHWAY TRANSPORT, INC., 2710 Stemmons Freeway, Suite 305, Dallas, TX 75207. Respresentative: D. A. Tibbets, 2616 Glen Forest Lane, Plano, TX 75023. *Trailers loaded or empty,* between the railroad TOFC ramp facilities at Dallas, Fort Worth, Houston, San Antonio, and Laredo, TX on the one hand, and on the other, points located in TX counties in and east of Wilbarger, Baylor, Throckmorton, Shackelford, Taylor, Callahan, Brown, Mills, Lampasas, Burnet, Blanco, Gillespie, Kerr, Bandera, Valverde, Kinney, Maverick, Webb, Zapata, Starr, Hidalgo, Cameron counties. The authority sought is restricted to trailers loaded or empty, having a prior or subsequent movement by rail on trailer-on-flat-car service (TOFC) for 180 days. An underlying ETA for 90 days authority filed. Supporting shipper(s): There are forty-seven supporting shippers. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 147536 (Sub-3TA), filed June 18, 1979. Applicant: D. L. SITTON MOTOR LINES, INC., 3305 Rangeline, P.O. Box 1567, Joplin, MO 64801. Representative: Same as above. *(1) Rubber and plastic articles (except commodities in bulk) and (2) Materials and supplies used in the manufacture of the above named Articles,* from the facilities of Entek Corp. of America at or near Irving, TX to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, OH, OK, TN, WI, and from these destinations shown to facilities of Entek Corp. of America at or near Irving, TX, for 180 days. Supporting shipper(s): Entek Corp. of America, P.O. Box 6108, Dallas, TX 75261. Send protests to: John V. Barry, D/S, Interstate Commerce Commission, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 147556 (Sub-1TA), filed June 26, 1979. Applicant: SOUTHWESTERN SCIENTIFIC CO., INC., 4345 E. Irvington, Tucson, AZ 85714. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Paper and paper products,* from the facilities of Appleton Papers, Inc. at or near Appleton and Combined Locks, WI to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Appleton Papers, Inc., 825 E. Wisconsin Ave., Appleton, WI 54912. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

[Notice No. 136]

MC 42487 (Sub-927TA), filed July 2, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. III (a) General commodities, except those of unusual value, Classes A and B explosives household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment. III (b)(1) Between Minneapolis, MN and Silver Bay, MN serving the intermediate points of Duluth and Two Harbors, MN and serving the junction Interstate Hwy 35 and MN Hwy 33 for purpose of joinder only: From Minneapolis over Interstate Hwy 35W to junction Interstate Hwy 35, then over Interstate Hwy 35 to Duluth, then over U.S. Hwy 61 to Silver Bay, and return over the same route. (2) Between Duluth, MN and Virginia, MN, serving no intermediate points other than the junction U.S. Hwy 53 and MN Hwy 33 and the junction U.S. Hwy 53 and MN 37 for purpose of joinder only: From Duluth over U.S. Hwy 53 to Virginia, and return over the same route. (3) Between Superior, WI and Cohasset, MN, serving the intermediate points of Duluth and Grand Rapids, MN: From Superior over Interstate Hwy 535 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction U.S. Hwy 2, then over U.S. Hwy 2 to Cohasset, and return over the same route. (4) Between Virginia, MN and Grand Rapids, MN, serving all intermediate points: From Virginia over MN Hwy 135 to junction U.S. Hwy 169 then over U.S. Hwy 169 to Grand Rapids, and return over the same route. (5) Between the junction Interstate Hwy 35 and MN Hwy 33 and the junction MN Hwy 33 and U.S. Hwy 53, serving the intermediate point of Cloquet, MN: From the junction Interstate Hwy 35 and MN Hwy 33 over MN Hwy 33 to the junction MN Hwy 35 and U.S. Hwy 53, and return over the same route. (6) Between the junction MN Hwy 37 and U.S. Hwy 53 and the junction MN Hwy 37 and U.S. Hwy 169, serving no intermediate points: From the junction MN Hwy 37 and U.S. Hwy 53 over MN Hwy 37 to the junction MN Hwy 37 and U.S. Hwy 169, and return over the same route. Serving the off-route points of Allen, Aurora, Babbitt, Bengal, Biwabik, Bovey, Britt, Embarrass, Eveleth, Forbes Gilbert, Hoyt Lakes, Kelly Lake, Marble, Mesaba, Mountain Iron, Pengilly, Riley, Sherwood and Silica, MN, in connection with Routes (1) through (6) described above. Applicant seeks authority to serve all points in the commercial zones of the points authorized above. III (c) Applicant intends to tack with present authority at Minneapolis, MN. Authority at Minneapolis, MN is found in Docket No. MC 42487 and Sub Numbers 50, 323 and 578 thereto. The proposed authority will also tack authority acquired by applicant from Ringsby Truck Line Inc. under Docket No. MC-F-13340. A certificate has not yet been issued in the name of applicant covering this authority. III (d) Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission for 180 days. Supporting shipper(s): There are 56 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

Note.—Applicant intends to tack to its existing authority and any authority it may obtain in the future.

MC 51146 (Sub-707TA), filed June 28, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Printed matter* from Sparta, Effingham & Salem, IL to Washington, DC; Baltimore, MD; Pittsburgh, Harrisburg & Philadelphia, PA; New York, Troy & Buffalo, NY; Boston, MA; North Bergen, NJ; Birmingham, AL; and Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): World Color Press, Inc., P.O. Box 1248, Effingham, IL 62401. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-708TA), filed June 28, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI, 54306. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Paper containers* from facilities of The Sealright Co. at Fulton, NY to points in MI, IN, & OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sealright Co., Inc., 314 S. First St., Fulton, NY 13069. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin, Ave., Rm. 619, Milwaukee, WI 53202.

MC 55896 (Sub-119TA), filed June 28, 1979. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Rd., Taylor, MI 48180. Representative: George E. Batty, 20225 Goddard Rd., Taylor, MI 48180. Refrigeration or freezer units, compressors and or related parts thereof; from Blissfield, MI to Chicago, IL. For 180 days. Supporting shipper(s): Rock-Ola 800 N. Kedzie, Chicago, IL 60651. Send protests to: C. R. Flemming, D/S I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 82507 (Sub-6TA), filed June 28, 1979. Applicant: STEMM TRANSFER & STORAGE, INC., P.O. Box 397, St. Cloud, MN 56301. Representative: Samuel Rubenstein/David Rubenstein, 301 North Fifth Street, Minneapolis, MN

55403. *Such commodities as are handled by retail grocery stores, drug stores, hardware stores, department stores and chemicals* from St. Paul, MN to points in MN and Superior, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Warehouse Company, 739 Vandalia, St. Paul, MN 55114. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 95876 (Sub-289TA), filed June 19, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Fiberboard, pulpboard and wall board* from Meridian, MS to points in MI, MN, WI and Fargo and Grand Forks, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Corning Fiberglass, Inc., Fiberglass Tower, Toledo, OH 43659. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 102616 (Sub-1001TA), filed June 22, 1979. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister, (Same address as applicant.) *Acrylonitrile, in bulk, in tank vehicles,* from Addyston, OH to Louisville, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) Monsanto Company, 800 N. Lindebergh, St. Louis, MO 63166. Send protests to: D/S ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 102806 (Sub-24TA), filed June 28, 1979. Applicant: PETROLEUM TRANSPORTATION, INC., 701 E. Davis St., Gastonia, NC 28052. Representative: Danny K. Summitt, same as applicant. *Petroleum and petroleum products, in bulk, in tank vehicles,* from all points in NC to Brunswick, GA and Knoxville, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Truck Stops of America, Inc., P.O. Box 11750, Nashville, TX 37211. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm CC516, Charlotte, NC 28205.

MC 106207 (Sub-513TA), filed June 19, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75222. Representative: M. W. Smith (same as applicant). *Foodstuffs (except commodities in bulk)* from Chicago, IL and points in its commercial zone to points in AR, LA, KS, MO, and TN for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Dry Storage Corp., 2005 W. 43rd St., Chicago, IL 60609. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 106207 (Sub-515TA), filed June 18, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75222. Representative: M. W. Smith (same as applicant). *Foodstuffs,* from St. Louis, MO and points in its commercial zone to points in CO for 180 days. Supporting shipper(s): PVO International, Inc., 3400 N. Warf, St. Louis, MO 63147. Send protests to: Opal M. Jones, TA, RM 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 112766 (Sub-6TA), filed June 26, 1979. Applicant: JOHN F. COYNE d.b.a. COYNE TRUCKING CO., P.O. Box 549, Scotland Lane, New Castle, PA 16103. Representative: John A. Pillar, Esq., 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. *Battery boxes, rubber and plastic and parts thereof,* from Indianapolis, IN to Hamburg, Reading, New Castle, Lyons Station, Allentown and Lancaster, PA and Freemont and Zanesville, OH for 180 days. Supporting shipper(s): The Richardson Company, 2701 Lake Street, Melrose Park, IL 60160. Send protests to: J. J. England, DS, ICC, 2111 Federal Bldg., Pittsburgh, PA 15222.

MC 115496 (Sub-120TA), filed June 12, 1979. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Newsprint paper, waste newspapers, cores and other supplies, materials and equipment, excluding materials in bulk, used in the manufacture or distribution of newsprint* from Laurens County, GA to points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA and WV and from points above to Laurens County, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeast Paper Manufacturing Co., P.O. Box 1168, Dublin, GA 31021. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 115826 (Sub-497TA), filed June 20, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meats,* (A) from Omaha, NE to points in CA; (B) from Madison, NE to points in CA, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour Foods Co., Greyhound Towers, Phoenix, AZ 85077. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-498TA), filed June 20, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meats, meat products and meat byproducts,* from facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE to points in IL, IN, IA, MN, OH, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-499TA), filed June 22, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO. Representative: Howard Gore (same address as above). *Canned animal food* from Birmingham, AL and its commercial zone to Columbus, OH and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kal Kan Foods, Inc., 3386 East 44th St., Vernon, CA 90058. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, 80202.

MC 115826 (Sub-500TA), filed July 2, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meats and meat products,* from Commerce City, CO to points in IL, for 180 days. An underlying ETA filed seeking 90 days. Supporting shipper(s): Gold Star Beef Co., 4810 Newport, Commerce City, CO 80022. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-501TA), filed July 2, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above.) *Hospital supplies,* from Irvine, CA and its commercial zones to Portland, OR; Seattle, WA; Salt Lake City, UT; Boise, ID; Denver, CO; Phoenix, AZ; El Paso, TX; and Albuquerque, NM and their commercial zones, for 180 days. An underlying ETA filed seeking 90 days. Supporting shipper(s): McGaw Laboratories, P.O. Box 11887, Santa Ana, CA 92711. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-502TA), filed July 2, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meats and products,* from Denver, CO and its commercial zones to points in AL, for 180 days. An underlying ETA filed seeking 90 days. Supporting shipper(s): Litvak Meat Co., 5900 York Street, Denver, CO 80216. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-503TA), filed July 2, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meats, Meat Products, and articles distributed by meat packinghouses,* from Denver, CO and its commercial zones to points in NY, NJ, FL, NC, CT, MD, MA, RI, DC. and GA, for 180 days. Supporting shipper(s): Wilson Foods Corp., 4950 Washington, Denver, Co 80216; Montview Packing Co., 2520 S. Raritan, Englewood, CO 80150; Litvak Meat Co., 5900 York St., Denver, CO 80216. Send protests to: Disrict Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 116947 (Sub-61TA), filed October 23, 1978. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street, SW., Atlanta, GA. Representative: William Adams, Attorney at Law, Suite 212—5299 Rosewell, NE., Atlanta, GA. Authority sought to operate as a *contract carrier, by motor vehicle, over irregular routes, transporting: such merchandise* as are dealt in by whole sale, retail and chain grocery and food business houses, and discount and drug stores, (except in bulk and frozen), from the facilities of the Clorox Company, at or near Forest Park, GA, to points in Mississippi, under a continuing contract, or contracts, with The Clorox Company, for 180 days. Supporting shipper(s): The Clorox Company, 1221 Broadway, Oakland, CA 94612. The above-described request for authority was published in the **Federal Register** December 11, 1978, but the territorial area was inadvertently omitted. The authority was granted by the Commission, Motor Carrier Board, by order entered. Any interested party may file a petition for reconsideration 15 calendar days from the date this notice is published. Send petitions for reconsideration to: Team 4, Room 5331, Interstate Commerce Commission, Washington, D.C. 20423.

MC 116776 (Sub-34TA), filed June 11, 1979. Applicant: GULLY TRANSPORTATION, INC., 3820 Wisman Lane, Quincy, IL 62301. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. *Empty containers,* from the facilities of Hercules, Inc., at/near Terre Haute, IN to Kansas City, MO and its commercial zone, for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Hercules Incorporated, 614 Commerce Drive, Oak Brook, IL 60521. Send protests to: Annie Booker, TA Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 118776 (Sub-35TA), filed May 11, 1979. Applicant: GULLY TRANSPORTATION, INC., 3820 Wisman Lane, Quincy, IL 62301. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. (1) *Air compressors, air compressor parts and rough castings,* from Quincy, IL to points in CO, KS, OK, TX, MN, MO, IA, LA, WI, TN, MI, IN, KY, AL, GA, SC, NC, VA, WV, OH, PA, NY, NJ, MD: and (2) materials used in the manufacture of air compressors, air compressor parts, on return, for 180 day. Supporting shipper(s): Colt Industries, Quency Compressor Division, 217 Main St., Quincy, IL 62301. Send protest to: Charles D. Little, ICC, RM 416, Leland Office Bldg., 527 East Capitol Ave. Springfield, IL 62701.

MC 120657 (Sub-7TA), filed May 15, 1979. Applicant: DUGAN TRUCK LINE, INC., 1407 South Walnut, Wichita, KS 67213. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. *Hydraulic fluid power units and all parts and commodities used* in the manufacture of said power units between Hutchinson, KS and points in AR, GA, IL, IN, IA, KY, MI, MN, MS, MO, NE, NY, OH, OK, PA, SC, SD, TX and WI, for 180 days. Supporting shipper: Cessna Fluid Power, Div., P.O. Box 1028, Hutchinson, KS 67501. Send protests to: M. Taylor, DS, ICC, 101 Litwin Bldg., 110 N. Market St., Wichita, KS 67202.

MC 121496 (Sub-28TA). Applicant: CANGO CORPORATION, 1100 Milam Bldg./Suite 2900, Houston, TX 77002. Representative: Tom E. Davis, (same as applicant). *Dimethyl sulfide, dimethyl sulfoxide, (chemicals, NOI),* in bulk, in tank vehicles, from Bogalusa, LA to all points in TX for 180 days. Supporting shipper(s): Crown Zellerback Corporation, P.O. Box 1060, Bogalusa, LA 70427. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 124896 (Sub-92TA), filed June 28, 1979. Applicant: WILLIAMSON TRUCK LINES, INC., Box 3485, Wilson, NC 27893. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IA, KS, LA, ME, MD, MA, MN, MI, MS, MO, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, for 180 days. Restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis IN 46203. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 126826 (Sub-2TA), filed June 29, 1979. Applicant: KENNETH SCHMIDT, 269 South Rebecca Street, Saxonburg, PA 16056. Representative: Jerome Solomon, 3131 United States Steel Bldg., Pittsburgh, PA 15219. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* moving under freight forwarder bills of lading: between Pittsburgh, PA and points in Lawrence County, PA. Supporting shipper(s): California Western Freight Association, d.b.a. Western Freight Association, 10 Try Street, Pittsburgh, PA 15219. Send protests to: J. J. England, DS, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 12837 (Sub-6TA), filed June 22, 1979. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Glass bottles:* from Joliet, IL to Iowa City and Cedar Rapids, IA, Paw Paw, Livonia, Fremont and Detroit, MI, St. Louis and Weston, MO (restricted to movements originating at the plant site of the National Bottle Company at Joliet, IL). An underlying ETA was granted for 90 days authority. Supporting shipper(s): National Bottle Company, #1 Bala Cynwyd Plaza, Bala Cynwyd, PA 19004. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 128837 (Sub-7TA), filed June 22, 1979. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62656. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Wallboard, fibreboard, pulpboard and strawboard,* from Cicero, Il to points in IN, KY, MI, OH and PA for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Boise Cascade Corporation, P.O. Box 2885, Portland, OR 97208. Send protests to:

Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 134467 (Sub-47TA), filed June 21, 1979. Applicant: POLAR RXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Underlying ETA seeks corresponding authority for 90 days. *Such merchandise* as is dealt in by retail, discount, department, or variety stores, except commodities in bulk from points in CT, MA, MD and RI, to the facilities of Wal-Mart Stores, Inc. at or near Bentonville, Searcy and Ft. Smith, AR for 180 days. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135007 (Sub-76TA), filed June 27, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, Nebraska 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Contract carrier: irregular routes—*Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from the facilities of Spencer Foods, Inc. at or near Spencer, IA to points in IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Don Brink, Corporate Traffic Manager, Spencer Foods, Inc., P.O. Box 544, Schuyler, NE 68661. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 135067 (Sub-5TA), filed June 15, 1979. Applicant: HANS L. SANBERG, d.b.a. SANBERG TRUCKING COMPANY, 405 South McCoy, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Contract carrier: irregular routes; *malt beverages,* from Milwaukee, WI to Peru, IL restricted to transportation performed under continuing contract with Dresbach Distributing Co. for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Dresbach Distributing Co., 102 North Pike Street, Peru, IL 61354. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 135797 (Sub-236TA), filed June 27, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). *Foodstuffs* (except in bulk) from Little Rock and Springdale, AR to points in AL, AZ, CA, CO, CA, ID, IL, IN, KY, LA, MI, MO, NC, OH, OK, OR, SC, TN, TX and WA, restricted to traffic originating at the facilities of Good Old Days Foods, Inc., for 180 days. Supporting shipper(s): Good Old Days Foods, Inc., P.O. Box 191, Springdale, AR 72764. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 136947 (Sub-3TA), filed March 30, 1979. Applicant: CUOMO & SON CARTAGE COMPANY, 429 Talcott, Lemont, IL 60439. Representative: Philip A. Lee, 120 West Madison, Suite 618, Chicago, IL 60602. *Contract carrier:* irregular routes: *Canned goods:* from Chicago, IL to Milwaukee and Waukesha, WI for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Campbell Soup, 2550 West 35th Street, Chicago, IL 60632. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 138157 (Sub-162TA), filed June 26, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Clay building products and materials, equipment and supplies used in the manufacture, production, and distribution of clay building products,* from Pomona and Westminister, CA to points in the United States in and east of ND, SD, NE, KS, OK & TX, for 180 days. Restriction: Restricted against transportation of commodities in bulk. Supporting shipper(s): Huntington/ Pacific Ceramics, Inc., 9223 Bolsa Ave., Westminister, CA 92683. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138157 (Sub-163TA), filed June 27, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Fireplaces, grills, broilers, grates and materials, equipment and supplies used in the manufacture, sale and distribution of the commodities named above,* from Santa Fe Springs, CA to points in the United States in and east of ND, SD, NE, KS, OK & TX for 180 days. Supporting shipper(s): Whittier Steel & Manufacturing, Inc., 10725 S. Painter Ave., Santa Fe Springs, CA 90670. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138627 (Sub-75TA), filed June 25, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Insulation (except commodities in bulk, in tank vehicles)* from the facilities of The Celotex Corporation at Charleston, IL to points in IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Celotex Corporation, a subsidiary of Jim Walter Corporation, 1500 N. Dale Mabry Hwy, Tampa, FL 33607. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 143456 (Sub-3TA), filed June 25, 1979. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine St., Barre, VT 05641. Representative: William L. Rossee, P.O. Box 332, Barre, VT 05641. Contract carrier, *Stone, stone working supplies, stone working materials, and stone working machinery* (except finished stone monuments), over irregular routes, (a) between the facilities of Rock of Ages Bldg. Granite Corp., at or near Concord, NH, on the one hand and, on the other, points in TX and those in the U.S., in and east of WI, IL, KY, TN, MS, and LA; (b) from points in TX and points in the U.S. in and east of WI, IL, KY, TN, MS, and LA to the facilities of Rock of Ages Corp., in VT and *Stone* (except finished stone monuments), from the facilities of Rock of Ages Corp., in VT to points in PA, OH, MD, VA, and the District of Columbia for 180 days. Supporting shipper(s): Rock of Ages Corp., P.O. Box 482; Barre, VT 05641. Send protests to: Carol Perry, 87 State St., Rm 303; Montpelier, VT 05602.

MC 144166 (Sub-3TA), filed July 2, 1979. Applicant: BILL STARR TRUCKING, INC., 1716 Berry Road, Independence, MO 64057. Representative: Alex M. Lewandowski, Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. *Newsprint in rolls,* from the facilities of the Southland Division, St. Regis Paper Company, at or near Sheldon, TX to Independence MO, for 180 days. Supporting shipper(s): Examiner Publishing Co., 321 W. Lexington, Independence, MO. Send protests to: Vernon V. Coble, D/S, ICC,

Room 600, Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 144606 (Sub-7TA), filed June 26, 1979. Applicant: DUNCAN SALES & LEASING CO., INC., 714 E. Baseline Rd., Buckeye, AZ 85326. Representative: Andrew V. Baylor, 37 E. Elm St., Phoenix, AZ 85012. Expanded plastic bottles, from La Mirada, CA to Las Vegas, NV and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Liqui-Box Corp., 16333 Phoebe Ave., La Mirada, CA 90638. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 144606 (Sub-8TA), filed June 27, 1979. Applicant: DUNCAN SALES & LEASING CO., INC., 714 E. Baseline Rd., Buckeye, AZ 85326. Representative: Andrew V. Baylor, 37 E. Elm St., Phoenix, AZ 85012. *(1) Wire (barbed, smooth and fabricated), fence posts, nails, staples and metal fasteners, roofing and roofing materials (except in bulk), cement and, lime, in bags and plasterboard,* from El Paso and Laredo, TX to Phoenix and Tucson, AZ, Los Angeles, CA, Las Vegas, NV and respective commercial zones; *(2) cement and lime, in bags,* from Corpus Christi and Laredo, TX to Phoenix and Tucson, AZ, Los Angeles, CA, Durango, CO, Las Vegas, NV and respective commercial zones; *(3) Lime in bags,* from Las Vegas, NV to Phoenix and Tucson, AZ, Los Angeles, CA, Albuquerque, NM, El Paso, TX and respective commercial zones, for 180 days. Supporting shipper(s): J. R. Niemeier Co., 5822 Cromo Dr., Suite 324, El Paso, TX 79912. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix AZ 85025.

MC 144756 (Sub-3TA), filed June 29, 1979. Applicant: DEDICATED TRUCKING CORP., P.O. Box 1383, Hamilton & Rush Rds., Chehalis, WA 98532. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. Contract, irregular, *such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses (except frozen and bulk commodities)* from the facilities of Clorox Company at Oakland, San Leandro and Stockton, CA to points in OR and WA for 180 days. Supporting shipper(s): The Clorox Company, 1221 Broadway St., Oakland, CA 94612. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 144927 (Sub-20TA), filed April 2, 1979. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. Hwy 24 West, Remington, IN 47977. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Malt beverages,* (1) from St. Louis, MO, to Columbus, OH, and to points in CT, DE, MA, NH, NJ, NY, PA, RI, VT and Chicago, IL and (2) from Columbus, OH, to points in CT, DE, MA, MO, NH, NJ, NY, PA, RI, VT and Chicago, IL, for 180 days. Supporting shipper(s): Anheuser-Busch, Inc. 721 Pestalozzi Street, St. Louis, MO 63118. Send protests to: Beverly J. Williams, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 145857 (Sub-2TA), filed July 2, 1979. Applicant: K & R TRUCKING COMPANY, P.O. Box 63, Dacus Road, Preston, GA 31824. Representative: Henry L. Crisp, P.O. Box J, Americus, GA 31709. *Common carrier,* irregular routes, *transporting agricultural lime and agricultural gypsum in bulk and in dump vehicles,* from Lee County, AL and Hamilton, Madison, Taylor, Jefferson, Jackson and Leon Counties, FL, to all points in GA, south of an inclusive of U.S. Highway 80 and west of an inclusive of Interstate Highway 75 for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carter's Warehouse, Box 220 Plains, GA 31780. Farmer's Mutual Exchange of Dawson, Dawson, GA 31742. Farmers Mutual Exchange of Cuthbert, Cuthbert, GA 31740. Send protests to: G. H. Fauss, Jr. DS, ICC, P.O. Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145956 (Sub-2TA), filed June 27, 1979. Applicant: TRANSMEDIC CARRIERS, INC., P.O. Box 1394, Largo, FL 33540. Representative: Paul Meilleur, 1340 Indian Rocks Rd., Belleair, FL 33516. *Pipe covering, plastic film with adhesive backing and rust preventative pipe line coating (primer) and products used in the manufacture thereof,* except in bulk in tank cars, between Franklin, KY and New Orleans, LA, Houston, Galveston, Odessa and Midland, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kendall Company, 1 Federal St., Boston, MA 02101. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 146167 (Sub-1TA), filed June 15, 1979. Applicant: All Freight Express, Inc., 7200 S. Ferdinand Avenue, Bridgeview, IL 60455. Representative: Eugene L. Cohn, One N. LaSalle Street, Chicago, IL 60602. *Contract carrier;* irregular routes: *Molten liquid aluminum,* from Chicago, IL to points in IN and WI within a 150 mile radius of Chicago, IL for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): R. Laving & Son, 3426 S. Kendzie, Chicago, IL 60623. Send protests to: Annie Booker, TA, ICC—219 South Dearborn, Rm. 1386, Chicago, IL 60604.

MC 146646 (Sub-3TA), filed June 25, 1979. Applicant: BRISTOW TRUCKING COMPANY, P.O. Box 36558, Birmingham, AL 35217. Representative: Henry Bristow, Jr. (P.O. Box same as applicant). *Charcoal briquets* from the facilities of The Kingsford Company located at Dothan, AL to points in GA, LA, MD, MS, NC, SC, VA, and District of Columbia for 180 days. Supporting shipper(s): The Kingsford Company, P.O. Box 1033, Louisville, KY 40201. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 147007 (Sub-3TA), filed June 22, 1979. Applicant: EVERFRESH TRANSPORTATION COMPANY, 6431 East Palmer, Detroit, MI 48211. Representative: John S. Barbour, 2711 East Jefferson, Suite 203, Detroit, MI 48207. *Contract:* Irregular routes: *Motor vehicle parts, components, machinery, equipment or parts, materials, supplies, advertising materials and equipment,* materials and supplies utilized in the manufacture thereof; between Warren, Center Line, and Marysville, MI, on the one hand, and on the other hand, Orlando, FL and the Commercial zones thereof, under a continuing contract(s) with Chrysler Corporation Service and Parts Division. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chrysler Corporation, Service and Parts Division, 26311 Lawrence Avenue, Center Line, MI 48015. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 147087 (Sub-3TA), filed June 29, 1979. Applicant: W. L. GOOD TRUCKING, INC., Mingo, IA 50168. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. Liquid fertilizer, in bulk, in tank vehicles, from the facilities of Carpenter Sales, Inc. at or near Bondurant and Nevada, IA to points in AL, IL, IN, KY, LA, MI, MO, MS, OH, PA and TX for 180 days. Supporting shipper(s): Carpenter Sales Inc., 10825 NE Hubbell, Bondurant, IA 50035. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147507 (Sub-1TA), filed June 20, 1979. Applicant: MARION TRANSPORT, INC., R.R. #3, Marion, IA

52302. Representative: Richard P. Moore, P.O. Box 1943, Cedar Rapids, IA 52406. *Petroleum and petroleum products, in tank vehicles,* from Pine Bend and Minneapolis, MN, and its commercial zone and Peoria and North Pekin, IL, to Cedar Rapids, Center Point, Lisbon, Marion, Martelle, Palo, Prairieburg, and Walker, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Linn Coop Oil Co., Marion, IA. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147526 (Sub-1TA), filed June 22, 1979. Applicant: SOCKETT, INC., 26 Remer Avenue, Springfield, NJ 07081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier;* irregular routes for 180 days. Resins, and materials, equipment, and supplies used in the manufacture of resins, in shipper owned trailers, between the facilities of Synres Chemical Corp. located at or near Kenilworth, NJ, on the one hand, and, on the other, Chelsea, Shrewsbury, and Worcester, MA; Bedford Heights and Cleveland, OH; and Edenton, NC. An underlying ETA seeks 90 days authority. Supporting shipper(s): Synres Chemical Corp., 1036 Commerce Street, Union, NJ 07083. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147527 (Sub-1TA), filed June 25, 1979. Applicant: GERALD MUELLER, d.b.a. GERALD MUELLER TRUCKING, Box 115, Taylor Ridge, IL 61284. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. *Contract carrier;* over irregular routes; *waste paper* from Rock Island, IL to Fort Madison, IA; and *rolled paper* from Fort Madison, IA to Rock Island, IL for the account of Miller Container Corporation for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Miller Container Corp., P.O. Box 196, Milan, IL 61264. Send protests to: Annie Booker, TA, ICC—219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 147536 (Sub-1TA), filed June 29, 1979. Applicant: D. L. SITTON MOTOR LINES, INC., 3305 Rangeline, P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton (same as above). *Prepared animal and poultry feed, materials and supplies used in the manufacture of prepared animal and poultry feed (except in bulk, in tank vehicles),* between points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, ND, OH, OK, SD, TN, TX and WI, restricted to shipments originating at or destined to the facilities of Doane Products Co. Supporting shipper(s): Doane Products Co., P.O. Box 879, Joplin, MO 64801. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 147536 (Sub-2TA), filed July 2, 1979. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton, (same as above), *Insulation, insulating materials, lead silicate, litharge, sublimed lead, zinc oxide, fertilizer and feed compounds, materials and supplies used in the manufacture and distribution of above commodities* between points in AL, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, SC, SD, TN, TX, WI and WY, for 180 days. Supporting shipper(s): Eagle Picher Industries, Inc., Chemicals and Fibers Division, P.O. Box 1328, Joplin, MO 64801. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 147547 (Sub-1TA), filed June 28, 1979. Applicant: R & D TRUCKING CO., INC., Church Road, Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Paper and paper products* from the facilities of Champion International Corporation at or near Courtland, AL to AR, CA, CO, NM, OR, TX and UT for 180 days. Supporting shipper(s): Champion International Corporation, Knightsbridge, Hamilton, OH 45020. Send protests to: Mabel E. Holston, T/A, Room 1616—2121 Building, ICC, Birmingham, AL 37219.

MC 42487 (Sub-914TA), filed May 3, 1979 and published in the **Federal Register** of June 11, 1979 and republished as corrected in this issue. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: H. P. Strong, P.O. Box 3062, Portland, OR 97208. *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the commission, commodities in bulk, and commodities requiring special equipment. (1) Between Omaha, NE and Lincoln, NE, serving intermediate point of Greenwood, and all intermediate points in Douglas, Lancaster and Sarpy Counties, NE: From Omaha over U.S. Hwy 6 to Lincoln, and return over the same route. (2) Between Omaha, NE and Beatrice, NE serving all intermediate points, From Omaha over U.S. Hwy 6 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Beatrice, and return over the same route. (3) Between Omaha, NE and Hastings, NE, serving all intermediate points in Adams, Lancaster and Saline Counties, NE: From Omaha over U.S. Hwy 6 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Hastings, and return over the same route. (4) Between Omaha, NE and Lexington, NE, serving all intermediate points in Buffalo, Dawson, Hall, Hamilton, Lancaster, Seward and York Counties, NE, only: From Omaha over U.S. Hwy 6 to junction U.S. Hwy 34, then over U.S. Hwy 34 to junction U.S. Hwy 281, then over U.S. Hwy 281 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Lexington and return over the same route. (5) Between Omaha, NE and junction U.S. Hwy 281 and U.S. Hwy 34, near Grand Island, NE serving all intermediate points, From Omaha over U.S. Hwy 6 to junction 28 then over U.S. Hwy 281 to junction U.S. Hwy 281 at U.S. Hwy 34, near Grand Island, and return over the same route. (6) Between Omaha, NE and Beatrice, NE, serving all intermediate points in Gage County, NE: From Omaha over U.S. Hwy 275 to junction U.S. Hwy 136, near Rockport, MO, then over U.S. Hwy 136 to Beatrice, and return over the same route. (7) Between Lexington, NE and Cheyenne, WY, serving all intermediate points in Buffalo and Dawson Counties, NE and serving the junction U.S. Hwy 30 and U.S. Hwy 26 at Ogallala, NE From Lexington over U.S. Hwy 30 to Cheyenne, and return over the same route. (8) Between junction U.S. Hwy 30 and U.S. Hwy 26 at Ogallala, NE: and Casper, WY, serving no intermediate: From junction U.S. Hwy 30 and U.S. Hwy 26 at Ogallala, over U.S. Hwy 26 to junction NE Hwy 92, then over NE Hwy 92 to junction NE Hwy 79E, then over NE Hwy 79E to junction U.S. Hwy 26 near Minatare, NE, then over U.S. Hwy 26 to Casper, and return over the same route. Serving all other points in Adams, Dawson, Douglas, Gage, Hall, Hamilton, Jefferson, Kearney, Lancaster, Saline, Sarpy, Seward and York Counties, NE as off route points in connection with routes described above. Applicant intends to tack the proposed authority with its present authority at Cheyenne, WY; Casper, WY and Omaha, NE. Present authority to serve Cheyenne and Casper, WY is found in applicants Docket No. MC 42487 Sub 431. The authority to serve Omaha, NE is held pursuant to authority granted in Docket No. MC-F-13340, Consolidated Freightways Corporation of Delaware Purchase—(portion) Ringsby Truck Lines, Inc. A sub number has not been issued by the Commission, at this time. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in Tariffs on file with the Interstate Commerce Commission. The purpose of this republication is to indicate the proper restrictions corresponding to this application. Supporting shipper(s): There are 63 supporting shippers to this application. Send protests to: District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

Note.—Applicant intends to tack.

MC 42487 (Sub-915TA), Filed May 1, 1979 and published in the **Federal Register** issue of June 11, 1979, and republished as corrected in this issue. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: H. P. Strong, P.O. Box 3062, Portland, OR 97208. *Common carrier: regular routes;* General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Lake Charles, LA and Leesville, LA serving the intermediate point of De Ridder, LA and the off-route point of Fort Polk, LA from Lake Charles, over U.S. Hwy 171 to Leesville, and return over the same route for 180 days. The purpose of this republication is to remove the restriction "for joinder only". Supporting shipper(s): Ampacet Corporation, c/o Tariff, P.O. Box 375, Hazlet, NJ 07730. Westvaco Corporation, 299 Park Ave., New York, N.Y. Send protests to: District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

Note.—Applicant proposes to tack the authority sought here at Lake Charles, LA with its existing operating authority.

MC 42487 (Sub-918TA), filed May 7, 1979 and published June 26, 1979 in the **Federal Register** and republished as corrected this issue. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: H.P. Strong, P.O. Box 3062, Portland, OR 97208 III(a) General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, III(b)(1) Between Glens Falls, NY and the international boundary line between the U.S. and Canada at or near Champlain, NY serving the intermediate points of Plattsburgh, and Champlain, NY and serving junction US Hwy 9 and NY Hwy 149 and junction US Hwy 9 and NY Hwy 314 for joinder only: From Glens Falls over US Hwy 9 to the international boundary line between the U.S. and Canada at or near Champlain, NY, and return over the same route. (2) Between Pittsfield, MA and the international boundary line between the U.S. and Canada at or near Highgate Springs, VT, serving all intermediate points and the off-route point of Pownal, VT: From Pittsfield over U.S. Hwy 7 to the international boundary line between the U.S. and Canada at or near Highgate Springs, VT, and return over the same routes. (3) Between the junction US Hwy 9 and NY Hwy 149 and Rutland, VT, serving no intermediate points: From the junction US Hwy 9 and NY Hwy 149 over NY Hwy 149 to junction US Hwy 4, then over US Hwy 4 to Rutland, and return over the same route. (4) Between the junction US Hwy 9 and NY Hwy 314 and the junction US Hwy 2 and US Hwy 7, serving no intermediate points: From the junction US Hwy 9 and NY Hwy 314, over NY Hwy 314 to VT Hwy 314 (via Ferry), then over VT Hwy 314 to US Hwy 2, then over US Hwy 2 to junction US Hwy 2 and US Hwy 7. (5) Between Rutland, VT and Lebanon, NH, serving the intermediate points of Woodstock and White River Junction, VT: From Rutland over US Hwy 4 to Lebanon, and return over the same route. (6) Between Champlain, NY and Swanton, VT, serving the intermediate point of Rouses Point, NY: From Champlain over US Hwy 2 to junction VT Hwy 78, then over VT Hwy 78 to Swanton, and return over the same route. (7) Between Champlain, NY and Malone, NY, serving no intermediate points: From Champlain over US Hwy 11 to Malone, and return over the same route. Serving all intermediate and off-route points in Chittenden and Rutland Counties, VT in connection with Routes 2, 3, 4 and 5 described above and all points located in the commercial zones of points of service named above. The purpose of this republication is to indicate the proper territorial scope of the application. Supporting shipper(s): There are 94 statement in support of this application. (See application.) Send protests to: District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

Note.—Applicant intends to tack to its existing authority and any authority it may obtain in the future.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24134 Filed 8-3-79; 8:45 am]

BILLING CODE 7035-01-M

[Sixty-Sixth Revised Exemption No. 90]

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To All Railroads:

It appearing, that the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410-A, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR
*Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator
Reporting Marks: AA
Apalachicola Northern Railroad Company
Reporting Marks: AN
*Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Bath and Hammondsport Railroad Company
Reporting Marks: BH
Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT
City of Prineville
Reporting Marks: COP
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Columbus and Greenville Railway Company
Reporting Marks: CAGY
Duluth, Missabe and Iron Range Railway Company
Reporting Marks: DMIR
East Camden & Highland Railroad Company
Reporting Marks: EACH
Genessee and Wyoming Railway Company
Reporting Marks: GNWR
Greenville and Northern Railway Company
Reporting Marks: GRN

*Additions.

The Hutchinson and Northern Railway Company
Reporting Marks: HN
Indiana Eastern Railroad and Transportation, Inc. D/B/A The Hoosier Connection
Reporting Marks: HOSC
Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI
Lenawee County Railroad Company, Inc.
Reporting Marks: LCRC
Louisiana Midland Railroad Company
Reporting Marks: LOAM
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, new Albany & Corydon Railroad Company
Reporting Marks: LNAC
Manufacturers Railway Company
Reporting Marks: MRS
Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ
Missouri-Kansas Texas Railroad Company
Reporting Marks: MKT–BKTY
*New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
New Orleans Public Belt Railroad Company
Reporting Marks: NOPB
New York, Susquehanna and Western Railroad Company
Reporting Marks: NYSW
Oregon & Northwestern Railroad Co.
Reporting Marks: ONW
Pearl River Valley Railroad Company
Reporting Marks: PRV
Peninsula Terminal Company
Reporting Marks: PT
*Port Huron and Detroit Railroad Company
Reporting Marks: PHD
Providence And Worcester Company
Reporting Marks: PW
Raritan River Rail Road Company
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Lawrence Railroad Company
Reporting Marks: NSL
Savannah State Docks Railroad Company
Reporting Marks: SSDK
Sierra Railroad Company
Reporting Marks: SERA
Terminal Railway, Alabama State
Reporting Marks: TASD
The Texas Mexican Railway Company
Reporting Marks: TM
Tidewater Southern Railway Company
Reporting Marks: TS
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Company
Reporting Marks: WCTR
Youngstown & Southern Railway Company
Reporting Marks: YS
Yreka Western Railroad Company
Reporting Marks: YW

Effective July 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 12, 1979.
Interstate Commerce Commission.
Joel E. Burns,
Agent.
[FR Doc. 79-24129 Filed 8-3-79; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. 46 Under Service Order No. 1344]

Rerouting Traffic

To: All Railroads:

In the opinion of Joel E. Burns, Agent, The Chesapeake and Ohio Railway Company is unable to transport promptly all traffic offered for movement between Old Town, Ohio, and Gallipolis, Ohio, and therefore is unable to provide service to Gallipolis, Ohio; Kanauga, Ohio; and Cheshire, Ohio, because of track conditions.

It is ordered,

(a) *Rerouting traffic.* The Chesapeake and Ohio Railway Company (CO) being unable to transport promptly all traffic offered for movement to and from Gallipolis, Ohio; Kanauga, Ohio; and Cheshire, Ohio, because of track conditions, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 8:00 a.m., July 18, 1979.

(g) *Expiration date.* This order shall remain in effect until otherwise modified or vacated by this Commission.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 18, 1979.
Interstate Commerce Commission.
Joel E. Burns,
Agent.
[FR Doc. 79-24127 Filed 8-3-79; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. 47 Under Service Order No. 1344]

Rerouting Traffic

To All Railroads:

In the opinion of Joel E. Burns, Agent, the Soo Line Railroad Company, Algoma Central Railway, and CP Rail, are unable to transport promptly all traffic offered for movement to and from points in Canada and to and from points in the United States via Sault Ste. Marie, Michigan, or Sault Ste. Marie, Ontario, Canada, because of bridge damage.

It is ordered,

(a) *Rerouting traffic.* The Soo Line Railroad Company, Algoma Central Railway, and CP Rail, being unable to transport promptly all traffic offered for movement to and from points in Canada and to and from points in the United States, via Sault Ste. Marie, Michigan, or Sault Ste. Marie, Ontario, Canada, because of bridge damage, those lines and their connections are authorized to divert or reroute such traffic via any available route to expedite the movement. This rerouting applies only to the movement within the United States. Traffic necessarily diverted by

authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 9 a.m., July 23, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 15, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 23, 1979.
Interstate Commerce Commission.
Joel E. Burns,
Agent.
[FR Doc. 79-24128 Filed 8-3-79; 8:45 am]
BILLING CODE 7035-01-M

[No. MC-138882 (Sub-No 86) F]

Wiley Sanders Truck Lines, Inc., Extension—Lumber [1] (Troy, AL); Decision

Decided: July 24, 1979.

Applicant seeks a certificate of public convenience and necessity authorizing operations substantially as described in the appendix. The evidence has been considered under the modified procedure. The amended application is opposed by motor common carriers Bee Line Transportation, Inc., Hunt Transportation, Inc., International Transport, Inc., Ligon Specialized Hauler, Inc., Melton Truck Lines, Inc., Ray Bethers Trucking, Inc., Sammons Trucking, Sawyer Transport, Inc., Utah Carriers, Inc., Warren Transport, Inc., and Clarence L. Werner, doing business as Werner Enterprises.

The application is supported by Northwest Pine Sales, Inc., a broker of lumber which purchases merchandise from lumber mills and wholesalers and sells it to such customers as other wholesalers, distributors, retailers, or manufacturers. Northwest purchases lumber (shop lumber, moulding grade lumber, and cut stock) at various mills in the proposed origin States and ships it to points in the States of Alabama, Arkansas, Missouri, New Mexico, Texas, and Wisconsin. Northwest names representative origin points (46) and representative destination points (50) from and to which it made shipments in each of the involved States during the first 9 months of 1978. Shipper indicates that its salesmen buy and sell lumber by telephone and that customers may be located at any point in the involved States. Shipper indicates the numbers rail carloads (447) it shipped to points in the proposed destination States in the first 9 months of 1978, and points out that each carload is the equivalent of two or three truckloads. Shipper asserts that adequate transportation is a very important factor in its brokerage business. An increasing amount of motor carrier transportation is required, for sales volumes have been growing substantially, rail service has been deteriorating, and customers are purchasing product in smaller quantities. Prompt pickups and timed deliveries are required or else sales may be lost or additional expenses incurred. Northwest finds that the existing carriers have been unable to supply it equipment on a timely basis. Shipper does not intend to divert traffic from carriers which can serve it in a satisfactory manner. It asserts, however, that existing carriers are already losing traffic they could be transporting if they could produce the trucks to handle the loads offered them. In the event of a grant of authority, shipper proposes to tender applicant at least 10 truckloads a week. This volume would represent traffic which is available owing to increased sales, diversion from rail service, and the inability of existing motor carriers to meet its needs. Shipper fears that a denial of the application will force it to enter private trucking or to engage a contract carrier contrary to its wishes.

Bee Line holds authority to transport lumber from five named counties in Montana to points in Wisconsin. It asserts that it can originate lumber traffic throughout Montana by means of interlining. Protestant operates 75 tractors and 72 flat-bed trailers and maintains its principal terminal at Missoula, MT. Protestant is not now participating in the supporting shipper's traffic but believes it is in a better position than is applicant to offer a responsive service in Montana. Bee Line transported 133 loads, for approximately $150,000, from Montana points to Wisconsin points in 1977 and a similar amount in 1978. It asserts that all of such traffic, which accounts for approximately 4 percent of its gross revenues, would be subject to diversion in the event of a grant of authority. Protestant questions the operational feasibility of applicant's proposal and the financial fitness of applicant.

Hunt, without specifically identifying its authority, asserts that it is authorized to transport lumber from points (a) in California to points in Arkansas, Missouri, Texas, and Wisconsin, and (b) Arizona and Utah to points in Missouri and Wisconsin. Hunt operates 111 tractors and approximately 260 flat-bed trailers and maintains pertinent terminals at West Sacramento, CA, and Golden, Co. Protestant maintains that it is unable to determine whether it has provided transportation for the supporting firm since a broker's name does not appear on shipping documents. Protestant adduces a traffic study, however, showing that, during May, June, and July 1978, it moved 37 shipments of lumber from and to pertinent points for total revenues of approximately $43,000. Hunt indicates that transportation of lumber from Arizona, California, and Utah accounts

[1] Formerly Wiley Sanders, Inc.

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for 14 to 16 percent of its total gross annual revenues. Protestant does not specify, however, what portion of such revenues is represented by traffic moving to points in States involved here.

International, as most pertinent, holds authority to transport lumber from points in Arizona, California, Montana, and Oregon to points in Wisconsin and a described portion of Missouri and from two named counties and a named point in Utah to points in Wisconsin. International operates a large fleet of equipment including approximately 1,000 tractors and more than 1,000 flat-bed trailers. Protestant currently has more equipment terminating in the proposed origin territory than it is able to reload with return shipments, and believes that a grant of authority would aggravate that situation. International is unable to determine whether it has transported shipments for which Northwest has been the broker, but avows that it is a substantial transporter of lumber within the involved territory. International indicates that, during the first 10 months of 1978, it transported from points in Arizona, California, Montana, and Oregon to points in Missouri and Wisconsin a total of 283 shipments from which it derived revenues of approximately $344,000. Protestant questions the feasibility of applicant's operating proposal.

Ligon is authorized to transport lumber from and to all the points involved here. It operates 754 power units and more than 830 flat-bed trailers and maintains a terminal, among others, at Albuquerque, NM, from which it would arrange the required transportation. During the first 10 months of 1978, Ligon terminated more than 600 flat-bed trailers in the proposed origin States and had to deadhead approximately 40 percent of those units eastward because of a lack of available traffic. It believes it could provide the supporting firm a minimum of 20 flat beds a month to transport its products. Protestant solicits the supporting firm's traffic was tendered one load of lumber moving to Ohio in 1978. Ligon asserts that it now serves 248 lumber shippers in the involved States and during the first 10 months of 1977, transported approximately 280 loads of lumber moving from points in those States. Protestant asserts that it has already been forced to close terminal facilities in California and Oregon because of increased competition and that, as lumber comprises nearly all of its regulated traffic moving from the involved origin States, the grant of the authority sought would put applicant in a position further to impair protestant's operations in the involved area.

Melton holds authority to transport lumber from points in (1) Arizona and California to points in Alabama, Arkansas, Missouri, New Mexico, and Texas, (2) Utah to points in Alabama and Arkansas, (3) Montana and Oregon to points in Arkansas, and (4) Oregon, three named counties in Utah, and points in a specified portion of Montana to points in Texas. Included in Melton's fleet are 617 tractors and 511 flat-bed trailers. Among the numerous terminals it maintains are facilities in Alabama, Arkansas, Missouri, New Mexico, Oklahoma, and Texas. Protestant specializes in the transportation of lumber and regularly handles a substantial volume of traffic moving within the scope of this application. It produces an abstract showing that, between May and October 1978, it transported 323 loads of lumber moving each of the origin States except Montana and to each of the destination States except Wisconsin. Protestant derived revenues of approximately $321,000 from such transportation. Protestant points out that it served approximately 50 shippers during the above time period, that none of them supports the application, and that a grant would put applicant in a position to divert the traffic for which it already faces heavy competition.

Ray Bethers holds itself out to transport lumber from points in California, Montana, and Utah to points in New Mexico and Arizona. It indicates, however, that there is a limited conflict between its authority and the sought authority to serve points in New Mexico. Protestant's primary interest is in the transportation of traffic to points in Arizona. Since, as indicated below, the application is amended to exclude Arizona as a destination State, protestant's interest need not be given further consideration.

Sammons, as most pertinent, holds authority to transport lumber from points in (1) California to points in Alabama, Missouri, and Wisconsin, (2) Montana to points in New Mexico and Wisconsin, and (3) Oregon to each of the destination States except Alabama. It operates 339 tractors and 342 flat-bed trailers and maintains terminals at various points in western States including California, Oregon, Utah, and Montana. Sammons considers itself a specialist in the transportation of lumber and asserts that lumber constitutes nearly all of its eastbound traffic. Protestant indicates that, during 1978, it transported 233 truckloads from points in Montana to points in Wisconsin, and 427 truckloads from points in Oregon to points in Missouri, Texas, and Wisconsin. Protestant derived a total of approximately $931,000 from such transportation. Protestant is unable to determine whether it transported any traffic for the supporting firm but it asserts that a grant of authority would put applicant in a position to divert all the traffic it has handled.

Sawyer holds authority to transport lumber from points in (1) California to points in Alabama, Missouri, and Wisconsin, (2) Oregon to points in Missouri, Wisconsin, and Texas, and (3) a named county in Arizona and four named counties in Utah to points in each of the proposed destination States except New Mexico. Included in protestant's fleet are 381 tractors and 267 flat-bed trailers. Among its terminals are a facility in Oregon and two in California.

Sawyer indicates that it is unable to produce any abstract of shipments transported for the supporting firm since the name of a lumber broker will not appear on any of its sales or tonnage reports. Protestant asserts that a greatly reduced quantity of lumber is being produced in the origin territory and that a grant of the authority sought will have a detrimental impact on its ability to serve the public. Protestant also questions applicant's financial fitness to conduct the proposed operation.

Utah Carriers advances its authority to transport lumber from points in (1) Arizona to points in Missouri, New Mexico, and Texas, (2) Utah to points in New Mexico and Texas, and (3) five specified Utah origins to points in Arkansas and Missouri. Additionally, Utah Carriers asserts that it interlines with protestant Melton to provide service from points in Arizona to points in Alabama. Protestant operates 70 tractors and 70 flat-bed trailers and maintains terminals at Clearfield, UT, and Oklahoma City OK. Utah Carriers now provides service of the type proposed within the territory involved and, it asserts, is able to offer the supporting firm equipment in Arizona and Utah on a daily basis. Protestant is unable to determine what transportation it may have provided for Northwest in the past since a broker's name does not appear on its shipping documents Protestant believes that there now exists sufficient transportation service to meet the supporting firm's needs in the States of Arizona and Utah.

Warren holds authority to transport lumber from points in (1) California to points in Alabama and Missouri, (2) Oregon to points in Arkansas, Missouri, Texas, and Wisconsin, (3) Montana to points in Arkansas, (4) a described portion of Montana to points in Texas, and (5) a specified point in Arizona to points in Missouri and Wisconsin. Warren operates 475 tractors and more than 200 flat-bed trailers and, as most pertinent, maintains a terminal at Portland, OR. Warren is unable to determine whether it has provided service for the supporting firm but asserts that it handles a substantial amount of traffic originating in the involved territory. Protestant indicates that, during the first 11 months of 1978, it handled more that 450 shipments of lumber and lumber and lumber mill products which originated at points in California, Oregon and Montana. Protestant derived revenues of more than $500,000 from such transportation. Warren asserts that the amount of, lumber and forest products being produced in, and available for transportation from, the origin territory is diminishing.

Werner advances contract carrier authority enabling it to transport lumber for a named Dallas, TX, firm from points in Montana, Oregon, and portions of California to points in Texas and, for a named chemical company, from points in Motana and Oregon to points in Arkansas, Missouri, Texas, and Wisconsin. Protestant operates 126 tractors and 82 flat-bed trailers and has additional equipment on order. Protestant indicates that it has been deadheading substantial amounts of equipment out of the involved origin territory because there is limited eastbound traffic available, especially traffic moving to points in Alabama, Missouri, and Wisconsin. Protestant is unable to determine whether it has provided service for the supporting firm. It indicates, however, that, during August, September, and October 1978, it moved 33 shipments of the involved commodities from points in California, Montana, and Oregon to points in Texas. Protestant derived approximately $39,000 from such transportation.

We believe that authority should be granted to the extent set forth in the appendix. First, we conclude that Northwest, a broker, is a proper supporting witness. It arranges for transportation in the considered area, has a familiarity with the transportation services available in the considered market, and clearly has an interest in obtaining efficient motor carrier service in order properly to conduct its business. Further, contrary to the assertions of several protestants, the supporting firm has adduced sufficient specifics to enable us to frame a grant of authority responsive to its needs.

Except for protestant Ligon, which holds the complete authority sought, and protestants Melton and Sammons, which hold substantial portions of the authority sought, protestants generally hold small portions of the sought authority. Protestant Werner, we note, holds contract carrier authority of little apparent value here. For the most part, protestants have not demonstrated a capability of expeditiously providing equipment when and where it may be required. We recognize that a very large territory is involved here and that, as several protestants assert, applicant itself operates only approximately 100 flat-bed trailers and may experience difficulty in expeditiously providing equipment at points in the involved territory. However, this fact holsters our conclusion that a grant of authority will help insure the availability of responsive motor carrier service to the supporting firm while, at the same time, not materially affecting the existing competitive situation. Further reinforcing our conclusion in this regard are the following facts. Eight protestants have presented evidence regarding the amounts of transportation they have provided in the considered territory over specified periods of time. However, few protestants have specifically related their figures to figures regarding overall transportation they are providing in the area involved. Moreover, we seriously doubt that, upon a grant of authority here, applicant would be able to divert any significant portion the shipments protestants show they and handling.

We will thus grant applicant authority to the extent of the supporting firm's avowed transportation requirements. That is, we will authorize the transportation of shop lumber, moulding grade lumber, and cut stock lumber. Further, as applicant has amended its application and supplied supporting evidence relative to transportation to points in Arkansas rather than Arizona, our grant of authority will reflect that fact. However, since it is possible that parties who have relied upon the notice in the **Federal Register** of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the authority granted, a notice of the authority actually granted will be published, and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of publication, during which time any proper party in interest may file an appropriate petition for leave to intervene, setting forth in detail the precise manner in which it has been prejudiced by lack of proper notice.

A final matter requires comment. Several protestants have questioned applicant's financial fitness to conduct its proposed operation. While we note that applicant's present financial condition is far from robust, we note also that, during its last accounting year, applicant realized a net operating income of approximately $315,000 and had an operating ratio of 91.9. We believe that applicant has sufficiently demonstrated its ability to conduct the operations for which authority will be granted here.

We find:

The present and future public convenience and necessity require operation by applicant, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. This decision not significantly the quality of the human environment. An appropriate certificate should be granted.

It is ordered:

The application is granted to the extent set forth in the appendix. Operations may begin only following the service of a *certificate* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310).

Compliance with these requirements must be made on or before October 29, 1979, grant of authority shall be void.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

Agatha L. Mergenovich.

Secretary.

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *shop lumber, cut stock lumber, and moulding grade lumber* from points in Arizona, California, Montana, Oregon, and Utah to points in Alabama, Arkansas, Missouri, New Mexico, Texas, and Wisconsin.

Condition:

The issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of publication in the

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Federal Register of notice of the authority granted.

[FR Doc. 79-24130 Filed 8-3-79; 8:45 am]
BILLING CODE 7035-01

[Volume No. 25]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications

Dated: July 20, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

Notice

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 1110 (M1F) (Notice of filing of petition to modify certificate), filed January 5, 1979. Petitioner: V.C. TRUCKING SERVICE, INC., 67 Irving Street, Brooklyn, NY 11231. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Petitioner holds motor *common carrier* certificate in MC–1110 issued October 23, 1957. MC–1110 authorizes transportation, over irregular routes, of *General commodities,* except those of unusual value (other than valuable furs), Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (other than those requiring specialized handling or rigging because of their size or weight), and those injurious or contaminating to other lading, between New York, NY, on the one hand, and, on the other, points in Passaic, Hudson, Essex, Union, Middlesex, and Somerset Counties, NJ. By the instant petition, petitioner seeks to modify the authority as follows: Between New York, NY, on the one hand, and, on the other, points in Passaic, Hudson, Essex, Union, Middlesex, Somerset, Sussex, Warren, Hunterdon, Mercer, Monmouth, Burlington, Morris, and Ocean Counties, NJ.

MC 42487 (Sub-885) (M1F) (Notice of filing of petition to delete a restriction). Petitioner: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linwood Drive, Menlo Park, CA 94025. Representative: Mark J. Andrews, Suite 1000, 1660 L Street, N.W., Washington, DC 20036. Petitioner holds a motor *common carrier* certificate in MC 42487 Sub-885, issued April 17, 1979, authorizing transportation, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Houston, TX, and New Orleans, LA, serving the intermediate points of Orange and Beaumont, TX, with service at points in Orange, Beaumont, and Houston, TX commercial zones, as defined by the Commission, restricted to the transportation of traffic moving to or from points on the below-described route in Louisiana, and serving all intermediate points in Louisiana, with service at Baton Rouge, LA, restricted to traffic moving to or from points west of the Louisiana-Texas State line, from Houston over U.S. Highway 90 to Iowa, LA, then over U.S. Highway 165 to Kinder, LA, then over U.S. Highway 61 to New Orleans, and return over the same route. By the instant petition, petitioner seeks to delete the restriction which reads "with service at Baton Rouge, LA, restricted to traffic moving to or from points west of the Louisiana-Texas State line" from the above described authority.

MC 103926 (Sub-71M1F) (Notice of filing of petition to modify certificate), filed July 5, 1979. Petitioner: W. T. MAYFIELD SONS TRUCKING CO., a Corporation, P.O. Box 947, Mableton, GA 30059. Representative: Wm. H. Driskell, P.O. Box 947, Mableton, GA 30059. Petitioner holds a motor common carrier certificate in MC–103926 Sub 71F issued June 15, 1979, authorizing transportation over irregular routes of: (1) *Steel piling, and* (2) *Construction equipment,* between the facilities of Mississippi Valley Equipment Co., Inc. at or near Jacksonville, FL, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Virginia and West Virginia. By the instant petition, petitioner seeks to add Louisville, KY, Memphis, TN, Reserve, LA and St. Louis, MO as additional origin points of Mississippi Valley Equipment Co.

MC 108341 (Sub-7) (M1F) (Notice of filing of petition to modify certificate), filed December 14, 1978. Petitioner: MOSS TRUCKING COMPANY, INC., P.O. Box 26125, 3027 North Tryon Street, Charlotte, NC 28213. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Petitioner holds motor *common carrier* certificate in MC–108341 Sub 7 issued May 20, 1975. MC–108341 Sub 7 authorizes transportation, over irregular routes, of *Tractors* (except truck tractors) and *parts, implements, attachments, accessories, and supplies* therefore, when moving incidentally thereto as a part of the same shipment, between points in AR, NC, SC, FL, GA, TN, AL, and MS. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at and destined to points within the states described above. By the instant petition, petitioner seeks to modify the authority as follows: Delete the restriction.

MC 115331 (Sub-369G) (M1F) (Notice of filing of petition to modify certificate), filed April 11, 1979. Petitioner: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Edward J. Kiley, 1730 M St., N.W., Suite 501, Washington, DC 20036. Petitioner holds motor *common carrier* certificate in MC 115331 Sub 369G issued January 23, 1979, authorizing transportation as pertinent, in Part 147(o), over irregular routes, of *chemicals,* in containers, from points in TN (except Memphis, TN and points within its commercial zone as defined by the Commission), to points in IL, IN, IA, KY, MI, MN, MO, NE, OH, PA, WV, WI, and AR. By the instant petition, petitioner seeks to modify the origin territory by deleting the exception.

Republications of Grants of Operating Rights Authority Prior to Certification

Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before September 5, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 61231 (Sub-128F) (Republication), filed August 10, 1978, previously noticed in the **Federal Register** issue of October 19, 1978. Applicant: ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. A Decision of the Commission, Review Board Number 3, decided April 24, 1979, and served June 4, 1979, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) gypsum wallboard, from Albuquerque, NM, to points in NE, SD, and WY, and (2) *construction materials, lumber, lumber products, wood products, iron and steel articles, and landscaping materials,* between Rapid City, SD, and Gillette, WY, on the one hand, and, on the other, points in AZ, AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, TX, WA, WI, and WY. The purpose of this republication is to indicate the addition of IA in part (2) of the authority.

MC 106373 (Sub-36F) (Second republication), filed July 17, 1978, published in the **Federal Register** issue of September 12, 1978, and June 22, 1979, and republished this issue. Applicant: THE SERVICE TRANSPORT CO., a corporation, 114½ East Main Street, Ravenna, OH 44310. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. A Decision of the Commission, *Review Board No. 2,* decided April 5, 1979, and served April 25, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes, transporting (1) *iron and steel articles,* between Steubenville, OH, and Weirton, WV, on the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, and Florida, and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities named in (1) above, from points in North Carolina, South Carolina, Georgia, and Florida, to Steubenville, OH and Weirton, WV. Applicant can tack existing regular-route authority with irregular-route authority set forth above at Steubenville, OH, or Weirton, WV, to provide a through service between points in Michigan, Ohio, Pennsylvania, New York, New Jersey, West Virginia, and Maryland; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to correct the June 22, 1979 publication which omitted the tacking portion of the authority.

Motor Carrier Operating Rights Applications

Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 124211 (Sub-348F) (Partial republication), filed November 21, 1978, previously noticed in the FR issue of February 2, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: James C. Hardman, Suite 2108, 33 North

LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *General commodities* (except classes A and B explosives) (a) Between points in Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties, IL; and (b) Between points in the IL Counties named in (1)(a) above, on the one hand, and, on the other, points in IL. (2) *Feed*, between points in IL. (3) *Pipe, conduit, and tubing* (except oil field commodities as described by the Commission in Mercer Extension-Oil Field Commodities, 74 M.C.C. 459), from points in the IL Counties named in (1) above, to points in CA, CO, ID, KS, MT, NM, NE, OK, TX, UT, and WY. (Gateway eliminated: Fairbury, IL). (26) *Groceries and grocery store supplies* (except commodities in bulk), between points in IL, and points in NE; (Gateway eliminated: Chicago, IL). (31)(a) *Zinc oxide*, (except in bulk), from points in the IL Counties named in (1) above, to points in AL, FL, GA, IN, KS, KY, MS, MO, NE, NC, OK, SD, TN, TX, VA, and WV. (b) *Materials, equipment, and supplies* used in the production or manufacture of zinc oxide (except in bulk), from points in the destination states named in (31)(a) above, to points in the IL Counties named in (1) above. (Gateway eliminated: Hillsboro, IL). NOTE: The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity in (1) and (2) above and to eliminate the gateways as shown in (3) through (31) as pertinent to this republication. The request for elimination of gateways in (31) as pertinent to this republication, involves tacking with authority still pending before the Commission. This application is a directly related matter to MC–F–13835F, published in a previous section of the FR issue of February 2, 1979. The purpose of this republication is to indicate the correct authority sought by indicating NM as a destination state in (1) above in lieu of MN as previously published, and to correct the territorial descriptions in (26) and (31) above.

Motor Carrier Alternate Route Deviations

Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

No. MC 11220 (Deviation No. 45), GORDONS TRANSPORT, INC., 185 West McLemore Ave., Memphis, TN 38101, filed July 11, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: from Sherman, TX over U.S. Hwy 82 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction U.S. Hwy 70 near Benton, AR, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Sherman, TX, over U.S. Hwy 75 to Durant, OK, then over U.S. Hwy 70 to junction Interstate Hwy 30 near Benton, AR, and return over the same route.

No. MC 48958 (Deviation No. 91), ILLINOIS-CALIFORNIA EXPRESS, INC., 601 Ross St., Amarillo, TX 79189, filed July 3, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: from Dallas, TX, over Texas Hwy 183 to Fort Worth, TX, then over Interstate Hwy 20 (U.S. Hwy 80) to Abilene, TX, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Dallas, TX, over U.S. Hwy 80 to Fort Worth, TX, then over Texas Hwy 199 to junction Texas Farm or Ranch Road 1769, then over Texas Farm or Ranch Road 1769 to junction Texas Hwy 24, then over Texas Hwy 24 to junction U.S. Hwy 283, then over U.S. Hwy 283 to Albany, TX, then over U.S. Hwy 180 to junction Texas Hwy 351, then over Texas Hwy 351 to Abilene, TX, and return.

Motor Carrier Intrastate Application(s)

Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate of foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Arkansas Docket No. M–12203, filed April 24, 1979. Applicant: NEWPORT EXPRESS, INC., 2909 Hooper, Newport, AR 72112. Representative: Kaneaster Hodges, Jr., P.O. Box 338, Newport, AR 72112. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, except household goods and commodities in bulk, and commodities contaminating to other lading: Regular routes: General Commodities, except household goods and commodities in bulk, and commodities contaminating to other lading. 1. Between Little Rock, Arkansas and Swifton, Arkansas over U.S. Highway 67, serving no intermediate points between the commercial zone of Little Rock and the White-Jackson County Line, but serving all intermediate points between Coffeeville, Arkansas and Swifton, Arkansas. 2. Between Newport, Arkansas and Macks, Arkansas over Arkansas Highway 14, serving all intermediate points. 3. Between Newport, Arkansas and Jacksonport, Arkansas over Arkansas Highway 69, serving all intermediate points. 4. Between Newport, Arkansas and the intersection of Arkansas Highway 17 and Arkansas Highway 33 over Arkansas Highway 17, serving all intermediate points. 5. Between Newport, Arkansas and Midway, Arkansas over Arkansas Highway 14, serving all intermediate points and the off routes of Pennington, Arkansas; Balch, Arkansas; Johnstown, Arkansas; and Remmel, Arkansas. 6. Between Newport, Arkansas and Ingleside, Arkansas over Arkansas Highway 224, serving all intermediate points. 7. Between Elgin, Arkansas and the intersection of U.S. Highway 67 and Arkansas Highway 37 over Arkansas Highway 37, serving all intermediate points. 8. Between Grubbs, Arkansas and Diaz, Arkansas over Arkansas Highway 18, serving all intermediate points, and the off route of Newport Airbase over Arkansas Highway 980, serving all intermediate points. 9. Between Stegall, Arkansas and intersection U.S. Highway 67 and Arkansas Highway 384 over Arkansas Highway 384, serving all intermediate points. 10. Between the intersection of U.S. Highway 67 and Arkansas Highway 17 and the intersection of Arkansas Highway 17 and Arkansas Highway 37 over Arkansas Highway 17, serving all intermediate points. 11. Between the intersection of Arkansas Highway 17 and Arkansas Highway 33 and the intersection of Arkansas Highway 33 and Arkansas Highway 37 over Arkansas Highway 33, serving all intermediate points. 12. Between the intersection of Arkansas Highway 14 and Arkansas Highway 37 and the intersection Arkansas Highway 37 and Arkansas Highway 33 over Arkansas Highway 37, serving all intermediate points, and the off route of Blackville, Arkansas over Arkansas Highway 145. 13. Between the intersection of Arkansas Highway 37 and Arkansas Highway 226 to End of State Highway, over Arkansas Highway 226, serving all intermediate points. With the right to join all routes at common points. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Arkansas Transportation Commission, Justice Building, Little Rock, AR 72201, and should not be directed to the Interstate Commerce Commission.

California Docket No. A 58952, filed June 21, 1979. Applicant: INDUSTRIAL FREIGHT SYSTEM, INC., 9120 San Fernando Road, Sun Valley, CA 91352. Representative: Gary W. Wigand, 13031 San Antonio Dr., Suite 214, Norwalk, CA 90650. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of: A. General commodities except 1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting). 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. 3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. 4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment. 5. Liquids, compressed gases, commodities in semiplastic from and commodities in suspension in liquids, in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. 6. Commodities when transported in bulk in dump-type trucks or trailers or in hooper type trucks or trailers. 7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit. 8. Logs. 9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper. B. 1. Between all points and places within the Los Angeles Basin Territory. 2. Between all points and places within the San Diego Territory. 3. Between all points and places within the Los Angeles Basin Territory, on the one hand, and all points and places with the San Diego Territory, including intermediate points and places along Interstate Highway 5 and laterally 20 statute miles on either side of said highway, on the other hand. 4. Carrier may use the highway named herein in either direction and any other public road necessary or convenient to perform the service authorized in Paragraphs 1, 2 and 3, supra. 5. Through routes and rates may be established between any and all points specified in Paragraphs 1 through 3, supra. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, State Building, Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

Note.—Applicant is seeking by this application to have removed from its certificate the following restriction only, "Freight having a prior or subsequent movement by rail or freight forwarder."

Kansas Docket No. 53225 M (Extension), filed July *9th*, 1979. Applicant: TRANS STATE BUS, INC., R.R. 1, U.S. Highway 156 at N.E. Trail Street, Larned, Kansas, 67550. Representative: Erle W. Francis, Esq., 700 Kansas Avenue, Suite 719, Topeka, KS, 66603. Extension to certificate of public convenience and necessity, sought to operate a bus, passenger and express service as follows: *Persons, their baggage, light express* and *newspapers*, from Ulysses, KS west on U.S. Highway 160 to the junction with Kansas State Highway 27 at or near Johnson City, KS; thence south on Kansas State Highay 27 to its junction with U.S. Highway 56 at or near Elkhart, KS; thence northeast on U.S. Highway 56 to its junction with U.S. Highway 270 at or near Hugoton, KS, including charter party authority originating or destined to points on the proposed authority, with service to, from and between all points and places on the proposed extension and to, from and between all points on the proposed extension and all points and places presently served under authority granted by this Commission to the applicant. Applicant also seeks concurrent motor carrier authorization in interstate or foreign commerce within the limits of intrastate authority sought pursuant to Section 206(a)(6) of the Interstate Commerce Act as amended October 15, 1977. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the State Corporation Commission of Kansas, State Office Bldg., Topeka, Kansas, 66612 and should not be directed to the Interstate Commerce Commission.

Missouri Docket No. T–26,150 Sub 3, filed July 11, 1979. Applicant: MARSHFIELD DRAYAGE COMPANY, P.O. Box 50, Marshfield, MO 65706. Representative: Turner White, 910 Plaza Towers, Springfield, MO 65804. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of: *General commodities* except explosives, articles of unusual value, household goods, commodities in bulk, and articles injurious or contaminating to other freight: *Intrastate Common Carrier—Regular Routes.* From Elkland, MO over State Highway 38 to Marshfield, MO and return over the same route, with authority to tack or join the authority proposed herein with authority presently sought by Applicant for the purpose of providing a through service, with the point of tacking being Marshfield, MO; transporting general commodities except explosives, articles of unusual value, household goods,

commodities in bulk, and articles injurious or contaminating to other freight. (NOTE: Applicant presently holds the described authority and the purpose of this amendment and republication is to permit registration of such authority for the transportation of interstate freight pursuant to the provisions of Part 2 of the Interstate Commerce Act.) *Intrastate Common Carrier—Regular Routes.* From the facilities of the Niangua Corporation located approximately eight miles west of Conway, MO as follows: From the facilities of the Niangua Corporation over State Road WW to State Road Y thence over State Road Y to its intersection with State Road W thence over State Road W to Marshfield, MO and return over the same route with authority to tack or join the authority proposed with the authority presently held by Applicant for the purpose of providing a through service with point of tacking being Marshfield, MO transporting general commodities except explosives, articles of unusual value, household goods, commodities in bulk, and articles injurious or contaminating to other freight. Intrastate, interstate and foreign commerce authority sought. Hearing: Wednesday, September 26, 1979, 10:00 a.m., Hearing Room of the Missouri Public Service Commission, Jefferson Bldg., Jefferson City, MO 65101. Requests for procedural information should be addressed to Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO 65102, and should not be directed to the Interstate Commerce Commission.

Broker, Water Carrier and Freight Fowarder Operating Rights Applications

Notice

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally. protests not in reasonable compliance with the requirements of the rules may be rejected.

Broker Authority

MC 130584F, filed June 6, 1979. Applicant: COMPUTER ASSISTED LOAD MATCHING, INC., 1616 P St., NW., Washington, DC 20016. Representative: Harry J. Jordon, 1000 16th St., NW., Washington, DC 20036. Authority sought to engage in operations, in interstate or foreign commerce, as a *broker*, at Washington, DC, in arranging for the transportation, by motor vehicle, of *general commodities*, between points in the United States (except AK and HI).

Note.—Applicant has concurrently filed with its application a motion to dismiss the application. It argues that the proposed operation does not involve a brokerage operation requiring an ICC license. Applicant's description of its operation and legal argument are set forth below.

Computer Assisted Load Matching, Inc. (CALM) is a computer program designed to match loads and equipment, with or without drivers, to eliminate empty hauling through trip-leasing procedures. The programs is sponsored by the Common Carrier Conference—Irregular Route (Conference) of the American Trucking Association, Inc., in connection with the Equipment Interchange Association (EIA) and ATA Services, Inc. (Services), with EIA responsible for the promotion and administration of the operation and Services for providing the computer hardware and supporting services. The hub of the operations is EIA's headquarters in Washington, D.C.

The CALM program is open to all for-hire motor common carriers subject to regulation by the Interstate Commerce Commission. A carrier desiring to participate in the CALM program must first complete an "Application for Participation," wherein the applicant agrees to (1) pay a one-time $100 fee ($200 for a non-Conference member), plus a one-time fee of $25 for computer terminals in excess of one, to cover the cost of manuals, administrative expenses, and programming costs; (2) pay a monthly on-line charge of $140, which entitles the applicant to 8 hours use of the system per month, with on-line use in excess of 8 hours charged at the rate of $.30 per minute; (3) have available the required computer terminal—it costs about $90; (4) execute and forward to EIA an executed Uniform Trip Leasing Agreement, which governs all trip-leasing operations under the CALM program; and (5) provide evidence that it maintains certain minimum liability and property damage insurance and specified minimum cargo insurance. Participation in CALM can be cancelled by 60 days written notice to EIA.

As an example of how CALM works, a carrier member in Dallas, TX, with an empty truck in Philadelphia, PA, would consult the computer printout of available loads to determine whether there is a shipment in Philadelphia or nearby that needs equipment for movement to the Dallas area. The computer printout is coded by carrier, type of freight, location and transportation requirements of the shipment, and the revenue split. Finding a shipment to meet its needs, the Dallas carrier then calls the carrier posting the Philadelphia shipment and a trip-lease is arranged. The posting carrier bills the shipper and pays the Dallas carrier for its transportation. CALM does not get involved in the revenue-split aspect of this arrangement or any other relationship between the carriers.

The Conference is underwriting the start-up expenses of this program and expects to be reimbursed through the application fees and the difference between the cost of the computer time as leased and sold to CALM members. The expenses of EIA and its staff will also be met by the differences in the computer cost to CALM and the rental fee charged members. It is anticipated that CALM's income will be enough to meet existing expenses and permit a modest amount of revenue build-up to meet future business expansion should the program prove to be successful.

The Calm Operation is not a Service Requiring an ICC Brokerage License

Section 10102 of the Interstate Commerce Act defines a broker, as a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing or arranging for transportation by motor carrier for compensation.

CALM is not a person holding itself out by solicitation, advertisement, or otherwise as arranging for transportation by motor carriers for compensation. It is the individual carrier members of CALM that match loads, and they determine, without any influence from CALM, whether the transportation services will actually occur and the compensation to be received by the carriers involved. CALM receives no remuneration from carrier members of the program on the basis of matched loads; the only income to CALM is the initial motor carrier membership fees and the monthly charges for computer time which meet overhead expenses and provide a small margin of income for capital improvements. In substance, CALM is nothing more than a clearing shipments and equipment for its members and is designed to be only marginally profitable.

The Commission has not previously had the occasion to consider an operation such as CALM on a formal basis; but there is precedent in analagous proceeding for finding that CALM is not a brokerage operation requiring an ICC license. Thus, in *Practices of Property Brokers*, 53 M.C.C. 633 (1951), the Commission determined that the practice of household goods carriers of diverting partial loads to each other in the interest of economy and efficiency of operations and best use of equipment did not constitute brokerage operations requiring an ICC license. If the household goods carriers direct participation in exchanging freight with one another did not constitute brokerage, then clearly CALM, which is divorced from any participation in the actual matching of loads between carriers and receives no compensation for its activities, is not a brokerage operation either.

Another ICC case cited as supporting the grant of this motion is *Snodgrass Broker Application*, 76 M.C.C. 739 (1958). In *Snodgrass* the Commission held that where Ms. Snodgrass was to receive nothing from a carrier with whom she arranged to supply transportation to department store shoppers, but was to be paid by the department store on the basis of purchases made by such shoppers introduced to the store by her efforts, Ms. Snodgrass was not engaged in brokerage operations requiring a license.

CALM receives no compensation from the carriers for the matching of loads, and no part of the dues and computer time payments received from CALM members results from its efforts in arranging transportation for individual shipments. In fact, the $140 charged monthly for 8 hours of computer time is payable regardless of whether or not the member succeeds in matching any loads. Absent this compensation factor, CALM cannot be deemed a brokerage operation.

Office of Proceedings

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

Notice—Date

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 16, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

No. MC–83539 (Sub-No. E397), filed June 6, 1972. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Texas 75222. Applicant's representative: H. N. Cunningham III, (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *commodities*, the transportation of which, because of size or weight, require the use of special equipment, and parts thereof, when moving in connection with such commodities (a) between points in and west of Murray, Gordon, Bartow, Cherokee, Fulton, DeKalb, Henry, Butts, Monroe, Bibb, Houston, Dooly, Crisp, Turner, Tift, Colquitt, and Broods Counties, on the one hand, and, on the other, points in OH, and (b) points in and west of Whitfield, Gordon, Cherokee, Fulton, DeKalb, Rockdale, Newton, Jasper, Putnam, Baldwin, Wilkinson, Laurens, Dodge, Telfair, Coffee, Ware, and Charlton Counties, on the one hand, and, on the other, points in OH in, west, and north of Cuyahoga, Summit, Wayne, Ashland, Knox, Licking, Fairfield, Pickaway, Fayette, Highland, and Adams Counties. The purpose of this filing is to eliminate the gateways of points within a 50-mile radius of Nashville, TN, and KY.

MC 107012 (Sub-E677), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:*

1. From points in FL, to points in CA, CO, ID, IA, KS, MN, MO, MT, NV, ND, OR, SD, UT, WA, and WY.

2. From points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, and Sarasota, FL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jo Daviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; points in NM; points in OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Earth, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker,

Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; points in WI.

3. From points in Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns and Union Counties, FL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, and Woodford Counties, IL; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; points in NM; points in OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Earth, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI.

4. From points in Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie Counties, FL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jo Daviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, Ky; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; points in NM; points in OK; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Earth, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; points in WI.

5. From points in Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter and Volusia Counties, FL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; points in NM; points in OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI.

6. From points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Mainstee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Chippewa, Luce and Mackinac Counties, MI; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK; points in WI.

7. From points in Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos and Union Counties, NM; points in OK; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; points in WI. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E878), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated:*

1. From points in GA, to points in AZ, CA, CO, ID, KS, MN, MT, NV, NM, ND, OK, OR, SD, UT, WA, and WY.

2. From points in Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty,

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Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox and Worth Counties, GA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI.

3. From points in Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton and White Counties, GA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IA; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau and Vernon Counties, WI.

4. From points in Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes and Wilkinson Counties, GA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IA; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, Wood, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI.

5. From points in Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Ware, Wayne and Wheeler Counties, GA, to points in Clark, Hepstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sabastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCullough, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagen, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacagdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, Wood, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI.

6. From points in Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin,

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Johnston, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA; Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Reglugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX.

7. From points in Bryan, Bullock, Candler, Catham, Effingham, Evans, Liberty and Screven Counties, GA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL; points in IA; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconde, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culbertson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau and Vernon Counties, WI. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E679), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:*

1. From points in GA, to points in AZ, CA, CO, ID, KS, MN, MT, NV, NM, ND, OK, OR, SD, UT, WA, and WY.

2. From points in Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox and Worth Counties, GA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau and Vernon Counties, WI.

3. From points in Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton and White Counties, GA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IA; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau and Vernon Counties, WI.

4. From points in Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes and Wilkinson Counties, GA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery,

Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IA; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau and Vernon Counties, WI.

5. From points in Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Ware, Wayne and Wheeler Counties, GA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoum, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, Wood, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI.

6. From points in Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA; Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau and Vernon Counties, WI. (Gateway eliminated: Greene County, AR.

MC 107012 (Sub-E880), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated;* 1. From

points in CT, to points in AZ, AR, CA, NV, NM, OK, OR, TX and UT.

2. From points in Hartford, Tolland and Windham Counties, CT, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Whichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clary, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall and Wilkinson Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY.

3. From points in New London Counties, CT, to points in CO: points in ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall and Wilkinson Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY.

4. From points in Fairfield, Middlesex and New Haven Counties, CT, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Herfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauque, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall and Wilkinson Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas,

Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY.

5. From points in Litchfield County, CT, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, LaPlata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauque, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall and Wilkinson Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY.

MC 107012 (Sub-E681), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in CT, to points in AZ, AR, CA, NV, NM, OK, OR, TX and UT.

2. From points in Hartford, Tolland and Windham Counties, CT, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearney, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauque, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall and Wilkinson Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY.

3. From points in New London Counties, CT, to points in CO: points in ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearney, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline,

Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomergy, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall and Wilkinson Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA: Lincoln, Sublette, Sweetwater and Uinta Counties, WY.

4. From points in Fairfield, Middlesex and New Haven Counties, CT, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archulets, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall and Wilkinson Counties, MS; Berry, Barton, Camden, Ceder, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA: Lincoln, Sublette, Sweetwater and Uinta Counties, WY.

5. From points in Litchfield County, CT, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall and Wilkinson Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Clallam, Grays Harbor, Jefferson, Ditsap, Mason, San Juan, Adams, Asotim, Benton, Columbia, Franklin, Garfield, Walla Walla, Whitman, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (gateway eliminated: Green County, AR.)

MC 107012 (Sub-E682), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Comercial and Institutional Fixtures and Store and Office Equipment, Uncrated:* 1. From points in DE, to points in AZ, AR, CA, NV, NM, OK, OR, TX, UT, and WA.

2. From points in Kent and Sussex Counties, DE, to points in CO; points in ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Granda, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater and Uinta Counties, WY.

3. From points in New Castle County, DE, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Platta, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saquache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Powr Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Granhm, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks Rush Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Granda, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (Gateway eliminated: Greene County, AR)

MC 107012 (Sub-E683), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Cary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in DE, to points in AZ, AR, CA, NV, NM, OK, OR, TX, UT, and WA.

2. From points in Kent and Sussex Counties, DE, to points in CO; points in ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Granda, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater and Uinta Counties, WY.

3. From points in New Castle County, DE, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson.

Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (Gateway eliminated: Greene County, AR.)

MC 107403 (Sub-E719), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals,* in bulk, in tank vehicles, from points in PA to points in MT, NM, and CO. (Gateway eliminated: Pittsburgh, PA, and Charleston, WV).

MC 107403 (Sub-E720), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals,* as defined in *The Maxwell Co., Extension-Addyston,* 63 M.C.C. 677, in bulk, in tank vehicles, from points in PA to points in AZ, (Gateway eliminated: Natrium, WV, and St. Louis, MO).

MC 107403 (Sub-E721), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Liquid chemicals,* as defined in *The Maxwell Co., Extension-Addyston,* 63 M.C.C. 677, in bulk, in tank vehicles, from points in OH to points in AZ, CA and ID. (Gateways eliminated: Natrium, WV, and St. Louis, MO.)

MC 10743 (Sub-E726) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals,* as defined in *The Maxwell Co., Extension-Addyston,* 63 M.C.C. 677, in bulk, in tank vehicles, from points in OH to points in NV, OR, and WA. (Gateways eliminated: Natrium, WV, and St. Louis, MO.)

MC 112304 (Sub-E518), filed May 1, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire* in coils, from points in PA on and west of US Hwy 15 to points in IL. (Gateway eliminated: Points in OH.)

Note.—This authority will expire August 9, 1980.

MC 112304 (Sub-E519), filed May 1, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire* in coils, from points in PA on and west of U.S. Hwy 15 to points in WI. (Gateway eliminated: points in OH.)

Note.—This authority will expire August 9, 1980.

MC 113651 (Sub-E25), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South LaSalle St., Chicago, IL 60604. *Frozen meats,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the storage facilities utilized by Armour & Co., at or near Worthington and Mankato, MN to points in PA, NJ, DE, those points in WV, on and west of U.S. Hwy 219, and New York, NY, and its Commercial Zone. Restriction: The service authorized herein is restricted to shipments originating at such storage facilities at Worthington and Mankato, MN. (Gateway eliminated: Jeffersonville, IN.)

MC 114552 (Sub-E1) (correction), filed April 25, 1974, published in the **Federal Register** of June 7, 1974. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Arlington, VA 22201. *Plywood,* from Manatee County, FL to points in KY and TN. (Gateway eliminated: Livingston, AL, or Greenwood County, SC.)

MC 119777 (Sub-E246), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). *Iron and steel articles,* as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, (except commodities which because of size or weight require special equipment): (1) From points in OH on and east of I Hwy 77 to points in AL, AR, GA, LA, MS, TN, and those points in MO on and south of US Hwy 60. (2) From points in PA to points in AL on and west of AL Hwy 9; MO on and south of US Hwy 60; and TN on and west of US Hwy 127. (3) From points in WV to points in AR and points in LA on and north of US Hwy 80; MO on and south of US Hwy 40; and TN on and west of US Hwy 51. Gateway eliminated: The plant site of Kentucky Electric Steel Company at Coalton, KY.

MC 119777 (Sub-E250), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). *Iron and steel pipes, fittings, hydrants and valves, and accessories for pipe, fittings, hydrants and valves;* From the plantsites of United States Pipe & Foundry Company at Chattanooga, TN, to points in AR, CA, ID, MT, NV, OR, UT, WA, and WY. (Gateway eliminated: The facilities of Mesker Steel, Inc. at New Albany, MS.)

MC 119777 (Sub-E251), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). (1) *Steel sheets and iron and steel couplings, mine roof washers, crop ends, angles, channels and plates,* and (2) *Coated pipe, alloy pipe and iron and steel pipe, casing, and tubing,* (except commodities which because of size or weight require the use of special equipment): From Alton, IL to points in AL, AZ, FL, GA, LA, MS, NM, NC, SC, and TN. (Gateway—Sparta, IL.)

MC 119777 (Sub-E252) filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). *Particleboard:* From the plantsites of Georgia-Pacific Corporation at Taylorsville, MS, to points in CT, DE, ME, MD. MA, NH, NJ, NY, PA, RI, VT, and the DC. (Gateway eliminated: facilities of Temple Industries, Inc., at or near Thomson, GA.)

MC 119777 (Sub-E253), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). (A) *Carbon and Graphite products* which because of size or weight require the use of special equipment.

(1) From Clarksville, TN, to points in AZ, CA, CO, CT, ID, IA, KS, LA, ME, MA, MN, MT, NE, NV, NH, NM, ND, OK, OR, RI, SD, UT, VT, WA, and WY.

(2) From Columbia, TN, to points in AZ, CA, CO, ID, IA, KS, ME, MN, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY.

(3) From Memphis, TN, to points in AZ, CA, CT, DE, DC, ID, IA, ME, MD, MA, MN, MT, NV, NE, NH, ND, OR, RI, SD, UT, VT, VA, WA, and WY.

(4) From Clarksville, TN, to points in AR, on and west of a line commencing at the AR–MI state line, thence south along US Hwy 67 to the junction of US Hwy 62, thence east on US Hwy 62 to the junction of AR Hwy 135, thence south on AR Hwy 135 to the junction of AR Hwy 1, thence south on AR Hwy 1 to the junction of US Hwy 49, thence east on US Hwy 49 to the AR–MS state line.

(5) From Clarksville, TN, to points in MS, on and west of a line beginning at the AR–MS State line, thence east and south on US Hwy 49 to the junction of US Hwy 49–E, thence along US Hwy 49–E to the junction of US Hwy 49, thence along US Hwy 49 to Gulfport, MS.

(6) From Clarksville, TN, to points in MI, on and west of a line beginning at the MI–IL state line, thence west on US Hwy 54, to the junction of MI Hwy 19, thence south on MI Hwy 19 to the junction of US Hwy 60, thence east on US Hwy 60 to junction of US Hwy 67, thence south on US Hwy 67 to the MI–AR state line.

(7) From Columbia, TN, to points in AR on, north and west of a line beginning at the AR–MS state line, thence south on AR Hwy 5 to the junction of US Hwy 62, thence west on US Hwy 62 to the junction of AR Hwy 68, thence southwest on AR Hwy 68 to the junction of AR Hwy 45, thence west on AR Hwy 45 to the junction of US Hwy 62, thence west on US Hwy 62 to the AR–OK state line.

(8) From Columbia, TN, to points in MO on, north and west of a line beginning at the MO–IL state line, thence west on US Hwy 60 to the junction of US Hwy 61, thence north on US Hwy 61 to the junction of AR Hwy 91, thence west and north on AR Hwy 91 to the junction of AR Hwy 51, to the junction of AR Hwy 34, thence west on AR Hwy 34 to the junction of US Hwy 60, thence west on US Hwy 60 to the junction of US Hwy 63, thence south on US Hwy 63 to the junction of US Hwy 160, thence west on US Hwy 160 to the junction of MO Hwy 5, thence south MO Hwy 5 to the MO–AR state line.

(9) From Columbia, TN, to points in NH, on and north of a line beginning at the NH–VT state line, thence east on NH Hwy 9 to the junction of NH Hwy 101, thence east on NH Hwy 101 to Portsmouth, NH.

(10) From Columbia, TN, to points in OK, on, north and west of a line beginning at OK–AR state line, thence west on US Hwy 62 to the junction of US Hwy 69, thence south on US Hwy 69 to the junction of US Hwy 75, thence south on US Hwy 75 to the OK–TX state line.

(11) From Columbia, TN, to points in VT on and north of VT Hwy 9.

(12) From Memphis, TN to points in CO, on, north and west of a line beginning at the CO–KS state line, thence west on US Hwy 50 to the junction of US Hwy 350, thence southwest on US Hwy 350 to the junction of I Hwy 25, thence south on I Hwy 25 to the CO–NM state line.

(13) From Memphis, TN, to points in KS, on and north of a line beginning at Atchison, KS, thence south and west on KS Hwy 4 to the junction of US Hwy 83, thence south on US Hwy 83 to the junction of US Hwy 50, thence west on US Hwy 50 to the KS–CO state line.

(14) From Memphis, TN, to points in KY, on and north of a line beginning at the KY–TN state line, thence northeast on US Hwy 45 to the junction of KY Hwy 80, thence east on KY Hwy 80 to the junction of KY Hwy 90, thence southeast on KY Hwy 90 to the junction of US Hwy 127, thence south on US Hwy 127 to the KY–TN state line.

(15) From Memphis, TN, to points in MO on and north of I Hwy 70.

(16) From Memphis, TN, to points in SC on and east of I Hwy 26.

(17) From points in KY to points in AZ, CA, ID, MT, NE, NV, ND, OR, SD, UT, WA, and WY.

(18) From points in TN to points in AZ, CA, ID, MT, NE, NV, ND, OR, SD, UT, WA, and WY.

(19) From points in AL on and southwest of US Hwy 431 to points in IL on and northwest of I Hwy 57.

(20) From points in FL to points in IL.

(21) From points in NC on and south of a line beginning at the NC–TN state line, thence east on US Hwy 321 to the junction of US Hwy 421, thence east on US Hwy 421 to the junction of I Hwy 85, thence east and north on I Hwy 85 to the NC–VA state line to points in IL on, south and west of a line beginning at the IL–KY state line, thence north on US Hwy 51 to the junction of IL Hwy 161, thence west on IL Hwy 161 to the junction of IL Hwy 127, thence north on IL Hwy 127 to the junction of I Hwy 55, thence north on I Hwy 55 to the junction of IL Hwy 97, thence west and north on IL Hwy 97 to the junction of US Hwy 150, thence west on US Hwy 150 to the junction of US Hwy 134, thence west on US Hwy 134 to the IL–IA state line.

(22) From points in TX to points in KY, OH, PA, and WV.

(B) *Carbon and graphite products:* (23) From points in AL to points in CO, ID, IA, KS, MN, MT, NE, NV, ND, OR, SD, UT, WA, and WY, and points in CA on and north of I Hwy 80, and points in MO on and north of I Hwy 44.

(24) From points in FL to points in CO, ID, IA, KS, MN, MT, NE, NV, ND, OR, SD, UT, WA, and WY, and points in CA

on and north of I Hwy 80, and points in MO on and north of I Hwy 44.

(25) From points in IL to points in FL, LA, and MS.

(26) From points in IN to points in LA and MS, and points in AR on and south of I Hwy 40.

(27) From points in MI to points in LA and MS, and points in AR on and south of I Hwy 40.

(28) From points in NJ to points in AZ, AR, CA, CO, ID, LA, NV, NM, OK, OR, UT, and WA, and points in MS on and west of I Hwy 55.

(29) From points in NY to points in AZ, AR, CA, ID, LA, MS, NV, NM, OK, OR, UT and WA.

(30) From points in NC to points in AZ, AR, CA, CO, ID, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA and WY.

(31) From points in OH to points in AZ, CA, LA, MS, NM, and points in AR on and south of I Hwy 40, points in NV on and south of I Hwy 15, and points in OK on and south of I Hwy 40.

(32) From points in PA to points in AZ, AR, CA, LA, NV, NM, OK, OR, UT, and WA, and points in CO on and south of I Hwy 70, and points in MS on and west of I Hwy 55.

(33) From points in TX to points in CT, DE, ME, MD, MA, NH, VT, VA, and the DC.

(34) From points in WV to points in AZ, AR, CA, CO, ID, NV, NM, OK, OR, UT, and WA, and points in LA on and west of US Hwy 165.

(35) From points in WI to points in LA and MS, and points in GA on and west of I Hwy 75. The purpose of this filing is to eliminate the gateway of Hickman, Kentucky, and, in paragraphs 19–22, the gateways of Hickman and Cayce, Kentucky.

MC 119864 (Sub-E22) (correction), filed May 31, 1974, published in the **Federal Register** June 30, 1975, republished February 27, 1976. Applicant: CRAIG TRANSPORTATION, CO., 26699 Eckel Road, Perrysburg, OH 43551. Representative: Dale K. Craig (same as above). (a) *Dairy products, canned goods, and packinghouse products*, from National City, IL, to points in MI on and south of MI Hwy 21; and points in OH on, north, and west of a line beginning at the OH–IN State line extending along US Hwy 36 to junction US Hwy 42, then along US Hwy 42 to Lake Erie (Indianapolis, IN*); and (b) *Dairy products, canned goods and packinghouse products* (except frozen foodstuffs and except in bulk, in tank vehicles), from National City, IL, to points in IN within 40 miles of Angola, IN; and points in MI on and north of MI Hwy 21 (except Gennessee Count) (Indianapolis, IN, and Archbold, OH*). Purpose of republication—clarify commodity.

MC 124692 (Sub-E17), filed January 14, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT, 59806. Representative: J. David Douglas (address same as above). *Lumber* from Cloquet, MN; to points in CO, ID, MT, NE, OR, UT, WA, and WY, restricted to traffic originating at the facilities of Northwest Paper Co. at Cloquet, MN.

MC 124692 (Sub-E18), filed February 23, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT, 59806. Representative: J. David Douglas, P.O. Box 4347, Missoula, MT, 59806. *Iron and steel articles* (except commodities which because of size or weight require the use of special equipment and except oilfield and pipeline commodities as defined in Mercer Extension—Oil Field Commodities, 74 M.C.C. 459) (1) when used as a *building material* from Lorain, OH; to points in ID, (Big Horn County, WY), (2) from Taylorville, IL; to points in ID, OR, WA, and that part of Montana on and west of US 91 from the Canadian border to its junction with US 87 at Great Falls, MT; thence US 87 to US 191 near Morre, MT; thence US 10 to US 89 at Livingston, MT; thence US 89 to the MT–WY border, (Pueblo, CO) (3) when used as *roofing* or *roofing materials* from Chicago, IL; to points in NM, (Denver, CO) (4) when used as *roofing* or *roofing material* from Taylorville, IL; to points in NM on and west of US I–25 from the NM–CO border to US 380 near Socorro, NM; thence US 380 to US 54 at Carizozo, NM; thence US 54 to the NM–TX border (Denver, CO) (5) from Granite City, IL; to points in ID, MT, OR, and WA (Pueblo, CO) (6) from Bartonville, IL; to points in OR and WA (Alturas, CA) (7) when *tubing* from the facilities of Babcock and Wilcox Company at or near Milwaukee, WI; to points in AZ, and NV (Kansas City, MO) (8) when used as *roofing* or *roofing material* from Danville, IL; to points in ID, MT, NV, NM, OR, UT, WA, and WY (Denver, CO) (9) from Terre Haute, IN; to points in OR on, west and south of US 395 from OR–CA border to US 26 at John Day, OR; thence US 26 to US 97 at Madras, OR; thence US 97 to OR–WA border; and points in WA on and west of US 97 from OR–WA border to US I–90 near Ellensburg, WA; thence US I–90 to WA 203 to US 2 at Monroe, WA; thence US 2 to US I–5 at Everett, WA; thence US I–5 to the WA-Canadian border. (Alturas, CA) (10) from Parsons, KS; to points in ID, MT, OR, WA (Pueblo, CO) (11) when used as *roofing* or *roofing material* from Parsons, KS; to points in WY, points in Banner, Kimball, and Scottsbluff Counties, NE; and points in San Juan County, NM; (Denver, CO) (12) from Jefferson City, Sedalia, and Springfield, MO; to points in ID, OR, WA and those points in MT on and west of MT 242 from the US-Canadian border to US 191 at Malta, MT; thence US 191 to MT 19; thence MT 19 to US 87; thence US 87 to the MT–WY border (Pueblo, CO) (13) when used as *roofing* or *roofing material* from Jefferson City, Sedalia, and Springfield, MO; to points in MT on and west of MT 59 from the MT–WY border to US 312 at Broadus; thence US 312 to US 10 at Miles City; thence US 10 to MT 200 S at Glendive; thence MT 200 S to MT 13 at Circle; thence MT 13 to the MT-Canadian border; points in San Juan County, NM; and points in WY. (Denver, CO) (14) when used as a *building material* from Orange, CA; to points in MN, ND, SD, and points in NE on, east and north of NE 14 from the NE–KS border to US 6; thence US 6 to US 34 at Hastings; thence US 34 to US 30 at Grand Island; thence US 30 to US 26 at Ogallala; thence US 26 to the NE–WY border (Big Horn County, WY) (15) from points in CA to Rapid City, SD (Provo, UT) (16) when used as a *building material* from Portland, OR; to points in KS, MN, and NE (Big Horn County, WY) (17) from points in Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma Counties, CA; to points in ND and points in SD on, north and west of US 12 from the SD–ND border to US 281 at Aberdeen; thence US 281 to US 212 at Redfield; thence US 212 to US I–29 near Watertown; thence US I–29 to US 14 at Brookings, thence US 14 to the SD–MN border. (Portland, OR) (18) when used as *roofing* or *roofing material* from Portland, OR; to points in NM (Denver, CO) (19) when used as a *building material* from Vancouver, WA; to points in KS, MN, and NE (Big Horn County, WY) (20) from Minneapolis, MN; to points in CA on, west and north of CA 68 from Monterey to US 101 at Salinas, thence US 101 to CA 198 at San Lucas; thence CA 198 to CA 41 near Lemoore; thence CA 41 to CA 99 at Fresno; thence CA 99 to CA 70 at Sacramento; thence CA 70 to CA 89 at Paxton; thence CA 89 to CA 36; thence CA 36 to US 395 near Susanville; thence US 395 to the CA–OR border.

MC 124692 (Sub-E19), filed February 23, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT, 59806. Representative: J. David

Douglas, P.O. Box 4347, Missoula, MT, 59806. (1) *Building Materials* (except iron and steel articles, commodities in bulk, and commodities which because of their size and weight require the use of special equipment) from the plantsite and warehouse facilities of Certain-Teed Products Corp., in Scott County, MN; to points in ID, OR, and WA (Gateway elminated: Big Horn County, WY) and (2) *Roofing and roofing materials* from the plantsite and warehouse facilities of Certain-Teed Products Corp., in Scott County, MN; to points in AZ, NV, NM, and UT (Gateway eliminated: Denver, CO). Restricted in (1) and (2) above to the transportation of shipments originating at the plantsite and warehouse facilities of Certain-Teed Products Corp., in Scott County, MN.

MC 124692 (Sub-E20), filed February 23, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT, 59806. Representative: J. David Douglas, P.O. Box 4347, Missoula, MT, 59806. *Wallboard, hardboard* and *plywood* from the facilities of Prestile Corporation at Chicago, IL; to points in CA on, north and west of the following line: US Highway 50 from the CA–NV boarder to jct. CA 99 at Sacramento; thence CA 99 to CA 41 at Fresno; thence CA 41 to CA 198 near Leemore; thence CA 198 to US 101 at San Lucas; thence US 101 to CA 68 at Salinas; thence CA 68 to Monterey. (Gateway eliminated: Great Falls, MT).

Irregular-Route Motor Common Carriers of Property

Elimination of Gateway Applications

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission on or before September 5, 1979. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530). A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

MC 125433 (Sub-165G), filed September 5, 1978. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, Utah 84104. Representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting (1) (a) *Commodities* which by reason of size or weight, require special handling or the use of special equipment and commodities (when also machinery, boilers, storage tanks, and parts therefor, structural steel, and contractors' outfits, and supplies requiring special equipment or rigging) which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight, require special handling or the use of special equipment, (b) *Self-propelled articles*, weighing 15,000 pounds or more, transported on trailers, and *related machinery, tools, parts, and supplies* moving in connection therewith, (c) *Special-purpose trailers* designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects, (exempt, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), (when also commodities which by reason of size or weight, require special handling or the use of special equipment) and special-purpose trailers designed for use in connection with the maintenance and repair of electric power trasmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which do not require special handling, or the use of special equipment when moving in the same shipment on the same bill of lading as special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except in either case, trailers designed to be drawn by passenger automobiles in truck-away service), when also commodities which by reason of size or weight, require special handling or the use of special equipment, (d) *iron and steel articles* as described in Appendix V to the Commission's report in descriptions in *Motor Carrier Certificates*, 61 M.C.C., 209 and 766; and (e) *Pipe* (except iron and steel articles), between points in CO, on the one hand, and on the other, points in MT, ID, NV, AZ and WY. (2)(a) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and related machinery parts and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; (b) *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith; (c) *Special-purpose trailers* designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), when also commodities which by reason of size or weight, require special handling, or the use of special equipment, and special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service) which do not require special handling, or the use of special equipment when moving in the same shipment on the same bill of lading as special purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except in either case, trailers designed to be drawn by passenger automobiles in truck-away service), when also commodities which by reason of size or weight, require special handling or the use of special equipment; (d) *Iron and steel articles* as described in Appendix V to the Commission's report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between points in CO, on the one hand, and, on the other, points in NM.

Note.—Common control may be involved. (Hearing: Salt Lake City, Utah)

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24125 Filed 8-3-79; 8:45 am]

BILLING CODE 7035-01-M

V 4 4 / 1 5 2

DEPARTMENT OF JUSTICE

Attorney General

Covington County, Miss.; Certification of the Attorney General

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d (Supp. V), I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Covington County, Mississippi. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: August 3, 1979.

Griffin B. Bell,

Attorney General of the United States.

[FR Doc. 79-24345 Filed 8-3-79; 10:46 am]

BILLING CODE 4410-01-M

Greene County, Miss.; Certification of the Attorney General

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d (Supp. V), I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Greene County, Mississippi. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: August 3, 1979.

Griffin B. Bell,

Attorney General of the United States.

[FR Doc. 79-24346 Filed 8-3-79; 10:46 am]

BILLING CODE 4410-01-M

A G 6 7 9

Sunshine Act Meetings

Federal Register
Vol. 44, No. 152
Monday, August 6, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., August 7, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room

STATUS: Open.

MATTERS TO BE CONSIDERED:

Domestic Exchange-Traded Commodity Option Pilot Program (continuation).

Minimum Financial and Related Requirements for Member FCM's of the Chicago Board of Trade, Rule 1.52.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckley, 254-6314.

[S-1558-79 Filed 8-2-79; 1:03 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., August 7, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Proposed fiscal year 1981 Budget submission.

Enforcement Matters/civil action; public administrative proceedings.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1559-79 Filed 8-2-79; 1:03 pm]

BILLING CODE 6351-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 9:30 a.m., Wednesday, August 8, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

To Be Considered

1. *Briefing on Acetaminophen: Final PPPA Rule.*—The staff will brief the Commission on issues related to a draft final rule to require child-resistant packaging on oral drugs containing more than one gram of acetaminophen in a single package. The Commission proposed this regulation in February, 1978.

2. *Budget.*—The staff and Commission will discuss issues related to CPSC's proposed budget for fiscal year 1981.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, Telephone (202) 634-7700.

Agenda approved July 31, 1979.

[S-1555-79 Filed 8-2-79; 10:34 am]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 9:30 a.m., Thursday, August 9, 1979.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Part open to the public; part closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public.

1. Powered Lawn Edgers and Trimmers Petition, CP 78-7.—The Commission will consider a petition from Gerald Price, of Fullerton, California, concerning gasoline- and electric-powered lawn edgers and trimmers. In the petition, Mr. Fuller asks that the Commission initiate a proceeding to develop mandatory requirements to address the hazard of thrown objects, and suggests requirements for instructions concerning the use of a face mask or safety goggles when using these trimmers. The staff briefed the Commission on this petition on July 18.

2. Unlicensed Two-Wheel Motorized Vehicles Petition, CP 79-4.—The Commission will consider a petition in which Drs. Frederick Rivara and Lawrence Berger request mandatory safety requirements for unlicensed two-wheeled motorized vehicles. The staff and Commission discussed this petition at the July 18 briefing.

3. Regulations for Development of Consumer Product Safety Standards.—The Commission will consider final draft regulations for the development of proposed consumer product safety standards under section 7 of the Consumer Product Safety Act.

B. Closed to the Public.

4. Aluminum Wiring.—The staff will discuss with the Commission issues related to the Commission's jurisdiction over aluminum wire systems and components of aluminum wire systems pursuant to the decision of the U.S. Court of Appeals in *CPSC v. Anaconda.* (Closed under Exemption 10: litigation).

CONTACT PERSON FOR MORE INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street, NW., Washington, D.C. 20207, Telephone (202) 634-7700.

[S-1556-79 Filed 8-2-79; 10:34 am]

BILLING CODE 6355-01-M

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. to noon and, if necessary to complete action on certain items, 2 p.m. to adjournment, Tuesday, August 7, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW. Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the Public:

1. Reorganization of Office of Administration.
2. Reorganization of Office of Public Affairs.
3. Modification of district office boundaries and area office plan.
4. Final designation of South Carolina Human Affairs Commission as 706 Agency.
5. State and Local Agency Program: Proposed Procedures for Substantial-Weight Review.
6. Freedom of Information Act Appeal No. 79-5-FOIA-175, concerning a request for investigator's notes.
7. Contract for expert statistician services in connection with a pending court case.
8. Guidelines on Discrimination because of Religion.

9. Revision of interim regulations for processing of certain cases by the Merit Systems Protection Board.

10. Addition to regulations concerning the processing of complaints of discrimination filed by handicapped persons.

11. Confidentiality of Commission deliberations on proposed Equal Pay and Age Discrimination in Employment Act litigation.

12. Report on Commission operations by the Executive Director.

Closed to the public:

1. Litigation Authorization; General Counsel Recommendations.

2. Decision on discrimination complaint appeal No. 01790273.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634–6748.

This notice issued July 31, 1979.

[S–1564–79 Filed 8–2–79; 3:19 pm]

BILLING CODE 6570–06–M

6

August 1, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., August 8, 1979.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 275–4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however all public documents may be examined in the Office of Public Information.

Power Agenda—333d Meeting, August 8, 1979, Regular Meeting, 10 a.m.

CAP–1. Docket No. ER79–497, Niagara Mohawk Power Corp.

CAP–2. Docket No. ER79–70, Detroit Edison Co.

Miscellaneous Agenda, 333d Meeting, August 8, 1979, Regular Meeting

CAM–1. West Penn Power Co.

CAM–2. Docket No. RM78–12, Determination of Incentive Rate of Return, Tariff and Related Issues for the Alaska Natural Gas Transportation System.

Gas Agenda—333d Meeting, August 8, 1979, Regular Meeting

CAG–1. Docket No. RP79–78, Pacific Gas Transmission Co.

CAG–2. Docket No. RP76–148 (PGA 79–2A and 79–2B), Gas Gathering Corp.

CAG–3. Docket No. CP73–329 (PGA 79–2), Chattanooga Gas Co.

CAG–4. Docket No. RP72–89, et al., Columbia Gas Transmission Co., et al.

CAG–5. Docket No. RP78–12, East Tennessee Natural Gas Co.

CAG–6. Docket No. RP78–61, Mountain Fuel Resources, Inc.

CAG–7. Docket No. RI79–36, Triton Oil and Gas Corp.

CAG–8. Docket No. CI79–355, Conoco, Inc.

CAG–9. Docket No. CI77–729 and CI77–755, Amoco Production Co.

CAG–10. Docket No. CI78–532, Texaco, Inc.

CAG–11. Docket No. CI77–755, Amoco Production Co.; Docket No. CI78–1069, Amoco Production Co.; Docket No. CI78–1039, Atlantic Richfield Co.; Docket No. CI78–906, Cities Service Co.; Docket No. CI77–399, Continental Oil Co.; Docket No. CI77–399, CI–78–753, CI78–1098 and CI78–1051, Continental Oil Co.; Docket No. CI78–717, Cities Service Co.; Docket No. CI78–893, Phillips Petroleum Co.; Docket No. CI78–856, Southland Royalty Co.; Docket No. CI78–510, Florida Gas Exploration Co.; Docket No. CI78–389, Shell Oil Co.; Docket No. CI77–438, Getty Oil Co.; Docket No. CI77–762, Pinto, Inc.; Docket No. CI77–837, Exxon Corp.; Docket No. CI68–166, Mobil Oil Co.; Docket No. CI78–1194 and CI78–1254, Mobil Oil Corp.; Docket No. CI79–82, Prosper Energy Corp.

CAG–12. Docket No. CI72–808, J. D. Borden.

CAG–13. FERC Gas Rate Schedule Nos. 222, 223, and 225, Pennzoil Producing Co.

CAG–14. Natural Fuel Gas Distribution Corp.

CAG–15. Docket No. CP79–267, United Gas Pipe Line Co.

CAG–16. Docket No. CP79–227, Southern Natural Gas Co.

CAG–17. Docket No. CP79–252, United Gas Pipe Line Co. and Southern Natural Gas Co.

CAG–18. Docket No. CP79–308, Iowa-Illinois Gas and Electric Co.

CAG–19. Docket No. CP70–309, Panhandle Eastern Pipe Line Co.

CAG–20. Docket No. CP70–102 and CP79–241, United Texas Transmission Co.; Docket No. CP79–225, United Gas Pipe Line Co.

CAG–21. Docket No. CP79–257, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.

CAG–22. Docket No. CP79–254, Southern Natural Gas Co., Columbia Gulf Transmission Co., Michigan-Wisconsin Pipe Line Co. and Columbia Gas Transmission Corp.

CAG–23. Docket No. CP76–136, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.

CAG–24. Docket No. CP72–186, Texas Gas Transmission Corp.

CAG–25. Docket No. CP79–32, Kansas-Nebraska Natural Gas Co., Inc.

Power Agenda—333d Meeting, August 8, 1979, Regular Meeting

I. Licensed Project Matters

P–1. Docket Nos. HB05–78–9 and HB5–79–3 (formerly Docket No. E–6467), the Montana Power Co.

P–2. Project No. 2896, Metropolitan Water District of California.

II. Electric Rate Matters

ER–1. Docket No. ER79–435, Union Electric Co.

ER–2. Docket Nos. E–9002 and ER76–122, Commonwealth Edison Co.

ER–3. Docket No. ER76–205, Southern California Edison Co.

ER–4. Docket Nos. E–9329 (limited issue), ER76–792 and ER76–716, Indiana & Michigan Electric Co.

ER–5. Docket No. ER78–517, Connecticut Power & Light Co.

ER–6. Docket Nos. ER79–216 and ER79–217, Boston Edison Co.

ER–7. Docket No. EL79–16, Otter Tail Power Co.

Miscellaneous Agenda, 333d Meeting, August 8, 1979, Regular Meeting

M–1. Reserved.

M–2. Reserved.

M–3. Docket No. RM78–16, Procedures for submission of settlement agreements.

M–4. Docket No. RM79– , final regulations under section 105 and 106(b) of the NGPA.

M–5. Docket No. RM79– , final § 270.203 regulations under the Natural Gas Policy Act of 1978.

M–6. Docket No. RM79–22, amendment and clarification of interim regulations under the Natural Gas Policy Act of 1976 and regulations under the Natural Gas Act.

M–7. Docket No. RM79–3, final part 275 regulations under the Natural Gas Policy Act of 1978.

M–8. Notices of preliminary findings.

M–9. Docket No. RM79– , implementation of section 17 of the Alaska Natural Gas Transportation Act.

Gas Agenda—333d Meeting, August 8, 1979, Regular Meeting

I. Pipeline Rate Matters

RP–1. Docket No. RP72–122 (PGA 79–1a), Colorado Interstate Gas Co.

RP–2. Docket Nos. RP78–52 and RP79–22, Consolidated Gas Supply Corp.

II. Producer Matters

CI–1. Docket No. CI79–415, Continental Oil Co.

III. Pipeline Certificate Matters

CP–1. Docket Nos. CP79–214 and CP79–275, Transcontinental Gas Pipe Line Corp.; Docket No. CP–79–221, National Fuel Gas Supply Corp.; Docket No. CP79–260, Tennessee Gas Pipeline Co., a division of Tenneco Inc.; Docket No. CP79–278, Texas Eastern Transmission Corp.

CP–2. Docket No. CP79–228, Transcontinental Gas Pipe Line Corp.

CP–3. Docket No. CP79–345, Glacier Gas Co.

CP–4. Docket No. TC79–8, Transcontinental Gas Pipe Line Corp.

CP–5. Docket No. CP77–363, Columbia Gas Transmission Corp. and National Fuel Gas Supply Corp.

Kenneth F. Plumb,

Secretary.

[S–1561–79 Filed 8–2–79; 3:19 pm]

BILLING CODE 6450–01–M

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR Page 44643, July 30, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., August 2, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202–377–6677).

CHANGES IN THE MEETING:

The following items have been added to the agenda for the open meeting:

Regulation Under Section 5(c) of HOL Act:

1. Investment in Areas Receiving Concentrated Development Assistance.

2. Loans for Alteration, Improvement and Repair.

3. Investment in State Housing Corporations.

4. Investment in State and Local Government Obligations.

Regulation on Investment in HUD-Section 8-Low Income Housing.

Regulation on Loans on Individual Co-op Units.

Regulation on Transfer and Repurchase of Government Securities.

Regulation on Additions to Variable Ceiling Savings Accounts.

Regulations on Penalty for Early Withdrawals.

Application for Merger—Temple Savings Association, Temple, Texas and Panhandle Savings and Loan Association, Amarillo, Texas INTO Beaumont Savings and Loan Association, Beaumont, Tex.

The following items have been withdrawn from the open meeting:

Request for Permission to Incur Debt—Financial Corporation of America, Budget Capital Corporation, Los Angeles, Calif.

Regulation Regarding Merger of Federal Stock Associations

No. 261, August 2, 1979.

[S–1557–79 Filed 8–2–79; 11:47 am]

BILLING CODE 6720–01–M

8

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m., August 8, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Henry Judy (202–789–4734).

MATTERS TO BE CONSIDERED:

Consideration of FHLMC's Occupancy of Space in the FHLBB Building.

Consideration of Amendment to FHLMC Pension Plan.

No. 260, August 1, 1979.

J. J. Finn,

Secretary.

[S–1563–79 Filed 8–2–79; 3:19 pm]

BILLING CODE 6720–02–M

9

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, August 7, 1979.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Open Meeting

1. Training policy.

Closed Meeting

2. Docket No. MC79–3 (Red Tag).

3. Docket No. MC78–1 (Parcel Post).

4. USPS notice on minimum presort quantities.

5. Scheduling current dockets on future agendas.

Meeting closed pursuant to 5 USC § 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: David F. Harris, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254–3880.

[S–1562–79 Filed 8–2–79; 3:19 pm]

BILLING CODE 7715–01–M

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SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published August 1, 1979.

STATUS: Open meeting; closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, July 30, 1979.

The open meeting previously scheduled for Wednesday, August 8, 1979, at 10 a.m., has been rescheduled for Tuesday, August 7, 1979, at 9:30 p.m.

The closed meetings previously scheduled for Tuesday, August 7, 1979, at 10 a.m. and Wednesday, August 8, 1979, following the 10 a.m. open meeting, have been rescheduled for Tuesday, August 7, 1979, immediately following the 9:30 a.m. open meeting.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Evans and Loomis determined that Commission business required the above changes and that no earlier notice thereof was possible.

August 1, 1979.

[S–1560–79 Filed 8–2–79; 1:03 pm]

BILLING CODE 8010–01–M

V 4 4 / 1 5 2

federal register

Monday
August 6, 1979

Part II

Department of Health, Education, and Welfare

Health Resources Administration

List of Health Manpower Shortage Areas Designated Under Section 332 of the Public Health Service Act

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

List of Health Manpower Shortage Areas Designated Under Section 332 of the Public Health Service Act

1. Purpose

This notice provides a list of health manpower shortage areas designated by the Secretary of Health, Education, and Welfare under the authority of section 332 of the Public Health Service Act.

2. Background

Section 332 of the Public Health Service Act, as amended by Pub. L. 94–484 (the Health Professions Educational Assistance Act of 1976), provides that the Secretary of Health, Education, and Welfare shall designate health manpower shortage areas based on criteria established by regulation. Health manpower shortage areas are defined in section 332 to include (1) urban and rural geographic areas, (2) population groups, and (3) facilities with shortages of health manpower. Section 332 further requires that the Secretary publish a list of the designated geographic areas, population groups, and facilities. The list of areas is to be reviewed at least annually, and revised as necessary. The Health Resources Administration's Bureau of Health Manpower has been assigned the responsibility for designating these areas.

Public or nonprofit entities in (or with a demonstrated interest in) these areas are eligible to apply for assignment of National Health Service Corps personnel to provide health services in or to the areas. These areas are also eligible service areas for Public Health Service loan repayment and scholarship programs, and entities located in the areas are eligible to apply for (or receive preference for) certain grant programs under the Public Health Service Act.

3. Development of List

Criteria for designating health manpower shortage areas were published by the Department of Health, Education, and Welfare as Interim-Final regulations (42 CFR Part 5) in the **Federal Register** of January 10, 1978. Criteria were defined for each of seven health manpower types (primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary manpower). The Bureau of Health Manpower then compared these criteria with available data on counties and small areas throughout the country and developed preliminary listings of areas which tentatively appeared to meet the criteria. These preliminary listings were submitted to the appropriate Health Systems Agencies (HSA's), State Health Planning and Development Agencies (SHPDA's), and Governors for their review and recommendations. In addition, the many requests received for designation of particular areas, population groups, or facilities were also submitted to the appropriate HSA's SHPDA's, and Governors for review and recommendations.

The Bureau of Health Manpower reviewed each designation request, together with any recommendations received on individual requests or on the preliminary listings, and determined whether or not each area involved met the shortage criteria. The results were provided by letter to the requesting agency or individual, with copies to other appropriate agencies and to interested organizations and persons. These letters constituted the official notice of designation as a health manpower shortage area or disapproval of recommendations for such designation.

The list below includes all those areas, population groups, and facilities which had been so designated by the Bureau of Health Manpower as of May 1, 1979. For all except psychiatric manpower shortage areas, this updates lists which appeared in the **Federal Registers** of July 17, September 28, and December 29, 1978.

In the case of psychiatric manpower shortage area designations, appropriate data listings were not available in January 1978 for review by HSA's, SHPDA's, and Governors. Consequently, a national list of psychiatric shortage areas has not yet been developed. However, a limited number of catchment areas and facilities have been designated by letter in response to specific requests. The list of these areas below represents the first compilation of psychiatric shortage areas designated under the criteria. Preliminary lists of possible psychiatric manpower shortage areas are now being sent to the HSA's, SHPDA's, and Governors for review, and a more complete list of designated psychiatric shortage areas will be published when these reviews are completed.

In the case of veterinary manpower shortage area designations, the list as presented here does not include areas in degree-of-shortage groupings 4 and 5 (i.e., those areas which have shortages of companion animal veterinarians only). We plan to revise the criteria for designation of veterinary manpower shortage to include only those areas with shortages of food animal veterinarians, due to the limited resources available to support services by health professionals in the various types of health manpower shortage areas.

4. Format of List

For each type of manpower, the list of areas is arranged by State. Within each State, the list is first presented by county. In those cases where a portion (or portions) of a county has been designated, the service area(s) involved are listed under the county name. Following the county listing, a list of the service areas is presented showing their component parts in terms of civil divisions or census tracts.

Where population groups or facilities have been designated, these are listed under the county name(s) in which the population resides or the facility is located.

Beside each designated area, the appropriate "degree-of-shortage" group is indicated, corresponding to the criteria for these groupings contained in the Interim-Final regulations. (Group I represents areas with the highest degree of shortage, Group II with the next highest degree of shortage, etc.)

In addition to the specific listings included in this notice, all Indian tribes which meet the definition in section 4(d) of Pub. L. 94–437, the Indian Health Care Improvement Act of 1976, are automatically designated as population groups with primary medical care and dental manpower shortages.

5. Future Updates of List of Designated Areas

The list below consists of those areas which had been designated as of May 1, 1979. Additional areas are being designated continuously, and future updates of the list will be published periodically in the **Federal Register**. In particular, it should be noted that some additional areas have been designated by letter since May 1, 1979, and the appropriate agencies and persons notified of the designation. Although officially designated, these areas are not included in the list below, because they have not been added to the computerized data base from which this list was generated.

Any designated area listed below is subject to withdrawal from designation if new information is presented to and confirmed by the Bureau of Health Manpower indicating that the situation in the area has changed or that erroneous or incomplete data were used in making the original designation.

For further information on these designations, to request additional designations, or to request withdrawal of any designation, please contact:

Division of Manpower Analysis, Bureau of Health Manpower, Health Resources Administration, Attention: Shortage Area Designation Staff, Center Building, Room 4–41, 3700 East-West Highway, Hyattsville, Maryland 20782.

All requests for designations or withdrawals should be based on the criteria as published in the Interim-Final regulations.

Dated: June 25, 1979.

Henry A. Foley,

Administrator, Health Resources Administration.

Health Manpower Shortage Areas—Primary Care

Service Area Listing	Degree of Shortage group
Alabama	
County listing	
Barbour	01
Bibb	04
Bullock	01
Butler	03
Calhoun	
Service Area: Etowah	04
Chambers Service Area: La Fayette	01
Cherokee	02
Choctaw	01
Clarke	03
Clay	04
Cleburne	01
Conecuh	01
Coosa	01
Covington	
Service Area: South East Covington	03
Service Area: North Covington	01
Crenshaw	03
Cullman	02
Dale	01
De Kalb	02
Elmore	02
Etowah Service Area: Etowah	04
Fayette	02
Geneva	03
Greene	
Service Area: Greene-Hale	03
Hale	
Service Area: Greene-Hale	03
Henry	01
Houston	
Service Area: East Houston	01
Jackson	02
Jefferson	
Service Area: Roosevelt City	02
Lamar	03
Lawrence	02
Limestone	04
Lowndes	01
Madison	
Service Area: Triana	02
Marengo	03
Marion	01
Mobile	
Service Area: Davis Area Community	01
Service Area: Bayou La Batre	01
Monroe	04
Perry	04
Pickens	01
Pike	03
Randolph	02
Talladega	
Service Area: Munford	01
Service Area: Childersburg CCD	01
Service Area: Lincoln-Estaboga CCD	03
Tuscaloosa	
Service Area: Tuscaloosa	01
Washington	01
Wilcox	02
Winston	02
Bayou La Batre	01
County—Mobile	
Parts of County	
C.T. 66 (Parts)	
C.T. 67 (Parts)	
C.T. 72 (Parts)	
C.T. 73 (Parts)	
Childersburg CCD	01
County—Talladega	
Parts of County	
Childersburg Div.	
Davis Area Community	01
County—Mobile	
Parts of County	
C.T. 2, 3, 4.01, 4.02, 5 and 6	
East Houston	01
County—Houston	
Parts of County	
Columbia	
Gordon	
Etowah	04
County—Calhoun	
Parts of County	
Piedmont Div.	
Ohatchee Div.	
Webster Chapel-Alexandria Div.	
County—Etowah	
Greene-Hale	03
County—Greene	
County—Hale	
Lafayette	01
County—Chambers	
Parts of County	
Lafayette Div	
Lincoln-Estaboga CCD	03
County—Talladega	
Parts of County	
Lincoln-Estaboga Div	
Munford	01
County—Talladega	
Parts of County	
Munford	
North Covington	01
County—Covington	
Parts of County	
Red Level	
Rosehill-Gantt	
Roosevelt City	02
County—Jefferson	
Parts of County	
C.T. 105, 131, 133, 136, and 137	
South East Covington	03
County—Covington	
Parts of County	
Florala CCD	
Triana	02
02	
County—Madison	
Parts of County	
C.T. 106 (E.D. 8, 15)	
C.T. 110 (E.D. 9A, 9B, 10, 11, 18, 19A	
C.T. 112 (E.D. 12, 17B, 20B, 21B)	
Tuscaloosa	01
County—Tuscaloosa	
Parts of County	
C.T. 0116 through 0118	
Alaska	
County listing	
Aleutian Islands Div.	01
Angoon Div.	
Service Area: Juneau	04
Barrow Div.	01
Bethel Div.	01
Bristol Bay Div.	
Service Area: Bristol Bay	03
Juneau Div.	
Service Area: Juneau	04
Kobuk Div.	01
Kuskukwim Div.	01
Matanuska-Sustina Div.	04
Nome Div.	01
Outer Ketchian Div.	01
Prince of Wales Div.	01
Skagway-Yakutat Div.	
Service Area: Juneau	04
Upper Yukon Div.	01
Valdez-Chitina-Whitt. Div	02
Wade Hampton Div.	01
Yukon-Koyukuk Div.	01
Service Area Listing	
Bristol Bay	03
County—Bristol Bay Div.	
Juneau	04
County—Angoon Div.	
County—Juneau Div.	
County—Skagway-Yakutat Div	
Arizona	
County listing and County name	
Apache	
Service area: South-South Central Apache County	04
Service area: White Mountain Indian Reservation	03
Cochise	
Service area: Catalina	03
Service area: Bowie	01
Service area: Tombstone City Area	03
Gila	
Service area: Globe-Miami-Superior	03
Service area: White Mountain Indian Reservation	01
Maricopa	
Service area: South Phoenix	02
Navajo	
Service area: Kayenta	01
Service area: Winslow	04
Service area: Hopi Indian Reservation	01
Service area: White Mountain Indian Reservation	03
Pima	
Service area: Catalina	01
Service area: Marana MSA	02
Service area: El Rio	01
Pinal	
Service area: Catalina	01
Service area: Globe-Miami-Superior	03
Service area: Central/West Pinal Co.	02
Santa Cruz	01
Yuma	
Service area: Northern Yuma County	01
Service area: Somerton Clinic Target Area	01
Service area listing Bowie	01
County—Cochise	
Parts of County	
Bowie CCD	
Catalina	03
County—Cochise	
Parts of County	
Benson CCD	
County—Pima	
Parts of County	
C.T. 47.07	
County—Pinal	
Parts of County	
Oracle Junction (in San Manuel Div.)	
Central/West Pinal Co.	02
County—Pinal	
Parts of County	
Maricopa/Stanfield	
Casa Grande	
Eloy	
Coolidge	
Florence	
El Rio	01
County—Pima	
Parts of County	
C.T. 1 through 4, 8 through 12, 13.02, 22 through 24, 25.01 and 37.01	
El Rio	01
County—Pima	
Parts of County	
C.T. 37.02, 37.03, 38 and 39	
Globe-Miami-Superior	03
County—Gila	
Parts of County	
Globe Div.	
Miami Div.	
Young & Roosevelt Tonto Div	
County—Pinal	
Parts of County	
Superior-Ray Div.	
Hopi Indian Reservation	01
County—Navajo	
Parts of County	
Hopi Division	
Kayenta	01
County—Navajo	
Parts of County	
Navajo Monument Div.	
Marana MSA	02
County—Pima	
Parts of County	
Marana CCD	
Northern Yuma County	01
County—Yuma	
Parts of County	
Parker Div.	

A G 6 7 9 UMI

Somerton Clinic Target Area 01
County—Yuma
Parts of County
Somerton
Wellton (Part)
South Phoenix 02
County—Maricopa
Parts of County
C.T. 1152 through 1161, 1162.01, 1162.02, and 1163 through 1167
South-South Central Apache County 04
County—Apache
Parts of County
Round Valley Div.
St. John Div.
Puerco Div.
Tombstone City Area 03
County—Cochise
Parts of County
Tombstone Pl. (Pt. of Tombstone Div.)
White Mountain Indian Reservation 03
County—Apache
Parts of County
McNary Div.
County—Gila
Parts of County
Reservation Division (Part)
County—Gila
Parts of County
Reservation Div.
Winslow 04
County—Navajo
Parts of County
Little Colorado Div.

Arkansas
County listing and name
Arkansas
Service area: Arkansas County 01
Ashley 02
Bradley 04
Calhoun 01
Clark
Service area: Southern Clark Co. 02
Clay 03
Cleveland 02
Howard
Service area: Dierks 01
Jefferson
Service area: Northeast Jefferson County 01
Service area: Northwest Jefferson County 01
Service area: Reydel 01
Service area: S. Arkansas correctional facilities 02
Lafayette 01
Lawrence 04
Lincoln 01
Lincoln
Service area: S. Arkansas correctional facilities 02
Little River 02
Lonoke 02
Mississippi 04
Monroe 03
Pike
Service area: Dierks 01
Pulaski
Service area: East Central Pulaski 01
Sebastian
Service area: Diamond service area 01
Sevier
Service area. Dierks 01
Sharp 03
Stone
Service area listing 02
Arkansas County 01
County—Arkansas
Parts of county
Chester Township
Stanley Township
Keaton Township
Crochett Township
Barton Township
Garland Township
Brewer Township
Bayou Meto Township
La Grue Township
Prairie Township
Point De Luce Township
Arkansas Township
Diamond service area 01
County—Sebastian
Parts of county
Diamond Twp.
Hartfort Twp.
Jum Fork Twp.
Mississippi Twp.
Sugarloaf Twp.

Dierks 01
County—Howard
Parts of county
Baker Township
Blue Ridge Township
Burg Township
Clay Township
Duckett Township
Holly Creek Township
Madison Township
Mountain Township
Muddy Fork Township
Sulphur Spring Township
Umpire Township
County—Pike
Parts of county
Mountain Township
Eagle Township
Dierks 01
County—Pike
Parts of county
Self Creek Township
White Township
Muddy Fork Township
County—Sevier
Parts of county
Jefferson Township
East Central Pulaski 01
County—Pulaski
Parts of county
C.T. 1 through 13, 18, 25, 26, 28 and 40.01
Northeast Jefferson County 01
County—Jefferson
Parts of county
Dudley Township
Roberts Township
Plum Bayou Township
Dunnington Township
Bogy Township
Northwest Jefferson County 01
County—Jefferson
Parts of county
Barraque Township
Bolivar Township
Jefferson Twonship
Pastoria Township
Washington Township
Reydel 01
County—Jefferson
Parts of county
Old River Township
Villemont Township
S. Arkansas correctional facilities 02
County—Jefferson
Parts of county
Tucker Prison
Women's unit
County—Lincoln
Parts of county
Cummins Prison
Southern Clark Co. 02
County—Clark
Parts of county
Missouri Twp.

California
County listing
Alameda
Service area: East Alameda 03
Service area: Albany N.W.-Berkeley S.W. 03
Service area: Span. Spkg & Med. Ind. Pop. (Union/Newark) 02
Alpine
Service area: Markleeville 01
Amador
Service area: Pine Grove/Silver Lake 02
Service area: Sutter Creek/Plymouth 04
Butte
Service area: Feather Falls 01
Calveras
Service area: West Point/Wilseyville 01
Del Norte 04
Fresno
Service area: Southeast Fresno 01
Service area: Firebaugh/Mendota 01
Glenn
Service area: Orland 04
Humboldt
Service area: Trinidad 03
Service area: Mad River 01
Inyo
Service area: Death Valley 01
Kern
Service area: Arvin/Lamont 03
Service area: Lake Isabella 04
Service area: Frazier Park 02
Service area: Buttonwillow 01
Lake
Service area: Clearlake Highlands MSA 02
Lassen
Service area: North Lassen 01
Los Angeles
Service area: Highland Pk/Linc. Hts/Mt Wash./El Sereno 03
Service area: Spanish/Spkng & Med. Ind. Pop. of Boyle Hts 01
Service area: East La/City Terrace/Maravilla 02
Service area: Commerce 02
Service area: Pico Rivera 04
Service area: Monterey Park/Rosemead 03
Service area: North El Monte/South El Monte 03
Service area: Industry/La Puente/Baldwin 02
Service area: Avalon/Goodyear/Main 04
Service area: Maple/Santa Barbara 01
Service area: Florence/Huntington Park 04
Service area: Maywood Bell/Southgate 03
Service area: Dominquez/W. Compton/Willowbrook 03
Service area: Figueroa/Firestone/Green Meadows/Watts 04
Madera
Service area: Oakhurst-North Fork 02
Service area: Migrants-Spanish Speaking Pop—Madera 01
Marin
Service area: Bolinas-Stinson 01
Mariposa
Service area: Coulterville 01
Mendocino
Service area: Point Arena 01
Service area: Covelo 01
Service area: Northwest Mendocino 01
Merced
Service area: Northern Merced 03
Service area: Mig/Span. Speaking Pop. in greater Merced 02
Service area: Sp-Spkg Mig & Sea Pop. (Los Banos-Dos Palos) 01
Modoc
Service area: Tule Lake-Butte Valley 01
Service area: Adin-Lookout 01
Monterey
Service area: Seaside 02
Service area: Soledad 01
Riverside
Service area: Blythe 02
Sacramento
Service area: Galt 01
San Benito 04
San Bernardino
Service area: Wrightwood 01
San Diego
Service area: Alpine 02
Service area: Mountain Empire 01
Service area: Palomar-Laguna 03
Service area: Southwest San Diego 04
San Francisco
Service area: Merced Hts/Oceanview 02
San Joaquin
Service area: Inner City Stockton Res (Migr & Seas Frmwkr) 04
San Luis Obispo
Service area: Nipomo/Arroyo Grande 02
Santa Barbara
Service area: Cuyama Valley 01
Santa Clara
Service area: Loma Prieta School District 02
Santa Cruz
Service area: Loma Prieta School District 02
Siskiyou
Service area: Happy Camp 04
Service area: Siskiyou 01
Service area: Tule Lake-Butte Valley 01
Sonoma
Service area: Russian River 02
Service area: Cloverdale/Geyserville 04
Stanislaus
Service area: Mig/Span Speaking Pop. in S.W. Stanislaus 02
Trinity
Service area: Mad River 01
Tuolumne
Service area: Groveland 01
Service area: Stanislaus/Yosemite 01
Ventura
Service area: The Developmentally Disabled in Ventura County 02
Yolo
Service area: Esparto 01

Service area listing
Adin-Lookout 01
County—Modoc
Parts of County
Adin-Lookout
Albany-Berkeley N.W./Berkeley S.W. 03
County—Alameda
Parts of County
C.T. 4201 through 4206, 4218 through 4223, 4230 through 4234, and 4240.
Alpine 02
County—San Diego
Parts of County
Alpine Division
Arvin/Lamont 03
County—Kern
Parts of County
C.T. 62, 63 and 64
Avalon/Goodyear/Main 04
County—Los Angeles
Parts of County
C.T. 2281 through 2289, 2291 through 2294, 2311, 2318, 2319, 2328, 2391, 2392 through 2396, 5328, and 5329
Blythe 02
County—Riverside
Parts of County
Palo Verde Div.
Chuckwalla Div.
Bolinas-Stinson 01
County—Marion
Parts of County
C.T. 1321
Boron 03
County—Kern
Parts of County
C.T. 5502 and 56 through 59
Buttonwillow 01
County—Kern
Parts of County
C.T 33.01 (Part-Blk Grp 1-3, 951)
C.T. 37
C.T. 42 (Part-Blk Grp 1)
C.T. 45 (Part-Blk Grp 1-3, 5)
Clearlake Highlands MSA 02
County—Lake
Parts of County
Lower Lake/ Middletown CCD
Upper Lake/Clear Oaks CCD (Partial)
Cloverdale/Geyserville 04
County—Sonoma
Parts of County
Cloverdale/Geyserville
Commerce 02
County—Los Angeles
Parts of County
C.T. 5323.01
C.T. 5323.02
Coulterville 01
County—Mariposa
Parts of County
Coulterville
Covelo 01
County—Mendocino
Parts of County
Covelo
Cuyama Valley 01
County—Santa Barbara
Parts of County
Guyama Division
Death Valley 01
County—Inyo
Parts of County
E.D. 23 of Death Valley Div.
E.D. 24 of Death Valley Div.
E.D. 25 of Death Valley Div.
E.D. 26 of Death Valley Div.
Dominquez/W. Compton/Willowbrook 03
County—Los Angeles
Parts of County
C.T. 5406 through 5415, 5425 through 5434, and 5440
East Alameda 03
County—Alameda
Parts of County
C.T. 4048 through 4066, 4070 through 4078, 4082 through 4096, and 4101 through 4104
East LA/City Terrace/Maravilla 02
County—Los Angeles
Parts of County
C.T. 5303 through 5306 and 5308 through 5319
Esparto 01
County—Yolo
Parts of County
C.T. 115
Feather Falls 01
County—Butte
Parts of County
Feather Falls
Figueroa/Firestone/Green Meadows/Watts 04
County—Los Angeles
Parts of County
C.T. 2397 through 2399, 2401 through 2409, 2411 through 2418, 2421 through 2429, 2431, 5349 through 5354, and 5404
Firebaugh/Mendota 01
County—Fresno
Parts of County
Firebaugh Div.
Mendota Div.
Florence/Huntington Park 04
County—Los Angeles
Parts of County
C.T. 5325 through 5332, 5335, 5345, 5347, and 5348
Frazier Park 02
County—Kerna
Parts of County
C.T. 33.02
C.T. 60 (PART)
Galt 01
County—Sacramento
Parts of County
C.T. 94
C.T. 95
Groveland 01
County—Tuolumne
Parts of County Groveland
Happy Camp 04
County—Siskiyou
Parts of County
Happy Camp CCD
Highland Pk/Linc. Hts/Mt Wash./El Sereno 03
County—Los Angeles
Parts of County
C.T. 1831 through 1833, 1835 through 1838, 1851 through 1853, 1991 through 1999, 2011 through 2017, and 5307.
Industry/LA Puente/Baldwin 02
County—Los Angeles
Parts of County
C.T. 4047 through 4052, 4069 through 4073, 4075 through 4079, and 4081 through 4086
Inner City Stockton Res(Migr & Seas Frmwkr 04
County—San Joaquin
Parts of County
C.T. 1 through 3, 6 through 8, 19, 20, and 23 through 25.
Lake Isabella 04
County—Kern
Parts of County
C.T. 51.01
C.T. 52
Loma Prieta School District 02
County—Santa Clara
Parts of County
Lexington Division (Part)
County—Santa Cruz
Parts of County
San Lorenzo Valley (Part)
Scotts Valley Division (Part)
Mad River 01
County—Humboldt
Parts of County
Dinsmore Div
County—Trinity
Parts of County
Mad River Div
Maple/Santa Barbara 01
County—Los Angeles
Parts of County
C.T. 2214.01 through 2219, 2221 through 2227, 2244 through 2247, and 2264 through 2267
Markleeville 01
County—Alpine
Parts of County
Markleeville
Maywood Bell/Southgate 03
County—Los Angeles
Parts of County
C.T. 5333, 5334, 5336 through 5344.02, and 5355 through 5362
Merced HTS/Oceanview 02
County—San Francisco
Parts of County
C.T. 255, 256, 260 through 263, and 312 through 314
Mig/Span Speaking Pop in S.W. Stanislaus 02
County—Stanislaus
Parts of County
Patterson
Newman
Mig/Span. Speaking Pop in Greater Merced 02
County—Merced
Parts of County
Merced
Merced Rural
Planada-La Grand
Migrants-Spanish Speaking Pop-Madera 01
County—Madera
Parts of County
C.T. 4 through 10 (Migrant and Spanish Speaking population)
Monterey Park/Rosemead 03
County—Los Angeles
Parts of County
C.T. 4322, 4329, 4336, 4817, 4818, and 4820 through 4828.
Mountain Empire 01
County—San Diego
Parts of County
Mountain Empire Division
Nipomo/Arroyo Grande 02
County—San Luis Obispo
Parts of County
Arroyo Grande Division
North El Monte/South El Monte 03
County—Los Angeles
Parts of County
C.T. 4315, 4323 through 4326, 4331 through 4335, and 4337 through 4340.
North Lassen 01
County—Lassen
Parts of County
Big Valley
Madeline Plains
Northern Merced 03
County—Merced
Parts of County
Hilmar-Irwin Division
Livingston-Delhi
Snelling Division
Atwater Division
Northwest Mendocino 01
County—Mendocino
Parts of County
Laytonville-Leggett
Oakhurst-North Fork 02
County—Madera
Parts of County
Oakhurst-North Fork CCD
Orland 04
County—Glenn
Parts of County
Orland CCD
Palomar-Laguna 03
County—San Diego
Parts of County
Palomar-Laguna Division
Pico Rivera 04
County—Los Angeles
Parts of County
C.T. 55.04 through 5010, and 5021 through 5026.02
Pine Grove/Silver Lake 02
County—Amador
Parts of County
Pine Grove/Silver Lake
Point Arena 01
County—Mendocino
Parts of County
Point Arena
Russian River 02
County—Sonoma
Parts of County
C.T. 1537
C.T. 1543 (South Portion)
Seaside 02
County—Monterey
Parts of County
Seaside Div
Siskiyou 01
County—Siskiyou
Parts of County
Etna
Ft. Jones
Soledad 01
County—Monterey
Parts of County
Soledad Div

Southeast Fresno 01
County—Fresno
Parts of County
C.T. 4, 12, 13, 14.01, and 15
Southwest San Diedo 04
County—San Diego
Parts of County
C.T. 38, 45 through 54
Sp-Spkg Mig&SEA Pop (Los Banos-Dos Palos) 01
County—Merced
Parts of County
DOS Palos Division
Los Banos Division
Span. Spkg&Med.Ind.Pop. (Union/Newark) .. 02
County—Alameda
Parts of County
C.T. 4380 through 4384, 4401 through 4403, 4414, 4415, and 4441 through 4446
Spanish-Spkg&Med Ind Pop of Boyle Hts 01
County—Los Angeles
Parts of County
C.T. 2031 through 2039, 2041 through 2049, and 2051
Stanislaus/Yosemite 01
County—Tolumne
Parts of County
Stanislaus/Yosemite
Sutter Creek/Plymouth 04
County—Amador
Parts of County
Sutter Creek/Plymouth
The Developmentally Disabled in Ventura 02
County—Ventura
Parts of County
The Developmentally Disabled in Ventura
Trinidad 05
County—HumboldT
Parts of County
North Coastal Division
Tule Lake-Butte Valley 01
County—Modoc
Parts of County
Tule Lake
County—Siskiyou
Parts of County
Tule Lake CCD
Butte Valley CCD
West Point/Wilseyville 01
County—Calavers
Parts of County
West Point/Wilseyville
Wrightwood 01
County—San Bernardino
Parts of County
Mt. Baldy/Wrightwood

Colorado
County listing
Adams
Service area: Eastern Plains area 02
Arapahoe
Service area: Eastern Plains area 02
Archuleta 01
Baca 04
Beni 04
Boulder 04
Service area: Lafayette 04
Conejos
Service area: San Luis Valley 01
Costilla
Service area: San Luis Valley 01
Crowley 03
Custer 01
Dolores 01
Hinsdale 01
Kiowa 02
Montezuma 01
Montrose
Service area: Nucla 04
Ouray 01
Prowers 04
Pueblo
Service area: Avondale 01
Rio Blanco 04
Routt 01
San Juan 01
San Miguel 01
Sedgwick 01
Service area listing
Avondale 01
County—Pueblo
Parts of County
C.T. 30.01 (Avondale)
C.T. 30.02 (Avondale)
C.T. 31.02 (Avondale)
C.T. 32 (Avondale)
C.T. 33 (Avondale)
C.T. 34 (Avondale)
Eastern Plains Area 02
County—Adams
County—Arapahoe
Lafayette 04
County—Boulder
Parts of County
C.T. 129
Nucla 04
County—Montrose
Parts of County
Nucla division
San Luis Valley 01
County—Conejos
County—Costilla

Connecticut
County listing
Fairfield
Service area: Southeast Bridgeport 01
Service area: Central Bridgeport 01
Service area: South West Bridgeport 01
Service area: North Central Bridgeport 01
Service area: Southwest Stamford 01
Service area: South Norwalk 03
Hartford
Service area: Enfield 02
Service area: North-North Central Harford 04
New Haven
Service area: Fair Haven 01
New London
Service area: New London 01
Windham
Service area: Northeast Windham 09
Service area listing
Central Bridgeport 01
County—Fairfield
Parts of County
C.T. 713
C.T. 714
C.T. 715
C.T. 716
C.T. 717
Enfield 02
County—Hartford
Parts of County
C.T. 4761 through 4763 (Windsor Locks town), 4771 and 4772 (Suffield town), and 4801 through 4813 (Enfield town).
Fair Haven 01
County—New Haven
Parts of County
C.T. 1421 through 1426
Northeast Windham 03
County—Windham
Parts of County
Brooklyn
Canterbury
Eastford
Killingly
Plainfield
Pomfret
Putnam
Sterling
Thompson
Woodstock
New London 01
County—New London
Parts of County
C.T. 6901 through 6907
North Central Bridgeport 01
County—Fairfield
Parts of County
C.T. 728
North-North Central Harford 04
County—Hartford
Parts of County
C.T. 5008 through 5010, 5012 through 5015, 5017, 5018, 5035, and 5037
South Norwalk 03
County—Fairfield
Parts of County
C.T. 418, 419, 422, and 423
Southwest Bridgeport 01
County—Fairfield
Parts of County
C.T. 702 through 706
Southeast Bridgeport 01
County—Fairfield
Parts of County
C.T. 740 through 744
Southwest Stamford 01
County—Fairfield
Parts of County
C.T. 222
C.T. 223

Delaware
County listing
New Castle
Service area: City of Wilmington 02
Service area: Odessa-Middletown-Townsend 03
Sussex
Service area: Milton 02
Service area: Med Ind Children of W. Sussex Co. 01
Service area listing
City of Wilmington 02
County—New Castle
Parts of County
C.T. 1, 8, 9, 17, 20 and 154 through 156
Med Ind Children of W. Sussex Co. 01
County—Sussex
Parts of County
Bridgeville-Greenwood CCD
Laurel-Delmar CCD
Seaford CCD
Milton 02
County—Sussex
Parts of County
Selbyville-Frankford CCD
Millsboro CCD
Milton CCD
Odessa-Middletown-Townsend 03
County—New Castle
Parts of County
C.T. 166 through 169 (Middletown Odessa Div)

District of Columbia
County Listing
District of Columbia
Service area: Anacostia Service area 01
Service Area Listing
Anacostia Service Area 01
County—District of Columbia
Parts of County
C.T. 73.01 through 73.04, 73.06 through 73.08, 74.01, 74.02, 74.04, 74.05, 75.01, 75.02, 76.01 through 76.06, 77.01 through 77.03, 77.05 through 77.07, 78.01 through 78.06, and 96 through 98.

Florida
County listing
Bradford 03
Broward
Service area: Sunshine FHC Target Population 01
Service area: Sunshine Family Health Center 01
Collier
Service area: Southern Collier County 01
Columbia 04
Dade
Service area: Southern Dade 01
Dixie 01
Gilchrist 01
Gulf
Service area: Hillsborough Co. MIG Health Center Inc. 02
Hillsborough
Service area: Hillsborough Co. MIG Health Center Inc. 02
Lafayette 01
Lee
Service area: Lee Co. Mighrant Population 01
Levy
Service area: Chiefland 01
Service area: Chiefland Clinic 01
Manitee
Service area: Hillsborough Co. MIG Health Center Inc. 02
Marion 04
Orange
Service area: N.W. Orange & W. Orange Co. 03
Palm Beach
Service area: Palm Beach 01
Putnam 03
Sumter 01
Suwannee 02
Service area listing
Chiefland 01
County—Levy
Parts of County
Chiefland CCD
Chiefland Clinic (Facility)
Chiefland Clinic 01
County—Levy
Parts of County
Chiefland Clinic (Facility)

Hillsborough Co. MIG Health Center Inc. 02
County—Gulf
Parts of County
Wewahitchka CCD
County—Hillsborough
Parts of County
C.T. 121 through 141
County—Mantee
Parts of County
C.T. 13 through 15
Hillsborough Co. MIG Health Center Inc. 02
County—Mantee
Parts of County
C.T. 16
C.T. 19
Lee Co. Migrant Population 01
County—Lee
Parts of County
Lee Co. Migrant Population
N.W. Orange & W. Orange Co. 03
County—Orange
Parts of County
C.T. 175 through 179
Palm Beach 01
County—Palm Beach
Parts of County
C.T. 78
Southern Collier County 01
County—Collier
Parts of County
Everglades (Southern Portion)
Southern Dade 01
County—Dade
Parts of County
C.T. 103 through 105, 106.02, 106 through 113.
Southern Dade 01
County—Dade
Parts of County
C.T. 114, 115
Sunshine Family Health Center 01
County—Broward
Parts of County
Sunshine Family Health Center
Sunshine FHC Target Population 01
County—Broward
Parts of County
C.T. 305 (Resident Population)
C.T. 305 (Migrant & Seasonal Farm workers)

Georgia
County listing
Appling 02
Atkinson 01
Baker
Service area: Baker/Dougherty/Lee 04
Banks 01
Bartow 04
Brantley 01
Brooks 02
Bryan 01
Burke 04
Butts 02
Calhoun 04
Chattahoochee 01
Chattooga 04
Cherokee 04
Clarke
Service area: Athens NHC Target area 01
Crawford 01
Dawson 03
Dekalb
Service area: Dekalb 02
Dooly 03
Dougherty
Service area: Baker/Dougherty/Lee 03
Early 02
Effingham 04
Elbert 04
Evans 02
Fayette 02
Fulton
Service area: Inner-City Atlanta 04
Service area: Atlanta (Southside) 01
Service area: Palemetto service area 01
Glascock 01
Grady 03
Hancock 02
Henry 02
Irwin 01
Jackson 04
Jasper 01
Jeff Davis 02
Jefferson 03
Jenkins 03
Jones 02
Lee
Service area: Baker/Dougherty/Lee 04
Lincoln 04
Long 01
McDuffie 04
McIntosh 01
Macon 01
Madison 01
Meriwether 02
Mitchell 04
Montgomery 01
Murray 02
Newton 03
Oglethorpe 01
Pickens 04
Pike 01
Pulaski
Service area: Pulaski/Wilcox 03
Quitman
Service area: Randolph/Quitman 03
Randolph
Service area: Randolph/Quitman 03
Screven 04
Stewart
Service area: Stewart-Webster MSA 02
Taliaferro 01
Tattnall 02
Union 03
Walker
Service area: South Walker 02
Warren 01
Webster
Service area: Stewart-Webster MSA 02
Wheeler 01
White 02
Wilcox
Service area: Pulaski/Wilcox 03
Wilkes 03
Wilkinson 03
Worth 04
Service area listing
Athens NHC Target Area 01
County—Clarke
Parts of County
C.T. 2, 3, 6, 9
Atlanta (Southside) 01
County—Clarke
Parts of County
C.T. 44 through 49, 52, 53, 5501 and 55.02, 57, 58, 63, 64 and 68 through 73
Baker/Dougherty/Lee 04
County—Baker
County—Dougherty
County—Lee
De Kalb 02
County—De Kalb
Parts of County
C.T. 208, 227 and 228
Inner-City Atlanta 04
County—Fulton
Parts of County
C.T. 17, 18, 20, 21, 27, 28, 32, 33 and 35
Palemetto Service Area 01
County—Fulton
Parts of County
C.T. 13 (Palmetto CCD)
Pulaski/Wilcox 03
County—Pulaski
County—Wilcox
Randolph/Quitman 03
County—Quitman
County—Randolph
South Walker 02
County—Walker
Parts of County
C.T. 208 through 209
Stewart-Webster MSA 02
County—Stewart
County—Webster

Idaho
County listing
Ada
Service Area: Med. Ind. Pop. (Boise City) .. 04
Bannock
Service Area: Eastern Snake River Valley Migrant Area 01
Bingham
Service Area: Eastern Snake River Valley Migrant area 01
Bonner
Service Area: Priest River 01
Butte
Service Area: Lost Rivers 01
Camas 01
Canyon
Service Area: Treasure Valley Migrant Area No. 1 04
Caribou 03
Cassia
Service Area: Magic Valley Migrant Area .. 01
Custer
Service Area: Lost Rivers 01
Elmore
Service Area: Glenns Ferry 01
Gem
Service Area: Treasure Valley Migrant Area No. 2 01
Gooding
Service Area: Magic Valley Migrant Area .. 01
Jerome
Service Area: Magic Valley Migrant Area .. 01
Lincoln
Service Area: Magic Valley Migrant Area .. 01
Minidoka
Service Area: Magic Valley Migrant Area .. 01
Owyhee
Service Area: Treasure Valley Migrant Area No. 1 04
Payette
Service Area: Treasure Valley Migrant Area No. 2 01
Power
Service Area: Eastern Snake River Valley Migrant Area 01
Twin Falls
Service Area: Magic Valley Migrant Area .. 01
Washington
Service Area: Treasure Migrant Area No. 2 01
Service area listing
Eastern Snake River Valley Migrant Area 01
County—Bannock
Parts of County
Migrant Population
County—Bingham
Parts of County
Migrant Population
County—Power
Parts of County
Migrant Population
Glenns Ferry 01
County—Elmore
Parts of County
Glenns Ferry
Lost Rivers 01
County—Butte
County—Custer
Parts of County
Mackay Div.
Magic Valley Migrant Area 01
County—Cassia
Parts of County
Migrant Population
County—Gooding
Parts of County
Migrant Population
County—Jerome
Parts of County
Migrant Population
County—Lincoln
Parts of County
Migrant Population
County—Minidoka
Parts of County
Migrant Population
County—Twin Falls
Parts of County
Migrant Population
Med. Ind. Pop. (Boise City) 04
County—Ada
Parts of County
C.T. 1 through 24
Priest River 01
County—Bonner
Parts of County
Blanchard-Glengary Div. (Western Part)
Priest River Div.
Treasure Valley Migrant Area No. 1 04
County—Canyon
Parts of County
Migrant Population
County—Owyhee
Parts of County
Migrant Population
Treasure Valley Migrant Area No. 2 01
County—Gem
Parts of County
Migrant Population
County—Payette
Parts of County
Migrant Population

County—Washington
Parts of County
Migrant Population

Illinois
County listing
Alexander 02
Brown 01
Calhoun 01
Carroll 04
Cass 04
Champaign service area: Northend-Champaign Urbana 01
Clark 02
Clay 02
Clinton 03
Cook
Service area: Chatham (near Southeast) 04
Service area: Douglas Comm. Area 03
Service area: Chicago Heights 03
Service area: Robbins 01
Service area: Southeast Chicago 01
Service area: South Lawndale-Lower West Side 01
Service area: Uptown 01
Service area: Phoenix 01
Service area: E. Chicago Heights 01
Service area: Cabrini-Green/Near North Side 01
Service area: Chicago Lawn 04
Service area: Garfield Ridge 02
Service area: Humboldt Austin Garfield 01
Service area: New City-West Englewood-Englewood 01
Edwards 04
Fayette 02
Franklin 02
Fulton
Service area: London Mills service area 02
Greene 04
Hamilton 02
Henderson 02
Jackson
Service area: Murphysboro service area 04
Jasper 02
Johnson 02
Kankakee
Service area: Pembroke 01
Knox
Service area: London Mills service area 02
McDonough
Service area: London Mills service area 02
Macon
Service area: Decatur Inner City 01
Service area: Decatur Inner City 01
Macoupin 04
Mason 04
Montgomery 03
Peoria
Service area: Peoria 02
Pike 04
Pope 02
Randolf 01
Rock Island
Service area: East Moline 04
St. Clair
Service area: East Side Health Dist. (St. Louis) 02
Scott 02
Union 02
Warren
Service area: London Mills service area 02
Wayne 04
Will
Service area: Joliet Correctional Inst. 02
Service area: Statesville Correctional Inst. 02
Williamson
Service area: Carterville service area 02
Service area listing
Cabrini-Green/Near North Side 01
County—Cook
Parts of County
C.T. 803 through 810, and 817 through 819
Carterville Service Area 02
County—Williamson
Parts of County
Blairsville Twp.
Carterville Twp.
Grassy Twp.
Chatham (Near Southeast) 04
County—Cook
Parts of County
C.T. 4401, 6914, 6915 and 7101 through 7115
Chatham (Near Southeast) 04
County—Cook
Parts of County
C.T. 4402 through 4409, 4501 through 4503, 4701, and 6901 through 6913
Chicago Heights 03
County—Cook
Parts of County
C.T. 8290 through 8292 and 8294
Chicago Lawn 04
County—Cook
Parts of County
C.T. 6201 through 6204, 6301 through 6309, 6501 through 6505, and 6601 through 6611
Decatur Inner City 01
County—Macon
Parts of County
C.T. 1 and 7 through 9
Douglas Comm. Area 03
County—Cook
Parts of County
C.T. 3501 through 3515
E. Chicago Heights 01
County—Cook
Parts of County
C.T. 8297 (E. Chicago Heights)
East Moline 04
County—Rock Island
Parts of County
C.T. 202, 204, 206, and 207
East Side Health Dist. (St. Louis) 02
County—St. Clair
Parts of County
C.T. 5001 through 5015.01 and 5020 through 5030
Garfield Ridge 02
County—Cook
Parts of County
C.T. 5601 through 5613
Humboldt Austin Garfield 01
County—Cook
Parts of County
C.T. 2301, 2302, 2519 through 2523, 2601 through 2610, 2701 through 2719, and 2801 through 2809
Humboldt Austin Garfield 01
County—Cook
Parts of County
C.T. 2303 through 2318, 2508 through 2510, 2514, 2516 through 2518, 2525, 2817 through 2828, 2838 through 2843, and 2901 through 2927
Joliet Correctional Inst. 02
County—Will
London Mills service area 02
County—Fulton
Parts of County
Ellisville Twp
Fairview Twp
Lee Twp
Union Twp
Young Hickory Twp
County—Knox
Parts of County
Chestnut Twp
Haw Creek Twp
Indian Point Twp
Mawuon Twp
Orange Twp
County—McDonough
Parts of County
Prairie City Twp
County—Warren
Parts of County
Berwick Twp
Greenbush Twp
Murphysboro service area 04
County—Jackson
Parts of County
Bradley Twp
Degognia Twp
Fountain Bluff Twp
Kinkaid Twp
Levan Twp
Ora Twp
New City-West Englewood-Englewood 01
County—Cook
Parts of County
C.T. 6101 through 6122 (New City), 6701 through 6720 (West Englewood), 6801 through 6814 (Englewood)
Northend-Champaign Urbana 01
County—Champaign
Parts of County
C.T. 2
C.T. 7—Blockgroups 1 and 2
C.T. 53—Blockgroups 2 and 3
Pembroke 01
County—Kankakee
Parts of County
Pembrooke Twp
St. Anne Twp
Peoria 02
County—Peoria
Parts of County
C.T. through 14
Peoria 02
County—Peoria
Parts of County
C.T. 15
Phoenix 01
County—Cook
Parts of County
C.T. 8244 (Phoenic Village)
Robbins 01
County—Cook
Parts of County
Robbins Village
South Lawndale—Lower West Side 01
County—Cook
Parts of County
C.T. 3001 through 3020 and 3101 through 3114
Southeast Chicago 01
County—Cook
Parts of County
C.T. 3801 through 3805, 3701 through 3704, 3801 through 3820, 3901 through 3908, and 4001 through 4008
Statesville Correctional Inst. 02
County—Will
Uptown 01
County—Cook
Parts of County
C.T. 310 through 312 and 315 through 321

Indiana
County listing
Brown 03
Clinton 02
Crawford 01
Decatur 03
Fayette 03
Franklin 01
Harrison 03
Howard 02
Jay 02
Jennings 03
Lake
Service area: Gary, Area #1 01
Marion
Service area: Highland-Brookside 01
Service area: South-west Indianapolis 02
Service area: Near North Side (Indianapolis) 02
Service area: South Central Indianapolis 02
Service area: Barrington (Indianapolis) 01
Martin 03
Ohio 01
Owen 03
Perry 04
Posey 04
Ripley 04
Rush 03
Shelby 04
Spencer 02
Starke 04
Switzerland 01
Union 02
Warren 01
Barrington (Inidanapolis) 01
County—Marion
Parts of county
C.T. 3572 through 3576
Gary, area #1 01
County—Lake
Parts of county
C.T. 101 through 129
Highland—Brookside 01
County—Marion
Parts of county
C.T. 3526, 3527, 3530, and 3543 through 3560
Near North Side (Indianapolis) 02
County—Marion
Parts of county
C.T. 3517 through 3522 and 3528 through 3532
South Central Indianapolis 02
County—Marion
Parts of county

C.T. 3557 through 3563, 3567 through 3571, and 3577 through 3579
South Central Indianapolis 02
County—Marion
Parts of county
C.T. 3580
South-West Indianapolis 02
County—Marion
Parts of county
C.T. 3411 through 3416, 3422 through 3427, 3537, 3538, 3564 through 3566, and 3581

Iowa
County listing
Barbour
Service area: Casey area 03
Audubon 02
Benton
Service area: Center Point-Central City-Caggon area 03
Service area: Tama-Traer Dysart 04
Black Hawk service area Tama-Traer Dysart 04
Boone
Service area: Dayton-Gowns area 02
Service area: Polk City-Woodward 03
Buchanan
Service area: Center Point-Central City-Caggon area 03
Service area: Lamont Area 04
Calhoun
Service area: Dayton-Gowns area 02
Service area: Rockwell City Manson 02
Carroll
Service area: Coon Rapids area 02
Cass
Service area: Oakland 02
Cedar
Service area: Clarence-Tipton area 02
Cherokee
Service area: Kingsley-Anthon-Mapleton area 04
Service area: Lemars-Remsen area 02
Clarke
Service area: Osceola 03
Clayton
Service area: Lamont area 04
Service area: Elkader 04
Clinton
Service area: Dewitt-Grand Mound 03
Service area: Clarence-Tipton area 02
Service area: Preston 02
Crawford
Service area: Manilla area 04
Dallas
Service area: Polk City-Woodward 03
Decatur
Service area: Osceola 03
Delaware
Service area: Center Point-Central City-Caggon area 03
Service area: Dyersville area 02
Service area: Lamont area 04
Dubuque
Service area: Dyersville area 02
Fremont
Service area: Tabor 03
Service area: Shennandoah 03
Greene
Service area: Dayton-Gowne area 02
Service area: Coon Rapids area 02
Grundy
Service area: Tama-Traer Dysart 04
Guthrie
Service area: Coon Rapids area 02
Service area: Casey area 03
Hamilton
Service area: Dayton-Gowne area 02
Service area: Hubbard service area 01
Hancock
Service area: Buffalo Center 03
Hardin
Service area: Hubbard service area 01
Harrison
Service area: Harlan 03
Service area: Woodbine 04
Humboldt
Service area: Bode 02
Ida
Service area: Holstein 01
Iowa
Service area: Brooklyn-Vector 04
Jackson
Service area: Preston 02
Johnson
Service area: Clarence-Tipton area 02
Jones
Service area: Clarence-Tipton area 02
Kossuth
Service area: Buffalo Center 03
Service area: Bode 02
Linn
Service area: Clarence-Tipton area 02
Service area: Center Point-Central City-Caggon area 03
Lyon 02
Madison
Service area: Osceola 03
Marion
Service area: Milo area 02
Marshall
Service area: Hubbard service area 01
Mills
Service area: Tabor 03
Service area: Oakland 02
Monona
Service area: Kingsley-Anthon-Mapleton area 04
Monroe 03
Muscatine
Service area: Clarence-Tipton area 02
O'Brien
Service area: Sheldon area 04
Page
Service area: Shenandoah 03
Palo Alto
Service area: Bode 02
Plymouth
Service area: Kingsley-Anthon-Mapleton area 04
Service area: Lemars-Remsen area 02
Pocahontas
Service area: Rockwell City Manson 02
Polk
Service area: Polk City-Woodward 03
Pottawattamie
Service area: Harlan 03
Service area: Oakland 02
Poweshiek
Service area: Brooklyn-Vector 04
Ringgold
Service area: Lenox area 03
Scott
Service area: Dewitt-Grand Mound 03
Service area: Clarence-Tipton area 02
Shelby
Service area: Harlan 03
Service area: Manilla area 04
Sioux
Service area: Sheldon area 04
Story
Service area: Hubbard service area 01
Taylor
Service area: Lenox area 03
Union
Service area: Lenox area 03
Service area: Osceola 03
Warren
Service area: Osceola 03
Service area: Milo area 02
Wayne 02
Webster
Service area: Dayton-Gowrie area 02
Winnebago 03
Woodbury
Service area: Holstein 01
Service area: Kingsley-Anthon-Mapleton area 04
Service area listing
Bode 02
County—Humboldt
Parts of County
Livermore Division
Ottosen Division
Bode Division
Bradgate Division
Hardy Division
County—Kossuth
Parts of County
Luverne Division
County—Palo Alto
Parts of County
West Bend Division
Brooklyn-Vector 04
County—Iowa
Parts of County
Victor Division
Ladora Division
County—Poweshiek
Parts of County
Brooklyn Division
Malcolm Division
Hartwick Division
Guernsey Division
Buffalo Center 03
County—Hancock
Parts of County
Woden Division
Crystal Lake Division
County—Kossuth
Parts of County
Swea City Division
Bancroft Division
Ledyard Division
Lakota Division
Titonka Division
Casey Area 03
County—Adair
Parts of County
Adair Division
County—Guthrie
Parts of County
Casey Division
Menlo Division
Center Point-Central City-Caggon Area 03
County—Benton
Parts of County
Urbana Division
County—Buchanan
Parts of County
Rowley Division
Quasqueton Division
Brandon Division
County—Delaware
Parts of County
Ryan Division
County—Linn
Parts of County
Central City
Prairieburg
Walker
Marion
Alburnett
Robins
Center Point
Caggon
Clarence-Tipton Area 02
County—Cedar
Parts of County
Clarence Division
Lipton Division
Mechanicsville Division
Lowden Division
Stanwood Division
Bennett Division
West Branch Division
County—Clinton
Parts of County
Toronto Division
Lost Nation Division
Wheatland Division
County—Johnson
Parts of County
Solon Division
County—Jones
Parts of County
Olin Division
Oxford Junction
Center Junction
Onslow Division
Morley Division
Wyoming Division
County—Linn
Parts of County
Lisbon Division
County—Muscatine
Parts of County
Atalissa Division
Wilton Division
County—Scott
Parts of County
New Liberty Division
Dixon Division
Coon Rapids Area 02
County—Carroll
Parts of County
Coon Rapids Division
Dedham Division
Templeton Division
Glidden Division
Ralston Division
County—Greene
Parts of County
Scranton Division
County—Guthrie
Parts of County
Bayard Division
Bagley Division

Dayton-Gowrie Area 02
County—Boone
Parts of County
Boxholm Division
Pilot Mound Division
County—Calhoun
Parts of County
Farnhamville Division
County—Greene
Parts of County
Paton Division
County—Hamilton
Parts of County
Stratford Division
County—Webster
Parts of County
Dayton Division
Gowrie Division
Callender Division
Legigh Division
Harcourt Division
Dewitt-Grand Mound 03
County—Clinton
Parts of County
Dewitt Division
Welton Division
Calamus Division
Grand Mound Division
County—Scott
Parts of County
McCausland Division
County—Delaware
Parts of County
Dyersville Division
Colesburg Division
Greeley Division
Hapkinton Division
County—Dubuque
Parts of County
New Vienna Division
Worthington Division
Farley Division
Luxemburg Division
Epworth Division
Holy Cross Division
Peasta Division
Cascade Division
Bernard Division
Elkader 04
County—Clayton
Parts of County
Boardman TWP (Elkader)
Clayton Twp
Cox Creek Twp
Farmersburg Twp
Garnaville Twp
Highland Twp
Read Twp
Volga Twp
Wagner Twp
Marion Township
Harlan 03
County—Harrison
Parts of County
Washington Twp
County—Pottawattamie
Parts of County
Layton Twp
County—Shelby
Parts of County
Cass Twp
Douglas Twp
Greeley Twp
Harlan Twp
Jefferson Twp
Shelby Twp
Union Twp
Washington Twp
Westphalia Twp
Holstein 01
County—Ida
Parts of County
Holstein Division
Galva Division
County—Woodbury
Parts of County
Cushing Division
Hubbard Service Area 01
County—Hamilton
Parts of County
Ellsworth Twp
Jewell Twn
Williams Twp (½-Southern Pt)
County—Hardin
Parts of County
New Providence Twn
Radcliff Twn
Hubbard Twn
County—Marshall
Parts of County
Albion Twn (¼-Northern Pt)
Liscomb Twp
Clemens Twn
St. Anthony Twn
County—Story
Parts of County
Zearing Twn
Kingsley-Anthon-Mapleton Area 04
County—Cherokee
Parts of County
Washta Division
County—Monona
Parts of County
Rodney Division
Mapleton Division
Soldier Division
County—Plymouth
Parts of County
Kingsly Division
County—Woodbury
Parts of County
Moville Division
Pierson Division
Correctionville Division
Anthon Division
Oto Division
Smithland Division
Danbury Division
Lamont Area 04
County—Buchanan
Parts of County
Lamont Division
Aurora Division
Stanley Division
County—Clayton
Parts of County
Strawberry Point Division
County—Delaware
Parts of County
Masonville Division
Dundee Division
Lemars-Remsen Area 02
County—Cherokee
Parts of County
Marcus Division
Cleghorn Division
County—Plymouth
Parts of County
Lemars Division
Brunsville Division
Craig Division
Struble Division
Merrill Division
Remsen
Oyens Division
Lenox Area 03
County—Ringgold
Parts of County
Diagonal Division
County—Taylor
Parts of County
Lenox Division
Sharpsburg Division
Clearfield Division
County—Union
Parts of County
Kent Division
Manilla Area 04
County—Crawford
Parts of County
Manilla Division
County—Shelby
Parts of County
Defiance Division
Irwin Division
Milo Area 02
County—Marion
Parts of County
Dallas Division
Melcher Division
County—Warren
Parts of County
Milo Division
Lacona Division
Oakland 02
County—Cass
Parts of County
Lewis Twn
County—Mills
Parts of County
Henderson Twn
County—Pottawattamie
Parts of County
Oakland Twn
Carson Twn
McClelland Twn
Treynor Twn
Avoca Twn
Macedonia Twn
Minden Twn
Hancock Twn
Osceola 03
County—Clarke
Parts of County
Osceola Division
Woodburn Division
Murray Division
County—Decatur
Parts of County
Weldon Division
Van West Division
County—Madison
Parts of County
Truro Division
County—Union
Parts of County
Thayer Division
County—Warren
Parts of County
New Virginia Division
Polk City—Woodward 03
County—Boone
Parts of County
Madrid Division
County—Dallas
Parts of County
Woodward Division
Bouton Division
County—Polk
Parts of County
Jefferson
Lincoln
Madison (Polk City)
Union
Preston 02
County—Clinton
Parts of County
Goose Lake Division
Charlotte Division
County—Jackson
Parts of County
Preston Division
Green Island Division
Miles Division
Sabula Division
Spragueville Division
Rockville City Mansen 02
County—Calhoun
Parts of County
Rockwell City Division
Jolley Division
Somers Division
Rinard Division
Manson Division
Pomeroy Division
Knierim Division
County—Pocahontas
Parts of County
Palmer Division
Sheldon Area 04
County—O'Brien
Parts of County
Sheldon Division
County—Sioux
Parts of County
Haspers Division
Matlock Division
Boyden Division
Shenandoah 03
County—Fremont
Parts of County
Shenandoah Town
Imogene Town
Farragut Town
County—Page
Parts of County
Essex Town
Yorktown Town
Coin Town
Northboro Town
Tabor 00
County—Fremont
Parts of County
Randolph Town
Thurman Town
County—Mills
Parts of County
Tabor Town
Malvern Town
Tama-Traer Dysart 04
County—Benton
Parts of County
Jackson Township
Cedar Twnshp

County—Black Hawk
Parts of County
Big Creek Twp (La Porte City)
County—Grundy
Parts of County
Tama
Reinbeck (Black Hawk Twp)
Woodbine 04
County—Harrison
Parts of County
Woodbine town
Logan Town
Magnolia Town
Dunlap Town

Kansas
County listing
Chase 04
Comanche 02
Elk 03
Jackson 01
Jefferson 03
Lincoln 01
Linn 03
Miami 03
Nemaha 04
Osage 04
Rawlins 02
Reno 02
Service area: Haven 02
Rush 02
Sedgwick 02
Service area: Haven 02
Shawnee 03
Service area: Northeast Topeka 03
Wabaunsee 01
Washington 02
Wichita 03
Woodson 03
Service area listing
Haven 02
County—Reno
Parts of County
Haven Township
Yoder Township
Lincoln Township
Center Township
Castleton Township
Troy Township
Albion Township
Ninnescah Township
Sumner Township
County—Sedgwick
Parts of County
Greely
Northeast Topeka 03
County—Shawnee
Parts of County
C.T. 2, 3, 7, 8, 11, 12, 14, and 31

Kentucky
County listing
Ballard 03
Bracken 03
Breathitt 02
Service area: Perry County 02
Bullitt 04
Butler 02
Caldwell 01
Carlisle 02
Crittenden 04
Edmonson 04
Grant 04
Grayson 03
Hancock 02
Hickman 02
Jefferson 02
Service area: West End 02
Knott 02
Service area: Perry County 02
Knox 04
Larue 02
Leslie 02
Service area: Perry County 02
Letcher 02
Service area: Perry County 04
Livingston 02
Lyon 02
Marion 02
Meade 02
Metcalfe 03
Ohio 02
Perry 02
Service area: Perry County 04
Russell 04
Shelby 02
Spencer 01
Trigg 01
Trimble 04
Union 03
Washington 03
Webster 02
Whitley 02
Service area: Perry County 02
Service area listing
Perry County 02
County—Breathitt
Parts of County
Canoe Div
Haddix Div
Hardshell Div
County—Knott
Parts of County
Carr Fork Div
Emmalena Div
Mousie Div
County—Leslie
Parts of County
Cutshin Div
County—Letcher
Parts of County
Blackey Div.
County—Perry
County—Whitley
Parts of County
Pearl C.C.D.
West End 02
County—Jefferson
Parts of County
C.T. 1 through 35.

Louisiana
County listing
Assumption 02
Bienville Parish 01
Bossier Parish 01
Catahoula Parish 03
De Soto Parish 01
Grant Parish 01
Madison 02
Orleans
Service area: Desire/Florida 01
Pointe Coupee 01
Tensas 04
Vernon Parish 01
Webster Parish 02
West Carroll Parish 01
Service area listing
Desire/Florida 01
County—Orleans
Parts of County
C.T. 11, 14.01, 14.02, 15, 16, 17.03, 17.04, and 17.05

Maine
County Listing
Androscoggin
Service area: Leeds 01
Aroostook
Service area: Northern Aroostook MSA* 03
Service area: Southern Aroostook 01
Cumberland
Service area: Kezar Falls 01
Hancock
Service area: Bucksport MSA 01
Kennebec
Service area: Albion MSA 02
Service area: Leeds 01
Knox
Service area: Penobscot Bay 01
Oxford
Service area: Kezar Falls 01
Penobscot
Service area: Dexter area 03
Service area: Bradley Service area 01
Piscataquis
Service area: Dexter area 03
Bingham
Service area: Bingham MSA 04
Service area: Jackman 01
Service area: Dexter area 03
Waldo
Service area: Albion MSA 02
Service area: Bucksport MSA 01
Washington
Service area: Lubec MSA 03
Service area: Eastport 03
York
Service area: Kezar Falls 01
Service Area Listing
Albion MSA 02
County—Kennebec
Parts of County
Albion town
Vassalboro town
China town
County—Waldo
Parts of County
Troy town
Unity town
Thorndike town
Jackson town
Monroe town
Brooks town
Knox town
Freedom town
Montville town
Liberty town
Palermo town
Bingham MSA 04
County—Bingham
Parts of County
West Forks plant
Solon town
Bingham town
Moscow township
Brighton town
Pleasant ridge plantation
The Forks plant
Caratunk plant.
Bradley service area 01
County—Penobscot
Parts of County
Bradley Division
Clifton Division
Greenbush division
Greefield Division
Milford Division
Bucksport MSA 01
County—Hancock
Parts of County
Dedham town
Orland town
Penobscot town
Verona town
Bucksport town
County—Waldo
Parts of County
Prospect town
Stockton springs town
Dexter area 03
County—Penobscot
Parts of County
Dexter
Corinna
Exeter
Garland
County—Piscataquis
Parts of County
Wellington
County—Somerset
Parts of County
Athens
Harmony
Ripley
St. Albans
Eastport 03
County—Washington
Parts of County
Eastport
Perry
Passamaquaddy Indian Reservation
Pembroke (Part)
Dennysville (Part)
Edmunds (Part)
Charlotte (Part)
Robbinston (Part)
Jackman 01
County—Somerset
Parts of County
Jackman town
Moose River town
Dennistown plant
Kezar Falls 01
County—Carroll—New Hampshire
Parts of County
Effingham Town
Freedom Town
Madison Town
County—Cumberland
Parts of County
Baldwin Town
County—Oxford
Parts of County
Brownfield
Hiram Town
Porter Town
County—York
Parts of County
Newfield Town
Limerick Town
Cornish Town
Parsonfield

Leeds 01
County—Androscoggin
Parts of County
Turner Town
Green Town
Leeds Town
County—Kennebec
Parts of County
Wayne Town
Monmouth Town
Lubec MSA 03
County—Washington
Parts of County
Eastport City
Charlotte Township
Robbinston Township
Lubec Township
Cutler Township
Whiting Township
Pembroke Township
Dennysville Township
Perry Township
Edmunds Township
Plantation No. 14
Northern Aroostook MSA 05
County—Aroostook
Parts of County
Unorganized Ter. of North Aroostook
Unorganized Ter. of Central Aroostook
Allagash Plantation
St. Francis Plantation
Bridgewater Town
Blaine Town
Winterville Plantation
Cyr Plantation
Hamlin Plantation
Westmanland Plantation
Nashville
Garfield Plantation
E Plantation
Oxbow Plantatin
Eagle Lake Town
Ashland Town
Frenchville Town
St. Agatha Town
Madawaska Town
Grand Isle Town
Van Buren Town
Stockholm Town
Penobscot Bay 01
County—Knox
Parts of County
Vinalhaven Island
North Haven Island
Matinicus Island
Isle Au Haut
Southern Aroostook 01
County—Aroostook
Parts of County
Unorganized Terr. of South Aroostook
Weston Town
Moro Plantation
Glenwood Plantation
Reed Plantation
Macuwahoc Plantation
Merrill Town
Monticello Town
Smyrna Town
Hersey Town
Dyer Brook Town
Oakfield Town
Crystal Town
Island Falls Town
Sherman Town
Benedicta Town
Amity Town
Bancroft Town

Maryland
County listing
Allegany
Service area: Hancock service area 01
Anne Arundel
Service area: Owensville service area 03
Caroline 04
Cecil
Service area: Southeast Cecil 02
Charles 04
Dorchester
Service area: Northeast Dorchester County 01
Garrett 04
Kent
Service area: Northeast Kent 01
Queen Annes 03
Somerset
Service area: Princess Anne 01
Washington
Service area: Keedysville 01
Service area: Hancock service area 01
Worcester
Service area: Pocomoke city 02
Baltimore City
Service area: North Central Baltimore 01
Service area: O'Donnell Heights 01
Service area: Cherry Hill 01
Service area: Constant Care service area 02
Service area: East Baltimore 02
Service area: West Baltimore 03
Service area: Northwest Baltimore 01
Service area: Hampden/Woodberry/Remington 03
Service Area Listing
Cherry Hill 01
County—Baltimore City
Parts of county
C.T. 2502.01 through 2503.03
Constant Care service area 02
County—Baltimore City
Parts of county
C.T. 402, 1401 through 1403, 1501, 1502, 1601 through 1604, 1701 through 1703, and 2101
East Baltimore 02
County—Baltimore City
Parts of county
C.T. 501, 603 through 605, 704, 806 through 808, 909, 1001, 1002, and 1004
Hampden/Woodberry/Remington 03
County—Baltimore City
Parts of county
C.T. 1203, 1206, 1207, 1305, 1306, 1308.02
Hancock service area 01
County—Allegany
Parts of county
Dist. 1 (Orleans)
County—Washington
Parts of county
Dist. 4 (Clear Spring)
Dist. 5 (Hancock)
Dist. 15 (Indian Springs)
Keedysville 01
County—Washington
Parts of county
Election District 1
Election District 6
Election District 8
North Central Baltimore 01
County—Baltimore City
Parts of county
C.T. 802, 803.01, 803.02, 804, 805, 901, 902
North Central Baltimore 01
County—Baltimore City
Parts of county
C.T. 903 through 908 and 1204
Northeast Dorchester County 01
County—Dorchester
Parts of county
Dist. 1, 2, 3, 12, and 15
Northeast Kent 01
County—Kent
Parts of county
Dist. 1 (Massey)
Dist. 2 (Kennedyville)
Northwest Baltimore 01
County—Baltimore City
Parts of county
C.T. 1512, 1513, 2716, 2717, 2718.01 and 2718.02
O'Donnell Heights 01
County—Baltimore City
Parts of county
C.T. 2606.01, 2606.02
Owensville Service Area 03
County—Anne Arundel
Parts of county
C.T. 7012 through 7014, 7070, and 7080
Pocomoke City 02
County—Worchester
Parts of county
Dist. 1, 7, 8
Princess Anne 01
County—Somerset
Parts of county
Dist. 1, 3, 4, 6, 8, 13, 15
Southeast Cecil 02
County—Cecil
Parts of county
Dist. 1 (Ceciltion)
Dist. 2 (Chesapeake City)
West Baltimore 03
County—Baltimore City
Parts of county
C.T. 1801 through 1803, 1901 through 1903, and 2001 through 2005

Massachusetts
County listing
Barnstable
Service Area: Provincetown 09
Bristol
Service Area: New Bedford 01
Service Area: Taunton 02
Dukes
Service Area: New Bedford 01
Essex
Service Area: Peabody 02
Service Area: Lynn 04
Service Area: North Lawrence 02
Service Area: Area: Methuen 03
Franklin
Service Area: Mohawk Area 02
Hampden
Service Area: Worthington 02
Service Area: Brookfield 02
Hampshire
Service Area: Worthington 02
Middlesex
Service Area: East Cambridge 02
Service Area: Hudson 03
Service Area: Maynard 03
Service Area: Lowell 04
Service Area: North Cambridge 02
Service Area: Watertown 02
Service Area: Somerville 02
Norfolk
Service Area: Wrentham 02
Service Area: Hough's Neck-Germantown 01
Plymouth
Service Area: Hull 01
Suffolk
Service Area: Dorchester 03
Service Area: Hyde Park 02
Service Area: North End Boston 04
Service Area: Allston 02
Service Area: Chinese Pop. (South End Boston) 01
Service Area: Jamaica Plain 03
Service Area: South Boston 04
Worcester
Service Area: So. Blackstone Valley 02
Service Area: Brookfield 02
Service area listing
Allston 02
County—Suffolk
Parts of County
C.T. 1, 7, 8
Brookfield 02
County—Hampden
Parts of County
Brimfield Town
Holland Town
Wales Town
County—Worcester
Parts of County
Brookfield Town
East Brookfield Town
North Brookfield Town
Spencer Town
Warren Town
West Brookfield Town
Chinese Pop. (South End Boston) 01
County—Suffolk
Parts of County
C.T. 701 through 712
Dorchester 03
County—Suffolk
Parts of County
C.T. 901 through 924 and 1001 through 1011
East Cambridge 02
County—Middlesex
Parts of County
C.T. 3521 through 3535
Hough's Neck-Germantown 01
County—Quincy
Parts of County
C.T. 4178
Hudson 03
County—Middlesex
Parts of County
Hudson Town
Hull 01
County—Plymouth
Parts of County
Hull Town
Hyde Park 02
County—Suffolk
Parts of County
C.T. 1401 through 1404
Jamaica Plain 03
County—Suffolk
Parts of County
C.T. 1202 through 1207
Lowell 04
County—Middlesex
Parts of County
Lowell
Lynn 04
County—Essex
Parts of County
C.T. 2060 through 2063, 2065, 2066, and 2070 through 2072
Maynard 03
County—Middlesex
Parts of County
Maynard Town
Methuen 03
County—Essex
Parts of County
C.T. 2522 through 2526
Mohawk Area 02
County—Franklin
Parts of County
Monroe Division
Rouce Division
Ashfield Town
Buckland Town
Charlemont Town
Colrain Town
Conway Town
Hawley Town
Heath Town
Shelburne Town
New Bedford 01
County—Bristol
Parts of County
C.T. 6512, 6513, 6518, 6519, 6526, 6527
County—Dukes
Parts of County
Gosnold Town
North Cambridge 02
County—Middlesex
Parts of County
C.T. 3547 through 3550
North End Boston 04
County—Suffolk
Parts of County
C.T. 301 through 305
North Lawrence 02
County—Essex
Parts of County
C.T. 2502 through 2511, 2513 and 2514
Peabody 02
County—Essex
Parts of County
C.T. 2106 through 2109
Provincetown 03
County—Barnstable
Parts of County
Provincetown
So. Blackstone Valley 02
County—Worcester
Parts of County
Blackstone Town
Douglas Town
Mendon Town
Millville Town
Northbridge Town
Sutton Town
Uxbridge Town
Somerville 02
County—Middlesex
Parts of County
C.T. 3501 through 3515
South Boston 04
County—Suffolk
Parts of County
C.T. 601 through 614
Taunton 02
County—Bristol
Parts of County
Berkley Town
Dighton Town
Raynham Town
Rehoboth Town
Taunton City
Watertown
County—Middlesex
Parts of County
Watertown
Worthington
County—Hampden
Parts of County
Chester Town
County—Hampshire
Parts of County
Commington Town
Goshen Town
Huntington Town
Plainfield Town
Worthington Town
Chesterfield Town
Wrentham 04
County—Norfolk
Parts of County
Wrentham Town

Michigan
County listing
Alcona 02
Alger 04
Arenac 02
Service area: Sterling 03
Baraga
Service area: Iron County Service area 03
Bay
Service area: Sterling 02
Clare
Service area: Clare 01
Service area: Harrison 01
Dickinson
Service area: Iron County Service area 03
Eaton 02
Genesee
Service area: Otter Lake 02
Service area: North Central Flint 02
Gladwin
Service area: Sterling 02
Hillsdale 04
Houghton
Service area: Calument/Keweenaw 01
Service area: Iron County Service area 03
Iron
Service area: Iron County Service area 03
Isbella
Service area: Clare 01
Keweenaw
Service area: Calumet Keweenaw 01
Lake
Service area: Baldwin Service Area 01
Lapeer
Service area: Otter Lake 02
Livingston
Service area: Cochoctah 01
Mackinac 02
Mackinac
Service area: Mackinac Island 01
Manistee
Service area: Baldwin Service area 01
Marquette
Service area: Iron County Service area 03
Mason
Service area: Baldwin Service area 01
Midland
Service area: Clare 01
Missaukee
Service area: Houghton Lake 03
Monroe
Service area: Sumpter Service Area 01
Newaygo
Service area: Baldwin Service Area 01
Oakland
Service area: Milford 02
Ontonoga
Service area: Iron County Service Area 03
Roscommon
Service area: Houghton Lake 03
Saginaw
Service area: Chesaning 01
Service area: Saginaw City (East Side) 01
St. Clair
Service area: Algonac 04
Service area: Yale 03
Sanilac
Service area: Yale 01
Service area: Marlette-Kingston 02
Service area: Lexington-Croswell 01
Shiawassee
Service area: Cohoctah 01
Service area: Chesaning 01
Tuscola
Service area: Otter Lake 02
Service area: Marlette-Kingston 02
Washtenaw
Service area: Sumpter Service Area 01
Wayne Service area: Sumpter Service Area 01
Service area: Detroit Area #3 02
Service area: Detroit Area #2 01
Service area: Detroit Area #1 01
Service area: Wayne County Jail 02
Service area: Herman Keller Health Complex 01
Service area: Titus Greene Health Center 02
Service area listing
Algonac 04
County—St. Clair
Parts of County
Algonac City
Casco Township
China Township
Clay Township
Columbus Township
Cotterville Township
East China Township
Ora Township
Marine City
St. Clair City
St. Clair Township
Baldwin Service Area 01
County—Lake
County—Manistee
Parts of County
Dickson
Norman
County—Mason
Parts of County
Freesoil
Meade
Shorman
Sheridan
Custer
Branch
Eden
Logan
County—Newaygo
Parts of County
Troy
Lilley
Home
Barton
Beaver
Merrill
Monroe
Norwegh
Goodwell
Wilcox
Baldwin Service Area 01
County—Newaygo
Parts of County
Lincoln
Denver
Sherman
Everett
Big Prairie
Calumet/Keweenaw 01
County—Houghton
Parts of County
Calumet Township
Hancock
Osceola
Schoolcraft
Torch Lake
County—Keweenaw
Chesaning 01
County—Saginaw
Parts of County
C.T. 125 (Chapin and Brady Twnship)
C.T. 127 (Chesaning Twnship)
C.T. 128 (Chesaning Twnship)
C.T. 129 (Maple Grove Twnship)
County—Shiawassee
Parts of County
Fairfield Township
Rush Township
New Haven Township
Hazelton Township
Clare 01
County—Clare
Parts of County
City of Clare
Garfield Township
Surrey Township
Grant Township
Sheridan Township
County—Isabella
Parts of County
Coldwater Township
Gilmore Township
Vernon Township
Wise Township
County—Midland
Parts of County
Coleman Village
Warren Township

- Cohoctah 01
  - County—Livingston
    - Parts of County
      - Conway Township
      - Cohocta Township
      - Deerfield Township
  - County—Shiawassee
    - Parts of County
      - Antrim Township
      - Burns Township
      - Perry City
      - Perry Township
- Detroit Area #1 01
  - County—Wayne
    - Parts of County
      - C.T. 520 through 526, 539 through 541, 548 through 550, 560, 561, 565 through 570, 655, 661 through 665, 755 through 789, and 790 through 797
- Detroit Area #2 01
  - County—Wayne
    - Parts of County
      - C.T. 11 through 13, 15, 16, 51 through 56, 58 through 64, 101, 103 through 123, 154 through 163, 179, 180, 201, 202, and 211
- Detroit Area #3 02
  - County—Wayne
    - Parts of County
      - C.T. 168 through 171, 173 through 176.04, 209, 251 through 255, 257 through 264, 302.01 through 302.03, 305.01 through 306.02, 408, 409.01 and 409.02
- Harrison 01
  - County—Clare
    - Parts of County
      - Arthur Township
      - Franklin Township
      - Freeman Township
      - Frost Township
      - Greenwood Township
      - Hamilton Township
      - City of Harrison
      - Hatton Township
      - Hayes Township
      - Lincoln Township
      - Redding Township
      - Summerfield Township
      - Winterfield Township
- Herman Kiefer Health Complex 01
  - County—Wayne
    - Parts of County
      - Herman Kiefer Health Complex
- Houghton Lake 03
  - County—Missaukee
    - Parts of County
      - Butterfield Township
      - Enterprise Township
      - Holland Township
  - County—Roscommon
    - Parts of County
      - Denton Township
      - Lake Township
      - Markey Township
      - Roscommon Township
- Iron County Service Area 03
  - County—Baraga
    - Parts of County
      - Covington Division
      - Spurr Division
  - County—Florence—Wisconsin
    - Parts of County
      - Florence Township (Part)
      - Long Lake Township
  - County—Forest—Wisconsin
    - Parts of County
      - Alvin Division
      - Popple River Division
  - County—Dreinson
    - Parts of County
      - Sagola Division
  - County—Houghton
    - Parts of County
      - Dunean Division
  - County—Iron
    - Parts of County
      - Balsa Division
      - Crystal Falls City
      - Crystal Falls Twp
      - Hematite Division
- Iron County Service Area 03
  - County—Iron
    - Parts of County
      - Iron River City
      - Iron River Twp
      - Mansfield Division
      - Mastodon Division
      - Stanbaugh City
      - Stanbaugh Twp
  - County—Marquette
    - Parts of County
      - Republic (PT) Division
  - County—Vilas—Wisconsin
    - Parts of County
      - Conover Division
      - Phelps Division
  - County—Ontonogo
    - Parts of County
      - Interior Division
- Lexington-Croswell 01
  - County—Sanilac
    - Parts of County
      - Briel Twp
      - Croswell Twp
      - Fremont Twp
      - Worth Twp
- Mackinac Island 01
  - County—Mackinac
    - Parts of County
      - Mackinac Island
- Marlette-Kingston 02
  - County—Sanilac
    - Parts of County
      - La Motte Township
      - Marlette Township
  - County—Tuscola
    - Parts of County
      - Dayton Township
      - Kingston Township
      - Koylton Township
- Milford 02
  - County—Oakland
    - Parts of County
      - C.T. 1052 (Wixon City)
      - C.T. 1057 (Commerce Township)
      - C.T. 1058.01 (Commerce Township)
      - C.T. 1058.02 (Commerce Township)
      - C.T. 1056 (Milford Township)
      - C.T. 1055 (Milford Township)
      - C.T. 1113.01 (Highland Township)
      - C.T. 1113.02 (Highland Township)
      - C.T. 1112.01 (White Lake Township)
      - C.T. 1112.02 (White Lake Township)
      - C.T. 1112.03 (White Lake Township)
- North Central Flint 02
  - County—Genessee
    - Parts of County
      - C.T. 4 through 7, 19 through 26
- Otter Lake 02
  - County—Genessee
    - Parts of County
      - Thetford Township
      - Forest Township
  - County—Lapeer
    - Parts of County
      - Marathon Township
      - Deerfield Township
      - Rich Township
  - County—Tuscola
    - Parts of County
      - Arbela Township
      - Millington Township
      - Watertown Township
- Saginaw City (East Side) 01
  - County—Saginaw
    - Parts of County
      - C.T. 1 through 8
- Sterling 02
  - County—Arenac
  - County—Bay
    - Parts of County
      - Gibson Township
  - County—Gladwin
    - Parts of County
      - Bourret Township
      - Bentley Township
      - Grim Township
- Sumpter Service Area 01
  - County—Monroe
    - Parts of County
      - C.T. 303 (Ash Twp)
      - C.T. 304 (Ash Twp)
      - C.T. 305 (Exeter Twp)
      - C.T. 306 (London Twp)
  - County—Washtenaw
    - Parts of County
      - C.T. 34 (Augusta Twp)
  - County—Wayne
    - Parts of County
      - C.T. 941 (Huron Twp)
      - C.T. 940 (Sumpter Twp)
- Titus Greene Health Center 02
  - County—Wayne
    - Parts of County
      - Titus Greene Health Center
- Wayne County Jail 02
  - County—Wayne
    - Parts of County
      - Wayne County Jail
- Yale 05
  - County—St. Clair
    - Parts of County
      - Brockway Twp
      - Emmett Twp
      - Lynn Township (Part)
      - Mussey Twp
  - County—Sanilac
    - Parts of County
      - Elk Township
      - Flynn Township
      - Maple Valley Township
      - Speaker Township

Minnesota

County listing

- Aitkin
  - Service area: Mille Lacs 02
- Beltrami
  - Service area: Lake of the Woods-Beltrami 02
- Cass 02
- Clay
  - Service area: Barnesville 02
- Cottonwood
  - Service area: N. W. Cottonwood County 04
- Crow Wing
  - Service area: Mille Lacs 02
- Hennepin
  - Service area: Am. Ind. in Minneapolis 01
- Kanabec
  - Service area: Mille Lacs 02
- Lac Qui Parle
  - Service area: Canby 04
- Lake of the Woods
  - Service area: Lake of the Woods-Beltrami 02
- Lincoln
  - Service area: Canby 04
- Mille Lacs
  - Service area: Mille Lacs 02
- Morrison
  - Service area: Mille Lacs 02
- Pine
  - Service area: Sandstone 04
- Polk
  - Service area: Red Lake 02
- Ramsey
  - Service area: Summit/University 01
  - Service area: Model Cities Health Center (St. Paul) 01
- Redwood 04
- Roseau 01
- Wilkin
  - Service area: Barnesville 02
- Yellow Medicine
  - Service area: Canby 04

Service area listing

- Am. Ind. in Minneapolis 01
  - County—Hennepin
    - Parts of County
      - American Indian Pop in Minneapolis
- Barnesville 02
  - County—Clay
    - Parts of County
      - Allranee Township
      - Barnesville City
      - Barnesville Township
      - Comstock Village
      - Elkton Township
      - Elmwood Township
      - Holy Cross Township
      - Humboldt Township
      - Parke Township
      - Sabin Village
      - Skree Township
      - Tansem Township
  - County—Wilken
    - Parts of County
      - Atherton Township
      - Deerhorn Township
      - Manston Township
      - Mitchell Township
      - Prairie View Township
      - Rothsay Village
      - Tanberg Township
      - Wolverton Township
- Canby 04
  - County—Devel—South Dakota
    - Parts of County
      - Garry City
      - Glenwood Town
      - Herrick Town

- County—Lac Qui Parle
  - Parts of County
    - Freeland Twp
    - Manfred Twp
- County—Lincoln
  - Parts of County
    - Marble Twp
    - Alta Vista Twp
- County—Yellow Medicine
  - Parts of County
    - Canby City
    - Florida Twp
    - Hammer Twp
    - Norman Twp
    - Omro Twp
    - Oshkosh Twp
    - Porter City
    - St. Leo City
    - Werzeland Twp
- Lake of the Woods-Beltrami 02
  - County—Beltrami
  - County-Lake of the Woods
- Mille Lacs 02
  - County—Aitkin
    - Parts of County
      - Idum Twp
      - Seavy Twp
      - Lakeside Twp
  - County—Crow Wing
    - Parts of County
      - Garrison Village
      - Bay Lake Twp
      - Garrison Twp
  - County—Kanabec
    - Parts of County
      - Anne Lake Twp
      - Hillman Twp
      - Hay Brook Twp
  - County—Mille Lacs
    - Parts of County
      - Isle Village
      - Wahkon Village
      - Onamia Village
      - East Side Twp
      - Isle Harbor Twp
      - Lewis Twp
      - Onamia Twp
      - South Harbor Twp
- Mille Lacs 02
  - County—Mille Lacs
    - Parts of County
      - Kathio Twp
      - Bradbury Twp
      - Dailey Twp
      - Mudgett Twp
  - County—Morrison
    - Parts of County
      - Hillman Village
      - Richardson Twp
      - Leigh Twp
      - Mount Morris Twp
- Model Cities Health Center (St. Paul) 01
  - County—Ramsey
    - Parts of County
      - Model Cities Health Center
- N. W. Cottonwood County 04
  - County—Cottonwood
    - Parts of County
      - Ann Township
      - Highwater Township
      - Westbrook Township
      - Storden Township
      - Amboy Township
      - Rose Hill Township
      - Jeffers Village
      - Storden Village
      - Westbrook Village
- Red Lake 02
  - County—Polk
    - Parts of County
      - Badger Township
      - Garden Township
      - Fertile Village
      - Mentor Village
      - Godfrey Township
      - Grove Park Township
      - Knute Township
      - Tilden Township
      - Winger Township
      - Woodside Township
- Sandstone 04
  - County—Pine
    - Parts of County
      - Arlone Township
      - Arna Township
      - Askov Village Township
      - Barry Township
      - Bremen Township
      - Bruno Township
      - Clover Township
      - Danforth Township
      - Dill Grove Township
      - Finlayson Township
      - Fleming Township
      - Hinckley Township
      - New Dosey Township
      - Ogema Township
      - Park Township
      - Partridge Township
      - Pine Lake Township
      - Sandstone Township
      - Wilma Township
      - Finlayson Village
      - Hinckley Village
      - Sandstone Village
- Summit/University 01
  - County—Ramsey
    - Parts of County
      - C.T. 335 through 340, 354 and 355

Mississippi

County listing

- Amite 01
- Attala 03
- Carroll
  - Service area: Carroll/Montgomery 02
- Chickasaw 03
- Claiborne 01
- Coahoma 03
- Covington 02
- DeSoto
  - Service area: DeSoto/Tate 01
- George 03
- Hancock 03
- Hinds
  - Service area: Jackson inner-city 01
  - Service area: Hinds 01
- Jasper 02
- Leflore 03
- Lowndes 03
- Madison 01
- Marion 04
- Montgomery
  - Service area: Carroll/Montgomery 02
- Newton 03
- Quitman 02
- Scott 02
- Simpson 02
- Stone 02
- Talis
  - Service area: DeSoto/Tate 01
- Tishomingo
  - Service area: Shiloh Pickwick 02

Service area listing

- Carroll/Montgomery 02
  - County—Carroll
  - County—Montgomery
- De Soto/Tate 01
  - County—De Soto
  - County—Tate
- Hinds 01
  - County—Hinds
    - Parts of County
      - C.T. 105 through 108, 112 and 113
- Jackson inner-city 01
  - County—Hinds
    - Parts of County
      - C.T. 6 through 12, 16 through 20, 24 through 32
- Shiloh Pickwick 02
  - County—Hardin—Tennessee
  - County—McNairy—Tennessee
  - County—Tishomingo
    - Parts of County
      - District 1
      - District 2

Missouri

County listing

- Andrew 03
- Bollinger 01
- Caldwell 03
- Camden 03
- Carter 02
- Cedar
  - Service area: Osage Prairie 04
- Christian 04
- Clark 02
- Crawford 02
- Dade 02
- De Klab 01
- Douglas 01
- Gasconade 04
- Harrison 04
- Hickory
  - Service area: Osage Prairie 04
- Iron 03
- Jackson
  - Service area: Central Kansas City 02
- Jefferson 01
- Lewis 04
- McDonald 04
- Maries 01
- New Madrid 03
- Oregon 01
- Osage 04
- Ozark 03
- Polk 03
- Polk:
  - Service area: Benton Service Area 03
  - Service area: Osage Prairie 04
- Pulaski 01
- Ralls 02
- Reynolds 01
- Ripley 02
- St Charles 04
- St. Clair:
  - Service area: Appleton Service Area 03
  - Service area: Osage Prairie 04
- Ste Genevieve 04
- Shannon 02
- Stone 02
- Texas 01
- Vernon
  - Service area: Osage Prairie 04
- Washington 01
- Wayne 04
- Webster 03
- St. Louis City:
  - Service area: Southeast St. Louis 03
  - Service area: North St. Louis 02

Service area listing

- Appleton Service Area 03
  - County—St. Clair
    - Parts of county
      - Appleton Twp
      - Butler Twp
      - Center Twp
      - Chalk Level Twp
      - Dallas Twp
      - Royal Twp
      - Jackson Twp
      - Monegaw Twp
      - Osage Twp
      - Oscaola Twp
      - Polk Twp
      - Taber Twp
- Benton Service Area 03
  - County—Polk
    - Parts of county
      - Benton Twp
      - Campbell Twp
      - Cliquot Twp
      - Jackson Twp
      - Looney Twp
      - Madison Twp
      - Marion Twp
      - Mooney Twp
      - Union Twp
      - Wishart Twp
- Central Kansas City 02
  - County—Jackson
    - Parts of county
      - C.T. 4 through 10, 15 through 26, 32 through 59.01, 60 through 64, and 75 through 80
- North St. Louis 02
  - County—St. Louis City
    - Parts of county
      - C.T. 1051 through 1055, 1061 through 1067, 1071 through 1077, 1081 through 1085, 1091 through 1095, 1101 through 1105, 1111 through 1115, portion of 1121 through 1123, portion of 1192 and 1193, 1201 through 1203, portion of 1211, 1212 through 1213, portion of 1214 and 1251, 1252 through 1253, 1261 through 1265
- Osage Prairie 04
  - County—Cedar
  - County—Hickory
  - County—Polk
    - Parts of county
      - Johnson Div.
      - Flemington Div.
      - Jefferson Div.
      - McKinley Div.
      - Greene Div.
  - County—St. Clair
    - Parts of county
      - Speedwell Div.
      - Roscoe Div.
      - Washington Div.
      - Collins Div.

County—Vernon
Parts of county
Bacon Div.
Clear Creek Div.
Virgil Div.
Montevallo Div.
Southeast St. Louis 03
County—St. Louis City
Parts of county
C.T. 1011 through 1017, 1023 through 1025, 1151 through 1157, 1161 through 1165, portion of 1173, 1174 and 1185, 1221 through 1224, 1231 through 1235, and 1241 through 1245.
Montana
County listing and name
Big Horn 01
Blaine 03
Carter 01
Chouteau
Service area: Fort Benton 01
Fallon
Custer
Service area: West Yellowstone 01
Dawson
Service area: Babb-Browning 01
Golden Valley
Service area: Tri-County 04
Hill
Service area: Chester 01
Jefferson
Service area: Boulder 01
Judith Basin
Service area: Petroleum-Judith Basin 01
Lake
Service area: Seely Lake service area 01
Missoula
Service area: Seely Lake service area 01
Musselshell
Service area: Tri-County 04
Petroleum
Service area: Petroleum-Judith Basin 01
Phillips 01
Pondera
Service area: Babb-Browning 01
Powell
Service area: Seely Lake service area 01
Roosevelt
Service area: Poplar 01
Rosebud
Service area: Rosebud 05
Treasure
Service area: Rosebud 03
Valley 04
Wheatland
Service area: Tri-County 04
Service area listing
Babb-Browning 01
County—Glacier
Parts of County
Browning—E. Glacier Division
Babb division
County—Pondera
Parts of County
Valier-Dupeyer division
Boulder 01
County—Jefferson
Parts of County
Boulder Div.
Chester 01
County—Hill
Parts of County
Gildford Division
Rudyard Division
Fort Benton 01
County—Chouteau
Parts of County
Fort Benton Div.
Highwood Div.
Carissina Div.
Petroleum—Judith Basin 01
County—Judith Basin
County—Petroleum
Poplar 01
County—Roosevelt
Parts of County
Wolf Point rural div.
Wolf Point Div.
Poplar Division
Rosebud 03
County—Rosebud
County—Treasure
Seely Lake service area 01
County—Lake
Parts of County
Big Fork/Swan River Div.
County—Missoula
Parts of County
Seely Lake/Blackfoot Div.
County—Powell
Parts of County
Ovando Div.
Tri-County 04
County—Golden Valley
County—Musselshell
County—Wheatland
West Yellowstone 01
County—Gallatin
Parts of County
West Yellowstone
Nebraska
County listing
Antelope
Service area: Albion MSA 03
Arthur
Service area: Mullen 01
Blaine 01
Boone
Service area: Albion MSA 03
Brown 04
Buffalo
Service area: Sherman 04
Cass 04
Cedar
Service area: Cedar-Dixon 02
Chase
Service area: Southwest Nebraska 02
Cherry
Service area: Mullen 01
Clay 01
Colfax
Service area: Colfax/Dodge 03
Cuming 03
Custer
Service area: Arnold 01
Deuel
Service area: Deuel-Sedgewick MSA 01
Dixon
Service area: Cedar-Dixon 02
Dodge
Service area: Colfax/Dodge 03
Douglas
Service area: Northeast Omaha 05
Dundy
Service area: Southwest Nebraska 02
Fillmore 04
Franklin 03
Garfield
Service area: Garfield 03
Gosper 01
Grant
Service area: Mullen 01
Greeley
Service area: Albion MSA 03
Hayes
Service area: Southwest Nebraska 02
Hitchcock
Service area: Southwest Nebraska 02
Hooker
Service area: Mullen 01
Keith
Service area: Sutherland MSA 01
Keya Paha
Service area: Bassett 02
Lincoln
Service area: Arnold 01
Service area: Sutherland MSA 01
Logan
Service area: Mullen 01
Service area: Arnold 01
Loup
Service area: Bassett 02
McPherson
Service area: Mullen 01
Merrick 03
Nance
Service area: Albion MSA 03
Nemaha 04
Nuckolls 02
Perkins
Service area: Sutherland MSA 01
Platte
Service area: Albion MSA 03
Polk
Service area: Bassett 02
Saunders 04
Sherman
Service area: Sherman 04
Sioux 01
Stanton 02
Thayer 04
Thomas
Service area: Mullen 01
Wayne 04
Wheeler
Service area: Garfield 03
Service Area Listing
Albion MSA 03
County—Antelope
Parts of County
Logan
County—Boone
County—Greeley
Parts of County
Spaulding
County—Nance
Parts of County
Timber Creek
County—Platte
Parts of County
Walker
St. Bernard
Arnold 01
County—Custer
Parts of County
Hayes
Arnold
Cliff
Triumph
Elm
Delight
Wayne
County—Lincoln
Parts of County
Whitter
Garfield
Harrison
Table
Cox
Antelope
County—Logan
Parts of County
Gandy
Logan
Bassett 02
County—Keya Paha
County—Loup
County—Rock
Cedar-Dixon 02
County—Cedar
County—Dixon
Colfax/Dodge 03
County—Colfax
Parts of County
Adams precinct
Colfax precinct
Lincoln precinct
Maple Creek precinct
Midland precinct
Rogers precinct
Schuyler City
Schuyler precinct
County—Dodge
Parts of County
Cotterell Twp
Cuming Twp
North Bend City
Pebble Twp
Pleasant Valley Twp
Ridgeley Twp
Scribner City
Union Twp
Webster Twp
Deuel-Sedgewick MSA 01
County—Deuel
County—Sedgewick—Colorado
Garfield 03
County—Garfield
County—Wheeler
Mullen 01
County—Arthur
Parts of County
Edward
Arthur
Lena
County—Cherry
Parts of County
Gillaspie
Cleveland
Lackey
Wells
Loup
Goosecreek
Pleasant Hill
Calf Creek
Mother Lake
County—Grant
County—Hooker
County—Logan

Parts of County
Dorp
Stapleton
Cody Lake
Lone Valley
Burt
County—McPherson
County—Thomas
Northeast Omaha 05
County—Douglas
Parts of County
C.T. 6, 7 through 15, 52, and 60
Sherman 04
County—Buffalo
Parts of County
Beaver Township
Garfield Township
Cherry Creek Township
Cedar Township
Schneider Township
Gardner Township
Ravenna City
County—Sherman
Southwest Nebraska 02
County—Chase
County—Dundy
County—Hayes
County—Hitchcock
Sutherland MSA 01
County—Keith
Parts of County
Paxton CCD
County—Lincoln
Parts of County
Springdale CCD
Birdwood CCD
Rosedale CCD
N. Rosedale CCD
Hershey CCD
Sunshine CCD
Fairview CCD
Nowell CCD
Wallace CCD
Hooker CCD
Dickens CCD
Willow CCD
County—Perkins
Parts of County
Woodson CCD
Marvin CCD
Nevada
County listing
Churchill 04
Clark
Service Area: Searchlight-Davis Dam-Southpoint 01
Service Area: Indian Springs 01
Service Area: Virgin Valley 01
Service Area: Moapa Valley 01
Service Area: Lake Mead 01
Service Area: Jean-Goodsprings Sandy Valley 01
Service Area: Blue Diamond-Lee Canyon-Mt. Charleston 01
Service Area: Central/North Central Las Vegas 01
Service Area: Paiute Indian Colony-Las Vegas Valley 04
Service Area: Paiute Indian-Moapa Valley. 04
Douglas 04
Elko
Service Area: Wells 01
Esmeralda 01
Humboldt 03
Lander 04
Lincoln 03
Lyon 01
Mineral 04
Nye
Service Area: Nye Co. Service Area 01
Pershing 04
Storey 01
Washoe
Service Area: Stead-Lemmon Valley 01
Service Area: Sun Valley 01
Service Area: Wadsworth 01
Service Area: Gerlach/Bald Mt. 01
White Pine 04
Service area listing
Blue Diamond-Lee Canyon-Mt. Charleston 01
County—Clark
Parts of County
C.T. 58 (Central)
Central/North Central Las Vegas 01
County—Clark
Parts of County
C.T. 3.01, 3.02, 7, 9, 11, 35 through 39, and 46
Gerlach/Bald Mt. 01
County—Washoe
Parts of County
Gerlach Township
C.T. 34
Indian Springs 01
County—Clark
Parts of County
C.T. 59 (Southwest)
C.T. 58 (North)
Jean-Goodsprings Sandy Valley 01
County—Clark
Parts of County
C.T. 58 (Southeast)
C.T. 57 (Northwest)
Lake Mead 01
County—Clark
Parts of County
C.T. 56 (Southern Part)
Moapa Valley 01
County—Clark
Parts of County
C.T. 56 (Cent./W. Cent.)
Nye Co. Service Area 01
County—Nye
Parts of County
Tonopah Township
Pahrump Township
Beatty Township
Paiute Indian-Moapa Valley 04
County—Clark
Parts of County
Paiute Indian—Moapa Valley
Paiute Indian Colony-Las Vegas Valley 04
County—Clark
Parts of County
Paiute Indian Colony-Las Vegas Valley
Searchlight-Davis Dam-Southpoint 01
County—Clark
Parts of County
C.T. 57 (Southern Part)
Stead-Lemmon Valley 01
County—Washoe
Parts of County
C.T. 26
Sun Valley 01
County—Washoe
Parts of County
C.T. 27
Virgin Valley 01
County—Clark
Parts of County
C.T. 56 (North)
Wadsworth 01
County—Washoe
Parts of County
C.T. 31
Wells 01
County—Elko
Parts of County
Wells Township
New Hampshire
County listing
Carroll
Service area: Kezar Falls-Maine 01
Coos
Service area: Upper Connecticut Valley 03
Grafton
Service area: Baker River Valley 01
Rockingham
Service area: North West Rockingham County 02
Service area listing
Baker River Valley 01
County—Grafton
Parts of County
Warren Twn
Rumney Twn
Wentworth Twn
North West Rockingham County 02
County—Rockingham
Parts of county
Nottingham Town
Deerfield
Candia
Raymond
Fremont
Epping
Upper Connecticut Valley 03
County—Coos
Parts of county
Colebrook Twn
Columbia Twn
Stratford Twn
Stewartown Twn
Pittsburg Twn
Danville Twn
Errol Twn
Clarksville
Millsfield Twn
Wentworth Location
Atkinson-Gilman Academy Grant
Dix Grant
Second College Grant
Odell Twn
Vermont
County—Essex
Parts of county
Canaan Twn
Lexington Twn
Bloomfield Twn
Brunswick Twn
Averill Twn
Norton Twn
New Jersey
County listing
Atlantic
Service area: Mays Landing 04
Camden
Service area: Northeast Camden 04
Service area: Northwest Camden 02
Service area: West Central Camden 02
Cape May
Service area: Mays Landing 04
Cumberland
Service area: Bridgeton 04
Service area: Leesburg State Prison 01
Essex
Service area: Dayton 01
Service area: Gladys E. Dickenson 04
Service area: North Newark 03
Service area: Central Newark 03
Mercer
Service area: Trenton 04
Middlesex
Service area: Medically Indigent New Brunswick Urban Corridor 02
Service area: Family Health Center of Middlesex General Hospital 02
Passaic
Service area: West Milford Township 02
Service area: Downtown Paterson 01
Service area: Northside Paterson 01
Sussex 03
Union
Service area: Westside Plainfield 02
Service area listing
Bridgeton 04
County—Cumberland
Parts of county
Bridgeton Township
Downe Township
Fairfield Township
Greenwich Township
Hopewell Township
Lawrence Township
Shiloh Borough
Stow Creek Township
Central Newark
County—Essex
Parts of county
C.T.'s 31, 39, 60, 62, through 66, 82, 82, 83, and the Medically Indigent in the following C.T.'s: 2, 3, 9, 10, 11, 14, 15, 16, 34, 40, 55, 56, 57, 59, 67, 84, 85, 91
Daytona
Service area 01
County—Essex
Parts of county
C.T.'s 47, 48.01, 48.02, 49, 50, 51
Downtown Paterson 01
County—Passaic
Parts of county
C.T.'s 1814, 1815, 1816.01, 1816.02, 1817.01, 1817.02, 1818, 1821, 1822, 1829
Family Health Center of Middlesex Gen Hosp 02
County—Middlesex
Parts of county
Family Health Care Center of Middlesex Gen. Hospital
Gladys E. Dickenson
Service area: 04
County—Essex
C.T.'s 86 through 91
Leesburg State Prison 01
County—Cumberland
Parts of county
Leesburg State Prison

Lower Cape May 01
County—Cape May
Parts of county
Bayshore
Bennett
Cape May Beach
Cape May City
Cape May Point
Cold Spring
Erma
Fishing Creek
Highland Beach
North Cape May
Town Bank
West Cape May
Mays Landing 04
County—Atlantic
Parts of county
Buena Vista
Corbin City
Egg Harbor Twp
Estell Manor
Hamilton
Weymouth
Mullica Twp (southern portion)
Galloway Twp (southern portion)
County—Cape May
Parts of county
Upper
Medically Indigent New Brunswick Urban Corridor 02
County—Middlesex
Parts of county
C.T.'s 53, 54, 55, 57, 58, 59
North East Camden 04
County—Camden
Parts of County
C.T.'s 6011, 6012, 6013
North Newark 03
County—Essex
Parts of county
C.T.'s 92 through 97
North West Camden 02
County—Camden
Parts of county
C.T.'s 6007, 6008
Northside Paterson 01
County—Passaic
Parts of county
C.T.'s 1803 through 1807
Trenton Neighborhood Health Center 04
County—Mercer
Parts of county
C.T.'s 1, 8 (part), 9 (part), 10, 11 (part), 14 (part), 15(part), 16, 17, 18 (part), 19, 22 (part)
West Central Camden 02
County—Camden
Parts of county
C.T.'s 6016 through 6018
West Milford Township 02
County—Passaic
Parts of county
C.T. 2508
Westside of Plainfield 02
County—Union
Parts of county
C.T.'s 89, 90, 93, 94, 95

New Mexico
Bernalillo
Service area: Bernalillo 01
Colfax
Service area: Colfax/Harding 04
Harding:
Service area: Quay 01
Service area: Colfax/Harding 04
Quay
Service area: Quay 01
Rio Arriba
Service area: Rural Rio Arriba Co. 02
San Miguel
Service area: Quay 01
Service area listing
Bernalillo 01
County—Bernalillo
Parts of county
C.T. 46
Colfax/Harding 04
County—Colfax
Parts of county
Cimarron Springer
County—Harding
Parts of county
North Harding
Quay 01
County—Harding
South Harding CCD
County—Quay
County—San Miguel
Parts of county
Conchos COD
Rural Rio Arriba Co. 02
County—Rio Arriba
Parts of county
Chama
Coyote
El Rito
Tierra Amarilla
Truchas

New York
County listing
Allegany
Service area: Arcade 02
Service area: Andover 04
Bronx
Service area: South Bronx-Fort Apache 03
Service area: Northeast Bronx 01
Service area: Hunts Point 01
Service area: Soundview area 02
Service area: Martin Luther King 04
Service area: Mott Haven 01
Service area: S.W. Bronx (ZIP CODE: 10451) 01
Service area: Central S.W. Bronx (ZIP CODE: 10455) 01
Cattaraugus
Service area: Arcade 02
Service area: Randolph-Ellicottville 08
Cayuga
Service area: Cato 01
Service area: Aurora 02
Chenango
Service area: Greene 04
Service area: Sherburne 02
Columbia
Service area: N.E. Columbia/S.E. Rensselaer 02
Cortland
Service area: Marathon-Cincinnatus 02
Service area: De Ruyter 01
Erie
Service area: Ellicott Neighborhood of Buffalo 02
Service area: Lower West Side 02
Essex
Service area: Southeastern Essex 03
Service area: Essex Co. (Parts) 02
Service area: Essex/Warren Co. 01
Franklin
Service area: Tupper Lake 01
Genesee
Service area: Bergen 02
Greene
Service area: Western Greene Co. 04
Hamilton 01
Herkimer
Service area: West Winfield 01
Service area: Herkimer MSA 03
Jefferson
Service area: Alexandria Bay 03
Service area: Adams 02
Kings
Service area: East N.Y. Section of Brooklyn 01
Service area: Bedford/Stuyvesant 02
Service area: Gowanus/Park Slope 01
Service area: South Williamsburg 04
Service area: Coney Isl/Brighton Beach/W. Brighton 01
Servce area: S.W. Brooklyn (Health Area 41) 01
Service area: Brooklyn (Health Area 60) 01
Madison
Service area: Hamilton 03
Service area: De Ruyter 01
Monroe
Service area: Bergen 02
Service area: Westside of Rochester 03
Montgomery
Service area: Western Montgomery Co 01
New York
Service area: Lower East Side 03
Service area: Chinatown 02
Service area: Chelsea 01
Service area: Cent. Harlem (Health Areas 15, 19, 24, 85, 20) 01
Oneida
Service area: Boonville 01
Service area: Hamilton 03
Onondaga
Service area: Baldwinville 03
Service area: Syracuse Community Health Center 01
Service area: Southern Onondaga Co. 02
Orange
Service area: warwick 02
Orleans
Service area: Oak Orchard 04
Oswego
Service area: Central Square 08
Service area: Pulaski 04
Otsego
Service area: S.E. Otsego Co. 02
Service area: Cherry Valley 02
Service area: Western Otsego 01
Queens
Service area: Rockaway Section of Queens 04
Service area: South Jamaica 06
Rensselaer
Service area: N.E. Columbia/S.E. Rensselaer 02
Richmond
Service area: Mariner's Harbor 01
Rockland
Service area: Northern Rockland 01
St. Lawrence
Service area: Tupper Lake 02
Service area: Alexandria Bay 03
Service area: Southern St. Lawrence Co. 02
Schenectady
Service area: Hamilton Hill/Mount Pleasant 01
Schohard
Service area: Cherry Valley 02
Schuyler 08
Seneca
Service area: South Seneca 02
Steuben
Service area: Andover 04
Suffolk
Service area: Southold/Shelter Island 03
Service area: S. Hampton (S. Fork)/E. Hampton 03
Tioga 03
Warren
Service area: Essex/Warren Co. 01
Wayne
Service area: Sodus 04
Westchester
Service area: Peekskill 04
Service area: Medically Indigent in Mt. Vernon 04
Wyoming
Service area: Arcade 02
Service area: Warsaw 04
Service area listing
Mariner's Harbor 01
County—Richmond
Parts of County
C.T.'s 223, 231, 239, 319.01, 319.02
Adams 02
County—Jefferson
Parts of County
Adams
Ellisberg
Henderson
Lorraine
Rodman
Worth
Alexandria Bay 03
County—Jefferson
Parts of County
Alexandria
Antwerp
Cape Vincent
Clayton
Lyme
Orleans
Philadelphia
Teresa
County—St Lawrence
Parts of County
Hammond
Rosse
Andover 04
County—Allegany
Parts of County
Almong
West Almond
Ward
Wellsville
Willing
Andover 04
County—Allegany
Parts of County
Independence
Andover
Alfred
County—Steuben
Parts of County
Hartsville
Greenwood

West Union
Jasper
Troupsburg
Arcade 02
County—Allegany
Parts of County
Centerville
Rushford
County—Cattaraugus
Parts of County
Farmersville
Freedom
Machias
Yorkshire
County—Wyoming
Parts of County
Arcade
Eagle
Gara
Orangeville
Sheldon
Welnersfield
Aurora 02
County—Cayuga
Parts of County
Genoa
Ledyard
Locke
Moravia
Niles
Scipio
Sempionious
Springport
Summerville
Venice
Baldwinville 03
County—Onondaga
Parts of County
C.T.'s 114 through 119
Bedford/Stuyvesant 02
County—Kings
Parts of County
C.T.'s 201, 227, 229, 231, 233, 235, 237, 239, 241, 243, 245, 247, 249, 251, 253, 255, 257, 259.01, 261, 263, 265, 267, 269, 271.01, 273, 275, 277, 279, 281, 285.01, 285.02, 287, 289, 291, 293, 295, 297, 299, 301, 303, 307, 309, 311, 365.01, 365.02, 367, 369, 371, 373, 375, 377, 379, 381, 383, 385, 387
Bergen 02
County—Genesee
Parts of County
Bergen
Byron
Bergen 02
County—Monroe
Parts of County
Riga
Boonville
County—Oneida
C.T.'s 241, 242, 243.02, 243.03, 244
Brooklyn (Health Area 60) 01
County—Kings
Parts of County
C.T.'s 916, 918, 920
Cato 01
County—Cayuga
Parts of County
Cato
Conquest
Ira
Sterling
Victory
Central Harlem 01
County—New York
Parts of County
C.T.'s 186, 190, 197.02, 200, 201.02, 207.02, 209.02, 213.02, 216, 217.02, 218, 220, 222
Central S.W. Bronx (ZIP Code 10455) 03
County—Bronx
Parts of County
C.T.'s 31, 35, 71, 73, 75, 77, 79, 83, 85
Central Square
County—Oswego
Parts of County
C.T.'s 204, 205, 206, 207.01, 207.02, 207.03, 208, 209.02
Chelsea 01
County—New York
Parts of County
C.T.'s 87, 89, 91, 93, 95, 97, 99, 101, 108
Cherry Valley 02
County—Otsego
Parts of County
Cherry Valley
Roseboom
Springfield
County—Schohard
Parts of County
Sharon
Chinatown 02
County—New York
Parts of County
C.T.'s 7, 8 (Part), 9, 13, 15.01, 15.02, 16, 21, 25, 27, 29, 31, 33, 39, 41, 45, 47, 49, 51, 53
Coney Isl/Brington Beach/W. Brighton 01
County—Kings
Parts of County
C.T.'s 326, 328, 330, 336, 340, 342, 348.01, 348.02, 350, 352, 354, 356, 360.01, 360.02, 362, 364
De Ruyter 01
County—Cortland
Parts of County
Cuyler
County—Madison
Parts of County
De Ruyter
East N.Y. Section of Brooklyn 01
County—Kings
Parts of County
C.T.'s 401, 403, 405, 407, 409, 411, 413, 437, 904, 906, 908, 910, 912, 914, 1040, 1058, 1070, 1078, 1100, 1102, 1106, 1110, 1112, 1114, 1116, 1120, 1122, 1124, 1126, 1128, 1130, 1132, 1134, 1138, 1140, 1142.01, 1142.02, 1146, 1148, 1150, 1152, 1154, 1156, 1158, 1160, 1162, 1164, 1166, 1168, 1170, 1172, 1174, 1178, 1180, 1182, 1184, 1186, 1188, 1190, 1192, 1194, 1196, 1200, 1202, 1208, 1210, 1214, 1220
Medically Indigent of Ellicott Neighborhood of Buffalo 02
County—Erie
Parts of County
C.T.'s 12 through 15, 25, 26, 27.01, 31
Essex Co. (Parts) 02
County—Essex
Parts of county
Elizabeth Twn
Essex
Keene
Lewis
Moriah
North Hudson
Westport
Willsboro
Essex/Warren Co. 01
County—Essex
Parts of County
Minerva
County—Warren
Parts of County
Chester
Horicon
Johnsburg
Thurman
Warrensburg
Gowanus/Park Slope 01
County—Kings
Parts of County
C.T.'s 71, 127, 131, 133
Greene 04
County—Chenango
Parts of County
German Twn
Greene Twn
McDonough Twn
Smithville Twn
Hamilton 03
County—Madison
Parts of County
Brookfield
Eaton
Georgetown
Hamilton
LeBanon
Madison
County—Oneida
Parts of County
Sangerfield
Hamilton Hill/Mount Pleasant 01
County—Schenectady
Parts of County
C.T.'s 209, 210.02, 211.03, 214 through 217
Herkimer MSA 03
County—Herkimer
Parts of County
C.T. 115
Hunts Point 01
County—Bronx
Parts of County
C.T.'s 5, 81, 81.99, 91, 97, 99, 105, 115.02
Lower East Side 03
County—New York
Parts of County
C.T.'s 2.01, 2.02, 6, 10.01, 10.02, 12, 14.01, 16 (Part), 20.02 (Part), 22.01, 24 (Part), 25 (Part), 27 (Part), 30.01, 30.02 (Part)
Lower West Side 02
County—Erie
Parts of County
C.T.'s 68, 71.01, 71.02, 72.02
Marathon-Cincinnatus 02
County—Cortland
Parts of County
Taylor
Cincinnatus
Willet
Freetown
Marathon
Lapeer
Harford
Martin Luther King Service Area 04
County—Bronx
Parts of County
C.T.'s 87, 89, 119, 121.01, 121.02, 123, 125, 127.01, 127.02, 129.01, 129.02, 131, 133, 135, 137, 139, 145, 147, 149, 151, 153, 175, 177, 179, 181, 183, 187, 189, 193, 195, 197, 199, 201, 211, 213.01, 213.02, 219, 221, 223
Medically Indigent in Mt. Vernon 04
County—Westchester
Parts of County
Medically Indigent in Mt. Vernon
Mott Haven 01
County—Bronx
Parts of County
C.T.'s 11, 17, 23, 25, 27.01, 27.02, 33, 39, 41, 43
N.E. Columbia/S.E. Rensselaer 02
County—Columbia
Parts of County
New Lebanon
Austerlitz
Canaan
County-Rensselaer
Parts of county
Berlin
Petersburg
Stephentown
Northeast Bronx 01
County-Bronx
Parts of County
C.T.'s 276, 356, 358, 364, 368, 378, 380, 382, 386, 388, 390, 392, 394, 396, 398, 404, 406, 408, 456, 460, 462.02, 484, 502, 504
Northern Rockland 01
County-Rockland
Parts of County
C.T.'s 101 through 107
Oak Orchard 04
County-Orleans
Parts of County
Alloson
Carlton
Gaines
Albion
Barre
Clarendon
Murray
Kendall
Peekskill 04
County-Westchester
Parts of County
C.T.'s 141 through 145
Pulaski Primary Care Service Area 04
County-Oswego
Parts of County
Albion
Boylston
Mexico (Part)
Orwell

Redfield
Richland
Sandy Creek
Williamstown
Randolph-Ellicottville 03
County-Cattaraugus
Parts of County
Cold Spring
Conewango
Ellicottville
Mansfield
Napoli
New Albion
Randolph
South Valley
Rockaway Section of Queens 04
County-Queens
Parts of County
C.T.'s 916.01, 916.02, 916.99, 918, 922, 928, 934, 936, 942.01, 942.02, 952.03, 952, 962, 964, 972, 992, 998, 1008, 1010, 1032
S. Hampton (S. Fork)/E. Hampton 08
County-Suffolk
Parts of County
C.T.'s 1904, 1905, 1906, 1907.01, 1907.02, 1908, 2009, 2010
S.E. Otsego Co. 02
County-Otsego
Parts of County
Decatur
Maryland
W. Ford
Worcester
S.W. Bronx (Zip Code 10451) 01
County-Bronx
Parts of County
C.T.'s 47, 49, 53, 57, 59, 61, 65, 67, 69, 141, 143, 173, 181, 183, 187, 195
S.W. Brooklyn (health area 41) 01
County-Kings
Parts of County
C.T.'s 55, 57, 59, 85
Sherburne 02
County-Chenango
Parts of County
Columbus
Otselic
Sherburne
Smyrna
Sodus 04
County-Wayne
Parts of County
C.T.'s 201, 204, 208, 209, 215, 216
Soundview Area 02
County-Bronx
Parts of County
C.T.'s 2, 4, 18, 20, 24, 26, 36, 38, 40.01, 40.02, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 78, 84, 86, 96, 102
South Bronx-Fort Apache 03
County-Bronx
Parts of County
C.T.'s 155, 161, 359, 361, 363, 365.01, 365.02, 367, 369.01, 369.02, 371, 373
South Jamaica 02
County—Queens
Parts of county
C.T.'s 44.01, 50, 54, 58, 86, 88, 94, 96, 100, 102, 104, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184.01, 184.02, 186, 188, 190, 192, 274, 276, 278, 280, 282, 284, 286, 292, 304.01, 320, 326, 330, 334.01, 334.02, 352, 358, 366, 368, 376, 384, 394, 426, 432, 618, 620, 624, 626, 630, 632, 646, 650, 680, 682, 690, 694, 766, 768, 788, 790, 792, 814, 816, 838, 840, 846.01, 846.02, 864, 878
South Seneca 02
County—Seneca
Parts of county
Covert
Lodi
Ovid
South Williamsburg 04
County—Kings
Parts of county
C.T.'s 507, 509, 525, 529, 531, 533, 535, 537, 539, 545, 547, 549
Southeastern Essex 03
County—Essex
Parts of county
Moriah
North Hudson
Crownpoint
Ticonderoga
Southern Onondaga Co 02
County—Onondaga
Parts of county
Lafayette
Fabius
Pompey
Southern Onondaga Co 02
County—Onondaga
Parts of county
Tully
Otisco
Onondaga Indian Reservation
Southern St. Lawrence Co 02
County—St. Lawrence
Parts of county
Clare
Clifton
Edwards
Fine
Pitcairn
Russell
Southold/Shelter Island 08
County—Suffolk
Parts of county
Shelter Island
Southold
Syracuse CHC Target Area 08
County—Onondaga
Parts of county
C.T.'s 30, 40, 41, 42, 53
Tupper Lake 01
County—Franklin
Parts of county
Altamont
County—St. Lawrence
Parts of county
Piercefield
Warsaw 04
County—Wyoming
Parts of county
Attica
Bennington
Castile
Covington
Gainesville
Genesee Falls
Middlebury
Orangeville
Perry
Pike
Sheldon
Warsaw
Wethersfield
Warwick 02
County—Orange
Parts of county
Florida
Greenwood Lake
Pine Island
Warwick
West Winfield 01
County—Herkimer
Parts of county
C.T.'s 101, 102.01, 102.02 & Bridgewater Town (part)
Western Greene Co 04
County—Greene
Parts of county
Ashland
Halcott
Hunter
Jewett
Lexington
Prattsville
Windham
Western Montgomery Co 01
County—Montgomery
Parts of county
Canajoharie
Minden
Palatine
Root
St. Johnsville
Western Otsego 01
County—Otsego
Parts of county
Burlington
Edmeston
New Lisbon
Pittsfield
Plainfield
Westside of Rochester 03
County—Monroe
Parts of county
C.T.'s 1 through 4, 18 through 27, 40, 41, 42, 62 through 75, 86 (part), 87, 88
North Carolina
County listing
Alexander 02
Anson 02
Ashe 04
Bladen 01
Buncombe
Service Area: Swannanoa Valley 04
Service Area: Bat Cave Service Area 01
Caldwell 04
Caswell 01
Chatham 04
Columbus 03
Cumberland 01
Davie 03
Gaston 04
Harnett 04
Henderson
Service Area: Bat Cave Service Area 01
Hoke 01
Jackson 04
McDowell 03
Macon 04
Mecklenburg
Service Area: Central Charlotte 03
Mitchell 04
Montgomery 04
Pender 01
Person 02
Randolph 03
Richmond 03
Robeson
Service Area: Rowland Service Area 01
Sampson 04
Stokes 02
Swain 02
Union 03
Yadkin 01
Service area name
Bat Cave Service Area 01
County—Buncombe
Parts of County
E.D. 204 through 207
County—Henderson
Parts of County
E.D. 1 through 7
Central Charlotte 03
County—Mecklenburg
Parts of County
C.T. 1 through 8, 25, 26, 35 through 37, 49 and 52
Rowland Service Area 01
County—Robeson
Parts of County
Alfordsville Twp
Gaddy Twp
Rowland Twp
Thompson Twp
Union Twp
Swannanoa Valley 04
County—Buncombe
Parts of County
Black Mountain
Swannanoa
North Dakota
County listing
Benson 02
Billings 01
Bowman 03
Burke 03
Dunn 01
Foster 01
Grant 01
Griggs 03
Hettinger 01
Kidder 01
La Moure 04
Logan 03
McHenry 03
McKenzie 01
Mercer Service Area: Mercer/Oliver 02
Morton 03
Oliver Service Area: Mercer/Oliver 02
Sargent 01
Sheridan 01
Sioux 01
Slope 01
Steele 04
Ward Service Area: Kenmare 01
Wells 04

Kenmare 01
County—Ward
Parts of County
Kenmare Div.
Des Lacs Valley Div.
Mercer/Oliver 02
County—Mercer
County—Oliver
Ohio
County listing
Adams 04
Allen
Service area: Putnam 04
Brown 02
Carroll 04
Clark
Service area: Rocking Horse 02
Clermont 03
Cuyahoga
Service area: Area 1—Cleveland 02
Service area: Glenville 01
Darke 04
Hamilton
Service area: East End (Cincinnati) 02
Service area: Winton Hills (Cincinnati) 01
Service area: Price Hill/Fairmont (Cincinnati) 01
Service area: Lincoln Heights (Cincinnati) 02
Highland
Service area: Greenfield 01
Service area: Chillicothe 02
Hocking
Service area: Chillicothe 02
Jackson 04
Lawrence 03
Medina
Service area: Putnam 04
Meigs 02
Monroe 02
Montgomery
Service area: Dayton 00
Morgan 02
Perry 00
Pickaway
Service area: Chillicothe 02
Pike
Service area: Chillicothe 02
Putnam
Service area: Putnam 04
Ross
Service area: Chillicothe 02
Sandusky
Service area: Migrant Pop.—Sandusky Co. 01
Tuscarawas 04
Vinton 01
Warren 02
Service area listing
Area 1—Cleveland 02
County—Cuyahoga
Parts of County
C.T. 1012, 1015 through 1019, 1022 through 1029, 1031 through 1039, 1041 through 1049, 1051 through 1056, 1079, 1087 through 1089, 1091 through 1099, 1101 through 1103, 1129, 1131 through 1139, and 1141 through 1148
Chillicothe 02
County—Highland
Parts of County
Madison Twnship
County—Hocking
Parts of County
Good Hope Twnship
Chillicothe 02
County—Hocking
Parts of County
Laurel Twnship
Benton Twnship
Perry Twnship
Salt Creek Twnship
County—Pickaway
Parts of County
Perry Twnship
Deer Creek Twnship
Wayne Twnship
Pickaway Twnship
Slat Creek Twnship
County—Pike
County—Ross
Dayton 03
County—Montgomery
Parts of County
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East End (Cincinnati) 02
County—Hamilton
Parts of County
C.T. 13, 43, 44, and 47
Glenville 01
County—Cuyahoga
Parts of County
C.T. 1114, 1161 through 1168, and 1181 through 1185
Greenfield 01
County—Highland
Parts of County
Paint Twp
Madison Twp
Fairfield Twp
Lincoln Heights (Cincinnati) 02
County—Hamilton
Parts of County
C.T. 60 (Hartwell)
C.T. 225 (Woodlawn)
C.T. 227 (Lincoln Heights)
C.T. 228 (Lockland)
C.T. 229 (Arlington Heights)
C.T. 231 (Evandale)
Migrant Pop.—Sandusky Co. 01
County—Sandusky
Parts of County
Migrant Pop.
Price Hill/Fairmont (Cincinnati) 01
County—Hamilton
Parts of County
C.T. 87 (Fairmont—South)
C.T. 88 (Fairmont—South)
C.T. 90 (Price Hill—East)
C.T. 91 (Price Hill—Tower)
C.T. 93 (Price Hill—East)
C.T. 96 (Price Hill—East)
C.T. 103 (Riverside—Delhi)
Putnam 04
County—Allen
Parts of County
C.T. 102 (Richland Twp)
County—Medina
Parts of County
Spencer
County—Putnam
Parts of County
Putnam
Rocking Horse 02
County—Clark
Parts of County
C.T. 1 through 5, 8 through 9.02, 10, 12, and 17
Winton Hills (Cincinnati) 01
County—Hamilton
Parts of County
C.T. 73 (Winton Hills)
C.T. 60 (Winton Hills)
C.T. 257 (Elmwood)
Oklahoma
County listing
Adair 02
Atoka 04
Blaine
Service area: Western Oklahoma 03
Caddo 03
Canadian 04
Choctaw 02
Comanche 03
Custer
Service area: Western Oklahoma 03
Dewey
Service area: Western Oklahoma 03
Ellis
Service area: Western Oklahoma 03
Grant 04
Harmon 02
Jackson 01
Jefferson 03
Johnston 02
Latimer
Service area: Clayton 02
Le Flore
Service area: Clayton 02
Logan 01
McClain 02
McCurtain 03
Mayes
Service area: Chelsea/New Alluwe 01
Nowata
Service area: Chelsea/New Alluwe 01
Okfuskee 04
Oklahoma
Service area: Del City 03
Service area: Oklahoma 02
Osage 01
Pushmataha
Service area: Clayton 02
Roger Mills
Service area: Western Oklahoma 03
Rogers service area: Chelsa/New Alluwe 01
Seminole 03
Sequoyah 03
Tillman 01
Tulsa
Service area: Northeast Tulsa 03
Service area: North Central Tulsa 01
Service area: West Tulsa 03
Washita 03
Woods 03
Woodward
Service area: Western Oklahoma 03
Service area listing
Chelsea/New Alluwe 01
County—Mayes
Parts of County
Adair (Part) E.D. 12
County—Nowata
Parts of County
New Alluwe (Part) E.D. 14 and 15
County—Rogers
Parts of County
Chelsea E.D. 1,2,3,4
Clayton 02
County—Latimer
County—Le Flore
Parts of County
E.D. 37–39 (Heavener), 46, 47, 48–49 (Talihina), 50 through 52
County—Pushmataha
Parts of County
No. Push-Mashaha Division
Del City 03
County—Oklahoma
Parts of County
C.T. 1078.01 through 1078.06
North Central Tulsa 01
County—Tulsa
Parts of County
C.T. 2 through 15, 57, 79, 80, 91.01 through 91.06
Northeast Tulsa 03
County—Tulsa
Parts of County
C.T. 1, 16, 59 through 61, 81, and 82
Oklahoma 02
County—Oklahoma
Parts of County
C.T. 1037 through 1040, 1047 through 1049, 1053, 1054, 1072, 1073
West Tulsa 03
County—Tulsa
Parts of County
C.T. 46 through 49, 63.01 through 67.01
Western Oklahoma 03
County—Blaine
Parts of County
E.D. 4, 5, 7
County—Custer
Part of County
E.D. 6, 7
County—Dewey
County—Ellis
County—Roger Mills
County—Woodward
Part of County
E.D. 14, 15, 18
County—Lipscomb—Texas
Parts of County
Higgins CCD
Oregon
County listing
Baker
Service area: Halfway 01
Benton
Service area: West Benton 01
Service area: Monroe Medical Service Area 01
Clackamas
Service area: Estacada 04
Service area: Woodburn-Marion Migrant Area 01
Clatsop
Service area: Seaside area 03
Columbia 04
Coos
Service area: Powers 01
Service area: Reedsport 03
Curry
Service area: Powers 01
Deschutes
Service area: La Pine 02
Douglas
Service area: Reesport 03
Gilliam
Service area: Tri-County 02

Jackson
Service area: Jackson—NE section 02
Service area: Rogue River-Gold Hill 02
Josephine
Service area: Cave Junction 01
Klamath
Service area: Bly 01
Service area: Chiloquin 01
Service area: La Pine 02
Lake
Service area: La Pine 02
Lane
Service area: Reedsport 08
Service area: McKenzie 01
Lincoln
Service area: West Benton 01
Linn
Service area: Harrisburg 01
Service area: Sweet Home 01
Service area: Brownsville 01
Malheur
Service area: Brownsville 01
Service area: NYSSA 03
Marion
Service area: Woodburn 03
Service area: West Salem 01
Service area: Woodburn-Marion Migrant area 01
Monroe
Service area: Tri-County 02
Multnomah
Service area: Northeast Portland 01
Polk
Service area: Willamina 01
Service area: Woodburn-Marion Migrant area 01
Union
Service area: Cone/Union 01
Service area: Union 01
Wallowa
Service area: Union 01
Washington
Service area: Washington County Migrants 04
Wheeler
Service area: Tri-county 02
Yamhill
Service area: Willamina 01
Service area: Woodburn-Marion Migrant area 01
Service area listing
Bly 01
County—Klamath
Parts of county
Langell CCD
Brownsville 01
County—Linn
Parts of county
Brownsville CCD
Cave Junction 01
County—Josephine
Parts of county
Cave Junction CCD
Chiloquin 01
County—Klamath
Parts of county
Chiloquin CCD
Cone/Union 01
County—Union
Parts of county
Cone Div.
Union Div.
Estacada 04
County—Clackamas
Parts of county
Highland CCD
Mt. Hood CCD
Estacada CCD
Halfway 01
County—Baker
Parts of county
Halfway CCD
Eagle Valley CCD
Harrisburg 01
County—Linn
Parts of county
Harrisburg CCD
Jackson—NE Section 02
County—Jackson
Parts of county
Prospect CCD
Shady Cove CCD
Butte Falls CCD
La Pine 02
County—Deschutes
Parts of county
Sisters-Mulligan CCD South of Sunriver
County—Klamath
Parts of county
Crescent Lake CCD
County—Lake
Parts of county
Silver Lake-Ft. Rock CCD
McKenzie 01
County—Lane
Parts of county
C.T. 1 (McKenzie)
Monroe Medical Service area 01
County—Benton
Parts of county
Monroe
Northeast Portland 01
County—Multnomah
Parts of county
C.T. 33.01 through 40.02
Nyssa 08
County—Canyon—Idaho
Parts of county
Parma Div.
Wilder Div.
Notus Div.
County—Malheur
Parts of county
Adrian Div.
Nyssa Div.
Owyhee Div.
Powers 01
County—Coos
Parts of county
Powers CCD
County—Curry
Parts of county
Agness
Reedsport 08
County—Coos
Parts of county
N. part of No. Bayside CCD
County—Douglas
Parts of county
Reedsport CCD
County—Lane
Parts of county
C.T. 7 (So. Part of S. Siuslaw Div.)
Rogue River-Gold Hill 02
County—Jackson
Parts of county
Evans Valley CCD
Foots Creek CCD
Seaside area 03
County—Clatsop
Parts of county
Clatsop Plains CCD
Lewis and Clark CCD
Seaside Rural CCD
Seaside CCD
Sweet Home 01
County—Linn
Parts of county
Sweet Home CCD
South Sweet Home CCD
West Sweet Home CCD
North Sweet Home CCD
Cascadia CCD
Tri-County 02
County—Gilliam
County—Morrow
County—Wheeler
Union 01
County—Union
Parts of county
Elgin CCD
County—Wallowa
Parts of county
Town of Minam in Wallowa CCD
Washington County Migrants 04
County—Washington
Parts of county
Migrant Population
West Benton 01
County—Benton
Parts of county
Blodgett CCD
Alsea CCD
Philomath CCD
County—Lincoln
Parts of county
Eddyville CCD
West Salem 01
County—Marion
Parts of county
C.T. 51
C.T. 52
Willamina 01
County—Polk
Parts of county
C.T. 204 (Willamina Division)
County—Yamhill
Parts of county
Willamina CCD
Woodburn 03
County—Marion
Parts of county
C.T. 102 (Hubbard Div.)
C.T. (103 Woodburn & Gervais Divisions)
C.T. 101 (St. Paul Division)
Woodburn-Marion Migrant Area 01
County—Clackamas
Parts of county
Migrant Population
County—Marion
Parts of county
Migrant Population
County—Polk
Parts of county
Migrant Population
County—Yamhill
Parts of county
Migrant Population

Pennsylvania
County listing
Adams
Service area: North Adams 03
Allegheny
Service area: Arlington Heights/St. Clair ... 01
Service area: Hill District 01
Service area: Homewood-Brushton 04
Service area: McKees Rocks-Stowe 01
Armstrong
Service area: Armstrong-Clarion 01
Service area: Dayton Rural Valley MSA 01
Service area: Kiski Valley 02
Service area: Punxsutawney 02
Bedford
Service area: Hyndman 01
Butler
Service area: Butler-NE PortionCambria 02
Service area: North East Cambria 01
Cameron
Service area: Austin-Emporium 01
Carbon
Service area: Kidder 01
Centre
Service area: Snow Shoe 02
Service area: Penns Valley 04
Service area: Bellafonte-Howard 03
Chester
Service area: South Western Chester 03
Clarion
Service area: Forest-Clarion 01
Service area: Armstrong-Clarion 01
Clearfield
Service area: Snow Shoe 02
Service area: S. Central Clearfield Co. 03
Clinton
Service area: Renovo 02
Service area: Bellafonte-Howard 03
Columbia
Service area: Benton-Millville 04
Crawford
Service area: East Crawford County 01
Dauphin
Service area: Williamstown 01
Delaware
Service area: City of Chester 03
Erie
Service area: Southern Erie 02
Service area: North East Erie 01
Fayette
Service area: Greensboro 01
Forest
Service area: Forest-Clarion 01
Franklin
Service area: Valleys Community MSA 01
Fulton 01
Greene
Service area: Greensboro 01
Service area: West Greene 01
Indiana
Service area: Indiana-III Portion 01
Service area: Punxsutawney 02
Jefferson
Service area: Punxsutawney 02
Juniata
Service area: Juniata County Service Area 03
Service area: Millerstown 01
Service area: Mt. Pleasant Mills-Middleburg 04

Lackawanna
Service area:Moscow 02
Lancaster
Service area: Cornwall 01
Service area: SPK. POP. of S.E. Lancaster City 02
Service area: Welsh Mountain MSA 01
Lebanon
Service area: Cornwall 01
Service area: Northern Lebanon Co. 01
Luzerne
Service area: Kidder 01
Service area: Benton-Millville 04
Service area: Exeter 01
Service area: Pittston 03
Service area: Mountaintop 02
Lycoming
Service area: Northern Lycoming 01
Service area: Benton-Millville 04
McKean
Service area: Shinglehouse 01
Service area: Central McKean County 02
Monroe
Service area: Kidder 01
Northumberland
Service area: Herndon-Mandata 02
Perry
Service area: Millerstown 01
Service area: Western Perry County 03
Philadelphia
Service area: North Philadelphia 03
Service area: Covenant House Area 01
Service area: South Philadelphia 04
Pike 04
Potter
Service area: Austin-Emporium 01
Service area: Galeton 04
Service area: Shinglehouse 01
Schuylkill
Service area: Shenandoah/Mahoning City Area 04
Service area: Herndon-Mandata 02
Service area: Tremont/Pine Grove 03
Snyder
Service area: Mt. Pleasant Mills-Middleburg 04
Somerset
Service area: Hyndman 01
Service area: Boswell Area 02
Sullivan 02
Sullivan
Service area: Benton-Millville 04
Susquehanna
Service area: Barnes-Kasson 02
Tioga
Service area: Northern Lycoming 01
Service area: Blossburg 02
Washington
Service area: Burgettstown 02
Wayne 03
Westmoreland
Service area: Kiski Valley 02
Wyoming
Service area: Exeter 01
York Service area: York MSA 02
Service area listing
Arlington Heights/St. Clair 01
County—Allegheny
Parts of County
C.T. 316.04
C.T. 316.05
Armstrong-Clarion 01
County—Armstrong
Parts of County
Brady's Bend Township
Madison Townshp
Perry Township
Pine Township
Sugarcreek Township
Washington Township
County—Clarion
Parts of County
Brady Township
East Brady Township
Madison Township
Austin—Emporium 01
County—Cameron
County—Potter
Parts of County
Austin Township
Keating Township
Portage Township
Sylvania Township
Wharton Township
Barnes-Kasson 02
County—Susquehanna
Parts of County
C.T. 302
C.T. 307
C.T. 301
Bellafonte/Howard 03
County—Centre
Parts of County
Bellefonte Boro.
Howard Boro.
Milesburg Boro
Boggs Township
Curtin Township
Howard Township
Liberty Township
Marion Township
Spring Township
Walker Township (Southern ½)
County—Clinton
Parts of County
Beech Creek Boro.
Beech Creek Township
Benton—Millville 04
County—Columbia
Parts of County
Benton Borough
Benton Township
Fishing Creek Township
Madison Township (Northern ⅔)
Millville Borough
Mt. Pleasant Township
Orange Township (Northern ½)
Pine Township
Stillwater Borough
Sugarloaf Township
County—Luzerne
Parts of County
Fairmont Township
Huntington Township
New Columbus Borough
County—Lycoming
Parts of County
Franklin Township (Southern ⅓)
Jordan Township
County—Sullivan
Parts of County
Davidson Township
Blossburg 02
County—Tioga
Parts of County
Blossburg Boro
Bloss Twp
Covington Twp
Duncan Twp
Hamilton Twp
Liberty Boro
Liberty Twp (Eastern ½)
Putnam Boro
Union Twp
Ward Twp
Boswell Area 02
County—Somerset
Parts of County
Boswell Boro.
Hooversville Boro.
Jennerstown Boro.
Jenner Twp
Quemahoning Twp
Stoystown Boro.
Burgettstown 02
County—Washington
Parts of County
Hanover Twp
Robinson Twp
Smith Twp
Mt. Pleasant Twp
Jefferson Twp
Cross Creek Twp
Independence Twp
Hopwell Twp
Burgettstown Borough
Midway Borough
McDonald Borough
West Middletown Borough
Butler—NE Portion 02
County—Butler
Parts of County
Venango Twp
Allegheny Twp
Washington Twp
Parker Twp
Concord Twp
Fairview Twp
Oakland Twp
Donegal Twp
Cherry Valley Borough
Eau Claire Borough
Bruin Borough
Fairview Borough
Petrolia Borough
Karns City Borough
Chicora Borough
Central McKean County 02
County—McKean
Parts of County
Otoo Township
Keating Township
Hamlin Township
Sergeant Township
Norwich Township
City of Chester 03
County—Delaware
Parts of County
C.T. 4048 through 4059
Cornwall 01
County—Lancaster
Parts of County
Penn Twp (N. Portion)
Rapho Twp (N. Portion)
County—Lebanon
Parts of County
Cornwall Boro.
Mt. Gretna Boro.
North Cornwall Twp
South Lebanon Twp (S. ½)
West Cornwall Twp
Covenant House Area 01
County—Philadephia
Parts of County
C.T. 248 through 254
Dayton Rural Valley MSA 01
County—Armstrong
Parts of County
Redbank Twp (⅔ Western Portion)
Wayne Township
Cowanshannock Township
Dayton Borough
Rural Valley Borough
Atwood Borough
East Crawford County 01
County—Crawford
Parts of County
Athens Twnship
Bloomfield Twnship
Rockdale Twnship
Rome Township
Sparta Township
Steuben Township
Centerville Township
Townville Borough
Spartansburg Borough
Richmond Twp
Exeter 01
County—Luzerne
Parts of County
Exeter Borough
West Wyoming
Franklin Township
Exeter Township
County—Wyoming
Parts of County
Exeter Township
Falls Twnship
Forest—Clarion 01
County—Clarion
Parts of County
Farmington Twp
Washington Twp
Knox Twp
County—Forest
Galeton 04
County—Potter
Parts of County
Galeton Borough
Pike Township
Ulysses Township
West Branch Township
Abbott Township
Stewardson Township
Greensboro 01
County—Fayette
Parts of County
Point Marion Borough
German Township
Nicholson Township
Springhill Township
County—Greene
Parts of County
Dunkard Township
Greene Township
Monogahela Township
Greensboro Borough
Herndon—Mandata 02
County—Northumberland
Parts of County

Little Mahanoy Twnship
Washington Twnship
Upper Mahanoy Twnship
West Cameron Twnship
Jackson Twnship
Herndon Borough
Jordon Twnship
Lower Mahanoy Twnship
County—Schuylkill
Parts of County
Eldred Twnship
Upper Mahantango Twnship
Hill District 01
County—Allegheny
Parts of County
C.T. 303.01, 303.03, 303.4, 305.01, 305.02, 305.05, 305.08
Homewood—Brushton 04
County—Allegheny
Parts of County
C.T. 1207, 1301 through 1305
Hyndman 01
County—Bedford
Parts of County
Harrison Twp
Hyndman Boro.
Juniata Twp
Londonderry Twp
County—Somerset
Parts of County
Allegheny Twp
Fairhope Twp
Indiana—N.Portion 01
County—Indiana
Parts of County
South Mahoning TWP
East Mahoning TWP
Grant TWP
Montgomery TWP
Washington TWP
Rayne TWP
Green TWP
Pine TWP
Glen Campbell Borough
Cherry Tree Borough
Marion Center Borough
Plumville Borough
Clymer Boro
Juniata County Service Area 03
County—Juniata
Parts of County
Mifflin Borough
Mifflintown Borough
Port Royal Borough
Fayette Twnship
Fermanagh Twnship
Milford Twnship
Turbett Twnship
Walker Twnship
Lack Twnship
Tuscarora Twnship
Beale Twnship
Spruce Hill Twnship
Kidder 01
County—Carbon
Parts of County
East Side Boro
Kidder TWP
Penn Forest TWP
Lausanne TWP
Lehigh TWP
County—Luzerne
Parts of County
White Haven Borough
Buck TWP
Foster Twnship
County—Monroe
Parts of County
Coolbough Twnship
Tobyhanna Twnship
Tunkhannock Twnship
Kiski Valley 02
County—Armstrong
Parts of County
Apollo Borough
Bethel Township
Burrel Township
Gilpin Township
Kiskiminetas Township
Leechburg Borough
North Apollo Borough
Parks Township
South Bend Township
County—Westmoreland
Parts of County
Oklahoma Borough
Allegheny Township
Avonmore Borough
Bell Township
East Vandergrift Borough
Hyde Park Borough
Vandergrift Borough
Washington Township
West Leechburg Borough
McKees Rocks—Stowe 01
County—Allegheny
C.T. 4621 through 4625 (Stowe TWP)
C.T. 4631 through 4638 (McKees Rocks Boro)
Millerstown 01
County—Juniata
Parts of County
Greenwood Township
Delaware Township
Thompsontown Borough
County—Perry
Parts of County
Tuscarora Township
Greenwood Township
Liverpool Twnship
Liverpool Borough
Millerstown Borough
Moscow 02
County—Lackawanna
Parts of County
C.T. 129 (Springbrook, Madison, Covington)
C.T. 129 (Clifton and Lehigh Twps)
C.T. 118 (Roaring Brook, Jefferson Twps)
C.T. 118 (Elmhurst TWP, Moscow Borough)
Mountaintop 02
County—Luzerne
Parts of County
Dennison Twnship
Wright Twnship
Fairview Twnship
Rice Twnship
Dorrance Twnship
Slocum Twnship
Nuangola Boro
Mt. Pleasant Mills-Middleburg 04
County—Juniata
Parts of County
Monroe Township
Susquehanna Twp
County—Snyder
Parts of County
Washington Township
Union Township
Freeburg Borough
Beaver Township
Beavertown Borough
Chapman Twnship
Franklin Township
Centre Township
Middleburg Borough
Perry Township
West Perry Township
North Adams 03
County—Adams
Parts of County
Menallen Township
Tyrone Township
Huntington Township
Butler Township
Arendtsville Borough
Benderswille Borough
Biglerville Borough
York Springs Borough
North East Cambria 01
County—Cambria
Parts of County
Allegheny Twp
Ashville Boro.
Chest Springs Boro.
Cheet Twp
Clearfield Twp
Dean Twp
Gallitzen Boro.
Gallitzen Twp
Loretto Boro.
Reade Twp
Tunnelkill Boro.
White Twp
North East Erie 01
County—Erie
Parts of County
C.T. 116 (North East Borough)
C.T. 117 (North East and Greenfield Town
North Philadelphia 08
County—Philadelphia
Parts of County
C.T. 131 through 133, 135 through 141, 145 through 149, 151 through 153, 165 through 169, and 171 through 174
Northern Lebanon Co. 01
County—Lebanon
Parts of County
Cold Spring Twp
East Hanover Twp
Union Twp
Swatara Twp
Bethel Twp
Jonestown Boro.
Northern Lycoming 01
County—Lycoming
Parts of County
Cogan House Township
Jackson Township
Cummings Twnship (Northern 2/3)
Plunkett's Creek Twnship (Northwest 1/2)
McHenry Twnship
Brown Twnship
Pine Twnship
Lewis Township (Northern 2/3)
McIntyre Twnship
McNett Twnship
Cascade Twnship
Gamble Twnship
County—Tioga
Parts of County
Elk Township
Morris Township
Liberty Township (Western 1/2)
Penns Valley 04
County—Centre
Parts of County
Potter Twnship
Penn Twnship
Greg Twnship
Center Hall Borough
Millheim Borough
Miles Twnship
Haines Twnship
Pittston 03
County—Luzerne
Parts of County
C.T. 101 (Pittston TWP)
C.T. 102 (Dupont Borough)
C.T. 103 (Avoca Borough)
C.T. 104 (Hughestown Borough)
C.T. 105 (Duryea Borough)
C.T. 117 (Jenkins, Lallin, Yatesville)
Punxsutawney 02
County—Armstrong
Parts of County
Redbank Twnship (Eastern 1/3)
County—Indiana
Parts of County
Banks Twnship (Northern 2/3)
Canoe Twnship (Northern 2/3)
Northern Mahoning (Northern 1/2)
Smicksburg Borough
West Mahoning Twnship (Northern 1/2)
County—Jefferson
Parts of County
Bell Twnship
Beaver Twnship (Southern 1/3)
Big Run Borough
Gaskill Twnship
Henderson Twnship
Oliver Twnship
Perry Twnship
Porter Twnship
Punxsutawney Borough
Riggold Twnship
Timblin Borough
Worthville Borough
Young Twnship
Renovo 02
County—Clinton
Parts of County
Noyes Township
Grugan Twp
East Keating Twnship
Renovo Borough
Renovo 02
County—Clinton
Parts of County
South Renovo Borough
Leidy Township
Chapman Township

S. Central Clearfield Co. 03
County—Clearfield
Parts of County
Coalport Boro
Glen Hope Boro
Irvona Boro
Ramey Boro
Westover Boro
Beccaria Twp
Bigler Twp
Chest Twp
Gulich Twp
Jordan Twp
Shenandoah/Mahoning City Area 04
County—Schuylkill
Parts of County
Delano Twp
East Union Twp
Gilberton Boro.
Kline Twp
Mcadoo Boro.
Mahanoy City Boro.
Mahanoy Twp
North Union Twp
Ringtown Boro.
Ryan Twp
Shenandoah Boro.
Union Twp
West Mahanoy Twp
Shinglehouse 01
County—McKean
Parts of County
Ceres Township
Eldred Township
Shinglehouse 01
County-Potter
Parts of County
Shinglehouse Borough
Sharon Township
Oswayo Township
Oswayo Borough
Genesee Township
Pleasant Valley Township
Clara Township
Snow Shoe 02
County—Centre
Parts of County
Curtin Twp (Eastern 1/2)
Unionville Borough
Snow Shoe Township
Snow Shoe Borough
Burnside Township
Boggs Township (Southern 1/2)
Union Township (Southern 1/2)
County—Clearfield
Parts of County
Cooper Township (Northern 2/3)
Covington Township
Karthaus Township
South Philadelphia 04
County—Philadelphia
Parts of County
C.T. 13, 14, 19 through 22, and 33
South Western Chester 03
County—Chester
Parts of County
C.T. 3061, 3062, and 3777 through 3082
Southern Erie 02
County—Erie
Parts of County
Cranesville Borough
Albion Borough
Platea Borough
Conneaut Township
Elk Creek Township
Franklin Township
Springfield Township
Span. Spk. Pop. of S.E. Lancaster City 02
County—Lancaster
Parts of County
C.T. 8, 9, 15, 16
Tremont-Pine Grove 03
County—Schuylkill
Parts of County
Tremont Borough
Tremont Twnship
Frailey Twnship
Porter Twnship
Pine Grove Borough
Washington Twnship
Pine Grove Twnship
Hegins Twnship
Barry Twnship
Hubley Twnship
Tower City Borough
Valleys Community MSA 01
County—Franklin
Parts of County
Fannet Twnship
Metal Twnship
Welsh Mountain MSA 01
County—Lancaster
Parts of County
Salisbury Twp
Caernarvon Twp
Earl Twp
East Earl Twp
West Greene 01
County—Green
Parts of County
Aleppo Twp
Gilmore Township
Gray Township
Jackson Township
Richhill Township
Spinghill Township
Center Township
Freeport Township
Morris Township
Washington Township
Wayne Township
Western Perry County 03
County—Perry
Parts of County
Blain Boro
Bloomfield Boro
Carroll Twp
Centre Twp
Jackson Twp
Juniata Twp
Landisbury Boro
N.E. Madison Twp
Saville Twp
S.P. Madison Twp
Spring Twp
Western Perry County 03
County—Perry
Parts of County
Toboyne Twp
Tyrone Twp
Wheatfield Twp
Williamstown 01
County—Dauphin
Parts of County
Upper Paxton Township
Millersburg Borough
Mifflin Township
Berrysburg Borough
Washington Township
Elizabethville Borough
Jackson Township
Jefferson Township
Wayne Township
Reed Township
Halifax Township
Halifax Borough
Williamstown Borough
Williams Township
Lykens Twp
Gratz Borough
Wiconsco Township
Lykens Borough
York MSA 02
County—York
Parts of County
C.T. 1, 2, 3, 5, 7, 10, 15, 16
Rhode Island
County listing
Providence
Service Area: Olneyville 02
Service Area: Central Falls 02
Service Area: Northwest Woonsocket 10
Service Area: Woodlawn 03
Service Area: Burrillville/Foster/Glocester 03
Service Area: Medium-Maximum Securities Inst. 02
Washington
Service Area: Hope Valley 02
Service area listing
Central Falls 02
County—Providence
Parts of County
C.T. 108 through 111
Hope Valley 02
County—Washington
Parts of County
Charlestown
Exeter
Hopkinton
Richmond
Northwest Woonsocket 01
County—Providence
Parts of County
C.T. 172, 174, 176, 178 through 183
Olneyville 02
County—Providence
Parts of County
C.T. 16 through 22
Woodlawn 03
County—Providence
Parts of County
C.T. 151, 161, 164
Burrillville/Foster/Glocester 03
County—Providence
Burrillville Town
Foster Town
Glocester Town
Medium-Maximum Securities Inst. 02
County—Providence
Cranston City
South Carolina
County listing
Abbeville 03
Abbeville
Service Area: Isle 02
Allendale 01
Anderson
Service Area: Isle 02
Barnwell 04
Beaufort
Service Area: St. Helena 01
Berkeley
Service Area: Orangeburg 01
Calhoun 03
Charleston
Service Area: Sea Island Compre. Health Care Corp. 01
Cherokee 03
Chester 03
Chesterfield 04
Dorchester
Service Area: Orangeburg 01
Edgefield 04
Fairfield 01
Horry
Service Area: Brittons Neck 01
Jasper 01
Laurens 04
Lexington
Service Area: Batesburg 02
McCormick 03
Marion
Service Area: Brittons Neck 01
Newberry 04
Orangeburg
Service Area: Orangeburg 01
Richland
Service Area: Richland Service Area 01
Saluda 02
Spartanburg 01
Union 04
York
Service Area: Western York Co. 02
Service area listing
Batesburg 02
County—Lexington
Parts of County
Batesburg-Leesville CCD
Gilbert CCD
Brittons Neck 01
County—Horry
Parts of County
Aynor South
Aynor North CCD
County—Marion
Parts of County
Brittons Neck CCD
Centenary CCD
Isle 02
County—Abbeville
Parts of County
Antreville-Lowndesville
County—Anderson
Parts of County
Iva
Starr
Orangeburg 01
County—Berkeley
Parts of County
Cross Division
County—Dorchester
Parts of County
Harleyville Division
County—Orangeburg
Parts of County
Elloree Division
Bowman Division
Holly Hill Division
Eutawville Division
Vance Division
Richland Service Area 01
County—Richland
Parts of County
C.T. 116, 119.02, 120

- Sea Island Compre. Health Care Corp. — 01
  - County—Charleston
    - Parts of County
      - C.T. 19.01 through 25
- St. Helena — 01
  - County—Beaufort
    - Parts of County
      - St. Helena
- Western York Co. — 02
  - County—York
    - Parts of County
      - C.T. 16, 18, 19 and E.D. 9 (of C.T. 17)

South Dakota
- County Listing
  - Aurora — 01
  - Bennett — 04
  - Bon Homme — 03
  - Buffalo
    - Service area: Buffalo-Jerauld — 01
  - Campbell — 01
  - Charles Mix
    - Service area: Lake Andes — 03
  - Clark — 01
  - Clay — 02
  - Corson — 01
  - Custer — 01
  - Day — 02
  - Deuel
    - Service area: Lake Andes — 04
    - Service area: Canby, Minnesota — 04
    - Service area: Deuel — 01
  - Dewey — 01
  - Douglas — 03
  - Edmunds — 01
  - Faulk — 02
  - Grant — 04
  - Gregory
    - Service area: Lake Andes — 03
  - Haakon
    - Service area: Phillip — 01
  - Hamlin — 01
  - Hanson — 01
  - Harding — 01
  - Hyde — 01
  - Jackson
    - Service area: Phillip — 01
  - Jerauld
    - Service area: Buffalo-Jerauld — 01
  - Jones — 01
  - Lincoln
    - Service area: Turner-Lincoln — 04
    - Service area: South Dakota State Penitentiary — 02
  - Lyman — 01
  - McCook — 03
  - McPherson — 01
  - Meade — 04
  - Mellette — 01
  - Miner — 02
  - Moody — 04
  - Pennington
    - Service area: Phillip — 01
  - Perkins — 01
  - Roberts — 01
  - Sanborn — 01
  - Shannon — 01
  - Spink
    - Service area: Redfield State Hosp. & School — 01
  - Stanley — 01
  - Sully — 01
  - Todd — 03
  - Tripp — 03
  - Turner
    - Service area: Turner-Lincoln — 04
  - Union — 01
  - Washabaugh — 01
  - Yankton
    - Service area: Human Services Center — 03
  - Ziebach — 01
- Service Area Listing
  - Buffalo-Jerauld — 01
    - County—Buffalo
    - County—Jerauld
  - Deuel — 01
    - County—Deuel
      - Parts of County
        - Altamont Town
        - Altamont Twnship
        - Antelope Valley Twnship
        - Astona Town
        - Blom Twnship
        - Brandt Town
        - Brandt Twnship
        - Clear Lake City
        - Clear Lake Twnship
        - Glenwood Twnship
        - Goodwin Town
        - Goodwin Twnship
        - Grange Twnship
        - Havana Twnship
        - Hidewood Twnship
        - Lowe Twnship
        - Portland Twnship
        - Rome Twnship
        - Scandinavia Twnship
        - Toronto Twnship
  - Human Services Center — 03
    - County—Yankton
      - Parts of County
        - Human Services Center
  - Lake Andes — 03
    - County—Charles Mix
      - Parts of County
        - Kennedy Twp
        - White Swan Twp
        - Plain Center Twp
        - Wagner City
        - Choteau Creek Twp
        - Highland Twp
        - Lawrence Twp
        - Wahehe Twp
        - Hamilton Twp
        - Signal Twp
        - Rhoda Twp
        - Moore Twp
        - Jackson Twp
        - Goose Lake Twp
        - Howard Twp
        - Lone Tree Twp
        - Ree Twp
        - Rouse Twp
    - County—Gregory
      - Parts of County
        - Fairfax Twp
        - Pleasant Valley Twp
        - Whetstone Twp
        - Schriever Twp
        - Star Valley Twp
        - Un. Org. Terr. S.E. Gregory
        - St. Charles Twp
        - Un. Org. Terr. E. Gregory
        - Elliston Twp
  - Phillip — 01
    - County—Haakon
    - County—Jackson
      - Parts of County
        - Unorg. Terr. of NW Jackson
        - Unorg. Terr. of E. Jackson
        - Unorg. Terr. of Brady
        - Grandview Twp
        - Jewett Twp
        - Cottonwood Twp
        - Indian Creek Twp
        - Big Buffalo Twp
        - Little Buffalo Twp
        - Kadoka City
        - Kadoka Twp
        - Belvidere Twp
        - Belvidere Town
    - County—Pennington
      - Parts of County
        - Peno Twp
        - Cowanka Twp
        - Wasta Twp
        - Lake Flat Twp
        - Lake Hill Twp
        - Lake Creek Twp
        - Conata Twp
        - Wall Town
        - Quinn Twp
        - Imley Twp
        - Wasta Town
        - Quinn Town
        - Unorg. Terr. of N.E. Pennington
        - Unorg. Terr. of Dalzell Canyon
        - Unorg. Terr. of Badlands
        - Flat Butte Twp
        - Cheyenne Twp
        - Rainy Creek Twp
        - Sunnyside Twp
        - Ash Twp
        - Shyne Twp
        - Crooked Creek Twp
        - Castle Butte Twp
        - Cedar Butte Twp
  - Redfield State Hosp. & School — 01
    - County—Spink
      - Parts of County
        - Redfield State Hosp. & School
  - South Dakota State Penitentiary — 02
    - County—Lincoln
      - Parts of County
        - State Penitentiary
  - Turner-Lincoln — 04
    - County—Lincoln
    - County—Turner

Tennessee
- County listing and name
  - Campbell — 04
  - Cheatham — 02
  - Chester — 02
  - Claiborne — 03
  - Clay — 04
  - Cocke — 01
  - Crockett — 03
  - Decatur — 01
  - Fayette — 02
  - Fentress — 03
  - Grainger — 01
  - Hardeman — 03
  - Hardin — 02
  - Haywood — 02
  - Henderson — 04
  - Hickman — 02
  - Lake — 02
  - Lauderdale — 02
  - McNairy — 02
  - Macon — 03
  - Monroe — 03
  - Morgan — 01
  - Perry — 04
  - Pickett — 02
  - Polk
    - Service area: West Polk County — 01
  - Roane — 04
  - Scott — 04
  - Sevier — 04
  - Stewart — 02
  - Tipton — 02
  - Union — 01
  - Van Buren — 02
  - Warren — 04
  - Wayne — 01
  - Weakley — 03
  - White — 03
- Service area listing
  - West Polk County — 01
    - County—Polk
      - Parts of county
        - Benton Div. (Enum. Dist. 1–4)
        - Parksville Div. (Enum. Dist. 5–7)

Texas
- County listing
  - Atascosa — 04
  - Bandera — 02
  - Bee — 04
  - Bexar
    - Service Area: East Side (San Antonio) — 02
    - Service Area: Southern Rural Bexar (San Antonio) — 01
    - Service Area: South Side (San Antonio) — 01
    - Service Area: West Side (San Antonio) — 01
  - Carson — 04
  - Castro — 01
  - Collin — 04
  - Cooke — 04
  - Crosby — 02
  - Dallas
    - Service Area: Fair Park/White Rock Creek Industrial — 01
    - Service Area: South Dallas — 02
    - Service Area: Trinity — 01
    - Service Area: Lisbon — 01
    - Service Area: Simpson Sterat — 01
  - Deaf Smith — 04
  - Dickens — 02
    - Service Area: Dickens-King
  - Donley — 04
  - Ellis — 04
  - El Paso
    - Service Area: Southeast El Paso — 02
  - Floyd — 03
  - Hardin — 02
  - Henderson
    - Service Area: Cedar Creek — 02
  - Hudspeth — 01
  - Hunt — 03
  - Jeff Davis — 03
    - Service Area: Presidio-Jeff Davis
  - Kaufman
    - Service Area: Cedar Creek — 02
  - King — 02
    - Service Area: Dickens-King
  - Kinney — 03
  - La Salle — 02
  - Liberty — 04

- Limestone — 04
- Lipscomb — 03
  - Service Area: Dickens-King
- Llano — 04
- Lynn — 02
- Maverick — 03
- Medina — 04
- Mills — 04
  - Service Area: San Saba-Mills
- Montgomery — 03
- Newton — 04
- Polk — 04
- Presidio — 03
  - Service Area: Presidio-Jeff Davis Reins — 01
- Sabine — 03
- San Jacinto — 01
- San Saba — 04
  - Service Area: San Saba-Mills
- Trinity — 03
- Van Zandt — 04
- Walker — 02
- Waller — 01
- Webb — 02
- Wise — 03
- Yoakum — 03
- Zavala — 02
- Service area listing
  - Cedar Creek — 02
    - County—Henderson
      - Parts of county
        - Cedar Creek Lake
        - Euston
    - County—Kaufman
      - Parts of county
        - Kemp—Mabank
  - Dickens—King — 02
    - County—Dickens
    - County—King
  - East Side (San Antonio) — 02
    - County—Bexar
      - Parts of county
        - C.T. 1301, and 1303 through 1313
  - Fair Park/White Rock Creek Industrial — 01
    - County—Dallas
      - Parts of county
        - C.T. 23, 25 through 28, 93.02, and 115
  - Lisbon — 01
    - County—Dallas
      - Parts of county
        - C.T. 56, 57, 59.01, 59.02, 67, and 86
  - Presidio-Jeff Davis — 03
    - County—Jeff Davis
    - County—Presidio
  - San Saba—Mills — 04
    - County—Mills
    - County—San Saba
  - Simpson Sterat — 01
    - County—Dallas
      - Parts of county
        - C.T. 112 through 114, 167.01, 167.02, 169.01, and 169.02
  - South Dallas — 02
    - County—Dallas
      - Parts of county
        - C.T. 29, 30, 31.02, 32.02, and 33 through 40
- Service area listing
  - South Side (San Antonio) — 01
    - County—Bexar
      - Parts of County
        - C.T. 1501, 1503 through 1507, 1510, and 1601 through 1605
  - Southeast El Paso — 02
    - County—El Paso
      - Parts of County
        - C.T. 39, 40, 104, and 105
  - Southern Rural Bexar (San Antonio) — 01
    - County—Bexar
      - Parts of County
        - C.T. 1314 through 1316, 1318, 1416 through 1419, 1519 through 1522, 1610 through 1612, 1619, and 1620
  - Trinity — 01
    - County—Dallas
      - Parts of County
        - C.T. 41, 49, 54, 55, 86, and 89
  - West Side (San Antonio) — 01
    - County—Bexar
      - Parts of County
        - C.T. 1606 and 1607, 1701, 1703 and 1704, 1707 through 1712, 1715, and 1716

Utah
- County listing
  - Daggett — 01
  - Piute — 01
  - Rich — 01
  - Tooele — 03
  - Wayne — 01
  - Weber — 02
    - Service area: Central and West Ogden
- Service area listing
  - Central and West Ogden — 02
    - County—Weber
      - Parts of County
        - C.T. 3, 4, 16 through 12, 16, and 19

Vermont
- County listing
  - Addison
    - Service area: Route 100 — 01
    - Service area: Otter Creek Valley — 01
  - Bennington
    - Service area: Londonderry MSA — 03
  - Caledonia
    - Service area: Hardwick — 03
  - Essex
    - Service area: Hardwick — 03
    - Service area: Hardwick — 03
    - Service area: Hardwick — 03
    - Service area: Hardwick — 03
    - Service area: Hardwick — 03
    - Service area: Essex — 03
  - Grand Isle — 03
  - Lamoille
    - Service area: Hardwick — 04
  - Orleans
    - Service area: Hardwick — 04
  - Rutland
    - Service area: Black River Valley — 01
    - Service area: Route 100 — 01
    - Service area: Otter Creek Valley — 01
  - Washington
    - Service area: Hardwick — 03
  - Windham
    - Service area: West River Valley — 01
    - Service area: Londonderry MSA — 03
  - Windsor
    - Service area: Black River Valley — 01
    - Service area: Route 100 — 01
    - Service area: Londonderry MSA — 03
- Service area listing
  - Black River Valley — 01
    - County—Rutland
      - Parts of County
        - Mt Holly Town
    - County—Windsor
      - Parts of County
        - Cavendish
        - Ludlow
        - Reading Town
        - Weatersfield Town
  - Essex — 03
    - County—Essex
      - Parts of County
        - Brighton Twn
        - Concord Twn
        - East Haven Twn
        - Ferdinand Twp
        - Granby Twn
        - Guildhall Twn
        - Lewis Twp
        - Lunenburg Twn
        - Maidstone Twn
        - Victory Twn
  - Hardwick — 03
    - County—Caledonia
      - Parts of County
        - Danville
        - Peacham Twn
        - Hardwick
        - Walden
    - County—Lamoille
      - Parts of County
        - Wolcott
        - Elmore
    - County—Orleans
      - Parts of County
        - Greensboro
        - Craftbury
    - County—Washington
      - Parts of County
        - Calais Twn
        - East Montpelier Twn
        - Plainfield Twn
        - Marshfield Twn
        - Woodbury
        - Cabot
  - Londonderry MSA — 03
    - County—Bennington
      - Parts of County
        - Landgrove Town
        - Peru Town
        - Winhall Town
    - County—Windham
      - Parts of County
        - Londonderry Town
    - County—Windsor
      - Parts of County
        - Weston Town
  - Otter Creek Valley — 01
    - County—Addison
      - Parts of County
        - Leicester Town
        - Goshen Town
        - Orwell Town
        - Whiting Town
        - Shoreham Town
    - County—Rutland
      - Parts of County
        - Brandon Town
        - Hubbardton Town
        - Pittsford Town
        - Sudbury Town
  - Route 100 — 01
    - County—Addison
      - Parts of County
        - Hancock Town
        - Granville Town
    - County—Rutland
      - Parts of County
        - Pittsfield Town
    - County—Windsor
      - Parts of County
        - Rochester Town
        - Stockbridge Town
  - West River Valley — 01
    - County—Windham
      - Parts of County
        - Jamaica
        - Newfane
        - Stratton
        - Townshend
        - Wardsboro
        - Windham

Virginia
- County listing
  - Accomack
    - Service area: Accomack/Northampton — 04
  - Amelia — 03
  - Bland — 01
  - Botetourt — 02
  - Brunswick — 01
  - Buchanan — 01
  - Caroline — 02
  - Carroll
    - Service area Hillsville — 02
  - Charles City — 01
  - Charlotte
    - Service area: Drakes Branch Med. Service area — 01
  - Craig — 02
  - Dickenson — 03
  - Elizabeth City
    - Service area: East End — 02
  - Floyd — 01
  - Franklin — 04
  - Grayson
    - Service area: Independence — 01
  - Greene — 03
  - Hanover — 04
  - Isle of Wight — 02
  - King and Queen — 01
  - King George — 03
  - King William
    - Service area: Northern King William — 03
  - Lee — 01
  - Louisa — 04
  - Lunenburg — 01
  - Madison — 02
  - Middlesex — 04
  - Nelson — 02
  - New Kent — 01
  - Northampton
    - Service area: Accomack/Northampton — 04
  - Page — 03
  - Patrick — 03
  - Pittsylvania — 04
  - Powhatan — 02
  - Richmond — 02
  - Russell — 02
  - Smyth — 03
  - Southampton
    - Service area: Capron — 01
    - Service area: Berlin-Ivor — 01
  - Surry — 02
  - Sussex — 03
  - Westmoreland — 03
- Service area listing
  - Accomack/Northampton — 04
    - County—Accomack
    - County—Northampton

- Berlin-Ivor ... 01
  - County—Southampton
    - Parts of county
      - Berlin-Ivor
- Capron ... 01
  - County—Southampton
    - Parts of county
      - Capron Dist.
      - Drewryaville Dist.
      - Newsoms Dist.
- Drakes Branch Med. Service area ... 01
  - County—Charlotte
    - Parts of county
      - Bacon Dist.
      - Central Dist.
      - Roanoke Dist.
- East End ... 02
  - County—Elizabeth City
    - Parts of County
      - C.T. 302 through 308
- Hillsville ... 02
  - County—Carroll
    - Parts of County
      - Laurel Fork Dist.
      - Hillsville Town
      - Fancy Gap Town
- Independence ... 01
  - County—Grayson
    - Parts of County
      - Elk Creek Dist.
      - Providence Dist. (Eastern ½)
      - Wilson Creek Dist. (Southern ½)
- Northern King William ... 01
  - County—King William
    - Parts of ounty
      - Mongohick Dist.
      - Acquton Dist.

Washington
County listing
- Adams
  - Service area: Ritzville ... 03
  - Service area: Migrants in Grant/Adams Co. ... 02
  - Service area: Otello ... 02
- Callam
  - Service area: Forks ... 04
- Chelan
  - Service area: Chelan-Dougtas Migrant Area ... 01
- Columbia
  - Service area: Migrant Pop. in Columbia and Walla Walla ... 01
- Cowlitz
  - Service area: Ryderwood ... 01
- Douglas
  - Service area: Chelan-Douglas Migrant Area ... 01
  - Service area: Grand Coolee ... 01
- Franklin
  - Service area: Otello ... 02
- Grant
  - Service area: Migrants in Grant/Adams Co. ... 02
  - Service area: Otello ... 02
  - Service area: Grand Coolee ... 01
- Grays Harbor
  - Service area: Mc Cleary-Elma ... 02
- Jefferson
  - Service area: Forks ... 04
- King
  - Service area: Seattle-Central ... 03
  - Service area: South Seattle ... 02
  - Service area: Vashon-Maury Islands ... 02
  - Service area: Pike Market ... 04
  - Service area: Seattle & King Co. Jails ... 02
- Kittitas
  - Service area: Cle Elum ... 03
- Klickitat ... 04
- Lewis
  - Service area: Packwood ... 03
- Lincoln
  - Service area: Grand Coolee ... 01
- Okanogan
  - Service area: Oroville ... 01
  - Service area: Okanogan Valley Migrant Area ... 01
  - Service area: Grand Coolee ... 01
- Pacific
  - Service area: Raymond/South Bend ... 03
- Pend Oreille ... 02
- Pierce
  - Service area: Long Branch ... 01
  - Service area: Orting ... 01
- San Juan ... 04
- Skagit
  - Service area: Whatcom-Skagit Migrant Area ... 04
- Skamania ... 02
- Snohomish
  - Service area: Tulalip Tribe-Snohobish County ... 01
  - Service area: Darrington ... 01
- Stevens
  - Service area: Chewelah ... 04
- Walla Walla
  - Service area: Migrant Pop. in Columbia and Walla Walla ... 01
- Whatcom
  - Service area: Whatcom-Skagit Migrant Area ... 04
- Yakima
  - Service area: Lower Yakima Valley Migrant Area ... 02

Washington
Service area listing
- Chelan-Douglas Migrant Area ... 01
  - County—Chelan
    - Parts of County
      - Migrant Population
  - County—Douglas
    - Parts of County
      - Migrant Population
- Chewelah ... 04
  - County—Stevens
    - Parts of County
      - CCD #4 and #6
- Cle Elum ... 03
  - County—Kittitas
    - Parts of County
      - Division 2 through 6
- Darrington ... 01
  - County—Snohomish
    - Parts of County
      - C.T. 537
- Forks ... 04
  - County—Callam
    - Parts of County
      - Division 5 and 6
  - County—Jefferson
    - Parts of County
      - Division 4 and 5
- Grand Coolee ... 01
  - County—Douglas
    - Parts of County
      - Coulee Dam
  - County—Grant
    - Parts of County
      - Division 1 and 2
  - County—Lincoln
    - Parts of County
      - Div. 6
  - County—Okanogan
    - Parts of County
      - Div. 16
- Long Branch ... 01
  - County—Pierce
    - Parts of County
      - E.D. 38 of C.T. 72, and
      - E.D. 39A of C.T. 72
- Lower Yakima Valley Migrant Area ... 02
  - County—Yakima
    - Parts of County
      - Migrant Population
- Mc Cleary—Elma ... 02
  - County—Grays Harbor
    - Parts of County
      - CCD #7 through 10
- Migrant Pop. in Columbia and Walla Walla ... 01
  - County—Columbia
    - Parts of County
      - Migrant Population
  - County—Walla Walla
    - Parts of County
      - Migrant Population
- Migrants in Grant/Adams Co. ... 02
  - County—Adams
    - Parts of County
      - Migrant Pop. in Adams Co.
  - County—Grant
    - Parts of County
      - Migrant Pop. in Grant Co.
- Okanogan Valley Migrant Area ... 01
  - County—Okanogan
    - Parts of County
      - Migrant population
- Oroville ... 01
  - County—Okanogan
    - Parts of County
      - Division 1 through 4, and 11
- Orting ... 01
  - County—Pierce
    - Parts of County
      - Orting
- Otello ... 02
  - County—Adams
    - Parts of County
      - Div. 4 (Southern 1/2), Div. 9, and
      - Div. 5, Div. 10
      - Div. 8 (Western 1/3),
  - County—Franklin
    - Parts of County
      - Glonnell Div.
      - Kohlotus Div. (Northern 1/2)
  - County—Grant
    - Parts of County
      - Division 14, 16, and 17
- Packwood ... 03
  - County—Lewis
    - Parts of County
      - C.C.D. #1
- Pike Market ... 04
  - County—King
    - Parts of County
      - C.T. 71, 72, and 80 through 83
- Raymond/South Bend ... 03
  - County—Pacific
    - Parts of County
      - Division 1 through 4, and Raymond Division
- Ritzville ... 03
  - County—Adams
    - Parts of County
      - CCD 1 through 3, 4 (part), 6, 7, and 8 (part)
- Ryderwood ... 01
  - County—Cowlitz
    - Parts of County
      - Div. 3
- Seattle & King Co. Jails ... 02
  - County—King
    - Parts of County
      - Seattle & King Co. Jails
- Seattle-Central ... 03
  - County—King
    - Parts of County
      - C.T. 73 through 79, 87, and 90 through 92
- South Seattle ... 02
  - County—King
    - Parts of County
      - C.T. 100, 101, 103 through 109, 111, and 112
- Tulalip Tribe-Snohobish County ... 01
  - County—Snohobish
    - Parts of County
      - Tulalip Tribe
- Vashon-Maury Islands ... 02
  - County—King
    - Parts of County
      - C.T. 277 (Vashon-Maury Islands)
- Whatcom-Skagit Migrant Area ... 04
  - County—Skagit
    - Parts of County
      - Migrant Population
  - County—Whatcom
    - Parts of County
      - Migrant Population

West Virginia
County listing
- Boone ... 03
- Cabell
  - Service area: Cabell ... 01
- Calhoun ... 03
- Clay ... 01
- Doddridge ... 01
- Fayette
  - Service area: Fayetteville ... 01
- Gilmer ... 01
- Grant
  - Service area: Mt Storm ... 01
- Greenbrier
  - Service area: Northern Greenbrier Service Area ... 03
- Hampshire
  - Service area: Capon Bridge ... 01
- Hardy ... 02
- Harrison
  - Service area: Shinnston Service Area ... 02
- Jackson ... 03
- Jefferson ... 01
- Kanawha
  - Service area: Kanawha ... 01
- Lewis ... 01
- Lincoln ... 03
- Logan
  - Service area: Chapmanville ... 02
- McDowell ... 04
- Marion
  - Service area: Farmington Service Area ... 02
- Marshall
  - Service area: Cameron ... 01

- Mason
  - Service area: Mason ... 01
- Mercer
  - Service area: Mercer ... 01
- Mineral
  - Service area: Cabin Run ... 03
- Mingo
  - Service area: Mingo ... 01
- Monongalia
  - Service area: Blacksville ... 01
- Monroe ... 01
- Nicholas
  - Service area: Nicholas ... 01
- Pendleton ... 01
- Pleasants
  - Service area: Jefferson ... 03
- Pocahontas ... 01
- Preston ... 01
- Putnam
  - Service area: Teays Valley ... 02
- Raleigh
  - Service area: Northwest Raleigh Co. ... 01
  - Service area: Mountaineer service area ... 01
  - Service area: Gulf service area ... 01
- Randolph
  - Service area: Middlefork ... 01
- Ritchie ... 01
- Taylor ... 01
- Tucker ... 04
- Tyler
  - Service area: Tyler ... 02
- Upshur
  - Service area: Middlefork ... 01
- Wayne ... 01
- Webster ... 03
- Wetzel ... 03
- Wirt ... 02
- Wyoming ... 01

Service area listing
- Blacksville ... 01
  - County—Monongalia
    - Parts of County
      - Clay
      - Battelle
- Cabell ... 01
  - County-Cabell
    - Parts of County
      - Barryandotte
      - Union
      - Grant
      - McComas
      - Barboursville
- Cabin Run ... 03
  - County—Mineral
    - Parts of County
      - Frankfurt
      - Cabin Run
- Cameron ... 01
  - County—Marshall
    - Parts of County
      - Cameron
- Capon Bridge ... 01
  - County—Hampshire
    - Parts of County
      - Bloomery
      - Capon
      - Sherman
      - Gore
- Chapmanville ... 02
  - County—Logan
    - Parts of County
      - Guyan
- Farmington service area ... 02
  - County—Marion
    - Parts of County
      - Lincoln District
- Fayetteville ... 01
  - County—Fayette
    - Parts of County
      - Fayetteville
      - Falls
      - Quinnimont
      - Sewell Mountain
      - Nuttally
      - Mountain Cove
- Gulf service area ... 01
  - County—Raleigh
    - Parts of County
      - Trap Hill MCD
      - Slab Fork MCD
- Jefferson ... 03
  - County—Pocahontas
    - Parts of County
      - Grant
      - Jefferson
      - LaFayette
      - Mc Kim
      - Union
- Kanawha ... 01
  - County—Kanawha
    - Parts of County
      - Elk
      - Big Sandy
      - Poca
      - Cabin Creek
      - Malden
      - Chesapeake Town
      - Marmet Town
      - Washington
      - Union
      - Washington
- Mason ... 01
  - County—Mason
    - Parts of County
      - Arbuckle
      - Clendenin
      - Cologne
      - Copper
      - Graham
      - Hannan
      - Robinson
      - Union
      - Waggener
- Mercer ... 01
  - County—Mercer
    - Parts of County
      - Rock
      - Jumping Branch
      - Plymouth
- Middlefork ... 01
  - County—Randolph
    - Parts of County
      - Middlefork
  - County—Upshur
    - Parts of County
      - Meade
      - Banks
- Mingo ... 01
  - County—Mingo
    - Parts of County
      - Harvey
      - Hardee
      - Kermit
      - Magnolia
      - Lee
- Mountaineer service area ... 01
  - County—Raleigh
    - Parts of County
      - Shady Spring MCD
      - Richmond
- Mt Storm ... 01
  - County—Grant
    - Parts of County
      - Union
- Nicholas ... 01
  - County—Nicholas
    - Parts of County
      - Jefferson
      - Grant
      - Wilderness
      - Summerville
      - Hamilton
- Northern Greenbrier service area ... 03
  - County—Greenbrier
    - Parts of County
      - Williamsburg
      - Falling Springs
      - Frankford
      - Anthony Creek
      - Meadow Bluff
- Northwest Raleigh Co. ... 01
  - County—Raleigh
    - Parts of County
      - Clear Fork MCD
      - Marsh Fork MCD
- Shinnston service area ... 02
  - County—Harrison
    - Parts of County
      - Clay District
      - Eagle District
- Teays Valley ... 02
  - County—Putnam
    - Parts of County
      - Scott District
      - Teays Valley District
- Tyler ... 02
  - County—Tyler
    - Parts of County
      - Centerville
      - Ellsworth
      - MC Elroy
      - Meade
      - Union

Wisconsin
County listing
- Adams ... 03
- Brown
  - Service area: Pulaski ... 01
  - Service area: Wisconsin State Reformatory ... 02
- Buffalo
  - Service area: Western Buffalo County ... 01
  - Service area: Whitehall/Arcadia ... 01
- Calumet ... 04
- Clark ... 02
- Crawford
  - Service area: Kickapoo Valley Area ... 01
- Dodge
  - Service area: Wisconsin Correctional Inst. ... 02
  - Service area: Wisconsin State Prison ... 02
- Florence
  - Service area: Iron (Michigan) ... 03
  - Service area: Florence ... 01
- Forest
  - Service area: Iron (Michigan) ... 03
  - Service area: Forest ... 04
- Jackson
  - Service area: Sparta ... 03
- Juneau
  - Service area: Hillsboro ... 03
- Lincoln
  - Service area: Athens MSA ... 01
  - Service area: Tomahawk ... 03
  - Service area: Lincoln Hills School ... 02
- Manitowoc
  - Service area: Reedsville ... 01
- Marathon
  - Service area: Athens MSA ... 01
  - Service area: Tigerton ... 02
  - Service area: Edgar ... 03
  - Service area: Birnamwood ... 01
- Menominee ... 01
- Milwaukee
  - Service area: Inner City North (Milwaukee) ... 01
  - Service area: Inner City South (Milwaukee) ... 03
- Monroe
  - Service area: Hillsboro ... 03
  - Service area: Sparta ... 03
- Oconto
  - Service area: Mountain ... 01
  - Service area: Sparta ... 03
  - Service area: Pulaski ... 01
- Oneida
  - Service area: Tomahawk ... 03
- Portage
  - Service area: Tigerton ... 02
- Price
  - Service area: Tomahawk ... 03
- Racine
  - Service area: Racine (City) ... 04
- Richland
  - Service area: Kickapoo Valley Area ... 01
  - Service area: Hillsboro ... 03
- Rusk ... 04
- Sauk
  - Service area: Hillsboro ... 03
- Shawano
  - Service area: Tigerton ... 02
  - Service area: Birnamwood ... 01
  - Service area: Pulaski ... 01
- Sheboygan
  - Service area: Kettle Morain Correctional Inst ... 02
- Taylor ... 04
- Trempealeau
  - Service area: Whitehall/Arcadia ... 01
- Vernon
  - Service area: Western Vernon County ... 04
  - Service area: Kickapoo Valley Area ... 01
  - Service area: Hillsboro ... 03
- Vilas
  - Service area: Iron (Michigan) ... 03
- Washaloe
  - Service area: Ethan Allen School ... 02
- Waupaca
  - Service area: Tigerton ... 02

Service area listing
- Athens MSA ... 01
  - County—Lincoln
    - Parts of County
      - Corning Twn
  - County—Marathon
    - Parts of County
      - Athens City
      - Bein Twn

Halsey Twn
Hamburg Twn
Johnston
Reitbrock Twn (Part)
Birnamwood 01
County—Marathon
Parts of County
Norrie Town
Pioner Town
Hatley Village
County—Shawano
Parts of County
Birnamwood Village
Birnamwood Town
Eland Village
Almon Town
Anima Town
Anima Village
Hutchins Village
Edgar 03
County—Marathon
Parts of County
Edgar City
Reitbrock Town (S. Part)
Wein Town
Rib Falls Town
Cassel Town
Fenwood City
Ethan Allen School 02
County—Washakie
Parts of County
Waukesha
Florence 01
County—Florence
Parts of County
East Florence Twn
Fern Twn
Commonwealth Twn
Fence Twn
Homestead Twn
Aurora Twn
Forest 04
County—Forest
Parts of County
Hiles Town
Crandon Town
Nashville Town
Argonne Town
Crandon City
Lincoln Town
Freedom Town
Wabeno Town
Laona Town
Blackwell Town
Armstrong Creek Town
Caswell Town
Ross Town
Hillsboro 03
County—Juneau
Parts of County
Wonewoc Twn
Wonewoc Vil
County—Monroe
Parts of County
Cashton Vil
Glendale
Jefferson
Kendall Vil
Sheldon
Wellington
County—Richland
Parts of County
Bloom
Henrietta
Westford
Yuba Vil
County—Sauk
Parts of County
La Valle
Woodland
County—Vernon
Parts of County
Clinton
Forest
Greenwood
Hillsboro City
Hillsboro Town
Ontario Vil
Union
Whitestown
Inner City North (Milwaukee) 01
County—Milwaukee
Parts of County
C.T. 39, 44 through 48, 61, 62, 90, 91, 96, 108, 110, 111, 123, 133 through 137, and 143 through 152 (Medically Indigent Pop)
C.T. 63 through 72, 79 through 89, 97 through 107, 112 through 122, and 138 through 142
Inner City North (Milwaukee) 01
County—Milwaukee
Inner City South (Milwaukee) 03
County—Milwaukee
Parts of County
C.T. 154, 172 through 180 (Medically Indigent Pop.)
C.T. 155 through 171
Kettle Morain Correctional Inst. 02
County—Sheboygan
Parts of County
Kettle Morain Correctional Inst.
Kickapoo Valley Area 01
County—Crawford
Parts of County
Haney
Bell Center
Gays Mills
Scott
Clayton
Soldiers Grove, Village
St. Sterling, Village
Utica
County—Richland
Parts of County
Viola
Sylvan
Forest
County—Vernon
Parts of County
Webster
Liberty
Viola
Kickapoo
Readstown
Stark
LaFarge
Lincoln Hills School 02
County—Lincoln
Parts of County
Lincoln Hills School
Mountain 01
County—Oconto
Parts of County
Townsend
Lakewood
Doty
Riverview
Armstrong
Breed
Bagley
Brazeau
Pulaski 01
County—Brown
Parts of County
Pulaski, Village
Pittsfield, Town
County—Oconto
Parts of County
Chase, Town
County—Shawano
Parts of County
Angelica, Town
Maple Grove, Town
Racine (City) 04
County—Racine
Parts of County
C.T. 1, 6 through 8, and 10 through 13 (Medically Indigent Pop.)
C.T. 2 through 5
Reedsville 01
County—Manitowoc
Parts of County
Whitelaw, Village
Maribel, Village
Cooperstown, Town
Cato, Town
Rockland, Town
Franklin, Town
Maple Grove, Town
Reedsville, Village
Sparta 03
County—Jackson
Parts of County
Melrose, Town
Melrose, Village
County—Monroe
Parts of County
Angelo, Town
Leon, Town
Little Falls, Town
New Lyme, Town
Norwalk, Village
Ridgeville, Town
Sparta, Town
Sparta, City
Wells, Town
Sheldon, Town
County—Monroe
Parts of County
Lafayette, Town
Tigerton 02
County—Marathon
Parts of County
Elderon, Village
Elderon, Town
Franzen, Town
County—Portage
Parts of County
Rosholt, Village
Alban, Town
County—Shawano
Parts of County
Wittenberg, Village
Tigerton, Village
Bowler, Village
Bartolme
Wittenberg, Town
Morris, Town
Seneca, Town
Germania, Town
Fairbanks, Town
Grant, Town
County—Waupaca
Parts of County
DuPont, Town
Marion, Village
Big Falls, Village
Wyoming, Town
Harrison, Town
Tomahawk 03
County—Lincoln
Parts of County
Bradley, Town
King, Town
Harrison, Town
Skanawan, Town
Somo, Town
Tomahawk, Town
Tomahawk, City
Wilson, Town
County—Oneida
Parts of County
Lynne, Town
Little Rice, Town
Nokonus, Town
County—Price
Parts of County
Knox, Town
Prentice, Town
Spirit, Town
Prentice, City
Western Buffalo County 01
County—Buffalo
Parts of County
Nelson
Cochrane
Lincoln
Alma, City
Alma, Town
Belvedere
Waumandee
Cross
Milton
Buffalo, Town
Fountain, City
Buffalo, City
Western Vernon County 04
County—Vernon
Parts of County
Genoa, Village
Bergen
Benow, Town
Hamburg
Harmony
Sterling
Wheatland
Chaseburg
DeSoto
Stoddard
Whitehall/Arcadia 01
County—Buffalo
Parts of County
Cross
Glencoe
Milton
County—Trempealeau
Parts of County
Arcadia, City
Arcadia, Town
Blair, City

Burnside, Town
Chimney Rock
Dodge
Hale
Independence, City
Lincoln
Pigeon
Pigeon Falls, Village
Preston
Whitehall
Wisconsin Correctional Inst. 02
County—Dodge
Wisconsin State Prison 02
County—Dodge
Wisconsin State Reformatory 02
County—Brown
Wyoming
County listing
Albany
Service area: Carbon-Rock River 04
Big Horn
Service area: Big Horn 03
Carbon 04
Crook
Service area: Upton 01
Freemont
Service area: Sweetwater 01
Service area: Wind River 01
Service area: Shoshoni 01
Service area: Wind River Indian Reservation 01
Hot Springs
Service area: Wind River Indian Reservation 01
Lincoln 00
Natrona
Service area: Shoshoni 01
Niobrara 04
Platte 04
Sweetwater 04
Washakie
Service area: Big Horn 03
Weston
Service area: Upton 01
Service area listing
Big Horn 03
County—Big Horn
Parts of County
Big Horn-South Div.
County—Washakie
Carbon-Rock River 04
County—Albany
Parts of County
Rock River Div.
Shoshoni 01
County—Fremont
Parts of County
Shoshoni Div.
County—Natrona
Parts of County
Hell's Half Acre Div.
Sweetwater 01
County—Freemont
Parts of County
Sweetwater Div.
Upton 01
County—Crook
Parts of County
Hulett Div.
Moorcroft Div.
County—Weston
Parts of County
Upton Div.
Wind River 01
County—Fremont
Parts of County
Dubois Div.
Five Mile Creek Div.
Wind River Div.
Wind River Indian Reservation 01
County—Fremont
Parts of County
Wind River Indian Reservation
County—Hot Spring
Parts of County
Wind River Indian Reservation
American Samoa
County listing
Manu'a District 03
Eastern Tutuila District
Service area: Tutuila Island 01
Western Tutuila District
Service area: Tutuila Island 01
Service area listing
Tutuila Island 01
County—Eastern Tutuila District
County—Western Tutuila District
Trust Terr-Pac
County listing
Marshall District 01
Ponape District 02
Ponape District
Service area: Koarae 01
Truk District 01
Yap District 03
Service area listing
Kosrae 01
County—Ponape District
Parts of County
Kusaie Island
N. Mariana Islands
County listing and name
Rota
Service area: Commonwealth of Northern Mariana Islands 04
Saipan
Service area: Commonwealth of Northern Manana Islands 04
Tinian
Service area: Commonwealth of Northern Mariana Islands 04
Service area listing
Commonwealth of Northern Mariana Islands 04
County—Rota
County—Saipan
County—Tinian
Puerto Rico
Municipio listing
Adjuntas
Sevice area: Guarguao 01
Anasco
Service area: Mayaguez 02
Barceloneta
Service area: Florida 01
Cabo Rojo
Service area: Mayaguez 02
Ciales
Service area: Medically Indigent in Ciales 04
Hormigueros
Service area: Mayaguez 02
Juncos 02
Maricao
Service area: Mayaguez 02
Mayaguez
Service area: Mayaguez 02
Penuelas
Service area: Guarguao 01
Guarguao
Service area: Guarguao 01
Quebradillas
Service area: Medically Indigent in Quebradillas 01
Service area listing
Florida 01
County—Barceloneta
Parts of County
Florida Adentoo
Florida Afuero
Guarguao 01
County—Adjuntas
Parts of County
Portuguez
County—Penuelas
Parts of County
Rucio
County—Guarduao
Parts of County
Guarguao
Mayaguez 02
County—Anasco
County—Cabo Rojo
County—Hormigueros
County—Maricao
County—Mayaguez
Medically indigent in Ciales 04
County—Ciales
Parts of County
Medically indigent in Quebradillas 01
Mecially indigent in Quebradillas 01
County—Quebradillas
Parts of County
Medically indigent in Quebradillas
Virgin Islands
County listing
St. Croix
Service area: Fredericksted 01
Service area listing
Fredericksted 01
County—St. Croix
Parts of County
E.D.'s 13, 14, 19 through 25

Health Manpower Shortage Areas—Dental Care

	Degree of shortage group
Alabama	
County listing	
Bullock	01
Chambers	02
Cherokee	02
Choctaw	02
Clay	01
Cleburne	01
Conecuh	03
Coosa	01
Crenshaw	01
Cullman	03
Dale	01
De Kalb	03
Franklin	04
Geneva	03
Hale	02
Jackson	04
Lamar	01
Lawrence	01
Lowndes	02
Marengo	04
Marion	04
Pickens	04
Randolph	02
Sumter	01
Talladega	03
Washington	01
Wilcox	01
Winston	03
Alaska	
County listing	
Aleutian Islands Division	01
Angoon Division	01
Barrow Division	01
Bethel Division	03
Bristol Bay Borough Div.	
Service area: Bristol Bay	01
Bristol Bay Division	
Service area: Bristol Bay	01
Kobuk Division	04
Kuskokwim Division	01
Nome Division	04
Outer Ketchikan Division	01
Prince of Wales Division	01
Skagway-Yakutat Division	01
Southeast-Fairbanks Div.	01
Upper Yukon Division	01
Valdez-Chitina-Whitt. Div.	01
Wade Hampton Division	01
Yukon-Koyukuk Division	01
Service area listing	
Bristol Bay	01
County-Bristol Bay Borough Div.	
County-Bristol Bay Division	
Arizona	
County listing	
Apache	
Service area: Southeast/South Central Apache Co.	02
Gila	04
Greenlee	03
Mancopa	
Service area: South Phoenix	02
Navajo	02
Service area: Kayenta	01
Service Area: Hopi Indian Reservation	01
Pima	
Service Area: El Rio	01
Service Area: Marana	02
Pinal	04
Santa Cruz	02
Service area listing	
El Rio	01
County—Pima	01
Parts of County	
C.T. 1 through 4	
C.T. 6 through 12, 13.2	
C.T. 22 through 24, 25.01	
C.T. 37.01 through 37.03, 38, 39	
Hopi Indian Reservation	01
County—Navajo	
Parts of County	
Hopi Div.	

Kayenta 01
County—Navajo
Parts of County
Navajo Monument Div.
Marana 02
County—Pima
Parts of County
Marana CCD
South Phoenix 02
County—Maricopa
Parts of County
C.T. 1152 through 1161
C.T. 1162.01, 1162.02, 1163 through 1167
Southeast/South Central Apache Co. 02
County—Apache
Parts of County
St. Johns
Round Valley
Pueblo
Arkansas
County listing
Ashley 04
Calhoun 01
Chicot 03
Cleveland 01
Dallas 04
Grant 03
Hempstead 04
Lafayette 01
Lawrence 04
Lincoln 02
Mississippi 04
Monroe 03
Nevada 03
Poinsett 02
Randolph 03
California
County listing
Alameda
Service area: Fruitvale 02
Fresno
Service area: Huron/Five Points 01
Los Angeles
Service area: Maple/Santa Barbara 01
Service area: Highland/Lincoln Hts/Mt. Wash./El Sereno 02
San Benito 04
San Francisco
Service area: Potrero Hill/South Bayshore 02
San Joaquin
Service area: Mig/Seasonal farmworkers (San Joaquin) 01
Santa Clara
Service area: Loma Prieta school district... 01
Santa Cruz
Service area: Loma Prieta school district... 01
Service area listing
Fruitvale 02
County—Alameda
Parts of county
C.T. 4005, 4053 through 4063, 4065, 4070 through 4078, 4082 through 4098, 4006 through 4011, 4101 through 4104, 4251, 4014 through 4028, and 4030 through 4033
Highland/Lincoln Hts/Mt. Wash./El Sereno.. 02
County—Los Angeles
Parts of county
C.T. 1831 through 1833, 5307, 1835 through 1838, 1851 through 1853, 1991 through 1999, and 2011 through 2017
Huron/Five Points 01
County—Fresno
Parts of county
C.T. 78
Loma Prieta school district 01
County—Santa Clara
Parts of county
Lexington Div. (Part)
County—Santa Cruz
Parts of county
San Lorenzo Valley (Part)
Scotts Valley Div. (Part)
Maple/Santa Barbara 01
County—Los Angeles
Parts of county
C.T. 2214.01, 2214.02, 2215.01, 2215.02, 2216.01, 2216.02, 2217.01, 2217.02, 2218 through 2219, 2221 through 2227, 2244 through 2247, and 2264 through 2267
Mig/Seasonal farmworkers (San Joaquin)..... 01
County—San Joaquin
Parts of county
Migrant & seasonal farmworkers
Potrero Hill/South Bayshore 02
County—San Francisco
Parts of county
C.T. 226, 227, 230 through 234, 606 through 610, and 180
Colorado
County listing
Pueblo
Service Area: Avondale 02
Avondale 02
County—Pueblo
Parts of County
C.T. 30.01, 30.02, 31.02 (Part—Avondale) 32 through 34 (Avondale)
Connecticut
County listing
Hartford
Service Area: North/Northcentral Hartford 02
North/Northcentral Hartford 02
County—Hartford
Parts of County
C.T. 5008 through 5010, 5012 through 5015, 5017, 5018, 5035, 5037
Florida
County listing
Citrus 04
Collier
Service Area: Collier (southern portion) 01
Dixie 02
Gilchrist 01
Hamilton 01
Hernando 02
Hillsborough
Service Area: Hillsborough Co. MIG. Health Center Inc 02
Lafayette 01
Lee 01
Manitee
Service Area: Hillsborough Co. MIG. Health Center Inc 02
Orange
Service Area: Northwest Orange 02
Putnam 04
Sumter 02
Suwannee 02
Service area listing
Collier (southern portion) 01
County—Collier
Parts of county
Everglades (southern portion)
Hillsborough Co. MIG. Health Center Inc 02
County—Hillsborough
Parts of county
C.T. 121 through 141
County—Manitee
Parts of county
C.T. 13 through 16, 19
Northwest Orange 02
County—Orange
Parts of county
C.T. 175 through 179
Georgia
County listing
Atkinson 01
Banks 02
Ben Hill 04
Brantley 01
Brooks 02
Bryan 01
Butts 03
Calhoun 02
Camden 04
Candler 03
Chattahoochee 01
Chattooga 02
Clarke
Service Area: Athens Neighborhood Health Center Target 01
Clinch 01
Coffee 03
Crawford 01
Crisp 04
Dawson 01
Decatur 04
Dooly 02
Early 04
Emanuel 03
Fannin 04
Franklin 04
Glascock
Service Area: Tri-County 01
Greene 04
Hancock 01
Haralson 02
Harris 01
Hart 03
Heard 01
Irwin 03
Jefferson 03
Jenkins 01
Lamar 04
Lanier 04
Lee 01
Liberty 03
Lincoln 03
Long 01
Lumpkin 04
Macon 01
Madison 02
Meriwether 03
Miller 02
Mitchell 03
Montgomery 01
Murray 01
Oconee 01
Oglethorpe 01
Peach 01
Pickens 03
Pike 01
Randolph 01
Screven 01
Seminole 01
Stewart 01
Talbot 01
Taliaferro
Service Area: Tri-County 01
Tattnall 04
Taylor 01
Union 02
Warren
Service Area: Tri-County 01
Wilcox 01
Wilkinson 01
Worth 03
Service area listing
Athens Neighborhood Health Center Target. 01
County—Clarke
Parts of county
C.T. 2, 3, 6, 9
Tri-County 01
County—Glascock
County—Taliaferro
County—Warren
Hawaii
County listing
Hawaii
Service Area: Kau 01
Honolulu
Service Area: Wainae Coast 04
Service area listing
Kau 01
County—Hawaii
Parts of county
C.T. 212
Wainae Coast 04
County—Honolulu
Parts of county
C.T. 96.01, 96.02, 97.98
Idaho
County listing
Idaho 03
Illinois
County listing
Alexander
Service Area: Southern Illinois 02
Brown 04
Calhoun 01
Cook
Service Area: Robbins 02
Service Area: Englewood Area 02
Service Area: Uptown 04
Gallatin 03
Greene 04
Hamilton 02
Hancock 04
Hardin 02
Service Area: Southern Illinois 02
Henderson 02
Jackson 04
Johnson
Service Area: Southern Illinois 02
Kankakee
Service Area: Pembroke 01
Macon
Service Area: Decatur Inner City 01
Macoupin 04

Massac
Service Area: Southern Illinois 02
Pope
Service Area: Southern Illinois 02
Pulaski
Service Area: Southern Illinois 02
Scott 01
Will
Service Area: Joliet Correctional Inst 01
Service Area: Statesville Correctional Inst. 01
Service Area Listing
Decatur Inner City 01
County—Macon
Parts of County
C.T. 1, 7 through 9
Englewood Area 02
County—Cook
Parts of County
C.T. 6701 through 6720, 6801 through 6814, 6101 through 6122
Joliet Correctional Inst 01
County—Will
Parts of County
Joliet Correctional Inst.
Pembroke 01
County—Kankakee
Parts of County
Pembroke Twp
Robbins 02
County—Cook
Parts of County
Robbins Village
Southern Illinois 02
County—Alexander
County—Kittson
County—Hardin
County—Johnson
County—Massac
County—Pope
County—Pulaski
Statesville Correctional Inst 01
County—Will
Parts of County
Statesville Correctional Inst.
Uptown 04
County—Cook
Parts of County
C.T. 310 through 312, 315 through 321
Indiana
County listing
Crawford 03
Lagrange 04
Lake
Service Area: Gary/Area #1 01
Martin 03
Miami 03
Owen 02
Pike 04
Starke 04
Service Area Listing
Gary/Area #1 01
County—Lake
Parts of County
C.T. 101 through 129
Iowa
County listing
Adair 03
Appanoose
Service area: Albia 04
Benton
Service area: Belle Plaine 03
Cedar
Service area: Clarence—Wheatland 03
Clarke
Service area: Osceola 02
Clayton
Service area: Southern Clayton County 04
Clinton
Service area: Clarence—Wheatland 03
Crawford
Service area: Onawa—Mapleton 03
Decatur 02
Guthrie 03
Harrison
Service area: Logan 04
Iowa
Service area: Brooklyn—Montezuma 03
Jasper
Service area: Brooklyn—Montezuma 03
Jones
Service Area: Clarence—Wheatland 03
Service Area: State Correctional Institutions 01
Keokuk 04
Lee
Service area: State Correctional Institutions 01
Louisa 04
Lucas
Service area: Chariton 04
Madison
Service area: Osceola 02
Mahaska
Service area: Brooklyn—Montezuma 03
Marion
Service area: Albia 04
Monona
Service Area: Logan 04
Service Area: Onawa—Mapleton 03
Monroe
Service Area: Albia 04
Service Area: Chariton 04
Polk
Service area: Dentally indigent of Polk Co. 01
Pottawattamie
Service area: Logan 04
Poweshiek
Service area: Brooklyn—Montezuma 03
Scott
Service area: Clarence—Wheatland 03
Shelby
Service area: Logan 04
Tama
Service area: Belle Plaine 03
Taylor
Service area: Bedford 02
Union
Service area: Osceola 02
Van Buren 02
Wapello
Service area: Albia 04
Warren
Service Area: Osceola 02
Service Area: Chariton 04
Wayne 04
Woodbury
Service area: Onawa—Mapleton 03
Albia 04
Service Area Listing
County—Appanoose
Parts of County
Monrovia Town
County—Marion
Parts of County
Hamilton Town
County—Monroe
Parts of County
Albia city
Lovilla Town
County—Wapello
Parts of County
Blakesburg Town
Bedford 02
County—Taylor
Parts of County
Bedford Town
Gravity Town
Conway Town
New Market Town
Sharpsburg Town
Athelstan Town
Blockton Town
Clearfield Town
Belle Plaine 03
County—Benton
Parts of County
Belle Plaine Town
Luzerne Town
Keystone Town
County—Tama
Parts of County
Elberon Town
Vining Town
Chelsea Town
Brooklyn—Montezuma 03
County—Iowa
Parts of County
Victor Town
County—Jasper
Parts of County
Lynnville Town
County—Mahaska
Parts of County
Barnes City Town
County—Poweshiek
Parts of County
Brooklyn Town
Guernsey Town
Victor Town
Hartwick Town
Montezuma Town
Searsboro Town
Barnes City Town
Deep River Town
Malcolm Town
Chariton 04
County—Lucas
Parts of County
Chariton Township
Lucas Town
Derby Town
Russell Town
Williamson Town
County—Monroe
Parts of County
Melrose Town
County—Warren
Parts of County
Lacona Town
Clarence—Wheatland 03
County—Cedar
Parts of County
Clarence Town
Lowden Town
Stanwood Town
County—Clinton
Parts of County
Lost Nation Town
Calamus Town
Wheatland Town
Toronto Town
County—Jones
Parts of County
Olin Town
Wyoming Town
Oxford Junction Town
County—Scott
Parts of County
Dixon Town
New Liberty Town
Dentally indigent of Polk Co. 01
County—Polk
Parts of County
Dentally indigent of Polk Co.
Logan 04
County—Harrison
Parts of County
Logan Town
Magnolia Town
Woodbine Town
Missouri Valley Town
Modale Town
Persia Town
Mondamin Town
Pisgah Town
Little Sioux Town
County—Monona
Parts of County
Moorhead Town
County—Pottawattamie
Parts of County
Neola Town
Underwood Town
County—Shelby
Parts of County
Portsmouth Town
Panama Town
Tennant Town
Onawa—Mapleton 03
County—Crawford
Parts of County
Charter Oak Town
Ricketts Town
County—Monona
Parts of County
Whiting Town
Turin Town
Castana Town
Mapleton Town
Rodney Town
Onawa Town
Ute Town
Soldier Town
County—Woodbury
Parts of County
Anthon Town
Otto Town
Hornick Town
Smithland Town
Danbury Town
Osceola 02
County—Clarke
County—Madison
Parts of County
Truro Town
County—Union
Parts of County
Afton
Arispe
Ionmer
Thayer
County—Warren
Parts of County
New Virginia Town

- Southern Clayton County 04
  - County—Clayton
    - Parts of County
      - Guttenberg City
      - Garber Town
      - Elkport Town
      - North Buena Vista Town
      - Elkader Town
      - Saint Olaf Town
      - Garnavillo Township
      - Little Port Town
      - Volga City Town
      - Edgewood Town
      - Strawberry Point Town
- State Correctional Institutions 01
  - County—Jones
    - Parts of County
      - Men's Reformatory (Anamosa)
  - County—Lee
    - Parts of County
      - State Penitentiary (Ft. Madison)

Kansas
- County listing
  - Chase 01
  - Chautauqua 03
  - Cherokee 03
  - Coffey 02
  - Comanche 01
  - Gove
    - Service area: Gove/Logan 04
  - Graham 02
  - Gray 04
  - Greeley 01
  - Jefferson 04
  - Jewell 01
  - Lane 01
  - Linn 02
  - Logan
    - Service area: Gove/Logan 04
  - Meade 04
  - Morton 01
  - Smith 03
  - Stanton 01
  - Wabaunsee 02
  - Wallace 01
  - Woodson 03
- Service area listing
  - Gove/Logan 04
    - County—Gove
    - County—Logan

Kentucky
- County listing
  - Ballard 04
  - Bath 04
  - Bell
    - Service area: Western Harlan 01
    - Service area: Williamsburg 01
  - Bracken 02
  - Breathitt 04
  - Butler 03
  - Carlisle 01
  - Carter 02
  - Casey 02
  - Clay 01
  - Edmonson 01
  - Elliott 01
  - Estill 02
  - Gallatin 01
  - Grant 03
  - Hancock 03
  - Harlan
    - Service area: Western Harlan 01
    - Service area: Cumberland 01
  - Jackson 01
  - Johnson 04
  - Knott 02
  - Knox
    - Service area: Williamsburg 02
  - Larue 04
  - Laurel 02
  - Leslie 01
  - Lewis 01
  - Lincoln 01
  - Livingston 03
  - Logan 04
  - Lyon
    - Service area: Kentucky State Reformatory 01
  - McCreary 04
  - Magoffin 01
  - Martin 01
  - Menifee 01
  - Morgan 09
  - Ohio 09
  - Pendleton 04
  - Perry 02
  - Pike 04
  - Spencer 04
  - Todd 03
  - Trimble 04
  - Webster 03
  - Whitley
    - Service area: Williamsburg 02
  - Wolfe 03
- Service area listing
  - Cumberland 01
    - County—Harlan
      - Parts of County
        - Upper Clover CCD
        - Poor Fork CCD
        - Wallins Creek CCD
        - Alva CCD
  - Kentucky State Reformatory 01
    - County—Lyon
      - Parts of County
        - Kentucky State Reformatory
  - Western Harlan 01
    - County—Bell
      - Parts of County
        - Pruden Fonde CCD
    - County—Knox
      - Parts of County
        - Barbourville West CCD
        - Barbourville CCD
        - Barbourville East CCD
        - Bryants CCD
        - Dewitt CCD
        - Girdler CCD
        - Gray CCD
        - Trosper CCD
    - County—Whitley
      - Parts of County
        - Auler CCD
        - Rockholds CCD
        - Williamsburg CCD

Louisiana
- County listing
  - Orleans service area: Irish Channel 01
  - Tensas 01
  - Vernon 02
- Service area listing
  - Irish Channel 01
    - County—Orleans
      - Parts of County
        - C.T. 77, 78, 81, 83, 87 through 89

Maine
- County Listing
  - Aroostook
    - Service Area: Madawaska 01
  - Penobscot
    - Service Area: Dexter-Hartland 03
    - Sevice Area: Northern Penobscot-Piscataquis 02
  - Piscataquis
    - Service Area: Dexter-Hartland 03
    - Servcie Area: Northern Penobscot-Piscataquis 02
  - Somerset
    - Service Area: Dexter-Hartland 03
- Service area listing
  - Dexter-Hartland 03
    - County—Penobscot
      - Parts of County
        - Charleston Twn
        - Corrinna Twn
        - Connth Twn
        - Corinth Twn (E. & S.)
        - Dexter Twn
        - Exeter Twn
        - Garland Twn
        - Newport Twn
        - Stetson Twn
        - Plymouth Twn
    - County—Piscataquis
      - Parts of County
        - Abbot Twn
        - Atkinson Twn
        - Dover Twn
        - Guilford Twn
        - Parkman Twn
        - Sangerville Twn
        - Wellington Twn
    - County—Somerset
      - Parts of County
        - Cornville Twn
        - Cambridge Twn
        - Detroit Twn
        - Harmony Twn
        - Hartland Twn
        - Palmyra Twn
        - Ripley Twn
        - St. Albans Twn
        - Brighton Plant
        - Athens Twn
        - Canaan Twn
- Madawaska 01
  - County—Aroostook
    - Parts of County
      - Grand Isle
      - Madawaska
      - St. Agatha
- Northern Penobscot—Piscataquis 02
  - County—Penobscot
    - Parts of County
      - Bradford Town
      - Greenbush Town
      - Greenfield Town
      - Maxfield Town
      - Unorg. Terr. Of N. Penobscot
      - Burlington Town
      - Chester Town
      - East Millinocket Town
      - Enfield Town
      - Howland Town
      - La Grange Town
      - Lee Town
      - Lincoln Town
      - Lowell Town
      - Mattawamkeag Town
      - Medway Town
      - Millinocket Town
      - Passadumkeag Town
      - Springfield Town
      - Winn Town
      - Unorganized Terr. Of Kingmen
      - Edinburg Town
      - Lakeville Plantation
      - Carroll Plantation
      - Woodville Town
      - Dixmont Town
      - Etna town
      - Webster Plantation
      - Seboeis Plantation
      - Grand Falls Plantation
  - County—Piscataquis
    - Parts of County
      - Brownville Twn
      - Greenville Twn
      - Milo Twn
      - Monson Twn
      - Sebec Twn
      - Shirely Twn
      - Medford Twn
      - Lake View Plantation
      - Bowerbank Twn
      - Willimantic Twn
      - Elliottsville Plantation
      - Barnard Plantation
      - Blanchard Plantation
      - Kingsbury Plantation
      - Unorg. Terr. Of N. Piscataquis
      - Unorg. Terr. Of S.E. Piscataquis

Maryland
- County Listing
  - Somerset
    - Service Area: Princess Anne Service Area 02
  - Baltimore City
    - Service Area: North Central Baltimore 04
    - Service Area: Constant Care Service Area 02
    - Service Area: East Baltimore 01
    - Service Area: West Baltimore 02
    - Service Area: Hampden/Woodberry/Remington 04
- Service area listing
  - Constant Care Service Area 02
    - County—Baltimore City
      - Parts of County
        - C.T. 402, 1401 Through 1403
        - 1501 Through 1502
        - 1601 Through 1604
        - 1701 Through 1708
        - 2101
  - East Baltimore 01
    - County—Baltimore City
      - Parts of County
        - C.T. 501, 603 Through 605
        - 704, 806 Through 808
        - 909, 1001, 1002, 1008
  - Hampden/Woodberry/Remington 04
    - County Baltimore City
      - Parts of County
        - C.T. 1203, 1206, 1207, 1305, 1306, 1306.02

- North Central Baltimore 04
  - County—Baltimore City
    - Parts of County
      - C.T. 802, 803.01, 803.02
      - 804 Through 808
      - 901 Through 909
      - 1004, 1204
- Princess Anne Service Area 02
  - County—Somerset County
    - Parts of County
      - Dist. 1, 3, 4, 6, 8, 13, 15
- West Baltimore 02
  - County—Baltimore City
    - Parts of County
      - C.T. 1800 Through 1803
      - 1901 Through 1909
      - 2001 Through 2005

Massachusetts
- County listing
  - Hampden
    - Service area: Worthington 01
  - Hampshire
    - Service area: Worthington 01
  - Suffolk
    - Service area: South end 03
    - Service area: North Dorchester 02
    - Service area: Allston 01
- Service Area Listing
  - Allston 01
    - County—Suffolk
      - Parts of County
        - C.T. 1, 7, 8
  - Dorchester 02
    - County—Suffolk
      - Parts of County
        - C.T. 901 through 924
  - South End 03
    - County—Suffolk
      - Parts of County
        - C.T. 703 (S. ½)
        - 704 through 712
  - Worthington 01
    - County—Hampden
      - Parts of County
        - Chester Town
    - County—Hamshire
      - Parts of County
        - Chesterfield Town
        - Cummington Town
        - Goshen Town
        - Huntington Town
        - Plainfield Town
        - Worthington Town

Michigan
- County listing
  - Alcona 03
  - Arenac
    - Service area: Rifle River 02
    - Service area: Sterling-Standish 04
  - Baraga
    - Service area: Iron County Area 04
  - Bay
    - Service area: Sterling-Standish 04
  - Clare
    - Service area: Harrison 01
  - Genesee
    - Service area: North Flint 01
  - Gladwin
    - Service area: Gladwin 04
    - Service area: Sterling-Standish 04
  - Houghton
    - Service area: Iron County Area 04
  - Iosco
    - Service area: Rifle River 02
  - Iron
    - Service area: Iron County Area 04
  - Lapeer
    - Service area: Sandusky 04
  - Livingston
    - Service area: Cohoctah 01
  - Marquette
    - Service area: Iron County Area 04
  - Ogemau
    - Service area: Rifle River 02
  - Ontonagon
    - Service area: Iron County Area 04
  - Roscommon
    - Service area: Houghton Lake—St. Helen 04
  - Saginaw
    - Service area: Easton 04
  - Sanilac
    - Service area: Sandusky 04
  - Shiawassee
    - Service area: Easton 04
    - Service area: Cohoctah 01
  - Wayne
    - Service area: Detroit Area #1 02
    - Service area: Detroit Area #2 03
    - Service Area: Wayne County Jail 02
- Service area listing
  - Cohoctah 01
    - County—Livingston
      - Parts of County
        - Cohoctah Twp.
        - Conway Twp.
        - Deerfield Twp.
    - County—Shiawassee
      - Parts of County
        - Antrim Twp.
        - Burns Twp.
        - Perry Twp.
  - Detroit Area #1 02
    - County—Wayne
      - Parts of County
        - C.T. 501 through 503, 505, 509, 547 through 550, 554 through 556, 558 through 572, 601.01, 602, 604, 651 through 657, 662 through 665, 751 through 797, 951 through 961, 511 through 527, 537, 539 through 542.
  - Detroit Area #2 03
    - County—Wayne
      - Parts of County
        - 3 through 13, 15 through 21, 36, 38 through 41, 43, 51 through 56, 58 through 64, 66 through 73, 101, 103 through 123, 153 through 169, 170 through 171 (portions), 173 through 185, 187, 194 (portions), 201 through 205, 206 through 213, 251 through 255, 256.01, 256.02, 257, 258.01, 259.02, 260, 261.01, 261.02, 262.01 through 262.02 (portions), 263, 358, 401, 407, 408, 409.01.
  - Easton 04
    - County—Saginaw
      - Parts of County
        - Brady Twp.
        - Chapin Twp.
        - Chesaning Twp.
        - Maple Grove Twp.
    - County—Shiawassee
      - Parts of County
        - Fairfield Twp.
        - Hazelton Twp.
        - New Haven Twp.
        - Rush Twp.
  - Gladwin 04
    - County—Gladwin
      - Parts of County
        - Beaverton City
        - Beaverton Twp.
        - Bently Twp.
        - Billings Twp.
        - Buckeye Twp.
        - Butman Twp.
        - Clement Twp.
        - Gladwin City
        - Gladwin Twp.
        - Grant Twp.
        - Hay Twp.
        - Sage Twp.
        - Secord Twp.
        - Sherman Twp.
        - Tobacco Twp.
  - Harrison 01
    - County—Clare
      - Parts of County
        - Arthur Twp.
        - Franklin Twp.
        - Freeman Twp.
        - Frost Twp.
        - Greenwood Twp.
        - Hamilton Twp.
        - Harrison City
        - Hatton Twp.
        - Hayes Twp.
        - Lincoln Twp.
        - Redding Twp.
        - Summerfield Twp.
        - Winterfield Twp.
  - Houghton Lake—St. Helen 04
    - County—Roscommon
      - Parts of County
        - Denton Twp.
        - Roscommon Twp.
        - Richfield Twp.
        - Au Sable Twp.
        - Nestor Twp.
        - Backus Twp.
        - Higgins Twp.
  - Iron County Area 04
    - County—Barage
      - Parts of County
        - Covington Township
        - Spurr Township
    - County—Forest, Wisconsin
      - Parts of County
        - Alvin Township
        - Pople River Township
    - County—Houghton
      - Parts of County
        - Duncan Township
    - County—Iron
    - County—Marquette
      - Parts of County
        - Republic Township
    - County—Vilas, Wisconsin
      - Parts of County
        - Philps Township
        - Connover Township
    - County—Ontonagon
      - Parts of County
        - Interior Township
  - North Flint 01
    - County—Genesee
      - Parts of County
        - C.T. 1 through 7, 19 through 28, 44.
  - Rifle River 02
    - County—Arenac
      - Parts of County
        - Moffet Twp
        - Clayton Twp.
        - Mason Twp.
    - County—Iosco
      - Parts of County
        - Plainfield Twp.
        - Reno Twp.
        - Burleigh Twp.
    - County—Ogemau
      - Parts of County
        - Horton Twp.
        - Mills Twp.
        - Richland Twp.
        - Churchhill Twp.
        - Logan Twp.
  - Sandusky 04
    - County—Lapeer
      - Parts of County
        - Burnside Twp.
    - County—Sanilac
  - Sterling-Standish 04
    - County—Arenac
      - Parts of County
        - Adams Twp.
        - Arenac Twp.
        - Au Gres City
        - Au Gres Twp.
        - Deep River Twp.
        - Lincoln Twp.
        - Omer City
        - Sims Twp.
        - Standish Twp.
        - Turner Twp.
        - Whitney Twp.
    - County—Bay
      - Parts of County
        - Gibson Twp.
    - County—Gladwin
      - Parts of County
        - Bourret Twp.
        - Grim Twp.
  - Wayne County Jail 02
    - County—Wayne
      - Parts of County
        - Wayne County Jail

Minnesota
- County listing
  - Hennepin
    - Service Area: Am. Ind. Pop. in Minneapolis 01
  - Kittson
    - Service Area: Am. Ind. Pop. in Minneapolis 02
- Service Area Listing and Service Area Name
  - Am. Ind. Pop. in Minneapolis 01
    - County—Hennepin
      - Parts of County
        - Am. Ind. Pop in Minneapolis

Mississippi
- County listing
  - Hinds
    - Service Area: Southwest Hinds 01
  - Lawrence
    - Service Area: Lawrence/Lincoln 03
  - Lincoln
    - Service Area: Lawrence/Lincoln 08

Webster 02
Service Area Listing
Lawrence/Lincoln 03
County—Lawrence
County—Lincoln
Southwest Hinde 01
County—Hinde
Parts of County
C.T. 106 through 107, 112 through 113

Missouri
County listing
Bates 04
Bollinger 01
Carter 01
Cedar
Service Area: Humansville 02
Chariton 04
Christian 02
Clark 03
Dallas 01
Daviess 03
De Kalb 04
Douglas 03
Dunklin 02
Hickory
Service Area: Humansville 02
Service Area: Hickory 01
Holt 02
Jackson
Service Area: Central Kansas City 02
Knox 03
Lewis 02
Lincoln 03
McDonald 04
Maries 02
Mississippi 02
Oregon 01
Ozark 01
Pemiscot 03
Polk
Service Area: Humansville 02
Pulaski 02
Ralls 01
Reynolds 01
Ripley 02
St. Clair
Service Area: Humansville 02
Service Area: St. Clair 02
Schuyler 01
Scotland 04
Shannon 01
Stoddard 03
Stone 03
Sullivan 03
Texas 03
Washington 01
Wright 03
Service Area Listing
Central Kansas City 02
County—Jackson
Parts of County
C.T. 4 through 10
C.T. 37 through 42
C.T. 52 through 55
C.T. 56.01, 56.02, 57, 58.02, 59.01
C.T. 60 through 64
C.T. 75 through 77, 78.01, 78.02
C.T. 79 through 80
C.T. 15 through 26
C.T. 32 through 34
C.T. 35.01, 35.02, 36.01, 36.02
Hickory 01
County—Hickory
Parts of County
Center Township
Cross Timbers Township
Green Township
Jordan Township
Montgomery Township
Stark Township
Wheatland Township
Humansville 02
County—Cedar
Parts of County
Jefferson Township
Washington Township
County—Hickory
Parts of County
Tyler Township
Weaubleau Township
County—Polk
Parts of County
Campbell Township
Cliquot Township
Flemington Township
Humansville 02
County—Polk
Parts of County
Jefferson Township
Johnson Township
County—St. Clair
Parts of County
Collins Township
Washington Township
St. Clair 02
County—St. Clair
Parts of County
Appleton Township
Butler Township
Center Township
Chalk Level Township
Dallas Township
Doyal Township
Jackson Township
Monegaw
Osage Township
Osceola Township
Polk Township
Roscoe Township
Speedwell Township
Taber Township

Montana
County listing
Phillips 04
Rosebud
Service area: Rosebud 04
Treasure
Service area: Rosebud 04
Service Area Listing
Rosebud 04
County—Rosebud
County—Treasure

Nebraska
County listing
Arthur
Service Area: Mullen 01
Cherry
Service Area: Mullen 01
Douglas
Service Area: Southeast Omaha 01
Service Area: Northeast Omaha 04
Grant
Service Area: Mullen 01
Hooker
Service Area: Mullen 01
Logan
Service Area: Mullen 01
McPherson
Service Area: Mullen 01
Thomas
Service Area: Mullen 01
Service Area Listing
Mullen 01
County—Arthur
County—Cherry
Parts of County
Calf Creek Prec.
Elsmere Prec.
Gillaspie Prec.
Kennedy Prec.
Lackey Prec.
Loup Prec.
Mother Lake Prec.
Pleasant Hill Prec.
Wells Prec.
Elsmere
County—Grant
County—Hooker
County—Logan
Parts of County
Burt Prec.
Cody Lake Prec.
Lone Valley Prec.
County—McPherson
Parts of County
Hall Prec.
Whitewater Prec.
Worden Prec.
County—Thomas
Northeast Omaha 04
County—Douglas
Parts of County
C.T. 6 through 7, 9 through 12, 13.01, 13.02, 14 through 15, 52, 60

Nevada
County listing
Clark
Service Area: Northeast Clark 01
Service Area: South/Southwest Clark 01
Service Area: Western Clark 01
Esmeralda 01
Eureka 01
Lander 01
Lyon 03
Mineral 02
Nye 01
Storey 01
White Pine 04
Northeast Clark 01
County—Clark
Parts of County
C.T. 56
C.T. 59 (East)
South/Southwest Clark 01
County—Clark
Parts of County
C.T. 58 (South)
C.T. 57
Western Clark 01
County—Clark
Parts of County
C.T. 59 (West)
C.T. 58 (Central/Northern)

New Jersey
County Listing
Mercer
Service Area: Dentally Indigent of Henry Austin 03
Passaic
Service Area: Northside Paterson 02
Service area listing
Dentally Indigent of Henry Austin area 03
County—Merger
Parts of County
C.T.'s 001, 006 (Portion), 009, 010, 011 (Portion), 014 (Portion), 015 through 017, 018 (Portion), 019, 020, 021 (Portion), 022 (Portion)
Northside Patterson
County—Passaic
Parts of County
C.T.'s 1803 through 1807

New Mexico
County listing
Bernalillo
Service area: Los Padillas/Pajarito 01
Catron 01
De Baca
Service area: Ft. Sumner-Santa Rosa 01
Guadalupe
Service area: Ft. Sumner-Santa Rosa 01
Harding 01
Hidalgo 01
Lincoln
Service area: Northern Lincoln Co. 01
Quay 04
Rio Arriba 03
Sandoval 03
Sierra 02
Torrance 02
Service Area Listing
Ft. Sumner-Santa Rosa 01
County—De Baca
County—Guadalupe
Los Padillas/Pajarito 01
County—Bernalillo
Parts of County
C.T. 46
Northern Lincoln Co. 01
County—Lincoln
Parts of County
Carrizozo
Capitan
Corona

New York
County Listing
Bronx
Service area: South Central Bronx-Fort Apache 04
Cattaraugus
Service area: Northeast Cattaraugus 01
Kings
Service area: S.W. Brooklyn (Health Area 41) 01
Service area: S. Williamsburg 04
Service area: Gowanus/Park Slope 02
New York
Service area: Lower Eastside 02
Service area: East Harlem 03
Westchester
Service area: Dentally Indigent Pop. of Mt. Vernon 04
Service area listing
Dentally Indigent Pop. (Mt. Vernon)
County—Westchester
Parts of County
C.T.'s 25, 27, 28, 29, 31, 32, 35
East Harlem 03
County—New York
Parts of County
C.T.'s 178, 180, 182, 192, 194, 196, 198, 192, 194, 196, 198
Gowanus/Park Slope 02
County—Kings
Parts of County
C.T.'s 71, 127, 181, 183

Lower Eastside 02
County—New York
Parts of County
C.T.'s 10.02, 20, 22.02, 24, 26.01, 26.02
Northwest Cattaraugus 01
County—Cattaraugus
Parts of County
Dayton
Persia
Otto
East Otto
Mansfield
Leon
New Albion
Conewango
Napoli
Little Valley
S. Williamsburg 04
County—Kings
Parts of County
C.T.'s 253, 257, 259.01, 259.02, 261, 279, 281, 283, 285.01, 285.02, 287, 289, 291, 293, 387, 389, 391, 393, 395, 397, 399, 415, 417 419, 421, 423, 429, 435, 487, 489, 491, 505, 507, 509, 511, 523, 525, 527, 529, 531, 533, 535, 537, 539, 545, 547, 549
S.W. Brooklyn (Health Area 41) 01
County—Kings
Parts of County
C.T.'s 55, 57, 59, 85
South Central Bronx—Fort Apache 04
County—Bronx
Parts of County
C.T.'s 121.01, 121.02, 123, 125, 127.01, 131.151, 157, 161

North Carolina
County listing
Alexander 03
Anson 01
Bladen 02
Brunswick 01
Caldwell 04
Columbus 03
Cumberland 04
Durham
Service Area: Lincoln Comm. Health Center 04
Jones 01
Lincoln 03
McDowell 04
Macon 04
Mitchell
Service Area: Northern Mitchell Co 01
Montgomery 04
Pender 02
Richmond 04
Robeson 04
Sampson 02
Scotland 03
Union 02
Wilkes 03
Service Area Listing
Lincoln Comm. Health Center 04
County—Durham
Parts of County
C.T. 6 through 14
Northern Mitchell Co. 01
County—Mitchell
Parts of County
Bakersville
Cane Creek
Little Rock Creek
Fork Mountain
Red Hill
Harrell
Bradshaw
Poplar
Snow Creek

North Dakota
County listing
Benson 03
Billings 01
Burke 01
Dunn 01
Eddy 04
Emmons 04
Grant 01
Kidder 03
McHenry 03
McKenzie 04
Mercer 03
Oliver 03
Pierce
Service Area: Harvey 04
Sheridan
Service Area: Harvey 04
Sioux 01
Slope 01
Ward
Service Area: Kenmare 01
Wells
Service Area: Harvey 04
Service Area Listing
Harvey 04
County—Pierce
Parts of County
South Pierce Division
County—Sheridan
Parts of County
Sheridan
County—Wells
Parts of County
Wells
Kenmare 01
County—Ward
Parts of County
Des Lacs Valley Div.
Kenmare Div.

Ohio
County listing
Adams 01
Brown 03
Cuyahoga
Service area: Glenville (Area I—Cleveland) 02
Hamilton
Service area: Winton Hills (Cincinnati) 02
Harrison 02
Meigs 03
Monroe 03
Montgomery
Service area: I—Dayton 04
Service area: II—Dayton 01
Service area: III—Dayton 02
Morgan 02
Noble 04
Paulding 04
Perry 03
Ross
Service area: Dentally Indigent (Ross Co.) 04
Sandusky
Service area: Migrant Pop (Sandusky Co.) 01
Vinton 01
Service area listing
Area I—Dayton 04
County—Montgomery
Parts of County
C.T. 1 through 5, 16 through 18, 30, 31
Area II—Dayton 01
County—Montgomery
Parts of County
C.T. 19, 22, 28, 25 through 29, 32 through 34
Area III—Daytona 02
County—Montgomery
Parts of County
C.T. 6, 7, 12 through 15, 20, 21
Dentally Indigent (Ross Co.) 04
County—Ross
Parts of County
Dentally Indigent
Glenville (Area I—Cleveland) 02
County—Cuyahoga
Parts of County
C.T. 1114
C.T. 1116–1186
C.T. 1181–1185
Migrant Pop (Sandusky Co.) 01
County—Sandusky
Parts of County
Migrant Pop.
Winton Hills (Cincinnati) 02
County—Hamilton
Parts of County
C.T. 73 (Winton Hills)
C.T. 80 (Winton Hills)
C.T. 257 (Elmwood Place)

Oklahoma
County listing
Adair 01
Atoka 01
Choctaw 04
Coal 02
Cotton 04
Delaware 03
Dewey 01
Greer 03
Haskell 01
Hughes 04
Johnston 02
Kiowa 02
Latimer 08
La Flore 08
McCurtain 04
Major 01
Okfuskee 01
Osage 08
Pushmataha 01
Roger Mills 01
Seminole 04
Oregon
County listing
Curry
Service area: N.W. Curry 02
Deschutes
Service area: La Pine 02
Gilliam
Service area: Tri-County 04
Josephine
Service area: Cave Junction 04
Klamath
Service area: La Pine 02
Lake
Service area: La Pine 02
Marion
Service area: Marion Co.'s area migrant pop. 01
Morrow
Service area: Tri-County 04
Multnomah
Service area: North/Northeast Portland 03
Polk
Service area: Marion Co.'s area migrant pop. 01
Wheeler
Service area: Tri-County 04
Yamhill
Service area: Marion Co.'s area migrant pop. 01
Service Area Listing
Cave Junction 04
County—Josephine
Parts of County
Cave Junction
La Pine 02
County—Deschutes
Parts of County
Sisters—Mulligan CCD South of Sumriver
County—Klamath
Parts of County
Crescent Lake CCD
Chiloquin CCD
County—Lake
Parts of County
Silver Lake—Ft Rock CCD
Marion Co.'s area migrant pop. 01
County—Marion
Parts of County
Migrant Pop.
County—Polk
Parts of County
Migrant Pop.
County—Yamhill
Parts of County
Migrant Pop.
N.W. Curry 02
County—Curry
Parts of County
Port Orford CCD
Gold Beach CCD
Agness CCD
North/Northeast Portland 03
County—Multnomah
Parts of County
C.T. 33 through 40, 22
Tri-County 04
County—Gilliam
County—Morrow
County—Wheeler

Pennsylvania
County listing and name
Adams
Service area: North Adams 02
Allegheny
Service area: McKees Rocks/Stowe 04
Service area: Homenwood-Brushton 01
Armstrong
Service area: Armstrong-Clarion 08
Service area: Kiski Valley 08
Bedford
Service area: Hyndman 01
Cambria
Service area: South Central Clearfield 02
Carbon
Service area: Jim Thorpe 01
Centre
Service area: Snow Shoe 08

Clarion
Service area: Armstrong-Clarion 03
Service area: Forest 02
Clearfield
Service area: Snow Shoe 03
Service area: South Central Clearfield 02
Crawford
Service area: East Crawford County 01
Dauphin
Service area: Tri-Town service area 04
Delaware
Service area: City of Chester 02
Fayette
Service area: Greensboro 02
Forest
Service area: Forest 02
Franklin
Service area: Valleys community 01
Fulton 01
Greene
Service area: Greensboro 02
Service area: West Greene 01
Huntingdon
Service area: Mt. Union 02
Indiana
Service area: Indiana—N portion 02
Lancaster
Service area: Welsh Mountain 02
Lycoming
Service area: Northern Lycoming 01
Mifflin
Service area: McClure 04
Service area: Mt. Union 02
Northumberland
Service area: Herndon/Mandata 01
Perry 01
Philadelphia
Service area: North Philadelphia 01
Schuylkill
Service area: Herndon/Mandata 01
Service area: Tri-Town service area 04
Snyder
Service area: McClure 04
Somerset
Service area: Hyndman 01
Sullivan 01
Tioga
Service area: Northern Lycoming 01
Venango
Service area: Forest 02
Warren
Service area: Forest 02
Westmoreland
Service area: Kiski Valley 03
Wyoming
Service area: Southern Wyoming Co. 01
York
Service area: York City 04
Service area listing
Armstrong-Clarion 03
County—Armstrong
Parts of county
Brady's Bend Township
Madison Township
Perry Township
Pine Township
Sugarcreek Township
Washington Township
County—Clarion
Parts of county
Brady Township
East Brady Township
Madison Township
City of Chester 02
County—Delaware
Parts of county
C.T. 4051 through 4057, 4060, 4048 through 4050, 4058.01, 4058.02 and 4059
East Crawford County 01
County—Crawford
Parts of county
Athens Township
Bloomfield Township
Centerville Township
Richmond Township
Rockdale Township
Rome Township
East Crawford County 01
County—Crawford
Parts of county
Sparta Township
Spartanburg Township
Steuben Township
Townville Borough
Forest 02
County—Clarion
Parts of county
Washington Township
Farmington Township
County—Forest
County—Venango
Parts of county
Pleasantville Township
Allegheny Township
President Township
County—Warren
Parts of county
Triumph Township
Limestone Township
Watson Township
Deerfield Township
Cherry Grove Township
South West Township
Greensboro 02
County—Fayette
Parts of county
Point Marion Borough
German Township
Nicholson Township
Springhill Township
County—Greene
Parts of county
Dunkard Township
Greene Township
Monongahela Township
Greensboro Borough
Herndon/Mandata 01
County—Northumberland
Parts of county
East Cameron Township
Herndon
Jackson Township
Jordon Township
Little Mahoney Township
Lower Mahoney Township
Upper Mahoney Township
Washington Township
West Cameron Township
County—Schuylkill
Parts of county
Eldred Township
Upper Mahantango
Homerwood-Brushton 01
County—Allegheny
Parts of county
C.T. 1207 and 1301 through 1305
Hyndman 01
County—Bedford
Parts of county
Harrison Township
Hyndman Borough
Juniata Township
Londonderry Township
County—Somerset
Parts of county
Allegheny Township
Fairhope Township
Indiana—N portion 02
County—Indiana
Parts of county
West Mahoning Township
North Mahoning Township
South Mahoning Township
East Mahoning Township
Canoe Township
Banks Township
Grant Township
Montgomery Township
Washington Township
Rayne Township
Green Township
Pine Township
Glen Campbell Borough
Smicksburg Borough
Cherry Tree Borough
Marion Center Borough
Plumville Borough
Creekside Borough
Glymer
Jim Thorpe 01
County—Carbon
Parts of county
Kidder Township
Penn Forest Township
Jim Thorpe Borough
East Side Borough
Lausanne Township
Lehigh Township
Kiski Valley 03
County—Armstrong
Parts of county
Apollo Borough
Bethel Township
Burrel Township
Gilpin Township
Kiskiminitas Township
Leechburg Borough
North Apollo Borough
Parks Township
South Bend Township
County—Westmoreland
Parts of county
Oklahoma Borough
Allegheny Township
Avonmore Borough
Bell Township
East Vandergrift Borough
Hyde Park Borough
Vandergrift Borough
Washington Township
West Leechburg Borough
McClure 04
County—Mifflin
Parts of county
Decatur (Northern 1/2)
County—Snyder
Parts of county
Adams Township
McClure
Spring Township
West Beaver Township
McKees Rocks/Stowe 04
County—Allegheny
Parts of county
C.T. 4621 through 4625, 4631 through 4632, and 4634 through 4636
Mt. Union 02
County—Huntingdon
Parts of county
Brady Township
Mapleton
Mill Creek
Mt. Union
Shirleysburg
Shirley Township
Union Township
County—Mifflin
Parts of county
Newton Hamilton
Wayne Township
North Adams 02
County—Adams
Parts of county
Menallen Township
Tyrone Township
Huntington Township
Butler Township
Arendtsville Borough
Bendersville Borough
Biglerville Borough
York Springs Borough
North Philadelphia 01
County—Philadelphia
Parts of county
C.T. 172 through 174, 151 through 155, 165 through 169, 171, 131 through 133, 135 through 141, and 145 through 149
Northern Lycoming 01
County—Lycoming
Parts of county
Brown Township
Cascade Township
Cogen House Township
Cumming Township (Northern 2/3)
Gamble Township
Jackson Township
Lewis (Northern 2/3)
McHenry Township
McIntyre Township
McNett Township
Pine Township
Plunketts' Creek (Western 1/3)
County—Tioga
Parts of county
Elk Township
Liberty Township (Western 1/2)
Morris Township
Snow Shoe 03
County—Centre
Parts of county
Baggs Township (Western 1/2)
Burnside Township
Curtin Township (Western 2/3)
Huston Township (Northern 1/2)
Snow Shoe
Snow Shoe Township
Union Township
Unionville

County—Clearfield
Parts of county
Cooper Township (Northern 1/4)
Covington Township
Karthaus Township
South Central Clearfield 02
County—Cambria
Parts of county
Reade Township (Northern 2/3)
White Township
County—Clearfield
Parts of county
Beccaria Township
Bigler Township (Western 2/3)
Chest Township
Coalport Borough
Glen Hope Borough
Gulich Township
Irvona Borough
Jordan Township
Ramey Borough
Westover Borough
Southern Wyoming Co. 01
County—Wyoming
Parts of county
Exeter Township
Faus Township
Monroe Township
Northmoreland Township
Noxen Township
Tri-Town service area 04
County—Dauphin
Parts of county
Lykens Borough
Williamstown Borough
Gratz Borough
Wiconisco Township
County—Schuylkill
Parts of county
Tower City Borough
Frailey Township
Valleys community 01
County—Franklin
Parts of county
Fannet Township
Metal Township
Welsh Mountain 02
County—Lancaster
Parts of county
Salisbury Township
Caernarvon Township
Earl Township
East Earl Township
West Greene 01
County—Greene
Parts of county
Allegheny Township
Gilmore Township
Gray Township
Jackson Township
Richhill Township
Springhill Township
Center Township
Freeport Township
Morris Township
Washington Township
Wayne Township
York City 04
County—York
Parts of county
C.T. 1 through 3, 5, 7, 10, 15, and 16
South Carolina
County listing
Abbeville 04
Allendale 01
Bamberg 02
Berkeley 03
Calhoun 01
Cherokee 04
Chester 04
Chesterfield 04
Clarendon 03
Colleton 02
Dillon 02
Georgetown 04
Horry 04
Lancaster 02
Lee 01
McCormick 02
Marion 04
Marlboro 02
Richland
Service area: Richland Co. 01
Saluda 03
Sumter 04
Union 04
Williamsburg 04
York
Service area: Western York Co. 03
Service area listing and name
Richland Co. 01
County—Richland
Parts of county
C.T. 116
C.T. 119.02
C.T. 120
Western York Co. 03
County—York
Parts of county
C.T. 14 through 16, 17 (E.D.9), 19
South Dakota
County listing
Buffalo 01
Campbell 01
Charles Mix 04
Corson 01
Deuel 01
Dewey 01
Edmunds 01
Faulk 01
Gregory 01
Haakon 01
Hanson 01
Harding 01
Jackson 01
Lyman 01
McCook 01
Marshall 01
Meade
Service area: Faith 01
Mellette 01
Moody 03
Perkins
Service area: Faith 01
Roberts 02
Sanborn 01
Shannon 01
Sully 01
Todd 01
Washabaugh 01
Yankton
Service area: Human Services Center 03
Ziebach 01
Service area listing
Faith 01
County—Meade
Parts of county
Unorg. Terr. of Northern Meade
Eagle Twp.
Faith City
County—Perkins
Parts of county
Unorg. Terr. of Western Perkins
Ada Twp.
Antelope Twp.
Beck Twp.
Chance Twp.
Chaudoin Twp.
Deuel Twp.
Englewood Twp.
Flint Rock Twp.
Foster Twp.
Hall Twp.
Highland Twp.
Lone Tree Twp.
Maltby Twp.
Martin Twp.
Moreau Twp.
Vickers Twp.
Vrooman Twp.
Wyandotte Twp.
Unorg. Terr. of Deep Creek
Unorg. Terr. of East Perkins
Unorg. Terr. of South Perkins
Unorg. Terr. of S.W. Perkins
Unorg. Terr. of W.C. Perkins
Human Services Center 03
County—Yankton
Parts of county
Human Services Center
Tennessee
County listing
Anderson 01
Henry 01
Johnson 02
Lewis 04
Perry 03
Pickett 01
Wayne 03
Texas
County listing
Bandera 03
Bexar
Service Area: East Side (San Antonio) 05
Service Area: West Side (San Antonio) 02
Service Area: South Side (San Antonio) 02
Service Area: Southern Rural Bexar 01
Cameron 06
Cochran 04
Dallas
Service Area: Simpson Stuart/Polk South 02
Service Area: Trinity 02
Service Area: Fair Park/White Rock Creek Industrial 01
Service Area: South Dallas 01
Service Area: Lisbon 05
Dimmit 01
Duval 01
Edwards 01
Frio 01
Gonzales 03
Hardin 04
Hidalgo 02
Karnes 04
Kinney 01
La Salle 03
Live Oak
Service Area: McMullen/Live Oak 02
McMullen
Service Area: McMullen/Live Oak 02
Maverick 01
Newton 04
Polk 02
San Jacinto 01
Shelby 03
Trinity 02
Uvalde 03
Val Verde 03
Waller 04
Webb 02
Zapata 01
Zavala 01
Service area listing
East Side (San Antonio) 03
County—Bexar
Parts of County
C.T. 1301, 1303 through 1313
Fair Park/White Rock Creek Industrial 01
County—Dallas
Parts of County
C.T. 23, 25 through 28, 93.02, 115
Lisbon 05
County—Dallas
Parts of County
C.T. 56, 57, 59.01, 59.02, 87.01, 87.02, 88
McMullen/Live Oak 02
County—Live Oak
County—McMullen
Simpson Stuart/Polk South 02
County—Dallas
Parts of County
C.T. 112 through 114, 167
South Dallas 01
County—Dallas
Parts of County
C.T. 29 through 40
South Side (San Antonio) 02
County—Bexas
Parts of County
C.T. 1501, 1503 through 1507, 1510, 1601 through 1605
Southern Rural Bexar 01
County—Bexar
Parts of County
C.T. 1314 through 1316, 1318, 1416 through 1419, 1519 through 1522, 1610 through 1612, 1619, 1620
Trinity 02
County—Dallas
Parts of County
C.T. 41, 49, 54, 55, 86, 89
West Side (San Antonio) 02
County—Bexar
Parts of County
C.T. 1606, 1607, 1701, 1703, 1704, 1707 through 1712, 1715, 1716
Addison 02
County—Addison
Parts of County
Addison
Bridport
Bristol
Ferrisburg
Lincoln
Monkton
New Haven
Orwell
Panton
Shoreham
Waltham
Starksboro
Plainfield 01

County—Washington
Parts of County
Woodbury Town
Cabot Town
Calais Town
Marshfield Town
East Montpelier Town
Plainfield Town

Utah
County listing
Daggett 01
Piute 01
Rich 01
Wayne 01

Vermont
County listing
Addison
Service area: Addison 02
Essex 04
Grand Isle 01
Washington
Service area: Plainfield 01
Service area listing
Addison 02
County—Addison
Parts of County
Addison
Bridport
Bristol
Ferrisburg
Lincoln
Monkton
New Haven
Orwell
Panton
Shoreham
Starksboro
Waltham
Plainfield 01
County—Washington
Parts of County
Woodbury Town
Cabot Town
Calais Town
Marshfield Town
Plainfield Town
E. Montpelier Town

Virginia
County listing
Accomack 04
Amelia 02
Bath 02
Brunswick 02
Charlotte 02
Fluvanna 01
Greene 01
King George 01
Lee 03
Louisa 01
Lunenburg 02
Madison 03
Mathews 02
Orange 04
Rappahannock 01
Richmond
Service area: Randolph Dental Serv. Area 01
Russell 01
Southhampton 01
Surry 01
Sussex 01
Tazewell 04
Wise 03
Suffolk City
Service area: Nansemond 02
Service area listing
Nansemond 02
County—Suffolk City
Parts of County
Nansemond Dist.
Randolph Dental Service Area 01
County—Richmond
Parts of County
C.T. 411, 413, 414

Washington
County listing
Adams
Service area: Grant-Adams Co. Migrant population 02
Grant
Service area: Grant-Adams Co. Migrant population 02
King
Service area: Seattle & King Co. Jails 02
Service area listing
Pend Oreille 04
Grant-Adams Co. Migrant Population 02
County—Adams
Parts of County
Migrant population
County—Grant
Parts of County
Migrant population
Seattle & King Co. Jails 02
County—King
Parts of County
Seattle & King Co. Jails

West Virginia
County listing
Barbour 02
Boone 03
Calhoun 01
Doddridge 03
Fayette
Service area: Fayetteville 02
Gilmer 04
Grant
Service area: MT. Storm 01
Greenbrier
Service area: Greenbrier 02
Hampshire
Service area: Capon Bridge 01
Kanawha
Service area: St. Albans 04
Lincoln 01
Logan 03
McDowell 01
Marshall
Service area: Wetzel 01
Mason County
Service area: Mason County service area 01
Mercer
Service area: Mercer 01
Mineral
Service area: Cabin Run 02
Mingo
Service area: Mingo 01
Monongalia
Service area: Blacksville 01
Monroe 01
Nicholas
Service area: Nicholas-Webster 06
Pleasants
Service area: Jefferson 01
Preston 02
Putnam 03
Randolph
Service area: Mingo 01
Ritchie 02
Summers 04
Taylor 04
Tucker 03
Tyler
Service area: Tyler 01
Upshur
Service area: Mingo 01
Wayne
Service area: Mingo 01
Webster
Service area: Nicholas-Webster 03
Wetzel
Service area: Wetzel 01
Wirt 01
Wyoming 03
Service area listing
Blacksville 01
County—Monongalia
Parts of County
Clay
Battelle
Cabin Run 02
County—Mineral
Parts of County
Frankfurt
Cabin Run
Capon Bridge 01
County—Hampshire
Parts of County
Bloomery
Sherman
Gore
Fayetteville 02
County—Fayette
Parts of County
Fayetteville
Falls
Sewell Mountain
Nuttall
Mountain Cove
Greenbrier 02
County—Greenbrier
Parts of County
Meadow Bluff
Jefferson 01
County—Pleasants
Parts of County
Grant
Jefferson
Lafayette
McKim
Union
Mason 01
County—Mason
Parts of County
Arbuckle District
Clendenin District
Cologne District
Cooper District
Graham District
Hannan District
Robinson District
Union District
Waggener District
Mercer 01
County—Mercer
Parts of County
Rock
Jumping Branch
Plymouth
Mingo 01
County—Mingo
Parts of County
Harvey
Hardie
Kermit
Lee
Magnolia
County—Randolph
Parts of County
Middlefork
County—Upshur
Parts of County
Banks
Meade
Washington
County—Wayne
Parts of County
Hecker Valley
Mt. Storm 01
County—Grant
Parts of County
Union
Nicholas-Webster 06
County—Nicholas
Count—Webster
St. Albans 04
County—Kanawha
Parts of County
Big Sandy
Cabin Creek
Elk
St. Albans City
Chesapeake Town
Malden
Union
Washington
Marmet Town
Tyler 01
County—Tyler
Parts of County
Centreville
Ellsworth
McElroy
Meade
Union
Wetzel 01
County—Marshall
Parts of County
Liberty District
Meade District
Cameron District
Webster District
County—Wetzel
Parts of County
Clay District
Church District
Center District

Wisconsin
County listing
Adams 04
Brown
Service Area: Kickapoo Valley 01
Buffalo
Service Area: Whitehall/Arcadia 01
Crawford
Service Area: Kickapoo Valley 01
Florence 01
Forest
Service Area: Kickapoo Valley 04
Service Area: Kickapoo Valley 04
Service Area: Mountain 01
Iron 03

Jackson 02
Juneau
Service Area: Hillsboro Area 02
Snohobish
Service Area: Tulalip Tribe-Snohobish County 04
Langlade
Service Area: Mountain 01
Marathon
Service Area: Athens 02
Milwaukee
Service Area: Inner City North (Milwaukee) 01
Monroe
Service Area: Hillsboro Area 02
Oconto
Service Area: Mountain 01
Richland
Service Area: Kickapoo Valley 01
Service Area: Hillsboro Area 02
Sauk
Service Area: Hillsboro Area 02
Taylor
Service Area: Athens 02
Trempealeau
Service Area: Whitehall/Arcadia 01
Vernon
Service Area: Kickapoo Valley 01
Service Area: Hillsboro Area 02
Vilas
Service Area: Hillsboro Area 04
Service Area: Hillsboro Area 04
Athens 02
County—Marathon
Parts of county
Athens City
Bein Town
Frankfort
Halsey Town
Hamburg Town
Hotton
Johnson Town
Rib Falls
Rietbrock Town
County—Taylor
Parts of county
Browning
Deer Creek
Goodrich
Hillsboro Area 02
County—Juneau
Parts of county
Wonewoc (village)
Wonewoc (town)
County—Monroe
Parts of county
Cashton
Jefferson
Kendall (village)
Sheldon
Wellington
Ginndale
County—Richland
Parts of county
Yuba (village)
Henrietta
Westford
Bloom Town (part)
County—Sauk
Parts of county
La Valle
Woodland
County—Vernon
Parts of county
Clinton
Hillsboro (city)
Ontario (village)
Stark
Whitestown
Hillsboro (town)
Greenwood
Union Town (part)
Forest
Inner City North (Milwaukee) 01
County—Milwaukee
Parts of county
C.T. 66 through 70, 81 through 86, 101 through 106, 114 through 118, 140 through 142
Kickapoo Valley 01
County—Brown
Parts of county
Pulaski Village
Pittsfield Town
County—Crawford
Parts of county
Ubca Town
Mount Sterling Village
Gays Mills Village
Bell Center Village
Haney Town
Scott Town
Clayton Town
Soldiers Grave Village
County—Richland
Parts of county
Bloom Town (part)
Viola Village (part)
Sylvan Village (part)
Forest Town
County—Vernon
Parts of county
Union Town (part)
Stark Town
La Farge Village
Forest Town
Ontario Village
Whitestown Town
Clinton Town
Webster Town
Liberty Town
Viola Village (part)
Kickapoo Town
Reedstown Village
Mountain 01
County—Forest
Parts of county
Freedom Town
Wabeno Town
Blackwell Town
County—Langlade
Parts of county
Evergreen Town
Wolf River Town
White Lake Village
County—Oconto
Parts of county
Townsend Town
Lakewood Town
Doty Town
Riverview Town
Armstrong Town
Breed Town
Bagley Town
Brazeau Town
Tulalip Tribe—Snohobish County 04
County—Snohobish
Parts of county
Tulalip Tribe
Whitehall/Arcadia 01
County—Buffalo
Parts of county
Cross
Glencoe
Milton
County—Trempealeau
Parts of county
Arcadia (city)
Arcadia (town)
Blair (city)
Burnside (town)
Chimney Rock
Dodge
Hale
Independence (city)
Lincoln
Pigeon
Pigeon Falls (village)
Whitehall
Wyoming
County listing
Albany
Service area: Hanna-Rock River 01
Campbell 02
Carbon
Service area: Hanna-Rock River 01
Converse 04
Crook 03
Freemont
Service area: Sweetwater 01
Service area: Dubois 01
Johnson
Service area: Kaycee 01
Natrona
Service area: Sweetwater 01
Platte 03
Sufflette
Service area: Big Piney 01
Service area listing
Big Piney 01
County—Sufflette
Parts of County
Big Piney CCD
Dubois 01
County—Fremont
Parts of County
Dubois CCD
Hanna-Rock River 01
County—Albany
Parts of County
Rock River CCD
County—Carbon
Parts of County
Hanna CCD
Kaycee 01
County—Johnson
Parts of County
Kaycee CCD
Sweetwater 01
County—Fremont
Parts of County
Sweetwater CCD
Shoshoni CCD
County—Natrona
Parts of County
Half's Half Acre CCD

American Samoa
County listing
Manu'a District 01
Eastern Tutuila District
Service area: Tutuila Island-Aunu'u 03
Western Tutuila District
Service area: Tutuila Island-Aunu'u 03
Service area listing
Tutuila Island-Aunu'u 03
County—Eastern Tutuila District
County—Western Tutuila District
Trust Terr-Pac
County listing
Ponape District 04
Truk District 04
Puerto Rico
Municipio listing
Barranquitas 01
Guaraguao 01
Service area listing
Barranquitas 01
Municipio—Barranquitas
Municipio—Comerio
Municipio—Corozal
Municipio—Naranjito
Municipio—Orocovis
Guaraguao Community 01
Municipio—Aduntas
Municipio—Parts of Municipio
Portugues Barrio
Municipio—Penuelas
Parts of Municipio
Rucio Barrio
Municipio—Ponce
Parts of Municipio
Guaraguao Barrio
Virgin Islands
County listing
Fredericksted 01
Service area listing
Fredericksted 01
County—St. Croix
Parts of county
E.D.'s 13, 14, 19, through 25

Psychiatric Shortage Areas

Alabama
Catchment Area and County name
Catchment M–1
Colbert, Franklin, Lauderdale 2
Catchment M–3
Madison 4
Catchment M–4
Fayette, Lamar, Marion, Walker, Winston 1
Catchment M–4
Cherokee, De Kalb, Etowah 2
Catchment M–7
Calhun, Cleburne 4
Catchment M–8
Bibb, Pickens, Tuscaloosa 3
Catchment M–9
Clay, Coosa, Randolph, Talladega 1
Catchment M–10
Choctaw, Greene, Hale, Marengo, Sumter 2
Catchment M–11
Chilton, Shelby 2
Catchment M–12
Chamers, Lee, Russell, Tallapoosa 2
Catchment M–13
Dallas, Perry, Wilcox 2

Psychiatric Shortage Areas—Continued

Catchment M–14
Autauga, Elmore, Lowndes, Montgomery ... 2
Catchment M–15
Bullock, Macon, Pike ... 1
Catchment M–17
Clark, Conecuh, Escambia, Monroe, Washington ... 1
Catchment M–18
Butler, Coffe, Covington, Crenshaw ... 1
Catchment M–19
Barbour, Dale, Geneva, Henry, Houston ... 3
Catchment M–20
Jackson, Marshall ... 1
Catchment M–21
Baldwin ... 1

Arizona
Catchment Area and County name
Southeastern Arizona
Santa Cruz, Cochise, Graham, Greenlee ... 2

Arkansas
Catchment Area and County Name
Catchment #11
Hempstead, Howard, Lafayette, Little River, Miller, Sevier ... 2
Catchment #12
Calhoun, Columbia, Dallas, Nevada, Ouachita, Union ... 2
Catchment #13
Arkansas, Cleveland, Grant, Jefferson, Lincoln ... 2
Catchment #14
Ashley, Bradley, Chicot, Desha, Drew ... 2

Delaware
Catchment Area and County name
Kent
Kent ... 3
Sussex
Sussex ... 3

Illinois
Catchment Area and County name
Southern Ill. Seven Co. Area
Alexander, Hardin, Johnson, Massac, Pope, Pulaski, Union ... 1
Joliet Correctional Inst.
Will ... 2
Stateville Correctional Inst.
Will ... 2

Iowa
Catchment Area and County Name
Catchment #13–A (N. Portion)
Harrison ... 1
Catchment #13–A (S. Portion)
Fremont ... 1
Catchment #13–B
Cass, Montgomery, Page, Shelby ... 2

Kentucky
Catchment Area and County name
Region 7A
Boone, Carroll, Gallatin, Grant, Kenton, Owens ... 4
Region 7B
Campbell, Pendleton ... 3

Maine
Catchment Areas and County Name
Aroostook
Aroostook ... 2
Maine Correctional Inst.
Statewide ... 1
East Maine
Piscataquis ... 1
Kennebec Valley
Somerset ... 3
Tri-County
Oxford ... 1

Michigan
Catchment Areas and County Name
Mt. Pleasant
Clare, Isabella, Mecosta, Osceola ... 2

Nebraska
Catchment Areas and County Name
Blue Valley CMHC
Gage, Jefferson, Johnson, Nemaha, Otoe, Pawnee, Richardson, Thayer ... 2
Great Plains CMHC
Arthur, Chase, Dawson, Dundy, Frontier, Gosper, Grant, Hayes, Hitchcock, Hooker, Keith, Lincoln, Logan, McPherson, Perkins, Red Willow, Thomas ... 2
Mid-Nebraska CMHC
Blaine, Custer, Garfield, Greeley, Hall, Hamilton, Howard, Loup, Merrick, Sherman, Valley, Wheeler ... 2
Northern Nebraska CMHC
Antelope, Boone, Boyd, Brown, Burt, Cedar, Colfax, Cuming, Dakota, Dixon, Holt, Keya Paka, Knox, Madison, Nance, Pierce, Platte, Rock, Stanton, Thurston, Wayne ... 2
Panhandle CMHC
Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux ... 3
Pioneer CMHC
Butler, Fillmore, Polk, Saline, Saunders, Seward, York ... 2
South Central CMHC
Adams, Buffalo, Clay, Franklin, Furnas, Harlan, Kearney, Nuckolls, Phelps, Webster ... 4
Catchment #8 (Immanuel)
Douglas, C.T. 2, 3, 4, 5, 6, 60, 61, 62, 63, 65.02, 73.01, 75 ... 4
Dodge, Washington

New York
Catchment Areas and County Name
Cortland County
Cortland ... 2

North Carolina
Catchment Areas and County Name
Surry-Yadkin Catchment Area
Surry, Yadkin ... 1

Ohio
Catchment Areas and County Name
Mental Health & Mental Retardation Center
Athens ... 1

Oklahoma
Catchment Areas and County Name
Catchment Area #1 Craig, Delaware, Mayes, Nowata, Ottawa, Rogers, Washington ... 2

Oregon
Catchment Area and County Name
Clackamas
Clackamas ... 2
Lincoln
Lincoln ... 1

South Carolina
Catchment Area and County Name
Catchment Area #14
Bamberg, Calhoun, Orangeburg ... 1

South Dakota
Catchment Area and County Name
Human Services Center
Yankton ... 3
Northeast S. Dakota
Clark, Codington, Deuel, Grant, Hamlin, Kingsbury, Roberts ... 1
Redfield State Hospital & School
Spink ... 2
State Penitentiary
Lincoln ... 1

Tennessee
Catchment Area and County Name
Catchment Area #9
Cannon, Clay, Cumberland, De Kalb, Fentress, Jackson, Macon, Overton, Pickett, Putnam, Smith, Van Buren, Warren, White ... 2
Catchment Area #14
Cheatham, Dickson, Houston, Humphreys, Montgomery, Robertson, Stewart ... 2
Catchment Area #15
Rutherford, Sumner, Trousdale, Williamson, Wilson ... 2
Catchment Area #23
Bedford, Coffee, Franklin, Lincoln, Moore ... 2
Catchment Area #24
Giles, Hickman, Lawrence, Lewis, Marshall, Maury, Perry, Wayne ... 2

Vermont
Catchment Area and County Name
Northeast Kingdom Region II
Caledonia, Essex, Orleans ... 2
Orange/Windsor
Orange, Windsor, Parts Bethel, Norwich, Rochester, Royalton, Sharon, Stockbridge ... 2

Virginia
Catchment Area and County Name
Alleghany
Alleghany ... 2
Lee
Lee ... 1
Wise
Wise ... 1
Southwestern State Hospital
Smyth ... 3
Planning District II
Buchanan, Dickinson, Russell, Tazewell ... 1
Planning District III
Bland, Carroll, Grayson, Smyth, Wythe ... 2
Planning District XI
Amherst, Appomattox, Bedford, Campbell ... 4
Planning District XII
Franklin, Henry, Patrick, Pittsylvania ... 2
Planning District XIV
Amelia, Buckingham, Charlotte, Cumberland, Lunenburg, Nottoway, Prince Edward ... 1

Washington
Catchment Area and County Name
Adams-Grant
Adams-Grant ... 1
Seattle & King Co. Jails
King ... 1

West Virginia
Catchment Area and County Name
Huntington State Hospital
Cabell, Part Gideon Dist. ... 2
Lakin State Hospital
Mason ... 3
Spencer State Hospital
Roane, Part Spencer Dist ... 1
Weston State Hospital
Lewis ... 1

Health Manpower Shortage Areas—Vision Care

Alabama
County listing
Autauga ... 01
Baldwin ... 03
Bibb ... 01
Bullock ... 01
Chambers ... 02
Cherokee ... 01
Chilton ... 02
Chactaw ... 01
Clarke ... 02
Clay ... 01
Cleburne ... 01
Colbert ... 03
Coosa
Service area: Coosa/Talladega ... 03
Cullman ... 03
De Kalb ... 02
Elmore ... 03
Franklin ... 02
Greene ... 01
Hale ... 01
Jackson ... 03
Lamar ... 01
Lawrence ... 01
Lee ... 02
Limestone ... 02
Macon ... 02
Madison ... 03
Marengo ... 03
Marion ... 03
Mobile ... 03
Monroe ... 03
Montgomery ... 03
Morgan ... 03
Pickens ... 03
Randolph ... 03
Russell ... 01
Sumter ... 01
Talladega
Service area: Coosa/Talladega ... 03
Tuscaloosa ... 02
Washington ... 01
Wilcox ... 01
Service area listing
Coosa/Talladega service area: Coosa
Service area: Talladega ... 03

Arizona
County listing
Apache ... 01
Cochise ... 03
Greenlee ... 01
Santa Cruz ... 00
Yavapai ... 03

Arkansas
County listing
Chicot ... 01
Cleveland ... 01
Lafayette ... 01
Lincoln ... 01
Madison ... 01
Miller ... 01

California
County listing
Alameda
Service area: Fruitvale ... 03
Los Angeles
Srvice area: East Los Angeles ... 03

Service area listing
East Los Angeles ... 03
County—Los Angeles
Parts of County
C. T. 1831, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2051, 5303, 5304, 5305, 5306, 5307, 5308, 5309, 1832, 5310, 5311, 5312, 5313, 5314, 5315, 5316, 5317, 5318, 5319, 5323.01, 5323.02, 1833, 1835, 1836, 1837, 1838, 1851, 1852, 1853, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2011, 2012, 2013, 2014, 2015, 2016, and 2017
Fruitvale ... 03
County—Alameda
Parts of County
C. T. 4005, 4053, 4054, 4055, 4056, 4057, 4058, 4059, 4060, 4061, 4062, 4063, 4065, 4070, 4071, 4072, 4073, 4074, 4075, 4076, 4077, 4078, 4082, 4083, 4084, 4085, 4086, 4095, 4087, 4088, 4089, 4090, 4091, 4092, 4093, 4094, 4095, 4096, 4097, 4098, 4101, 4102, 4103, 4104, 4251, 4007, 4008, 4009, 4010, 4011, 4014, 4015, 4016, 4017, 4018, 4019, 4020, 4021, 4022, 4023, 4024, 4025, 4026, 4027, 4028, 4030, 4031, 4032, and 4033

Colorado
County listing
Baca ... 01
Ouray ... 01
Rio Blanco ... 01
San Juan ... 01
San Miguel ... 01

Florida
County listing
Holmes ... 01
Beckley ... 01

Georgia
County listing
Brantley ... 01
Bryan ... 01
Bulloch ... 03
Camden ... 01
Candler ... 01
Carroll ... 03
Chatham ... 03
Clarke ... 03
Dade ... 01
Effingham ... 01
Forsyth ... 01
Jenkins ... 01
Laurens ... 03
Mc Intosh ... 01
Meriwether ... 03
Newton ... 03
Pierce ... 01
Pike ... 01
Rockdale ... 03
Tattnall ... 01
Taylor ... 01
Ware ... 03
Wayne ... 03

Indiana
County listing
LaGrange ... 01
Starke ... 03

Iowa
County listing
Clayton ... 03
Ringgold ... 01

Kentucky
County listing
Clinton ... 01
Knott ... 01
Lee ... 01
Letcher ... 03

Louisiana
County listing
De Soto ... 03
Iberia ... 03
Iberville ... 02
St. Charles ... 02

Maryland
County listing
Calvert ... 01
St. Mary's ... 03

Mississippi
County listing
Amite ... 01
Clarke ... 01
Greene ... 01
Lauderdale ... 02
Quitman ... 01

Missouri
County listing
Caldwell ... 01
Chariton ... 01
Clark ... 01
Daniess ... 01
De Kalb ... 01
Hickory ... 01
Holt ... 01
Lewis ... 01
Lincoln ... 03
Miller ... 03
Monroe ... 01
Montgomery ... 01
Pike ... 01
Pulaski ... 02
Putnam ... 01
Ralls ... 01
St. Clair ... 01
Shelby ... 01
Sullivan ... 01
Warren ... 01

Montana
County listing
Blaine ... 03, 01
Service area listing and name
County—Greely ... 03

Nebraska
County listing
Douglas
Service Area: N. E. Omaha Area ... 01
Garfield
Service Area: Ord ... 03
Greeley
Service Area: Ord ... 03
Howard
Service Area: Ord ... 03
Loup
Service Area: Ord ... 03
Sherman
Service Area: Ord ... 03
Valley
Service Area: Ord ... 03
Wheeler
Service Area: Ord ... 03
Service area listing
N.E. Omaha Area ... 01
County—Douglas
Parts of County
C.T. 6, C.T. 11, C.T. 14
C.T. 7, C.T. 12, C.T. 15
C.T. 9, C.T. 13.01, C.T. 52
C.T. 10, C.T. 13.02, C.T. 60
Ord ... 03
County—Garfield
County—Howard
Parts of County
Cotesfield Prec. Elba Prec.
Dannebrike Prec. Fairdale—Logan Prec.
County—Loup
Parts of County
Kent Prec.
Taylor Prec
County—Sherman
Parts of County
Ashton Twp Oak Creek Twp
Elm Twp Washington Twp
Logan Twp Webster Twp
Loup City Twp
County—Valley
County—Wheeler

Nevada
County listing

New York
County listing
Kings ... 03

North Carolina
County listing
Bladen ... 02
Brunswick ... 02
Columbus ... 02
Cumberland ... 03
Harnett ... 03
Hoke ... 01
Montgomery ... 03
Moore ... 03
Pender ... 03
Sampson ... 03

North Dakota
County listing
Benson ... 01
LaMoure ... 01
McHenry ... 01
McLean ... 01
Mountrail ... 01

Ohio
County Listing
Coshocton ... 03
Jefferson ... 03
Meigs ... 03
Vinton ... 01

South Carolina
County Listing
Calhoun ... 01
Dorchester ... 00
Jasper ... 01
Orangeburg ... 02
Union ... 03

Tennessee
County Listing
Cheatham ... 01
Clay ... 01
Fentress ... 01
Giles ... 02
Stewart ... 01
Wayne ... 01

Texas
County Listing
Knox ... 01
Marion ... 01
Panola ... 01
Starr ... 03
Walker ... 03
Willacy ... 01

Utah
County Listing
Emery ... 01
Millard ... 01
Summit ... 01

Virginia
County Listing
Accomack ... 01
Amelia ... 01
Bath ... 01
Buchanan ... 02
Charlotte ... 01
Cumberland ... 01
Dickenson ... 01
Floyd ... 01
Gloucester ... 02
Greene ... 01
King George ... 01
King William ... 01
Lee ... 02
Louisa ... 01
Lunenburg ... 01
Mathews ... 01
Middlesex ... 01
Nelson ... 01
Pittsylvania ... 03
Powhatan ... 01
Russell ... 01
Tazewell ... 03
Westmoreland ... 01
Wise ... 03

West Virginia
County Listing
Barbour ... 01
Boone ... 02
Calhoun ... 01
Clay ... 01
Gilmer ... 01
Hampshire ... 01
Hardy ... 01
Jefferson ... 01
Lincoln ... 02
Logan ... 03
McDowell ... 03
Morgan ... 01
Pendleton ... 01
Pleasants ... 01
Pocahontas ... 01
Preston ... 02
Putnam ... 02
Ritchie ... 01
Roane ... 03
Tucker ... 01
Wayne ... 01
Webster ... 01

Wisconsin
County Listing
Adams ... 01

American Samoa
County Listing
Manua District
Service Area: Manua/Tutuila Island Group ... 01
Eastern Tutuila District
Service Area: Manua/Tutuila Island Group ... 01
Western Tutuila District
Service Area: Manua/Tutuila Island Group ... 01
Service area listing
County—Manua District
Services Area Listing
County—Eastern Tutuila District
County—Western Tutuila District

Health Manpower Shortage Areas—Podiatric Care

Alabama
- County listing
  - Autauga 01
  - Baldwin 01
  - Barbour 01
  - Bibb 01
  - Blount 01
  - Bullock 01
  - Butler 01
  - Calhoun
    - Service Area: Calhoun Service Area 02
  - Chambers
    - Service Area: Chambers Service Area 01
  - Cherokee
    - Service Area: Chambers Service Area 02
  - Chilton 01
  - Choctaw 01
  - Clay
    - Service Area: Calhoun Service Area 02
  - Cleburne
    - Service Area: Calhoun Service Area 02
  - Coffee 01
  - Colbert 01
  - Conecuh 01
  - Coosa
    - Service Area: Talladega Service Area 01
  - Covington 01
  - Crenshaw 01
  - Cullman 01
  - Dale 01
  - Dallas 01
  - De Kalb
    - Service Area: Talladega Service Area 02
  - Elmore 01
  - Etowah
    - Service Area: Talladega Service Area 02
  - Fayette 01
  - Franklin 01
  - Geneva 01
  - Hale 01
  - Henry 01
  - Houston 03
  - Jackson 01
  - Jefferson 02
  - Lamar 01
  - Lauderdale 03
  - Lawrence 01
  - Lee 01
  - Limestone 01
  - Lowndes 01
  - Macon 01
  - Madison 02
  - Marengo 01
  - Marion 01
  - Marshall 01
  - Mobile 02
  - Monroe 01
  - Montgomery 02
  - Morgan 01
  - Perry 01
  - Pickens 01
  - Pike 01
  - Randolph
    - Service Area: Chambers Service Area 01
  - Russell 01
  - St. Clair 01
  - Shelby 01
  - Sumter 01
  - Talladega
    - Service Area: Talladega Service Area 01
  - Tallapoosa
    - Service Area: Talladega Service Area 01
  - Tuscaloosa 02
  - Walker 01
  - Washington 01
  - Wilcox 01
  - Winston 01
- Service Area Listing
  - Calhoun Service Area 02
    - County—Calhoun
    - County—Clay
    - County—Cleburne
  - Chambers Service Area 01
    - County—Chambers
    - County—Randolph
  - Etowah Service Area 02
    - County—Cherokee
    - County—De Kalb
    - County—Etowah
  - Talladega Service Area 01
    - County—Coosa
    - County—Talladega
    - County—Tallapoosa

Alaska
- County listing
  - First Judicial Div 02

Arizona
- County listing
  - Apache 01
  - Cochise 01
  - Coconino 01
  - Gila 01
  - Graham
    - Service Area: Graham/Greenlee 01
  - Greenlee
    - Service Area: Graham/Greenlee 01
  - Mohave 01
  - Navajo 01
  - Pima 03
  - Pinal 01
  - Santa Cruz 01
  - Yavapai 03
  - Yuma 02
- Service Area Listing
  - Graham/Greenlee 01
    - County—Graham
    - County—Greenlee

Arkansas
- County listing
  - Arkansas 01
  - Ashley 01
  - Benton 01
  - Boone 01
  - Bradley 01
  - Carroll 01
  - Chicot 01
  - Clark 01
  - Clay 01
  - Cleburne 01
  - Columbia 01
  - Conway 01
  - Craighead 01
  - Crawford 01
  - Crittenden 01
  - Cross 01
  - Desha 01
  - Drew 01
  - Faulkner 01
  - Franklin 01
  - Grant 01
  - Greene 01
  - Hempstead 01
  - Hot Spring 01
  - Howard 01
  - Jackson 01
  - Jefferson 02
  - Johnson 01
  - Lawrence 01
  - Lee 01
  - Lincoln 01
  - Little River 01
  - Logan 01
  - Lonoke 01
  - Miller 02
  - Mississippi 01
  - Monroe 01
  - Nevada 01
  - Ouachita 01
  - Phillips 01
  - Poinsett 01
  - Polk 01
  - Pope 01
  - Pulaski 03
  - Randolph 01
  - St. Francis 01
  - Saline 01
  - Sharp 01
  - Union 03
  - White 01
  - Woodruff 01
  - Yell 01

California
- County listing
  - Amador 01
  - Calaveras 01
  - Del Norte 01
  - Fresno 03
  - Humboldt 03
  - Imperial 02
  - Kern 02
  - Kings 02
  - Lake 02
  - Lassen 01
  - Los Angeles
    - Service area: East Los Angeles 02
  - Madera 03
  - Merced 02
  - Monterey 03
  - Riverside 03
  - San Benito 01
  - San Bernardino 03
  - San Luis Obispo 03
  - Siskiyou 01
  - Tehama 01
  - Tulare 03
  - Ventura 03
  - Yolo 03
- Service area listing
  - East Los Angeles 02
    - County—Los Angeles
      - Parts of County

C.T. 1831	C.T. 1837
C.T. 2031	C.T. 1838
C.T. 2032	C.T. 1851
C.T. 2033	C.T. 1852
C.T. 2034	C.T. 1853
C.T. 2035	C.T. 1991
C.T. 2036	C.T. 1992
C.T. 2037	C.T. 1993
C.T. 2038	C.T. 1994
C.T. 2039	C.T. 1995
C.T. 2041	C.T. 1996
C.T. 2042	C.T. 1997
C.T. 2043	C.T. 1998
C.T. 2044	C.T. 1999
C.T. 2045	C.T. 2011
C.T. 2046	C.T. 2012
C.T. 2047	C.T. 2013
C.T. 2048	C.T. 2014
C.T. 2049	C.T. 2015
C.T. 2051	C.T. 2016
C.T. 5303	C.T. 2017
C.T. 5304	
C.T. 5305	
C.T. 5306	
C.T. 5307	
C.T. 5308	
C.T. 5309	
C.T. 1832	
C.T. 5310	
C.T. 5311	
C.T. 5312	
C.T. 5313	
C.T. 5314	
C.T. 5315	
C.T. 5316	
C.T. 5317	
C.T. 5318	
C.T. 5319	
C.T. 5323.01	
C.T. 5323.02	
C.T. 1833	
C.T. 1835	
C.T. 1836	

Colorado
- County listing
  - Delta 01
  - El Paso 03
  - Fremont 01
  - Las Animas 01
  - Montrose 01
  - Morgan 01
  - Weld 02

Delaware
- County listing
  - Kent 03
  - Sussex 03

Florida
- County Listing
  - Alachua 03
  - Baker 01
  - Bay 02
  - Bradford 01
  - Brevard 03
  - Charlotte 03
  - Citrus 01
  - Clay 01
  - Collier 03
  - Columbia 01
  - De Soto 01
  - Duval 03
  - Escambia 03
  - Gadsden 01
  - Hardee 01
  - Hernando 01
  - Highlands 01
  - Hillsborough 03
  - Holmes 01
  - Indian River 01
  - Jackson 01
  - Lake 03
  - Lee 03
  - Leon 03
  - Levy 01
  - Madison 01
  - Manatee 03
  - Marion 03
  - Nassau 01
  - Okaloosa 01
  - Osceola 01
  - Pasco 01
  - Polk 01
  - Santa Rosa 01
  - Seminole 02
  - Sumter 01
  - Suwannee 01
  - Taylor 01
  - Volusia 01
  - Walton 01
  - Washington 01

Georgia
- County Listing
  - Appling 01
  - Baldwin 01
  - Bartow 01
  - Ben Hill 01
  - Berrien 01
  - Bibb 03
  - Brooks 01
  - Bulloch 01
  - Butts 01
  - Carroll 01
  - Catoosa 01
  - Chatham 03
  - Chattooga 01
  - Cherokee 01
  - Coffee 01
  - Colquitt 01
  - Cook 01
  - Coweta 01
  - Crisp 01
  - Decatur 01
  - Dodge 01
  - Dougherty 03
  - Early 01
  - Effingham 01
  - Elbert 01
  - Emanuel 01
  - Fayette 01
  - Floyd 03
  - Forsyth 01
  - Gordon 01
  - Grady 01
  - Habersham 01
  - Hall 01
  - Haralson 01
  - Hart 01
  - Henry 01
  - Houston 01
  - Jones 01
  - Laurens 01
  - Liberty 01
  - Lowndes 03
  - Macon 01
  - Mitchell 01
  - Monroe 01
  - Murray 01
  - Newton 01
  - Paulding 01
  - Peach 01
  - Polk 01
  - Rockdale 01
  - Stephens 01
  - Sumter 01
  - Tattnall 01
  - Tift 01
  - Toombs 01
  - Walker 01
  - Walton 01
  - Washington 01
  - Wayne 01
  - Whitfield 01
  - Worth 01

Hawaii
- County Listing
  - Hawaii 02
  - Honolulu 02
  - Kauai 01
  - Maui 01

Idaho
- County Listing
  - Bonner 01
  - Bonneville 01
  - Payette 01
  - Shoshone 01

Illinois
- County Listing
  - Alexander 01
  - Bureau 01
  - Champaign 03
  - Clay 01
  - Coles 01
  - Douglas 00
  - Edgar 01
  - Ford 01
  - Fulton 02
  - Greene 01
  - Iroquois 01
  - Jackson 01
  - Kankakee 03
  - Marshall 01
  - Mason 01
  - Massac 01
  - Monroe 01
  - Moultrie 01
  - Peoria 01
  - Randolph 01
  - Rock Island 03
  - St. Clair 02
  - Shelby 01
  - Union 01
  - Vermilion 03
  - Whiteside 02
  - Williamson 02
  - Woodford 01

Indiana
- County listing
  - Benton 01
  - Blackford 01
  - Boone 01
  - Carroll 01
  - Cass 03
    - Service Area: Fulton-Cass
  - Clay 01
  - Daviess 01
  - Dearborn 01
  - Delaware 03
  - DuBois 01
  - Fountain 01
  - Fulton 03
    - Service Area: Fulton-Cass
  - Gibson 01
  - Grant 03
  - Greene 01
  - Hamilton 01
  - Harrison 01
  - Hendricks 01
  - Henry 01
  - Howard 02
  - Huntington 01
  - Jackson 01
  - Jasper 01
    - Service Area: Jasper-Newton
  - Jay 01
  - Knox 01
  - Kosciusko 01
  - Lagrange 01
  - Madison 03
  - Miami 01
  - Morgan 01
  - Newton 01
    - Service Area: Jasper-Newton
  - Noble 01
  - Orange 01
  - Owen 01
  - Parke 01
  - Perry 01
  - Pike 01
  - Porter 01
  - Posey 01
  - Pulaski 01
    - Service Area: Pulaski-Starke
  - Putnam 01
  - Randolph 01
  - Ripley 01
  - Scott 01
  - Spencer 01
  - Starke 01
    - Service Area: Pulaski-Starke
  - Sullivan 01
  - Tipton 01
  - Vermillion 01
  - Vigo 03
  - Warrick 01
  - Washington 01
  - Whitley 01
- Service Area Listing
  - Fulton-Cass 03
    - County—Cass
    - County—Fulton
  - Jasper-Newton 01
    - County—Jasper
    - County—Newton
  - Pulaski-Starke 01
    - County—Pulaski
    - County—Starke

Iowa
- County listing and name
  - Allamakee 01
  - Appanoose 01
  - Audubon 01
    - Service Area: Crawford/Monona
  - Butler 01
    - Service Area: Butler/Franklin
  - Calhoun 02
    - Service Area: Calhoun/Pocahontas/Webster
  - Cedar 01
  - Chickasaw 01
  - Clarke 01
    - Service Area: Clarke/Decatur
  - Clayton 01
  - Clinton 03
  - Crawford 01
    - Service Area: Crawford/Monona
  - Decatur 01
    - Service Area: Clarke/Decatur
  - Dickinson 03
    - Service Area: Emmet Service Area
  - Emmet 03
    - Service Area: Emmet Service Area
  - Floyd 01
  - Franklin 01
    - Service Area: Butler/Franklin
  - Guthrie 01
    - Service Area: Butler/Franklin
  - Hancock 01
    - Service Area: Hancock/Winnebago
  - Hardin 01
  - Harrison 01
  - Howard 01
    - Service Area: Howard/Mitchell
  - Iowa 01
  - Jackson 01
  - Jones 01
  - Keokuk 01
  - Kossuth 03
    - Service Area: Emmet Service Area
  - Lucas 01
    - Service Area: Lucas/Wayne
  - Lyon 01
  - Marion 01
  - Mitchell 01
    - Service Area: Howard/Mitchell
  - Monona 01
    - Service Area: Crawford/Monona
  - Obrien 01
    - Service Area: Obrien/Osceola
  - Osceola 01
    - Service Area: Obrien/Osceola
  - Palo Alto 03
    - Service Area: Emmet Service Area
  - Pocahontas 02
    - Service Area: Calhoun/Pocahontas/Webster
  - Pottawattamie 02
  - Poweshiek 01
  - Shelby 01
  - Sioux 01
  - Story 01
  - Washington 01
  - Wayne 01
    - Service Area: Lucas/Wayne
  - Webster 02
    - Service Area: Calhoun/Pocahontas/Webster
  - Winnebago 01
    - Service Area: Hancock/Winnebago
- Service Area Listing
  - Audubon/Guthrie 01
    - County—Audubon
    - County—Guthrie
  - Butler/Franklin 01
    - County—Butler
    - County—Franklin
  - Calhoun/Pocahontas/Webster 02
    - County—Calhoun
    - County—Pocahontas
    - County—Webster
  - Clarke/Decatur 01
    - County—Clarke
    - County—Decatur
  - Crawford/Monona 01
    - County—Crawford
    - County—Monona

Emmet Service Area	03
County—Dickinson	
County—Emmit	
County—Kossuth	
County—Palo Alto	
Hancock/Winnebago	01
County—Hancock	
County—Winnebago	
Howard/Mitchell	01
County—Howard	
County—Mitchell	
Lucas/Wayne	01
County—Howard	
County—Wayne	
Obnen/Osceola	01
County—Obnen	
County—Osceola	
Kansas	
County listing	
Allen	01
Bourbon	01
Brown	01
Butler	03
Cherokee	01
Douglas	02
Franklin	01
Greenwood	01
Jackson	01
Jefferson	01
Johnson	03
Lyon	03
Manon	01
Marshall	01
Miami	01
Nemaha	01
Neosho	01
Osage	01
Pottawatomie	01
Seward	01
Shawnee	03
Sumner	01
Wilson	01
Wyandotte	01
Kentucky	
County listing	
Adair	01
Allen	01
Barren	01
Boone	01
Bourbon	01
Breathitt	01
Breckinridge	01
Bullitt	01
Caldwell	01
Calloway	01
Carter	01
Casey	01
Chrsitian	03
Clark	01
Clay	01
Daviess	03
Estill	01
Fleming	01
Floyd	01
Grant	01
Graves	01
Grayson	01
Greenup	01
Hardin	02
Harlan	01
Harrison	01
Hart	01
Henry	01
Hopkins	01
Jefferson	03
Jessamine	01
Knott	01
Knox	01
Larue	01
Letcher	01
Lewis	01
Lincoln	01
Logan	01
Mc Creary	01
Madison	01
Mason	01
Meade	01
Mercer	01
Monroe	01
Montgomery	01
Muhlenberg	01
Nelson	01
Ohio	01
Oldham	01
Perry	01
Pike	01
Pulaski	01
Rockcastle	01
Scott	01
Shelby	01
Simpson	01
Taylor	01
Todd	01
Union	01
Wayne	01
Webster	01
Whitley	01
Woodford	01
Louisiana	
County Listing	
Acadia	01
Allen	01
Ascension	01
Assumption	01
Avoyelles	01
Bienville	01
Bossier	01
Calcasieu	03
Claiborne	01
Concordia	01
De Soto	01
East Baton Rouge	03
East Carroll	01
East Feliciana	01
Evangeline	01
Franklin	01
Grant	01
Iberia	01
Iberville	01
Jackson	01
Jefferson	02
LaFayette	02
LaFourche	01
La Salle	01
Lincoln	01
Livingston	01
Madison	01
Morehouse	01
Natchitoches	01
Ouachita	02
Plaquemines	01
Pointe Cou pee	01
Rapides	03
Richland	01
Sabine	01
St. Bernard	01
St. Charles	01
St. James	01
St. John The Baptist	01
St. Landry	01
St. Martin	01
St. Mary	01
St. Tammany	01
Tangipahoa	01
Terrebonne	01
Union	01
Vermilion	01
Vernon	01
Washington	01
Webster	01
West Baton Rouge	01
West Carroll	01
Winn	01
Maine	
County	
Aroostook	01
Franklin	01
Hancock	03
Lincoln	01
Oxford	01
Penobscot	02
Piscataquis	01
Sagadahoc	01
Somerset	01
Waldo	01
Washington	01
York	01
Maryland	
County listing	
Allegany	03
Anne Arundel	02
Calvert	01
Caroline	01
Cecil	01
Charles	01
Garrett	01
Queen Annes	01
St. Marys	01
Michigan	
County listing	
Allegan	03
Antrim	01
Arenac	01
Barry	01
Berrien	02
Branch	01
Cass	01
Chippewa	01
Clare	01
Clinton	01
Delta	03
Dickinson	01
Eaton	01
Genesee	03
Gladwin	01
Grand Traverse	01
Hillsdale	03
Houghton	01
Huron	01
Ingham	03
Ionia	01
Isabella	02
Jackson	02
Leelanau	01
Livingston	01
Mecosta	01
Menominee	01
Montcalm	01
Newaygo	01
Oceana	01
Ogemaw	01
Osceola	01
Otsego	01
Ottawa	01
Presque Isle	01
Sanitac	01
Shiawassee	02
Tuscola	01
Van Buren	01
Minnesota	
County listing	
Aitkin	01
Anoka	02
Becker	01
Benton	01
Carlton	01
Carver	01
Cass	01
Chippewa	01
Chisago	01
Clay	01
Cook	01
Cottonwood	01
Crow Wing	03
Dakota	03
Douglas	01
Grant	03
Houston	01
Hubbard	01
Isanti	01
Itasca	01
Kanabec	01
Koochiching	01
Lac Qui Parle	01
Mc Leod	01
Meeker	01
Mille Lacs	01
Morrison	01
Murray	01
Otter Tail	03
Pine	01
Pope	01
Ramsey	03
Redwood	01
Renville	01
Rice	03
Roseau	01
St. Louis	03
Scott	01
Sherburne	01
Stearns	03
Stevens	01
Swift	01
Todd	01
Wadena	01
Washington	01
Wright	01
Yellow Medicine	01
Mississippi	
County listing	
Adams	01
Alcorn	01
Amite	01
Attala	01
Bolivar	01
Calhoun	01
Chickasaw	01
Clarke	01
Clay	01
Coahoma	01
Copiah	01
Covington	01

De Soto	01
George	01
Grenada	01
Hancock	01
Harrison	02
Hinds	03
Holmes	01
Humphreys	01
Itawamba	01
Jackson	03
Jasper	01
Jefferson Davis	01
Jones	01
Lafayette	01
Lamar	01
Lauderdale	01
Lawrence	01
Leake	01
Lee	01
Leflore	01
Lincoln	01
Lowndes	01
Madison	01
Marion	01
Marshall	01
Monroe	01
Montgomery	01
Neshoba	01
Newton	01
Noxubee	01
Oktibbeha	01
Panola	01
Pearl River	01
Pike	01
Pontoloc	01
Prentiss	01
Quitman	01
Rankin	01
Scott	01
Simpson	01
Smith	01
Sunflower	01
Tallahatchie	01
Tate	01
Tippah	01
Tishomingo	01
Union	01
Walthall	01
Warren	01
Washington	02
Wanye	01
Winston	01
Yalobusha	01
Yazoo	01
Missouri	
County listing	
Andrew	01
Audrain	01
Bates	01
Benton	01
Buchanan	02
Camden	01
Cape Girardeau	03
Carroll	01
Cass	01
Cedar	01
Chariton	01
Clay	01
Clinton	01
Cooper	01
Crawford	01
Dallas	01
Dent	01
Douglas	01
Dunklin	01
Franklin	01
Gasconade	01
Grundy	01
Harrison	01
Henry	01
Howard	01
Howell	01
Jackson	03
Johnson	01
Laclede	01
Lafayette	01
Lawrence	01
Lincoln	01
Linn	01
Livingston	01
Mc Donald	01
Macon	01
Miller	01
Mississippi	01
Moniteau	01
Montgomery	01
Morgan	01
New Madrid	01
Newton	01
Nodaway	01
Osage	01
Pemiscot	01
Perry	01
Pike	01
Platte	01
Polk	01
Pulaski	01
Ray	01
Ripley	01
St. Charles	03
St. Clair	01
St. Francois	01
St. Louis	03
St. Louis City	01
Ste Genevieve	01
Saline	01
Scott	01
Stoddard	01
Stone	01
Taney	01
Warren	01
Washington	01
Webster	01
Wright	01
Montana	
County listing	
Beaverhead	
Service area: Area #8	02
Big Horn	
Service area: Area #3	03
Blaine	
Service area: Area #4	02
Carbon	
Service area: Area #5	02
Carter	
Service area: Area #1	01
Chouteau	
Service area: Area #4	02
Custer	
Service area: Area #1	01
Daniels	
Service area: Area #2	03
Dawson	
Service area: Area #2	02
Deer Lodge	
Service area: Area #8	02
Fallon	
Service area: Area #1	01
Fergus	
Service area: Area #4	02
Flathead	
Service area: Area #7	02
Garfield	
Service area: Area #2	02
Glacier	
Service area: Area #6	02
Hill	
Service area: Area #4	02
Judith Basin	
Service area: Area #4	02
Liberty	
Service area: Area #6	02
Lincoln	
Service area: Area #7	02
McCone	
Service area: Area #2	02
Madison	
Service area: Area #8	02
Meagher	
Service area: Area #5	02
Musselshell	
Service area: Area #3	03
Park	
Service area: Area #5	02
Phillips	
Service area: Area #4	02
Pondera	
Service area: Area #6	02
Powder River	
Service area: Area #1	01
Prairie	
Service area: Area #1	01
Richland	
Service area: Area #2	02
Roosevelt	
Service area: Area #2	02
Rosebud	
Service area: Area #3	02
Sheridan	
Service area: Area #2	02
Silver Bow	
Service area: Area #8	02
Stillwater	
Service area: Area #5	02
Sweet Grass	
Service area: Area #5	02
Toole	
Service area: Area #6	02
Treasure	
Service area: Area #3	03
Valley	
Service area: Area #2	02
Wheatland	
Service area: Area #5	02
Wibaux	
Service area: Area #1	01
Yellowstone	
Service area: Area #3	03
Montana	
Service area listing and name	
Area #1	01
County—Carter	
County—Custer	
County—Fallon	
County—Powder River	
County—Prairie	
County—Wibaux	
Area #2	03
County—Daniels	
County—Dawson	
County—Garfield	
County—McCone	
County—Richland	
County—Roosevelt	
County—Sheridan	
County—Valley	
Area #3	03
County—Big Horn	
County—Musselshell	
County—Rosebud	
County—Treasure	
County—Yellowstone	
Area #4	02
County—Blaine	
County—Chouteau	
County—Fergus	
County—Hill	
County—Judith Basin	
County—Phillips	
Area #5	02
County—Carbon	
County—Meagher	
County—Park	
County—Stillwater	
County—Sweet Grass	
County—Wheatland	
Area #6	02
County—Glacier	
County—Liberty	
County—Pondera	
County—Toole	
Area #7	02
County—Flathead	
County—Lincoln	
Area #8	02
County—Beaverhead	
County—Deer Lodge	
County—Madison	
County—Silver Bow	
Nebraska	
County listing	
Buffalo	01
Cedar	01
Dakota	01
Dawson	01
Douglas	
Service area: Northeast Omaha	01
Knox	01
Richardson	01
Saline	01
Sarpy	01
Seward	01
York	01
Service Area Listing	
Northeast Omaha	01
County—Douglas	
Parts of County	
C.T. 6	
C.T. 7	
C.T. 9	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 13.01	
C.T. 13.02	
C.T. 14	
C.T. 15	
C.T. 52	
C.T. 60	
Nevada	
County listing	
Clark	03

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New Hampshire
County listing
Rockingham 02
Stafford 03
New Jersey
County listing
Hunterdon 01
Monmouth 03
Ocean 02
Salem 03
Sussex 02
Warren 03
New Mexico
County Listing
Curry 01
Dona Ana 03
Grant 01
Luna 01
McKinley 01
Otero 01
Quay 01
Roosevelt 01
San Juan 03
San Miguel 01
Taos 01
New York
County Listing
Allegany 01
Cattaraugus 03
Clinton 03
Dutchess 03
Essex 01
Franklin 01
Herkimer 02
Lewis 01
Livingston 02
Madison 01
Niagara 03
Oneida 03
Ontario 01
Orleans 01
Oswego 02
St. Lawrence 01
Saratoga 02
Schoharie 01
Steuben 03
Sullivan 02
Washington 01
Wyoming 03
Yates 01
North Carolina
County Listing
Alamance 02
Alexander 01
Anson 01
Ashe 01
Bertie 01
Bladen 01
Brunswick 01
Buncombe 03
Burke 01
Cabarrus 02
Caswell 01
Catawba 01
Chatham 01
Cherokee 01
Cleveland 01
Columbus 01
Craven 03
Cumberland 03
Edgecombe 01
Franklin 01
Gaston 02
Granville 01
Greene 01
Halifax 01
Harnett 01
Haywood 01
Henderson 01
Hertford 01
Hoke 01
Iredell 02
Jackson 01
Johnston 01
Lee 01
Lenoir 01
Lincoln 01
McDowell 01
Macon 01
Madison 01
Martin 01
Mecklenburg 03
Mitchell 01
Montgomery 01
Nash 02
Northampton 01
Onslow 02
Orange 03
Pasquotank 01
Pender 01
Person 01
Pitt 01
Polk 01
Randolph 01
Richmond 01
Robeson 02
Rockingham 03
Rowan 02
Rutherford 01
Sampson 01
Scotland 01
Stanly 01
Surry 01
Transylvania 01
Union 01
Wake 02
Warren 01
Washington 01
Watauga 02
Wayne 01
Wilkes 01
Wilson 03
Yancey 01
North Dakota
County Listing
Barnes 01
Cass 03
Cavalier 01
Grand Forks 03
Morton 01
Ramsey 01
Richland 01
Walsh 01
Ohio
County listing
Athens 02
Auglaize 03
Belmont 02
Brown 01
Butler 03
Carroll 01
Clermont 02
Greene 01
Guernsey 03
Harrison 01
Jackson 01
Lawrence 02
Logan 03
Meigs 01
Miami 03
Monroe 01
Morgan 01
Noble 01
Paulding 01
Perry 01
Preble 01
Putnam 01
Tuscarawas 01
Warren 03
Washington 02
Williams 01
Oklahoma
County listing
Adair 01
Atoka 01
Beckham 01
Blaine 01
Bryan 01
Caddo 01
Canadien 01
Carter 03
Cherokee 01
Choctaw 01
Cleveland 03
Craig 01
Creek 01
Custer 01
Delaware 01
Garfield 01
Garvin 01
Grady 01
Hughes 01
Jackson 01
Kay 03
Kingfisher 01
Kiowa 01
Le Flore 01
Lincoln 01
Logan 01
McClain 01
McCurtain 01
McIntosh 01
Mayes 01
Murray 01
Noble 01
Nowata 01
Okfuskee 01
Oklahoma 03
Okmulgee 03
Osage 01
Ottawa 01
Pawnee 01
Payne 01
Pottawatomie 02
Seminole 01
Sequoyah 01
Stephens 01
Texas 01
Tillman 01
Wagoner 01
Washington 01
Washita 01
Woods 01
Woodward 01
Oregon
County listing
Baker 01
Benton 03
Clatsop 01
Columbia 01
Coos 03
Crook 01
Curry 01
Deschutes 01
Douglas 02
Klamath 03
Lane 06
Lincoln 01
Linn 02
Marion 06
Polk 01
Tillamook 01
Umatilla 01
Union 01
Washington 03
Yamhill 01
Pennsylvania
County listing
Adams 01
Armstrong 02
Cambria 02
Clarion 01
Fayette 03
Fulton 01
Indiana 02
Jefferson 02
McKean 02
Pike 01
Potter 01
Somerset 03
Tioga 03
Venango 03
Wayne 03
Westmoreland 03
Wyoming 01
South Carolina
County listing
Abbeville 01
Aiken 01
Anderson 02
Bamberg 01
Barnwell 01
Beaufort 01
Berkeley 01
Charleston 03
Cherokee 01
Chester 01
Chesterfield 01
Clarendon 01
Colleton 01
Darlington 01
Dillon 01
Dorchester 01
Edgefield 01
Fairfield 01
Georgetown 01
Greenville 03
Greenwood 01
Hampton 01
Horry 01
Jasper 01
Kershaw 01
Lancaster 01
Laurens 01
Lee 01
Lexington 02
Marion 01
Marlboro 01
Newberry 01
Oconee 01

Orangeburg 01
Pickens 01
Richland 03
Saluda 01
Spartanburg 02
Sumter 02
Union 01
Williamsburg 01
York 02
South Dakota
County listing
Beadle 01
Brookings 01
Lake 01
Lawrence 01
Meade 01
Roberts 01
Union 01
Tennessee
County listing
Anderson 01
Bedford 01
Benton 01
Blount 01
Bradley 01
Campbell 01
Carroll 01
Carter 01
Cheatham 01
Chester 01
Claiborne 01
Cocke 01
Coffee 01
Crockett 01
Cumberland 01
Davidson 02
De Kalb 01
Dickson 01
Dyer 01
Fayette 01
Fentress 01
Franklin 01
Gibson 01
Giles 01
Grainger 01
Greene 01
Grundy 01
Hamblen 01
Hamilton 03
Hardeman 01
Hardin 01
Hawkins 01
Haywood 01
Henderson 01
Henry 01
Hickman 01
Humphreys 01
Jefferson 01
Johnson 01
Lauderdale 01
Lawrence 01
Lincoln 01
Loudon 01
McMinn 01
McNairy 01
Macon 01
Madison 03
Marion 01
Marshall 01
Maury 01
Monroe 01
Montgomery 01
Morgan 01
Obion 01
Overton 01
Polk 01
Putnam 01
Rhea 01
Roane 01
Robertson 01
Rutherford 01
Scott 01
Sevier 01
Shelby 03
Smith 01
Sullivan 02
Sumner 01
Tipton 01
Unicoi 01
Warren 01
Wayne 01
Weakley 01
White 01
Williamson 01
Wilson 01
Texas
County listing
Anderson 01
Angelina 01
Atascosa 01
Austin 01
Bastrop 01
Bee 01
Bell 03
Bexar 03
Bosque 01
Bowie 01
Brazoria 02
Brazos 02
Brown 01
Burleson 01
Burnet 01
Caldwell 01
Cameron 02
Cass 01
Cherokee 01
Coleman 01
Collin 03
Colorado 01
Comal 01
Commanche 01
Cooke 01
Coryell 01
Denton 01
Duval 01
Ector 01
Ellis 01
El Paso 03
Erath 01
Falls 01
Fannin 01
Fayette 01
Fort Bend 01
Frestone 02
Galveston 03
Gillespie 01
Gonzales 01
Grayson 01
Grimes 01
Guadalupe 01
Hale 01
Hardin 01
Harris 03
Harrison 01
Hays 01
Hill 01
Hockley 01
Hopkins 01
Houston 01
Howard 01
Hunt 01
Hutchinson 01
Jasper 01
Jefferson 03
Jim Wells 01
Johnson 01
Jones 01
Kaufman 01
Lamar 03
Lamb 01
Lampasas 01
Liberty 01
Limestone 01
Lubbock 01
Mc Lennan 03
Matagorda 01
Mavenck 01
Medina 01
Milam 01
Montague 01
Montgomery 01
Nacogdoches 03
Navarro 01
Newton 01
Nolan 01
Orange 01
Palo Pinto 01
Panola 01
Parker 01
Pecos 01
Polk 01
Red River 01
Robertson 01
Runnels 01
Rusk 01
San Patricio 01
Shelby 01
Starr 01
Tarrant 03
Taylor 03
Titus 01
Tom Green 03
Travis 03
Tyler 01
Upshur 01
Uvalde 01
Val Verde 01
Van Zandt 01
Walker 03
Waller 01
Washington 01
Webb 01
Wharton 01
Wichita 03
Wilberger 01
Williamson 01
Wilson 01
Wise 01
Wood 01
Young 01
Utah
County listing
Carbon 01
Tooele 01
Vermont
County listing
Addison 01
Bennington 01
Chittenden 03
Franklin 01
Lamoille 01
Orange 01
Orleans 01
Rutland 03
Washington 03
Virginia
County listing
Accomack 01
Alleghany 01
Amherst 01
Augusta 02
Bedford 01
Botetourt 01
Brunswick 01
Buchanan 01
Campbell 03
Caroline 01
Carroll 01
Charlotte 01
Culpeper 01
Dickenson 01
Dinwiddie 01
Elizabeth City 03
Fauquier 01
Franklin 01
Giles 01
Gloucester 01
Grayson 01
Greensville 01
Halifax 01
Hanover 01
Henry 02
Isle of Wight 01
Lee 01
Loudoun 01
Louisa 01
Lunenburg 01
Mecklenburg 01
Montgomery 01
Nansemond 01
Nelson 01
Norfolk 03
Northampton 01
Nottoway 01
Orange 01
Page 01
Patrick 01
Pittsylvania 03
Prince Edward 01
Prince George 01
Prince William 02
Pulaski 01
Roanoke 03
Rockbridge 01
Rockingham 01
Russell 01
Scott 01
Smyth 01
Southampton 01
Spotsylvania 01
Stafford 01
Tazewell 01
Washington 01
Wise 01
Wythe 01
York 01
Washington
County listing
Adams 01
Asotin 01
Benton 03

- Clallam 01
- Clark 01
- Cowlitz 03
- Douglas 01
- Grant 01
- Grays Harbor 03
- Island 01
- Jefferson 01
- Kitsap 02
- Kittitas 01
- Lewis 01
- Mason 01
- Okanogan 01
- Pacific 01
- Pierce 03
- Snohomish 03
- Stevens 01
- Thurston 03
- Walla Walla 01
- Whatcom 03
- Whitman 01
- Yakima 03

West Virginia
- County listing
  - Barbour 01
  - Berkeley 01
  - Boone 01
  - Braxton 01
  - Brooke 03
  - Fayette 01
  - Greenbrier 01
  - Hampshire 01
  - Jackson 01
  - Jefferson 01
  - Kanawha 03
  - Logan 01
  - McDowell 01
  - Marshall 01
  - Mercer 02
  - Mineral 01
  - Mingo 01
  - Monroe 01
  - Nicholas 01
  - Preston 01
  - Putnam 01
  - Raleigh 02
  - Randolph 01
  - Ritchie 01
  - Roane 01
  - Summers 01
  - Taylor 01
  - Upshur 01
  - Wood 03
  - Wyoming 01

Wisconsin
- County listing
  - Adams 01
  - Ashland 01
  - Bayfield 01
  - Buffalo 01
  - Burnett 01
  - Calumet 01
  - Chippewa 01
  - Clark 01
  - Columbia 01
  - Crawford 01
  - Dodge 02
  - Door 01
  - Douglas 03
  - Dunn 01
  - Fond du Lac 03
  - Grant 01
  - Green Lake 01
  - Iowa 01
  - Jefferson 03
  - Juneau 01
  - Kewaunee 01
  - Lafayette 01
  - Langlade 01
  - Lincoln 01
  - Manitowoc 02
  - Marathon 03
  - Marinette 03
  - Marquette 01
  - Oconto 01
  - Ozaukee 02
  - Pierce 01
  - Polk 01
  - Portage 03
  - Price 01
  - Richland 01
  - St. Croix 01
  - Sawyer 01
  - Shawano 01
  - Taylor 01
  - Vilas 01
  - Walworth 03
  - Washburn 01
  - Washington 02
  - Waukesha 03
  - Waupaca 01
  - Waushara 01
  - Winnebago 03
  - Wood 03

Wyoming
- County listing
  - Albany 01
  - Fremont 01
  - Park 01
  - Sweetwater 01

Health Manpower Shortage Areas—Pharmacy

	Degree of shortage group
Alabama	
County listing	
Greene	03
St. Clair	03
Washington	03
Wilcox	02
Arkansas	
County listing	
Bradley	03
Lawrence	03
Lincoln	02
Newton	01
Perry	03
Sevier	03
Stone	03
Colorado	
County listing	
Costilla	01
Elbert	01
Florida	
County listing	
Glades	01
Lafayette	01
Liberty	01
Sumter	03
Georgia	
County listing	
Banks	01
Brantley	03
Crawford	01
Glascock	01
Oglethorpe	03
Quitman	01
Wilkinson	03
Idaho	
County listing	
Boundary	03
Madison	03
Illinois	
County listing	
Clay	03
Marshall	03
Indiana	
County listing	
Crawford	01
Franklin	03
Switzerland	03
Washington	03
Kentucky	
County listing	
Bracken	01
Breathitt	03
Casey	03
Jackson	02
Knott	03
Lewis	02
Pendleton	03
Michigan	
County listing	
Leelanau	03
Minnesota	
County listing	
Aitkin	03
Marshall	03
Mississippi	
County listing	
Benton	01
Missouri	
County listing	
Caldwell	02
Chariton	03
Harrison	03
Hickory	03
Holt	01
Knox	03
Lewis	01
Maries	01
Mercer	01
Miller	02
Montgomery	03
Morgan	03
Osage	01
Reynolds	03
Ripley	03
Schuyler	03
Scotland	03
Shelby	02
Sullivan	03
Montana	
County listing	
McCone	01
Nevada	
County listing	
Ormsby	01
New Mexico	
County listing	
Catron	01
Mora	01
North Carolina	
County listing	
Currituck	01
Hyde	01
North Dakota	
County listing	
Oliver	01
Ohio	
County listing	
Vinton	01
Oregon	
County listing	
Wheeler	01
Pennsylvania	
County Listing	
Centre	
Service Area: Snow Shoe	01
Clearfield	
Service Area: Chesquehanna	01
Service Area	01
Service Area: Snow Shoe	01
Fulton	03
Indiana	
Service Area: Chesquehanna Service Area	01
Lycoming	
Service Area: Norther Lycoming	01
Mifflin	
Service Area: McClure	01
Northumberland	
Service Area: Harnon/Mandata	01
Schuylkill	
Service Area: Herndon/Mandata	01
Snyder	
Servcie Area: McClure	01
Tioga	
Service Area: Northern Lycoming	01
Service Area Listing	
Chesquehanna Service Area	01
County—Clearfield	
Parts of County	
Bell TWP	
Burnside Boro	
Burnside TWP	
Ferguson TWP	
Greenwood TWP	
Mahaffey Bore	
Newburg Boro	
New Washington Boro	
County—Indiana	
Parts of County	
Banks TWP (Easter ½)	
Glen Campbell Boro	
Herndon/Mandata	01
County—Northumberland	
Parts of County	
Herndon Boro	
Jackson TWP	
Jordan TWP	
Little Mahanay TWP	
Lower Mahanay TWP	
Upper Mahanay TWP	
Washington TWP	
West Cameron TWP	
County—Schuylkill	
Parts of County	
Eldred TWP	
Upper Mahantango TWP	
McClure	01
County—Mifflin	
Parts of County	
Decatur TWP (Northern ½)	
County—Snyder	
Parts of County	
Adams TWP	
McClure Boro	
Spring TWP	
West Beaver TWP	

- Northern Lycoming 01
- County—Lycoming
  - Parts of County
    - Brown TWP
    - Cascade TWP
    - Cogan House TWP
    - Cummings TWP (Northern ⅘)
    - Gamble TWP
    - Jackson TWP
    - Lewis TWP (Northern ⅔)
    - McHenry TWP
    - McIntyre TWP
    - McNett TWP
    - Pine TWP
    - Plunketts Creek TWP (Northern ½)
- County—Tioga
  - Parts of County
    - Elk TWP
    - Liberty TWP (Southern ½)
    - Morris TWP
- Snow Shoe 01
- County—Centre
  - Parts of County
    - Boggs TWP (Northern ⅓)
    - Burnside TWP
    - Curtin TWP
    - Snow Shoe Boro
    - Snow Shoe TWP
    - Union TWP
    - Unionville Boro
- County—Clearfield
  - Parts of County
    - Cooper Twp (Northern ⅘)
    - Covington Twp
    - Karthaus Twp

South Dakota
- County Listing
  - Brule 03
  - Dewey 01
  - Jerauld 01
  - Mellette 01
  - Todd 03

Tennessee
- County Listing
  - Bledsoe 03

Texas
- County Listing
  - Burnet 03
  - Crockett 01
  - Dimmit 02
  - Hood 03
  - Hudspeth 01
  - Jack 03
  - Jim Hogg 01
  - Kinney 01
  - Lee 03
  - Lipscom 01
  - Refugio 03
  - Shackelford 01
  - Throckmorton 01
  - Zapata 01

Utah
- County Listing
  - Emery 01
  - San Juan 02

Virginia
- County Listing
  - Bland 01
  - Buckingham 02
  - Caroline 03
  - Charles City 01
  - Cumberland 01
  - Floyd 02
  - Fluvanna 02
  - Greene 02
  - King George 01
  - Madison 02
  - Powhatan 02
  - Rappahannock 01
  - Richmond 03

West Virginia
- County Listing
  - Braxton 02
  - Clay 01
  - Doddridge 03
  - Gilmer 03
  - Grant 03
  - Hampshire 03
  - Hardy 01
  - Lincoln 02
  - Pendleton 01
  - Pocahontas 03
  - Ritchie 03
  - Roane 03
  - Webster 02
  - Wirt 01
  - Wyoming 03

Wisconsin
- County Listing
  - Buffalo 02
  - Taylor 03

Health Manpower Shortage Areas—Veterinary Care

	Degree of Shortage Group
Alabama	
County listing	
Bullock	1
Butler	3
Calhoun	2
Clay	
Service area: Clay/Talledega service area	3
Cleburne	1
Cullman	3
De Kalb	3
Jackson	3
Lowndes	2
Pike	3
Randolph	3
Talladega	
Service area: Clay/Talledega service area	3
Wilcox	1
Winston	3
Service area listing	
Clay/Talledega	3
County—Clay	
County—Talledega	
Arizona	
County listing	
Apache	3
Coconino	3
Gila	3
Graham	3
Greenlee	1
Yuma	3
Arkansas	
County listing	
Clay	1
Cleburne	2
Conway	3
Fulton	1
Hempstead	3
Howard	3
Independence	3
Izard	1
Johnson	1
Lafayette	1
Little River	1
Madison	3
Marion	1
Miller	1
Nevada	1
Newton	1
Pike	1
Polk	3
Scott	1
Sevier	3
Stone	1
Van Buren	2
Washington	3
White	3
Yell	3
California	
County listing	
Fresno	3
Imperial	3
Kings	3
Madera	3
Merced	3
Modoc	3
Colorado	
County listing	
Baca	3
Cheyenne	1
Crowley	1
Kiowa	1
Logan	3
Montrose	3
Washington	1
Delaware	
County listing	
Sussex	3
Florida	
County listing	
Clay	3
Glades	1
Hamilton	1
Hardee	3
Hendry	3
Highlands	3
Indian River	3
Jackson	3
Lafayette	1
Madison	3
Okeechobee	3
Osceola	3
Pasco	3
St. Lucie	3
Sumter	1
Georgia	
County listing	
Atkinson	01
Banks	01
Coffee	03
Colquitt	03
Dawson	01
Murray	01
Newton	03
Pickens	01
Pierce	01
Putnam	03
Wheeler	01
Hawaii	
County listing	
Hawaii	03
Honolulu	03
Idaho	
County listing	
Bear Lake	03
Bingham	03
Blaine	03
Butte	01
Caribou	03
Clark	01
Franklin	03
Gooding	03
Jefferson	03
Oneida	01
Owyhee	03
Power	01
Teton	01
Illinois	
County listing	
Menon	03
Randolph	03
Indiana	
County listing	
Crawford	01
Greene	03
Owen	01
Pike	01
Spencer	01
Kansas	
County listing	
Atchison	03
Barber	03
Chase	01
Coffey	03
Comanche	03
Doniphan	03
Gove	03
Graham	03
Greeley	01
Greenwood	03
Lane	01
Lincoln	03
Linn	03
Ness	03
Phillips	03
Wallace	01
Woodson	03
Kentucky	
County listing	
Adair	03
Boone	03
Breckinridge	03
Butler	01
Carlisle	01
Casey	03
Clark	03
Clinton	03
Cumberland	01
Edmonson	01
Grayson	03
Green	03
Hardin	03
Hart	03
Henry	03
Hickman	01
Jackson	01
Lincoln	03
Livingston	01
Mc Lean	01
Marion	03
Metcalfe	01
Muhlenberg	01
Otto	03
Pulaski	03

Trigg	01
Washington	03
Wayne	03
Webster	03
Louisiana	
County listing	
Bienville	01
Cameron	01
Catahoula	01
Claiborne	01
Grant	01
Natchitoches	03
Red River	01
Sabine	03
Vernon	03
Washington	03
Maine	
County listing	
Somerset	03
Maryland	
County listing	
Somerset	03
Worcester	03
Michigan	
County listing	
Delta	02
Iosco	02
Menominee	03
Newaygo	03
Ogemaw	03
Osceola	01
Minnesota	
County listing	
Becker	03
Benton	03
Cass	03
Chisago	03
Houston	03
Isanti	03
Kittson	01
Marshall	01
Morrison	03
Norman	03
Otter Tail	03
Pine	03
Polk	03
Pope	03
Rock	03
Sherburne	03
Todd	03
Mississippi	
County listing	
Amite	01
Attala	03
Benton	01
Calhoun	01
Choctaw	01
Claiborne	01
Covington	01
Holmes	03
Itawamba	01
Jefferson Davis	03
Jones	03
Lawrence	02
Leake	03
Marshall	01
Noxubee	03
Pontotoc	03
Prentiss	03
Rankin	03
Scott	03
Simpson	03
Smith	01
Tate	03
Walthall	03
Yazoo	03
Missouri	
County listing	
Barton	01
Bollinger	01
Camden	02
Cole	03
Daviess	03
Harrison	02
Hickory	01
Howard	01
Knox	03
Lincoln	03
Livingston	03
Mc Donald	03
Mercer	03
Miller	03
Morgan	02
Pulaski	03
Putnam	02
Ralls	03
Schuyler	01
Shelby	01
Vernon	03
Wright	03
Montana	
County listing	
Beaverhead	03
Big Horn	03
Blaine	03
Carbon	03
Carter	03
Chouteau	03
Custer	03
Dawson	03
Garfield	01
Golden Valley	01
Jefferson	01
Liberty	01
McCone	03
Meagher	03
Musselshell	03
Petroleum	01
Phillips	03
Powder River	01
Prairie	01
Rosebud	03
Stillwater	03
Toole	01
Treasure	01
Wibaux	01
Nebraska	
County listing	
Banner	01
Blaine	01
Boone	03
Boyd	03
Brown	03
Cedar	03
Cherry	03
Cuming	03
Custer	03
Dixon	01
Franklin	03
Furnas	03
Garden	03
Garfield	03
Greeley	03
Hayes	01
Hitchcock	01
Holt	03
Keya Paha	01
Kimball	01
Knox	01
Logan	01
Loup	01
McPherson	01
Pawnee	03
Perkins	01
Polk	03
Richardson	01
Rock	03
Sarpy	03
Seward	03
Sheridan	03
Sherman	03
Sioux	03
Stanton	01
Wayne	03
Wheeler	03
Nevada	
County listing	
Churchhill	03
Elko	03
Eureka	01
Humbolt	03
Lander	03
Lincoln	03
Pershing	03
White Pine	03
New Mexico	
County listing	
Catron	01
Chaves	03
DeBaca	03
Eddy	03
Guadalupe	01
Harding	01
Hidalgo	03
Lea	03
Lincoln	03
McKinley	03
Mora	03
Quay	03
Roosevelt	03
Sierra	03
Socorro	03
Torrance	01
Union	01
New York	
County listing	
Clinton	3
Fulton	2
Livingston	3
St. Lawrence	3
Sullivan	3
North Carolina	
County listing	
Ashe	3
Cleveland	3
Duplin	3
Montgomery	3
Moore	1
Randolph	3
Stanly	3
Washington	3
North Dakota	1
County Listing	
Benson	03
Billings	01
Burke	01
Burleigh	03
Cavalier	01
Dickey	03
Divide	01
Dunn	03
Emmons	03
Grant	02
Kidder	03
Logan	01
McHenry	01
McIntosh	03
McKenzie	01
McLean	03
Mercer	01
Morton	03
Mountrail	01
Nelson	01
Oliver	01
Pembina	02
Rolette	01
Sargent	01
Sheridan	01
Sioux	01
Slope	01
Stark	03
Stutsman	03
Traill	01
Ohio	1
County Listing	
Adams	01
Gallia	01
Guernsey	03
Monroe	01
Noble	01
Pike	01
Oklahoma	3
County Listing	
Adair	03
Atoka	03
Beaver	03
Caddo	03
Camarron	03
Delaware	03
Ellis	03
Garvin	03
Grant	01
Haskell	03
Jackson	03
Jefferson	03
Johnston	01
LeFlore	03
Love	03
McClain	03
Okfuskee	03
Pittsburg	03
Pushmataha	01
Roger Mills	03
Sequoyah	03
Texas	03
Washita	03
Oregon	1
County Listing	
Gilliam	01
Grant	03
Harney	03
Jefferson	03
Lake	03
Malheur	03
Wheeler	01
Pennsylvania	2
County Listing	
Elk	01
Fayette	03
Fulton	01
Indiana	03

Lycoming	03
Snyder	03
Warren	03
South Carolina	
County Listing	
Chesterfield	01
Greenwood	03
Hampton	01
Newberry	03
Saluda	01
South Dakota	
County Listing	
Brookings	03
Brule	03
Buffalo	01
Campbell	01
Charles Mix	03
Clay	03
Corson	01
Custer	01
Day	03
Deuel	01
Dewey	01
Edmunds	03
Faulk	03
Gregory	03
Haakon	03
Harding	01
Hutchinson	03
Hyde	03
Lyman	03
McPherson	03
Marshall	03
Meade	03
Mellette	01
Perkins	03
Roberts	03
Shannon	01
Spink	03
Stanley	01
Sully	03
Todd	01
Tripp	03
Washabaugh	01
Yankton	03
Ziebach	01
Tennessee	
County Listing	
Bedford	03
Bledsoe	01
Fentress	01
Giles	03
Greene	03
Grunde	01
Hancock	01
Hickman	01
Jackson	01
McMinn	03
Macon	01
Marshall	03
Meigs	01
Moore	01
Overton	03
Polk	01
Robertson	03
Smith	01
Trousdale	01
Warren	03
Wayne	01
Texas	
County listing	
Anderson	03
Andrews	01
Armstrong	01
Austin	03
Baylor	03
Bosque	03
Brewster	03
Brooks	03
Burnet	03
Callahan	03
Castro	03
Cherokee	03
Childress	01
Clay	03
Cochran	03
Coleman	03
Collingsworth	03
Colorado	03
Comanche	03
Concho	03
Crockett	03
Culberson	01
Deaf Smith	03
Delta	01
Dimmit	03
Duval	01
Edwards	01
Foard	01
Freestone	03
Gaines	03
Gillespie	01
Goliad	01
Gonzales	03
Hall	01
Hamilton	03
Haskell	01
Hemphill	03
Hill	03
Hockley	02
Hopkins	03
Houston	03
Hudspeth	01
Jack	03
Jeff Davis	03
Jim Hogg	03
Jim Wells	03
Jones	03
Karnes	03
Kenedy	01
Kent	01
King	01
Kinney	03
Lampasas	03
La Salle	01
Lavaca	03
Lee	03
Llano	03
McMullen	01
Maverick	01
Menard	03
Mills	03
Motley	01
Nacogdoches	03
Navarro	03
Ochiltree	03
Oldham	03
Palo Pinto	03
Panola	03
Parmer	03
Pecos	03
Rains	01
Reagan	01
Red River	03
Rusk	03
Sabine	01
San Augustine	01
San Saba	03
Shelby	03
Starr	03
Stonewall	01
Swisher	03
Terrell	01
Throckmorton	01
Webb	03
Zapata	03
Zavala	03
Utah	
County listing	
Beaver	03
Box Elder	03
Duchesne	03
Emery	01
Garfield	01
Iron	03
Juab	01
Millard	01
Rich	01
Sevier	03
Uintah	03
Washington	03
Wayne	01
Vermont	
County listing	
Essex	01
Grand Isle	01
Orleans	01
Virginia	
County listing	
Amelia	
Service area: Amelia/Buckingham/Cumberland/Powhatan	01
Amherst	
Service area: Amherst/Appomatox/Bedford	03
Appomatox	
Service area: Amherst/Appomatox/Bedford	03
Bath	
Service area: Bath/Highland/Rockbridge	03
Bedford	
Service area: Amherst/Appomatox/Bedford	03
Blend	01
Brunswick	01
Buckingham	
Service area: Amelia/Buckingham/Cumberland/Powhatan	01
Caroline	
Service area: Caroline/King George/Stafford	01
Carroll	03
Chesterfield	03
Cumberland	
Service area: Amelia/Buckingham/Cumberland/Powhatan	01
Floyd	01
Grayson	03
Greene	
Service area: Greene/Madison/Orange/Page/Rappahennock	03
Highland	
Service area: Bath/Highland/Rockbridge	03
King George	
Service area: Caroline/King George/Stafford	01
Lee	01
Louisa	01
Madison	
Service area: Greene/Madison/Orange/Page/Rappahannock	03
Orange	
Service area: Greene/Madison/Orange/Page/Rappahannock	03
Page	
Service area: Greene/Madison/Orange/Page/Rappahannock	03
Patrick	01
Pittsylvania	03
Powhatan	
Service area: Amelia/Buckingham/Cumberland/Powhatan	01
Rappahannock	
Service area: Greene/Madison/Orange/Page/Rappahannock	03
Rockbridge	
Service area: Bath/Highland/Rockbridge	03
Scott	01
Stafford	
Service area: Caroline/King George/Stafford	01
Wythe	03
Service area listing	
Amelia/Buckingham/Cumberland/Powhatan	01
County—Amelia	03
County—Buckingham	03
County—Cumberland	03
County—Powhatan	01
Amherst/Appomatox/Bedford	03
County—Amherst	01
County—Appomatox	01
County—Bedford	03
Bath/Highland/Rockbridge	03
County—Bath	
County—Highland	
County—Rockbridge	
Caroline/King George/Stafford	01
County—Caroline	03
County—King George	03
County—Stafford	01
Greene/Madison/Orange/Page/Rappahannock	03
County—Greene	01
County—Madison	01
County—Orange	01
County—Page	03
County—Rappahannock	03
Washington	03
County listing	01
Okanogan	03
Stevens	03
West Virginia	
County listing	01
Grant	01
Hampshire	01
Marshall	02
Pocahontas	01
Wisconsin	
County listing	01
Adams	01
Bayfield	01
Buffalo	03
Clark	03
Door	03
Eau Claire	03
Florence	
Service area: Florence/Forest	01
Fond Du Lac	03
Forest	
Service area: Florence/Forest	01
Iowa	03

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Jackson	03
Juneau	03
Kewaunee	03
Lafayette	03
Langlade	03
Lincoln	03
Marathon	03
Marquette	03
Portage	03
Price	03
Richland	03
Rusk	03
St. Croix	03
Sawyer	01
Shawano	03
Taylor	03
Washburn	03
Waushara	03
Winnebago	03
Service area listing	
Florence/Forest	02
County—Florence	
County—Forest	
Wyoming	
County listing	
Big Horn	03
Campbell	03
Carbon	03
Converse	03
Crook	01
Hot Springs	03
Lincoln	03
Niobrara	03
Platte	03
Uinta	01
Weston	03

[FR Doc. 79-20271 Filed 8-3-79; 8:45 am]

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federal register

Monday
August 6, 1979

Part III

Department of Energy

Office of Leasing Policy Development

Bidding Systems for Outer Continental Shelf Oil and Gas Leasing; Proposed Rulemaking and Public Hearing

V 4 4 / 1 5 2

DEPARTMENT OF ENERGY

Office of Leasing Policy Development

[10 CFR Parts 375 and 376]

Proposed Rulemaking and Public Hearing—Bidding Systems for Outer Continental Shelf; Oil and Gas Leasing

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would establish three bidding systems for utilization in Outer Continental Shelf (OCS) lease sales of oil and gas. These systems are: (1) cash bonus bid with a fixed royalty; (2) royalty bid with a fixed cash bonus; and (3) cash bonus bid with a sliding scale royalty. These bidding systems have been previously used in OCS lease sales and are three of the seven bidding systems authorized by section 205 of the Outer Continental Shelf Lands Act Amendments of 1978. The intended effect of these regulations is to enhance competition for oil and gas leases on the OCS, provide a fair return to the Federal Government for its resources, and develop new oil and gas resources in an efficient and timely manner. This rulemaking is being proposed under the authority of sections 302(b) and 303(c) of the Department of Energy Organization Act.

DATES: Written comments are due by October 9, 1979, 4:30 p.m. Requests to speak are due by September 5, 1979, 4:30 p.m. New Orleans hearing: September 18, 1979, 9:30 a.m. Los Angeles: September 20, 1979, 9:30 a.m. Washington: September 27, 1979, 9:30 a.m.

ADDRESSES: All written comments and requests to speak at the Washington public hearing should be sent to the Office of Hearings Management, Economic Regulatory Administration, Room 2313, Box XI (Docket No. LPD–79–05), 2000 M Street NW., Washington, DC 20461. Requests to speak at the New Orleans and Los Angeles hearings should be sent to: New Orleans hearing: Department of Energy, 2626 W. Mockingbird Lane, P.O. Box 352228, Attn: Mac L. Lacefield, Dallas, Texas 75235. Los Angeles hearing: Department of Energy, 111 Pine Street, 3rd Floor, Attn: Robert Laffel, San Francisco, California 94111.

HEARING LOCATIONS: New Orleans hearing: F. Edward Hebert Building, Room 629, 600 South Street, New Orleans, LA 70130. Los Angeles hearing: New Otani Hotel, 120 S. Los Angeles St., Ballroom #2, Los Angeles, CA.

Washington hearing: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearings Management), Economic Regulatory Administration, 2000 M Street NW., Washington, D.C. 20461, (202) 254–5201.

Walter G. Talarek (Regulatory Programs), Leasing Policy Development Office, U.S. Department of Energy, 12th & Pennsylvania Avenue NW., Room 3319, Washington, D.C. 20461, (202) 633–9168.

Michael T. Skinker, Office of General Counsel, U.S. Department of Energy, 12th & Pennsylvania Avenue NW., Room 7148, Washington, D.C. 20461, (202) 633–8788.

Frederic C. Appel (Public Affairs), Resource Applications, U.S. Department of Energy, 12th & Pennsylvania Avenue NW., Room 3307, Washington, D.C. 20461, (202) 633–9418.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Lease Sale Process.
III. The Proposed Regulation.
A. Definitions.
B. Bidding Systems.
IV. Environmental Impact Assessment.
V. Significance Review.
VI. Summary of Regulatory Analysis.
VII. Public Comment and Public Hearing Procedures.
A. Written Comments.
B. Public Hearings.

I. Introduction

Sections 302 and 303 of the Department of Energy Organization Act (DOE Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.)*) transferred to the Secretary of Energy certain authorities previously held by the Secretary of the Interior under the Outer Continental Shelf Lands Act, as amended (OCSLA, Act of August 7, 1953, ch. 345, 67 Stat. 462 (43 U.S.C. 1331, *et seq.),* as amended by Pub. L. 95–372), the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act. As a result, with respect to Federal leases, the Secretary of Energy is authorized to promulgate regulations that (1) foster competition, (2) implement alternative bidding systems, (3) establish diligence requirements, (4) set rates of production, and (5) specify the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind (42 U.S.C. 7152(b)(1)–(5)). In addition, under section 302(c) of the DOE Act (42 U.S.C. 7152(c)), the Secretary of Energy is granted the authority to establish rates of production for Fedeal leases and, under section 303(c)(1) (42 U.S.C. 7153(c)(1)), reviews and may disapprove any term or condition of a Federal lease that relates to its section 302(b) authority to promulgate regulations.

As required by section 303(b) of the DOE Act (42 U.S.C. 7153(b)), the Secretary of the Interior was consulted during the preparation of these proposed regulations and afforded not less than 30 days to comment formally on them. The Secretary of the Interior provided comments which were considered in redrafting these regulations prior to today's publication.

The principal purpose of these proposed regulations is to establish and describe the bidding systems that may be used in OCS lease sales. These regulations would establish three of the bidding systems authorized by the Outer Continental Shelf Lands Act Amendments of 1978 (OCSLAA, Pub. L. 95–372, 92 Stat. 629). These regulations, therefore, implement DOE Act sections 302(b)(2) and 303(c). They are applicable only to sales of oil and gas leases on the OCS.

II. Lease Sale Process

According to a predetermined schedule, DOI periodically offers for sale oil and gas leases for tracts on the OCS. This event is the culmination of a series of DOI actions, including nominations for the inclusion of OCS tracts in a sale, geological/geophysical analysis, preparation and publication of an environmental impact statement (EIS), public hearings, coordination with State officials and members of the public, coordination with Federal agencies, and the publication of a notice of OCS lease sale in the **Federal Register**. After the bids submitted at the publicly held OCS lease sale are opened and evaluated, leases are awarded to successful bidders on a tract-by-tract basis.

From the bidding systems that would be established by these regulations the system or systems to be utilized by DOI in each OCS lease sale will be chosen. Bidders would submit bids on the basis of the bidding system that is applicable to a particular tract and as specified in the sale notice. The bidding system also states the method by which the successful bidder pays the United States for the lease. For example, in a cash bonus bid system with a fixed royalty and a fixed annual rental, the successful bidder pays the United States a one-time cash bonus, a yearly cash rental, and a royalty paid in money or in kind, based on a percentage in amount or value of production saved, removed or sold.

DOE is also proposing in a separate set of regulations a sequential bidding procedure for use at OCS lease sales that is an alternative to the procedure presently being utilized by DOI in OCS lease sales. The sequential bidding procedure divides a single sale of OCS leases into several bidding periods, instead of the current procedure in which bids for all tracts included in a sale are submitted simultaneously and opened in one session. In the proposed procedure, bids submitted for tracts would be equally divided among the several bidding periods, and there would not be less than 24 hours between bidding periods.

III. The Proposed Regulation

A. *Definitions.* Definitions of "person" and "gas" are being proposed for inclusion in the general provisions part (Part 375) of DOE's mineral leasing regulations (Subchapter C of Chapter II, Title 10 Code of Federal Regulations). These definitions would be applicable to all DOE mineral leasing regulations.

A general provisions portion (Subpart A of Part 376) for OCS oil and gas leasing is also being proposed by these regulations. For the present, this Subpart would only establish the definitions that are applicable to all Part 376 OCS oil and gas leasing regulations.

Section 376.102 of the proposed regulations would contain relevant definitions applicable only to the Subpart B, bidding systems regulations. These definitions are self explanatory.

B. *Bidding Systems.* Section 376.110 of the regulation would establish the following three bidding systems:

1. Cash bonus bid with a fixed royalty;
2. Variable royalty bid with a fixed bonus; and
3. Cash bonus bid with a sliding scale royalty.

In the cash bonus bid system (section 376.110(a)(1)), persons competing for a Federal tract submit bids in the form of cash bonuses. The amount of the cash bonus is determined by the person submitting the bid. The person who submits the highest cash bonus bid is usually awarded the lease if he is qualified and if his bid reflects the fair market value of the tract. Both the royalty rate and annual rental are fixed in this bidding system and would be specified in a notice of OCS lease sale published in the **Federal Register** prior to the lease sale. In the process of determining the fixed elements of a bidding system, *i.e.* royalty rate and rental, for this and other bidding systems, DOE will provide DOI with its analysis and conclusions regarding royalty rate and rental. In performing its analysis of the fixed elements of a bidding system, DOE may consider the factors listed in § 376.111(b) in relation to the characteristics of each tract to which the bidding system will be applied.

Under the variable royalty bid system § 376.110(a)(2)), persons competing for a Federal tract submit bids in the form of royalty rates, to be paid in money or in kind, based on a percentage of production saved, removed or sold. The amount of the royalty rate bid is determined by the person submitting the bid. The person who submits the bid with the highest percentage royalty rate is usually awarded the lease if he is qualified and his bid reflects the fair market value of the tract.

In the cash bonus bid with a sliding scale royalty system (section 376.110(a)(3)), as in the cash bonus bid system, the variable is the cash bonus, and the winning bidder for a tract is usually the person who submits the highest cash bonus bid. However, in this system, a sliding scale formula or schedule is utilized to adjust the royalty rate according to the amount or value of production saved, removed or sold during a specified production period. Both the royalty rate formula or schedule and a fixed annual rental would be specified in a notice of lease sale published in the **Federal Register** prior to lease sale. The royalty rate would be calculated by utilizing either a sliding scale formula, which relates the royalty rate established thereby to the value of oil and gas produced during the production period, or a schedule that establishes the royalty rate that will be applied to specified ranges of the value of the oil and gas production during the production period. For the purposes of determining the value of production and computing royalties on leases awarded in accordance with the three bidding systems authorized by these regulations, the DOI regulation at 30 CFR 250.64 is to be utilized. However, with respect to oil, the first sale of which is controlled under the DOE regulations at 10 CFR Part 212, the value shall not exceed the lawful first sale price of such oil; and, with respect to gas, the value shall not exceed the sale price established by the Federal Energy Regulatory Commission.

Only the general characteristics of each bidding system would be established by §§ 376.110(a)(1)-(3). When used in a particular sale, these systems will be tailored to the tracts to which they are applied. This flexibility is necessary because differing tract characteristics vary the economics of exploration, development and production, which are reflected both in the selection of a bidding system and in the design of its components. For example, as water depth increases, the cost of exploration, development and production to the lessee also increases. Therefore, for tracts at greater water depths, it may be appropriate to modify the selected bidding system so that more of this cost is shifted away from the lessee to the Federal Government. This could be accomplished in a cash bonus bid with a fixed royalty system by setting the fixed royalty rate and the fixed rental at lower levels.

In the case of adjacent tracts located on the same structure, it is anticipated that in most cases the same bidding system will be applied to all tracts which potentially could be the subject of a unitization agreement. However, in some cases considerations other than those related to unitization may be controlling and, therefore, different bidding systems may be selected for application to adjacent tracts on the same structure. But even in this latter situation, it is not expected that the formation of unitization agreements will be discouraged or hindered because sharing rules can still be formulated.

While tract-specific geologic and economic considerations are central to selection of an appropriate bidding system, the conference Report to the OCSLAA (H.R. Rep. No. 951474, 95th Cong. 2nd Sess. (1978)) indicates that certain additional important purposes and policies also are to be considered. These eight purposes and policies are restated in § 376.111(b) of the proposed regulations, and another has been added—experimentation with various bidding systems.

Pursuant to the OCSLAA, the regulations (section 376.111(c)(1)) would require that the royalty bid with a fixed cash bonus and the cash bonus bid with a sliding scale royalty bidding systems established in § 376.110(a)(2) and (3) be applied to not less than 20 per centum nor more than 60 per centum of the total area offered in OCS lease sales each year, over a five-year period commencing on September 18, 1978. This requirement may be set aside (section 376.111(c)(2)) if the purposes of the leasing program would be better served, as determined by DOI after consultation with DOE.

In performing its analysis of the application of bidding systems established in § 376.110 to specific tracts that are the subject of a lease sale, DOE will consider the purposes and policies enumerated in § 376.111(b)(1) through an evaluation of the regional and tract-specific factors listed in § 376.111(b)(2) that impact upon those purposes and policies. In its analysis, DOE will employ a procedure that involves the

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following four steps: 1) selecting the bidding systems that will be utilized in the lease sale; 2) determining the proportion of tracts to which each system will be applied; 3) determining the system to apply to each tract; and 4) adjusting the bidding system selected for a tract to accommodate tract specific characteristics.

IV. Environmental Analysis

After reviewing these proposed regulations pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 (Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321 *et seq.*), DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, DOE has determined that no environmental impact statement is required for the proposed regulations.

V. Significance Review

We have determined that this is a significant regulation and that it will have a major impact within the meaning of the DOE procedures implementing Executive Order 12044 on "Improving Government Regulations (DOE Order 2030.1, 44 FR 1032, January 3, 1979). Therefore, a regulatory analysis is required for this proposed regulation.

DOE has determined that the proposed regulation may substantially affect the goals of the National Energy Plan (NEP) and is of major concern to the public, Congress and the President. Although, analysis shows the regulations would not result in any incremental costs in excess of $100 million per year, they are considered to have a major impact because they pertain to OCS oil and gas lease sales, which do have a substantial role in the attainment of NEP goals.

A summary of the regulatory analysis prepared for this regulation is included below. Copies of the complete regulatory analysis are available for public review at the DOE Freedom of Information Office, Room GB–145, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Interested parties are invited to submit written comments on the draft regulatory analysis to the address indicated in the "Addresses" section of this preamble.

VI. Summary of Regulatory Analysis

A. Problem

Prior to the OCSLAA, section 8(a)(1) of the OCSLA authorized the granting of leases on OCS lands to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance. Further, section 8(a)(1) provided that the bidding be conducted on the basis of a cash bonus with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed or sold, or on the basis of royalty with a fixed cash bonus. DOI promulgated procedural regulations regarding OCS lease sales (43 CFR 3302.1) which provided that "[t]racts will be offered for lease by competitive sealed bidding under conditions specified in the notice of lease offer."

The OCSLAA specifically authorizes the use of five bidding systems in addition to the cash bonus and royalty bidding systems. In addition, the OCSLAA requires that bidding systems other than the cash bonus system be utilized for not less than 20 per centum and not more than 60 per centum of the area offered for leasing each year during the five-year period commencing on September 18, 1978.

Nearly a year before the enactment of the OCSLAA, DOE became involved in the OCS lease sale process by virtue of sections 302 and 303 of the DOE Act. As previously described in the "Introduction" section of this preamble, section 302(b)(2) transfers to, and vests in, the Secretary of Energy the authority to promulgate regulations relating to the implementation of alternative bidding systems authorized for the award of Federal leases, and section 303(c)(1) provides for the review and disapproval by the Secretary of Energy of any term or condition of a lease that relates to any matter with respect to which the Secretary has authority to promulgate regulations under section 302(b). Further, section 303(b) provides for consultation between DOE and DOI with regard to those functions transferred by the DOE Act. Therefore, these proposed bidding systems regulations are necessary to fully describe the bidding systems and their components to be utilized in OCS lease sales and to implement DOE's section 302(b)(2) DOE Act authority.

B. Mandate for Government Action

DOE is authorized by section 302(b)(2) of the DOE Act to promulgate regulations under the OCSLA relating to the implementation of alternative bidding systems authorized for the award of Federal leases. Section 8(a)(1) of the OCSLA authorizes the use of a number of alternatives bidding systems.

C. Policy Objectives

The primary impact of the alternative bidding systems that would be established by the proposed regulations relates to (1) providing a fair return to the Federal Government for its resources, (2) increasing competition for Federal leases, and (3) developing new oil and gas resources in an efficient and timely manner. The latter objective is significant when viewed from the perspective of the NEP, which has as a primary goal the stimulation of domestic energy production.

D. Alternative Courses of Action

The regulations establish a regulatory framework contemplated by the OCSLA and the DOE Act. The framework is fundamental to the adjustment and strengthening of the Federal OCS leasing program. The framework includes the option to utilize any of the three bidding systems described in the proposed regulations.

Issuance of these regulations is not expected to have an economic impact of any consequence because the promulgation of these regulations will not result in significant additional administrative costs to industry or government. The procedures for bidding and the requirements for reporting by lessees are unchanged. The Federal Government's cost of administering leases once awarded will not increase. The procedural requirements imposed on the government by these regulations are not substantial and, in any event, are considered the minimum contemplated by the legislation.

There are no viable regulatory alternatives that would satisfy responsibilities contained in the OCSLA and meet Congress' objectives for development of OCS resources through the use of alternative bidding systems. The proposed regulations create a regulatory framework; this framework is fundamental to the development and administration of a Federal OCS leasing program. The framework provides, at this time, options to use any combination of the three bidding systems under conditions stipulated by the OCSLA.

E. The Preferred Alternative

Proposing these regulations is the preferred alternative. This action implements DOE's authorities under section 302(b) of the DOE Act to promulgate regulations relating to the implementation of alternative bidding systems and under section 303(c)(1) to review and approve or disapprove any term or condition which relates to

DOE's section 302(b) authority to promulgate regulations. This action also implements the provisions of the OCSLA and the OCSLAA which relate to the implementation of alternative bidding systems.

VI. Public Comment and Public Hearing Procedures

A. Written Comments

You are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Written comments should be identified on the outside envelope and on the document with the designation: "Box XI, DOE Proposed Bidding Systems Regulations, Docket No. LPD–79–05." Ten copies should be submitted. All copies received by October 9, 1979, and all other relevant information will be considered by DOE before final action is taken on these proposed regulations.

Any information submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information and to treat it according to our determination.

B. Public Hearings

1. *Procedure for Request to Make Oral Presentation.* The time and place for the hearings are indicated in the "Dates" and "Hearing Locations" sections of this preamble.

If you have an interest in today's proposal, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation before 4:30 p.m., September 5, 1979. Please describe the interest concerned and, if appropriate, state why you are a proper representative of a group or class of persons that has such an interest, and give a concise summary of the proposed oral presentation. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., September 10, 1979. One hundred copies of your statement labeled "DOE Proposed Bidding Systems Regulations, Docket No. LPD–79–05" are due on the dates of the respective hearings and should be brought to the hearing locations, except in the case of the Washington hearing where they are due one working day prior to the date of the hearing and should be delivered to the "Request to Speak" address at the beginning of this preamble. In the event any person wishing to testify cannot meet the 100 copy requirement, alternative arrangements can be made with the Office of Hearings Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Hearings Management at (202) 254–5201.

2. *Conduct of the Hearings.* DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statement will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at any of the hearings to the address indicated above for requests to speak one working day prior to the hearing. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. DOE or, if the question is submitted at hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the DOE and made available for inspection at the DOE Freedom of Information Office, Room GB–145, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

(Outer Continential Shelf Lands Act (Act of August 7, 1953, ch. 345, 67 Stat. 462 (43 U.S.C. 1331 *et seq.*)), as amended by Pub. L. 95–372, 92 Stat. 629); Department of Energy Organization Act (Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*)); E.O. 12009, 42 F.R. 46267.)

In consideration of the foregoing, it is proposed to amend Chapter II, Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C. July 26, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

1. Part 375 of Chapter II of Title 10, Code of Federal Regulations is amended in § 375.004 by adding, in the proper alphabetical order, definitions to read as follows:

PART 375—MINERAL LEASING: GENERAL

* * * * *

§ 375.004 Definitions.

* * * * *

"Gas" means natuaral gas as defined by the Federal Energy Regulatory Commission.

* * * * *

"Person" means any association, firm, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Governmetn, including corporations, departments, Federal Agencies, and other instrumentalities, and State and local governments, and includes any officer, director, owner or duly authorized representative thereof. The DOE may, in regulations and in any forms issued under this Subchapter C, treat as a person:

(a) A parent and the consolidated and unconsolidated untities (if any) which it directly or indirectly controls;

(b) An unconsolidated entity; or

(c) Any part of a person.

* * * * *

(Secs. 302 and 303, Pub. L. 95–91 (91 Stat. 578–579, 579–580 (42 U.S.C. 7152 and 7153)); E.O. 12009, 42 F.R. 46267.)

2. Subchapter C of Chapter II of Title 10, Code of Federal Regulations, is amended by adding a part 376 to read as follows:

PART 376—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

Subpart A—General Provisions.

Sec.
376.001 Purpose and scope.
376.002 Definitions.

Subpart B—Bidding Systems

376.101 Purpose and scope.
376.102 Definitions.
376.110 Bidding Systems.
376.111 Criteria for selection of bidding systems and bidding system components.

Authority.—Act of August 7, 1953, ch. 345, sec. 8, 67 Stat. 468 (43 U.S.C. 1337), as amended by sec. 205, Pub. L. 95–372, 92 Stat. 640–646; secs. 302 and 303, Pub. L. 95–91, 91 Stat. 578–579, 579–580 (42 U.S.C. 7152, 7153 and 7254); E.O. 12009, 42 FR 46267.

Subpart A—General Provisions

376.001 Purpose.

The purpose of this Part 376 is to implement sections 302(b) and 303 of the DOE Act by providing regulations which relate to the fostering of competition, the implementation of alternative bidding systems, and the establishment of diligence requirements for Federal OCS leases issued under the OCSLA.

§ 376.002 Definitions.

For purposes of this Part 376:

"OCSLA" means the Outer Continental Shelf Lands Act, (Act of August 7, 1953, ch. 345, 67 Stat. 462 (43 U.S.C. 1331 *et seq.*), as amended by Pub. L. 95–372, 92 Stat. 629).

"OCS lease" means a Federal lease for oil and gas issued under the OCSLA.

Subpart B—Bidding Systems

§ 376.101 Purpose and scope.

(a) This subpart establishes the several bidding systems that may be utilized in connection with the offering and sale of Federal leases for the exploration, development and production of oil and gas resources located on the OCS.

(b) Only bidding systems established by this subpart shall be utilized in any OCS lease sale.

§ 376.102 Definitions.

For purposes of this Subpart B—

"Maximum royalty rate" means the highest royalty rate payable to the United States.

"Minimum royalty rate" means a rate that may not be less than 12.5 per centum at the beginning of the lease period in amount or value of the production saved, removed or sold, but may be greater than 12.5 per centum.

"OCS lease sale" means the DOI proceeding by which leases for certain OCS tracts are offered for sale and then issued to the person who is the highest qualified responsible bidder.

"Production period" means the period during which the amount of oil and gas produced from a tract, or, if the tract is unitized, the amount of oil and gas as allocated under a unitization formula, will be measured for purposes of determining the amount of royalty payable to the United States.

"Qualified bidder" means a person, who has met the appropriate requirements of 43 CFR 3316.3, and is eligible to be issued an OCS lease upon the determination that he is the highest responsible qualified bidder.

"Tract" means a portion of the OCS that is offered for lease through an OCS lease sale and is described and identified by an Outer Continental Shelf Official Protraction Diagram.

"Value of production" means the value of all oil and gas production saved, removed or sold from a tract, or, if the tract is unitized, the value of all oil and gas production saved, removed or sold and credited to the tract under a unitization formula, during a production period, which value is determined in accordance with § 376.110(b) of this chapter.

§ 376.110 Bidding systems.

(a) A single bidding system selected from those listed in this paragraph shall be applied to each tract included in an OCS lease sale.

(1) *Cash bonus bid with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed or sold and a fixed annual rental.*

(i) The royalty to be paid by the person awarded the lease shall be a percentage of the amount or value of the production saved, removed or sold. Such royalty shall not be less than 12½ per centum in the amount or value of production and shall be specified in the notice of OCS lease sale published in the **Federal Register.**

(ii) The amount of cash bonus to be paid is determined by the person submitting the bid. Any deferment and the schedule of payments shall be included in the notice of OCS lease sale published in the **Federal Register.**

(iii) The annual rental to be paid by the person awarded the lease shall be the amount specified in the notice of OCS lease sale published in the **Federal Register.**

(2) *Variable royalty bid based on per centum in amount or value of the production saved, removed or sold, with a fixed cash bonus and a fixed annual rental.*

(i) The royalty rate to be paid by the person awarded the lease shall be the percentage of the amount or value of the production saved, removed or sold that is selected by the person submitting the bid.

(ii) The cash bonus to be paid by the person awarded the lease shall be an amount specified in the notice of OCS lease sale published in the **Federal Register.**

(iii) The annual rental to be paid by the person awarded the lease shall be the amount specified in the notice of OCS lease sale published in the **Federal Register.**

(3) *Cash bonus bid with diminishing or sliding royalty rate of not less than 12½ per centum at the beginning of the OCS lease period in amount or value of the production saved, removed, or sold, and a fixed annual acreage rental.*

(i) (A) The royalty rate to be paid by the person awarded the lease shall be a percentage of the amount or value of the production saved, removed or sold. The royalty rate shall be calculated by utilizing either a sliding scale formula, which relates the royalty rate established thereby to the value of the oil and gas produced during the production period, or a schedule that establishes the royalty rate that will be applied to specified ranges of value of production *(e.g.,* $1,000,000 to $3,000,000 in oil and gas production). The description of the sliding scale formula or schedule shall include the relationship between value of production and royalty rate, and as stipulation of the minimum royalty rate and maximum royalty rate. The sliding scale formula or schedule shall be included in the lease issued to the person who is the successful bidder as one of the lease terms and conditions.

(B) The royalty rate shall not be less than 12½ per centum in the amount or value of production saved, removed or sold and shall be specified in the notice of OCS lease sale published in the **Federal Register.**

(C) *Royalty payment calculation.* (*1*) The royalty rate utilized in the calculation of royalty payments is based on an adjusted value of production, and is established through application of a sliding scale formula or a schedule to the adjusted value of production. (*2*) The adjusted value of production shall be determined by applying an inflation factor to the actual value of production. (*3*) The established royalty rate is applied to the actual value of production, which results in the determination of the amount in dollars to be paid to the United States by the person awarded the lease or the amount of royalty oil and gas to be taken in kind by the United States. (*4*) The production period for purposes of determining value of production shall be stated in the notice of OCS lease sale that is published in the **Federal Register.** The inflation factor utilized shall be the GNP fixed weighted price index that is published monthly in the *Survey of Current Business* by the Bureau of Economic Analysis, U.S. Department of Commerce. The procedures for making the inflation adjustment shall be stated in the notice of OCS lease sale published in the **Federal Register.**

(ii) The amount of cash bonus to be paid is determined by the person submitting the bid. Any deferment and the schedule of payments shall be included in the notice of OCS lease sale published in the **Federal Register.**

(iii) The annual rental to be paid by the person awarded the lease shall be the amount specified in the notice of OCS lease sale published in the **Federal Register.**

(b) The value basis for determining the actual value of production and for purposes of computing royalty in accordance with the bidding systems established by paragraph (a) of this section shall be as described in 30 CFR 250.64; *provided,* however, that with respect to oil, the first sale of which is controlled under 10 CFR Part 212, the value shall not exceed the lawful first sale price of such oil; and *provided further,* that with respect to gas, the value shall not exceed the sale price established by the Federal Energy Regulatory Commission.

(c) DOE may, by rule, add to or modify the bidding systems listed in paragraph (a) of this section, in accordance with section 501 of the DOE Act.

§ 376.111 Criteria for selection of bidding systems and bidding system components.

(a) In analyzing and making recommendations to DOI regarding the application of one of the bidding systems listed in §§ 376.110(a)(1) through (3) to tracts selected for any OCS lease sale, and in reviewing lease terms and conditions prior to determining whether to exercise its section 303(c)(1) DOE Act disapproval authority, DOE may, in its discretion, consider the following purposes and policies, recognizing that each of the purposes and policies may not be specifically applicable to the selection process for a particular bidding system and tract or may present a conflict that will have to be resolved in the process of bidding system selection, and that the order of listing does not denote a ranking:

(1) Providing fair return to the Federal Government;

(2) Increasing competition;

(3) Assuring competent and safe operations;

(4) Avoiding undue speculation;

(5) Avoiding unnecessary delays in exploration, development, and production;

(6) Discovering and recovering oil and gas;

(7) Developing new oil and gas resources in an efficient and timely manner;

(8) Limiting administrative burdens on Government and industry; and

(9) Providing an opportunity to experiment with various bidding systems to enable the identification of those that are the most appropriate for the satisfaction of the objectives of the United States in OCS lease sales.

(b)(1) In considering the potential disapproval of the application of the bidding system or systems for an OCS lease sale and the components of such system or systems, and in performing the analysis and review referred to in § 376.111(a), DOE may, in its discretion, take into account the following in relation to their impact upon the purposes and policies enumerated in paragraph (a) of this section:

(i) A projection of the number and characteristics of persons who would be interested in and capable of participating in the sale;

(ii) The relationship between economic rent and government revenue;

(iii) The incentives and disincentives for exploration, development and production;

(iv) The project level of total production and expected production profile;

(v) The estimated size and location of potential reservoirs, including the type of resources (oil and/or gas), depth of water, climatic region, proximity to pipelines, proximity to leased and/or developed tracts and leasing history;

(vi) Location of potential reservoirs that overlap boundaries and unitization considerations;

(vii) Risk sharing between lessor and lessee; and

(viii) Administrative burden on the lessor and lessee.

(2) Some of the above factors are tract-specific, whereas others have a regional orientation. In making the evaluation associated with application of the above factors to the process of applying bidding systems to the tracts included in an OCS lease sale, objective and subjective analytical techniques will be employed, including the application of computer simulation models.

(c)(1) The bidding systems listed in §§ 376.110(a)(2) and (3) shall be applied to not less than 20 per centum and not more than 60 per centum of the total area offered for OCS lease sales in each year during the five-year period commencing on September 18, 1978, except as provided in subparagraph (2) of this paragraph.

(2) After a consideration of the tracts to be included in a proposed OCS lease sale in relation to the purposes and policies stated in paragraph (b)(1) of this section, DOI may determine, after consultation with DOE, that the maximum or minimum limitations stated in paragraph (c)(1) of this section shall not apply.

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Monday
August 6, 1979

Part IV

Department of Energy

Economic Regulatory Administration

Establishment of Mandatory Production Levels for Middle Distillates

DEPARTMENT OF ENERGY
Economic Regulatory Administration

[10 CFR Part 211]

[Docket No. ERA-R-79-37]

Establishment of Mandatory Production Levels for Middle Distillates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby proposes a special rule which would require that in each of the months August, September and October 1979 each refiner's combined production of Nos. 1 and 2 heating oil and Nos. 1 and 2 diesel fuel be at least equal to its average monthly production of those products in the three months during the period January 1977 through December 1978 in which that refiner's combined production of those products was greatest. In addition, the proposed rule would require that each refiner's combined production of kerosene and kerosene-type aviation turbine fuel (kerojet fuel) in each month covered by the rule at least equal its average monthly production of those products in the three months of 1978 in which its combined production of those products was greatest. The special rule is intended to promote the build-up of adequate stocks of home heating oil for the coming winter, while providing for the continued availability of middle distillate supplies for other services and activities important to the well-being of the nation.

DATES: Written comments to be submitted by August 16, 1979, 4:30 p.m. Hearing Date: August 15, 1979, 9:30 a.m. Requests to speak by August 9, 1979, 4:30 p.m.

ADDRESSES: Hearing Location: Federal Building, Room 3000A, 1200 Pennsylvania Avenue, N.W., Washington, D.C. All comments to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-79-37, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2222-A, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-5201.
William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.
William E. Caldwell (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-8034.
Terry Higgins (Office of Petroleum Operations), Economic Regulatory Administration, Room 6128, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-5338.
Jack Kendall or Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6739.

SUPPLEMENTARY INFORMATION:

I. *Background.*
II. *Proposed Special Rule*
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A. Written Comments
B. Public Hearing

I. Background

The shortage of middle distillates in the nation since the beginning of this year has resulted primarily from three factors. First, in the last quarter of 1978, many refiners maximized motor gasoline production at the expense of middle distillates in order to meet an unexpected demand for gasoline and to build up depleted gasoline inventories. Second, largely as a result of curtailments in exports by Iran and other foreign producers, refinery utilization rates and, therefore, production of petroleum products generally have been lower than normal since the beginning of this year. Third, colder than normal weather conditions created a high demand for home heating oil this past winter.

We have taken a number of actions in response to the continuing shortage of middle distillate supplies this year. In January, we adopted a Special Rule No. 7 establishing a special middle distillate set-aside program to insure adequate supplies of home heating oil for assignment by the States in emergency situations (44 FR 3467, January 17, 1979). After initially extending Special Rule No. 7 on an emergency basis to prevent the interruption of agricultural production activities (44 FR 18640, March 28, 1979), we adopted a new Special Rule No. 10 establishing a permanent middle distillate set-aside program (44 FR 32196, June 5, 1979).

By early May, middle distillates were in such short supply that there was a serious threat to the continuation of agricultural production activities, especially crop planting. Therefore, we adopted a Special Rule No. 9 to insure adequate supplies of diesel fuel for use in agricultural production (44 FR 28606, May 15, 1979). Special Rule No. 9 was expanded for a brief period to include agricultural trucking, crude oil and natural gas production, and surface passenger mass transportation activities (44 FR 31626, June 1, 1979). However, we later determined that it would not be feasible to allocate middle distillates except under the most compelling circumstances. Accordingly, we further amended Special Rule No. 9 to provide for the allocation of middle distillates only for surface passenger mass transportation, since the Department of Agriculture had informed us that this year's planting activities were at least ninety percent complete (44 FR 37188, June 25, 1979).

We believe the measures described above were necessary and justified means of providing for the equitable distribution of scarce middle distillate supplies. We recognize, however, that so long as inadequate supplies exist they will create inconvenience and hardships for some consumers, regardless of any allocation measures we may undertake. Therefore, we have also taken actions both to conserve and to increase the volume of available middle distillate supplies. In this regard, we have established restrictions on thermostat settings for heating, cooling and hot water in commercial, industrial and other non-residential buildings, including government buildings (44 FR 39353, July 5, 1979). In addition, we have adopted a final rule providing during the months May through August 1979 for the issuance of entitlements for middle distillate imports as a means of increasing available supplies (44 FR 31162, May 31, 1979).

Despite our efforts to insure the adequacy of middle distillate supplies to prevent the interruption of important services and activities, supplies have continued to be tight in all regions of the nation. If the supply situation is not improved when the heating season begins, extreme hardships could result, especially among consumers dependent on middle distillates for home heating. Therefore, we have met individually with refiners to discuss supply projections and have urged all refiners to take voluntary action to build up distillate stocks to insure that heating oil supplies will be adequate throughout the winter heating season. Furthermore, we have notified each of the thirty-two largest refiners that we are monitoring their progress in attaining adequate heating oil stocks for the coming winter. Nevertheless, primary stocks remain below inventory levels in recent years and most refiners are not meeting current demand.

If middle distillate stocks are to be adequate to meet anticipated demand during the coming winter, inventory accumulation rates must be accelerated within the next few weeks. Since the adequacy of heating oil supplies is a matter of vital importance affecting the health, safety and welfare of a large segment of our society, we must be prepared to act in the event that refiners do not voluntarily adjust their operations to increase middle distillate production to levels necessary to provide for both the accumulation of adequate heating oil stocks and the continued availability of supplies for other services and activities important to the well-being of our nation. To that end, we are proposing today a special rule which we intend to implement, if necessary, on an emergency basis to require refiners to achieve mandatory production levels for middle distillates.

II. Proposed Special Rule

Under section 14 of the Emergency Petroleum allocation Act of 1973 (EPAA, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended), we have the authority to require that refiners adjust their refinery yields upon our finding that such action is necessary to assure the production of any refined petroleum product in such proportions as are necessary or appropriate to provide for the attainment, to the maximum extent practicable, of the objectives of section 4(b)(1) of the EPAA. In addition, we also have authority pursuant to section 15 of the EPAA to require adjustments in refiners' inventory levels upon our finding an existing or impending regional or national supply shortage of a refined petroleum product, if those adjustments are necessary or appropriate to attain section 4(b)(1) objectives. For the reasons discussed above, we have determined that it will be necessary and appropriate to exercise our authority under sections 14 and 15 to require increased middle distillate production levels if refiners do not voluntarily take such action within the immediate future. Therefore, we are proposing today a special rule which would require refiners to make adjustments to inventory management practices as well as adjustments to refinery yields necessary to achieve the production levels specified below.

The proposed special rule would require that, in each of the months August, September and October 1979, a refiner's total production of Nos. 1 and 2 heating oil and Nos. 1 and 2 diesel fuel be at least equal to its average monthly production of those products during the three months during the period January 1977 through December 1978 in which that refiner's total combined production of those products was greatest. In addition, the proposed rule would require that a refiner's production of kerosene and kerojet fuel in each month covered by the rule at least equal its average monthly production levels in the three months of 1978 in which its combined production of those products was greatest.

We recognize that such factors as mechanical failure and lack of access to adequate crude oil supplies might make it impossible for some refiners to fully achieve the production levels specified in the proposed special rule. In any such instances, a refiner would be required to notify the ERA's Office of Petroleum Operations at the earliest possible time as to the nature of any problems it might be encountering in meeting its required production levels. Following opportunity for review of this and any additional information we might need to evaluate fully a refiner's situation, we would make any adjustments to such refiner's mandatory production levels that we deemed appropriate. However, we would not permit the use of any relief mechanism to frustrate the objectives of this rulemaking proceeding. Accordingly, we would adjust a refiner's mandatory production level only in an extreme situation and, therefore, an application for adjustment would not provide any insurance that such relief would ultimately be granted.

III. Requests for Specific Comments

As discussed above, it may be necessary to implement today's proposed special rule on an emergency basis prior to August 16, 1979, the scheduled closing date for public comment. However, to the extent practicable under the circumstances, we wish to provide opportunity for public comment to aid us in determining whether any modifications to the proposal might be appropriate. We especially welcome your comments on the following specific issues.

We believe that available supplies of crude oil are sufficient to permit refiners to attain the production levels specified in the proposed special rule. However, we invite your comments regarding crude oil supply availability and as to any other factors which might affect a refiner's ability to achieve the proposed production levels. In this regard, we also welcome comments as to whether the three months of greatest production in 1977 and 1978 provide the appropriate basis for establishing mandatory production levels.

In the event we adopt a final rule in this proceeding, we will require each refiner to report to the ERA its middle distillate production levels for each month in 1977 and in 1978 and for each month covered by the final rule. We request your views and suggestions as to how the collection of this information can be accomplished with the least burden and delay, while insuring that the information thus obtained will be both accurate and sufficiently detailed.

We recognize that a refiner's production levels may include volumes refined pursuant to a processing agreement with another refiner. We request your views and suggestions as to how middle distillate volumes produced pursuant to a processing agreement should be treated in determining a refiner's mandatory production level.

While today's proposed rule would be applicable to all refiners, we request your comments as to whether it would be more appropriate to establish mandatory production levels on a more limited basis. For example, we may determine to require that specified production levels be attained only by the thirty-two largest refiners or only by individual refiners pursuant to orders issued by the ERA. We request your comments as to the appropriate criteria for use in determining those refiners which should be required to meet specified production levels in the event we determine that such requirements should be imposed on less than an industry-wide basis. In addition, we welcome your views as to the circumstances under which relief should be available to refiners under any rule we adopt in this proceeding.

Available data indicate that middle distillate inventories in the West Coast (PAD V) are only slightly below inventory levels in October 1978. In addition, the level of distillate production in PAD V appears to be sufficient to insure the build-up of adequate stocks of middle distillates to meet the needs of that region through the coming winter. Furthermore, it is very difficult to move product between PAD V and the rest of the nation. In view of these considerations, we request your views as to whether it would be appropriate to exclude refiners in PAD V from the coverage of any final rule we may adopt in this proceeding and also to adjust the production requirements of

othe refiners to the extent they have refining capacity located in PAD V.

We also request comments on the advisability of redefining a refiner's "reasonable needs" for inventories of crude oil under section 16 of the EPAA, the anti-hoarding provision. Accumulations of crude oil in inventory if a refinery is not being utilized to the maximum, during a period of severe product shortages may be contrary to the objectives of section 4(b)(1) of the EPAA. Utilization of our authority under section 16 could be an additional tool to force production of products in short supply if refiners do not voluntarily increase production. Comments should also voluntarily increase production. Comments should also address how we might redefine refiner's "reasonable needs" for inventory in a product shortage situation.

We are generally requesting comments as to other measures you believe to be necessary or more appropriate in achieving increased middle distillate production levels as a means of promoting both the maintenance of current services and activities and the accumulation of adequate heating oil stocks for this winter. In this regard, we specifically request comments as to whether this objective can be achieved by requiring only that refiners make adjustments to yield percentages and/or inventories, for example, based on the highest yields in any three months in calendar years 1977 and 1978, without specification of mandatory production levels.

IV. Procedural Requirements

A. Section 501 of the DOE Act

Under section 501(e) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91), we may waive the thirty day comment period requirement of subsection (b) of section 501 upon our finding that strict compliance with this requirement is likely to cause serious harm or injury to the public health, safety or welfare. We believe such a finding can and should be made in this instance. This conclusion is based on our determination that it may be necessary to make today's proposed action effective as early as August 1, 1979 in order to promote the accumulation of adequate middle distillate stocks for home heating purposes this coming winter. However, in accordance with section 501(e) and in order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we have scheduled a hearing on August 15, 1979 and will receive written comments on the proposed special rule through August 16, 1979, 4:30 p.m. In the event we adopt a final rule prior to August 16, we will, to the extent practicable, consider any comments received and will provide opportunity for comment on such final rule.

B. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the DOE Act, we have referred this proposed rule to the Federal Energy Regulatory Commission for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction.

C. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. § 787 *et seq.*, Pub. L. 93–275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

Prior review by the EPA Administrator may be waived for a period of fourteen days if there is an emergency situation which necessitates that a proposed action be made effective at a date earlier than that which would permit the EPA Administrator the five working days opportunity for prior comment. Notice of any such waiver shall be given to the EPA Administrator and filed with the **Federal Register** with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as is determined will apprise the EPA and the public of the reasons for such waiver.

In view of the emergency nature of this proceeding, we believe that the five working days opportunity for prior comment by the EPA Administrator should be waived in order to permit such opportunity for public comment as may be practicable under the circumstances.

D. Executive Order 12044

The sixty-day public comment period and other relevant procedures required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030.1 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy for the reasons previously stated for waiving section 501(b) of the DOE Act.

V. Written Comment and Public Hearing Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this notice. Comments should be submitted by 4:30 p.m. August 16, 1979 to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Special Rule to Establish Manadatory Middle Distillate Production Levels." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearing

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in this notice, or represent a group or class of persons that has an interest, you may make an oral request for an opportunity to make oral presentation by 4:30 p.m., August 9, 1979. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., August 10, 1979, and will be required to submit one hundred copies of your statement to the appropriate address indicated in the "Addresses" section of this notice before 4:30 p.m., August 14, 1979.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C., July 30, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

The Appendix A to Subpart C of Part 211 is amended by the addition of a Special Rule No. —— to read as follows:

Special Rule No. ——

Each refiner shall adjust crude oil inventories and refinery yields to produce in each calendar month in the period August 1, 1979 through October 31, 1979: (1) a total combined volume of No. 1 heating oil, No. 2 heating oil, No. 1–D diesel fuel, and No. 2–D diesel fuel at least equal to its average monthly production of those products during those three calendar months in the period January 1, 1977 through December 31, 1978 in which its total combined production of those products was greatest; and (2) a total combined volume of kerosene and kerosene-type aviation turbine fuel at least equal to its average monthly production of those products in those three calendar months in calendar year 1978 in which its total combined production of those products was greatest.

Any refiner which, as the result of lack of access to adequate crude oil supplies, mechanical failure, or other reason, cannot or will not be able to produce the volumes of middle distillates required to be produced in any month pursuant to this Special Rule shall inform the ERA's Office of Petroleum Operations at the earliest possible time of such inability and the reasons therefor. Following opportunity to review any information necessary to fully evaluate a refiner's situation, the ERA's Office of Petroleum Operations may make any appropriate adjustments to such refiner's mandatory production levels under this Special Rule.

[FR Doc. 79-24174 Filed 8-3-79; 8:45 am]

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Federal Register

Vol. 44, No. 152

Monday, August 6, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

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(Revised as of April 1, 1979)

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_____	Title 21—Food and Drugs (Parts 1-99)	5.50	_____
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[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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8-7-79
Vol. 44 No. 153
Pages 46249–46426

Federal Register

Tuesday
August 7, 1979

Highlights

46264 **Banks and Banking** FDIC amends regulations relating to penalties for early withdrawal of deposits, interest rate ceilings on deposits, and restrictions on nondeposit obligations; effective 8–1–79

46365 **Insurance Companies** Labor/P&WBP grants class exemption to permit sales of employee benefit funding contracts under certain conditions; effective 1–1–75 and 1–1–82

46353 **Housing Assistance** HUD/CPD announces that it is accepting requests from Areawide Planning Organizations for special allocations based upon approved Areawide Housing Opportunity Plans

46386 **Federal Land Policy and Management** Interior/BLM establishes planning system for public lands and resources; effective 9–6–79 (Part II of this issue)

46404 **Outer Continental Shelf** Interior/GS adopts rules governing Oil and Gas Information Program; effective 10–9–79 (Part III of this issue)

46414 **Pesticide Programs** EPA proposes rules for registration by States to meet special local needs; comments by 10–9–79 (Part IV of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202–523–5240

Highlights

46275 **Regulation of Fuels and Fuel Additives** EPA exempts small refiners from gasoline lead content limitation requirement; effective 10–1–79

46314 **Pollution Control for Limited Life Facilities** EPA announces availability of policy statement concerning enforcement of requirements

46250 **Agricultural Credit** USDA/FmHA revises regulations governing account servicing of borrower loans; effective 8–7–79

46288 **Beef Research and Information** USDA/AMS, ASCS proposes amending procedure for conduct of referendums with respect to orders; comments by 10–9–79

46268 **New Animal Drugs** HEW/FDA amends ophthalmic and topical dosage regulations to indicate certain conditions of use; effective 8–7–79

46290 **Prevention of Animal Diseases** USDA/APHIS proposes revising packaging requirements to permit separate shipment of diluent for certain desiccated poultry vaccines; comments by 10–9–79

46290 **Prevention of Animal Diseases** USDA/APHIS proposes rules on lable requirements for certain canine vaccines; comments by 10–9–79

46272 **Federal Records** DOD/Navy amends regulations relating to personal privacy and rights of individuals regarding personal records; effective 8–7–79

46383 **Sunshine Act Meetings**

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46404 **Part III, Interior/GS**
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Rules and Regulations

Federal Register
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Tuesday, August 7, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 772

Appeals to the Commission

AGENCY: Office of Personnel Management.

ACTION: Final Rule (Conforming Technical Correction).

SUMMARY: Part 772, Appeals to the Commission, is being eliminated in its entirety as a technical change to conform with applicable provisions of the Civil Service Reform Act of 1978 (Pub. L. 95–454) and Reorganization Plan No. 2 of 1978 (43 FR 36037) to reflect the fact that the Merit Systems Protection Board is now responsible for handling appeals formerly the responsibility of the United States Civil Service Commission. The Board issued final regulations (5 CFR Part 1200) to implement the Reform Act and Reorganization Plan provisions (44 FR 38342—83361, June 29, 1979).

EFFECTIVE DATE: June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Wilma Lehman, Workforce Effectiveness and Development Group, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, (202) 632–5623.

SUPPLEMENTARY INFORMATION: The United States Civil Service Commission was redesignated the Merit Systems Protection Board by section 201 of Reorganization Plan No. 2 of 1978 (43 FR 36037). Section 101 of the Plan established the Office of Personnel Management. The Civil Service Reform Act of 1978 (Pub. L. 95–454) provided for parallel organizational structures at sections 202 and 201, respectively.

Most appeals formerly handled by the Civil Service Commission are now the responsibility of the Board, which has issued final regulations (5 CFR Part 1200) to provide procedures for handling these appeals. While the Office of Personnel Management is responsible for certain types of review, procedures for these reviews are provided by applicable OPM regulations. Therefore, Part 772 has become obsolete.

PART 772 [Deleted]

Accordingly, the Office of Personnel Management is hereby amending 5 CFR Part 772, Appeals to the Commission, by deleting that part from its regulations.

Office of Personnel Management,
Beverly M. Jones,
Issuance System Manager.

[FR Doc. 79-24301 Filed 8-6-79; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

Handling of Fresh Prunes Grown in Designated Counties in Idaho and in Malheur County, Oreg.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document terminates the marketing agreement and Order No. 925, which regulate the handling of fresh prunes grown in designated counties in Idaho and Malheur County, Oregon. It also authorizes disposition of program assets. Production of prunes in the area covered by this program has been declining and this trend is expected to continue. Indications are that this program is no longer needed.

EFFECTIVE DATE: September 15, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: This document terminates the Marketing Agreement and Order No. 925 and authorizes disposal of program assets. These actions are being taken in accordance with § 925.64 of said order, and § 8c(16(A)) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) under which the marketing agreement and order are effective.

This regulatory program became effective July 21, 1960. It authorizes the regulation of grade, size, quality, maturity, packs and containers of fresh prune shipments. The purpose of such regulation, consistent with the objectives of the Act, is to improve grower returns through establishment and maintenance of orderly marketing conditions for prunes. However, this program has been inactive since 1974. In 1974, a winter freeze caused extensive tree damage. Since then, there have been substantial tree removals. Production of prunes in the area covered by this program has been declining and this trend is expected to continue. Indications are that this program is no longer needed.

Recently a mail ballot was conducted among members of the Idaho-Oregon Fresh Prune Marketing Committee to ascertain whether or not they favored termination of the program. This is the agency, established under the program, to administer it locally. The vote was unanimous in favor of termination. A notice of proposed termination was published in the April 30, 1979 Federal Register (44 FR 25239) allowing interested persons until July 15, 1979, to file comment. None were received. This rule has been reviewed under the USDA criteria for implementing Executive Order 12044, and has been classified "significant". A final Impact Statement is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250.

Finding: It is hereby found that marketing agreement No. 140 and marketing order No. 925 do not tend to effectuate the declared policy of the act. Therefore, it is ordered that: (1) Marketing Agreement No. 140 and Order No. 925 are terminated, effective September 15, 1979;

(2) The Idaho-Malheur County Fresh Prune Marketing Committee members and alternates, after disposition of committee funds and other assets, are hereby relieved of their powers and duties under this order;

(3) Committee funds totaling about $1,080 in unexpended assessment funds are to be transferred to the University of Idaho for prune research; and

(4) Committee fixed assets are hereby transferred to local industry groups, e.g.,

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the Idaho-Oregon Fruit and Vegetable Association, Inc., Parma, Idaho.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 1, 1979, to become effective September 15, 1979.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79–24257 Filed 8–6–79; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 947

Irish Potatoes Grown in Modoc and Siskiyou Counties in California and in All Counties in Oregon Except Malheur County; Handling Regulation—Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule; Correction.

SUMMARY: This corrects FR Doc. 79–21960 on page 41171 of the **Federal Register** of July 16, 1979, by changing the words "Russet Burbank" in paragraph(b)(3)(ii) to "all russet type potatoes," as recommended by the Oregon California Potato Committee. As Russet Burbank variety potatoes are also referred to by the name "Netted Gems" such a change would prevent misunderstandings among handlers covered by the regulation as to the minimum size requirements for such potatoes.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT: William D. Paterson (202) 447–2788.

In FR Doc. 79–21960 on page 41171 in the **Federal Register** of July 16, 1979, paragraph(b)(3)(ii) of § 947.338 is corrected by changing the words "Russet Burbank" to "all russet type potatoes."

The corrected paragraph(b)(3)(ii) is as follows:

§ 947.338 Handling regulation.

* * * * *

(b) * * *

(3) * * *

(ii) beginning September 1, 1979, all russet type potatoes—2 inches in diameter or 4 ounces in weight.

* * * * *

(Secs. 1–19, 49 Stat. 31, as amended (7 U.S.C. 601–674))

Dated August 1, 1979, to become effective September 1, 1979.

James S. Miller,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79–24264 Filed 8–6–79; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 993

Dried Prunes Produced in California; Expenses of the Prune Administrative Committee, and Rate of Assessment, for the 1979–80 Crop Year

AGENCY: Agricultural Marketing Service,USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1979–80 crop year, to be collected from handlers to support activities of the Committee which locally adminsters the Federal marketing order covering California dried prunes.

DATES: Effective August 1, 1979 through July 31, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Higgins (202) 447–5053.

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment as hereinafter provided, will tend to effectuate the delared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), as the order requires that the rate of assessment for a particular crop year shall apply to all assessable dried prunes handled from the beginning of such year which begins August 1, 1979. To enable the Committee to meet crop year obligations approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication, without opportunity for further public comments. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from William J. Higgins (202) 447–5053.

The expenses and assessment rate for the 1979–80 crop year follow:

§ 993.330 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Prune Administrative Committee during the 1979–80 crop year, will amount to $210,000.

(b) The rate of assessment for said year payable by each handler in accordance with § 993.81 is fixed at $1.75 per ton of salable prunes.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 1, 1979.

James S. Miller,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 79–24324 Filed 8–6–79; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Parts 1822, 1861, 1863, 1872, 1945, 1951, 1955

[FmHA Instruction 1951–A]

Account Servicing Policies; Redesignation and Revision of Regulations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is redesignating and revising its Account Servicing regulations. The intended effect of this action is to incorporate provisions of the Agricultural Credit Act of 1978 and to clarify and simplify regulations for account servicing of borrower loans. This action results from recently enacted legislation and a general revision and renumbering of FmHA regulations.

EFFECTIVE DATE: August 7, 1979.

FOR FURTHER INFORMATION CONTACT: James E. Lee, (202) 447–6257.

SUPPLEMENTARY INFORMATION: FmHA proposes to amend its regulations for Account Servicing by establishing a new Subpart A of Part 1951, Chapter XVIII,

Title 7 in the Code of Federal Regulations. This subpart replaces Subpart A of Part 1861. Numerous changes have been made for clarity. § 1951.17 has been revised as a result of 4 comments received on a document regarding moratorium on payments published at 42 FR 55090 on 10/13/77.

The following are the major changes to the regulations:

(1) Section 1951.6—New section on handling payments to incorporate AL 90 (451).

(2) Sections 1951.1 to 1951.20—Little change, except for § 1951.6. Some editing has been done for clarification.

(3) Section 1951.25—New section to provide for the review of limited resource OL and FO loans.

(4) Section 1951.33—Contains provisions for rescheduling, consolidating and deferring existing OL, EM and EE loans.

(5) Section 1951.40—Contains provision for reamortizing and deferring payments on FO, SW, RL, EM and EE loans and provides for the use of a new Form FmHA 1951–4, "Change in Rates and Terms," to notify the Finance Office of these changes.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. However, these regulations are not being published for comment because the majority of the changes were made to restructure existing account servicing regulations and incorporate provisions of the Agricultural Credit Act of 1978. Therefore, public participation is unnecessary. Also due to the fact that the new loan making regulations are already issued any delay in the issuing of these account servicing regulations would not be in the best interest of the public. This determination was made by H. Allan Brock, Deputy Administrator, Farm & Family Programs, FmHA.

Therefore, Title 7, Chapter XVIII is amended as follows:

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1822.18 [Amended]

1. § 1822.18, line 13 change the reference from "§ 1861.9(e)(i)" to "§ 1951.20 or § 1951.40."

SUBCHAPTER E—ACCOUNT SERVICING

PART 1861—ROUTINE

Subpart A [Deleted]

2. Subpart A of Part 1861 is hereby deleted from the CFR.

Subpart C [Amended]

3. The title of Subpart C of Part 1861, is amended to read "Servicing Association and Organization Loans and Security".

§ 1861.46 [Amended]

4. In § 1861.46(b) line 3, change the reference from "Subpart A of this Part" to "Subpart A of Part 1951 of this Chapter."

PART 1863—REAL ESTATE TAX SERVICING

§ 1863.4 [Amended]

5. In § 1863.4, line 17 of the introductory paragraph, change "Part 1861" to "Part 1951".

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

PART 1872—REAL ESTATE SECURITY

Subpart A—Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases

§ 1872.3 [Amended]

6. In § 1872.3(a) line 17, change the reference from "1861" to "1951".

§ 1872.4 [Amended]

7. In § 1872.4(d) line 71 (line 11 from the end of the paragraph) of the introductory paragraph, change the reference from "§ 1861.9" to "§ 1951.20 or 1951.40."

§ 1872.9 [Amended]

8. In § 1872.9(d) lines 22 and 23, change the reference from "§ 1861.3 of Subpart A, Part 1861, Subchapter E" to "§ 1951.9."

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1945—EMERGENCY

Subpart B—Emergency Loan Policies, Procedures and Authorizations

§ 1945.68 [Amended]

9. In § 1945.68(c)(8) lines 16, 17, 18, change the reference from "Parts 1861 and 1864 of this Chapter (FmHA Instructions 451.1 and 456.1)" to "Parts 1951 and 1864 of this chapter (FmHA Instruction 1951.1)—A and 456.1".

Subpart C—Economic Emergency Loans

§ 1945.119 [Amended]

10. In § 1945.119(h) lines 16, 17 and 18, change the reference from "Parts 1861 and 1864 of this chapter (FmHA Instructions 451.1 and 456.1)" to "Parts 1951 and 1864 of this chapter (FmHA instruction 1951.1–A and 456.1)".

PART 1955—REAL ESTATE AND CHATTEL PROPERTIES

Subpart A—Liquidation of Loans and Acquisition of Property

§ 1955.10 [Amended]

11. In § 1955.10, (5), lines 19, 20 and 21 change the reference from "§ 1861.1(b) of this chapter (FmHA Instruction 451.1, paragraph I B" to "1951.7(b) of this chapter (FmHA Instruction 1951.7 (b))."

§ 1955.15 [Amended]

12. In § 1955.15, (b)(2), lines 22 and 23, change the reference from "§ 1861.10 of this chapter (FmHA Instruction 451.1, paragraph X)" to "§ 1951.17 of this chapter."

13. In § 1955.15(d) (4), lines 10 and 11, change the reference from "§ 1861.5 of this chapter (FmHA Instruction 451.1, paragraph V)" to "§ 1951.11(b)."

14. As revised and redesignated from Subpart A of Part 1861, the new Subpart A of Part 1951 is added and reads as follows:

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1951—SERVICING AND COLLECTIONS

Subpart A—Account Servicing Policies

Sec.

1951.1 Purpose.
1951.2 Policy.
1951.3 Authorities and responsibilities.
1951.4–1951.5 [Reserved].
1951.6 Handling payments.
1951.7 Accounts of borrowers.
1951.8 Types of payments.
1951.9 Distribution of payments when a borrower owes more than one type of FmHA loan.
1951.10 Application of payments on Operating (OL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO) loans to individuals, Soil and Water Conservation (SW) coded "24", and other production type loan accounts.
1951.11 Application of payments on real estate accounts.
1951.12 Changes in the application of loan payments.
1951.13 Overpayments and refunds.
1951.14 Recoverable and nonrecoverable cost charges.

Sec.
1951.15 Return of paid-in-full or satisfied notes to borrower.
1951.16 Other servicing actions on real estate type loan accounts.
1951.17 Moratorium on principal and interest payments on Sections 502 and 504 loans
1951.18–1951.19 [Reserved]
1951.20 Reamortizing direct and insured Sections 502 and 504 RH accounts.
1951.21–1951.24 [Reserved]
1951.25 Review of limited resource FO and OL loans.
1951.26–1951.32 [Reserved]
1951.33 Deferral, consolidation and rescheduling of OL, EM and EE loans made for subtitle B purposes.
1951.34–1951.39 [Reserved]
1951.40 Deferment and reamortization of FO, SW, RL, and EE or EM loans made for real estate purposes.
1951.41–1951.50 [Reserved]
Exhibit A—Schedule of Automatic Interest Rate Increases for Limited Resource FO loans
Exhibit B—Notice of change in interest rate

Subpart A—Account Servicing Policies

§ 1951.1 Purpose.

This Subpart sets forth the policies and procedures to use in servicing borrower's accounts.

§ 1951.2 Policy.

Borrowers are expected to pay their debts to the Farmers Home Administration (FmHA) in accordance with their agreements and ability to pay. They will be encouraged to pay ahead of schedule, consistent with sound financial management. When borrowers have acted in good faith and have exercised due diligence in an effort to pay their indebtedness but cannot pay on schedule because of circumstances beyond their control, servicing actions will be consistent with the best interests of the borrower and the Government. It is policy of this agency to service borrower loan accounts without regard to race, color, religion, sex, marital status, national orgin, age, physical or mental handicap (borrower must possess the capacity to enter into a legal contract for services).

§ 1951.3 Authorities and responsibilities.

County Supervisors are responsible for servicing all FmHA accounts serviced by the County Office as prescribed by this Subpart under the general guidance and supervision of District Directors and State Office personnel. Full use will be made of the County Office Management System in account servicing.

§ 1951.4–1951.5 [Reserved]

§ 1951.6 Handling payments.

(a) *Payments on Rural Housing (RH) loans.* Payments on RH loans will be handled in accordance with Part 1951, Subpart B and FmHA Instruction 451.7 (available in any FmHA office).

(b) *Payments for other than RH, Farm Ownership (FO) and Soil & Water (SW) loans.* These payments will be handled in accordance with Part 1951, Subpart B.

(c) *Payments for FO and SW loans.* (1) Payments made through the County Office without direct payment cards for FO and SW loans will be handled in accordance with Part 1951, Subpart B.

(2) Payments for FO and SW loans made through the County Office with direct payment cards will be handled as follows:

(i) County Supervisors may put FO and SW borrowers on direct payment cards systems if the borrower only needs limited credit counseling or only makes one annual installment per year on the loan.

(ii) For new loans, the County Supervisor will indicate by checking the appropriate block on Form FmHA 440–1, "Request For Obligation of Funds," that for selected borrowers direct payment cards are to be mailed to the County Office.

(iii) An existing loan borrower may be put on or taken off this direct payment card system by filling out Form FmHA 451–34, "Direct Payment Plan Change," in accordance with the Forms Manual Insert (FMI) and mailing it to the Finance Office.

(iv) Payments must be made by check or money order payable to the Farmers Home Administration. The check or money order with the appropriate payment card should be placed in the direct payment envelope and forwarded directly to the Finance Office with any other items being mailed that day.

(v) The Finance Office upon receipt of the payment card and check or money order will credit the borrower's account with payment as of the date the payment is received in the Finance Office.

(vi) When the Finance Office receives payment card number 10, a new supply of cards will be mailed to the County Office. All 12 payment cards should be used before using the new supply.

(3) Direct payment for FO and SW loans mailed directly to the Finance Office by the borrower are handled as follows:

(i) The County Supervisor will select the FO and SW borrowers who, in the supervisor's opinion are capable of making direct payments to the Finance Office. The County Supervisor will not select borrowers who (a) will need frequent credit counseling, (b) because of the lack of education or other reasons, are not capable of assuming responsibility for making payments directly to the Finance Office, or (c) have payments directly assigned to FmHA, such as milk assignments. The fact that a borrower does not maintain a checking account will not, however, prevent selection for direct payments.

(ii) For new loans the County Supervisor will indicate on Form FmHA 440–1 the selected borrowers by checking the appropriate box. The payment card packet will be forwarded to the County Office at the time the loan is obligated. It will be delivered to the borrower at loan closing, at which time the use of the payment cards will be explained to the borrower.

(iii) For Assumption Agreements, the packet will be mailed to the borrower at the time the Assumption Agreement is processed in the Finance Office.

(iv) The payment cards and pre-addressed envelopes, together with instructions on how to use the cards and a record keeping card, will be assembled into an envelope in which the borrower may retain the records. The Form FmHA 370–45 "Direct Payment Card," will be numbered 1–12, even though the borrower may have less or more than 12 payments scheduled during the year.

(v) The Finance Office upon receipt of Form FmHA 370–45 and a check or money order will credit the borrower's account with payment as of the date the payment is received by the Finance Office.

(vi) When the Finance Office receives Form FmHA 370–45 for payment number 10, a new supply of Forms FmHA 370–45 will be prepared and mailed to the borrower. All 12 copies of Form FmHA 370–45 should be used before using the new supply.

(vii) If a borrower is on direct payment and receives a subsequent FO or SW loan, the Finance Office will send a set of Forms FmHA 370–45 with "FO" or "SW" in the loan number block. This indicates the borrower has more than one loan of the particular type. The borrower will be instructed by the County Office to send a Form FmHA 370–45 showing the amount and a check or money order for the total payment.

(d) *County Office handling of direct payment accounts.* Form FmHA 405–1, "Management System Card—Individual" and Form FmHA 405–5, "Management System Card—Individual (Rural Housing only)," will be used in the County Office Management System

Box. These forms and the transaction records will be maintained as prescribed in FmHA Instruction 405.1 (available in any FmHA office). In addition, an orange signal will be placed to the left of Position A on Form FmHA 405–1 to denote that the borrower is on the direct payment system. If a borrower fails to make payments as agreed, or becomes delinquent in taxes or insurance so that it is necessary for FmHA to pay taxes or insurance by voucher, the County Supervisor may request the Finance Office to remove the borrower from the direct payment method. If this decision is made, the County Supervisor will contact the borrower and collect the remaining supply of Forms FmHA 370–45 which will be destroyed. The borrower will be informed that payments after that date should be made to the County Office. If at a later date the borrower is making payments on schedule, the County Supervisor may request the Finance Office to put the borrower back on the direct payment method and provide a new set of Forms FmHA 370–45. These changes are made by filling out Form FmHA 451–34 in accordance with the FMI and mailing it to the Finance Office.

(e) *Account servicing actions retained by the County Office.* For those borrowers who make direct payments to the Finance Office, the County Supervisor will continue to handle the following servicing actions:

(1) Any regular payments a borrower is to make prior to receiving the packet of payment cards will be made through the County Office in the usual manner.

(2) All payments other than regular payments will be made through the County Office in the usual manner.

(3) The County Supervisor will counsel with borrowers concerning questions they have about their account. If assistance is needed the County Supervisor will contact the State or Finance Office as appropriate.

(4) If an uncollectible item is received, the Finance Office will reverse the amount from the borrower's account and a new Form FmHA 451–26, "Transaction Record," reflecting the uncollectible amount will be prepared. The Form FmHA 451–26 will be mailed to the County Office. The uncollectible item with a transmittal memorandum will be sent to the County Office. The County Office will return the uncollectible check to the borrower after it is fully redeemed. The borrower will make payment by sending a new check and a new payment card to the Finance Office.

(f) *Borrowers receiving other type loans.* If a borrower is on direct payment and subsequently receives another type loan, the original loan may remain on the direct payment system.

§ 1951.7 Accounts of borrowers.

(a) *Accounts of active borrowers.* The foundation for proper and timely debt payment is sound farm and home planning or budgeting, including plans for debt payment, supplemented by effective followup management assistance. Account servicing, therefore, must begin with initial planning and must be an integral part of analysis and subsequent planning, as well as followup management assistance.

(b) *Accounts of collection-only borrowers.* (1) Collection-only borrowers are expected to pay debts to FmHA in accordance with their ability to pay. Efforts to collect such debts, including use of collection letters and account servicing visits, must be coordinated with other program activities. If these borrowers are unable to pay in full, appropriate debt settlement policies should be promptly applied.

(2) When a collection-only borrower who is employed by the Federal Government has the ability to pay all or part of the debt to FmHA but refuses to do so, the County Supervisor will contact the employing agency, including the military establishment or the Coast Guard, to arrange for the orderly retirement of the debt by allotment or otherwise. (This procedure is authorized by 4 CFR 102.5 of the Joint Regulations issued by the General Accounting Office and the Department of Justice pursuant to section 3 of the Federal Claims Collection Act of 1966). If this effort to collect the debt fails, the County Supervisor will submit the case to the State Director in accordance with the provisions of Subpart A of Part 1962 of this Chapter.

(3) Envelopes addressed to collection-only borrowers will bear the legend "DO NOT FORWARD". When an envelope is returned indicating the borrower has moved, appropriate steps will be taken to determine the borrower's correct address.

(4) Regular County Office employees are generally expected to service the collection-only caseload when it is of moderate size. State Directors may assign additional employees to County Offices having large collection-only caseloads when necessary to service such cases to a prompt conclusion. State Directors may inform the National Office of the need for employing special collection personnel in urban areas having large collection-only caseloads when employees are not available to assign to such areas.

(5) The following actions will be taken in servicing accounts owed by collection-only borrowers:

(i) District Directors will review all collection-only cases in each County Office with the County Supervisor as early in each fiscal year as possible. They will jointly agree on the actions to take and will complete Form FmHA 451–27, "Review of Collection-Only Accounts."

(ii) District Directors will establish with County Supervisors a systematic plan for collecting the accounts or initiating appropriate debt settlement actions during the year.

(iii) County Supervisors will include in their monthly calendars plans for servicing these accounts.

(iv) On visits to County Offices, District Directors will review the progress being made by County Supervisors to insure that goals will be reached.

(c) *Notifying borrowers of payments.* County Supervisors will notify borrowers of the dates and amounts of payments that have been agreed on for all types of accounts. Form FmHA 451–3, "Reminder of Payment to be Made," or similar form approved by the State Director, will be used. These notices will be timed to reach borrowers immediately before the receipt of the income from which the payments should be made or before the installment due date on the note, as appropriate, and may include other pertinent information such as a reference to agreements reached during the year and sources of income from which the payment was planned. Such notices need not be sent when frequent payments are scheduled and the borrower customarily makes the payments when due.

(d) *Subsequent servicing.* When a borrower fails to make a payment as agreed, the County Supervisor will contact the borrower to discuss the reasons why the payment was not made and to develop specific plans for making the payment. Form FmHA 451–32, "Notice of Payment Due," may be used to notify borrowers who make payments directly to the Finance Office that their payment has not been received. Form FmHA 450–13, "Request for Assignment of Income From Trust Property," may be used when other methods of loan collection fail and debt repayment is possible from trust income. In the event the borrower refuses to make the payment when income is available, or if it is determined that income will not be available to make the payment within a reasonable length of time and will not be available to make future payments, action will be taken to protect the

Government's interest in accordance with applicable regulations. Followup actions for subsequent servicing will be noted on appropriate Management System Cards.

(e) *Maintaining records of accounts in County Offices.* Records of the accounts of FmHA borrowers will be maintained in the County Office on Forms FmHA 405–1, FmHA 405–5 and FmHA 405–10, "Advice of Borrower's Change of Address or Name," as provided in FmHA Instruction 405.1 (available in any FmHA office).

(f) *Inquiry Station.* The following information concerning individual borrower transactions can be obtained from the Finance Office Inquiry Station by County Offices:

(1) Unpaid balances on accounts being transferred.

(2) Status on loan dockets submitted for obligation.

(3) Status of loan checks not received within two weeks of date requested.

(4) Unpaid balances for final payments on all types of loans.

(5) Status of insured notes for loan servicing. If a particular note is needed but is not at the County Office, ask the operator to determine the note's location. If it is held by a private investor, the Finance Office can arrange for its repurchase.

(6) Help in problem cases when information requests through regular channels within the Finance Office have not been responded to or the information received was inaccurate. *DO NOT* make initial contacts on such cases through an inquiry station—go to the appropriate unit of the Finance Office. For the telephone number and further information on use of the inquiry station please consult the booklet "Inquiry Station Helps County Offices Get the Facts on Borrower Accounts."

§ 1951.8 Types of payments.

(a) *Regular payments.* Regular payments are all payments other than extra payments and refunds. Usually, regular payments are derived from normal farm or non-farm income, and do not include proceeds from the sale of basic chattel or real estate security. Regular payments also include payments derived from sources such as Agricultural Stabilization and Conservation Service payments (other than those referred to in paragraph (b) of this section), off-farm income, inheritances, life insurance, and normal income as defined in Subpart A of Part 1872 of this Chapter (FmHA Instruction 465.1), including income from leases or bonuses. Regular payments in the case of a Section 502 RH loan to an application involved in a mutual self-help project will include loan funds advance for the payment of any part of the first and second installments. All payments to the Finance Office by direct payment borrowers are considered regular payments.

(b) *Extra payments.* Extra payments are payments derived from:

(1) Sale of basic chattel or real estate security, including rental or lease of real estate security of a depreciating or depleting nature.

(2) Refinancing of the real estate debt.

(3) Mineral royalties.

(4) Cash proceeds of real property insurance as provided in Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1).

(5) A sale of real estate not mortgaged to the Goverment, pursuant to a condition of loan approval.

(6) Agricultural Conservation Program payments as provided in Subpart A of Part 1941 of this Chapter.

(7) Transactions of a similar nature which reduce the value of basic security.

(c) *Refunds.* Refunds are payments derived from the return of unused loan or grant funds, except that the term "refunds" as used in Form 1940–17, "Promissory Note," will be construed to mean the return of funds advanced for capital goods, when a loan is made for operating purposes.

§ 1951.9 Distribution of payments when a borrower owes more than one type of FmHA loan.

"Distribution" means dividing a payment into parts according to the rules set out in this section.

(a) *Distribution of regular payments.* (1) When a borrower owes more than one type of FmHA loan, regular payments received from *each crop year's income* will be distributed in accordance with the following priorities:

(i) *First,* to an amount equal to any advances made by FmHA for the crop year's living and operating expenses. If no advances were made, distribute the payment according to § 1951.9 (a)(1)(ii). If the amount of the payment was greater than the amount of any advances, the excess should be distributed according to § 1951.9(a)(1)(ii).

(ii) *Second,* to FmHA loans in proportion to the approximate amounts due on each for the year. In determining the amounts due for the year, deduct an amount equal to any advances or the year's living and operating expenses. If the amount of the payment exceeds the amount of any advances *plus* the amount due on each loan for the year the excess should be distributed according to § 1951.9(a)(1)(iii).

(iii) *Third,* to FmHA loans in proportion to the delinquencies existing on each. If the amount of the payment exceeds the amount of any advances *plus* the amount due on each loan for the year *plus* any delinquencies, the excess should be distributed according to § 1951.9(a)(1)(iv).

(iv) *Fourth,* as advance payments on FmHA loans. In making such distribution consider the principal balance outstanding on each loan, the security position of the liens securing each loan, the borrower's request, and related circumstances.

(2) When the County Supervisor determines it is reasonable to expect that the income which will be available for payment on FmHA debts will be sufficient to pay the installments scheduled for the year under the first and second priorities, collections may be distributed so as to avoid unnecessary delinquencies and regular payments derived from rental or lease of real estate security after approval of foreclosure or voluntary conveyance will be distributed to the real estate lien of the highest priority.

(3) Payments will be distributed differently than the priorities provided in this section if accounts are out of balance or a different distribution is needed to protect the Government's interest.

(b) *Distribution of extra payments.* Extra payments will be distributed first to the FmHA loan having highest priority of lien on the security from which the payment was derived. When the payment is in excess of the unpaid balance of the FmHA lien having the highest priority, the balance of such payment will be distributed to the FmHA loan having the next highest priority.

(c) *Application of payments.* After the decision is reached as to the amount of each payment that is to be distributed to the different loan types, application of the payment will be governed by §§ 1951.10 or 1951.11 of this Subpart as appropriate.

§ 1951.10 Application of payments on Operating (OL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO) loans to individuals, Soil and Water Conservation (SW) coded "24", and other production type loan accounts.

Employees receiving payments on OL, EM, EE, EO, SW coded "24", and other production-type loan accounts will select, in accordance with the provisions of this paragraph, the account(s) to which such payment will be applied. All payments on OL and EM loans approved on or before December 31, 1971, will be credited by the Finance Office first to unpaid billed interest and then to principal. All payments on all other loans including OL and EM loans approved after December 31, 1971, will be credited first to interest to the date of the payment and then to principal.

(a) *Rules for selection of accounts.* The following rules will govern the selection of accounts and installments to which payments will be applied. As used in this section, "recoverable costs" are those which the loan agreement documents say the borrower is primarily responsible for paying and which the government can charge to the borrower's account.

(1) Payments from the sale of security representing normal income or from assignments of income will be applied first to accounts with small balances, including recoverable costs, to remove such accounts from the records. Any balance will be applied on debts secured by the lien in the following order:

(i) To amounts due or falling due on loans made in connection with the current year's operations, except:

(A) When funds loaned for the purchase of capital goods were used to meet the current year's operating expenses, payments will be applied first to the final unpaid installments to the extent of the loan funds so used. These payments will be treated as extra payments.

(B) When installments on loans previously made fall due before the installment on the loan for the current year's operations or when such loans are delinquent and it is anticipated that sufficient income will be received to meet the installment on the current year's operations when due, collections may be applied first to installments on loans made in previous years.

(ii) To accounts having the oldest delinquencies, or if no delinquencies, to the oldest unpaid account, except that the amount available for payment on OL and EM loan accounts will be prorated between the two accounts on the basis of:

(A) The delinquent amount owed on each, or

(B) The total amount owed on each if there are not delinquencies.

(2) Payments derived from the sale of basic security, including real estate security, will be applied to the earliest account secured by the earliest lien covering such basic security. The amount to be applied to principal will be applied to the final unpaid installment(s).

(3) On partial refunds of loan advances, the amount to be applied to the principal will be applied to the final unpaid installment on the note which evidences such advance; however, when the refund represents an advance for current farm and home expenses repayable within the year, it may be applied to the principal on the first unpaid installment on such note as a regular payment.

(4) Total refunds of loan advances will be applied to the notes which evidence such advances.

(5) In applying payments from sources other than those in paragraphs (a) (2), (3), and (4) of this section, the borrower has the right to select the loan account or accounts on which such payments will be applied. In the absence of the borrower's selection, such payments generally will be applied in the following order:

(i) To accounts with small balances, including recoverable costs.

(ii) To accounts with the oldest unsecured note(s).

(iii) To accounts with the oldest delinquencies.

(iv) To accounts with the oldest secured note or notes.

(6) Employees receiving collections are authorized to make exceptions to paragraphs (a) (1), (2), and (5) of this section when it is necessary to apply a part of a payment to delinquent accounts to prevent the Federal Statute of Limitations from being asserted as a defense in suits on FmHA claims.

(b) *Payments in full.* (1) When it is intended to pay one or more of a borrower's accounts in full, the collection officials will collect all of the interest and principal shown on Form FmHA 389–223 "Rural Housing Monthly Payment Account Status Report," for the account(s) to be paid in full plus interest on the account from the effective date of the report to the date of the collection. If uncertain, check with the Finance Office Inquiry Station for final payment.

(2) Errors of a significant amount in computation or collection will be called to the attention of the collection official by the Finance Office. The borrower's note will not be returned until the balance on the loan account is paid in full. Claims by or on behalf of the borrowers that the amounts owed have been computed incorrectly will be referred to the Finance Office.

§ 1951.11 Application of payments on real estate accounts.

(a) *Regular payments.* If a borrower owes more than one type of real estate loan, or has received initial and subsequent loans on which separate accounts are maintained, payments on such accounts should be applied so as to maintain the note accounts approximately in balance at the end of the year with respect to installments due on the notes, other charges, and delinquencies.

(1) All regular payments on direct loan accounts will be applied first to interest accrued to the date of the receipt of payment and then to principal.

(2) All regular payments on insured loan accounts will be applied first to any unpaid balance of the insurance account, including unpaid interest on any advance from the insurance fund which is shown on the statement of account, and second to interest accrued on the note as of the date of the receipt of payment. Any remainder will be applied to the principal balance on the note. For amortized cost item accounts application will be made to only amount due before application to interest and principal on the note.

(b) *Refunds and extra payments.* (1) Refunds will be applied to the note representing the loan from which the advance was made.

(2) Extra payments will be applied to the note secured by the earliest mortgage on the property from which the extra payment was obtained. The amount to be applied to principal will be applied to the final unpaid installment(s).

(3) Funds remaining from an RH grant or a combination loan and grant, after completion of development, will be refunded. If the borrower received a combination loan and grant, the remaining funds up to the amount of the grant are considered to be grant funds.

(c) *County Office actions.* (1) The collecting official will complete Form FmHA 451–1, "Acknowledgment of Cash Payment," in accordance with the FMI when cash or money orders are received as a payment.

(2) The collecting official will complete Form FmHA 451–2, "Schedule of Remittances," in accordance with the FMI.

(d) *Finance Office handling.* (1) Regular payment will be handled as follows:

(i) Amounts paid on direct loan accounts will be credited to the borrower's account as of the date of Form FmHA 451–2 or for direct payments the date payment is received in the Finance Office, and will be applied first to interest accrued to the date received and second to principal.

(ii) Amounts paid on insured loan accounts will be credited to the borrower's account as of the date of Form FmHA 451–2 or for direct

payments the date payment is received in the Finance Office, and will be applied in the following order:

(A) Advances from the insurance funds as shown on the latest Form FmHA 389–404, "Analysis of Accounts Maturing." (If the collection is intended for final payment of the loan, or to pay the insurance account in connection with an assumption agreement, the collection will be applied first to the interest accrued on the advance to the date of the payment.)

(B) Principal advanced from the insurance fund.

(C) Unamortized costs.

(D) Amount due for amortized costs for taxes and insurance.

(E) Unpaid loan insurance charges, including the current year's charge, when applicable.

(F) Accrued interest to the date of the payment on the note account and then to the principal balance of the note account.

(2) Extra payments and refunds will be credited to the borrower's note account as of the date of Form FmHA 451–2 and will be applied first to interest accrued to the date of the receipt and second to principal. The amount to be applied to principal will be applied to the final unpaid installment(s). Extra payments and refunds will not affect the schedule status of a borrower except indirectly in connection with the amortization of a direct loan.

(3) The Finance Office will remit final payments promptly to lenders. Other collections (regular, extra, and refunds) applied to a borrower's insured note will be accumulated until the annual installment due date, and will be remitted along with any advances from the insurance fund to the lender within 30 days after the installment due date. All payments to a lender will be credited first to interest to the date of the Treasury check and then to principal. Since the application of a payment to a borrower's account with the Government and the Government's account with a lender is of a different effective date, the balance owed by a borrower to the Government and by the Government to a lender ordinarily will not be the same.

§ 1951.12 Changes in the application of loan payments.

(a) *Authority to change payments.* County Supervisors and Assistant County Supervisors are hereby authorized to approve requests for changes in the application of payments between loan accounts when payments have been applied in error and such requests conform to the policies expressed in this Subpart. However, no change will be made if the payment applied in error resulted in the payment in full of any FmHA loan and the canceled note or notes have been returned to the borrower.

(b) *Form FmHA 451–7, "Request for Change in Application."* Requests for changes in application of payments will be made on Form FmHA 451–7. For requests which County Supervisors or Assistant County Supervisors are authorized to approve, the County Supervisor or Assistant County Supervisor will sign the original of Form FmHA 451–7 and forward it to the Finance Office. The Finance Office will send Form FmHA 451–26 to the County Office when the change is made on Finance Office records.

(c) *Changes by the Finance Office in application of remittances.* (1) When reapplication of collections is made by the Finance Office Form FmHA 451–8, "Journal Voucher for Loan Account Adjustments," will be prepared. Form FmHA 451–26 will be forwarded to the County Office to show the reapplication.

(2) When necessary, the Finance Office will correct Form FmHA 451–2 as prepared by the County Office.

§ 1951.13 Overpayments and refunds.

(a) The Finance Office will mail any overpayment refund check to the County Supervisor, who will verify that the refund is due before delivering the check.

(b) Borrower requests for overpayment refunds must be in writing. Borrowers will be discouraged from requesting refunds when the County Office records show that a refund is not due, however, the County Supervisor will forward any requests to the Finance Office. Finance Office computations will control in determining the amount of any refund.

(c) Underpayments or overpayments of less than $10 will not be collected or refunded (except as provided in paragraph (b) of this section) since the expense of processing the action would be more than the amount involved.

§ 1951.14 Recoverable and nonrecoverable cost charges.

(a) The County Supervisor will: (1) Prepare vouchers for recoverable and nonrecoverable cost charges according to the applicable instructions for the type of advance being made. ("Recoverable costs" is defined in § 1951.10 (a) of this Subpart).

(2) If a recoverable cost, show on the voucher the fund code to which the advance is to be charged.

(3) If the cost item relates to security for more than one type of account, show the code for the loan secured by the earliest promissory note (if lien secures more than one note.)

(b) The Finance Office will forward Form FmHA 451–26, to the County Office when the recoverable cost charge is processed.

§ 1951.15 Return of paid-in-full or satisfied notes to borrower.

(a) *Notes not held in County Office.* When the original of the note is not held in the County Office the County Supervisor will request the Finance Office to acquire and forward the note to the County Office.

(b) *Return of notes after collection.* When a note (or loan-type account) evidencing an OL, EM, EE, EO, Special livestock (SL), SW loan coded "24", or other production-type loan has been satisified by payment in full, the County Supervisor will examine the borrower's records in the County Office and determine that the account has been satisfied before delivering the note to the borrower (See § 1962.27 of Subpart A of Part 1962 on the satisfaction of chattel security instruments). The note(s) will be returned to the borrower immediately except that:

(1) When the final payment is made in a form other than currency and coin, Treasury check, cashier's check, certified check, Postal or bank money order, bank draft, or a check issued by a responsible lending institution or a responsible title insurance or title and trust company, the note or notes will not be surrendered until 30 days after the date of final payment, and

(2) When notes are needed in making marginal releases or satisfactions of security instruments, the notes will be held until the instruments are satisfied.

(c) *Surrender of notes to effect collection.* (1) County Supervisors are authorized to surrender notes to borrowers when final payment of the amount due is made in the form of currency and coin, Treasury check, cashier's check, certified check, Postal or bank money order, bank draft, or a check issued by a responsible lending institution or a responsible title insurance or title trust company.

(2) The amount due on the note(s) to be surrendered will be confirmed with the Finance Office. County Supervisors will request the original note(s) from the Finance Office if it is not in the County Office.

(d) *Return of notes reduced to judgment.* Notes which have been reduced to judgment are a part of the court records and ordinarily cannot be withdrawn and returned to the borrower even after satisfaction of the judgment. Therefore, no effort will be made to obtain and return such notes except on the written request of the judgment debtor or debtor's attorney. Such requests will be referred to the Office of the General Counsel (OGC).

(e) *Debt settlement case.* See Part 1864 of this Chapter (FmHA Instruction 456.1) for the handling of notes in debt settlement cases.

(f) *Loss notes.* (1) All promissory noted dated on or after 11–1–73 are held in the County Office. A few notes (with the exception of OL notes) are still held by investors. If a note dated prior to 11–1–73 cannot be located in the County Office and it is needed for servicing the case, the County Supervisor will write a memorandum to the Finance Office explaining why the note is needed. The request should give the name and case number of the borrower, date and original amount of the loan, type of loan and loan code.

(2) If a promissory note is lost in the County Office and it is needed for servicing a case, the State Director may authorize the County Supervisor to execute an appropriate affidavit regarding the lost note. The form of such an affidavit will be provided by OGC.

§ 1951.16 Other servicing actions on real estate type loan accounts.

(a) *Installment on note and other charges.* (1) *Direct loan accounts.* For a borrower with a direct loan, the term "installment on note and other charges," as used in this Subpart, will be the sum of the following:

(i) Annual installment for the year as provided in the promissory note(s).

(ii) Any recoverable cost charges paid for the borrower during the year. ("Recoverable costs" is defined in § 1951.10(a) of this Subchapter.)

(2) *Insured loan accounts.* "Loan insurance charge" means a separate insurance charge applying to FO and SW insured loans evidenced by promissory note forms bearing a form date before January 8, 1959. For all insured loans evidenced by note forms bearing a form date of January 8, 1959, or later, the insurance charge is called "annual charge" and is included in the interest position of the annual installment in the note. For a borrower with an insured loan, the term "Installment on note and other charge" means the sum of the following:

(i) Annual installment for the year as provided in the promissory note.

(ii) Amounts owed the Agricultural Credit Insurance Fund. These amounts are covered by the general term "Insurance Account" and consist of the following:

(A) Unpaid loan insurance charges from prior years.

(B) Loan insurance charge for the current year. The loan insurance charge is computed on the basis of the amount of the unpaid principal obligation as of the installment due date and is due and payable on or before the next installment due date.

(C) Any unpaid balance on advances from the insurance fund, including any recoverable cost charges paid for the borrower during the year.

(D) Any accrued interest on advances from the insurance fund.

(iii) The amounts owed on the insurance account must be paid by regular payments each year whether or not the note account is ahead of schedule.

(b) *Schedule status.* For direct and insured loans, a borrower will be on schedule when the sum of regular payments through the last preceding due date of the note equals the sum of installments on the note and other charges due through the same date. Such a borrower will be ahead of schedule or behind schedule when the sum of such regular payments is larger or smaller, respectively, than the sum of such installments on the note and other charges.

(c) *Real estate payments.* A borrower may make regular payments ahead of schedule at any time and use them later to forego payments or to supplement the amount available during any year for payment on the annual installment on note and other charges. Refunds and extra payments will not be used in this way.

§ 1951.17 Moratorium on principal and interest payments on Sections 502 and 504 loans.

A moratorium on principal and interest payments shall be granted on Sections 502 and 504 RH loans, as authorized under section 505 of the Housing Act of 1949, upon determination that, due to circumstances beyond the borrower's control, the borrower is unable to continue making scheduled payments without unduly impairing his or her standard of living. Cancellation of interest accrued during the moratorium period is also authorized in cases of extreme hardship.

(a) *Definitions.* As used in this section: (1) "Scheduled payments" means the amount of the monthly or annual installment on an RH loan promissory note as this amount may be modified by any outstanding Interest Credit Agreement, Supplementary Payment Agreement, Additional Partial Payment Agreement, or other written agreements between FmHA and the borrower.

(2) "Unduly impaired standard of living" means a condition whereby the borrower, due to circumstances beyond the borrower's control, is unable to pay normal living expenses and scheduled payments as provided by the loan documents. The borrower must present evidence that the inability to repay the loan will probably last for a period of 6 months or more and that income will be available to resume payments after the moratorium period. The circumstances include but are not limited to the following:

(i) A substantial reduction of income which will cause the total payments on the RH loan and the taxes and insurance on the dwelling to exceed the borrower's ability to pay after all interest credits authorized have been granted. (A moratorium based on loss or reduction of income will not be granted if the sum of the principal, interest, real estate taxes and insurance is less than 30 percent of the borrower's adjusted income based on the next 12 months' projected earnings. The fact that such payments would exceed 30 percent of the borrower's projected annual income does not by itself mean that the borrower is eligible for moratorium.) Such reduction may result from:

(A) Unemployment or underemployment caused by circumstances beyond the borrower's control, or

(B) Loss or reduction in benefits which constituted a substantial part of the annual income as defined in § 1822.3 (n) of Subpart A of Part 1822 of this Chapter (paragraph N of FmHA Instruction 444.1), or

(C) Illness, injury, or death of the borrower or other adult who contributed to the annual income, or

(D) A situation in which a spouse is living apart from the borrower's family and away from the RH financed dwelling and legal papers have been filed with the appropriate court to commence divorce or legal separation proceedings provided: The remaining spouse is occupying the dwelling, owns a legal interest in the property, is liable for the debt, and the loan account is put in the remaining spouse's name only, or

(E) A situation in which a spouse has lived apart from the borrower's family and away from the RH financed dwelling for 6 months or longer because of broken marriage or separation and not because of work assignment or military order and legal papers have not been filed to commence divorce

proceedings, provided the conditions of § 1951.17 (a)(2)(i) of this Subpart are met by the borrower who is living in the dwelling. (For purposes of the retroactive provisions of paragraph (b)(4) of this Section, the moratorium may be effective 90 days prior to the end of the 6-month period or the filing of a request for moratorium, whichever is later.)

(ii) The need to pay certain essential family expenses which have or may result in a lien being place on the borrower's dwelling, and which if not paid are likely to result in loss of the dwelling. Such expenses may result from:

(A) Accident, illness, or injury to the borrower or dependent member of the borrower's family, or

(B) Death of a member of the borrower's family, or

(C) Cost of repairs for uninsured damage to the security if the loss occurred because adequate insurance coverage was not available.

(3) "Extreme hardship" means that condition described in paragraph (a)(2) of this section, which has continued until interest accruing on the loan causes the amount of monthly or annual payments on the balance of the debt to exceed the borrower's repayment ability if the debt is reamortized over the remaining term of the loan plus any extension authorized in paragraph (e)(1)(iii) of this section, unless all or part of the interest which accrued during the moratorium period is canceled.

(b) *Policy guidelines in granting moratorium.* (1) Applicants and borrowers will be advised of the moratorium provisions as follows:

(i) In the interview required by § 1822.11(c) of Subpart A of Part 1822 of this Chapter, (Paragraph XI C of FmHA Instruction 444.1), the interviewer will inform the applicant(s) of moratorium provisions under this Subpart.

(ii) The County Supervisor will advise borrowers in writing of the possible availability of a moratorium when any of the following conditions exist:

(A) The County Supervisor becomes aware of a change in the borrower's circumstances which would be likely to justify the granting of a moratorium, or

(B) The borrower fails to make payments as agreed and the County Supervisor sends a collection letter or writes to schedule an appointment to develop a new repayment agreement. The letter will include the following statement: "You may be interested in knowing that you may apply for a moratorium on payments if, due to circumstances beyond your control, you are unable to continue making scheduled payments on your rural housing loan account without unduly impairing your standard of living. Some of these circumstances are: Loss of your job or sudden reduction of income from other sources; a loss of income or a substantial increase in expenses due to injury, illness, or death in the family; or under certain conditions, in cases of separation, when your spouse is living apart from the family and the RH financed dwelling."

(iii) A notice of acceleration and demand for payment (Exhibit C of Subpart A of Part 1955 of this Chapter) is sent to a borrower whose loan has been approved for forced liquidation because of monetary default. Paragraph 10 of the notice will be revised as follows: "HOWEVER, YOU HAVE THE OPPORTUNITY TO HAVE A MEETING BEFORE THIS FORECLOSURE TAKES PLACE. If you wish to make use of this opportunity to meet because you believe the United States is in error in accelerating your account(s) and proceeding with the foreclosure, or because you have not been advised of your rights to request a moratorium on payments on your rural housing loan account, you should IMMEDIATELY contact the District Director of the Farmers Home Administration in writing at the following address: ————."

(2) Moratorium on principal and interest payments on an RH loan account may be granted provided:

(i) The borrower: (A) Has, before experiencing the hardship, paid real estate taxes, property insurance premiums, and RH loan payments when due, or in accordance with an approved repayment schedule which was developed based on the borrower's ability to pay, and has complied with the other conditions of the loan documents, and

(B) Requests a moratorium on payments in accordance with paragraph (c) of this section and appropriate documents the conditions causing the unduly impaired standard of living.

(ii) The County Supervisor: (A) Has verified the accuracy of the information received with the request for a moratorium on payments from the borrower, and

(B) Has determined, after using all other alternatives such as granting all authorized interest credits, that a moratorium on payments is still necessary and the borrower is eligible for such moratorium on payments.

(3) The County Supervisor is authorized to approve or disapprove a request for a moratorium. The borrower will be notified of the action taken within 15 days after request has been received in the County Office. The decision relative to a moratorium is recorded on FmHA 451–23, "Moratorium on Payment: (Section 502–504 RH loans)." The reasons and justification for approval or disapproval will be noted or attached as additional information. An original and two copies will be prepared and distributed as indicated on the FMI. If the moratorium is denied, the borrower will not notified by letter which will include the following:

(i) A statement of the action taken, a recitation of the facts upon which the decision is based, and the specific reason(s) for the decision denying the moratorium.

(ii) An invitation to call at the County Office to discuss the decision with the County Supervisor. If the borrower wishes to bring additional information or a representative to the meeting, the borrower may do so.

(iii) A statement that the borrower may appeal the decision. The statement will advise the borrower of appeal rights, in accordance with Subpart B of Part 1900 of this Chapter.

(4) A moratorium may be granted for 6 months. The moratorium may be retroactive for up to, but not more than, 90 days prior to the date the request for a moratorium was received in the County Office if the circumstances for which the moratorium is to be granted existed during that time.

(5) Immediately before the end of each 6-month period, or sooner if the County Supervisor becomes aware of the facts that substantially change the borrower's repayment ability, the justification for a moratorium will be reviewed by the County Supervisor and the moratorium terminated or extended for another 6-month period if the facts so warrant. The extension will be processed in accordance with paragraph (b)(3) of this section prior to the expiration date of the current moratorium. No moratorium plus extensions may exceed 3 years, and 5 years from the end of the moratorium plus extensions must elapse before another moratorium may be granted unless prior approval is received from the State Director. If the situation creating a hardship continues after 3 consecutive years of moratorium and the borrower is still unable to make scheduled payments even if the account were reamortized, and all authorized interest credits were granted, and interest accrued during the moratorium were cancelled, the account must be liquidated in accordance with applicable FmHA regulations. If, at the end of the moratorium period and any extensions thereof, it is determined that the account will be continued (as modified by any interest credit or interest cancellation assistance), it will then be handled in accordance with paragraph (e) of this section.

(6) Interest will accrue during the moratorium at the rate shown on the promissory note as modified by an Interest Credit Agreement. Interest credits will be granted and renewed throughout the period a moratorium is in effect for all loans eligible for interest credits under Exhibit E Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1).

(7) Cancellation of any part or all of the interest accrued during the moratorium plus any extension thereof, will be granted only in cases of extreme hardship as defined in paragraph (a)(3) of this section. Cancellation will be done in accordance with paragraph (e) of this section.

(c) *Request for moratorium.* The County Supervisor will provide the borrower who wishes to apply for a moratorium with two copies of Form FmHA 451–22, "Request for Moratorium on Payments (Sections 502–504 RH Loans)." The borrower, who may be assisted by County Office personnel, will complete the applicable spaces on the form, and sign and return the original to the County Supervisor. The County Supervisor will retain the original in the borrower's case folder.

(d) *Borrower's appeal of adverse action.* The borrower may appeal an adverse action on the request for moratorium, extension, or cancellation of interest accrued during the moratorium. The appeal will be handled in accordance with Subpart B of Part 1900 of this Chapter.

(e) *Action at the expiration of the final moratorium period.* (1) At the end of the moratorium period, the County Supervisor will verify the borrower's annual income and obtain a current financial statement to determine the borrower's ability to repay the unpaid balance of the RH indebtedness. Interest cancellation, reamortization of the account, and repayment schedules will be determined in accordance with the following provisions:

(i) Borrowers who can repay, within 2 years, any principal and interest which was deferred during the moratorium period, in addition to the regular scheduled installments, will execute Form FmHA 451–37, "Additional Partial Payment Agreement," to establish a new repayment schedule.

(ii) For borrowers who cannot meet the repayment requirements of paragraph (e)(1)(i) of this section, the unpaid principal and interest balance of the loan will be reamortized within the remaining term of the loan.

(iii) For borrowers who cannot meet the repayment requirements of paragraph (e)(1)(ii) of this section, the loan account will be reamortized and the remaining term of the loan may be increased to the maximum legal term for the loan (33 years from the date of the note for a section 502 RH loan, or 20 years from the date of the note for a section 504 RH loan) plus a period not to exceed the time the moratorium was in effect. State supplements will be issued for extending the term of the loan or advice will be obtained from OGC on a case by case basis. The borrower must pay for title clearance and legal services needed to assure that the Government's lien priority is retained.

(iv) If the determination is made that the borrower cannot make scheduled payments on the balance owed under the terms of paragraph (e)(1)(iii) of this section without cancellation of part or all of the interest which accrued during the moratorium, the County Supervisor will determine how much interest must be cancelled to enable the borrower to repay the loan during the time authorized in paragraph (e)(1)(iii) of this section. The County Supervisor will complete Section II of Form FmHA 451–23 indicating the amount of interest cancelled. Such amount will be deducted from the balance owned in determining a new repayment schedule.

(v) The borrower will be advised by letter of the action taken, the reasons for the action, the new repayment schedule, and that, if the borrower does not agree with the action taken, the borrower may appeal the action as provided in paragraph (d) of this section.

(2) The County Supervisor, after a determination concerning the cancellation of interest has been made, will complete Form FmHA 452–2, "Reamortization and/or Deferral Agreement," if the account is to be reamortized or Form FmHA 451–37 if reamortization is not planned. If Form FmHA 451–37 is submitted, the County Supervisor will appropriately change County Office records to reflect the amount of the new installments.

§§ 1951.18–1951.19 [Reserved]

§ 1951.20 Reamortizing direct and insured section 502 and 504 RH accounts.

Reamortizing extends loan payments to the maximum repayment period, or rearranges the payments within the remaining years of the original payment period.

(a) Sections 502 and 504 RH loan accounts may be reamortized: (1) When the borrower has made extra payments or refunds both totaling 10 percent or more of the loan being reamortized and the County Supervisor determines that the borrower cannot reasonably be expected to meet the obligation unless the account is reamortized to substantially reduce the annual or monthly installments, or

(2) At the expiration of the final moratorium period in accordance with § 1951.17(e) of this Subpart, or

(3) When a Section 502 or 504 RH loan, an FO, individual SW, RL, RE loan for real estate purposes, or EM loan for real estate purposes is being made to a presently indebted Section 502 or 504 RH borrower, and the loan approval official determines that the borrower cannot reasonably be expected to meet installments due unless the account is reamortized.

(b) To reamortize the account, the following actions will be taken: (1) Form FmHA 452–2, will be completed in accordance with the FMI.

(2) If the note or assumption agreement (new terms) being reamortized is not held in the County Office, the County Supervisor will obtain the promissory note and any assumption agreement from the Finance Office before processing the reamortization.

(3) On the back of the original of the note or assumption agreement (new terms), below all signatures and endorsements, the County Supervisor will insert the following: "A reamortization agreement and/or deferral agreement dated ——— 19—, in the principal sum of $———, has been given to modify the payment schedule of this note."

(4) The end of the amortization period will be the final due date of the note being reamortized unless the due date is extended in accordance with paragraph (e) of this section.

(5) Interest rate for the account will be unchanged.

§§ 1951.21–1951.24 [Reserved]

§ 1950.25 Review of limited resource FO and OL loans.

(a) *Frequency of reviews.* (1) OL loans will be reviewed 60 days prior to the third anniversary date of the note and at least once every two years thereafter.

(2) The interest rate on FO loans will be increased in accordance with the schedule in Exhibit A of this Subpart regardless of the borrower's circumstances at the end of the third year. The loans will then be reviewed at least once every two years,

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approximately 60 days prior to the anniversary date of the note.

(3) After the first three years a review will be conducted any time a servicing action such as consolidation, rescheduling, reamortization or deferral is taken. The interest rate may not be changed more often than quarterly.

(b) *Method of review.* (1) Each loan will be considered on its own merit.

(2) The County Supervisor should consider:

(i) The borrower's income and repayment record during the preceding years;

(ii) The projections shown on the most recent Farm and Home Plan, in light of the previous year's projected figures and actual figures;

(iii) Whether improved production practices have been or need to be implemented;

(iv) The borrower's progress as a farmer; and

(v) All other factors which the County Supervisor believes should be considered.

(3) The Farm and Home Plan projections for the coming year for "balance available to pay debts" should exceed the amount needed to pay debts by at least 10 percent before an increase in interest rate is put into effect. Borrowers that continually purchase unplanned items without the County Supervisors approval will have the interest rate on their loans increased to the current rate for that loan type. Borrowers that fail to provide sufficient information in a timely manner for a review of their repayment ability will have their interest rate on their loan increased to the current rate for the OL or FO loan as applicable. The rate may increase in increments of whole numbers to the current rate for borrowers who are not limited resource borrowers. In the borrower's case file, the County Supervisor must document the unplanned purchases and the failure to provide information in a timely manner. The County Supervisor must write the borrower a letter which sets out the facts documented in the case file and advises the borrower that the interest rate will be increased unless the unplanned purchases cease or unless the borrower provides information in a timely manner. Whenever it appears that the borrower has a substantial increase in income and repayment ability or ceases farming, either the interest rate may be increased to the current rate for FO or OL loans, as applicable, or the borrower will be graduated from the program as provided in Part 1865 of this Chapter (FmHA Instruction 451.6).

(4) The County Office will be responsible for scheduling and completing the reviews. The Finance Office will not send a list of borrowers to be reviewed. The reviews must be completed 60 days prior to the anniversary date of the note.

(5) Even though the interest rate on FO loans is to increase at the end of three years regardless of borrower circumstances, the County Office must initiate the increase by notifying the borrower and the Finance Office as outlined in paragraph (c) of this section. This increase in interest rate will be as provided in Exhibit A of this Subpart. This Exhibit may be obtained from any FmHA Office.

(c) *Processing.* (1). If, after the review, the interest rate is to remain the same, no further action needs to be taken.

(2) If the interest rate is to be increased, Form FmHA 1951–4, "Change in Rates and Terms," will be completed and sent to the Finance Office 30 days prior to the effective date of the change. The borrower must be notified in writing at least 30 days prior to the effective date of the change. Exhibit B of this Subpart may be used as a guide. This exhibit may be obtained from any FmHA office. The effective date of the change in interest rate will be the anniversary date of the promissory note. The borrower must be informed of the following for each loan:

(i) The authorization for the change,

(ii) Reason for change (automatic, repayment ability, etc.),

(iii) The effective date and rate of the increase in interest,

(iv) Amount of the new installments and dates due, and

(v) Right to appeal if other than an automatic increase.

(3) It is not necessary to obtain a new promissory note for this change in interest rate.

§ 1951.26–1951.32 [Reserved]

§ 1951.33 Deferral, consolidation and rescheduling of OL, and EM and EE loans made for Subtitle B purposes.

All borrowers are expected to repay their loans according to planned repayment schedules. However, circumstances may occur which will not permit borrowers to pay as scheduled or to refinance the loans. This section explains how to consolidate, reschedule, and defer installments on *existing* loans providing the borrower agrees to such actions.

(a) *Definitions:*

(1) Subtitle B purposes are the loan purposes stated in § 1941.16 of Subpart A of Part 1941 of this Chapter.

(2) Reschedule means to rewrite the rates and/or terms of OL, EM or EE loans made for Subtitle B purposes.

(3) Consolidate means to combine and reschedule the rates and terms of two or more OL, EM or EE loans made for Subtitle B purposes for other than actual losses.

(4) Defer means to postpone the payment of part of a loan installment.

(b) *General requirements.* County Supervisors are authorized to approve, consolidate, reschedule and defer loans. When the County Supervisor determines that consolidation, rescheduling and deferral will assist in the orderly collection of the loan, the County Supervisor should take such action, provided:

(1) Such action is not used in lieu of or to delay liquidation;

(2) Such action is not taken to only remove a delinquency;

(3) Such action is not taken to circumvent FmHA's graduation requirements;

(4) The borrower's account is not being serviced by OGC or the U.S. Attorney, and there are no plans to have the account serviced by either of these offices in the near future;

(5) The County Supervisor determines that the borrower is making satisfactory progress or will make satisfactory progress with revised repayment terms; and

(6) The borrower is cooperating in servicing the account and is maintaining the security.

(c) *Consolidation and rescheduling OL loans.* (1) An OL loan secured by real estate will not be consolidated or rescheduled, unless the County Supervisor reviews the Government's real estate lien priority and value of security and determines such an action will be in the best interests of the Government and the borrower.

(2) OL loans will be consolidated only with other OL loans.

(3) The amount of outstanding accrued interest at the time of consolidation or rescheduling will be added to principal.

(4) Consolidated and rescheduled loans will be repaid according to the borrower's repayment ability, but never in excess of seven years from the date of consolidation or rescheduling.

(5) The interest rate for consolidated or rescheduled loans will be the current interest rate for OL loans made to regular or limited resource loan borrowers, as appropriate. Limited resource loan interest rates will be stated in increments of whole numbers and may be increased to the current OL rate or decreased to not less than 5 percent in accordance with a borrower's repayment ability.

(d) *Consolidation and rescheduling EE and EM loans.* EE and EM loans made for Subtitle B may be consolidated or rescheduled subject to the following conditions:

(1) An EM actual loss loan will *not* be consolidated with other EM loans.

(2) EE loans will be consolidated only with other EE loans, and EM loans will be consolidated only with other EM loans.

(3) An EE or EM loan made for a Subtitle B purpose in existence at the time another loan is made for the same purpose should be consolidated and rescheduled.

(4) An EM or EE loan scheduled to be repaid in more than 7 years but not over 20 years will not be consolidated with other EE or EM loans.

(5) An EE or EM loan may be consolidated or rescheduled when it is in the best interests of the borrower and the Government.

(6) The interest rate for consolidated or rescheduled loans:

(i) For EE loans will be the current loan rate in effect at the time of consolidation or rescheduling.

(ii) For EM loans, other than actual loss loans, will be the current prevailing market rate in effect at the time of consolidation or rescheduling.

(iii) For EM actual loss loans rescheduled, the interest will not be changed from the rate in the original note.

(7) All EE and EM loans made for Subtitle B purposes will be repaid over a period consistent with the borrower's repayment ability, but not in excess of 7 years from the date of the consolidation or rescheduling except in special cases authorized in § 1945.68(b)(1) and § 1945.118(b)(i)(B). When a longer term is needed EE or EM loans for Subtitle B purposes may be rescheduled for up to 20 years from the date of the original note.

(e) *Deferral of OL, EM, and EE loans made for Subtitle B purposes.* Installments on loans, including loans that are consolidated or rescheduled, may be deferred. The use of deferral authority will generally involve beginning farmers, applicants with limited income and resources, and applicants who have had production and economic losses because of natural or economic conditions.

(1) Deferred payments may be authorized if the following conditions exist: (i) A Form FmHA 431–2 "Farm and Home Plan" and, if appropriate, Form FmHA 431–4, "Business Analysis-Nonagricultural Enterprise," shows loan installments cannot be repaid according to schedule.

(ii) A typical Farm and Home Plan and, if appropriate, a Business Analysis-Nonagricultural Enterprise for a full crop year (calendar year for EM) following the deferral period indicates that full installments can be paid if normal conditions exist.

(iii) If appropriate, a Form FmHA 431–1, "Long-time Farm and a Home Plan," is prepared.

(iv) If appropriate, development and improvements have been provided for on Form FmHA 424–1, "Development Plan."

(2) Scheduling and repaying deferred installments. (i) Up to three installments may be deferred, but in no case will the deferral extend beyond the final due date of the note. Partial payments of accrued interest will be scheduled annually during the deferral period on Form FmHA 1940–17, "Promissory Note." Full payments will be scheduled at the earliest date the Farm and Home Plan indicates they can be repaid.

(ii) borrowers will be advised that they are expected to make payments as soon as they have repayment ability, even though the deferral period has not expired.

(iii) Deferred interest will not be capitalized.

(iv) Installments of principal and interest to be paid after the deferral period will be calculated in accordance with the FMI for Form FmHA 1940–17.

(f) *Processing.* (1) Form FmHA 1940–17 will be prepared for notes or assumption agreements being consolidated or rescheduled in accordance with the provisions of the FMI. If the County Office does not have possession of the original note or assumption agreement, the County Supervisor will ask the Finance Office to return the original form so it is in the County Office *before* Form FmHA 1940–17 is processed. Form FmHA 1951–4, "Change in Rates and Terms," will be completed and sent to the Finance Office in accordance with the provisions of the FMI.

(2) The original and County Office copy of all notes or assumption agreements that are consolidated or rescheduled, will be stamped "Consolidated", or "Rescheduled", as appropriate, by the County Office. The original instruments being consolidated or rescheduled will be filed with the borrower's new consolidated or rescheduled note and a copy filed in the borrower's case file. When the consolidated or rescheduled note has been paid in full or otherwise satisfied, it and all other instruments will be handled in accordance with the provisions of § 1951.15 of this Subpart.

§§ 1951.34–1951.39 [Reserved]

§ 1951.40 Deferment and reamortization of FO, SW, RL, EE or EM loans made for real estate purposes.

All borrowers are expected to repay their loans according to planned repayment schedules. However, circumstances may occur which will not permit borrowers to pay as scheduled or to refinance loans. This section explains how the County Supervisor can reamortize and defer installments on existing loans. County Supervisors are authorized to approve deferments and reamortization of loans under this section including assumption agreements.

(a) *Definitions:* (1) Reamortization means to rearrange the installments of a loan which may include changing the interest rate and terms of the loan.

(2) Defer means to postpone the payment of part of a loan installment.

(b) *Requirements.* These servicing actions will not be taken if a borrower's account(s) is being serviced or is planned to be serviced in the near future by the OGC or the U.S. Attorney. Also, these servicing actions will not be used for the purpose of avoiding FmHA graduation requirements.

(1) Loans should be reamortized, subject to the following conditions: (i) FO, SW, RL, EE, and EM loans should be reamortized when it will be in the best interest of the borrower and the Government.

(ii) A loan will not be reamortized only to remove a delinquency.

(iii) A delinquent account will not ordinarily be reamortized if it appears the borrower can pay the account current within two years.

(iv) At the time of reamortization an FO loan may be changed to a limited resource interest rate if the borrower meets the requirements for a limited resource interest rate.

(2) Installments on existing FO, SW, RL, EM and EE loans should be deferred subject to the following conditions: (i) The deferment is necessary to enable the borrower to remain on the farm.

(ii) The borrower shows that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of principal and interest due on the loan without unduly impairing the borrower's standard of living.

(iii) The borrower is cooperating in servicing the account and maintaining the security.

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(iv) Payments are not being deferred just to remove a delinquency or delay liquidation.

(v) A Farm and Home Plan and Business Analysis—Nonagricultural Enterprise, when appropriate, shows that the reamortized installments or the full installments at the end of the deferred period can be paid.

(c) *Terms.* (1) Reamortized installments usually will be scheduled for repayment within the remaining period of the note or assumption agreement being reamortized. If any repayment is extended, the new repayment period may not exceed 40 years from the date of the original note or assumption agreement or the useful life of the security, whichever is less.

(i) The FmHA's lien priority may be affected if the final due date of the original loan is changed. A State supplement will be issued to provide instructions on the effect a change in due date has on security instruments and the action necessary to retain the Government's lien priority. The State supplement will also include instructions in releasing the original security instrument when a new one is obtained.

(ii) The amount of interest accrued at the time of reamortization will be added to the principal unless a deferment is involved. If there are no deferred installments, the first installments under the reamortization will be at least equal to the interest which will accrue on the new principal between the date of Form FmHA 1940–17 and the next January 1.

(2) Generally, only one installment will be deferred at a time. However, more than one installment, but not more than three, should be deferred if it is determined that such action is necessary to enable the borrower to remain on the farm.

(i) The deferred period cannot be later than the final due date on the promissory note or assumption agreement unless the final due date is changed by reamortization as provided in paragraph (c)(1) of this section.

(ii) Whole installments will not be deferred. Some payment will be scheduled on each installment due date.

(iii) When a deferment is necessary the loan will be reamortized and the installments scheduled in accordance with the borrower's repayment ability.

(iv) Borrowers will be encouraged to make additional payments during the deferral period if they are able to do so.

(d) *Interest.* (1) The interest rate for other than limited resource loans will be the current interest rate (for EM the current prevailing market rate) in effect at the time the reamortization is granted except for EM actual loss loans, in which case the interest rate will not be changed.

(2) If a limited resource loan is reamortized within the first three years the interest rate will be the same rate at which the loan was initially made. After the first three years a limited resource loan may be reamortized at the interest rate in effect at that time for that loan or at a higher rate in accordance with the borrower's repayment ability. If the interest rate is to be increased it may be done in increments of whole numbers to the current rate for nonlimited resource borrowers.

(3) The amount of all accrued interest through the date the reamortization is granted will be added to the principal. When it is necessary to defer part of the interest, the amount deferred will be limited to that amount shown in the Farm and Home Plan to be necessary to enable the applicant to regain repayment ability. Interest accrued during the deferral period will not be added to the principal. Installments after the deferral period will be scheduled for payment in accordance with the FMI for Form FmHA 1940–17.

(e) *Processing.* A separate Form FmHA 1940–17 will be used for each note or assumption agreement being reamortized or deferred.

(1) Form FmHA 1940–17 may be processed provided the County Office has possession of the original note or assumption agreement being reamortized or deferred. If the County Office does not have possession of the original note or assumption agreement, the County Supervisor will ask the Finance Office to return the original form so it is in the County Office *before* Form FmHA 1940–17 is processed.

(2) Form FmHA 1940–17 will be completed, signed, and distributed as provided in the FMI.

(3) Form FmHA 1951–4 will be completed and sent to the Finance Office to inform it of the new terms.

(4) The original and County Office copy of notes or assumption agreements that are reamortized or on which payments are deferred will be marked "REAMORTIZED, *(date)*" OR "DEFERRED, *(date)*", as appropriate. The original of Form FmHA 1940–17 will be attached to the original of the note or assumption agreement being reamortized or deferred and filed in the promissory note folder. A copy of each will be filed in the borrower's case file.

(5) There is no limit on the number of times a Form FmHA 1940–17 can be processed providing the requirements for reamortization are met each time this form is processed. No more than 3 installments may be deferred at one time.

§§ 1951.41–1951.50 [Reserved]

Exhibit A—Schedule of Automatic Interest Rate Increases for Limited Resource FO Loans

Date of Approval: Loan approved from 8–4–78 to (———) date of any change.

Interest Rate: Initial interest rate is 3% for 3 years. At the end of 3 years it will increase to 5% for the next 2 years. It will be subject to review at the end of the 5 year period.

Exhibit B—U.S. Department of Agriculture Farmers Home Administration

(Insert date)

Notice of Change in Interest Rate

[

(Insert borrower's address)

[

Dear (insert borrower's name): Your promissory note dated ——— for the original amount of —— dollars ($) provides for a change in interest rate for a limited resource loan with the Farmers Home Administration regulations.

Effective (insert date) the interest rate on this loan will be — percent (%) on the unpaid principal balance. Your installment due January 1, 19—, will be —— dollars ($—). This change in interest rate is for the reason indicated below.

☐ Automatic increase in accordance with Farmers Home Administration regulations.

☐ Increase in repayment ability as per Farm and Home Plan dated ———.

☐ (Insert reason if other than above for increase in interest rate)

If this increase in interest rate is other than the automatic increase, you may appeal this action by writing to (hearing officer) (address) within 30 calendar days of the date of this letter, giving the reason why you believe this matter should be decided differently. This time may be extended if you cannot notify the hearing officer within 30 days for reasons beyond your control.

Sincerely,

County Supervisor.

*The automatic increase in interest *must* be effective on the 3rd anniversary date of the note. Thereafter the change in interest rate date will be on or about the anniversary date of the note after completion of the review of the case.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Statement has been prepared and is available from the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346, South Agriculture Building, Washington, D.C. 20250.

Dated: July 24, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79–24229 Filed 8–6–79; 8:45 am]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment is to release portions of Los Angeles County in California, from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the areas released from quarantine. No areas in the State of California remain under quarantine.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment releases portions of Los Angeles County in California, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the areas released.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 82.3 [Amended]

In § 82.3(a)(1), relating to the State of California, paragraphs (i) and (ii) relating to Los Angeles County, are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah, psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, interstate from such areas without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 2nd day of August 1979.

E. A. Schilf,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79–24282 Filed 8–6–79; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 4

Description of Office, Procedures, Public Information Office Organization and Delegation of Authority

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This amendment revises 12 CFR 4.1a, a regulation which describes office organization and delegations of authority within the Office of the Comptroller of the Currency. The purpose of the amendment is to incorporate into the regulation recent delegations of authority within the Office so as to ensure that the information available to the public is both current and accurate.

EFFECTIVE DATE: These changes regarding delegations of authority are already in effect.

FOR FURTHER INFORMATION CONTACT: Barbara M. Yadley, Staff Attorney, Comptroller of the Currency, Washington, D.C. 20219, (202/447–1880).

SUPPLEMENTARY INFORMATION: This amendment is issued under authority of 12 U.S.C. 1 *et seq.* pursuant to the requirement of 5 U.S.C. 552 that each agency publish in the **Federal Register** descriptions of its central and field organizations. The amendment revises 12 CFR 4.1a, a section which describes office organization and delegations of authority. The purpose of the amendment is to incorporate into the section recent delegations of authority within the Office so as to comply with the Administrative Procedure Act and to ensure that the information available to the public is both current and accurate.

The Administrative Procedure Act does not require public rulemaking procedures or delayed effectiveness for rules of agency organization, procedures, or practice. This regulation does not constitute a significant regulation under Treasury Department criteria because it relates to internal agency procedures and because it does

not create additional burdens for national banks.

Summary of Changes

Paragraph (c) of § 4.1a has been revised to reflect additional delegations of authority which have been granted to each Regional Administrator of National Banks. The revision incorporates into the paragraph the fact that each Regional Administrator has been delegated authority to approve or disapprove the establishment of *de novo* operating subsidiaries for activities previously approved by the Comptroller and to approve or disapprove changes in par value of common stock. The revision of paragraph (c) also reflects the fact that the Regional Administrators' former authority to approve (but not to disapprove) capital increases through stock dividends or sales of additional common stock, cash dividends, and increases in investments in bank premises has been revised so that it now includes the authority to approve *and* disapprove such activities. It is anticipated that the additional delegations will serve to reduce unnecessary time delays in processing certain applications.

Drafting Information

The principal drafter of this document was Richard H. Neiman, Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219.

Adoption of Amendment

Accordingly, 12 CFR 4 is amended by revising § 4.1a to read as follows:

§ 4.1a Central and field organization; delegations.

(a) * * *

(b) * * *

(c) *Delegations.* The Comptroller of the Currency has delegated to each Regional Administrator authority to approve or disapprove:

(1) Capital increases through stock dividends or sales of additional common stock,

(2) Changes in par value of common stock,

(3) Cash dividends pursuant to 12 U.S.C. 60(b),

(4) Increases in investments in bank buildings and other fixed assets, and the

(5) Establishment of *de novo* operating subsidiaries for activities previously approved by the Comptroller.

Dated: August 1, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-24317 Filed 8-6-79; 8:45 am]

BILLING CODE 4810-33

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Amendments Relating to Penalties for Early Withdrawal of Deposits, Interest Rate Ceilings on Deposits, and Restrictions on Nondeposit Obligations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: On May 30, 1979, FDIC issued for public comment two proposed amendments to FDIC's regulations. The first proposal would require banks supervised by FDIC to honor requests for early withdrawal of deposits without imposing a penalty in cases where the depositor has died. The second proposal would require any evidence of indebtedness arising from the sale subject to repurchase of U.S. Government securities or securities guaranteed by the U.S. Government (so-called repurchase agreements or "RP's") to be in an amount of at least $100,000 in order to be exempt from the interest rate ceilings on deposits and certain nondeposit obligations.

FDIC has decided to adopt both proposals in modified form. In addition, the FDIC is further liberalizing its early withdrawal penalties to (1) apply the new withdrawal penalty adopted by the Board on May 30 to all time deposits, including those made prior to July 1, 1979; and (2) require penalty-free withdrawal in cases of mental incompetency. FDIC is also acting to increase the rate of interest payable on certain categories of time deposits, to clarify prior interpretations concerning maximum interest rates on additions to existing time deposits, and to make miscellaneous technical and conforming amendments to the regulations.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Senior Attorney, or Douglas H. Jones, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 (202-389-4324 or 202-389-4433).

SUPPLEMENTARY INFORMATION: On May 30, 1979, FDIC issued two proposed rules for public comment (44 FR 32397, June 6, 1979). The first of these would amend § 329.4(d) of FDIC's regulations (12 CFR 329.4(d)) to require banks to permit penalty-free early withdrawal from a time deposit where the depositor has died. Under present regulations, early withdrawal in the event of the death of the depositor is permissible, but only at the discretion of the bank.

The second proposed rule would require that RP's be subject to the interest rate ceilings on deposits unless the amount were $100,000 or more.

After reviewing the comments on the proposals, FDIC has decided to adopt both proposals, but in modified form.

FDIC received twenty-five comments on the proposed mandatory exemption for penalty-free early withdrawal where the depositor has died. Those opposing the proposal urged that making the present penalty exception mandatory as opposed to discretionary could lead to abuses which might introduce an undesirable element of uncertainty into time deposit structures. Those favoring the proposal felt that it was a sound concept and would be easier to administer than the discretionary penalty exception now in effect.

The mandatory exception will encompass all time deposits whether made before or after the effective date of these amendments.

In addition to the foregoing exception, FDIC has decided to adopt a new required exception to the withdrawal penalties which will permit withdrawal of time deposits prior to maturity without penalty where the depositor has been declared mentally incompetent by a court. In the opinion of the FDIC, such an exception is desirable to provide guardians with ready access to funds in order to administer incompetents' affairs. Documentation in the form of a court order or decree adjudicating the depositor incompetent will be required.

In addition, banks supervised by FDIC may, with the consent of the depositor, apply the new withdrawal penalty adopted by FDIC on May 30 and effective July 1, 1979, to all time deposits, irrespective of date. This change is being made so that a bank will not have to apply two different penalties, depending on the date of the deposit.

With respect to the proposal to amend § 329.10(b)(2) of FDIC's regulations (12 CFR 329.10(b)(2)) to require that in order to qualify for the exemption from interest rate ceilings, RP's must be in minimum amounts of $100,000, FDIC received thirty-one comments. Twenty-five comments were from banks and were almost unanimously opposed to the proposal. The primary argument in opposition was that particularly with respect to smaller banks, most transactions involved RP's of less than $100,000, and adoption of the proposal would be detrimental to investors in such smaller denomination obligations, including public units and small businesses. One bank expressed very strong opposition to the proposal, pointing out that it had been marketing consumer-type RP's for nine years with the approval of the regulators and had seen no evidence of active competition with normal deposits which could raise questions of erosion of Federal Reserve Regulation Q. This bank suggested alternative approaches, one of which was a grandfathering provision.

After reviewing the comments, FDIC has decided to adopt this proposal in modified form. Generally, RP's entered into on and after August 1, 1982 will be subject to interest rate ceilings unless they are in amounts of $100,000 or more or have maturities of 89 days or less. Further, RP's in amounts of less than $100,000 and having maturities of 89 days or less will not be exempt if they are automatically renewable.

For the three-year period following the effective date of these amendments (August 1, 1979 to August 1, 1982), each bank supervised by FDIC must limit the outstanding dollar volume of RP's of less than $100,000 with maturities of 90 days or more to no more than the dollar volume of such RP's in the bank on the effective date. RP's in excess of that amount will be subject to interest rate ceilings.

To qualify for exemption from interest rate ceilings, RP's must continue to represent evidences of indebtedness arising out of the sale subject to repurchase of U.S. Government obligations or obligations guaranteed as to prinicipal and interest by the U.S. Government. The general exemption for interbank transactions is not affected by this amendment.

Section 329.6 of FDIC's regulations is being amended to increase the maximum rate of interest payable on commercial bank time deposits of thirty days or more or but less than ninety days from 5% to 5¼%. This rate increase is designed to complement the recent increase in the commercial bank passbook savings deposit rate to 5¼%.

Section 329.3 of FDIC's regulations is being amended to require that additions to existing time deposits pay a maximum rate of interest which is no higher than that permitted by regulation at the time the additional deposit is made. This amendment formalizes prior FDIC staff interpretations. In the case of the new four year, variable-rate deposit authorized by FDIC on May 30, it will prevent possible abuses of the regulation where the indexed Treasury rate fluctuates downward after the initial deposit has been made.

Several other amendments of a minor technical and conforming nature are being made to the regulations.

The provisions of sections 553(b) and 553(d) of Title 5 of the United States Code (5 U.S.C. 553(b) and 553(d)) and §§ 302.1, 302.2 and 302.5 of FDIC's regulations relating to notice, public participation, and deferred effective date were followed only to the extent that certain of the following amendments were previously issued in FDIC's May 30 Notices of Proposed Rulemaking. The Board has determined that as to these amendments, the public interest requires that they be made effective on August 1, 1979. The remaining amendments, with the exception of the amendment requiring banks to honor requests for early withdrawal where a depositor has been declared incompetent, simply formalize existing interpretations or relax current restrictions. Hence, no purpose would be served by following the notice and public participation requirements.

Pursuant to its authority under sections 9 and 18 of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1828) the FDIC, after coordination with the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board, is amending §§ 329.3, 329.4, 329.6, 329.7 and 329.10 of Part 329 of its regulations as follows:

1. Section 329.3(a) is amended by adding a new sentence at the end thereof as follows:

§ 329.3 Interest on time and savings deposits.

(a) *Maximum rate.* * * * The maximum rate of interest that may be paid by a bank on an additional deposit to any existing time deposit shall not exceed the maximum rate that may be paid in accordance with the provisions of § 329.6 on the date the additional deposit is made.

* * * * *

2. Section 329.4(d) is amended by revising the first sentence thereof, adding a new fourth sentence, and revising footnote 11b, all as follows:

§ 329.4 Payment of time deposits before maturity.

* * * * *

(d) *Penalty on payment of time deposits before maturity.* In the event of payment before maturity of all or any portion of a time deposit, the depositor shall, at minimum, forfeit all interest earned on the amount withdrawn from the date of deposit or for six months, whichever is less, if the original maturity of the account in which the funds to be withdrawn are on deposit is more than twelve months (one year). Where the original maturity of the account is twelve months (one year) or less, the minimum penalty shall be a forfeiture of three month's interest on the amount withdrawn or interest earned since the date of deposit, whichever is less.[11b] Where necessary to comply with this requirement, interest already paid to or for the account of the depositor shall be deducted from the amount to be withdrawn * * *. Notwithstanding the provisions of this paragraph, as to any time deposit, upon the death of any owner of time deposit funds or where any owner of time deposit funds has been declared incompetent to manage his or her affairs by a court, the depository bank must grant a request for early withdrawal and no penalty may be applied as a result of such withdrawal. Where early withdrawal of a time deposit is sought because of mental incompetency, a certified copy of the court's order or decree shall be presented to the bank at the time withdrawal is sought. An "owner" of time deposit funds is any individual who at the time of his or her death, or declaration of incompetency, has full legal and beneficial title to all or a portion of such funds, or, at the time of his or her death, or declaration of incompetency, has beneficial title to all or a portion of such funds and full power of disposition and alienation with respect thereto, including but not limited to a power of revocation with respect to any trust of which the funds comprise all or part of the assets, whether or not such owner is acting as trustee. At the discretion of the depository bank, the penalty prescribed by this paragraph (d) need not be applied to the withdrawal of all or part of a time deposit prior to maturity under any of the following circumstances: (1) Where the time deposit consists of funds contributed to an Individual Retirement Account established pursuant to 26 U.S.C. 408 or to a Keogh (H.R. 10) plan established pursuant to 26 U.S.C. 401 and the individual for whose benefit the account is maintained is 59½ years of age or older or has become disabled within the

[11b] The provisions of this paragraph apply to all time deposit contracts entered into on or after July 1, 1979, and to all existing time deposit contracts that are extended or renewed (whether by automatic renewal or otherwise) on or after such date. The provisions of this paragraph also may be applied, with the consent of the depositor, to all other time deposit contracts entered into before July 1, 1979. All contracts not subject to the provisions of this paragraph shall be subject to the restrictions of § 329.4(d) in effect prior to July 1, 1979, which provided that where a time deposit, or any portion thereof, is paid before maturity, a nonmember bank may pay interest on the the amount withdrawn at a rate not to exceed that prescribed in § 329.6 and § 329.7 for a savings deposit and the depositor shall forfeit three months interest payable at such rate. If, however, the amount withdrawn has remained on deposit for three months or less, all interest shall be forfeited.

meaning of 26 U.S.C. 72(m)(7); or (2) where the funds constituting the time deposit consist of funds transferred to new insured banks,[11b-1] but only to the extent that the funds sought to be withdrawn were insured prior to the merger and have become uninsured as a result thereof: *And provided,* That notice of withdrawal is given the new or resulting bank not later than twelve months after consummation of the merger.

3. Section 329.6 is amended by revising paragraphs (b) (1), (3) and (4), all as follows:

§ 329.6 Maximum rates of interest payable on time and savings deposits by insured nonmember banks.[12]

* * * * *

(b) *Deposits of less than $100,000.* (1) Except as provided in paragraphs (b) (2), (3), (4), (5), and (6) of this section, no insured nonmember bank shall pay interest on any time deposit of less than $100,000 at a rate in excess of the applicable rate under the following schedule:

Maturity	Maximum percent per annum
30 days or more, but less than 90 days	5¼
90 days or more, but less than 1 year	5½
1 year or more, but less than 30 months	6
30 months or more	6½

* * * * *

(3) *Time Deposits of Public Units.* Except as provided in paragraph (a), and paragraphs (b) (5) and (6) of this section, no insured nonmember bank may pay interest in any time deposit of 30 days or more of a public unit (as defined in section 3(m) of the Federal Deposit Insurance Act) at a rate in excess of 8 percent per annum.

(4) *Individual Retirement Account and Keogh (H.R. 10) Plan Deposits.* Except as provided in paragraph (a), and paragraphs (b) (5) and (6) of this section, no insured nonmember bank may pay interest on any time deposit with a maturity of three years or more that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, and individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. 408, or 401, at a rate in excess of 8 percent per annum.[12b]

* * * * *

4. Section 329.7 is amended by revising paragraphs (b) (1)(i), (3), (5) and (6), all as follows:

[11b-1] * * *

[12] * * *

[12b] * * *

§ 329.7 Maximum rates of interest or dividends payable on deposits of insured nonmember mutual savings banks.[14]

* * * * *

(b) *Maximum rates payable.*—(1) *General.* (i) Except as provided in paragraphs (b) (2), (3), (4), (5), (6), (7), (8), and (10) and paragraph (e) of this section, no insured nonmember mutual savings bank may pay interest or dividends at a rate in excess of 5½ percent per annum on any deposit. * * *

* * * * *

(3) *Time deposits of less than $100,000.* Except as provided in paragraphs (b) (4), (5), (6), (7), (8), and (10) of this section, no insured nonmember mutual savings bank may pay interest or dividends on any time deposit of less than $100,000 at a rate in excess of the applicable rate under the following schedule: * * *

* * * * *

(5) *Time deposits of public units.* Except as provided in paragraphs (b) (2), (7), and (10) of this section, no insured nonmember mutual savings bank shall pay interest or dividends on any time deposit of 30 days or more of a public unit (as defined in section 3(m) of the Federal Deposit Insurance Act) at a rate in excess of 8 percent per annum.

(6) *Individual Retirement Account and Keogh (H.R. 10) Plan Deposits.* Except as provided in paragraphs (b) (2), (7), and (10) of this section, no insured nonmember mutual savings bank shall pay interest on any time deposit with a maturity of three years or more that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. 408 or 401 at a rate in excess of 8 percent per annum.[14c]

* * * * *

5. Section 329.10 of FDIC's regulations is amended by revising paragraph (b)(2) and adding a new footnote 17a, as follows:

§ 329.10 Obligations other than deposits.

* * * * *

(b) *Exceptions.* * * *

* * * * *

(2) Evidences an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by the United States or any agency thereof that the bank is obligated to repurchase, and is either (a) In denominations of $100,000 or more, or (b) In denominations of less than $100,000, matures in less than 90 days and cannot be automatically renewed or extended; [17a]

By order to the Board of Directors.

Dated: July 30, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-24283 Filed 8-6-79; 8:45 am]

BILLING CODE 6714-01-M

[14] * * *

[14c] * * *

[17a] A bank with obligations in denominations of less than $100,000 with maturities of 90 days or more that evidence an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by the United States or any agency thereof that the bank is obligated to repurchase, may continue to issue such obligations until August 1, 1982 without regard to this subsection so long as the aggregate amount does not exceed its total of such obligations outstanding on August 1, 1979.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Designation and Management of Marine Sanctuaries

Correction

In FR Doc. 79-23574, appearing at page 44831 in the issue for Tuesday, July 31, 1979, the effective date now listed as "August 31, 1979" should read "July 31, 1979".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 101]

[Docket No. 77N-0067]

Food Labeling; Foods That Are Not Meaningful Sources of Nutrients

AGENCY: Food and Drug Administration.

ACTION: Extension of Effective Date.

SUMMARY: The Food and Drug Administration (FDA) is extending the time period for full compliance with the nutrition labeling requirements for those products that were permitted to use an abbreviated form of nutrition labeling on the basis that they were foods that are not meaningful sources of nutrients. The National Soft Drink Association (NSDA) requested an extension, and the agency is granting one because of possible confusion about the applicability of certain other regulations.

EFFECTIVE DATE: All products initially introduced into interstate commerce on or after July 1, 1980, shall comply with the complete requirements of § 101.9 (21 CFR 101.9) and all other applicable regulations.

FOR FURTHER INFORMATION CONTACT: Taylor M. Quinn, Bureau of Foods (HFF-300), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C. St., SW., Washington, D.C. 20204, 202-245-1243.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 27, 1977 (42 FR 27261), FDA terminated the proposal published in the **Federal Register** of March 6, 1974 (39 FR 8621) to exempt from certain requirements of nutrition labeling those foods that are not meaningful sources of nutrients. In the same document FDA further established an effective date of July 1, 1979, for the nutrition labeling compliance for those products subject to the terminated proposal.

FDA has received a petition from NSDA requesting that the effective date for those products covered by the terminated proposal be extended from July 1, 1979 to July 1, 1981.

The petitioner states that the labeling requirements for nutrition labeling set forth in 21 CFR 101.9 and those established for foods for special dietary use (21 CFR 105.66 and 105.67) are closely related. Therefore, the petition continues, the soft drink industry was unaware of the exact nature of the labeling requirements imposed on diet soft drinks until the publication of §§ 105.66 and 105.67 in the **Federal Register** of September 22, 1978 (43 FR 43248). Further, although the industry was aware that full nutrition labeling would be required on any product making a nutrition claim, including any food making a calorie claim, it was impossible to anticipate other labeling changes that might be required by the publication of §§ 105.66 and 105.67. Furthermore, the petitioner argues, the unsettled status of the use of saccharin in foods makes unclear the exact nature of labeling changes that will be required for diet soft drinks.

FDA has reviewed the petition and has determined that there are grounds for extending the effective date of compliance with § 101.9 for those products that were entitle to use the abbreviated nutrition labeling format under the proposal regarding nutrition for foods that are not meaningful sources of nutrients. However, the agency does not agree that compliance should be delayed until July 1, 1981, as requested.

The NSDA petition states that the nutrition labeling requirements (§ 101.9) and the labeling requirements for foods for special dietary use (§§ 105.66 and 105.67) are intertwined. The agency does not agree with this position. However, since there may have been some confusion as to the applicability of § 101.9, in lieu of §§ 105.66 and 105.67, and since the effective date of §§ 105.66 and 105.67 has been extended to allow for the purchase of new labels and sale of current labeled products, the agency agrees that the same extension of effective date for compliance with full nutrition labeling for foods that are not meaningful sources of nutrients should be granted.

The agency does not consider the current status of, or any future action taken against, the use of saccharin in foods as grounds to delay the full nutriton labeling of those products requiring such labeling because of their label claims.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 104-1042 as amended, 1047, 1055 (21 U.S.C. 321, 343, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the effective date for complete compliance of those foods that are not meaningful sources of nutrients with the regulations set forth in § 101.9 *Nutrition labeling of food* is hereby extended from July 1, 1979 to July 1, 1980, at which time all products initially introduced into interstate commerce shall comply.

Dated: August 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24349 Filed 8-3-79; 11:02 am]

BILLING CODE 4110-03-M

21 CFR Part 201

[Docket No. 77N-0104]

Labeling; Drugs: Information Commonly Known; Revocation of Labeling Exemption

AGENCY: Food and Drug Administration.

ACTION: Extension of effective date.

SUMMARY: The Food and Drug Administration (FDA) is extending to June 26, 1980 the effective date of its final rule that revokes provisions of the drug labeling regulations exempting certain prescription drugs from the requirement that their dispensing packages contain full disclosure labeling. The agency is taking this action to coordinate the effective date of that final rule with a subsequent final rule amending the agency's regulations on the content and format of prescription drug labeling.

EFFECTIVE DATE: August 7, 1979.

FOR FURTHER INFORMATION CONTACT: Michael C. McGrane, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 6, 1979 (44 FR 20657), FDA revoked the provision in § 201.100(c)(2) (21 CFR 201.100(c)(2)) that permitted full disclosure labeling (the package insert) to be omitted from the dispensing package of certain prescription drugs and revoked § 201.160 (21 CFR 201.160) that listed the drugs to which the exemption had applied. The revocation of the labeling exemption is effective October 3, 1979.

In the **Federal Register** of June 26, 1979 (44 FR 37434), FDA established final regulations on the content and format of labeling for human prescription drugs. Those regulations are effective on June 26, 1980, for prescription drugs that are not new drugs. Most of the drugs for which the labeling exemption was revoked are not new drugs. The format for labeling for prescription drug products under those regulations differs significantly from the current labeling of many prescription drugs and differs in some respects from the format that was proposed in the **Federal Register** of April 7, 1975 (40 FR 15392). Accordingly, prescription drug labeling prepared in response to the April 6, 1979 final rule would not likely comply with the requirements of the final rule of June 26, 1979.

The agency has received a letter from Abbott Laboratories, Abbott Park, North Chicago, IL 60064, contending that labeling prepared to comply with the regulation which revoked the labeling exemption would have to be revised to comply with the June 26, 1980 effective date of the new labeling format. Thus, Abbott claims, it will face needless technical difficulties and costs to comply with essentially the same regulatory requirement twice within about 8 months. Abbott states that its costs of complying with each effective date would be approximately $48,800. Abbott asks that the effective date of the final rule revoking the labeling exemption be changed from October 3, 1979 to June 26, 1980, to conform to that for the requirements for the content and format of prescription drug labeling. The same effective date for both

requirements would reduce significantly the costs of compliance for Abbott and other companies which must meet the requirements of both regulations. A copy of the Abbott letter has been placed on file in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

The agency concludes that a single effective date for both final rules is appropriate. The agency believes that it is important both to provide prescription drug labeling for products formerly exempt from that requirement and to provide prescription drug labeling that is in the format and contains the information required under the June 26, 1979 final rule. The agency is persuaded that the additional costs that would be necessary to meet each requirement separately will outweigh the benefits of imposing labeling requirements on previously exempt drugs for the short time period between the two effective dates. At the same time, FDA encourages manufacturers to implement both labeling requirements as soon as practicable and before the effective date of June 26, 1980, if at all possible. Although Abbott only asked that the effective date be extended for products that are not new drugs, the agency believes that for the efficient enforcement of the regulations the effective date should not distinguish between new drugs and drugs that are not new drugs. .

Accordingly, the effective date paragraph of the final regulation appearing in the **Federal Register** of April 6, 1979 (44 FR 20657), which revised paragraph (c)(2) of § 201.100 *Prescription drugs for human use* and revoked § 201.160 *Drugs; information commonly known,* is revised to read as follows:

Effective date. This regulation is effective June 26, 1980, for any drugs that are subject to these regulations and are initially introduced or initially delivered for introduction into interstate commerce on or after that date.

(Secs. 502, 505, 701, 52 Stat. 1050–1053 as amended, 1055–1056 as amended (21 U.S.C 352, 355, 371).)

Dated: August 1, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–24242 Filed 8–6–79; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Dexamethasone Acetate, Nitrofurathiazide, Griseofulvin, Undecylenic Acid, Tetracaine Hydrochloride Otic Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for dexamethasone acetate, nitrofurathiazide, griseofulvin, undecylenic acid, and tetracaine hydrochloride otic suspension to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier **Federal Register** publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: August 7, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV–100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the **Federal Register** of August 6, 1970 (35 FR 12565). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective for acute or chronic ulcerative and suppurative mycotic otitis externa in dogs and cats.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, responded to the notice by submitting a supplemental NADA (12–890V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product for the treatment of cats. The supplemental application was approved by regulation issued in the **Federal Register** of August 23, 1973 (38 FR 22623). The regulation reflecting this approval (21 CFR 135a.47, recodified 21 CFR 524.541) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.541 by adding after paragraph (c) (1), (2), (3) and (4) the footnote reference[1] and by adding at the end of the section the footnote to read as follows:

§ 524.541 Dexamethasone acetate, nitrofurathiazide, griseofulvin, undecylenic acid, tetracaine hydrochloride otic suspension.

* * * * *

(c) *Conditions of use.* (1) * * *[1]

(2) * * *[1]

(3) * * *[1]

(4) * * *[1]

Effective date. This regulation shall be effective August 7, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: July 31, 1979.

Lester M. Crawford,

Director of Veterinary Medicine.

[FR Doc. 79–24244 Filed 8–6–79; 8:45 am]

BILLING CODE 4110–03–M

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 55a

Election of Interim Yurok Governing Committee; Procedures for Conduct of Election and Duties of Interim Committee

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior hereby adds a new part of its regulations to establish rules and procedures for the conduct of an election of an interim Yurok tribal governing committee, and to indicate the duties and responsibilities of this committee. As stated in the November 20, 1978, message of the Assistant Secretary-Indian Affairs to the Hoopa and Yurok people, the election of this committee is the first step in the establishment by the Indians of a governing organization for the Yurok Tribe.

EFFECTIVE DATE: The new regulations will become effective on September 6, 1979.

FOR FURTHER INFORMATION CONTACT:
Theodore C. Krenzke, Director, Office of Indian Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245, (202–343–2111).
William Finale, Area Director, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825, (916–484–4682).

SUPPLEMENTARY INFORMATION: On May 30, 1979, there were published in the **Federal Register** (44 FR 31156) proposed regulations for the ELECTION OF AN INTERIM YUROK GOVERNING COMMITTEE: PROCEDURES FOR CONDUCT OF ELECTION AND DUTIES OF INTERIM COMMITTEE. Written comments were received from the Hoopa Valley Business Council, and an attorney for plaintiffs in *Short* v. *United States,* No. 102–63 in the U.S. Court of Claims. Comments were also set forth in three other letters—one signed by one person, another signed by two and one bearing 20 signatures.

Almost all of the commentators recommended that the proposed regulations not be promulgated but offered certain changes for improvement, in the event the Department decided to proceed with them. For the reasons discussed below, the proposed regulations are being made final with modifications noted.

Comments and modifications

1. Most of the comments received are to the effect that the proposal to organize the Yurok Tribe should be discontinued until after *Short* v. *United States,* No. 102–63 in the U.S. Court of Claims is finally decided, and the Department should then assist all of the eligible "Indians of the Hoopa Valley Reservation" to elect a reservation-wide governing body.

The November 20, 1978, message from the Assistant Secretary-Indian Affairs, referred to in the supplementary information to the proposed regulations, stated to the Hoopa Valley and Yurok people of the Hoopa Valley Reservation that a single reservation exists in which the Hoopa Valley and Yurok Tribes have an interest. It was also indicated in that message that it was his intent to provide both tribes the opportunity, within the policy of self-determination, to participate in the management of the reservation. However, it was pointed out that while the Hoopa Valley Tribe is organized, the Yurok Tribe is not and that it is, therefore, not possible for the Yurok Tribe to participate in the management of the reservation until it has a functioning tribal governing body. The message stated further that the Assistant Secretary-Indian Affairs would provide the Yurok Tribe the opportunity to take the first step leading to the organization of a tribal government. These rules provide that opportunity.

Although these commentators believe that formation of a Yurok tribal government will have an adverse impact on their interests in the *Short* case, we disagree and regard that action as a separate issue; see the supplementary information contained in 44 FR 24536. The purpose of providing the Yurok Tribe an opportunity to form a tribal government is to enable it to participate in the future management of the reservation and to benefit from other programs the Federal Government makes available to Indian people only through tribal governments.

2. A further comment stated that in supporting the motion to substitute a "Yurok Tribe" for individual plaintiffs in the *Short* case, the Justice Department suggested that the "Gerard Plan" would lead to a voluntary choice as to (1) Whether a committee will be formed, and (2) if so, as to what tribal constitutional and membership proposals will be developed, and added that the proposed election procedures do not provide an opportunity for a vote on whether an interim committee shall be formed.

The November 20, 1978, message to the Hoopa and Yurok people, and all subsequent actions of this Department relating to the implementation of that message, have consistently called for the election of an interim Yurok Tribal governing committee. While no referendum has ever been planned on the specific desires of the Yurok people for a committee, it is apparent that the voters of the tribe must actively participate in the nomination and election process if a viable interim governing committee is to be created. Further, a permanent tribal government will not be formed unless it is adopted in the election held on the interim governing committee's proposal.

3. Another commentator urged that hearings be conducted on or near the reservation to provide opportunity to present alternatives to the "Gerard Plan."

The proposed regulations did not address the "Gerard Plan" but only the matter of an organization of the Yurok Indians, which while contemplated by the plan announced November 20, 1978, does not of itself commit the Yurok Tribe to following any particular course of action.

4. Several commentators stated that there were no valid tribal rights or tribal assets, that there were only reservation rights and reservation assets, and that prior to 1952, individual Indians were not required to be members of the tribe in order to share in the benefits and administration of the reservation. They, also, asked why the unanimous decision of the Court of Claims did not cause the Secretary to restore the reservation rights of those Yuroks who were recognized as "Indians of the Hoopa Valley Reservation" prior to the "illegal" division of the reservation.

As related in the supplementary information to the regulations for Organization of the Yurok Tribe—Voting for Interim Tribal Governing Committee; Qualification and Procedures for Preparing a Voting List (44 FR 24536), the organization of the Yurok Tribe does not involve the determination of the ownership of reservation assets. Issues relating to such questions are still awaiting decision in the *Short* case and are not affected by the organization of the tribe.

5. Other commentators urged that the election of the interim Yurok governing committee be considered valid only if a certain percentage of the eligible voters cast their ballots. They feel this is necessary in order to insure that the election results represent the views of a significant portion of the eligible voters.

In part, this comment stems from the requirement for elections conducted under the Indian Reorganization Act for adoption or rejection of a tribal constitution. Since this is not such an election but is, rather, an election for an interim governing committee which is charged with drafting a proposed constitution, this approach is comparable to those tribal elections in which officials are elected and in which a majority of those who cast their ballots decide the election regardless of voter turnout.

6. One comment opposed the "take it or leave it" concept of a proposed constitution and stated that voters should have the opportunity to propose alternative constitutions to the voters.

Eligible voters will have the opportunity to propose to the interim committee ideas and concepts they feel should be included in the draft constitution.

7. Some comments indicated that the procedures should include voting by district to prevent one faction from dominating the interim committee and to provide for better communication with the reservation people.

Voting by districts would have to be established in line with the one man, one vote principle. There is not sufficient information currently available to meet that requirement. Thus, the election must be by at-large voting.

8. One comment stated that the rules will grant substantive rights to the Yurok voters, that voting on an interim committee and a proposed constitution is tantamount to membership in the Yurok Tribe. It also stated that the Hoopa Valley Tribe would have no way to protest or appeal the proposed membership of the Yurok Tribe and that the Hoopa Valley Tribe does not accept many of the persons who would qualify as Yurok voters and members because they are not Indians of the reservation or even Indians.

As stated in the supplementary information published with the regulations referred to in No. 4 *Supra*, the placing of a person's name on the eligible voters list does *not* convey any right to tribal membership. No one can determine who may qualify for membership in a tribe until the requirements for membership are spelled out. Concerning the Yuroks, such provisions would be developed by the interim committee subject to acceptance by the eligible voters and approval by the Secretary of the Interior. Membership requirements are not normally subject to review or protest by another tribe, and we see no reason to provide for such a review by the Hoopa Valley Tribe.

9. Another commentator felt the position taken by the Department of the Interior is inconsistent concerning who is qualified for membership in the Yurok Tribe in that in the *Short* litigation, the Department stated that many persons who will be eligible under the proposed regulations are not qualified to be Indians of the Hoopa Valley Reservation.

These comments are pertinent to the qualifications and procedures for preparing a voting list for which regulations have been adopted see 44 FR 24536.

10. Some comments stated a concern that elections conducted by mail are subject to great abuse and that other methods should be employed. One also stated that a double envelope system is needed to avoid stuffing the ballot box.

With adequate safeguards, we have found the conduct of elections by mail to be entirely satisfactory. The use of double envelopes is one of the standard safeguards consistently used in elections conducted by this Department and will be used in this election. To ensure this, we have so provided in these rules.

11. Concerning § 55a.9, one commentator felt the powers of the interim committee should be more specific and that the term "such other duties" should be clarified. Others expressed concern that provisions should be included to ensure accountability to the Yurok people through adequate notification of meetings, open sessions, access to records and a procedure for recall of committee members.

The regulations stress that the committee's primary responsibility is to draft a proposed constitution. Accordingly, there is no reason to burden the committee with other tasks that would interfere with its major objective. As the need arises, and if necessary, the Secretary of the Interior will consider delegating other duties and powers to that committee. Regarding the exercise of its delegated authorities, the committee is expected to develop such procedures necessary to promote order and efficiency and assure exercise of democratic processes.

In response to comment, we have added a provision that requires minutes and records of the committee to be available for review by the eligible voters at reasonable times.

Because the committee is temporary in nature and is primarily concerned with the drafting of a constitution, we feel the protections afforded by the removal provisions are sufficient and that a recall process is not necessary.

The primary authors of this document are Theodore C. Krenzke, Director, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245 (202–343–2111) and Robert M. Farring, Tribal Relations Specialist, Bureau of Indian Affairs, Washington, D.C. 20245 (202–343–4045).

I have determined that these final regulations are not a major Federal action within the scope of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c).

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Subchapter G of Chapter I of Title 25 of the Code of Federal Regulations is amended by the addition of a new part to read as follows:

PART 55A—ELECTION OF INTERIM YUROK GOVERNING COMMITTEE; PROCEDURES FOR CONDUCT OF ELECTION AND DUTIES OF INTERIM COMMITTEE

Sec.

55a.1 Definitions.
55a.2 Purpose.
55a.3 Nomination of candidates.
55a.4 Conduct of the election.
55a.5 Election protests.
55a.6 First meeting of Interim Committee.
55a.7 Removal from office.
55a.8 Vacancies.
55a.9 Duties and responsibilities of committee.
55a.10 Tenure.

Authority: 5 U.S.C. 301, R.S. 463 and 465, 43 U.S.C. 1457, 25 U.S.C. 2 and 9, and Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

§ 55a.1 Definitions.

As used in this part:

(a) "Voters" means those persons who are at least 18 years of age and who otherwise meet the qualifications set forth in 25 CFR 55.3. Such individuals are eligible to participate in the nomination and election of an interim Yurok tribal governing committee.

(b) "Petition" means the form prepared by the Sacramento Area Director to be used by the voters to nominate candidates for the interim Yurok tribal governing committee.

(c) "Petition Filing Deadline" means the thirtieth day following the date these regulations become effective.

(d) "Candidate" means a person who receives at least 15 valid signatures on a nominating petition to cause his or her name to be placed on a ballot for election to the committee.

(e) "Interim Yurok Tribal Governing Committee" means an eight-member committee of persons nominated from and by the voters and elected by the voters to serve as the temporary governing body of the Yurok Tribe, with those duties and powers described in this part.

(f) "Election Date" means the deadline established by the Area Director for receipt of ballots.

(g) "Area Director" means the Area Director, Bureau of Indian Affairs, Sacramento Area Office, or his authorized representative.

(h) "Superintendent" means the officer in charge of the Hoopa Agency, Bureau of Indian Affairs, or his authorized representative.

§ 55a.2 Purpose.

The purpose of these regulations is to establish procedures for conducting an election to choose an interim Yurok tribal governing committee and to outline its duties, powers and tenure, once it is elected.

§ 55a.3 Nomination of candidates.

(a) The Area Director shall prepare a petition form to be used by the voters of the Yurok Tribe to nominate candidates to be placed on the ballot. Each petition must be signed by at least 15 persons whose names appear on the voters list prepared pursuant to 25 CFR 55.6.

(b) All nominating petitions shall be received by the Area Director no later than the petition filing deadline. Nominating petitions received after that date by the Area Director will not be counted.

§ 55a.4 Conduct of the election.

(a) The Area Director shall cause ballots to be prepared listing those candidates whose nominating petitions are determined to be valid. The Area Director shall mail ballots to those on the voters list who furnish the Area Director with a current address. Ballots shall be sent and received only through the U.S. Postal Service. Together with the ballot, there shall be an inner envelope bearing on the outside the words "Yurok Ballot", a preaddressed outer envelope and a certificate in form as follows:

I (Name)———— hereby certify that I am an eligible voter whose name appears on the Yurok Voters list: That I will be 18 years of age or older on the election date, and am entitled to vote in the election to be held on (date) ————. I further certify that I marked the enclosed ballot in secret. (Signed) ————

(b) Each voter wishing to vote, shall mark the ballot provided and mail it to the Sacramento Area Director. Ballots received after the election date shall not be counted.

(c) The Area Director shall then cause the opening of the ballots, counting of the votes, posting of the results and the issuing of an election certificate.

(d) Each candidate, or a representative he or she chooses, shall have the right to be present to observe the counting of the ballots. The eight candidates receiving the highest number of votes cast will be certified as constituting the interim Yurok tribal governing committee. Tie votes shall be decided by the flip of a coin.

§ 55a.5 Election protests.

(a) Any person whose name appears on the Yurok voters list may protest the manner in which the election was conducted by filing a written statement to be received by the Sacramento Area Director within five days following the date of election results are certified. The Area Director shall review all protests and promptly respond to each one in writing.

(b) Any person whose protest is denied may appeal to the Area Director's denial directly to the Commissioner of Indian Affairs, who shall decide the protest finally for the Department and take whatever action, if any, is appropriate.

(c) In order to be considered, any appeal of the Area Director's decision must be in writing, must state the complete basis for the appeal, and be received by the Commissioner within 7 days of receipt of the Area Director's decision.

§ 55a.6 First meeting of interim committee.

As soon as possible following the protest period, the Superintendent shall call and conduct a meeting of the successful candidates to swear them into office. At that session, the committee shall be given the opportunity to achieve its internal organization by electing from its own number, a chairman, vice chairman, secretary and such other officers deemed necessary.

§ 55a.7 Removal from office.

A committee member may be removed from office for cause by six committee members voting in favor of removal after the accused has been given at least 10 days written notice of the charges and an opportunity to respond to the charges by facing his or her accusers at a meeting held for that purpose.

§ 55a.8 Vacancies.

Vacancies resulting from removal, death or resignation shall be filled by the person who received the next highest number of votes after the first eight in the election of the interim committee. Such person shall serve for the remainder of that term of office unless earlier removed.

§ 55a.9 Duties and responsibilities of committee.

The interim Yurok tribal governing committee shall have only the following duties, responsibilities and powers:

(a) To draft a proposed constitution as top priority to be presented to the Secretary of the Interior within one year following the initial election of the interim governing committee. If such proposal can be approved by the Secretary, he shall authorize an election to permit the Yurok voters to adopt or reject the proposed governing document.

(b) To enter into contracts and grants with the Bureau of Indian Affairs under the authority of Pub. L. 93–638.

(c) To confirm judicial appointments in accordance with 25 CFR 11.3.

(d) To adopt such procedural rules as may be required for the orderly conduct of business.

(e) To exercise such other duties and powers as the Secretary may from time to time delegate it.

(f) To make available for review by the eligible voters, at reasonable times, the minutes and records of the committee.

§ 55a.10 Tenure.

The committee members shall remain in office until their successors are duly elected under the terms of a constitution that has been adopted by the Yurok voters and approved by the Secretary of the Interior, but in no event shall they remain in office longer than two years from the date of the interim committee's election.

Rick Lavis,

Deputy Assistant Secretary-Indian Affairs.

Dated: August 2, 1979.

[FR Doc. 79-24310 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-02-M

V 4 4 / 1 5 3

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 0

[Order No. 843-79]

Authority of the Civil Rights Division Regarding Section 5 of the Voting Rights Act and Title VI of the Civil Rights Act of 1964

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends two sections of the subpart of Title 28 of the Code of Federal Regulations which sets forth the responsibility of the Civil Rights Division of the Department of Justice. The first amendment adds to 28 CFR 0.50, which lists functions delegated to the Assistant Attorney General in charge of the Civil Rights Division, a specific reference to administration of section 5 of the Voting Rights Act, as amended, 42 U.S.C. 1973c. Section 5 requires certain States and political subdivisions to obtain Federal preclearance of changes in their laws affecting voting.

The second amendment brings up-to-date the reference in 28 CFR 0.51(b) to Department of Justice coordination of enforcement by other Federal agencies of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to d-4. Title VI prohibits discrimination, on the ground of race, color or national origin, in federally assisted programs. Executive Order No. 11764 assigns to the Attorney General responsibility for coordinating enforcement of Title VI.

EFFECTIVE DATE: Date of signature (July 30, 1979).

FOR FURTHER INFORMATION CONTACT: David Marblestone, Civil Rights Division, Department of Justice, Washington, D.C. 20530 (202-633-4492).

SUPPLEMENTARY INFORMATION: Neither of these amendments effects substantive change. The purpose of each is to describe long-standing practices.

Section 50.0(a) of Title 28 delegates to the Assistant Attorney General in charge of the Civil Rights Division general responsibility for enforcing Federal civil rights statutes, including those pertaining to voting. Pursuant to that delegation, the Civil Rights Division has exercised responsibility for administering section 5 of the Voting Rights Act. The purpose of the amendment to 28 CFR 50.0(a) is to describe specifically this function of the Civil Rights Division.

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509-510, Subpart J of Part 0 of Title 28 of the Code of Federal Regulations is hereby amended as follows:

1. Section 0.50 of Title 28 of the Code of Federal Regulations is amended by addition of the following paragraph:

§ 0.50 General functions.

(h) Administration of section 5 of the Voting Rights Act of 1965, as amended (42 U.S.C. 1973c).

2. Section 0.51(b) of Title 28 of the Code of Federal Regulations is revised to read as follows:

§ 0.51 Assistance to other federal agencies.

* * * * *

(b) The Assistant Attorney General in charge of the Civil Rights Division shall assist the Attorney General in carrying out the responsibility, assigned by Executive Order No. 11764, of coordinating enforcement by Federal departments and agencies of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to d-4).

Date: July 30, 1979.

Griffin B. Bell,

Attorney General.

[FR Doc. 79-24299 Filed 8-6-79; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

Personal Privacy and Rights of Individuals Regarding Their Personal Records and Privacy Act Exemptions

AGENCY: Department of the Navy.

ACTION: Final rule.

SUMMARY: The Department of the Navy amends its regulations relating to personal privacy and rights of individuals regarding their personal records. The amendments update an obsolete reference to a superseded executive order and reidentify several exempted records systems.

EFFECTIVE DATE: August 7, 1979

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Department of the Navy, OP-09B1P, Washington, D.C. 20350. Telephone: 202-694-2004.

SUPPLEMENTARY INFORMATION: On July 3, 1979, at 44 FR 38910 of the **Federal Register**, the Department of the Navy proposed this amended exemption rule. No comments were received on the proposal and the amended exemption rule as set forth below is adopted.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

August 2, 1979.

32 CFR Part 701 is amended by revising §§ 701.121 and 701.123(e) and (l) as follows:

§701.121 Exemption for classified records.

All systems of records maintained by the Department of the Navy and its components shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(K)(1), to the extent that the system contains any information properly classified under Executive Order 12065 and predecessor orders and that is required to be safeguarded in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain records systems not otherwise specifically designated for exemptions herein may contain isolated items of information that have been properly classified.

§ 701.123 Exemptions for specific Navy record systems.

* * * * *

(e) Naval Investigative Service.

ID—N63285-01

Sysname:

NIS Investigative Files System

Exemption:

(1) Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2) and (3), (e)(4), (G) through (I), (e)(5), (e)(8), (f) and (g).

AUTHORITY: (1) 5 U.S.C. 552a(j)(2).

Reasons:

(1) Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to his records, and the reasons therefor, necessitate the exemption of this system of records from the requirements of the other cited provisions.

Exemption:

(2) Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

AUTHORITY: (2) 5 U.S.C. 552a(k) (1) through (6).

Reasons:

(2) The release of disclosure accountings would permit the subject of an investigation to obtain valuable information concerning the nature of that investigation, and the information contained, or the identity of witnesses or informants, and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record. Access to the records contained in this system would inform the subject of the existence of material compiled for law enforcement purposes, the premature release of which could prevent the successful completion of investigation and lead to the improper influencing of witnesses, the destruction of records, or the fabrication of testimony.

Exempt portions of this system also contain information that has been properly classified under Executive Order 12065, and that is required to be kept secret in the interest of national defense or foreign policy.

Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal civilian employment, military service, Federal contracts, or access to classified information, and was obtained by providing an express or implied assurance to the source that his identity would not be revealed to the subject of the record. The notice for this system of records published in the **Federal Register** sets forth the basic statutory or related authority for maintenance of the system. However, in the course of criminal investigations, cases, and matters, the Naval Investigative Service will occasionally obtain information concerning actual or potential violations of law that are not strictly within its statutory or other authority or may compile information in the course of an investigation that may not be relevant to a specific prosecution. In the interest of effective law enforcement, it is necessary to retain such information in this system of records, since it can aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

The categories of sources of records in this system have been published in the **Federal Register** in broad generic terms. The identity of specific sources, however, must be withheld in order to protect the confidentiality of the source of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

This system is exempted from procedures for notice to an individual as to the existence of records pertaining to him dealing with an actual or potential civil or regulatory investigation, because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation, pending or future. Mere notice of the fact of an investigation could inform the subject or others that their activities are under, or may become the subject of an investigation. This could enable the subjects to avoid detection, to influence witnesses improperly, to destroy records, or to fabricate testimony.

Exempt portions of this system contain screening board reports. Screening board reports set forth the results of oral examination of applicants for a position as a special agent with the Naval Investigative Service. Disclosure of these records would reveal the areas pursued in the course of the examination and thus adversely affect the result of the selection process. Equally important, the records contain the candid views of the members composing the board. Release of the records could affect the willingness of the members to provide candid opinions and thus diminish the effectiveness of a program which is essential to maintaining the high standard of the special Agent Corps, i.e., those records constituting examination material used solely to determine individual qualifications for appointment in the Federal Service.

* * * * *

(l) Office of the Secretary.

(1) *ID-N 31698. WHSP.*

Sysname:

White House Support Program.

Exemption:

Portions of this system of records of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

AUTHORITY: 5 U.S.C. 552a(k) (1), (2), (3), and (5).

Reasons:

Exempted portions of this system may contain information which has been properly classified under Executive Order 12065 and predecessor orders which is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system may also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for access to classified information, and which was obtained by providing an express or implied promise to the source that his identity would not be revealed to the subject of the record. Exempted portions of this system may also contain information collected and maintained in connection with providing protective services to the President and other individuals protected pursuant to 18 U.S.C. 3056. Exempted portions of his system may also contain investigative records compiled for law enforcement purposes, the disclosure of which could reveal the identity of sources who provided information under an express or implied promise of confidentiality, compromise investigative techniques and procedures, jeopardize the life or physical safety of law enforcement personnel, or otherwise interfere with enforcement proceedings or adjudications.

[FR Doc. 79-24347 Filed 8-6-79; 8:45 am]

BILLING CODE 3810-71-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1291-5]

Approval and Promulgation of Implementation Plans; Hawaii State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The environmental Protection Agency (EPA) takes final action to approve a change to the Hawaii State Implementation Plan (SIP) submitted by the Governor. The intended effect of this action is to update rules and regulations in the SIP.

A G 7 7 9 UMI

EFFECTIVE DATE: September 6, 1979.

FOR FURTHER INFORMATION CONTACT: Louise Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, Attn: Douglas Grano, (415) 566–2938.

SUPPLEMENTARY INFORMATION: On May 11, 1979 (44 FR 27699) EPA published a Notice of Proposed Rulemaking for a revision to the Hawaii Public Health Regulations submitted on February 22, 1979 by the Governor for inclusion in the Hawaii SIP. The Notice of Proposed Rulemaking provided for a 30-day comment period. No comments were received.

Under section 110 of the Clean Air Act, as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions.

This revision contains a variance from Chapter 43, Section 7(b)(5) of the Hawaii Public Health Regulations. The variance allows fires to be set in order to train crashcrews in the technique of fighting aircraft fires. The State of Hawaii has submitted an analysis which demonstrates that such burning would not interfere with the attainment and maintenance of the National Ambient Air quality Standards.

It is the purpose of this notice to approve the variance from Chapter 43, Section 7(b)(5) of the Hawaii Public Health Regulations and incorporate it into the Hawaii SIP.

The State of Hawaii has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has reviewed the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Secs. 110 and 301(a) Clean Air Act as amended (42 U.S.C. 7410 and 7601(a))

Dated: August 2, 1979.

Douglas M. Costle,

Administrator.

Subpart M of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart M—Hawaii

1. Section 52.620 is amended by adding paragraph (c)(11) as follows:

§ 52.620 Identification of plan.

* * * * *

(c) * * *

(11) A variance to the Hawaii Public Health Regulations, Chapter 43, Section 7(b)(5) submitted on February 22, 1979 by the Governor.

* * * * *

[FR Doc. 79-24328 Filed 8-6-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1287-6]

Delayed Compliance Order for the Department of the Air Force Wright-Patterson Air Force Base

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to the Department of the Air Force, Wright-Patterson Air Force Base (Air Force). The Order requires the Air Force to bring air emissions from Buildings 66, 170, 271, 770 and 1240 at Wright-Patterson Air Force Base into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The Air Force's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect August 7, 1979.

FOR FURTHER INFORMATION CONTACT: Louise C. Gross, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On May 8, 1979, the Region Administrator of the U.S. EPA's Region V Office published in the Federal Register (44 FR 26931) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for the Air Force. The Notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no requests for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to the Air Force by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places the Air Force on a schedule to bring its Buildings 66, 170, 271, 770 and 1240 at Wright-Patterson Air Force Base into compliance as expeditiously as practicable with Regulation AP–3–11, a part of the federally approved Ohio State Implementation Plan. The Air Force is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Air Force to delay compliance with the SIP regulation covered by the Order until April 15, 1980.

Compliance with the Order by the Air Force will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the Air Force is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice (August 7, 1979) because of the need to immediately place the Air Force on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: August 2, 1979.

Douglas M. Costle,

Administrator.

1. In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.400:

§ 65.400 Federal Delayed Compliance Orders issued under Section 113(d)(1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Department of the Air Force ...	Wright-Patterson Air Force Base, Ohio.	EPA–5–79–A–43	5–8–79	AP–3–11	4–15–80

[FR Doc. 79-24327 Filed 8-6-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1287-7]

Delayed Compliance Order for Cooper Tire & Rubber Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. Environmental Protection Agency approves a Delayed Compliance Order to Cooper Tire & Rubber Company (Cooper Tire). The Order requires the Company to bring air emissions from its coal fired boiler at Findlay, Ohio, into compliance with certain regulations contained in the federally approved State Implementation Plan (SIP). Cooper Tire's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect August 7, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On June 19, 1979, the Regional Administrator of U.S. Environmental Protection Agency's Region V Office published in the Federal Register (44 FR 35273) a notice setting out the provisions of a proposed State Delayed Compliance Order for Cooper Tire. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Cooper Tire by the Administrator of U.S. Environmental Protection Agency pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Cooper Tire on a schedule to bring its coal fired boiler at Findlay, Ohio, into compliance as expeditiously as practicable with Regulation OAC 3745–17–07, a part of the federally approved Ohio State Implementation Plan. Cooper Tire is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Cooper Tire to delay compliance with the SIP regulation covered by the Order until July 30, 1979.

Compliance with the Order by Cooper Tire will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the order and for violations of the regulation covered by the Order which occurred before the Order was issued by the U.S. Environmental Protection Agency or after the Order is terminated. If the Administrator determines that Cooper Tire is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

The U.S. Environmental Protection Agency has determined that the Order shall be effective upon publication (August 7, 1979) of this notice because of the need to immediately place Cooper Tire on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: August 1, 1979.

Douglas M. Costle,

Administrator.

1. In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

Adding the following entry to the table in § 65.401:

§ 65.401 U.S. Environmental Protection Agency Approval of State Delayed Compliance Orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order No	Date of FR proposal	SIP regulation involved	Final compliance date
Cooper Tire & Rubber Company.	Findlay, Ohio.	None	6/19/79	OAC 3745–17–07.	7/30/79

[FR Doc. 79-24328 Filed 8-6-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 80

[FRL 1260-6]

Regulation of Fuels and Fuel Additives; Small Refinery Amendment

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: EPA is changing its regulations which limit the lead content of gasoline in order to exempt small refiners. This exemption is required by the Clean Air Act Amendments of 1977. EPA proposed this rule in the Federal Register on April 26, 1978, (43 FR 17841) and received comments from firms owning or representing refineries. In the final regulations described below, EPA simplifies those regulations with respect to establishing the average lead content in gasoline to be allowed for various

sizes of small refineries. These regulations take effect on October 1, 1979, and terminate on October 1, 1982, at which time small refiners will have to meet the limits on lead content of gasoline established in the EPA lead phasedown regulations applying to all refiners.

By removing a portion of gasoline production from the general phasedown regulations, the small refinery exemption will result in increased amounts of lead in the national gasoline pool. EPA finds that this increase will not cause lead in the air to exceed the EPA ambient air quality standard, or the population blood lead targets adopted by EPA in setting the lead ambient air quality standard. This finding is based on the relatively small percentage of total gasoline produced by small refineries, the location of most small refineries away from large urban areas associated with high traffic and population density, and the increasing use of unleaded fuel. EPA is concerned, however, that lead is a persistent environmental pollutant of considerable significance, and that any increase in lead use is to some degree detrimental to the environment. EPA believes that the final regulations balance this concern with the objective of meeting the requirements of the small refinery exemption in the Clean Air Act and responding to industry comments.

EFFECTIVE DATES: These regulations apply to the average lead content of gasoline produced by small refiners in the fourth quarter of 1979, beginning on October 1, 1979. These regulations expire on October 1, 1982.

ADDRESS: Docket No. OAQPS 783, containing material relevant to this rulemaking, is located in the U.S. Environmental Protection Agency, Central Docket Section, Room 2903B, 401 M Street, SW., Washington, D.C. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:
Mr. Stanton Coerr, Office of Air Quality Planning and Standards Mail Drop 12, Environmental Protection Agency, Research Triangle Park, N.C. 27711 telephone: 919–541–5355

SUPPLEMENTARY INFORMATION: On October 1, 1976, following a period of comment and review, EPA formally resumed enforcement of a revised lead phasedown schedule (41 FR 42675, September 28, 1976).

On January 17, 1977, EPA proposed exemption from the lead phasedown schedule for small refiners in the **Federal Register** (42 FR 3168). This proposal required small refiners who were in operation on October 1, 1976, with a capacity of not more than 30,000 barrels per day of crude oil, to meet a maximum average lead standard of 1.0 grams per gallon (gpg) of lead in gasoline for each three-month period beginning October 1, 1979. This special consideration for small refiners was based on EPA studies including a report entitled "Impact of Lead Phasedown Rules on Small Refineries" by Sobotka and Company, Inc., and was designed to equalize the economic impact of the lead phasedown between large and small refineries.

EPA received comments on the proposed regulation and based on evaluation of the comments, was drafting a final regulation when it became apparent to EPA that Congress might pre-empt EPA's action in an amendment to the Clean Air Act. EPA delayed the promulgation of its regulation pending Congressional action, which occurred in the Clean Air Act Amendments, enacted in August 1977. On April 26, 1978, EPA proposed a new regulation conforming to the instructions in the Clean Air Act Amendments of 1977 (Pub. L. 95–95, 91 Stat. 746).

These April 26, 1978 proposed regulations adopted from the Act the allowable average lead content of gasoline for various sizes of small refineries, and applied these levels to gasoline produced by small refineries up to the annual production level in 1977. Increases in gasoline production above the 1977 base year were to be limited to the general lead phasedown standard of 0.5 gpg, after October 1979.

SUMMARY OF COMMENTS RECEIVED: EPA received 37 comments on the April 26, 1978 proposal. The comments received, and a description of the disposition of issues raised in the comments are available for inspection in the docket for this action as described above under "Availability of Further Information". Key issues raised in the comments on the April 1978 proposal are discussed below.

The proposed regulations could result in average lead content more stringent than that established by Congress in the Clean Air Act Amendments.

Agency Response

EPA agrees that limiting increases in gasoline production for small refineries above that of the 1977 base year to 0.5 gpg could lead to average lead content in gasoline more stringent than the Congressional schedule. EPA took this approach because the purpose of the amendment was to equalize the economic impact of the lead phasedown regulations between large refiners and small refiners, not to provide economic incentives for expansion of the capacities of small refiners. EPA acknowledges, however, that the proposed regulations could have caused inequities in the treatment of small refineries because of the timing of their construction, or changes in their production. In the final regulations below, EPA has not used a separate lead limit for production above a base level. In dropping control for expanded production, EPA notes that the potential expansion of lead use by small refiners is limited by the expiration of the exemption on October 1, 1982.

The proposed regulations give an unfair competitive advantage to small refineries owned by small refiners in comparison to small refineries constructed after 1976, to small refineries owned by large refiners, and to small refiners with capacity slightly above 50,000 bpd.

Agency Response

The language of the Clean Air Act Amendments is precise with respect to which small refineries are to be exempt. These regulations are to ease the impact of the lead phasedown regulations on small refiners which existed at the time of the amendment, and are not to increase the numbers, or gasoline production capacity of small refineries by allowing greater use of lead additives. Because of concern about lead as an environmental pollutant, EPA does not wish to greatly expand the effect of this exemption. EPA notes, however, that for small refineries owned by small refiners, there is little difference in the current production capacity between the group of refineries present in 1976, and the group composed of all present small refineries. Because of this slight difference, the final regulations extend the exemption to all small refineries of small refiners.

Comments received pointed out that certain small refineries owned by large refiners could be in economic jeopardy, possibly resulting in adverse economic impacts on communities which depend on the continued operation of such a refinery. EPA has decided, however, that the small refinery exemption will not be extended to small refineries owned by large refiners, because this would significantly increase the percentage of U.S. gasoline refinery capacity which would be exempt from the phasedown regulations, an increase from 6.6% to 14.1%.

EPA has proposed postponing the October 1979 date for the 0.5 gpg limit for large refineries. This would lessen the impact of denial of the exemption to this group of small refineries.

There are inequities in use of a base year production level.

Agency Response

In the final regulations EPA has dropped use of a base year calculation.

Capacity determinations should not be based on the level certified by the Department of Energy.

Agency Response.

EPA will continue to define crude oil or bona fide feed stock capacity as that level certified by the U.S Department of Energy, Office of Refining Operations. Where a refiner believes that the DOE certification is in error, arguments to certify an alternative capacity should be addressed to the U.S. Department of Energy, Office of Refining Operations.

There should be some system for review where phasedown regulations or the small refinery regulations result in severe economic impact.

Agency Response

There is no need for such a system. An exemption from the phasedown regulations is the most favorable form of economic relief under the circumstances. This is being provided for those small refineries that Congress intended would receive such relief.

Large refiners should be allowed to average small and large refining production.

Agency Response

Such a rule would provide relief to that category of refineries for which this regulation is not intended. This comment should be directed to the general phasedown proposed rulemaking that is being considered.

This action requires an Economic Impact Statement.

Agency Response

Because this action lessens the ecomomic impact of existing EPA regulations, EPA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 12044, and Section 317 of the Clean Air Act Amendments.

Dated: July 27, 1979.

Barbara Blum,
Acting Administrator.

Amendment of 10 CFR Part 40 follows:

1. By adding new paragraphs (p), (q) and (r) at the end of § 80.2 to read as follows:

§ 80.2 Definitions.

* * * * *

(p) "Small refinery" means a refinery

(1) Which has a crude oil or bona fide feed stock capacity of 50,000 barrels per day or less, and

(2) Which is not owned or controlled by any refiner with a total combined crude oil or bona fide feed stock capacity greater than 137,500 barrels per day.

(q) "Owned or controlled" means leased, operated, controlled, supervised, or in ten percent or greater part, owned.

(r) Crude oil or bona fide feed stock capacity means that crude oil or bona fide feed stock capacity certified by the Department of Energy, Office of Refining Operations.

2. By adding new paragraphs (a)(5) and (b) at the end of § 80.20 to read as follows:

§ 80.20 Controls applicable to gasoline refiners.

(a) * * *

(5) Until October 1, 1982, the provisions of paragraphs (a)(1) and (a)(4) of this section shall not apply to any small refinery, as defined in § 80.2(p).

(b)(1) Gasoline manufactured at a small refinery shall not exceed the average lead content specified in the table below for any three month period (January through March, April through June, July through September, or October through December) beginning October 1, 1979, and ending with the three month period beginning July 1, 1982.

Barrels per calendar day[1]	Grams per gallon[2]
5,000 or under	2.65
5,001 to 10,000	2.15
10,001 to 15,000	1.65
15,001 to 20,000	1.30
Greater than 20,000	.80

[1] Preceding calendar year production rate of gasoline.
[2] Allowable average lead content of gasoline.

(2) For each small refinery, as defined in § 80.2(p), each refiner shall also submit reports as required in paragraph (a)(3) of this section.

(Section 211 (Section 223, Pub. L. 95–95, 91 Stat. 764, 42 U.S.C. 7545(g) and 301(a) (42 U.S.C. 7602(a), formerly 42 U.S.C. 1857g(a)) of the Clean Air Act as amended.)

[FR Doc. 79–24079 Filed 8–6–79; 8:45 am]
BILLING CODE 6560–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. No. 10 to Revised Service Order No. 1210]

Providence and Worcester Co. and Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 10 to Service Order No. 1210.

SUMMARY: Service Order No. 1210 authorizes the Providence and Worcester to operate over tracks of Consolidated Rail Corporation in Rhode Island, known as the Slatersville and Wrenthan Branches.

EFFECTIVE DATE: 11:59 p.m., July 31, 1979, and continuing in effect until further order of this Commission.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter (202) 275–7840.

SUPPLEMENTARY INFORMATION:
Decided July 31, 1979.

Upon further consideration of Revised Service Order No. 1210 (40 FR 7452, 19478; 41 FR 4929, 15414, 32430; 42 FR 6817, 39221; 43 FR 4433, 34147; and 44 FR 6728), and good cause appearing therefor:

It is ordered: § *1033. 1210 Providence and Worcester Company authorized to operate over tracks of Consolidated Rail Corporation and Consolidated Rail Corporation authorized to operate over tracks of Providence and Worcester Company.*

Revised Service Order No. 1210 is amended by substituting the following paragraph (h) for paragraph (h) thereof:

(h) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 31, 1979.

(49 U.S.C. (10304–10305 and 11121–11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad

Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filling a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, member Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24270 Filed 8-6-79; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order 1390]

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. and Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order 1390.

SUMMARY: Service Order No. 1390 authorizes Chicago, Milwaukee, St. Paul and Pacific Railroad Company to operate over Consolidated Rail Corporation tracks between Gibson, Indiana, and Terre Haute, Indiana.

DATES: Effective 12:01 a.m., August 1, 1979, until further order of this Commission.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter, Telephone (202) 275-7840.

SUPPLEMENTARY INFORMATION:
Decided July 30, 1979.

The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) operates its trains between South Chicago Heights, Illinois, and Fayette, Indiana, a distance of approximately 138 miles. This track is in a deteriorated condition and will require major rehabilitation of the line in order to maintain service over this line. There is an alternate route available over Consolidated Rail Corporation (CR) tracks between Gibson, Indiana, and Terre Haute, Indiana, a distance of approximately 165 miles. Movement of the MILW trains over its present route causes train delay due to deteriorated condition of the track and the large number of slow orders.

Use of these CR tracks by the MILW will result in more efficient train operations, and improved car utilization due to reduced transit time over CR tracks. CR has agreed to use by MILW of its tracks between Gibson and Terre Haute.

The United States District Court for the Northern District of Illinois, Eastern Division, has authorized the execution of a Trackage Rights Agreement between MILW and CR between Gibson and Terre Haute; authorized the filing of an application for this authority; authorized a request for a service order for immediate authority to commence these operations; and authorized filing pursuant to Bankruptcy Rule 8-512(a) of an application to abandon the line between South Chicago Heights, Illinois, and Fayette, Indiana.

MILW will be permitted to use these trackage rights for bridge rights only except MILW will interchange traffic with the Toledo, Peoria and Western Railroad Company (TP&W) at Kentland, Indiana, the Norfolk and Western Railway Company (N&W) at Newell, Illinois, and The Baltimore and Ohio Railroad Company (B&O) at Chrisman, Illinois. MILW will file an application with the Commission for trackage rights over these tracks of CR. MILW will continue to provide rail service to shippers on its present lines.

It is the opinion of the Commission that an emergency exists requiring operation of MILW trains over these tracks of CR in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered.

§ 1033.1390 Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of consolidated rail corporation.

(a) The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) is authorized to operate over tracks of Consolidated Rail Corporation (CR) between Gibson, Indiana, CR milepost 4.3, and Terre Haute, Indiana, CR milepost 68.6 via Kentland, Indiana; Danville, Illinois; Paris, Illinois; and Ringo, Indiana. Pending construction of a connection at Terre Haute between CR and MILW track, MILW is authorized to operate over CR track from CR milepost 72.6 to the existing connection with MILW near CR milepost 70.1 near Chase, Indiana. The total distance is approximately 167.2 miles. MILW will be permitted to use these trackage rights for bridge rights only except MILW will interchange traffic with the Toledo, Peoria and Western Railroad Company (TP&W) at Kentland, Indiana; the Norfolk and Western Railway Company (N&W) at Newell, Illinois; and The Baltimore and Ohio Railroad Company (B&O) at Chrisman, Illinois.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by MILW over tracks operated by CR is due to MILW's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW until tariffs naming rates and routes specifically applicable via trackage rights authorized by this service order become effective.

(d) In transporting traffic over these lines MILW and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carrier; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) Nothing herein shall be considered as a prejudgment of the application of MILW seeking authority to operate over these tracks.

(f) *Effective date.* This order shall become effective at 12:01 a.m., August 1, 1979.

(g) *Expiration.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24163 Filed 8-6-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

National Wildlife Refuges in Michigan, Ohio, Illinois, Iowa, Minnesota, and Wisconsin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: Migratory game bird hunting on certain National Wildlife Refuges has been determined by the Director to be compatible with the objectives for which the areas were established, will utilize a renewable resource, and will provide additional recreational opportunity to the public.

DATES: Effective August 7, 1979, for the duration of the 1979-80 migratory game bird season. See individual refuge and respective State regulations for exact dates.

FOR FURTHER INFORMATION CONTACT:
The appropriate Area Manager or Refuge Manager at the address or telephone number listed below:

John S. Popowski, Area Manager, U.S. Fish and Wildlife Service, 202 Manly Miles Building, 1405 S. Harrison Road, East Lansing, Michigan 48823. Telephone: (517) 372-1910 ext. 206. Responsible for the Seney, Shiawassee and Ottawa National Wildlife Refuges.

George G. P. Bekeris, Area Manager, U.S. Fish and Wildlife Service, 530 Federal Building and U.S. Court House, 316 North Robert Street, St. Paul, Minnesota 55101. Telephone: (612) 725-7641. Responsible for the Chautauqua, Crab Orchard, Mark Twain (Big Timber Division), Sherburne, Tamarac and Upper Mississippi River National Wildlife Refuges.

John R. Frye, Refuge Manager, Seney National Wildlife Refuge, Seney, Michigan 49883. Telephone: (906) 586-9851.

Robert S. Johnson, Refuge Manager, Shiawassee National Wildlife Refuge, 6975 Mower Road, RR 1, Saginaw, Michigan 48601. Telephone: (517) 793-2340.

Leland E. Herzberger, Refuge Manager, Ottawa National Wildlife Refuge, 14000 W. State Route 2, Oak Harbor, Ohio 43449. Telephone: (419) 898-0014.

Thomas S. Sanford, Refuge Manager, Chautauqua National Wildlife Refuge, RR 2, Havana, Illinois 62644. Telephone: (309) 535-2290.

Wayne D. Adams, Refuge Manager, Crab Orchard National Wildlife Refuge, P.O. Box J, Carterville, Illinois 62918. Telephone: (618) 997-3344.

Howard Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, Great River Plaza, 311 N. Fifth Street, Suite 100, Quincy, Illinois 62301. Telephone: (217) 224-8580.

Ronald Papike, Refuge Manager, Sherburne National Wildlife Refuge, Route 2, Zimmerman, Minnesota 55398. Telephone: (612) 389-3323.

Omer N. Swenson, Refuge Manager, Tamarac National Wildlife Refuge, Rural Route, Rochert, Minnesota 56578. Telephone: (218) 847-4355.

Jerry Schotzko, Refuge Manager, Upper Mississippi River Wild Life and Fish Refuge, 122 W. 2nd Street, Winona, Minnesota 55987. Telephone: (507) 452-4232.

SUPPLEMENTARY INFORMATION: Hunting migratory game birds on portions of the following refuges shall be in accordance with all applicable State and Federal regulations, subject to the additional special regulations and conditions as indicated. Portions of refuges which are open to migratory game bird hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the respective Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; hunting migratory game birds; for individual wildlife refuge areas.

Michigan

Seney National Wildlife Refuge

Public hunting of Woodcock and Wilson's Snipe (Jacksnipe) is allowed subject to the following special condition:

Hunting is permitted on 33,525 acres of the refuge designated as Area B from September 15 through November 12.

Shiawassee National Wildlife Refuge

Public hunting of *geese only* is permitted subject to the following special conditions:

(1) Hunting shall be by Federal permit and only from assigned blinds and pits. Blind assignments will be determined by drawings.

(2) Only non-toxic steel shot will be permitted.

(3) Hunters may not have shotgun shells containing lead or other toxic shot in their possession.

(4) Each hunter may possess not more than 12 shotgun shells.

(5) A blind rental fee of two dollars per hunter is required.

(6) Not more than three hunters are permitted in each blind or pit.

(7) Permit application cards for hunting during the month of October must be postmarked on or before September 15, 1979 and only successful applicants will be notified.

(8) For the month of November a daily drawing will be held to determine who may hunt during that day. Applicants must be present for each day's drawing.

(9) After completion of the day's hunt, all hunters must proceed to refuge headquarters for check-out and the submission of geese for examination.

Ohio

Ottawa National Wildlife Refuge

Public hunting of Canada, snow (including blue color phase) and white-fronted geese is permitted, on areas comprising 640 acres, subject to the following special conditions:

(1) Hunting shall be by State permit and only from assigned blinds. Blind assignments will be determined by drawings.

(2) A fee of five dollars per hunter will be required for blind rental.

(3) No more than two persons per blind (permit holder and one guest) are permitted.

(4) Hunters must report to the check station at least one hour before legal shooting time.

(5) Each hunter may possess not more than 10 shells. Only nontoxic steel shot will be permitted.

Hunters may not have shotgun shells containing lead or other toxic shot in their possession.

(6) Hunters will be permitted to pursue and shoot downed geese only within 75 yards of their assigned blind.

(7) Hunting hours shall be from the legal opening time in the morning until 12 noon.

(8) All hunters must be out of their assigned blinds by 1:00 p.m.

(9) All hunters must report to the check station and submit their geese for examination by 2:00 p.m.

(10) The use of trained dogs to retrieve downed geese within the hunting area is permitted.

Illinois

Chautauqua National Wildlife Refuge

Public hunting of migratory game birds is permitted, on areas comprising 745 acres, subject to the following special conditions:

(1) Blinds—No permanent structure, excluding wood or brush duck blinds, shall be permitted, no blinds shall be locked or otherwise sealed against public entry.

(2) Waterfowl hunters using 12 gauge shotguns must use steel shot shells only, and may not possess 12 gauge ammunition containing lead or other toxic shot. All other sizes of shotguns are exempt from the use of steel shot.

Crab Orchard National Wildlife Refuge

Public hunting of migratory game birds is permitted, on areas comprising 23,000 acres, designated as Areas I and III, subject to the following special conditions:

(1) Only portable or temporary blinds located on the immediate vicinity of the site may be used for hunting and these must be removed or dismantled at the end of day's hunt. Blinds and pits beyond the shoreline of refuge waters may not be constructed, established, occupied or used.

(2) Waterfowl hunters using 12 gauge shotguns must use steel shot shells only, and may not possess 12 gauge ammunition containing lead or other toxic shot. All other sizes of shotguns are exempt from the use of steel shot.

(3) During the goose season, on Grassy, Orchard, Sawmill and Turkey Islands, hunters may hunt only from blinds provided by the refuge.

(4) Only authorized waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville Public, and Greenbriar Road Areas from sunrise to 12:00 Noon daily during the goose season. Goose hunting on these areas is subject to the following conditions:

(a) Hunting is permitted only from existing refuge established blinds. This includes lake shorelines.

(b) Hunters must comply with all rules as posted.

Iowa

Mark Twain National Wildlife Refuge

Public hunting of migratory game birds is permitted, on areas comprising 1,760 acres (Big Timber Division and Turkey Island Area), subject to the following special condition:

Blinds—No permanent structure; excluding wood or brush duck blinds, shall be permitted; no blinds shall be locked or otherwise sealed against public entry.

Minnesota

Sherburne National Wildlife Refuge

Public hunting of ducks, coots, rails, Wilson snipe and Woodcock is permitted, on an area comprising approximately 7,510 acres (designated Area B on map), subject to the following special conditions:

(1) Use of steel shot is required for hunting waterfowl and coots. Possession of lead shot shells while hunting waterfowl and coots is prohibited.

(2) Boats, without motors, may be used on the St. Francis River only from designated river access sites.

(3) Boats and decoys must be removed from the refuge at completion of day's hunt.

(4) Field possession of migratory birds in the refuge area closed to migratory bird hunting is prohibited.

Tamarac National Wildlife Refuge

Public hunting of ducks, geese and coots is permitted, on an area comprising approximately 12,500 acres, subject to the following special conditions:

(1) Use of steel shot is required for hunting waterfowl and coots. Possession of lead shot shells while hunting waterfowl and coots is prohibited.

(2) The use of dogs to retrieve downed waterfowl and coots is permitted and encouraged.

(3) Boats are permitted for waterfowl hunting.

Illinois, Iowa, Minnesota, Wisconsin

Upper Mississippi River Wild Life and Fish Refuge

Public hunting of migratory game birds is permitted where designated subject to the following special conditions:

(1) The hunting of migratory game birds in the Potter's Marsh area, River Mile 522.5–526, Illinois shall be only from a legal blind as determined by the Service and the State of Illinois. Blind allocation and construction shall be according to State of Illinois regulations which are adopted herein and made a part of this regulation.

(2) Waterfowl hunters using 12-gauge shotguns must use steel shot shells only, and may not possess 12-gauge ammunition containing lead or other toxic shot. All other sizes of shotgun are exempt from the use of steel shot.

This special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32.

The public is invited to offer suggestions and comments at any time.

Harvey K. Nelson,

Regional Director.

July 18, 1979.

[FR Doc. 79-24266 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 52

Hunting: National Wildlife Refuges in Illinois, Iowa, Minnesota, and Wisconsin

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public hunting of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of certain National Wildlife Refuges in Illinois, Iowa, Minnesota, and Wisconsin.

DATES: Effective on August 7, 1979, for duration of seasons noted below for individual refuge areas.

FOR FURTHER INFORMATION CONTACT:

The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

George G. P. Bekeris, Area Manager, U.S. Fish and Wildlife Service, 530 Federal Building & U.S. Court House, 316 North Robert Street, St. Paul, MN 55101. Telephone (612)725–7641.

Joseph Kotok, Refuge Manager, Agassiz National Wildlife Refuge, Middle River, Minnesota 56737. Telephone: (218)449–4115.

James Heinecke, Refuge Manager, Big Stone National Wildlife Refuge, 25 N.W. 2nd Street, Ortonville, MN 56278. Telephone: (612)839–3700.

Wayne D. Adams, Refuge Manager, Crab Orchard National Wildlife Refuge, Post Office Box J, Carterville, IL 62918. Telephone: (618)997–3344.

John E. Toll, Refuge Manager, Horicon National Wildlife Refuge, Route #2, Mayville, WI 53050. Telephone: (414)387–2658.

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, Great River Plaza, 311 N. 5th Street, Suit 100, Quincy, IL 62301. Telephone: (217)224–8580.

James M. Carroll, Jr., Refuge Manager, Necedah National Wildlife Refuge, Star Route, Necedah, WI 54646. Telephone: (608)565–2551.

David E. Heffernan, Refuge Manager, Rice Lake National Wildlife Refuge, Route #2, McGregor, MN 55760. Telephone: (218)768–2402.

Ronald V. Papike, Refuge Manager, Sherburne National Wildlife Refuge, Route #2, Zimmerman, MN 55398. Telephone: (612)389–3323.

Omer N. Swenson, Refuge Manager, Tamarac National Wildlife Refuge, Rochert, MN 56578. Telephone: (218)847–4355.

Jerry Schotzko, Refuge Manager, Upper Mississippi Wild Life and Fish Refuge, 122 W. 2nd Street, Winona, MN 55987. Telephone: (507)452–4232.

SUPPLEMENTARY INFORMATION: Hunting on portions of the following refuges shall be in accordance with all applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Illinois

Crab Orchard National Wildlife Refuge

Crab Orchard National Wildlife Refuge, Jackson and Williamson Counties, Illinois, will be open for upland game hunting during the dates specified by the State of Illinois for the 1979 Upland Game Season. Hunting of upland game is prohibited from sunrise to 12:00 Noon in the refuge controlled goose hunting areas during the goose hunting season.

Minnesota

Big Stone National Wildlife Refuge

Big Stone National Wildlife Refuge, Lac qui Parle County, Minnesota, will be open to the hunting of Hungarian partridge, cottontail rabbit, gray and fox squirrel, and ringnecked pheasant beginning on the opening day of seasons for these species as established by the State of Minnesota. All upland game seasons on the refuge close at sunset, November 30, 1979.

Rice Lake National Wildlife Refuge

Rice Lake National Wildlife Refuge, Aitkin County, Minnesota will be open to hunting of ruffed and spruce grouse during the seasons for these species as established by the State of Minnesota. The open area comprises about 2,000 acres.

Sherburne National Wildlife Refuge

Sherburne National Wildlife Refuge, Sherburne County, Minnesota will be open to hunting of ruffed grouse, ringnecked pheasant, gray and fox squirrel, rabbits and hares during the seasons for these species as established by the State of Minnesota. The open area comprises about 19,840 acres. Boats, without motors, may be used on the St. Francis River. Launching is restricted to designated river access sites only.

Tamarac National Wildlife Refuge

Tamarac National Wildlife Refuge, Becker County, Minnesota, will be open to hunting of ruffed grouse, gray and fox squirrel, rabbits, and hares during the seasons for these species as established by the State of Minnesota on approximately 12,500 acres. An additional 18,000 acres will be open to hunting of ruffed grouse only.

Wisconsin

Horicon National Wildlife Refuge

Horicon National Wildlife Refuge, Dodge County, Wisconsin, will be open to hunting of ringnecked pheasant from October 27, 1979 through December 9, 1979. The open area comprises 16,000 acres.

Illinois, Iowa, Minnesota, Wisconsin

Upper Mississippi Wildlife and Fish Refuge

Upper Mississippi Wildlife and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin, will be open to hunting of upland game on designated "Public Hunting Areas" (about 148,000 acres) beginning concurrent with applicable state seasons and ending with the closing of applicable state seasons or March 1, 1980, whichever occurs first. Except for the Goose Island Closed Area in Pool 8, areas designated by signs as "Area Closed" (about 46,000 acres) will be open for upland game hunting beginning on the first day after the close of the last hunting season for ducks applicable to the geographic area concerned and ending with the closing of the applicable state seasons or March 1, 1980, whichever occurs first. The Goose Island Closed Area is closed at all times to hunting. Except with permission in writing obtained from the refuge manager, the discharge of guns of all types is prohibited on all lands and waters of the Upper Mississippi River Wildlife and Fish Refuge during the period from March 1 until the first day of the earliest fall state game bird or game animal season applicable to the geographic area concerned.

Illinois, Iowa

Mark Twain National Wildlife Refuge

Approximately 1,400 acres of the Keithsburg Division, Illinois, will be open to hunting of black, gray and fox squirrels from September 1 through October 15, 1979.

The entire Gardner Division (4,831 acres), Illinois, will be open to hunting of black, gray and fox squirrels by special permit. The season will open in accordance with the State season and will close on October 15, 1979. Hunters must have in their possession a refuge hunting permit which will be issued free upon contacting the Refuge Headquarters, 311 North Fifth Street, Suite 100, Quincy, Illinois 62301 (Telephone: (217)224–8580).

About 1,760 acres of the Big Timber Division and Turkey Island Area, Iowa, will be open to upland game hunting during the seasons as established by the State of Iowa.

§ 32.32 Special regulations; big game; for individual refuge areas

Illinois

Crab Orchard National Wildlife Refuge

Crab Orchard National Wildlife Refuge, Jackson and Williamson,

Counties, Illinois will be open to hunting of white-tailed deer concurrent with shotgun and bow and arrow hunt dates as specified by the State of Illinois for the 1979 Deer Season. In Areas I and III (23,000 acres), hunting is permitted from ground level only. In Area II (21,000 acres), the following conditions apply:

1. Each hunter must possess a special permit issued by the Illinois Department of Conservation showing the three-day season he/she is to hunt.

2. All hunters must check in at the Refuge Fire Station prior to hunting.

3. All hunters must comply with all special restrictions listed on a handout furnished to them at the time of check-in.

Minnesota

Agassiz National Wildlife Refuge

Agassiz National Wildlife Refuge, Marshall County, Minnesota will be open to hunting of white-tailed deer and moose concurrent with seasons as established by the State of Minnesota. The open area comprises approximately 56,500 acres. Construction or use of permanent blinds, platforms or scaffolds is prohibited. The following special conditions apply to moose hunting:

1. All parties hunting State Zone 2, which includes Agassiz National Wildlife Refuge, are required to report to the Agassiz Check Station located 11 miles east of Holt, Minnesota, before they begin to hunt.

2. All moose killed in Zone 2 must be registered at the Agassiz Refuge Check Station within 48 hours of the kill.

Big Stone National Wildlife Refuge

Big Stone National Wildlife Refuge, Lac qui Parle County, Minnesota, will be open to hunting of white-tailed deer concurrent with the seasons as established by the State of Minnesota. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Rice Lake National Wildlife Refuge

Rice Lake National Wildlife Refuge, Aitkin County, Minnesota, will be open to hunting of white-tailed deer with firearms during the "antlerless" portion of the State firearms deer season only. The open area comprises about 15,000 acres. Only those persons in possession of a valid Rice Lake Special Deer Permit (Area 69) issued by the Minnesota Department of Natural Resources will be allowed to hunt on the refuge. The permit must be carried at all times while hunting on the refuge. All hunters must report to the refuge check station at the beginning and end of each day's hunt. Successful hunters must have their deer checked at the refuge check station prior to transporting it outside the refuge. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Sherburne National Wildlife Refuge

Sherburne National Wildlife Refuge, Sherburne County, Minnesota, will be open to hunting of white-tailed deer concurrent with the seasons as established by the State of Minnesota. The open area comprises about 19,840 acres. Boats, without motors, may be used on the St. Francis River. Launching is restricted to designated river access sites only. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Tamarac National Wildlife Refuge

No hunting of big game (black bear or white-tailed deer) will be permitted on Tamarac National Wildlife Refuge during the 1979 season.

Wisconsin

Horicon National Wildlife Refuge

Horicon National Wildlife Refuge, Dodge County, Wisconsin, will be open to hunting of white-tailed deer with bow and arrow only from September 15 through November 11, 1979. The open area comprises 16,000 acres. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Necedah National Wildlife Refuge

Necedah National Wildlife Refuge, Juneau County, Wisconsin will be open to hunting of white-tailed deer and unprotected mammal species as listed in the 1979 Wisconsin Big Game Hunting Regulations with bow and arrow and firearms concurrent with the seasons for these species as established by the state of Wisconsin. The open areas comprise about 39,000 acres. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Iowa, Illinois, Minnesota, Wisconsin

Upper Mississippi Wild Life and Fish Refuge

Upper Mississippi Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin, will be open to hunting of white-tailed deer with bow and arrow and firearms on designated "Public Hunting Areas" (about 148,000 acres) concurrent with applicable state seasons. Except for the Goose Island Closed Area in Pool 8, areas designated by signs as "Area Closed" (about 46,000 acres) will be open for deer hunting with bow and arrow and firearms concurrent with applicable state seasons, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned until the end of the applicable state deer seasons. The Goose Island Closed Area is closed at all times to hunting. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Illinois, Iowa

Mark Twain National Wildlife Refuge

The Gardner Division of Mark Twain National Wildlife Refuge, Illinois, will be open to hunting of white-tailed deer with shotgun November 16, 17, and 18, 1979 from 6:30 am to 3:00 pm (CST) daily. The open areas comprise 4,831 acres. A valid State-issued shotgun deer permit with Mark Twain National Wildlife Refuge designation will serve as authorization to enter the public hunting area. Successful hunters are required to check their deer through the Adams County Check Station near the Division.

Big Timber Division and the Turkey Island Area of Mark Twain National Wildlife Refuge, Iowa, will be open to hunting of white-tailed deer concurrent with the seasons as established by the State of Iowa. The open areas comprise 1,760 acres.

Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Dated: July 30, 1979.

Richard E. Toltzmann,

Acting Area Manager.

[FR Doc. 79-24297 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 33

Hunting; National Wildlife Refuges in Florida, Georgia, and South Carolina

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in Florida, Georgia and South Carolina is compatible with the objectives for which the areas were established, will utilize a renewable natural resource and will provide additional recreational opportunity to the public. Big game hunts on island refuges (i.e. Wassaw Island National Wildlife Refuge) provide biological control and keep population levels compatible with their habitat. This document establishes special regulations effective for the upcoming hunting seasons for certain migratory game birds, upland game and big game species.

DATES: September 1, 1979 to June 30, 1980. See State regulations for waterfowl seasons in Georgia and Florida.

FOR FURTHER INFORMATION CONTACT:

The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Area Manager, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Florida 32207, telephone (904) 791-2267.

Refuge Manager, Chassahowitzka National Wildlife Refuge, Route 2, Box 44, Homosassa, Florida 32646, telephone (904) 628-2201.

Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, Florida 32028, telephone (904) 985-4673.

Refuge Manager, Loxahatchee National Wildlife Refuge, Route 1, Box 278, Boynton Beach, Florida 33437, telephone (305) 732-3684.

Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Florida 32780, telephone (305) 867-4820.

Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Georgia 31080, telephone (912) 986-5441.

Refuge Manager, Savannah (Blackbeard Island, Pinckney Island and Wassaw Island) National Wildlife Refuge, P.O. Box 8487, Savannah, Georgia 31402, telephone (912) 232-4321, extension 415.

Refuge Manager, St. Marks National Wildlife Refuge, P.O. Box 68, St. Marks, Florida 32355, telephone (904) 925-6121.

Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, Florida 32320, telephone (904) 653-8808.

SUPPLEMENTARY INFORMATION:

General Conditions

1. Hunting is permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 32, State regulations, applicable general conditions and the following special regulations:

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) that no area of the National Wildlife Refuge System is used for forms of recreation not directly related to the primary purposes for which the area was established, and (b) that funds are available for the development, operation and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Chassahowitzka, Lake Woodruff, Loxahatchee, Merritt Island, Piedmont, Savannah, Blackbeard Island, Pinckney Island, St. Marks and St. Vincent National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. All hunters must possess a refuge permit to hunt on a national wildlife refuge. Permits are available from the refuge headquarters and/or check stations. Permits are nontransferable and must be carried while hunting. Permits may be secured by either applying in person or by mail. All participants must fill in and return the questionnaire portion of the hunt permit to the refuge manager by the established deadline for respective hunts.

3. A list of special conditions applying to individual refuge hunts and a map of the hunt area are available at refuge headquarters. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps.

4. Ingress and egress points for motor vehicles and/or boats are limited to designated check stations or other specified areas.

5. Only steel shot ammunition may be used during refuge migratory waterfowl hunts. Possession of lead or other toxic shot in any gauge is prohibited during such hunts.

6. Persons under age 18 must be under the close supervision of an authorized adult.

7. Deer, hogs and turkeys harvested during scheduled hunts for these species must be checked by refuge personnel before leaving the refuge.

8. Muzzleloading shotguns used during primitive gun big game hunts must be 20 gauge or larger, loaded with single shot.

9. Unless specified, dogs are not permitted on refuge areas during hunts.

10. Only temporary blinds are permitted.

11. Personal property must be retrieved by owner and removed from the refuge daily, unless otherwise specified.

12. Use of buckshot is prohibited on refuge big game hunts (except the Savannah NWR feral hog hunt).

§ 32.12 Special Regulations: Migratory game bird hunting for individual wildlife refuge areas.

Migratory bird hunting is permitted on the following refuges within those areas posted with signs and/or designated on a hunting area map. Migratory bird hunting shall be in accordance with the aforementioned general conditions and the following special conditions:

Florida

Chassahowitzka National Wildlife Refuge

(1) Only ducks and coots may be hunted on approximately 2,500 acres which have been designated as being open to public hunting. (2) Hunting will be permitted daily during the State waterfowl season. (3) Travel to and from the hunting area will be permitted only by outboard motorboat or manually propelled boats and canoes. Air thrust boats are prohibited. (4) Dogs are permitted for retrieving dead and wounded game.

Loxahatchee National Wildlife Refuge

(1) Only ducks and coots may be hunted on approximately 29,000 acres which have been designated as open to public hunting. (2) Hunting is permitted on Sundays, Wednesdays, Thursdays, Fridays and Saturdays during the State waterfowl season. Shooting hours are from one-half hour before sunrise until 11 a.m. (3) Air thrust boats may be launched at the headquarters landing only. Hunters must use the designated routes of travel to and from the hunting area. These routes are those portions of Canal 40 and Canal 39 (Hillsboro Canal) within the hunting area and a clearly posted access trail through the headquarters "closed area." No hunting is permitted in these canals or in the posted "closed area" near headquarters and the concession. (4) All air thrust boat operators must possess a refuge airboat permit available at refuge headquarters.

Merritt Island National Wildlife Refuge

(1) Migratory waterfowl hunting is permitted for ducks and coots on approximately 38,500 acres. (2) Hunting is permitted only on Sundays, Wednesdays, Thursdays, Fridays and Saturdays during the State waterfowl season. Shooting hours are from one-half hour before sunrise until 1 p.m. daily. (3) Proof of completion of a certified hunter safety training course is required to hunt Areas 1, 2 and 4 during the entire season. (4) The refuge will be closed to hunting at certain times during space shuttle operations. Consult local news sources for the space shuttle security schedule. (5) A hunter check station is currently scheduled to be operated the first day of the season for issuance of daily permits; however, it may be necessary to operate a check station at other times in support of space shuttle security. (6) Hunting from

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or within 10 feet of any dike, roadway or railroad fill is prohibited. (7) All boaters must wear life jackets when boats are in motion in the Indian River and Mosquito Lagoon. Air thrust boats are prohibited. (8) The use of dogs is permitted, but they must remain under the control of their handlers at all times.

Georgia

Savannah National Wildlife Refuge

(1) Only ducks, coots and snipe may be hunted on approximately 3,500 acres which have been designated as open to public hunting. (2) Hunting will be permitted only on Thursdays, Fridays and Saturdays from one-half hour before sunrise to 12 noon during the State waterfowl season. (Note: Snipe season opens at different dates than duck and coot season but will close on the same date.) (3) Hunting will not be permitted in or on Front, Middle and Back Rivers nor closer than 50 yards to the shoreline of these rivers. (4) Hunters will not be permitted to enter the hunting area sooner than one and one-half hours before sunrise.

§ 32.22 Special Regulations: Upland game for individual wildlife refuge areas.

Florida

St. Marks National Wildlife Refuge

The hunt area for upland game is 600 acres of the St. Marks Unit; which is cooperatively administered as part of the Aucilla Wildlife Management Area according to all applicable State rules and regulations.

St. Vincent National Wildlife Refuge

(1) Species permitted: Turkey—bearded only. (2) Weapons: State regulations governing primitive weapons. (3) Season: January 19–20, 1980. (4) Bag limit: One (1) per season. (5) Permits: 125 permits will be selected by public drawing on December 17, 1979. (6) Camping and fires are permitted in two designated camping areas. Participants may not set up camp before 8 a.m. on the day prior to the scheduled hunt. All camping equipment must be removed by 1 p.m. the day following the last day of the hunt season. (7) The refuge is closed to the general public during the hunts. (8) The hunt area for wild turkey encompasses approximately 10,000 acres.

Georgia

Piedmont National Wildlife Refuge

(1) Species permitted: Quail, squirrel and rabbit. (2) Season: Daily except Sundays during State season. (3) Closed areas: Compartment 25 and the posted wildlife trail section of Compartment 14. (4) Permits: Available at refuge headquarters during the hunt. (5) Dogs are allowed for quail hunting and one dog per hunt party is allowed for squirrel hunting. Dogs are *not allowed* for rabbit hunting. (6) Handguns and buckshot are prohibited on the refuge. (7) Upland game hunting of designated species is permitted on approximately 33,000 acres.

§ 32.32 Special Regulations: Big game for individual wildlife refuges.

Florida

White-tailed deer and feral hogs may be hunted on the following refuge areas:

Lake Woodruff National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: deer and feral hogs; (b) season: September 21–23 and October 5–7, 1979; (c) Bag limit: deer—State regulation, hogs—no limit, (d) sex: either sex, (e) permits—100; permit applications must be received prior to the public drawing at 2 p.m. on August 10, 1979. (2) *Primitive gun hunts:* (a) species permitted: deer and feral hogs, (b) season: October 19–21 and November 2–4, 1979, (c) bag limit: deer—State regulations, hogs—no limit, (d) sex: bucks only, minimum of 5" antler, (e) permits—80 permits, applications must be received prior to the public drawing at 2 p.m. on August 10, 1979. (3) Stand hours: One-half hour before sunrise to one and one-half hours after sunrise. Stalking or movement through the hunt area is not permitted during stand hours. (4) No one may enter the hunt area prior to two hours before sunrise and all hunters must clear the area by two hours after sunset. (5) Big game hunting of designated species is permitted on approximately 2,250 acres.

St. Marks National Wildlife Refuge

The hunt area for big game is 600 acres of the St. Marks Unit; which is cooperatively administered as part of the Aucilla Wildlife Management Area according to all applicable State rules and regulations and 12,000 acres of the Wakulla Unit plus 8,000 acres of the Panacea Unit subject ot the aforementioned general conditions and the following special conditions:

(1) *Archery hunts:* (a) species permitted: deer and feral hogs, (b) season: September 28–30, 1979, (c) bag limit: deer—State regulations, hogs—no limit, (d) sex: either sex (except spotted fawn), (e) permits: no quota, permits available at refuge headquarters until August 31, 1979. (2) *Primitive gun hunt:* (a) species permitted: deer and feral hogs, (b) season: November 16–18, 1979, (c) bag limit: deer—State regulations, hogs—no limit, (d) sex: deer—bucks only, minimum of 5" antler, hogs—either sex, (e) permits: no quota, permits available at refuge headquarters until August 31, 1979.

St. Vincent National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: white-tailed deer and feral hogs, (b) season: November 10–12, 1979, (c) bag limit: deer—one deer, hogs—no limit, (d) sex: either sex, (e) permits: no quota; permits available at refuge headquarters until October 31, 1979, (f) hunters must be on stand one-half hour before sunrise to 9 a.m. (2) *Primitive gun hunts:* (a) species permitted: white-tailed deer and feral hogs, (b) season: December 14–16, 1979, (c) bag limit: deer—one deer, hogs—no limit, (d) sex: either sex, (e) permits: 300 permits selected by public drawing on November 16, 1979. (3) Hunter camping and fires are restricted to two designated camping areas. Participants may not set up camp before 8 a.m. on the day prior to the scheduled hunt. All camping equipment must be removed by 1 p.m. the day following the last day of the hunt season. (4) St. Vincent Wildlife Refuge is closed to the general public during these hunts. (5) Approximately 12,000 acres are open for hunting designated species of big game.

Georgia and South Carolina

Savannah National Wildlife Refuge

(a) Species permitted: Feral hogs, (b) season: October 6 and October 23, 1979, (c) bag limit: no limit, (d) Sex: either sex, (e) weapon: shotgun—"00" buckshot, (f) permits: 150 permits for each hunt, permit applications must be postmarked by September 6. Persons drawn for the first hunt will not be eligible for the second hunt. (2) The Savannah NWR (except for headquarters area) will be closed to the general public on hunt days. (3) Approximately 11,500 acres are open for feral hog hunting.

Blackbeard Island National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: deer, (b) season: October 29–November 1, 1979 and December 28–30, 1979, (c) bag limit: two deer, (d) sex: either sex, (e) permits: no limit; application forms must be postmarked by September 29 for the hunt beginning October 29 and by November 28 for the hunt beginning December 28. (2) Camping and fires are permitted at designated camping areas only. Entry on the Island will not be permitted more than two days in advance of the opening date of each hunt period. Participants will be confined to the camping area until the morning of the first day of each hunt period and must be off the Island the day following the last day of the hunt period. (3) During the periods from one-half hour before sunrise until 9 a.m. and from 3:30 p.m. until sunset each day hunters must remain on their stands. No movement during these hours will be tolerated. (4) The Blackbeard Island National Wildlife Refuge will be closed to the general public October 27–November 1, 1979 and December 26–30, 1979. (5) Approximately 4,500 acres are open for deer hunting.

Georgia

Wassaw Island National Wildlife Refuge

Special Conditions: (1) *Archery hunts:* (a) species permitted: deer, (b) season: November 16–18, 1979, (c) bag limit: two deer, (d) sex: either sex, (e) permits: unlimited; permit applications must be postmarked by October 16, 1979. (2) *Gun hunts:* (a) species permitted: deer, (b) weapons: State regulations (except buckshot prohibited), (c) seasons: December 15–16, 1979, (d) bag limit: two deer, (e) sex: antlerless deer on December 15, 1979, either sex on December 16, 1979, (f) permits: 120 permits will be issued by drawing. Permit applications must be postmarked by November 15, 1979. (3) Entry on the refuge will not be permitted more than one day in advance of the opening date of the hunt period. Participants must remain in the camping area until morning of first day of hunt period and must be off the Island the day following last day of the hunt. (4) All camping and fires will be at designated camping areas only. (5) Stand hours: during the periods from one-half hour before sunrise until 9 a.m. and from 3:30 p.m. until sunset each day, hunters must remain on their stands. No movement during these hours will be tolerated. (6) The Wassaw Island National Wildlife Refuge will be closed to the general public November 15–18, 1979 and December 14–16, 1979. (7) Approximately 2,000 acres are within the designated deer hunting area.

Piedmont National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: deer, (b) season: October 5–8, 1979 and October 12–15, 1979, (c) bag limit: one deer—either sex, (d) permits: no limit. (2) *Primitive gun hunt:* (a) species permitted: deer, (b) season: October 20, 1979, (c) bag limit: one deer—3 points or more on one side or antlerless (d) permits: 1,200 permits issued by public drawing on August 27, 1979 at 9 a.m. (3) *Bucks only gun hunts:* (a) season: October 25–27, 1979, (b) bag limit: one buck with visible antler, (c) permits: 1,500 permits issued by public drawing on August 27, 1979 at 9 a.m. (4) *Either sex gun hunt:* (a) seasons: November 3 and November 10, 1979, (b) bag limit: one deer, (c) permits: 2,000 permits for each hunt issued by public drawing on August 27, 1979 at 9 a.m. (5) Children under age 12 are not permitted on the deer hunts. (6) Camping is permitted only in the Pippins Lake Campground, Compartment 19. The Campground will be open at 8 a.m. the day before each deer hunt and closed at 11 a.m. the day after each deer hunt. (7) Prehunt scouting and stand placement will be permitted from 8 a.m. until sunset on the day immediately prior to each deer hunt. Weapons are not permitted in the woods during scouting periods. (8) Refuge big game hunters are required to wear outer garment above the waist which contains a minimum of 500 square inches of daylight fluorescent orange material. (9) Handguns and buckshot are prohibited on the refuge. (10) Approximately 33,000 acres are open to deer hunting. (11) Piedmont National Wildlife Refuge (except headquarters area) will be closed to the general public on hunt days.

South Carolina

Pinckney Island National Wildlife Refuge

(1) *Primitive gun hunts:* (a) species permitted: deer, (b) weapons: State regulations (except use of buckshot prohibited), (c) season:

November 24, 1979, (d) bag limit: two deer, (e) sex: one buck, one doe, (f) permits: 50 permits will be issued by public drawing, applications must be postmarked by October 24, 1979. (2) Participants must check in at headquarters no earlier than 4:30 a.m. and park in designated area prior to hunting. Entry by boat is prohibited. (3) During the periods from one-half hour before sunrise until 9 a.m. and from 3:30 p.m. until sunset, hunters must be on their stands. (4) The refuge will be open November 10 and 11, 1979 from 8 a.m. until 5 p.m. for the purpose of scouting. Only hunt participants with their hunt permits will be permitted on the refuge. (5) Pinckney Island National Wildlife Refuge will be closed to the general public on November 24, 1979. (6) The hunting area encompasses approximately 2,500 acres.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, *Code of Federal Regulations*, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: July 31, 1979.

Sam O. Drake, Jr.,

Acting Area Manager.

[FR Doc. 79-24288 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Fishery Conservation and Management; Foreign Fishing in the Northwest Atlantic Ocean Fishery

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Preliminary fishery management plan (PMP) amendments and final regulation.

SUMMARY: This amendment to the Northwest Atlantic Ocean PMP's and the foreign fishing regulations removes the prohibition on foreign trawling between the 100 and 200 fathom bottom contours in the fishing areas in the Northwest Atlantic Ocean.

EFFECTIVE DATE: August 10, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. W. Perry Allen, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235. Telephone (202) 634-7432.

SUPPLEMENTARY INFORMATION: Amendments to the Northwest Atlantic Ocean PMP's and the foreign fishing regulations were proposed on June 25, 1979 (44 FR 37022) which would remove the prohibition on foreign trawling between the 100 and 200 fathom bottom contours in the fishing areas in the Northwest Atlantic Ocean. The prohibition against foreign trawling between the 100 and 200 fathom contours was originally intended to protect domestic fixed gear between 100 and 200 fathoms that had not been reported to the Coast Guard and, thus, was not included in a fixed-gear area broadcast by the Coast Guard. Foreign trawling is prohibited in broadcast fixed-gear areas. The 100 to 200 fathom prohibition, however, (1) precluded foreign trawling in large portions of the fishing area where there was no fixed gear, (2) contributed to overcrowded and dangerous conditions on the available fishing grounds, and (3) contributed to the inability of foreign

nations to harvest their allocations of fish. The recent expansion of the broadcast fixed-gear areas to include a buffer zone around fixed gear (44 FR 31651, June 1, 1979) provides an adequate means for domestic fixed-gear fishermen to protect their gear from foreign trawling without the necessity of the 100 to 200 fathom prohibition.

Five comments favoring the proposed amendments were received. No comments opposed to the amendments were received.

The effective date of this amendment to the foreign fishing regulations has been established as August 10, 1979, in order that affected domestic fixed-gear fishermen may be advised of the amendment and report the locations of their gear. The Regional Director, Northeast Region, National Marine Fisheries Sevice, will notify appropriate fishermen's associations and State agencies of this amendment. Commander, Atlantic Area, U.S. Coast Guard, will publish the amendment in its Atlantic Notice to Fishermen and will make voice broadcasts on appropriate frequencies.

The Assistant Administrator for Fisheries has determined that this regulation is not a significant regulation under Executive Order 12044. Environmental impact statements for the PMP's concerned are on file with the Environmental Protection Agency.

Accordingly, section V(d)(7) of the PMP's for the Mackerel, Squid, Hake, and Foreign Trawl Fisheries of the Northwest Atlantic (at 42 FR 9790, 9630, 10188, and 9983) is amended to read:

Fixed-Gear Avoidance

The NOAA Assistant Administrator for Fisheries shall promulgate regulations governing foreign fishing operations to provide protection for fixed gear in the authorized fishing areas.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C. this 31st day of July 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

50 CFR 611.50(d) is amended by deleting paragraph (d)(1) and replacing it with the following new paragraph:

§ 611.50 Northwest Atlantic Ocean fishery.

* * * * *

(d) * * *

(1) No foreign fishing vessel may trawl in any fixed-gear area broadcast by the Coast Guard (see § 611.11 and paragraph (d)(2) of this section). Broadcasts of fixed-gear areas will include a buffer zone around the actual reported locations of the fixed gear.

* * * * *

[FR Doc. 79-24287 Filed 8-6-79; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 674

Alaska Salmon Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Field Order/Emergency Regulation.

SUMMARY: The Director, Alaska Region (Regional Director), National Marine Fisheries Service (NMFS) issues an emergency regulation (Field Order) applicable to fishing by vessels of the United States in the Alaska salmon troll fishery, in accordance with the fishery management plan (FMP) for the "High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude," and the interim emergency regulations implementing the FMP (50 CFR 674.22) (see 44 FR 29080 and 44 FR 40519). This Field Order closes the portion of the East management area from Cape Spencer to Cape Fairweather extending approximately 15 miles offshore effective beginning at 12 midnight Alaska Standard Time (AST) on Tuesday, August 7, 1979 rather than on September 20 for coho salmon and October 31 for chinook, chum, sock eye and pink salmon as currently provided in 50 CFR 674.23(a)(2). This closure remains in effect until September 20, 1979, unless superseded by subsequent Field Order.

EFFECTIVE DATE: 12 midnight, AST, Tuesday, August 7, 1979. Public comments are invited until October 7, 1979.

ADDRESS: Comments may be sent to Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, telephone (907) 586-7221.

FOR FURTHER INFORMATION: Contact Mr. Philip Chitwood at the above address.

SUPPLEMENTARY INFORMATION: The FMP (44 FR 33250) provides for inseason adjustments to season and area openings and closures. Regulations implementing this FMP—promulgated on an emergency basis on May 18, 1979 (44 FR 29080) and repromulgated on July 9, 1979 (44 FR 40519)—specify in § 674.22 that these decisions shall be made by the Regional Director in accordance with the criteria set out in that section.

On October 20, 1978, the Assistant Administrator of Fisheries, NOAA, with the approval of the Administrator, NOAA, delegated to the Regional Director authority to promulgate Field Orders making in-season adjustments.

Coho abundance in 1979 in northern Southeastern Alaska as indicated by fishery performance is significantly below average. Coho fishing in the coastal areas will normally peak over the next three weeks and action must be taken at this time to allow more coho to reach fishing districts and spawning streams in inside waters.

Studies have shown that power trollers in the outer coastal areas north and south of Cross Sound harvest large numbers of coho bound for major Lynn Canal and Stephens Passage coho systems. Specifically, pigment marking studies in 1974 and coded micro wire tag recoveries in 1978 have demonstrated that the area closed by this order is an area of interception of coho stocks bound for major river systems in northern Southeastern Alaska. In 1978, 18.2% of the Berners River coho, 23.8% of the Speel River coho, and 40.3% of the Chilkat Lake coho were harvested in this area. Recoveries of coded micro-wire tags in this area in 1979 through July have substantiated the presence of these northern stocks as well as other coho stocks bound for inside streams of Southeastern Alaska.

Significant restrictions on fishing time and area are already in effect for most inside waters of northern Southeast Alaska. The outside waters are open to unrestricted fishing as to time and area. If effort concentrates in those waters north of Cape Spencer, a potential will be created for overharvest of stocks presently judged to be in low abundance.

Harvest figures show that the earlier part of the coho run to certain inside areas is extremely low in abundance. Gillnet catches of coho in the Taku River drift gillnet fishery are will below normal. The seasonal cumulative catch-to-date for the current and past six years follow:

Cumulative Catch by Year to July 21, 1979

Year:	*Cumulative catch of coho*
1973	2,572
1974	4,794
1975	451
1976	1,586
1977	3,044
1978	7,118
1979	617

The Juneau area recreational fishery coho catch is presently less than half of the 4 year average catch to date despite an increase in effort of 30% in 1979. The above data indicate the total 1979 coho run to northern Southeast Alaska is likely to be extremely low in abundance.

Timing of the coho returns to the coastal and inshore fisheries in southern Southeastern Alaska appears to be normal. Peak catches in district 116 (north and west of Cape Spencer) usually occur between late July and mid-August. Commercial power troll catches in this area increased the last week of July from 15–30 coho per day per boat to 60–80 coho per day per boat indicating that the peak of catches in this area would probably occur by mid-August. Continued unrestricted fishing effort in this area could effectively reduce the potential escapement of fish to intermediate and terminal areas.

Although coho returns cannot be accurately predicted, parent year escapement gives an indication of the expected run strength. In 1975, the parent year of the 1979 coho run, escapements in the streams of northern Southeastern Alaska were poor in spite of troll, drift gillnet and recreational fishery restrictions. Sufficient fishing areas remain open to assess late run strength and determine if further regulatory action may be required.

The Regional Director further finds that, in order to protect the resource, public comment prior to issuance of this Field Order is impracticable and contrary to the public interest. However, public comments on the necessity for, and extent of, this closure will be received by the Regional Director for a period of 60 days after the effective date of the Field Order. (Address: Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1680, Juneau, Alaska 99802.) During this 60-day period, the data and information on which this decision is based will be available for inspection during business hours at the NMFS, Alaska Regional Office, Federal Building, Room 453, 709 West 9th Street, Juneau, Alaska.

If comments are received during the 60-day period the Regional Director shall, if appropriate, reconsider the necessity for the closure and, as soon as practicable after that reconsideration, publish in the **Federal Register** either:

(A) A notice of continued effectiveness of this closure; or

(B) A notice to modify or rescind the closure.

An environmental impact statement was prepared for the FMP and is on file with the Environmental Protection Agency.

Signed in Washington, D.C. this 6th day of August 1979.

(16 U.S.C. 1801 *et seq.*)

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

In accordance with 50 CFR 674.22, 50 CFR 674.23(a)(2) is amended as follows:

1. In subparagraph (i), change the period after "only" to a comma and add the phrase, "except as provided in subparagraph (iii) following."

2. In subparagraph (ii), change the period after "only" to a comma and add the phrase, "except as provided in subparagraph (iii) following."

3. Add a subparagraph (iii) as follows:

§ 674.23 Time and area limitations.

(a) * * *

(2) * * *

"(iii) Commercial fishing for salmon in waters bounded by a line projected west from Cape Spencer at 58°12'45" N. Latitude, 136°39'30" W. Longitude to a point at 58°48'45" N. Latitude, 137°08'00" W. Longitude, thence to a point at 58°48'30" N. Latitude, 138°30'00" W. Longitude, then east to Cape Fairweather at 58°48'30" N. Latitude, 137°56'45" W. Longitude is permitted from the season opening dates specified in subparagraphs (i) and (ii) to August 7 only.

* * * * *

[FR Doc 79-24490 Filed 8-6-79; 9:30 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 153
Tuesday, August 7, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR 630]

Absence and Leave

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management proposes regulations to implement the leave amendment contained in section 410 of the Civil Service Reform Act of 1978. Section 410 creates an exception, for individuals serving under an appointment to the Senior Executive Service, from the normal limitations on annual leave accumulation.

DATES: Comments must be received on or before October 9, 1979.

ADDRESS: Send written comments to Mr. Raymond C. Weissenborn, Director, Compensation Division, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Betty J. Roth, 202–632–6553.

SUPPLEMENTARY INFORMATION: Section 410 of the Civil Service Reform Act of 1978 amended section 6304 of title 5, United States Code, to add subsection (f), which reads as follows:

"*§ 6304 Annual leave; accumulation*

. . . . . .

"(f) Annual leave accrued by an individual while serving in a position in the Senior Executive Service shall not be subject to the limitation on accumulation otherwise imposed by this section."

Most employees subject to the provisions of the leave system in chapter 63 of title 5, United States Code, are restricted to a maximum accumulation of either 30 or 45 days of annual leave. The new section 6304(f) provides that individuals, while serving under an appointment in the Senior Executive Service, shall not be subject to this limitation on accumulation of annual leave.

Accordingly, the Office of Personnel Management is proposing to add to part 630 of title 5 of the Code of Federal Regulations a new § 630.301, as set forth below:

PART 630—ABSENCE AND LEAVE

. . . . . .

Subpart C—Annual Leave

§ 630.301 Annual leave accumulation—Senior Executive Service.

(a) In accordance with subsection (f) of section 6304 of title 5, United States Code, the limitations on accumulation of annual leave imposed by subsections (a), (b), and (c) of such section 6304 do not apply to leave accrued by an individual while serving under an appointment to the Senior Executive Service under subchapter VIII of chapter 33 of such title 5.

(b) Annual leave accrued for any pay period during only a portion of which the employee served under an appointment to the Senior Executive Service shall be prorated, and only that portion of such leave that is attributable to the service in the Senior Executive Service shall not be subject to the limitations on accumulation of annual leave imposed by subsections (a), (b), and (c) of section 6304 of title 5, United States Code.

(c) When an individual who has been serving under an appointment to the Senior Executive Service moves to a position in which he or she is no longer in the Senior Executive Service, any annual leave which was accumulated while serving in the Senior Executive Service, and which is in excess of the amount allowed by subsection (a) or (b) of section 6304 of title 5, United States Code, shall remain to the employee's credit and shall be subject to reduction in accordance with the procedures in subsection (c) of such section 6304.

Authority.—5 U.S.C. 6311.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-24300 Filed 8-6-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Agricultural Stabilization and Conservation Service

[7 CFR Part 1260]

Procedure for the Conduct of Referendums in Connection With Beef Research and Information Order (Amendment 1)

AGENCIES: Agricultural Marketing Service and Agricultural Stabilization and Conservation Service.

ACTION: Proposed Amendments.

SUMMARY: The proposed amendments provide for (1) voting by secret ballot, (2) reducing the registration and voting periods from 12 days to 4 days, (3) reducing the number of producers needed to approve the issuance of a Beef Research and Information Order from two thirds to a majority of the producers voting in a referendum, (4) reducing the time allowed for challenging a producer's eligibility to register and vote; and (5) reducing the time for the county ASCS executive director to make a determination on challenges. Several editorial changes were also made to reflect a recent Departmental reorganization. The amendments are intended to provide for confidentiality in balloting and to shorten the periods for registration, voting, challenging, and determination of challenges. The amendments will make the conduct of any referendum more efficient and less time consuming.

This proposed amendment in no way obligates the Secretary to hold a referendum.

DATES: Comments must be received no later than October 9, 1979, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Robert Cook, Emergency and Indemnity Programs Division, ASCS, USDA, 4095 South Building, Washington, D.C. 20013 (202) 447–7997.

SUPPLEMENTARY INFORMATION: The Beef Research and Information Act (7 U.S.C. 2901), hereafter "the Act", provides that the Secretary of Agriculture shall issue a Beef Research and Information Order applicable to producers and slaughterers of cattle to effectuate the declared policy of the Act if the issuance of the Order is approved or favored by cattle producers in a referendum conducted among cattle producers.

Rules for conducting referendums pursuant to the Act were published in the **Federal Register** on May 17, 1977, and a referendum was held in June (registration), and July (voting) 1977. In that referendum, the required two-thirds of the producers voting did not approve the Order. In August 1978, the Beef Research and Information Act was amended to require that a majority, instead of two-thirds, of the producers voting in a referendum favor the Order. Section 1260.203 is amended to reflect this change in the law.

The time allowed for the registration period and the voting period is being reduced from 12 days to 4 days. We believe shortening of the registration and voting periods will make the conduct of any referendum more efficient and less consuming. Section 1260.201 is amended accordingly.

In order to provide for more confidentiality in balloting, we propose to amend § 1260.208(b) by deleting the requirement that ballots be signed by the producer and by providing for the casting of secret ballots.

Some questions have arisen concerning the voting eligibility of both husband and wife in a husband-wife operation but no change in the regulations is proposed. Section 1260.206(a) provides for one vote per producer entity. Thus, a husband and wife operation is entitled to only one vote and either the husband or wife may vote. If the husband or wife operated another farm as a separate unit from the husband-wife operation, then that farm is entitled to a separate vote. Section 1260.206(c) provides that a group of individuals, such as, members of a family operating a farm as one producer entity, shall be entitled to one vote except that any member of such group may register and vote if that member is an eligible producer separate from the group.

It is proposed to reduce the time allowed for challenges to be made to make the conduct of any referendum more efficient and less time consuming. The time limit for challenges to be made is being shortened from the end of the voting period to the beginning of the voting period. There will still be sufficient time for challenges since challenges may be made anytime during the 4-day registration period as well as during the ten days between the registration and voting periods.

The time limit for the county ASCS executive director to make a determination on a challenge is also being shortened from the date of the opening of the ballot box to the end of the voting period. The county ASCS executive director will still have the 4 days of the voting period to make a decision should a challenge be made on the last day before the voting period.

The public is invited to submit written comments, suggestions or objections regarding the proposed amendments to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, no later than October 9, 1979, to be sure of consideration. Each person submitting comments, suggestions, or objections regarding the proposed amendments shall include their name and address and give reasons for any suggested change in the proposed amendments. Copies of all written communications received will be available for examination by interested persons at the office of the Hearing Clerk, Room 1077 South Building, USDA, during regular business hours.

Proposed Rule

In accordance with the above, it is proposed to amend 7 CFR Part 1260—Beef Research and Information, Subpart—Procedure for the Conduct of Referendums in connection with Beef Research and Information Order as follows:

§ 1260.201 [Amended]

1. Section 1260.201 is amended as follows:

(a) By substituting for the word "Programs" in paragraph (d) the words "State and County Operations".

(b) By substituting for the word "12-day" in paragraphs (m) and (n) the word "4-day".

§ 1260.203 [Amended]

2. Section 1260.203 is amended by substituting for the words "not less than two thirds" the words "a majority".

3. Section 1260.208 is amended by revising paragraph (b) to read as follows:

§ 1260.208 Voting.

. . . . . .

(b) *Voting.* Voting may be in person or by mail. A producer wishing to vote by mail may request the county ASCS office to mail the producer a ballot. Ballots will be issued only to eligible cattle producers who have registered to vote. Ballots will not be provided nor accepted prior to the voting period. Each registered cattle producer voting shall obtain and cast a ballot on Form ASCS–151A with the county ASCS office where that producer registered to vote. The ballot shall be marked to indicate "yes" or "no". Producers voting in person shall place their own ballots in the ballot box and have their names checked off the registration list. Producers voting by mail shall mark their ballots and place them in an envelope marked BEEF BALLOT. This envelope shall be placed in a second envelope marked BEEF REFERENDUM. Producers shall print and sign their names on the second envelope and mail the ballot to the county ASCS office where the producer registered to vote. Upon receiving the ballot, the county office shall open the outer envelope, place the envelope marked BEEF BALLOT in the ballot pox unopened and note on the registration list that the producer has voted.

§ 1260.209 [Amended]

4. Section 1260.209 is amended as follows:

(a) By substituting for the words "end of the voting period" at the end of paragraph (a) the words "beginning of the voting period".

(b) By substituting for the words "opening of ballot box" at the end of paragraph (b) the words "end of the voting period".

(c) After the first sentence in paragraph (c), insert a new sentence to read as follows: "Challenged ballots shall be placed in the envelope marked BEEF BALLOT which in turn shall be placed in the envelope marked BEEF REFERENDUM with the name of the producer and the word "challenged" written in large letters across the envelop and placed in the ballot box."

§ 1260.211 [Amended]

5. Section 1260.211 is amended as follows:

(a) By deleting the word "unsigned," and the comma after the word "mutilated" in paragraph (b).

(b) By deleting the material after the words "interfere with the tabulation" and putting a period after the word "tabulation" in paragraph (c).

§ 1260.214 [Amended]

6. Section 1260.214 is amended by substituting for the word "Programs" in paragraph (a) the words "State and County Operations". The proposed rulemaking has been reviewed under the USDA criteria established to implement E.O. 12044 and has been determined non-significant. A pre-hearing investigation (draft impact analysis) has been prepared in connection with the Department's decision to hold a public hearing on the proposed Beef Research and Information Order. This analysis is available from Ralph Tapp, AMS, USDA, (202) 447–3970.

(Sec. 17, Pub. L. 94–294, 90 Stat. 537 (7 U.S.C. 2916).)

Signed at Washington, D.C. on July 23, 1979.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

Barbara Schlei,

Administrator, Agricultural Marketing Service.

[FR Doc. 79–24132 Filed 8–6–79; 8:45 am]

BILLING CODE 3410–05–M

Animal and Plant Health Inspection Service

[9 CFR Part 112]

Viruses, Serums, Toxins, and Analogous Products; Label Requirements for Certain Canine Vaccines

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would require that a statement concerning the occurrence of corneal opacity be added to carton labels or enclosures for all biological products containing modified live canine hepatitis virus or modified live canine adenovirus type 2.

Uniform label statements that indicate if corneal opacity has been associated with the use of each product would be required. The addition of such statements to the labeling would provide more complete information concerning the characteristics of these products to the user.

DATE: Comments must be received on or before October 9, 1979.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:
Dr. R. J. Price, 301–436–8245.

SUPPLEMENTARY INFORMATION: Modified live canine hepatitis and canine adenovirus type 2 vaccines have been licensed for use in dogs for the prevention of infectious canine hapatitis. Dogs vaccinated with some of these products occasionally develop a transient corneal opacity. This adverse reaction to vaccination may be rather severe in some instances and can result in permanent damage to the eye. This reaction has not been associated with all such products, however, and it is, therefore, of interest to the user to be informed concerning the characteristics of each of the available vaccines when selecting a product for use. This proposed amendment would require that a uniform statement concerning the occurrence of corneal opacity be added to carton labels or circulars for these products. Either a statement indicating corneal opacity may occur following the administration of the product or one indicating corneal opacity has not been associated with the use of the product would be required.

Section 112.7 would be amended by adding paragraph (m) to read:

§ 112.7 Special additional requirements.

* * * * *

(m) In the case of a biological product containing modified live canine hepatitis virus or modified live canine adenovirus type 2, the carton label or enclosure shall hear the following statement: "Occasionally transient corneal opacity may occur following the administration of this product." Provided, that if acceptable data have been filed with Veterinary Services to indicate that the development of corneal opacity is not associated with the use of such a product, the following alternate statement may be used: "Data indicate that the development of corneal opacity is not associated with the use of this product."

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 31st day of July 1979.

This proposal has been reviewed under the UNDA criteria established to implement E. O. 12044, "Improving Government Regulations." Under those criteria, this action has been designated for Agency oversight. A Draft Impact Analysis Statement has been prepared and is available from Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, Hyattsville, MD 20782.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79–24121 Filed 8–6–79; 8:45 am]

BILLING CODE 3410–34–M

[9 CFR Part 112]

Viruses, Serums, Toxins, and Analogous Products; Revised Packaging Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would revise the packaging requirements in Part 112.6 of the regulations to permit diluent for certain desiccated poultry vaccines to be packaged and shipped separately from the vaccine under certain conditions.

This revision would be a relaxation of the present requirements to permit the marketing of new diluent packaging systems for use with poultry vaccines that are intended to be administered individually to birds using automatic vaccinating equipment.

DATE: Comments must be received on or before October 9, 1979.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulation to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:
Dr. R. J. Price, 301–436–8245.

SUPPLEMENTARY INFORMATION: Regulations concerning the packaging of desiccated vaccines in § 112.6 presently require that each final container of desiccated biological product, except Marek's Disease Vaccine, be packaged in a carton with an accompanying container of diluent, if such is required for rehydration of the product before administration.

An exception to this requirement was provided for Marek's Disease Vaccine because of the special handling and packaging that are required for marketing.

A new diluent container has been developed that provides a "closed system" for the rehydration and administration of products. This system is specifically applicable to poultry vaccines that are administered individually to birds using automatic vaccinating equipment. It is the opinion of the Department that the concept of a "closed system" for rehydration and administration of these vaccines has merit, as it will minimize the amount of bacterial contamination often encountered when using the system that are presently available.

Because of transportation and packaging problems, however, the marketing of this new diluent container for the "closed system" would not be economically feasible if it were required to be shipped with the vaccine.

This proposed amendment would, therefore, facilitate the introduction of this new development by revising the present packaging requirements to permit diluent for desiccated poultry vaccines intended to be administered individually to birds using automatic vaccinating equipment to be packaged and shipped separately from the vaccine, as is presently permitted for Marek's Disease Vaccine.

Although diluent would be permitted to be shipped separately, this amendment would still require that the proper amount of diluent necessary for rehydration of the vaccine be provided to the user.

Section 112.6 would be amended by revising paragraph (a) and by adding paragraph (f) to read:

§ 112.6 Packaging desiccated products.

(a) Except as prescribed in paragraphs (e) and (f) of this section and § 112.8 of this Part, each final container of a desiccated biological product, produced by a licensee or a subsidiary, or presented for importation by a permittee, shall be packaged in a carton with an accompanying container of diluent if such diluent is required for rehydration of the product before administration.

* * * * *

(f) Diluent for desiccated poultry vaccines to be administered individually to birds using automatic vaccinating equipment shall be prepared and labeled in accordance with the regulations, except that such diluent need not be packaged in the same carton with the vaccine for shipment, in which case the licensee shall provide the proper amount of diluent to the user.

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 31st day of July 1979.

This proposal has been reviewed under the USDA criteria established to implement E. O. 12044, "Improving Government Regulations." Under those criteria, this action has been designated for Agency oversight. A Draft Impact Analysis Statement has been prepared and is available from Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, Hyattsville, MD. 20782.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79–24120 Filed 8–6–79; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 154]

[Docket No. RM78–23]

Interstate Pipeline Recovery of State of Louisiana First Use Tax

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order directing the Solicitor to seek either an order of the court permitting the Commission to modify its orders to amend the CFR or a remand of the record.

SUMMARY: The Commission directs the Solicitor to request the United States Court of Appeals for the Fifth Circuit either to enter an order authorizing the Commission to modify its orders in Docket No. RM78–23, or to remand the record in *Tennessee Gas Pipeline Company, et al.*, v. *Federal Energy Regulatory Commission*, No. 78–3816 (5th Cir.), for the limited purpose of allowing the Commission to modify its orders in this proceeding. Attached to the Commission order is Appendix A, a draft Staff proposal, which the Commission has accepted in principle.

FOR FURTHER INFORMATION CONTACT:
Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, Room 9310, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275–4166.

SUPPLEMENTARY INFORMATION:

State of Louisiana First Use Tax in Pipeline Rate Cases

Order Directing the Solicitor to Seek Either an Order of the Court Permitting the Commission to Modify its Orders or a Remand of the Record

July 13, 1979.

Pending before the Commission are applications for rehearing of the March 30, 1979, order in *Arkansas Louisiana Gas Company, et al.*, Docket Nos. RP79–53, et al. (hereinafter "March 30 Order").

The Staff has reviewed those applications and has recommended that the Commission modify Order No. 10–B (44 FR 13460 (March 12, 1979)) as well as the March 30 Order. The Commission has determined that the Staff proposal, attached as Appendix A, has merit, and has accepted in principle that proposal.

The Commission, however, is unable to adopt an order based on the principles of the Staff proposal because the record on which Order No. 10–B is based has been certified to the United States Court of Appeals for the Fifth Circuit, and that court now has exclusive jurisdiction to modify Order No. 10–B. Natural Gas Act section 19(b); 15 U.S.C. 717r(b). The Commission is, therefore, directing the Solicitor to request the Fifth Circuit either to enter an order authorizing the Commission to modify its orders in this proceeding, or to remand the record in *Tennessee Gas Pipeline Company, et al.* v. *Federal Energy Regulatory Commission*, No. 78–3816, for the limited purpose of allowing the Commission to modify its orders in this proceeding. If either of these requests is granted the Commission will adopt an order modifying Order No. 10–B which is based on the principles of the Staff proposal, and promptly recertify the record to the Court.

The Commission orders

The Solicitor is directed to request the United States Court of Appeals for the Fifth Circuit either to enter an order authorizing the Commission to modify its orders in this proceeding, or to remand the record in *Tennessee Gas Pipeline Company, et al.* v. *Federal Energy Regulatory Commission*, No. 78–3816 (5th Cir.), for the limited purpose of allowing the Commission to modify its orders in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A Draft Staff Proposal

Federal Energy Regulatory Commission

[18 CFR Part 154]

[Docket No. RM78–23; Order No. 10–C]

State of Louisiana First Use Tax in Pipeline Rate Cases

Order Modifying Prior Orders and Amending Regulations

I. Louisiana First Use Tax on Natural Gas

In July 1978, the Louisiana Legislature in regular session, passed, and the Governor signed into law the State of Louisiana first Use Tax on Natural Gas.[1] The First Use Tax

[1] 1978 La. Sess. Law. Serv. 482 (Act No. 294), to be codified as La. Rev. Stat. §§ 47:1301–47:1307. Hereinafter referred to as "First Use Tax." This act was one of several acts adopted to impose a tax on specified uses of certain classes of natural gas to provide for credits against that tax liability, and to dispose of revenues generated by the First Use Tax. The other acts are: (1) Act No. 293, 1978 La. Sess.

Footnotes continued on next page

is imposed, at a rate of 7 cents per thousand cubic feet ("Mcf")[2] upon the first "use"[3] of certain natural gas[4] within the State of Louisiana.

The constitutionality of the First Use Tax has been questioned since the inception of the tax. Testimony before the Senate Revenue and Fiscal Affairs Committee indicates that several witnesses questioned the constitutionality of the tax,[5] and that the sponsors of the tax noted questions regarding its constitutionality.[6] The Commission is of the opinion that the First Use Tax is unconstitutional and directly interferes with paramount federal authority to determine rates and charges, and to issue certificates of public convenience and necessity, for the transportation or sale of natural gas in interstate commerce. It thus instituted proceedings challenging the First Use Tax. *FERC* v. *McNamara, et al.*, Civil Action No. 78–384 M.D. La. filed September 29, 1978,[7] and supported the motion for leave to file an original complaint in *Maryland, et al.* v. *Louisiana*, No. 83 Original U.S. filed March 28, 1979.[8]

The cost of the First Use Tax to the interstate natural gas pipelines is significant, with the first year liability alone estimated to exceed $225 million. Until a court declares the First Use Tax unconstitutional, or until collection of the tax is enjoined, the interstate pipelines must pay the First Use Tax, since non-payment subjects the interstate pipelines to forfeiture of the natural gas.[9] Considering these factors, the Commission established procedures for recovery of the First Use Tax, subject to refund, which balanced the financial needs of the interstate pipelines with the Commission's responsibility to protect the ultimate consumer from a tax of questionable constitutionality. This order, although revising and simplifying those procedures, continues to balance equitably the interests of the pipelines and the consumers.

II. Procedural History

A. Commission Orders

In Order Nos. 10, 10–A, and 10–B,[10] the Commission established procedures governing recovery of the First Use Tax.[11] These orders amended § 154.38 of the Commission's Regulations (18 CFR 154.38) by adding a new paragraph (h). Paragraph (h) as amended by Order Nos. 10–A and 10–B, permits pipelines to collect the First Use Tax, subject to refund, pursuant to a temporary tracking mechanism similar to a purchased gas adjustment clause.

While allowing the pipelines to collect the First Use Tax from their customers, the Commission imposed conditions to ensure that consumers receive refunds of all amounts paid pursuant to Paragraph (h) with interest upon a final court determination that the First Use Tax is unconstitutional. In Order No. 10–A, the Commission required the pipelines to deposit all funds collected into an escrow account until a final court determination of the validity of the First Use Tax. In Order No. 10–B, the Commission, acting in response to comments and petitions for rehearing, amended paragraph (h) to allow pipelines the option of choosing either the escrow account procedure established in Order No. 10–A or, under certain conditions, a corporate undertaking procedure.

Pursuant to Order Nos. 10, 10–A, and 10–B, eighteen pipeline companies filed tariff sheets to establish provisions for tracking and deferred accounting of the First Use Tax. By orders issued March 30, 1979,[12] and May 9, 1979,[13] the Commission accepted the original or revised tariff sheets of the eighteen pipelines. Subject to the refund provisions of Order No. 10–B, all eighteen pipelines are presently collecting, from their customers, funds to cover the pipelines' First Use Tax liability. Several pipelines filed applications for rehearing of the March 30 Order. After reviewing these petitions for rehearing, the Commission finds that ambiguities exist regarding the refund provisions of Order No. 10–B as applied in the Commission's March 30 Order. In order to eliminate these ambiguities, the Commission is amending Order No. 10–B and clarifying its March 30 Order as hereinafter stated.

B. Petitions for Rehearing of March 30 Order

Applications for rehearing of the Commission's March 30 Order have been filed by twelve pipelines.[14] The major issues raised in the applications for rehearing are: (1) Whether the Commission can require pipelines selecting the corporate undertaking, to refund "voluntarily" those payments made on that portion of the First Use Tax found to be invalid by a final and non-appealable court order; and (2) Whether paragraph (N) of the March 30 Order denies pipeline companies the right of judicial review. After reviewing these applications for rehearing, the Commission finds that the following amendments and clarifications to Order No. 10–B are appropriate: (1) The escrow account procedure is deleted and all references to it are no longer applicable; (2) all references to "voluntary" agreement are deleted and no longer applicable; (3) the interest rate provision is amended; and (4) filing requirements are established in accordance with Order No. 10–B. The March 30 Order is amended and clarified by deleting paragraph (N) and the references to "voluntary" agreement and "further selection" of escrow acount.

Orders Nos. 10, 10–A, 10–B, and the March 30 Order balanced the financial needs of the interstate natural gas pipelines with the Commission's responsibility to protect the ultimate consumer from a tax of questionable constitutionality. In response to various pleadings by many parties the Commission has modified paragraph (h) several times in order to reach the appropriate balance. The Commission finds it appropriate to amend and clarify further the mechanism for protecting the pipeline customers funds and the legal basis for that mechanism.

III. A Corporate Undertaking With a Guarantee of Full Refund Equitably Balances the Interests of Pipelines and Consumers

The Commission in Order Nos. 10 and 10–A required the escrowing of all funds collected for the First Use Tax. In the applications for rehearing of Order No. 10–B many pipelines provided their expert legal opinion that Louisiana would provide full refunds if the First Use Tax was found unconstitutional.[15] Based on these arguments the Commission in Order No. 10–B established a corporate undertaking subject to conditions, as an alternative to the escrow account.

All eighteen pipelines which filed tariffs to recover the First Use Tax selected the corporate undertaking procedure. In this regard, Tennessee indicated that, since 1971, when the Commission adopted a corporate undertaking requirement as a condition precedent to a pipeline collecting rates subject to refund,[16] "pipelines have collected billions of dollars (over $1.7 billion in fiscal year 1977 alone) subject to refund" and "there is no instance in which Tennessee is aware in which a pipeline has failed to comply with this undertaking commitment."[17] Because many pipelines have concluded that Louisiana will provide full refunds if the First Use Tax is found unconstitutional, because all eighteen pipelines have selected the corporate undertaking, and because this Commission's experience with the corporate undertaking provision in § 154.67 indicates that it adequately protects pipeline customers, the Commission hereby modifies paragraph (h) by deleting the escrow account procedure. The Commission will retain the corporate undertaking provision with its requirement that pipelines make full refunds plus interest upon a final and non-appealable court order finding the First Use Tax invalid. This requirement is necessary to balance the financial needs of the interstate natural gas pipelines with the Commission's responsibility to protect the ultimate consumer from a tax of questionable constitutionality.

This Commission has an affirmative duty to protect consumers.[18] Ensuring full refunds for a tax which is ultimately found unconstitutional is within that duty. *Cf. e.g., Federal Power Commission* v. *NAACP*, 425 U.S. 662, 686 (1976); *Cities Service Gas Co.* v. *Federal Power Commission*, 424 F. 2d 411, 417 (10th Cir. 1969); *Safe Harbour Water Power Corp.* v. *Federal Power Commission*, 179 F. 2d 179, 199–200 (3d Cir. 1949).

The pipelines have consistently argued that taxes are costs which the courts have traditionally allowed regulated companies to recover from their customers. From this basic premise, they argue that the Commission cannot require full refunds upon a final and non-appealable court determination that the First Use Tax is unconstitutional, but must limit refunds to whatever pipelines receive from Louisiana. Such a limitation may not adequately protect the pipelines' customers. Although the case law may support allowing recovery of the First Use Tax subject to refund while its validity is challenged, it does not abrogate this Commission's duty to protect any payments made by pipeline customers until final determination of the constitutionality of the First Use Tax. In *Tennessee Natural Gas Lines, Inc.* v. *FPC*,[19] the United States Court of Appeals for the District of Columbia held that funds collected from pipeline customers had to be "protected" until a final court determination of Tennessee's liability for a state tax.[20] The protection which this Commission finds necessary is a corporate undertaking which gurarantees full refunds upon a court determination that the First Use Tax is unconstitutional.

The interstate pipelines are the appropriate parties to insure that consumers receive full refunds. The interstate pipelines pay the tax, they alone under Louisiana procedures may pay the tax under protest and challenge its validity, and they will receive the refunds if the tax is found unconstitutional (La. Rev. Stat. § 47:1576). If for some reason full refunds are not forthcoming promptly upon a court determination that the First Use Tax is unconstitutional, the pipelines may be the only parties who have standing to challenge such actions.

The Commission has attempted to balance equitably the interests of the pipelines and customers. Pipelines are able to meet their financial obligations because this Commission is reluctantly allowing pipelines to collect the cost of the First Use Tax from their customers. Pipelines incur losses only if Louisiana does not make full refunds plus interest. Most pipelines[21] and several Louisians officials[22] have assured the Commission that this will not occur.

Some pipelines have noted that failure to refund amounts collected under an unconstitutional tax is unlawful.[23] This indicates that pipelines will ultimately prevail in collecting such funds from Louisiana. Pipelines losses, if they materialize, would therefore be limited to interest costs during the time between payment of refunds to their customers and the time Louisians refunds the money. Louisiana may make refunds at only 6% per annum. To the extent interest costs to the pipelines are higher than 6%, pipelines may incur some losses. However, pipeline customers will have incurred similar interest losses throughout the pendency of litigation. If the interest rate on refunds is not increased above the 6% level, pipeline customers may suffer a real and measurable loss, while pipelines suffer a loss only if Louisiana does not promptly make refunds. A corporate undertaking which guarantees full refunds equitably balances the interests and burdens of pipelines and customers.

Order No. 10–B requires refunds "with corresponding interest at the refund interest rate under Louisiana law, but not less than 6% per annum."[24] Six percent per annum is the present interest rate on refunds under Louisiana law. La. Rev. Stat. § 47:1578(A). The Commission believes this rate to be an inadequate interest rate. It is inequitable for a state to make money from an unconstitutional tax. State Representative Tauzin noted the benefit to Louisiana of a 6% interest rate:

> So that the total amount that we might be liable for in the event that we should lose the litigation is available for refund of 6% interest. We are likely to make more than 6% interest on it in investments. We are actually going to probably come out a little bit ahead on it.[25]

In Order 10–B the Commission allowed a higher interest rate if the interest rate was changed "under Louisiana law." This language needs further clarification since the interest rate could be changed by the Louisiana legislature, by Louisiana state courts, or by federal courts. Therefore, the interest rate provision is amended to read: "together with corresponding interest at the rate of 6% per annum or such higher rate established by legislative or judicial determination."

Several pipelines question this Commission's termination of the tracking provisions after final court determination of the constitutionality of the First Use Tax. They claim that they will incur significant losses between the termination date and the filing of their next section 4 rate case. The Commission considers this issue premature, and will address it when it orders termination of the tracking provisions. At that time the Commission will know what further liability, if any, exists for the First Use Tax.

Order No. 10–B required pipelines to "submit such evidence as the Commission shall require in order to determine whether the procedures set out in La. Rev. Stat. § 47:1576 have been complied with."[26] Order No. 10–B did not detail what was required to meet this requirement. Additionally, Order No. 10–B did not require any substantiation that a pipeline was taking "all legal action necessary to enforce contract provisions which could require the other contracting party to pay for the First Use Tax." The Commission therefore amends Order No. 10–B to require pipelines to file with this Commission:

(1) A copy of the complaint filed in Louisiana protesting the constitutionality of the First Use Tax;

Footnotes continued from last page

Law Serv. 480 to be codified as La. Rev. Stat. § 47:1351 (establishes a First Use Tax Trust Fund); (2) Act No. 436, 1978 La. Sess. Law Serv. 842, to be codified as La. Rev. Stat. § 47:647 (allows credits against liability for the Louisiana Severance Tax); (3) Act No. 599, 1978 La. Sess. Law Serv. 1112, to be codified as La. Rev. Stat. § 47:11 (allows credits against Louisiana state and local taxes for electric generating utilities, gas distribution companies, and industrial users of natural gas); and (4) Act No. 797, 1978 La. Sess. Law Serv. 1613 (places on ballot a proposal to amend Louisiana constitution to incorporate therein a First Use Tax Trust Fund).

[2] La. Rev. Stat. § 47:1303(B).

[3] The term "use" is defined broadly as "(1) the sale; (2) the transportation in (Louisiana) to the point of delivery at the inlet of any processing plant; (3) the transportation in (Louisiana) of unprocessed natural gas to the point of delivery at the inlet of any measurement or storage facility; (4) transfer of possession or relinquishment of control at a delivery point in (Louisiana); (5) processing for the extraction of liquefiable component products or waste materials; (6) use in manufacturing; (7) treatment; or (8) other ascertainable action at a point within (Louisiana)." La. Rev. Stat. § 47:1302(6).

[4] Natural gas is subject to the First Use Tax if the natural gas is not subject to any severance or production tax levied by Louisiana or any other state or territory of the United States or is not subject to any import tax or tariff levied by the United States on imports from foreign countries. La. Rev. Stat. § 47:1303(A).

[5] Verbatim Draft Transcript of Hearing on the First Use Tax before the Senate Revenue and Fiscal Affairs Committee, June 26, 1978. ("Transcript") pp. 13–25. See Statements of Mr. Slaton, Mid Continent Oil and Gas Association (pp. 13–18); Mr. A. C. Garner, Jr., Exxon Company U.S.A. (pp. 18–22); and Mr. Truman Woodward, New Orleans law firm of Milling and Benson (pp. 22–25).

[6] The Governor of Louisiana stated: "May I say first that no one and I repeat and emphasize no one can tell you whether the legislation is constitutional or is not constitutional," and Representative Tauzin, author of the legislation, stated: "The reason that we do that [establishment of a trust fund] is the same as the governor said that it is possible and we have got to recognize it, that the courts could rule that we have some constitutional problem with our act." Verbatim Draft pp. 2 and 6.

[7] By order filed January 26, 1979, the district court stayed proceedings in this case pending the outcome of proceedings in *Edwards, et al.* v. *Transcontinental Gas Pipe Line Corp., et al.*, No. 216, 867 (19th Judicial District Court, La., filed September 22, 1978). The Commission appealed this order, *FERC* v. *McNamara*, No. 79–1403 (5th Cir.), and the Fifth Circuit has indicated that these proceedings should be stayed pending further developments in *Maryland, et al.* v. *Louisiana, infra*.

[8] By order entered June 18, 1979, the Supreme Court granted leave to file the original complaint, and directed Louisiana to answer the complaint within sixty (60) days.

[9] La. Rev. Stat. § 47:1306(B).

[10] 43 FR 45553 (October 3, 1978); 43 FR 60438 (December 28, 1978); 44 FR 13460 (March 12, 1979), petitions for review pending *sub nom. Tennessee Gas Pipeline Co., et al.* v. *FERC*, No. 78–3816 (5th Cir.).

[11] In addition to establishing these procedures, the Commission challenged the constitutionality of the First Use Tax. See page 3 and notes 7 and 8, *supra*.

[12] *Arkansas Louisiana Gas Co., et al.*, Docket Nos. RP79–53, RP79–54, *et al.*, "Order Accepting Certain Tariff Sheets, Conditionally Accepting Certain Tariff Sheets and Rejecting Certain Other Tariff Sheets Which Reflect the Louisiana First Use Tax in Pipeline Rates Pursuant to Order Nos. 10, 10–A, and 10–B" issued March 30, 1979 ("March 30 Order").

[13] *Arkansas Louisiana Gas Co., et al.*, Docket Nos. RP79–53, RP79–54, *et al.*, "Order Accepting Revised Tariff Sheets" issued May 9, 1979 ("May 9 Order").

[14] Michigan Wisconsin Pipe Line Company, Natural Gas Pipeline Company of America, Northern Natural Gas Company, Panhandle Eastern Pipe Line Company, Sea Robin Pipeline Company, Southern Natural Gas Company, Tennessee Gas Pipeline Company, Texas Gas Transmission Corporation, Trunkline Gas Company, Transcontinental Gas Pipe Line Corporation, United Gas Pipe Line Company, and Texas Eastern Transmission Corporation.

[15] Order No. 10–B mimeo pp. 4–7.

[16] See 18 CFR 154.67(c).

[17] Tennessee Gas Pipeline Company, Docket No. RP79–52, "Application of Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., For Rehearing and Reconsideration and Motion For Stay Pending Completion of Judicial Review." April 20, 1979.

[18] *E.g., California* v. *Southland Royalty Co.*, 436 U.S. 519, 523–24 (1978).

[19] 221 F. 2d 531 (D. C. Cir. 1954).

[20] The court stated at 532: "In the meantime the funds resulting from the payment of the higher rates should be protected, so that they can be refunded to the company's sole customers in these sales if the ultimate result be to that effect."

[21] Order No. 10–B, pp. 5–6.

[22] *Ibid.*

[23] *See, E.g., United Gas Pipe Line Company and Sea Robin Pipeline Company*, Docket Nos. RP79–44 and RP79–45, "United Gas Pipe Line Company and Sea Robin Pipeline Company's Joint Application for Rehearing and Motion to Stay, April 24, 1979, p. 7.

[24] Order No. 10–B, p. 22, 25–26.

[25] Transcript, p. 6.

[26] Order No. 10–B, p. 21.

(2) A listing of all contracts which contain conditions which could require other parties to pay the First Use Tax and an extraction of the pertinent provisions;

(3) A copy of any complaints filed which would require other parties to pay the First Use Tax;

(4) a report submitted every three months, beginning August 15, 1979, summarizing actions taken with regard to the First Use Tax. These filing requirements will allow the Commission to monitor more effectively pipeline challenges to the First Use Tax.

The Commission is making these amendments effective upon the date of issuance of this order upon a finding that good cause exists to proceed without compliance with the effective date provisions of 5 U.S.C. 553. The amendments to Order 10–B contained herein, reduce the burdens on the pipelines (escrow provisions are deleted); allow the Commission to more effectively monitor pipeline challenges to the First Use Tax, further clarify the refund provisions to protect the pipeline customer, and allow for expeditious court review of Order Nos. 10, 10–A, 10–B, and this order. The Commission, therefore, finds good cause exists to make these amendments effective upon issuance of this order. (Natural Gas Act (15 U.S.C. 717 c, f, o); Administrative Procedure Act (5 U.S.C. 553); Department of Energy Organization Act, (42 U.S.C. 7101, *et seq.*); and E.O. 12009, (42 FR 46267).)

In consideration of the foregoing, the Commission hereby orders that:

(A) The Commission's Order Nos. 10, 10–A, and 10–B and the March 30 Order, are amended and clarified consistent with this order;

(B) Paragraph (N) of the March 30 order is deleted.

(C) Part 154, Chapter I of Title 18, The Code and Federal Regulations, is amended as set forth below, to become effective as of the date of issuance of this order.

PART 154—RATES SCHEDULES AND TARIFFS

1. Section 154.38 is amended by revising paragraph (h) to read as follows:

§ 154.38 Composition of rate schedule.

* * * * *

(h) *Pipeline recovery of the State of Louisiana First Use Tax.* (1) Except as provided in subparagraphs (2), (3), (4), (5) and (6), no pipeline shall be permitted to reflect the costs attributable to the Louisiana First Use Tax in general section 4 rate applications prior to the date the tax is determined to be valid and constitutional by a final and non-appealable court order.

(2) Should a pipeline be required to pay the Louisiana First Use Tax during the pendency of litigation challenging the constitutionality of that tax, the pipeline will be permitted to collect the tax subject to refund if on or before March 15, 1979, it submits an application for tracking which is accompanied by an affidavit signed by an authorized representative stating that the applicant will undertake the procedures set out in La. Rev. Stat. § 47:1576. Upon completion of this requirement the Commission shall waive the filing requirements of § 154.63 and the provision of § 154.38(d)(3) of its regulations in order to permit the pipeline to reflect the tax in its rate by adjusting its rates, to become effective April 1, 1979, subject to refund, to reflect the estimated effect of the Louisiana First Use Tax. The initial amount to be tracked by the pipeline from April 1 through the date of its first adjustment date under the temporary tracking provision shall be based upon volumes estimated to be subject to the Louisiana First Use Tax during that period. The initial rate adjustment shall be calculated on the estimated total system sales for that same period. In order to continue to collect the tax subject to refund, pipelines must, on or before May 30, 1979, submit such evidence as the Commission shall require in order to determine whether the procedures set out in La. Rev. Stat. § 47:1576 have been complied with. Coincident with filing the initial rate adjustment, pipelines shall file temporary tracking provisions to provide for semiannual rate adjustments to coincide with their semi-annual PGAC adjustments. The tracking provisions shall include deferred accounting provisions through use of Account 186, Miscellaneous Deferred Debits, but no carrying charges will be permitted on balances accrued in the deferred account. Pipelines which have elected to recover changes in purchased gas costs through general section 4 rate cases pursuant to § 154.38(d)(4)(ix) may establish a tracking provision, which generally follows the PGA regulation, with any two semi-annual adjustment dates which are six months apart. Pipelines shall keep accurate accounts of all amounts received under this paragraph, specifying when, by whom and in whose behalf such amounts are paid.

(3) All funds collected pursuant to this paragraph are subject to refund. A pipeline agrees to refund, within 60 days of the issuance of a final and non-appealable court order, those payments made on that portion of the first Use Tax found to be invalid, together with corresponding interest at the rate of 6% per annum or such higher rate established by legislative or judicial determination. A pipeline makes this agreement recognizing that it will not be released from this obligation even if the State of Louisiana does not refund the tax payments plus interest to the pipeline.

(4) The pipeline company shall file, on or before March 15, 1979, an undertaking with the Secretary of this Commission to comply with the terms of this paragraph signed by a responsible officer of the company evidenced by proper authority from the Board of Directors and accompanied by a certificate showing service of copies thereof upon the purchasers under the rate schedules to be made effective by motion of the company, and in conformity to the model undertaking below.

AGREEMENT AND UNDERTAKING OF (COMPANY) TO COMPLY WITH THE TERMS AND CONDITIONS OF SECTION 154.38(h) OF THE COMMISSION RULES AND REGULATIONS UNDER THE NATURAL GAS ACT IN RESPECT TO (COMPANY'S) MOTION TO ALLOW RECOVERY OF THE LOUISIANA FIRST USE TAX

In conformity with the requirements of § 154.38(h) of the Commission's rules and regulations under the Natural Gas Act (Company) hereby agrees and undertakes to comply with the terms and conditions of said paragraph of the Commission's rules and regulations and has caused this agreement and undertaking to be executed and sealed in its name by its officers thereupon duly authorized in accordance with the terms of the resolution of its Board of Directors, a certified copy of which is appended hereto this———day of———, 1979.

Company ———

By: ———

Attest: ———

(5) If the pipeline company, acting in conformity with the terms and conditions of the undertaking required by this paragraph, makes the refunds as may be required by Order of the Commission, the undertaking shall be discharged; otherwise it shall remain in full force and effect.

(6) Pipelines shall take all legal action necessary to enforce contract provisions which could require the other contracting party to pay for First Use Tax.

(7) Should a final and non-appealable court order find the tax to be valid, the Commission shall by order terminate the temporary Louisiana First Use Tax tracking provisions, and provide for a final surcharge to clear the balance in the deferred account. The tax thereafter shall be recovered through general section 4 rate filings.

(8) Should a final and non-appealable court order find the tax to invalid, in whole or in part, the Commission shall by order terminate the tracking provisions, and provide that the pipelines shall refund, within 60 days of the issuance of the court order, those payments made on that portion of the tax found to be invalid, together with corresponding interest at the rate of 6% per annum, or such higher rate established by legislative or judicial determination. Pipelines shall make these refunds even if the State of Louisiana does not refund the tax payments plus interest to the pipelines.

(9) Pipelines shall file with this Commission:

(i) A copy of the complaint filed in Louisiana protesting the constitutionality of the First Use Tax;

(ii) A listing of all contracts which contain conditions which could require other parties to pay the First Use Tax and extraction of the pertinent provisions;

(iii) A copy of any complaints filed which would require other parties to pay the First Use Tax;

(iv) A report submitted every three months, beginning August 15, 1979, summarizing actions taken with regard to the First Use Tax.

[FR Doc. 79-24308 Filed 8-6-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 107]

[Docket No. R-79-700]

Fair Housing—Non-Discrimination and Equal Opportunity in Housing Under Executive Order 11063

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT:
Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION:
Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

PART 107—NON-DISCRIMINATION AND EQUAL OPPORTUNITY IN HOUSING UNDER EXECUTIVE ORDER 11063

This prposed rule would prescribe compliance and enforcement procedures to implement E.O. 11063 governing prevention of discrimination in (1) the sale, lease or other disposition of residential property which is Federally-owned, operated or assisted and (2) the practices of lending institutions for Federally-insured or guaranteed loans.

(Sec. 7(o), Department of HUD Act, 42 U.S.C. 3535(o), sec. 324, Housing and Community Development Amendments of 1978.)

Issued at Washington, D.C. July 31, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-24302 Filed 8-6-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 109]

[Docket No. R-79-699]

Fair Housing and Fair Housing Advertising

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT:
Burton Bloomberg, Director, Office of Regulations Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410, (202) 755–6207.

SUPPLEMENTARY INFORMATION:
Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

PART 109—FAIR HOUSING ADVERTISING

This proposed rule would set forth the guidelines integrated into the Fair Housing and Equal Opportunity requirements of HUD's various programs. These guidelines govern advertizing with respect to the sale, rental or financing of residential real estate, and apply to newspaper publishers, real estate firms, banks, building and loan associations, as well as various other individuals or organizations engaged in financing and marketing interests in real estate.

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)); sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. July 31, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-24303 Filed 8-6-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 265]

[Docket No. R-79-698]

Transfer From Nonprofit to Profit-Motivated Ownership for HUD-Insured or HUD-Held Multifamily Housing Projects

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT:
Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410, (202) 755–6207.

SUPPLEMENTARY INFORMATION:
Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

PART 265—TRANSFER FROM NONPROFIT TO PROFIT-MOTIVATED OWNERSHIP FOR HUD- INSURED OR HUD-HELD MULTIFAMILY HOUSING PROJECTS

This proposed rule would set forth procedures for transferring HUD-insured or HUD-held multifamily housing projects from nonprofit to profit-motivated ownership and for satisfactorily meeting the physical, financial and management needs of the project under the transfer.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., July 30, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-24304 Filed 8-06-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 882]

[Docket No. R-79-697]

Section 8 Housing Assistance Payments Program—Existing Housing, Elimination of Rent Reduction Incentive

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING, ELIMINATION OF RENT REDUCTION INCENTIVE

This proposed rule would revise 24 CFR Part 882 to eliminate the rent reduction incentive (Rent Credit) now provided under § 882.115. The Rent Credit has proved to be ineffective in achieving the intended purpose of encouraging families to find units renting below fair market rent levels. Its elimination should help certain increases in Section 8 Existing Housing Program costs and streamline program administration.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., July 30, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-24305 Filed 8-6-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF DEFENSE

[32 CFR Part 41]

[DOD Directive 1332.14]

Enlisted Administrative Separations; Correction

AGENCY: Office of the Secretary of Defense.

ACTION: Extension of comment period.

SUMMARY: Due to the impact of the proposed rule published in the **Federal Register** on June 19, 1979 (44 FR 35248) the Office of the Secretary of Defense is extending the comment period to give interested persons additional time to respond to the proposed rule.

DATE: Written comments received on or before August 14, 1979, will be considered.

ADDRESS: Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), the Pentagon, Room 3C980 Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: LTC Robert D. Chelberg, telephone 202-697-9525.

August 2, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 79-24285 Filed 8-6-79; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 86]

[FRL 1291-5]

Denial of Petition for Reconsideration of Evaporative Hydrocarbon Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of Petition for Reconsideration of 2 gram Evaporative Hydrocarbon Emission Standard for Light-Duty Trucks.

SUMMARY: On October 13, 1978, General Motors Corporation (GM) petitioned EPA for reconsideration of the 2 gram Evaporative Hydrocarbon Emission Standard for light-duty trucks greater than 6,000 lbs. GVWR. It was GM's contention that trucks in this weight class should have a less stringent standard than light-duty vehicles and light-duty trucks less than 6,000 lbs. GVWR. On April 26, 1979, by letter to Thomas M. Fisher, Director of Automotive Emission Control, Environmental Activities Staff, EPA informed GM that it had reviewed the petition and decided to let the rule stand as originally promulgated.

FOR FURTHER INFORMATION CONTACT: Gregory J. Dana (ANR-455), Regulatory Management Staff, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, (202) 755-0596.

The text of the letter follows.

Dated: July 31, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

United States Environmental Protection Agency,

Washington, D.C., April 26, 1979.

Mr. T. M. Fisher,

Director, Automotive Emission Control, Environmental Activities Staff, GeneralCorp., GM Technical Center, Warren, MI.

Dear Mr. Fisher: This letter is in response to General Motors Corporation's "Petition for Reconsideration of the 2 gram Evaporative Emission Standard for 1981 and Later Light-Duty Trucks," dated October 13, 1978. I apologize for not responding sooner. For the reasons stated below, I have decided to deny the petition.

GM contends that there is no basis for EPA's decision that a 2 gram evaporative emission standard is technologically feasible for trucks over 6,000 lbs. GVWR. GM maintains that the evaporative emission performance of light-duty trucks in the 6,001-8,500 lbs. GVWR range cannot be reasonable extrapolated from the performance of light-duty vehicles and that a major reason for this is the difference in the number and size of fuel tanks on light-duty trucks as compared to light-duty vehicles.

We believe there is substantial support for the determination that a 2 gram standard is feasible. The control of evaporative emissions from light-duty trucks can be predicted from the performance of light-duty vehicles by comparing relevant fuel system parameters. We also believe that the capacity of a vehicle's fuel tank or tanks is not a direct indicator of the technically feasible level of evaporative emission control; rather, once a fuel tank has been adequately sealed such that no hydrocarbons escape from it into the atmosphere, the control of fuel tank vapors is dependent on the quantity and configurations of the vapor storage media. Moreover, data from light-duty trucks, most notably data from 1979 emission testing, support our determination. The following data and discussion verify these conclusions.

Information Available Prior to Promulgation of the 2.0 grams per Test (g/test) Standard

The sources of measured evaporative emissions can be grouped into two main areas, non-fuel sources and fuel sources. Fuel sources can also be divided into two main categories, fuel tank evaporation losses during diurnal testing and carburetor distillation losses during the hot-soak test.

The first area of evaporative emissions is non-fuel sources. Some specific sources of non-fuel emissions are vehicle paint, sealers, and sound deadeners. The level of stabilized non-fuel emissions from vehicles is largely dependent on the amount and composition of these materials. Therefore, assuming consistent composition, the amount of non-fuel losses is approximately proportional to the physical size of the vehicle. Since light-duty trucks (LDTs) are not substantially larger than passenger cars, it would not be expected that non-fuel emissions would be substantially different between the two types of vehicles. This conclusion is supported by non-fuel test data on a LDT which was used as a 4,000 mile certification vehicle for the 1978 model year. This vehicle's GVWR is under 6,001 lbs. A series of three tests determined the total non-fuel emission level (during both a simulated diurnal and hot-soak test) to be 0.31 g/test.(1) This is typical of the non-fuel losses from passenger cars. The main difference between LDTs with GVWRs of under and over 6000 lbs. is vehicle suspension components. Since a vehicle's suspension components do not affect evaporative emissions, there is no reason to expect a difference in non-fuel emissions between these two categories.

The second area of emission losses is fuel sources. These losses are so well understood that Patterson and Henein devote Chapter 6 of their book, *Emissions from Combustion Engines and Their Control* (1972), to a discussion of evaporative losses. In conclusion they say, "Because carburetor and fuel tank losses are similar to simple distillation and evaporation processes, established analytical techniques can be used to predict their amount and composition with good accuracy." The generation of fuel evaporative emissions depends upon the fuel system configuration (fuel tank vapor volume, liquid surface area, carburetor fuel volume, etc.) and its relation to its environment (which determines fuel tank(s) and carburetor temperatures). Once these essential factors are known, total fuel evaporative emissions can be estimated "with good accuracy."

The first category of fuel source evaporative emissions is fuel tank evaporation during the diurnal test. There is some developmental evaporative emission test data available on 6,001 to 8,500 lbs. GVWR LDTs. Data on five such vehicles are contained in GM's "Truck Evaporative Emission Development Summary" (May 1, 1978). The average diurnal emission for the listed vehicles, including both fuel and non-fuel losses and excluding data in which the carbon canister was intentionally saturated prior to testing, was 0.62 g/test. This level of diurnal loss is quite consistent with the Ford Motor Company statement that diurnal emissions can be controlled to about 0.5 g/test, almost independent of fuel tank capacity. (2)

The second source of fuel system evaporative emissions from vehicles is carburetor distillation losses during the hot-soak test. Tests have shown that this is usually the largest contributor to the total evaporative emission level. As with diurnal emission data, non-fuel losses are also contained in hot-soak test data. (Of the typical 0.3 gram of non-fuel losses from certification vehicles, about 0.2 gram occurs during the hot-soak test.) The remainder of the hot-soak loss is primarily a result of fuel evaporation in the carburetor. The function of evaporative control systems is to contain and transport these vapors to a vapor adsorption material. Later, these vapors are desorbed and burned during engine operations. Assuming constant gasoline composition, the quantity of vapors that are generated in the carburetor is largely dependent on the amount of gasoline which is in the carburetor and the maximum temperature of this gasoline during the hot-soak test.

As mentioned above, the GM "Truck Evaporative Emission Development Summary" includes evaporative emission tests on five vehicles in the 6,001 to 8,500 lbs. GVWR category. The average hot-soak emission from tests on these vehicles (again omitting tests prior to which the carbon canisters were intentionally saturated) was 1.96 g/test. These vehicles were all equipped with a carburetor which contains a gasoline volume of about 150 cc, and previous information from GM indicates the peak temperature of this gasoline during the hot-soak test ranges from 175° to 195°F. For these carburetor conditions, the measured hot-soak losses were higher than those which would be expected based on results of a test program previously conducted by Exxon Research and Engineering Company.(3) In that Exxon study, the evaporative emission control system of a vehicle which had a carburetor gasoline volume of about 160 cc and a peak hot-soak temperature of 185°F was modified to achieve low evaporative emission levels. From liquid-vapor equilibrium considerations, the amount of vapors generated in this carburetor is approximately equal to that generated in the tests conducted by GM on their 6,001-8,500 lbs. GVWR trucks. The level of measured hot-soak losses from the vehicle modified by Exxon was 1.3 grams, and the total evaporative emission level (diurnal and hot-soak including all non-fuel losses) was 1.9 g/test.

The reason for the higher hot-soak losses from the GM test vehicles as compared to the Exxon modified vehicle could be either higher fuel losses or higher non-fuel losses, or both. The level of non-fuel losses was reported for only one of the GM vehicles; it was 0.75 g/test which is considerably higher than the non-fuel level of the non 1978 certification prepared truck previously mentioned (0.31 g/test). So it appears that higher than "certification level" non-fuel emissions are responsible for at least some of the higher than expected hot-soak emission levels from the GM vehicles. If differences in non-fuel losses are not totally responsible for the difference in hot-soak emissions between the GM vehicles and the Exxon modified vehicle, then it appears with better carburetor sealing and/or vapor storage system design GM can achieve lower hot soak emission levels. In either case, the GM test results do not warrant altering the standard.

Recent Information

Test data recently generated in two separate test programs have reinforced EPA's confidence that the full GVWR range of light-duty trucks can be controlled to a 2.0 g/test evaporative emission level.

One of these test programs is the American Petroleum Institute's study of on-board control of light-duty vehicle refueling losses. This study has demonstrated that a large quantity of fuel tank vapors can be adsorbed in an activated carbon bed during vehicle refueling, with very little hydrocarbon (HC) losss to the ambient air. The quantity of refueling HC was 88 grams for one of the vehicles tested (a 1976 Chevrolet Caprice) and the amount of HC lost to the ambient air during this process was 0.4 grams.(4) Also, the addition of the refueling loss control system to this vehicle did not significantly change its tailpipe emission levels. EPA and General Motors tests have shown that the amount of HC emitted from the fuel tanks of 100 gallon fuel capacity trucks during the diurnal portion of an evaporative emission test is about 50 grams. The recent refueling data, therefore, strongly support the feasibility of controlling diurnal evaporative emissions from vehicles with fuel capacities of at least 100 gallons to a level below 0.5 grams.

In view of the recent experience that Exxon Research and Engineering Company and Mobil Research and Development Corporation have had with refueling and evaporative emission control (Reference 4), EPA asked these two companies to submit any information they had relative to the control of these emissions from higher GVWR rated light-duty trucks. A copy of the EPA request is enclosed as Attachment I. The responses to the request are enclosed as Attachment II (from Exxon) and Attachment III (from Mobil). Although neither of these

companies had included trucks in its test program, Mobil states that a properly designed control system can significantly lower evaporative emissions. The Exxon letter states, "it is my considered opinion that light-duty trucks can be reasonably modified to meet a 2 gram evaporative emission standard and also provide a high degree of control of refueling losses with an on-board control system."

The second recent test program to which I refer is the EPA 1979 model year motor vehicle emission certification program. As of October 20, 1978, EPA had conducted 82 valid certification tests on light-duty trucks in the 6,001–8,500 lbs. GVWR range. The average emission level for these tests was 2.92 grams. (The average level for all light-duty truck tests was 2.80 grams. These figures are for vehicles designed to meet a 6.0 gram/test standard.) In comparison, the average emission level for passenger cars tests (242 tests) was 2.84 grams, less than 0.1 gram difference between the two groups. GM's October 13, 1978 letter showed cumulative frequency distribution graphs of 1978 certification data which compared emissions from trucks having 30 gallons or larger fuel tanks with passenger cars. Attachment IV is a similar graph for 1979 model year certification data. As shown, the two 1979 distributions are very similar; and in fact, a higher percentage of the trucks (47%) met a 2.0 g/test level than did the passenger cars (44%). This would indicate that the control technology required for larger fuel capacity LDTs is not significantly different than that required for LDVs. Also, comparison of the presented 1978 and 1979 truck distributions reveals a considerable improvement in evaporative emission control for large fuel capacity 1979 light-duty trucks as compared to the 1978 model year.

Points Raised By GM

GM claims that EPA takes the position that it is precluded from setting separate evaporative emission standards for vehicles from 6,000 to 8,500 lbs. GVWR based upon the 1976 regulation (41 FR 56316) which redefined light-duty trucks to consist of any vehicle under 8,500 lbs. GVWR. This characterization of EPA's view is incorrect. EPA retains the discretion to treat vehicles in the range of 6,000 to 8,500 lbs. GVWR separately, but has found no reason to deviate from the classification established by the 1976 regulation. GM and other interested parties were given an opportunity to comment on the inclusion of vehicles in the range of 6,000 to 8,500 lbs. GVWR during the earlier rulemaking.

GM further claims that the position EPA has taken is in direct conflict with the 1977 amendments to the Clean Air Act, referencing Section 202(b)(1)(C) and 202(b)(3)(C) of the Act. The apparent contradiction is explained in the preamble to the September 25, 1978 technical amendment (43 FR 43299):

It appears that the Act and the regulation are inconsistent with respect to the classification of 6,000 to 8,500 pound trucks; however, this is not the case. The Act (sec. 202(a)(3) (A)(iv)) permits the Administrator to establish classes or categories of vehicles based on gross vehicle weight, horsepower or other appropriate factors for the purpose of prescribing motor vehicle emissions standards. This provision has been interpreted by the conference committee as permitting the December 28 reclassification as follows: "The recent classification of vehicles between 6,000 and 8,500 pounds as light-duty trucks would continue to be appropriate provided regulations developed for such vehicles conform to this section" (Conference Report, U.S. House of Representatives Report No. 95–564, p. 164).

The principal provision that the 6,000 to 8,500 pound trucks must conform to is that the emission standards for these vehicles be at least as stringent as the heavy-duty vehicle emission standards, that is, representing a 90-percent reduction from the gasoline heavy-duty engine baseline for hydrocarbon and carbon monoxide emissions by 1983, and a 75–percent reduction in NO_x emissions from the same baseline by 1985.

Since no evaporative standard presently exists for vehicles over 8,500 lbs. GVWR, EPA's action is consistent with the Act.

GM notes that in an early EPA test program, three trucks modified to improve evaporative emissions were tested at 2.5, 4.7, and 8.5 g/test level. These test results are claimed to show that a 2 g/test level is not feasible. GM neglects to mention that of the three trucks tested, two were over 8,500 lbs. GVWR. Large heavy-duty trucks have characteristics different from those of trucks under 8,500 lbs.; for example, they often have large fuel tanks which are hung on the side of the vehicle and are exposed to considerably different conditions, such as direct radiant heating, etc., than is the case for fuel tanks in trucks under 8,500 lbs. GVWR. Also, this test program was carried out before production components designed for controlling evaporative emissions in a SHED were available. We believe the more recent certification data mentioned above are more indicative than this experimental data on a broad range of weight classses.

The reference to Ford Motor Company correspondence dated May 1978 is in error in the context used by GM. The Ford document speaks primarily to the higher end of the range of "heavy-duty trucks" as defined in the Act, not to trucks in the 6,000 to 8,500 lbs. GVWR range. This is obvious from the references to a new driving cycle and the purchase and installation of larger dynamometers and SHED facilities. The regulation in question does not propose a new driving cycle, nor does it require extensive new facilities. As discussed above, trucks over 8,500 lbs. GVWR have characteristics significantly different from those under 8,500 lbs. GVWR.

GM cites *International Harvester Co.* v. *Ruckelshaus*, 478 F. 2d 615 (D.C. Cir. 1973), as support for its contention that data from passenger vehicles cannot be utllized to assist in determining the feasibility of light-duty trucks to meet applicable emission standards. In that decision however, the Court held only that light-duty trucks could not be included in the class of "light-duty vehicles" regulated under section 202(b) of the Act and must, instead, be governed by standards promulgated under Section 202(a). The Court did not in any way suggest that data from a given class of vehicles had no relevance in making a determination of feasibility with regard to another class or that such data could not be used for such purposes. *(5)* The two gram evaporative emission regulations applicable to light-duty trucks were promulgated under section 202(a), consistent with the decision in *International Harvester.*

Conclusion

The above information, in combination with the fact that the evaporative emission deterioration factor for most manufacturers is 0.00, demonstrates the technical feasibility of certifying 6,001–8,500 lbs. GVWR trucks (including optional fuel capacity configurations) to a 2.0 g/test evaporative emission standard. Accordingly, I believe no useful purpose would be served by reconsidering the decision which established the 2.0 g/test standard for these vehicles.

Sincerely yours,

Douglas M. Costle

Attachments.

References

1. "Ford Motor Company Proposed Test Procedures for Determination of Evaporative Emissions from Heavy-Duty Vehicles," Attachment 10, submitted to EPA at March 17, 1978 meeting (sent to General Motors on June 13, 1978 in response to its May 23, 1978 Freedom of Information Act request).

2. Memoranda from Michael W. Leiferman to the File, "Discussions with Ford Motor Company and Chrysler Corporation Concerning the Feasibility of Controlling Evaporative Emissions from Light-Duty Trucks (0–8,500 lbs. GVWR) to a 2.0 g/test Standard for the 1981 Model Year," March 22, 1978 (identified in June 13, 1978 letter from EPA to General Motors as being available in the public docket).

3. "Investigation and Assessment of Light-Duty Vehicle Evaporative Emission Sources and Control," P. J. Clarke, Exxon Research and Engineering Company, EPA Report No. 460/3–76–014, June, 1976 (identified in June 13, 1978 letter from EPA to General Motors as being available in the public docket).

4. "On-Board Control of Vehicle Refueling Emissions; Demonstration of Feasibility," API Publication No. 4306, October, 1978.

5. See *Portland Cement Association* v. *Ruckelshaus*, 486 F.2d 375, 389 (D.C. Cir. 1973) (technology used in one industry may have a bearing on the technological capability of another to comply with standard).

Attachment I

October 18, 1978.

Hugh Shannon, *Exxon Research and Engineering Co., Linden, NJ 07036.*

Dear Mr. Shannon: This is a follow-up to our discussions of this past summer regarding the feasibility of controlling refueling emissions on-board vehicles. In particular, we discussed the feasibility of controlling refueling emissions and eveporative emissions at the two gram per test standard for larger light duty trucks (i.e. 6000–8500 lbs GVWR) with large or multiple fuel tanks. As you probably recall, this was in conjunction with our technical review of the contract work you are doing for API.

During those discussions, I recall you responding that the basic vapor (evaporative and refueling) control technology was being demonstrated with the test vehicles (light duty vehicles) and that the application of that technology to other vehicles, including the higher GVW rated light trucks with large or multiple fuel tanks, was just a matter of sealing vapor leaks and sufficient vapor storage capacity (canister size and design) to contain the generated and/or displaced vapors. Even with consideration of this rationale, I encouraged you to try to work such a light duty truck into your demonstration efforts.

Since it has been some time now since those discussions, this letter is to request any test data which you may have been able to generate in this area. If it has not been possible to build up additional demonstration vehicles, it is requested that you specifically address this issue based on the experience you have attained. If you believe that such light duty trucks can be reasonably made to comply with the two gram evaporative emission standard *and* substantially control refueling losses, please so state and provide a supporting analysis. If it is your judgment that such is not the case, a clear expression of this position and your rationale would also be appreciated. We have already provided the EPA "refueling working group" with our first-draft analysis. Since this was a weak area in our analysis, we would appreciate your response by November 1, if possible, so as to allow us an opportunity to expand our input to the Agency's decision regarding refueling emission control.

Sincerely yours,

Charles L. Gray

Division Director, ECTD.

cc. Edward P. Crockette,

American Petroleum Institute.

Attachment II

Exxon Research and Engineering Co., Linden, N.J., October 30, 1978.

Evaporative and Refueling Loss Control of Light Duty Trucks; Ref. No.: 78PR 853.

Mr. Charles L. Gray, *Division Director, Emission Control Technology Division, United States Environmental Protection Agency, Ann Arbor, Mich.*

Dear Mr. Gray: This letter is written in response to your letter of October 18. We have not equipped a light duty truck (6000–8500 lbs. GVWR) with an on-board refueling loss control system. In the absence of data on such a system, I can only extrapolate our experience with regard to evaporative and refueling controls.

In modifying three 1978 California vehicles to control refueling losses, we saw improved control of evaporative emissions in each case.

Summary of Evaporative Control

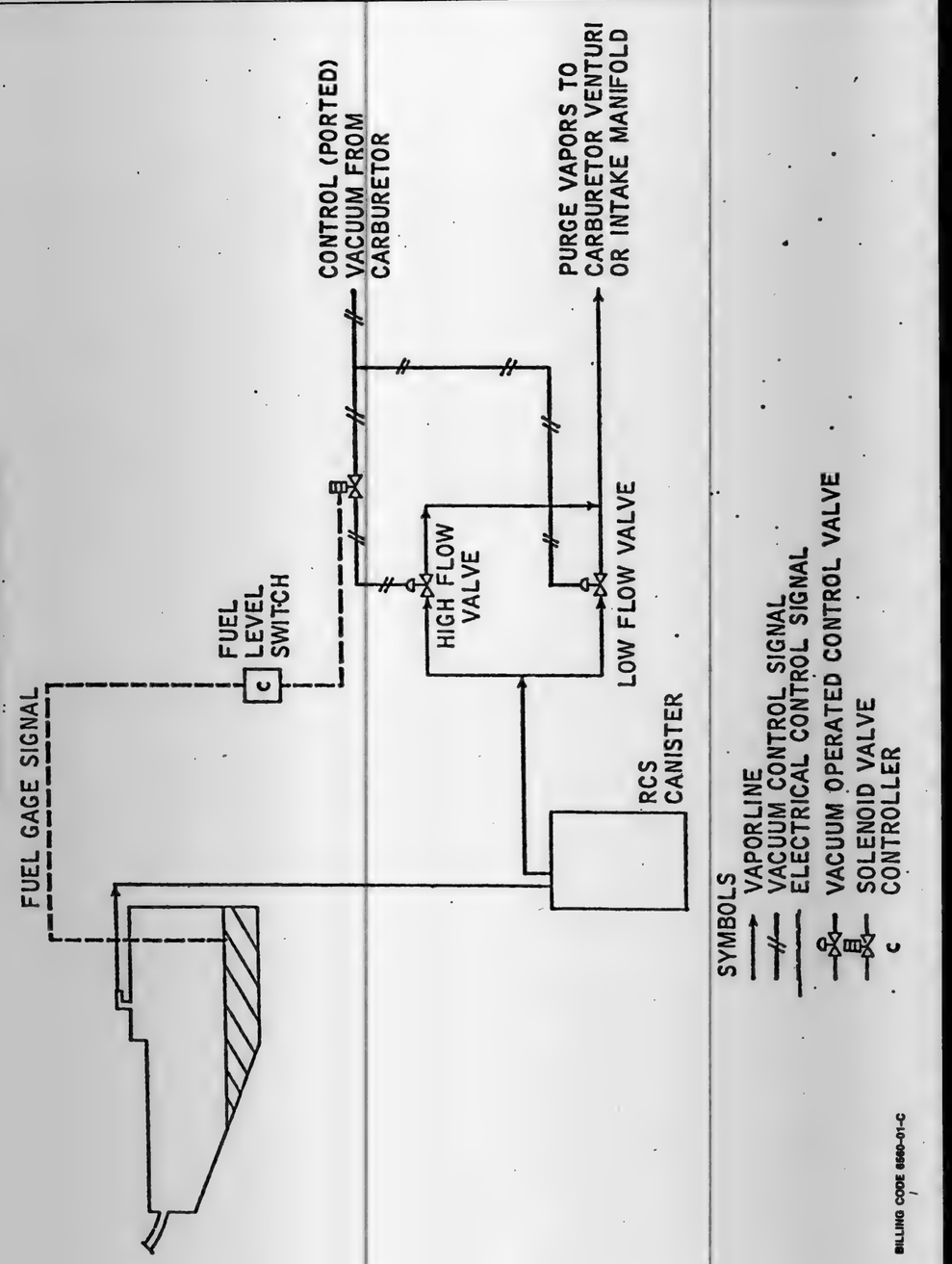
	Hydrocarbons, grams [1]		
	Diurnal	Hot Soak	Total
Caprice			
Base [2]	0.8	2.1	3.4
Modified	0.3	1.0	1.3
Pinto			
Base [2]	1.0	2.5	3.5
Modified	0.3	1.2	1.5
Chevette			
Base	0.8	2.6	3.4
Modified	0.3	1.2	1.5

[1] Average of 3 or more runs for *all* data.
[2] High levels due in some part to background which was corrected for the later runs.

BILLING CODE 6560-01-M

FIGURE 1

TWO-STAGE PURGE CONTROL SYSTEM



BILLING CODE 6560-01-C

Attachment III

Mobil Research and Development Corp., October 30, 1978.

Vapor Control Technology for Light-Duty Trucks

Mr. Charles L. Gray, *Division Director, Emission Control Technology Division, United States Environmental Protection Agency, Ann Arbor, Mich.*

Dear Mr. Gray: Your letter of October 18 requested information we might have developed on the scale-up of on-board refueling vapor control technology from light-duty vehicles to higher GVW rated light trucks with large or multiple fuel tanks.

We have been unable to include in our on-board refueling control program any vehicle other than the passenger car already reported in our October 2, 1978 report to the American Petroleum Institute (That report was forwarded to EPA by API on October 6). We are therefore unable to provide you with test data concerning other vehicles. we believe, however, that several relevant conclusions can be drawn from the results presented in our October 2, 1978 contractor report to the API and in the reports of API's other contractors. The pertinent areas are discussed below.

Refueling Emissions

Control of refueling emissions involves two main functions—collecting the vapors efficiently, and purging the stored vapor into the engine to be burned.

Hydrocarbon vapor collection over activated carbon is a well-established technology. The Exxon and Mobil demonstration vehicles clearly show that neither the amount of hydrocarbon vapor released from the tank during refueling nor the rate of its release pose any serious technological problem. Larger amounts of hydrocarbon vapor, such as from a vehicle with multiple tanks, can be handled with larger carbon beds, although the design of these carbon beds may vary, the technology is the same.

The Mobil demonstration vehicle, a 1978 Pontiac Sunbird, has a fuel tank capacity of 18.5 gallons. Table 4, Tests 21 and 22, of our October 2, 1978 report to the API, show a double refueling using 11 RVP fuel. The vehicle was refueled (90%) during Test 21, then the tank was drained and the vehicle was refueled again without purging the canister. The combined control efficiency for the two refuelings was 96.7%. The fuel added during both refuelings was 34.5 gallons, which is equivalent to a 90% refueling of a 38 gallon tank. This excellent control efficiency under conditions for which the system was not designed demonstrates that canister scale-up problems would not be serious.

The relative ease of purging the collected hydrocarbons without adversely affecting exhaust emissions should be primarily a function of the ratio between fuel tank size and engine displacement for engines using similar exhaust emission controls. For the Sunbird, this ratio is 0.123 gal./cu. in. A truck with a 350 cm engine having the same ratio of tank size to engine displacement would have a 43 gallon fuel tank. Thus, the 18.5 gallon Sunbird tank and the 43 gallon truck tank are equivalent with respect to purging refueling canisters.

Because the 18.5 gallon Sunbird tank and the 43 gallon truck tank represent equivalent cases, the double refueling of the Sunbird tank corresponds to a single refueling of an 87 gallon truck tank. Purging the vapor from an 86 gallon tank would be done over twice the mileage required for the smaller tank, but the purge rate would not have to be increased over that used in our demonstration car.

Although these limited data do not prove feasibility, they indicate that large or multiple tanks on trucks should not pose fundamentally different problems than single passenger car tanks.

Evaporative Emissions

Evaporative emissions from our test car were 2 grams per test both before and after installation of the on-board refueling system. In their October 2, 1978 report, Exxon presented evaporative emissions test results on three 1978 cars—a Chevrolet Caprice, a Ford Pinto, and a Chevrolet Chevette. All three cars gave less than 2 grams in evaporative emissions tests with the on-board refueling system installed. The Chevette showed a substantial decrease in evaporative emissions—from an average of 3.4 grams per test to an average of 1.5 grams per test—with the on-board refueling control system.

These data clearly show that a properly designed on-board refueling control system does not increase, and can significantly lower, evaporative emissions. These data were obtained under severe test conditions with the refueling canisters at or near saturation before vehicle preconditioning. In the field, a saturated canister could occur only immediately after a very severe refueling. At all other times, the canister would contain less than the maximum amount of hydrocarbon, and control of evaporative emissions should be better than indicated in the contractor reports.

I hope these comments will be helpful to you. If I can be of further assistance, please let me know.

Very truly yours,

W. J. Koehl,

Project Leader.

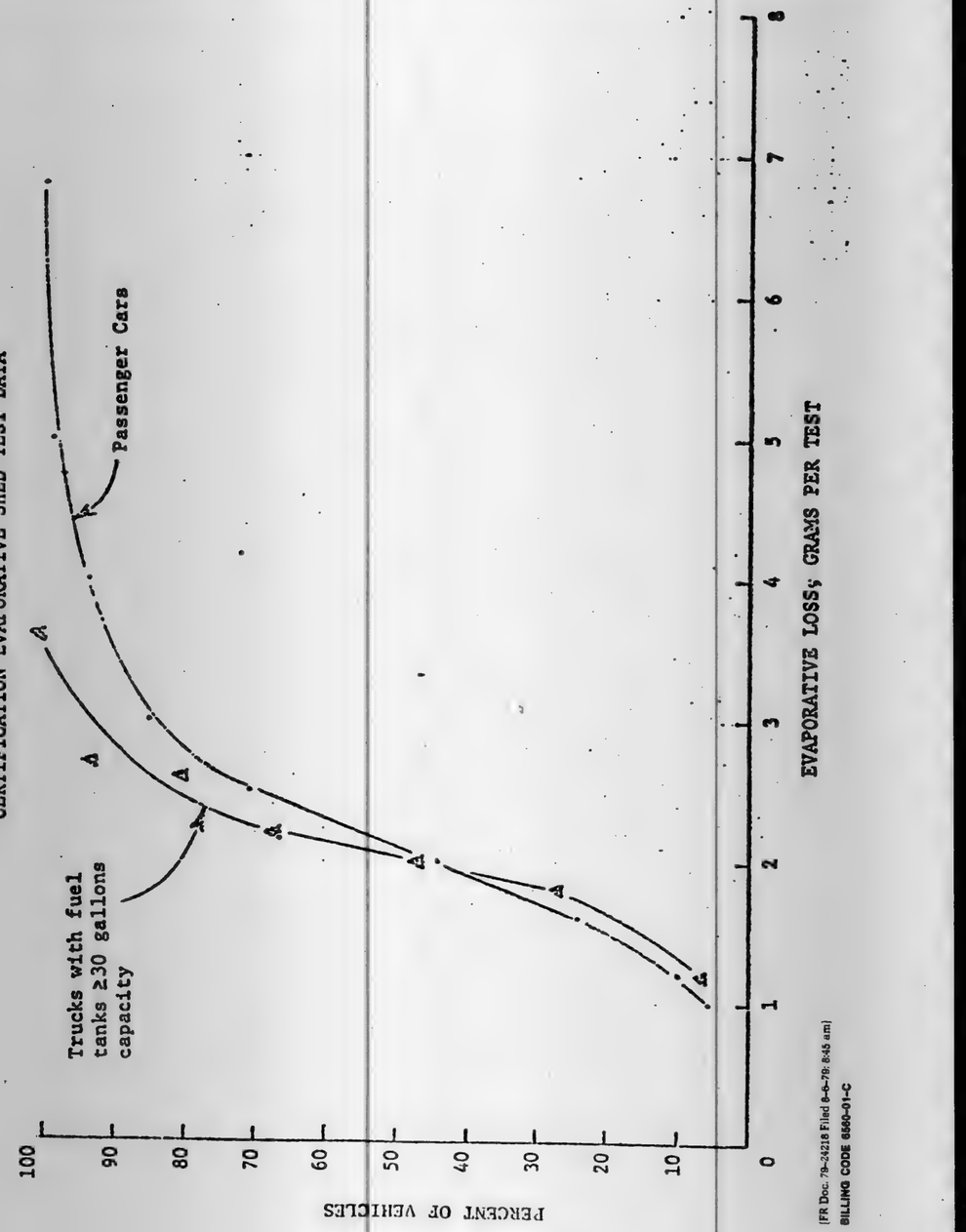
cc: E. P. Crockett—API,

On-board Refueling Task Force Members.

BILLING CODE 6560-01-M

Attachment IV

CUMULATIVE FREQUENCY DISTRIBUTION OF EPA 1979 CERTIFICATION EVAPORATIVE SHED TEST DATA



[FR Doc. 79-24218 Filed 8-6-79; 8:45 am]
BILLING CODE 6560-01-C

[40 CFR Part 162]

[FRL-1265-; OPP-30029]

Pesticide Use Restrictions

Correction

In FR Doc. 79-23614 appearing at page 45218 in the issue for August 1, 1979, an omission was made in the table given in § 162.31 which begins on page 45222. The following entries should be inserted at the end of the table on page 45224:

BILLING CODE 1505-01-M

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION[2]	CRITERIA INFLUENCING RESTRICTION
TEMBUFOS	Granular formulations 15% and greater	All non-domestic	Restricted	Acute oral toxicity Acute dermal toxicity Residue effects on avian species
ZINC PHOSPHIDE	All formulations 2% and less	All domestic uses and non-domestic uses in and around buildings	Unclassified	
	All dry formulations 60% and greater	All uses	Restricted	Acute inhalation toxicity
	All bait formulations	Non-domestic outdoor uses (other than around buildings)	Restricted	Hazard to non-target organisms
	All dry formulations 10% and greater	Domestic use	Restricted	Acute oral toxicity

* * * * *

2/ "Under evaluation" means no classification decision has been made and the use/formulation in question is still under active review within EPA.

BILLING CODE 1505-01-C

GENERAL SERVICES ADMINISTRATION

Automated Data and Telecommunications Service

[41 CFR Part 101-36]

ADP Management; Annual Validation of COBOL Compilers

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Compiler Testing Center (FCTC), operated by GSA, performs validations, using a set of test routines called the COBOL Compiler Validation System (CCVS) to determine the degree to which COBOL compilers conform to Federal Information Processing Standards Publication (FIPS PUB) 21-1, Federal Standard COBOL. Previously, validations were performed upon request, usually in conjunction with specific procurements. The General Services Administration proposes to revise the validation requirement to specify that vendors shall submit annual requests to the FCTC for testing COBOL compilers. This proposed change is intended to provide a disciplined, predictable, and efficient framework for testing and validating these compilers.

DATE: Comments must be received on or before October 9, 1979.

ADDRESS: Written comments should be sent to the General Services Administration (CPEP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: L. Perlman, Procurement Policy and Regulations Branch, Policy and Evaluation Division (202-566-0834).

SUPPLEMENTARY INFORMATION: The previous procedure of performing compiler validations in connection with specific procurements needs to be changed for the following reasons: To preclude the possibility of jeopardizing the integrity of procurements by revealing information that could indicate potential bidders; to better determine on a Government-wide basis which compilers, if any, are in default of the provisions of the FPMR requiring that deviations be corrected within 12 months of contract award; and to ensure that the most recent release of a compiler is tested. On September 1, 1978, the former Federal COBOL Compiler Testing Service (FCCTS), now the Federal Compiler Testing Center (FCTC), sent new compiler validation procedures to industry representatives for review. These procedures specified that annual validations would be performed and that requests for validations outside the annual process or in conjunction with specific procurements would only be performed on a lower priority, time-available basis. On the basis of subsequent evaluation of industry comments, the FCCTS issued revised procedures and began an annual validation system in January 1979. These procedures are reflected in this proposed regulation.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Therefore, GSA proposes to amend Part 101-36 as follows:

Subpart 101-36.13—Implementation of Federal Information Processing and Federal Telecommunications Standards Into Solicitation Documents

Section 101-36.1305-1 is amended by adding a new paragraph (c)(3), by revising and renumbering current paragraphs (c)(3) through (c)(7), and by revising paragraph (i) of the clause prescribed in paragraph (d) as follows:

§ 101-36.1305-1 FIPS PUB 21-1, Federal Standard COBOL.

* * * * *

(c) * * *

(3) Validations will be conducted annually for each requesting vendor as specified in the official Compiler Validation Procedures prepared by the Federal Compiler Testing Center (FCTC). (Recertification of a previous annual validation may be substituted if no errors were identified during that previous annual validation and if no changes have been made to the compiler, its supporting system software, of the CCVS in the interim). This annual validation process is intended to reduce or eliminate the need for separate validations associated with individual agency procurements.

(4) Requests for validations and questions pertaining thereto should be sent to: General Services Administration (CFT), Washington, DC 20405.

(5) When a request for validation service requires that compiler testing be performed, the requester is responsible for providing the necessary test facilites.

(6) In response to a request for validation service, the FCTC will conduct a validation test using the CCVS and will provide a Validation Summary Report (VSR) summarizing the test results.

(7) Validation is performed on a cost-reimbursable basis. The FCTC will send the requester an estimate of validation costs for approval before beginning the validation process.

(8) Unresolved questions and/or any ambiguities that arise during compiler testing and are identified by the FCTC or by the requester shall be referred to the National Bureau of Standards in accordance with FIPS PUB 29.

(d) * * *

Validation of COBOL Compilers

* * * * * *

(i) Certify in the proposal that all COBOL compilers offered in response to this solicitation have been submitted for validation as set forth in FPMR 101-36.1305-1(c) or have been previously validated and are listed in the latest FCTC Certified Compiler List. Proof of submission for validation must be provided in the form of a letter from the FCTC containing identification of the compiler and scheduled date of validation. Proof of current validation must be provided upon agency request in the form of a Certificate of Validation from the FCTC.

* * * * * *

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: August 1, 1979.

Frank J. Carr,

Commissioner, Automated Data and Telecommunications Service.

[FR Doc. 79-24288 Filed 8-6-79; 8:45 am]

BILLING CODE 6820-25-M

Notices

Federal Register
Vol. 44, No. 153
Tuesday, August 7, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Horse Protection Act; Disqualification of Certain Individuals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Disqualification.

PURPOSE: This notice is to advise the general public and the horse industry of the disqualification of the following individuals, under section 6(c) of the Horse Protection Act, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for the periods indicated:

Howard Roberts, Howard Roberts Stables, Lewisburg, TN 37091.

1. Effective September 2, 1979, Howard Roberts is disqualified, as provided in section 6(c) of the Act, as amended (15 U.S.C. 1825(c)), for a period of 18 months as follows:

(a) For a period of 12 months, from September 2, 1979, through September 1, 1980, Howard Roberts is disqualified from (i) showing, exhibiting, or entering for the purpose of showing or exhibiting any horse at any horse show or exhibition, and (ii) taking part or otherwise participating in the judging or managing of any horse show, horse exhibition, or horse sale or auction.

(b) For a period of 6 months thereafter, from September 2, 1980, through March 1, 1981, Howard Roberts is disqualified specifically and only from showing, exhibiting, or entering for the purpose of showing or exhibiting any horse.

David Polk, 4924 Hampton Road, Clemmons, NC 27012.

David Polk is disqualified as provided for in section 6(c) of the Act, as amended (15 U.S.C. 1825(c)), for the period of 1 year from June 1, 1979, through May 31, 1980, from (a) showing, exhibiting, or entering for the purpose of showing or exhibiting any horse at any horse show or exhibition, and (b) taking part or otherwise participating in the judging or managing of any horse show, horse exhibition or horse sale or auction.

SUPPLEMENTARY INFORMATION: Section 6(c) of the Act states in relevant part that, ". . . any person . . . may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of not less than one year for the first violation and not less than five years for any subsequent violation. Any person who knowingly fails to obey an order of disqualification shall be subject to a civil penalty of not more than $3,000 for each violation. Any horse show, horse exhibition, or horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or horse sale or auction in violation of an order shall be subject to a civil penalty of not more than $3,000 for each violation. . . ."

This will serve as notification to the general public and the horse industry that the above individuals have been disqualified, as indicated, and that allowing any disqualified person to participate in any prohibited activity during the period of disqualification, is a violation of section 6(c) of the Act and is subject to the penalties indicated therein.

Done at Washington, D.C. this 1st day of August, 1979.

E. A. Schilf,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-24204 Filed 8-6-79; 8:45 am]

BILLING CODE 3410-34-M

Office of the Secretary

Soil and Water Resources; National Public Briefings

Pursuant to the Soil and Water Resources Conservation Act (RCA), Pub. L. 95–192, the U.S. Department of Agriculture (USDA) is appraising the Nation's soil, water, and related resources, developing a national soil and water conservation program, and preparing a statement of national policy concerning these resources.

Two national public briefings will be held in Washington, D.C., to involve the public in the development of soil and water conservation objectives, alternative strategies, and decision criteria before draft RCA documents are completed. Interested individuals and representatives of organizations are invited to attend, ask questions, and comment on the objectives and strategies being considered.

The briefings will be held at 1:30 p.m. on Wednesday, August 22, 1979, and Friday, September 14, 1979 in Room 218–A, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250. M. Rupert Cutler, Assistant Secretary for Natural Resources and Environment, will conduct the briefings.

For further information about these briefings, contact Ernest V. Todd, RCA Manager, U.S. Department of Agriculture, Washington, D.C. 20013, phone 202–447–2771.

(Pub. L. 95–192, 91 Stat. 1407, 16 U.S.C. 2001 et seq. (November 18, 1977).)

Dated: August 2, 1979.

M. Rupert Cutler,

Assistant Secretary.

[FR Doc. 79-24274 Filed 8-6-79; 8:45 am]

BILLING CODE 3410-01-M

Rural Electrification Administration

Dairyland Power Cooperative; Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with the proposed release of loan funds by the Rural Electrification Administration to Dairyland Power Cooperative of La Crosse, Wisconsin, to finance the construction of approximately 28 miles of 161 kV transmission line from Genoa, Wisconsin, to Lansing, Iowa.

Additional information may be secured on request, submitted to Mr. Joseph S. Zoller, Assistant Administrator—Electric, Rural Elecrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., or at the borrower address indicated above.

Final REA action with respect to this matter may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after requirements set forth in the National Policy Act of 1969 have been met.

Dated at Washington, D.C. this 25th day of July 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-24311 Filed 8-6-79; 8:45 am]

BILLING CODE 3410-15-M

Science and Education Administration

Executive Committee of the Joint Council on Food and Agricultural Sciences; Amended Meeting

AGENCY: Science and Education Administration.

SUMMARY: The Executive Committee of the Joint Council on Food and Agricultural Sciences, which was established by Section 1407 of the Food and Agriculture Act of 1977 (Public Law 95–113), has changed the date of its meeting from August 13 to August 17, 1979.

All other items regarding this meeting remain the same as announced in the **Federal Register** on July 27, 1979 (44 FR 44202).

FOR FURTHER INFORMATION CONTACT: Dr. J. C. Torio, Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C. this 2nd day of August 1979.

James Nielson,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 79-24312 Filed 8-6-79; 8:45 am]

BILLING CODE 3410-03-M

Arms Control and Disarmament Agency General Advisory Committee; Cancellation of Meeting

Notice is hereby given that the meeting of the General Advisory Committee scheduled to be held on August 9, 1979 and August 10, 1979 at 2201 C Street, NW, Washington, D.C., as published in the **Federal Register** on July 26, 1979 (44 FR 43757), has been cancelled.

Dated: August 1, 1979.

Charles R. Oleszycki,

Advisory Committee Management Officer

[FR Doc. 79-24261 Filed 8-6-79; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Order 79–8–4; Docket 35225]

Allarco Developments Ltd., Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order To Show Cause: Order 79–8–4.

SUMMARY: The Board proposes to approve the following application:

Applicant: Allarco Developments Ltd., (Docket: 35225).

Application Date: April 4, 1979.

Authority Sought: Transfer of a foreign air carrier permit from International Jet Air Ltd. to Allarco Developments Ltd.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than August 24, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, The Department of Transportation, the Department of State, and the Ambassador of Canada. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Docket 35225, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Allarco Development Ltd., c/o Gallard, Kharasch, Calkins and Short, Attention: Arthur D. Bernstein, Dale C. Andrews, 1054 31st Street, NW., Washington, D.C. 20007.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Mike McCann, Legal Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5035.

By the Civil Aeronautics Board: August 1, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-24281 Filed 8-6-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79–8–5]

Dallas/Ft. Worth-Tulsa Nonstop Air Route Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–8–5.

SUMMARY: The Board is proposing to grant Dallas/Ft. Worth-Tulsa nonstop air route authority under Section 401 of the Federal Aviation Act of 1958, as amended, to Texas International Airlines, Continental Air Lines and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than September 5, 1979, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than August 21, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 34275, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:
Raymond Cooper, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5328.

SUPPLEMENTARY INFORMATION:
Objections should be served upon the following persons: American Airlines, Texas International Airlines and Continental Air Lines.

The complete text of Order 79–8–5 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–8–5 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: August 1, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79–24283 Filed 8–6–79; 8:45 am]
BILLING CODE 6320–01–M

[Order 79–8–6; Docket 36276]

Gravenhurst Aviation Limited; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79–8–6.

SUMMARY: Docket 36276. The Board proposes to cancel the foreign air carrier permit issued to Gravenhurst Aviation Limited pursuant to Order 75–2–25. The permit authorizes Gravenhurst to operate small aircraft charters between the United States and Canada. The Government of Canada has withdrawn the carrier's designation to the United States and has revoked its Canadian operating authority.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be canceled as described in the order cited above, shall, NO LATER THAN August 27, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to Gravenhurst, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and cancel the foreign air carrier permit issued to Gravenhurst Aviation Limited.

ADDRESSES FOR OBJECTIONS:
Docket: 36276, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.
Gravenhurst Aviation Limited, P.O. Box 639, Gravenhurst, Ontario, Canada.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington. D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT:
Nancy L. Pitzer, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board—(202) 673–5104.

By the Civil Aeronautics Board: August 1, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79–24282 Filed 8–6–79 8:45 am]
BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 10(a)(2) (1976), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, August 14, 1979, at 9:30 a.m. in Room 15461, the Federal Building, 450 Golden Gate Avenue, San Francisco, California.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409, that the matters to be discussed during the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances. This meeting is called on short notice because of the need to obtain and consider the Committee's advice on proposals to revise the multilateral COCOM control list prior to the anticipated beginning of negotiations on October 1979.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the **Federal Register** on September 14, 1978 (43 FR 41071).

For further information, contact Ms. Margaret Cornejo, Policy Planning Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202–377–2583.

Dated: August 2, 1979.

Kent N. Knowles,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79–24361 Filed 8–6–79; 8:45 am]
BILLING CODE 3510–25–M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Change in Meeting

The meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee scheduled for Tuesday, August 14, 1979 at 1:00 p.m. has been rescheduled for August 14, 1979 at 9:00 a.m. in Room 15022, the Federal Building, 450 Golden Gate Avenue, San Francisco, California. The agenda and other information relating to the Committee meeting, as published in the **Federal Register** (44 FR 44590) on Monday, July 30, 1979, remain unchanged.

Dated: August 3, 1979.

Kent Knowles,
Director, Office of Export Administration, Bureau of Trade Regulation.

[FR Doc. 79–24356 Filed 8–6–79; 8:45 am]
BILLING CODE 3510–25–M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Meeting Cancellation

Pursuant to the provisions of Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice was published in 44 FR 44591 on July 30, 1979, that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee would be held on August 14, 1979. This is a notice that the meeting has been cancelled.

Date: August 3, 1979.

Kent Knowles,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79–24355 Filed 8–6–79; 8:45 am]
BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council, Scientific and Statistical Committee, and Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), and the Council has established a Scientific and Statistical Committee (SSC) and an Advisory Panel (AP). Joint and separate meetings will be held on August 22–24, 1979.

DATES: The Council meeting will convene on Thursday, August 23, 1979, at 8:30 a.m. and will adjourn on Friday, August 24, 1979, at 5 p.m. in Kensi/Aleutian Rooms of the Anchorage/Westward/Hilton Hotel, 3rd and E Streets, Anchorage, Alaska. The SSC meeting will convene on Wednesday, August 22, 1979, at 9 a.m. and will adjourn at 5 p.m. in the Council Conference Room, 333 West Fourth Avenue, Post Office Mall Building, Anchorage, Alaska. The AP meeting will convene on Wednesday, August 22, 1979, at 9:30 a.m. and will adjourn at 5 p.m. in the Kenai Room of the Anchorage/Westward/Hilton Hotel, 3rd and E Streets, Anchorage, Alaska. The meetings may be lengthened or shortened depending on the progress of the agenda. The meetings are open to the public.

FOR FURTHER INFORMATION CONTACT:
North Pacific Fishery Management Council, Post Office Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Proposed Agendas follow:

Council

A new format for conducting the Council meeting will be used. On Thursday, August 23, 1979, from 8:30 a.m. to 11 a.m., regular Council business and reports will be heard: the Executive Director's Report, Alaska Department of Fish & Game reports (ADF&G), National Marine Fisheries Service (NMFS), and U.S. Coast Guard reports (USCG). A public comment period will be held from 11 a.m. to 12 noon and 1:30 p.m. to 5 p.m. On Friday, August 24, 1979, from 8:30 to 5 p.m. the remaining agenda items will be discussed by the Council; each item prefaced by reports from the SSC and AP, with comments allowed by the public. These agenda items are: (1) A Report on the Socioeconomic Data needs of the Fishery Management Plans (FMP's); (2) Incidental Species; (3) A reciprocal U.S./U.S.S.R. Fishing Agreement; (4) Business related to Council contracts; (5) Council FY–80 Budget and NMFS FY–82 Budget; (6) Bering Sea and Aleutian Islands Groundfish FMP; approval of a salmon-savings, time/area closure amendment, and Domestic Annual Harvest (DAH)/Reserve amendment; (7) Tanner Crab FMP; approval of an amendment to extend the plan into 1980, a discussion of the early indicators of Optimum Yield (OY), DAH, and Total Allowable Level of Foreign Fishing TALFF) in the Bering Sea, and a progress report of the 1979 fishery; (8) Gulf of Alaska Groundfish FMP; approval of an amendment to extend the plan into 1980; approval of an amendment package covering various OY's, the DAH concepts, provisional joint venture-related time/area concepts, and others; (9) Bering Sea Herring Draft FMP; first Council review of this plan; and (10) Other Council-related business.

Scientific and Statistical Committee

(1) Tanner Crab FMP revisions; (2) Bering Sea Herring Draft FMP review; (3) Gulf of Alaska Groundfish FMP with particular reference to changes in the OY's; (4) King Crab Draft FMP; (5) SSC Membership; (6) Proposal entitled "Biometrical Analysis of Southeastern Alaska Troll Fishery Data." (7) Socioeconomic Data needs; and (8) Other Council-related business.

Advisory Panel

(1) Tanner Crab FMP amendments plus a report from the AP subcommittee on methods of fine-tuning the DAH, and extension of the Tanner Crab FMP through 1980; (2) Amendments to the Gulf of Alaska Groundfish Fishery FMP for 1980; (3) Bering Sea and Aleutian Islands Groundfish FMP preliminary approval of an amendment on salmon savings time/area closures, and DAH/Reserve issues; (4) Incidental Species Report; (5) Business related to Council contracts; (6) A reciprocal U.S./U.S.S.R. Fishing Agreement; (7) Review of the Bering Sea Herring Draft FMP; and (8) Other Council-related business.

Dated: August 1, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79–24236 Filed 8–6–79; 8:45 am]
BILLING CODE 3510–22–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing polices of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of

Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT–APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and others technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, SW., Washington, D.C. 20324

Patent application 6,000,240: Instantaneous Frequency Measurement (IFM) Receiver with Capability to Separate CW and Pulsed Signals; filed December 22, 1978.
Patent application 6,002,280: Foolproof Timing Mechanism; filed Janaury 10, 1979.
Patent application 6,005,885: Radar Sensitivity Time Control Using Range Gated Feedback; filed January 23, 1979.
Patent application 6,008,144: Doubly Adaptive CFAR Apparatus; filed January 31, 1979.
Patent application 4,140,225: Sheet Material Storage Rack; filed July 29, 1977, patented February 20, 1979. Not available NTIS.
Patent application 4,140,592: Gas Bearing Surface Coating; filed March 30, 1978, patented February 20, 1979. Not available NTIS.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, D.C. 20545

Patent application 841,068: Solar Collector Cover Plate; filed October 11, 1977.
Patent application 880,247: Composition and Method for Collecting Radioiodine; filed February 22, 1978.
Patent application 901,048: Method and Apparatus for Improved Optoacoustic Spectroscopy; filed April 28, 1978.
Patent application 4,072,501: Method of Producing Homogeneous Mixed Metal Oxides and Metal—Metal Oxide Mixtures; filed April 13, 1977, patented February 7, 1978. Not available NTIS.
Patent application 4,086,912: Methods for Minimizing Plastic Flow of Oil Shale During In situ Retorting; filed June 6, 1977, patented June 27, 1978. Not available NTIS.
Patent application 4,089,515: Fabrication of Trough-Shaped Solar Collectors; filed June 29, 1977, patented July 11, 1978. Not available NTIS.
Patent application 4,114,592: Cylindrical Radiant Energy Direction Device with Refractive Medium; filed August 16, 1976, patented September 19, 1978. Not available NTIS.
Patent application 4,115,632: Method of Preparing Electolyte for Use in Fuel Cells; filed May 5, 1977, patented September 19, 1978. Not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent application 6,008,997: Protected Calcium Anode In Molten Nitrates; filed February 5, 1979.
Patent application 6,008,998: Non-Flashing Electrolyte for Use with Calcium Anode; filed February 5, 1979.
Patent application 6,009,038: High Energy Density Thermal Cell; filed February 5, 1979.
Patent application 6,016,236: High Electrical Frequency Infrared Detector; filed February 28, 1979.
Patent application 6,017,217: High Electrical Frequency Infrared Detector; filed March 5, 1979.
Patent application 4,104,883: Mass Transport Heat Exchanger Method and Apparatus for Use in Ocean Thermal Energy Exchange Power Plants; filed May 27, 1977, patented August 8, 1978. Not available NTIS.
Patent application 4,132,226: Biopotential Movement Artifact Inhibiting System; filed July 13, 1977, patented January 2, 1979. Not available NTIS.
Patent application 4,136,281: Energy Fluence Meter for X-Rays; filed October 12, 1977, patented January 23, 1979. Not available NTIS.
Patent application 4,137,509: Tunable Laser Based upon S2,Te2 and other Selected Dimers; filed May 2, 1977, patented January 30, 1979. Not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP–2, Washington, D.C. 20546

Patent application 6,009,886: Apparatus for Supplying Conditioned Air at a Substantially Constant Temperature and Humidity; filed February 6, 1979.
Patent application 6,017,885: Multibeam Single Frequency Synthetic Aperture Radar Processor for Imaging Separate Range Swaths; filed March 6, 1979.

[FR Doc. 79-24284 Filed 8-6-79; 8:45 am]

BILLING CODE 3510-04-M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT–APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, SW., Washington, D.C. 20324

Patent application 6,001,329: Double Acting Delay Mechanism; filed January 5, 1979.
Patent application 6,001,330: Incident Radiation Absorber/Reflector Assembly; filed January 5, 1979.
Patent application 6,001,334: Incident Radiation Absorber/Reflector Assembly; filed January 5, 1979.
Patent application 6,002,163: Aircraft Ejection System Collision Avoidance System; filed January 9, 1979.
Patent application 6,002,281: Stress Buffer/Amortisseur for a Permanent Magnet Rotor; filed January 10, 1979.
Patent application 6,004,244: Spherical Heat Pipe Metal-Hydrogen Cell; filed January 17, 1979.

U.S. Department of the Navy, Assistant Chief for Patents, Ofice of Naval Research, Code 302, arlington, Va. 22217.

Patent application 6,001,516: Charge-Coupled Device (CCD) Analog and Digital Correlators; filed January 8, 1979.
Patent application 6,004,428: Turbomachine Balance Correction System; filed January 12, 1979.
Patent application 6,009,206: Commutating Narrowband Filter; filed February 15, 1979.
Patent application 6,011,821: A Method for Determining the Compensation Density in n-Type Narrow-Gap Semiconductors; filed February 13, 1979.
Patent application 6,012,614: Rotating Raster Generator; filed February 16, 1979.
Patent application 6,014,798: Three dB Single Mode Optical Fiber Interferometer Beamsplitter/Coupler; filed February 26, 1979.
Patent application 6,017,749: Wideband VHF Antenna; filed March 5, 1979.
Patent application 614,946: Solventless Amire Epoxy Resin System; filed July 22, 1977.
Patent application 961,580: Frequency Stabilization Technique for Microstrip Oscillators; filed November 17, 1978.
Patent 4,125,788; Voltage Level Shifting Device; filed May 31, 1977, patented November 14, 1978; not available NTIS.
Patent 4,125,809: Digital C/kT Meter; filed November 9, 1977, patented November 14, 1978, not available NTIS.
Patent 4,125,862: Aspect Ratio and Scan Converter System; filed March 31, 1977, patented November 14, 1978, not available NTIS.
Patent 4,136,317: 14 and 16 Microp, Optically Pumped Gas Dynamic CO2 Laser; filed April 13, 1977, patented January 23, 1979, not available NTIS.
Patent 4,137,461: Photographic Image Enhancement by Photofission; filed November 16, 1977, patented January 30, 1979, not available NTIS.
Patent 4,140,936: Square and Rectangular Electroacoustic Bender Bar Transducer; filed September 1, 1977, patented February 20, 1979; not available NTIS.
Patent 4,143,946: Impingement Cooled Deformable Laser Mirror; filed December 5, 1977; patented March 13, 1979; not available NTIS.

U.S. Department of Commerce, National Technical Information Service, Office of Government Inventions & Patents, Springfield, Va. 22161

Patent application 915,068: Universal Jig Fixture for Castings; filed June 12, 1978.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP–2, Washington, D.C. 20546

Patent application 6,009,888: A Coupling Device for Moving Vehicles; filed February 6, 1979.
Patent application 807,597: Apparatus for Endoscopic Examination; filed June 17, 1977.

[FR Doc. 79-24285 Filed 8-6-79; 8:45 am]

BILLING CODE 3510-04-M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American

Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

Department of the Army, Chief, Intellectual Prop. Division, OTJAG, Room 2D 444, Pentagon, Washington, D.C. 20310

Patent 4,116,477: Connector, Reducer/Adapter, Flare to Flareless; filed January 14, 1977, patented September 26, 1978; not available NTIS.

Department of the Army, Chief, Intellectual Prop. Division, OTJAG, Room 2D 444, Pentagon, Washington, D.C. 20310

Patent 4,063,454: Field Test Assembly for Measuring Compressive Loads; filed November 5, 1976, patented December 20, 1977; not available NTIS.
Patent 4,072,425: Method of Indicating the relative Roughness of a Surface; filed August 9, 1976, patented February 7, 1978; not available NTIS.
Patent 4,085,440: Inertial Navigation System; filed May 5, 1977, patented April 18, 1978; not available NTIS.
Patent 4,087,749: Method and Apparatus for Normalizing the Outputs of Sequentially Scanned Magnetic Flaw Detectors; filed January 25, 1977, patented May 2, 1978; not available NTIS.
Patent 4,089,212: Brinell Sandwich Transducer; filed March 14, 1977, patented May 16, 1978; not available NTIS.
Patent 4,093,040: Silencer and Cooler for Pump Unit; filed December 21, 1976, patented June 6, 1978; not available NTIS.
Patent 4,093,566: Phosphate-Free Spray Cleaner for Metals; filed December 27, 1976, patented June 6, 1978; not available NTIS.
Patent 4,094,520: Self Centering Flange Gasket Assembly; filed October 11, 1977, patented June 13, 1978; not available NTIS.
Patent 4,097,800: Laser Screen; filed June 12, 1977, patented June 27, 1978; not available NTIS.
Patent 4,098,986: Anionically Polymerized Copolymers of Methyl alpha-N-Alkylacrylate and Methyl Methacrylate and Method of Making Same; filed January 19, 1977, patented July 4, 1978; not available NTIS.
Patent 4,100,015: Chromate-Free Etching Process and Composition for Preparing Aluminum for Adhesive Bonding; filed July 21, 1977, patented July 11, 1978; not available NTIS.
Patent 4,100,546: Airborne Antenna System Employing the Airframe as an Antenna; filed January 28, 1977, patented July 11, 1978; not available NTIS.
Patent 4,100,789: Fluidic Partial Pressure Sensor; filed July 28, 1977, patented July 18, 1978; not available NTIS.
Patent 4,101,000: Easy Access Oil Filter Drain System; filed July 15, 1977, patented July 18, 1978; not available NTIS.
Patent 4,101,895: Multifrequency Antenna System Integrated Into a Radome; filed February 14, 1977, patented July 18, 1978; not available NTIS.
Patent 4,101,899: Compact Low-Profile Electrically Small VHF Antenna; filed December 8, 1976, patented July 18, 1978; not available NTIS.
Patent 4,101,964: Digital Filter for Pulse Code Modulation Signals; filed January 8, 1976, patented July 18, 1978; not available NTIS.
Patent 4,101,975: Optical Memory with Storage in Three Dimensions; filed August 15, 1977, patented July 18, 1978; not available NTIS.
Patent 4,102,074: Counting Device Impulse Activator with Torque Limiter; filed February 7, 1977, patented July 25, 1978; not available NTIS.
Patent 4,102,180: Slide Fastener Endurance Tester; filed June 30, 1977, patented July 25, 1978; not available NTIS.
Patent 4,103,199: Electronic Device for Processing Signals In Three Dimensions; filed June 14, 1976, patented July 25, 1978; not available NTIS.
Patent 4,103,303: Frequency Scanned Corner Reflector Antenna; filed October 21, 1976, patented July 25, 1978; not available NTIS.
Patent 4,103,341: Ferroelectric Photovoltaic Method and Apparatus for Transferring Information; filed August 15, 1977, patented July 25, 1978; not available NTIS.
Patent 4,104,364: Method for Hydrolyzing Phosgene; filed July 5, 1977, patented August 1, 1978; not available NTIS.
Patent 4,104,587: Bandwidth Substitution Method and System for Absolute Measurement of Power at All Radio Frequencies; filed June 3, 1976, patented August 1, 1978; not available NTIS.
Patent 4,105,836: High Energy Density Lithium Cell; filed June 8, 1977, patented August 8, 1978; not available NTIS.
Patent 4,106,014: Radar Set Sensitive to Target Shape; filed June 26, 1967, patented August 8, 1978; not available NTIS.
Patent 4,106,343: Solid State Barometric Altimeter-Encoder; filed May 31, 1977, patented August 15, 1978; not available NTIS.
Patent 4,106,822: Track Guide Mechanism; filed March 14, 1977, patented August 15, 1978; not available NTIS.
Patent 4,107,349: Method of Adjusting the Frequency of Piezoelectric Resonators; filed August 12, 1977, patented August 15, 1978; not available NTIS.
Patent 4,107,404: Stabilization of $LiAsF_6$/Dimethyl Sulfite Electrolyte Solution; filed September 15, 1977, patented August 15, 1978; not available NTIS.
Patent 4,107,566: Rugged Quick-Heating Electron Tubes; filed February 7, 1955.

patented August 15, 1978; not available NTIS.

Patent 4,107,573: Printed Circuit Traveling Wave Tube; filed February 2, 1977, patented August 15, 1978; not available NTIS.

Patent 4,107,666: Variable Pulse Distribution Electro-Optical System; filed January 10, 1977, patented August 15, 1978; not available NTIS.

Patent 4,107,691: Antenna for Phase Front Homing; filed January 18, 1977, patented August 15, 1978; not available NTIS.

Patent 4,108,075: Means for Suppressing Oscillator—Generated Noise in Doppler Proximity Fuzes; filed April 9, 1959, patented August 22, 1978; not available NTIS.

Patent 4,109,455: Spiral Orifice Dashpot Timer; filed May 26, 1977, patented August 29, 1978; not available NTIS.

Patent 4,110,016: Acousto-Optic Real Time Correlator; filed June 7, 1977, patented August 29, 1978; not available NTIS.

Patent 4,110,730: Rate Sensitive System for a Seismic Sensing Range Containment Apparatus; filed June 23, 1977, patented August 29, 1978; not available NTIS.

Patent 4,110,751: Very Thin (Wrap-Around) Conformal Antenna; filed March 10, 1977, patented August 29, 1978; not available NTIS.

Patent 4,110,812: Non-Recurrent Pulse Generator; filed September 16, 1976, patented August 29, 1978; not available NTIS.

Patent 4,111,074: Hydraulic Control for Hydromechanical Transmission; filed November 1, 1976, patented September 5, 1978; not available NTIS.

Patent 4,111,513: Cable-Connector Backshell Adapter Device; filed September 22, 1977, patented September 5, 1978; not available NTIS.

Patent 4,112,317: Pulse Amplitude and Width Detection System; filed May 5, 1977, patented September 5, 1978; not available NTIS.

Patent 4,114,110: Frequency Synthesizer; filed December 1, 1977, patented September 12, 1978; not available NTIS.

Patent 4,114,163: L-Band Radar Antenna Array; filed December 6, 1976, patented September 12, 1978; not available NTIS.

Patent 4,115,783: Broadband Hybrid Monopole Antenna; filed June 14, 1977, patented September 19, 1978; not available NTIS.

Patent 4,116,634: Void, Flaw, and Crack Indicator for Epoxy Bonds; filed September 26, 1977, patented September 26, 1978; not available NTIS.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, SW., Washington, D.C. 20324

Patent application 6,006,839: Apparatus and Method for Integrated Circuit Test Analysis; filed January 26, 1979.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, D.C. 20545

Patent 4,073,719: Process for Preparing Lubricating Oil from Used Waste Lubricating Oil; filed April 26, 1977, patented February 14, 1978; not available NTIS.

Patent 4,086,506: Contra-Rotating Homopolar Motor-Generator for Energy Storage and Return; filed August 5, 1976, patented April 25, 1978; not available NTIS.

Patent 4,087,322: Air Core Poloical Magnetic Field System for a Toroidal Plasma Producing Device; filed September 7, 1976, patented May 2, 1978; not available NTIS.

Patent 4,092,534: Charge Exchange System; filed November 19, 1976, patented May 30, 1978; not available NTIS.

Patent 4,094,809: Process for Solidifying High-Level Nuclear Waste; filed February 23, 1977, patented June 13, 1978; not available NTIS.

Patent 4,097,247: Isotope Separation Process; filed October 10, 1972, patented June 27, 1978; not available NTIS.

Patent 4,111,833: Activated Carbon Material; filed September 5, 1974, patented September 5, 1978; not available NTIS.

U.S. Department of Health, Education, and Welfare, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20205

Patent application 962,107: Improved Procedure for the Preparation of 9-beta-D-Arabinofuranosyl-2-Fluoroadenine; filed November 20, 1978.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

N79-20908-6: NASA Patent Abstracts Bibliography. A Continuing Bibliography. Section 1: Abstracts. January 1979.

N79-20909-4: NASA Patent Abstracts Bibliography. A Continuing Bibliography. Section 2: Indexes. January 1979.

[FR Doc. 79-24286 Filed 8-6-79; 8:45 am]

BILLING CODE 3510-04-M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/Jacp, 1900 Half Street, SW., Washington, D.C. 20324.

Pat Appl 6,005,111: A Method and Apparatus for Trimming IR/CCD Mosaic Sensors; filed Jan. 22, 1979.

Pat Appl 6,006,839: Apparatus and Method for Integrated Circuit Test Analysis; filed Jan. 26, 1979.

Pat Appl 6,006,840: Laser Gas Temperature Control and Spacial Equalizer; filed Jan. 26, 1979.

U.S. Department of Agriculture, Research Agreements and Pat. Branch, General Service Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Pat Appl 970,941: Apparatus for Tying Cauliflower; filed Dec. 19, 1978.

U.S. Department of Transportation, Patent Counsel, 400 7th Street, SW., Washington, D.C. 20590.

Pat Appl 013,514: Automated Gain Control in Rail Flaw Detection; filed Feb. 21, 1979.

U.S. Department of Health, Education, and Welfare, National Institutes of Health. Chief, Patent Branch, Westwood Building, Bethesda, Md. 20205.

Pat Appl 966,329: Horizontal Flow-Through Coil Planet Centrifuge; filed Dec. 4, 1978.

Pat Appl 971,550: Hydrogel Adhesives and Sandwiches or Laminates; filed Dec. 20, 1978.

Patent 4,137,248: Compound, 4-Carboxyphthalato(1,2-Diaminocyclohexane)-Platinum(II) and Alkali Metal Salts Thereof; filed Aug. 29, 1977; patented Jan. 30, 1979; not available NTIS.

Patent 4,139,713: Steroidal Intermediates from the Condensation Product of Dimethyl-3-Ketoglutarate and Glyoxal; filed July 19, 1977; patented Feb. 13, 1979; not available NTIS.

Patent 4,144,237: Synthetic Vinblastine and Vincristine Derivatives; filed June 13, 1977; patented March 13, 1979; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Pat appl 965,121: Method and Article of Manufacturing an Optical Fiber Connector; filed Nov. 30, 1978.

Patent 4,125,316: Integrated Optical Matrix Multiplier; filed 23, May 1977; patented Nov. 14, 1978; not available NTIS.

Patent 4,136,107: Bisorthodinitriles; filed Oct. 20, 1977; patented Jan. 23, 1979; not available NTIS.

Patent 4,137,098: Solar Energy Window; filed Oct. 20, 1977; patented Jan. 30, 1979; not available NTIS.

Patent 4,138,082: Remotely Operated, X-Y Translation Slide with Stationary Motors; filed May 27, 1977; patented Feb. 6, 1979; not available NTIS.

National Aeronautics and Space Administration, Assistant General Council for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Pat appl 6,007,083: High Toughness-High Strength Iron Alloy; filed Jan. 25, 1979.

Pat appl 6,011,737: Mixed Diamines for Lower Melting Addition Polyimide Preparation and Utilization; filled Feb. 13, 1979.

Pat appl 903,019: Borehole Geological Assessment; filed May 4, 1978.

Pat appl 953,313: Coaxial Phased Array Antenna; filed Oct. 17, 1978.

Pat appl 956,168: Method for Applying Photographic Resists to Otherwise Incompatible Substrates; filled Oct. 31, 1978.

Pat appl 965,368: Interferometer; filed Nov. 30, 1978.

Patent 3,173,801: Electromagnetic Radiation Energy Arrangement; filed May 26, 1961; patented Mar. 16, 1965; not available NTIS.

Patent 3,262,694: Solar Cell Module Assembly Jig; filed June 10, 1963; patented July 26, 1966; not available NTIS.

Patent 4,110,703: Volumetric Direct Nuclear Pumped Laser; filed Apr. 19, 1977; patented Aug. 29, 1978; not available NTIS.

[FR Doc. 79-24287 Filed 8-6-79; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Addition of Proposed New System of Records

AGENCY: Department of the Army.

ACTION: Notice of a new system of records.

SUMMARY: The Department of the Army proposes to add a new system of records to its inventory, subject to the Privacy Act of 1974.

DATES: This system shall be effective as proposed without further notice on September 6, 1979, unless comments are received on or before September 6, 1979 which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the action proposed should be addressed to the System Managers identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Guy B. Oldaker, Administrative Management Directorate, The Adjutant General Center, Department of the Army, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20314; Telephone 202/693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices as prescribed by the Privacy Act of 1974, Title 5 U.S.C., Section 552a, Pub. L. 93-597, have been published in the Federal Register as follows:

FR Doc. 77-28225 (42 FR 50396) September 28, 1977.
FR Doc. 78-23953 (43 FR 38070) August 25, 1978.
FR Doc. 78-25562 (43 FR 40272) September 11, 1978.
FR Doc. 78-26732 (43 FR 42026) September 19, 1978.
FR Doc. 78-25819 (43 FR 42374) September 20, 1978.
FR Doc. 78-26699 (43 FR 43059) September 22, 1978.
FR Doc. 78-26996 (43 FR 43539) September 26, 1978.
FR Doc. 78-29130 (43 FR 47604) October 16, 1978.
FR Doc. 78-29211 (43 FR 48894) October 19, 1978.
FR Doc. 78-29982 (43 FR 49557) October 24, 1978.
FR Doc. 78-31795 (43 FR 52512) November 13, 1978.
FR Doc. 78-34586 (43 FR 58111) December 12, 1978.
FR Doc. 78-35523 (43 FR 49869) December 22, 1978.
FR Doc. 79-5788 (44 FR 11105) February 27, 1979.
FR Doc. 79-6621 (44 FR 12231) March 6, 1979.
FR Doc. 79-8787 (44 FR 17767) March 23, 1979.
FR Doc. 79-11350 (44 FR 22140) April 13, 1979.
FR Doc. 79-13252 (44 FR 24904) April 27, 1979.
FR Doc. 79-15909 (44 FR 29700) May 22, 1979.
FR Doc. 79-19958 (44 FR 37654) June 28, 1979.
FR Doc. 79-21771 (44 FR 41277) July 16, 1979.
FR Doc. 79-22112 (44 FR 41905) July 18, 1979.

August 2, 1979.

E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

A1403.30a DAAG

SYSTEM NAME:

1403.30 Commercial Entertainment Transaction Records.

SYSTEM LOCATION:

Installation and area clubs; other membership associations, nonappropriated fund (NAF) activities and instrumentalities; Armed Forces recreation centers throughout the Army; United States Army Europe and Korea commercial/entertainment offices; and the Club and Community Activities Management Directorate, The Adjutant General Center, Headquarters, Department of the Army. Addresses are listed in the Directory of the Department of the Army Offices, Commands, and Installations appearing in the Annual Compilation of System Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual performers, members of entertainment groups or their agents who may be members of the United States (US) Forces and/or their dependents, civilian components of US Forces and/or their dependents, and other US citizens or foreign nationals.

CATEGORIES OF RECORDS IN THE SYSTEM:

File may contain name of individual or group, social security number (SSN), type of entertainment, passport number, nationality, location of performances, agent code, performance/band information, fees charged, payment records, individual contract number, performance date, and the code of the NAF activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To register individual/group entertainers appearing at NAF activities or instrumentalities, clubs, associations or recreation centers; to issue pay and supporting documents incident to contract for such entertainers; to account for monies of open messes and clubs for entertainment purposes. Used by Internal Revenue Service for income tax purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; punch cards, magnetic tapes and disks, and computer printouts.

RETRIEVABILITY:

By SSN, agent code or band code.

SAFEGUARDS:

Buildings employ security guards. Paper files, computer cards, and printouts are stored in areas accessible only to authorized personnel; offices and buildings are locked during non-duty hours. Access to computer is limited to individuals who are properly cleared and trained in accordance with Army regulations.

RETENTION AND DISPOSAL:

Records are maintained in current files for 3 years, then transferred to inactive files for 3 years before being destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

a. Europe: Chief, Program and Budget Division, Office of the Deputy Chief of Staff for Personnel, United States Army Europe and Seventh Army, APO New York 09403.

b. Korea: Commander, Eighth United States Army, ATTN: J–1, APO San Francisco 96301.

c. All others: Director, Club and Community Activities Management Directorate, The Adjutant General Center, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained from the SYSMANAGER.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to the SYSMANAGER.

Written requests for information should contain the full name of the individual, agent code (if applicable), SSN and/or passport number, and the time period and performance date involved.

For personal visits, the individual must provide acceptable identification such as military identification, driver's license, or passport.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Information is obtained from individual entertainers and agents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79–24309 filed 8–6–79 8:45 am]

BILLING CODE 3710–06–M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting; Correction

In FR Doc. 70–22589 appearing at page 43040 in the **Federal Register** of July 23, 1979, the date of the closed meeting of the Chief of Naval Operations Executive Panel Advisory Committee is corrected to September 12–13, 1979, vice August 8–9, 1979. Accordingly, in the sixth line of the notice the date is corrected to September 12–13.

Dated: August 3, 1979.

P.B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79–24460 Filed 8–7–79; 8:45 am]

BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

National Petroleum Council; Coordinating Subcommittee of the Committee on Refinery Flexibility; Meetings

Notice is hereby given that the Coordinating Subcommittee of the National Petroleum Council's Committee on Refinery Flexibility will meet on Wednesday, September 5, 1979, in Conference Room 317 of the Standard Oil Company of California Building, 225 Bush Street, San Francisco, California, beginning at 10:00 a.m.

The National Petroleum Council provides technical advice and information to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. Accordingly, the Committee on Refinery Flexibility has been requested by the Secretary to undertake an analysis of the factors affecting crude oil quality and availability and the ability of the refining industry to process such crudes into marketable products. This analysis will be based on information and data to be gathered by the Oil Supply, Demand, and Logistics Task Group and the Refinery Capability Task Group, whose efforts will be coordinated by the Coordinating Subcommittee. The tentative agenda of the Subcommittee session is as follows:

1. Introductory remarks by Warren B. Davis, Chairman.
2. Review progress of the Refinery Capability Task Group.
3. Review progress of the Oil Supply, Demand and Logistics Task Group.
4. Review and discuss schedule and assigments for completion of Subcommittee assignments.
5. Discuss any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

All meetings are open to the public. The Chairmen of the Subcommittee are empowered to conduct the meetings in a fashion that will, in their judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Because of security procedures at the Standard Oil Building, members of the public who wish to attend the meeting or to make oral statements should inform Mr. Marshall Nichols, National Petroleum Council, (202) 393–6100, prior to the meeting, and provision will be made for the attendance and appearance on the agenda. Transcripts of the Coordinating Subcommittee meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA–152, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on August 1, 1979.

Alvin L. Alm,

Assistant Secretary, Policy and Evaluation.

[FR Doc. 79–24288 Filed 8–6–79; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1291–8]

Policy for Enforcing Pollution Control Requirements for Limited Life Facilities; Availability

The Environmental Protection Agency has issued a policy statement concerning enforcement of pollution control requirements for facilities which have a limited remaining useful life. The Agency issued this enforcement policy statement as guidance to the Environmental Protection Agency Regions to provide for consistent treatment of limited life facilities in all industries and Regions.

The enforcement policy is closely related to and clarifies EPA's present policy. While recognizing community adjustment needs, in most cases the policy provides for the expeditious closure of facilities that are violating statutory treatment deadlines and have no intention of achieving compliance. Facilities which will be replaced may postpone closure during the expeditious installation of replacement facilities. The policy includes safeguards to insure that the policy is not abused. These safeguards include penalties and a closure bond.

Copies of the enforcement policy statement may be obtained from Julia Parzen, Economic Analysis Division, Office of Planning and Evaluation—PM–220, Environmental Protection Agency, Washington, D.C. 20460, #202–755–2877.

Dated: July 18, 1979.

William Drayton,

Assistant Administrator, Office of Planning and Management, Environmental Protection Agency.

[FR Doc. 79–24323 Filed 8–6–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL MARITIME COMMISSION

[Agreement No. 10138–4]

Charles F. Warren; Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 27, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 150-68.

Filing Party: Charles F. Warren, Esq., Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 150-68, among the member lines of the Trans-pacific Freight Conference of Japan/Korea, modifies the conference voting procedures, including the size of the majority necessary for action on tariff matters.

Agreement No. 150-69.

Filing Party: Charles F. Warren, Esq., Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 150–69, among the member lines of the Trans-Pacific Freight Conference of Japan/Korea, allows reimbursement to agents for properly vouchered equipment expenses and for ship's planning and compensation for losses resulting from fluctuation of exchange rates not covered by the currency surcharge.

Agreement No. 3101–69

Filing party: Charles F. Warren, Esq., Warren & Associates, P.C., 1100 Connecticut Avenue., N.W., Washington, D.C. 20036.

Summary: Agreement No. 3103–69, among the member lines of the Japan/Korea-Atlantic and Gulf Freight Conference, modifies the conference voting procedures, including the size of the majority needed for action on tariff matters.

Agreement No: 3103–70.

Filing Party: Charles F. Warren, Esq., Warrent & Associates, P. C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 3103–70, among the member lines of the Japan/Korea-Atlantic and Gulf Freight Conference, allows reimbursement to agents for properly vouchered equipment expenses and for ship's planning and compensation for losses resulting from fluctuation of exchange rates not covered by the currency surcharge.

Agreement No: 9859–3.

Filing Party: Louis E. Fambrini, Treasurer, Royal Viking Line, One Embarcadero Center, San Francisco, California 94111.

Summary: Agreement No. 9859–3 is a joint service agreement among Kommandittselskapet Det Bergenske Dampskibsselskab Star Cruises, Partnership Sea Cruises, Kommandittselskapet Royal Viking Sea A/S, and Royal Viking Line A/S. Royal Viking Line A/S manages the cruise operations conducted under the name of Royal Viking Line, which presently operates the passenger vessels *Royal Viking Sea, Royal Viking Star,* and *Royal Viking Sky.* Agreement 9859–3 modifies and supersedes the basic agreement and its previous amendments. The purpose of the modification is to delete reference to Sonor Shipping Company Ltd., which is no longer a member of Partnership Sea Cruises, and no longer co-owner of the *Royal Viking Sky.* Partnership Sea Cruises consists at present of only one partner, Sea Cruises A/S, of Trondheim, Norway.

Agreement No: 10138–4.

Filing Party: Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, New York 10007.

Summary: Agreement No. 10138–4 would modify the Self-policing Rules of the North Atlantic Government Cargo Discussion and Self-Policing Agreement to conform to the requirements of General Order 7.

Agreement No: 10376.

Filing Party: J. Alton Boyer, Esquire, Kominers, Fort, Schlefer, & Boyer, 1776 F Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10376, between Lykes Bros. Steamship Co., Inc., and China Ocean Shipping Company, is a sailing agreement whereby the parties agree to cooperate in arranging their advertising and sailing schedules so as to avoid conflicting sailing dates in the United States/China trade. It is further agreed that the parties will maintain a minimum of three (3) sailings each per year. There shall be no pooling or sharing of revenues, expenses, profits, or losses under the agreement, and each party shall manage and operate its own vessels at its own risk and expenses. Also, the parties may advertise their respective services separately but in the event that such services are advertised in a single advertisment, the full corporate or trade name of each party shall be shown in a manner to reflect their separate interests. The agreement is to have a term of one year which may be renewed upon the consent of the parties and the approval of the respective governmental authorities having jurisdiction.

By the Order of the Federal Maritime Commission.

Dated: August 1, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79–24238 Filed 8–06–79; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 79–81]

Marine Express Line, S.A. v. Seatrain International S.A.; Filing of Complaint

Notice is given that a complaint filed by Marine Express Line, S.A. against Seatrain International S.A. was served July 31, 1979. Complainant alleges that respondent has transported property in the trade between U.S. ports on the Gulf of Mexico and ports in Honduras for less than the rates or charges specified in its effective tariffs on file with the Commission and has allowed shippers

and receivers to obtain transportation at less than such rates or charges by unjust and unfair devices or means, all in violation of sections 16 and 16(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before January 31, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.

[FR Doc. 79-24239 Filed 8-06-79; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Transmittal Rules; Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: MAPCO, Inc. is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Filon Exploration Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination submitted by both parties to the transaction. neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: July 27, 1979

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580.(202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scoot-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b) (2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas
Secretary.

[FR Doc. 79-24231 Filed 8-6-79; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

Preliminary Planning for American Group Providers of Occupational Safety and Health Services and Self-Contained Breathing Apparatus (SCBA) Course Curriculum; Open Meetings

Preliminary Planning for American Group Providers of Occupational Safety and Health Services

DATE: August 17, 1979.

TIME: 9:30 a.m. to 4:30 p.m.

PLACE: Room 117, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

PURPOSE: To discuss preliminary plans for an education meeting, which will be held in the greater Washington, D.C., area concerning the provision of occupational safety and health services.

ADDITIONAL INFORMATION MAY BE OBTAINED FROM: Loren L. Hatch, D.O., Ph.D., Division of Technical Services, National Institute for Occupational Safety and Health, Center for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: 513/684–8311.

Self-Contained Breathing Apparatus (SCBA) Course Curriculum

DATE: August 22, 1979.

TIME: 9 a.m. to 4 p.m.

PLACE: Auditorium, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

PURPOSE: To discuss the development of a training course for trainers in the proper use and maintenance of SCBA.

ADDITIONAL INFORMATION MAY BE OBTAINED FROM: N. J. Berberich, Jr., Ph.D., Division of Training and Manpower Development, National Institute for Occupational Safety, and Health, Center for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: 513/684–8231.

Dated: August 2, 1979.

William H. Foege, M.D.,
Director, Center for Disease Control.

[FR Doc. 79-24444 Filed 8-7-79; 8:45 am]
BILLING CODE 4110-87-M

Food and Drug Administration

Immunology Devices Section of the Immunology and Microbiology Devices Panel; Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The meeting of the Immunology Devices Section of the Immunology and Microbiology Devices Panel, which was scheduled for August 16 and 17, 1979, and announced by notice in the Federal Register of July 17, 1979 (44 FR 41546), has been cancelled.

FOR FURTHER INFORMATION CONTACT: Srikrishna Vadlamudi, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md., 301–427–7234.

Dated: July 31, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-29114 Filed 8-6-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 78N-0279; DESI 12374]

Sparteine Sulfate Intramuscular Injection and Oxytocin Citrate Buccal Tablets; Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of approval.

SUMMARY: This notice withdraws approval of the new drug applications for Tocosamine Sterile Solution and Spartocin Injection containing sparteine sulfate. The basis for the withdrawal is that the drug products have not been shown to be safe for use in inducing labor and treatment of hypotonic uterine contractions.

EFFECTIVE DATE: August 17, 1979.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the number DESI 12374 and directed to the Division of Drug Labeling Compliance (HFD–310) Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Suzanne O'Shea, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In the notice for opportunity for hearing, published in the Federal Register of December 15, 1978 (43 FR 58634), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the following drug products because they are not shown to be safe when used for their labeled indications and because oxytocin intravenous injection, having less potential for risk, is readily available.

NDA 12–374; Tocosamine Sterile Solution containing sparteine sulfate; Trent Pharmaceuticals, Inc., 8 Winchester Plaza, Elmsford, NY 10523.

NDA 13–211; Spartocin Injection containing sparteine sulfate; Ayerst Laboratories, Division American Home Products Corp., 685 Third Ave., New York, NY 10017.

NDA 13–508; Pitocin Citrate Buccal Tablets containing oxytocin citrate; Parke-Davis, Division of Warner-Lambert Co., Morris Plains, NJ 07950.

In response to the notice, Parke-Davis requested a hearing for its product. That request is under review, and will be the subject of a future notice. This notice, therefore, does not apply to NDA 13–508, and marketing of the Parke-Davis product may continue pending a ruling on the hearing request.

No person other than Parke-Davis filed a written notice of appearance and request for hearing as provided by the December 15, 1978 notice. The failure to file a notice of appearance and request for a hearing constitutes an election by such persons not to avail themselves of an opportunity for a hearing.

Any drug product that is identical, related, or similar to the drug products named above and that is not the subject of an approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82) finds that on the basis of new evidence of clinical experience, not contained in the applications or not available until after the applications were approved, evaluated together with the evidence available to him when the applications were approved, the drugs are not shown to be safe for use in the induction of labor and treatment of hypotonic uterine contractions.

Therefore, pursuant to the foregoing finding, approval of new drug applications 12–374 and 13–211 and all amendments and supplements applying thereto is withdrawn effective August 17, 1979.

Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful. Parke-Davis' Pitocin Citrate Buccal Tablets, which is the subject of a pending hearing request, may continue to be marketed.

Dated: July 26, 1979.

Jerome A. Halperin,
Acting Director, Bureau of Drugs.

[FR Doc. 79-24113 Filed 8-6-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79N-0207]

Plascon, Inc.; revocation of U.S. License No. 572

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) revokes the establishment and product license (U.S. License No. 572) issued to Plascon, Inc., for the manufacture of Source Plasma (Human) because of significant deviations from the biologics regulations.

EFFECTIVE DATE: May 24, 1979.

FOR FURTHER INFORMATION CONTACT: Richared E. Fisher, Bureau of Biologics (HFB–620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration has revoked the establishment and product licenses (U.S. License No. 572) issued to Plascon, Inc., T/A Indy Plasma Center, 3764 N. Illinois St., Indianapolis, IN 46208, for the manufacture of Source Plasma (Human).

An inspection of this location on February 21, 22, 23, and 26, 1979, by investigators of the Food and Drug Administration (FDA) revealed numerous deviations from the requirements of Parts 600, 606, and 640) including, but not limited to, the collection of more than the maximum permissible amount of whole blood from donors at one time (21 CFR 640.65(b)(6)). This significant deviation was one of many items cited in a previous FDA inspection of this location in November 1978, which resulted in the suspension of the firm's operations under license on November 8, 1978. The firm's operations had been previously suspended from May 8, 1978 through June 5, 1978 for failure to report a change in responsible personnel (21 CFR 601.12(a)).

As a result of the February 1979 inspection, FDA advised the responsible head by letter dated March 16, 1979, that after being given a reasonable time to demonstrate compliance following the second license suspension, he had failed to exercise necessary control and supervision in all matters relating to compliance with applicable rules and regulations; the letter also stated FDA's intention to revoke U.S. License No. 572 and issue a notice of opportunity for hearing under 21 CFR 601.5(b).

Following receipt of the March 16, 1978 letter and before initiation of further regulatory action, the firm requested that its establishment and product license be revoked and waived the opportunity for a hearing under § 601.5(a) (21 CFR 601.5(a)). The agency has granted the request. Accordingly, under § 12.38 (21 CFR 12.38), and section 351 of the Public Health Service Act (42 U.S.C. 262), and the authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director, Bureau of Biologics (21 CFR 5.68), U.S. License No. 572 issued to Plascon, Inc., and the Product License for the manufacture of Source Plasma (Human) were revoked by letter dated May 24, 1979. This notice of revocation is published under § 601.8 (21 CFR 601.8).

Dated: August 1, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24243 Filed 8-6-79; 8:45 am]
BILLING CODE 4110-03-M

HEALTH, EDUCATION, AND WELFARE

Office of Education

National Advisory Council on the Education of Disadvantaged Children; Meetings

Notice is hereby given, pursuant to Pub. L. 92–463, that the National Advisory Council on the Education of Disadvantaged Children will hold meetings in Los Angeles, California from Thursday, August 23 through Friday, August 25, 1979. On August 23, the Council's Committee on Regulations will meet from 1 p.m. to 6 p.m. The Council will host its regular meeting on August 24 from 9 a.m. to 5 p.m., and on August

25 from 9 a.m. to 12 noon. All meetings will be held in the Coronado Room of the Marina City Club, 4333 Admiralty Way, Los Angeles, California, (213) 822–0611.

The National Advisory Council on the Education of Disadvantaged Children is established under Section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

August 23, 1979 has been set aside for the Committee on Regulations to review and edit its first draft comments on the Title I Notice of Proposed Rulemaking; and, the Council will conduct its regular meeting for the purpose of reviewing and finalizing the committee's draft, take action on specific recommendations, hear reports from individual Council members on Council-related activities, and discuss various administrative matters.

All meetings will be open to the public. Because of limited space, all persons wishing to attend should call for reservations by August 17, 1979, area code 202/724–0114 and speak with Mrs. Haywood.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on the Education of Disadvantaged Children, located at 425–13th St., N.W., S–1012, Washington, DC.

Signed at Washington, DC on August 1, 1979.

Gloria B. Strickland,

Acting Executive Director.

[FR Doc. 79–24227 Filed 8–6–79; 8:45 am]

BILLING CODE 4110–02–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Statement of Organization, Functions, and Delegations of Authority

Part EE.10 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is hereby amended to reflect the addition of an Office of Non-Public Education in the Office of Education. This action is required under Section 403(d) of the General Education Provisions Act as added by the Education Amendments of 1978.

Immediately after the title and statement for the Division of Media Services, Bureau of Education for the Handicapped, add the following:

Office of Non-Public Education (EEN)

Insures the maximum potential participation of non-public school students in all Federal educational programs for which they are eligible. Formulates and develops OE policy relating to serving private school students. Continuously reviews Office of Education programs and procedures to insure that effective services required by law are provided to the nation's private school students and advises the Commissioner of possible changes in the law, regulations, or policies which would increase the availability of these services.

Dated: July 26th, 1979.

Frederick M. Bohen,

Assistant Secretary for Management and Budget.

[FR Doc. 79–24319 Filed 8–6–79; 8:45 am]

BILLING CODE 4110–02–M

Public Health Service

National Research Institutes; Delegation of Authority

Notice is hereby given that effective July 20, 1979 the Secretary of Health, Education, and Welfare delegated to the Assistant Secretary for Health the authorities vested in the Secretary under Title IV, National Research Institutes, of the Public Health Service Act (42 USC 281 *et seq.*), as amended. The delegation excluded the authority to promulgate regulations, submit reports to the President or the Congress, approve organizational changes at the division level and above, establish national advisory councils and boards, and select members of national advisory councils and boards. The delegation specified that the delegated authorities shall be redelegated as required by the pertinent provisions of Title IV of the Public Health Service Act or, in the absence of such provisions, may be redelegated as the Assistant Secretary for Health deems appropriate.

Previous delegations made by the Secretary of authorities under Title IV of the Public Health Service Act have been superseded. Redelegations made pursuant to the Secretary's previous delegations have been continued in effect pending further redelegation.

Frederick M. Bohen,

Assistant Secretary for Management and Budget.

July 26, 1979.

[FR Doc. 79–24246 Filed 8–6–79; 8:45 am]

BILLING CODE 4110–08–M

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HS (Health Services Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, (39 FR 10463, March 20, 1974, as amended in pertinent part at 42 FR 6640, February 3, 1977) is amended to reflect the transfer of the civil rights functions from the Office of Equal Employment Opportunity and Civil Rights to the Office of Management within the Office of the Administrator; and the consolidation of equal employment opportunity functions in an Office of Equal Employment Opportunity.

Section HS–B, Organization and Functions, amended as follows: Under the Immediate Office of the Administrator (HSA1) make the following changes:

(1) Delete the title and functional statement for the Office of Equal Employment Opportunity and Civil Rights (HSA12) and substitute the following:

Office of Equal Employment Opportunity (HSA12). To fulfill Health Services Administration (HSA) responsibilities for assuring equal employment opportunity (EEO), the Office: (1) advises the Administrator and other key HSA officials in the execution of these HSA responsibilities; (2) provides policy, program direction and leadership to HSA EEO programs and personnel; (3) plans, develops and evaluates programs and procedures designed to eliminate discriminatory employment, promotion, and training practices throughout HSA; (4) receives, provides for the investigations of, and prepares for the Administrator proposed dispositions of complaints filed throughout HSA alleging discrimination based on race, color, religion, national origin, sex or age; (5) maintains liaison with various non-Federal organizations concerned with EEO as well as with the Department's Equal Employment Opportunity Staff, the Office of the Assistant Secretary for Health's Equal Employment Opportunity Office and the Office of Management, and the Office of Personnel Management regarding EEO program development and administration, and the resolution of discrimination complaints.

(2) Delete item (5) from the functional statement for the Office of Management (HSA4) and renumber item (6) as item (5).

(3) Add to the functional statement for the Office of Management (HSA4) "and (6) provides policy, program direction and leadership to HSA Civil Rights programs."

Dated: July 26, 1979.

Frederick M. Bohen,

Assistant Secretary for Management and Budget.

[FR Doc. 79–24318 Filed 8–6–79; 8:45 am]

BILLING CODE 4110–84–M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education and Welfare contains the Statement of Organization, functions and Delegations of Authority for the Social Security Administration (SSA). On March 21, 1979, an amendment to Part S was published in the **Federal Register** (44 FR 17218–17233) to reflect a reorganization of SSA. Sections SE.00, SE.10 and SE.20 of the SSA Statement, as contained on pages 17222 and 17223 of the amended material published on March 21, 1979, describe the mission, organization and functions for SSA's Office of Intergovernmental and Community Affairs. Sections SE.00, SE.10 and SE.20 are revised to change the name of this component to the Office of Governmental Affairs, to clarify the functions of that Office and the Office of Public Concerns, and to reflect the establishment of additional components and subcomponents to the division level. This revised material reads as follows:

Sec. SE.00 *The Office of Governmental Affairs*—(Mission): The Office of Governmental Affairs (OGA) plans, directs and implements a program designed to develop and preserve working relationships with a wide variety of national organizations, special interest and advocacy groups, the Congress, other Federal agencies and State and local governments to secure understanding, cooperation and acceptance of SSA programs, policies and procedures; to provide avenues of public participation in the decisionmaking processes of SSA; and to establish SSA's role as a major employer and an integral part of communities throughout the country. It assures that SSA has a principal role in the broad spectrum of organized planning or related public and private social services initiatives. The Office also establishes, promulgates and assesses SSA policy for answering public, congressional and other sensitive inquiries. It controls, analyzes and responds to inquiries, and conducts a quality appraisal of written responses prepared throughout SSA. Its activities with the Congress are carried out in close consultation and coordination with the Office of the Assistant Secretary for Legislation.

Sec. SE.10 *The Office of Governmental Affairs*—(Organization): The Office of Governmental Affairs, under the leadership of the Associate Commissioner for Governmental Affairs, includes:

A. The Associate Commissioner for Governmental Affairs (SE),

B. The Deputy Associate Commissioner for Governmental Affairs (SE),

C. The Immediate Office of the Associate Commissioner for Governmental Affairs (SE), which includes: 1. The Management Support Staff (SE1),

2. The Special Projects Staff (SE2).

D. The Office of Public Concerns (SEC), which includes: 1. The Field Coordination and General Policy Staff (SEC1),

2. The Headquarters Coordination and Liaison Staff (SEC2),

3. The Intergovernmental Affairs Staff (SEC3).

E. The Congressional Relations Staff (SER).

F. The Office of Public Inquiries (SEP), which includes: 1. The Division of Special Inquiries (SEP1),

2. The Division of Inquiries (SEP2),

3. The Division of Correspondence Appraisal and Policy (SEP3),

4. The Division of Services (SEP4).

G. The External Liaison Staff (SEL).

Sec. SE.20 *The Office of Governmental Affairs*—(Functions): A. *The Associate Commissioner for Governmental Affairs* (SE) is directly responsible to the Commissioner for carrying out OGA's mission and provides managerial direction to the major components of OGA.

B. *The Deputy Associate Commissioner for Governmental Affairs* (SE) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Governmental Affairs* (SE) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities. It includes:

1. *Management Support Staff* (SE1): Plans, coordinates and provides overall OGA management support, including financial management activities and internal management studies.

2. *The Special Projects Staff* (SE2): Analyzes significant issues or problems concerning SSA operations or services surfaced by OGA components or other sources. Assembles teams of analytical and technical personnel from within SSA and other agencies to analyze policies, procedures or operational practices which may not be serving the program purposes for which they are designed or which may have undesirable side effects on some segment of the public. Develops recommendations for policy, legislative or procedural changes to correct deficiencies. Leads interagency study projects to determine the level of social services being provided governmentwide, the validity of interest groups' claims that additional services are needed or that existing programs are inefficient, discriminatory, etc.

D. *The Office of Public Concerns* (SEC): Assures that the goals and objectives of the Associate Commissioner for Governmental Affairs and the Commissioner are reflected in the operational interactions between SSA components and governmental or private organizations. Represents OGA at various HEW/SSA meetings or strategy sessions when intergovernmental and public concerns are discussed. Monitors the plans and policy proposals of SSA to assess their impact on institutions, public and private organizations and special interest groups. Develops, together with other components, standards, guides and instructions for SSA's external dealings, including SSA regional and field office interactions with public and private organizations. As appropriate, represents SSA/OGA at forums, on task forces, etc. In conjunction with the Office of Public Affairs, develops mechanisms to measure the reaction of individuals or organizations to SSA activities or proposals. Plans and develops guidelines and objectives for information and referral activities, social service linkages and outreach activities. The Office of Public Concerns (OPC) includes the following components and functions:

1. *The Field Coordination and General Policy Staff* (SEC1): a. Establishes SSA policy for periodic forums to be held by district and branch offices. Works in conjunction with regional offices which implement these policies and furnish feedback.

b. Serves as the focal point for the development of uniform standards for external liaison activity. Coordinates implementation of these standards with

other components within OGA and throughout SSA.

c. Develops guidelines and objectives for SSA's activities in the areas of information and referral, social services linkages and outreach. Assures that communications and coordination with other agencies are developed. Monitors the total external liaison system through regional contacts and periodic onsite reviews.

d. Represents SSA on national task forces, commissions, etc.

e. Reviews issues and concerns raised by a variety of external sources to determine if they are valid concerns and related to SSA operations. Develops recommendations for changes to alleviate the concerns or refers the matters to others such as the Special Projects Staff for further study.

2. *The Headquarters Coordination and Liaison Staff* (SEC2): a. Plans and implements a program of community liaison for the Baltimore and Washington, D.C. metropolitan areas dealing primarily with SSA as a large employer and local institution.

b. Identifies problems or issues which affect SSA's relationships with the communities.

c. Provides advisory and consultative services to community groups and other governmental agencies interested in developing community affairs programs related to social security programs.

d. Coordinates with the Office of Management, Budget, and Personnel, Office of Materiel Resources, on the SSA headquarters tour programs, modifying the standard tours for special audiences, as necessary.

3. *The Intergovernmental Affairs Staff* (SEC3): a. Develops guidelines and suggested approaches which set the tone for all SSA relationships with State and local agencies.

b. Facilitates negotiations for and the implementation of all agreements.

c. Provides general oversight to all Federal, State, and local relationships, identifying and analyzing problems and referring them to the appropriate SSA component for further action.

d. Reviews all SSA proposals changing or establishing policies, regulations and operating procedures to determine what effect they might have on intergovernmental relations, the public or external affairs initiatives.

e. Represents SSA on national task forces, commissions, conferences, etc.

f. In concert with other headquarters components, regional offices, and district offices, develops and conducts programs to educate and secure the opinions of the public concerning SSA programs and initiatives.

E. *The Congressional Relations Staff* (SER): 1. Provides support services to individual members of Congress and their staffs. With help from other SSA components, provides timely solutions to special problems and issues called to SSA's attention by individual members of Congress.

2. Assures that Congress is kept well informed about SSA operations and activities, except for those activities dealing with legislation Congress is considering. Makes special presentations and briefings to Congress on SSA activities and programs.

3. Anticipates Congressional concerns and problems and alerts SSA management to assure that effective and expeditious action is taken about these concerns.

F. *The Office of Public Inquiries* (SEP): Establishes and assesses SSA policy for answering public, Congressional and other inquiries. Receives, analyzes and controls high priority written and telephone inquiries, prepares responses, when appropriate, and refers those inquiries requiring specialized knowledge to the appropriate component for handling. Studies correspondence practices in use throughout SSA and continually appraises the quality of written responses prepared throughout SSA. Develops recommendations to improve the effectiveness of SSA's correspondence program. Reviews and clears all computer-generated notices and form letters. With OMBP approval and support, participates in training programs in SSA headquarters and the field components to improve correspondence with the public. Provides advice and assistance to SSA officials and liaison with HEW on public correspondence matters. The Office of Public Inquiries (OPI) includes the following components and functions:

1. *The Division of Special Inquiries* (SEP1): a. Prepares or coordinates the preparation of written replies to particularly sensitive, high level or complex inquiries concerning all aspects of SSA program administration.

b. Receives and responds to sensitive, complex telephone calls from members of Congress and their staffs and the public on general and technical matters concerning all SSA programs.

c. Serves as liaison between executive-level officials and the Office of the Commissioner in solving technical problems arising in the area of sensitive correspondence.

d. Prepares or coordinates preparation of SSA replies to inquiries controlled by the Office of the Secretary, HEW.

2. *The Division of Inquiries* (SEP2): a. Receives, controls and replies to incoming correspondence.

b. Performs necessary technical and general research on inquiries dealing with all areas of Social Security. Prepares written responses to the majority of these inquiries and the necessary acknowledgement, referral and transfer letters for those requiring the specialized knowledge of other SSA components.

c. Determines, from correspondence received, significant trends which may point up programmatic or procedural difficulties and possible public relations problems and brings these developments to the attention of the appropriate SSA components.

3. *The Division of Correspondence Appraisal and Policy* (SEP3): a. Develops SSA correspondence program objectives and SSA-wide policy and procedures necessary to implement these objectives.

b. Reviews correspondence practices in use throughout SSA, assessing adequacy of and adherence to established policy and procedures.

c. Conducts ongoing appraisal and special studies to evaluate the quality of correspondence produced SSA-wide, identifies problem areas and makes recommendations for corrective action to the appropriate official.

d. With OMBP approval and support, participates in training programs in SSA field and headquarters components to improve the quality of SSA correspondence.

e. Plans for effective and coordinated use of the SSA automated correspondence system to control, track, file and retrieve inquiries and replies throughout SSA.

4. *The Division of Services* (SEP4): a. Provides the clerical support needed to receive, file, track, follow up and furnish information on the status of high priority inquiries and responses processed in SSA.

b. Files and retrieves SSA correspondence and replies controlled in the SSA automated correspondence system and operates the terminals for this system.

c. Provides typing services for responses prepared in OPI.

G. *The External Liaison Staff* (SEL) is responsible for SSA's interaction and liaison with the leadership of key organizations, including the White House, Congressional committees and caucuses and national based special interest or lobbying organizations. This includes responsibility for presenting, explaining, advocating and defending SSA programs and initiatives. Through

influence gained with the leadership of these organizations, facilitates operational dealings between these organizations and other SSA components.

Dated: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24247 Filed 8-6-79; 8:45 am]

BILLING CODE 4110-07-M

Statement of Organization, Functions, and Delegations of Authority

Part S of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions, and Delegations of Authority for the Social Security Administration (SSA). Sections SP.00, SP.10 and SP.20 of the SAA Statement published at 44 FR 17231 dated March 21, 1979, describe the mission, organization, and functions for SSA's Office of Central Operations (OCO). Sections SP.00, SP.10 and SP.20 of the OCO Statement are restated and expanded to reflect the establishment of division-level components in OCO's Office of Operations Analysis and Support, Office of Central Records Operations, Office of SSA Program Service Centers and Office of Disability Operations. The functional statement for the Office of Disability Operations has been revised to delete the development of technical medical policies function since the Medical Consultant Staff has been organizationally placed in the Office of Operational Policy and Procedures. This revised material reads as follows:

Sec. SP.00 *The Office of Central Operations*—(Mission): The Office of Central Operations (OCO) directs and coordinates SSA's central office operating components and geographically dispersed operations installations not under the line authority of the Regional Commissioners. These components certify benefits, authorize and review selected claims, and maintain beneficiary records for the retirement, survivors and disability insurance programs and the black lung benefits program, including foreign operations; maintain and certify earnings records; issue social security numbers and respond to critical correspondence. The Office directs headquarters components responsible for central records operations; the six SSA program service centers; three data operations centers; the Division of International Operations; and central disability operations. It plans and carries out comprehensive analyses and studies and directs the implementation of actions to improve operational effectiveness and efficiency.

Sec. SP.10 *The Office of Central Operations*—(Organization): The Office of Central Operations, under the leadership of the Associate Commissioner for Central Operations, includes: A. The Associate Commissioner for Central Operations (SP),

B. The Deputy Associate Commissioner for Central Operations (SP),

C. The Immediate Office of the Associate Commissioner for Central Operations (SP),

D. The Office of Operations Analysis and Support (SPN): 1. The Financial Management Staff (SPN1),

2. The Management Analysis and Services Staff (SPN2),

3. The Operations Planning Staff (SPN3),

4. The Operations Analysis Staff (SPN4),

5. The Micrographics and Special Equipment Staff (SPN5).

E. The Office of Central Records Operations (SPP): 1. The Immediate Office of the Director (SPP),

2. The Division of Adjustment Operations (SPPA),

3. The Division of Claims Operations (SPPB),

4. The Division of Earnings Operations (SPPC),

5. The Division of Registration Operations (SPPE),

6. The Data Operations Centers (SPPF6, 8, 9) (located at three selected geographical locations throughout the United States).

F. The Office of SSA Program Service Centers (SPR): 1. The Immediate Office of the Director (SPR),

2. The Division of International Opeations (SPR5),

3. The SSA Program Service Centers (SPRF2, 3, 4, 5, 7, 9) (located at six geographical locations throughout the United States).

G. The Office of Disability Operations (SPT): 1. The Immediate Office of the Director (SPT),

2. The Process Divisions (SPTG, H, J, K, L),

3. The Division of Operations Services (SPTM).

Sec. SP.20 *The Office of Central Operations*—(Functions): A. *The Associate Commissioner for Central Operations* (SP) is directly responsible to the Commissioner for carrying out OCO's mission and provides general supervision to the major components of OCO.

B. *The Deputy Associate Commissioner for Central Operations* (SP) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Central Operations* (SP) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Office of Operations Analysis and Support* (SPN) the Office of Operations Analysis and Support (OOAS) Directs operational analysis and internal administrative activities in support of OCO. It designs and conducts studies to measure the effectiveness and efficiency of overall OCO processes and interactions. The Office directs and coordinates the implementation of process changes together with other OCO components and identifies and directs the timely resolution of major problems and issues. It establishes management objectives and monitors progress to assure their timely implementation. The Office prepares responses to Congressional and sensitive correspondence requiring the Associate Commissioner's personal attention.

The Office includes the following components and functions:

1. *The Financial Management Staff* (SPN1): a. Directs the financial management activities of OCO, consistent with overall SSA and Office of Management and Budget policy, including budget development, analysis, planning, coordination, and execution.

b. Analyzes workload trends, staffing, productivity, overtime, equipment purchases and other management decisions affecting the budget.

c. Interprets financial policy and instructions for OCO managers.

2. *The Management Analysis and Services Staff* (SPN2): a. Analyzes OCO needs for management resources in such areas as manpower, training and office space.

b. Documents and develops plans for providing OCO management services and presents OCO requirements to SSA's Office of Management, Budget, and Personnel (OMBP) to assure that specialized management support is provided.

c. Presents OCO management information needs to OMBP and evaluates management information to recommend improvements in OCO management and operations.

3. *The Operations Planning Staff* (SPN3): a. Develops OCO long- and short-range operational planning objectives and goals.

b. Analyzes policies and procedures proposed by SSA and non-SSA components to determine the operational impact on OCO.

c. Coordinates with the Treasury Department and other agencies on new operational processes and initiatives affecting OCO.

4. *The Operations Analysis Staff* (SPN4): a. Plans and directs a continuing program of operations analysis activities in support of OCO.

b. Conducts workflow analyses and studies to measure the effectiveness and efficiency of OCO operational processes. Identifies and directs the timely resolution of major operational problems and issues.

c. In liaison with other OCO components, directs and coordinates the implementation of modularization and other major process or procedural changes.

5. *The Micrographics and Special Equipment Staff* (SPN5): a. Develops and ensures implementation of micrographic processes and procedures.

b. Conducts micrographics research, develops specifications and initiates acquisition proposals for micrographic equipment and services and other special purpose equipment.

c. Develops installation plans and maintains inventory control systems for a variety of specialized equipment.

E. *The Office of Central Records Operations* (SPP): The Office of Central Records Operations (OCRO) provides executive direction and leadership for the nationwide establishment and maintenance of basic records supporting social security programs. It manages centralized records operations and three geographically dispersed data operations centers. The Office establishes and maintains applications for social security numbers; applications for employer identification numbers; and applications for hospital insurance identification cards. It receives and processes social security earnings reports from private and governmental employers and adjustments or corrections to posted earnings items. The Office conducts centralized supplemental security income eligibility redetermination operations; maintains records of SSA enumeration and earnings records in hardcopy, microfilm, magnetic tape and disc form; and maintains an ongoing data exchange activity with the Treasury Department on the compilation and verification of individual earnings data. The Office includes the following components and functions:

1. *The Immediate Office of the Director* (SPP): Provides internal operations analysis staff support and assistance to the Director and all OCRO components.

2. *The Division of Adjustment Operations* (SPPA): a. Makes determinations as to coverage under the Social Security Act, as amended, of services performed by employees or self-employed individuals in earnings discrepancy cases if a claim for benefits has not been filed.

b. Answers inquiries about earnings records, including earnings discrepancies; investigates and adjusts incorrectly reported earnings items; and resolves discrepancies where SSA's records disagree with individual allegations of services rendered or remuneration received.

c. Maintains files of microfilmed employer wage reports, self-employed income reports, detailed earnings listings, and a file of earnings reported incorrectly or incompletely by employers or by self-employed individuals.

3. *The Division of Claims Operations* (SPPB): a. Reviews determinations on correctness of earnings data; coverage; increment years; total earnings; closing dates; primary insurance amounts; and, in disability cases, determinations as to whether work requirements are met. Makes these determinations when needed.

b. Certifies earnings record data to district offices and program service centers for use in the adjudication of retirement and survivors insurance and disability insurance cases.

c. Combines and certifies earnings data from Railroad Retirement Board (RRB) and SSA records.

d. Certifies earnings data from SSA to RRB, indicating eligibility under both systems, and makes preliminary findings of jurisdiction on handling claims.

e. Directs the centralized supplemental security income redetermination operations to ascertain accuracy of SSI payments. Refers possible overpayments and underpayments to district offices for resolution.

4. *The Division of Earnings Operations* (SPPC): a. Receives, examines and microfilms reports of earnings; transfers earnings data from reports to data entry systems; and performs all required sorting, testing, blocking and auditing operations.

b. Corresponds with employers and the Internal Revenue Service about the correction and processing of employer wage reports and self-employment income reports.

c. Performs clerical operations necessary for the audit and control of the annual and (where necessary) quarterly updating of employer earnings accounts and for correcting improperly reported earnings items.

5. *The Division of Registration Operations* (SPPE): a. Issues social security numbers on an expeditious basis as required; establishes and maintains the files of employee applications for social security numbers, the files of employer applications for identification numbers, and OCRO's correspondence files on individual and employer numbers.

b. Maintains a national index of social security number holders and a register of employers; searches for and furnishes to individuals and employers their correct identification numbers, when such numbers have been lost by them; and issues duplicate social security cards.

c. Answers correspondence concerning individual and employer identification numbers; initiates clerical processing of claims, disability and medicare actions; establishes records and maintains control of agreements with State and interstate entities and modifications of these agreements; and reviews wage statements submitted for State and interstate entity employees.

d. Performs microphotographic services for SSA. Maintains master copies of basic records to assure continuous operations, should records be destroyed; reproduces on film records for current use and for preservation of a variety of employee and employer records.

6. *The Data Operations Centers* (SPPF6, 8, 9) (located at appropriate geographical locations throughout the United States.): a. Receive, examine, and microfilm annual and (where necessary) quarterly wage reports filed by employers.

b. Process source data through computer controlled data entry and telecommunications systems, for input to the central computer complex at SSA headquarters. Source data processed includes applications for social secuity numbers, employers' annual earnings reports, health insurance utilization records, and other pertinent documents.

c. Perform electronic editing, validating, and balancing functions related to the processing of source data; and transmit products to SSA headquarters computer complex, for processing in a timely manner.

d. Operate a large complex of data entry terminals, computers, and communications equipment.

F. *The Office of SSA Program Service Centers* (SPR): The Office of SSA Program Service Centers (OPSC) directs a network of six geographically dispersed SSA program service centers (PSC's) which process selected claims; maintain beneficiary records; reconsider claims and eligibility determinations; and certify benefit payments for the retirement and survivors insurance program; determine entitlement to health insurance benefits, and collect premiums for the supplementary medical insurance program. The Office directs similar operations for administration of the U.S. Social Security program in foreign countries. It makes recommendations to PSC's and other SSA components to improve operational performance and initiates and monitors plans and actions to achieve operational objectives. The Office includes the following components and functions:

1. *The Immediate Office of the Director* (SPR): Provides overall staff support and assistance to the Director and OPSC components.

2. *The Division of International Operations* (SPR5): a. Develops, adjudicates and authorizes payment or disallows claims for retirement, survivors insurance/disability insurance benefits filed by persons in foreign countries; determines eligibility for health insurance (HI) and supplementary medical insurance (SMI) on related claims; and maintains foreign claims records and files.

b. Determines whether and when eligibility or payments should be terminated, suspended, continued, increased, or reduced in amount and reconsiders determinations on initial claims and continuing eligibility; makes representative payee determinations and processes related accountability reports; recovers or waives recovery of amounts incorrectly paid to beneficiaries.

c. Answers inquires about individual foreign claims and claims determinations.

d. Provides centralized translation services for SSA.

e. Serves as SSA liaison on operational issues which affect the administration of the U.S. Social Security Program abroad, with the Department of State, other Federal agencies, agencies of foreign governments, and private organizations.

3. *SSA Program Service Centers* (SPRF2, 3, 4, 5, 7, 9) (located at appropriate geographical locations throughout the United States): a. Review and authorize payment or disallow claims for RSI benefits and HI entitlement; certify RSI benefit amounts to the Treasury Department for payment; and maintain RSI benefit and HI records.

b. Determine whether and when eligibility or payments should be terminated, suspended, continued, increased, or reduced in amount and reconsider determinations on initial claims and continuing eligibility.

c. Maintains RSI payment rolls; recover or waive recovery of amounts incorrectly paid to RSI beneficiaries; receive, record, and deposit SMI premium and overpayment refunds; make representative payee determinations and process related accountability reports.

d. Answer inquiries about individual RSI cases and claims determinations and ensure expeditious processing of actions where inquiries indicate claimant hardship.

e. receive and coordinate computer programs and exceptions on case processing; maintain accounting controls and assure by sample audit that magnetic tape records reflect actual authorized payment actions.

f. Coordinate PSC operations with the other components within the Office of Central Operations, other SSA components, the Railroad Retirement Board, the Veterans Administration, the U.S. Postal Service, and other Federal agencies as required.

G. *The Office of Disability Operations* (SPT): The Office of Disability Operations (ODO) provides executive direction and leadership to centralized disability operations that process claims under disability and black lung benefits programs and maintain beneficiary rolls. It directs the review of initial and reconsidered determinations of disability excluded from State agency jurisdiction and directs the authorization of disability claims not authorized by district offices at the initial, reconsideration and other appeal levels. It responds to public and Congressional correspondence on disability operations issues. The Office includes the following components and functions:

1. *The Immediate Office of the Director* (SPT): Provides internal operations analysis staff support and assistance to the Director and all ODO components.

2. *The Process Divisions* (SPTG, H, J, K, L): a. Make initial determinations of disability and reconsider disability determinations of claims excluded from State agency jurisdiction. Make determinations of continuing disability entitlement.

b. Make determinations of entitlement or eligibility to primary or auxiliary benefits and authorize allowance or disallowance of disability claims not authorized by district offices and reconsider those cases appealed for issues other than the existence of disability. Make representative payee determinations and process representative payee accountability reports.

c. Adjust, suspend, and terminate benefits and prepare benefit payment data for introduction into the computer system; process all actions to maintain beneficiary payment rolls; recover or waive recovery of amounts incorrectly paid to beneficiaries, prepare and release award certificates, denial letters, and other claims related notices and maintain ODO's files of claims folders.

d. Answer inquiries regarding individual cases and ensure expeditious processing of actions where claimant hardship is indicated.

e. Contact outside Federal/State components such as the Department of Labor, Railroad Retirement Board, Workmen's Compensation Commissions, and other SSA components as necessary to resolve disability claims actions.

3. *The Division of Operations Services* (SPTM): a. Coordinates ADP activities for ODO with SSA's Office of Operational Policy and Procedures and as necessary with SSA's Office of Systems; receives and analyzes computer programs and exceptions which relate to disability payment systems.

b. Provides internal mail services and maintains disability operations dormant files. Oversees the operation of the case control system for disability operations; identifies case control problems; and coordinates folder location activities with central office components, State agencies, and district offices regarding overdue cases.

c. Coordinates the Division's operations with other SSA components, the Treasury Department, State agencies, and the U.S. Postal Service, as necessary.

Dated: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24248 Filed 8-6-79; 8:45 am]

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Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). On March 21, 1979, an amendment to Part S was published in the **Federal Register** (44 FR 17218–17233) to reflect a reorganization of SSA. Sections SL.00, SL.10 and SL.20 of the SSA Statement, as contained on pages 17229–17230 of the amended material published on March 21, 1979, describe the mission, organization, and functions for SSA's Office of Assessment (OA). These sections are restated and expanded to reflect the additional office level functions and the establishment of division-level components in OA. This revised material reads as follows:

Sec. SL.00 *The Office of Assessment*—(Mission):

The Office of Assessment (OA) assures the integrity and quality of the administration of social security programs. It evaluates the quality of SSA operations, with emphasis on the prevention of program and systems abuse, the elimination of waste and the increase of efficiency. It manages SSA's quality assurance programs, the handling of cases that may involve fraud and SSA's systems audit and systems security programs. The Office assesses the effectiveness of SSA program administration and operations. It also monitors and assesses SSA's compliance with statutes governing access to information and confidentiality of records. The Office represents SSA with external auditors and assessors.

Sec. SL.10 *The Office of Assessment*—(Organization):

The Office of Assessment, under the leadership of the Associate Commissioner for Assessment, includes:

A. The Associate Commissioner for Assessment (SL)

B. The Deputy Associate Commissioner for Assessment (SL)

C. The Immediate Office of the Associate Commissioner for Assessment (SL)

D. The Office of Payment and Elilgibility Quality (SLQ), which includes:

1. The Division of Quality Review Policy and Sample Control (SLQ1)

2. The Division of Quality Review Instructions (SLQ2)

3. The Division of Review Validation and Systems Support (SLQ3)

4. The Division of Reports and Analysis (SLQ4)

5. The Division of Program Measurement and Evaluation (SLQ5)

6. The Division of Aid to Families with Dependent Children Quality Control (SLQ6)

E. The Office of Adjudication Process Quality (SLC), which includes:

1. The Division of Insurance Program Quality (SLC1)

2. The Division of Disability Program Quality (SLC2)

3. The Division of Assistance and Records Operations Quality (SLC3)

4. The Division of Disability Quality Operations (SLC4)

F. The Office of Security and Program Integrity (SLB), which includes:

1. The Division of Program Integrity (SLB1)

2. The Division of Systems Security (SLB2)

3. The Division of Administrative Integrity (SLB3)

G. The Field Assessment Offices (SLF1–SLFX), which include:

1. The Division of Payment and Eligibility Quality (SLF11–SLFX1)

2. The Division of Adjudication Process Quality (SLF12–SLFX2)

3. The Evaluation Staff (SLF13–SLFX3)

4. The Program Integrity Staff (SLF14–SLFX4)

H. The Office of Evaluation (SLE), which includes:

1. The Division of Audit Management and Liaison (SLE1)

2. The Division of Surveys (SLE2)

3. The Division of Special Studies (SLE3)

Sec. SL.20 *The Office of Assessment*—(Functions):

A. *The Associate Commissioner for Assessment* (SL) is directly responsible to the Commissioner for carrying out OA's mission and provides general supervision to the major components of OA.

B. *The Deputy Associate Commissioner for Assessment* (SL) assists the Associate Commissioner in carrying out his/her responsiblities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Assessment* (SL) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Office of Payment and Eligibility Quality* (SLQ) develops and maintains programs to assure quality of payments and of continuing eligibility in all social security programs. These programs determine payment and continuing eligibility accuracy, and determine Federal fiscal liability to the States for Federally-administered State supplementary payments. The Office identifies error rates, trends and sources and recommends corrective actions. It administers a program to evaluate policies in social security benefit programs, identifying policy and policy application deficiencies and recommending corrective actions or changes in policies. It provides technical direction to Field Assessment Offices in the management of their payment and eligibility quality activities. It includes the following components and functions:

1. *The Division of Quality Review Policy and Sample Control* (SLQ1):

a. Designs and develops sampling methods and techniques, statistical measures and methods of statistical evaluation for the nationwide Supplemental Security Income (SSI) and Retirement, Survivors and Disability Insurance (RSDI) payment accuracy/quality review programs.

b. Develops and recommends policies for payment and eligibility quality review activities. Designs and conducts special studies and research projects and analyzes data to validate Office of Payment and Eligibility Quality (OPEQ) policy positions.

c. Designs, develops, and conducts tests of current and alternative quality review methodology. Prepares data analysis plans and analyzes test results to determine more effective, efficient, and cost beneficial methods of conducting payment accuracy/quality reviews. Monitors field review productivity.

d. Compiles data on Federal fiscal liability under the SSI program and determines the amount of SSA's Federal fiscal liability. Develops policies, regulations, and instructions regarding Federal fiscal liability and disallowance determinations.

e. Serves as the liaison with external groups, such as the Office of Management and Budget (OMB), State agencies and other government agencies, using payment eligibility measuring systems.

f. Provides staff support to State committees involved with quality control activities to foster continuing and extensive dialogue.

2. *The Division of Quality Review Instructions* (SLQ2):

a. Designs, develops, and sets forth technical and operational procedures necessary to implement and maintain a nationwide program for the continuing review of payment accuracy and quality of SSI and RSDI payments and denials to ascertain the effectiveness of program administration and compliance with the law.

b. Maintains current SSI and RSDI quality review procedures and related instructions to be used in the case review processes and reviews supplemental SSI and RSDI quality review procedures developed by Field Assessment Offices (FAO's) for consistency with national policies.

c. Coordinates with SSA's Office of Operational Policy and Procedures (OOPP) to clarify issues related to individual cases and provides field offices with correct interpretations of applicable laws, regulations, and program policies in determining the payment accuracy of individual cases. Responds to requests for information and changes in the SSI/RSDI quality review processes.

d. Determines OA needs for SSI and RSDI quality review processes training and technical assistance and develops national level SSI/RSDI quality review technical training policies, materials, and resources. Reviews training materials developed by FAO's for consistency and possible national implementation. Provides support and technical assistance to field offices.

3. *The Division of Review Validation and Systems Support* (SLQ3):

a. Evaluates the quality and performance of field offices in adhering to OPEQ policies and procedures through redevelopment of a statistical sample of all payment accuracy/quality review cases. Conducts onsite reviews to appraise field office adherence to OPEQ review procedures.

b. Identifies sources of errors in the payment accuracy review process and application of review procedures and develops and recommends corrective actions where necessary. Provides feedback to field offices concerning individual cases and overall quality of their quality reviews and adherence to procedures and policies.

c. Develops and maintains processing systems for the collection and reporting of OPEQ data. Provides field offices with computer generated reports and services necessary for completion and control of sample workloads. Monitors schedules and completion of sample workloads assigned to field offices to insure timely reporting of payment accuracy results.

d. Serves as liaison to SSA's Office of Systems (OS) in their implementation and operation of OPEQ systems requirements. Develops payment accuracy profile concepts in support of quality review studies from which corrective actions may be initiated.

4. *The Division of Reports and Analysis* (SLQ4):

a. Serves as the focal point for designing, developing, coordinating, and issuing SSA-wide reports related to the quality of SSA payment and eligibility processes.

b. Analyzes data to identify errors, their cause, and significance and to identify areas needing additional study to determine appropriate corrective action.

c. Determines the need for, designs, implements and analyzes special studies to supplement regular reports to enable specific identification of program deficiencies and ascertains what corrective actions are needed. Coordinates, reviews and evaluates these studies and assists field offices in the development of field initiated studies.

d. Through analysis of data, special studies, and consultation with other components, identifies the need for and recommends changes in legislation, regulation, policies, procedures, and systems affecting SSA payment programs. Reviews proposed changes in legislation, regulation, policies, procedures, and systems affecting SSA payment programs to determine the effect on payment and eligibility accuracy.

e. Serves as liaison between FAO/OPEQ staff and OOPP or SSA's Office of Policy (OP) for corrective action recommendations such as clarification and suggested revisions of program or operational policy.

f. Works with program components in the development of user requirements for various types of profiles and the implementation and evaluation of profiles.

5. *The Division of Program Measurement and Evaluation* (SLQ5):

a. Plans, directs, and coordinates the development and operation of a nationwide system involving the intensive redevelopment of selected cases with regard to specific program policies and also provides a measurement system of the quality of SSA's service to the public. Operates measurement, coding, calculation and reporting aspects of the overall system.

b. Analyzes the data from redeveloped cases to evaluate the validity of specific program policies and how they are implemented.

c. Conducts indepth program policy studies and prepares reports for top SSA officials to evaluate claims policies and assumptions, to test the validity of claims policy decisions, and to appraise how program policies are administered. Provides reports, analyses, and recommendations for improvement of services.

d. Consults with SSA policy components and prepares indepth recommendations for regulatory and legislative intiatives with regard to specific program policies.

6. *The Division of Aid to Families with Dependent Children Quality Control* (SLQ6):

a. Develops policies, standards and guidelines for the Aid to Families with Dependent Children (AFDC) Federal/State Quality Control System. Coordinates quality control procedures and systems development with other quality control/assurance program activities and SSA's Office of Family Assistance (OFA) to assure consistency of Federal quality control review procedures with quality assurance program policy and overall national AFDC policy.

b. Establishes, maintains, and evaluates the effectiveness of the Federal monitoring system of State AFDC quality control operations, including technical and operating policies necessary to conduct Federal rereviews of State AFDC–Quality Control (AFDC–QC) findings.

c. Develops Federal/State quality control procedures and systems and provides technical guidance and assistance to States and field offices.

d. Conducts onsite reviews to appraise field office and State agency adherence to AFDC–QC review procedures.

e. Analyzes AFDC quality control findings and consolidates State and Federal findings. Prepares national reports from data derived from quality control reviews.

f. Assists OFA in corrective action planning and implementation by providing data analysis and recommendations for corrective action.

E. *The Office of Adjudication Process Quality* (SLC) develops and maintains programs to assure quality in the adjudication processes of social security programs. It identifies error rates, trends, and sources, recommends corrective actions, and determines review levels necessary to improve process quality within available resources. The Office manages central review operations and provides technical direction to Field Assessment Offices in the management of their adjudication process quality activities. It includes the following components and functions:

1. *The Division of Insurance Program Quality* (SLC1):

a. Plans, designs and maintains SSA-wide measurements of quality for

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insurance programs encompassing all phases (except the disability determination) of the adjudicative processes common to SSA insurance programs, foreign claims, international agreements and reconsideration of title II decisions.

b. Designs quality assurance systems to meet insurance program needs. Establishes quality assurance policy, standards and operational instructions and continuously monitors systems performance and insurance program analyses.

c. Plans, designs, coordinates, and monitors the operation of an insurance program data collection network. Provides analyses and recommendations to insurance program managers on the effectiveness of policy systems and operational performance through a nationwide reporting network for corrective management actions, plans, and initiatives.

d. Provides consultative and technical assistance to other components on the interpretation and utilization of insurance program quality control data. Monitors and evaluates the effectiveness of corrective action implementation by operating components and recommends the development and implementation of training, and a variety of program changes, particularly systems and procedural improvements designed to alleviate quality problems.

2. *The Division of disability Program Quality* (SLC2):

a. Plans, designs, and maintains a program of quality assurance covering adjudication activities of district offices (DO's), State agencies, regional offices (RO's) and central office to the extent that they are involved in making disability determinations.

b. Designs quality assurance processes and systems to evaluate a variety of disability determination functions, establishes operating policies and standards for the quality assurance process, prepares quality assurance operating instructions, establishes definitions of error, designs mechanisms for correcting errors and continuously monitors the entire process.

c. Plans designs, and coordinates a program of: disability determination quality assurance data collection, review and analysis; report preparation and dissemination; special study activities; and corrective action plans and initiatives.

d. Provides consultative services and technical assistance to other components on the utilization and interpretation of quality control data: formulates quality assurance policy and procedures and responds to quality assurance policy and procedural questions raised by (RO's) and other components; and participates in the development and implementation of training materials and programs.

3. *The Division of Assistance and Records Operations Quality* (SLC3):

a. Plans, designs, and maintains an SSA-wide program of quality assurance encompassing all phases (excluding the disability determination) of the adjudication process relating to SSA-administered assistance programs and of SSA's major records processes.

b. Designs and manages quality assurance systems to meet assistance programs and records operations needs, establishes operating policies and standards, prepares operating instructions and continually monitors systems performance.

c. Plans, designs and coordinates a program of: Assistance program and records operations quality assurance data collection, review and analysis; report preparation and dissemination; and corrective action plans and initiatives.

d. Provides consultative services and technical assistance to other components regarding the utilization and interpretation of quality control data; responds to quality assurance policy questions raised by other components; and participates in the development of training materials and programs.

4. *The Division of Disability Quality Operations* (SLC4):

a. Conducts an ongoing comprehensive review program of both the substantive and technical aspects of selected title II disability claims adjudicated by State agencies, DO's and SSA's Office of Disability Operations (ODO) to assure that consistent and accurate quality of work is maintained in ODO and on an individual State agency and nationwide basis.

b. Conducts an ongoing comprehensive review program to insure the quality and acuracy of the development, adjudication, and review of title XVI disabled and blind cases.

c. Identifies those policies and guidelines most frequently subject to inconsistent interpretation or application. With this identification as the basis, compiles feedback reports to the State agencies, DO's, RO's and FAO's on the status of their operations and quality assurance efforts.

d. Identifies the need for policy revision and the improvement of guides (both medical and nonmedical) and instructions.

e. Identifies specific and general training needs of DO's, RO's, State agencies and ODO.

F. *The Office of Security and Program Intergrity* (SLB) develops plans, policies, and procedures for maintaining the integrity of SSA's program and administrative processes and security of its systems. It manages risk analyses to identify program and systems weaknesses and designs and recommends measures to prevent fraud and abuse, develops procedures and action plans and assesses the effectiveness of implementation of preventive measures. The office directs the handling of cases which may involve fraud, including investigations not handled by the HEW Inspector General and recommends to U.S. Attorneys, through the Office of the Inspector General, whether to prosecute fraud cases. It monitors and assesses SSA's compliance with the Privacy Act and directs personnel security activities. It provides technical direction to Field Assessment Offices in the management ot their security, program integrity, and administrative integrity activities. It includes the following components and functions:

1. *The Division of Program Integrity* (SLB1):

a. Establishes SSA-level policies and objectives on program integrity. Develops and issues procedures and instructions for maintaining the integrity of SSA programs and processes and for the handling of cases of fraud and abuse. Evaluates the integrity of SSA programs and processes. Identifies the need for management actions to correct fraud and abuse in SSA programs and processes; monitors and reports on these actions.

b. Designs and maintains the SSA Program Integrity Control System. Analyzes data from the system, establishes SSA's program integrity reporting requirements, and develops reporting mechanisms to provide SSA officials with information concerning agencywide program integrity operations. Prepares agency reports on program integrity workloads, trends, and progress.

c. Conducts studies and special projects related to the integrity of SSA programs and processes. Conducts special investigations as necessary, including indepth reviews of personnel irregularities. Where violations on the part of SSA employees are suspected, prepares and refers cases from SSA to HEW's Office of the Inspector General and acts as a control point for those referrals.

d. Advises the Commissioner and the Associate Commissioner for Assessment on matters involving the integrity of SSA programs and processes. Represents SSA in these matters in dealings with HEW, other agencies and organizations, and the States.

e. Provides technical direction to FAO's in the management of their program integrity activities. Evaluates the way cases are handled in the FAO's to assure compliance with operating instructions and uniformity of handling.

2. *The Division of Systems Security* (SLB2):

a. Develops, manages, and coordinates the SSA-wide systems security program. Develops, applies and interprets policies, standards, techniques, guidelines, and procedures for assuring adherence to all statutory and regulatory requirements for the security of personal and program data which are gathered, processed, maintained, and disposed of by SSA. Monitors and assesses SSA's compliance with the Privacy Act.

b. Develops and conducts studies, analyses, and audits to determine the security status of SSA systems, as well as the appropriateness and effectiveness of limitations on access to systems data. Evaluates ADP equipment and software acquisition proposals and systems developments for adequacy of security controls.

c. Develops procedures for recording security violations; records and assesses such violations; recommends corrections of violations and remedies for systems vulnerabilities, through modifications of systems, programs, procedures, or controls; and recommends solutions to security problems.

d. Advises the Commissioner and the Associate Commissioner for Assessment on systems security matters and represents SSA on systems security matters in dealings with groups outside SSA and other government entities, through service on committees, panels, etc.

e. Provides technical direction to FAO's in the management of their systems security activities.

3. *The Division of Administrative Integrity* (SLB3):

a. Conducts special audits of SSA fiscal, property, and accountability controls and processes dealing with the management or handling of funds or property.

b. Recommends corrective actions when weaknesses in procedures or controls are found. Monitors and reports on the implementation of corrective actions. Refers cases of suspected violations by SSA employees to the Division of Program Integrity for preliminary development and possible referral to the Office of the Inspector General.

c. Advises the Commissioner and Associate Commissioner for Assessment on the fiscal integrity of SSA administrative and operational processes.

d. Provides technical advice to the Division of Systems Security on audit requirements in the design of systems and to the Office of Evaluation in the inclusion of audit approaches and requirements in broader surveys and assessments.

G. *The Field Assessment Offices* (SLF1–SLFX) manage OA operations in the field, including quality assurance, program integrity, and evaluation activities. They conduct independent reviews to determine payment and eligibility error rates in all social security programs, including errors in Federally administered State supplementary payments and State administered programs directed by SSA. These reviews provide the basis for determing the Federal fiscal liability amounts reimbursable to States for which SSA administers State payments and for determining State fiscal sanctions and incentives in the AFDC program. The FAO's provide reports, data, analyses, and corrective action recommendations to improve payment accuracy. They conduct independent reviews to determine the quality of adjudication processes of social security programs and State administered programs directed by SSA. The FAO's assist in identifying error trends and sources and recommend corrective actions. They process cases which may involve fraud and recommend prosecution in appropriate cases. They monitor the implementation of program integrity and systems security plans and preventive measures, and perform special assessment surveys and analyses. They include the following components and functions:

1. *The Division of Payment and Eligibility Quality* (SLF11–SLFX1):

a. Conducts independent review programs operated through satellite offices in a region to determine the accuracy of payments made in the RSDI and SSI programs. Identifies payment and nonpayment error rates, trends, and sources of errors, and recommends corrective action. Conducts studies and provides reports and analyses to improve payment accuracy. Evaluates the effect of program policies and procedures on regional payment accuracy; recommends changes and improvements to regional operating components and, as appropriate, to central office components of the Office of Assessment responsible for policy and procedure analysis and coordination. Furnishes the data to OPEQ for determining Federal fiscal liability to the States for Federally administered State supplementary payments.

b. Monitors, through independent reviews, the operation of State quality control systems in the AFDC program. Determines the disallowances or payment of incentive to States under the AFDC program.

2. *The Division of Adjudication Process Quality* (SLF12–SLFX2):

a. Carries out programs to assure quality in the adjudication of claims under the RSDI and SSI programs. Identifies error trends and sources of errors in the adjudication process from sample and special reviews; recommends corrective actions necessary to improve process quality. Prepares reports based upon findings providing advice and guidance for operating components.

b. Conducts studies to evaluate the effect of established procedures on the quality of the regional adjudication process; recommends changes and improvements to regional operating components and, as appropriate, to central office components of the Office of Assessment responsible for procedures analysis and coordination.

3. *The Evaluation Staff* (SLF13–SLFX3):

a. Assesses operational and administrative effectiveness and efficiency of SSA programs. Follows central office evaluation guides in reviewing operations and components. Participates in the development and planning of the SSA evaluation program. Plans and conducts special regional evaluations, securing input from and coordinating and consulting with the Regional Commissioner and appropriate regional officials.

b. Monitors implementation of systems security measures, and evaluates adherence to and effectiveness of those measures.

4. *The Program Integrity Staff* (SLF14–SLFX4):

a. Carries out a program to identify and prevent fraud, abuse, and waste in SSA programs and administrative processes, and refers individual cases to the United States Attorney where appropriate. Where employee fraud is involved, referral is through the Office of the Inspector General. Provides technical direction to operating components in the development of the fraud aspects of cases and performs

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investigations requiring skilled investigative competence.

b. Establishes and maintains liaison with the HEW Office of the General Counsel, the U.S. Attorneys, and various Federal, State, and local law enforcement and welfare agencies. Cooperates with operating components to develop training programs and material concerning integrity operations and to publicize convictions.

H. *The Office of Evaluation* (SLE) assesses the administration of social security programs. It designs broad evaluation programs, incorporating and coordinating various evaluation methods, techniques and efforts. The Office serves as SSA's liaison with the HEW Audit Agency and external auditors and evaluators; manages the internal handling of audit reports; and assures proper attention to audit and evaulation findings and recommendations. It maintains a continuing management survey program and performs continuing and special analyses of trends and critical problem areas. It provides technical direction to Field Assessment Offices in the management of their evaluation activities. It includes the following components and functions:

1. *The Division of Audit Management and Liaison* (SLE1):

a. Plans and coordinates SSA involvement with audits planned and conducted by the General Accounting Office (GAO) or the HEW Audit Agency; recommends areas for audit and facilitates the access of audit teams to SSA.

b. Reviews and evaluates audit reports and develops the SSA response to specific audit recommendations. Evaluates and recommends SSA commitments to audit recommendations; monitors and evaluates implementation of commitments; prepares progress reports and recommends corrective actions.

c. Monitors and evaluates implementation of internal and external survey recommendations, prepares progress reports and recommends corrective actions.

d. Maintains liaison with operating management in the field; identifies problems; and monitors corrective actions.

e. Maintains liaison with GAO, the HEW Audit Agency and other external auditors and evaluators, represents SSA's interests and discusses SSA positions.

2. *The Division of Surveys* (SLE2):

a. Directs SSA's survey program, which is designed to provide onsite evaluations of selected areas of program administration.

b. Evaluates mission, policy application, procedures and methods, organization, management priorities, and resources utilization of selected organizational components.

c. Examines significant functional areas and major work systems and processes to discover and recommend improvements and better resource utilization.

d. Periodically evaluates SSA regional operations, including management priorities, policies, and delivery of program services.

e. Maintains liaison with SSA components and assures that actions are taken to monitor progress on implementation of recommendations.

f. Conducts special surveys in critical areas, defining problems and barriers to problem solution, and developing and recommending alternative solutions.

3. *The Division of Special Studies* (SLE3):

a. Formulates and directs a program of evaluation studies and projects to determine how well SSA programs are achieving their stated goals and objectives. Using and analyzing information from a wide variety of sources including quality assurance and management information data, information from surveys, audits and studies, and program, statistical and research data, recommends legislative, regulatory, policy and procedural changes.

b. Conducts studies of SSA program, administrative, and operating policies, processes and regulations. Determines efficiency, effectiveness and consistency with legislative intent, administrative initiatives and priorities, SSA and HEW goals and objectives. Determines the overall impact on the general public and other SSA clients.

c. Formulates and conducts studies to evaluate service to the public in the various SSA programs.

d. Initiates and monitors broad-scale studies and experiments to evaluate alternative management, administrative, and operational processes which could improve SSA's effectiveness in carrying out its missions.

Date: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24240 Filed 8-6-79; 8:45 am]

BILLING CODE 4110-07-M

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). On March 21, 1979, an amendment to Part S was published in **Federal Register** (44 FR 17218–17233) to reflect a reorganization of SSA. Sections SM.00, SM.10, and SM.20 of the SSA Statement, as contained in pages 17230 and 17231 of the amended material published on March 21, 1979, describe the mission, organization and functions for SSA's Office of Management, Budget, and Personnel (OMBP).

Sections SM.00, SM.10, and SM.20 of the OMBP Statement are restated and expanded to reflect the establishment of division-level components in OMBP's Office of Management Planning and Analysis, Office of Financial Resources, Office of human Resources and Office of materiel Resources. This restatement also deletes reference to the Office of Technical Resources since the functions of that former OMBP component have been transferred to SSA's Office of Systems. The revised OMBP material reads as follows:

Sec. SM.00 *The Office of Management, Budget, and Personnel*—(Mission): The Office of Management, Budget, and Personnel (OMBP) provides overall management of SSA resources. The Office develops policy and guidelines for the exercise of SSA-wide management responsibilities, and evaluates and appraises the manner in which those responsibilities are carried out. It administers the following SSA-wide management programs:

1. Budget and financial management, including policy guidance for, and general oversight of, financial arrangements with State agencies;

2. The full range of SSA's human resources programs, including personnel, labor-management relations and training;

3. Organization and management analysis, delegations of authority, administrative appraisal and planning, management information, manpower utilization and work measurement;

4. Generaal management support services, including contracting and procurement, property management, realty and space, communications and records, publication management and employee health, safety and physical security. The Office represents SSA in these areas with HEW; other Federal agencies; Congress and other organizations.

Sec. SM.10 *The Office of Management, Budget, and Personnel*—(Organization): The Office of Management, Budget, and Personnel, under the leadership of the Associate Commissioner for Management, Budget, and Personnel, includes:

A. *The Associate Commissioner for Management, Budget, and Personnel* (SM),

B. *The Deputy Associate Commissioner for Management, Budget, and Personnel* (SM),

C. *The Immediate Office of the Associate Commissioner for Management, Budget, and Personnel* (SM),

D. *The Office of Management Planning and Analysis* (SMP), which includes: 1. The Division of Management Studies and Analysis (SMP1),

2. The Division of Management Planning (SMP2),

3. The Division of Manpower Utilization (SMP3),

4. The Division of Management Information (SMP5),

5. The Division of Management Programs and Coordination (SMP6),

6. The Division of Organization Planning and Analysis (SMP7).

E. *The Office of Financial Resources* (SMF), which includes: 1. The Division of Administrative Budget (SMF1),

2. The Division of Finance (SMF2),

3. The Division of Budget Systems (SMF3),

4. The Division of Program Budget (SMF4),

5. The Division of Program Accounting (SMF5).

F. *The Office of Human Resources* (SMH), which includes: 1. The Division of Classification (SMHA),

2. The Division of Personnel Policy, Data and Research (SMHC),

3. The Evaluation and Field Liaison Staff (SMHK),

4. The Management-Employee Communications Staff (SMHE),

5. The Division of Employee Health and Occupational Safety (SMHH),

6. The Division of Labor Relations (SMHJ),

7. The Division of General Training (SMHD),

8. The Division of Technical Training (SMHL),

9. The Division of Disciplinary and Adverse Actions (SMHM),

10. The Executive Recruitment and Services Staff (SMHN),

11. The Division of Personnel Operations (SMH9).

G. *The Office of Material Resources* (SMM), which includes: 1. The Division of Management Services (SMM1),

2. The Division of Realty and Space Management (SMM2),

3. The Division of Contracts and Grants Management (SMM3),

4. The Division of Publications Management (SMM4)

5. The Division of Property Management (SMM5),

6. The Division of Communications and Records Management (SMM6).

Sec. SM 20. *The Office of Management, Budget, and Personnel*—(Functions): A. *The Associate Commissioner for Management, Budget, and Personnel* (SM) is directly responsible to the Commissioner for carrying out OMBP's mission and provides general supervision to the major components of OMBP.

B. *The Deputy Associate Commissioner for Management, Budget, and Personnel* (SM) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Management, Budget, and Personnel* (SM) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Office of Management, Planning and Analysis* (SMP) Directs comprehensive SSA management analysis, appraisal and planning programs. It develops and maintains the SSA management information and work measurement systems; establishes, conducts and coordinates major SSA management planning efforts, including plans for implementation of legislative, technological and process changes; conducts an SSA organization management and analysis program; develops, recommends and publishes all delegations of authority in SSA and manages SSA's delegations of authority program. The Office implements and manages a comprehensive manpower utilization system; manages the SSA Initiatives tracking system; develops policies for and administers SSA conference, committee and emergency preparedness plans and programs; and manages the SSA Historical research program. It provides SSA liaison with HEW; other Federal agencies; and outside sources on these matters. The Office of Management Planning and Analysis (OMPA) includes the following components and functions:

1. *The Division of Management, Studies and Analysis* (SMP1): a. Directs, develops and implements a comprehensive program of management studies, research and analysis to evaluate and determine the feasibility of implementing major changes affecting the SSA organization, its administrative practices and its methods of operation. Studies and analyses are agencywide, frequently deal with issues of a sensitive nature and may involve other government agencies.

b. Undertakes feasibility, predictive benefit and cost/risk analyses to identify alternatives and to develop administrative strategies for consideration by the SSA Executive Staff in responding to Agencywide problems and issues.

2. *The Division of Management Planning* (SMP2): a. Directs, develops and implements SSA management planning programs, including oversight and agency-level review of operational plans, program policy proposals, and contingency plans.

b. Develops and implements comprehensive agencywide, management plans and projects, frequently of a critical nature, for implementing major legislative, technological and process changes in SSA. Also plans implementation of major functional or workload shifts within SSA and between SSA and other Federal or State agencies.

c. Prepares operational and administrative directives and SSA management planning policy guidelines to achieve planning objectives and monitors progress during implementation phases. Furnishes staff advice and assistance to other SSA components in management planning endeavors.

3. *The Division of Manpower Utilization* (SMP3): a. Develops and implements comprehensive manpower utilization and planning programs to improve productivity and the use of SSA manpower; coordinates functions related to manpower utilization which are performed by other SSA components, including the development of manpower budgets by the office of Financial Resources (OFR) and personnel management, training and position management by to office of Human Resources.

b. Conducts studies and analyses of work processes and procedures, workflows and workload processing positions; applies a variety of disciplines and techniques, including industrial engineering, management analysis and model building to assure best manpower utilization; and recommends action to top SSA executives for improving the utilization of SSA manpower.

c. Develops SSA-wide manpower management policies, procedures and guidelines; develops, analyzes and interprets manpower forecasting data; and projects future manpower needs, including the types of skills and positions required.

4. *The Division of Management Information* (SMP5): a. Directs, develops and implements SSA-wide management information, work measurement, and workload control programs, including data analysis, which reflect the condition of SSA programs and operations. Works with Office of Financial Resources in compiling and interpreting data required for SSA budget purposes.

b. Formulates agencywide management information policies and procedures; determines management information needs; designs, implements and evaluates management information systems and data bases coordinating electronic data processing systems needs with SSA's Office of Systems; designs and maintains other data collection, retrieval and reporting systems; analyzes data, identifies statistically significant trends, problems and issues, and projects workload conditions and resource needs.

c. Works closely with other SSA components in developing work measurement, management information and workload control data; provides staff support by way of management information reports, analyses and services to the Office of the Commissioner and other SSA components; and coordinates the gathering and evaluation of management information for a variety of Agencywide reports which are provided to Congress, other government agencies, and the private sector.

5. *The Division of Management Programs and Coordination* (SMP6): a. Develops and directs agencywide management programs, including the SSA conference, committee, work group, task force, reports, and directives management programs, and other general management improvement programs; coordinates, develops and implements the SSA-wide emergency preparedness program; represents SSA in dealings with HEW and other government and private agencies in these areas; implements policies and guidelines in these areas and assesses their effectiveness; and provides staff support services in these areas.

b. Manages the SSA Administrative Directives System (ADS) and supplemental systems required to implement administrative policies; researches new concepts, techniques and methods in the field of directives management and implements ADS improvements; maintains contact with other government and private agencies concerning the management of agencywide directives and reports.

c. Directs agency wide Management by Objectives (MBO) and other planning and control systems, including SSA participation in the HEW-Major Initiatives Tracking System (MITS) and agencywide management of MITS as required by HEW and SSA needs; develops and controls objectives and initiatives for governmentwide, HEW, SSA and component MBO and MITS systems; monitors MBO and MITS objectives and initiatives for the Commissioner and Associate Commissioners; evaluates progress in achieving MBO and MITS objectives; identifies problems in these areas and recommends corrective action, as necessary.

d. On befalf of the Commissioner and the Associate Commissioner for Management, Budget, and Personnel, coordinates, consolidates and prepares a variety of reports of an intergovernmental or agencywide nature that require contributions from a number of offices, disciplines or viewpoints, insuring that the agency response in consistent with SSA objectives, policies and initiatives; and controls a variety of activities and reports which cut across lines of responsibility in SSA, OMBP and OMPA including, the *SSA Year In Review*, other narrative annual reports, and the *Social Security Office Report of Trends* (SORT).

6. *The Division of Organization Planning and Analysis* (SMP7): a Develops and implements SSA-wide organizational policies, procedures, standards and objectives.

b. Conducts studies of SSA organizational and functional arrangements; assesses alternative organizational arrangements; and approves the establishment of positions and organizational entities required to perform the SSA mission. Evaluates organizational proposals covering the transfer of existing functions within SSA and to SSA from othe agencies, and recommends SSA action on organizational and position changes requiring approval outside the agency. Within its assigned authority, formulates and oversees implementation of organizational policies and directives which assure that the work of the agency is arranged in a cost-effective manner and in a way which provides the best use of positions.

c. Analyzes, develops and recommends delegations of management and program administration authorities to and within SSA and monitors the exercise of delegations in SSA. Documents delegations of authority, organizational structures and functional statements. Provides advice and assistance to all SSA components in organizational analysis, design and implementation.

E. *The Office of Financial Resources* (SMF): Develops SSA financial management objectives, policies, standards and procedures, and plans, prepares, justifies, presents and executes the SSA budget. It designs and operates SSA's automated cost analysis, accounting and budget systems; audits and certifies expenditures; certifies program benefit payments to the Department of the Treasury for disbursement; compiles required financial reports; and provides the work measurement requirements for the budget and cost analysis systems. The Office furnishes financial management advice to the Commissioner and other top level SSA executives and provides SSA liaison on agency fiscal matters with the Office of Management and Budget (OMB), the Department of the Treasury, the General Accounting Office, HEW, other Federal agencies, and various private and public organizations. The Office of Financial Resources (OFR) includes the following components and functions:

1. *The Division of Administrative Budget* (SMF1): a. Interprets administrative budgetary policies and limitations and develops and issues guidelines and instructions to SSA components for budget formulation and execution.

b. Formulates the total SSA administrative budget.

c. Executes the total administrative and program budgets for SSA through issuance of man-year and dollar controls, budgetary allotments/allowances for administrative and program expenditures, and employment ceilings to SSA components, coordinating with OFR's Division of Program Budget, as appropriate.

2. *The Division of Finance* (SMF2): a. Develops and implements SSA policies, procedures and instructions for: Accounting, cash management, travel and other reimbursements, processing and maintenance to time and leave data, payroll services and check and bond delivery, and interagency agreements involving financial reimbursements.

b. Plans and directs ongoing analysis, development, and evaluation of SSA's systems for financial accounting, cashier and administrative payments, and time and leave; develops general objectives and performance standards for the SSA automated accounting system and detailed specifications for development or modification of computer programs used in that system; and proposes changes in the system to meet SSA's accounting needs. Coordinates the accounting system with budget, cost analysis and other financial systems. Coordinates the planning, development, modification and evaluation of the automated accounting system with SSA's Office of Systems.

c. Controls cash flow for the trust funds and other Federal funds to meet SSA cash requirements and obtain maximum interest income; monitors availability of funds to prevent antideficiency violations and reports violations to appropriate HEW officials; accounts for program income and for benefit, assistance and grant awards, and related administrative expenses; and prepares financial reports for SSA, HEW and other Federal agencies with fiscal regulatory responsibilities, including OMB, the Department of the Treasury and the Department of Commerce.

3. *The Division of Budget Systems* (SMF3): a. Plans and directs ongoing analysis, development, and evaluation of SSA's budget and cost analysis systems; develops general objectives and performance standards for these automated systems and detailed user specifications for development or modification of computer programs used in the automated systems; and proposes changes in the systems to meet SSA's financial management needs. Coordinates the planning, development, modification and evaluation of these automated systems with SSA's Office of Systems. Plans and directs the coordination of budget and cost analysis systems with accounting systems; coordinates budget and cost analysis systems with the work measurement system; and develops operational policies and procedures for nonautomated elements of budget and cost analysis systems.

b. Directs SSA's cost analysis program; develops policies and procedures for cost analysis; defines SSA's workloads, principal work products and work measurement requirements as related to budget and cost analysis; and develops reports and prepares analyses of agency costs, workloads and productivity.

4. *The Division of Program Budget* (SMF4): a. Reviews and consolidates present statutory program cost estimates for trust fund and other Federal fund programs administered by SSA (Old Age, Survivors and Disability Insurance, Black Lung Benefits, Supplemental Security Income, Aid to Families with Dependent Children, other income maintenance and assistance programs, and Refugee Assistance programs). Formulate a unified agency budget through consolidation of program and administrative budgets, coordinating with OFR's Division of Administrative Budget, as necessary.

b. Coordinates presentation of the SSA budget in total and by account; presents the proposed budget to the Commissioner; develops budget documents and briefing material for the Commissioner's budget presentations to HEW, OMB, and the Congress.

c. Reviews, coordinates and presents program cost estimates for proposed legislative, operational policy and regulatory changes. Formulates or directs the formulation of administrative cost estimates for proposed legislative, operational policy and regulatory changes, coordinating with OFR's Division of Administrative Budget and other SSA components, as necessary. Provides financial management advice to the Commissioner and other SSA officials in the policy development process.

d. Serves as the SSA focal point for budget information provided to HEW, OMB, Congressional appropriations and budget staff and, as requested by SSA's Office of Public Affairs, the press.

5. *The Division of Program Accounting* (SMF5): a. Certifies, deposits and accounts for all benefit disbursements in headquarters, collections, overpayments and underpayments under the Old Age, Survivors and Disability Insurance (OASDI) programs, Supplemental Security Income (SSI) program, and the SSA-administered portion of the Black Lung Benefits program, and serves as liaison with the Department of the Treasury on these matters.

b. Certifies wages and self-employment income on the basis of records maintained by SSA to the Department of the Treasury, as required by Sections 201(a) and 1817(a) of the Social Security Act, as amended.

c. Develops requirements and specifications for program systems and internal processes to ensure effective accounting, control, recovery and audit of OASDI, SSI and Black Lung benefits and wage records.

d. Conducts reviews of, and tests, program operations and systems to ensure compliance with established requirements.

F. *The Office of Human Resources* (SMH): Develops, implements and maintains a totally integrated and coordinated human resources program responsive to the needs of SSA. It represents SSA in dealing with HEW, other Federal agencies and sources outside the Federal government about personnel, training and human resources management programs. The Office of Human Resources (OHR) consists of components functioning in personnel operations, personnel policy and research, training and career development, classification, labor-management relations, employee health and occupational safety, management-employee communications and employee relations, as follows:

1. *The Division of Classification* (SMHA): a. Develops and implements a comprehensive position classification program within SSA headquarters; and directs position classification activities having SSA-wide significance.

b. Provides leadership and coordination in the formulation of SSA policies, directives and programs relating to the Fair Labor Standards Act and to salary and wage surveys. In conformance with classification principles, formulates and oversees implementation of position management policies and directives which assure that work is organized in a cost-effective manner and in a manner which provides the best use of employee skills.

c. Serves as the central SSA referral point for inquiries, guidance and interpretations on classification matters; and acts as SSA liaison with the Office of Personnel Management (OPM), HEW and other non-SSA entities and organizations with respect to classification aspects of SSA position management.

d. Conducts a continuing review of the applicability of classification standards and, as appropriate, negotiates with OPM for the revision of such standards or the development of single agency standards.

2. *The Division of Personnel Policy, Data and Research* (SMHC): a. Directs the formulation and issuance of SSA personnel management policies and directives. Reviews all proposals submitted by other OHR or SSA components pertaining to such areas as staffing, compensation, appraisals and performance standards, personnel information disclosure, position classification, employee relations, labor-management relations, employee health and safety, and employee communications and ensures that such proposals are consistent with the total OHR program and pertinent laws, regulations and policies. Oversees the dissemination and implementation of SSA-wide policies and directives

pertaining to personnel management areas. Directs the development and maintenance of the SSA personnel manual system, reviewing all issuances under this system.

b. Conducts a continuing review of the applicability of OPM qualification standards for positions in the General Schedule and Federal Wage System, and, as appropriate, negotiates with OPM for the revision of such standards. Participates with other OHR and SSA components in the development of proposed training agreements between OPM and SSA. Prepares or approves the final contract document for proposed OPM training agreements.

c. Provides overall coordination and direction to work environment improvement efforts within SSA. Coordinates a variety of studies throughout SSA designed to improve the work environment.

d. Designs, analyzes and implements a variety of research projects in the area of personnel management.

e. Plans and directs ongoing development, analysis and evaluation of SSA's personnel recordkeeping systems; develops general objectives and performance standards for automated systems and detailed specifications for development or modification of computer programs used in automated systems; and proposes changes in these systems to meet SSA's human resources data, statistics and information needs. Coordinates, with SSA's Office of Systems, the planning, development, modification and evaluation of automated systems. Reviews and processes all personnel and payroll actions in conformance with OPM and HEW regulations.

f. Develops and implements a program for the projection of long-range planning to staff SSA career lines and identifies areas of special emphasis needed to meet projected recruitment and staffing requirments.

3. *The Evaluation and Field Liaison Staff* (SMHD): a. Direct an SSA-wide program for inspection and evaluation of SSA's personnel management program, including training and career development, employment and staffing, position management and classification, employee relations, equal employment opportunity, labor relations, and occupational health and safety. Conducts administrative surveys and special studies to assure conformance with OPM regulations and HEW/SSA policies and directives.

b. Provides direction and guidance to SSA's Data Operations Centers (DOC's) and SSA Program Service Centers (PSC's) in areas for which the Staff is responsible. Maintains a close working relationship with HEW Regional Personnel Offices and provides human resources staff assistance to SSA's Offices of the Regional Commissioners.

c. Prepares evaluation reports for use by management officials and periodic reports to the Commissioner, HEW, and OPM on the state of SSA personnel management programs.

4. *The Management-Employee Communications Staff* (SMHE): a. Directs the management-employee communications program in SSA. Publishes a variety of informational materials, including a monthly employee magazine, a semimonthly management newsletter and a central office bulletin. Prepares and edits administrative reports and presentations.

b. Provides assistance to and appraises management-employee communication activities in the SSA field organization; identifies weaknesses in management-employee communications SSA-wide; and recommends improvements.

5. *The Division of Employee Health and Occupational Safety* (SMHH): a. Develops, implements and evaluates SSA's employee health services programs and occupational health and safety program in conformance with appropriate laws, policies and regulations. Ensures that these programs are responsive to the needs of the agency. Serves as a central SSA reference point for inquiries, guidance and interpretation, and as liaison with HEW and other non-SSA entities and organizations on health and safety matters.

b. Responsible for the adequacy and quality of professional medical services provided to SSA employees. Directs the formulation and oversees the implementation of training programs for the professional medical staff and support staff necessary to maintain the proper level of medical services.

c. Develops, interprets and implements SSA medical policy in employee health and safety matters. Directs the establishment and maintenance of SSA employee health records and ensures that the privileged and confidential nature of such records is not compromised.

d. Directs a program of systematic evaluation to determine the costs and judge the effectiveness of SSA employee health services and occupational health and safety programs. Reports to SSA management on a regularly scheduled basis.

e. Directs administration of the agency's program to comply with the Occupational Safety and Health Act (OSHA) and to implement executive orders and regulations concerning OSHA.

6. *The Division of Labor Relations* (SMHJ): a. Plans and directs the development, implementation and evaluation of the SSA labor-management relations program; formulates SSA-wide labor-management relations policy; serves as the SSA reference point for inquiries, guidance and interpretations on labor-management relations matters; and provides SSA liaison with OPM, HEW and other non-SSA entities and organizations concerning labor-management relations in SSA.

b. Implements labor-management relations programs and policies throughout SSA's headquarters and field organizations; participates in negotiation and implementation of negotiated procedures with labor organizations; resolves or recommends resolutions in labor relations disputes; and advises management during bargaining sessions.

c. Represents SSA management in all labor-management relations matters and proceedings which are adjudicated outside the agency.

d. Provides the full range of labor-management relations advisory services to all SSA components to ensure proper application of negotiated provisions; and directs monitoring of union-management consultations as required by negotiated agreements or Executive Orders.

7. *The Division of General Training* (SMHK): a. Plans, formulates and implements policies, procedures and standards for SSA training and career development activities, other than executive development. Reviews and approves training and career development proposals submitted by SSA components to ensure consistency with overall SSA training policies and programs and compliance with pertinent laws and regulations; develops the annual SSA-wide training plan in coordination with appropriate SSA components; prepares SSA comments on proposed OPM or HEW training policy issuances and developmental programs; and complies with HEW/OPM regulatory and administrative reporting requirements. Provides general support and coordination for SSA's training activities.

b. Evaluates and measures the delivery of all of SSA's training in terms of quality, value to the agency and scope. Conducts ongoing research into training methods and instructional technology.

c. Directs the design, implementation and evaluation of management and basic skills training courses for SSA headquarters and specific field personnel. Formulates internal guidelines and procedures for the determination and evaluation of management and basic skills training needs and monitors and reviews the conduct of management and basic skills training courses. Delivers and, as appropriate, administers briefings, orientations and seminars for SSA personnel.

8. *The Division of Technical Training* (SMHL): a. Directs the design and development of all SSA program/technical training, including entry level and advanced program training plus systems and computer technology training for SSA employees nationwide. Formulates internal guidelines and procedures for the determination and evaluation of technical training needs and monitors and reviews the conduct of technical training courses and programs. Administers and, as appropriate, delivers program/technical training, orientation and briefings for SSA personnel.

9. *The Division of Disciplinary and Adverse Actions* (SMHM): a. Directs and implements an SSA program for adverse actions and appeals and disciplinary procedures, in accordance with applicable regulations and procedures. Provides technical assistance and guidance in the area of adverse actions and grievances and disciplinary actions to management and employees in SSA headquarters components. Also provides these services to the field organization in complex cases.

b. In coordination with HEW's Office of the General Counsel, researches law, executive orders, court and Comptroller General decisions, regulations, policies and procedures on disciplinary and adverse actions, employee appeals and grievances. Serves as the SSA reference point for inquiries, guidance and interpretations on these matters. Acts as liaison with HEW, OPM and other non-SSA entities and organizations on these matters.

10. *The Executive Recruitment and Services Staff* (SMHN): a. Develops and implements all SSA policies and activities relating to the Agency's executive personnel management program.

b. Develops an implements policies and guidelines for SSA administration of the Senior Executive Service (SES).

11. *The Division of Personnel Operations* (SMH9): a. Implements policies and regulations pertaining to SSA recruitment and placement. Initiates and processes personnel actions for SSA headquarters employees and participates with office managers and staffs in assessing placement actions; directs the administration of all Merit Promotion Plans applicable within Baltimore/Washington headquarters components. Processess necessary administrative actions required for SSA employees entering on duty.

b. Provides professional conseling and referral services for emotionally disturbed employees and for employees with alcohol or drug problems. Provides technical advice and guidance to SSA management officials on matters related to these functions.

c. Implements policies, regulations and affirmative action programs pertaining to special recruitment and staffing activities for SSA headquarters and field organizations; develops and implements special needs placement programs, including handicapped and veterans readjustment programs.

d. Directs the development and operation of SSA employee services and awards programs. Daily services provided include: Consumer education, health benefits information, preretirement counseling and housing referral. Develops and implements SSA employee suggestion, incentive and honor awards, energy and environment programs. Develops policies governing SSA employee welfare and recreation associations.

e. Designs, implements and evaluates a comprehensive agencywide upward mobility and self-development program.

C. *The Office of Materiel Resources* (SMM): Directs the materiel managment and management support programs of SSA and develops objectives, policies, standards and procedures for these programs. It directs SSA's activities in contracting and procurement, grants management, real and personal property management, and supply operations. The Office provides services related to space acquisition, utilization and management, telephone systems, mail and distribution operations, records, publications, forms printing, and reprographics. It directs facilities planning and maintenance, protective security, civil defense, library services, audiovisual services, and graphics services. The Office manages visitor reception and tours and services to SSA headquarters personnel, including transportation, parking commuter information, food services, and other concessions. It provides SSA liaison with the General Services Administration (GSA), HEW, other Federal agencies, and various public and private organizations on matters relating to its mission. The Office of Materiel Resources (OMR) includes the following components and functions:

1. *The Division of Management Services* (SMM1): a. Develops SSA policy and procedures, and directs programs, in the areas of protective security, investigations of alleged criminal activities not related to SSA program fraud or abuse, and library, audiovisual and graphics services.

b. Directs SSA headquarters programs for buildings management, employees services, including transportation, commuter information, food services and other concessions, and visitor reception and tours.

c. Provides SSA liaison on matters relating to its function with GSA, commercial contractors, cafeteria management, concessionaires, and local, county, State, union and public transportation officials.

2. *The Division of Realty and Space Managment* (SMM2): a. Directs the SSA real property program, including short- and long-range facilities planning, design, construction, leasing, acquisition, project management, utilization, alteration and repairs.

b. Acquires, utilizes and manages space at SSA headquarters and directs a comprehensive space inventory and utilization system.

c. Provides technical guidance, consultation, coordination and advice on architectural and engineering design for SSA; manages a technical drafting service and design support function; and provides an engineering resource to plan and review alterations, repairs and improvements to SSA facilities.

d. Responsible for SSA field facility planning and space management; reviews and prepares for approval by the Commissioner proposals submitted by Regional Commissioners for establishment of new facilities.

e. Develops and implements SSA-wide policies, objectives, standards and procedures in the areas of real property and space management.

3. *The Division of Contracts and Grants Management* (SMM3): a. Directs the business management aspects of SSA's procurement program, including negotiation, award, administration and termination of contracts for research, demonstration projects, experimentation, management consulting, specialized services and equipment supporting SSA program activities, automatic data processing equipment acquisition, and procurement of major supply items and administrative supplies, materials and services.

b. Performs a continuous surveillance, review and evaluation of SSA procurement actions to ensure adherence to legal requirements, including small business and minority business programs requirements.

c. Develops and implements policies, procedures and directives for SSA procurement activities.

d. Performs cost/price analysis and evaluation required to award and administer SSA contracts; evaluates procurement actions on a post-award basis; and compiles data and prepares reports for management on SSA contracting and procurement actions.

e. Develops and administers procurement programs for small business concerns, labor surplus area concerns and minority business enterprises.

f. Directs the business management aspects of SSA's discretionary grants management program, including evaluation, negotiation, award, administration and termination of discretionary grants; develops and implements SSA grants policies, procedures and directives; performs post-award evaluations; prepares grants-related reports required by HEW; and coordinates with appropriate program officials, as necessary.

4. *The Division of Publications Management* (SMM4): a. Directs a comprehensive SSA printing and publications management program, including forms and publications management, phototype-setting, conventional printing and binding production, reprographics, micro-form publishing, distribution and acquisition.

b. Obtains printing, binding and distribution services from private vendors under contracts negotiated and entered into by the Government Printing Office (GPO).

c. Manages SSA's acquisition, leasing and utilization of reprographic/duplicating equipment and automatic copy-processing and copy-duplicating machines.

d. Develops policies, standards and procedures for SSA's forms and publications management, printing, reprographics and distribution programs. Provides SSA-wide services for these programs.

e. Provides SSA liaison on all matters concerning printing policy and acquisition of printing supplies, services and equipment with HEW, GPO and the Congressional Joint Committee on Printing.

5. *The Division of Property Management* (SMM5): a. Administers the SSA property management program, including the formulation of SSA-wide policies, procedures, and directives governing the program.

b. Directs the SSA equipment management program, including management of SSA's word processing equipment, and provides equipment maintenance and repair services to SSA headquarters components.

c. Manages the operation of SSA warehousing facilities, including receipt, storage and issuance of forms, publications, supplies and equipment for SSA-wide use; controls the maintenance of stock; and provides general labor services for SSA headquarters.

6. *The Division of Communications and Records Management* (SMM6): a. Directs the planning, analysis, design and operation of SSA's telecommunications system for the transmission of messages other than numerical and digital data. Develops and implements SSA-wide policies, objectives, standards and procedures for this system.

b. Directs the SSA mail management program and plans, develops and implements SSA-wide policies objectives and standards governing mail and messenger operations. Conducts studies and analyses to improve mail service and to reduce SSA's mail costs; determines the most economical mailing methods for SSA components, beneficiaries and members of the general public; represents SSA in negotiations with the U.S. Postal Service; and provides mail processing and messenger services for SSA headquarters.

c. Directs the SSA records management program, including the SSA vital records program, and develops and implements SSA-wide policies, objective,s standards and procedures governing record retention and disposal, files and filing equipment, and correspondence.

d. In coordination with SSA's Office of Assessment, implements the records management aspects of the Privacy Act, including development of necessary records safeguards; review of the accuracy of SSA notices of new and changed records systems; and provision of advice and assistance to SSA components on Privacy Act requirements for records management.

Dated: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24250 Filed 8-16-79; 8:45 am]

BILLING CODE 4110-07-M

Statement of Organization, Functions, and Delegations of Authority

Part S of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions, and Delegations of Authority for the Social Security Administration (SSA). On March 21, 1979, an amendment to Part S was published in the **Federal Register** (44 FR 17218–17233) to reflect a reorganization of SSA. Sections SJ.00, SJ.10, and SJ.20 of the SSA Statement, as contained on pages 17226–17229 of the amended material published in March 21, 1979, describes the mission, organization, and functions for SSA's Office of Operational Policy and Procedures (OOPP)).

Sections SJ.00, SJ.10, and SJ.20 of the OOPP Statement are restated and expanded to reflect the establishment of division-level components in OOPP's Office of Insurance Programs, Office of Assistance Programs, Office of Enumeration and Earnings Records, Office of Disability Programs, Office of Regulations, Office of Program Directives, and Office of User Requirements and Validation. This statement also deletes reference to the Work Standards and Methods Staff. It has been determined that the functions of this staff would be better located in OMBP's Office of Management Planning and Analysis. Additionally, a number of changes have been made to reconcile organizational statements published on March 21, 1979, with changes in, and clarifications of, functional alignments reached since March 21 to date: To delete reference in the Office of Insurance Programs to responsibility for foreign claims policy; to transfer responsibility for developing operational systems for the enumeration and earnings record processes from the Office of User Requirements and Validation, OOPP, to the Office of Enumeration and Earnings Records, OOPP; and to effect a number of editorial changes of a non-substantive nature meant to clarify and consolidate the material published on March 21, 1979. The revised OOPP material reads as follows:

Sec. SJ.00 The Office of Operational Policy and Procedures—(Mission)

The Office of Operational Policy and Procedures (OOPP) provides SSA-wide leadership and direction to the development, coordination and promulgation of operational policy and procedures in the following areas:

retirement, survivors and disability insurance, supplemental security income, and black lung benefits program policy; establishment, correction and maintenance of social security earnings records; issuance of new and duplicate social security cards; social security coverage of State and local government employees; operations affecting post-entitlement actions and adjusting related master benefit records to reflect changes; and establishment of work standards, methods and processing guidelines for central, regional and field operating components. It develops and promulgates program regulations, and participates in legislative planning by identifying legislative needs and developing legislative proposals for consideration by SSA's Office of Policy. The Office insures that interrelated policy areas are coordinated; represents SSA in overall operational policy matters; and serves as SSA's overall point of operational policy expertise. It ensures that policies are coordinated internally and that all instructional materials developed are compatible with overall operating policies and practices.

Sec. SJ.10 The Office of Operational Policy and Procedures—(Organization)

The Office of Operational Policy and Procedures, under the leadership of the Associate Commissioner for Operational Policy and Procedures, includes:

A. The Associate Commissioner for Operational Policy and procedures (SJ)

B. The Deputy Associate Commissioner for Operational Policy and Procedures (SJ)

C. The Immediate Office of the Associate Commissioner for Operational Policy and Procedures (SJ)

D. The Office of Insurance Programs (SJN)

1. The Division of Coverage (SJN1)
2. The Division of Entitlement (SJN2)
3. The Division of Payment and Adjudicative Policy (SJN3)
4. The Division of Benefit Continuity (SJN4)

E. The Office of Assistance Programs (SJB)

1. The Division of Income and Resources (SJB1)
2. The Division of Eligibility (SJB2)
3. The Division of State Programs (SJB3)

F. The Office of Enumeration and Earnings Records (SJC)

1. The Division of Enumeration and Employer Identification (SJC1)
2. The Division of Earnings Reporting and Maintenance (SJC2)
3. The Division of Records Use and State Reporting (SJC3)

G. The Office of Disability Programs (SJH)

1. The Professional Relations Staff (SJH1)
2. The Medical Consultant Staff (SJH2)
3. The Division of Federal/State Programs (SJH3)
4. The Division of Pre-Adjudicative Policy (SJH4)
5. The Division of Post-Adjudicative and Technical Policy (SJH5)
6. The Division of Rehabilitation Programs (SJH6)

H. The Office of Regulations (SJJ)

1. The Litigation Staff (SJJ1)
2. The Division of Regulations (SJJ2)
3. The Division of Technical Documents and Privacy (SJJ3)

I. The Office of Program Directives (SJG)

1. The Division of Analysis and Review (SJG1)
2. The Division of Publications Management (SJG2)

J. The Office of User Requirements and Validation (SJR)

1. The User Planning and Standards Staff (SJR1)
2. The Division of Payment Processes (SJR2)
3. The Division of Claims and Control (SJR3)
4. The Division of RSDI Postentitlement Systems (SJR4)
5. The Division of SSI Systems (SJR5)
6. The Division of User Support and Interfaces (SJR6)

Sec. SJ.20 The Office of Operational Policy and Procedures—Functions

A. *The Associate Commissioner for Operational Policy and Procedures* (SJ) is directly responsible to the Commissioner for carrying out OOPP's mission and provides general supervision to the major components of OOPP.

B. *The Deputy Associate Commissioner for Operational Policy and Procedures.* (SJ) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Operational Policy and Procedures* (SJ) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Office of Insurance Programs* (SJN): Plans, develops and evaluates operational policies, standards, and instructions for the Retirement and Survivors Insurance (RSI) program and those common to two or more SSA benefit programs. Develops and issues the guidelines, directives and operational procedures to be used by operating components in implementing RSI program policies and common SSA program policies, and establishes evidence and verification requirements. Plans, develops, evaluates, and articulates operational policies and instructions governing social security coverage for State and local employees. Coordinates the development, evaluation, and dissemination of operational policies with other SSA components and undertakes similar coordination with a number of Federal and State agencies and other organizations. Evaluates the effects of proposed legislation and policies initiated by SSA's Office of Policy, or of legislation pending before Congress, to determine the impact upon RSI, and common SSA program policies and instructions. Assesses effectiveness of operating policies and initiates actions designed to correct identified deficiencies. Provides advice to SSA officials, the Congress, State governments and to the public on matters concerning RSI, and common SSA operational policies and instructions. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials. Plans and issues the RSI and common policy implementation standards and objectives with which systems development must comply. The Office includes the following components and functions:

1. *The Division of Coverage* (SJN1): a. Plans, develops, and evaluates the operational policies, standards, and instructions of the Retirement and Survivors Insurance (RSI) program and those common to the RSI and one or more of the other SSA benefit programs in the areas of coverage and employment.

b. Develops and issues guidelines, directives, instructions, and operating procedures on such coverage and employment subject areas as wages, coverage and exceptions, anti-poverty programs, earnings discrepancies, coverage aspects of international agreements, self-employment status and income, religious exemptions, State and local coverage and statutes of limitations.

2. *The Division of Entitlement (SJN2):* a. Plans, develops, and evaluates the operational policies, standards, and instructions of the Retirement and Survivors Insurance (RSI) program and

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those common to the RSI and one or more of the other SSA benefit programs in the broad area of entitlement.

b. Develops and issues guidelines, directives, instructions, and operating procedures on such entitlement subject areas as applications, insured status, veterans' benefits, railroad employment, family relationships, dependency and support, proofs, school attendance, decoupling and indexing of earnings, reduction of benefits for age, family maximums, saving clauses, recomputations and recalculations of benefits, period of disability computations, awards, disallowances and abatements of claims, earnings records, and claims application forms.

3. *The Division of Payment and Adjudicative Policy* (SJN3): a. Plans, develops, and evaluates the operational policies, standards and instructions of the Retirement and Survivors Insurance (RSI) program and those common to the RSI and one or more of the other SSA benefit programs in the broad areas of payment and adjudicative processes.

b. Develops and issues guidelines, directives, instructions, and operating procedures on such subject areas as administrative appeals process, representation and attorney fees, and administrative finality, adjudicative standards, district office final adjudication, evidence, representative payment including selection of payee, accounting and onsite review, check delivery including direct deposit, cycling, garnishment, assignment, and waiver of benefits. Plans and conducts RSI program reviews and recommends and implements corrective actions based on findings.

4. *The Division of Benefit Continuity* (SJN4): a. Plans, develops, and evaluates the operational policies, standards, and instructions of the Retirement and Survivors Insurance (RSI) program and those common to the RSI and one or more of the other SSA benefit programs in the broad area of benefit continuity.

b. Develops and issues guidelines, directives, instructions, and operating procedures on such continuing benefit subject areas as work notices, annual and monthly earnings tests, suspensions and terminations, government pension offset and enforcement, and beneficiary compliance, overpayments, underpayments, recovery, and waiver.

E. *The Office of Assistance Programs* (SJB): Plans, develops and evaluates operational policies, standards, and instructions for the supplemental security income (SSI) program. Develops and writes the guidelines, directives, and operational procedures to be used by operating components in implementing SSI program policies and establishes evidence and verification requirements. Plans and develops the policies and strategies for negotiating Federal-State agreements that govern SSA's administration of SSI Optional and Mandatory State Supplementation Programs, determinations for States of SSI recipients' eligibility for Medicaid, and State data exchange activities; plans and develops these agreements; and revises them when changes in the programs require it. Plans and implements policies and procedures governing SSI fiscal relationship between SSA and State governments. Provides advice and technical support to regional offices working with officials and agencies on State assistance programs. Coordinates the development, evaluation, and writing of operational policies with other SSA components and undertakes similar coordination with other Federal and State agencies. Evaluates the effects of proposed legislation and policies being initiated by SSA's Office of Policy, or of legislation pending before Congress, to determine SSI operational policy or program administration impact; assesses effectiveness of operating policy standards; develops instructions to correct identified deficiencies; and serves as principal advisor to SSA officials on SSI program operating policies. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials. The Office includes the following major components and functions:

1. *Division of Income and Resources* (SJB1): a. Plans, develops and writes the operating policies, standards, and instructions for implementing eligibility requirements involving income, resources, and in-kind support and maintenance relating to the supplemental security income program.

b. Integrates the SSI program with other assistance and services programs, determining whether the benefits from these programs are includable or excludable as income and resources.

2. *Division of Eligibility* (SJB2): a. Plans, develops and writes the operating policies, standards, and instructions for implementing the eligibility requirements of the supplemental security income program other than income, resources and in-kind support requirements.

b. Develops policies and procedures with respect to such posteligibility actions as suspensions, terminations, settlement of overpayments and underpayments and levying penalties. Ensures that operating policies provide claimants with due process by providing an adequate system of notices to alert them to their rights and develops policies and procedures on pursuing these rights.

c. Gives policy direction to SSA's efforts to exchange benefit information between the SSI program and other Federal/State programs of assistance through the establishment of electronic system interfaces.

3. *Division of State Programs* (SJB3): a. Plans and develops the operating policies, standards, and instructions for all phases, with the exception of the actual computation of SSI State supplementary payments, the optional and mandatory State supplementation programs, as well as the policies governing social security activities with regard to Medicaid determinations, interim assistance reimbursement, food stamps, and institutionalization.

b. Provides the focus for SSA leadership in administering the federally administered optional and mandatory State supplementation programs, as well as such related programs as State Data Exchange (SDX). This includes providing advice and assistance to regions in their administration of individual State programs, maintaining the appropriate model agreements governing SSI fiscal relationships between SSA and State governments, and acting as an expert authority in the resolution of Federal/State fiscal disputes.

F. *The Office of Enumeration and Earnings Records* (SJC): Plans, develops, and evaluates operating policies, procedures and instructions for establishment, correction and maintenance of social security number records, issuance of new and duplicate social security cards, and the processing and maintenance of earnings record data. Develops the policies, procedures and instructions for the reporting of earnings and collection of social security contributions for State and local government employees, a vested pension rights identification and notification system for purposes of the Employee Retirement Income Security Act (ERISA), and for a number of enumeration and earnings record service areas. Coordinates development, evaluation and writing of operational policies with other SSA components. Serves as the SSA focal point for coordination and policy negotiation with other Federal and State agencies on matters involving enumeration and earnings reporting processes. Evaluates the effects of proposed legislation and policies proposed by SSA's Office of Policy, and of legislation introduced before Congress, on enumeration and earnings record operations processes and program policy instructions. Develops or directs the development of legislative proposals as necessary. Assesses overall effectiveness of operating policies and initiates actions designed to correct deficiencies. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials. The Office includes the following major components and functions.

1. *The Division of Enumeration and Employer Identification* (SJC1): a. Plans, develops, issues and evaluates operating policies, procedures and instructions for the establishment, correction and maintenance of social security number records.

b. Plans, develops, issues and evaluates operating policies, procedures, and instructions for the issuance of new and duplicate social security cards.

c. Serves as focal point for coordination of all mass enumeration and validation programs with other agencies; provides responses to questions raised by State, local, and other Federal agencies and private organizations about the issuance of social security numbers and cards.

d. Develops operational procedures and instructions designed to prevent fraud and facilitate fraud detection in social security number (SSN) applications or utilization within the SSA-wide fraud policy established by the Office of Assessment.

e. Plans, develops, issues and evaluates, in conjunction with the Internal Revenue Service, operating policies, procedures and instructions for issuing and maintaining employer identification numbers (EIN's).

f. Plans, develops, issues and evaluates, in conjunction with the Office of Research and Statistics, operating policies, procedures, and instructions for employer classification and Establishment Reporting Plan maintenance.

g. Evaluates legislative proposals, regulations, and statements affecting the enumeration process.

h. Based on established policies and procedures, plans, develops, and evaluates the implementation of manual and automated systems for enumeration and employer identification and classification processes; develops the functional requirements and specifications for such systems; evaluates systems, operational and technological changes for their effect on operational systems; plans and conducts analyses to validate new and modified systems before and after implementation and certifies the acceptability of systems performance.

2. *The Division of Earnings Reporting and Maintenance* (SJC2): a. Plans, develops, issues and evaluates operating policies, procedures, and instructions for reporting earnings (in conjunction with IRS); for processing all earnings data and adjustments to update summary earnings records; for reconciling disagreements regarding earnings statements; and for resolving earnings discrepancies.

b. Provides instructions and procedures for clerical operations concerning handling of improperly reported earnings items and correspond with employers, employees and self-employed individuals on improperly reported items.

c. Develops operating policies and procedures for the establishment, correction and maintenance of a vested pension rights identification and notification system.

d. Serves as the SSA focal point to promote earnings reporting by magnetic media; provides technical input to Office of Public Affairs in planning, developing, and executing public information activities related to earnings reporting.

e. Evaluates legislative proposals, regulations, and statements of policy affecting earnings report processing.

f. Based on established policies and procedures, plans, develops, and evaluates the implementation of manual and automated systems for earnings report processing; develops the functional requirements and specifications for such systems; evaluates systems, operational and technological changes for their effect on operational systems; plans and conducts analyses to validate new and modified systems before and after implementation; and certifies the acceptability of systems performance.

3. *The Division of Records Use and State Reporting* (SJC3): a. Plans, develops, issues, and evaluates operating policy, procedures, and instructions on social security earnings reporting of State and local government employees, including assignment of identification numbers, establishment of records; collection of, and accounting for, all related payments; furnishing Trust Fund (Tax Accountability) information to the Treasury Department; State magnetic media reporting; and handling erroneous reporting to IRS.

b. Plans, develops, issues, and evaluates operating policy, procedures, and instructions on State requested 218(s) reviews of SSA assessments, and allowances and disallowances of credits and refunds; statutory and regulatory time limits on State reporting and payments; determining good cause when State reports or payments are late; onsite administrative reviews of State and local entities (and participates in such reviews); educational and compliance activities; and advises all SSA components and the States on State and local reporting matters.

c. Evaluates legislative proposals, regulations, and statements of policy affecting State earnings report processing.

d. Plans, develops, issues, and evaluates operating policies and procedures for the issuance of earnings statements and the utilization of the earnings record including services for health and sociological research; and for the provision on an individual or on a volume basis, of summary and detailed earnings statements and Master Beneficiary Record data for a variety of nonprogram purposes, including pension plan purposes and volume death verification requests.

e. Negotiates and concludes agreements with individuals or agencies in the public and private sectors to reimburse SSA for the cost of meeting large volume requests for record information.

f. Based on established policies and procedures, plans, develops, and evaluates the implementation of manual and automated systems for records utilization activities and State earnings report processing; develops the functional requirements and specifications for such systems; evaluates systems operational and technological changes for their effect on operational systems; plans and conducts analyses to validate new and modified systems before and after implementation; and certifies the acceptability of systems performance.

G. *The Office of Disability Programs* (SJH): Plans, develops, and evaluates the operational policies, standards and instructions for the disability insurance (DI) program, the disability and blindness provisions of the SSI program, the beneficiary and recipient vocational rehabilitation program, and the black lung benefits program; develops and writes guidelines, directives and operational procedures to be used by operating components in implementing DI program policies; and establishes evidence and verification requirements. Direct planning, development and evaluation of policies and standards governing administration of disability

determination functions conducted under Federal-State disability determination agreements. Jointly with HEW's Rehabilitation Services Administration, formulates regulations, policies and procedures governing payment for vocational rehabilitation services provided to the disabled. Participates in the development and execution of State Disability Determination Services and State Rehabilitation Services budgets. Establishes guidelines governing negotiation of agreements with States under provisions of the Social Security Act; provides operational policy advice and technical support to regional offices and central office components in the administration of disability programs. Develops a nationwide professional relations program with the medical community responsive to the needs and objectives of disability programs; reviews and analyzes pending legislation and proposed policy and procedural issuances to identify factors which may pose professional relations problems with the medical community; evaluates the degree of cooperation and support provided disability programs by the medical community; and identifies weaknesses and strengths in professional relations programs. Coordinates development, evaluation and writing of operational disability policies with other SSA components and undertakes similar coordination with other Federal and State agencies. Evaluates the effects of proposed legislation and policies being initiated by SSA's Office of Policy, and of legislation pending before Congress, to determine disability operational policy or program administration impact; assesses effectiveness of operating policy standards; develops instructions to correct identified procedural deficiencies and serves as principal advisor to SSA officials concerning disability program operating policies. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials. The Office includes the following components and functions:

1. *Professional Relations Staff* (SJH1): a. Carries out professional relations with national medical and allied professional organizations and special interest organizations concerned with disability programs.

b. Plans, directs, and coordinates the development of national instructions and material for engaging the participation of professional medical and health services resources in the disability evaluation process.

c. Coordinates the developing of regional professional relations programs for DI and cooperates with the regional offices in directing, training, providing materials for, and assisting, State Disability Determination Services in their professional relations programs at State and local levels.

d. Assists in the preparation and clearance of all informational material relating to SSA disability programs for the general public. Prepares, clears, and distributes a wide variety of informational materials concerning SSA administered disability programs for medical, paramedical and related audiences at the national, State and local levels. Reviews and analyzes pending legislation, regulations and proposed policy and procedural issuances to identify potential impact on these same groups.

2. *Medical Consultant Staff* (SJH2): a. Provides advice and consultation to the Director of the Office of Disability Programs, the Associate Commissioners for Operational Policy and Procedures, Assessment, and Central Operations, the Commissioner and other officials of SSA and the Department on all medical aspects in the planning, direction, and coordination of the title II disability program and the title XVI (SSI) program for the blind and disabled.

b. Develops broad medical concepts and policies for the administration of the title II and title XVI (SSI) programs and provides consultation for research studies to develop improved medical techniques for evaluating impairment severity and disability.

Provides leadership and professional direction to the Regional Medical Officers and consultants and to State Disability Determination Services medical personnel engaged in title II and title XVI (SSI) related activities.

c. Provides medical consultation required in the formulation of medical evaluation and development policies and guides and develops orientation and training programs for medical personnel in the Office of Disability Programs, regional offices, and State Disability Determination Services.

3. *Division of Federal/State Programs* (SJH3): a. Provides national direction for those portions of the disability programs administered through the State Disability Determination Services (DDS) under the Federal/State agreements and the SSA regional offices; establishes guidelines and standards governing the negotiation of agreements with States under provisions of the Social Security Act dealing with the disability programs.

b. Develops and maintains a comprehensive national system of policies, standards, and procedures for the administrative and fiscal management of the DDS: utilizing the processing information made available through OMBP's management information system, sets processing goals and otherwise oversees DDS operations activities; assesses overall operations activities and changes as they relate to day-to-day operations of the DDS.

4. *Division of Pre Adjudicative Policy* (SJH4): a. Plans, develops, and evaluates the operational policies and standards and formulates, issues, and maintains instructions, guides, and technical materials required to carry out the nationwide disability programs under titles II and XVI (SSI) of the Social Security Act and the black lung benefits program concerning medical, vocational, and work documentation and evaluation; develops, in cooperation with the Medical Consultant Staff, medical standards for determining disability, and the development of evidence.

b. Coordinates the Division's areas of responsibility with the Medical Consulatant Staff and with other components within SSA and agencies outside SSA to ensure compatability with SSA objectives.

c. Contributes to the development of, reviews and provides policy concurrence for, guides, procedures, and instructions developed for personnel in the Office of Central Operations, district and branch offices, SSA regional offices, other SSA components and State agencies involved in adjudicating disability and blindness claims.

5. *Division of Post adjudicative and Technical Policy* (SJH5): a. Plans, develops, and evaluates operational policies, standards, instructions, guides, and technical materials required to carry out the nationwide disability programs under titles II and XVI (SSI) of the Social Security Act and the black lung benefits program concerning disability claims adjudication and the continuing eligibility or entitlement to benefits for disabled beneficiaries. The policies and standards include medical and work-related aspects of continuing disability, drug addiction and alcoholism as they relate to the SSI disability program, chronic renal disease, totalization, railroad disability claims, and black lung claims adjudication and determinations.

b. Plans, develops, and evaluates the diability aspects of operational policies and standards in the following areas: appeals, due process, administrative finality, attorney representation and fees, medical privacy, Freedom of Information, fraud and program integrity issues unique to the disability programs.

6. *Division of Rehabilitation Programs* (SJH6): a. Develops and carries out programs to increase vocational rehabilitation of the disabled, and reviews disability program policies and operations for consistency with rehabilitation goals.

b. Jointly with HEW's Rehabilitation Services Administration (RSA) formulates regulations, policies, procedures, and guides governing payment for vocational rehabilitation services provided to the disabled from trust funds and general revenues; and appraises rehabilitation program operations.

c. Represents SSA in its relationships with the Council of State Administrators of Vocational Rehabilitation and its Vocational Rehabilitation Subcommittee on Social Security Relationships; coordinates with RSA in overall rehabilitation program matters; and works with other public and private agencies to develop, organize, and coordinate rehabilitation services programs.

H. *The Office of Regulations* (SJJ): Plans, develops, and writes SSA regulations and provides for the publication of regulations. Performs an ongoing assessment of the regulations process in SSA. Serves as the SSA focal point on matters concerning litigation; formulates SSA appeal recommendations to HEW's Office of General Counsel on adverse decisions and provides trend analyses of SSA's litigation activities. Plans and develops rulings to provide interpretations and application of the Social Security Act and regulations governing social security programs; develops and publishes general and special compilations of social security laws, various technical issuances and program handbooks. Coordinates within OOPP the review and clearance of regulations for the claims and payment processes developed for the retirement, survivors, and disability insurance programs, the supplemental security income program, and the black lung benefits program; assures that SSA's Office of Policy has input into the regulations development process. Provides technical, consultative, and advisory services within OOPP and to SSA in the development of regulations. Formulates policy concerning Privacy Act provisions and serves as liaison between SSA and the Office of the Secretary on related activities. Coordinates activities with HEW's Office of General Counsel on the issuance of regulations and rulings. Negotiates with HEW and the Office of the Federal Register on regulations matters and other areas of concern to this Office and, in coordination with SSA's Office of Governmental Affairs, negotiates with other Federal and non-Federal agencies, organizations and institutions on matters within the Office's mission. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials. The Office includes the following components and functions.

1. *The Litigation Staff* (SJJ1): a. Formulates and coordinates an SSA recommendation to HEW's Office of General Counsel on appeal of adverse court decisions under the RSI, DI, SSI, BLB, and AFDC programs, and those CSE decisions with implications for AFDC programs, as well as an SSA position with respect to new complaints and settlement of court cases; serves as the focal point within SSA for civil litigation activities.

b. Responds to interrogatories and ensures implementation of court orders, settlements, etc., resulting from litigation; participates in settlement negotiations with OGC. Prepares statistical, trend analysis, and other reports on SSA litigation activity.

2. *The Division of Regulations* (SJJ2): a. Plans, develops, writes, manages the processing of, and recommends for promulgation, SSA regulations under the RSI, DI, SSI, and BLB programs. Reviews for technical and style requirements SSA regulations under the AFDC program; participates in the drafting as required and manages AFDC regulations through the regulation process to publication.

b. Prepares for publication in the Federal Register informational notices on various subjects.

3. *The Division of Technical Documents and Privacy* (SJJ3): a. Plans, develops, and updates social security rulings, policy statements, and other issuances such as general and special compilation of the social security laws, compilation of the legislation affecting social security programs introduced into each Congressional session, the Law and Regulations, and the Social Security Handbook.

b. Maintains a professional and technical reference service for OOPP components and directs a nationwide precedent system for SSA operating personnel; serves as the focal point for OOPP reference and research activities.

c. Plans, develops, and promulgates Privacy Act operational policies, procedural rules and requirements, and instructions; develops and analyzes confidentiality and disclosure policies. Serves as liaison with IRS on disclosures under the Tax Reform Act, and with HEW on privacy matters.

I. *The Office of Program directives* (SJG): Directs the review, coordination, publication, and distribution of program instructions and other materials to insure uniformity, lack of duplication, and compatibility of all SSA operational instructional, and informational material; participates in determining the instructional needs of SSA operating personnel. Directs a technical review of program operating instructions to insure proper integration, organization, clearance, and audience for materials prepared by various SSA components for the program operations manual system (POMS). Coordinates publication, distribution, and warehousing of all program instructional and related materials' directs a quality review of new issuances to insure proper reproduction of printed materials. Indexes all program instructional material and determines user needs in this area. Participates with SSA's Office of Systems in the design, development, and ongoing administration of a computerized system for storing, updating, publishing, and distributing operational instructions and materials; coordinates with SSA's Office of Management, Budget, and Personnel, as appropriate. Establishes policies and guidelines for the distribution, required by the Freedom of Information Act, of SSA program publications for the public. The Office includes the following major components and functions:

1. *The Division of Analysis and Review* (SJGL): a. Plans, reviews, and coordinates the development and issuance of SSA program instructional and informational material prepared by various components.

b. Establishes standards and guidelines for the development and issuance of instructional material and assesses the effectiveness of the SSA instruction system.

2. *The Division of Publications management* (SJG2): a. Plans, directs, and coordinates the proper publication, distribution, and warehousing of all SSA program instructional materials. Develops guidelines, standards, and procedures for computerization of the POMS.

b. Assesses the effectiveness of instructional publications delivery operations. Develops and produces indexes for program instructional materials and determines user needs in this area.

k. *The Office of user Requirements and Validation* (SJR): The Office of User Requirements and Validation (OURV) plans, develops, implements and evaluates operational systems for the adjudication and payment of retirement, survivors, and disability insurance (RSDI) claims; supplemental security income (SSI) claims; postadjudicative actions; payment and case control operations; health insurance (HI) entitlement; and supplementary medical insurance (SMI) premium collection. Ensures the efficiency and operational effectiveness of manual and automated systems from a program perspective and that operational policies and automated processes interact. Develops operational procedures for the various manual, automated, and semi-automated processes conducted throughout the Office of Central Operations (OCO) and SSA field offices (e.g., DO's BO's TSC's, etc.). Plans and conducts reviews in headquarters and field offices to evaluate the effectiveness of operational systems. Assures that systems development and operations reflect OOPP decisions and provides interpretation, technical advice and guidance to OOPP components on matters relating to operational systems. Evaluates legislative proposals, systems and operational changes, and changing technology for impact on SSA operational systems and procedures. Develops systems performance specifications for new systems and modifications to existing systems to meet the requirements of SSA programs and plans for the development and implementation of these systems. Plans and conducts analyses to evaluate and validate new or modified systems and certifies the acceptance of systems performance. Coordinates among SSA's Office of Systems (OS), OCO, and the SSA Regional Offices (RO's) to ensure effective user participation; works closely with OS in the planning of major process redesigns; and translates program requirements into operational systems specifications. Evaluates systems-related operational procedures to determine the need for training and participates in the development of training materials. The Office includes the following components and functions:

1. *The User Planning and Standards Staff (SJR1):* a. Develops and maintains guidelines and coordinates validation activities to assure consistency in the validation processes conducted throughout OURV.

b. Develops OURV standards to ensure effective and uniform user systems requirements. Develops major systems objectives for inclusion in the SSA-wide Systems Plan developed by OS. Performs cost/benefit analyses to evaluate the impact of systems objectives on the program and user community.

d. Serves as the focal point and user advocate for contacts by OCO and field offices concerning user problems; analyzes problems and issues raised by users concerning the development of specifications requirements; identifies recurring problem situations and resolves the problems; insures that the field has appropriate input into changes and priorities.

e. Analyzes legislation and measures impact of legislation on priorities and schedules.

f. Approves general process level and systems requirements prepared by Office of Advanced Systems (OAS), OS for the redesign of major SSA processes.

g. Plans and directs special projects, operational reviews, or post-implementation reviews requiring intercomponent participation by OS and user components.

h. Coordinates the development within OURV of justifications for additional ADP or telecommunications resources to support SSA's operational systems and submits these to OS.

i. Coordinates the development of user system priorities and plans. Serves as the focal point in communicating these plans and priorities to OS. Serves as contact with OS concerning OS initiated system changes and acts as project manager for major system changes such as RSDHI Redesign.

2. *The Division of Payment Processes* (SJR2): a. Plans, develops, validates and implements operational systems, methods and procedures for dealing with RSDI and SSI checks, RSDI Computations and recomputations, payment adjustments, underpayments, overpayments, and other payment-related functions.

b. Plans, develops, validates and implements operational systems, methods and procedures involved in the maintenance and modification of the RSDI Master Beneficiary Record.

c. Provides technical advice and assistance to other components concerning automation of payment processes and other payment-related issues.

d. Serves as primary point of contact with the Treasury Department on payment and check-related operations.

3. *The Division of Claims and Control* (SJR3): a. Plans, develops, validates, and implements operational systems and related methods and procedurses for RSDI claims operations.

b. Plans, develops, validates, and implements operational systems methods and procedures relating to the processing of all types of awards and disallowances in district and branch offices, Disability Determination Services (DDS's), program service centers (PSC's), the Division of international Operations, and the Office of Disability Operations (ODO).

c. Plans, develops, validates, and implements operational systems, methods, and procedures relating to workflows, to the receipt and handling of material and to control of RSDI and SSI claims, post-adjudicative actions and folders.

4. *The Division of RSDI Postentitlement Systems* (SJR4): a. Plans, develops, validates, and implements systems performance specifications and procedures to handle HI entitlement and SMI enrollment and premium billing collection activities.

b. Plans, develops, validates, and implements systems specifications and procedures for automated and manual processing of various correspondence and critical case processes.

c. Develops, validates, and implements various RSDI systems and methods requiring the processing of postadjudicative reports and notices.

d. Develops, validates, and implements systems and related methods and procedures for the DDS's, and for other (OCO and field) components involved in the disability and Black Lung processes. Serves as focal point for disability related system issues, for example: continuing disability investigations and vocational rehabilitation systems.

5. *The Division of SSI systems* (SJR5): a. Plans, develops, validates, and implements new operational systems, methods and procedures concerning the manual, automated and semi-automated processing of SSI claims and post-eligibility reports and notices.

b. Plans develops, validates, and implements SSI systems and methods involving the processing of redeterminations, underpayments, overpayments, computations, due process, income reports, living arrangements, and other eligibility requirements.

c. Evaluates the need for new or modified systems to implement new legislation or improve the present SSI system. Prepares performance specifications based on program requirements.

d. Provides direction and assistance to OCO, and district and branch offices concerning the processing of SSI claims.

6. *The Division of User Support and Interfaces* (SJR6): a. Plans, develops, validates, and implements operational systems, methods and procedures relating to the exchange of data between SSA systems; with other federal systems such as OPM, VA, RRB, etc.; and with States (State Data Exchange System, BENDEX, etc.); and establishes detailed mechanisms for measuring the adequacy of SSI data exchange processes.

b. Evaluates the need for new or modified systems to implement changes to optional and mandatory State supplementation programs, food stamps, Medicaid, and other State programs such as social services.

c. Provides technical guidance for data exchange systems to OCO, Regional Offices, and other components.

d. Plans and develops performance specifications concerning various technical support areas such as SSADARS improvements, SSADARS formats, telecommunication requirements, and data bases. Participates in validation and implementation of new systems technology, and provides technical support procedures.

e. Works with users to determine equipment requirements and provides user input to OS concerning these requirements; develops data concerning acquisition and utilization of various types of equipment and provides user with technical procedures regarding equipment use.

f. Develops users requirements concerning the utilization of data bases, telecommunications, ADP equipment and related data processing services.

Dated: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24251 Filed 8-6-79; 8:45 am]

BILLING CODE 4110-07-M

Statement of Organization, Functions, and Delegations of Authority

Part S of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). Sections SB.00, SB.10 and SB.20 of the SSA Statement, published at 44 FR 17220 and 17221 dated March 21, 1979, describe the mission, organization and functions for SSA's Office of Systems (OS). These sections are restated and expanded to reflect: establishment of division-level components in OS; assignment to OS of responsibility for external liaison on automatic data processing (ADP) and telecommunications procurements, previously assigned to SSA's Office of Management, Budget and Personnel; modifications in the responsibilities of OS' Office of Advanced Systems (OAS) for long-range planning and new responsibilities for OAS in the preparation of ADP procurement proposals; assignment of responsibility for user services and external liaison for ADP procurements to OS' Office of Systems Planning and Control (OSPC); and transfer of responsibility for applied technology and research from OSPC to OAS. The revised material for OS reads as follows:

Sec. SB.00 The Office of Systems— (Mission)

The Office of Systems (OS) directs and coordinates the planning, development, implementation, operation, and maintenance of SSA's automatic data processing (ADP) and data communications systems. It defines, designs and develops current and future ADP and data communications-based systems which directly support SSA's program activities, including: enumeration and earnings recordkeeping; insurance programs and income maintenance programs; operation and support of the computer and data communications complex; and the control, planning and evaluation of existing and future ADP and data communications systems software and hardware. The Office develops and maintains automated systems that produce statistical, administrative and management information. It advises the Commissioner and the SSA Executive Staff on ADP and data communications issues and concerns and represents SSA in dealings with Federal and non-Federal agencies and organizations on the full range of OS functions, including systems plans and ADP/telecommunications acquisition and utilization.

Sec. SB.10 The Office of Systems— (Organization)

The Office of Systems, under the leadership of the Associate Commissioner for Systems, includes:

A. The Associate Commissioner for Systems (SB)

B. The Deputy Associate Commissioner for Systems (SB)

C. The Immediate Office of the Associate Commissioner for Systems (SB), which includes:

The Management Support Staff (SB)

D. The Office of Advanced Systems (SBV), which includes:

1. The Division of ADP Specifications (SBV1)

2. The Division of Applied Technology (SBV2)

3. The Division of Process Redesign SBV3)

E. The Office of Systems Development (SBE), which includes:

1. The Division of Earnings Systems (SBE1)

2. The Division of RSDI Data Systems (SBE2)

3. The Division of RSDI Transaction Systems (SBE3)

4. The Division of SSI Claims and Postentitlement Systems (SBE4)

5. The Division of SSI Contact, Control and Accounting Systems (SBE5)

6. The Division of Systems Management and Technical Support (SBE6)

F. The Office of Systems Operations (SBP), which includes:

1. The Division of Data Processing Operations (SBP1)

2. The Division of Data Processing Production Control (SBP2)

3. The Division of Data Processing Systems Software (SBP3)

G. The Office of Systems Planning and Control (SBC), which includes:

1. The Division of ADP and Telecommunications Capacity Management (SBC1)

2. The Division of Resource Acquisiton Management (SBC2)

3. The Division of Standards and Control (SBC3)

4. The Division of Strategic Planning and Integration (SBC4)

5. The Division of User Services (SBC5)

H. The Office of Data Services (SBS), which includes:

1. The Technical Support Staff (SBS6)

2. The Test Center Planning Staff (SBS5)

3. The Division of Administrative Systems (SBS1)

4. The Division of Program Statistics (SBS2)

5. The Division of Scheduling and Operations (SBS3)

6. The Division of Specialized Software Systems (SBS4)

I. The Office of Data Communications (SBG), which includes:

1. The Division of Data Communications Operations (SBG1)

2. The Division of Data Communications Technology (SBG2)

Sec. SB.20 The Office of Systems— (Functions)

A. *The Associate Commissioner for Systems* (SB) is directly responsible to

the Commissioner for carrying out the OS mission and provides general supervision to the major components of OS.

B. *The Deputy Associate Commissioner for Systems* (SB) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Systems* (SB) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities. It includes:

The Management Support Staff (SB): 1. Plans, develops and coordinates the preparation of the OS budget and assures that it is carried out. Compiles required financial reports and negotiates with SSA's Office of Management, Budget and Personnel (OMBP) on OS budget matters.

2. Determines OS training requirements. Advises OMBP on what training is needed and when it is best to schedule the training. Assures that technical training plans comply with OS training requirements.

3. Identifies and presents OS management information needs to OMBP, requesting the preparation of new reports as necessary. Interprets and evaluates management information to recommend improvements and changes in the management of OS resources.

4. Coordinates the recruitment and placement of OS personnel, assists with employee relations and assesses OS organizational and manpower needs.

D. *The Office of Advanced Systems* (SBV): The Office of Advanced Systems (OAS) conducts comprehensive process and systems planning efforts for SSA. Working with major users of OS services and OS' Office of Systems Planning and Control (OSPC), it reviews major SSA processes and recommends to SSA management ways to improve service, reduce cost and achieve other improvements through the redesign of these processes. It develops and maintains a Redesign Plan which summarizes planned changes, activities and the sequence of activities. The Office prepares proposals for process changes and automatic data processing (ADP) and telecommunications systems requirements for major redesign projects and monitors redesign projects through completion. It evaluates the general application and use of current technology in major process redesign efforts and in ongoing OS systems support activities. The Office designs and directs the implementation of pilot tests to assess the cost-effectiveness of the use of technology improvements in SSA. It prepares technical specifications and acceptance criteria for the acquisition of all major ADP resources in OS. The Office includes the following components and functions:

1. *The Division of ADP Specifications* (SBV1): a. Prepares technical specifications for the acquisition of major ADP resources in OS, for example, major increases in capacities or the acquisition of new ADP resources.

b. With the assistance of users and other OS components, determines workload requirements and specifies acceptance criteria for the equipment to be acquired.

c. Provides technical support to OS components during major procurement activities. Directs technical work groups which develop requirements for special systems capabilities. Provides support to OSPC in conducting liaison with monitoring agencies, including the General Services Administration (GSA), the Office of Management and Budget (OMB), etc. on major ADP/telecommunications procurement matters.

2. *The Division of Applied Technology* (SBV2): a. Evaluates the general application and use of current ADP technology. Collects, analyzes and disseminates the latest applied technological research information in a variety of technical areas associated with the needs of SSA, ADP and telecommunications resources. Makes recommendations to users and OS systems designers for the use of more effective and efficient techniques.

b. Designs and directs the implementation of pilot tests to assess the cost-effectiveness of the use of technology improvements in OS systems support activities.

c. Supports OAS' Division of Process Redesign by identifying trends in current ADP technology and anticipated developments which may affect SSA's long-range ADP and telecommunications plans.

d. Assists in the ADP procurement process by taking part in the preparation of technical specifications for new technology areas and assisting with the technical evaluation of vendor proposals.

3. *The Division of Process Redesign* (SBV3): a. Reviews major SSA processes and recommends ways to improve service, reduce cost and achieve other improvements through the redesign of these processes and the use of automation. Identifies the sequence of activities needed to implement these changes and maintains a Redesign Plan summarizing changes and planned activities.

b. Documents current SSA operations. Reviews and evaluates proposals to change current operations for consistency with redesign plans and updates current process documentation to include approved changes.

c. Continually reviews the Redesign Plan and recommends modifications to correct for schedule slippages and changes in requirements.

d. Performs cost-benefit analyses and develops evaluation criteria to assist in determining trade-offs between major manual process functions and automated systems functions.

e. Prepares, and submits for OS and user approval, proposals for process changes and ADP and telecommunication system requirements for major redesign projects. Monitors redesign projects through completion and monitors procurement activities associated with major redesign projects.

E. *The Office of Systems Development* (SBE): The Office of systems Development (OSD) plans, directs and coordinates the development of operational ADP systems which directly support SSA's insurance and income maintenance programs. It develops new and modified systems, including systems analysis and design, programing, testing, implementation and maintenance. The Office coordinates systems development activities with OSPC to assure full integration with SSA plans. It assures implementation of systems operating policies by developing detailed standards, methods and procedures consistent with OSPC directives and standards. The Office serves as liaison with other SSA components, other governmental agencies, and private organizations on the systems development and maintenance functions of OSD. The Office includes the following components and functions:

1. *The Division of Earnings Systems* (SBE1): a. Performs the systems analysis, design, programing and testing necessary to develop and maintain current, new and redesigned systems in response to approved user systems requirements for preentitlement earnings and enumeration applications. These systems establish, correct and maintain social security number records; update and maintain records of new and duplicate social security cards; establish and maintain summary earnings records; process earnings adjustments; post incorrectly reported earnings items by investigation and identification of the proper account; provide earnings record information to employers, employees, and self-employed individuals; and establish, correct and maintain vested pension rights identification and notification records.

b. Translates user requirements, as approved by appropriate OS components, into detailed design, development and testing activities and documentation of current, new or redesigned systems.

c. As directed, conducts continuing liaison with other SSA offices and other Federal, State and local agencies to determine the feasibility and to plan the development of preentitlement earnings and enumeration system applications.

d. Provides SSA's Office of User Requirements and Validation (OURV), Office of Operational Policy and Procedures (OOPP), and OSPC with a technical assessment of the effect of legislative and administrative proposals on existing preentitlement earnings and enumeration system applications.

2. *The Division of RSDI Data Systems* (SBE2): a. Performs the systems analysis, design, programing and testing necessary to develop and maintain current, new and redesigned systems in reponse to approved user system requirements for RSDI data base establishment and maintenance applications. These systems provide: edit of incoming new records and transactions; control of in-process and stored transactions; ability to retrieve and display transaction data; exchange of data with non-SSA systems; production of monthly benefit payment information for the Department of the Treasury; and statistical and actuarial study data for OS' Office of Data Services (ODS).

b. Translates user requirements, as approved by appropriate OS components, into detailed design, development and testing activities and system documentation for current, new or redesigned systems.

c. As directed, conducts continuing liaison with other SSA components and other Federal and State agencies to determine the feasibility and to plan the development of RSDI data base establishment and maintenance system applications.

d. Provides OURV, OOPP, and OSPC with a technical assessment of the effect of legislative and administrative proposals on existing RSDI data base establishment and maintenance system applications.

3. *The Division of RSDI Transaction Systems* (SBE3): a. Performs the systems analysis, design, programing and testing necessary to develop and maintain current, new and redesigned systems in response to approved user system requirements for RSDI transaction processing. These systems: calculate insured status, primary insurance and benefit estimates, and benefit payment rates; record and modify entitlement and eligibility factors; identify overpayments and control their disposition; provide beneficiary notices; update and maintain a variety of records and materials which record the results of automatic processing; produce or extract management information data for use by ODS; and provide data exchange information for other SSA and non-SSA systems.

b. Translates user requirements, as approved by appropriate OS components, into detailed design, development and testing activities and system documentation for current, new or redesigned systems.

c. As directed, conducts continuing liaison with other SSA components and other Federal and State agencies to determine the feasibility and to plan the development of RSDI transaction system applications.

d. Provide OURV, OOPP, and OSPC with a technical assessment of the effect of legislative and administrative proposals on existing RSDI transaction system applications.

4. *The Division of SSI Claims and Postentitlement Systems* (SBE4): a. Performs the systems analysis, design, programing and testing necessary to develop and maintain current, new and redesigned systems in response to appoved user system requirements for supplemental security income (SSI) claims and postentitlement transaction applications. These systems: edit incoming new records and transactions; maintain and revise the SSI master file to reflect changes in recipient status; cross-refer related records; compute both Federal SSI benefit payments and State supplementary payments; identify overpayments and control their disposition; select, control and follow up on cases requiring periodic redetermination; establish diaries to record and control needed claims actions; provide generalized data access software; provide full and partial record selection and display formats; and prepare transaction history records.

b. Translates user requirements, as approved by appropriate OS components, into detailed design, development and testing activities and system documentation for current, new or redesigned systems.

c. As directed, conducts continuing liaison with other SSA components and other Federal and State agencies to determine the feasibility and to plan the development of SSI transaction systems.

d. Provides OURV, OOPP, and OSPC with a technical assessment of the effect of legislative and administrative proposals on existing SSI claims and postentitlement transaction system applications.

5. *The Division of SSI Contact, Control and Accounting Systems* (SBE5): a. Performs the systems analysis, design, programing and testing necessary to develop and maintain current, new and redesigned systems in response to approved user system requirements for SSI contact, control and accounting applications. These systems: provide recipient notices about claims decisions, changes of status an changes in payment amount; control the location and movement of SSI claims folders; control transactions which involve exception conditions and notices requesting corrections; provide validation testing of systems changes before and after they are implemented; account for disbursemet of Federal and State funds, including data for establishing State fiscal liability; produce payment information for the Department of the Treasury; produce statistical information, management information and actuarial data for use by ODS; accumulate data for States to use in determining State supplementation and Medicaid eligibility; and produce data for exchange with both SSA and other government records systems to verify recipient income information.

b. Translates user requirements, as approved by appropriate OS components, into detailed design, development and testing activities and system documentation for current, new or redesigned systems.

c. As directed, conducts continuing liaison with other SSA components and other Federal and State agencies to determine the feasiblity and to plan the development of SSI contact, control and accounting systems.

d. Provides OURV, OOPP, and OSPC with a technical assessment of the effect of legislative and administrative proposals on existing SSI contact, control and accounting system applications.

6. *The Division of Systems Management and Technical Support* (SBE6): a. Provides project management direction for designated systems developed by OSD; for these systems, the Division: administers formal controls for system changes including the review, establishment and maintenance of official documentation for completed software systems; reviews and approves system change proposals; and directs implementation by controlled release of

approved system changes coordinating the content and schedule of these releases with users, the Office of Systems Operations (OSO) and OSPC; prepares new system development or changes in project plans by identification and approval of task assignments, manpower and machine estimates and implementation schedules; assigns responsibility for project design and development to other OSD Divisions; conducts review of system design at appropriate intervals; directs revisions to technical design or development, as required; reviews project results for compliance with OS standards; and certifies system development project completion.

b. Provides technical support to other OSD Divisions in resolving unusual problems concerning design, development and maintenance activities.

c. Examines existing application software for efficiency of programing. Where required, recommends changes to the appropriate OSD component to increase efficiency and assists programers in improving programs and systems.

d. Reviews standards developed by OSPC as they relate to OSD system development activities and recommends to OSD management ways to apply those standards in OSD.

F. *The Office of Systems Operations* (SBP): The Office of Systems Operations plans and directs data processing operations in support of social insurance and income maintenance programs. It assures that systems operations plans are consistent with overall OS plans. The Office manages a complex data processing facility of computers and related equipment which process and maintain basic program data. It designs, develops, implements and provides operating control systems software and operational standards for SSA ADP equipment. The Office conducts technical evaluation of operations in the data processing facility and advises the Associate Commissioner for Systems, and other SSA officials on all technical matters concerning data processing operations. It serves as liaison with other SSA officials on all technical matters concerning data processing operations. The Office serves as liaison with other SSA components, Federal and non-federal agencies, and other organizations on operational data processing matters. It develops plans and specifications for the acquisition of data processing equipment, software and related technical resources, within guidelines established by OSPC. The Office includes the following components and functions:

1. *The Division of Data Processing Operations* (SBP1): a. Operates the centralized OS computer facility, which includes computer systems hardware and associated peripheral equipment.

b. Schedules day-to-day workflow for the ADP facility within plans and priorities established by OSO's Division of Data Processing Production Control.

c. Operates, maintains and controls the magnetic tape library for all OS computer activities.

d. Analyzes equipment problems, isolates malfunctions, and oversees corrective actions by SSA or vendor personnel.

e. Schedules and assures preventive maintenance of all equipment under the operational control of OSO.

f. Provides for the physical security of all OS resources in the centralized OS computer facility and manages the facility within boundaries established by OMBP.

2. *The Division of Data Processing Production Control* (SBP2): a. Directs the development of broad operational plans and production schedules for computer operations.

b. Manages the production workload of OSO and monitors the performance and utilization of resources in the computer complex. Initiates actions to improve the efficiency of data processing operations.

c. Designs, develops and implements automated data processing systems for production control. Operates these systems to utilize the SSA tape library and to automate the scheduling and allocation of production work for OSO's Division of Data Processing Operations.

d. Reviews and approves proposed application systems to assure that operational standards, support and control aspects are fully considered.

e. Controls the flow of materials into ADP production jobs. Reviews production results for accuracy and completeness.

f. Provides liaison with users on the status of production jobs or associated problems.

3. *The Division of Data Processing Systems Software* (SBP3): a. Directs the analysis, design, development and maintenance of computer control systems and utility software for SSA's central data processing center and SSA field components.

b. Conducts analysis, simulation modeling, feasibility and cost-benefit studies related to new software developments, vendor software and major revisions of existing software, under guidelines established by OSPC.

c. Evaluates the quality of operating systems being implemented.

d. Supports the user liaison and systems development activities of other OS components in the resolution of technical and operational problems.

e. Plans for the electronic linkage of ADP resources under OSO control.

f. Prepares and distributes technical operating and maintenance manuals for ADP resource users.

g. Supports special technical projects in OS.

G. *The Office of Systems Planning and Control* (SBC): The Office of Systems Planning and Control directs SSA-wide systems planning and control. It directs the development of broad OS systems plans, determines planning requirements at various levels within OS, and assigns responsibility for carrying out these requirements at various levels in OS. The Office reviews and approves technical and operational systems proposals and assures that all plans are fully integrated with the planning objectives of OS. It determines systems priorities among program areas to ensure maximum use of OS resources. The Office determines and proposes to the Associate Commissioner for Systems resource requirements for systems activities in OS. It plans and develops policies, standards and procedures for overall management of OS. The Office performs a comprehensive data base administration function, including control and authority over critical SSA operational data bases. It serves as the central point of contact and coordination for the resolution of problems identified by the users of OS systems. The Office directs and coordinates OS activities associated with the planning, utilization measurement, and procurement of ADP equipment and software resources. It serves as liaison with other SSA components, HEW, and external monitoring authorities, including GSA, OMB, the General Accounting Office (GAO), and Congress on SSA systems plans and ADP/telecommunications acquisition and utilization. The Office includes the following components and functions:

1. *The Division of ADP and Telecommunications Capacity Management* (SBC1): a. Evaluates computer performance, monitors resource utilization, and manages the technical aspects of SSA's ADP/telecommunications systems to ensure that these systems are used effectively and efficiently. Analyzes SSA's present and future ADP/telecommunications capacity requirements and prepares recommendations to top OS management.

b. Ensures that ADP/telecommunications system performance objectives are being met and that data bases are efficiently implemented.

c. Designs and implements an ADP resource and cost accounting system for OS and provides a variety of resource cost data for OS accounting purposes.

d. Provides advice and services to other OS components in the use of computer performance evaluation tools and techniques and the interpretation of reports and data resulting from evaluation and utilization studies.

2. *The Division of Resource Acquisition Management* (SBC2): a. Develops SSA policies and procedures for the acquisition of ADP and telecommunications equipment, software and services, in compliance with SSA, HEW, OMB, and GSA policies and regulations.

b. Reviews and evaluates plans and individual requests from SSA components for the acquisition of ADP equipment, telecommunications equipment and technical services, in terms of available resources. Reviews individual procurement requests for adequacy of documentation, competitiveness and conformance to applicable regulations and policies.

c. Directs OS participation in the ADP procurement process, from OS review and approval of the purchase requisition through the acceptance of equipment. Coordinates the development of materials which justify the need for procurement and prepares documentation required by HEW, GSA, and OMB to support the acquisition of equipment and services.

d. Initiates equipment renewal and maintenance requisitions in support of ongoing operations and certifies and authorizes invoice payment for ADP equipment and services.

e. Acts as liaison between SSA and authorities such as HEW, GSA, and OMB, which monitor SSA's acquisition and use of ADP and telecommunications equipment. Acts as technical liaison between SSA user components and contract and budget officers in OMBP on all requests for ADP and telecommunications equipment and technical services.

f. Develops and provides management controls for ADP procurement activities and for the inventory of ADP and telecommunications equipment and facilities.

3. *The Division of Standards and Control* (SBC3): a. Establish standards and mandatory systems procedures for OS activities including systems design, programing, testing and documentation. Develops controls and enforcement mechanisms to ensure adherence to standards. Recommends development of operational standards to other OS components and reviews and approves them. Administers the Federal and HEW ADP standards programs within OS.

b. Directs the planning, implementation and evaluation of the systems security program in OS, under HEW and SSA privacy and security policies. Specifies safeguards to be included in the design, development and operation of SSA automated systems to protect the confidentiality of all personal and sensitive information.

c. Serves as OS liaison with oversight components in matters of ADP and data communications privacy and security.

4. *The Division of Strategic Planning and Integration* (SBC4): a. Formulates an SSA-wide Systems Plan and assigns responsibility among major OS components for various parts of the Plan.

b. Works with SSA user organizations to evaluate their proposed systems objectives in terms of technical feasibility, availability of OS resources and systems costs. Identifies the major OS activities and resources needed to support these objectives.

c. Coordinates and directs the development of the total OS technical manpower, equipment and other special costs for the SSA budget process and justifies these on the basis of the SSA Systems Plan.

d. Allocates resources and monitors projects for all OS activities, directs the preparation of detailed plans on the project or operational activity level and authorizes the use of resources by OS components in support of these plans. Monitors progress and use of manpower and equipment resources by OS components against their approved plans.

e. Develops standard methods for project management and assists OS components in their use.

5. *The Division of User Services* (SBC5): a. Serves as the initial contact and central coordination point in OS for users of OS services. Analyzes specific problems and general issues raised by users and assures that problems are resolved by appropriate OS components. Identifies trends in OS services, evaluates the quality of service provided to users and recommends improvements to OS management.

b. Conducts reviews of major OS operational systems to evaluate their effectiveness, reports the results and recommends to OS management improvements in systems which are not operating effectively.

c. Coordinates with users and OSPC's Division of ADP and Telecommunications Capacity Management in establishing priorities and schedules for critical user workloads.

d. Provides for the overall management of critical SSA data bases. Develops standards and procedures for data base content, access and security.

e. Provides information to users on available OS services and assures that they are informed of changes and improvements.

H. *The Office of Data Services* (SBS): The Office of Data Services plans and coordinates the development, implementation, maintenance and operation of ADP administrative, management information and statistical systems in support of SSA research and statistical activities, financial management, personnel administration, and administrative control programs that provide the basis for executive planning and decisionmaking. It analyzes, designs, programs and maintains administrative management and statistical ADP systems and provides support to these systems. The Office plans, manages and controls the operation of a large-scale computer complex in support of these systems and provides technical support to systems software development and time-sharing services. It plans, develops and manages the operation of a centralized test facility in support of all SSA computer applications program development activities. The Office provides technical advice and consultation to other SSA components on their needs for new or revised systems and recommends to them the most cost-effective method of development. It advises SSA management on technical and cost factors for reimbursable work for other Federal and non-Federal agencies and organizations. The Office includes the following components and functions:

1. *The Technical Support Staff* (SBS6): a. Provides a variety of consultative and technical advisory services to ODS components in resolving unusual problems on applications design, development and maintenance activities.

b. Examines existing and proposed computer systems for efficiency of programing. Where required to increase efficiency, recommends changes to the appropriate ODS component and assists programers in improving programs and systems.

c. Reviews standards developed by OSPC as they relate to ODS system

development activities and recommends ways to apply these standards in ODS.

2. *The Test Center Planning Staff* (SBS5): a. Develops plans for the establishment of an SSA center for use by computer programers in developing and testing computer programs, plans for the organization, staffing and operation of the center, and develops schedules for the phased implementation of these plans.

b. Initiates proposals for the procurement of computer hardware and software for the testing center.

c. Develops initial proposals for the types of standards, programing aids and computer software capabilities required in the testing facility.

3. *The Division of Administrative Systems* (SBS1): a. Performs the systems analysis, design, programing and testing necessary to develop and maintain current, new and redesigned systems in response to approved user system requirements for administrative applications. These applications include financial management, personnel management, work management and measurement, procurement and facilities management.

b. Translates OSPC-approved user requirements into detailed design and development activities and system documentation for current, new or redesigned systems.

c. As directed, conducts continuing liaison with other SSA components and other Federal and State agencies to determine the feasibility and to plan the development of systems for administrative applications.

d. With the Division of Scheduling and Operations (DSO) and the requesting component, conducts testing based on OS standards to assure that systems developed will perform successfully.

4. *The Division of Program Statistics* (SBS2): a. Performs the systems analysis, design, programing and testing necessary to develop and maintain current, new and redesigned systems in response to approved user system requirements for SSA program statistics. These applications include actuarial analysis and projection; characteristics of income and population movement; and data on births, marriages and deaths.

b. Translates OSPC-approved user requirements into detailed design and development activities and system documentation for current, new or redesigned systems.

c. As directed, conducts continuing liaison with other SSA components and other Federal and State agencies to determine the feasibility and to plan the development of program statistical applications.

d. With DSO and the requesting component, conducts testing based on OS standards to assure that systems developed will perform successfully.

5. *The Division of Scheduling and Operations* (SBS3): a. Manages and operates a large-scale computer facility in support of management, administrative and statistical systems.

b. Develops or supports the operation of systems control software including utilities, security systems, data base management systems and time-sharing systems.

c. Performs the technical functions required to maintain operational quality and reliability and manages the scheduling of production workloads.

d. Provides support to OSPC in developing planning projections for new or replacement hardware, facilities and control software. Prepares technical specifications for ADP procurements within guidelines established by OSPC.

e. Within OSPC guidelines, establishes and enforces procedures for use of ODS computer facilities and services.

f. With other ODS components and users, conducts testing based on OS standards to assure that systems developed will perform successfully.

6. *The Division of Specialized Software Systems* (SBS4): a. Performs the systems analysis, design, programing and testing necessary to develop and maintain current, new and redesigned systems in response to approved user system requirements for specialized software applications requiring a high level of technology. These applications include applied mathematics, simulation, mathematical modeling, general statistics, process control and tracking, and other user-oriented computer tools.

b. Translates OSPC-approved user requirements into detailed design and development activities and system documentation for current, new or redesigned systems.

c. As directed, conducts continuing liaison with other SSA components and other Federal and State agencies to determine the feasibility and to plan the development of specialized application systems.

d. With DSO and the requesting component, conducts testing based on OS standards to assure that systems developed will perform successfully.

I. *The Office of Data Communications* (SBG): The Office of Data Communications (ODC) plans and directs SSA nationwide data communications systems in support of all SSA activities, including social insurance and income maintenance programs. It assures that data communications technical plans are consistent with overall OS plans. The Office manages a complex nationwide facility which provides data communications for all SSA components. It analyzes, designs and implements specialized software and operational standards for data communication services. The Office develops technical plans and specifications for the acquisition of data communications equipment, software and related technical resources, within the guidelines established by OSPC. It conducts technical evaluation of data communications facilities and provides advice to the Associate Commissioner for Systems and other SSA officials on all matters concerning data communications. The Office serves as liaison with other SSA components, other Federal and non-Federal agencies and other organizations on operational data communications matters. The Office includes the following components and functions:

1. *The Division of Data Communications Operations* (SBG1): a. Controls the operation of all SSA data communication transmission systems.

b. Establishes and enforces standards for controlling workflow and for assuring the integrity of data processed through the various data communication operations.

c. Evaluates the performance of data communications systems and takes actions necessary to improve operations.

d. Identifies network operational problems and determines methods and resources needed for resolution.

e. Develops procedures, techniques and tools for testing and validating selected specialized data communications hardware and software.

f. Provides for the maintenance of SSA-owned data communications equipment. Evaluates existing hardware, recommends the replacement of equipment to OS management and oversees the installation of new equipment.

2. *The Division of Data Communications Technology* (SBG2): a. Develops short- and long-range operational and contingency plans for data communications under guidelines established by OSPC.

b. Produces technical specifications for the procurement of data communications equipment and services. Provides assistance in developing cost factors and preparing requests for proposals for the acquisition of data communications computer hardware, software and technical services.

c. Assures that systems security measures for data communications equipment are developed and implemented.

d. Designs, implements and maintains systems control software and directs efforts to improve data communications applications software.

e. Monitors network performance to determine technical changes and improvements needed to meet future requirements.

f. Represents ODC in discussions and negotiations with other organizations on operational data communications matters.

Dated: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24252 Filed 8-6-79; 8:45 am]

BILLING CODE 4110-07-M

Statement of Organization, Functions, and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). On March 21, 1979, an amendment to Part S was published in the **Federal Register** (44 FR 17218–17233) to reflect a reorganization of SSA. Sections SR.00, SR.10 and SR.20 of the SSA Statement, as contained on pages 17231 through 17233 of the amended material published on March 21, 1979, describe the mission, organization and functions for SSA's Office of Policy (OP).

These sections are restated for OP's Office of the Actuary and Office of Policy Analysis and are restated and expanded to reflect the establishment of division-level components in OP's Office of Legislative and Regulatory Policy, Office of Research and Statistics and Office of International Policy. All nonoperational overseas SSA program activities, excluding refugee programs, have been placed in OP's Office of International Policy. The revised OP material reads as follows:

Sec. SR.00 The Office of Policy—(Mission)

The Office of Policy (OP) directs the planning and analysis of programs directly administered by SSA; the retirement, survivors and disability insurance programs, and the supplemental security income program. Together with SSA's Office of Family Assistance, it directs the planning and analysis of income maintenance programs administered by State agencies. The Office broadly formulates, promulgates and interprets programs objectives and policy. It directs studies and makes recommendations about the problems of income maintenance, poverty and the contributions that social insurance, public assistance and related programs may provide for solving these problems. It directs legislative planning, analysis, and formulation in SSA, and conducts the broad research and statistical programs of the agency. The Office reviews all regulations for consistency among programs and regulations for directly administered programs for consistency with statutory and Congressional intent and with SSA policy decisions and requirements. It directs and coordinates the formulation of future program policies. The Office evaluates the effectiveness of national policies in meeting program goals and recommends program modifications. It serves as the focal point for international policy matters, other than those relating to refugee programs. The Office provides overall administrative direction to the Office of the Actuary and coordinates the activities of the Offices included in OP, in carrying out the OP mission. It carries out activities in relation to public assistance programs together with SSA's Office of Family Assistance. Its activities with the Congress are carried out in close consultation and coordination with the Office of the Assistant Secretary for Legislation.

Sec. SR.10 The Office of Policy—(Organization)

The Office of Policy, under the leadership of the Associate Commissioner for Policy, includes:

A. The Associate Commissioner for Policy (SR)

B. The Deputy Associate Commissioner for Policy (SR)

C. The Immediate Office of the Associate Commissioner for Policy (SR)

D. The Office of the Actuary (SRG)

E. The Office of Legislative and Regulatory Policy (SRP), which includes:

1. The Legislative Reference Staff (SRP1)

2. The Division of Disability, Coverage and Interprogram Relationships (SRP3)

3. The Division of Retirement and Survivors Benefits (SRP5)

4. The Division of Assistance Payments (SRP7)

F. The Office of Research and Statistics (SRV), which includes:

1. The Division of Family Assistance Studies (SRVC)

2. The Publications Staff (SRV2)

3. The Research Grants and Contracts Staff (SRV3)

4. The Division of Disability Studies (SRV4)

5. The Division of Economic Research (SRV5)

6. The Division of OASDI Statistics (SRV7)

7. The Division of Retirement and Survivors Studies (SRV8)

8. The Division of Supplemental Security Studies (SRV9)

G. The Office of Policy Analysis (SRC)

H. The Office of International Policy (SRT), which includes:

1. The International Agreements Staff (SRT1)

2. The International Program Policy Staff (SRT2)

3. The International Activities Staff (SRT3)

4. The Comparative Studies Staff (SRT3)

Sec. SR.20 The Office of Policy—(Functions)

A. The Associate Commissioner for Policy (SR) is directly responsible to the Commissioner for carrying out OP's mission and provides general supervision to the major components of OP.

B. The Deputy Associate Commissioner for Policy (SR) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Policy (SR) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities and helps coordinate the activities of OP components.

D. The Office of the Actuary (SRG): Directs and conducts the actuarial program of SSA. It performs actuarial and demographic research into social insurance and related programs and makes actuarial appraisals of existing and proposed programs. The Office studies, for both the immediate and long-range future, problems of financing program costs; estimates future workloads; and evaluates operations of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund. It develops and analyzes actuarial data for benefit estimates and valuations in social insurance programs. The Office

provides technical and consultative services to the Commissioner and HEW officials, and appears before Congressional committees considering legislative changes in SSA-administrated programs. It provides technical and consultative services to the Board of Trustees of the Social Security Trust Funds.

E. The Office of Legislative and Regulatory Policy (SRP): Develops and conducts the legislative planning program of SSA and serves as the focal point for all legislative activity in SSA; analyzes legislative and regulatory initiatives; and develops specific legislative proposals. It reviews all proposed regulations for consistency among programs and regulations for directly-administered programs for consistency with policy requirements and decisions. The Office evaluates the effectiveness of programs administered by SSA in terms of legislative needs and analyzes and develops recommendations on related income maintenance, social service and rehabilitation program proposals, particularly those which may involve coordination with SSA-administered programs, and on other methods of providing economic security. It provides advisory service to SSA and HEW officials on legislation of interest to SSA pending in Congress, and working with SSA's Office of Governmental Affairs, also provides legislative specification drafting service to officials within the Executive Branch, Congressional committees, individual congressmen and private organizations interested in social security legislation. The Office of Legislative and Regulatory Policy (OLRP) includes the following components and functions:

1. *The Legislative Reference Staff* (SRP1): a. Tracks legislative bills, highlights items of interest from the *Congressional Record*, and other publications for OLRP and SSA's Executive Staff and provides support for OLRP and other SSA staff at Congressional hearings.

b. Assists individual members of Congress and their staffs and congressional committee staffs by responding to requests for information on pending and proposed social security legislation, related legislative proposals and the legislative history of the social security program.

2. *The Division of Disability, Coverage and interprogram Relationships* (SRP3): a. Studies and makes recommendations on proposals for providing economic security for the disabled and their dependents through the social security system.

b. Develops and evaluates legislative proposals for extending social security protection to groups not yet covered.

c. Evaluates proposals for program changes in light of their effect on special coverage groups.

d. Recommends methods for coordinating the protection afforded under social security with that afforded under other public retirement or disability programs.

e. Reviews proposed regulation dealing with the disability insurance (DI) program, social security coverage, interprogram relationships and various other issues, including the social security retirement test, insured status and the definitions of employment and wages, to assure cross-program consistency and consistency with policy requirements and decisions.

f. Provides technical and advisory services to other agencies within the Executive Branch, Congressional committees and individual Congressmen, State officials and private organizations having an interest in the disability program, social security coverage or interprogram relationships.

3. *The Division of Retirement and Survivors Benefits* (SRP5): a. Develops and explains program principles and philosophy.

b. Prepares and evaluates proposals for social security program legislative changes in the area of retirement and survivors benefits.

c. Conducts studies of broad programmatic issues, including the development of basic program philosophy, tax rates, alternative methods of financing trust fund operations and management and eligibility requirements for dependents and survivors' benefits, the level of social security benefits, value of benefits in relation to contributions, benefit computation methods, which dependents should receive benefits and the establishment of priority among these dependents.

d. Reviews proposed regulations for the retirement and survivors insurance (RSI) program to assure cross-program consistency and consistency with policy requirements and decisions.

e. Provides technical and advisory services to other agencies within the Executive Branch, Congressional committees, individual Congressmen, State officials and private organizations having an interest in retirement and survivors benefits.

4. *The Division of Assistance Payments* (SRP7): a. Develops and evaluates legislative proposals for changes in the program of supplemental security income for the aged, blind and disabled (SSI program).

b. Working with SSA's Office of Family Assistance, develops and evaluates legislative proposals to change and improve income maintenance programs administered by State agencies, the Cuban, Indochinese and Russian Refugee programs, the U.S. Repatriation Program, and related assistance programs.

c. Reviews proposed income maintenance program regulations to assure cross-program consistency and SSI program regulations for consistency with policy requirements and decisions.

d. Studies SSI program and income maintenance program interrelationships with social security, child support enforcement, food stamps, employment and other Federal, State and local programs and recommends methods for coordinating these programs.

e. Provides technical and advisory services to other agencies within the Executive Branch, Congressional committees, individual Congressmen, State officials and private organizations having an interest in the SSI program and the income maintenance programs.

F. *The Office of Research and Statistics* (SRV): Develops and conducts SSA's research and statistical program. It conducts research on income security, redistributive effects on the economy of social security benefits and financing, adequacy of cash benefits, relation of SSA to public and private income maintenance programs, problems of the low-income population and trends in social security and social welfare expenditures. The Office studies the problems of poverty and income maintenance and how social insurance and related programs may provide solutions and conducts national surveys of the aged, the disabled, the low-income aged and disabled, and families with dependent children. It establishes linkages of SSA data with data from other statistical and record systems and develops and simulates economic models to analyze the impact of present and projected program alternatives under various conditions. The Office publishes research findings, compiles and publishes statistical data, and provides SSA-wide statistical leadership and methodology about statistics. It represents SSA on matters of research and statistics within HEW, within the academic community and, in coordination with SSA's Office of Public Affairs, with other public and private agencies and organizations. The Office of Research and Statistics (ORS) includes the following components and functions:

1. *The Division of Family Assistance Studies* (SRVC): a. Publishes program statistics related to the Aid to Families with Dependent Children (AFDC) program.

b. Designs and conducts surveys of AFDC population groups. Analyzes recipient characteristics, provides caseload and cost estimates for operating budgets and legislative requests and oversees income maintenance and demonstration projects funded under sections 1110 and 1115 of the Social Security Act, as amended (The Act).

2. *The Publications Staff* (SRV2): a. Advises ORS components on the development, organization and presentation of research and statistics studies to be published.

b. Directs a continuous review of the research publications program, analyzes material submitted for publication and surveys the effectiveness of ongoing publication series.

c. Assesses informational needs of the SSA staff, other government agencies, social scientists and the public for data and findings available from the ORS research program.

3. *The Research Grants and Contracts Staff* (SRV3): a. Develops, coordinates and implements SSA extramural research grant and contract activities in the Cooperative Research or Demonstration Projects Program under Sections 110 and 702 of the Act, as they relate to issues under titles II and XVI (grants to the States for aid to the aged, blind, or disabled, or for such aid and medical assistance for the aged) of the Act.

b. Stimulates interest in the Cooperative Research or Demonstration Projects Program and identifies new or existing areas of knowledge or problems which may be usefully studied under extramural programs.

c. Provides guidance to research applicants.

d. Reviews applications and preliminary proposals for research grants.

e. Monitors progress and reports findings of projects funded.

4. *The Division of Disability Studies* (SRV4): a. Plans and directs a continuing, basic, economic and social research effort to measure the size, nature and effects of the private and social costs of disability and ill health on the population in general and to evaluate the effectiveness of the Social Security Disability Insurance program and related service programs, including: trust-funded rehabilitation services and Medicare coverage for the disabled.

b. Designs and conducts national surveys of disabled and nondisabled adults, newly disabled, Social Security disability insurance beneficiaries, persons denied disability insurance benefits and the institutionalized.

c. Plans and directs studies of significant disability policy and program issues.

5. *The Division of Economic Research* (SRV5): a. Plans and directs long-range program-oriented research, projecting and interpreting changing demographic, economic and social trends as they relate to the broad field of economic security and to overall economic and social policy.

b. Studies the following major areas: social security financing, economic impacts of social security income maintenance alternatives; effects of social security on lifetime income redistribution; the relationship of social security to other public and private income maintenance programs; economic projections, and labor market studies.

6. *The Division of OASDI Statistics* (SRV7): a. Plans and directs the development and maintenance of a broad statistical program concerning basic retirement, survivors and disability insurance program statistics.

b. Provides statistical services throughout SSA and technical consultation to users of these statistics both within and outside SSA.

7. *The Division of Retirement and Survivors Studies* (SRV8): a. Plans and directs a continuing national economic and social survey program to collect and study data on the aged population and survivors of deceased workers.

b. Conducts interrelated surveys of the aged, new retirees, young survivors and related family groups.

c. Plans and directs studies of significant program issues requiring research, including retirement patterns, problems of "early" retirement, the needs of widows without children before they become eligible for retirement benefits, the treatment of women under social security, the relation of benefit levels to standards of adequacy, effects of the retirement test, and the situation of individuals receiving minimum benefits.

d. Plans and carries out the analysis of social security and related programs, including private pensions, State and local retirement systems, social welfare expenditures, employee benefit plans, workers compensation, sick leave benefits and health insurance.

8. *The Division of Supplemental Security Studies* (SRV9): a. Plans and directs a continuing national economic and social survey program to study the impact of the SSI program.

b. Plans and directs studies regarding significant program matters, including variations in systems for measuring income adequacy, SSI workloads and cost projections, program trends and effects of the SSI program and State supplementation payments on the lives of recipients.

c. Obtains and presents program data for use by SSA, HEW, other Federal agencies and interested groups in assessing the SSI program.

G. *The Office of Policy Analysis* (SRC): Develops policy and strategies on current and anticipated program issues in social insurance, income maintenance, public assistance and related programs. It provides policy guidance in social insurance and income maintenance programs, carries out a continuing assessment of future policy requirements and formulates policy plans to meet future needs. The Office uses actuarial data and research products to analyze social security and related programs and recommends program modifications for adaptation to changing social, demographic and economic conditions. It provides guidance to the study of policy initiatives and proposals which originate in other SSA components or outside the agency. The Office develops broad program policy planning projects, experiments and studies associated with major program goals and changes. It organizes and conducts special high priority analytical efforts and evaluates the effectiveness of present and alternative income maintenance strategies.

H. *The Office of International Policy* (SRT): Serves as liaison to international agencies and associations which deal with social security matters and serves as SSA's point of contact with the State Department and other agencies involved in international affairs, excluding those affairs relating to refuge programs. It provides legislative and regulatory planning and analysis on all program matters relating to nonoperational international policy. The Office provides leadership and coordination of all activities within SSA involving negotiations with foreign governments on international social security agreements (totalization) and develops and analyzes policies for implementing provisions of totalization agreements. It serves as the SSA focal point for the formulation of U.S. policy on international social security matters and provides training, orientation and technical assistance on social security and related fields to foreign

governments, international organizations and foreign visitors. The Office of International Policy (OIP), includes the following components and functions:

1. *The International Agreements Staff* (SRT1): a. Initiates and responds to contacts with governments interested in international social security agreements (totalization agreements). Drafts these agreements, working with other SSA components, HEW, and other Federal agencies, including the Treasury Department and the State Department.

b. Provides leadership and coordination for all activities in SSA involving negotiations with foreign governments on totalization agreements. Maintains further contacts with the foreign governments involved to assure total cooperation of the two countries during implementation of the agreements.

c. Identifies problem areas which may require modification of a totalization agreement and attempts to resolve differences. Initiates and negotiates amendments or revisions of agreements, as appropriate. Coordinates SSA activities on those differences which must be resolved through consultation by the Secretary of Health, Education, and Welfare and the Minister of the particular foreign country of through arbitration by an independent arbitral body.

d. Directs and monitors the movement and clearance of completed agreements through the U.S. Executive Branch.

2. *The International Program Policy Staff* (SRT2): a. Conducts legislative and regulatory planning and analysis on all program matters relating to international policy.

b. Develops the policy and related procedures affecting the administration of social security programs in foreign countries. Evaluates and modifies policies and procedures, to ensure proper interpretation and implementation.

c. Participates in development of totalization agreements. Monitors and supports movement of completed agreements through the legislative process.

d. Performs ongoing analysis of administration of existing totalization agreements to ensure compliance with their intent.

e. Advises other SSA components, HEW, and other Federal agencies on the formulation of U.S. policy positions on international social issues. Prepares policy papers on the international aspects of social security.

f. Provides consultative and advisory services on foreign social security program policy matters to SSA, HEW, and other Government agencies.

g. Reviews plans for program surveys and studies abroad and advises appropriate SSA components on the propriety of contacts with foreign governments for these studies.

3. *The International Activities Staff* (SRT3): a. Negotiates, designs and provides orientation, training and work study programs for foreign government administrators and technicians, representatives of international organizations and other foreign visitors.

b. Furnishes technical information and advice on U.S. or international social security legislation, policy or program administration to foreign governments, international organizations, Federal agencies, and other organizations and businesses.

c. On behalf of SSA, plans, directs and negotiates, through the Department of State, special international projects and technical assistance missions with foreign governments or foreign aid agencies.

d. Serves as SSA liaison with international organizations concerned with social insurance, income maintenance and related programs.

e. Works with SSA's Office of Management, Budget, and Personnel in reviewing SSA's Foreign Travel Plan. As necessary, negotiates revisions and reviews amendments to the Plan.

4. *The Comparative Studies Staff* (SRT4): a. Plans and conducts research comparing social security on a worldwide basis and confers, as appropriate, with OP's Office of Research and Statistics. This research covers analysis of foreign systems and developments in all major types of social security programs: old-age, invalidity and survivors insurance, medical care insurance, cash sickness and maternity benefits, workers compensation (for employment injuries and occupational diseases), unemployment insurance benefits and family allowances.

b. Provides information on foreign program practices and new developments in the social and health fields to components of SSA and HEW, other Government agencies, advisory groups, Members of Congress, the U.S. Chamber of Commerce, and other representatives of U.S. business groups.

c. Prepares for publication a variety of research documents on international topics, including *Social Security Programs Throughout the World.* Collaborates with OP's Office of Research and Statistics on articles and publications concerning social security and HCFA matters of joint interest.

Dated: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24258 Filed 8-6-79; 8:45 am]

BILLING CODE 4110-07-M

Statement of Organization, Functions, and Delegations of Authority

Part S of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). On March 21, 1979, an amendment to Part S was published in the **Federal Register** (44 FR 17218–17233) to reflect a reorganization of SSA. At that time, Section SA.10 listed the major organizational components of the Office of the Commissioner (OC). Section SA.10D indicated that the Office of Equal Opportunity (OEO)(SAE) was a part of the immediate Office of the Commissioner. As the SSA reorganization effort has progressed, several responsibilities have been more clearly defined and officially assigned. One of these is the civil rights compliance function as it applies to recipients of SSA grant monies. Hence, the OEO is being retitled the Office of Civil Rights and Equal Opportunity (OCREO) to make clear the significant role this office plays in the civil rights compliance function. The OCREO is also being designated a free-standing component at the Associate Commissioner level reporting to the Commissioner. Therefore, Section SA.10D is deleted.

Section SA.20 of 44 FR 17218–17233 delineates the functions of the various Office of the Commissioner components. Section SA.20F lists OEO's functions. This section is also deleted.

Section S.10 lists the major components of SSA under the 1979 Reorganization. Section S.10 is hereby revised to include the Office of Civil Rights and Equal Opportunity (SC) as a component at the Associate Commissioner level. We are publishing the Office of Civil Rights and Equal Opportunity's organizational substructure through the division level as well as the functions assigned to these components. Part S is amended as follows:

Sec. S.10 The Social Security Administration—(Organization)

The Social Security Administration, under the supervision and direction of the Commissioner of Social Security (the Commissioner), includes:

A. The Office of the Commissioner (SA)

B. The Office of Systems (SB)

C. The Office of Civil Rights and Equal Opportunity (SC)

D. The Office of the Regional Commissioners (SDI–SDX)

E. The Office of Governmental Affairs (SE)

F. The Office of Family Assistance (SF)

G. The Office of Hearings and Appeals (SG)

H. The Office of Operational Policy and Procedures (SJ)

I. The Office of Assessment (SL)

J. The Office of Management, Budget, and Personnel (SM)

K. The Office of Central Operations (SP)

L. The Office of Policy (SR)

M. The Office of Public Affairs (SX)

Sec. SC.00 The Office of Civil Rights and Equal Opportunity—(Mission)

The Office of Civil Rights and Equal Opportunity (OCREO) directs, coordinates, develops, appraises and administers the SAA-wide programs of civil rights (CR) and equal opportunity (EO). It provides counsel, advice and recommendations to the Commissioner and the SSA executive staff on CR/EO concerns and responsibilities and represents SSA in dealings with Federal and non-Federal agencies and organizations on a wide range of CR/EO functions. OCREO's programs include affirmative action planning; preparation and implementation of programs designed to ensure equality of opportunity in employment and applying HEW standards for delivery of SSA services for groups, including the aged, minorities, women and the handicapped; management of the EO complaints processing system for adjudication, and resolution of complaints of employment discrimination, including preparation of final agency decisions; and developing and directing implementation of the requirements of Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964 and the Age Discrimination Act of 1975, as they apply to recipients of SSA grant monies. OCREO develops standards consistent with HEW standards for delivery of services to all SSA beneficiaries under applicable titles of the Social Security Act, as amended. In carrying out its mission, OCREO interacts with outside groups and organizations, where appropriate.

Sec. SC.10 The Office of Civil Rights and Equal Opportunity—(Organization)

The Office of Civil Rights and Equal Opportunity, under the leadership of the Director of Civil Rights and Equal Opportunity, includes:

A. The Director of Civil Rights and Equal Opportunity (SC)

B. The Deputy Director of Civil Rights and Equal Opportunity (SC)

C. The Immediate Office of the Director of Civil Rights and Equal Opportunity (SC)

D. The Office of Pre-Adjudication and Disposition (SCA)

E. The Office of Final Adjudication and Review (SCB)

F. The Office of Civil Rights Programs (SCC)

G. The Office of EO Planning and Evaluation (SCD)

Sec. SC.20 The Office of Civil Rights and Equal Opportunity—(Functions)

A. *The Director of Civil Rights and Equal Opportunity* (SC) is directly responsible to the Commissioner for carrying out OCREO's mission and provides general supervision to the major components of OCREO.

B. *The Deputy Director of Civil Rights and Equal Opportunity* (SC) assists the Director in carrying out his/her responsibilities and performs other duties as the Director may prescribe.

C. *The Immediate Office of the Director of Civil Rights and Equal Opportunity* (SC) provides the Director and Deputy Director with staff assistance on the full range of their responsibilities.

D. *The Office of Pre-Adjudication and Disposition* (SCA): 1. Directs the implementation and evaluation of the SSA EO discrimination complaint processing program for both headquarters and the field; assists SSA officials in the discrimination complaint area and related management matters.

2. Implements SSA policies, regulations and procedures pertaining to the timely, accurate and fair processing of discrimination complaints through the proposed disposition stage, throughout the headquarters and field organizations.

3. Provides overall direction regarding all aspects of SAA's complaint system through the proposed disposition stage in order to ensure uniformity in complaint handling, resolution and disposition. Directs the preparation of guidelines on all complaint processing matters through the proposed disposition stage. Interprets technical matters relating to the complaint process, through the proposed disposition stage.

4. Directs special projects and studies of the various aspects of SSA's nationwide discrimination complaint process through the proposed disposition stage to evaluate the overall effectiveness of the EO program. Directs the analysis of trends observed during projects and studies and implements new processes and procedures as required. It includes the following components and functions:

a. *Analysis Division A* (SCA1): (1) Reviews and analyzes investigative material developed on sensitive and complex individual and consolidated complaints of discrimination filed against SSA nationwide on the basis of race, religion, national origin, sex, color, age or physical or mental handicap.

(2) Weighs all evidence and determines overall fairness in the complaint.

(3) Prepares written analysis of complaints, with recommendations for decision and any corrective action that may be required, consistent with law, judicial and administrative decisions, and with SSA, HEW and OPM regulations, policies and procedures.

b. *Analysis Division B* (SCA2): Same functions as Analysis Division A.

E. *The Office of Final Adjudication and Review* (SCB): 1. Conducts the SSA-wide program for the final agency review, analysis and adjudication of discrimination complaints. Provides overall direction regarding the final adjudication of discrimination complaints to ensure uniformity in complaint hearings and final disposition.

2. Directs the implementation and evaluation of final agency decisions in complaints of discrimination for headquarters and field; assists SSA officials in the discrimination complaint area and related management matters.

3. Provides leadership, guidance and direction in formulating and implementing SSA policies, regulations, and procedures on the timely, accurate and fair final resolution of SSA's discrimination complaints.

4. Develops litigation information and documentation in all employment, race and sex discrimination court suits filed against SSA. Analyzes new and recent court decisions, public laws, and Federal regulations for their impact on SSA complaint processing.

5. Interprets, in coordination with the Office of the General Counsel, all legal, regulatory and technical matters which relate to the complaint process and the final disposition of EO complaints.

F. *The Office of Civil Rights Programs(SCC): 1. Directs the SSA-wide*

program of civil rights which involves applying standards under the civil rights statutes; develops SSA standards, consistent with HEW guidance and standards, for delivering services to individuals and meeting other SSA commitments under civil rights statutes.

2. Manages SSA's compliance program under civil rights statutes.

3. Coordinates with and reports to HEW's Office of Civil Rights on SSA's civil rights compliance function.

4. Plans, directs and implements special programs for minority, female, hispanic and handicapped employees of SSA. It includes the following component and functions:

a. *The Division of Program Review and Assistance* (SCC1): (1) Designs and implements a program for compliance with Title VI of the Civil Rights Act and with Section 504 of the Rehabilitation Act of 1973 among recipients of SSA grant monies.

(2) Develops standards, after appropriate coordination with the Office of Civil Rights, for providing services to individuals and meeting other SSA commitments under civil rights statutes.

(3) Oversees SSA's civil rights compliance; develops, manages and directs a nationwide program to provide technical assistance on the requirements of civil rights laws as they apply to recipients of SSA grant monies.

G. *The Office of EO Planning and Evaluation* (SCD): 1. Directs the development of an SSA-wide EO action program and the monitoring of SSA's EO program.

2. Provides staff support and guidance to headquarters and field components in the development of sound EO action programs. Approves, on behalf of the Commissioner of SSA, EO action plans prepared by components and regions; develops the overall SSA EO action plan.

3. Develops guidelines and procedures for effective EO planning and monitoring throughout SSA; makes recommendations on EO policy and operations to the Director of OCREO.

4. Develops and tracks SSA's major initiatives that related to CR/EO and oversees their implementation.

5. Directs the EO monitoring and review of personnel policies, and recruitment and staffing activities. Evaluates the EO impact of special employment programs.

6. Directs maintenance of a minority employment information system for SSA employes. This Office includes the following components and functions:

a. *The division of Component and Regional Liaison* (SCD1): (1) Plans, directs and coordinates EO activities of SSA components and regions.

(2) Develops guidelines for and assists headquarters and regional components in developing and executing their EO action plans and major initiatives tracking system (MITS) objectives.

(3) Reviews and approves regional and component EO action plans and MITS objectives; works with management officials to identify EO problems and to revise goals and objectives when necessary.

(4) Monitors EO progress in the components and regions; analyzes Minority Employment Information data to determine employment trends and to develop remedies for specific problem areas.

(5) Prepares periodic analytical and statistical reports relating to SSA's EO posture.

(6) Provides direct liaison and staff support services to SSA managers in identifying EO concerns, making plans for correction and implementing the solutions.

b. *The Division of Agency Level Operations* (SCD2): (1) Plans directs and coordinates SSA-wide EO activities; develops SSA's Affirmative Action Plan for submission to the Secretary.

(2) Monitors overall SSA EO progress in achieving Affirmative Action Plan goals; works with responsible management officials in assuring implementation of major activities.

(3) Develops informational material to promote understanding of SSA's EO program and objectives.

(4) Develops SSA-wide MITS items for tracking by the Secretary; tracks the progress of MITS items and leads the implementation of items concerning EO functions.

(5) Directs SSA's Minority Employment Information System by developing systems specifications; making major revisions to the data system; and providing minority data to SSA managers, as needed.

Dated: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary

[FR Doc. 79-24254 filed 8-6-79; 8:45 am]

BILLING CODE 4110-07-M

Statement of Organization, Functions, and Delegations of Authority

Part S of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions, and Delegations of Authority for the Social Security Administration (SSA). Section SX.00, SX.10, and SX.20 of the SSA Statement published at 44 FR 17216–17233, dated March 21, 1979, describes the mission, organization, and functions for SSA's Office of Public Affairs (OPA). Sections SX.00, SX.10, and SX.20 of the OPA Statement are restated and expanded to reflect the establishment of staff-level components in OPA's Office of Information. The OPA Statement of Mission has been expanded to clarify OPA's responsibility for administration of SSA activities under the Freedom of Information Act. The organization statement has been revised to add the staff components of the Office of Information. The Statement of Functions has also been revised to include the functions to be carried out by the staff offices within the Office of Information. This revised material reads as follows:

Sec. SX.00 The Office of Public Affairs—(Mission)

The Office of Public Affairs (OPA) plans, coordinates, implements, and evaluates SSA's nationwide public affairs program, which includes State-administered programs and services, for effective information exchange with the public, the press, other Federal and State agencies, and other organizations concerned with public affairs programs and activities. The Office develops programs and materials to assure public knowledge and understanding of protections, rights, and responsibilities under programs administered by SSA. It is responsible for the administration of SSA activities under the Freedom of Information Act of 1974, including policy decisions to release or withhold information in response to information requests and SSA adherence to the Act in all SSA public information activity. The Office provides technical direction to SSA field offices in the management of their public affairs activities.

Sec. SX.10 The Office of Public Affairs—(Organization)

The Office of Public Affairs, under the leadership of the Associate Commissioner for Public Affairs, includes:

A. The Associate Commissioner for Public Affairs (SX)

B. The Deputy Associate Commissioner for Public Affairs (SX)

C. The Immediate Office of the Associate Commissioner for Public Affairs (SX)

D. The Press Office (SXP)

E. *The Office of Information* (SXN): 1. The Editorial Staff (SXN1) 2. The Audio-Visual Staff (SXN2) 3. The Support Services Staff (SXN3)

Sec. SX.20 The Office of Public Affairs—(Functions)

A. *The Associate Commissioner for Public Affairs* (SX) is directly responsible to the Commissioner for carrying out OPA's mission and provides general supervision to the major components of OPA in coordination with the Office of the Assistant Secretary for Public Affairs.

B. *The Deputy Associate Commissioner for Public Affairs* (SX) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Public Affairs* (SX) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Press Office* (SXP) guides and coordinates all SSA press activities and prepares and issues news items for national release and for release through district offices. The Office initiates and maintains contacts with members of the working press and responds to requests for information and assistance from newspapers, radio and TV news departments, news and general magazines, and the specialized press. The Office prepares news and feature stories for the area press on SSA headquarters events, programs of community interest, and the accomplishments and activities of SSA employees. The Office analyzes press coverage of social security programs, prepares responses to press articles, when appropriate, assesses public reaction to social security programs and prepares the Daily Press Service for the SSA Executive Staff.

E. *The Office of Information* (SXN) directs SSA's information activities to assure public knowledge and understanding of programs administered by SSA. The Office develops and evaluates goals, objectives, policies, standards, and guidelines for SSA public information needs and carries out programs to inform the public of the purposes and provisions of SSA-administered programs, program changes, and people's rights and responsibilities under these programs. The Office prepares and determines distribution of a wide variety of public information materials on all phases of SSA-administered programs, evaluates the quality of informational materials to assure a high quality product, and helps in public affairs training in SSA.

1. *The Editorial Staff* (SXN1): a. Provides direction and quality control of information materials for the administration of the public affairs and public relations program of SSA.

b. Writes, edits, produces, and coordinates a variety of public information materials. Provides advice and consultation to other components on editorial policy and methods of initiating and developing informational programs.

c. Conducts editorial reviews and approves content, format, and style of social security informational materials for use in all media.

2. *The Audio-Visual Staff* (SXN2): a. Plans, writes, and designs public information audio-visual materials. Provides advice and consultation to other components concerning the design of audio-visual materials.

b. Directs the preparation of specifications for media materials produced by professional specialists under contract.

c. Directs the writing and management of materials for use by all audio-visual media for the observance of special public relations events.

3. *The Support Services Staff* (SXN3): a. Directs the review of all proposed policies, procedures, practices, and related materials for their impact on public knowledge of and attitudes toward social security.

b. Directs the planning of communication approaches with the media, general public, public and private organizations, and other special audiences.

c. Coordinates field public affairs activities with the Regional Offices.

Dated: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24255 Filed 8-6-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-79-678]

Under Secretary of Housing and Urban Development; Delegation of Authority

The Under Secretary of Housing and Urban Development, Jay Janis, is hereby authorized to exercise all the powers and authority vested in or delegated or assigned to the Secretary of Housing and Urban Development. (Sections 4(a), 7(d), Department of HUD Act, 42 U.S.C. 3532(a), 3535(d)).

Effective date: This delegation shall be effective July 30, 1979.

Patricia Roberts Harris,

Secretary of Housing and Urban Development.

[FR Doc. 79-24275 Filed 8-6-79; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-79-940]

Special Allocations Based Upon Approved Areawide Housing Opportunity Plans

AGENCY: U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: In accordance with 24 CFR Part 891, Subpart F, requests are being accepted by HUD from Areawide Planning Organizations (APO's) for special allocations to be awarded to APO's and jurisdictions within their plan areas on the basis of approved Areawide Housing Opportunity Plans (AHOP's) (24 CFR Part 891, Subpart E).

FOR FURTHER INFORMATION CONTACT: Assistant Secretary for Community Planning and Development, Attention: Trudy P. McFall, Acting Director, Office of Community Planning and Program Coordination, 451 7th Street SW., Washington, D.C. (202) 755-6290. (This is not a toll-free number).

Notice is being given that in accordance with 24 CFR Part 891, Subpart F, requests are being accepted from Areawide Planning Organizations (APOs) for special allocations of Section 8 housing assistance. APOs selected to receive special Section 8 allocations will also be eligible to receive Community Development Block Grant (CDBG) funds and Comprehensive Planning Assistance (701) funds to be awarded to APOs and jurisdictions within their plan areas. Subparts E and F of Part 891 were published in the Federal Register on January 16, 1978. [43 FR 2358 et seq.].

Special CDBG allocations will be made pursuant to 24 CFR § 579.404 to units of general local government which are included within the jurisdiction of an approved AHOP. HUD expects to be able to announce in August 1979 the specific amounts of CDBG, 701, and the amount and types of housing funds which will be made available in conjunction with the AHOP program. HUD recognizes that applicants need to know funding availability in order to finalize their applications and shall make that information available through a Notice in the Federal Register as soon

as possible after Congress completes the 1980 budget process. This later Notice will constitute the Notice referred to in 24 CFR 891.603.

The total amount of the special allocation of CDBG funds shall not be less than $10,000,000 and not more than $20,000,000 and will be available only for eligible Community Development Block Grant activities which facilitate the provision of housing for low and moderate income families and persons outside areas of concentration of low income and minority families and persons; and/or to conduct outreach programs designed to facilitate the movement of low and moderate income and minority persons and families outside areas of such concentrations.

For those APOs whose AHOPs are selected as a basis for special allocations under 24 CFR Part 891, Subpart F, a total of not more than $800,000 in Comprehensive Planning Assistance will be available for those planning activities described in 24 CFR 600.210.

Regulations relating to special allocations of CDBG and 701 funds awarded in conjunction with an approved AHOP were published in the **Federal Register** on August 2, 1978. The CDBG regulation (24 CFR § 570.404) and the 701 regulations (24 CFR Subpart F) appear at 43 FR 34056 and 43 FR 34058 respectively. These regulations apply to the CDBG and 701 special allocations being announced in this Notice.

Requests for special housing allocations shall be submitted in accordance with the procedures set forth in 24 CFR 891.604. HUD will review and select approved AHOP for special allocations in accordance with 24 CFR 891, Subpart F.

APOs which currently have a HUD-approved AHOP plan pursuant to Subpart E need submit only a request covering Subpart F requirements. APOs with HUD-approved AHOPs pursuant to Subpart E as of the date of this Notice are listed at the conclusion of this Notice.

APOs which do not presently have a HUD-approved AHOP are strongly encouraged to submit their Subpart E requests as soon as possible so as to give HUD a maximum time for review. The Subpart F request may be submitted after the Subpart E request; however, both must be submitted either separately or simultaneously, on or before the closing date established below.

To receive consideration, an original of each Subpart E and F request and one copy of each shall be submitted to: Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7100, Attention: AHOP Coordinator, Washington, D.C. 20410.

In addition, one copy of the request shall be addressed to the HUD Area Office serving the APO's jurisdiction. If the APO is served by more than one Area Office, the request shall be submitted to the Office which serves the largest geographic portion of the APO's planning area. All requests shall be postmarked no later than October 31, 1979.

APO's With Approved AHOP's Pursuant to Subpart E as of the Date of Publication of This Notice

Baltimore Regional Planning Commission, Baltimore, Md.
Capitol Regional Council of Governments, Hartford, Conn.
Centralina Council of Governments, Charlotte, N.C.
Central New York Regional Planning and Development Board, Syracuse, N.Y.
Denver Regional Council of Governments, Denver, Colo.
Franklin County Planning Department, Greenfield, Mass.
Lane Council of Governments, Eugene, Ore.
Lower Pioneer Valley Regional Planning Commission, Springfield, Mass.
Merrimac Valley Planning Commission, Haverhill, Mass.
Metropolitan Council, St. Paul, Minn.
Metropolitan Washington Council of Governments, Washington, D.C.
Miami Valley Regional Planning Commission, Dayton, Ohio
Mid-Missouri Council of Governments, Columbia, Mo.
Northeastern Ohio Four County Regional Planning and Development Organization, Akron, Ohio
Puget Sound Council of Governments, Seattle, Wash.
South Central Alabama Development Commission, Montgomery, Ala.
Southeast Regional Planning and Economic Development District, Marion, Mass.
Southeastern Virginia Planning and Development Commission, Norfolk, Va.
Southern California Association of Governments, Los Angeles, Calif.
Western Piedmont Council of Governments, Hickory, N.C.
White River Planning and Development District, Batesville, Ark.
Wilmington Metro Area Planning Coordinating Council, Newark, Del.

Issued at Washington, D.C., July 26, 1979.

Robert C. Embry,

Assistant Secretary for Community Planning and Development.

[FR Doc. 79-24276 filed 8-6-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Areas of Critical Environmental Concern; Intent To Prepare Policy and Procedures Guidelines

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Extension of comment period on proposed guidelines.

SUMMARY: The comment period in the **Federal Register** notice of June 6, 1979 (44 FR 32590) on the notice of intent to prepare policy and procedures guidance for Areas of Critical Environmental concern is being extended from August 6, 1979, to September 5, 1979, as a result of request for such an extension.

DATE: Comments by September 5, 1979.

ADDRESS: Comments should be sent to: Director (430), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240. Comments will be available for public review in room 5615 of the above address from 7:45 a.m. to 4:15 p.m. on regular working days.

FOR FURTHER INFORMATION CONTACT: Terry Sopher, (202) 343-6064.

Ed Hastey,

Associate Director.

August 2, 1979.

[FR Doc. 79-24241 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-84-M

Snake River Birds of Prey National Conservation Area, Boise, Idaho; Availability of Draft Environmental Statement (DES)

AGENCY: Bureau of Land Management, Interior

ACTION: Extension of comment period.

SUMMARY: The comment period in the **Federal Register** Notice, dated July 5, 1979, (FR 44, Vol. 132, Pages 40127-40129) has been extended from August 20, 1979, to September 14, 1979.

DATE: Comments by September 14, 1979.

ADDRESS: Send comments to Bureau of Land Management, District Manager, Boise District, 230 Collins Road, Boise, Idaho 83702.

FOR FURTHER INFORMATION: Dean Bibles, (208) 384-1582.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

[FR Doc. 79-24240 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112.

The applicant request a permit to export in the course of foreign commerce two black and white ruffed lemurs *(Lemur variegatus)* to the Royal Melbourne Zoological Gardens, Victoria, Australia, for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4301. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before September 6, 1979. Please refer to the file number when submitting comments.

Dated: July 26, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-24235 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Permit Amendment

Applicant: Audubon Park and Zoological Garden, P.O. Box 4327, New Orleans, Louisiana 70178.

The permittee requests an amendment to their permit PRT 2-4085 to purchase in interstate commerce three clouded leopards (*Neofelis nebulosa*) from the Rare Feline Breeding Compound, Center Hill, Florida, instead of two as originally requested.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4085. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before September 6, 1979. Please refer to the file number when submitting comments.

Dated: August 1, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-24232 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

The applicants below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Minnesota Zoological Garden (PRT 2-4387), 12101 Johnny Cake Ridge Rd., Apple Valley, Minnesota 55124.

The applicant requests a permit to purchase in interstate commerce two leopard cats (*Felis bengalensis bengalensis*) from the San Antonio Zoological Garden, San Antonio, Texas for enhancement of propagation.

Applicant: F. M. Driscoll (PRT 2-4420), Lexington Pheasantry, 219 Cowlitz Dr., Kelso, Washington 98626.

The applicant requests a permit to import and purchase in foreign commerce three Cabot's tragopan pheasants (*Tragopan caboti*) from Jack Schuiteman, Devlin, Ontario, Canada for enhancement of propagation.

Applicant: New York Zoological Society (PRT 2-4522), 185th St. & Southern Blvd., Bronx, New York 10460.

The applicant requests a permit to import as a gift three white-naped cranes *(Grus vipio)* from the Hong Kong Agricultural and Fisheries Department for enhancement of propagation.

Applicant: Camp Cooley Ranch (PRT 2-4404), Rt. 3, Franklin, Texas 77856.

The applicant requests a permit to purchase in interstate commerce one male banteng (*Bos banteng*) from the Brookfield Zoo, Brookfield, Illinois for enhancement of propagation.

Applicant: Stanley A. Temple (PRT 2-4426), Dept. of Wildlife Ecology, University of Wisconsin, Madison, Wisconsin 53706.

The applicant requests a permit to export Andean condors (*Vultur gryphus*) that were captive-born at the Patuxent Wildlife Research Center and New York Zoological Society to Peru to be released into the wild for enhancement of survival and scientific research.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications on or before September 6, 1979, by submitting written data, views, or arguments to the Director at the above address.

Dated: July 30, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-24234 Filed 8-06-79; 8:45 am]

BILLING CODE 4310-55-M

Threatened Species Permit; Receipt of Permit Renewal Request

Applicant: Miguel A. Feliciano-Ortiz, P.O. Box 644, Anasco, Puerto Rico 00610.

The permittee wishes to renew his Captive-Self Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This permit has been assigned file number PRT 2-440. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before September 6, 1979. Please refer to the file number when submitting comments.

Dated: August 1, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-24233 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-55-M

Threatened Species Permit; Receipt of Applications

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate

commerce, for the purpose of propagation, the indicated species listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, USFWS, WPO, Washington, D.C. 20240. Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Applicant: Marine World Africa USA (PRT 2-4303; Species: all T(C/P) cats), Marine World Parkway, Redwood City, California 94065.

Applicant: Yvonne A. Boris (PRT 2-4461; Species: all T(C/P) pheasants), 1120 W. Pioneer Rd., Duluth, Minnesota 55803.

Applicant: Charles W. Siddle (PRT 2-4501; Species: all T(C/P) pheasants), 910 Morrow Rd., Morrow, Georgia 30260.

Please refer to the individual applicant and the appropriately assigned PRT 2- number when submitting comments.

Dated: July 26, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-24236 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Additions, Deletions, and Corrections

By notice in the Federal Register of February 6, 1979, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

Charles A. Herrington,

Acting Keeper of the National Register.

ALASKA

Wrangell-Petersburg Division

Petersburg, *Sons of Norway Hall*, Indian St. (7-10-79).

ARIZONA

Greenlee County

Clifton, *Clifton Casa Grande Building*, 8 Park Ave. (6-26-79).

Yuma County

Tacna Vicinity, *Antelope Hill Highway Bridge*, NW of Tacna spanning Gila River (6-28-79).

ARKANSAS

Arkansas County

Stuttgart, *Standard Ice Company Building*, 517 S. Main St. (7-2-79).

Garland County

Bear vicinity, *Green, Harley E., House*, N of Bear (7-19-79).

Pulaski County

Little Rock, *Bragg, Richard, House*, 305 E. 16th St. (7-22-79).

Little Rock, *Little Rock Y.M.C.A.*, 524 Broadway St. (7-22-79).

CALIFORNIA

Alameda County

Livermore vicinity, *Ravenswood*, S of Livermore on Arroyo Rd. (6-26-79).

Mendocino County

Manchester, *Manchester Schoolhouse*, 19750 CA 1 (6-26-79).

San Joaquin County

Stockton, *Fox California Theater*, 242 E. Main St. (6-27-79).

Santa Clara County

Campbell, *Campbell Union Grammar School*, 11 E. Campbell Ave. (7-20-79).

Tehama County

Red Bluff, *Cone and Kimball Building*, 747 Main St. (6-26-79).

COLORADO

Denver County

Denver, *Campbell, Richard Crawford, House*, 909 York St. (7-3-79).

Denver, *Country Club Historic District*, roughly bounded by 1st and 4th Aves., Race and Downing Sts. (7-10-79).

Denver, *Denver City Cable Railway Building*, 1801 Lawrence St. (7-2-79).

Denver, *Old Highland Business District*, 15th and Boulder Sts. (7-17-79).

El Paso County

Colorado Springs, *Midland Terminal Railroad Roundhouse*, 600 S. 21st St. (7-10-79).

Montrose County

Montrose vicinity, *Gunnison Tunnel*, E of Montrose (7-22-79).

CONNECTICUT

Hartford County

Windsor, *Allyn, Capt. Benjamin, II, House*, 119 Deerfield Rd. (6-26-79).

Litchfield County

Kent vicinity, *Beardsley, Capt. Philo, House*, SE of Kent on Beardsley Rd. (7-3-79).

Sharon, *Gay, Ebenezer, House*, Main St. (7-9-79).

New London County

Lisbon, *Clark, Andrew, House*, Ross Hill Rd. (6-28-79).

DELAWARE

Kent County

Dover, *Victorian Dover Historic District*, roughly bounded by Silver Lake, St. Jones River, North and Queen Sts. (7-16-79).

New Castle County

Newark vicinity, *Ferguson, Robert, House*, E of Neward at 636 Chestnut Hill Rd. (7-22-79).

Newark vicinity, *Walnut Lane*, E of Newark at 4133 Ogletown Rd. (7-22-79).

FLORIDA

Alachua County

Gainesville, *Anderson Hall*, W. University Ave. (6-27-79).

Gainesville, *Bryan Hall*, W. University Ave. and 13th St. (6-27-79).

Gainesville, *Flint Hall*, W. University Ave. (6-27-79).

Gainesville, *Floyd Hall*, University of Florida campus (6-27-79).

Gainesville, *Library East*, Murphree Way (6-27-79).

Gainesville, *Newell Hall*, Stadium Rd. (6-27-79).

Gainesville, *Peabody Hall*, University of Florida campus (6-27-79).

Gainesville, *U.S. Post Office*, 25 SE. 2nd Pl. (7-10-79).

Gainesville, *Women's Gymnasium*, East-West Rd. (6-27-79).

Duval County

Jacksonville, *Sammis, John S., House*, 207 Noble Circle West (7-10-79).

Escambia County

Pensacola, *St. Joseph's Church Buildings*, 140 W. Government St. (7-10-79).

Jefferson County

Lamont vicinity, *Turnbull-Ritter House*, NW of Lamont off U.S. 19 (7-18-79).

Monticello, *Palmer-Perkins House*, 625 W. Palmer Mill Rd. (7-10-79).

Leon County

Tallahassee, *Johnson-Caldwell House*, Old Bainbridge Rd. (7-20-79) HABS.

Orange County

Orlando, *Phillips, Dr. P., House*, 135 Lucerne Circle, NE. (7-10-79).

Pinellas County

Clearwater, *Ducros, Louis, House*, 1324 S. Fort Harrison St. (7-2-79).

Sarasota County

North Port Charlotte vicinity, *Little Salt Springs*, off U.S. 41 (7-10-79).

GEORGIA

Cobb County

Marietta vicinity, *Cheney, Andrew J., House*, SW of Marietta at Powder Springs and Bankstone Rds. (7-22-79).

Fulton County

Atlanta, *Grant Park Historic District*, roughly bounded by Glenwood and Atlanta Aves., Kelly and Eliose Sts. (7-20-79).

Atlanta, *Pitts, Thomas H., House and Dairy (Casa Loma)* 3105 Cascade Rd., SW.

Oglethorpe County

Philomath, *Philomath Historic District*, GA 22 (7-6-79).

Richmond County

Augusta, *Gould-Weed House*, 828 Milledge Rd. (7-16-79).

IDAHO

Bannock County

McCammon, *McCammon State Bank Building*, Center and 3rd Sts. (7-9-79).

Bonneville County

Idaho Falls, *Bonneville County Courthouse*, Capital Ave. and C St. (7-10-79).

Jerome County

Hunt, *Minidoka Relocation Center*, Hunt Rd. (7-10-79).

ILLINOIS

Cook County

Chicago, *Chapin and Gore Building*, 63 E. Adams St. (6-27-79).

INDIANA

Harrison County

Corydon vicinity, *Corydon Battle Site*, S of Corydon on IN 135 (7-9-79).

IOWA

Butler County

Greene, *Coldwater Church of the Brethren*, N. High St. (7-13-79).

Chickasaw County

Chickasaw, *Chickasaw Octagon House*, Court St. (7-17-79).

Franklin County

Hampton vicinity, *Reeve, Leander, House*, SE of Hampton on IA 134 (7-17-79).

Lucas County

Chariton, *Payne, O. E., House*, 702 Auburn Ave. (7-17-79).

Madison County

Winterset, *Guiberson House*, 302 S. 4th Ave. (7-10-79).

Polk County

Des Moines, *Fire Station No. 4*, 1041 8th St. (6-27-79).

Des Moines, *Iowa-Des Moines National Bank Building*, 520 Walnut St. (7-10-79).

Pottawattamie County

Council Bluffs, *Y.M.C.A. Building*, 628 1st Ave. (6-27-79).

Shelby vicinity, *Carstens Farmstead*, S of Shelby on IA 168 (7-10-79).

Scott County

Davenport, *Northwest Davenport Turner Society Hall*, 1602 Washington St. (7-10-79).

Washington County

Riverside, *St. Mary's Parish Church Buildings*, St. Mary's and Washburn Sts. (7-9-79).

Winneshiek County

Decorah, *Luther College Farm*, Luther College campus (7-17-79).

KENTUCKY

Anderson County

Lawrenceburg, *Dowling House*, 321 S. Main St. (7-10-79).

Boyd County

Ashland, ASHLAND MULTIPLE RESOURCE AREA. This area includes: *Bath Avenue Historic District*, Bath Ave.; *Ashland Coal and Iron Railroad Company Store*, 900 Front St.; *Ashland Coal and Iron Railroad Office*, 1100 Front St.; *Bagby, Alexander, House*, 1520 Lexington Ave.; *Crump and Field Grocery*, 1401-1405 Greenup Ave.; *Culbertson House*, 1520 Chestnut Dr.; *Felty's, Nando, Saloon*, 1500 Front St.; *Fields, Timothy, House*, 1600 Central Ave.; *Hilton, Martin, House, Poage House*, 1016 Winchester Ave.; *Rogers, Lon, House*, 2008 Lexington Ave.; *St. James A.M.E. Church*, Carter Ave. and 12th St.; *Savageot House and Shop*, 1512 Front St.; *Valdenar-Wheeler House*, 2417 Winchester Ave. (7-3-79).

Fayette County

Lexington, *Clark Hardware Company Building*, 367-369 W. Short St. and 142 N. Broadway (7-16-79).

Lexington vicinity, *Todd, William Lytle, House*, W of Lexington at 3725 Bowman Mill's Rd. (7-17-79).

Franklin County

Frankfort vicinity, *Allen, Col. R. T. P., House*, S of Frankfort on Johnson Rd. (7-10-79).

Fulton County

Fulton, *Carr, Ben F., Jr., House*, 203 2nd St. (7-16-79).

Jefferson County

Louisville, *Chestnut Street Methodist Church*, 809 W. Chestnut St. (7-16-79).

Louisville, *Doerhoefer-Hampton House*, 2422 W. Chestnut St. (7-16-79).

Louisville, *Elks Athletic Club*, 604 S. 3rd St. (7-16-79).

Louisville, *First Christian Church*, 850 S. 4th St. (7-16-79).

Louisville, *Fourth Avenue Methodist Episcopal Church*, 318 W. St. Catherine St. (7-16-79).

Louisville, *Heyburn Building*, 332 W. Broadway (7-16-79).

Louisville, *Jefferson Branch Louisville Free Public Library*, 1718 W. Jefferson St. (7-16-79).

Louisville, *Kentucky National Bank*, 300 W. Main St. (7-16-79).

Henry County

Smithfield vicinity, *Highlands*, SW of Smithfield on KY 22 (7-9-79).

Laurel County

London vicinity, *Wildcat Battlefield Site*, 13.4 mi. N of London off U.S. 25 (6-28-79).

Madison County

Richmond, *Miller, William M., House*, S of Richmond (7-16-79).

McCracken County

Paducah, *Nashville, Chattanooga and St. Louis Railway Office and Freight House*, 300 S. 3rd St. (7-17-79).

Montgomery County

Mount Sterling, *Church of the Ascension*, High and Broadway Sts. (7-10-79).

Nelson County

Bardstown, *Johnson, Ben, House*, 1003 N. 3rd St. (7-16-79).

Oldham County

Brownsboro vicinity, *Kellar, Abraham, House*, W of Brownsboro off KY 329 (7-9-79).

Wolfe County

Hazel Green, *Hazel Green Academy Historic Buildings*, KY 191 (7-16-79).

MAINE

Androscoggin County

Lewiston, *Continental Mill Housing*, 60-82 Oxford St. (7-10-79).

Turner, *Turner Town House*, ME 117 (7-9-79).

Cumberland County

Gorham, *Baxter House*, South St. (6-27-79)

Harpswell, *Kellogg, Elijah, Church*, ME 123 (6-27-79)

Naples, *Perley, Sam, Farm*, Perley, Rd. (7-10-79)

Portland, *Minott, William, House*, 45 Park St. (7-10-79)

Scarborough vicinity, *Atlantic House*, S of Scarborough on Kirkwood Rd. (7-10-79)

Yarmouth, *Grand Trunk Railroad Station*, ME 115 (7-10-79)

Knox County

Rockland, *Rockland Public Library*, Union St. (7-10-79)

Lincoln County

Edgecomb vicinity, *Moore, John, House*, SW of Edgecomb on Cross Point Rd. (7-10-79)

Oxford County

Rumford vincinity, *Deacon Hutchins House*, NW of Rumford on ME 5 (7–10–79)

Sagadahoc County

Bath, *Crooker, W. D., House*, 71 South St. (7–10–79)

Washington County

Whitneyville, *Whitneyville Congregational Church*, Main St. (6–26–79)

MARYLAND

Frederick County

Middletown vicinity, *Bennies Hill Road Bridge*, SW of Middletown on Bennies Hill Rd. (6–27–79) HAER.
New London vicinity, *Maynard, Thomas, House*, 1.5 mi. NW of New London on Gas House Pike (7–18–79)
Unionville vicinity, *Pearre-Metcalfe House*, NE of Unionville off MD 31 (7–2–79)

Kent County

Chesterville, *Chesterville Brick House*, jct. of MD 290 and MD 447 (7–17–79)

Prince Georges County

Laurel, *Laurel High School*, Montgomery St. (6–27–79)

MASSACHUSETTS

Hampden County

Holyoke, *Caledonia Building*, 185–193 High St. (7–3–79)

MINNESOTA

Pope County

Terrace, *Terrace Mill Historic District*, Skarpness Rd. and SR 21 (7–17–79)

Silbey County

Henderson, *Old Sibley County Courthouse*, 6th and Main Sts. (7–2–79)

MISSISSIPPI

Adams County

Natchez, *Burn, The*, 307 Oak St. (7–3–79)
Natchez, *Cottage Gardens*, 816 Myrtle Ave. (7–5–79)
Natchez, *Glen Mary Plantation and Tenant House*, Foster Mound Rd. (7–6–79)
Natchez, *Hawthorne Place*, Lower Woodville Rd. (7–3–79)
Natchez, *Ravennaside*, 601 S. Union St. (7–5–79)

Hinds County

Jackson, *Williams, Alex, House*, 937 N. Lamar St (7–3–79)

Jefferson County

Union Church, *Union Church Presbyterian Church*, MS 550 (7–18–79)

MISSOURI

Adair County

Kirksville, *Grim Building*, 113–115 E. Washington St. (6–27–79)
Novinger vicinity, *Cabins Historic District*, S of Novinger off MO 6 (7–17–79)

Boone County

Centralia, *Chance, Albert Bishop, House and Gardens*, 319 E. Sneed St. (7–3–79)

Buchanan County

St. Joseph, *Hall Street Historic District*, roughly bounded by Isadore, Corby, 6th and 9th Sts. (7–17–79)

Cass County

Garden City vicinity, *O'Bannon Homestead (Schuyler Stock Farm)*, NE of Garden City off MO NN (7–3–79)

Clay County

Kansas City, *Compton, Dr. James, House*, 5410 NE. Oak Ridge Rd. (7–10–79)

Cooper County

New Lebanon, *New Lebanon Cumberland Presbyterian Church and School*, MO A (7–9–79)

Greene County

Springfield, *U.S. Customhouse and Post Office*, 830 Boonville Ave. (6–27–79).

Grundy County

Trenton, *St. Philip's Episcopal Church*, 141 E. 9th St. (7–17–79).

Holt County

Forest City, *City Hall*, MO 111 (6–27–79).

Iron County

Ironton, *Iron County Courthouse Buildings*, Courthouse Sq. and 220 S. Shepherd St. (6–27–79).

Jackson County

Kansas City, *Professional Building*, 1101–1107 Grand Ave. (7–17–79).
Kansas City, *Uptown Building and Theatre*, 3700–3712 Broadway (6–27–79).

Jasper County

Joplin, *Joplin Carnegie Library*, 9th and Wall Sts. (7–10–79).

Marion County

Hannibal, *Hannibal Old Police Station and Jail*, 4th and Church Sts. (7–17–79).

Pettis County

Sedalia, *Harris House*, 705 W. 6th St. (7–10–79).

Pulaski County

Waynesville, *Pulaski County Courthouse*, Courthouse Sq. (7–17–79).

Ray County

Richmond, *Ray County Poor Farm*, W. Royale St. (7–10–79).
St. Louis City (independent city).
St. Stanislaus Kostka Church, 1413 N. 20th St. (7–10–79).

Saline County

Marshall, *Chicago and Alton Depot*, Sebree St. (6–27–79).

Scotland County

Memphis, *Downing House*, 311 S. Main St. (6–27–79).

MONTANA

Custer County

Miles City, *Miles City Steam Laundry*, 800 Bridge St. (7–5–79).

Fergus County

Lewistown, *Masonic Temple*, 322 W. Broadway St. (7–3–79).

NEW JERSEY

Bergen County

Oradell, *Van Buskirk-Oakley House*, 467 Kinderamack Rd. (7–3–79).

Essex County

Montclair, *Shultz, Charles S., House*, 30 N. Mountain Ave. (7–22–79).

Hudson County

Hoboken, *Hoboken Land and Improvement Company Building*, 1 Newark St. (7–3–79).

Hunterdon County

Prallsville, *Prallsville District*, NJ 29 (6–27–79).

Middlesex County

Monmouth Junction vicinity, *Gulick House*, W of Monmouth Junction on Raymond Rd. (7–3–79).

Warren County

Washington, *Washington Railroad Station*, Railroad Ave. (7–3–79).

NEW MEXICO

Bernalillo County

Albuquerque, *Lewis, Charles W., Building*, 1405–1407 2nd St., SW. (7–3–79).

McKinley County

Gallup, *Cotton, C. N., House*, 406 W. Aztec Ave. (7–10–79).

NEW YORK

Columbia County

Linlithgo vicinity, *Oak Hill*, N of Linlithgo on Oak Hill Rd. (6–26–79).

Greene County

Leeds vicinity, *Newkirk Homestead*, NW of Leeds on Sandy Plains Rd. (7–22–79).

Nassau County

Mill Neck, *Dodge, Lillian Sefton, Estate*, Frost Mill Rd. (7–22–79).

New York County

New York, *Norwood, Andrew S., House*, 241 W. 14th St. (7–9–79).
New York, *Ottendorfer Public Library and Stuyvesant Polyclinic Hospital*, 135 and 137 2nd Ave. (7–22–79).

Suffolk County

Commack, *Carll, Marion, Farm*, 475 Commack Rd. (6–26–79).

Tompkins County

Ithaca, *Ithaca Pottery Site* (7–17–79).

Ulster County

Kingston, *Community Theatre (Broadway Theatre)* 601 Broadway (7–22–79).

NORTH CAROLINA

SLATER INDUSTRIAL ACADEMY HOUSES THEMATIC RESOURCES. Reference—see individual listings under Forsyth County.

Forsyth County

Winston-Salem, *Atkins, S. G., House (Slater Industrial Academy Houses Thematic Resources)* 346 Atkins St. (7–22–79).
Winston-Salem, *Hill, J. S., House (Slater Industrial Academy Houses Thematic Resources)* 914 Stadium Dr. (7–22–79).
Winston-Salem, *Paisley, J. W., House (Slater Industrial Academy Houses Thematic Resources)* 934 Stadium Dr. (7–22–79).

Franklin County

Franklinton, *Person-McGhee Farm*, U.S. 1 (6–26–79).

Mecklenburg County

Charlotte, *Hotel Charlotte*, 327 W. Trade St. (7–2–79).

Moore County

Aberdeen, *Bethesda Presbyterian Church*, NC 5 (7–22–79).

Pender County

Scott's Hill, *Poplar Grove*, U.S. 17 (7–16–79).

Randolph County

Archdale vicinity, *Harper House*, S of Archdale (7–22–79).

Rockingham County

Madison vicinity, *Fewell-Reynolds House* (7–16–79).

Stokes County

Pine Hall, *Pine Hall (Anderson-Hanes House)* SR 1901 and NC 772 (7–16–79).

OHIO

Cuyahoga County

Gates Mills, *Gates Mills Village District*, OH 174 (6–28–79).

Lorain County

Vermilion, *Brownhelm Historic District*, N. Ridge Rd. (6–28–79).

Marion County

Caledonia, *Memorial United Methodist Church*, 243 S. Main St. (7–10–79).

Montgomery County

Centerville vicinity, *Belville-Maxwell House*, W of Centerville off OH 725 (7–10–79).

Richland County

Mansfield, *Mansfield Blockhouse*, South Park (7–10–79).
Mansfield, *Mayflower Memorial Congregational Church*, 166 Buckingham St. (7–10–79).

OKLAHOMA

Garfield County

Enid, *Rock Island Depot*, 200 Owen K. Garriott Blvd. (7–18–79).

Muskogee County

Fort Gibson, *Nash-Swindler House*, Maple and Jackson Sts. (7–13–79).

Oklahoma County

Oklahoma City, *Maney Historic District*, 725 NW. 11th St., 1200 and 1224 N. Shartel Ave. (7–18–79).

Tulsa County

Tulsa, *Tribune Building*, 20 E. Archer St. (7–18–79).

OREGON

Multnomah County

Portland, *Neighborhood House*, 3030 SW. 2nd Ave. (7–10–79).

Washington County

Tigard, *Tigard, John W., House*, 10310 SW. Canterbury Lane (7–20–79).

PENNSYLVANIA

COVERED BRIDGES OF WASHINGTON AND GREENE COUNTIES THEMATIC RESOURCES. Reference—see individual listings under Washington and Greene Counties.

Allegheny County

Pittsburgh, *Allegheny Observatory*, 159 Riverview Ave. (6–22–79).

Bucks County

Spinnerstown, *Spinner House*, Spinnerstown and Sleepy Hollow Rds. (6–22–79).

Chester County

West Chester, *Everhart, William, Building*, 28 W. Market St. (7–17–79).

Dauphin County

Hummelstown, *Matlack, Enoch, House*, 250 E. Main St. (6–22–79).

Greene County

DAVIS, HORN, OVERHOLTZER (COVERED BRIDGES OF WASHINGTON AND GREENE COUNTIES THEMATIC RESOURCES). Reference—see Washington County.
Brave vicinity, *King Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Hoover Run (6–22–79).
Carmichaels, *Carmichaels Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Muddy Creek (6–22–79).
Garards Fort vicinity, *Red, Neils, Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Whiteley Creek (6–22–79).
Garards Fort vicinity, *White Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Whitley Creek (6–22–79).
Rogersville vicinity, *Scott Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* PA 21 (6–22–79).
Waynesburg vicinity, *Grimes Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* PA 221 (6–22–79).
Waynesburg vicinity, *Lippincott Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* PA 221 (6–22–79).
Waynesburg vicinity, *Shriver Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Harqus Creek (6–22–79).
Waynesburg vicinity, *Woods, Nettie, Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Pursley Creek (6–22–79).

Lebanon County

Campbelltown, *Stauffer, Dr. B., House*, 198 W. Main St. (6–22–79).

Monroe County

Bushkill vicinity, *Shoemaker, Capt. Jacob, House*, NW of Bushkill (7–17–79).

Montgomery county

Cheltenham vicinity, *Wall House (The Ivy)* W of Cheltenham on Old York Rd. (6–26–79).

Northumberland County

Watsontown vicinity, *Hopper-Snyder Homestead*, NE of Watsontown off SR 49061 (7–3–79).

Philadelphia County

Philadelphia, *Hamilton Family Estate*, 4030–4041 Baltimore Ave. and 4000–4018 Pine St. (6–22–79).
Philadelphia, *Old Federal Reserve Bank*, 925 Chestnut St. (6–28–79) HABS.
Philadelphia, *Union League of Philadelphia*, 140 S. Broad St. (6–22–79).

Washington County

Avella vicinity, *Pine Bank Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* (6–22–79).
Avella vicinity, *Wilson Mill Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Cross Creek (6–22–79).
Beallsville vicinity, *Martin's Mill Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Ten Mile Creek (6–22–79).
Bentleyville vicinity, *Ebenezer Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* off PA 136 (6–22–79).
Bentleyville vicinity, *Wright, Cerl, Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* I–70 (6–22–79).
Burgettstown vicinity, *Devil's Den, McClurg Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Kings Creek (6–22–79).
Burgettstown vicinity, *Jackson's Mill Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Kings Creek (6–22–79).
Burgettstown vicinity, *Lyle Covered Bridges (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Raccoon Creek (6–22–79).
Burgettstown vicinity, *Ralston Freeman Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources (6–22–79).*

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Claysville vicinity, *Mays, Blaney Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Middle Wheeling Creek (6–22–79).
Cokesburg vicinity, *Leatherman Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* (6–22–79).
Midway vicinity, *Krepps Covered Bridges (Covered Bridges of Washington and Greene Counties Thematic Resources)* (6–22–79).
Monongahela vicinity, *Henry Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Mingo Creek (6–22–79).
North Fredericktown vicinity, *Davis, Horn, Overholtzer (Covered Bridges of Washinton and Greene Counties Thematic Resources)* (6–22–79) (also in Greene County).
Prosperity vicinity, *Bailey Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Ten Mile Creek (6–22–79).
Prosperity vicinity, *Day Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Short Creek (6–22–79).
Prosperity vicinity, *Hughes Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Ten Mile Creek (6–22–79).
Taylorstown vicinity, *Sawhill Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* PA 221 (6–22–79).
West Alexander vicinity, *Erskine Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* spans Middle Wheeling Creek (6–22–79).
West Finley vicinity, *Brownlee, Scott, Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* off PA 231 (6–22–79).
West Finley vicinity, *Crawford Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* (6–22–79).
West Finley vicinity, *Danley Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* (6–22–79).
West Finley vicinity, *Miller, Longdon L., Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* (6–22–79).
West Finley vicinity, *Plant's Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* (6–22–79)
West Finely vicinity, *Sprowl's Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* off PA 231 (6–22–79).
West Finely vicinity, *Wyit Sprowls Covered Bridge (Covered Bridges of Washington and Greene Counties Thematic Resources)* (6–22–79).

York County

East Prospect vicinity, *Burgholtshouse*, S of East Prospect on PA 124 (6–22–79).

RHODE ISLAND

Providence County

East Providence, *Pomham Rocks Light Station*, Riverside Rd. (7–9–79).

SOUTH CAROLINA

Barnwell County

Barnwell, *Bethlehem Baptist Church*, Wall and Gilmore Sts. (7–10–79).

Beaufort County

Beaufort vicinity, *Seaside Plantation*, 10 mi. E of Beaufort on SC 21 (7–16–79).

Clarendon County

Manning, *Manning Library*, 211 N. Brooks St. (7–10–79).

Lexington County

Lexington vicinity, *Meetze, Maj. Henry A., House*, S of Lexington at 723 S. Lake Dr. (7–13–79).

Marlboro County

Clio, *Clio Historic District*, SC 9 and SC 381 (7–16–79).

Sumter County

Mayesville, *Mayesville Historic District*, irregular pattern along Lafayette St. (7–16–79).

TENNESSEE

Cheatham County

Ashland City vicinity, *Sycamore Mills Site*, N of Ashland City on TN 49 (7–9–79).

Hamilton County

Chattanooga, *Chattanooga Car Barns*, 301 Market St. (7–9–79).

Maury County

Columbia, *St. Peter's Episcopal Church*, 311 W. 7th St. (6–27–79).

Shelby County

Memphis, *Greenwood*, 1560 Central Ave. (7–9–79).

TEXAS

Culberson County

Van Horn, *Clark Hotel*, 112 Broadway St. (7–19–79).

El Paso County

El Paso, *Women's Club*, 1400 N. Mesa St. (7–22–79).

Newton County

Newton, *Newton County Courthouse*, off TX 190 (7–19–79).

Terrant County

Fort Worth, *Hotel Texas*, 815 Main St. (7–3–79).
Fort Worth, Waggoner, W. T., Building 810 Houston St. (7–10–79).

UTAH

Cache County

Logan, *Logan L.D.S. Sixth Ward Church*, 395 S. Main St. (7–10–79).

Daggett County

Dutch John vicinity, *Swett Ranch*, NE of Dutch John (7–10–79).

Salt Lake County

Salt Lake City, *Beesley, Ebenezer, House*, 80 W. 200 North (7–16–79).

Sanpete County

Mt. Pleasant, *Staker, Alma, House*, 81 E. 300 South (7–9–79).

VIRGINIA

Brunswick County

Lawrenceville, *St. Paul's College*, St. Paul's College campus (6–27–79).

James City County

Toano vicinity, *Chickahominy Shipyard Archeological Site* (6–28–79).

Rockbridge County

Brownsburg vicinity, *Kennedy-Wade Mill*, 2.3 mi. NE of Brownsburg on VA 606 (7–13–79).

Virginia Beach (independent city)

U.S. Coast Guard Station, Atlantic Ave. and 24th St. (7–11–79).

WASHINGTON

Clallam County

Port Angeles vicinity, *Rosemary Inn*, SW of Port Angeles on Barnes Point (7–17–79).

Clark County

Camas vicinity, *Pittock House (Lakeside)* N of Camas at 114 NE. Leadbetter Rd. (7–3–79).

Pacific County

Klipsan Beach, *Klipsan Beach Life Saving Station*, WA 103 (7–5–79).

WEST VIRGINIA

Wayne County

Fort Gay, *Wildcat Branch Petroglyphs*, N of Fort Gay on SR 1 (7–22–79).

WISCONSIN

Dane County

Middleton, *Stricker Pond I Site (47 Da 424)* (7–16–79).

Door County

Egg Harbor, *Cupola House*, 7636 Egg Harbor Rd. (7–16–79).

Milwaukee County

Milwaukee, *St. James Episcopal Church*, 833 W. Wisconsin Ave. (6–27–79).

Racine County

Racine, *Engine House No. 4*, 1339 Lincoln St. (6–27–79).
Racine, *St. Patrick's Roman Catholic Church*, 1100 Erie St. (7–5–79).

Waukesha County

Muskego, *Philadelphia Toboggan Company Carousel No. 15*, Janesville Rd. (6–27–79).

Winnebago County

Neenah, *Smith, Charles R., House*, 824 E. Forest Ave. (7–16–79).

WYOMING

Converse County

Douglas, *College Inn Bar*, 103 N. 2nd St. (7–10–79).

Laramie County

Cheyenne, *Castle on 19th Street*, 1318 E. 19th St. (7–10–79).
Cheyenne, *Crook House*, 314 E. 21st St. (7–10–79).
Cheyenne, *Lafrentz, Ferdinand, House*, 2015 Warren Ave. (7–17–79).

The following is a list of corrections to properties listed in the "Federal Register," Part II, February 6, 1979. Additional corrections may appear in subsequent updates.

CALIFORNIA

San Francisco County

San Francisco, *Phelps, Abner, House*, 1111 Oak St. (5–23–79) HABS (previously listed at 329 Divisadero St.).

COLORADO

Denver County

Denver, *Raymond, Wilbur S., House*, 1572 Race St. (11–21–74) (previously listed as Marne, The).

HAWAII

Honolulu County

Honolulu, *Hawaii Theatre*, 1130 Bethel St. (11–14–78) (previously listed in incorrect order).
Honolulu, *Lishman Building*, Makiki Park, Keeaumoku St. (9–13–78) (previously listed in incorrect order).

OKLAHOMA

Sequoyah County

Short, *Lee's Creek Ceremonial Center Site*, OK 101 (1–31–76) (previously listed as Parris Mound).

* * * * *

The following properties have been demolished and/or removed from the National Register of Historic Places. This action does not modify the applicability, if any, of provisions of section 2124 of the Tax Reform Act.

NEW JERSEY

Morris County

Florham Park, *Little Red Schoolhouse*, Ridgedale Ave. at Columbia Tpke. (removed).

* * * * *

Determinations of eligibility are made in accordance with the provisions of 36 CFR 60, procedures for requestion determinations of eligibility, under the authorities in section 2(b) and 1(3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's precedures, 36 CFR Part 800. Properties determined to be eligible under § 63.3 of the procedures for requestion determinations of eligibility are designated by (63.3).

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before any agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation, shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined eligible for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

CALIFORNIA

Humboldt County

Bayside, *Bayside Presbyterian Church*, Myrtle Ave. (63.3).
Bayside, *Connors-Lawlor-Wilson House*, Myrtle Ave. (63.3).
Bayside, *McAdam-Barwise-Will McFarland House*, Myrtle Ave. (63.3).
Bayside, *Mitchell, George, House*, Myrtle Ave. (63.3).
Bayside, *Monahan, Charles-Dexter House*, Old Arcata Rd. (63.3).
Bayside, *Nellist, Davis Oscar, House*, Old Arcata Rd. (63.3).
Bayside, *Nellist-Zucar-Smith, House*, Old Arcata Rd. (63.3).
Bayside vicinity, *Berry, John, House*, Myrtle Ave. (63.3).
Bayside vicinity, *Campbell-Smith-Monroe House*, S of Bayside on Myrtle Ave. (63.3).
Bayside vicinity, *Clendenin House*, S of Bayside on Myrtle Ave. (63.3).
Bayside vicinity, *Dolbeer and Carson School (Matheson House)* S of Bayside on Myrtle Ave. (63.3).
Bayside vicinity, *Henry, Francis, House*, S of Bayside on Myrtle Ave. (63.3).
Bayside vicinity, *Henry, James, House*, S of Bayside on Myrtle Ave. (63.3).
Bayside vicinity, *Noble, Jim, House*, S of Bayside on Myrtle Ave. (63.3).
Freshwater Corners vicinity, *Graham-Anderson House*, N of Freshwater Corners on Myrtle Ave. (63.3).
Freshwater Corners vicinity, *Graham, George, House*, N of Freshwater Corners on Myrtle Ave. (63.3).
Freshwater Corners vicinity, Long-Graham House, N of Freshwater Corners on Myrtle Ave. (63.3).
Freshwater Corners vicinity, *Pinkerton, John, House*, N of Freshwater Corners on Myrtle Ave. (63.3).
Freshwater Corners vicinity, *Spinney, Gideon, House*, N of Freshwater Corners on Myrtle Ave. (63.3).
Freshwater Corners vicinity, *Spinney, Joseph, House*, N of Freshwater Corners on Myrtle Ave. (63.3).
Freshwater Corners, *Wilson, Clifton, Water Tower*, N of Freshwater on Myrtle Ave. (63.3).
Freshwater Corners vicinity, *Wilson, Second Clifton, House*, N of Freshwater on Myrtle Ave. (63.3).
Freshwater Corners vicinity, *Wilson, Stephen, House*, N of Freshwater Corners on Myrtle Ave. (63.3).
Freshwater Slough vicinity, *Long-Graham Dairy Barn*, Myrtle Ave. (63.3).
Indianola vicinity, *Johnson, Al and Mary, House*, N of Indianola on Myrtle Ave. (63.3).
Indianola vicinity, *Pinkerton, George-McAlister Barn*, N of Indianola on Myrtle Ave. (63.3).
Indianola vicinity, *Viale House*, N of Indianola on Myrtle Ave. (63.3).

Los Angeles County

Los Angeles, *Lake Street Historic District*, Lake St.
Los Angeles, *Royal Lake*, 2202 11th St.

Santa Cruz County

Ben Lomond, *Jones House*, 9055 CA 9 (63.3).
Ben Lomond, *Weatherly Castle*, CA 9.

COLORADO

Delta County

Paonia vicinity, *Archeological Sites 5DT126 and 5DT127, off CO 133* (63.3).
Paonia vicinity, *Bruce, Ray, Property*, W of Paonia on CO 133 (63.3).
Paonia vicinity, *Town of Bowie*, E of Paonia on CO 133 (63.3).

Douglas County

Arcehological Site 5DA259 (63.3).

CONNECTICUT

Hartford County

Bristol, *Rockwell Park*.
Hartford, *Sisson, Albert L., House*, Sisson Ave.

New Haven County

Wallingford, *Toelles Road Bridge*, spans Wyinnipiac River (63.3).

Windham County

Plainfield, *Wauregan Historic District*.

DISTRICT OF COLUMBIA

Washington

Mt. Vernon Square (63.3).
New York Avenue from Ninth to Fifteenth Street (63.3).
U.S. Reservations 173 and 174 (63.3).

HAWAII

Honolulu County

Oahu, *Archeological Site 7*, Kawainui Marsh (63.3).

ILLINOIS

Pike County

BURNT HILL MULTIPLE RESOURCE AREA. This area includes: Aberdeen; *Beagle Bay; Birch; Birch East; Bonz; Boudreau; Brits; Broken Axe; Brush College School; Burnt Hill; Carrion; Church Hollow; Coyote Draw; Cruttendon; Dagley; Defunct Deer; Dessicated Maize; Disparity; Doc; Dorman; Elledge; Fish; Frigid Ridge; Fudge; Gleckler; Glen Estate; Grace; Griggsville;*

Hedge Apple; Hedge Apple East; Hidden Hollow; Homestead; Hyk; Indian Ridge; Keller; Kurkwright; Lightle; Lippincott; Long Shadow; Maple Grove; Middle Bluff; Mills; Mummy; Myron; Nean; Newingham; Occasional Owl's Nest; Picnic Point; Pond; Possible; Prairie Bramble; Revans; Rut; Segregation; Seven Trucks Ravine; Stauffer; Stickman Sink; Sunflower; Tiny; Turnbull; Turnbull Garden; Walnut Bluffs; Washout; White School; Wild Cherry; Winfred; Woodpecker Bluff (63.3).

INDIANA

Floyd County

New Albany, *New Albany Historic District.*

KANSAS

Johnson County

Shawnee, *Caenen, Remi, House,* 12040I Johnson Dr. (63.3).

KENTUCKY

Jefferson County

Louisville, *Atherton Building,* 466 River City Hall.
Louisville, *Republic Building,* 129 W. Walnut St.
Louisville, *Sales, Will, Building,* 405 S. 4th St.
Louisville, *Starks Building.* River City Mall.

LOUISIANA

Rapides Parish

Alexandria, *Missouri Pacific-Texas Pacific Railroad Station,* 10th and Jackson Sts.

MARYLAND

Allegany County

Cumberland vicinity, *Lippold Stone Farmhouse.*
Baltimore (independent city).
Crimes Historic District.
St. Mary's County.
Cedar Point Lighthouse, Patuxent River and Chesapeake Bay.

MASSACHUSETTS

Essex County

Newburyport, *Central Waterfront Archeological District.*

Middlesex County

Ashland, *Ashland House,* 117 Main St. (63.3).

Worcester County

Worcester, *Oxford-Crown District (extension)* (63.3).

MINNESOTA

Ramsey County

St. Paul, *Minnesota Boat Club,* Navy Island.

MISSOURI

Carroll County

Carrollton, *Carroll County Courthouse.*

Worth County

Grant City, *Worth County Courthouse.*

MONTANA

Custer County

Miles City, *Miles City Water Works Building and Pumping Plant Park,* Pumping Plant Rd. (63.3).

Dawson

Glendive vicinity, *Taylor-Siegel Archeological Site (24DW11)* (63.3).

Jefferson County

Basin, *Basin Historic District.*

Missoula County

Lolo Hot Springs vicinity, *Lolo Springs Ranger Station,* Lolo National Forest (63.3).

NEVADA

Eureka County

Pine Valley Archeological District (63.3) Pine Valley.

NEW HAMPSHIRE

Hillsborough County

Manchester, *Monadnock Building,* 1140–1160 Elm St.
Manchester, *Salty Dog Tavern,* 17 Bridge St.

NEW JERSEY

Somerset County

Manville, *Finderne Avenue Bridge.*

NEW MEXICO

San Juan County

Shiprock vicinity, *Archeological Site LA 8970,* off U.S. 550 (63.3).
Squaw Springs vicinity, *Squaw Springs Archeological Sites 1, 3–23, 25–51, 53–61.*

NEW YORK

Erie County

Cheektowaga vicinity, *Creekside Grove Site UB 1803,* Union Rd. (63.3).

Orange County

New Windsor, *Plum Point Site* (63.3).

St. Lawrence County

Potsdam, *Potsdam Depot* (63.3).

Saratoga County

Waterford, *Waterford Archeological District.*

NORTH CAROLINA

Chatham County

Seaforth vicinity, *Newkirk Site 31CH366* (63.3).

Hamilton County

Cincinnati, *Betts Historical District.*
Cincinnati, *Building at 200–204 Fourth Street.*
Cincinnati, *Building at 201–205 Fifth Street.*
Cincinnati, *Building at 213–215 Fifth Street.*
Cincinnati, *Building at 425–435 Elm Street.*
Cincinnati, *Eighth Street Cluster.*

Tuscarawas County

Belnap-Pearch-Van Buskirk Farm Buildings, OH 212.

OKLAHOMA

Latimer County

Archeological Site 34LT32, Clayton Lake Area (63.3).

Pushmataha County

Archeological Sites 34PU74, 102, 105 and 111. Clayton Lake Area (63.3).

OREGON

Clackamas County

Canby, *Canby Railroad Depot,* 1st St. (63.3).

Lake County

Lakeview, *Sycan Marsh Archeological District* (portions within the township 32 South, Range 13 East, and includes all of Sections 9, 16, 21, 30, 29, 31, 32 and portions of Section 4, 28, 33, Willamette Meridian (63.3).

PENNSYLVANIA

Chester County

West Chester, *U.S. Post Office,* E. Gay and Walnut Sts.

Lancaster County

Lancaster, *U.S. Post Office,* W. Chestnut and N. Prince Sts.

TEXAS

Cameron County

Port Isabel Coast Guard Station.

El Paso County

Archeological Site E.P.C.M. 31: 106: 3: 1717 (63.3).

Live Oak County

Three Rivers vicinity, *Pullen, Ray, Site (41 LK 116)* (63.3).
Three Rivers vicinity, *Schultz Site (41 LK 114)* (63.3).
Three Rivers vicinity, *Webb Site (41 LK 228)* (63.3).

VERMONT

Chittenden County

Winooski, *Porter Screen Wood Finishing Mill.*

WASHINGTON

Pierce County

Paradise Inn, Mt. Rainier National Park (63.3).

WISCONSIN

Racine County

Racine, *Racine County Courthouse,* 730 Wisconsin Ave.
Racine, *Racine Zoo Administration Building,* 2129 N. Main St.

Richland County

Gotham vicinity, *Richland City Site,* S of Gotham.

[FR Doc. 79-24091 Filed 8-6-79; 8:45 am]
BILLING CODE 4310-03-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before July 27, 1979. Pursuant to section 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by August 17, 1979.

Charles A. Herrington,
Acting Keeper of the National Register.

ALASKA

Fairbanks Division

North Pole vicinity, *Chugwater Site.*

CALIFORNIA

Alameda County

Alameda, *Masonic Temple,* 1329–1331 Park St.
Oakland, *Oakland Hotel,* 280 13th St.

Los Angeles County

Chatsworth, *Palmer, Minnie Hill, House (Homestead Acre)* Chatsworth Park.
Hollywood, *Guaranty Building,* 6331 Hollywood Blvd.
Los Angeles, *Bernard, Susana Machado, House and Barn,* 845 S. Lake St.

Orange County

San Juan Capistrano, *Harrison House,* 27632 Ortega Hwy.

Placer County

Tahoe City, *Watson Log Cabin,* 560 N. Lake Blvd.

San Diego County

San Diego, *Medico-Dental Building,* 233 A St.

Yolo County

Davis, *Tufts, Joshua B., House,* 434 J St.

COLORADO

Denver County

Denver, *Guerrieri-DeCunto House,* 1650 Pennsylvania St.

GEORGIA

Fulton County

Atlanta, *Van Winkle, E., Gin and Machine Works,* Foster St.

Henry County

Hampton, *Hampton Depot,* E. Main St.

Ware County

Waycross, *U.S. Post Office and Courthouse,* 605 Elizabeth St.

ILLINOIS

Cook County

Chicago, *Municipal Pier,* 200 Street Dr.
Chicago, *Quinn Chapel of the A.M.E. Church,* 2401 S. Wabash Ave.
Chicago, *Sanctuary of the Sacred Heart Mission Church,* 11652 S. Church St.
Chicago, *Unity Building,* 127 N. Dearborn St.

Kane County

Geneva, *Central Geneva Historic District,* roughly bounded by Fox River, South, 6th, and W. State Sts.

Lake County

Libertyville vicinity, *Church of the St. Sava Serbian Orthodox Monastery,* N of Libertyville on N. Milwaukee Ave.

Marion County

Kinmundy, *Rohrbouth, Calendar, House (Grissom House)* 3rd and Madison Sts.

Peoria County

Peoria, *Proctor, John C., Recreation Center,* 309 S. Allen St.

Putnam County

Hennepin, *Pulsifer, Edward, House,* IL 71.

Sangamon County

Springfield, *Lewis, John L., House,* 1132 W. Lawrence Ave.

Winnebago County

Rockford, *Coronado,* 312–324 N. Main St.

INDIANA

Vigo County

North Terre Haute, *Markle House and Mill Site,* 4900 Mill Dam Rd.

KENTUCKY

Scott County

Georgetown vicinity, *Oxford Historic District,* NE of Georgetown at U.S. 62 and KY 922.

MAINE

Kennebec County

Augusta, *Ellis, Dr. J. W., House,* 62 State St.

MICHIGAN

Berrien County

Niles, *Niles Railroad Depot,* 598 Dey St.

Oakland County

Farmington, *Botsford Inn,* 28000 Grand River Ave.

MONTANA

Missoula County

Missoula, *Higgins Block,* 202 N. Higgins Ave.

NEBRASKA

Douglas County

Boys Town, *Father Flanagan's House,* off U.S. 6.

NEW JERSEY

Burlington County

Chatsworth, *Shamong Hotel (Whitehorse Inn)* Main St.

Essex County

Newark, *Newark Female Charitable Society,* 305 Halsey St.

Middlesex County

Jamesburg, *Ensley-Mount-Buckalew House,* Buckalew Ave.
Jamesburg vicinity, *Holmes-Tallman House,* NW of Jamesburg at Cranbury and Brown's Corner Rds.
Sayreville, *Sayre and Fisher Reading Room (Sayreville Hall)* Main St. and River Rd.

Monmouth County

Asbury Park, *Winsor Building,* 400–420 Main St. and 715–731 Bangs Ave.
Long Branch, *House at 364 Cedar Avenue,* 364 Cedar Ave.

Morris County

Dover, *Old Stone Academy,* 25–27 E. Dickerson St.

Sussex County

Walpack Center, *Walpack Center Historic District,* Walpack Center Rd.

Warren County

Alpha vicinity, *Hunt, George, House,* SW of Alpha at 135 Warren Glen Rd.

NEW YORK

Sullivan County

Grahamsville, *Grahamsville Historic District,* NY 55.

OREGON

Benton County

Corvallis, *Caton, Jesse H., House,* 602 NW. 4th St.
Monroe vicinity, *Belknap, Ransom A., House,* W of Monroe.

Lane County

Florence vicinity, *Benedict, Edwin E., House* E of Florence on Cox Island.

Linn County

Shedd vicinity, *Boston Flour Mill (Thompson's Flour Mill)* E of Shedd on Boston Mill Rd.

RHODE ISLAND

Newport County

Tiverton, *Hicks, Joseph, House,* 494 Main Rd.

TENNESSEE

Maury County

Spring Hill vicinity, *Thompson, Absalom, House (Oaklawn)* S of Spring Hill on Denning Rd.

Polk County

Ocoee, *Ocoee Hydroelectric Plant No. 2,* U.S. 64.

Shelby County

Memphis, *Pinch-North Main Commercial District*, roughly bounded by N. Front and N. 2nd Sts., Commerce and Auction Aves.
Memphis, *Second Presbyterian Church (Clayborn Temple)* 280 Hernando St.

UTAH

Emery County

Huntington, *Huntington Roller Mill and Miller's House*, 400 North St.

VERMONT

Washington County

Waterbury vicinity, *Colby Mansion*, N of Waterbury on VT 100.

VIRGINIA

Gloucester County

Wicomico vicinity, *Timberneck*, E of Wicomico off VA 635.

Pittsylvania County

Chatham vicinity, *Mountain View*, 2 mi. S of Chatham on VA 703.

Prince Edward County

Worsham, *Old Prince Edward County Clerk's Office*, U.S. 15.

Shenandoah County

Edinburg, *Edinburg Mill*, U.S. 11.
Winchester (independent city).
Glen Burnie, 801 Amherst St.

WISCONSIN

Dodge County

Watertown vicinity, *Schoenicke Barn*, NE of Watertown on Venus Rd.

La Crosse County

La Crosse, *Spence Park*, Front and State Sts.

The following properties were published as Pending in the July 24, 1979, **Federal Register** listing. In that list, however, state names were omitted. Properties are listed here in order to allow anyone wishing to respond an appropriate commenting period.

VERMONT

Bennington County

Bennington vicinity, *Mathews, David, House*, VT 67.
Stamford, *Tudor House*, VT 8.

Orange County

Barre vicinity, *Whitcomb, Harlie, Farm*, NE of Barre off U.S. 302.

Widham County

Rockingham, *Rockingham Meetinghouse*, off VT 103.

[FR Doc. 79-23633 Filed 8-6-79; 8:45 am]

BILLING CODE 4310-03-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calcuated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 2nd day of August 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

Applications Received During the Week Ending Aug 4, 1979

Name of applicant and location of enterprise	Principal product or activity
Evans Manufacturing Company, Inc., Varnell, Ga	Yarn manufacturing facility.
Mott's Inc. of Mississippi, Water Valley, Miss	Processing of dressed poultry.
CFW Construction Company, Inc., Fayetteville, Tenn	General building construction and heavy construction.
King's Entertainment Center, Inc., Norfolk, Nebr	Bowling, theater and restaurant.
Ober Gatlinburg, Inc., Gatlinburg, Tenn	Ski resort and theme park.
Adventist Health Center, Purvis, Miss	Health service—nursing home.

[FR Doc. 79-24332 Filed 7-6-79; 8:45 am]

BILLING CODE 4510-30-M

Intent To Reallocate Funds Under Titles II–D and VI of the Comprehensive Employment and Training Act (CETA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces its intent to reallocate funds in the following amounts from the CETA prime sponsors indicated below. The purpose of this notice is to provide 30 days notice to all interested parties of the Department's intent to reallocate these funds.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street N.W., Room 5010, Washington, D.C. 20213, Telephone: 202–376–6254

SUPPLEMENTAL INFORMATION: A review of the following prime sponsors' actual Titles II–D and VI operations, compared to their Fiscal Year 1979 planned operations as of June 30, 1979, indicates that these prime sponsors are substantially below plan and are not effectively utilizing the funds available to them. Therefore, the Department is notifying these prime sponsors that it intends to reallocate excess funds which have accumulated due to the underperformance.

The estimated amount to be reallocated from each prime sponsor is indicated below. The prime sponsor will be given 30 days to reply to the notice of intent to reallocate and to correct identified deficiencies. The Governor of the appropriate States will also be given 30 days in which to comment on the proposed reallocations.

Robert Anderson,

Administrator, Office of Comprehensive Employment Development.

Attachment

Prime sponsor	Title II–D	Title VI
REGION I		
Springfield Consortium	$175,000	0
REGION II		
Nassau County, N.Y	0	$1,273,000
Bergen County, N.J	0	2,927,000
Gloucester County, N.J	454,000	0
Mercer County, N.J	18,000	0
Morris County, N.J	245,000	655,000
Ocean County, N.J	580,000	497,000
Erie County, N.Y	1,013,000	0
REGION III		
Balance-of-State, Delaware	120,192	0
Balance-of-State, Virginia	452,354	0
Delaware County, Pa	0	149,152
Montgomery County, Pa	0	232,404
Southern Alleghenies Consrt., Pa	0	238,134
Balance-of-State, Pennsylvania	0	251,062
Allegheny County, Pa	0	349,333
City of Philadelphia, Pa	2,001,680	0
REGION IV		
Manatee County, Fla	0	199,218
Marion County, Fla	0	189,351
Volusia County, Fla	119,744	122,288
Clayton County, Ga	48,526	0
Gwinnett County, Ga	0	77,891
Wake County, N.C	295,000	260,000
REGION V		
Macon County, Ill	194,940	0
Rock Island County, Ill	129,891	0
Champaign, Consrt., Ill	48,444	0
Lake County, Ill	0	149,952

Attachment—Continued

Prime sponsor	Title II–D	Title VI
Sangamon Consrt., Ill	0	539,534
Fort Wayne Consrt., Ind	47,589	0
City of Indianapolis, Ind	545,313	0
City of Dearborn, Mich	103,220	185,540
City of Livonia, Mich	0	29,115
Quad Counties Consrt., Minn	92,400	0
City of St. Paul, Minn	0	327,381
Lake County, Ohio	158,950	138,710
City of Dayton, Ohio	226,860	0
Montgomery/Preble Consrt., Ohio	262,836	0
Madison/Dane Consrt., Wis	53,775	82,500
Balance-of-State, Wisconsin	560,142	0
Northwest CEP, Wisconsin	159,750	92,250
Marathon County, Wis	0	107,226
WOW Consortium, Wisconsin	0	69,180
REGION VI		
City of Fort Worth, Tex	500,000	0
Permian Basin Consrt., Tex	300,000	0
South Plains (Lubbock), Tex	325,000	50,000
Texas Panhandle, Tex	400,000	0
West Central Consrt., Tex	300,000	0
Cameron County, Tex	400,000	600,000
Galveston County, Tex	0	250,000
Balance-of-State, Texas	3,000,000	0
City of Fort Worth, Tex	1,868,434	0
North Texas Consrt., Tex	367,640	95,000
Harris County, Tex	1,000,000	0
REGION VII		
Linn County, Iowa	154,000	72,000
Central Iowa Assoc., Iowa	0	136,000
Jefferson County Consrt., Mo	0	271,000
Kansas City Consrt., Mo	70,000	1,300,000
REGION X		
Clackamas County, Oreg	66,044	0
City of Portland, Oreg	533,201	169,552
City of Tacoma, Wash	49,784	226,461
Yakima County, Wash	382,600	154,328

[FR Doc. 79-24194 Filed 8-6-79; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-41]

Class Exemption To Permit Sales of Employee Benefit Funding Contracts by Insurance Companies That are Substantially Affiliated With Employers Maintaining the Plans

AGENCY: Department of Labor.

ACTION: Grant of Class Exemption.

SUMMARY: This document allows insurance companies that have substantial stock or partnership affiliations with employers establishing or maintaining employee benefit plans to sell life insurance, health insurance or annuity contracts which fund such plans under certain circumstances. In the absence of this exemption, such sales transactions might be prohibited by the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The exemption affects participants and beneficiaries of plans to which such contracts are furnished, employers maintaining these plans, affiliated insurance companies that are covered by the exemption, and other persons participating in the transactions.

EFFECTIVE DATES: January 1, 1975, as to transactions exempted; January 1, 1982, as to the requirement for financial examinations and as to the conditions (a) barring commissions on sales of contracts and (b) limiting the percentage of premium receipts derived from "captive" plans and their employers.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz, Office of Fiduciary Standards, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 357-0040. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On May 26, 1978, notice was published in the **Federal Register** (43 FR 22800) of the pendency before the Department of Labor (the Department) and the Internal Revenue Service (the Service) of a proposed class exemption from the restrictions of sections 406(a), 406(b)(1) and (2) and 407(a) of the Act and from the taxes imposed by section 4975 (c) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code. The class exemption, proposed in response to applications filed jointly by the Alliance of American Insurers (Alliance)[1] and the National Association of Independent Insurers (NAII)[2], and by the American Council of Life Insurance [3], applies to certain sales of insurance contracts or annuities to provide funding for employee benefit plans maintained by affiliates of the insurance company making the sale. A class exemption was requested on behalf of numerous insurance companies who currently do not meet the requirements of a statutory exemption [4] requiring, generally, that the insurer be a wholly-owned subsidiary of the employer maintaining the plan and that no more than 5 percent of the insurer's premium and annuity revenues come from the plan and its employer. The exemption was proposed and comments were received in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 25, 1975) and Rev. Proc. 75-26, 1975-1, C.B. 722. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) as implemented by Executive Order 12108 (44 FR 1065, January 3, 1979)

[1] Formerly the American Mutual Insurance Alliance.

[2] Exemption Application No. D-461.

[3] Exemption Application No. D-391.

[4] Section 408(b)(5)(B) of the Act and section 4975(d)(5)(B) of the Code.

transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Department of Labor. Thus, the Department of Labor alone is issuing this exemption.

Upon consideration of the comments received, the Department is adopting the proposed exemption with certain modifications.

Discussion of Significant Comments, Modifications of Proposed Exemption and Clarifications

A. *Affiliation Requirement (Condition (a)(1)):* The proposed class exemption applied only if the insurance company making the sale was a disqualified person or party in interest with respect to the plan by reason of a 50 percent or more stock affiliation with the employer establishing or maintaining the plan that is described in section 4975(e)(2) (E) or (G) of the Code and section 3(14) (E) or (G) of the Act. Several commentators pointed out that those sections refer to partnership interests as well as stock interests, and argued that it would be reasonable and proper for the exemption to cover sales to plans maintained by partnerships that are related to the insurer through the ownership of substantial capital or profits interests. It was represented that insurance companies quite commonly enter into or acquire an interest in partnerships. The commentators claimed that it would be contrary to ordinary business practice to require a plan established by the partnership to purchase its funding contracts from an unrelated insurance company where they are available from a 50 percent or greater affiliate of the employer. The Department has determined that these contentions have merit and has expanded the scope of transactions covered by the exemption to include sales of funding contracts to plans maintained by partnerships (including joint ventures) that are affiliated with the insurance company under section 3(14) (E) or (G) of the Act and section 4975(e)(2) (E) or (G) of the Code.

The Department has not expanded the exemption, as requested by one commentator, to cover insurance sales made to plans by an insurance company which is a party in interest by virtue of a stock affiliation described in section 3(14)(H) of the Act and section 4975(e)(2)(H) of the Code (e.g., an insurance company which has a 10 percent or more equity interest in an entity which owns a 50 percent or more interest in the employer maintaining the plan). In the absence of such an expansion, such transactions would be permissible if the conditions of Prohibited Transaction Exemption 77–9 (PTE 77–9) as amended (44 FR 4479, January 5, 1979) were satisfied. One of the conditions of PTE 77–9 is that the transaction be approved by an independent fiduciary. In the above situations, the Department believes that it is feasible to require prior approval of the sales transactions by an independent fiduciary on behalf of the plan.[5] Accordingly, the Department believes that no additional relief is necessary.

One commentator requested assurance that the phrase "employer establishing or maintaining the plan", contained in Condition (a)(1), would not preclude the application of the exemption granted herein to purchases made from an affiliated insurance company by an employer who, rather than establish a separate plan, adopts a plan established by the insurance company. The Department confirms this interpretation.

B. *Scope of Contracts Covered:* A diversity of views was submitted in response to the proposed exemption's specific invitation for comments concerning whether the exemption should include, in addition to life and health insurance and annuities, sales of other types of contracts currently being marketed to employee benefit plans. Some of the commentators requested that the exemption be broadened to permit, as is permitted under Prohibited Transaction Exemption 77–9, sales of all products issued by an insurance company in the ordinary course of its business, including, among other types, fidelity bonds[6] and casualty insurance. Another commentator did not see any need for such expanded coverage noting the ability of a plan to provide protection for its assets with hazard insurance purchased from an unrelated insurer. In view of the clear Congressional intent to provide relief for the acquisition of life and health insurance and annuity contracts (policies which fund benefits due participants), the purpose of this administrative exemption—to ease the restrictive ownership conditions of the statutory exemption, and the failure of the commentators to demonstrate any convincing reason to expand the exemption in light of the continuing potential for abuse in transactions between a plan and an affiliate of the employer, the Department has decided not to broaden the exemption in this manner.

The Department, however, has decided, in light of the comments received and the administrative relief previously provided for transactions involving "in-house" plans of other types of financial institutions,[7] to expand the exemption to cover the acquisition of contracts used to fund the payment of benefits (i.e., fixed annuity contracts as well as contracts described in section 801(g) of the Code). In addition, the Department wishes to note in response to requests for amplification of the term "health insurance," that the term as used in the exemption includes such forms of health coverage as accident, disability, hospital and dental expense policies.

C. *Revision of the Alternative Audit Requirements:* Condition (a)(3) of the proposed class exemption provided alternative requirements that the insurance company making the sale either (i) have undergone a financial examination by the insurance commissioner of its domiciliary state within the five years prior to the transaction, or (ii) have undergone an examination by an independent certified public accountant (CPA) for each of the five years prior to the sales transaction. The effective date of the proposed condition was January 1, 1975. The Department and the Service specifically solicited comments concerning the feasibility of the alternative requirements in a class exemption.

Most of the respondents expressed strong support for the alternative involving CPA examination, but indicated that it would be difficult to coordinate the five consecutive year CPA audit with the insurance commissioner test under proposed condition (a)(3)(i). These comments noted that the timing, type and extent of insurance department examinations are completely discretionary with the commissioners. Although an insurance company generally could expect to be audited periodically, it could not be foreseen that the state audit would necessarily take place within five years of its last completed examination. Questions were raised as to what would constitute a financial examination, for purposes of the exemption. Several commentators noted that insurers who had not heretofore undergone CPA audits for consecutive years but wished to switch to that alternative might be in

[5] PTE 77–9 would be available, for example, if the insurer is not the trustee of the plan purchasing the contracts or its administrator, or an "affiliate" of such trustee or administrator as such term is defined in that exemption.

[6] The Department notes that under section 412(c) of the Act a plan may not acquire fidelity insurance from certain related persons, and that the Department does not have the authority under section 408(a) to provide relief from such restrictions.

[7] See e.g. PTE 77–3, 42 FR 18734 (1977).

technical noncompliance both retroactively and for a number of prospective years.

After considering these comments, the Department has decided to revise the financial examination requirement. In place of the alternative proposed condition requiring five consecutive CPA audits, the final exemption permits, as an alternative, that the insurance company making the sale have undergone a CPA examination for its last completed taxable year prior to the sales transaction. The effective date of the revised requirement has been delayed until January 1, 1982, to facilitate compliance by both new and existing companies. With respect to the insurance commissioner's examination, the exemption also has been revised to make clear that the adequacy of a financial examination is to be determined in light of applicable state law. The Department has made this revision because state regulatory authorities are responsible, under applicable state law, for conducting the financial examination and for determining what is, under the particular circumstances, an appropriate examination.

D. *Sales Commissions:* The application for class exemption filed by The NAII and the Alliance represented that insurance sales between an affiliated insurer and the plan or its employer are in the interests of the plan because such sales are generally arranged directly, without the intervention of an insurance agent whose services would entitle it to a commission. Thus, it was represented, the selling company can furnish the insurance at a lower rate to the plan, or its employer. Economies of cost generally would not be available if the plan were forced to purchase insurance from an unrelated company which included acquisition costs and an allowance for profits in its premium charges. The class applicants also represented that state laws did not require commissions to be paid upon sales of either group or individual policies to plans of affiliates. Based on these representations, the proposed exemption contained a condition that upon the grant of the exemption, no commissions could be paid with respect to transactions covered by the exemption.

Many of the commentators confirmed the views of the NAII and the Alliance. Nevertheless, several comments argued that the condition should be withdrawn or its imposition delayed, particularly with respect to sales of individual contracts. It was argued that commissions represent not only sales inducements to agents (who may be either independent contractors or employees of the insurance company) but also provide remuneration for necessary ongoing services to the plan and its insured participants. One of the commentators noted that under the laws and relevant interpretations of at least one State—Florida—it is currently illegal for an insurer to fail to pay a commission on arrangements for, and deliveries of, insurance or annuity contracts in that state, including those contracts sold for plans by captive insurers.

Upon consideration of the comments, the Department has determined that, for the reasons described in the notice of proposed exemption, the final exemption should not permit, on a class basis, payments of commissions in connection with sales of insurance contracts to plans maintained by affiliates of insurance companies. However, the effective date of this condition has been postponed until January 1, 1982, so as to give insurance companies, agents, and plan fiduciaries time to seek relief from any applicable state laws and to adjust their contractual commitments and practices to comply with the exemption's prohibition.[8] However, where warranted by the circumstances and merits of a particular case, the Department is notifying certain affected applicants that if they so choose, their individual cases will be kept open and considered for possible additional exemptive relief.

The Department wishes to express its intent that for sales made after December 31, 1981, the "no more than adequate consideration" requirement of condition (b) should be applied with due regard to any cost economies produced as a result of the absence of any commissions.

E. *Percentage of Premiums Test:* The 50 percent of premiums receipts condition adopted herein for taxable years of the selling insurance company beginning after December 31, 1981, generally represents a major relaxation of the five percent test imposed by section 408(b)(5)(B) of the Act and section 4975(d)(5)(B) of the Code. This premiums receipts test is designed to ensure that the captive insurance company is in the business of selling insurance to the public and is substantially dependent upon insurance customers that are unrelated to the insurer and its affiliates for premium revenues. To the extent that an insurance company is not established as a separate entity within a controlled group primarily for the purpose of providing insurance to affiliated companies and their plans, it would be contrary to ordinary business practices, and unnecessarily restrictive, to require a plan to secure its funding contracts through purchases from an unrelated insurer. In addition, the Department believes that the presence of significant independent customer business will enhance the financial soundness of the insurer and safeguard the plan against less-than-arm's-length transactions.

In light of the above, the Department has considered and rejected comments that would have removed any percentage of premiums test from the exemption, or that would have permitted the 50 percent test to be applied on an aggregate basis to the total premiums and annuity considerations received by all companies in an affiliated insurance group. The Department recognizes and appreciates the fact, articulated by a number of commentators, that as a result of industry tradition and state regulation, and because of premium tax considerations, small insurance companies are often established as an integral part of a larger controlled group. However, in imposing prospective condition (d), the Department is reducing to an objective test its expectation (and that of Congress, as expressed in section 408(b)(5) of the Act) that the captive insurer will be making sales to plans within the affiliated group and their employers in the ordinary course of its business as an insurance company which makes its products available, and in fact does a substantial amount of business, in the general market. Accordingly, condition (d) requires that, as a percentage of direct premiums and annuity considerations received for all lines of insurance sold by the company, no more than 50 percent be derived from sales of products covered by the exemption.

A minor change has been made to condition (d) to make clear that the premium and annuity considerations which are excluded from the numerator and denominator are only those which arise from sales to a plan which the insurance company alone maintains. Thus, premiums received by an insurance company from sales to a plan which is maintained by both the insurance company and a more than 50 percent owner of the insurance company are included in determining whether the

[8] The Department notes that the term "sale" as used throughout the exemption, includes renewals of existing contracts. Accordingly, the prohibition on the payment of commissions will apply not only to new sales transactions that are entered into with the captive insurer after December 31, 1981, but to payments of renewal commissions after such date, as well.

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50 percent of premiums test has been satisfied.

The Department notes that in calculating the percentage of premiums, both the numerator and denominator of the fraction should reflect all premiums and annuity considerations paid to the insurer by the plan and by the employer maintaining the plan. This would include insurance purchased for non-plan risks.

Several commentators indicated that some employee benefit plans are "experience rated". Under this practice, premiums paid by the plan, or its sponsoring employer, for any year may subsequently be refunded based on the actual losses experienced under the plan. In accordance with requests that the prospective premiums test reflect such "return" premiums, the Department has modified condition (d) so that the total receipts in both the numerator and denominator of the fraction are to be reduced by the amount of the refund, but only in the (subsequent) year paid or credited to the plan or its sponsoring employer.

F. *Reinsurance:* In a footnote to the proposed class exemption, the Department and the Service indicated that the proposed relief was not intended to cover reinsurance arrangements to the extent they are prohibited transactions.[9] Nevertheless, several commentators requested that the exemption be broadened to include reinsurance, or that clarification be provided as to when such a transaction is a prohibited transaction.

In Interpretive Bulletin 75–2 [10] the Department took the position that if a plan purchases an insurance contract or policy which funds benefits through the insurer's general account, the assets in such general account are not considered to be plan assets. Therefore, a subsequent transaction involving the general asset account between a party in interest and the insurance company will not, solely because the plan has been issued such a contract or policy of insurance, be a prohibited transaction. In the above Interpretive Bulletin the Department noted, however, that if a plan purchases an insurance policy from an insurance company pursuant to an arrangement or understanding that the insurance company would make a loan to the employer maintaining the plan, that the transaction would involve a prohibited use of plan assets for the benefit of a party in interest under section 406(a)(1)(D) of the Act. Thus, it is the Department's view that if a plan purchases an insurance contract from a company that is unrelated to the employer pursuant to an agreement, arrangement or understanding, written or oral, under which it is expected that the unrelated company will subsequently reinsure all or part of the risk related to such insurance with an insurance company which is a party in interest of the plan, the purchase of the insurance contract would be a prohibited transaction. Section 406(a)(1)(D) of the Act (section 4975(c)(1)(D) of the Code) prohibits the direct or indirect transfer to, or use by or for the benefit of, a party in interest (or disqualified person) of any assets of the plan; section 406(b)(1) of the Act (section 4975(c)(1)(E) of the Code) prohibits a fiduciary from dealing with the assets of the plan in his own interest or for his own account; and section 406(b)(3) of the Act (section 4975(c)(1)(F) of the Code) prohibits a fiduciary from receiving any consideration for his own personal account from any party dealing with such plan in connection with a transaction involving plan assets.

The Department has received several applications for exemption under which a plan or its employer would contract with an unrelated company for insurance, and that unrelated company would, pursuant to an arrangement or understanding, reinsure part or all of the risk with an insurance company affiliated with the employer maintaining the plan. These transactions may involve payments of one or more commissions in connection with the primary sale and placement of reinsurance, and the presence of either the insurer or reinsurer outside the purview of regulation by any of the state insurance departments. The Department continues to believe that it would not be appropriate to cover these various types of reinsurance transactions within the scope of this class exemption. Instead, affected applicants for individual exemptions will be notified that their requests will be kept open and considered based on the merits of the individual case.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person/party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his/her duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) The exemption set forth herein is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record including the written comments submitted in response to the notice of May 26, 1978, the Department makes the following determinations:

(a) The class exemption set forth herein is administratively feasible;

(b) It is in the interests of plans and of their participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1.

I. Effective January 1, 1975, the restrictions of sections 406(a), 406(b) (1) and (2), and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by an insurance company which is a party in interest or disqualified person with respect to an employee benefit plan, of life insurance, health insurance, annuities and contracts described in section 801(g) of the Code if the following conditions are met:

(a) The insurance company making the sale—

(1) Is a party in interest or disqualified person with respect to the plan by reason of a stock or partnership (including a joint venture) affiliation with the employer establishing or maintaining the plan that is described in section 3(14) (E) or (G) of the Act and section 4975(e)(2) (E) or (G) of the Code,

(2) Is licensed to sell insurance in at least one of the United States or in the District of Columbia, and

(3) Has obtained a Certificate of Compliance from the insurance commissioner of its domiciliary state within the 18 months prior to the date when the transaction is entered into or when such certificates were last made available by the domiciliary state, if earlier.

(b) The plan pays no more than adequate consideration for the insurance contracts or annuities.

II. Effective January 1, 1982, the restrictions of sections 406(a), 406(b) (1) and (2), and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale, in any taxable year, by an insurance company which is a party in interest or disqualified person with respect to an employee benefit plan, of life insurance, health insurance or annuities and contracts described in section 801(g) of the Code if the following conditions are met:

(a) The insurance company making the sale—

(1) Is a party in interest or disqualified person with respect to the plan by reason of a stock or partnership (including a joint venture) affiliation with the employer establishing or maintaining the plan that is described in section 3(14) (E) or (G) of the Act and section 4975(e)(2) (E) or (G) of the Code,

(2) Is licensed to sell insurance in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Compliance from the insurance commissioner of its domiciliary state within the 18 months prior to the date when the transaction is entered into or when such certificates were last made available by the domiciliary state, if earlier, and

(4)(i) Has undergone a financial examination (within the meaning of the law of its domiciliary state) by the insurance commissioner of such state within 5 years prior to the end of the year preceding the year in which the sale occurred, or

(ii) Has undergone an examination by an independent certified public accountant for its last completed taxable year.

(b) The plan pays no more than adequate consideration for the insurance contracts or annuities.

(c) No commissions are paid with respect to a sale of such contracts after December 31, 1981.

(d) For taxable years of the insurance company making the sale beginning after December 31, 1981, the gross premiums and annuity considerations received in that taxable year by such insurance company for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which such insurance company is a party in interest or disqualified person by reason of a relationship to such employers described in section 3(14) (E) or (G) of the Act and section 4975(e)(2) (E) or (G) of the Code do not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in that taxable year by such company. For purposes of this condition (d):

(1) The term "gross premiums and annuity considerations received" means the total of premiums and annuity considerations received, reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by the insurer.

(2) All premiums and annuity considerations written by the insurance company that makes the sale for plans which it alone maintains are to be excluded from both the numerator and the denominator of the fraction.

Signed at Washington, D.C., this 31st day of July, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc. 79-24260 Filed 8-6-79; 8:45 am]

BILLING CODE 4510-29-M

[9] Accordingly, individual applicants seeking coverage for reinsurance transactions were specifically notified that such transactions were not within the scope of the pending class exemption, and that their applications would be considered on an individual basis. A request for a public hearing with respect to the inclusion of reinsurance in the class exemption was denied.

[10] 29 CFR 2509.75–2 (1975).

Office of the Secretary

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 17, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 17, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Signed at Washington, D.C. this 31st day of July 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

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Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Barnes & Tucker Co., Portal #20 (UMWA)	Barnesboro, Pa	7/30/79	7/22/79	TA-W-5,799	Mining of coal.
Barnes & Tucker Co., Portal #25 (UMWA)	Barnesboro, Pa	7/30/79	7/22/79	TA-W-5,800	Mining of coal.
Barnes & Tucker Co., Portal #24–D (UMWA)	Barnesboro, Pa	7/30/79	7/22/79	TA-W-5,801	Mining of coal.
Catoosa Knitting Mills, Inc. (company)	Crossville, Tenn	7/30/79	7/24/79	TA-W-5,802	Men's, boy's, ladies', and girls' sweaters and sweater shirts.
Foster Grant Corp. (Leominster Joint Board)	Leominster, Mass	7/27/79	7/25/79	TA-W-5,803	Sunglasses.
Jeep Corporation (UAW)	Toledo, Ohio (N. Cove Blvd.)	7/27/79	7/3/79	TA-W-5,804	Wagoneer, cherokee, cherokee chief and jeep vehicles, office and engineering.
Jeep Corporation (UAW)	Toledo, Ohio (Stickney Ave.)	7/27/79	7/3/79	TA-W-5,805	Machining and over the road trucking.
Reserve Mining Company, Babbitt Division (USWA).	Babbitt, Minn	7/30/79	7/24/79	TA-W-5,806	Taconite pellets.
A. Soloff & Son (ACTWU)	Fall River, Mass	7/30/79	7/24/79	TA-W-5,807	Men's outerwear.

[FR Doc. 79-24307 Filed 8-6-79; 8:45 am]

BILLING CODE 4510-23-M

[TA-W-4902]

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance; Wear Rough Manufacturing Corp.

The investigation was initiated on March 7, 1979 in response to a worker petition received on March 2, 1979 which was filed on behalf of workers and former workers producing children's play clothes and workers' clothing at Wear Rough Manufacturing Corporation in Bloomingdale, New Jersey. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with aticles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey was conducted with the manufacturers for which Wear Rough Manufacturing Corporation produced children's play clothes. The survey revealed that none of these manufacturers purchased any imported children's play clothes or used any foreign contractors in 1977 or 1978. The manufacturers are increasing their use of in-house production operations in 1979.

A Departmental survey was also conducted with the manufacturers for which Wear Rough Manufacturing Corporation produced workers' clothing. The survey revealed that the manufacturers experienced increasing sales in 1978 as compared to 1977. These manufacturers are meeting their requirements for work clothing by utilizing other domestic contractors. None of the customers purchased any imported workers' clothing or utilized any foreign contractors in 1977 or 1978.

Conclusion

After careful review, I determine that all workers of Wear Rough Manufacturing Corporation in Bloomingdale, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24308 Filed 8-6-79; 8:45 am]

BILLING CODE 4510-23-M

LEGAL SERVICES CORPORATION

Grants and Contracts

August 3, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355, 88 Stat. 378, 42 U.S.C. 2996–29961, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Nevada Indian Legal Services (a delegate agency of California Indian Legal Services) in Carson City, Nevada to serve Humboldt, Elko, Pershing, Louder, Eureka, Churchill, White Pine, Storey, Carson, Douglas, Mineral, Nye, Esmeralda, Lincoln and Lyon Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, San Francisco Regional Office, 177 Post Street, Suite 890, San Francisco, California.

Dan J. Bradley,

President.

[FR Doc. 79-24256 Filed 8-6-79; 8:45 am]

BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Combination of Dynamic Loads; Meeting

The ACRS Ad Hoc Subcommittee on Combination of Dynamic Loads will hold an open meeting on August 22, 1979 in room 1324, 630 Sansome St., San Francisco, CA 94111 (U.S. Corps of Engineers' Conference Room) to review the topic of combination of dynamic loads on structures, components, and systems. Notice of this meeting was published July 26, 1979 (44 FR 43822).

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, August 22, 1979; 8:30 a.m. until the conclusion of business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary

opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, pertinent to this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Elpidio G. Igne, (telephone 202/634–3314) between 8:15 a.m. and 5:00 p.m., EDT.

Date: July 31, 1979.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-24167 Filed 8-6-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50–317 and 50–318]

Baltimore Gas and Electric Co.; Consideration of Proposed Modification to Facilities Spent Fuel Storage Pool

The U.S. Nuclear Regulatory Commission (the Commission) is considering the approval of a modification to the spent fuel storage pool of the Calvert Cliffs Nuclear Power Plant Units Nos. 1 and 2 (the facilities). pressurized water reactors located in Calvert County, Maryland, and currently authorized for operation at power levels up to 2700 MWt per unit.

The two facilities share a common pool that is divided in two sections and connected by a transfer canal. The existing racks in the Unit No. 2 side of the pool were modified in 1977 to have a capacity for storage of 528 fuel assemblies and the racks in the Unit No. 1 side have the original design capacity for storage of 200 fuel assemblies. The proposed modification being considered involves replacement of the existng racks in the Unit No. 1 (North) side of the spent fuel pool of the facilities with high density racks of a design capable of accommodating up to 840 fuel assemblies and interchangeable storage of one facility's fuel in the other facility's side of the two-section pool. The proposed modification and subsequent use of the two-section pool would permit a total of 1,368 fuel assemblies to be stored in lieu of the current 728 assemblies. The modification will require changes to the facilities Technical Specifications and issuance of a license amendment for each facility.

Prior to approval of the proposed modification and license amendments authorizing use of the modified pool, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 6, 1979, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be intered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert W. Reid: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to James A. Biddison, Jr., General Counsel, G and E Building, Charles Center, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 3, 1979, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC,

and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland this 30th day of July 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 79-24168 Filed 8-6-79; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Cancellation of Meeting

The meeting of the Presidential Commission on World Hunger scheduled for Friday, August 10, 1979 has been cancelled. It is expected that the meeting will be held in early September.

Donald B. Harper,

Administrative Officer, Presidential Commission on World Hunger.

[FR Doc. 79-24279 Filed 8-6-79; 8:45 am]

BILLING CODE 6820-97-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: July 31, 1979.

In our decision of July 24, 1979, an 8-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or nor owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level. As indicated in the prior decision, further upward changes were not contemplated until the Commission's weekly fuel index exceeded this 8-percent figure. The weekly figure set forth in the Appendix to this decision for this category of traffic is 8.0 percent. Accordingly, the 8-percent figure authorized on July 24, 1979, remains in effect.

In the July 24 decision, a 2.7 percent surcharge was authorized on less-than-truckload traffic (LTL) performed by carriers not utilizing owner-operators. In previous decisions (June 19, June 26, July 3, July 10, and July 17, 1979), a 2.7 percent surcharge on this traffic was also authorized. However, the original 2.7 percent surcharge was based on a percentage of fuel expense to total revenue of 7.5 percent. After receiving additional information from the major motor carrier rate bureaus,[1] the Commission determined that 6.0 percent more accurately reflected the percentage of fuel expense of total revenue on LTL traffic. It so happended that when multiplying this 6.0 percent figure by the percentage increase in diesel fuel costs since the base date, the same 2.7 percent surcharge was derived.

The weekly figure set forth in the Appendix for this category of traffic, using the 6.0 percentage of fuel expenses to total revenue figure, is 2.9 percent. Because it appears that the original 2.7 percent surcharge authorized on this traffic was too high, the Commission finds that, for the present, no change should be made in the exising authorization of a 2.7 percent surcharge.

We have received many inquiries and complaints on problems of notice regarding our weekly decisions. In addition, a petition was filed on July 16, 1979, by the Midwest Packers Traffic Association requesting more than one day's notice of surcharge increases. We recognize the concerns of the shippers and find that additional notice should be given. Since there are not changes in the authorized surcharges in this week's decision, additional notice is not required. However, in subsequent weeks, while we will continue to issue decisions on Tuesday, they will not become effective until 12:01 a.m. the following Friday. It should be made clear to the carriers, however, that they may publish their increased surcharge tariffs in this interim period, so long as they do not contain an effective date earlier than Friday of each respective week.

Notice of this decision shall be given to the general public by mailing a copy of this decision to the Governor of each state and to the Public Utilities Commissions or Boards of each State having jurisdicition over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered: This decision shall become effective 12:01 a.m., August 1, 1979.

By the Commission, Chairman O'Neal, Commissioners Stafford, Gresham, Clapp, Christian, Trantum and Gaskins.

[1] This information was requested based on a petition filed June 25, 1979 by the National Small Shipments Traffic Conference, Inc., and the Drug and Toilet Preparation Traffic Conference, Inc. While this petition was pending, no change was made in the original 2.7 percent surcharge on LTL traffic, even though the Commission's index indicated that upward changes could have been authorized.

Commissioner Gaskins absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax): January 1, 1979—63.5¢.

Date of Current Price Measurement and Price Per Gallon (Including Tax): July 30, 1979—93.7¢.

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue:

(1) From transportation performed by owner operators (apply to all truckload traffic)—16.9%. *Percent surcharge:* 8.0%.

(2) Other (including less-truckload traffic)—6.0%.[1] *Percent surcharge:* 2.9%.

[FR Doc. 79-24273 Filed 8-6-79; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-136343 (Sub-No. 151) F]

Milton Transportation, Inc., Extension—Printed Matter; Milton, Pa.

Decided: July 27, 1979.

Applicant seeks a certificate of public convenience and necessity authorizing operations substantially as described in the appendix. The evidence has been considered under the modified procedure. The application is opposed by the Troy News Company, Inc., and jointly by Schneider Transport, Inc., Trans-National Truck, Inc., (TNT), and National Refrigerated Transport, Inc. (NRT), all motor common carriers.

The Independent News Company, Inc., of New York, NY, is a national distributor of magazines and paperback books. It handles distribution for 27 magazine publishers and two paperback book publishers. Independent distributes magazines from facilities at named points in Connecticut, Georgia, Massachusetts, New York, and Pennsylvania, and from the District of Columbia. Deliveries are made to wholesalers and breakup agents at points throughout a 27-State destination territory. Over 1 million pounds of printed matter are shipped each month, and Independent has provided estimates of the percentage of total volume of goods moving to various regions in the destination territory. It also coordinates inbound movements of items such as inks and paper for delivery to the printers, and of unsold magazines to facilities for further distribution. Applicant will be tendered at least five truckloads of printed matter, and three truckloads of materials and supplies each week if this application is granted.

The involved commodities are not transported by motor common carriers.

[1] The change from 7.5% to 6.0% is the result of additional input received in accordance with the Commission's Decision of June 29, 1979.

Scheduled, timed deliveries are necessary so that "dated" materials reach the newstands for timely distribution. Shipper requires the services of a carrier capable of handling consolidated shipments by providing multiple pickups for various publishers at various origin points and multiple deliveries throughout the destination territory. This type of service will be used to replace that portion of its present method of distribution which uses middlemen to break up truckoads and consolidate them into shipments of different magazines and books for delivery to wholesalers. Independent asserts that this is an expensive, time-consuming, and inefficient method of distribution. It seeks to increase its use of consolidated shipments of different magazines and books by using applicant to make pickups at several printers' facilities rather than using break up agents, in order to increase efficiency and reduce costs. Shipper contends that its present motor carriers have not provided sufficient supplies of equipment, have failed to move loads after the trailers are loaded, and have not met delivery schedules. No specific examples of these complaints are cited, but Independent asserts that these shipping failures can result in lost business.

Protestant Troy News holds authority to transport newspapers, magazines, and books, between Albany and Troy, NY, on the one hand, and, on the other, named cities in New York, New Hampshire, Pennsylvania, and Vermont. It maintains terminals at Troy and Buffalo, and specializes in transporting dated printed matter. Protestant handles traffic for publishers which ship directly to newsstands. Because of the wide scope of authority sought, it fears diversion of this traffic. It also fears the service proposed by Independent and applicant will cause publishers to use Independent's distribution service, rather than shipping directly, thus diverting more traffic. Troy News cites as examples 229 loads it handled within the scope of the application during January, February, and March 1979, but does not include the revenues derived from this traffic. It asserts that applicant cannot provide service comparable to the service not available.

Protestants Schneider, TNT, and NRT can transport printed matter from Milwaukee, WI, to Chicago and Mattoon, IL, Glasgow, KY, Crawfordsville and Warsaw, IN, and Willard, OH, and to points in a number of the destination States and the District of Columbia. They also hold authority to transport paper and paper products within the scope of this application. The protestants operate both in single-line and joint-line service, and fear diversion of traffic not transported within the scope of the cited authority and of their overhead traffic. Two traffic studies have been submitted indicating revenues derived from the transportation of a wide range of paper goods and printed matter. One study indicates that during 3 unspecified months, Schneider handled 1,793 truckloads yielding revenues of over $1.3 million. A second traffic study indicates the three protestants jointly handled 1,308 truckloads yielding revenues of over $1.2 million during 1 unspecified month. These studies include shipments of monthly paper products, but also include some printed matter, and encompass a wider territory than that sought by applicant. Protestants assert that a restriction should be imposed to protect their overhead traffic. They contend that two-way radial authority is inappropriate for the service required, and that no need has been shown for the transportation of materials and supplies.

We conclude that authority should be granted to the extent set forth in the appendix. Applicant has presented evidence that the supporting shipper distributes a substantial quantity of printed matter each month to and from points in the area under consideration. Applicant will provide transportation for Independent's consolidation services, and thus enable Independent to obtain a more efficient, less costly method of distributing the involved publications. This service is not now available to the supporting shipper, which must now rely primarily on middlemen to consolidate the shipments to wholesalers.

We recognize that Troy News holds some appropriate authority to serve the supporting shipper, and that no deficiencies in its service have been cited. Because protestant is limited to origin cities in the State of New York, and can serve only four of the destination States, it cannot provide the type of coordinated consolidation since envisioned by the supporting shipper. Protestants Schneider, TNT, and NRT are similarly unable to provide the type of service required by the shipper. These protestants hold substantial authority to transport paper and paper products, along with some authority to haul printed matter. However, the origin points for their authority are located in the destination territory sought by applicant, and therefore they are unable to provide the required service. We do not believe that any of the protestants have demonstrated an ability to perform the services required. In these circumstances, a grant of authority to applicant is warranted to enable the supporting shipper to obtain the transportation services now unavailable to it.

The protestants assert that a grant of authority as sought would divert a substantial volume of traffic now transported by them. Troy News does not indicate the revenues it derives from its participation in such traffic, and we are unable to say that any potential diversion of traffic it handles would impair its ability to serve the public. While it fears publishers will switch to using motor transportation by applicant, and Independent's distribution services, it is not precluded from competing for the involved traffic and offering services comparable to those proposed by applicant. Schneider, TNT, and NRT all fear diversion of overhead traffic, and submitted traffic studies to show substantial amounts of freight subject to diversion. However, very little of the traffic protestants cite could be transported under the authority to be granted here to applicant. Printed matter does not include the wide variety of goods included in the description paper and paper products. The limited commodity description in the application and our grant of authority will not allow applicant to divert much of the traffic cited by protestants. Consequently, their ability to serve the public should not be adversely affected.

Applicant also seeks authority to transport equipment, materials, and supplies used in the manufacture and sale of printed material (except in bulk). The evidence of record reveals that Independent includes items such as inks and paper in this description, and that three truckloads of these commodities will be available each week. The supporting shipper has not identified any specific sources of these shipments, the actual volumes of traffic that have moved in the past, how that traffic now moves, or deficiencies in that service. We recognize that the evidentiary guidelines set forth in *Novak Contract Carrier Application*, 103 M.C.C. 555, 557 (1967) are not procedural hurdles but present a method of assuring that sufficient evidence will be submitted to determine a shipper's basic transportation needs. Nevertheless, the evidence of record in support of this portion of the application does not allow a determination of shipper's transportation needs for materials, equipment, and supplies, and, therefore, we are unable to conclude that authority should be granted for their transportation. In reaching this

conclusion, we note that shipper Independent is a distributor of printed matter, and would not use the materials and supplies itself. Such commodities are used by printers and publishers, and the evidence of record does not indicate that they support this application or require the inbound transportation of these items.

Protestants Schneider, TNT, and NRT seek to have any grant of authority restricted to the transportation of traffic originating at or destined to the named origins and destinations. Such restrictions are imposed where protestants have shown that they will be materially and adversely affected by the failure to impose such a restriction. *Fox-Smythe Transp. Co., Extension—Oklahoma*, 106 M.C.C. 1, 18 (1967). The protestants have not demonstrated that they now handle substantial volumes of traffic that would be subject to diversion if this restriction is not imposed. Consequently, we will not restrict the authority to be granted applicant.

In its original application, applicant sought authority to serve the District of Columbia as a point in the base territory. This location was inadvertently omitted from the **Federal Register** notice. Applicant has evinced a public need for authority to so serve the District of Columbia, and by including it in our grant of authority, we have broadened the scope of authority beyond that which was described in the **Federal Register** notice. It is possible that persons not parties to this proceeding who relied on that notice may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority to so serve the District of Columbia. Therefore, a notice of the authority actually granted will be published in the **Federal Register** and issuance of a certificate will in this proceeding be withheld for a period of 30 days from the date of publication. During that period, any person not a party to this proceeding may file an appropriate petition to intervene in this proceeding, setting forth in detail the precise manner in which it has been prejudiced by our grant of authority to so serve the District of Columbia.

We find: The present and future public convenience and necessity require operation by applicant, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. This decision does not significantly affect the quality of the human environment. An appropriate certificate should be granted, subject to publication in the **Federal Register.**

It is ordered: The application is granted to the extent set forth in the appendix. Operations may begin only following the service of a *certificate* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (40 CFR 1044), and tariffs (49 CFR 1310). Compliance with these requirements must be made within 90 days after the date of service of this decision or the grant of authority shall be void.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24272 Filed 8-6-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decision; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Permanent Authority Decisions

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 7, 1979.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g.s, unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where

specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminary and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before September 6, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 114

Decided: June 29, 1979.

By the Commission, Review Board Number 2, Members Eaton, Liberman and Boyle. Member Eaton not participating.

MC 2505 (Sub-5F), filed March 19, 1979. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, West Cayuga St. Moravia, NY 13118. Representative: E. Stephen Heisely, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *gypsum and building materials,* and (2) *materials, equipment,* and *supplies* used in the manufacture, installation, and distribution of gypsum and building materials, between points in the United States in and east of OH, KY, TN, and AL, restricted to the transportation of traffic originating at or destined to the facilities of Georgia-Pacific Corporation, under continuing contract(s) with Georgia-Pacific Corporation. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 28905 (Sub-8F), filed March 19, 1979. Applicant: RISBERG'S TRUCK LINE, 2339 S.E. Grand Ave. Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Portland and Bend, OR: from Portland over U.S. Hwy 26 to junction U.S. Hwy 97, then over U.S. Hwy 97 to Bend, and return over the same route, serving the intermediate points of Warm Springs, Madras, Terrebonne, Prineville Junction, and Redmond, OR, and the off-route points of Culver, Metrolus, Sisters, and Prineville, OR, and (2) between Portland and Bend, OR, from Portland over Interstate Hwy 5 to junction OR Hwy 22, at or near Salem, OR, then over OR Hwy 22 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Bend, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points, and serving the termini for purposes of joinder only. Condition: Any certificate to be issued in this proceeding, to the extent it authorizes transportation of classes A and B explosives, shall be limited to a term expiring 5 years from its date of issue.

MC 30844 (Sub-640F), filed March 22, 1979. Applicant: KROBLIN REFERIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities used by Del Pero Mondon Co., at or near Booneville, AR, to those points in the United States and east of MN, IA, NE, CO, OK, and those in TX, on and east of U.S. Hwy 81, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Kansas City, KS.)

MC 61825 (Sub-95F), filed March 19, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V.C. Dr., P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *New furniture and furniture parts,* from Appomattox and Brookneal, VA, to points in DE, PA, NC, NJ (except Newark and points within 15 miles of Newark), NY (except New York, NY), and points in OH on and east of a line beginning at Lake Erie and extending along Interstate Hwy 90 to junction Interstate Hwy 77, then south along Interstate Hwy 77 to the OH–WV State line, and (2) *materials, supplies, and equipment* used in the manufacture and distribution of new furniture and furniture parts, in the reverse direction, and (3) *beds, and bedding,* and *parts and materials* for beds and bedding, from Elizabeth, NJ, to Columbus, OH and Munster, IN (Hearing site: Washington, DC.)

MC 104104 (Sub-16F), filed March 16, 1979. Applicant: GEORGE A. FETZER, INC., Rd. 1-Newton-Sussex Rd., Augusta, NJ 07822. Representative: Robert B. Pepper, 168 Woodbridge Ave., Hingland Park, NJ 08904. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce over irregular routes, transporting (1) *glass containers* and *accessories* for glass containers, and (2) *cartons* when moving in mixed shipments with glass containers, from the facilities of Thatcher Glass Mfg. Co., at Wharton, NJ, to points in CT, ME, MA, NH, NY, RI, VT, and those points in PA east of U.S. Hwy 15. (Hearing site: Newark, NJ.)

MC 105045 (Sub-99F), filed March 15, 1979. Applicant: R. L. JEFFERIES TRUCKING CO., INC., 1020 Pennsylvania St., Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe, pipe fittings, beams, piling, rails, railway track accessories, bridge and highway railings, pile drivers, and pile extractors,* (2) *parts* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture, installation, dismantling, and distribution of the commodities in (1) and (2) above, (except commodities in bulk) between the facilities of L. B.

Foster Company, at Parkersburg and Washington, WV, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, D.C. or Atlanta, GA.)

MC 106674 (Sub-377F), filed March 19, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel grinding balls*, from Greenville, IL, to points in CT, DE, IN, KS, MA, NE, NH, NJ, ND, OK, RI, SD, TX, and VT, and (2) *materials, equipment, and supplies* used in the manufacture of steel grinding balls, from AL, AR, CT, DE, FL, GA, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI, to Greenville, IL. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-378F), filed March 22, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN, 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from Austin, Brownstown, Converse, and Franklin, IN, to points in AL, AR, IL, IA, KS, KY, MD, MO, OH, TN, and DC. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 109124 (Sub-65F), filed March 19, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime, limestone, limestone products, and high temperature bonding mortar*, in containers, from Fremont, OH, to Chicago, IL, and points in MI and IN. (Hearing site: Columbus, OH.)

MC 109154 (Sub-17F), filed March 19, 1979. Applicant: BAYLOR TRUCKING, INC., R. R. 1, Milan, IN 47031. Representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plumbing supplies and plumbing accessories*, (a) from Plainsview, NY, to Detroit, MI, and points in OH and IN, and (b) from Monroe, OH, to points in AZ, NM, and CA. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 110525 (Sub-1291F), filed March 21, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *vegetable oils, vegetable oil products, animal grease, and tallows*, in bulk, in tank vehicles, from Philadelphia, PA, Baltimore, MD, and points in NJ, to Dover, OH, and (2) *chemicals*, in bulk, in tank vehicles, from the facilities of Union Camp Corp., at or near Valdosta, GA, to points in FL. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 112304 (Sub-179F), filed March 16, 1979. Applicant: ACE DORAN HAULING AND RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45215. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities of Hickman-Fulton County Riverport Authority, at or near Hickman, KY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Louisville, KY, or Washington, DC.)

MC 112304 (Sub-180F), filed March 16, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *sweeping machines, power brooms, power sweepers, road maintenance equipment, and road materials-handling equipment*, and (b) *parts, attachments, and accessories* for the commodities in (1)(a) above, from points in Calumet County, WI, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) (a) and (b) above, (except commodities in bulk), in the reverse direction. (Hearing site: Milwaukee, WI, or Washington, DC.)

MC 113855 (Sub-474F), filed March 19, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE, Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *industrial machinery and equipment*, (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture and installation of the commodities in (1) above, between Neenah, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 118535 (Sub-134F), filed March 20, 1979. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Wilburn L. Williamson, The Oil Center, Suite 615E, 2601 N.W. Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Iowa City and Muscatine, IA, to East St. Louis, IL, and points in AR, KS, MO, OK, and TX. (Hearing site: Kansas City, MO.)

MC 121664 (Sub-60F), filed March 19, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Ave. South, Birmingham, AL 35201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *woodpulp* (except in bulk, in tank vehicles), from points in Monroe County, AL, to points in the United States (except AK and HI). (Hearing site: Birmingham or Montgomery, AL.)

MC 123314 (Sub-26F), filed March 16, 1979. Applicant: JOHN F. WALTER, INC., P.O. Box 175, Newville, PA 17241. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at or near Fremont and Toledo, OH, to Washington, DC, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 125535 (Sub-14F), filed March 15, 1979. Applicant: NATIONAL SERVICE LINES, INC. of New Jersey, 12015 Manchester Rd., Suite 118, St. Louis, MO

63131. Representative: Donald S. Helm (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Crown Zellerbach Corporation at South Glens Falls, Carthage, and Syracuse, NY, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MD, MA, MI, MO, NJ, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC, under continuing contract(s) with Crown Zellerbach Corporation, of Berkeley, MO. (Hearing site: Washington, DC.)

MC 133485 (Sub-26F), filed March 21, 1979. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1828 Westminster St., Providence, RI 02909. Representative: Morris J. Levin, 1050 Seventeenth St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *currency, coin, securities, negotiable and non-negotiable instruments, cash letters*, and *articles of unusual value, in armored motor vehicles escorted by armed guards, between points in CT, MA, ME, NH, RI, DC, PA, NJ, VT, and NY, in armored vehicles escorted by armed guards. Condition: The person or persons who appear to be engaged in common control between applicant and another regulated carrier must either file an application under 49 U.S.C. 11343 [formerly section 5(2) of the Interstate Commerce Act], or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Providence, RI, or Boston, MA.)*

MC 133485 (Sub-27F), filed March 16, 1979. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1828 Westminster St., Providence, RI 02909. Representative: Morris J. Levin, 1050 Seventeenth St. NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coins, bullion, precious metal products, bonds, gas coupons, currency paper, and articles of unusual value*, in armored motor vehicles escorted by armed guards, between those points in the United States (including AK, and excluding HI). (Hearing site: Providence, RI.)

MC 136315 (Sub-63F), filed March 15, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Birmingham, AL, Burns Harbor, Gary, Indiana Harbour, and La Porte, IN, Chicago, Granite City, Madison, and Hennepin, IL, and Pittsburg, PA, to the facilities of Emerson Electic Co., at or near (a) Mena, Paragould, and Rogers, AR, (b) Russellville, KY, (c) Independence, KS, (d) Philadelphia, Oxford, and Tupelo, MS, and (e) Kennett, MO. (Hearing site: St. Louis, MO, or Jackson, MS.)

Note.—Dual operations may be involved.

MC 138144 (Sub-47F), filed March 19, 1979. Applicant: FRED OLSON CO., INC., 6022 W. State St., Milwaukee, WI 53213. Representative: W. D. Brejcha, 10 S. LaSalle St. Suite 1600, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, lumber mill products, poles, posts, and pilings*, (except commodities in bulk), from Beardstown, IL, to points in MI and IN, restricted to the transportation of traffic originating at the name origin. Condition: The person or persons engaged in common control of applicant and another regulated carrier must file an application under 49 U.S.C. 11343 (formerly section 5(2) of the Interstate Commerce Act) for approval of the common control, or file an affidavit indicating why such approval is unnecessary. (Hearing site: Chicago, IL, or Columbus, OH.)

Note.—Dual operations may be involved.

MC 138144 (Sub-48F,) filed March 19, 1979. Applicant: FRED OLSON CO., INC., 6022 W. State St., Milwaukee, WI 53213. Representative: W. D. Brejcha, 10 S. LaSalle St.—Suite 1600 Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting railroad ties, timbers, poles, pilings, and lumber, from Madison and Cambria, IL, Indianapolis, Boloomington, Terre Haute, and Winslow, IN, Waverly and Northup, OH, and Louisville and Mayfield, KY, to points in IA, IN, IL, KS, KY, MI, MO, NY, OH, PA, TN, WI, WV, and AR. Condition: The person or persons engaged in common control of applicant and another regulated carrier must file an application under 49 U.S.C 11343 (formerly section 5(2) of the Interstate Commerce Act) for approval of the common control, or file an affidavit indicating why such approval is unnecessary. (Hearing site: Chicago, IL, or Columbus, OH.)

Note.—Dual operations may be involved.

MC 138875 (Sub-150F), filed March 19, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd., Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies used in the manufacture of (a) buildings, in sections (b) motor homes*, (c) recreational vehicles, and (d) *trailers designed to be drawn by passenger automobiles*, (except commodities in bulk), from points, in CA, to points in OR and WA. (Hearing site: Boise, ID, or Washington, DC.)

MC 138875 (Sub-151F), filed March 19, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd. Boidr, ID 83705. Represenative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by tile, floor, ceiling, wall and counter covering distributors*, (except commodities in bulk), from the facilities of GAF Corporation, located at or near (a) Vails Gate, NY, and (b) Fullerton, PA, to points, in CA, ID, NV, OR, UT, and WA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 139495 (Sub-427F), filed March 15, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *paper and paper products* from the facilities of Crown Zellerbach Corp., (1) in West Feliciana Parish, LA, to Cleveland, Akron, Dayton, Middletown, Columbus, and Delaware, OH, and points in IL and IN, and (2) in Washington Parish, LA, to Milwaukee, WI, Cleveland and Delaware, OH, and points in IL and IN. (Hearing site: Washington, DC.)

MC 139495 (Sub-430F), filed March 15, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD

20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *medical care products*, and (2) *materials, equipment, and supplies* used in the manufacture of medical care products, from Ogden, UT, to points in IL and NJ. (Hearing site: Washington, DC.)

MC 140755 (Sub-61F), filed March 21, 1979. Applicant: BRAY TRANSPORT, INC., 1401 N. Little St., Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum wax*, in bulk, between Barnsdall, OK, on the one hand, and, on the other, points in CA. (Hearing site: Tulsa, OK, or Kansas City, KS.)

MC 144144 (Sub-2F), filed March 19, 1979. Applicant: RAINS TRUCKING SERVICE, INC., P.O. Box 73, DuQuoin, IL 62832. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum grill castings*, from Sheboygan, WI, to DuQuoin, IL, under continuing contract(s) with Turco Manufacturing Corporation. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 145194 (Sub-1F), filed March 22, 1979. Applicant: WOOSTER MOTOR WAYS, INC., 1357 Mechanicsburg Rd., Wooster, OH 44691. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, processors, or distributors of rubber products, between Akron, Columbus, and Medina, OH, and points in Allen County, IN, on the one hand, and, on the other, points in AL, CT, DE, GA, MA, MD, MI, NC, NJ, NY, OH, PA, RI, SC, and VA. (Hearing site: Columbus, OH.)

MC 145384 (Sub-28F), filed March 19, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid Ave., Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel castings* and *steel forgings*, from the facilities of American Western Foundaries at Santa Barbara, CA, to points in AZ, IL, IN, KY, MO, NM, OH, OK, and TX; (2) *resin compound*, in containers, from Lynwood, CA, to Phoenix, AZ, Portland and Culver, OR, and Seattle and Spokane, WA; (3) *resin compound*, in containers, *fiberglass matting*, and *cloth and woven roving*, from the facilities of Erskine-Johns Co., at Los Angeles, CA, to points in OR and WA; (4) *facing and paving brick*, from the facilities of L.B. Industries, Inc., at Los Angeles, CA, to points in AL, AZ, CO, NE, FL, GA, IA, IL, IN, MA, MN, MO, NC, OH, OK, PA, SC, TN, TX, and WI; (5) *reinforced fiberglass plastic panels*, from Santa Monica, CA to points in AZ, AR, IA, IL, IN, MO, NM, OH, OK, TN, and TX; (6) *adhesives*, in containers, from La Mirada, CA, to points in AZ, IL, MA, MD, NJ, OR, TX, WA, and WI; and (7) *wood resin*, in containers, from Brunswick, GA, to La Mirada, CA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 146194 (Sub-4F), filed March 15, 1979. Applicant: M.T.S. TRUCKING, INC., 113 Center St., Jackson, MN 56143. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tankage*, in bulk, from the facilities of John Morrell & Co., at or near Sioux Falls, SD, to points in IL, IA, MN, MO, NE, and WI, and (2) *hides*, from the origin facilities named in (1) above, to Kansas City, MO. (Hearing site: Minneapolis or St. Paul, MN.)

MC 146304 (Sub-2F), filed March 19, 1979. Applicant: ZEEB FARMS TRUCKING, 2680 Herbison Rd., Bath, MI 48808. Representative: Robert D. Zeeb (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal feed, animal feed ingredients, and fertilizer*, and (2) *agricultural commodities*, otherwise exempt from economic regulation pursuant to the provisions of 49 U.S.C. 10526(a)(6) (formerly section 203(b)(6) of the Interstate Commerce Act), in mixed loads with the commodities in (1) above, from points in IL, IN, and OH, to points in the Lower Peninsula of MI. (Hearing site: Lansing or Detroit, MI.)

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Decided: July 2, 1979.

By the Commission, Review Board Number 3. Members Forbes, Parker and Hill. Forbes not participating.

MC 14215 (Sub-31F), filed March 29, 1979. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commercial, Mingo Junction, OH 43938. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Bar Steel Co., at Detroit, MI, to points in OH, PA, and TN. (Hearing site: Detroit, MI.)

MC 24784 (Sub 1-29F), filed March 7, 1979. Applicant: BARRY, INC., 463 South Water, Olathe, KS 66061. Representative: Arthur J. Cerra, P.O Box 19251, 2100 Ten Main Center, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fibrous glass products, mineral wool, mineral wool products, insulating air ducts, insulating products and materials* from the facilities of Certain-Teed Products Corp. at Kansas City and Pauline, KS to points in AR, IA, MO, NE, and OK. (Hearing site: Kansas City, MO.)

MC 24784 (Sub-30F), filed March 12, 1979. Applicant: BARRY, INC., 463 South Water, Olath, KS 66061. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 Ten Main Center, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Muskogee nd Tulsa, OK, to points in CO, IA, KS, MO, and NE. (Hearing site: Kansas City, MO.)

MC 60014 (Sub-107F), filed March 29, 1979. Applicant: AERO TRUCKING, INC. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal articles*, from the facilities of Gulf Metal Industries, Inc., at or near Houston, TX, and East Point, GA, to points in the United States in and east of ND, SD, NE, CO, and NM. (Hearing site: Houston, TX.)

MC 60014 (Sub-109F), filed March 29, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 1546. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Gulf Coast Machine & Supply Co., at or near Beaumont, TX, to points in the United States in and east of MN, WI, IL, KY, TN, MS, and LA. (Hearing site: Houston, TX.)

MC 60014 (Sub-110F), filed March 29, 1979. Applicant: AREO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To

operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fabricated iron, steel articles, and aluminum articles*, from the facilities of Metal Arts Co., at Houston, TX, to points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Houston, TX.)

MC 60014 (Sub-111F), filed March 30, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *light poles and light pole accessories*, from the facilities of K–W Industries, Inc., at or near Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX.)

MC 77424 (Sub-50F), filed March 29, 1979. Applicant: WENHAM TRANSPORTATION, INC., 3200 E. 79th St., Cleveland, OH 44140. Representative: James Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials*, and (2) *materials, equipment, and supplies* used in the installation and erection of building materials, between Sidney, OH, on the one hand, and, on the other, points in NJ and those in PA on and east of U.S. Hwy 220. (Hearing site: Columbus, OH, or Philadelphia, PA.)

MC 106644 (Sub-276F), filed March 29, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker III (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel pipe, pipe fittings, beams, pilings, rails, railway rails, railway track accessories, bridge and highway railings, pile drivers, pile extractors*, and (2) *materials, equipment, and supplies* used in the manufacture, installation, dismantling, and distribution of the commodities in (1) above (except in dump or tank vehicles), between the facilities of L. B. Foster Company, at Parkersburg and Washington, WV, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, VA, TN, TX, and KS. (Hearing site: Atlanta, GA or Washington, DC.)

MC 107295 (Sub-912F), filed March 29, 1979. Applicant: PRE-FAB TRANSIT CO., a Corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction materials*, and (2) *materials and supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of The Celotex Corporation, at or near Russellville, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

MC 111045 (Sub-165F), filed March 29, 1979. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, (a) from Geismar, LA, and Longview, TX, to LeMoyne, AL, and (b) from LeMoyne, AL, to LaFayette, IN (Hearing site: Washington, DC.)

MC 111045 (Sub-166F), filed March 30, 1979. Applicant: REDWING CARRIERS, INC., P.O Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from Bridgman, MI and Troy Grove, IL, to Birmingham, and Marion, AL, and Cordele, GA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 111045 (Sub-167F), filed March 30, 1979. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pulpmill liquids*, in bulk, in tank vehicles, between the plantsites of International Paper Compnay, at or near Natchez, MS, and Mobile, AL. (Hearing site: Mobile, AL, or Washington, DC.)

MC 117765 (Sub-259F), filed March 29, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials* (except commodities in bulk), from the G.A.F. plant sites at or near (a) St. Louis, MO, to points in AR, IL, IN, KS, KY, LA, MS, OK, TN, and TX, (b) Kansas City, MO, to points in AR, KS, OK, and TX, and (c) Dallas, TX, to points in AR, KS, LA, MS, MO, OK, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Oklahoma City, OK.)

MC 124174 (Sub-138F), filed March 29, 1979. Applicant: MOMSEN TRUCKING CO., a corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe, fittings, valves, and hydrants*, and (2) *accessories* of the commodities in (1) above, from the facilities of Clow Corporation, at or near Buckhannon, WV, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. Condition: The person or persons engaged in common control of applicant and another regulated carrier must file an application under 49 US.C. 11343 (formerly section 5(2) of the Interstate Commerce Act) for approval of the common control, or file an affidavit indicating why such approval is unnecessary. (Hearing site: Chicago, IL, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 125254 (Sub-56F), filed March 29, 1979. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cellulose bands and plastic articles*, from the facilities of Thatcher Plastic Packaging, at or near Muscatine, IA, to Dover, NJ, Newark, DE, Lewiston, ME, New York and Dunkirk, NY, Fort Washington, PA, Boston, MA, Cincinnati, OH, and Hamburg, MI. (Hearing site: Des Moines, IA.)

MC 126514 (Sub-50F), filed March 29, 1979. Applicant: SCHAFFER TRUCKING, INC., 5200 West Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, unfrozen (except in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, and distribution, of the commodities in (1) above, (a) between Merced and North Hollywood, CA, on the one hand, and, on the other, Rochester, NY, and (b) from Merced, CA, to points in AZ, CO, and UT. (Hearing site: Boston, MA.)

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MC 126844 (Sub-74F), filed March 30, 1979. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Rd., Vineland, NJ 08360. Representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery*, from the facilities of Mars Incorporated, at Hackettstown and Elizabeth, NJ, and Elizabethtown, PA, to OH, MI, IL, LA, MO, IA, and IN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Trenton, NJ, or Washington, DC.)

MC 126844 (Sub-75F), filed March 30, 1979. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Rd., Vineland, NJ 08360. Representative: Kenneth F. Dudley, P.O. Box 279, 611 Church St., Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *physical fitness apparatus*, (a) from Pennsauken, NJ, to points in AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NY, NC, OH, OK, PA, SC, TN, VA, WV, and WI, and (b) from Seabrook, NH, to Edgewater Park and Pennsauken, NJ. (Hearing site: Trenton, NJ, or Washington, DC.)

MC 133175 (Sub-9F), filed March 16, 1979. Applicant: METALS TRANSPORT CO., a Corporation, 1140 Poland Ave., Youngstown, OH 44502. Representative: James Duvall, P. O. Box 97, 220 West Bridge St., Dublin, OH 43017. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pipe* and *accessories* for pipe, from Youngstown, OH, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, NH, NJ NY, PA, RI, VA, VT, WV, WI, and DC, under continuing contract(s) with Republic Steel Corporation, of Cleveland, OH. (Hearing site: Columbus, OH.)

MC 133655 (Sub-146F), filed March 29, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120 Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of bicycles, between Ponca City OK, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IL, IN, KS, KY, LA, MO, MT, NV, NM, OH, OK, OR, TX, UT, WA, and WY. (Hearing site: Chicago, IL.)

MC 134755 (Sub-178F), filed March 30, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from points in OR, WA, CA, and ID, to Bettendorf, IA. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 142864 (Sub-10F), filed March 29, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, canned and preserved, from the facilities of Heinz USA, at or near Iowa City and Muscatine, IA, to points in NJ, NY, PA, and OH, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Columbus, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144964 (Sub-2F), filed March 29, 1979. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Rd., Pompano Beach, FL 33060. Representative: Don A. Allen, 2550 M St. NW., Washington, DC, 20037. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *macaroni, spaghetti, vermicelli, and noodles*, dried and in cartons, between Jersey City, NJ, and Jacksonville, Hialeah, Lakeland, Miami, Ocala, Orlando, Pompano Beach, and Tampa, FL. (Hearing site: Washington, DC, or Miami, FL.)

MC 146195 (Sub-2F), filed March 29, 1979. Applicant: ENERGY CARRIERS, INC., 4300 N. Long Beach Blvd., Long Beach, CA 90807. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gasoline, distillate fuel oil, jet fuels, and lubricating oil*, in bulk, between points in AZ, Clark County, NV, and those points in CA in and south of Venture, Los Angeles, and San Bernardino Counties, CA. Condition: The person or persons engaged in common control of applicant and another regulated carrier must file an application under 49 U.S.C. 11343 (formerly section 5(2) of the Interstate Commerce Act) for approval of the common control, or file an affidavit indicating why such approval is unnecessary. (Hearing site: Los Angeles, CA.)

MC 146504 (Sub-1F), filed March 29, 1979. Applicant: LEO TRUCKING CO., INC., P.O. Drawer F, Poteau, OK 74953. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime, quicklime, hydrate, and limestone products*, in bulk and in bags, from the facilities of St. Clair Lime Co., at or near Sallisaw and Marble City, OK, to points in AR, KS, LA, and those points in Issaquena, and Warren Counties, MS, and Cass and Bowie Counties, TX. (Hearing site: Oklahoma City, OK, or Ft. Smith, AR.)

MC 146614F, filed March 29, 1979. Applicant: HARRIS MOTOR EXPRESS, INC., 4261 Crawford St., Cincinnati, OH 45223. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *toilet preparations, shampoos, health aids and beauty aids*, from the facilities of The Andrew Jergens Company, at Cincinnati, OH, to Chicago, IL, Detroit, MI, Fort Wayne and Indianapolis, IN, Lexington and Louisville, KY, and Pittsburgh, PA; and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from points in IL, IN, KY, MI, and PA, to the facilities of The Andrew Jergens Company, at Cincinnati, OH, under continuing contract(s) with The Andrew Jergens Company, of Cincinnati, OH. (Hearing site: Columbus, OH.)

Passengers

MC 145224 (Sub-2F), filed March 29, 1979. Applicant: ALL-CAL TOURS, INC., 3638 Primrose Ave., Santa Rosa, CA 95401. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba Counties, CA, and extending to points in the United States (including AK but excluding HI). (Hearing site: Sacramento or San Francisco, CA.)

Volume No. 128

Decided: July 3, 1979.

By the Commission, Review Board Number 2, Members Eaton, Liberman and Boyle. Member Eaton not participating.

MC 34975 (Sub-12F), filed March 15, 1979. Applicant: TREDWAY'S EXPRESS, INC., 512 Myrtle Ave., Boonton, NJ 07005. Representative: Bernard F. Flynn, Jr., 425 E. Blackwell St., Dover, NJ 07801. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by department stores, (1) from points in NJ, NY, CT, PA, MD, and DE, to the terminal facilities of Tredway's Express, Inc., at (a) Albany, NY, and Farmingdale, NY, (b) West Haven, CT, (c) Baltimore, MD, (d) Dover, DE, (e) Philadelphia and Allentown, PA, and (f) Newark, Boonton, and East Windsor, NJ, and (2) from the terminal facilities named in (1) above to points in NY, NJ, CT, PA, MD, DE, and DC. (Hearing site: New York, NY, or Newark, NJ.)

MC 58944 (Sub-3F), filed March 22, 1979. Applicant: STAATS EXPRESS, INC., 507 South St., Rensselaer, NY 12144. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Albany, NY, on the one hand, and, on the other, those points in Columbia County, NY, south of NY Hwy 23. (Hearing site: Albany, NY.)

MC 106674 (Sub-379F), filed March 22, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from the facilities of Champion International Corporation at or near Asheville, Canton, Fletcher, and Waynesville, NC, to points in IL, IN, KY, OH, MI, and WI, and (2) such *commodities* as are used in the manufacture of paper and paper products (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107295 (Sub-910F), filed March 22, 1979. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Ln., Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *materials* used in the manufacture of the commodities in (1) above, (a) from Staunton, IL, and Hazelwood and Union, MO, to points in the United States (except AK and HI), and (b) from points in OH, to Staunton, IL, and Hazelwood and Union, MO. (Hearing site: St. Louis, MO.)

MC 113475 (Sub-31F), filed March 22, 1979. Applicant: RAWLINGS TRUCK LINE, INC., P.O. Box 831, Emporia, VA 23847. Representative: Harry J. Jordan, 1000 16th St., NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corporation at (a) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, (b) Allenport and Monnessen, PA, and (c) Beechbottom, Benwood, Follansbee, and Wheeling, WV, to points in CT, MD, NJ, NC, SC, NY, PA, and VA. (Hearing site: Washington, DC, or Richmond, VA.)

MC 114045 (Sub-535F), filed March 15, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rubber articles* and *plastic articles* (except commodities in bulk, in tank vehicles), from the facilities of Entek Corp. of America, at or near Irving, TX, to points in the United States (except AK and HI), and (2) *materials, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Chicago, IL, or Dallas, TX.)

MC 114274 (Sub-57F), filed March 22, 1979. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., at Carroll, Denison, and Iowa Falls, IA, to points in NE. (Hearing site: Chicago, IL.)

MC 121664 (Sub-62F), filed March 22, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Ave. South, Birmingham, AL 35223. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plywood, paneling, molding, and composition board*, from Jacksonville and Jasper, FL, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX. (Hearing site: Birmingham, AL, or Jacksonville, FL.)

MC 123405 (Sub-68F), filed March 22, 1979. Applicant: FOOD TRANSPORT, INC., R.D. #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from the facilities of Hanover Brands, Inc. at Hanover, Bloomsburg, and Centre Hall, PA, to points in NC, SC, GA, AL, and FL, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 124004 (Sub-51F), filed March 15, 1979. Applicant: RICHARD DAHN, INC., 620 West Mountain Rd., Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulating products*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of insulating products, between Princess Anne, MD, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: New York, NY, or Washington, DC.)

MC 126514 (Sub-46F), filed March 19, 1979. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Rd., Glendale, AR 85301. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *photographic equipment, materials, and supplies*, and (2) *materials and supplies* used in the manufacture and sale of the commodities named in (1) above, from Andover, North Andover, New Bedford,

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Waltham, Cambridge, Needham, Needham Heights, Westwood, and Norwood, MA, to points in CA. (Hearing site: Chicago, IL.)

MC 126514 (Sub-47F), filed March 19, 1979. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AR 85301. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by pharmaceutical houses (except commodities in bulk), between Norwich and North Norwich, NY, on the one hand, and, on the other, points in AZ and CA. (Hearing site: New York, NY.)

MC 126514 (Sub-48F), filed March 19, 1979. Applicant: SCHAFFER TRUCKING INC., 5200 West Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals, alloys, salt, chemical products*, and (2) *materials, equipment, and supplies* used in the manufacture and sale of chemicals, from Marlboro, Newton, Salem, and Westwood, MA, to Dallas, TX, and Irvine and Berkeley, CA. (Hearing site: Boston, MA.)

MC 133655 (Sub-144F), filed March 19, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *anti-freeze and fuel additives*, from Weatherford, TX, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Chicago, IL.)

MC 135865 (Sub-7F), filed March 13, 1979. Applicant: APPLEGATE DRAYAGE COMPANY, a corporation, 325 North Fifth St., Sacramento, CA 95812. Representative: Michael J. Stecher, 256 Montgomery St., San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Sacramento and Redding, CA, over Interstate Hwy 5, (2) between Sacramento and Jarbo Pass, CA: from Sacramento over CA Hwy 99 to junction CA Hwy 70, then over CA Hwy 70 to Jarbo Pass, and return over the same route, (3) between junction CA Hwys 99 and 70, and Red Bluff, CA, over CA Hwy 99, (4) between Williams and Yuba City, CA, over CA Hwy 20, (5) between Knights Landing and Hamilton City, CA, over CA Hwy 45, (6) between Chico and Orland, CA, over CA Hwy 32, (7) between Woodland, CA, and junction CA Hwy 99 and 113: from Woodland over CA Hwy 113 to junction CA Hwy 99, (8) between Roseville and Marysville, CA, over CA Hwy 65, serving all intermediate points in (1) through (8) above; (9) between Chester and Red Bluff, CA, over CA Hwy 36, and (10) between Susanville and Redding, CA, over CA Hwy 44, serving no intermediate points in (9) and (10) above.

MC 138875 (Sub-158F), filed March 22, 1979. Applicant: SHOEMAKER TRUCKING COMPANY a corporation, 11900 Franklin Rd., Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery products* (except commodities in bulk), from points in OH, to points in CA and OR, restricted to the transportation or traffic originating at the indicated origins and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

MC 145384 (Sub-27F), filed March 19, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid Ave., Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *titanium, nickel base alloys, stainless steel alloys*, between New Kensington, PA, and Stead, NV, on the one hand, and, on the other, points in CA, CT, IN, MI, NY, OH, OR, PA, and TX, and (2) *nickel base ingots and billets, and titanium ingots and billets*, between Verdi, NV, on the one hand, and, on the other, points in KY, MI, NC, NY, and PA. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24271 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 24]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-9505 appearing at page 18797 in the issue for Thursday, March 29, 1979, on page 18800, in the first column, in the paragraph for "MC 95540 (Sub-1052F)", in the ninth line, the word "irregular" should read "regular".

BILLING CODE 1505-01-M

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 153
Tuesday, August 7, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

BOARD FOR INTERNATIONAL BROADCASTING.

TIME AND DATE: 9:30 a.m., August 15 and 16, 1979.

PLACE: Board for International Broadcasting, Conference Room, Suite 430, 1030 15th Street NW., Washington, D.C. 20005.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) 1 CFR 460.4 (c) and (h) of the Board's rules (42 FR 9388, Feb. 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, 1030 15th Street NW., Washington, D.C. 20005, 202-254-8040.

[S-1565-79 Filed 8-2-79; 3:46 pm]

BILLING CODE 6155-01-M

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OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 45546, August 2, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m. on August 3, 1979.

CHANGES IN THE MEETING: This meeting has been rescheduled for 10 a.m. on August 6, 1979.

Date: August 2, 1979.

[S-1566-79 Filed 8-3-79; 10:45 am]

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federal register

Tuesday
August 7, 1979

Part II

Department of the Interior

Bureau of Land Management

Public Lands and Resources; Planning System

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1600

[Circular No. 2451]

Public Lands and Resources; Planning, Programming, and Budgeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes the planning system for public lands and resources as provided in the Federal Land Policy and Management Act of 1976. The regulations are designed to ensure that actions on public lands are based upon the best available information and sound land use planning. Land use plans mandated by the Federal Land Policy and Management are called "resource management plans."

EFFECTIVE DATE: September 6, 1979.

ADDRESS: Comments or suggestions should be sent to: Director (650), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Robert A. Jones, (202) 343–5682 or Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: Proposed regulations on planning were published in the **Federal Register** December 15, 1978, with a 107 day comment period. An additional comment period on § 1601.6–1 was provided for ten days by notice in the **Federal Register** of May 21, 1979. One hundred and two comments were received on the proposed planning regulations including two on § 1601.6–1 during the reopened comment period. The comments break down into the following categories: 29 from the business community; 24 from State and local governments; 20 from environmental-consumer groups; 13 from individual citizens; 6 from Federal agencies; 4 from the academic community: 3 as a result of meeting with various groups; and 1 from a recreation organization. The following discussion of comments is organized into a general section, where key issues which appear throughout the regulations are addressed, and a more specific section where comments relating to each section of the regulations are covered.

General Issues

1. Areas of Critical Environmental Concern (ACEC)

The supplementary information accompanying the proposed rulemaking indicated that ACECs would be identified and appropriate protection prescribed in the resource management plan. Many comments were received on how this might be accomplished. In the meantime, the Department has published, for comment, draft policy and guidance dealing with many aspects of ACEC designation and management, including those associated with land use planning (**Federal Register** June 6, 1979). On the basis of comments received on the planning regulation proposal, specific details have been included in these regulations for ACECs, including an improved definition, criteria for identifying potential ACECs, process for designation, and requirements for a specific section in the resource management plan indicating the basis for ACEC designation and listing the special management requirements. These provisions are identical to those in the June 6 ACEC draft, and in that draft we indicate that if public comment on the June draft identifies areas in the planning regulations needing change, such changes would be proposed as amendments to these regulations.

2. Compliance With Council on Environmental Quality Regulations on NEPA

The supplementary information accompanying the proposed regulation indicated that the Council on Environmental Quality regulations on the National Environmental Policy Act became final November 29, 1978, and that there had not been time to insure that the December 15, 1978, planning regulation was in full compliance. Many comments were received suggesting how such compliance could be achieved. Compliance with the Council on Environmental Quality regulations was and is the Department's intention and appropriate language and references have been incorporated throughout the planning rulemaking. These are discussed section by section below.

3. Need for Environmental Impact Statement and Regulatory Analysis for These Regulations

Two comments recommended that an environmental impact statement and a regulatory analysis accompany publication of the rulemaking. The determination was made, based on an environmental assessment, that an environmental statement was not needed because promulgation of this rulemaking is not, in itself, an action that would significantly affect the quality of the human environment, especially since the rulemaking does not include specific criteria for any category of resource use. A regulatory analysis has not been prepared because it was determined that promulgation of the rulemaking does not come within the guidelines that require the preparation of such an analysis.

Specific Comments by Section

1601.0–1 Purpose. The few comments on this section asked for clarification, or were really related to other regulation sections. Minor editing changes were made.

1601.0–2 Objectives. Comments on this and the purpose section called for more specificity about what a resource management plan would accomplish. The section was expanded to add such specificity.

1601.0–3 Authority. The National Environmental Policy Act of 1969 was included in response to general comments about NEPA compliance.

1601.0–4 Responsibilities. Questions were raised over the desirability of delegating Environmental Impact Statement filing authority to State Directors. Such delegation is consistent with the Secretary's general desire to delegate responsibility and accountability to field offices so as to increase the importance of public participation at that level. Language was added to make clear the Directors' ability to assume approval responsibility for a specific plan and related environmental impact statements if deemed appropriate. Other comments asked for identification of specific responsibility for coordination with other governmental entities and this has been added. The term amendments has been added in this and subsequent regulation sections, when appropriate, to indicate when amendments are also covered by the section language.

1601.0–5 Definitions. Many comments requested a number of changes, ranging from the addition of many new definitions to the deletion of several terms. As a result, the definitions section was carefully re-examined and a number of changes were made. Definitions were added for:

"Capability"—this is because the term is central to the planning process and needs to be clearly understood.

"Threshold levels" and "threshold analyses"—these terms are used relative to the land use planning process in connection with the rulemaking on coal management. They are clearly applicable to the entire land use planning process and have, therefore, been added to this rulemaking. While no comments were received on these terms in the proposed planning rulemaking, these issues were discussed at length in the comments on the proposed coal management rulemaking. Those comments, as they relate to land use planning, have been considered as a part of this final rulemaking.

The following definitions were deleted:

"Land use analysis" and "surface owner"—these terms are each used in only one section of the rulemaking and are defined at these points (Land Use Analysis at § 1601.6–4 and Surface Owner at § 1601.3(p).)

"Minimum acceptable levels or standards"—this is no longer used in the text of the rulemaking, since the concept did not prove to be practical.

The following definitions have been modified:

"Areas of Critical Environomental Concern"—(see general issue #1).

"Public"—to respond to comments asking for more detail.

"Resource management plan"—to respond to many very constructive suggestions for making this a more operational definition of what the plan should be.

"Conformance and conformity"—to clarify and tighten the definition, in response to many comments, by substituting "decisions" for "intent and expected results" as part of the test of whether a proposed action was in conformance with the plan.

1601.0–6 Environmental Impact Statement Policy. This clear statement of policy was generally appreciated by those filing comments. The reference to District Manager and State Director responsibilities was deleted since it was covered under .0–4 Responsibilities.

1601.0–7 Scope. A comment recommended the addition of language to make it clear that the rulemaking covers the preparation of resource management plans on areas where the Federal interest is only in the mineral estate. This suggestion was adopted an a new paragraph (b) has been added to the section to clarify this point.

1601.0–8 Principles. Many of the comments wanted additional principles added to the section to cover a concern of the person or group making the comment. Each of the suggestions was carefully considered but no new principles have been added because the section reflects the requirements of the Federal Land Policy and Management Act and sets necessary principles for use in the land use planning process.

Other comments suggested addition to or clarification of the listed principles. As the result of these comments, we made the following changes in this section: (1) The principle on ACECs in subsection (c) has been modified to conform more precisely to the law; (2) The impact principle in subsection (g) has been expanded to reflect our concern over impact of Federal mineral development on overlying private surface; (3) The principle on public involvement in subsection (1) has been expanded to indicate that there would be opportunity to comment on related guidance. The process for this is specified in § 1601.1–1(b) and related guidance means policy and direction prepared at the State Directors' level; and (4) The term "detriments" has been included in subsection (i) to confirm that detriments, as well as benefits, would be considered.

1601.1–1 Guidance for Planning. Several comments were critical of the fact that the guidance provided for in § 1601.1(b) of the proposed rule was not clearly defined nor was the method for formulation of that guidance outlined. These points were well made and the section has been rewritten to meet most of these criticisms. The section now states what guidance is, what it is limited to, and how it is to be formulated.

Specific concern was expressed over how the public was to be involved in the formulation of guidance developed by the State Director. The final rulemaking provides for public comment on this guidance during the process of using it in plan formulation. If such guidance is found, through that process, to be inappropriate, it will be reconsidered by the State Director, within the constraints proposed by national level policy and guidance.

Several of the comments compared this section to the regional and national planning process proposed by the Forest Service in their first proposed rulemaking on planning, and to the detailed policy and resource related criteria proposed by the Forest Service at that time. The comments suggested similar material be included in the Interior Department's rules. These features of the Forest Service proposed rulemaking are interesting and will be considered as the Bureau of Land Management further improves its policy and program decisionmaking processes, but they are not within the scope of this rulemaking.

1601.1–2 Planning Area. The designation of a resource area as the unit for which resource management plans will generally be prepared appeared at § 1601.1(a) in the proposed rulemaking. Several comments expressed the need for consideration of a variety of factors and for local government coordination in selecting a planning area. The language has not been changed in the final rulemaking because it provides the description needed to insure adequate planning areas.

1601.1–3 Interdisciplinary Approach. This provision appeared as § 1601.2 in the proposed rulemaking. A large number of comments wanted this section strengthened and the interdisciplinary approach made a specific part of the rulemaking to assure the use of interdisciplinary teams at each step of the planning process. The language of this section has been strengthened as suggested in the comments to make it clear that the interdisciplinary team approach is to be used in each step of the planning process. The final rulemaking also adopts the Council on Environmental Quality regulation (40 CFR Part 1500) language on the composition of a team. Finally, the section adopts a suggestion by a commentator that other governmental personnel may serve on interdisciplinary teams in response to a request by a State or local government agency.

§ 1601.2.—Because of editorial adjustments in the preceding material, this section is not used in the final rulemaking.

1601.3 Public Participation. This section generated a large number of comments which generally called for more detail to more clearly spell out the Bureau of Land Management's obligations and the public's opportunities for participation in the planning process. The following changes were made in response to these suggestions:

(1) The Director will publish a planning schedule early in each fiscal year to inform the public of the Bureau of Land Management's planning program for the coming year, the status of on-going plans and the actions to be taken on those plans during that year. This schedule will not be binding on the Bureau of Land Management in that if necessary to meet unanticipated national needs, a plan may be started during a fiscal year even if it is not a part of the schedule, and other scheduled plans may be postponed accordingly. The schedule is designed to give the public advice as to the action that the Bureau of Land Management proposes to take on its planning program

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during the coming fiscal year and to project planning starts over the next three years, so the public can be aware of and comment on the priorities reflected in the projected new starts. These comments will be used in refining the schedule for these future years.

(2) A public participation plan is now required to guide public involvement in the planning process. This required plan, which several of the comments felt was necessary, will help ensure a coordinated and effective program of public participation during the planning process. As guidance to those preparing the public participation plan, language was included in the section that specifies the purpose of public involvement in the planning process.

(3) Many comments suggested the identification of specific mandatory public comment opportunities at defined points in the planning process. This has been done, and is included at appropriate points in §§ 1601.5 and 1601.6 of this rulemaking. These points are summarized in a new subsection (e) in this section on public participation. Also, standards have been specified for both content and distribution of media notice used to start the planning process.

(4) The mailing list to be maintained by the District Manager was recognized as significant. In response to several interests and groups asking to be automatically included, this section has been changed to require the District Manager to place any individual or group on this list who so requests. Access to the record of public meetings was also of considerable interest to those making comments and the final rulemaking makes the summary of public participation activities available for public review and open for addition or clarification by participants.

Many comments suggested wider distribution of planning documents. This has been provided for, as well as distribution of single copies of such documents to members of the public, on request and without charge.

In coordination with the coal regulations which are being prepared simultaneously with this rulemaking, the section in those regulations is referenced which explains how surface owner indication of preference, pursuant to the Surface Mining Control and Reclamation Act, will be used. Also, a paragraph has been added to incorporate the hearing requirements of the Coal Leasing Amendments Act, if coal is involved.

1601.4 Coordination With Other Federal Agencies, State and Local Governments, and Indian Tribes. In response to several suggestions, the objectives of such coordinations, as established by the Federal Land Policy and Management Act, are stated. The coordination prescribed by this section is intended to include Alaska Native Leaders and Alaska Native Regional Corporations or Village Corporations whenever they are affected by the land use plan. This full reference is not used at every possible point in the regulations, for the sake of brevity.

1601.4–1 Coordination by the State Direcors. References to the State Director as a "primary" point for coordination with certain groups in this section and District Managers as "primary" points in § 1601.4–2 have been deleted. This language created confusion for readers of the proposed rulemaking and was misleading since either official could be the primary point depending on the stage of guidance development or planning. New language has been added, consistent with several comments, to require the State Director to provide reasons why an inconsistency exists in guidance to District Managers, and cannot be remedied. It also requires the State Director to notify any Federal agency, State or local government, or Indian tribe with whom guidance consistency is not achieved and indicate what process may lead to the resolution of such an inconsistency.

1601.4–2 Coordination by the District Manager. Requests to be automatically placed on the mailing list were received from several interests and language was included indicating that they would be placed on the District Manager's mailing list, on request to the District Manager. In addition, the District Manager will notify any Federal agencies he has reason to believe would be concerned, even if they have not requested such notice.

The role of an Advisory Council formed under section 309 of the Federal Land Policy and Management Act was further defined and clarified in response to several comments.

Several critical comments expressed concern about the meeting provided for in § 1601.4–2(b). A few commentators wondered if the meeting would be arranged with one or more groups and exclude others and not be a truly representative meeting. The language had been placed in the proposed rulemaking to make clear that the District Manager would hold meetings to explain the planning process with any of the addressees requesting such a meeting. Because of the concern and misunderstanding about this section, it has been deleted from the final rulemaking, since District Managers are already available for meetings with any person or group that has concerns about the public lands, including the planning process. Such meetings will be on an ad hoc basis and no special or favored treatment will be provided any person or group.

1601.4–3 Consistency Requirements. Many comments feared the Bureau was going too far toward consistency with State and local government and others called for additional areas of consistency. After study, it was concluded that the language in the proposed rule carries out the intent of the Federal Land Policy and Management Act, with the addition of language that consistency with State and local government policies and programs will only be achieved if consistent with Secretarial policies and programs.

A few comments raised the question of what constituted officially adopted and approved resource related policies, plans or programs of State or local government or Indian tribes. This language includes such items as a county-wide zoning plan adopted by the appropriate county agency or county commissioners or a state-wide policy or planning document that has been prepared and approved pursuant to State legislation or an executive order of the chief executive of a State, when that officer has authority to prepare and approve such a policy or plan.

1601.5 Resource Management Planning Process. There were a number of comments suggesting different planning processes. These were carefully examined. The basic process proposed is retained since it is professionally sound and is parallel to the proposed Forest Service process—a coordination objective important to both Forest Service and the Bureau of Land Management. Some comments were received about the relationship between the process actions. This has been clarified, by explaining that some actions can proceed simultaneously and that some may be repeated, as necessary, as new information is developed. The use of an interdisciplinary team at each action step is acknowledged and required by language in § 1601.1–3. It is not repeated in each part of § 1601.5 to reduce repetition in the rulemaking.

1601.5–1 Identification of Issues, Concerns, and Opportunities. The comments were of the view that this section needed to be more specific on the issues of public involvement, governmental coordination and interdisciplinary approach. The section

was amended to include language that specifies the interrelationship of public involvement and governmental coordination, and to require that this action would be repeated as necessary during the planning process.

1601.5–2 Development of Planning Criteria. The importance of this section was demonstrated by the many comments received. As requested, a specifc requirement for public comment on the draft criteria is now required. Major concern was expressed over the adequacy of inventory data to be used for planning. This concern was focused on this section and the following section on Inventory Data and Information Collection (§ 1601.5–3). Since planning criteria guide inventory collection, the substantive guidance on inventory has been placed in this section. The issue was whether minimum standards for inventory were needed. After careful analysis, it was decided to not set minimum standards, but to establish clear policy on priority for inventory and to emphasize the Council on Environmental Quality regulation on NEPA requirements for worst case analysis and appropriate monitoring in cases of poor or uncertain inventory data.

When time and funds for inventory are limited, priority will be given to information and inventory data collection related to potential decisions with greatest impact and to which additional information and data would make the greatest difference. Impact means both implication for national policy, statutes, regulations or court decisions, and impact on social and environmental values.

1601.5–3 Inventory Data and Information Collection. The major concerns about inventory adequacy and quality were addressed in the preceding section and no substantive change has been made in this section. The reference to inventory data identifying potential ACECs has been deleted since such potential areas will not be identified until the criteria listed in § 1601.5–4 are applied during the Management Situation Analysis. A comment regarding duplication of Federal and State/local government data collection was addressed in § 1601.4–2 which now indicates that such duplication shall be avoided through early coordination by the District Manager.

1601.5–4 Analysis of the Management Situation. This section is now limited to capability analysis, as suggested by one comment, and suitability determinations are to be a conclusion of the plan. The major change in this section is inclusion of criteria for identifying potential ACECs, which are then to be explicitly considered in the formulation of the plan. The need for such criteria was pointed out in many comments. The criteria that was adopted in this section of the rulemaking conform to the proposed guidelines published June 6, 1979, for comment. (See general issue #1.)

Another change that was adopted in response to comments was the inclusion in the rulemaking of an additional factor for consideration covering opportunities to resolve public issues and management concerns. The comments that requested language in the section to recognize the degree of local dependence on resources from public lands have been adopted and the change made. Finally, the rulemaking was amended as suggested to bring the planning rulemaking into coordination with the provisions of the coal management rulemaking as it relates to the extent of coal lands in a planning area.

1601.5–5 Formulation of Alternatives. This section generated a great deal of comment and concern that it might not be in compliance with the Council on Environmental Quality regulations on NEPA. It is the Bureau of Land Management's intent to be fully in compliance with those regulations, and the section has been revised accordingly. The no action alternative has been defined to mean continuation of present levels or systems of resource use. To accommodate the need to formulate all "reasonable" alternatives, but yet keep the number of alternatives to a comprehendable number, the regulations provide for treating specific alternative proposals, when appropriate, as subalternatives to one or more of the major alternatives.

1601.5–6 Estimation of Effects of Alternatives. Again, in response to many comments that the Bureau of Land Management might not be in compliance with Council on Environmental Quality regulations on NEPA, the excerpt from those regulations has been deleted and, in lieu thereof, have cited and thereby incorporated the relevant portion of the Council on Environmental Quality regulations on NEPA in their entirety. In addition, language requiring the documentation to indicate reliability of the data and estimates is included.

1601.5–7 Selection of Preferred Alternative. The reference to annotation of alternatives is deleted, since this subject is governed by the language of § 1601.7–2. An addition was made to indicate that the draft plan and related draft environmental impact statement would be provided directly to the Governor when coal determinations are involved. This change brings the final rulemaking into conformance with provisions of the coal management rulemaking.

1601.5–8 Selection of the Resource Management Plan. Several comments wanted the Governor of the affected State to be given the opportunity to review the recommended resource management plan concurrently with the State Director. This suggestion was not adopted. The Governor will have made input during the planning process, with special involvement for coal issues, and the final management decision is left to the State Director. A few of the comments expressed confusion by the proposed rulemaking in that it was read as requiring the District Manager to select the previously developed preferred alternative without being able to seriously consider other alternatives as required by the NEPA regulations of the Council on Environmental quality. This was not the intention of the proposed rulemaking. The intent was to be in compliance with the CEQ regulations and the language causing the confusion has been eliminated.

1601.5–9 Monitoring and Evaluation. A large number of comments wanted this section to give more detail as to how this process would be carried on and the impact the process would have on a resource management plan. The section has been expanded and much greater detail provided. Also, the monitoring and evaluation process was tied back to other parts of this rulemaking and the entire planning process. The amendment incorporates established thresholds as a benchmark for the monitoring and evaluation process, and requires the monitoring and evaluation reports to be written and available for public review.

1601.6–1 Resource Management Plan Approval and Administrative Review. Several comments requested that this section be amended to require the State Director to document his action on the plan in writing for the record. This was our intent and the section has been amended accordingly.

Another amendment was the addition of a paragraph setting out detail for handling an area of critical environmental concern during the concurrence step if the ACEC is of national or international significance. This amendment was made in response to the large number of comments requesting specificity on areas of critical environmental concern in various sections of the final rulemaking. In response to another comment on this

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section, language has been added to the section that permits portions of the plan not being protested to be approved, while the protest is being considered. Public notice and opportunity for comment is required for any significant change made in response to a protest.

Nearly all of the comments on this section supported the creation of a protest procedure for use in connection with the resource management plan process. A number of recommendations were made on how the protest process should be implemented. After studying the comments, it was recognized that the protest procedure provided for in the proposed rulemaking was not adequate and an entirely new protest provision has been added to the final rulemaking. The new protest procedure reflects many of the points made in the comments on this point. A question of considerable concern on the part of those commenting on the protest process was who would have standing to protest. The protest process gives standing to anyone who is adversely affected and who has participated in the planning process. In determining who has an interest that is or might be adversely affected, the Bureau of Land Management will be very liberal and will reflect the interpretations handed down by the courts and administrative tribunals in the last few years. The liberal interpretation will be emphasized in the manual section issued as backup to this rulemaking. It would allow individuals and organizations that participated in the planning process, even if they were not located in or near the area covered by a resource management plan, to protest the approval or amendment of a resource management plan. In order to have an interest that is or might be adversely affected, individuals or organizations would only need to show that lands in the planning area or similar lands were used by them and the resource management plan would deny or alter their use of the lands. There would be no need to show an economic interest that is or might be adversely affected by the approval or amendment of the resource management plan in order to have standing to protest. The Department does not intend that this regulation affect in any way requirements for standing for judicial review of a decision to adopt or revise a plan.

A protest may raise only those issues which were submitted for the record by the protestor during the planning process. This is in line with our desire to insure that interested parties participate fully during the planning process. A protest may be carried to the Director and the Director has discretion whether to hear the protest. Protests on aspects of the plan which, when implemented, would be subject to appeal under 43 CFR Part 4 or any other protest procedure provided by this title will not be heard. Generally, protests will be heard when the issue is apparent noncompliance with policy guidance, major change in the use of resources in a resource area, or a novel or precedent setting departure from existing resource management practices.

1601.6–2 Conformity and Implementation. The major concern of the comments on § 1601.6–2 was that budget contraints could nullify major portions of the resource management plan, if delayed until funds are available to carry them out. No change was made in this provision in recognition of the fact that budget constraints will impose limitations on actions. However, actions that are funded must be in conformance with the plan and the plan is a major source of data for program and budget justification. In response to the complaint raised in a few of the comments that all future actions within an area covered by a resource management plan must comply with that plan, language added to the section confirms our intent that the plan is to control future actions.

Some concern was expressed about the degree to which change could be made in existing occupancy and use, based on the plan. The regulations are clarified to explain that such change must be authorized by law, regulation and the terms of the existing permit, contract, cooperative agreement or other instrument of occupany or use.

1601.6–3 Changing the Resource Management Plan. Comments made on this section expressed concern that the language on maintenance was broad enough to allow an inappropriate change in the resource management plan through the maintenance process. The maintenance provisions have been tightened to clarify the scope of changes in a resource management plan contemplated by the maintenance process.

Several comments questioned the adequacy of the amendment provisions of the proposed rulemaking and expressed the fear that the resource management plan process could be undone by a loose amendment process. A number of changes were suggested. In response to those suggestions, the final rulemaking tightens the amendment process. An amendment can be generated by the need to consider monitoring findings and new data or a change in policy. It can also be generated by consideration of a proposal presented in an application. The amendment process is made subject to the public participation and the governmental coordination process provided for in earlier sections of this rulemaking. Another step in the amendment process is the inclusion of a provision for a protest of an amendment under the protest procedure established in the rulemaking.

Several comments suggested that an environmental impact statement be prepared for amendments. The amendment process requires an environmental analysis and environmental impact statements will be prepared if the impact on the human environment is significant. Finally, the section requires the concurrence of the Director on any amendment that impacts an area of critical environmental concern, the designation of which had the concurrence of the Director.

Comments on the review and revision process complained that it was not clear whether a revision requires the same planning steps as does the preparation of a resource management plan. Since this was our intent, the language has been clarified. Another comment suggested that the 15 year period for revision was too long and that it should be shortened. In this same vein, several comments wanted the review period to be reduced to less than five years. The final rulemaking requires the revision of a resource management plan at least every 10 years which is the same period provided in the current Forest Service proposed rule. All mention of the review process is removed since the review process is continuing and guided by the provisions for monitoring and evaluation specified in the plan itself.

1601.6–4 Situations Where Actions Can Be Taken Based on Another Agency's Plan or a Land Use Analysis. The comments on § 1601.6–4 recommended that the section be rewritten to make it clearer. This suggestion was adopted and the entire section was rewritten in an effort to clarify it. As part of the rewrite, the definition of the term "land use analysis" was incorporated in the section since this is the only place in the rulemaking that the term is used. The land use analysis process will incorporate the governmental coordination and consistency procedure and the protest procedure provided for in this rulemaking. The amendment includes the requirement that the decision to approve a land use analysis supporting a coal lease must be made by the Department of the Interior official who has been delegated coal leasing authority.

In response to other comments, standards have been established regarding the acceptability of another agency's plan as a base for mineral estate resource management action.

1601.6–5 Management Decision Review by Congress. Two comments were received on this section. One of the comments asked a question and the other recommended that the section be broadened in its application. No changes were made in this section since it is basically a restatement of a requirement of the Federal Land Policy and Management Act as it applies to the land use planning process and the elimination of a major use by that plan.

1601.6–6 Designation of Areas Unsuitable for Surface Mining. The comments on this section complained that the proposed rulemaking was vague and did not conform to the provisions of the Federal Coal Leasing Amendments Act as carried out in the regulations of the Office of Surface Mining Reclamation and Enforcement. The final rulemaking contains language that clarifies the process of declaring lands unsuitable for mining of coal under section 522 of the Surface Mining Control and Reclamation Act and for other minerals under section 601 of that Act. The amendment also makes the final rulemaking compatible with the regulations of the Office of Surface Mining Reclamation and Enforcement.

1601.6–7 Designation of Areas of Critical Environmental Concern. This section was added to provide a focal point for readers interested in ACEC and to make clear that approval of a resouce management plan constitutes designation of any ACECs involved. This does not prohibit ACEC designations from being made on the basis of management framework plans or management framework plan amendments during the transition period.

1601.7–1 Process Records. A few comments expressed concern that the proposed rulemaking could be interpreted to provide for keeping only those documents that supported the conclusions of the District Manager and not those that might have led to a different conclusion. This interpretation was not intended and the final rulemaking has been amended to clearly indicate that all records pertaining to the analysis, including the environmental analysis, shall be kept. As suggested in a comment, the supporting records will be filed together in one place, and will be available for public review if requested.

1601.7–2 Authority Annotation. A comment on this Section suggested indicating the organizational unit or officer that has authority for implementing a feature of the plan, if not the State Director. The suggestion has been adopted.

1601.7–3 Plan and Environmental Impact Statement Document. Several comments on this section expressed concern about combining the resource management plan and the environmental impact statement into one document. These concerns ranged from the feeling that this procedure would lead to confusion to a statement that this appears to be a good process if the Bureau of Land Management is able to develop a format for the combined document that will make clear the basis for management decisions. The final rulemaking continues the concept of combining the resource management plan and the environmental impact statement into a single document, but the analysis of alternatives will be a discrete section. This will allow the work on the two aspects of the document to go forward together and allow use of the data collected in the most efficient manner. One comment pointed out that the proposed rulemaking paraphrased the regulations on NEPA of the Council on Environmental Quality and omitted some of the vital elements contained in those regulations. In recognition of that criticism, the section has been amended to make direct reference to the Council on Environmental Quality regulations as it relates to documentation of the alternative selected and indication of the environmentally referred alternative. Requirement for the document to show preparers and their qualifications has also been added, as required by Council on Environmental Quality regulations.

In response to the large number of comments that wanted more specificity regarding the handling of areas of critical environmental concern, the section has been amended to provide for discrete sections in the plan document for areas of critical environmental concern. To maintain coordination with the Department of the Interior's coal management regulations, there will also be a discrete section indicating how Department unsuitability criteria were applied to coal lands, if any.

1601.8 Transition Period. An exceptionally large number of comments were directed to this section of the proposed rulemaking. For the most part, the comments recognized the difficult problem faced by the Bureau of Land Management during the interim between the issuance of this rulemaking and the completion of resource management plans for all of its lands. The comments recognized that the Bureau of Land Management could not cease operations on the public lands until such times as the resource management plans had been completed but they also did not want business to continue as usual, with long term land use decisions being made on inadequate plans and inadequate information. The comments were helpful in that they suggested many standards and ideas for the interim period. These suggestions tended to fall into two categories. One set of suggestions recommended the review of all existing management framework plans for adequacy independent of any scheduled use of those documents as a base for decisionmaking. Another set of suggestions focused on the establishment of standards for use when actions are proposed, to be used in determining whether the existing management framework plan is an adequate base for that decision. Special concern was expressed regarding the use of management framework plans for coal leasing. The Bureau of Land Management recognized the need for inclusion of some standards in this section and adopted the second set of suggestions as the basis for using existing management framework plans in its decisionmaking process. The reasons for following the second course were that the Council on Environmental Quality regulations on NEPA set standards for public participation and environmental analysis of proposals and the alternatives that must be considered in the decisionmaking process and therefore these requirements would be met before an action could actually be taken based on a management framework plan, since a management framework plan is followed by specific action decisions. Second, it would accomplish little and be a waste of limited resources to analyze existing management framework plans that were not about to be used as the basis of a decisionmaking action. The limited resources of the Bureau of Land Management could be better used to move forward on a meaningful land use planning program as outlined in this final rulemaking.

The amendments for this section provide for a number of changes from the proposed rulemaking and are designed to meet the concerns expressed in the comments. First, a provision has been placed in the section that directs the Director to make a determination of how on-going

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management framework plan efforts will be subject to the provisions of this rulemaking. This determination will be made available to the public in the published schedule called for in § 1601.3. The schedule will also make clear to the public the location and status of on-going planning as well as new starts expected during the next three fiscal years. Comments will be requested on the new starts which will assist the Bureau of Land Management in establishing priorities for planning. The final rulemaking, with certain specified limitations, makes existing management framework plans the basis of decisions on proposed action until such time as they are replaced by a resource management plan. The section sets standards to guide the District Manager in his use of the existing management framework plan. It is made clear that action can be taken only if it is in conformance with a management framework plan in which there had been adequate public participation and governmental coordination, and then only after any other process associated with the proposal, including full compliance with the Council on Environmental Quality regulations (40 CFR Parts 1500–1508). If the action is not in conformance with the existing management framework plan, the management framework plan may be amended using the resource management plan amendment process. A section has been added making it clear that action based on on-going management framework plans prepared under court order will not require further processing under these regulations.

While recognizing that these changes will not meet all of the objectives raised in the comments, it does represent a concerted effort to allow the Bureau of Land Management to continue to carry on its day-to-day administration of the public lands in a manner that complies with the mandate of the Federal Land Policy and Management Act and other applicable laws, while proceeding with the task of completing resource management plans for all of the public lands.

Editorial and language changes needed to clarify the rulemaking have been made.

The principal author of this rulemaking is Robert A. Jones, Chief of the Office of Planning, Inventory, and Environmental Coordination, Bureau of Land Management, assisted by the Office of Legislation and Regulatory Management, Bureau of Land Management, and the Office of the Solicitor, Department of the Interior.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of section 201 and 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711 and 1712), Subchapter A, Chapter II, Title 43 of the Code of Federal Regulations is amended by adding Part 1600 as set out below.

Guy R. Martin,

Assistant Secretary of the Interior.

August 1, 1979.

PART 1600—PLANNING, PROGRAMMING, BUDGETING

Subpart 1601—Planning

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Authority: 43 U.S.C. 1740.

§ 1601.0–1 Purpose.

The purposes of this subpart are (a) to establish in regulations a process for the development, approval, maintenance, amendment and revision of resource management plans for public lands administered by the Bureau of Land Management and (b) to set forth how existing plans or other data will be used until plans are developed under these regulations.

§ 1601.0–2 Objectives.

The objective of this subpart is to improve resource management decisions on public lands through a process of resource management planning that includes participation by the public and Federal, State and local governments, maximizing use of the best available data, and analysis of alternatives. Resource management plans are designed to guide and control future management actions and the development of subsequent more detailed and limited scope plans for resources and uses.

§ 1601.0–3 Authority.

These regulations are issued under the authority of sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711–1712); section 3 of the Federal Coal Leasing Amendments Act of 1976 [30 U.S.C. 201(a)]; sections 522, 601, and 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

§ 1601.0–4 Responsibilities.

(a) National level policy and procedure guidance for planning shall be provided by the Secretary and the Director. The Director may assume approval responsibility for a specific plan and related environmental impact statement if it is deemend necessary.

(b) State Directors shall provide quality control for planning and related environmental impact statements and shall provide additional guidance, as necessary, for use by District Managers. State Directors shall file draft and final environmental impact statements

associated with resource management plans and amendments.

(c) Resource Management plans, amendments, revisions, and related environmental impact statements shall be prepared by District Managers, and reviewed and concurred in by State Directors. Resource management plans, amendments and revisions are then approved by District Managers.

(d) Depending on the subject matter involved, the appropriate Bureau of Land Management official shall coordinate with other Federal agencies, State and local governments and Indian tribes.

§ 1601.0–5 Definitions.

As used in this subpart:

(a) "Applicant proposed action" means any resource use or development or management action proposed to the Bureau of Land Management by a member of the public or by another agency (not exclusively generated by the Bureau of Land Management) through any procedure established by regulations including nominations, petitions, and applications.

(b) "Areas of critical environmental concern" (ACEC) means areas within the public lands where special managment attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards. The identification of a potential ACEC shall not, of itself, change or prevent change of the management or use of public lands.

(c) "Conformity of conformance" means that a resource use or management action shall be specifically provided for in the plan, or if not so mentioned shall be clearly consistent with the terms, conditions, and decisions of the approved plan or plan amendment.

(d) "District manager" means the Bureau of Land Management line official in charge of a resource managing field office reporting to a State Director. In some cases (e.g., Eastern States) these officials may not be titled District Manager.

(e) "Goal" means the desired state or condition that a resouce management policy or program is designed to achieve. A goal is usually not quantifiable and may not have a specific date by which it is to be completed. Goals are the base from which objectives are developed.

(f) "Guidance" means any type of written communication or instruction which transmits objectives, goals, constraints or any other direction which helps the District Manager and staff know how to prepare a specific resource management plan.

(g) "Local government" means any political subdivision of the State and any general purpose unit of local government with resource planning, resource management, zoning, or land use regulation authority.

(h) "Objectives" means planned results to be achieved within a stated time period. Objectives are subordinate to goals, are narrower and shorter in range, and have increased possibility of attainment. Time periods for completion, and outputs or achievement that are measurable and quantifiable, are specified.

(i) "Public" means affected or interested individuals, including consumer organizations, public land resource users, corporations and other busines entities, environmental organizations, and other special interest groups and officials of State, local, and Indian tribal governments.

(j) "Public lands" means any land or interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts, and Eskimos.

(k) "Resource and resource management" is defined in the broadest sense and includes all public land values, renewable and non-renewable resouces of all types, supporting services such as fire control and cadastral survey, land use authorization and control, and land disposition, exchange or acquisition.

(l) "Resource area" means a geographic portion of a Bureau of Land Management district, under the supervision of an area manager. It is the smallest administrative subdivision in the Bureau and is, in most instances, the area for which resource management plans are prepared and maintained.

(m) "Resource management plan" means a land use plan as prescribed by the Federal Land Policy and Management Act. The resource management plan establishes in a written document—

(1) Land areas for: limited, restrictive or exclusive use; designation, including ACEC designation; and transfer from Bureau of Land Management Administration;

(2) Allowable resource uses (either singly or in combination) and related levels of production or use to be maintained, including appropriate threshold levels;

(3) Resource condition goals and objectives to be attained;

(4) Program constraints and general management practices needed to achieve the above items;

(5) Need for and area to be covered by more detailed and specific plans;

(6) Support action necessary to achieve the above, including as a minimum:

(i) Resource protection, such as avoidance or mitigation of trespass, fire or insect damage,

(ii) The general transportation system required for legal and physical access,

(iii) General cadastral survey or property line identification, and

(iv) Withdrawals and other realty action;

(7) General implementation sequences, where carrying out a planned action is dependent upon prior accomplishment of another planned action; and

(8) Intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision.

A resource management plan is not a final implementation decision on actions which require further specific plans, process steps or decisions under specific provisions of law and regulations.

(n) "Capability" means the ability or potential of a unit of land to produce resources, supply goods and services or allow resource uses under a set of management practices at a given level of management intensity without permanently impairing the resource involved. Capability depends upon a fixed set of conditions which are relatively stable over time, including, but not limited to, climate, slope, landform, soils and geology. Most land has an inherent capability to produce one or more resources, or goods and services, or allow resource uses, under natural conditions. Capability analyses shall permit identification of specific uses or management practices that cannot be allowed on specific land areas due to physical conditions.

(o) "Threshold levels" are specific defined levels of resource use, production or development which are established as maximum or minimum constraints in the resource management plan. They are established for defined geographic areas but are not site specific. For example, they may include a maximum or minimum level of winter wildlife habitat which is to be maintained or tonnage of coal that could

be made available over a specified time period. Threshold levels are usually established to ensure that the plan does not permit an unacceptable level of cumulative impacts.

(p) "Threshold analysis" is the process of comparing possible threshold levels to anticipated cumulative impacts and establishing that point where an additional increment in the threshold will make a major change in impact.

§ 1601.0–6 Environmental impact Statement Policy.

Approval of a resource management plan is considered a major Federal action significantly affecting the quality of the human environment. The environmental analysis of alternatives and the proposed plan shall be accomplished as part of the resource management planning process. The proposed plan and related environmental impact statement shall be published as a single document.

§ 1601.0–7 Scope.

(a) These regulations apply to all BLM administered public lands, including any public land area subject to acts of Congress such as the Wild and Scenic Rivers Act, the O&C Act of 1937, National Trails System Act, the Wilderness Act, and national recreation areas acts, and other similar statutes specifically designating lands for particular uses.

(b) These regulations also govern the preparation of resource management plans when the only public land interest is the mineral estate. Since the use planned for the federally-owned minerals could have a major impact on the nonpublic land surface, the views and concerns of owners of the surface shall be obtained and considered.

§ 1601.0–8 Principles.

The preparation, amendment and revision of resource management plans shall be consistent with the following principles:

(a) The principles of multiple use and sustained yield set forth in the Federal Land Policy and Management Act and other applicable laws shall be adhered to:

(b) A systematic interdisciplinary approach shall be used to achieve intergrated consideration of physical, biological, economic, social and other sciences, and the environmental design arts;

(c) Priority shall be given to the identification, designation, protection and special management of ACEC's;

(d) The relative significance of the public land products, services, and uses to local economies shall be considered;

(e) To the extent it is available, the inventory of the public lands, their resources, and other values shall be relied upon;

(f) Present and potential uses of the public lands shall be considered;

(g) Impact on uses of adjacent or nearby non-Federal lands and on non-public land surface over federally-owned minerals shall be considered;

(h) The relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values shall be considered;

(i) Long term benefits and detriments to the public shall be weighed against short term benefits and detriments;

(j) Compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans shall be provided for;

(k) To the extent consistent with the laws governing the administration of the public lands, the resource inventory, planning, and management activities of or for such lands shall be coordinated with the resource planning and management programs of other Federal departments and agencies, States and local governments, and Indian tribes; and

(l) The public shall be provided with early notice and frequent opportunity to participate in and comment on the preparation of plans and related guidance.

§ 1601.1 Resource Management Planning—General

§ 1601.1–1 Guidance for planning.

Guidance for preparation and amendment of resource management plans shall be provided, as needed, by the Director and State Director. Such guidance shall be limited to the following items which shall be in writing and available for public review in State and District offices.

(a) National level policy which has been established through legislation, regulations, executive orders or other Presidential, Secretarial or Director approved documents. This policy may include appropriately developed resource management commitments, such as a right-of-way corridor crossing several resource areas.

(b) Guidance which has been developed at the State Director level, with necessary and appropriate governmental coordination as prescribed by § 1601.4 of this title, to indicate specific goals, objectives, priorities, alternatives, values, constraints or other items which are to be considered in the resource management process in the State. As relevant, this guidance shall be reflected or incorporated in the planning process actions required by §§ 1601.5–1 through 1601.5–9 of this title and shall be subject, through those processes, to the public review and discussion prescribed by § 1601.3 of this title and the environmental analysis prescribed by § 1601.5–6 of this title. Such guidance shall be reconsidered by the State Director at any time during the planning process if it is found, through public involvement or other means, to be inappropriate when applied to the resource values and conditions found in a specific area being planned. Such change shall not violate national policy.

(c) Procedures which shall be used to implement these regulations.

(d) Schedules, budgets and organizational coordination requirements.

§ 1601.1–2 Planning area.

Resource management plans shall be prepared and maintained for resource areas. If an individual resource area is not an appropriate area for a resource management plan, the Director may authorize a more appropriate planning area.

§ 1601.1–3 Interdisciplinary approach.

An interdisciplinary approach, including the use of an interdisciplinary team at each step of the planning process as prescribed under §§ 1601.5–1 through 1601.5–9 of this title, shall be used in the preparation, amendment and revision of resource management plans to ensure the integrated use of the natural and social sciences and the environmental design arts. The disciplines of the preparers shall be appropriate to the values involved and the issues identified during the issue identification and environmental impact statement scoping stage of the planning process. The District Manager shall use whatever combination of BLM staff, consultants, contractors, other governmental personnel and advisors as necessary to achieve this objective.

§ 1601.3 Public participation.

(a) The Director shall, early in each fiscal year, publish a planning schedule which shall advise the public of the status of each plan in process or to be started during that fiscal year, the major action on each plan during that fiscal year and projected new planning starts for the 3 succeeding fiscal years. The notice shall call for comments on planning priorities for those 3 fiscal years so that such comments can be considered in refining priorities for those years.

(b) Public participation shall be sought and used throughout the preparation, amendment or revision of resource management plans. (See additional provisions for governmental coordination in § 1601.4 of this title.)

(c) A public participation plan shall be prepared to guide public involvement in the preparation, amendment or revision of each resource management plan. The public participation plan shall be initiated prior to the issue identification stage of the planning process and shall be updated thereafter as necessary.

(d) The purpose of public participation is to—

(1) Inform the public of Bureau of Land Management resource management planning activities;

(2) Provide the public with an understanding of Bureau of Land Management programs and proposed actions;

(3) Ensure the public needs and concerns are understood by the Bureau of Land Management; and

(4) Broaden the information base upon which resource management planning decisions are made.

(e) Public notice and opportunity for participation in specific resource management plan preparation is mandated at 5 specific points in the planning process:

(1) General notice at the outset of the process which invites participation in the identification of issues (see §§ 1601.3(g) and 1601.5–1);

(2) A notice inviting comment on the planning criteria (see § 1601.5–2);

(3) Publication of the draft plan and draft environmental impact statement;

(4) Publication of the final plan and final environmental impact statement which triggers the opportunity for protest (see §§ 1601.5–8 and 1601.8–1(c)); and

(5) Public notice and comment on any significant change made to the plan as a result of action on a protest.

Additional public involvement shall be provided as appropriate and as guided by the public participation plan.

(f) Public participation activities and means of notification shall be appropriate to the areas and people involved, and the stage of planning (preparation, amendment or revision). Public participation activities may include requests for written comments, surveys, meetings, hearings, conferences, seminars, workshops, tours, and similar events scheduled and held to foster public reactions and suggestions.

(g) Upon starting the preparation amendment or revision of resource management plans, public participation shall be initiated by a notice published in the **Federal Register** and appropriate media, including newspapers of general circulation in the State, adjoining States where it is deemed appropriate, and the District. The notice shall include the following information:

(1) Description of the proposed planning action;

(2) Identification of the geographic area to be planned;

(3) The general types of issues anticipated;

(4) The disciplines to be represented on the interdisciplinary team;

(5) The kind and extent of public participation activities to be provided;

(6) The times, dates, and locations scheduled or anticipated for any needed public meetings, hearings, conferences or other gatherings, as known at that time;

(7) The name, title, address, and telephone number of the Bureau of Land Management offical who may be contacted for further information; and

(8) The location and availability of documents relevant to the planning process.

(h) Public participation in the preparation of a draft environmental impact statement shall begin with the publication of a notice of intent in the **Federal Register** which is the notice described in paragraph in (g) of this section. After this publication, public participation opportunities for planning and those required by the National Environmental Policy Act, shall be provided simultaneously.

(i) At least 15 days' public notice shall be given for public participation activities where the public is invited to attend a meeting of some sort. Any notice requesting written comments shall provide for at least 30 calendar days for response. Ninety days shall be provided for review of the draft plan and draft environmental impact statement.

(j) A list of individuals and groups known to be interested in or affected by a resource management plan shall be maintained by the District Manager. Individuals or groups may ask to be placed on this list. All individuals and groups on this list shall be notified of public participation activities.

(k) The responsible Bureau of Land Management official or his or her representative shall attend all Bureau of Land Management scheduled and conducted public participation activities.

(l) All Bureau of Land Management scheduled public participation activities shall be documented by a summary of the principal issues discussed, comments made, and a register of those in attendance. The summary shall be available for public review and open for addition of comment by any participant who wishes to clarify or add to views he or she expressed.

(m) Copies of an approved resource management plan and amendments shall be reasonably available for public review. This includes copies at the State Office for that district, that District Manager's Office, and district offices contiguous to that district, detached area offices in that district, and those detached area offices in other districts that are contiguous to that district, and at least one additional location determined by the District Manager which offers convenient access to the public. Plans, amendments and revisions shall be published and single copies shall be available to the public on request.

(n) Supporting documents to plans shall be available for public review at the office where the plan was developed.

(o) Fees for reproducing requested documents beyond those used as part of public participation activities and other than the single copies of the printed plan, amendment or revision, may be charged according to the Bureau of Land Management schedule for Freedom of Information Act requests in 43 CFR Part 2.

(p) When resource management plans involve areas of potential mining for coal, by means other than underground mining, and the surface is private, the Bureau of Land Management shall consult with all surface owners who (1) hold legal or equitable title to the land surface, and (2) have their principal place of residence on the land or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations. This contact shall be made after the review in the planning process which assesses whether there are areas unsuitable for coal leasing to avoid contacting owners where the land would not be considered for coal leasing based on unsuitablility criteria specified in § 3461.2 of this title. Contact shall be made in time to fully consider the owner's views. This contact may be made by mail or in person by the

District Manager or his or her representative. A period of at least 30 days from the time of contact shall be provided for the surface owners to provide their preference to the District Manager. Such surface owners preferences shall be considered as specified in § 3420.2–3 of this title.

(q) If the plan involves potential for coal leasing, a public hearing shall be provided prior to the approval of the plan if requested by any person having an interest which is, or may be, adversely affected by implementation of such plan. The hearing shall be conducted as prescribed in § 3420.2–4 of this title and may be combined with a regularly scheduled public meeting.

§ 1601.4 Coordination with other Federal agencies, State and local governments, and Indian tribes.

In addition to the public involvement prescribed by § 1601.3 of this title the following coordination is to be accomplished with other Federal agencies, State and local governments, and Indian tribes. The objectives of the coordination are for State Directors and District Managers to keep apprised of non-Bureau of Land Management plans; assure that consideration is given to those plans that are germane in the development of resource management plans for public lands; assist in resolving, to the extent practicable, inconsistencies between Federal and non-Federal government plans; and provide for meaningful public involvement of other Federal agencies, State and local government officials, both elected and appointed, and Indian tribes in the development of resource management plans, including early public notice of proposed decisions which may have a significant impact on non-Federal lands.

§ 1601.4–1 Coordination by the State Director.

State Directors' coordination shall include the following:

(a) State Directors shall coordinate with and seek advice from Federal agencies, State governments, and Indian tribes, to understand and consider their needs and concerns.

(b) To facilitate coordination with State government, State Directors shall seek written agreements with Governors or their designated representatives on procedural topics such as exchanging information, providing advice and participation, and time frames for receiving State government participation and review in a timely fashion. If an agreement is not reached the State Director shall provide opportunity for Governor and State agency review, advice, and suggestions on issues and topics that the State Director has reason to believe could affect or influence State government programs.

(c) Before issuing guidance to District Managers, in compliance with § 1601.1–1 of this title, the State Director shall:

(i) Ensure that it is as consistent as possible with existing officially adopted and approved resource related policies, plans or programs of other Federal agencies, State agencies and Indian tribes, and any local governments that may be affected, as prescribed by § 1601.4–3 of this title; and

(ii) Identify areas where the proposed guidance is inconsistent with such policies, plans or programs and provide reasons why the inconsistency exists and cannot be remedied; and

(iii) Notify the other Federal agencies, State agencies or Indian tribes with whom consistency is not achieved and indicate any appropriate methods, procedures, actions and/or programs which may lead to resolution of such inconsistencies.

§ 1601.4–2 Coordination by the District Manager.

District Manager's coordination shall include the following:

(a) The District Manager shall submit a notice of intent to prepare, amend or revise a resource management plan along with a general schedule of anticipated planning steps to the State Clearinghouse (OMB Circular A–95) for circulation among State agencies. This notice shall also be mailed to (1) concerned Federal agencies that have requested such notices, or that the District Manager has reason to believe would be concerned with the plan, (2) All Tribal Chairmen or Alaska Native Leaders to the extent Indian Reservations, Alaska Native Regional Corporations or Village Corporations are impacted, (3) the heads of county boards for the counties that are involved as well as the heads of any other local government units having zoning or other land use regulatory jurisdiction in the geographical area within which the public lands are located, (4) designated areawide clearinghouses, and (5) any other State or local government agencies which ask to be placed on such a mailing list. These notices shall be issued simultaneously with the public notices required under § 1601.3(g) of this title.

(b) Early data exchange, consultation, and coordination are encouraged to avoid duplication of data collected and to improve the information base for planning.

(c) Resource management plans shall be coordinated with other Federal agencies, State and local governments and Indian tribes. The plans shall be made as consistent as practicable with officially approved and adopted resource related policies, plans and programs of other Federal agencies, State and local governments and Indian tribes as prescribed in § 1601.4–3 of this title.

(d) Federal agencies, State and local governments, and Indian tribes shall have the time periods prescribed under § 1601.3(i) of this title for review and comment on resource management plan proposals. Should they notify the District Manager, in writing, of what they believe to be specific inconsistencies between the Bureau of Land Management resource management plan, and their plans, the resource management plan documentation shall show how those inconsistencies were addressed and if possible resolved.

(e) When an Advisory Council has been formed under section 309 of the Federal Land Policy and Management Act for the district in which the resource area is located, that council shall be informed and their views sought and considered throughout the resource management planning process.

§ 1601.4–3 Consistency requirements.

(a) Guidance and resource management plans shall be consistent with officially approved or adopted resource related plans of other Federal agencies, State and local governments and Indian tribes, so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal law and regulations applicable to public lands, including Federal and State pollution control laws as implemented by applicable Federal and State air, water, noise and other pollution standards or implementation plans.

(b) Guidance and resource management plans shall, to the extent practicable be consistent with officially approved and adopted resource related policies and programs of other Federal agencies, State and local governments and Indian tribes to the extent provided in Paragraph (a) of this Section so long as the guidance and resource management plans are consistent with Secretarial policies and programs. It is the Department's intent to be as consistent as practicable with State and local governmental and Indian tribal policies and programs.

(c) State Directors and District Managers shall, to the extent practicable, keep apprised of State and local governmental and Indian tribal policies, plans and programs, but they shall not be accountable for ensuring consistency if they have not been notified, in writing, by State and local governments or Indian tribes of an apparent inconsistency.

(d) Where State and local government policies, plans and programs differ, that of higher authority will normally be followed.

§ 1601.5 Resource management planning process.

In the preparation, or revision of a resource management plan and in evaluating its impact, a process including the following systematic set of interrelated actions shall be used. Some actions may occur simultaneously and it may be necessary to repeat an action as additional information becomes available. The environmental analysis requirements of the National Environmetal Policy Act shall be included in this process.

§ 1601.5–1 Identification of issues.

At the outset of the planning process, the public, other Federal agencies, State and local governments and Indian tribes shall be given an opportunity to suggest concerns, needs and resource use, development and protection opportunities for consideration in the preparation of the resource management plan. The District Manager shall analyze those suggestions, plus available district records of resource conditions, trends, needs and problems, and select topics to be addressed as issues during the planning process. This action shall be repeated as necessary during the planning process to incorporate new information. This action, plus the development of planning criteria (§ 1601.5–2) shall also comply with the scoping process required by 40 CFR 1501.7.

§ 1601.5–2 Development of planning criteria.

(a) *Purpose and use of criteria.* The District Manager shall prepare criteria to guide development of the resource management plan, or revision, to insure that it is tailored to the issues previously identified and to insure that unnecessary data collection and analyses are avoided. Proposed planning criteria, including any significant changes, shall be published for public comment prior to being approved by the District Manager for use in the planning process. Planning criteria shall be written and included in the draft and final plan. Planning criteria shall guide the collection and use of inventory data and information, the analysis of the management situation, the design and formulation of alternatives, and the estimate of effects of alternatives. Planning criteria shall be used to evaluate alternatives and to select one alternative to serve as the proposed resource management plan. Planning criteria may need to be changed as planning proceeds, based on public suggestions and findings of the various studies and assessments. A written, publically available record shall be made of any significant change in the criteria.

(b) *Basis for criteria.* Generally, planning criteria shall be based on:

(1) Laws, executives orders, and regulations;

(2) The principles cited under 1601.0–8 of these regulations;

(3) National and State Director guidance applicable to that resource area;

(4) The results of public participation and coordination with Federal agencies, State and local governments and Indian tribes;

(5) Analysis of data and information needs and related decision strategy in accordance with the following policy:

(i) Inventory data and other information collection shall be focused on that needed for topics to be addressed in the planning process; that needed to identify values which by legislation or national policy require special attention; and that needed to establish the condition and capability of the public land resource for consideration during both plan formulation and monitoring processes.

(ii) Inventory data and other information collection shall be pursued to the greatest extent possible within the constraints of budgets provided for such collection.

(iii) When time and funds for inventory data and other information collection are limited, and in developing budget proposals, priority shall be given to information and inventory data collection related to potential decisions with greatest impact and to which additional information and data would make the greatest difference.

(iv) When circumstances require that a planning decision be made, but there is insufficient inventory data or other information, the decision shall preserve future resource options and avoid irreversible commitments to the degree practicable. The plan and environmental impact statement documentation shall include a worst case analysis (see 40 CFR 1502.22) and an indication of the probability or improbability of its occurrence. The monitoring and evaluation standards and intervals prescribed by the plan shall be designed to minimize the risk of unacceptable results from plan implementation.

§ 1601.5–3 Inventory data and information collection.

The District Manager shall arrange for resource, environmental, social, economic, and institutional data and information to be collected, or assembled if already available, with pertinent maps, graphic material, and explanatory aids, as prescribed by planning criteria. Inventory data and information needs may vary as issues develop or change during the planning process.

§ 1601.5–4 Analysis of the management situation.

(a) The District manager shall analyze the management situation to determine the capability of the public land resources to respond to: Needs, concerns and opportunities identified through public participation and coordination with Federal agencies, State and local governments and Indian tribes; issues defined earlier in the planning process; and national and State Director guidance. Factors to consider may include, but are not limited to—

(1) The types of resource use and protection authorized by the Federal Land Policy and Management Act and other relevant legislation;

(2) Opportunities to meet goals and objectives defined in national and State Director guidance;

(3) Resource demand forecasts and analyses relevant to the resource area;

(4) The estimated sustained levels of the various goods, services and uses that may be attained under existing biological and physical conditions and under differing management practices and degrees of management intensity which are economically viable under benefit cost or cost effectiveness standards prescribed in national or State Director guidance;

(5) Specific requirements and constraints to achieve consistency with policies, plans, and programs of other Federal agencies, State and local government agencies and Indian tribes;

(6) Opportunties to resolve public issues and management concerns;

(7) Degree of local dependence on resources from public lands;

(8) The extent of coal lands which may be further considered under provisions of § 3420.2–3(a) of this title; and

(9) Critical threshold levels which should be considered in the formulation of plan alternatives.

(b) In all cases, the inventory data shall be analyzed to determine whether there are areas containing resources, values, systems or processes or hazards eligible for further consideration for designation as an ACEC. In order to be considered eligible, all 4 of the following criteria shall be met.

(1) *Relevance.* There shall be present a historic, cultural or scenic value; a fish or wildlife resource or other natural system or process; or natural hazard.

(2) *Importance.* The above described value, resource, system, process or hazard shall be important. This requires qualities of more-than-local significance and special worth, consequence, meaning, distinctiveness or cause for concern. A natural hazard can be important if it is a significant threat to human life or property.

(3) *Criticalness.* The qualities making the value, resource, system, process or hazard important are being subjected to decisive adverse change, such as through damage, reduction or other loss, or vulnerable to such adverse change unless special management attention is applied.

(4) *Protectability.* The value, resource, system or process shall be capable of being protected from decisive adverse change with the special management attention that can feasibly be applied. A natural hazard shall be of such a nature that the risk to human life or property it constitutes can, as a practicable matter, be reduced by special management attention that can feasibly be applied.

§ 1601.5–5 Formulation of alternatives.

Several complete, reasonable resource management alternatives shall be prepared for the resource area. One shall be for no action which means continuation of present levels or systems of resource use. The other alternatives shall provide a range of choices from those favoring resource protection to those favoring resource production. They shall reflect the variety of opinion and guidance applicable to the resource area. The total number of alternatives shall be limited to a manageable number for presentation and analysis by treating all reasonable variations as subalternatives. The plan shall note any alternatives identified and eliminated from detailed study and shall briefly discuss the reasons for their elimination.

§ 1601.5–6 Estimation of effects of alternatives.

The District Manager shall estimate and display the physical, biological, economic, and social effects of implementing each alternative. The estimate may be stated in terms of probable ranges, where effects cannot be precisely determined. The documentation shall include an indication of the reliability of the data and estimates involved. Estimation of effects shall be guided by planning criteria and shall comply with National Environmental Policy Act regulations, (40 CFR 1502.16).

§ 1601.5–7 Selection of preferred alternatives.

The District Manager shall evaluate the alternatives and their effects, according to the planning criteria, and develop a preferred alternative, based on information and analysis developed up to this point in the planning process, which shall best meet national and State Director guidance. The preferred alternative shall be incorporated into the draft plan and draft environmental impact statement. The resulting document shall be forwarded to the State Director for concurrence, publication and filing with the Environmental Protection Agency. This draft plan and environmental impact statement shall be provided to the Governor of the State involved in accordance with § 3420.2–6 of this title.

§ 1601.5–8 Selection of resource management plan.

After publication of the draft plan and draft environmental impact statement, the District Manager shall evaluate the comments received and select and recommend to the State Director, for review and concurrence, a proposed resource management plan and final environmental impact statement using current planning criteria developed pursuant to § 1601.5–2 of this title. If the proposed resource management plan is not within the range of the alternatives in the draft plan and draft environmental impact statement, and the environmental impact is significantly different, a new draft plan and draft environmental impact statement shall be prepared and filed. After review and concurrence in the proposed resource management plan, the State Director shall publish and file the plan and related environmental impact statement.

§ 1601.5–9 Monitoring and evaluation.

The District Manager shall establish intervals of not more than 5 years and standards for monitoring and evaluating the plans. Such intervals and standards shall be based on the sensitivity of the resource to the decisions involved and shall provide for evaluation to determine whether mitigation measures are satisfactory, whether any established threshold levels have been met or exceeded, whether there has been significant change in the related plans of other Federal agencies, State or local governments or Indian tribes, or whether there is new data of significance to the plan. The District Manager shall monitor and evaluate the plan in accordance with the established intervals and standards to determine whether there is sufficient cause to warrant amendment or revision of the plan. Monitoring and evaluation reports shall be written and available for public review.

§ 1601.6 Resource management plan approval use, and modification.

§ 1601.6–1 Resource management plan approval and administrative review.

(a) When the District Manager transmits the proposed resource management plan or revision to the State Director for review and concurrence, the State Director shall take either of the following actions, which shall be documented, in writing:

(1) Concur in the proposed plan, and return it to the District Manager for approval; or

(2) Refuse to concur in all or some aspect of the proposed plan. If concurrence cannot be granted, the proposed plan shall be returned to the District Manager with a written statement of reasons for nonconcurrence. The planning process shall be repeated as necessary to resolve the problems identified by the State Director.

(b) If the State Director considers an environmental value, resource, system or process within an area being proposed for ACEC designation to be of national or international significance, the State Director shall so advise the Director and provide reasons. If the Director makes such a finding, the Director may concur in the proposed designation. Subsequently, no plan, amendment or revision that adversely affects the ACEC can be made without the concurrence of the Director.

(c) Upon receipt of concurrence from the State Director, and no earlier than 30 days after the State Director files the final environmental impact statement, and subsequent to final action on any protest that may be filed, the District Manager shall approve the plan. Approval shall be withheld on any

portion of a plan or amendment being protested until final action has been completed on such protest. Before such approval is given, there shall be public notice and opportunity for public comment on any significant change made to the proposed plan. The approval shall be documented in a concise public record of the decision, meeting the requirements of regulations for the National Environmental Policy Act (40 CFR 1505.2).

(d) Any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may raise only those issues which were submitted for the record to the District Manager during the planning process.

(1) The protest shall be in writing and shall be filed with the State Director in the State where the area covered by the plan or amendment is located. The protest shall be filed within 30 days of the date the Environmental Protection Agency published the notice of receipt of the final environmental impact statement containing the plan or amendment in the **Federal Register**. For an amendment not requiring the preparation of an environmental impact statement, the protest shall be filed within 30 days of the publication of the notice of its effective date.

(2) The protest shall contain:

(i) The name, mailing address, telephone number and interest of the person filing the protest;

(ii) A statement of the issue or issues being protested;

(iii) A statement of the part or parts of the plan or amendment being protested;

(iv) A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and

(v) A short, concise statement explaining why the District Manager's decision is wrong.

(3) The State Director shall promptly render a decision on the protest. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the protesting party by certified mail, return receipt requested.

(e) The decision of the State Director, as it relates to any issue that cannot, upon the issuance of a decision, be appealed under Part 4 of this title or any other protest procedure provided for in this title, may be protested to the Director within 30 days of receipt of the State Director's decision by a protesting party adversely affected by said decision.

(1) The protest shall contain:

(i) The name, mailing address, telephone number and interest of the person filing the protest; and

(ii) A short, concise statement explaining why the State Director's decision is wrong.

(2) The Director shall, within 30 days of receipt of the protest, review the protest and notify the protesting party whether supervisory authority to review the protest shall be exercised. If supervisory authority is not exercised, the decision of the State Director shall become the final decision of the Department of the Interior. If the Director notifies the protesting party that supervisory authority to review is being exercised, a decision shall be promptly rendered on the protest. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the protesting party by certified mail, return receipt requested.

(3) The decision of the Director shall be the final decision of the Department of the Interior.

§ 1601.6–2 Conformity and implementation.

(a) After a plan is approved or amended, and if otherwise authorized by law, regulation, contract, permit, cooperative agreement or other instrument of occupancy and use, the District Manager shall take appropriate measures to make operations and activities under existing permits, contracts, cooperative agreements or other instruments for occupancy and use, conform to the approved plan or amendment within a reasonable period of time.

(b) In addition, subsequent more detailed or specific planning, and all future resource management authorizations and actions, as well as budget or other action proposals to higher levels in the Bureau of Land Management and Department, shall conform to the plan.

(c) Any person adversely affected by a specific action being proposed to implement some portion of a resource management plan or amendment may appeal such action pursuant to 43 CFR 4.400.

§ 1601.6–3 Changing the resource management plan.

(a) *Maintenance.*—Resource management plans and supporting components shall be maintained as necessary to reflect minor changes in data. Such maintenance may include further refining, constraining or documenting a previously approved decision incorporated in the plan. Updating and maintenance shall not result in expansion in the scope of the resource use or its location in the resource area, from that prescribed in an approved plan. Maintenance is not considered a plan amendment and shall not require the formal public involvement and interagency coordination process described under §§ 1601.3 and .4 of this title or the preparation of environmental assessments or environmental impact statements.

(b) *Amendment.*—A resource management plan may be changed through amendment. An amendment is initiated by the need to consider monitoring and evaluation findings, new data, new or revised policy, a change in circumstances or an applicant's proposed action, which may result in a significant change in a portion of the approved plan. An amendment shall be made through an environmental assessment, public involvement as prescribed in § 1601.3 of this title, interagency coordination and consistency determinations as prescribed in § 1601.4 of this title and any other data or analysis that may be appropriate. In all cases, the impact of the amendment on the plan shall be evaluated. If the amendment is being considered in response to an applicant's proposal, the analysis required for the proposal and for the amendment may occur simultaneously.

(1) If the environmental assessment does not disclose significant impact and if the amendment does not adversely affect a value, resource, system or process within an ACEC in which the Director has concurred in the designation, a finding of no significant impact may be made by the District Manager. The District Manager shall then make a recommendation on the amendment to the State Director for concurrence, and upon concurrence, the District Manager shall issue a public notice of the action taken on the amendment. If the amendment is approved, it may be implemented 30 days after such notice.

(2) If the amendment would adversely affect a value, resource, system or process within an ACEC in which the Director has concurred in the designation, or if a decision is made to prepare an environmental impact statement, the amending process shall follow the same procedure required for the preparation and approval of the plan, but limited to that portion of the plan being considered for amendment. If

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several plans are being amended simultaneously, a single environmental impact statement may be prepared to cover all amendments.

(c) *Revisions.* A resource management plan shall be revised at least every 10 years, based on monitoring and evaluation findings, new data, new or revised policy and changes in circumstances affecting the entire plan or major portions of the plan. Revisions shall comply with all of the requirements of these regulations for preparing and approving an original resource management plan.

§ 1601.6–4 Situations where action can be taken based on another agency's plan, or a land use analysis.

These regulations authorize the preparation of a resource management plan for whatever public land interests exist in a given land area. There are situations of mixed ownership where the public land estate is under non-Federal surface, or mixed administration where the public land administration is shared by the Bureau of Land Management with another Federal agency. The following provisions authorize the District Manager to use the plans of other agencies or a land use analysis when split or shared estate conditions exist.

(a) Another agency's plan (Federal, State or local) may be used as a basis for an action only if it is comprehensive and has considered the public land interest involved in a way comparable to the manner in which it would have been considered in a resource management plan, including the opportunity for public participation.

(b) After evaluation and review, the Bureau of Land Management may adopt another agency's plan for continued use as a resource management plan if an agreement is reached between the Bureau of Land Management and the other agency to provide for maintenance and amendment of the plan, as necessary, to comply with law and policy applicable to public lands.

(c) A land use analysis may be used to consider a coal lease when there is no Federal ownership interest in the surface or when coal resources are insufficient to justify plan preparation costs. The land use analysis process, as authorized by the Federal Coal Leasing Amendments Act consists of an environmental assessment or impact statement, public participation as required by § 1601.3 of this title, the consultation and consistency determinations required by § 1601.4 of this title, the protest procedure prescribed by § 1601.6–1 of this title and a decision on the coal lease proposal. A land use analysis meets the land use planning requirements of section 202 of the Federal Land Policy and Management Act. The decision to approve the land use analysis and lease coal is made by the Departmental official who has been delegated the authority to issue coal leases.

§ 1601.6–5 Management decision review by Congress.

The Federal Land Policy and Management Act requires that any Bureau of Land Management management decision, or action pursuant to a management decision, which totally eliminates one or more principal or major uses for two or more years with respect to a tract of 100,000 acres or more, shall be reported by the Secretary to Congress before it can be implemented. This report shall not be required prior to approval of a resource management plan which, if fully or partially implemented would result in such an elimination. The required report shall be submitted as the first action step in implementing that portion of a resource management plan which would require elimination of such a use.

§ 1601.6–6 Designation of areas unsuitable for surface mining.

(a)(1) The resource management planning process is the chief process by which public land is reviewed to assess whether there are areas unsuitable for surface coal mining operations under section 522(b) of the Surface Mining Control and Reclamation Act. Criteria for this assessment are found in § 3461.2 of this title.

(2) When petitions to designate land unsuitable under section 522(c) of the Surface Mining Control and Reclamation Act are referred to the Bureau of Land Management for comment, the resource management plan, if available, shall be the basis for comment. Formal designation of land as unsuitable is a function of the Office of Surface Mining Reclamation and Enforcement under the provisions of 30 CFR Subpart 769.

(3) In approving a resource management plan in which land is assessed unsuitable, the District Manager shall:

(i) Condition any leasing of the area for coal development; or

(ii) After approving a resource management plan, take all necessary steps to initiate the withdrawal of the land from leasing for coal development.

The District Manager shall petition the Office of Surface Mining Reclamation and Enforcement to designate the area as unsuitable under 30 CFR Subpart 769 where the land assessed as being unsuitable is covered by a coal lease on which operations are not exempted or excepted from the relevant criterion.

(b)(1) The resource management planning process is the chief process by which public land is reviewed for designation as unsuitable for entry or leasing for mining operations for minerals and materials other than coal under section 601 of the Surface Mining Control and Reclamation Act.

(2) When petitions to designate land unsuitable under section 601 of the Surface Mining Control and Reclamation Act are received by the Bureau of Land Management, the resource plan, if available, shall be the basis for determination for designation.

(3) In approving a resource management plan in which land is designated unsuitable, the District Manager shall: (i) Condition any entry or leasing of the area for mining operations for minerals or materials other than coal; or (ii) after approving a resource management plan, take all necessary steps to initiate the withdrawal of the land from entry or leasing for mining operations for minerals or materials other than coal.

§ 1601.6–7 Designation of Areas of Critical Environmental Concern.

Areas having potential for ACEC designation and protective management shall be identified and considered throughout the planning process (See §§ 1601.5–1 through 1601.5–9). Approval of a resource management plan constitutes formal designation of any ACECs involved.

§ 1601.7 Combined resource management plan and related environmental impact statement content and documentation.

§ 1601.7–1 Process records.

Records pertaining to the analysis and conclusions reached by the District Manager and staff throughout the planning and environmental analysis process shall be maintained. Such records shall provide the basis for the draft and final environmental impact statements and the development of, revision, or amendment to, the resource management plan. Such records shall be kept filed together and shall be available, on request, for public review.

§ 1601.7–2 Authority annotations.

The resource management plan and alternatives shall be annotated to show:

(a) Portions that may be implemented pursuant to authority delegated to the State Director.

(b) Portions that are not within the State Directors delegated authority and the organizational unit or officer that has such authority.

§ 1601.7–3 Plan and Environmental Impact Statement document.

There shall be a single document (in separate volumes, if necessary) in a standard format serving as both a resource management plan and environmental impact statement. It shall contain at least:

(a) A brief description of the major issues and management concerns;

(b) The planning criteria used in its preparation;

(c) Descriptions and appropriate maps of the area covered;

(d) Goals, objectives and other direction from national policy, State Director guidance, and public participation;

(e) Details of the plan, including items (1) through (8) from the definition of the term "resource management plan" (see § 1601.0–6(n)). This portion of the plan may be organized into separate discrete sections which comprehensively cover major issues or topics so that the reader is able to find all relevant conclusions about an issue or topic. In all cases where an ACEC or coal is involved, there shall be discrete sections which provide—

(1) An identification of each designated ACEC, including the name, purpose and objective of designation, a description of environmental resources or hazards involved together with an evaluation of their relevance, importance, criticalness and protectability, and their special management requirements.

(2) An identification of high and medium value coal areas, indicating those lands acceptable for further consideration for coal leasing and how the Departmental unsuitable criteria were applied (see §§ 3420.2–3 and 3461 of this title).

(f) Alternatives considered;

(g) Alternatives eliminated from study and a brief discussion of the reasons;

(h) An analysis of the environmental impacts of the proposed plan and alternatives considered;

(i) Reasons for the alternative selected and, when it differs from the environmentally preferred alternative, the environmentally preferred alternative shall be identified as required by 40 CFR 1505.2(b);

(j) Relationship between the proposed plan and policies, plans, and programs of other Federal agencies, State and local government plans, Indian Tribes, including documentation required on consistency issues;

(k) List of preparers, together with their qualifications, as prescribed by 40 CFR 1502.17;

(l) Signature of concurring and approving officers; and

(m) Appropriate references to information used in development of the resource management plan.

§ 1601.8 Transition period.

(a) All management framework plans in the process of being prepared at the time these regulations are issued shall be reviewed, and the Director shall establish those portions of these regulations which are to be used in the completion of those plans, given time and budgetary constraints established through Federal budgets and legally mandated schedules. This determination shall be made and published in the planning schedule which is to be published early in fiscal year 1980 (see § 1601.3(a)).

(b) Until management framework plans, existing or in preparation, are superseded by resource management plans, proposed actions may be considered on the basis of these existing management framework plans as follows:

(1) The management framework plan shall be in compliance with the principle of multiple use and sustained yield and shall have been developed with public participation and governmental coordination, but not necessarily precisely as prescribed by §§ 1601.3 and 1601.4 of this title.

(2) Proposed actions which have been or are being discussed in court ordered management framework plan based environmental statements (e.g., range and timber management actions) may be given further consideration 30 days after the filing of the relevant environmental impact statement; and these regulations do not require any subsequent analysis or process.

(3) For proposed actions other than those described in paragraph (b)(2) of this section, determination shall be made by the District Manager whether the proposed action is in conformance with the management framework plan. Such determination shall be in writing and shall explain the reasons for the determination.

(i) If the proposed action is in conformance, it may be further considered for decision under procedure applicable to that type of action, including requirements of regulations for implementing the procedural provisions of the National Environmental Policy Act in 40 CFR 1500–1508.

(ii) If the proposed action is not in conformance with the management framework plan, or if the management framework plan does not meet the requirements of paragraph (b)(1) of this section, and if the proposed action warrants further favorable consideration before a resource management plan is scheduled for preparation, such consideration shall be through a management framework plan amendment using the provisions of § 1601.6–3(b) of this title.

(c) If an action is proposed by an applicant where public lands are not covered by a management framework plan, an environmental analysis and an environmental impact statement, if necessary, plus any other data and analysis necessary to make an informed decision shall be used to assess the impacts of the proposal and to provide a basis for a decision on the proposal.

[FR Doc. 79–24280 Filed 8–6–79; 8:45 am]
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federal register

Tuesday
August 7, 1979

Part III

Department of the Interior

Geological Survey

Outer Continental Shelf (OCS) Oil and Gas Information Program; Final Rule

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DEPARTMENT OF THE INTERIOR
Geological Survey

30 CFR Part 252

Outer Continental Shelf (OCS) Oil and Gas Information Program

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Final rule.

SUMMARY: Issuance of this rule incorporates the modifications of 30 CFR Part 252 required by enactment of the Outer Continental Shelf (OCS) Lands Act Amendments of 1978 (92 Stat. 629). A proposed rule was published January 17, 1979 (44 FR 3524). The proposed rule described new procedures and, to the extent required, modifications of existing practices and procedures under which the Director of the Geological Survey makes certain information available to the Governors of affected States. Issuance of this final rule puts these practices and procedures into effect in compliance with the requirements and limitations of the provisions of the Freedom of Information Act (5 U.S.C. 552), the OCS Lands Act Amendments of 1978 (43 U.S.C. 1352), and other applicable law.

EFFECTIVE DATE: October 9, 1979.

ADDRESSES: A copy of this final rule may be obtained from the following offices of the Geological Survey:

Director, Geological Survey, National Center—Mail Stop 620, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Conservation Manager—Eastern Region, 1725 K Street, NW., Suite 204, Washington, D.C. 20006.

Conservation Manager—Gulf of Mexico Region, 336 Imperial Office Building, P.O. Box 7944, Metairie, Louisiana 70010.

Conservation Manager—Western Region, 345 Middlefield Road, Menlo Park, California 94025.

Area Oil and Gas Supervisor—Pacific Area, 1340 West Sixth Street, Room 160, Los Angeles, California 90017.

Area Oil and Gas Supervisor—Alaska Area, 800 "A" Street, Suite 109, Anchorage, Alaska 99501.

FOR FURTHER INFORMATION CONTACT:
Gerald D. Rhodes, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 620, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 860–7531.

SUPPLEMENTARY INFORMATION:

Background

Regulations establishing practices and procedures under which the Director, Geological Survey, would make available Summary Reports of data and information to the Governors of affected States were published as final rules on January 27, 1978 (43 FR 3887). Those practices and procedures were set out in a new Part 252 of Title 30 of the Code of Federal Regulations entitled "Outer Continental Shelf (OCS) Oil and Gas Information Program." On September 18, 1978, the OCS Lands Act Amendments of 1978 were enacted (Pub. L. 95–372). Certain provisions of those Amendments (43 U.S.C. 1352) superseded the practices and procedures established by the current regulations in 30 CFR Part 252 and necessitated their revision. Proposed modifications of 30 CFR Part 252 were published as proposed rules on January 17, 1979 (44 FR 3524). The notice of proposed rulemaking identified the most significant revisions being proposed as the expansion of the scope of the information covered by the provisions of § 252.5, "Information made available to affected States," and the addition of a new § 252.7 entitled "Privileged and proprietary data and information to be made available to affected States."

Comments

A total of 37 comments and recommendations were timely submitted in response to the invitation contained in the notice of proposed rule published January 17, 1979. The comments and recommendations varied widely as to their nature, scope, and content. Some were general in nature, while others were detailed and specific as to the recommended actions for the Department to initiate.

Respondents did not limit their comments to the proposed modifications of 30 CFR Part 252. Many of the comments reflected views expressed when the current provisions of the regulations governing the Outer Continental Shelf Oil and Gas Information Program were initially published as proposed rules on September 26, 1977 (42 FR 48893). The 37 responses that were timely submitted presented the views of 2 private citizens, 3 special interest groups, 7 State and local government agencies, and 25 oil and gas companies and trade organizations.

Public Hearings

Oral testimony relating to the proposed revisions of 30 CFR Part 252 was also taken in addition to the written comments and recommendations invited by the notice of proposed rule. This oral testimony was taken at public hearings held in Los Angeles, California; New Orleans, Louisiana; and Washington, D.C.

Differences Between Proposed Rule and Final Rule

For the most part, the differences between the provisions of the final rule published today and the proposed rule published January 17, 1979, are the results of Departmental efforts to make the provisions of the final rule more closely conform with the provisions and intent of the OCS Lands Act, as amended, with special attention to the specific provisions and intent of section 26 of the Act (43 U.S.C. 1352). This closer conformance was accomplished through the incorporation of many of the comments and recommendations received from the public.

Discussion of Major Comments

General Comment

Need for Regulatory Analysis. Several respondents indicated a belief that implementation of the regulations, as proposed, represents a significant regulatory action that, pursuant to Executive Order 12044, requires preparation of a regulatory analysis. Prior to the publication of the modifications of 30 CFR Part 252, the Geological Survey prepared a Negative Declaration and Regulatory Analysis. That document examined the criteria for determining that a revision of regulations is a significant regulatory action requiring preparation of a regulatory analysis under Executive Order 12044. That review resulted in a determination that the proposed revision of 30 CFR Part 252 to implement the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372) did not constitute a regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044.

A review of that determination and the comments submitted by respondents failed to identify a basis or criteria which demonstrated any error in the previous negative determination or to justify any change in that determination. We, therefore, reaffirm our earlier finding that a regulatory analysis is called for by the criteria set out in Executive Order 12044.

Section-by-Section Discussion

Section 252.1 Purpose

No specific comment or recommendation was received concerning the provisions of § 252.1. However, comments and recommendations concerning specific provisions of other sections of Part 252 suggested the need to expand the language to § 252.1 to recognize the specific requirements of section 26 of the

OCS Lands Act, as amended (43 U.S.C. 1352), as the primary motivation for the revision of the provisions of Part 252. Accordingly, the first sentence of § 252.1 has been divided into two sentences which read:

> The purpose of this part is to implement the provisions of section 26 of the Act (43 U.S.C. 1352). This part supplements the procedures and requirements contained * * *.

Section 252.2 Definitions

Several respondents recommended that the definition of "affected State" be more tightly defined. Adoption of the definition of "affected State" proposed by notice in the **Federal Register** of June 7, 1978 (43 FR 24710), was recommended by some respondents. We have not adopted this recommendation. The answer to the question of whether a State is an affected State under the criteria established under section 2(f) of the OCS Lands Act, as amended, depends upon the proposed OCS activities and the location and significance of onshore activities relating to those OCS activities. No further action will be taken to finalize the notice published June 7, 1978, at 43 FR 24710 which tentatively identified "affected States." The identification of "affected States" will be determined on a case-by-case basis by the Director or the Director's designee.

A number of respondents requested the development of a definition for "affected local government" and a revision in the proposed definition of "area adjacent to a State."

The new definition of "affected local government" reflects the congressional intent to provide Governors of affected States with a degree of discretion in the identification of affected local governments. The new definition of "area adjacent to a State" was taken from paragraph 4(a)(2) of the OCS Lands Act.

We have adopted the suggestion of one respondent by expanding § 252.2(l) and (m) to recognize that "cross sections" as well as maps are a common form in which "interpreted geological information" and "interpreted geophysical information" are presented.

Section 252.3 Oil and Gas Data and Information to be Provided for Use in the OCS Oil and Gas Information Program

A number of respondents indicated that the protection afforded to permittees and lessees under the provisions of section 26(a)(1)(B) must also be applicable to interpretations of geological and geophysical information submitted under the requirements of 30 CFR Part 250, and that the provisions of § 252.3(a) should be broadened to more closely track the language of the Act. We have adopted this recommendation.

One respondent suggested that § 252.3(a) be modified to require that copies of the data, information, interpretations, etc., be provided to the Director on a regular and timely basis. This recommendation has not been adopted. We believe that these regulations, when read in conjunction with the ongoing programs of the Geological Survey, provide the Director continuous and timely access to the data and information needed to protect the national interest and to carry out the Survey's programmatic responsibilities without undue burden on either the Director's staff or the industry. If all data and information were required to be routinely submitted to the Director, the volume of unnecessary data and information that would be submitted would inundate the offices of the Geological Survey. Incorporation of such a requirement in the regulations in Part 252 would also require the Geological Survey to reimburse the lessees or permittees for the unneeded data and information. The flood of unneeded data and information would severely strain the funds that the Survey has available for obtaining needed data and information and to carry out its responsibilities.

A number of respondents suggested simplification of the language of § 252.3(b). This recommendation has not been adopted. The suggested language failed to distinguish between data or information provided by a lessee or a permittee for use in the OCS Oil and Gas Information Program; the data or information provided by lessees to meet obligations under their leases and the requirements of 30 CFR Part 250; and data and information provided by permittees as an obligation of their permits and the requirements of 30 CFR Part 251. The language of § 252.3(b) has been modified to more clearly indicate that reimbursement for data and information will be made only when reimbursement is requested by a lessee or permittee.

One respondent recommended that the regulations clearly state that the processing work of a lessee or permittee would take precedence over a request for data and information by the Director. This suggestion has not been adopted. The inclusion of such a provision could effectively preclude the Director from timely receiving needed data or information.

Several respondents expressed concern that the requirements of § 252.3(c) would not allow sufficient time for the lessee or permittee to comply with a request for data or information. Several alternative provisions were suggested that would relax the strict requirement for compliance within 30 days. It was recognized that a situation may develop that would preclude a lessee or permittee from providing requested data or information within 30 days. Subsection 252.3(c) has been modified to permit the Director to authorize a compliance time greater than 30 days when such action is warranted.

A number of respondents recommended that § 252.3(d) be modified to assure that permittees and lessees are afforded an opportunity to object before the Director exercises the right to disclose data and information to an independent contractor for processing. Several also recommended tighter contractual constraints on the uses that an independent contractor could make of the data or information so acquired. The principal concern expressed was the desire to assure the protection of the competitive position of lessees and permittees who provide data and information to the Director. New language has been incorporated into the regulations to address these concerns. The modified language requires the Director to notify, when practicable, the lessee or permittee who provided the data or information of the intent to disclose that data or information to an independent contractor or agent. It also affords the permittee or lessee a period of not less than 5 working days within which to provide the Director with comments on the intended action. Under the modified language the contractor is prohibited from making any use of the data or information other than that provided in the contract for reproduction, processing, reprocessing, or interpretation of the data or information. It also provides that contracts between the Geological Survey and independent contractors will be available to the lessee or permittee for inspection. The new language makes it clear that unauthorized "use" of data or information is on a par with unauthorized disclosure.

The respondents who suggested simplification of § 252.3(b) also suggested that the provisions of § 252.3(e) be simplified. This suggestion has not been adopted because the language of the provision proposed by the respondent does not adequately address the various contingencies set forth in section 26(a)(1)(C) of the Act.

Another respondent recommended that the reimbursement provisions of § 252.3(e) include the costs of a lessee or permittee that are due to special security measures used by the lessee or permittee to protect the confidential nature of data or information requested for use in the OCS Oil and Gas Information Program. This suggestion has not been adopted. The security practices and procedures which a lessee or permittee employs are a private matter and cannot be permitted to increase the Government's costs of obtaining information. In the event the security practices and procedures which a lessee or permittee uses to protect data or information from disclosure results in the increased cost for compliance with the controlling regulations, that cost is properly borne by the lessee or permittee.

Subsection 252.3(e) also drew a number of comments from respondents who recommended that a time limit be placed upon the subsequent sale of information which could trigger a refund to the United States. Those recommendations have been adopted. Paragraphs 252.3(e)(1) and (4) have also been modified to require that requests for reimbursement be made within 60 days of the delivery of data or information requested for use in the OCS Oil and Gas Information Program. The request for reimbursement must include a breakdown of the costs to allow identification of reproduction costs, processing costs, and reprocessing costs.

Section 252.4 Summary Report to Affected States

Several respondents pointed out that section 26(b)(2) of the Act, as amended (43 U.S.C. 1352), described the Summary Report as a summary designed to assist in planning for "onshore" impacts of offshore oil and gas activities. These respondents recommended deletion of the references to planning for the "nearshore" impacts (§ 252.4(a)) and the inclusion of the general location of "nearshore" facilities (paragraph 252.4(a)(4)). We have adopted this recommendation to the extent that we have deleted the reference to planning for the "nearshore" impacts found in the first sentence of § 252.4(a) to more closely track the language of the law. We retained the reference to "nearshore" facilities in § 252.4(a)(4) to reflect that the Summary Report will contain information relating to oil and gas facilities located nearshore. Information regarding nearshore facilities is necessary to assist States and local governments in their planning processes.

The second sentence of § 252.4(a) has been modified to reflect the progress made since Part 252 was issued in January 1978. The new language also reflects the fact that the nature, scope, content, and timing of Summary Reports are subject to change. The modified language recognizes a continuing need for the Director to consult with affected States and other interested parties to review and revise, as appropriate, the nature, scope, content, and timing of Summary Reports.

Several respondents suggested that the listing of those with whom the Director may consult should specifically include permittees and lessees. This suggestion was not adopted. The phrase "other interested parties" includes permittees and lessees.

A number of respondents expressed the belief that the provisions of § 252.4(a) do not adequately reflect the protection of data and information from disclosure provided in section 26(d)(1)(B) of the Act. This concern has been addressed by the addition of specific language which indicates that Summary Reports are not to contain data or information which would unduly damage the competitive position of the lessee or permittee who provided the data or information.

Two respondents recommended that § 252.4(a) be modified to show that the Summary Report will be made available "to affected State agencies designated by the Governor." This change has not been adopted. The provision "* * * shall make available to affected States * * *" does not limit the availability of the Summary Report. The Summary Report is to be available to agencies of State and local governments and is to be publicly obtainable by interested parties on an equal basis.

One respondent suggested incorporation of Summary Reports into the Secretary's Annual Report to Congress and that § 252.4(a)(1) be modified to require the inclusion of information on the sulphur content of oil together with a breakdown of gas resources on the basis of unassociated gas and gas associated with oil. These recommendations have not been adopted. Congress did not indicate a wish to have Summary Reports included as part of the Annual Report required under section 15 of the Act, and the information maintained on resources does not include an estimate of the sulphur content of oil or a breakdown showing volumes of gas associated with oil and unassociated gas.

A respondent's recommendation that § 252.4(a)(1) be modified to show that Summary Reports will include data and information on areas which the Secretary "has leased" has been adopted to better track the language of the statute.

The recommendation that § 252.4(a)(1) be modified to require identification of the most promising oil-bearing structures has not been adopted. The identification of "promising" structures would be highly speculative at best.

Another respondent's recommendation that § 252.4(a)(2) be expanded to include the magnitude and timing of exploration activities was not adopted. Plans for exploration activities are extremely fluid by nature. A timetable of exploration activities prepared for inclusion in a Summary Report would be out of date before it could be used effectively in a State or local government's planning process.

A respondent's recommendation that § 252.4(a)(3) be modified to list tankers as a means of transportation has been adopted. However the term "vessels" was used instead of "tankers" to better conform to the language of the Act.

The recommendation that a new § 252.4(a)(5) be added to require the inclusion of a discussion of labor requirements and employment has not been adopted. This information will be provided to affected States in the environmental reports submitted in accordance with the requirements of 30 CFR 254.34.

One respondent's recommendation that § 252.4(b) be modified to require issuance and revision of Summary Reports on a specified timetable has not been adopted. Subsection 252.4(a) makes it clear that Summary Reports may *vary* as to nature, scope, content, and *timing*. Thus there will not be a specific single timetable for updating all Summary Reports.

Section 252.5 Information to be Available to Affected States

Section 252.5 has been revised to conform to the provisions of 43 CFR 3300.2. This change is intended to eliminate confusion regarding the nature of the index of information, i.e., the index is a single document prepared jointly by the Bureau of Land Management and the Geological Survey. The modified section also incorporates modifications adopted in response to comments and recommendations received from interested parties.

The recommendation that the regulations indicate that the Geological Survey will disclose the identity of

parties making tract nominations when release of that information would not compromise the parties' competitive positions has not been adopted. The regulations in 30 CFR Part 252 relate to the portion of the OCS Oil and Gas Information Program that is administered by the Geological Survey. The information relating to the identity of parties making nominations is subject to the control of the Bureau of Land Management. Release of that information is properly governed by regulations in 43 CFR Part 3300.

The recommendation that the index be made available on a semiannual basis to agencies designated by the governors of affected States has not been adopted. The index of information will be available to those agencies and others on a continuing basis.

A number of respondents recommended that § 252.5 be expanded to include provisions protecting data and information from disclosure when disclosure would unduly damage the competitive position of the lessee or permittee. This recommendation has not been adopted because the index will not contain privileged or proprietary data or information. However, since a new § 252.5(b) has been added under which recipients of the index can request copies of any information listed in the index, language has been added to indicate that privileged and proprietary data and information shall not be provided.

The recommendation that agencies other than the Geological Survey be listed in § 252.5 has not been adopted. The development and maintenance of the index is a time consuming and difficult task that the the Department has undertaken without an increase in staffing or funding. The Department of the Interior cannot commit itself to the preparation of an all-inclusive listing of documents produced by and available through other elements of the Federal Government such as EPA, NOAA, and OCZM.

Section 252.6 Freedom of Information Act Requirements

Proposed § 252.6 has been modified only to the extent necessary to adopt a respondent's recommendation that the Director make data and information available in accordance with the requirements and "subject to the limitations" of the Freedom of Information Act (5 U.S.C. 552).

A number of respondents recommended that § 252.6 be modified in ways that would give lessees and permittees more control over disclosure of information. these recommendations have not been adopted. The Director must be able to effectively and efficiently carry out the responsibilities placed on Federal officials by the Freedom of Information Act.

Section 252.7 Privileged and Proprietary Data and Information To Be Made Available to Affected States

Many respondents recommended that the provisions of § 252.7(a)(1) which incorporate provisions of section 8(g) of the Act be incorporated into the regulations governing Oil and Gas and Sulphur operations in the Outer Continental Shelf (30 CFR Part 250) and Geological and Geophysical (G & G) Exploration of the OCS (30 CFR Part 251). The adoption of these recommendations results in the transfer of the provisions of § 252.7(a)(1) (i) and (ii) to Parts 250 and 251 and the identification of § 252.7(a)(1)(iii) as § 252.7(a). The text of § 252.7(a) has been modified to track the language of the Act (section 26(d)(2)—43 U.S.C. 1352). This change is intended to clarify the mandate of the Act that no "inspection shall take place prior to the sale of *a lease* covering *the area* in which such activity was conducted." This language more clearly specifies the constraints on a State official's right to inspect or have access to privileged information.

Two respondents recommended that § 252.7(a) be modified to allow the Governor of an affected State to designate more than one State official to inspect privileged or proprietary data or information. These recommendations have not been adopted. Section 26(d)(2) of the Act (43 U.S.C. 1352) clearly indicates that "* * * the Governor of any affected State may designate *an* appropriate State official to inspect * * * privileged information." The nature of the penalties placed on unauthorized disclosure of proprietary information by a State or Federal official demonstates Congress' intent that data and information made available for inspection by officials of affected States is to be made available in a manner which provides protection for the confidentiality of such information.

Many respondents pointed out that the special privilege allowing the Governor of an affected State the opportunity to designate an appropriate State official to inspect privileged or proprietary data or information does not carry with it the right or privilege to transmit or physically receive copies of such data or information without the consent of the lessee or permittee who provided the data or information. Subparagraphs 252.7(a)(2) (i) and (ii) state that no privileged or proprietary data or information will be transmitted to any affected State unless the lessee or permittee who provided the privileged or proprietary data or information agrees in writing to the transmittal of the data or information.

One respondent recommended that the Director be required to give notice to lessees and permittees before privileged or proprietary data or information is released to a Governor's designee. This recommendation has not been adopted. The right to inspect does not carry with it a right to reproduce or copy. In those instances under Part 252 where data or information will be transmitted pursuant to § 252.7(a)(4), the lessees and/or permittees will have consented to the transmittal of the data or information.

A number of respondents recommended the addition of a requirement that a Governor obtain an opinion from the State's Attorney General that, under the State's law, the Governor is authorized to enter into the written agreement called for in § 252.7(a)(3), and that such an agreement will be binding upon the State and its employees. This recommendation has not been adopted. It will be the responsibility of the Department of the Interior's Solicitor to assure that each agreement between the Department of the Interior and a Governor of an affected State provides the required assurances mandated by Congress for the protection of privileged and proprietary data and information.

One respondent recommended that the regulations governing the OCS Information Program should clearly provide that proprietary and confidential information deleted from OCS exploration plans and development and production plans will be available for State inspection. That respondent also recommended that State coastal zone management agency officials be accorded special access to that information. These recommendations have not been adopted. An appropriate State official may inspect the deleted information relating to leased areas in areas adjacent to the State pursuant to section 26(d)(2) of the Act. The law does not permit recognition of a special right of inspection in a State's coastal zone management agency. The Governor may designate an official of the State's coastal zone management agency as the State's authorized official to inspect privileged and proprietary data and information pursuant to subsection 26(d)(2) of the Act.

Finally, a respondent recommended that § 252.7(b) be expanded to

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incorporate an opportunity for a lessee or permittee to seek remedial action at the agency level in lieu of requiring the lessee or permittee to proceed directly into the courts. This recommendation has not been adopted. The Department knows of no intermediate remedial action that is available to a lessee or permittee once privileged or proprietary data or information has been revealed.

Authors

Thomas McCloskey, Office of the Assistant Secretary—Energy and Minerals, U.S. Department of the Interior (202/343–4457); and Gerald D. Rhodes, Geological Survey, U.S. Department of the Interior (703/860–7531).

Environmental Impact and Regulatory Analysis

The Department of the Interior has determined that the revision of the regulations in 30 CFR Part 252, in accordance with this notice, is not a major Federal action significantly affecting the quality of the human environment and will not require preparation of an environmental impact statement. The Department has also determined that this notice of final rule does not require preparation of a regulatory analysis under Executive Order 12044 and implementing regulations 43 CFR Part 2.

Dated: July 25, 1979.

Joan M. Davenport,

Assistant Secretary of the Interior.

30 CFR Part 252 is revised to read:

PART 252—OUTER CONTINENTAL SHELF (OCS) OIL AND GAS INFORMATION PROGRAM

Sec.

252.1 Purpose.
252.2 Definitions.
252.3 Oil and gas data and information to be provided for use in the OCS Oil and Gas Information Program.
252.4 Summary Report to affected States.
252.5 Information to be made available to affected States.
252.6 Freedom of Information Act requirements.
252.7 Privileged and proprietary data and information to be made available to affected States.

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., as amended, Pub. L. 95–372; Freedom of Information Act (5 U.S.C. 552).

§ 252.1 Purpose.

The purpose of this part is to implement the provisions of section 26 of the Act (43 U.S.C. 1352). This part supplements the procedures and requirements contained in parts 250 and 251 of this chapter and provides procedures and requirements for the submission of oil and gas data and information resulting from exploration, development, and production operations on the Outer Continental Shelf (OCS) to the Director, Geological Survey. In addition, this part establishes procedures for the Director to make available certain information to the Governors of affected States and, upon request, to the executives of affected local governments in accordance with the provisions of the Freedom of Information Act and the Act.

§ 252.2 Definitions.

When used in the regulations in this part, the following terms shall have the meanings given below:

(a) "Act" refers to the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.).

(b) "Affected local government" means the principal governing body of a locality which is in an affected State and is identified by the Governor of that State as a locality which will be significantly affected by oil and gas activities on the OCS.

(c) "Affected State" means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of the Act, any State:

(1) The laws of which are declared, pursuant to section 4(a)(2)(A) of the Act, to be the law of the United States for the portion of the OCS on which such activity is, or is proposed to be, conducted;

(2) Which is, or is proposed to be, directly connected by transportation facilities to any artificial island or installations and other devices permanently, or temporarily attached to the seabed;

(3) Which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the OCS and transported directly to such State by means of vessels or by a combination of means including vessels;

(4) Which is designated by the Director as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the OCS; or

(5) In which the Director finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities.

(d) "Analyzed geological information" means data collected under a permit or a lease which have been analyzed. Analysis may include, but is not limited to, identification of lithologic and fossil content, core analyses, laboratory analyses of physical and chemical properties, logs or charts of electrical, radioactive, sonic, and other well logs, and descriptions of hydrocarbon shows or hazardous conditions.

(e) "Area adjacent to a State" means that portion of the OCS which would be within the area of a State if the State's boundaries were extended seaward to the outer margin of the OCS.

(f) "Data" means facts and statistics or samples which have not been analyzed or processed.

(g) "Development" means those activities which take place following discovery of oil or natural gas in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the oil and gas discovered.

(h) "Director" means the Director of the Geological Survey of the U.S. Department of the Interior or a designee of the Director.

(i) "Exploration" means the process of searching for oil and natural gas, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such oil or natural gas, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production.

(j) "Governor" means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to a Governor pursuant to the Act.

(k) "Information," when used without a qualifying adjective, includes analyzed geological information, processed geophysical information, interpreted geological information, and interpreted geophysical information.

(l) "Interpreted geological information" means knowledge, often in the form of schematic cross sections and maps, developed by determining the geological significance of data and analyzed geological information.

(m) "Interpreted geophysical information" means knowledge, often in the form of schematic cross sections and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

(n) "Lease" means any form of authorization which is issued under section 8 or maintained under section 6 of the Act and which authorizes exploration for, and development and production of, oil or natural gas, or the land covered by such authorization, whichever is required by the context.

(o) "Lessee" means the party authorized by a lease, or an approved assignment thereof, to explore for and develop and produce the leased deposits in accordance with the regulations in Part 250 of this chapter, including all parties holding such authority by or through the lessee.

(p) "Outer Continental Shelf (OCS)" means all submerged lands which lie seaward and outside of the area of lands beneath navigable waters as defined in the Submerged Lands Act (67 Stat. 29) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(q) "Permittee" means the party authorized by a permit issued pursuant to Part 251 of this chapter to conduct activities on the OCS.

(r) "Processed geophysical information" means data collected under a permit or a lease which have been processed. Processing involves changing the form of data so as to facilitate interpretation. Processsing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements.

(s) "Production" means those activities which take place after the successful completion of any means for the removal of oil or natural gas, including such removal, field operations, transfer of oil or natural gas to shore, operation monitoring, maintenance, and workover drilling.

(t) "Secretary" means the Secretary of the Interior or a designee of the Secretary.

§ 252.3 Oil and gas data and information to be provided for use in the OCS Oil and Gas Information Program.

(a) Any permittee or lessee engaging in the activities of exploration for, or development and production of, oil and gas on the OCS shall provide the Director access to all data and information obtained or developed as a result of such activities, including geological data, geophysical data, analyzed geological information, processed and reprocessed geophysical information, interpreted geophysical information, and interpreted geological information. Copies of these data and information and any interpretation of these data and information shall be provided to the Director upon request. No permittee or lessee submitting an interpretation of data or information, where such interpretation has been submitted in good faith, shall be held responsible for any consequence of the use of or reliance upon such interpretation.

(b)(1) Whenever a lessee provides any data or information, at the request of the Director and specifically for use in the OCS Oil and Gas Information Program, in a form and manner of processing which is utilized by the lessee in the normal conduct of business, the Director shall pay the reasonable cost of reproducing the data and information if the lessee requests reimbursement. The cost shall be computed and paid in accordance with the applicable provisions of paragraph (e)(1) of this section.

(2) Whenever a permittee provides any data or information, at the request of the Director and specifically for use in the OCS Oil and Gas Information Program, in a form and manner of processing utilized by the permittee in the normal conduct of business, the Director shall pay the permittee the reasonable cost of reproducing the requested data and information if the permittee requests reimbursement. The Director shall pay, at the lowest rate available to any purchaser for processing the requested data and information, the costs attributable to such processing. The cost is to be computed and paid in accordance with the applicable provisions of paragraph (e)(3) of this section.

(3) Whenever a lessee or permittee provides any data or information, at the request of the Director and specifically for use in the OCS Oil and Gas Information Program, in a form and manner of processing not normally utilized by the lessee or permittee in the normal conduct of business, the Director shall pay the lessee or permittee, if the lessee or permittee requests reimbursement, the reasonable cost of processing and reproducing the requested data and information. The cost is to be computed and paid in accordance with the applicable provisions of paragraph (e)(2) of this section.

(c) Data or information requested by the Director shall be provided as soon as practicable, but not later than 30 days following receipt of the Director's request, unless, for good reason, the Director authorizes a longer time period for the submission of the requested data or information.

(d) The Director reserves the right to disclose any data or information acquired from a lessee or permittee to an independent contractor or agent for the purpose of reproducing, processing, reprocessing, or interpreting such data or information. When practicable, the Director shall notify the lessee(s) or permittee(s) who provided the data or information of the intent to disclose the data or information to an independent contractor or agent. The Director's notice of intent will afford the permittee(s) or lessee(s) a period of not less than 5 working days within which to comment on the intended action. When the Director so notifies a lessee or permittee of the intent to disclose data or information to an independent contractor or agent, all other owners of such data or information shall be deemed to have been notified of the Director's intent. Prior to any such disclosure, the contractor or agent shall be required to execute a written commitment not to disclose any data or information to anyone without the express consent of the Director, and not to make any disclosure or use of the data or information other than that provided in the contract. Contracts between the Geological Survey and independent contractors shall be available to the lessee(s) or permittee(s) for inspection. In the event of any unauthorized use or disclosure of data or information by the contractor or agent, or by an employee thereof, the responsible contractor or agent or employee thereof shall be liable for penalties pursuant to section 24 of the Act.

(e)(1) After delivery of data or information in accordance with paragraph (b)(1) of this section, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee shall be reimbursed for the cost of reproducing the data or information at the lessee's lowest rate or at the lowest commercial rate established in the area, whichever is less. Requests for reimbursement must be made within 60 days of the delivery date of the data or

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information requested under paragraph (b)(1) of this section.

(2) After delivery of data or information in accordance with paragraph (b)(3) of this section, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee or permittee shall be reimbursed for the cost of processing or reprocessing and of reproducing the requested data or information. Requests for reimbursement must be made within 60 days of the delivery date of the data or information and shall be for only the costs attributable to processing or reprocessing and reproducing, as distinguished from the costs of data acquisition.

(3) After delivery of data or information in accordance with paragraph (b)(2) of this section, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the permittee shall be reimbursed for the reasonable costs attributable to reproducing the data and information and, also, for processing or reprocessing costs at the lowest rate at which the processed or reprocessed information is made available by the permittee to any purchaser. The permittee shall be reimbursed on the basis of the maximum discount rate offered by the permittee with respect to the requested data or information regardless of the quantity of data or information requested by the Director. The permittee shall refund to the United States any amount paid by the United States in excess of the amount paid by any other purchaser of the same processed information, unless the lower amount is paid by a purchaser in connection with a subsequent purchase made more than 2 years after the date that the data or information was delivered to the Director.

(4) Requests for reimbursement are to contain a breakdown of costs in sufficient detail to allow separation of reproduction, processing, and reprocessing costs from acquisition and other costs.

(f) Each Federal Department or Agency shall provide the Director with any data which it has obtained pursuant to section 11 of the Act and any other information which may be necessary or useful to assist the Director in carrying out the provisions of the Act.

§ 252.4 Summary Report to affected States.

(a) The Director, as soon as practicable after analysis, interpretation, and compilation of oil and gas data and information developed by the Geological Survey or furnished by lessees, permittees, or other government agencies, shall make available to affected States and, upon request, to the executive of any affected local government, a Summary Report of data and information designed to assist them in planning for the onshore impacts of potential OCS oil and gas development and production. The Director shall consult with affected States and other interested parties to define the nature, scope, content, and timing of the Summary Report. The Director may consult with affected States and other interested parties regarding subsequent revisions in the definition of the nature, scope, content, and timing of the Summary Report. The Summary Report shall not contain data or information which the Director determines is exempt from disclosure in accordance with this part. The Summary Report shall not contain data or information the release of which the Director determines would unduly damage the competitive position of the lessee or permittee who provided the data or information which the Director has processed, analyzed, or interpreted during the development of the Summary Report. The Summary Report shall include:

(1) Estimates of oil and gas reserves; estimates of the oil and gas resources that may be found within areas which the Secretary has leased or plans to offer for lease; and when available, projected rates and volumes of oil and gas to be produced from leased areas;

(2) Magnitude of the approximate projections and timing of development, if and when oil or gas, or both, is discovered;

(3) Methods of transportation to be used, including vessels and pipelines and approximate location of routes to be followed; and

(4) General location and nature of near-shore and onshore facilities expected to be utilized.

(b) When the Director determines that significant changes have occurred in the information contained in a Summary Report, the Director shall prepare and make available the new or revised information to each affected State, and, upon request, to the executive of any affected local government.

§ 252.5 Information to be made available to affected States.

(a) The Director in conjunction with the Director of the Bureau of Land Management shall prepare an index of OCS information (see 43 CFR 3300.2). The index shall list all relevant actual or proposed programs, plans, reports, environmental impact statements, nominations information, environmental study reports, lease sale information, and any similar type of relevant information, including modifications, comments, and revisions prepared or directly obtained by the Director under the Act. The index shall be sent to affected States and, upon request, to any affected local government. The public shall be informed of the availability of the index.

(b) Upon request, the Director shall transmit to affected States, affected local governments, and the public a copy of any information listed in the index which is subject to the control of the Geological Survey, in accordance with the requirements and subject to the limitations of the Freedom of Information Act (5 U.S.C. 552) and implementing regulations. The Director shall not transmit or make available any information which he determines is exempt from disclosure in accordance with this part.

§ 252.6 Freedom of Information Act requirements.

(a) The Director shall make data and information available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (5 U.S.C. 552), the regulations contained in 43 CFR Part 2 (Records and Testimony), the requirements of the Act, and the regulations contained in 30 CFR Part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf) and 30 CFR Part 251 (Geological and Geophysical Explorations of the Outer Continental Shelf).

(b) Except as provided in § 252.7 or in Parts 250 and 251 of this chapter, no data or information determined by the director to be exempt from public disclosure under paragraph (a) of this section shall be provided to any affected State or be made available to the executive of any affected local government or to the public unless the lessee, or the permittee and all persons to whom such permittee has sold such data or information under promise of confidentiality, agree to such action.

§ 252.7 Privileged and proprietary data and information to be made available to affected States.

(a)(1) The Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Director shall designate, any privileged or proprietary data or information received by the Director regarding any activity in an area adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted.

(2)(i) Except as provided for in 30 CFR 250.4 and 251.14, no privileged or proprietary data or information will be transmitted to any affected State unless the lessee who provided the privileged or proprietary data or information agrees in writing to the transmittal of the data or information.

(ii) Except as provided for in 30 CFR 250.4 and 251.14, no privileged or proprietary data or information will be transmitted to any affected State unless the permittee and all persons to whom the permittee has sold the data or information under promise of confidentiality agree in writing to the transmittal of the data or information.

(3) Knowledge obtained by a State official who inspects data or information under paragraph (a)(1) or who receives data or information under paragraph (a)(2) of this section shall be subject to the requirements and limitations of the Freedom of Information Act (5 U.S.C. 552), the regulations contained in 43 CFR Part 2 (Records and Testimony), the Act (92 Stat. 629), the regulations contained in 30 CFR Part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf), the regulations contained in 30 CFR Part 251 (Geological and Geophysical Explorations of the Outer Continental Shelf), and the regulations contained in this Part 252 (Outer Continental Shelf Oil and Gas Information Program).

(4) Prior to the transmittal of any privileged or proprietary data or information to any State, or the grant of access to a State official to such data or information, the Secretary shall enter into a written agreement with the Governor of the State in accordance with section 26(e) of the Act (43 U.S.C. 1352). In that agreement the State shall agree, as a condition precedent to receiving or being granted access to such data or information to: (i) protect and maintain the confidentiality of privileged or proprietary data and information in accordance with the laws and regulations listed in paragraph (a)(3) of this section; (ii) waive the defenses as set forth in paragraph (b)(2) of this section; and (iii) hold the United States harmless from any violations of the agreement to protect the confidentiality of privileged or proprietary data or information by the State or its employees or contractors.

(b)(1) Whenever any employee of the Federal Government or of any State reveals in violation of the Act or of the provisions of the regulations implementing the Act, privileged or proprietary data or information obtained pursuant to the regulations in this chapter, the lessee or permittee who supplied such information to the Director or any other Federal official, and any person to whom such lessee or permittee has sold such data or information under the promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be. Any Federal or State employee who is found guilty of failure to comply with any of the requirements of this section shall be subject to the penalties described in section 24 of the Act (43 U.S.C. 1350).

(2) In any action commenced against the Federal Government or a State pursuant to paragraph (b)(1) of this section, the Federal Government or such State, as the case may be, may not raise as a defense any claim of sovereign immunity, or any claim that the employee who revealed the privileged or proprietary data or information which is the basis of such suit was acting outside the scope of the person's employment in revealing such data or information.

(c)If the Director finds that any State cannot or does not comply with the conditions described in the agreement entered into pursuant to paragraph (a)(4) of this section, the Director shall thereafter withhold transmittal and deny access for inspection of privileged or proprietary data or information to such State until the Director finds that such State can and will comply with those conditions.

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Tuesday
August 7, 1979

Part IV

Environmental Protection Agency

Proposed Regulations for Registration of Pesticides by States to Meet Special Local Needs

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 162]

[OPP-3003A; FRL 1237-3]

Proposed Regulations for Registraton of Pesticides by States to Meet Special Local Needs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes rules for the registration of pesticides by the States to meet special local needs, as authorized by sections 24(c) and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended [FIFRA] (sections 22 and 23, Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136 *et seq.*).This proposed rule would clarify the scope of the authority granted to the States by the statute, describe registration procedures for EPA's exercise of its statutory power to disapprove certain State and registrations and to suspend State registration authority.

DATE: Comments must be received on or before September 6, 1979.

ADDRESSES: Interested persons are invited to participate in this proposed rulemaking by submitting written comments to the Document Control Officer, ATTN: Pesticides, Chemical Information Division, (TS-793), Office of Toxic Substances, Office of Pesticide Programs, EPA, Rm. E447, 401 M St., S.W., Washington, D.C. 20460. Comments should be filed in triplicate if possible, and should bear the identifying notation "OPP-30003A." All written comments filed will be available for public inspection from 8:30 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), at the above address.

FOR FURTHER INFORMATION CONTACT: P. H. Gray Jr., Section 24(c) Working Group Leader, (TS-770-M), Office of Pesticide Programs, EPA, 401 St., S.W., Washington, D.C. 20460, 202-472-9400.

SUPPLEMENTARY INFORMATION: These rules are being proposed under the authority of sections 24(c) and 25(a)(1) of FIFRA and will be designated as §§ 162.150-162.155, Subpart B, Part 162, Title 40 of the Code of Federal Regulations. Subpart A of Part 162 establishes procedures and criteria for the registration of pesticides under section 3 of FIFRA.

The rules proposed as Subpart B are offered in lieu of the proposed rules establishing the interim section 24(c) program published on September 3, 1975 (40 FR 40536). When promulgated, these new rules will also replace the transitional section 24(c) policy statement signed on October 5, 1978, by the Deputy Assistant Administrator for Pesticide Programs.

Background

On September 30, 1978, the Federal Pesticide Act of 1978 (Pub. L. 95-396, 92 Stat. 819) amending the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA) went into effect. The many changes made in FIFRA by Pub. L. 95-396 are described in another notice published in the Federal Register on January 19, 1979 (44 FR 4352).

Among the sections of FIFRA which were substantially modified is section 24(c) (section 2 of Pub. L. 95-396), which authorizes the States to register "additional uses of federally registered pesticides . . . to meet special local needs". To a significant degree, amendments to section 24(c) broaden State authority to issue such registrations, while they correspondingly limit EPA's authority over the State registration process. For example, the former requirement that States obtain certification from EPA prior to registering pesticides has been eliminated, and registration authority has been given directly to the States. Also, EPA's former broad authority to disapprove specific State registrations is now subject to certain express procedural and substantive restrictions. Nevertheless, EPA retains the ultimate responsibility for ensuring that the States act in accord with the purposes of FIFRA and for preventing unreasonable adverse effects on the environment. Implementation of this new relationship, therefore, requires close cooperation between EPA and the States.

This redistribution of authority necessitated the complete and immediate revision of the "Interim" program established by EPA in 1975 to implement the original version of section 24(c), including the proposed regulations accompanying the "Interim" program [40 FR 40438-40545 (September 3, 1975)]. Since regulations required to carry out the amended section could not be promulgated for some time, and since the need for States to register pesticides was continuous and substantial, EPA determined that the necessary revision must first appear in the form of a policy statement.

Accordingly, on October 25, 1978, after substantial public participation, the Deputy Assistant Administrator for Pesticide Programs, EPA, signed into effect a temporary transitional policy for implementing the amended section 24(c). [See Attachment.] This policy was written to serve as a guide to the States, to registrants, and to other interested parties, until such time as regulations under section 24(c) could be promulgated.

Discussion of Major Provisions and Issues

Definitions

The definitions contained in FIFRA and in 40 CFR 162.3 of the rules for registration under Section 3 of FIFRA also apply to proposed § 162.151. Several definitions are provided for new terms, such as "similar composition" and "similar use pattern" which differ somewhat from the meaning given them in the transitional policy statement. "Similar composition" now refers to a State registered product which has the same active ingredients, and is in the same toxicity category, as the federally registered product to which it is compared. The term no longer requires that active ingredients be in the same percentages as the federally registered product, or that the formulation type be the same.

"Similar use pattern" continues to be interpreted broadly and is now defined simply as a pesticide use which is substantially similar to, and which does not require different precautionary labeling than, the federally registered uses to which it is compared. Changed use patterns, as defined in 40 CFR 162.3(k), are not considered similar use patterns. EPA wishes to point out that a change in precautionary labeling, incorporated by a State in supplemental labeling under section 24(c) in response to local conditions, rather than because the federal labeling standards require such a change, does not necessarily mean that the State registered use is not "similar" to a federally registered use.

Although EPA has responded to comments from State officials concerned about the above definitions, it should also be pointed out that these terms do not limit the scope of State registration authority. States have as much authority to issue registrations which are not similar to federal registration as they do to issue registrations which are similar. Rather, these terms primarily concern EPA's authority to disapprove State registrations.

In addition, EPA is proposing a definition of "special local need." This definition is included in response to comments received from State officials and other persons who feel that there must be some sort of guidance for States in order that the states may determine whether a special local need exists. On the other hand, several persons commented that the States should have the responsibility to decide whether a given situation constitutes a special local need, and must have a substantial degree of discretion in order to do so effectively. Accordingly, EPA's proposed definition will meet this legitimate concern. The definition in § 162.151(j) requires that an actual pest problem exist in the State, which cannot be effectively controlled by an appropriate federally registered product. However, the definition clearly leaves the State free to decide whether such a problem actually exists, and whether any federally registered products are appropriate and available, based on information obtained. Such information may include expert opinion based on facts observed by a qualified expert employed or consulted by the State. However, a testimonial opinion given without explanation of its factual basis is not sufficient in itself to support a finding of a special local need.

The proposed definition of "federally registered," § 162.151(a), is slightly different from the meaning of that term as used during the Interim section 24(c) program. As now defined, the term includes only current registrations initially issued by the Administrator under section 3 of FIFRA, as amended, 7 U.S.C. 136a, or by the Administrator or the Secretary of Agriculture under section 4 of the FIFRA of 1947, 7 U.S.C. 135b.

Finally, the term "manufacturing-use product" is also defined in the proposed rule. This term merely refers to the use of technical grade products in the formulation of end use products, and is used in § 162.152(c) to help describe the scope of State registration authority.

State Registration Authority

Several persons who read the transitional policy statement commented that the statement did not clearly describe the types of registrations which States may issue under section 24(c)(1). EPA has considered at length these and other comments, as well as the language of, and Congressional intent behind, section 24(c)(1). EPA has concluded that the statutory language authorizing State registrations of "additional uses of Federally registered pesticides" clearly authorizes registration of additional uses of pesticide products currently registered by EPA under section 3 of FIFRA. On the other hand, there is some question as to whether section 24(c)(1) also authorizes State registration of *new* pesticide products. A strict interpretation of the statutory language might indicate that States are not authorized to issue any registration for a product not currently registered by EPA. However, EPA believes that Congress did not intend to limit the States in this manner. Such an interpretation would prevent the States from issuing new product registrations which they were authorized to issue under the original section 24(c). This result would be inconsistent with Congress' general intent to broaden State registration authority under the amended section. In addition, the legislative history of the section 24(c) amendments contains several references to State registration of "pesticides" which indicate that Congress intended to give the States authority to register some new products.

Accordingly, proposed § 162.152(b)(2) indicates that States are authorized to register many types of new products, as under the Interim section 24(c) program. Proposed § 162.152(b)(2)(ii)(C) points out, however, that section 24(c)(1) only authorizes States to register products formulated with ingredients found in Federally registered products, i.e., products registered under section 24(c) cannot contain new chemicals.

Section 162.152(b)(2)(iii) clarifies that States are not authorized to register new technical grade products. This provision is necessitated by the language of section 24(c)(1) which limits State authority to registration of pesticides "formulated for distribution and use within that State * * *" That language means that products, or uses, registered by a State must be for end use within the State. In addition, if States were authorized to register technical grade materials, registrants could then easily use section 24(c) as a means to avoid the requirements of section 3(c)(1)(D) [data use compensation], thereby negating the purpose and intent of the latter section. Since FIFRA must be construed as whole, it is necessary to interpret section 24(c) in a manner consistent with section 3(c)(1)(D), and not in a manner which would upset the section 3(c)(1)(D) program. Therefore, technical grade materials, which are formulated solely for use in the manufacture of other products, are not covered by the statutory grant of authority.

It has also been suggested that section 24(c)(1) was intended to limit State authority to registration of products formulated only from federally registered technical grade materials. This suggestion would bar State registrants from producing technical grade materials for their own use in manufacturing State registered end use products, unless they had first obtained a Federal registration for the technical grade product. This interpretation would be consistent with the purpose and intent of section 3(c)(2)(D), and with EPA's policy of preventing contamination of end use products by checking technical grade materials for impurities. EPA encourages the public to comment on this issue and will respond to such comments when the final section 24(c) regulations are published.

Proposed § 162.152(b) also clarifies the prohibition in section 24(c)(1) against State registrations involving products for which registration of some uses has been denied, disapproved, or cancelled by the administrator. EPA interprets this prohibition as extending implicitly to cases where Federal registration has been suspended by EPA, and as applying equally to registrations of both new products and amendments to Federal registrations. EPA also believes that the statute authorizes registration of any use of a product for which registration has not been specifically denied, disapproved, suspended, or cancelled. However, to ensure close cooperation by the States and EPA in carrying out their joint duty to prevent the registration of a use of a product which could cause an imminent hazard to man or the evironment, proposed § 162.152(b) requires States to consult with EPA prior to issuing registrations for some uses of products subject to partial denial, disapproval, suspension, or cancellation.

On this same topic, it has been suggested that the prohibition or limitations on State registration involving cancelled Federal registrations should expressly exclude voluntary cancellations by the registrant, unless the voluntary cancellation occurs subsequent to an EPA notice of intent to cancel. EPA also encourages public comment on this important issue.

Paragraph (a) in § 162.152 lists the conditions which section 24(c) expressly requires each State registration to meet in order for it to be considered valid under FIFRA. These include the conditions that a special local need for the registration exist; that clearances under the Federal Food, Drug, and Cosmetic Act [FFDCA] have been granted, if the pesticide is used on food or feed; and that registration for use of the product has not been denied, disapproved, or cancelled; and that the State registration is otherwise consistent with FIFRA. Clearances or tolerances for residues on food or feed under FFDCA must have been granted for all active and inert ingredients in the product, as well as all metabolites and by-products created by the product.

In addition, it should be noted that tolerances under the FFDCA are based on data from specific use patterns which are described in the products' labeling. When any of the usage parameters (e.g., dosage, frequency or timing of application, preharvest intervals) is changed, the level of the resulting residues may also change. In some cases, these changes could result in residues exceeding the tolerance level established for that pesticide. In such cases, the registration would be considered invalid under § 162.152 of the proposed rule, and, in addition, any contaminated food or feed would be subject to seizure and destruction under section 402(a)(2) of the FFDCA. Therefore, when a State is considering registration of a pesticide for a use different from any use of that pesticide for which a tolerance has been established, the State should evaluate residue data for the new use pattern. If the data evaluated indicates above-tolerance residues would result, then the registration should not be issued. If it is nonetheless, it will be considered invalid by EPA under FIFRA.

Proposed § 162.152(c) discusses the effect which a State registration has under FIFRA. It points out that valid State registrations are equivalent to registrations issued by EPA for all purposes under FIFRA. For example, registrations under section 24(c) are subject to section 6 [suspension and cancellation] and 13 [Stop-sale, use, removal, and seizure orders] of FIFRA. On the other hand, section 24(c) registrations are not subject to those provisions of section 3 of FIFRA which apply only to applications for registration under section 3 [e.g., exclusive data use and data compensation]. This is because the language in section 24(c)(1) equating valid State registrations to Federal registrations clearly does not apply to mere applications for State registration, but only to registrations actually issued. Therefore, only those provisions of FIFRA which come into play after issuance of a Federal registration will be applicable to registrations under section 24(c). In addition, the data use and compensation provisions of section 3(c)(1)(D), by their own terms, apply only to applicants for registration by EPA.

Finally, paragraph (c) makes it clear that States are free to impose time limits on, or revoke or suspend, parallel State law registrations issued by them, as permitted by State law. Such actions will, for all practical purposes, effectively limit or terminate the registration within that State, even though they do not automatically affect the technical validity of the FIFRA registration for purposes of Federal law. However, if the State action is based on health, safety, environmental, or other substantial concerns, EPA will, in consultation with the State, take appropriate action under FIFRA. Such action may include suspension or cancellation of the registration under section 6 of FIFRA.

State Registration Procedures

Proposed § 162.153 describes registration procedures which States must follow in issuing registrations under section 24(c). EPA believes that the procedures described in § 162.153 represent the minimal requirements which, as experience under the Interim program has shown, are necessary to enable States to prevent the registration of products, and uses thereof, which would be harmful to man or the environment. Such procedures must be followed in order for EPA and the States to be able to work in an informed and effective manner as partners in the regulation of pesticide use.

Proposed § 162.153(a) outlines the basic information which must accompany every application for registration under section 24(c). This includes a copy of all draft labeling for State review. However, as requested by several commenters, and in accordance with practices followed under the Interim programs, labeling for proposed amendments to Federal registrations may be satisfied by submission of the labeling from the federally registered product, together with supplemental labeling meeting the criteria of proposed § 162.153(e)(3).

In keeping with Congress' intent to broaden State responsibility under section 24(c), proposed § 162.153(b) gives States discretion to decide whether a special local need (as defined in § 162.151) exists for a proposed registration. Section 162.153(b) does, however, describe two situations which a State may consider as not involving a special local need, based on language contained in the December 1978 Report of the State-Federal Issues Research and Evaluation Group [SFIREG] Working Committee on Registration and Classification. In any case, however, States must take special care to prevent section 24(c) from being used by registrants to circumvent the requirements of section 3.

Proposed § 162.153(c) would require States to conduct hazard reviews before issuing registrations for certain products or uses in situations which might involve the creation of unreasonable adverse effects on the environment, including registration of products with compositions or uses never registered by EPA. Both § 162.153(c) and § 162.153(d) [efficacy reviews] require the States to base their determinations on data and criteria equivalent to those used by EPA in making hazard and efficacy decisions under section 3 of FIFRA. To this end, § 162.153 (c) and (d) [incorporate by reference provisions] of 40 CFR Parts 162 and 163, regulations and guidelines issued under section 3. EPA notes that additional, more specific, information on hazard and efficacy reviews will be contained in new guidelines to be added to Part 163. If those guidelines are promulgated before this rule, the references in § 162.153 (c) and (d) will be modified accordingly.

Proposed § 162.153(d) differs from the Interim proposed rules of 1975 in that it would require States to determine the efficacy of a product, or use thereof, only when it is intended for registration for a use which could adversely affect the public health should the product not prove efficacious. This includes applications for each product bearing a claim to control organisms that threaten human health, either directly or through transmittal of diseases, such as: antimicrobial agents for control of hazardous microorganisms infectious to man; formulations for control of vertebrates that may transmit disease to man; and products intended to control mosquitos, cockroaches, fleas, ticks, lice, biting flies, houseflies, poisonous spiders, fire ants, hornets, wasps, bedbugs, scorpions, centipedes, or aflatoxin-producing fungi. This more limited requirement is consistent with EPA's current policy for dealing with new registrations under section 3 of FIFRA. However, EPA realizes that many States may wish to, or are required to, make efficacy determinations for all applications. EPA encourages such States to do so, especially since section 3(c)(5) of FIFRA also implicitly encourages such a procedure by establishing a presumption that the Administrator will waive efficacy data under section 3(c) whenever a State has found a product to be efficacious.

Proposed § 162.153(e) specifies in more detail than the proposed 1975 rules what the labeling for section 24(c) registrations must contain. In general, the labeling must meet the requirements of federally approved labeling under 40 CFR 162.10. Information to be contained in supplemental labeling for amendments to federal registrations represents the minimum information needed to ensure safe use of the product

should the supplemental labeling be inadvertently separated from the original federally approved labeling. [EPA emphasizes, however, that both supplemental and original labeling for such products *must*, under section 12 of FIFRA, accompany the product at the time of use.] In addition, the section makes allowances for States exercising their power to impose additional restrictions on pesticide use, by permitting the addition of new precautions and restrictions on supplemental labeling for any State registered product.

Proposed § 162.153(g) specifies situations in which a State must classify a product or use as a restricted use pesticide. In general, this must be done when the registration is for a product similar to a federally restricted use pesticide, or for an additional use of a federally restricted use pesticide. Of course, States have the discretion to restrict, or not to restrict, any product or use not specifically required to be restricted by this rule. However, since valid registrations issued under section 24(c) are considered "federal registrations" under FIFRA, any action by EPA to restrict a pesticide use will automatically apply to all valid registrations previously issued under section 24(c) for that pesticide [see 43 FR 5782]. In such a case, EPA will have the responsibility for notifying the affected section 24(c) registrants of the classification and for ensuring that the labeling of the pesticides reflects the restriction [see 40 CFR 162.11(d) and 162.30 (c)(3) and (d)]. Of course, in all such cases, EPA will communicate directly with affected States in order that the States may take any necessary action under State law consistent with the EPA decision.

Consistent with previous agreements between EPA and representatives of the States, § 162.153(h) requires states to notify EPA of each registration or amendment or revocation thereof. In addition, under proposed § 162.153(h)(4), EPA may request States to submit data used by the State in making a determination under § 162.153(c) that a registration will not cause an imminent hazard in cases involving new products with new compositions, or new uses for a federally registered product subject to denial, disapproval, suspension, or cancellation by EPA, or subject to a notice of intent to deny, disapprove, suspend, or cancel. Such information will be needed by EPA to ensure that the registration does not involve an imminent hazard or a violation of the Federal Food, Drug, and Cosmetic Act. However, it has also been suggested that § 162.153(h)(2) should be expanded to allow EPA to request hazard data from the States in every case in which a State is required by § 162.153(c) to make a hazard determination. In effect, this would mean expanding § 162.153(h)(2) to include cases where the State has registered a new use of a product not similar to any federally registered use of that same product or of a product with a similar composition. In some such cases, hazard data might be essential to EPA in determining whether an imminent hazard exists. EPA invites the public to comment on this suggestion.

Section § 162.153(i) requires the Administrator to publish in the **Federal Register** periodic summaries of State registrations. This requirement is inserted at the request of State officials who believe that such a procedure is needed to enable the States to keep abreast of section 24(c) actions across the nation. EPA acknowledges this need and encourages States to take advantage of this procedure, when it is implemented, so that States may observe whether a particular registration has been issued by other States on an interregional or nationwide basis.

Disapproval of State Registrations

Proposed § 162.154 specifies grounds and procedures for the exercise of EPA's authority to disapprove individual State registrations issued in violation of FIFRA or of Subpart B. As pointed out earlier, the scope of EPA's authority generally depends on whether the State registration involves a product with composition and use pattern similar to a federal registered product. If the State registered product is a "similar product", EPA cannot disapprove the registration unless it would create an imminent hazard or violate the Federal Food, Drug, and Cosmetic Act requirements for use on food or feed. If the State registered product is not similar, in either composition or use pattern, to the federally registered product, then EPA may disapprove the State registration on any reasonable grounds.

Disapproval of State registrations is, of course, not the same as refusal, suspension, or cancellation of registrations under sections 3 and 6 of FIFRA. Therefore, holders of disapproved State registrations are not subject to the indemnity provisions of section 15 of FIFRA.

Procedures for disapproval include a requirement for prior written notification to, and consultation with, the registering State in all cases except those involving an imminent hazard or a violation of the Federal Food, Drug, and Cosmetic Act. In those two situations, the administrator is authorized by section 24(c) to disapprove a registration immediately. However, in such cases, EPA intends to follow the procedures for prior written notification and consultation with the State whenever possible. In addition, even in those few cases where such procedure must be omitted because of the imminence of potential harm, EPA will give the registering state informal notice of the disapproval prior to publication of the formal notice of disprroval. Furthermore, in such a case the proposed rule provides for subsequent consultation, on request, with the State.

Other procedures contained in proposed § 162.154 also offer the States a full measure of participation in the disapproval process. Except in those cases where immediate disapproval is authorized and appropriate, EPA will provide the States with a prior notice of *intent* to disapprove, specifying grounds therefor, and inviting the State to consult with EPA officials. Similarly, before rescinding a previously issued disapproval notice, EPA will consult with the affected State as to the advisability of such an action. EPA hopes that the States will take full advantage of these opportunities to cooperate with EPA in the exercise of this important function.

Finally, proposed § 162.154(c) provides that all procedures for disapproving a State registration, or amendment thereto, must be completed within 90 days of the registration action (or within 90 days of EPA's receipt of notification of the State action if such notice is delayed beyond the ten days allowed by § 162.153(h)), except in those cases involving an imminent hazard or a violation of the FFDCA. EPA interprets the 90 day limitation imposed by section 24(c) as not applying to these two types of disapprovals since the apparent purpose of the 90 day period is to allow EPA enough time to comply with procedural requirements which are not applicable to such disapprovals.

Suspension of State Authority

Proposed § 162.155 specifies grounds and procedures for suspension of State registration authority. Suspension may be imposed under section 24(c)(4) if a State lacks "adequate controls", or fails to exercise adequate controls, over its registration program. The statute directs EPA to specify by regulation what it considers to be "adequate controls". Accordingly, § 162.155(b) describes what EPA considers to be the minimal personnel resources, procedures, and legal authorities necessary for a State to

implement a registration program which "assures that State registration[s] . . . will be in accord with the purposes of" FIFRA, but which accords the State maximum flexibility in designing their programs.

Section 162.155(b) also provides for a flexible response by EPA should a State prove unable to maintain a completely adequate program. This paragraph will permit the Administrator to suspend that part of a State's authority for which it lacks adequate controls, while leaving intact those parts of the State's authority for which it has, and exercises, control.

Finally, the procedures for suspension, like those for disapproval of registrations, have been drafted to provide for maximum cooperation between EPA and the States. Prior to deciding whether to suspend any State's authority, the Administrator will send written notification of his intent to that State, specifying the grounds for concern, and inviting the State to consult with EPA officials. Of course, before such formal procedures are begun, the Administrator will seek resolution of any apparent problems through informal, private, negotiations with the State. Only if all such formal and informal proceedings do not produce a satisfactory solution to such deficiencies will the Administrator finally suspend a State's authority.

Provisions Not Applicable to States

Section 162.156 contains several requirements derived directly from FIFRA which apply to producers, registrants, and users of State registered pesticides. Paragraph (a) points out that State registrations not issued in accordance with section 24(c) and proposed § 162.152 (a) and (b) are unauthorized and invalid for all purposes under FIFRA. In such a case, EPA may notify the State that the registration is not valid, and may specify the reason(s) why. However, such notification is not equivalent to a notice of disapproval. In order to implement the Administrator's authority to *disapprove* a registration under section 24(c), positive action, including notice to the State, is required. On the other hand, a State registration which does not satisfy the basic conditions imposed by section 24(c), as listed in proposed § 162.152 (a) and (b), is automatically invalid, even without any affirmative actin being taken by EPA. Therefore, a notice of invalidity may be issued by EPA at any time and in any form deemed reasonable by the Administrator.

Distribution of a pesticide product under an invalid State registration is a violation of section 12 of FIFRA. In addition, distribution and use of a pesticide under a valid State registration must be made in accordance with the provisions of section 12. EPA wishes to point out that a pesticide which has been issued a valid registration by one State, may be shipped to that State from any other State without violating section 12(a)(1)(A).

Paragraph (b) and (c) of § 162.156 point out that sections 7 (establishment registration) and 8 (recordkeeping) of FIFRA, and rules thereunder, are applicable to *all* pesticide producers, including producers of State registered pesticide products.

Miscellaneous

Several comments on the transitional policy statement indicate that some confusion exists as to the status of "third party" and "me-too" registrants under the transitional policy. EPA believes that the current proposed rule is clear, but wishes to emphasize that "third party" registration (registration in a State for a new use of a federally registered product by a person other than the federal registrant), if permitted by State law, is possible under this rule. In addition, it should be noted that such a registration is not a new product registration as long as the formula and formulation type, the package, and the formulator, of the State registered product are the same as those for the federally registered product. However, EPA must reject one commenter's suggestion that the rules impose "full liability" for use of the product on "third party" registrants who do not obtain consent to the State registration from the federal registrant. Such matters are not within the scope of this rule, or within EPA's jurisdiction, but are, rather, matters to be resolved under the State law or between the affected parties.

Similarly, "me-too" registrations (registration in a State by a new formulator of a product which is already registered by another formulator), if authorized by State law, are also permitted under this rule, if the State determines that a special local need for the registration exists.

EPA must also reject a suggestion that these rules require "me-too" and "third party" registrants to notify the prior registrant(s) of the new registration. Such a requirement is not necessary to the effective implementation of section 24(c), and is an issue which should be settled under State law, or as a business matter. However, EPA encourages "third party" registrants to provide such notice, and to seek consent where appropriate, in order that State registrations may be issued in an informed, responsible fashion [see EPA P.R. Notice 77-3 of 5/17/77].

Regulatory Analysis

EPA has determined that this rule does not require a Regulatory Analysis under Executive Order 12044. A screening study to this effect is available for review.

Statutory Review

The U.S. Department of Agriculture has reviewed the proposed regulation in accordance with section 25(a) of FIFRA and concurs without comments in its publication in the **Federal Register.**

The regulation was also submitted for scientific review and comment to the FIFRA Scientific Advisory Panel (SAP) in accordance with section 25(d) of FIFRA. In a report dated May 11 to the EPA Deputy Assistant Administrator for Pesticide Programs, the SAP concurred without comment in the proposed regulation.

Regulatory Review

Section 2(d)(8) of Executive Order 12044 requires that a plan for evaluating the regulation after its issuance be developed. The Agency's plan for evaluation of this rule calls for an analysis by EPA of the regulation and its effect on State regulatory agencies and registrants, in cooperation with the State-FIFRA Issues Research and Evaluation Group. This evaluation will be performed within five years from the date of promulgation of this rule, and a determination will then be made, based upon such evaluation, as to whether modification of the rule is necessary.

Dated: July 31, 1979.

Douglas M. Costle,

Administrator.

It is proposed to amend 40 CFR Part 162 by establishing Subpart B, to read as follows:

Subpart B—Regulations Pertaining to State Registration of Pesticides to Meet Special Local Needs

Sec.

162.150 General.
162.151 Definitions.
162.152 State registration authority.
162.153 State registration procedures.
162.154 Disapproval of State registrations.
162.155 Suspension of State registration authority.
162.156 General requirements.

Authority.—Sections 24(c) and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (sections 22 and 23, Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136 *et seq.*)

§ 162.150 General.

(a) *Scope.* This subpart sets forth regulations governing the registration by any State of pesticide products, or uses thereof, formulated for distribution and use within the State to meet special local needs. It also sets forth regulations governing the exercise by the Administrator of the power to disapprove specific State registrations and to suspend a State's registration authority. Unless otherwise indicated, any reference herein to registrations issued by a State includes amendments of registrations issued by States.

(b) *Applicability.* This subpart applies only to State registration authority granted by section 24(c) of FIFRA. It does not apply to any authority granted or procedures established by State law with respect to registration, licensing, or approval required for use within the State of federally registered pesticide products. In addition, this subpart does not apply to products or uses registered by a State prior to August 4, 1975, which were not subsequently registered by the State under section 24(c), or by EPA, and which have continued in intrastate commerce in accordance with 40 CFR 162.17.

§ 162.151 Definitions.

Unless otherwise indicated, terms used in the subpart have the meanings set forth in the Act and in subpart A of this part. In addition, *as used in this subpart,* the following terms have the meanings set forth below:

(a) "Federally registered" means currently registered after having been registered under the Federal Insecticide, Fungicide and Rodenticide Act by the Secretary of Agriculture, or by the Administrator.

(b) "Manufacturing-use product", means any pesticide product other than a product to be labeled with directions for end use. This term includes any product intended for use as a pesticide after re-formulation or repackaging.

(c) "New product" means a pesticide product which is not a federally registered product.

(d) "Pest problem" means (1) a pest infestation and its consequences, or (2) any condition requiring the use of plant regulators, defoliants, or desiccants.

(e) "Product," or "pesticide product" means a pesticide offered for distribution and use, and includes any labeled container and any supplemental labeling.

(f) "Similar composition" refers to a pesticide product which contains only the same active ingredient(s), or combination of active ingredients, and which has the same category of toxicity, as a federally registered pesticide product.

(g) "Similar product" means a pesticide product which, when compared to a federally registered product, has a similar composition and a similar use pattern.

(h) "Similar use pattern" refers to a use of a pesticide product which, when compared to a federally registered use of a product with a similar composition, does not require a change in precautionary labeling under § 162.10(h), and which is substantially the same as the federally registered use. Registrations involving changed use patterns are not included in this term.

(i) "Special local need" means an existing or imminent pest problem within a State for which the State lead agency, based upon satisfactory supporting information, has determined that an appropriate federally registered pesticide product is not sufficiently available.

(j) "State," or "State lead agency," as used in this subpart means the State agency designated by State law or other authority to be responsible for registering pesticides to meet special local needs.

§ 162.152. State registration authority.

(a) *Statutory limitations.* In accordance with section 24(c) of the Act, each State is authorized to register a new product for any use, or an additional use of a federally registered pesticide product, if the following conditions exist:

(1) There is a special local need for the use within the state;

(2) The use is covered by necessary tolerances, exemptions or other clearances under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346 et seq.), if the use is a food or feed use;

(3) Registration for the same use has not previously been denied, disapproved, suspended or cancelled by the Administrator, because of health or environmental concerns about an ingredient contained in the pesticide product, unless such denial, disapproval, or suspension or cancellation has been superceded by subsequent action of the Administrator;

(4) The registration would be in accord with the purposes of FIFRA.

(b) *Types of registrations.* (1) *Amendments to Federal registrations.* (i) Subject to the provisions of paragraph (a) and paragraph (b)(1)(ii) of this section, States may register any new use of a federally registerd pesticide product.

(ii) States may register any use of a federally registered product for which registration of other uses of the product was denied, disapproved, suspended, or cancelled by the Administrator, provided that the State may register a use not considered by the Administrator in reaching such a determination only after the State consults with appropriate EPA personnel.

(2) *New products.* (i) Subject to the provisions of paragraph (a) and paragraphs (b)(2)(ii)–(iii) of this section, States may issue registrations to meet special local needs for the following types of new products:

(A) A product which is identical in composition to a federally registered product, but which has differences in packaging, in formulation type, or in the identity of the formulator;

(B) A product which contains the same active and inert ingredients as a federally registered product, but in a different percentage;

(C) A product containing a new combination of active, or active and inert, ingredients, provided that States may not register a new product which contains any active or inert ingredient not found in a federally registered product.

(ii) States may not register a new manufacturing-use product.

(iii) States may register any use of a new product containing an ingredient described in paragraph (a)(3) of this section, if the new product registration is for a formulation or a use not included in the denial, disapproval, suspension, or cancellation. However, a formulation or use of the new product which was not considered by the Administrator during such proceedings may be registered by a State only after the State consults with appropriate EPA personnel regarding the registration application.

(c) *Effect of State registration.* (1) A State registration issued under FIFRA section 24(c) which meets the conditions described in paragraph (a) and (b) of this section, and which is not disapproved by the Administrator under § 162.154, shall be considered a federal registration, but shall authorize distribution and use only within that State. Accordingly, such registrations are subject to all provisions of FIFRA which apply to currently registered products, including cancellation, renewal, suspension, and other provisions of sections 6 and 13 of FIFRA.

(2) A State may require, as a condition of distribution or use of a pesticide product within the State, that the pesticide product be registered under State law as well as under FIFRA. Neither FIFRA section 24(c) nor this regulation affects a State's right under

its own law to revoke, suspend, cancel, or otherwise affect such a registration issued under State law. However, the federal registration, whether issued under FIFRA sections 3 or 24(c) would not be affected by such a State action.

§ 162.153. State registration procedures.

(a) *Application for registration.* States shall require all applicants for registration to submit the following information:

(1) Name and address of the applicant and any other person whose name will appear on the labeling or in the directions for use;

(2) The name of the pesticide product, and, if the application is for an amendment to a federally registered product, the EPA registration number of that product;

(3) A copy of proposed labeling, including all claims made for the product as well as directions for its use to meet the special local need, consisting of:

(i) A copy of the complete proposed labeling for a new product; or,

(ii) A copy of proposed supplemental labeling for registration of an additional use of a federally registered product, together with a copy of the labeling for the federally registered product;

(4) The complete formula of the product, if the application is for a new product registration;

(5) Any other information which is required to be reviewed prior to registration under this section.

(b) *Special local need determination.* In reviewing any application for registration, the State shall determine whether there is a special local need for the registration. Situations which a State may consider as not involving a special local need may include, but are not limited to, use to control a pest problem present on a nationwide basis, and use of a pesticide product registered by other States on an interregional or nationwide basis.

(c) *Unreasonable adverse effects determinations.* (1) Prior to issuing a registration in the following cases, the State shall determine that use of the product for which registration is sought would not cause unreasonable adverse effects on man or the environment, when used in accordance with labeling directions or widespread and commonly recognized practices:

(i) For use of a product which has a composition not similar to any federally registered product;

(ii) For use of a product involving a use pattern not similar to any federally registered use of the same product or of a product with a similar composition; or

(iii) For use of a product for which other uses of the same product, or of a product with a similar composition, have had federal registration denied, disapproved, suspended or cancelled by the Administrator.

(2) Determinations required by paragraph (c)(1) of this section shall be based on data and criteria consistent with those sections of subpart A of this part, and of Part 163, applicable to the type of product or use under consideration. Such determinations may also involve consideration of the effect of the anticipated classification of the product or use under § 162.153(h).

(d) *Efficacy determination.* Prior to registration of a product, or use thereof, for public health purposes, which could result in substantial harm to the public health it the product does not perform its intended function, the State shall determine that the product warrants the claims made for it in the registration application. Such determinations shall be based on criteria specified in applicable sections of subpart A and of part 163 and on any additional criteria established by the State.

(e) *Labeling requirements.* (1) Prior to issuing any registration, the State shall review the proposed labeling submitted with the application to determine compliance with this paragraph. In addition, the State shall review a copy of the final printed labeling as soon as practicable after a registration is issued in order to verify compliance with this paragraph.

(2) A new product registered by a State must be accompanied, at the time of use, by labeling meeting all applicable criteria of § 162.10 of subpart A. New product labeling must also contain:

(i) A statement identifying the State where registration is to be valid; and

(ii) The special local need number assigned by the State.

(3) For a registration of an additional use of a federally registered product, labeling from the federally registered product must be accompanied at the time of use by supplemental labeling which contains:

(i) A statement identifying the State where registration is valid;

(ii) Direction for use to meet the special local need which satisfy the criteria of § 162.10(i) of subpart A;

(iii) The trade name of the product;

(iv) The name and address of the section 24(c) registrant;

(v) The EPA registration number of the federally registered product;

(vi) The special local need number assigned by the State;

(vii) A statement requiring a person using the product to comply with all applicable directions, restrictions, and precautions found in the labeling of the federally registered product; and,

(viii) A statement prohibiting use of the product in a manner inconsistent with federal, and accompanying supplemental, labeling.

(4) If a State classifies for restricted use a product or use registered by the State, which is not required to be so classified by paragraph (g) of this section, then the State may require supplemental labeling for the product or use containing additional appropriate precautions, and a statement that the product or use is for restricted use within that State.

(f) *Packaging and coloration standards.* All products registered by a State must meet all appropriate packaging standards prescribed by the Adminstrator under section 25(c)(3) of FIFRA, as well as all appropriate standards for coloration, or discoloration, established by regulation under section 25(c)(4) of FIFRA, including the standards contained in § 162.13 of subpart A. Prior to issuing any registration, the State shall determine that the product will conform to these requirements.

(g) *Classification.* (1) As part of the registration of any product or use, the State shall classify the product or use consistently with section 3(d) of FIFRA and any regulations thereunder.

(2) A product or use thereof registered by a State must be classified by the State for restricted use if—

(i) The product is identical or similar in composition to a federally registered product:

(A) For which all uses have been classified as restricted by the Administrator; or

(B) For which a use similar to the State registered use has been classified as a restricted use by the Administrator; or

(ii) The State registered product or use meets the criteria for classification as a restricted use pesticide under the applicable provisions of § 162.11(c)(1)–(4) of subpart A.

(h) *Notification and submission of data.* (1) Within ten working days from the date a State issues, amends, or revokes a registration, the State shall notify EPA, in writing, of such an action. Notification of State registrations, or amendments thereto, shall include the effective date of the registration or amendment, a confidential statement of the formula of any new product, and a copy of the draft labeling reviewed and approved by the State, provided that labeling previously approved by the Administrator as part of a federal registration need not be submitted.

(2) Notification of State registrations or amendments shall be supplemented by sending to EPA a copy of the final printed labeling approved by the State within 45 days after the effective date of the registration or amendment.

(3) Notification of revocation of registration by a State shall indicate the effective date of revocation, and shall state the reasons for revocation.

(4) Within 15 working days of receipt of a request from EPA, a State shall submit any data used by the State to determine that unreasonable adverse effects will not be caused by a registration of:

(i) A product with a composition not similar to any federally registered product; or

(ii) An additional use of a federally registered product, or a use of a product with a composition similar to that of a federally registered product, if registration of other uses of the federally registered product has been denied, suspended, or cancelled by the Administrator, or is subject to a notice of intent to deny, suspend or cancel registration because of health, safety, or environmental concerns.

(i) *Federal Register publication.* The Administrator shall publish in the **Federal Register**, on a regular basis, a summary of all State registrations made under section 24(c) during a previous reporting period established by the Administrator. For each product or use registered, the notice shall indicate the name of the product; the name of the registrant; the registered use(s) of the product; the effective date of the State registration; and, if the registration is for an additional use of a federally registered product, the notice shall indicate whether the State registration involves a changed use pattern.

§ 162.154 Disapproval of State registrations.

(a) *General disapprovals.* (1) Except as provided in paragraph (b) of this section, the Administrator may disapprove, on any reasonable grounds, any State registration which, when compared to a federally registered product, does not have both a similar composition and a similar use pattern; provided that the Administrator may not disapprove such a registration solely because of lack of essentiality. Grounds for disapproval of State registrations not involving similar products may include, but are not limited to:

(i) Probable creation of unreasonable adverse effects on man or the environment by the registered use;

(ii) Refusal of the registering State to submit information supporting the registration as required by § 162.153(h);

(iii) Failure of information submitted by the State to support the State's decision to issue the registration under standards established by § 162.153.

(2) Prior to disapproval of any State registration under this paragraph, the Administrator shall notify the registering State, in writing, of the Administrator's intent to disapprove, and of the reasons for disapproval. The notice of intent will provide a reasonable time, not less than ten days from the date the notice is received by the State, for the State to respond, and will invite the State to consult with the Administrator or his designee. If the grounds for disapproval are based on actions or omissions by the State, the notice will, if possible, also provide the State with a reasonable amount of time in which to take corrective action, not to exceed the time allowed for disapproval under paragraph (c) of this section.

(3) The registering State may, within ten days of its receipt of a notice of intent to disapprove, request that the Administrator, or his designee, consult with appropriate State officials prior to the Administrator's final decision on disapproval. The Administrator will consider any relevant information presented at such a consultation, or in any other timely and appropriate fashion, in deciding whether to withdraw the notice of intent to disapprove.

(b) *Special disapprovals.* (1) The Administrator may disapprove any State registration, including a registration for a similar product, at any time, if the Administrator determines that use of the product under the State registration:

(i) Would constitute an imminent hazard; or

(ii) May result in a residue on food or feed not covered by a tolerance, exemption, or other clearance under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a *et seq.*).

(2) If the Administrator disapproves a registration under this paragraph, the administrator shall provide the registering State with written notification of disapproval, in accordance with paragraph (c) of this section, as soon thereafter as practicable. Such notification will specify the grounds for disapproval and invite the State to comment.

(3) If requested by the State within ten days of its receipt of the notice of disapproval under this paragraph, the Administrator, or his designee, will consult with appropriate State officials. The administrator may consider any information presented at such a consultation, or in any other appropriate fashion, in determining whether the disapproval should be rescinded.

(c) Except as provided in paragraph (b)(1) of this section, the Administrator will make a final decision on disapproval of a State registration, and provide written notification to the State within 90 days of the effective date of the registation; provided that, if the State does not notify the agency of the registration within ten days of its effective date, then the Administrator will make a final decision on disapproval within 90 days of the date on which EPA receives notification of the State registration. The notice of disapproval will specify a date on which disapproval becomes effective, which shall not be later than 90 days from the effective date of the State registration or, if the State does not notify EPA of the registration within ten days, 90 days from the date the Agency receives notification of the State registration, whichever comes later. The notice of disapproval may also, when appropriate, give instructions for disposal of the pesticide. Each such notice of disapproval will be published in the **Federal Register.**

(d) *Effect of disapproval.* If a registration issued by a State is disapproved by the Administrator, that registration will not be valid for any purposes under FIFRA, as of the date disapproval becomes effective. Accordingly, distribution of sale of a pesticide, in either interstate or intrastate commerce, for purposes covered by the disapproved State registration will be a violation of section 12(a)(1) of FIFRA.

(e) *Recission of disapproval.* If the Administrator determines, after consultation with the State lead agency, that a registration, previously issued by the State and disapproved by the Administrator, should be recognized as valid under section 24(c) of FIFRA, then the Administrator shall rescind the disapproval. The Administrator shall send written notification of the rescission to the State. In addition, notice of any rescission of disapproval will be published in the **Federal Register.**

(f) *Notification of registrants.* Any State which issues a registration subject to disapproval, or to a notice of intent to disapprove, shall be responsible for notifying the affected registrant of any rescission of disapproval by the Administrator.

§ 162.155 Suspension of State registration authority.

(a) *General.* (1) If the Administrator finds that a State is not capable of exercising, or has failed to exercise, adequate control over its registration program, so that the State cannot assure that registrations issued by it will be in accord with the purposes of FIFRA, then the Administrator may suspend the State's registration authority. Registrations issued by the State after suspension of its authority will not be considered valid under FIFRA. Registrations issued by the State prior to suspension will not be affected by the suspension.

(2) The Administrator may suspend all or any part of a State's registration authority as my be appropriate under the circumstances.

(b) *Grounds for suspension.* (1) The Administrator may suspend a State's registration authority because of lack of adequate controls, including, but not limited to, lack of any of the following:

(i) Access to appropriate scientific and technical personnel to review data and make determinations as required by § 162.153;

(ii) Registration procedures satisfying § 162.153;

(iii) Complete and accurate records of State registrations; and

(iv) Adequate legal authority—

(A) To deny, suspend, revoke, or amend a State registration when the registration is not in compliance with FIFRA, this Subpart, or State law, or when necessary to prevent unreasonable adverse effects on the environment;

(B) To enter, at reasonable times, by consent, warrant, or other legal means, any establishment where pesticides are produced or held for distribution or sale, to inspect, sample, and observe whether pesticides are being produced, and distributed in compliance with FIFRA, this Subpart, State law, and the terms of any State registration.

(2) The Administrator may suspend all or any part of a State's registration authority if the State fails to exercise the controls specified in paragraph (b)(1) of this section, or if the State refuses to correct within a reasonable time any other deficiencies in its regulatory program specified by the Administrator in a notice of intent to suspend.

(c) *Procedures for suspension.* (1) Prior to suspending the registration authority of any State, the Administrator will notify the State lead agency, in writing, of the Administrator's intent to suspend, and of the specific grounds for suspension. The notice of intent will specify whether the suspension will be complete or partial, and will provide the State an opportunity to respond and a reasonable amount of time in which to correct the deficiencies specified in the notice. The notice of intent will also specify a proposed date on which the suspension will become effective if the State has not by that time corrected the deficiencies described in the notice of intent. The proposed effective date will be not less than 30 days from the date the notice is received by the State. The notice of intent will also be published in the **Federal Register**, and the public given an opportunity to comment thereon, if the State does not correct the specified deficiencies within the reasonable time allowed by the notice, or the Administrator withdraws the notice of intent before that time.

(2) If requested by the affected State lead agency within 30 days of receipt of the notice of intent to suspend, an informal consultation between appropriate State and EPA officials will be held to discuss the proposed suspension. In such a case, the Administrator shall not make a final decision on the suspension until after the consultation. The Administrator shall consider all relevant information presented at the consultation, or in any other appropriate manner, in determining whether to suspend the State's authority.

(3) If, after the time specified in the notice of intent, and after any consultation held pursuant to paragraph (b)(2) of this section, the Administrator finds that the State has not corrected, or cannot correct in a reasonable time, the deficiencies specified in the notice of intent, the Administrator may suspend the State's authority to register pesticides under section 24(c) of FIFRA. In such a case, the Administrator will issue a written notice of suspension to the State, specifying the grounds therefor and an effective date for the suspension. If the suspension is merely partial, the notice of suspension will specify the types of registrations which will not be recognized under FIFRA. The notice of suspension will also be published in the **Federal Register.**

(d) *Termination of suspension.* Suspension of a State's authority will be effective for the period specified in the notice of suspension, or if no period was specified, until such time as the Administrator is satisfied that the State can and will exercise adequate control over its program. At that time, the Administrator will notify the State that the suspension is terminated, or that it will be determined on a specific date. The Administrator will also publish a notice of the termination of suspension in the **Federal Register.**

§ 162.156 General requirements.

(a) *Requirements for distribution of use.* (1) Any product whose State registration has been issued in accordance with §§ 162.152 and 162.153 may be distributed and used in that State, subject to the following provisions of the Act and the regulations promulgated thereunder:

(A) Section 12(a)(1) (A) through (E) in accordance with:

(i) Section 2(q)(1) (A) through (G); and

(ii) Section 2(q)(2) (A) through (D);

(B) Section 12(a)(2) (A) through (G) and (I) through (P).

(2) A product or use classified by a State for restricted use under § 162.153(g) may be used only by, or under the direct supervision of, an applicator certified under a plan implemented in that State in accordance with section 4 of FIFRA.

(3) State registrations which are not issued in accordance with § 162.152 (a) and (b) are not authorized by section 24(c) and are not considered valid for any purposes under FIFRA. The Administrator may notify the registering State that a registration is invalid, and may specify the reasons for the registration's invalidity.

(b) *Establishment registration requirements.* No person may produce any pesticide, including any pesticide registered by a State under section 24(c), unless the establishment in which it is produced is registered by the Administrator in accordance with section 7 of FIFRA and 40 CFR Part 167.

(c) *Books and records requirements.* All producers of pesticides, including those producers of pesticides registered by States under section 24(c), must maintain records in accordance with the requirements imposed under section 8 of FIFRA.

EPA Policy Implementing Amendments to Section 24(c) of FIFRA Pending Promulgation of Regulations

Background

On September 30, 1978, the Federal Pesticide Act of 1978, Pub. L. 95–396 amending the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136 et seq.) [FIFRA] went into effect. The many changes made in FIFRA by Pub. L. 95–396 are described in another notice published in the **Federal Register** January 19, 1979 (44 FR 4359).

Among the sections of FIFRA which have been substantially modified is Section 24(c) (7 U.S.C. 136v(c)) which authorizes the States to register "additional uses of federally registered pesticides * * * to meet special local needs". In general, the amendments to Section 24(c) broaden State authority to issue

such registrations, while they correspondingly limit EPA's authority to oversee the State registration process. For example, the former requirement that States obtain certification from EPA prior to registering pesticides has been eliminated, and registration authority has been given directly to the States. Also, EPA's former broad authority to disapprove specific State registrations is now subject to certain express procedural and substantive restrictions.

Clearly, these amendments reflect Congress' intent to redistribute the power over special local needs registration, with greater autonomy being given to the States. Nevertheless, EPA retains ultimate authority to ensure that the States act in accord with the purposes of FIFRA and to prevent unreasonable adverse effects on the environment. Implementation of this new relationship will require close cooperation between EPA and the States. (Such cooperation is, in fact, strongly encouraged by Section 24(c) as a requirement placed on the process by which EPA may disapprove State registrations.) This redistribution of authority also necessitates the revision of the "Interim" program established by EPA in 1975 to implement the original version of Section 24(c), including the proposed regulations accompanying the "Interim" program. [40 FR 40438–40545 (September 3, 1975)].

This policy document discusses the changes in State authority made by the amendments; explains how EPA intends to exercise its disapproval authority; and describes registration procedures which EPA believes the State should continue to follow. It also provides basic guidance for States, registrants, and EPA to follow until final regulations required by the amended Section 24(c) are promulgated. More detailed procedural information will be provided to augment this memorandum in a separate Guidance Package which EPA will make available, on request, to interested persons in the near future.

Questions or comments concerning this policy should be addressed, in writing, to Phil Gray (TS–770), U.S. EPA, Operations Division, Office of Pesticide Programs, 401 M Street, S.W., Washington, D.C. 20460.

Elimination of Section 24(c) Certification Program

The most significant change made by these amendments is the elimination of the provision requiring States to obtain certification from EPA prior to registering pesticides for special local needs. This certification process required a determination by EPA that a State's procedures and legal authority for registration would assure compliance with FIFRA and federal regulations thereunder.

States are now directly authorized by Section 24(c)(1) itself to register "additional uses of federally [EPA] registered pesticides * * * to meet special local needs", without prior EPA approval. However, EPA is given the authority to suspend a State's registration power, after consultation with the State, if the State is unable, or refuses, to exercise "adequate control" over its registration process. Such authority cannot be exercised, though, until EPA has promulgated regulations establishing grounds and procedures for suspension. These regulations will be developed and proposed in the near future. Although no such criteria have yet been developed, it is possible that future regulations could provide for some form of partial suspension where circumstances would not warrant complete suspension.

State Registration Authority

Under the amended Section 24(c), States may issue registrations for the same purposes as they could under the original Section 24(c). These purposes include: (a) use of new formulations of federally registered chemicals; (b) amendment of federal registrations to permit use on additional crops or pests or at additional sites, or to permit use of different application techniques, rates, and equipment; (c) amendment of federal registrations to require special label directions necessary to prevent unreasonable adverse effects or to ensure efficacy under local conditions; or (d) any other purposes consistent with the purposes of FIFRA.

Also as under the original Section 24(c) program, the States are authorized by the amended section to register pesticides only if all of the following circumstances exist: (a) there is a special local need for the pesticide; (b) the pesticide is labeled for use and distribution within the State (as evidenced by the pesticide's container being labeled with or accompanied by directions for use to meet the special local need and a statement identifying the registering State); (c) the State registration is for use of a chemical found in any product registered by EPA; (d) the use sought to be registered has proper clearances, if required, under the Federal Food, Drug and Cosmetic Act; (e) the use sought to be registered has not been previously disapproved, cancelled, or denied registration by EPA; and, (f) the registration is otherwise in accord with FIFRA.

However, despite the above inherent limitations, the States' authority is broader than that granted under the original Section 24(c) and the "Interim" Program. For example, States may now register uses of a chemical for which registration has not been specifically disapproved, denied, or cancelled by EPA, even though other uses of the same chemical have been disapproved, cancelled, or denied registration. In addition, the amendments to Section 24(c) confirm the States' authority to register a pesticide containing an ingedient subject to an intensive review of risks and benefits under 40 CFR 162.11 (i.e., a "Rebuttable Presumption Against Registration").

Disapproval of State Registrations by EPA

In contrast to the almost unlimited authority to disapprove individual State registrations inherent in the original Section 24(c), EPA's disapproval authority under the amended Section 24(c) is subject to specific procedural and substantive limitations. Procedurally, the Administrator of EPA is now required to inform the State of his intention to disapprove a registration and of the reasons therefor, and to provide the State time to respond, prior to disapproving most registrations. This amendment formalizes a procedure voluntarily used by EPA under the "Interim" program.

Except as provided under Section 24(c)(3), if requested by a State within ten days of its receipt of a notice of intent to disapprove, EPA will consult with the State to determine if the registration should be disapproved. Such consultations will take place, and any disapproval will be made effective, within 90 days of the effective date of the State registration, as was also the practice under the "Interim" program. However, under Section 24(c)(3), the Administrator may disapprove a State registration without prior notice to the State if the registration would result in an imminent hazard to man or the environment, or if the registration lacks necessary tolerances, exemptions, or other clearances under the Federal Food, Drug, and Cosmetic Act, for use involving food or feed. [If a State registration is disapproved because it involves an imminent hazard, EPA may also suspend any similar federal registrations.]

Although not expressly required by the new Section 24(c), the Administrator will also continue to specify a date for termination of the State registration in his decision to disapprove a registration. The Administrator will also, if appropriate, provide for disposition of existing stocks of the pesticide in question.

While the procedures descibed above are very similar to those previously followed by EPA, the substantive restrictions placed on EPA's disapproval authority significantly limit the scope of that authority. Under Section 24(c)(2), EPA may not disapprove a State registration solely on the grounds of lack of essentiality. In addition, EPA generally may not disapprove an otherwise valid and authorized State registration for which the "composition and use patterns are similar to a federally registered pesticide". Section 24(c)(3) specifies only two express grounds for disapproving such registrations—creation of an "imminent hazard," or if use on food or feed is involved, lack of necessary clearances under the Federal Food, Drug, and Cosmetic Act.

New regulations to be promulgated under Section 24(c) will establish standards for determining similarity and dissimilarity of composition and use patterns. However, for the purpose of implementing Section 24(c)(2) during the period preceeding promulgation of such regulations, EPA will consider a State registered pesticide to have a "similar composition" if it contains the same active ingredients, in essentially the same precentages; is of the same formulation type and category of toxicity; and requires the same precautionary labeling; as an EPA registered pesticide.

In accordance with Congress' clear intent that "similar use pattern" should be interepreted broadly, EPA will consider a pesticide to have a "similar use pattern" if it has substantially the same manner and purposes of application as an EPA registered

pesticide. Additional clarification of this matter was provided by Congress with respect to State registrations that may be considered *not* similar to any federal registration. "State registrations involving changed use patterns—changes from nonfood to food use, from outdoor to indoor use, from terrestrial to aquatic use, and non-domestic to domestic use—will be considered . . . as not involving similar uses . . . ." [Conf. Rep. No. 95-1188, 95th Congress, 2d Sess. 51 (1978).]

EPA retains broads authority to disapprove registrations having either a use pattern or a composition which is *not* similar to a federally registered pesticide. State registrations involving such dissimilarities are expressly subject to disapproval on the same grounds as similar registrations—i.e., imminent hazards and lack of necessary clearances under the Federal Food, Drug, and Cosmetic Act—and any other reasonable grounds, which may include: (a) probable creation of unreasonable adverse effects on man or the environment; (b) revocation of the registration by the State; (c) refusal of a State to submit requested information to EPA; or (d) insufficiency of information submitted to support the State registration.

Registrants under Section 24(c) should note that as under the "Interim" program, disapproval of a State registration by the Administrator will not be considered a refusal to register, or a cancellation or suspension of registration, within the meaning of Section 3(c)(6) or Section 6 of FIFRA. Therefore, a registrant of a disapproved State registration will not be entitled to a hearing on such an action under Section 6 of FIFRA.

State Registration Procedures

Underlying the new amendments to Section 24(c) is a basic Congressional intent that the regulation of pesticides should be a *national* program, not an exclusively federal program. These amendments emphasize the EPA and the States are partners in regulating pesticides, and that a concerted federal and State effort to work together, and to exchange information and views, is necessary to properly protect the public health, while still responding to the needs of pesticide users. It is only in an atmosphere of mutual respect and cooperation that these tasks can be effectively performed.

In order to carry out these duties, States should follow minimal procedures, and EPA and the States should routinely forward to each other specific information, as described below. Such information is needed to keep both parties informed of actions taken by the other, so that both parties can properly perform their share of the duties created by this cooperative program. On its part, EPA will also consult with the States whenever discussion or clarification of State actions is appropriate.

Applications for State registration should continue to include the name and address of the applicant and any other person whose name will appear on the pesticide labeling or with the directions for use; the name of the product; a complete copy of the labeling showing all claims made for the product and directions for its use to meet the special local need; and the complete formula of the product.

In reviewing an application for State registration, the responsible State agency should determine whether there is a "special local need" for the registration. Although the need for such a determination still exists under Section 24(c)(1), Section 24(c)(2)(A) requires a complete revision of the meaning assigned to that term under under the "Interim" program. Therefore, during the period preceding promulgation of new regulations, the States will have the responsibility to decide, on a case-by-case basis, whether a "special local need" exists for a State registration. However, since "conditional registration" under Sec. 3 of FIFRA will be available to registrants very soon, EPA expects the States to refuse to register pecticides for which there is a *national*, rather than a genuine *local*, need. By so doing, States will prevent Section 24(c) from being used to circumvent the reqirements of Section 3, including requirements on data use and compensation. During this period, EPA will consult with the States and other interested persons to determine the need for adopting a regulation defining "special local need."

In certain cases, before issuing a registration, the State should also determine that the product or use will not cause unreasonable adverse effects on man or the environment when used as directed or in accordance with widespread and commonly recognized practices. This determination should be made before registering: (a) a use of a pesticide with a composition not similar to any EPA registered pesticide; (b) a pesticide use with a use pattern not similar to any EPA registered use for the same pesticide; and (c) a pesticide use for which registration of a different use of the same pesticide has been denied, disapproved, or cancelled by EPA. Such determinations should take into account the effect a restricted use classification, or other terms and conditions of registration, would have on the potential hazard which registration would create. States should base their determinations on data consistent with those parts of the federal registration rule on product hazard [40 CFR 162.8(b)(4)] that are applicable to the type of product or type of use under consideration. (Further details as to data may be found in the Guidance Package referred to earlier in this memorandum.)

States should also impose on applicants for registration, labeling requirements generally consistent with federal labeling requirements (40 CFR 162.10), to prevent the pesticide being considered "misbranded" under section 2(q) and section 12 of FIFRA, since registrations issued under section 24(c) are expressly deemed "registrations under section 3 for all purposes" of FIFRA. Furthermore, under section 24(b), States generally may not permit or require modification or elimination of any labeling approved by EPA in connection with a federal registration. However, State labeling must contain supplemental directions for use to meet special local needs, as well as a statement identifying the State issuing the registration. Such labeling should be reviewed and approved by the State prior to issuance of State registration.

Similarly, States should continue to require applicants and registrants to comply with federal packaging standards prescribed by the Administrator of EPA under section 25(c)(3) of FIFRA, and federal coloration standards and regulations published under section 23(c)(4) and in 40 CFR 162.13. Compliance with such standards should also be verified by the State prior to issuance of a section 24(c) registration.

Also, since section 24(c) registrations are considered federal registrations, if a State decides to register a pesticide, it should classify the pesticide and its uses consistently with standards promulgated under section 3(d) of FIFRA. Therefore, when registering a product or use identical to or similar in composition and use pattern to, a product or use classified by EPA, States should classify the product or use the same as EPA. When registering a pesticide *use* not similar to any federally classified use of the same product, States should classify the use according to applicable federal standards in 40 CFR 162.11(c). When registering a product whose uses have not yet been classified by EPA, and which is not similar in composition or use patterns to any product classified by EPA, the State need not classify the product until EPA classifies the same or a similar product. Whenever EPA classifies, or re-classifies, a product or use previousy registered by the State, the State should thereafter classify the product or use the same as EPA within 90 days of the effective date of the EPA classification.

However, the above is not intended to limit the States' authority to classify a product or use for restricted use, even if EPA has classified the same or a similar product or use for general use, if local conditions require the more restrictive classification. EPA encourages the States to exercise this important prerogative in responding to local circumstances.

As agreed by EPA and officers of the American Association of Pest Control Officials (AAPCO), as representatives of the States, during Congressional conferences on the proposed amendments to FIFRA, States will continue to send written notification of the issuance of each Section 24(c) registration, or amendment or revocation thereof, to the appropriate EPA office within ten days taking any such action. Such prompt communication of State registration decisions is consistent with the amended Section 24(c), and with the cooperative approach to national pesticide regulation which Congress, EPA, and the States have agreed is necessary. EPA needs such information in order to properly react to State registration actions, and in order to maintain a complete list of federal registrations for use by State officials, pesticide users, and the general public.

Notification of registrations or amendments should indicate the effective date of the action, and should be accompanied by a copy of the approved labeling for the registration involved. Notification of revocations should contain a brief explanation of the reasons for

revocation. Within 30 days of issuing a registration or an amendment, the State should also send EPA a copy of the final approved labeling.

Additional Information on Certain Registrations

In cases involving the registration by a State of a use of a pesticide known or likely to be a potential cause of an imminent hazard to man or the environment, EPA may request the State to submit additional information considered by the State in its decision to issue the registration. Submission of such data is necessary in order for EPA to have a factual basis on which to decide whether the State registration would create an imminent hazard or other unreasonable risk which might require disapproval of the registration.

Accordingly, EPA may request a State to submit copies of data used, and the findings made, in connection with the unreasonable adverse effects review done for each State registration of a pesticide use similar to a use disapproved, cancelled, or denied registration by EPA. The same information may also be requested for each registration of a use of a pesticide for which EPA has disapproved, cancelled, or denied registration of a different use of the same pesticide, if the use registered by the State is not similar to any use considered by EPA in the disapproval, cancellation, or denial proceedings for that pesticide. In addition, this information may be requested for any State registration of a use similar to a use considered but allowed by EPA during cancellation or denial proceedings for the product. In this last case, such information would generally be required in situations where the use allowed by EPA was permitted upon specific conditions not imposed by the State.

In the cases described above, submission of the information requested is especially important since the uses registered by the State may involve products already found by EPA to be unreasonably hazardous under some circumstances. In the absence of such data, EPA may be forced to make its determination on the basis of information not as complete as that used by the State, and may thereby disapprove a registration which might not otherwise have been disapproved. In these cases, EPA also encourages the States to consult with EPA *prior* to issuing such registrations, in keeping with the spirit of increased cooperation between EPA and the States, and in order to prevent unnecessary risks to man and the environment.

Dated: October 25, 1978.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-24325 Filed 8-6-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Last Listing August 2, 1979

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S. 961 / Pub. L. 96-43 "Speedy Trial Act Amendments Act of 1979". (Aug. 2, 1979; 93 Stat. 327) Price $.75.

H.R. 2729 / Pub. L. 96-44 "National Science Foundation Authorization Act for Fiscal Year 1980". (Aug. 2, 1979; 93 Stat. 333) Price $.75

H.J. Res. 373 / Pub. L. 96-45 Recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II. (Aug. 3, 1979; 93 Stat. 336) Price $.75.

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[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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federal register

Wednesday
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Highlights

46444 **Housing Loans** FHLBB rules to authorize Federal savings and loan associations to make loans on individual cooperative units in accordance with rules governing loans on single family dwellings; effective 9–6–79

46477 **Housing** FHLBB proposes to liberalize its lending regulations to enable savings and loan institutions to participate more fully in HUD's low-income program; comments by 9–7–79

46432 **Electronic Fund Transfers** FRS issues final rule on written notification of loss or theft of access device; effective 9–10–79

46676 **Natural Gas** DOE/ERA issues information form to accompany petitions for temporary public interest exemption for use by existing powerplants (Part II of this issue)

46455 **Energy** DOE/FERC amends interim procedures for shortages of electric energy and capacity; effective 8–1–79

46453 **Energy** DOE/FERC amends notice requirements of the Federal Power Act; effective 8–2–79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Highlights

46535 **Education** HEW/Sec'y gives notice of interim Federal Education Data Acquisition Council review procedures and invites comments; comments by 10–9–79

46770 **Environmental Protection** EPA gives notice of appeal procedures and invites comments

46454 **Natural Gas** DOE/FERC issues rule on new contracts for sale of high cost natural gas from the Outer Continental Shelf; effective 8–2–79

46428 **Banks and Banking** Treasury/Comptroller sets forth the accounting method national banks must use to account for real property owned and used for other than banking premises; effective 8–8–79

46438 **Banking** FRS issues proposal on reimbursement to financial institutions for assembling or providing financial records; comments by 9–10–79

46438 **Truth in Lending** FRS gives official staff interpretation regarding computation of annual percentage rates in a pledged savings account mortgage; effective 9–7–79

46493 **Communications** FCC issues notice of inquiry into high seas public coast station operations, services and industry; comments by 9–10–79

46686 **Clean Air** EPA proposes regulations establishing a Voluntary Aftermarket Part Self-Certification Program; comments by 11–12–79 (Part III of this issue)

46437 **Interest on Deposits** FRS issues final rule on maximum rates of interest payable; effective 8–1–79

46434 **Interest on Deposits** FRS adopts amendments to the regulation on penalties for early withdrawals; effective 8–1–79

46456 **Income Tax** Treasury/IRS issues final regulations with respect to income from certain aircraft or vessels

46611 **Sunshine Act Meetings**

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46686 **Part III, EPA**
46712 **Part IV, Commerce/NTIA**
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 919

Peaches Grown in Mesa County, Colo.; Change in Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action changes the fiscal period of the Administrative Committee from December 1 through November 30 to July 1 through June 30. The action is necessary to facilitate development of the committee's budget of expenses and rate of assessment under the marketing order program.

EFFECTIVE DATE: September 7, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: On June 20, 1979, notice of proposed rulemaking was published in the **Federal Register** (44 FR 36055) regarding a proposed amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 919.100 *et seq.*) currently in effect pursuant to the applicable provisions of the amended marketing agreement and Order No. 919, as amended (7 CFR Part 919). The order regulates the handling of peaches grown in Mesa County, Colorado. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This notice allowed interested persons until July 20, 1979 to submit written comments pertaining to this proposal. None were submitted.

The proposal to amend said rules and regulations was recommended by the Administrative Committee established under the order as the agency to administer the terms and provisions thereof.

At a meeting held on April 18, 1979, the Administrative Committee recommended pursuant to § 919.10 of the order that the fiscal year be changed to the 12-month period beginning July 1 and ending on June 30. Currently, § 919.102 of the regulations issued under the order provides for a fiscal period beginning December 1 and ending November 30 of the following year. Committee recommendations with respect to the budget and assessment rate depend to a high degree upon anticipated production of the peach crop. Shipments of peaches from the production area normally begin in July. In the past the committee has submitted a recommended assessment rate and a report on the budget as early in the season as practical. The amendment is necessary to allow the committee to submit to the Secretary its budget and recommended rate of assessment when sufficient information is available to estimate crop size and evaluate activities for the season. Under the amendment the fiscal period which began December 1, 1978, will terminate on June 30, 1980. Thereafter the fiscal period will begin on July 1 and end on June 30 of the following year.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, the recommendations by the Administrative Committee, and other available information, it is hereby found that amendment of the rules and regulations (Subpart—Rules and Regulations; 7 CFR part 919.100 et seq.), as hereinafter set forth, is in accordance with the provisions of the order and will tend to effectuate the declared policy of the act. This regulation has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." An Impact Analysis is available from Malvin E. McGaha (202) 447–5975. Therefore, said rules and regulations are hereby amended by revising § 919.102 of 7 CFR to read as follows:

§ 919.102 Fiscal period.

The fiscal period which began December 1, 1978, is hereby extended and will end June 30, 1980. Thereafter the fiscal period will begin on July 1 and end on June 30 of the following year.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: August 3, 1979.

James S. Miller,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-24430 Filed 8-7-79; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 926

[Tokay Grape Regulation 15]

Tokay Grapes Grown in San Joaquin County, Calif.; Regulation of Grade and Container Markings

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation provides that during the period August 9 through September 30, 1979, fresh shipments of Tokay grapes grown in San Joaquin County, California, must meet the grade and size specifications for U.S. No. 1 Table Grapes. In addition, at least 30 percent of the berries in the lower quarter of each bunch shall show characteristic color. The regulation also provides that containers shall show a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected.

EFFECTIVE DATES: August 9, 1979 through September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the provisions of the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The regulation was recommended by the Industry Committee established under the order. It is hereby found that the regulation of Tokay grapes, as hereinafter set forth, will tend to effectuate the declared policy of the act.

The committee estimates that 1979 production of Tokay grapes will be about 104,525, tons, and fresh shipments are estimated at 11,500 tons. The grade

and container marking requirements are necessary to prevent the shipment of fresh Tokay grapes of lesser quality than specified and are designed to provide ample supplies of good quality fruit in the interest of producers and consumers. The requirements are that such grapes meet the grade and size specifications of U.S. No. 1 Table grapes and additionally at least 30 percent, by count, of the berries in the lower 25 percent, by count, by each bunch shall show characteristic color. The requirement for more even distribution of color is included to assure the availability to consumers of Tokay grapes of satisfactory quality. Each container of such grapes must bear a Federal-State Inspection Service lot stamp number in plain letters and figures on one outside end. Compliance with the container marking requirement will verify inspection thus assuring compliance with the quality requirements specified herein.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this regulation until 30 days after publication thereof in the **Federal Register** (5 U.S.C. 553) because of insufficient time between the date when information upon which this regulation is based became available and the time when this requlation must become effective in order to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting on July 31, 1979. In order to effectuate the declared purposes of the act, it is necessary to make these regulatory provisions effective as specified; and handlers have been appraised of such provisions and the effective time. Compliance with this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250; Phone (202) 447-5875.

§ 926.316 Tokay Grape Regulation 15.

(a) During the period August 9, 1979 through September 30, 1979, no handler shall ship:

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table Grapes and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes in the production area, unless such container bears, in plain letters and figures on one outside and, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definition.* As used herein, the terms "handler," "ship," and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 Table Grapes" and "characteristic color" shall have the same meaning as when used in the United States Standards for Table Grapes (7 CFR 2851.800-912).

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: August 6, 1979.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-24610 Filed 8-7-79; 9:12 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

Interpretive Rulings; Other Real Estate Owned

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This revision sets forth the accounting method national banks must use to account for real property they own, other than real property used or reasonably expected to be used as banking premises. The revision is necessary to make reports of condition filed with the Comptroller of the Currency by national banks in accordance with 12 U.S.C. 161 more consistent with generally accepted accounting principles. The revision also contains provisions for accounting for certain sales by banks of real property acquired by foreclosure or like means. The covered sales are those structured favorably to the purchaser, usually because of difficulties the bank has had in disposing of the property. Finally, the revised ruling clarifies the Comptroller's interpretation of 12 U.S.C. 29 and the time limit within which national banks must dispose of real property acquired by foreclosure or like means.

EFFECTIVE DATE: August 8, 1979.

FOR FURTHER INFORMATION CONTACT: Andrew J. Levinson, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, 202-447-1880.

SUPPLEMENTARY INFORMATION: On January 20, 1978, the Comptroller of the Currency published for comment (43 FR 2881) a proposed amendment to interpretive ruling 7.3025 (12 CFR 7.3025), dealing with "other real estate owned." The amendment was intended to bring the accounting treatment for real property acquired by national banks through foreclosure and similar methods into conformity with Statement of Financial Accounting Standards No. 15 (FAS 15), adopted by the Financial Accounting Standards Board (FASB) in June, 1977. That document set forth the Board's opinion on the proper method of accounting for troubled debt restructurings.

Numerous comments received in light of the January 20 publication led this Office to believe that the amendment did not adequately deal with all of the transactions engaged in by national banks. Nor did it adequately harmonize all aspects of the standards adopted by the Financial Accounting Standards Board with the accounting methods required of national banks by the ruling. Therefore, on September 18, 1978 (43 FR 41406), the Comptroller published for comment a new proposed ruling to outline more fully the accounting treatment for real property acquired by banks by foreclosure or otherwise as a result of troubled debt restructurings.

The September 18 proposal specified that real property acquired by foreclosure should be recorded on the bank's books at fair value—*i.e.*, at a market price. Annual appraisals would be required to verify that the value of the property had not declined. If the value did decline, the decrease was to be recorded as a charge against earnings and either an addition to a valuation reserve for the property or a decrease in the assest value. Subsequent increases in fair value could be used to reduce any valuation reserve, but not below zero. Property acquired by foreclosure had to be sold by the bank within the period specified in 12 U.S.C. 29. The ruling was to apply to all property acquired after December 31, 1977.

The September 18 proposal expanded the coverage of the accounting rules to include certain transactions in which a bank might participate in lieu of foreclosing on property and/or holding it for resale. These transactions were the financing of sales of foreclosure property on terms more favorable to the purchaser than those generally available in the marketplace and permitting the substitution of borrowers on restructed terms more favorable than those generally available. The time period for disposition specified in 12 U.S.C. 29 was to apply to property sold in these transactions if the bank ever reacquired title, and it would begin to run from the date of the transaction rather than from the date of reacquisition.

The Comptroller received 17 letters commenting on the September 18 proposal. These letters were, on the whole, helpful in pointing to areas of the ruling that needed clarification or modification. The comments, and changes made to the ruling in light of them, are discussed below.

Discussion of Comments

Covered Transactions

Eleven of the letters commented on the inclusion in call reports as "other real estate owned" of foreclosure property sold by banks on favorable terms. Most of these expressed the view that sales should be treated as bonafide and, thus, accounted for as sales if that would be appropriate under generally accepted accounting principles. More particularly several of the comments stated that the tests of a bona fide sale should be those set forth in an industry accounting guide, "Accounting for Profit Recognition on Sales of Real Estate," published by the American Institute of Certified Public Accountants (AICPA) in 1973.

As indicated above, the proposed ruling included two types of transactions as "covered transactions," hence requiring accounting for the receivable—*i.e.*, the debt obligation resulting from the sale—in the same manner as assets known as "other real estate owned." These assets generally comprise all real estate held by a national bank and not currently is use or contemplated for use in the foreseeable future as banking premises. Most of this is property acquired by the bank by foreclosure. Since all "other real estate owned" must be sold by the bank within the time specified in 12 U.S.C. 29 (currently 5 years), the effect of regarding an asset as other real estate owned is to subject the bank to (1) time limits on its disposition and (2) rules related to investment in assets held for sale rather than operating assets for its accounting treatment.

The first type of covered transaction described in the September 18 proposal (called a (b)(1) transaction) involved a sale by the bank of other real estate owned for less than 10 percent down or on terms favorable to the purchaser. The second type (called a (b)(2) transaction) involved a substitution of borrowers on restructured terms favorable to the new borrower. In this context the word "favorable"implied that the terms were less demanding than those available to a purchaser or borrower seeking funds from the bank in the ordinary course of its business. Covered transactions were accorded specialized treatment because of the potential they bore for evading statutory time limitations and for improperly deferring recognition of losses.

The Comptroller still believes that it is necessary to have a category of "covered transactions" to minimize the abuse potential. However, the comments did provide insight into the whole question of profit recognition in debt restructurings and led to a reassessment of written standards for sales that might not be considered bona fide. Although much flexibility is needed to help banks and their customers work out these troubled real estate loan situations, there must be standards for determining whether a bank has, in fact, meaningfully disposed of other real estate owned.

The thrust of many of the comments was that the issue of whether a bona fide sale has taken place can be determined only from all the facts and circumstances surrounding a transaction. The Comptroller agrees with this point. In fact, the underlying premise of the AICPA guide and the FASB Statement is that the economic substance of a transaction should prevail over its legal form in deciding how to account for it. The effort to enunciate criteria for making such determination, though, is consistent with the principle that substance overrides form. Further, establishing criteria provides a uniform basis for examination and enforcement of banks' compliance with the law and for comparison of reports filed with this Office.

In light of these objectives the Comptroller agreed with four of those commenting who felt that it was unnecessary to account for (b)(2) transactions as other real estate owned. These transactions appear on the bank's books as continuing loans, and examiners have the authority to classify these loans or to require that they be charged off in whole or in part. This authority insures compliance with the law and uniformity of treatment based on analysis of all relevant facts. Therefore, paragraph (b)(2) has been deleted from the final ruling, and covered transactions will be limited to sales of previously acquired property.

The (b)(1) transactions differ substantially from the (b)(2) transactions in that they constitute, at least ostensibly, situations requiring the recognition of a sale. The abuse potential is magnified further in the case of (b)(1) transactions because the holding period has often been nearly exhausted. Therefore, the final ruling contains a new paragraph (b) with standards for determining when the abuse potential exists. In such cases the accounting treatment is designed to enable both the bank and the examiners to monotor the transactions to insure prudent banking treatment and statutory compliance.

The covered transactions in new paragraph (b) retain the 10-percent downpayment cut-off of the old paragaraph (b)(1). Several letters expressed the view that this was unrealistically high. In particular, they noted, the AICPA guide suggests that a 5-percent downpayment is indicative of a bona fide sale in the case of real estate that constitutes the primary residence of the purchaser. The purpose of the definition of covered transaction is to establish when a sale is on easier terms than those required by the bank in the ordinary course of its lending business. Since 12 U.S.C. 371(a) limits the loan-to-value ratio on national bank real estate lending to 90 percent, disregarding the provisions of 12 U.S.C. 371 (c) and (f), the Comptroller believes this is an appropriate standard where the bank continues to finance the transaction. It might also be noted that even the AICPA's guide on profit recognition sets the guidelines for all property other than the purchaser's primary residence at 10 percent or higher.

One comment letter suggested that the requirement that the downpayment be in cash was inconsistent with the Comptroller's general approach to loan-to-value ratio under 12 U.S.C. 371. In particular, the letter pointed out that private mortgage insurance or similar guarantees for a portion of the loan principal will take that portion out of the category of real estate loan, thus effectively increasing the maximum permissible loan-to-value ratio. The Comptroller agrees fully with this comment and has accordingly modified

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the ruling to allow private mortgage insurance and similar guarantees to be substituted for cash consideration. This is consistent with the idea stated above that the loan arising from the sale is on the same terms as loans made by the bank in the ordinary course of its banking business.

The other conditions creating a covered transaction are also essentially geared toward defining a transaction not in the ordinary course of business. The first of these, financing on favorable terms, is retained from the former paragraph (b)(1). Despite one letter criticizing this as unmanageable in light of the unsual and extraordinary requirements of each work-out situation, the Comptroller believes that situations exist where terms such as interest rate are so clearly out of line with market conditions as to indicate something less than a bona fide sale. In response to the several letters that requested reliance on the AICPA's profit recognition criteria, the ruling contains an additional condition, adopted directly from the AICPA guide: sales not transferring the risks and all or most rewards of ownership.

The final ruling clarifies the effect of a covered transaction by including property sold in this manner in the definition of other real estate owned as long as the transaction remains covered. This means that the bank must still obtain annual appraisals on the property and must report the loan as other real estate owned on reports of condition. A few writers commented that this reporting would be misleading and should be dropped. The Comptroller believes, however, that because of the potential for continuing work-out difficulties with such parcels, reporting the loans as other real estate owned more clearly reflects the bank's position. The ruling further clarifies the point that such reporting may cease when the conditions causing a transaction to be covered have been removed.

Effective Date

Eight of the letters commented on the effective date of the new ruling. As originally published in September, the ruling stated that it applied to property transferred to other real estate owned after December 31, 1977. Property transferred previously could be accounted for under the new ruling or the earlier version. Several of the writers noted that this provision might be viewed as a retroactive application, particularly with respect to covered transactions. It was felt that this retroactivity would be a great hardship, especially if it required amending previously filed reports. Finally, some writers suggested that only properties transferred to other real estate owned after January 1, 1979, should be affected by the ruling.

The Comptroller agrees that retroactive application of the ruling would be a hardship. Therefore, paragraph (k) is amended to clarify the point that previously filed reports need not be amended to conform to this ruling. While the ruling will still apply to property transferred to other real estate owned after December 31, 1977, this will require only prospective adjustment to the bank's accounting methods based on information that should be readily available to the bank. Further, the definition of other real estate owned has been expanded to include property transferred in covered transactions only after the effective date of the ruling, thus responding to fears that the bank or its accountants might have to reassess the nature of sales taking place prior to the effective date. This last change also clarifies the effect of the holding period by removing the possibility of looking back to pre-effective date acquisitions with respect to reacquired property sold in what would have been covered transactions had they taken place after the effective date.

The ruling is being made effective immediately rather than being delayed thirty days. The Comptroller believes that this is justified by several factors, including the objectives served by the interpretive ruling. The accounting treatment specified in the ruling will be beneficial to banks as an additional managerial tool for monitoring workouts of troubled real estate loans and property acquired by foreclosure. It will benefit shareholders and regulators by providing more meaningful reports of condition. In addition, the Comptroller believes that waiving the waiting period will work no hardship on the banks. The ruling was published twice for comment, the first time over a year ago. Not only did this give the banks ample time to comment on the ruling and to review their methods of accounting for other real estate owned; it also gave them ample opportunity to put themselves in a position to be able to comply easily with the ruling. It should be mentioned that the ruling will not require the banks to gather or retain any information not already specified by the existing ruling and sound banking practice. And as a concluding point, it should be noted that the final ruling being adopted today is less restrictive than the proposed ruling, at least in part as a result of responses to the many helpful comments received.

Booking Other Real Estate Owned

Several writers expressed the belief that other real estate owned acquired by foreclosure should be recorded initially at the lower of cost or market, as was required by the previously existing ruling. They thereby took issue with the statement in paragraph (g) that such property should be recorded at fair value. This statement was taken directly from FAS 15. The Comptroller believes that the number of instances in which the value of foreclosure property will exceed the bank's cost (*i.e.*, its recorded investment in the loan satisfied, excluding property acquisition costs, which must now be expensed) will be few. However, the Comptroller agrees that for those few situations the more conservative lower of cost or market rule is appropriate. Paragraph (g) has been modified accordingly.

Appraisals

The proposed ruling required annual appraisal of other real estate owned, except where the value of the property was less than the lower of $25,000 or 5 percent of the bank's equity capital. This waiver was intended to apply principally to undeveloped land in rural locations where market value would be problematical at best. It was not intended as a materiality standard, except insofar as very small banks were concerned. Five of the letters commented on this provision and suggested raising the dollar limitation, perhaps on a sliding scale, to reflect what would be material to banks of different sizes. One letter suggested that property worth less than $50,000 was not worth appraising. The figures set in the proposed ruling have been retained, however, on the belief that the appraisals are necessary for accurate financial reporting and adequate control of foreclosure property. Especially in the case of larger banks, the Comptroller disagrees with the assertion that cost-benefit analysis justifies a relaxed waiver standard.

Two of the writers urged that the bank, and not the appraiser, should set the discount rate for properties not having a current market. One writer went further and suggested that bank management be permitted to set the value of other real estate owned without appraisal. The final ruling did not adopt either of these viewpoints, however, because of the belief that to be meaningful the appraisal must be performed independently.

Holding Period

Some confusion was shown with respect to the holding period permitted for other real estate owned. Paragraph (e) has therefore been rewritten to state when banks should dispose of foreclosure property and real estate for which banking use is no longer contemplated. The statute currently permits holding such property for a maximum of five years. The Comptroller believes that this is a maximum figure only, and that earlier sale is required when the bank can recover its full investment in the property. This reflects the policy of 12 U.S.C. 29 that banks should not speculate in real estate. Even if management feels that the property has potential for further appreciation, perhaps at a rate greater than the bank's return on lending transactions, holding the property beyond the time needed to fully recover the bank's investment constitutes the proscribed speculation.

Use of Valuation Reserve

Paragraph (g) of the proposed ruling authorized the creation of valuation reserves to record the decline in value of specific parcels of other real estate owned. One letter questioned the propriety of using such a reserve in the case of a permanent decline in the value of the property as, for example, in the case of the destruction of a building by fire. The final ruling has accordingly been modified to indicate that banks have the option of recording the decline by a direct reduction of the asset or by the establishment or increase of a reserve. The decision on which method to use will be dictated by prudent accounting judgment based on the facts surrounding the decline.

Regulatory Burden

The adoption of this ruling, by providing for greater consistency with generally accepted accounting principles in the presentation of national bank financial statements, should serve to reduce the costs for national banks to prepare their financial statements. In addition, this change should increase the usefulness of those financial statements to the banks themselves, the Comptroller, and public users of national bank financial information.

It should also be noted that the interpretative ruling previously in effect provided for an annual independent appraisal or certification on all property within a national bank's portfolio of other real estate owned. The new ruling reduces the aggregate costs to national banks for independent appraisals by limiting the requirement to those parcels of property valued above the lesser of $25,000 or 5% of the bank's equity capital.

Drafting Information

The principal drafter of this document was Andrew J. Levinson, attorney.

PART 7—INTERPRETIVE RULINGS

In 12 CFR Ch. I, § 7.3025 is revised to read as follows:

§ 7.3025 Other real estate owned.

(a) "Other real estate owned" is:

(1) Real estate acquired by a national bank:

(i) Through purchases at sales under judgments, decrees, or mortgages where the property was security for debts previously contracted;

(ii) Through conveyance in satisfaction of debts previously contracted; or

(iii) Through purchases to secure debts previously contracted;

(2) Former banking premises beginning on the date of relocation to new banking quarters and property originally acquired for future expansion for which banking use is no longer contemplated, collectively called real estate for which banking use is no longer contemplated; and

(3) Real estate sold by a national bank after the effective date of this ruling in a covered transaction, for the period the transaction remains a covered transaction.

(b) "Covered transactions" are sales of other real estate owned where less than 10 percent of the total sales price is in cash; where there is financing by the bank of all or a portion of the sales price on terms more favorable than those customarily required by the bank where its only involvement is as lender; or where the transaction does not transfer from the bank to the buyer the usual risks of ownership and all or most of the rewards of ownership. A transaction ceases to be covered when these conditions no longer exist. It will be deemed that 10 percent of the sales price has been paid in cash when the consideration received by the bank in cash, together with that portion of the sales price guaranteed to the bank by private mortgage insurance or an equivalent guarantee, equals or exceeds 10 percent of the total sales price.

(c) The "recorded investment in the loan satisfied" is the unpaid balance of the loan, increased by accrued and uncollected interest, unamortized premium, and loan acquisition costs, if any, and decreased by previous direct writedowns, unamortized discount, and finance charges, if any.

(d) "Fair value" is the cash price that might reasonably be anticipated in a current sale under all conditions requisite to a fair sale. A fair sale means that buyer and seller are each acting prudently, knowledgeably, and under no necessity to buy or sell—*i.e.*, other than in a forced or liquidation sale. The appraiser should estimate the cash price that might be received upon exposure to the open market for a reasonable time, considering the property type and local market conditions. When a current sale is unlikely—*i.e.*, when it is unlikely that the sale can be completed within 12 months—the appraiser must discount all cash flows generated by the property to obtain the estimate of fair value. These cash flows include, but are not limited to, those arising from ownership, development, operation, and sale of the property. The discount applied shall reflect the appraiser's judgment of what a prudent, knowledgeable purchaser under no necessity to buy would be willing to pay to purchase the property in a current sale.

(e) The bank must maintain current documentation reflecting its continuing and diligent efforts to dispose of each parcel of other real estate owned. Other real estate owned must be disposed of within the holding period permitted by 12 U.S.C. 29 at any time that prudent judgment dictates, but in no event later than the end of such holding period. However, if at any time before the end of the holding period the bank can recover the amount of its original loan plus additional advances and other costs related to the loan or the parcel of other real estate owned, it should promptly dispose of the parcel. The holding period of 12 U.S.C. 29 begins on the date that legal title to the property is transferred to the bank, except for real estate for which banking use is no longer contemplated and property sold in a covered transaction. If title to property sold by the bank in a covered transaction reverts to the bank while the transaction is still covered, the holding period begins on the date the bank originally acquired title.

(f) Real estate acquired for future expansion should normally be used within 3 years. After holding future expansion real estate for 1 year, the board must state, by resolution, definite plans for its use. The resolution must be available for inspection by national bank examiners.

(g) Real estate for which banking use is no longer contemplated will be accounted for at the lower of its net book value or its fair value at the date of transfer to other real estate owned. Any excess of net book value over fair value

shall be charged to expense of the current period. Other real estate owned or acquired through a method described in paragraph (a)(1) of this section will be accounted for individually at the lower of the recorded investment in the loan satisfied or its fair value on the date of transfer to that category. Any excess of the recorded investment in the loan satisfied over the fair value of the property must be charge against the reserve for possible loan losses. In the absence of such a reserve, the excess must be charged to expense of the current period. Legal fees and direct costs of acquiring title to the property shall be expensed when incurred.

(l) Upon transfer to other real estate owned, fair value must be substantiated by a current appraisal prepared by an independent, qualified appraiser.

(i) This requirement is waived when the entire property is recorded at or below the lower of 5 percent of the bank's equity capital or $25,000. The requirement is deferred for 3 months after the bank takes title when the bank can document reasonable expectation of a sale, other than in a covered transaction.

(ii) All instructions from the bank to the appraiser must be in writing. The bank must instruct the appraiser to estimate fair value according to this subparagraph and the definition of fair value. The appraisal must recite all of the bank's instructions to the appraiser. Whenever the appraiser believes that more than 1 year is necessary for a fair sale of the property, the appraiser shall state and justify the estimated time and shall state the annual discount rate applied.

(h) The bank must obtain annually from an independent, qualified appraiser a current appraisal of fair value for each parcel of other real estate owned or certification, in letter form, that the fair value has not declined. The bank need not obtain either if the book value of the entire property is below the lower of 5 percent of equity capital or $25,000. In connection with each parcel of other real estate owned that has declined in value the bank must establish a valuation reserve in an amount at least equal to the excess of book value over fair value of the parcel or record the decline in value by a direct writedown of the asset. When a later appraisal indicates that fair value of the parcel has increased, the reserve for that parcel may be reduced, but not below zero.

(i) Loans arising from covered transactions must be included in other real estate owned on reports filed pursuant to 12 U.S.C. 161 and accounted for according to this section while the transaction remains a covered transaction.

(j) If other real estate owned is an unfinished construction or development project, further prudent advances to complete the project may be included in other real estate owned. However, such additional advances may not be capitalized unless the bank maintains on file evidence that the advances will result in a more salable property and are recoverable.

(k) Properties transferred to other real estate owned after December 31, 1977, shall be accounted for according to this ruling. Properties transferred to other real estate owned before January 1, 1978, but sold in covered transactions after the effective date of this ruling shall, from the date of the covered transaction, be accounted for according to this ruling. Except as indicated in the preceding sentence, properties transferred to other real estate owned before January 1, 1978, shall be accounted for according to this ruling or the ruling in effect on the date of the transfer. Changes from amounts previously reported in official reports filed pursuant to 12 U.S.C. 161 caused by the provisions of this paragraph will not require the filing of amended reports.

Authority: 12 U.S.C. 1 *et seq.*

Dated: August 3, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-24464 Filed 8-7-79; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R-0224]

Electronic Fund Transfers; Written Notification of Loss or Theft of Access Device

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting an amendment of § 205.5(c) of Regulation E, which implements the Electronic Fund Transfer Act, to provide that written notice of loss or theft of an access device or possible unauthorized electronic fund transfers is effective at the time the consumer mails or otherwise sends the notice to the financial institution. The regulation now provides that written notice is effective upon receipt of the notice by the financial institution (or upon expiration of the time normally required for transmission, if earlier). An analysis of the economic impact of the amendment is included as item (3) of the supplementary information.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation: Lynne B. Barr, Senior Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2412). Regarding the economic impact analysis: Frederick J. Schroeder, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–2584).

SUPPLEMENTARY INFORMATION: (1) *Proposed Amendment; Summary of Comments.* On March 21, 1979, the Board adopted sections of Regulation E (Electronic Fund Transfers) to implement sections 909 and 911 of the EFT Act (44 FR 18468, March 28, 1979). Section 205.5 of the regulation sets limits on a consumer's liability for unauthorized transfers. Generally, a consumer's liability for such transfers is limited to $50 if the consumer notifies the financial institution within 2 business days of learning of the loss or theft of the access device, and to $500 if notification occurs after 2 business days. Liability can be unlimited, however, if the consumer fails to notify the institution within 60 days after transmittal of a periodic statement that reflects unauthorized transfers.

Section 205.5(c) implements section 909(a) of the Act, which states that notice to a financial institution of loss or theft of an EFT access device or possible unauthorized transfers is considered given when the consumer takes such steps as are reasonably necessary to provide the institution with the pertinent information. The Act contemplates written or oral notice. The Board, when adopting the regulation, added a sentence which provides that written notification is effective upon receipt of the notice by the financial institution, or upon expiration of the time normally required for transmission, whichever is earlier.

The Board believed that consumers will usually notify the institution in person or by telephone, rather than in writing, in order to minimize potential losses. Telephone notification is the quickest and most efficient means of telling an institution of a lost or stolen EFT card. To encourage such notification, the Board's model disclosure clause emphasizes the advisability of telephone notification.

The Board received a number of comments on the "receipt rule" after its adoption. These comments pointed out that the liability structure of the EFT Act and Regulation E operates in a manner that may increase a consumer's liability significantly when the consumer notifies the institution in writing of the possibility of unauthorized transfers. A notice mailed by the consumer immediately upon learning of the loss or theft of the card may not be received by the financial institution within 2 business days. The consumer would thus be subject to the $500 liability limit (instead of the $50 limit imposed if notice is received within 2 business days). This is in contrast to the operation of a similar receipt rule in Truth in Lending, where a delay in receiving written notice would not increase a consumer's liability above the $50 statutory maximum.

As a result of these comments and the Board's concern over this escalating liability, the Board proposed to amend § 205.5(c) to provide that written notice of loss or theft of an access device or possible unauthorized transfers is effective when the consumer deposits the notice in the mail or transmits it by any other usual means to the financial institution (44 FR 30690, May 29, 1979).

The Board proposed this "mailbox rule" in order to give interested parties an opportunity to comment on the merits and costs of the proposed change. The Board received 128 comments on the proposal; 14 favored adoption in the form proposed, and the rest of the commenters were either completely opposed or suggested modification of the proposal in some way.

The comments in favor of the proposal stated that the losses which occur during the transmission period of written notice are more easily borne by financial institutions than by individual consumers. These commenters felt that the escalating liability structure of the Act justifies the shift of liability for losses to financial institutions. Other commenters stated that a mailbox rule would encourage the development of more secure EFT systems.

The comments in opposition to the proposal stated that a mailbox rule will result in increased losses to financial institutions, and that such losses would eventually be borne by consumers in the form of increased costs for EFT services. Some commenters felt that the proposed rule would discourage telephone notification and would actively encourage consumer fraud by providing a means by which a consumer who forgot to report or had delayed reporting could avoid the higher liability limit. Under the proposal, it would be possible for a consumer to state that a written notice had been transmitted (thereby cutting off the consumer's liability) when such a notice had been delayed or had not been sent. However, under the present rule, a consumer could avoid the higher limit by stating that the loss or theft of the access device had just been discovered.

Many comments mentioned the unreliability of the postal system as one reason why the proposal should not be adopted. A large number of commenters cited the difficulty of establishing the time at which a consumer posted a written notice to determine the point at which liability would shift from the consumer to the financial institution. Financial institutions stated that they have procedures to identify when mail is received, such as date-stamping incoming correspondence, so that the same proof problem does not exist with the present receipt rule.

Modifications of the proposal were suggested by a number of commenters. The recommended changes included (a) requiring oral notification instead of permitting either written or oral notification, (b) requiring written notification to be sent by registered or certified mail, and (c) permitting institutions that maintain 24-hour, toll-free telephone reporting systems to apply a receipt rule for written notification, while institutions that do not maintain such systems would be bound by a mailbox rule.

The Board had solicited comment on what percentage of notifications of loss, theft or unauthorized use are oral. The estimates supplied by commenters were very high; they ranged from 75 to 100 percent, with most in the 90 to 95 percent range. These estimates correspond to the Board's belief that the majority of consumers notify their institutions of loss or theft either in person or by telephone.

(2) *Amendment of § 205.5(c).* The Board has decided to adopt the amendment as proposed. Thus, written notice of loss or theft of an access device or possible unauthorized transfers will be effective at the time the consumer deposits the notice in the mail or otherwise transmits it to the financial institution.

The Board believes that telephone or personal notification of loss or theft is the most desirable method and should be actively encouraged by financial institutions. However, requiring telephone notice would be inconsistent with the statute, which permits written as well as oral notice. As to the other modifications suggested by the commenters, requiring written notification to be sent by registered mail would alleviate the problems of proof that a mailbox rule presents, but would not result in earlier notification and would be an added inconvenience and cost for consumers. The recommendation that institutions providing toll-free access for reporting be permitted to use a receipt rule would be, according to comments, an unwarranted burden on small financial institutions that would find the cost of such systems prohibitive in relation to their losses.

The effect of the mailbox rule will be to shift from the individual consumer to the financial institution (and ultimately to all the institution's customers) the losses over $50 that occur during the period between posting written notice and receipt of such notice. The Board believes this appropriate in light of the liability structure of the Act.

The Board believes that the provision in section 909(a) which states that notice is considered given when "such steps have been taken as may be reasonably required in the ordinary course of business to provide the financial institution with the pertinent information" can be interpreted by the Board under its authority in section 904 of the Act to support the adoption of a mailbox rule.

The Board is of the opinion that the consumer benefit to be gained by the adoption of a mailbox rule will outweigh the effect of shifting liability to financial institutions for losses from unauthorized transfers during the transmission period of a written notice.

(3) *Economic Impact Analysis.* Section 904(a)(2) of the Act requires the Board to prepare an analysis of the economic impact of the regulation issued by the Board to implement the Act. The following economic analysis accompanies revised § 205.5(c), which implements, in part, section 909 of the Act.[1]

The regulation is to be amended so that written notice of loss or theft of an access device or possible unauthorized electronic fund transfer shall be considered given when transmitted by a consumer to a financial institution. Both costs and benefits are associated with

[1] The analysis must consider the costs and benefits of the proposed regulation to suppliers and users of EFT services, the effects of the proposed regulation on competition in the provision of electronic fund transfer services among large and small financial institutions, and the effects of the proposed regulation on the availability of EFT services to different classes of consumers, particularly low-income consumers. The analysis presented here is to be read in conjunction with the economic impact analysis that accompanied the Board's Regulation E at 44 FR 18474, March 28, 1979.

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this change. Those consumers who elect to give written notice, either because of personal preference or because other means are unavailable to them, will be protected from liability for any unauthorized transfers made after notice has been transmitted. This ensures uniform application of the Act's two-day $50 liability limit protection to consumers regardless of how notice is given and constitutes a benefit to consumers.

Public comments offered no empirical evidence demonstrating a need for a change in the existing rule, which considers notice to be given when received by the financial institution. However, a consumer using the mails to transmit written notice would be likely to fall into the $500 liability limit category before the notice was received by the financial institution, and losses due to fraud would be expected to increase while the notice was in the mail, so that choosing to give written notice could expose a consumer to substantial liability under the existing rule.

Besides uniformity of treatment with respect to the Act's notice deadlines, consumers will benefit from the amendment in two additional ways. First, loss exposure will no longer depend on the speed or accuracy of mail delivery, factors largely out of a consumer's control. Second, loss exposure will not be affected by a consumer's inability to notify a financial institution by telephone. Other factors held equal, the revised rule can be expected to reduce aggregate losses by consumers. It will also reduce the likelihood of "catastrophic" individual losses that might have occurred under the receipt rule if a low-wealth, low-income consumer chose to give written notice and became subject to the $500 liability limit because of the financial institution's not having received the notice within 2 days. In making the $50 liability limit more widely applicable, the amendment makes EFT cards more like credit cards, a result that may promote consumer acceptance of EFT cards as a payments mechanism and lead to greater efficiency in the payments system as a whole.

For financial institutions, the amendment means that loss exposure will depend on how many consumers elect to give written notice by mail, the consumer's choice of mailing location, and the speed and accuracy of mail delivery, factors an institution cannot control. To the extent that the amendment removes some incentive for prompt reporting of loss, theft or suspected unauthorized use, total EFT fraud losses can be expected to increase. Consumers choosing written notice will have more time to transmit notice without losing the protection of the liability limit. Many commenters pointed out that fraudulent transfers are most likely to occur in the two-day period immediately following loss or theft of an access device, so that, if the amendment leads to relatively fewer prompt notifications by telephone, financial institutions will suffer greater losses before notices are received and access to affected accounts can be blocked. Furthermore, litigation costs would be increased by the difficulty of proving when a notice was mailed.

The amendment, in providing an additional consumer protection, might remove some incentive for prompt reporting of loss, theft, or suspected unauthorized use. The costs of related fraud losses to financial institutions and the payments system will be passed on to consumers in some degree through higher EFT prices or reduced levels of EFT services. Additional costs resulting from the amendment are expected to be small relative to the volume of EFT transactions. The long-run effect of the amendment on the evolution of EFT and the payments system cannot be predicted, however, and will merit future study.

(4) Pursuant to the authority granted in Pub. L. 95-630 (to be codified in 15 U.S.C. 1693b), the Board amends paragraph (c) of 12 CFR § 205.5 (Regulation E), by deleting the third sentence and substituting the following sentence, to read as follows:

PART 205—ELECTRONIC FUND TRANSFERS

§ 205.5 Liability of consumer for unauthorized transfers.

* * * * *

(c) * * * Notice in writing is considered given at the time the consumer deposits the notice in the mail or delivers the notice for transmission by any other usual means to the financial institution.* * *

* * * * *

By order of the Board of Governors, August 2, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-24353 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 217

[Reg. Q; Docket No. R-0228]

Penalty for Early Withdrawals

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has adopted three amendments to the Regulation Q early withdrawal penalty rule. The first amendment permits member banks, with the consent of their depositors, to apply the new early withdrawal penalty rule adopted effective July 1, 1979, to time deposits entered into before July 1, 1979. The second amendment requires member banks to pay a time deposit before maturity without penalty upon the death of any owner when requested to do so by the owner's representative or by any other owner. The third amendment requires member banks to pay time deposit before maturity without penalty where the owner of the deposit has been adjudicated or declared mentally incompetent.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Anthony F. Cole, Senior Attorney (202-452-3711) or Paul S. Pilecki, Attorney (202-452-3281) Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Application of New Penalty Rule. Effective July 1, 1979, the Board amended § 217.4(d) of Regulation Q (12 CFR 217.4(d)) to modify the interest forfeiture penalty required to be imposed when funds are withdrawn from time deposits prior to maturity (44 FR 32646). As amended, the minimum required early withdrawal penalty is a forfeiture of three months interest on the amount withdrawn where the time deposit has an original maturity of one year or less and a forfeiture of six months interest on the amount withdrawn where the time deposit has an original maturity of more than one year. No reduction of interest to the savings rate is required.

When the new penalty rule was adopted, the Board indicated that it would apply only to time deposit contracts entered into on or after July 1, 1979, and to preexisting time deposit contracts that are extended or renewed on or after July 1, 1979. The Board stated that time deposits entered into before July 1, 1979, and not extended or renewed on or after such date, would continue to be subject to the former penalty rule, which required a reduction of the rate of interest paid on the funds withdrawn prior to maturity to no more than the savings rate, less three months interest at the savings rate.

The Board now has determined to permit member banks, with the consent of their depositors, to apply the new early withdrawal penalty to time deposits issued before July 1, 1979, even where those time deposits are not extended or renewed on or after July 1, 1979. The Board in taking this action on the basis of comments received which indicate that applying two early withdrawal penalty rules would be difficult to administer and would result in unnecessary customer confusion and misunderstanding. It is anticipated that this action will enable banks to alleviate operational problems and potential customer confusion and will result in substantial benefits to customers by permitting member banks to apply the new, generally less severe, penalty rule to all outstanding time deposits, with the agreement of the depositor.

Penalty-free withdrawal in the event of death. Regulation Q currently provides that upon the death of any owner of time deposit funds, a member bank, if it so chooses, may pay all or a portion of such time deposit funds before maturity without imposing the normally required early withdrawal interest forfeiture penalty (12 CFR 217.4(d)). On May 30, 1979, the Board invited public comment on a proposal to amend this provision to require a member bank to pay a time deposit prior to maturity without penalty upon the death of any owner when requested to do so by the owner's representative or by any other owner (44 FR 32396). The period for receipt of public comment on the proposed amendment expired on July 2, 1979. After consideration of the comments and the views expressed therein, the Board has adopted the amendment in the form proposed. The amendment applies to all outstanding time deposits as well as to time deposits issued on or after the effective date. The Board believes that the amendment will more fully effectuate the intent of this exception to the early withdrawal penalty rule, which is to facilitate the administration of estates as well as to ease the financial burden occasioned by the death of a depositor.

Penalty free withdrawal in the event of incompetence. The Board has received requests to amend § 217.4(d) of Regulation Q (12 CFR 217.4(d)) to provide an additional exception to application of the early withdrawal penalty rule where the owner of time deposit funds has been declared or adjudicated mentally incompetent by a court of competent jurisdiction. These requests note that withdrawals of time deposit funds held by individuals adjudicated incompetent frequently are required to provide for the support of such individuals.

The Board does not believe that it is necessary for member banks to apply the early withdrawal interest penalty requirement when a depositor has been adjudicated or declared mentally incompetent. Proceedings in insanity or mental incompetency generally are instituted either to secure commitment to an institution or to obtain the appointment of a guardian or conservator to preserve the assets of an individual judged incapable of managing his or her affairs. An individual adjudicated incompetent may have limited means of support and may need immediate access to his or her time deposit funds for support. The Board believes that the imposition of the early withdrawal interest forfeiture penalty in such circumstances may work a hardship by unnecessarily reducing the funds available for the support and care of such individuals.

The amendment requires member banks to permit penalty-free withdrawals of time deposit funds prior to maturity where the owner of the funds has been declared or adjudicated mentally incompetent by a court or other administrative body of competent jurisdiction when requested to do so by the owner's guardian, conservator, or committee. The amendment applies to all time deposits, including those outstanding on the effective date, issued prior to the date the depositor is declared or adjudicated incompetent. Deposits issued or renewed, automatically or otherwise, on or after such date would be subject to the penalty provisions since a guardian or conservator would have had an opportunity to make an appropriate investment decision based on the status and needs of his or her ward. Under the amendment, member banks should require appropriate documentation that the time deposit owner has been determined to be incompetent at the time the penalty-free withdrawal is requested.

The amendment concerning penalty-free withdrawal in the event of death was published for public comment. In view of the substantial public benefit that will result from adoption of this amendment which more fully effectuates the intent of this exception to the early withdrawal penalty rule, the Board finds that good cause exists for making the amendment effective in less than 30 days.

With respect to the other amendments, in view of the substantial public benefits that will result (1) from permitting member banks to apply the new, generally less restrictive, early withdrawal penalty rule to all time deposits and (2) from facilitating access to time deposit funds to provide for the support of individuals determined to be mentally incompetent, the Board finds that application of the public notice and procedure requirements of 5 U.S.C. 553 would be contrary to the public interest. Moreover, in view of the foregoing reasons, the Board also has determined that good cause exists for adopting these amendments without deferring the effective date for 30 days.

Therefore, pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 461 and 371b), effective August 1, 1979, § 217.4(d) of Regulation Q (12 CFR 217.4(d)) is amended to read as follows:

§ 217.4 Payment of time deposits before maturity.

* * * * *

(d) *Penalty for early withdrawals.* Where a time deposit with an original maturity or required notice period of one year or less, or any portion thereof, is paid before maturity or before the expiration of the required notice period, a depositor shall forfeit at least three months of interest on the amount withdrawn at the rate being paid on the deposit. If the amount withdrawn has remained on deposit for less than three months, all interest on the amount withdrawn shall be forfeited. Where a time deposit with an orignal maturity or required notice period of more than one year, or any portion thereof, is paid before maturity or before the expiration of the required notice period, a depositor shall forfeit at least six months interest on the amount withdrawn at the rate being paid on the deposit. If the amount has remained on deposit for less than six months, all interest on the amount withdrawn shall be forfeited.[1] Where necessary to comply with the

[1] The provisions of this paragraph apply to all time deposit contracts entered into on or after July 1, 1979, and to all existing time deposit contracts that are extended or renewed (whether by automatic renewal or otherwise) on or after such date. The provisions of this paragraph also may be applied, with the consent of the depositor, to all other time deposit contracts entered into before July 1, 1979. All contracts not subject to the provisions of this paragraph shall be subject to the restrictions of § 217.4(d) in effect prior to July 1, 1979, which provided that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that prescribed in § 217.7 for a savings deposit and the depositor shall forfeit three months of interest payable at such rate. If, however, the amount withdrawn has remained on deposit for three months or less, all interest shall be forfeited.

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requirements of this paragraph, any interest already paid to or for the account of the depositor shall be deducted from the amount requested to be withdrawn. Any amendment of a time deposit contract that results in an increase in the rate of interest paid or in a reduction in the maturity of the deposit constitutes a payment of the time deposit before maturity. A time deposit may be paid before maturity without a forfeiture of interest as prescribed by this paragraph in the following circumstances:

(1) Where a member bank pays all or a portion of a time deposit representing funds contributed to an Individual Retirement Account or a Keogh (H.R. 10) plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 401, 408 when the individual for whose benefit the account is maintained attains age 59½ or is disabled (as defined in 26 U.S.C. (I.R.C. 1954) § 72(m)(7)) or thereafter; or

(2) Where a member bank pays that portion of a time deposit on which Federal deposit insurance has been lost as the result of the merger of two or more Federally insured banks in which the depositor previously maintained separate time deposits, for a period of one year from the date of the merger.

A time deposit must be paid before maturity without a forfeiture of interest as prescribed by this paragraph in the following circumstances:

(1) Where a member bank pays all or a portion of a time deposit upon the death of any owner [1a] of the time deposit funds; or

(2) Where a member bank pays all or a portion of a time deposit when the owner [1a] of the time deposit is determined to be legally incompetent by a court or other administrative body of competent jurisdiction. * * *

By order of the Board of Governors, July 30, 1979.

Theodore E. Allison,

Secretary of Board.

[FR Doc. 79-24351 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

[1a] For the purposes of this provision, an "owner" of time deposit funds is any individual who at the time of his or her death or determination of incompetence has full legal and beneficial title to all or a portion of such funds or, at the time of his or her death or determination of incompetence, has beneficial title to all or a portion of such funds and full power of disposition and alienation with respect thereto.

12 CFR Part 217

[Reg. Q, Docket No. R-0241]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by the severe storms and tornadoes beginning on or about July 16, 1979, in Laramie County in the State of Wyoming.

EFFECTIVE DATE: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3281).

SUPPLEMENTARY INFORMATION: On July 19, 1979, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 11795 of July 11, 1974, the President, acting through the Administrator of the Federal Disaster Assistance Administration, designated Laramie County in the State of Wyoming a major disaster area. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and tornadoes. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to July 19, 1979, and will remain in effect until 12 midnight January 31, 1980.

Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4(d) of Regulation Q for the benefit of depositors suffering disaster-related losses within Laramie County in the State of Wyoming which has been officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster area.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the storms and tornadoes in Laramie County, Wyoming, good cause exists for dispensing with notice and public particpation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(18)), August 1, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-24375 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

[1] Effective July 1, 1979, § 217.4(d) of Regulation Q provides that where a time deposit with an original maturity of one year or less, or any portion thereof, is paid before maturity, a depositor shall forfeit at least three months of interest on the amount withdrawn at the rate being paid on the deposit. Time deposits with original maturities of greater than one year require the forefeiture of at least six months' interest when paid prior to maturity. With respect to time deposits issued prior to July 1, 1979, where such deposits, or any portion thereof, are paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed the current ceiling rate for a savings deposit under § 217.7 and the depositor shall forfeit three months of interest payable at such rate. Effective August 1, 1979, a member bank may apply the new, generally less restrictive, penalty to time deposits issued prior to July 1, 1979, with the consent of the depositor.

12 CFR Part 217

[Reg. Q, Docket No. R-0240]

Maximum Rates of Interest Payable on Time Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has determined to increase the ceiling rate of interest payable by member banks on time deposits with maturities of 30 to 89 days from 5 per cent to 5¼ per cent. The Board also has amended Regulation Q to clarify that where additional deposits to an existing time deposit account are permitted, such additions are subject to the ceiling rate of interest in effect on the date the additional deposits are made.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Anthony F. Cole, Senior Attorney (202/452-3711) or Paul S. Pilecki, Attorney (202/452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Regulation Q currently provides that no member bank shall pay interest at a rate in excess of 5 per cent on time deposits with maturities of 30 to 89 days (12 CFR 217.7(b)). This ceiling rate has been 25 basis points below that in effect for savings accounts since July 1, 1979; prior to the July 1 savings rate increase, the 30- to 89-day time deposit ceiling rate equaled the savings deposit ceiling rate. In order to restore the equality of rates paid by member banks on savings deposits and time deposits with maturities of 30 to 89 days, the Board has increased the ceiling rate of interest that member banks may pay on such time deposits by ¼ per cent to 5¼ per cent, the current savings ceiling rate. The new ceiling rate may be paid only on deposits made or renewed on or after the effective date of the amendment.

Effective July 1, member banks were authorized to offer a new category of time deposit with a maturity of 4 years or more at a ceiling rate tied to the 4-year yield for U.S. Treasury securities. The ceiling rate for new deposits in this category is established monthly; however, the rate paid on outstanding deposits is not affected by the monthly changes in the ceiling rate for new deposits. The Board is aware that some members banks permit customers to deposit additional funds into previously established time deposits of this category. While under current Board policy a member bank may continue to pay the contractually agreed upon rate of interest on an existing 4-year deposit, any deposit to an existing 4-year time deposit received by the member bank *subsequent* to a change in the ceiling rate of interest may not exceed the ceiling rate in effect at the time the addtional deposit is made. Accordingly, the Board has amended section 217.3(a) of Regulation Q to clarify that additional deposits made to *any* existing time deposit account are subject to the rate ceiling in effect at the time the additional deposits are made.

The Board's actions were taken at this time after consultation with the other Federal financial institution regulatory agencies. In order to facilitate the achievement of the previously mentioned objectives as rapidly as possible, the Board finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to these actions would be contrary to the public interest and that good cause exists for making these amendments effective in less than thirty days.

Therefore, effective August 1, 1979, pursuant to its authority under section 19(j) of the Federal Reserve Act (12 U.S.C. § 371b) to prescribe rules governing the payment of interest by member banks on time deposits, the Board amends Regulation Q (12 CFR 217) as follows:

1. By adding a new sentence to the end of paragraph (a) of § 217.3:

§ 217.3 Interest on time and savings deposits.

(a) *Maximum rate.* * * * The maximum rate of interest that may be paid by a member bank on an additional deposit to any existing time deposit shall not exceed the maximum rate that may be paid in accordance with § 217.7 on the date the additional deposit is made.

* * * * *

2. By revising paragraph (b) of § 217.7:

§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.

* * * * *

(b) *Fixed ceiling time deposits of less than $100,000.* Except as provided in paragraphs (a), (b), (e), (f), and (g) of this section, no member bank shall pay interest on any time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity	Maximum percent
30 days or more but less than 90 days	5¼
90 days or more but less than 1 year	5½
1 year or more but less than 30 months	6
30 months or more but less than 4 years	6½
4 years or more but less than 6 years	7¼
6 years or more but less than 8 years	7½
8 years or more	7¾

* * * * *

By order of the Board of Governors of the Federal Reserve System, July 30, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-24350 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 217

[Reg. Q; Docket No. R-0229]

Deposits as Including Certain Promissory Notes and Other Obligations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On may 30, 1979, the Board of Governors of the Federal Reserve System invited public comment on a proposal to amend its regulations to subject member bank repurchase agreements of less than $100,000 to the interest rate ceilings of Regulation Q (44 FR 32395). Such repurchase agreements arise from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that the bank is obligated to repurchase. The period for receipt of public comment expired on July 2, 1979.

After consideration of the public comments and the views expressed therein, the Board has determined to amend Regulation Q to subject member bank repurchase agreements ("RPs") of United States Government and agency securities of less than $100,000 issued for terms of 90 days or more to deposit interest rate ceilings of Regulation Q. RPs issued in amounts of less than $100,000 for terms of less than 90 days continue to be exempt from the interest rate ceilings; however, such agreements may not provide for automatic renewal or extension. In addition, the Board authorized a three-year phase-out period for member banks currently issuing such RPs in amounts of less than $100,000 with maturities of 90 days or more.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Anthony F. Cole, Senior Attorney (202/452-3711), or Paul S. Pilecki, Attorney (202/452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

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SUPPLEMENTARY INFORMATION: Section 217.1(f)(2) of Regulation Q currently exempts from the definition of deposits any obligations that "evidence an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that the bank is obligated to repurchase." Consequently, these obligations presently are not subject to the Regulation Q interest rate ceilings. This general exemption was established in 1969 in order to facilitate a strong market for U.S. Government and agency securities, to provide banks a means of temporarily financing member bank portfolio positions and to provide a service to customers who desire to invest temporarily in government and agency securities as part of a cash management program. The repurchase agreement exemption was not intended to provide member banks with a device for avoiding interest rate limitations.

After review and consideration of over 50 comments received, the Board has determined to narrow the current exemption from deposit treatment by including within the definition of deposits in Regulation Q member bank obligations of, or obligations that are fully guaranteed as to principal or interest by, the United States or any agency thereof that the bank is obligated to repurchased where such obligations are in amounts of less than $100,000 and have maturities of 90 days or more. RPs issued in amounts of less than $100,000 with maturities of less than 90 days will continue to be exempt from the interest rate ceilings. Such agreements, however, may not be automatically renewed or extended. The Board believes that such an amendment will not affect adversely the practice of providing bank customers, particularly small businesses and local governments, a vehicle for investing temporarily idle funds for cash management purposes while maintaining orderly administration of currently prescribed deposit rate ceilings. This amendment does not affect the current exemption for interbank transactions involving repurchase agreements of less that $100,000.

In order to prevent undue hardship to member banks with outstanding small denomination RPs with maturities of 90 days or more, the Board has determined it appropriate to provide for a three-year phase-out period from the effective date of the amendment. Member banks currently offering such RPs will be permitted to engage in RP contracts of less than $100,000 with maturities of 90 days or more without regard to the interest rate limitations of Regulation Q during this period. However, the amount of such RPs on a bank's books at any point in time during the phase-out period shall not be in excess of the amount outstanding on the effective date of the amendment. This action will not affect the rates of interest being paid on RPs issued prior to the effective date of the amendment. Member banks with substantial amounts of such RPs outstanding should consult with the Comptroller of the Currency, in the case of national banks, and with the appropriate Reserve Bank, in the case of State member banks, to make arrangements for an appropriate phase-out program.

The Board's action was taken after consultation with the Federal financial institution regulatory agencies. In order to facilitate the administration of currently prescribed deposit interest rate limitations, the Board finds that good cause exists for making the amendments effective in less than thirty days.

Pursuant to its authority under sections 19 (a), (i), and (j) of the Federal Reserve Act (12 U.S.C. 461, 371a and 371b), the Board amends Regulation Q (12 CFR 217), effective August 1, 1979, as follows: Paragraph (f)(2) is revised to read as follows:

§ 217.1 Definitions.

* * * * *

(f) *Deposits as including certain promissory notes and other obligations.* For the purposes of this Part, the term "deposits" also includes any member bank's liability on any promissory note, acknowledgment of advance, due bill, or similar obligation (written or oral) that is issued or undertaken by a member bank principally as a means of obtaining funds to be used in its banking business, except any such obligation that:

* * * * *

(2) Evidences an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that the bank is obligated to repurchase, and

(i) Is issued in denominations of $100,000 or more; or

(ii) Is issued in denominations of less than $100,000, matures in less than 90 days and is not automatically renewable or extended;[36]

* * * * *

[36] A member bank with such obligations issued in denominations of less than $100,000 with maturities of 90 days or more may continue to issue such obligations until August 1, 1982, without regard to this subparagraph. However, the aggregate amount of such obligations outstanding on a member bank's books may not exceed the total of such obligations outstanding on its books on August 1, 1979.

By order of the Board of Governors of the Federal Reserve System, July 30, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-24352 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 226

[Reg. Z; FC-0165 and FC-0166]

Truth in Lending; Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretations.

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z: FC-0165, regarding proper treatment of required deposit balance in disclosure of amount financed and payment schedule and in computation of annual percentage rate in a pledged savings account mortgage; and FC-0166, regarding proper treatment of required deposit balance in disclosure of amount financed and payment schedule and in computation of annual percentage rate in a mobile home transaction with required escrow of property insurance. The agency is taking this action in response to requests for interpretation of this regulation.

EFFECTIVE DATE: On or after September 7, 1979.

FOR FURTHER INFORMATION CONTACT: Gerald C. Kell, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2)(ii). As provided by 12 CFR Part 226.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be post marked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) Authority: 15 U.S.C. 1640(b).

226.8(d)—Proper treatment of required deposit balance in disclosure of amount financed and payment schedule and in computation of annual percentage rate in a pledged savings account mortgage (modifies PI letters 265, 734, 864 and 1136).

226.8(e)—Proper treatment of required deposit balance in disclosure of amount financed and payment schedule and in computation of annual percentage rate in a pledged savings account mortgage (modifies PI letters 265, 734, 864 and 1136).

July 24, 1979.

This will reply to your letter of * * *, concerning the proper disclosures for a mortgage loan which is secured in part by a pledged savings account, a program very similar to that discussed in Public Information Letters 1257 and 1304. In this program a borrower pledges funds in an interest-bearing savings account deposited with the lender; during the first five or ten years of the mortgage, the lender withdraws amounts from the savings account to supplement the borrower's out-of-pocket payments in order to make up the total monthly mortgage payments. In Letter 1257 the staff expressed its opinion that the pledged savings account constitutes a required deposit balance for purposes of Regulation Z; in Letter 1304 we stated that the interest earned on the pledged account may not be treated as an advance for purposes of computing the annual percentage rate. You ask three additional questions about this program, which will be answered in order below.

You first ask how the amount of the loan and the amount financed should be calculated and disclosed when there is a required deposit balance. As you know, Regulation Z does not require disclosure of the "amount of the loan." It does, however, require disclosure of the "amount financed," which is defined in § 226.8(d)(1) as the amount of credit which will be paid to or on behalf of the customer, excluding, among other things, any required deposit balance. A transaction with a required deposit balance is, in effect, a multiple advance transaction, since the release of the deposit constitutes an advance by the creditor to or on behalf of the customer. The timing of the advance depends upon when the funds are made available. In your program, for example, if monthly withdrawals are made from the pledged account for five years, the transaction would consist of one large advance at the beginning, followed by 60 smaller, monthly advances.

A simplified example may be of some assistance in explaining this point. Assume a loan of $1,000 in which a required deposit balance of $200 is created at consummation and is to be released to the customer at the maturity of the loan. In this transaction there are two advances: $1,000 at consummation and $200 at maturity, for a total of $1,200 in advances. Deducting the required deposit balance of $200 from this figure results in an amount financed of $1,000. While this might appear to "cancel out" the effect of the required deposit balance; inasmuch as the amount financed of $1,000 is the same figure that would be disclosed if there were no required deposit balance or multiple advances, you will note that the existence of a required deposit balance has in impact on the annual percentage rate computation. This is because, although the disclosed amount financed does not reflect the timing of advances, calculation of the annual percentage rate does take proper account of the timing of advances. In this connection, see the annual percentage rate formulas beginning on page 10 of Supplement I to Regulation Z.

Applying this concept to your transaction, assume a $50,000 mortgage, with $5,000 deposited into the pledged savings account, a portion of which is to be withdrawn every month for the next five years. The transaction would be viewed as having one advance of $50,000 followed by 60 additional advances, the sum of which equals $5,000. The total of advances thus would be $55,000. From this figure, you can deduct the required deposit balance of $5,000, to arrive at the amount financed of $50,000.

The staff has, in previous letters, stated that the amount financed in such a transaction could be disclosed as the difference between the initial advance and the required deposit balance, $800 in the first example and $45,000 in the second example described above (see Public Information Letters 265, 580, 734, 864, and 1136). Although the staff believes the disclosures described in this letter more properly reflect the value received in the transaction, it believes that either of these two approaches may be used in disclosing the amount financed. In all cases, however, the annual percentage rate must be properly computed, taking account of the release of the deposit balance.

Your second question concerns whether the payment to be disclosed pursuant to § 226.8(b)(3) is the total monthly payment (i.e., the borrower's out-of-pocket payment and the principal and accrued interest from the pledged savings account), or whether it is only the "net" payment (i.e., the out-of-pocket payment and the earned interest from the account). You believe the payment required to be disclosed is the total payment, but wish to disclose the "net" payment as additional information pursuant to § 226.6(c). The staff agrees that this disclosure would be appropriate, provided the criteria discussed in § 226.6(c) are met.

Finally, you ask whether the equation in paragraph (f)(3)(ii) in Supplement I would be the proper one to use to calculate the annual percentage rate for your mortgage and, further, what figures should be used for the terms U_k and P_j. The staff believes that equation is the corrcet one to use. Note that this equation assumes that since the advance of the full loan amount occurs at the same time as the establishment of the deposit balance, the latter is equivalent to a "payment" and the two amounts offset each other. Therefore, using this equation, the first advance equals the amount of the loan less the required deposit balance and any prepaid finance charge. The principal amounts withdrawn monthly from the account are the subsequent advances. These amounts should be used for the values of U_k. The payments to be shown as P_j in this equation will be the total payments referred to in our answer to your second question above.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(2) of the regulation, and it is limited to the facts and issues as discussed herein. It will become effective 30 days from publication in the **Federal Register** unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,

Nathaniel E. Butler,

Associate Director.

226.8(c)—Proper treatment of required deposit balance in disclosure of amount financed and payment schedule and in computation of annual percentage rate in a mobile home transaction with required escrow of property insurance (rescinds PI letter 1136).

226.8(e)—Proper treatment of required deposit balance in disclosure of amount financed and payment schedule and in computation of annual percentage rate in a mobile home transaction with required escrow of property insurance (rescinds PI letter 1136).

July 24, 1979.

This will respond to your letters of * * * and * * *, in which you request an official staff interpretation of Regulation Z concerning the proper disclosure of property insurance escrow accounts required in connection with credit sales of mobile homes. To make sure that insurance coverage on the mobile home is maintained throughout the term of the contract, usually 15 years, the creditor requires the customer to obtain an insurance policy for the first year and to make a montly payment of one-twelfth of the folowing year's premium into an escrow account. These amounts are accumulated, then disbursed once a year for the next 14 years to the insurance company of the cutomer's choice. The insurance premiums are not part of the finance charge since the creditor makes the disclosures called for by §226.4(a)(6). You recognize that the insurance escrow constitutes a required deposit balance within the meaning of § 226.8(e), and ask how the disclosures relating to the escrow should be made.

First of all, the staff would stress that establishement of escrow accounts for mobile home property insurance payments does not require the special treatment accorded required deposit balances as long as customers are given the option of either escrowing the premium in advance with the creditor or undertaking to maintain proper insurance coverage on their own. It is only when the creditor requires that the premiums be escrowed in this fashion that the account must be treated as a required deposit balance for calculation and disclosure purposes.

In those cases, then, where the escrow is required, the staff believes that the amount of the required deposit balance is the sum of all the monthly deposits made into the escrow account during the term of the transaction, since the customer will lose the use of this total amount by virtue of the escrow program. You are concerned that using this figure may distort the annual percentage rate. You should note, however, that the impact of the required deposit balance on the annual percentage rate is somewhat reduced inasmuch as the annual disbursements to the insurance company of the accumulated deposits constitute advances made by the creditor on the customer's behalf and are treated as such in determining the amount financed and the annual percentage rate.

An example may be helpful in explaining the proper disclosures. Assume a 15 year (180 monthly payments) contract in which the cash price is $10,000, there is no downpayment and no prepaid finance charge, and the annual insurance premium is $300. The creditor finances the initial year's premium and each month during the first 14 years (168 months) collects, in addition to its regular monthly instalment, $25 to be deposited in the insurance escrow account. (The staff believes it would be appropriate for the creditor to assume that current insurance rates will continue to apply and to use those figures unless the creditor knows or has reason to know that a different rate will apply.) To the unpaid balance of cash price of $10,000 would be added $4,500 (the sum of the 15 advances for insurance), for an unpaid balance of $14,500. The required deposit balance of $4,200 (the sum of 168 payments of $25) is then subtracted, leaving an amount financed of $10,300.

The "payments scheduled to repay the indebtedness" to be disclosed pursuant to § 226.8(b)(3) and to be used in computing the annual percentage rate must include the amounts collected for the insurance. There will, therefore, be two levels of payments, 168 payments at the higher level which includes the $25 and 12 payments at the lower level which excludes that amount. You will note that in this type of transaction, the total of payments exceeds the sum of the amount financed and the finance charge by the amount of the required deposit balance.

Public Information Letter 1136 discussed a condominium fee that was escrowed in advance in the same fashion as this mobile home property insurance premium. There the staff stated that the required deposit balance would be only a single year's fee. Since that position is inconsistent with that expressed in this interpretation, Letter 1136 is hereby rescinded.

You ask whether there are tables available for determining the annual percentage rate for transactions involving a required deposit balance. Since the transaction described above involves both multiple advances and unequal payments, use of tables such as those contained in Volume I of the Board's Annual Percentage Rate Tables would be inappropriate. Volume II of the tables may, however, be used for all combinations of advances and payments. You may also find tables prepared by commercial sources that can be adapted for such transactions.

This is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2) of the regulation and limited to the facts and issues discussed herein. It will become effective one month after publication in the **Federal Register** unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,

Nathaniel E. Butler,

Associate Director.

Board of Governors of the Federal Reserve System, July 31, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-24357 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 526

[No. 79-420]

Limitations on Rate of Return; Additions to Variable Ceiling Savings Accounts

August 2, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment prohibits members of the Federal Home Loan Bank System from accepting additions to four-year, fixed rate, variable ceiling savings accounts. The maximum rate of earnings payable on variable ceiling accounts is prescribed monthly and is applicable to all accounts issued during the month. Once issued, the rate of earnings on the account remains constant during the term of the account. The purpose of the prohibition hereby imposed is to ensure that all deposits to variable ceiling accounts are subject to the maximum prescribed rate of return applicable on the date of deposit.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION, PLEASE CONTACT: John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, (202-377-6445).

SUPPLEMENTARY INFORMATION: By Board Resolution No. 79-304, dated May 30, 1979, the Bank Board authorized member institutions to issue a new variable ceiling certificate account with a term of four years and a maximum rate of return one percent below the average four-year yield for United States Treasury securities. The average four-year yield is determined monthly by the U.S. Treasury as the basis for the rate of return on variable ceiling accounts issued during the following month. Thus, while the maximum rate at which variable ceiling accounts may be issued varies from month to month, the rate paid on a particular account remains constant during the four-year term of the account.

Established Bank Board policy permits additions to certificate accounts (other than six-month money market certificates), if the certificate so provides, and if the account term is extended so that the period from the date of the addition to maturity equals the original term or the renewal term of the account. However, application of this policy to variable ceiling accounts would allow unlimited extension of the original rate of return on the account and could thereby impair the effectiveness of the variable rate ceiling. Therefore, the Board has decided to prohibit additions to variable ceiling accounts.

The Bank Board considered, as an alternative to a complete prohibition on additions, making additions subject to the rate ceiling applicable to new variable ceiling accounts accepted on the date of the addition. Under that alternative, additions would not extend the original term of the original account. Instead, each addition would effectively create a new account within the original account. For the following reasons the Bank Board decided not to adopt this alternative:

(1) The Bank Board perceives no administrative advantage for member institutions or added convenience for savers in grouping as a single account a number of accounts with a variety of maturities and rates of return.

(2) Such an approach appears unnecessarily cumbersome and potentially confusing to savers, particularly savers who are familiar with the Board's established policy regarding additions and extension of maturity.

(3) Because no minimum amount is prescribed for variable ceiling accounts, a saver wishing to invest additional funds may simply open a new account.

(4) Because currently approved certificate forms provide for extension of the account's maturity whenever an addition is made, a change in the Bank Board's policy regarding such extensions would require adoption of new certificate forms for use only for variable ceiling accounts.

Therefore, the Bank Board believes that, in order to maintain the effectiveness of the prescribed ceiling on variable ceiling accounts, and consistent with the Board's policy prohibiting additions to six-month money market certificates, additions to variable ceiling accounts should be prohibited. Because this prohibition is a departure from the Bank Board's previous policy with respect to additions to longer term certificates, the Board has decided to specify this prohibition by regulation.

The Board is taking this action after consultation with the other Federal financial regulatory agencies and believes that the restriction hereby imposed on member institutions will not adversely affect their ability to compete with other financial institutions.

The Bank Board has determined that it is in the public interest to minimize the number of additions accepted prior to implementation of this regulation and has therefore decided to dispense with (1) notice and public procedure under 12 CFR 508.11 and 5 U.S.C. § 553(b), and (2) publication of the regulation for the 30-day period specified in 12 CFR 503.14 and 5 U.S.C. § 553(d) prior to effective date.

Accordingly, the Bank Board hereby amends § 526.3(a)(5)(ii) of the Regulations for the Federal Home Loan Bank System (12 CFR 526.3(a)(5)(ii)) to read as follows:

PART 526—LIMITATIONS ON RATE OF RETURN

§ 526.3 Maximum rates of return payable by members on savings accounts.

(a) Except as provided in § 526.3-1 for certificate accounts of $100,000 or more, no member may pay an annual rate of return on a savings account exceeding the applicable maximum percentage, as follows:

* * * * *

(5) * * *

(ii) 1% below the average four year rate based on the yield curve for United States Treasury securities as determined by the U.S. Department of the Treasury immediately prior to the first day of the month—certificate accounts with a term or qualifying period of 4 years or more issued on or after the first day of the month. No addition to any such account shall be accepted during the term of the account.

* * * * *

(Sec. 4, 80 Stat. 824 (12 U.S.C. 1425b). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-24475 Filed 8-7-79; 8:45 am]

BILLING CODE 6720-01-M

12 CFR Parts 526, 545, and 563

[No. 79-421]

Penalty for Early Withdrawals

August 2, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Bank Board has adopted three amendments to its regulations regarding the early withdrawal penalty. The first amendment permits member institutions, with the consent of their depositors, to apply the new early withdrawal penalty rule, adopted effective July 1, 1979, to accounts existing prior to that date. The second amendment requires member institutions to allow penalty-free withdrawal of deposits from accounts before maturity upon the death of an account owner. The third amendment requires member institutions to allow penalty-free withdrawal of deposits from accounts before maturity where an account owner has been adjudicated or declared mentally incompetent.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: Kathleen E. Topelius, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202-377-6444).

SUPPLEMENTARY INFORMATION:

Application of New Penalty Rule. Effective July 1, 1979, the Bank Board amended its regulations to modify the earnings forfeiture penalty required to be imposed when funds are withdrawn from accounts prior to maturity. As amended, the minimum required early withdrawal penalty is forfeiture of three months earnings on amounts withdrawn where the account has an original maturity of one year or less, and forfeiture of six months earnings on amounts withdrawn where the account has an original maturity of more than one year.

When the early withdrawal penalty amendment was adopted, the Bank Board indicated that the new penalty would apply only to accounts issued, extended, or renewed on or after July 1, 1979. The Bank Board stated that accounts issued before July 1, 1979, and not extended or renewed on or after that date, would continue to be subject to the original penalty provision incorporated into the account contract.

The Bank Board has now determined to permit member institutions, with consent of the account owners, to apply the new early withdrawal penalty to accounts issued before July 1, 1979, even where these accounts have not been extended or renewed. The Bank Board is taking this action on the basis of comments received in response to its "small savers" proposal, dated April 3, 1979, (44 FR 21027-21029), and on the basis of comments received subsequent to Bank Board approval of the new early withdrawal penalty on May 30, 1979 (44 FR 33669-33675). Commenters indicate that the existence of several early withdrawal penalty rules is difficult to administer and results in unnecessary confusion to customers. It is anticipated that this action will enable member institutions to alleviate operational problems and will result in substantial benefit to customers by permitting member institutions to apply the new, more equitable penalty to all outstanding accounts, once the agreement of the account owner is secured.

Penalty-free withdrawal in the event of death. Bank Board regulations currently provide that upon the death of any account owner, a member institution, if it so chooses, may allow penalty-free withdrawal of deposits from the account prior to maturity. On May 30, 1979, the Bank Board, by Resolution 79-305 (44 FR 33690-33691), invited public comment on a proposal to amend this provision to require a member institution to allow withdrawal of deposits prior to maturity without penalty upon the death of an account owner. The period for receipt of public comment on the proposed amendment expired on July 9, 1979.

Forty comments were received from 33 savings and loan associations, 2 trade associations, 1 state government agency, 2 individual consumers, and 2 attorneys. The vast majority of commenters favored the proposed amendment. Many savings and loan executives stated that it is the voluntary policy of their associations to waive the withdrawal penalty following death of an account owner. Associations that have adopted a voluntary waiver policy noted that increased good will in the community far exceeded costs incurred in waiving the penalty. One consumer commenter recounted his experiences following the death of his spouse and expressed appreciation that his savings and loan had allowed withdrawal without penalty.

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Many industry commenters who expressed approval of the proposal suggested that the Bank Board limit the time period during which penalty-free withdrawals could be made. In carefully considering this recommendation, the Bank Board noted two major problems with imposition of a time limitation. First, the stated purpose of the penalty exemption is to facilitate administration of estates; it would be very difficult to determine an appropriate time limitation that would, in all cases, allow an adequate period for settling the estate. Second, many account owners who intend to reserve withdrawal of account funds to extreme financial necessity might feel compelled to withdraw their deposits if the penalty-free period included a time limitation. This would cause withdrawal of accounts that otherwise might have remained on deposit until maturity. The Bank Board has, therefore, determined to adopt the regulation as proposed.

The proposal specifically requested comment on whether the amendment, if adopted, should apply to all accounts or only to those accounts issued after the effective date of the regulation. After consideration of the comments, most of which favored the administrative ease of covering all accounts, the Bank Board has adopted the amendment to apply to all accounts, regardless of when issued.

Penalty-free withdrawal in the event of incompetence. The Bank Board has been advised of requests to allow member institutions to waive the early withdrawal penalty where an account owner has been declared or adjudicated mentally incompetent by a court with proper jurisdiction. These requests note that funds deposited in an account owned by an individual adjudicated incompetent are usually required to provide for the support of the individual.

The Bank Board believes that member insitutions should be required to waive the early withdrawal penalty requirement for an account owner who has been adjudicated or declared mentally incompetent when withdrawal is requested by the owner's guardian, conservator, or committee. Proceedings in insanity or mental incompetency generally are instituted either to secure commitment to an institution or to obtain the appointment of a guardian or conservator to preserve the assets of an individual judged incapable of managing his or her affairs. An individual adjudicated incompetent may have limited means of support and may need immediate access to his or her account funds for support. The Bank Board believes that requiring the imposition of the early withdrawal penalty in such circumstances may cause a hardship by unnecessarily reducing the funds available for the support and care of individuals declared incompetent.

The Bank Board has, therefore, amended its regulations to require member institutions to allow penalty-free withdrawals where the owner of the funds has been declared or adjudicated mentally incompetent by a court with proper jurisdiction. Under the amendment, penalty-free withdrawals may be made only from accounts issued prior to the date of adjudication or declaration of mental incompetency. Accounts issued or renewed, automatically or otherwise, after the determination of incompetency would be subject to the penalty provisions since a guardian or conservator would have had the opportunity to make an appropriate investment decision based on the status and needs of his or her ward. Member institutions should require appropriate proof that an account owner has been determined to be incompetent at the time the penalty-free withdrawal is made.

Other clarifying amendments. Several commenters on the proposal to require penalty-free withdrawal in the event of death of an account owner noted that the phrase "* * * or beneficial title to all or part of the account * * *" had been inadvertently deleted from the definition of the term "owner." This phrase has been restored to the definition of account "owner" which should make clear, as several commenters requested, that Keogh accounts are covered by the amendment.

Inclusion of a $1,000 minimum on fixed balance bonus accounts in § 545.1–1(b) of the "Reduction and Simplification" of the Federal Regulations is an error. This minimum amount requirement was deleted by the Bank Board as part of the "small savers" amendments adopted May 30, 1979 (44 FR 33669–33675). Section 545.1–1(b) has, therefore, been amended to delete the $1,000 minimum on fixed-balance bonus accounts.

Section 545.1–1(b)(4) of the Federal regulations, which governs the early withdrawal penalty on fixed-balance bonus accounts, has been revised to incorporate mandatory waiver of the early withdrawal penalty in the event of death, or adjudication of incompetency, of an account owner, and optional waiver in the case of an owner who participates in a retirement account and is 59½ years of age or older, or who is disabled.

The Bank Board has also taken this opportunity to shorten and simplify the regulations by cross-referencing the early withdrawal penalty provision contained in §§ 563.3–1 and 563.3–2 of the Insurance Regulations to the identical provision contained in § 526.7 of the Bank Regulations.

The amendment concerning penalty-free withdrawal in the event of death was published for public comment. In view of the substantial public benefit that will result from immediate adoption of this amendment, the Bank Board finds that good cause exists for promulgating this amendment without deffering the effective date for the 30-day period referred to in 5 U.S.C. § 553(d).

With respect to the other amendments, in view of the substantial public benefits that will result (1) from permitting member institutions to apply the new, more equitable early withdrawal penalty rule to all accounts, and (2) from facilitating access to account funds to provide for the support of individuals determined to be mentally incompetent, the Bank Board finds that application of the public notice and procedure requirements of 5 U.S.C. § 553 would be contrary to the public interest. Moreover, in view of the foregoing reasons, the Bank Board also has determined that good cause exists for adopting these amendments without deferring the effective date for 30 days.

Accordingly, the Bank Board hereby amends Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526), Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545), and Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563), to read as set forth below:

Regulations for the Federal Home Loan Bank System

PART 526—LIMITATIONS ON RATE OF RETURN

1. Revise § 526.7 to read as follows:

§ 526.7 Penalty for early withdrawal.

(a) For any certificate account issued, extended, or renewed after June 30, 1979, a member shall impose (except as paragraph (c) of this section provides) the following conditions on any withdrawal before the end of the term or qualifying period:

(1) If the term or qualifying period is one year or less, the account owner shall pay a penalty on the amount withdrawn of at least 90 days (3 months) earnings on the account. If the amount withdrawn has remained on deposit for 3 months or less, all earnings shall be forfeited.

(2) If the term or qualifying period is more than one year, the account owner shall pay a penalty on the amount withdrawn of at least 180 days (6 months) earnings on the account. If the amount withdrawn has remained on deposit for 6 months or less, all earnings shall be forfeited.

(b) The early withdrawal penalty imposed under paragraph (a) of this section may be substituted, with the express consent of the account owner(s), for the early withdrawal penalty incorporated into any certificate account issued prior to July 1, 1979.

(c)(1) No early withdrawal penalty shall be applied to:

(i) Withdrawals after death of an account owner, if the withdrawal is made by any other owner of the account or by the authorized representative of the decedent's estate; or,

(ii) Withdrawals after an account owner is determined by a court or other administrative body of proper jurisdiction to be legally incompetent, if the account was issued before the date of such determination and not extended or renewed after that date.

(2) No early withdrawal penalty need be applied if an account qualifies as a retirement account under subsection 401(d) or 408(a) of the Internal Revenue Code of 1954, and withdrawal is made to distribute the funds in the account upon disability of an account owner or after an account owner becomes 59½ years of age.

(d) For purposes of paragraph (c) of this section, an "owner" is an individual who has full legal and beneficial title to all or part of the account; or, beneficial title to all or part of the account and full power of disposition or alienation with respect thereto, including but not limited to power of revocation with respect to any trust, regardless of whether such owner was a trustee, of which such account comprises all or part of the trust assets.

Rules and Regulations for the Federal Savings and Loan System

PART 545—OPERATIONS

2. Amend § 545.1–1(b) by deletion of the words "(at least $1,000)."

3. Revise § 545.1–1(b)(4) to read as follows:

§ 545.1–1 Rates of return on savings accounts.

* * * * *

(b) *Fixed-balance bonus account.* * * *

* * * * *

(4) If any part of a fixed-balance bonus account is withdrawn before expiration of the term, the penalty prescribed in § 526.7(a) of this chapter shall apply. If any earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the penalty applicable thereto. Section 526.7(b) shall apply with respect to accounts issued before July 1, 1979. However, in the circumstances prescribed in § 526.7(c), such penalty shall not be applied.

* * * * *

4. Revise § 545.4(a), subparagraphs (1) and (3), to read as follows:

§ 545.4 Withdrawals.

(a) *Withdrawal prior to expiration of term.* (1) If any part of a savings account authorized under § 545.1–1(f), or any part of a fixed-term savings deposit, is withdrawn before expiration of the term, the penalty prescribed in § 526.7(a) of this Chapter shall apply. If any earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the penalty applicable thereto. Section 526.7(b) shall apply with respect to accounts issued before July 1, 1979. However, in the circumstances prescribed in § 526.7(c), such penalty shall not be applied.

* * * * *

(3) An association may provide that an account owner cannot withdraw any part of a fixed-term savings deposit or certificate account before its term expires except in the event of death, or adjudication of incompetence, of an account owner and under such other emergency circumstances as may be set forth in the certificate evidencing the account.

* * * * *

Rules and Regulations for Insurance of Accounts

PART 563—OPERATIONS

5. Revise § 563.3–1(d) to read as follows:

§ 563.3–1 Fixed-rate, fixed-term accounts.

* * * * *

(d) *Withdrawal prior to expiration of term.* (1) Each certificate issued by an insured institution, other than an insured institution whose principal office is located on Guam, shall provide that the penalty prescribed in § 526.7(d) of the Chapter shall apply to withdrawal of any part of a fixed-rate, fixed-term account before expiration of the term. If any earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the penalty applicable thereto. Section 526.7(b) shall apply with respect to accounts issued before July 1, 1979. However, in the circumstances prescribed in § 526.7(c), such penalty shall not be applied.

(2) In the case of early withdrawal of only a part of such account, the certificate evidencing the account shall be canceled if the applicable minimum balance requirement ceases to be met. If such requirement continues to be met, (i) appropriate notation may be made on the certificate indicating the amount and date of such withdrawal and the remaining account balance, or (ii) the certificate may be canceled and a new certificate issued for the remaining portion of the account with the same term, rate, and dates as on the canceled certificate.

(3) A certificate issued by an insured institution for a fixed-rate, fixed-term account may provide that the owner cannot withdraw any portion of such account prior to the expiration of its term except in the event of death, or adjudication of incompetence, of an account owner and under such other emergency circumstances as may be set forth therein.

6. Revise § 563.3–2(d) to read as follows:

§ 563.3–2 Certificates evidencing other accounts.

* * * * *

(d) *Provisions relating to early withdrawal.* (1) Each certificate issued by an insured institution, other than an insured institution whose principal office is located on Guam, shall provide that the penalty prescribed in § 526.7(a) of this Chapter shall apply to withdrawal of any part of a certificate account before expiration of the term. If any earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the penalty applicable thereto. Section 526.7(b) shall apply with respect to accounts issued before July 1, 1979. However, in the circumstances prescribed in § 526.7(c), such penalty shall not be applied.

(2) In the case of early withdrawal of only a part of such account, the certificate evidencing the account shall be canceled if the minimum balance requirement ceases to be met. If such requirement continues to be met, (i) appropriate notation may be made on the certificate indicating the amount and date of such withdrawal and the remaining account balance, or (ii) the certificate may be canceled and a new certificate issued for the remaining portion of the account with the same term, rate, and dates as on the canceled certificate.

(Sec. 4, 80 Stat. 824 (12 U.S.C. § 1425b); Sec. 5, 48 Stat. 132, as amended (12 U.S.C. § 1464); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Band Board.

J. J. Finn,

Secretary.

[FR Doc. 79-24478 Filed 8-7-79; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Parts 541 and 545

[No. 79-418]

Loans on Individual Cooperative Units

August 2, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board has authorized Federal savings and loan associations to make loans on individual cooperative units in accordance with the rules governing loans on single family dwellings, and has otherwise amended its rules to provide similarity of treatment between co-op loans and other home loans. The Board believes that these actions will increase opportunities for homeownership, especially among moderate-income families.

EFFECTIVE DATE: September 6, 1979.

FOR FURTHER INFORMATION, PLEASE CONTACT: Nancy L. Feldman, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20052 (202–377–6440)

SUPPLEMENTARY INFORMATION: Title XVII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95–650, adopting new section 5(c)(6)(A) of the Home Owners' Loan Act of 1933, provides that, with regard to Federal savings and loan associations' real estate lending authority:

> The terms "residential real property" or "residential real estate" include leaseholds and mean homes (including condominiums and cooperatives except that in connection with loans on individual cooperative units, the first lien requirement shall not apply but such loans shall be adequately secured as defined by the Board), * * *

The Federal Home Loan Bank Board, by Resolution No. 79–239, dated April 19, 1979, (44 FR 24299–24300, published on April 25, 1979), proposed regulations to implement the statutory authority regarding loans on individual cooperative units. The proposed regulation provided that such loans would be made on the security of a first security interest on stock or a membership certificate and assignment of the borrower's interest in a proprietary lease or right of tenancy with regard to the particular unit. The proposed regulation further provided that the rules governing loans on single-family dwellings would be followed, except that loans could not exceed 80% of the value of the security property.

Seventeen comment letters were received on the proposal: one commenter objected to the new authorization, seven favored its adoption as proposed, and nine commenters supported it but suggested modifications. Upon consideration of the comments received and other available information, the Board hereby adopts final regulations on this subject, with modifications from the proposal as described below.

A common theme among those commenters suggesting modifications to the proposal was that loans on individual co-op units should be made on the same terms as loans on condominums, because of the equivalency of risk between these two types of loans. Condominium loans follow the rules for single family dwelling loans. Commenters recommended authorization of similar loan-to-value ratios, placement of the regulation within the real estate lending provisions as specified in the statute, and elimination of the requirement that such units be part of a multifamily-dwelling structure. Additionally, it was urged that the Board eliminate the existing primary-residence requirement for co-op development loans ("blanket" loans) not exceeding 80 percent loan-to-value ratios; this limitation does not apply to condominium and other home loans.

The Board has considered these suggestions and believes that they have merit. The Board is aware that escalating housing prices have made cooperative housing an important source of homeownership for moderate-income families. The Board has recently taken steps to increase availability of homeownership for these families by authorizing 90-percent loans on mobile homes, 95-percent loans on two-family dwellings, and authorizing graduated payment mortgages and reverse annuity mortgages; the Board has also proposed authorization of 90-percent loans on three- and four-family dwellings, and has today, by Resolution No. 79–414, increased dollar limits and terms on loans to alter, improve, and repair housing stock. Promulgation of regulations increasing availability of cooperative housing for moderate-income families is consistent with the Board's earlier actions.

Available research does not indicate that co-op blanket loans, which under the Board's existing rules may be made up to 95 percent of value, carry a greater risk than condominium loans. Availability of higher-ratio co-op unit loans would facilitate ownership transfers and provide greater security for associations making or holding blanket loans. Therefore, the Board has determined to modify its proposal by increasing the authorized loan-to-value ratio for co-op unit loans and by amending other provisions to provide similarity of treatment between co-ops and other home loans.

Definitions

The proposal would have defined "individual cooperative housing unit" as a "dwelling unit". Such definition has raised questions as to whether such unit would be required to be located in a structure comprising more than four dwelling units, and whether the loan would be restricted to dollar amounts authorized for multifamily dwelling units. Either limitation would be inconsistent with the proposed provision that co-op unit loans be made in accordance with the rules governing loans secured by single-family dwellings. The Board has therefore determined that the definition of "single family dwelling" (12 CFR 541.20), which includes "a unit designed for residential use by one family, whose owner owns as undivided interest in the underlying real estate . . .", and has been interpreted to apply to condominium units, is the appropriate definition for a co-op unit, and the provision has been modified to include reference to co-ops.

In addition, the Board has amended the "cooperative housing project" definition (12 CFR 541.5) (redesignated "cooperative housing development"), which applies to blanket loans on co-ops, to no longer require that (1) the structure comprise more than four dwelling units, and (2) the borrower certify his intention to occupy the unit as a primary residence. Upon consideration, the Board agrees that these restrictions are unnecessary. There are existing small co-op structures, and these may become a more important housing component as a result of increased environmental land-use planning and energy-efficiency goals. As to residency requirements for borrowers, co-op blanket loans are currently treated as a group of single-family-dwelling loans with regard to loan-to-value ratios and maximum dollar amounts, and the Board believes that other requirements should be similarly consistent. Without the stated restriction, these loans, like condominium and other home loans, would require borrower certification of primary residency if loan-to-value ratios exceed 80 percent.

Loans on Individual Cooperative Units

The proposed regulation included individual cooperative unit loans in the set of Board regulations pertaining to loans other than those secured by real estate. The final regulation more appropriately designates such loans within the real estate loan category, as expressed in the statute.

The proposal would require that individual cooperative units be secured by a first security interest in stock or a membership certificate issued by a cooperative housing organization, and the assignment by way of security of the borrower's interest in a proprietary lease or right of tenancy. The term "right of tenancy", used in some jurisdictions, has been amended to "occupancy agreement", a slightly broader term. Security that is equivalent to that specified in the regulation may be utilized despite employment of differing terminology.

One commenter proposed deleting the requirement of a first security interest in membership stock. The first-lien exception in the statute relates to the real estate interest, which in this instance is the leasehold. The leasehold assignment is not required to be a first lien under the proposed language, and is thus adopted substantially as proposed.

The proposed regulation provided that co-op unit loans would be made in accordance with the rules governing loans secured by single family dwellings, except that loan amounts would be restricted to 80 percent of the value of the security. The final regulations remove this restriction and allow loans up to 95 percent of value on co-op units, for the reasons given above. The existence of a blanket mortgage on the co-op property is, of course, no bar to the making of a co-op unit loan. Further, co-op groups who have paid off blanket loans, and new co-op groups who so prefer, could obtain co-op unit loans only.

A reference has been made to § 545.6–1, "Insured and guaranteed loans", to clarify that co-op loans may be made under that provision in amounts and on terms and conditions acceptable to the insuring or guaranteeing agency.

Regulatory Simplification

In order to clarify and simplify the Board's co-op regulations, the blanket loan and unit loan provisions have been combined into one new section of the regulations at 12 CFR 545.6–2a; common terms have been amended for consistency; and the regulatory language of the blanket loan provision has been reduced but not changed substantively.

Because the amendments to the regulations pertaining to cooperative housing developments (12 CFR 541.5, 545.6–2(b), and 545.6–2a(a)) are of a clarifying nature or relieve restriction, and are needed in connection with the new final regulations on individual cooperative unit loans, the Board has determined that public notice and procedure under 12 U.S.C. § 553(b) and 12 CFR 508.11 are unnecessary with regard to such amendments.

Accordingly, the Board amends Parts 541 and 545 of the Regulations for the Federal Savings and Loan System by adding a new § 545.6–2a thereto, and amending §§ 541.5, 541.20, and 545.6–2(b) thereof, to read as set forth below.

PART 541—DEFINITIONS

1. Revise § 541.5 to read as follows:

§ 541.5 Cooperative housing development.

Real estate primarily comprising a group of single family dwellings owned by a non-profit cooperative housing organization.

2. Amend § 541.20, to read as follows:

§ 541.20 Single-family dwelling.

A structure designed for residential use by one family, or a unit so designed, whose owner owns, directly or through a non-profit cooperative housing organization, an undivided interest in the underlying real estate, including property owned in common with others which contributes to the use and enjoyment of the structure or unit.

PART 545—OPERATIONS

3. Amend paragraph (b) of § 545.6–2 to read as follows:

§ 545.6–2 Monthly installment loans.

* * * * * *

(b) *On the security of other dwelling units, combinations of dwelling units, including homes, and business property involving only minor or incidental business use.* Subject to § 545.8–7, loans repayable monthly within 30 years may be made for amounts not in excess of 80 percent of the value of the security property.

* * * * * *

4. Add a new § 545.6–2a, to read as follows:

§ 545.6–2a Loans on cooperatives.

A Federal association may make loans under §§ 545.6–1 and 545.6–2(a), as follows:

(a) *Loans on the security of cooperative housing developments.* Such loans may be made if units equal to 90 percent of the value or purchase price of the cooperative housing development, whichever is greater, are presold to bona fide purchasers. The cooperative housing development shall maintain reserves at least equal to those required for comparable developments insured by the Federal Housing Administration. The maximum loan amount for the development shall be the sum of the applicable maximum loan amounts for each unit.

(b) *Loans on individual cooperative units.*

Such loans may be made on the security of (1) a first security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a non-profit cooperative housing organization, and (2) an assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such organization.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorganization Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-24477 Filed 8-7-79; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Parts 531 and 556

[No. 79-419]

Transfer and Repurchase of Government Securities

August 2, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: These amendments modify the Bank Board's policy on repurchase-type agreements to provide that member institutions may offer such agreements in denominations under $100,000 with a maturity of less than 90 days, provided the agreement cannot be automatically renewed or extended. These changes provide rules for member institutions to offer repurchase-type agreements comparable to rules recently approved by the bank regulatory agencies for banks to offer similar agreements. The

Board has previously stated that offering any repurchase-type agreement under $100,000 is considered a circumvention of rate control and therefore prohibited. The amendments also adopt a new policy statement that specifically excludes such agreements issued by Federal savings and loan associations from limitations on issuance of securities. The amendments are intended to permit traditional uses of repurchase-type agreements while continuing to prevent their use as a means to circumvent rate control. The amendments also continue the Bank Board effort to broaden member institutions' outside borrowing authority.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION, PLEASE CONTACT: John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, (202–377–6445).

SUPPLEMENTARY INFORMATION: By Board Resolution No. 79–304, dated May 30, 1979, the Federal Home Loan Bank Board amended Part 531 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 531) by adding a new Statement of Policy regarding transfer and repurchase of government securities (§ 531.12). That policy statement was published in the **Federal Register** (44 FR 33669, dated June 12, 1979) and became effective July 1, 1979.

In adopting § 531.12 the Bank board was reaffirming its policy that repurchase-type agreements are not intended to provide member institutions with a method of offering small denomination accounts in avoidance of existing interest rate ceiling restrictions. In order to ensure that such agreements are not used for such a purpose the Bank Board stated that member institutions may not enter into repurchase agreements in amounts under $100,000.

On further consideration, the Bank Board believes the potential for circumvention of maximum rate limitations is reduced if the maturity of such agreements is less that 90 days and they cannot be automatically renewed or extended. The Board recognizes the usefulness to small businesses and governmental units of a vehicle for short term investment of idle funds and believes that such transactions will provide a convenient source of outside borrowings for member institutions. Therefore, after consultation with the other Federal financial regulatory agencies, the Board has determined to amend its Statement of Policy to exclude agreements with maturities of less than 90 days from the provisions of § 531.12. However, such agreements may not provide for automatic renewal or extension at the option of either party to the agreement. The amended policy statement provides rules for member institutions to offer repurchase-type agreements comparable to rules recently approved by the bank regulatory agencies for banks to offer similar agreements.

Further, the Bank Board has decided to adopt a new Statement of Policy regarding issuance of short term repurchase-type agreements by Federal associations. The policy statement specifically excludes such agreements from limitations on issuance of securities by Federal associations. The Board notes, however, that these agreements are borrowings and as such do not have the benefit of deposit insurance. Therefore, member institutions must provide to persons entering into these agreements express notice of the non-application of deposit insurance.

By adopting these amendments the Bank Board intends to ensure that maximum rate limitations do not unfairly restrict the ability of member institutions to provide services to their customers on a competitive basis. However, the Board will continue to monitor the use of repurchase-type agreements by member institutions, and will consider revising its policy if it finds that these agreements are being improperly used.

The Bank Board finds that (1) notice and public procedure are unnecessary under 12 CFR 508.11 and 5 U.S.C. § 553(b) because the amendments describe Bank Board policy regarding the scope of existing regulations and relieve restriction and (2) publication of the regulation for the 30-day period specified in 12 CFR 503.14 and 5 U.S.C. § 553(d) prior to effective date is unnecessary for the same reasons.

Accordingly, the Bank Board hereby amends Part 531 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 531) by amending § 531.12 thereof and Part 556 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 556) by adding a new § 556.10 thereto, to read as set forth below.

Regulation for the Federal Home Loan Bank System

PART 531—STATEMENTS OF POLICY

1. Amend § 531.12 to read as follows:

§ 531.12 Transfer and repurchase of government securities.

A member institution may not issue obligations in denominations under $100,000 with a maturity of 90 days or more evidencing an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that a member institution is obligated to repurchase, unless such obligations are issued to financial institutions the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or to a broker or dealer registered with the Securities and Exchange Commission. Any obligation under $100,000 with a maturity of less than 90 days (a) shall bear on its face in a prominent place, the following legend: "This obligation is not a savings account or deposit and is not insured by the Federal Savings and Loan Insurance Corporation," and (b) shall not provide for automatic renewal or extension.

Rules and Regulations for the Federal Savings and Loan System

PART 556—STATEMENTS OF POLICY

2. Add new § 556.10 to read as follows:

§ 556.10 Transfer and repurchase of government securities.

Issuance by a Federal association of an obligation described in § 531.12 of this chapter with a maturity of less than 90 days shall not be considered issuance of a security for purposes of any limitation on issuance of securities in any provision of this subchapter. This section shall not apply to obligations issued under § 545.7–1 of this Part.

(Sec. 4, 80 Stat. 824 (12 U.S.C. 1425b); Sec. 5, 48 Stat. 132, as amended (12 U.S.C. § 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary

[FR Doc. 79-24476 Filed 8-7-79; 8:45 am]

BILLING CODE 6720-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 302

[Regulation PR-210; Amendment No. 59]

Rules of Practice in Board Proceedings; Verification of Pleadings in Enforcement Proceedings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 1, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules of practice in enforcement proceedings to eliminate the requirement that formal complaints and other pleadings be verified by the party signing them.

DATES: Adopted: August 1, 1979. Effective: August 8, 1979.

FOR FURTHER INFORMATION CONTACT: Candace Fowler, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5158.

SUPPLEMENTARY INFORMATION: Under section 302.202 of the Board's rules of practice in enforcement proceedings (14 CFR § 302.202), formal complaints, supplemental complaints, answers, and any other pleadings in enforcement proceedings must be verified under oath or under penalty of perjury by the persons signing them. The Board believes that the verification requirement is an unnecessary and outmoded formality. In line with our general policies to simplify Board procedures and reduce paperwork, we have therefore decided to eliminate this requirement.

Verification of routine pleadings is not required under the Federal Rules of Civil Procedure or by the rules of most State courts, and we do not believe the Board needs a more stringent rule. Other Board rules adequately protect the Board and parties to Board proceedings from false statements in pleadings. Under § 302.4(b) of the Board's Rules of Practice, a person certifies by signing a pleading that its contents are true to the best of his or her knowledge. Moreover, sanctions are available against attorneys under our Rules of Conduct, 14 CFR Part 300, for filing false or misleading documents in Board proceedings. In addition, knowingly making a false statement to a Federal agency is a criminal act under 18 U.S.C. § 1001, whether or not the statement has been verified.

It is unnecessary, moreover, to require verification of third-party complaints or answers in order to give them the force of sworn testimony, since the Bureau of Consumer Protection will investigate the facts independently before instituting an enforcement proceeding. If a proceeding does result, factual disputes will be resolved on the basis of an evidentiary hearing, not on the basis of the pleadings. Of course, elimination of the verification requirement will not affect affidavits filed in support of summary judgment motions. These will still have to be verified under oath or under penalty of perjury.

Nothing in the Federal Aviation Act requires that complaints to the Board be verified. Indeed, in section 6 of the Airline Deregulation Act of 1978 (Public Law 95–504, October 24, 1978), Congress eliminated the requirement for verification of airline route applications previously contained in section 401(b) of the Federal Aviation Act. This action reflects Congress' general policy not to impose needless formal requirements on Board filings. The requirement that enforcement pleadings be verified is burdensome and may in fact inhibit some individuals from filing legitimate complaints because of confusion about the formal requirement or uncertainty about its legal implications. For these reasons, the Board has concluded that the verification requirement should not be retained for routine pleadings in enforcement proceedings.

The remaining requirements of section 302.202 simply duplicate those contained in section 302.4(b) of the Board's rules, which applies to enforcement proceedings as well as other Board proceedings. Therefore, there is no need to retain the rest of the section and we are eliminating it.

Since this amendment is administrative in nature, affecting a rule of agency procedure, we find that notice and public procedure are unnecessary. Moreover, since it relieves a burden on participants in Board proceedings, we find that an immediate effective date is in the public interest.

Accordingly, the Civil Aeronautics Board amends Part 302 of its Procedural Regulations, *Rules of Practice in Board Proceedings* (14 CFR Part 302), as follows:

1. The Table of Contents for Part 302 is amended by revoking and reserving § 302.202 of Subpart B, to read:

PART 302—RULES OF PRACTICE IN BOARD PROCEEDINGS

* * * * *

Subpart B—Rules Applicable to Enforcement Proceedings

* * * * *

Sec.
302.202 [Reserved]

* * * * *

§ 302.202 [Reserved]

2. Section 302.202 is revoked and reserved.

(Section 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

By the Civil Aeronautics Board.[1]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-24468 Filed 8-7-79; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34–16078; File No. S7–777]

Suspension of Duty To File Reports Upon Termination of Registration

AGENCY: Securities and Exchange Commission.

ACTION: Final rules and request for comment.

SUMMARY: The Commission announces the conditional adoption of a new rule suspending an issuer's duty to file certain reports as to a class of securities pursuant to Section 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") for the balance of the issuer's fiscal year if the registration of such class is terminated under Section 12(d) or 12(g)(4) of the Exchange Act. The Commission is also conditionally adopting at this time related amendments to existing Rule 12g–4.

DATES: Interested persons will have until September 7, 1979, to comment upon the inclusion of securities registered under 12(b) of the Exchange Act into new Rule 12h–4, after which the Commission will review the comments and make such changes in Rule 12h–4, if any, that it deems necessary and appropriate.

If no material changes are necessitated by the comments, the new Rule 12h–4 as well as the amendments to existing Rule 12g–4 and Form 12g–4/15d–6 will become effective on September 17, 1979.

ADDRESS: Comments should refer to File No. S7–777 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: John J. Heneghan (202–755–1240), Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the conditional adoption of a new Rule 12h–4 (17 CFR

[1] All members concurred except member O'Melia who dissented.

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240.12h–4) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). Such rule will immediately suspend an issuer's duty to file the reports required by Section 13(a) of the Exchange Act as to any class of securities pursuant to Section 15(d) of the Exchange Act for the balance of the issuer's fiscal year upon the deregistration of that class of securities pursuant to Section 12(d) of the Exchange Act or the filing of a certification on Form 12g–4/15d–6 with respect to that class. If, at the beginning of the issuer's next fiscal year, the securities of such class are held of record by less than 300 persons, the duty to file all reports required by Section 13 of the Exchange Act shall be suspended pursuant to Section 15(d) of the Exchange Act. As is now the case, this suspension shall continue automatically for each subsequent fiscal year if at the beginning of such year the securities of such class are held of record by less than 300 persons. It should be noted that if the certification on Form 12g–4/15d–6 is subsequently withdrawn or denied the issuer shall, within 60 days after such withdrawal or denial, file the reports which would have been required absent the suspension.

The Commission today also announced the conditional amendment of Rule 12g–4 under the Exchange Act and of Form 12g–4/15d–6 thereunder. The amendment to Rule 12g–4 suspends an issuer's duty to file the reports required by Section 13(a) of the Exchange Act immediately upon the filing of the certification on Form 12g–4/15d–6. The remaining obligations imposed by Section 13 are suspended 90 days after certification. As with the new Rule 12h–4, if the certification is subsequently withdrawn or denied the reports must be filed within 60 days. Form 12g–4/15d–6 is being conditionally amended to reflect the new rule and the amendments in Rule 12g–4.

In Securities Exchange Act Release No. 14417 (January 26, 1978) (43 FR 4254), the Division of Corporation Finance was delegated the authority to grant routine applications under Section 12(h), thus relieving the Commission of the need to consider such matters. In that Release, the Commission noted that inasmuch as many applications filed under Section 12(h) are routine in nature, and do not involve policy considerations or novel questions, it is not necessary for the Commission to consider each application on an individual basis. The processing of such Section 12(h) applications, however, still requires considerable staff time. Recent acquisition activity has given rise to many Section 12(h) applications in situations where a corporation is the sole holder of a class of an acquired company's securities subject to a Section 15(d) duty to file reports. It was the staff's judgment that any benefit of requiring corporations to either file reports beyond the termination of their registration under Section 12(g) or to apply for exemption under Section 12(h) was generally outweighed both by the burden of compliance imposed upon such corporations and by the burden placed upon the staff in processing routine Section 12(h) applications.

On April 23, 1979 the Commission issued a release (Securities Exchange Act Release No. 15757 (44 FR 25470)) inviting comments on proposed Rule 12h–4 which was designed to reduce the number of routine Section 12(h) applications which the staff must process, or, alternatively, reduce the compliance burden on corporations, by commencing the Section 15(d) suspension of reporting obligations concurrently with the Section 12(g)(4) deregistration. Ten letters of comment were received, all of which supported the proposed rule, although many stated that it did not go far enough to relieve issuers of unnecessary reporting obligations.

Several commentators stated that the rule should be "triggered" not only by termination of registration under Section 12(g) of the Exchange Act but also, in certain circumstances, by termination of exchange listing under Section 12(b). It was pointed out, for example, that if a corporation's securities are delisted from a national exchange after the number of security holders is reduced to fewer than 300 (such as after the corporation is merged into another corporation), its registration and obligation to file reports under Section 13 would be terminated under Section 12(d) and the corporation would never be subject to Section 12(g). Therefore, the proposed rule, which is "triggered" by the termination of registration under Section 12(g), would not operate and the corporation would remain subject to reporting requirements under Section 15(d) for the remainder of that fiscal year, resulting in what the commentators believe to be a meaningless distinction between those securities registered pursuant to Section 12(g) and those registered pursuant to Section 12(b). The Commission agrees with these commentators and has amended the final Rule 12h–4 accordingly.

A number of commentators offered varying suggestions to amend the proposed rule to eliminate or decrease an issuer's duty to continue to file reports after certification on Form 12g–4/15d–6 was filed. After consideration of the matter the Commission decided to amend the final Rule 12h–4 to immediately suspend an issuer's duty to file the reports required by Section 13(a), often the most onerous of an issuer's duties, upon deregistration under Section 12(d) or filing of the certification under Section 12(g)(4). However, in order to protect investors in situations such as those involving "going private" transactions it was decided that the rule would not suspend any of the other obligations imposed by Section 15(d) until the first day of the fiscal year in which the number of shareholders of record dropped below 300. For the same reasons it was deemed appropriate to amend Rule 12g–4, eliminating the 90-day "waiting period" as to Section 13(a) reports while retaining it for all other purposes.

Text of New and Amended Rules and Form

Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising § 240.12g–4 to read as follows:

§ 240.12g–4 Certification of termination of registration under section 12(g).

Pursuant to section 12(g)(4), termination of registration of a class of security shall take effect 90 days, or such shorter period as the Commission may determine, after the issuer certifies to the Commission on Form 12g–4/15d–6 that the number of holders of record of such class of security is reduced to less than 300 persons; *Provided, however,* That the issuer's duty to file any reports required under section 13(a) shall be suspended immediately upon such certification; *Provided further,* That if the certification on Form 12g–4/15d–6 is subsequently withdrawn or denied, the registrant shall, within 60 days after the date of such withdrawal or denial, file with the Commission all reports which would have been required to be filed had the certification on Form 12g–4/15d–6 not been filed. If the issuer has merged into, or consolidated with another issuer or issuers, the form shall be filed by the successor issuer. The form shall be filed in addition to any other report required to be filed with the Commission in connection with the number of holders of record.

2. By adding § 240.12h–4 to read as follows:

§ 240.12h–4 Partial exemption from section 15(d) upon termination of registration under section 12.

(a) Except as provided under paragraph (b) herein, the duty to file the reports required by section 13(a) as to any class of securities pursuant to section 15(d) shall be immediately suspended as to that class of securities upon either: (1) The deregistration of that class of securities pursuant to section 12(d) if that class of securities would not thereupon be deemed registered pursuant to section 12(g) or the rules or regulations thereunder, or (2) the filing of a certification on Form 12g–4/15d–6 with respect to that class of securities: *Provided, however,* That if the certification on Form 12g–4/15d–6 is subsequently withdrawn or denied, the registrant shall, within 60 days after the date of such withdrawal or denial, file with the Commission all reports which would have been required to be filed had the certification on Form 12g–4/15d–6 not been filed.

(b) The suspension shall not be in effect for any subsequent fiscal year at the beginning of which securities of such class are held of record by 300 or more persons.

(c) All duties arising under Section 15(d), other than the duty to file the reports required by section 13(a), shall remain in effect under paragraph (b) of this section unless otherwise suspended under section 15(d).

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

3. By amending the facing sheet and general instructions of Form 12g–4/15d–6 (§§249.323 and 249.333) as follows:

§ 249.323 Form 12g–4, Certification of termination of registration of a class of security under section 12(g) of the Act. [Amended]

§ 249.333 Form 15d–6 for suspension of duty to file reports pursuant to section 15(d) of the Securities Exchange Act of 1934. [Amended]

Certification Pursuant to Rule 12g–4 or Notice Pursuant to Rule 15d–6

* * * * *

Will Section 15(d), subject to Rule 12h–4, become applicable because this class of securities has been offered pursuant to an effective Securities Act registration and the tests of Section 15(d) are met? [ ] Yes [ ] No

* * * * *

General Instructions

* * * * *

Rule 12g–4. Certification of termination of registration under section 12(g).

Pursuant to Section 12(g)(4), termination of registration of a class of security shall take effect 90 days, or such shorter period as the Commission may determine, after the issuer certifies to the Commission on Form 12g–4/15d–6 that the number of holders or record of such class of security is reduced to less than 300 persons: *Provided, however,* That the issuer's duty to file any reports required under section 13(a) shall be suspended immediately upon such certification: *Provided further,* That if the certification on Form 12g–4/15d–6 is subsequently withdrawn or denied, the registrant shall, within 60 days after the date of such withdrawal or denial, file with the Commission all reports which would have been required to be filed had the certification on Form 12g–4/15d–6 not been filed. If the issuer has merged into, or consolidated with another issuer or issuers, the form shall be filed by the successor issuer. The form shall be filed in addition to any other report required to be filed with the Commission in connection with the number of holders of record.

Certain Findings

As required by section 23(a) of the Exchange Act, the Commission has specifically considered the impact which the new rule and the amendments to an existing rule and form adopted herein would have on competition and has concluded that they would impose no significant burden on competition. In any event, the Commission has determined that any possible burden will be outweighed by and is necessary and appropriate to achieve the benefits of these changes to investors and registrants.

In order to give interested persons an opportunity to comment upon the inclusion of securities registered under Section 12(b) of the Exchange Act into new Rule 12h–4 comments will be accepted on or before September 7, 1979, after which the Commssion will review the comments and make such changes to Rule 12h–4, if any, that it deems necessary and appropriate. If no material changes are necessitated by the comments, the new Rule 12h–4 as well as the amendments to existing Rule 12g–4 and Form 12g–4/15d–6 will become effective September 17, 1979. However, issuers who file certifications on Form 12g–4/15d–6 prior to the effectiveness of this rule but who have Section 13(a) reports due after the effectiveness of the rule need not file such reports.

Statutory Authority

Rule 12h–4 is promulgated and Rule 12g–4 and Form 12g–4/15d–6 are amended pursuant to Sections 12(h), 12(g)(4), 13, 15(d) and 23(a) of the Securities Exchange Act of 1934.

(Secs. 12(g)(4), 12(h), 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901, sec. 203(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; secs. 3, 4, 6, 78 Stat. 565–568, 569, 570–574; sec. 2, 82 Stat. 454; secs. 1, 2, 84 Stat. 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57 secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; (15 U.S.C. 781(g)(4), 781(h), 78m, 78o(d), 78w(a)))

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

August 2, 1979.

[FR Doc. 79–24439 Filed 8–7–79; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1 and 3

[Docket No. RM79–59; Order No. 38]

Chief Accountant, et al., Delegation of Authority; Final Regulation

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is promulgating amendments to §§ 1.1, 1.7 and 3.5. These amendments delegate authority to take action on a variety of matters to the Chief Accountant, the Directors of the Office of Electric Power Regulation, the Office of Pipeline and Producer Regulation, the Office of Enforcement, and the Office of Opinions and Review. These delegations are an outgrowth of the Delegations of Authority adopted by the Commission on August 14, 1978.

EFFECTIVE DATE: July 23, 1979.

FOR FURTHER INFORMATION CONTACT: Tom Runge, Office of the General Counsel, Federal Energy Regulatory Commission, Room 3327, 825 North Capitol Street, N.E., Washington, D.C. 20426. (202) 275–4955.

Delegation of the Commission's Authority to Various Staff Office Directors; amendments to rules relating to delegations of Commission's authority; Issued July 23, 1979.

A. Background

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*, (1977) (DOE Act) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Energy Regulatory Commission (the Commission) was established as an independent regulatory commission within the Department of Energy. Many of the

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functions and regulatory responsibilities of the Federal Power Commisison were transferred to the Commission, while many others were vested in the Secretary of Energy.

The functions transferred to the Commission include those encompassed by section 309 of the Federal Power Act (16 U.S.C. 825h) and section 16 of the Natural Gas Act (15 U.S.C. 717o), which provide that the Federal Power Commission "shall have power to perform any and all acts and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this Act."

On August 14, 1978, the Commission adopted Delegations of Authority (Phase I), 43 FR 36433, which serve to transfer over 7,000 decisions annually of a largely ministerial nature downward within the Commission, in order to free the Commission's time for issues of greater significance. Shortly thereafter, the Commission undertook to determine whether additional delegations of authority would be beneficial.

The results of these efforts by the Commission are embodied in the new, "Phase II" Delegations of Authority set forth below.

Like the Phase I Delegations, the Phase II Delegations were prompted by the Commission's determination that an inordinate amount of time is spent on matters that can be fairly characterized as routine. While recognizing the importance of all items of business that come to the Commission for determination, the Commission has decided that by delegating certain routine Commission functions to the various office directors, it will be better able to focus on more complicated and controversial tasks. As President John F. Kennedy once pointed out:

> The reduction of existing delays in our regulatory agencies requires the elimination of needless work at their top levels. . . . Unnecessary and unimportant details occupy far too much of the time and energy of agency members, and prevent full and expeditious consideration of the more important issues. The remedy is a far wider range of delegations to smaller panels of agency members, or to agency employee boards, and to give their decisions and those of the hearing examiners a considerable degree of finality, conserving the full agency membership for issues of true moment." (As quoted in *Administrative Law*, K. C. Davis, West Pub. Co., 1977, pps. 50–51.)

In general, the matters being delegated require limited discretionary decisionmaking on the part of the named office director, and the persons affected by a delegated decision may petition the Commission for a prompt review of a staff decision, in accord with 18 CFR 1.7(d).

B. Summary

1. *General:* The Change in § 1.1(f)(23) provides a uniform definition of "uncontested", to guide the staff in its exercise of delegated authority. Thus, in those instances when these rules expressly provide that the staff may act only "in uncontested cases", or may take action only on certain "uncontested" matters, a timely and proper petition for or notice of intervention by any non-applicant or other non-party, in opposition to the pending matter, will serve to bring the matter directly before the Commission. In sum, the staff may not act in these instances because the proceedings are contested, as the petition for or notice of intervention in opposition indicates.

Non-parties as well as parties will be entitled to appeal staff determinations to the Commission under § 1.7(d) in the same manner that was formerly available only to parties to the proceedings. This change is made clear by replacing the word "party" with the word "person" in § 1.7(d). Further, any person will have 30 days to seek such review instead of the 15 days currently permitted which is made clear by changing "15 days" to "30 days" in § 1.7(d).

If the Commission does not act on any appeal from a staff determination within 30 days after the filing of such an appeal, then the appeal will be deemed to be denied, as indicated by the amendments to the last sentence of § 1.7(d). Of course, with respect to any parties to that proceeding, such a denial of the appeal will trigger the running of the 30-day period for filing a petition for rehearing in accord with § 1.34 under § 19(a) of the Natural Gas Act, § 313(a) of the Federal Power Act, or any other relevant provision of law.

2. *Chief Accountant:* The revisions to subparagraph (b)(6) of § 3.5 eliminate the "$25 million or less" requirement formerly in clause (v), so that approval may be given to applications for any issuance of securities by competitive bidding procedures, whether or not the total value of such securities exceeds $25,000,000. New clause (vi) delegates authority to approve applications for issuance of securities by negotiated placement, of $15,000,000 or less. Finally, new clause (vii) delegates authority to the Chief Accountant—to the extent the company does not disagree—to pass upon actual, legitimate, and original cost, depreciation thereon, and net investment including revisions, and to sign audit reports.

3. *Office of Pipeline and Producer Regulations:* Under revised § 3.5(f), there is delegated to the Director of the Office of Pipeline and Producer Regulation the authority to issue temporary certificates in all uncontested natural gas pipeline cases arising under the Natural Gas Act, and to issue permanent certificates or to amend certificates where the construction cost does not exceed $1,000,000, or where there will be a gas-for-gas exchange. In uncontested cases, the Director is also authorized to amend certificates to conform them with the actual construction. The Director is further empowered in uncontested cases to permit and approve abandonments of facilities and services where the customers agree to the abandonments. The regulations adopted herein also allow the Director to accept tariff and rate schedule filings, except major pipeline rate increases under section 4(e) of the Natural Gas Act. Finally, in certain instances, the Director is authorized to accept compliance filings, pass upon requests for extensions of time, request deficiency materials, and exercise limited waiver authority.

The phrase "by natural gas companies", as formerly used in subparagraph (f)(7), has been deleted, and the phrase "natural gas" has been inserted before the word "applications," to clarify that the staff may pass upon requests to withdraw applications, whether submitted by natural gas companies, by intrastate pipelines, by local distribution companies, by end users, or others who may seek to withdraw such an application.

4. *Office of Electric Power Regulation:* The amendments to § 3.5(g) include additions and modifications to the current delegation rules concerning preliminary permits and licenses for water power projects, and other water resources matters. New subparagraph (g)(3) consolidates and expands former subparagraph (g)(3) and the former, now-deleted subparagraph (g)(10), giving the Director of the Office of Electric Power Regulation authority to act on studies, plans, reports, maps, drawings, specifications, and new or revised exhibits related to permits or licenses, if the filings are unopposed.

New subparagraph (g)(26) gives the Director authority to act on uncontested headwaters benefits settlements among non-Federal parties, and also to act on the following kinds of uncontested applications, when no environmental impact statement is required: minor or major project licenses; surrenders or amendments of licenses; and changes in the use of licensed project lands or waters or in a project's boundaries. New subparagraph (g)(26) thus subsumes the matters covered by former subparagraphs (g)(4) and (g)(5), which are now both deleted.

Under subparagraph (g)(27), the Director may dismiss or approve withdrawal of license applications when no party contends that licensing is required and the Director determines that licensing is not required. Subparagraph (g)(28) covers the Director's authority to handle correspondence related to preliminary permit and license applications, license amendments, requirements for licensing of electric transmission lines, power site lands, and similar general correspondence. Under subparagraph (g)(29), the Commission makes clear that the Director may require licensees to repair project works and to take related actions to maintain the safety and adequacy of those works. Finally, subparagraphs (g)(30) through (g)(32) deal with certain authority of the Director related to payment of annual charges and allocations of costs for federal multiple-purpose reservoirs.

Subparagraphs (g)(11) and (g)(12) have been amended by replacing their former references to "no opposition" and "adverse intervention" with the adjective "uncontested". Similar conforming changes are made in subparagraphs (g)(20) and (g)(21).

New subparagraph (g)(22) grants authority to approve certain property transfers, consolidations, and acquisitions; power to accept for filing certain agreements, contracts, and schedules, if they are in compliance with prior Commission orders, is conferred in new subparagraph (g)(23). Subparagraph (g)(24) and (g)(25) cover routine posting and filing permission, and routine redesignation authority. Delegated authority to refund or require additional filing fees is set forth in new subparagraph (g)(34). Additional powers to accept, for filing, certain uncontested or previously-accepted rate increases are delegated in subparagraphs (g)(35) and (g)(36).

5. *Office of Enforcement.* Under new § 3.5(h), the Director of the Office of Enforcement is delegated certain authority of a ministerial nature, generally designed to facilitate investigations and relieve the Commission from matters which are basically administrative in nature. The proposed delegations are closely modeled after similar delegations of investigational power to the Staff of the Securities and Exchange Commission, *see* 17 CFR 200.30–4. Included are the powers to designate investigating officers; to deny or permit witnesses in investigations to procure a transcript of their own testimony; to terminate informal non-public investigations; and to terminate the authority of designated investigating officers.

6. *Office of Opinions and Review:* Under new § 3.5(i), the Director of the Office of Opinions and Review may designate "presiding officers" to preside over § 1.38 proceedings (governing reviews by the Commission under § 503(c) of the DOE Act, of contested remedial orders for alleged violations of the Emergency Petroleum Allocation Act of 1973, issued by the Secretary of the Department of Energy), and to preside over § 1.40 proceedings (governing reviews by the Commission under § 504(b) of the DOE Act, of denials by the Secretary of the Department of Energy of adjustment requests based upon special hardship, inequity or unfair burdens).

C. Effective Date

The Commission makes these regulations effective immediately. The regulations concern agency procedure and practice. Accordingly, pursuant to 5 U.S.C. § 553(b), public notice and comments are not required, and, pursuant to 5 U.S.C. 553(d), the regulations may be promulgated effective immediately. The Commission nevertheless invites interested members of the public to submit comments or suggestions regarding these regulations. The Commission and its staff will evaluate any information received from interested persons and will consider appropriate revisions to these regulations as a result of comments received. An original and 14 copies should be filed by August 24, 1979, with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All comments should refer, on the cover page, to Docket No. RM79–59.

(Federal Power Act, as amended, 16 U.S.C. 792 *et seq.*, Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*, Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*, Natural Gas Policy Act, Pub. L. 95–621)

For reasons stated herein, Parts 1 and 3 of Subchapter A of Chapter I, Title 18, Code of Federal Regulations, are amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 1.1 is amended in paragraph (f) by adding a new subparagraph (23), to read as follows:

§ 1.1 The Commission.

* * * * *

(f) *Definitions.* As used in this part, except as otherwise required by the context:

* * * * *

(23) "Uncontested," and "in uncontested cases," for the purposes of § 3.5 mean that no petition for, or notice of, intervention in opposition to the pending matter made under § 1.8 has been received by the Commission.

* * * * *

2. Section 1.7 is amended in paragraph (d) by deleting the word "party" where it first appears in such paragraph, and inserting in lieu thereof the word "person;" and by deleting the phrase "15 days" where it appears, and inserting in lieu thereof the phrase "30 days"; and by revising the last sentence of the paragraph to read as follows:

§ 1.7 Petitions.

* * * * *

(d) * * * The Commission considers that any petition for appeal from action taken by the staff shall be deemed to be denied if not acted upon by the Commission within 30 days after the filing of such petition. The Commission further considers its action on appeals made pursuant to this paragraph to be final agency action that is subject to an application for rehearing under § 1.34.

3. Section 3.5 is amended as follows:

(1) By revising the sentence heading to read as set forth below.

(2) In paragraph (a) by deleting subparagraph (18), and by deleting the words "the Federal Power Act or" from subparagraph (19).

(3) In paragraph (b) by revising subparagraph (b)(6)(v) and by adding subparagraph (b)(6)(vi) and subparagraph (b)(7).

(4) In paragraph (f) by revising subparagraphs (f)(1), (f)(1)(i), and (f)(1)(iv), by adding subparagraphs (f)(1)(vi), (vii), (viii), (ix), and (x), by revising introductory subparagraph (f)(2), by adding subparagraphs (f)(2)(i), (ii), and (iii), by revising subparagraphs (f)(3), (f)(4), (f)(5), (f)(7), and (f)(8), and by adding subparagraph (f)(10).

(5) In paragraph (g) by revising subparagraph (g)(3), deleting subparagraphs (g)(4), (5), and (10), by revising subparagraphs (g)(11), (12),

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(14), (20), and (21), and by adding subparagraphs (g)(22) through (g)(36).

(6) By adding new paragraphs (h) and (i).

§ 3.5 Delegations of authority.

The Commission authorizes:

* * * * *

(b) The Chief Accountant or in the Chief Accountant's absence, the Chief Accountant's designee, to:

* * * * *

(6) Pass upon, when requested to do so by a public utility or licensee:

* * * * *

(v) The issuance under competitive bidding procedures of common stock, preferred stock and bonds.

(vi) The issuance, through a negotiated public or private placement, of common stock, preferred stock and bonds, the value of which amounts to $15,000,000 or less.

(7) In uncontested cases, pass upon actual legitimate original cost and depreciation thereon, and the net investment in jurisdictional companies and revisions thereof, and sign audit reports resulting from the examination of the books and records of jurisdictional companies.

* * * * *

(f) The Director of the Office of Pipeline and Producer Regulation or in the Director's absence, the Director's designee, to:

(1) Pass upon the following types of uncontested applications or uncontested amendments to applications:

(i) Applications for natural gas pipeline certificates, or for amendments to such certificates, authorizing the construction and operation of facilities that have a construction cost of less than $1,000,000;

* * * * *

(iv) Applications for temporary and permanent certificates for the transportation of natural gas to end-users, pursuant to § 2.79 and § 157.101 of this Chapter, and for temporary certificates for the transportation of natural gas to end-users pursuant to § 284.208 of this Chapter;

* * * * *

(vi) Applications to abandon pipeline or producer facilities or services (other than budget applications) involving a specific customer or customers, if such customer or customers have agreed to the abandonment;

(vii) Applications involving equivalent gas-for-gas exchange arrangements and related transportation arrangements between two or more pipelines at specified points or areas where no charges are involved;

(viii) Applications for amendments to authorized gas-for-gas exchange arrangements and related transportation arrangements, when the application effects no change in rates;

(ix) Applications for temporary certificates pursuant to § 157.17 of this Chapter; and

(x) Applications for temporary and permanent certificates of public convenience and necessity by independent producers pursuant to §§ 157.23, 157.28, and 157.40 of this Chapter.

(2) Act upon filings for all initial rate schedules, rate schedule changes and notices of changes in rates submitted by gas companies to the following extent, in uncontested cases:

(i) Accept a tariff or rate schedule filing, except a major pipeline rate increase under § 154.38(d)(4)(vi) and § 154.63(a)(2) of this Chapter, and under section 4(e) of the Natural Gas Act, if it complies with all applicable statutory requirements, and with all applicable Commission rules, regulations, and orders for which a waiver has not been granted, or if a waiver has been granted by the Commission, if it complies with the terms of such waiver;

(ii) Reject a tariff or rate schedule filing, if it patently fails to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders for which a waiver has not been granted; and

(iii) Advise the filing party of any actions taken under subparagraphs (2)(i) or (2)(ii) of this paragraph and designate rate schedules, rate schedule changes, and notices of changes in rates, and the effective date thereof.

(3) Approve uncontested petitions to amend certificates to conform to actual construction.

(4) Accept for filing, data and reports required by Commission orders, or presiding officers' initial decisions upon which the Commission has taken no further action, if such filings are in compliance with such orders or decisions; and when appropriate, notify the filing party of such acceptance.

(5) Pass upon uncontested applications for extensions of time to file required reports, data, and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission.

* * * * *

(7) Pass upon requests to withdraw natural gas applications pursuant to § 1.11(d)(1) of this Chapter, in any proceeding in which a hearing has been held or convened.

(8) Issue and sign deficiency letters regarding natural gas applications.

* * * * *

(10) Deny or grant any request for waivers incidental to the exercise of delegated authority, in conformity with § 1.14(a)(2) of this Chapter.

(g) The Director of the Office of Electric Power Regulation or in the Director's absence, the Director's designee, to:

* * * * *

(3) Take appropriate action on any of the following filings, if uncontested, made in response to the requirements of a condition in a preliminary permit or license for a water power project, or in response to the requirements of an order of the Commission concerning a water power project: new or revised exhibits described in Part 4 or § 131.6 of this Chapter, and any studies, plans, reports, maps, drawings, or specifications.

(4) [Deleted]

(5) [Deleted]

* * * * *

(10) [Deleted]

(11) Take appropriate action on applications for preliminary permits to enable permittees to maintain priority of application for a license when the issuance of the permit is uncontested.

(12) Accept for filing all uncontested initial rate schedules and uncontested rate schedule changes, except for changes which would result in rate increases, that are submitted by public utilities and licensees; waive the requirement of statutory notice for good cause shown; advise the filing party of such acceptance; and designate rate schedules and the effective dates thereof.

* * * * *

(14) Issue deficiency letters regarding electric rate schedule filings, refund reports, corporate applications for the sale of facilities with respect to interlocking directorates, and applications filed under Part I of the Federal Power Act.

* * * * *

(20) Pass upon uncontested applications filed by persons seeking to hold interlocking positions under section 305(b) of the Federal Power Act.

(21) Pass upon uncontested applications for the sale of jurisdictional facilities under Section 203 of the Federal Power Act.

(22) Approve uncontested applications for the disposition of property, consolidation of facilities, and acquisition of securities of public utilities.

(23) Accept, for filing, amendments to agreements and contracts or rate schedules submitted in compliance with Commission opinions and orders, including rate settlements, if such filings are in compliance with such opinions and orders.

(24) Grant authorizations for a designated representative to post and file rate schedules of public utilities which are parties to the same rate schedule.

(25) Redesignate proceedings, licenses, rate schedules, and other authorizations and filings to reflect changes in the names of persons and municipalities subject to or invoking Commission jurisdiction under the Federal Power Act, where no substantive changes in ownership, corporate structure or domicile, or jurisdictional operation are involved.

(26) Take appropriate action on:

(i) Uncontested settlements among non-Federal parties involving headwater benefits.

(ii) Uncontested applications for the following, if an environmental impact statement is not required:

(A) Minor water power project licenses as defined in § 4.60 of this Chapter, or major water power project licenses;

(B) Surrenders of water power project licenses;

(C) Amendments of licenses, including changes in the use or disposal of water power project lands or waters or in the boundaries of a water power project.

(27) Dismiss applications for licenses, and approve the withdrawal of applications for water power project licenses, in instances where no petition for or notice of intervention contending that licensing is required under Part I of the Federal Power Act has been filed and the Director determines that licensing is not required by such Part I.

(28) Prepare and transmit letters to the Bureau of Land Management and the U.S. Geological Survey concerning powersite lands; respond to routine requests for information and any nondocketed correspondence; prepare and transmit letters requesting comments or additional information on applications for water power project licenses, preliminary permits, amendments of licenses and other similar matters from Federal, State, and local agencies, from applicants, and from other appropriate persons; and prepare and transmit letters regarding whether transmission lines are works of a water power project and are required to be licensed.

(29) Require the licensee of a water power project to make repairs to project works and to take any related actions for the purpose of maintaining the safety and adequacy of such works.

(30) Grant or deny waivers of penalty charges for late payment of annual charges.

(31) Give credit for overpayment of annual charges.

(32) Adopt final allocations of costs for Federal multiple-purpose reservoir projects for which the Commission has statutory responsibility, and review and comment on cost allocations prepared by others.

(33) Deny or grant any request for waivers incidental to the exercise of delegated authority in conformity with § 1.14(a)(2) of this Chapter.

(34) Authorize the refunding of filing fees, when appropriate, or require additional filing fees, when appropriate.

(35) Accept, for filing, an uncontested rate increase to customers, if the rate resulting from the proposed increase is the same as a rate previously accepted by the Commission and currently in effect for the same service to other customers.

(36) Accept, for filing, uncontested minor rate increases, for which the utility is not required to file supporting cost of service statements under § 35.13 of this chapter.

(h) The Director of the Office of Enforcement, or the Director's Designee, to:

(1) Designate officers empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance and testimony, take evidence, compel the filing of special reports and interrogatories, gather information, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records, in the course of formal investigations conducted by the Office of Enforcement to the extent the Commission's order of investigation expressly provides for the exercise of such investigative powers.

(2) Grant or deny requests of persons pursuant to § 1.12 of this Chapter to procure copies of the transcripts of their testimony taken during non-public investigations conducted by the Office of Enforcement.

(3) Terminate any informal non-public investigation conducted by the Office of Enforcement.

(4) Terminate the authority of officers to administer oaths and affirmations, subpoena witnesses, compel their attendance and testimony, take evidence, compel the filing of special reports and interrogatories, gather information, and require the production of any books, papers, correspondence, memoranda, contracts, agreements or other records in the course of formal investigations conducted by the Office of Enforcement.

(i) The Director of the Office of Opinions and Review or in the Director's absence, the Director's Designee, to:

(1) Designate presiding officers for proceedings under § 1.38 and § 1.40, who shall have all the authorities and duties vested in presiding officers by those rules and other applicable rules in conducting proceedings pursuant to § 503(c) and § 504(b) of the Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*

[FR Doc. 79-24433 Filed 8-7-79; 8:45 am]
BILLING CODE 6450-01-M

18 CFR Parts 1 and 35

[Docket No. RM79-61; Order No. 39]

Amendments to the Notice Requirements of the Federal Power Act

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: On January 2, 1979, the Commission amended its regulations under the Federal Power Act to require that changes in existing rate schedules and initial rate schedules be filed not less than sixty days nor more than one hundred-twenty days before the change is to become effective. The change was required by the Public Utility Regulatory Policy Act of 1978 (PURPA). The Commission has found it necessary to make further amendments to related provisions of its rate schedule regulations in order that they also might conform to the changes mandated by section 207(a) of PURPA.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-0422.

Amendments to the notice requirements of the Federal Power Act; issued August 2, 1979.

Background

The Federal Energy Regulatory Commission advises that and is amending § 1.7, relating to petitions for the issuance, amendment, waiver or repeal of rules; § 35.2, relating to the filing of rate schedules; § 35.15, relating to filing of notices of cancellation or termination of rate schedules; and § 35.22, relating to research and

development clauses in rate schedules for electric utilities.

Section 207(a) of the Public Utilities Regulatory Policies Act of 1978 (PURPA), Pub. L. No. 95–617, amended section 205(d) of the Federal Power Act (FPA) (16 USC 824(d)) by replacing the word "thirty", whenever it appears, with the word "sixty". As amended, section 205(d) of the FPA reads:

(d) Unless the Commission otherwise orders, no change shall be made by any public utility in any such rates, charges, classification, or service, or in any rule, regulation, or contract relating thereto, except after sixty days' notice to the Commission and to the public. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force and the time when the change or changes will go into effect. The Commission, for good cause shown, may allow changes to take effect without requiring the sixty days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published. [49 Stat. 851–852; 16 USC 824(d)]

On January 2, 1979, the Commission issued several amendments to its rate schedule regulations in order to conform filing date provisions to the changes in section 205(d) of the FPA mandated by PURPA. (44 Fed. Reg. 16371, March 19, 1979.) The Commission is now amending additional sections to conform references to filing date requirements to the amended section 205(d) of the FPA.

First, at § 1.7(b), the reference to the "thirty-day notice period provided in * * * section 205(d) of the Federal Power Act" is amended to reflect a sixty-day notice period requirement. Second, at § 35.2(e), a rate schedule will become effective as a result of the amendment sixty rather than thirty days after it is filed and posted with the Commission. This amendment is being made merely to coordinate the definition of effective date in § 35.2(e) with the January amendments to § 35.3 concerning notice provisions for rate schedule filings.

Third, the amendment to § 35.15 changes the time by which a party is required to notify the Commission of a proposed cancellation or termination of a rate schedule. Under the former rule, when a rate schedule or part thereof was proposed to be cancelled or was to terminate on its own terms and no new rate schedule or part thereof was to be filed in its place, each party required to file the schedule had to notify the Commission of the proposed cancellation or termination at least thirty but not more than ninety days prior to the date such cancellation or termination was proposed to take place. As amended, § 35.15 requires each party to notify the Commission of a rate schedule cancellation or termination at least sixty but not more than one hundred-twenty days before the proposed date of cancellation or termination. Finally, at § 35.22(e)(5), a reference to the notice requirements of § 35.3 will be amended to reflect the sixty-day rather than the thirty-day filing requirement.

Effective Date

The Commission issues this final rule effective immediately. The rule merely amends rate schedule filing requirements to conform them to the change mandated by PURPA, and is strictly procedural in nature. If a rule is procedural, section 553 of the Administrative Procedure Act (5 USC § 553) does not require prior notice and opportunity to comment, or publication thirty days before the effective date of the rule.

(Federal Power Act, as amended (16 USC 284(d)); Public Utility Regulatory Policies Act of 1978, Pub. L. No. 95–617; Department of Energy Organization Act, 42 USC 7101, *et seq.*; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, the Commission amends Parts 1 and 35, Chapter I of Title 18, Code of Federal Regulations as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 1.7 is amended in the second sentence of paragraph (b) to read as follows:

§ 1.7 Petitions.

* * * * *

(b) *For issuance, amendment, waiver, or repeal of rules.* * * * If a rate filing is accompanied by a request for waiver pursuant to this section the thirty-day notice period provided in section 4(d) of the Natural Gas Act, and the sixty-day notice period provided in section 205(d) of the Federal Power Act shall begin to run if and when the Commission grants the request. * * *

* * * * *

§ 35.2 [Amended]

2. Section 35.2 is amended in paragraph (e) by deleting "30" and inserting in lieu thereof "60".

3. Section 35.15 is amended in the first sentence to read as follows:

§ 35.15 Notices of cancellation or termination.

When a rate schedule or part thereof required to be on file with the Commission is proposed to be cancelled or is to terminate by its own terms and no new rate schedule or part thereof is to be filed in its place, each party required to file the schedule shall notify the Commission of the proposed cancellation or termination on the form indicated in § 131.53 of this chapter at least sixty days but not more than one hundred-twenty days prior to the date such cancellation or termination is proposed to take effect. * * *

§ 35.22 [Amended]

4. Section 35.22(e) is amended in the first sentence of subparagraph (5) by deleting "30" and inserting in lieu thereof "60".

[FR Doc. 79–24431 Filed 8–7–79; 8:45 am]

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18 CFR Part 277

[Docket No. RM79–8; Order No. 4]

Regulations of Natural Gas Sales Under the Natural Gas Policy Act of 1978; High Cost Natural Gas or New Natural Gas Produced From Any Reservoir on the Outer Continental Shelf

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is promulgating § 277.101 as a final rule. The regulation implements section 315(a)(3) of the NGPA and applies to any new contract for the sale of high cost natural gas or new natural gas produced from any reservoir on the Outer Continental Shelf. Section 277.101 prescribes the minimum duration of a new contract for the first sale of high cost natural gas or new natural gas produced from any reservoir on the Outer Continental Shelf (OCS).

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT:
Clarence Burris, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8106, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275–0422.

Final rule prescribing 15-year minimum duration for new contracts for some sales of certain OCS gas; Issued August 2, 1979.

Background

The Commission advises that it is issuing as a final rule, § 277.101, which implements section 315(a)(3) of the Natural Gas Policy Act of 1978, Pub. L. No. 95–621 (NGPA).

On December 4, 1978, the Commission issued, in Docket No. RM79–8, interim regulations implementing section 315(a)(3) of the NGPA (43 FR 57597, December 8,1978). These interim regulations became effective as of December 1, 1978. Since the issuance of the interim regulations, the Commission has held numerous public hearings and provided opportunity for written comments on regulations promulgated under the NGPA as required by section 502(b). No comments were received on Part 277. The Commission adheres to its statements in the preamble to this Part but finds that some ambiguity exists in the wording of § 277.101 which will be amended to track the statute more closely. This amendment does not represent a change in Commission policy regarding this section.

Section 277.101 prescribes the minimum duration of a new contract for the first sale of high cost natural gas or new natural gas produced from any reservoir on the Outer Continental Shelf (OCS). A "new contract" is one which is executed on or after December 1, 1978. The regulation defines "high cost natural gas" and "new natural gas" produced from an OCS reservoir and requires that the contract for such first sales shall be for a duration of not less than 15 years or, if less, the commercially producible life of the reservoir.

Public Procedures and Effective Date

The Commission has held numerous hearings on the interim regulations implementing the NGPA Docket No. RM79–3 (43 FR 56448). Comments on Docket No. RM79–8 were to be included in the oral presentations at these hearings. By this process the Commission has complied with the provisions of section 502(b) of the NGPA, which requires that "[t]o the maximum extent practicable," an opportunity for the oral presentation of data, views, and arguments be afforded for certain regulations under the NGPA.

Although opportunity for comment was provided, the Commission has not received any comments on Part 277 during the notice, comment, and hearing process. Thus, the Commission finds that further notice and public procedure with respect to these rules is unnecessary. Because no modification is being made in the substance of Part 277, it will be issued as a final regulation effective immediately.

(Natural Gas Policy Act of 1978, Pub. L. No. 95–621, 92 Stat. 3350; Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; E. O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 277, Subchapter H, Chapter I of Title 18, Code of Federal Regulations, issued as interim regulations on December 4, 1978, is issued as a final rule as set forth below, effective on the date of issuance of this rule.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 277 is amended by revising § 277.101 to read as follows:

PART 277—OTHER PROVISIONS

§ 277.101 Duration of new contracts for first sale of certain OCS gas.

(a) *Applicability.* This section implements section 315(a)(3) of the NGPA and applies to any new contract for the first sale of natural gas which is produced from any reservoir on the OCS and which is also new natural gas or high cost natural gas.

(b) *General rule.* Any contract to which this section applies shall be for a duration of not less than 15 years, or, if less, the commercially producible life of the reservoir.

(c) *Definitions.* For purposes of this section: (1) "High cost natural gas" means natural gas which a jurisdictional agency has determined in accordance with Parts 274 and 275 to be high cost natural gas (as defined in section 107(c)(1), (2), (3), or (4) of the NGPA);

(2) "New natural gas" means natural gas which a jurisdictional agency has determined in accordance with Parts 274 and 275 to be new natural gas (as defined in section 102(c) of the NGPA); and

(3) "New contract" means any contract executed after December 1, 1978.

[FR Doc. 79–24438 Filed 8–7–79; 8:45 am]

BILLING CODE 6450–01–M

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18 CFR Part 294

[Docket No. RM79–52]

Interim Procedures for Shortages of Electric Energy and Capacity Under the Public Utility Regulatory Policies Act of 1978; Amendment of Interim Rule.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Amendment of Interim Rule

SUMMARY: The Federal Energy Regulatory Commission is amending the interim rule issued on June 15, 1979, implementing Section 206 of PURPA, which added a new Section 202(g) to the Federal Power Act. The interim rule requires public utilities to file with the Commission a summary of procedures to be used in the event of a shortage of electric energy or capacity. The amendment requires that each utility file such a summary, whether or not it anticipates shortages of electric energy or capacity.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT:
Adam Wenner, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104–C, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275–0422.

Issued August 1, 1979.

On June 15, 1979 the Commission promulgated § 294.101 of its Rules and Regulations [1], in partial fulfillment of the requirements contained in section 206 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Section 294.101(b) of those regulations requires each public utility now serving firm power wholesale customers to submit, by June 29, 1979, a "brief statement describing how it would accommodate any shortage of energy or capacity anticipated to occur prior to September 30, 1979 and which would be likely to affect its firm power wholesale customers."

Several utilities have contacted the Commission seeking to determine whether the requirement to submit such a statement applies if a utility does not anticipate that any shortages will occur during this period.

The Commission's intent in issuing paragraph (b) was to require each utility serving firm power wholesale customers to provide information regarding that utility's plans to accommodate shortages of energy or capacity, whether or not the utility anticipated that shortages might actually occur. Accordingly, we shall amend the interim regulation to eliminate this ambiguity. In order to

[1] 44 FR 37500 (June 27, 1979).

provide for the filing of these statements by utilities which have not previously done so, we shall further amend the paragraph in order to extend the time for their submission to July 23, 1979.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117; Federal Power Act, 16 USC § 792 *et seq;* Department of Energy Organization Act, 42 USC § 7107 *et seq;* E.O. 12009, 42 FR 46267; Administrative Procedure Act, 5 USC § 553).

In consideration of the foregoing, Part 294 of Subchapter K, Chapter I, Title 18 of the Code of Federal Regulations is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 294.101 is amended in paragraph (b) to read as follows:

§ 294.101 Shortages of electric energy and capacity.

* * * * *

(b) *Accommodation of shortages.* Each public utility now serving firm power wholesale customers, shall, by July 23, 1979, submit a brief statement indicating how it would accommodate any shortages of electric energy or capacity affecting its firm power wholesale customers, were such shortages to occur prior to September 30, 1979. This statement shall describe how the utility would assure that direct and indirect customers are treated without undue prejudice or disadvantage. It shall also identify any agreement, law, or regulation which might impair the utility's ability to accommodate such a shortage. Each utility shall file a copy of its statement with any appropriate State regulatory agency and all firm power wholesale customers.

* * * * *

[FR Doc. 79-24432 Filed 8-7-79; 8:45am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 12

[T.D. 7635]

Income From Certain Aircraft or Vessels

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final Regulations.

SUMMARY: This document provides final regulations under section 861(e) which provides taxpayers with an election to treat all amounts includible in gross income with respect to leases of certain aircrafts and vessels as income from sources within the United States. Changes to the applicable tax law were made by section 314 of the Revenue Act of 1971. These regulations provide necessary guidance to the public for compliance with the law and affect all persons making the election under section 861(e).

EFFECTIVE DATE: The regulations are effective with respect to taxable years ending after August 15, 1971, with respect to leases entered into after that date.

FOR FURTHER INFORMATION CONTACT: Donald K. Duffy of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3458.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1975, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 861(e) of the Internal Revenue Code of 1954 (40 FR 30971). The amendments were proposed to conform the regulations to section 314 of the Revenue Act of 1971 (Pub. L. 92-178, 85 Stat. 528). A public hearing was held on August 31, 1976. After consideration of all relevant matters presented by interested persons regarding the proposed amendments, this Treasury decision adopts those amendments.

Implementation of the Revenue Act of 1971

Section 314(a) of the Revenue Act of 1971 amended section 861 of the Internal Revenue Code of 1954 to provide owners of certain aircraft or vessels with an election under section 861(e) to treat all amounts includible in gross income with respect to the lease of aircraft or vessels as income from sources within the United States. Generally, the aircraft or vessels must be property described in section 38, leased to a U.S. person, and manufactured or constructed in the United States. Under prior law, the physical location of the aircraft or vessel determined the source of the income derived from the lease of the aircraft or vessel.

Section 1.861-9(a) of the proposed amendments provides that the election under section 861(e) may not be used with the primary objective of treating losses in respect of an aircraft or vessel as having a U.S. source and treating income and gains in respect of the aircraft or vessel as having a foreign source.

Section 1.861-9(b) of the proposed amendments describes the property which may be subject to an election under section 861(e). Generally, the proposed amendment provides that the aircraft or vessel be property which qualifies for the investment tax credit under section 38 and be manufactured or constructed in the United States.

Section 1.861-9(c) of the proposed amendments provides that a vessel or aircraft will be considered leased to a U.S. person if that person is in possession and control of the property. Certain leases to persons other than U.S. persons were not allowed.

Section 1.861-9 (d) and (e) of the proposed amendments describe the income to which the election applies and the effect of an election, respectively. Amounts to which the election applies include not only gross income derived from the lease of the aircraft or vessel, but also any gain or loss from the sale, exchange, or other disposition of the property. The election applies to the taxable year for which made and all subsequent taxable years, unless revoked. The election with respect to an aircraft or vessel continues in cases involving transfers or distributions involving a carryover of basis.

Section 1.861-9(f) of the proposed amendments provides rules for making an election and generally requires the election to be made no later than the time prescribed by law for filing the income tax return for the first taxable year for which the election is to apply. Section 1.861-9(f) also provides rules for the revocation of an election.

Revisions

Comments from the public questioned the necessity of the requirement under § 1.861-9(a) that an election could not be used with the primary objective of treating losses in respect of an aircraft or vessel as having a U.S. source and income and gains in respect of that property as having a foreign source. Other rules in the regulation are designed to prevent such an occurrence. Accordingly, the final regulations delete this requirement since it is unnecessary.

Section 1.861-9(b) is revised in response to a comment from the public requesting clarification of the term "manufactured or constructed in the United States". The final regulations indicate a degree of manufacture or construction in the United States which will be considered to satisfy the requirement that the vessel or aircraft be U.S. manufactured or constructed.

Section 1.861-9(c) is revised in response to comments from the public which questioned the possession and control requirement and the prohibition of certain subleases to persons who are not U.S. persons. The final regulations permit certain short-term subleases to these persons and delete the possession and control test.

Section 1.861-9(e) clarifies the circumstances under which an election will continue in effect with respect to a transferee or distributee of an aircraft or vessel subject to an election.

Section 1.861-9(f) revises the time for making an election. The election must be made before the expiration of the period for making a claim for credit or refund of the tax imposed by chapter 1 for the first taxable year for which the election is to apply. An election with respect to an aircraft or vessel owned by a partnership must be made by the partnership.

Section 1.861-9(g) is added to clarify the rules for the revocation of an election. In many respects, the revised revocation rules under paragraph (g) parallel the rules under paragraph (f) relating to the time within which an election may be made. The final regulations also provide rules for the automatic termination of an election in certain situations.

Temporary Regulations Superseded

This Treasury decision deletes § 12.1 of the Temporary Income Tax Regulations under the Revenue Act of 1971 because § 1.861-9 supersedes that section of the temporary regulations.

Drafting Information

The principal author of this regulation is Donald K. Duffy of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, on matters of both substance and style.

Adoption of Amendments to the Regulations

After consideration of all relevant matters presented by interested persons regarding the proposed amendments to the regulations under section 861, the following amendments are hereby adopted:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

§ 1.861 [Removed]

Paragraph 1. Section 1.861 is deleted.

Par. 2. Paragraph (a) of § 1.861-1 is amended by adding a new subparagraph (4) to read as set forth below:

§ 1.861-1 Income from sources within the United States.

(a) *Categories of income.* * * *

(4) *Exception.* An owner of certain aircraft or vessels may elect to treat income in respect of the lease of these aircraft or vessels or gains with respect of their disposition as income from sources within the United States for purposes of sections 861(a) and 862(a). See § 1.861-9.

* * * * *

Par. 3. The following new section is inserted immediately after § 1.861-8:

§ 1.861-9 Income from certain aircraft or vessels.

(a) *General rule.* A taxpayer who owns an aircraft or vessel described in paragraph (b) of this section and who leases the aircraft or vessel to a United States person (other than a member of the same controlled group of corporations (as defined in section 1563) as the taxpayer) may elect under paragraph (f) of this section to treat all amounts includible in gross income with respect to the aircraft or vessel as income from sources within the United States for any taxable year ending after the commencement of the lease. This paragraph (a) applies only with respect to taxable years ending after August 15, 1971, and only with respect to leases entered into after that date. An election once made applies to the taxable year for which made and to all subsequent taxable years unless it is revoked or terminated in accordance with paragraph (g) of this section. A taxpayer need not be a United States person to be eligible to make the election under this section, unless otherwise required by a provision of law not contained in the Internal Revenue Code of 1954. In addition, the taxpayer need not be a bank or other financial institution to be eligible to make this election. The term "United States person" as used in this section has the meaning assigned to it by section 7701(a)(30).

(b) *Property to which the election applies—*(1) *section 38 property.* An election made under this section may be made only if the aircraft or vessel is section 38 property, or property which would be section 38 property but for section 48(a)(5) (relating to property used by governmental units), at the time the election is made and for all taxable years to which the election applies. The aircraft or vessel must be property which qualifies for the investment credit under section 38 unless the property does not qualify because it is described in section 48(a)(5). If an aircraft is used predominantly outside the United States (determined under § 1.48-1(g)(1)), it must qualify under the provisions of section 48(a)(2)(B)(i) and § 1.48-1(g)(2)(i). If a vessel is used predominantly outside the United States, it must qualify under the provisions of section 48(a)(2)(B)(iii) and § 1.48-1(g)(2)(iii). The aircraft or vessel may not be suspension or termination period property described in section 48(h) or section 49(a) (as in effect before the enactment of the Revenue Act of 1978). See paragraph (g) (3) and (4) of this section for rules which apply if the property ceases to be section 38 property.

(2) *United States manufacture or construction.* An election under this section may be made only if the aircraft or vessel is manufactured or constructed in the United States. The aircraft or vessel will be considered to be manufactured or constructed in the United States if 50 percent or more of the basis of the aircraft or vessel is attributable to value added within the United States.

(3) *Exclusion of certain property used outside the United States.* The term "aircraft or vessel" as used in this paragraph (b) does not include any property which is used predominantly outside the United States and which qualifies as section 38 property under—

(i) Section 48(a)(2)(B)(v), relating to containers used in the transportation of property to and from the United States,

(ii) Section 48(a)(2)(B)(vi), relating to certain property used for the purpose of exploring for, developing, removing, or transporting resources from the Outer Continental Shelf, or

(iii) Section 48(a)(2)(B)(x), relating to certain property used in international or territorial waters.

(c) *Leases or subleases to which the election applies.* At the time the election under this section is made and for all taxable years for which the election applies, the lessee of the aircraft or vessel must be a United States person. In addition, the aircraft or vessel may not be subleased to a person who is not a United States person unless the sublease is a short-term sublease. For purposes of this section, a short-term sublease is a sublease for a period of time (including any period for which the sublease may be renewed or extended) which is less than 30 percent of the asset guideline period of the aircraft or vessel leased (determined under section 167(m)). See paragrah (g) (3) and (4) of this section for rules which apply if the requirements of this paragraph (c) are not met.

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(d) *Income to which the election applies.* An election under this section applies to all amounts derived by the taxpayer with respect to the aircraft or vessel which is subject to the election. The election applies to all amounts which are includible in the taxpayer's gross income whether or not includible during or after the period of a lease to which the election applies. Amounts derived by the taxpayer with respect to the aircraft or vessel include any gain from the sale, exchange, or other disposition of the aircraft or vessel. If by reason of the allowance of expenses and other deductions, there is a loss with respect to an aircraft or vessel, the election applies to treat the loss as having a source within the United States. Similarly, if the sale, exchange or other disposition of the aircraft or vessel which is subject to an election results in a loss, it is treated as having a source within the United States. See paragraph (e)(2) of this section for the application of an election under this section to the income of certain transferees or distributees.

(e) *Effect of election*—(1) *In general.* An election under this section applies to the taxable year for which it is made and to all subsequent taxable years for which amounts in respect of the aircraft or vessel to which the election relates are includible in gross income. However, the election may be revoked under paragraph (g) (1) or (2) of this section or terminated under paragraph (g)(3) of this section.

(2) *Certain transfers involving carryover of basis.* (i) If an electing taxpayer transfers or distributes an aircraft or vessel which is subject to the election under this section, the transferee or distributee will be treated as having made an election under this section with respect to the aircraft or vessel if the basis of the aircraft or vessel in the hands of the transferee or distributee is determined by reference to its basis in the hands of the transferor or distributor. This paragraph (e)(2)(i) applies even though the transferor or distributor recognizes an amount of gain which increases basis in the hands of the transferee or distributee and even though the transferee of distributee is a nonresident alien individual or foreign corporation. For example, if a corporation distributes a vessel which is subject to an election under this section to its parent corporation in a complete liquidation described in section 332(b), the parent corporation will be required to treat all amounts includible in its gross income with respect to the vessel as income from source within the United States if, unless the election is revoked or terminated under paragraph (g) of this section, the basis of the property in the hands of the parent is determined under section 334(b)(1) (relating to the general rule on carryover of basis). In further illustration, if a corporation distributes a vessel (subject to an election) in a distribution to which section 301(a) applies, the distributee will be treated as having made the election with respect to the vessel if its basis is determined under section 301(d)(2) (relating to basis of corporate distributees) even though the basis is the fair market value of the vessel under section 301(d)(2)(A).

(ii) If a member of an affiliated group which files a consolidated return transfers an aircraft or vessel subject to an election to another member of that group, the transferee will be treated as having made the election with respect to the aircraft or vessel. In addition, if a partnership distributes an aircraft or vessel subject to an election to a partner, the partner will be treated as having made the election with respect to the aircraft or vessel.

(iii) If paragraph (e)(2) (i) and (ii) of this section do not apply, the election under this section with respect to an aircraft or vessel will not be considered as made by a transferee or distributee.

(f) *Election*—(1) *Time for making the election.* The election under this section must be made before the expiration of the period prescribed by section 6511(a) (or section 6511(c) if the period is extended by agreement) for making a claim for credit or refund of the tax imposed by chapter 1 for the first taxable year for which the election is to apply. The period for that first taxable year is determined without regard to the special periods prescribed by section 6511(d).

(2) *Manner of making the election.* An election under this section must be made by filing with the income tax return (or an amended return) for the first taxable year for which the election is to apply a statement, signed by the taxpayer, to the effect that the election under section 861(e) is being made. The statement must—

(i) Set forth sufficient facts to identify the aircraft or vessel which is the subject of the election,

(ii) State that the aircraft or vessel was manufactured or constructed in the United States,

(iii) State that the aircraft or vessel is section 38 property described in § 1.861–9(b) which was leased to a United States person (as defined in section 7701(a)(30) of the Code) pursuant to a lease entered into after August 15, 1971,

(iv) State that the electing taxpayer is the owner of the aircraft or vessel,

(v) State the lessee of the aircraft or vessel is not a member of a controlled group of corporations (as defined in section 1563) of which the taxpayer is a member,

(vi) Give the name and taxpayer identification number of the lessee of the aircraft or vessel, and

(vii) State that the aircraft or vessel is not subject to a sublease (other than a short-term sublease) to any person who is not a United States person.

(3) *Election by partnership.* Any election under this section with respect to an aircraft or vessel owned by a partnership shall be made by the partnership. Any partnership election is applicable to each partner's partnership interest in the aircraft or vessel. However, an election made by a partner before August 8, 1979 will be recognized where the partnership made no election and the election can no longer be revoked without the consent of the Commissioner under paragraph (g)(1) of this section.

(g) *Termination of election*—(1) *Revocation without consent.* A taxpayer may revoke an election within the time prescribed in paragraph (f)(1) of this section without the consent of the Commissioner. In such a case, the taxpayer must file an amended income tax return for any taxable year to which the election applied.

(2) *Revocation with consent.* Except as provided in paragraph (g) (1) or (3) of this section, an election made under this section is binding unless consent to revoke is obtained from the Commissioner. A request to revoke the election must be made in writing and addressed to the Assistant Commissioner of Internal Revenue (Technical). Attention: T:C:C:3, Washington, D.C. 20224. The request must include the name and address of the taxpayer and be signed by the taxpayer or his duly authorized representative. It must specify the taxable year or years for which the revocation is to be effective and must be filed at least 90 days prior to the time (not including extensions) prescribed by law for filing the income tax return for the first taxable year for which the revocation of the election is to be effective or by November 6, 1979 whichever is later. The request must specify the grounds which are considered to justify the revocation. The Commissioner may require such additional information as may be necessary in order to determine whether the proposed revocation will be permitted. Consent will generally not be given to revoke an election where the revocation would result in treating gross income with respect to the aircraft or vessel (including any gain from the sale, exchange, or other disposition of such aircraft or vessel) as income from sources without the United States where, during the period the election was in effect, there were losses from sources within the United States. A copy of the consent of the Commissioner to revoke must be attached to the taxpayer's income tax return (or amended return) for each taxable year affected by the revocation.

(3) *Automatic termination.* If an aircraft or vessel subject to an election under section 861(e) ceases to be section 38 property, ceases to be leased by its owner directly to a United States person, or is subleased (other than a short-term sublease) to a person who is not a United States person, within the period set forth in section 6511(a) (or section 6511(c) if the period is extended by agreement) for making a claim for credit or refund of the tax imposed by chapter 1 for the first taxable year for which the election applied, then the election with respect to such aircraft or vessel will automatically terminate. If the election terminates, the taxpayer who made the election must file an amended tax return or claim for credit or refund, as the case may be, for any taxable year to which the election applied.

(4) *Factors not causing revocation or termination.* The fact that an aircraft or vessel ceases to be leased by its owner directly to a United States person, or is leased or subleased for any period of time to a person who is not a United States person, after expiration of the period set forth in section 6511(a) (or section 6511(c) if the period is extended by agreement) for making a claim for credit or refund of the tax imposed by chapter 1 for the first taxable year for which the election applied, will not cause a termination of the election made under this section with respect to the aircraft or vessel. For example, the electing taxpayer is not relieved from any of the consequences of making the election merely because the aircraft or vessel is subleased to a person who is not a United States person for a period in excess of that allowed for short-term subleases under paragraph (c) of this section after expiration of the later of 3 years from the time the return was filed for the first taxable year to which the election applied or 2 years from the time the tax was paid for that year where the period set forth in section 6511(a) has not been extended by agreement.

(5) *Effect of revocation or termination.* If an election is revoked or terminated under this paragraph (g), the taxpayer is required to recompute the tax for the appropriate taxable years without reference to section 861(e)(1).

§ 1.862 [Removed]

Par. 4. Section 1.862 is deleted.

Par. 5 Section 1.862[2 is amended by adding a new paragraph (c) to read as set forth below:

§ 1.862–2 Income specifically from sources without the United States.

* * * * *

(c) *Income from certain property.* For provisions permitting a taxpayer to elect to treat amounts of gross income attributable to certain aircraft or vessels as income from sources within the United States which would otherwise be treated as income from sources without the United States under paragraph (a) of this section, see § 1.861–9.

PART 12—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

§ 12.1 [Removed]

Par. 6. Section 12.1 of the Temporary Income Tax Regulations under the Revenue Act of 1971, relating to election to treat income from certain aircraft and vessels as income from sources within the United States, is deleted.

* * * * *

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805)).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: July 23, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 79–24482 Filed 8–7–79; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 60

[Order No. 844–79]

Addition To Listing of Federal Law Enforcement Officers Authorized to Request the Issuance of a Search Warrant

AGENCY: Department of Justice.

ACTION: Final Rule.

SUMMARY: This order adds the Office of Investigations, Office of the Inspector General of the Department of Health, Education, and Welfare, to the list of agencies with law enforcement officers authorized to request the issuance of a search warrant. The most recent listing of those agencies was set forth in Attorney General Order No. 826–76, published on April 12, 1979 in the Federal Register (44 FR 21785).

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Philip B. Heymann, Assistant Attorney General, Criminal Division, U.S. Department of Justice, Washington, D.C. 20530 (202–633–2601).

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in me by Rule 41(h), Federal Rules of Criminal Procedure, Section 60.3 of Title 28, Code of Federal Regulations is revised as follows:

§ 60.3 [Amended]

Subsection (a)(3) which lists authorized agencies within the Department of Health, Education, and Welfare is amended by adding "Office of Investigations, Office of the Inspector General" immediately after the "Food and Drug Administration."

Dated: July 30, 1979.

Griffin B. Bell,
Attorney General.

[FR Doc. 79–24467 Filed 8–7–79; 8:45 am]
BILLING CODE 4410–01–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340–21]

Personal Privacy and Rights of Individuals Regarding Personal Records; Exemptions

AGENCY: Department of the Army.

ACTION: Amendment and deletion of exemption rules.

SUMMARY: The Department of the Army is amending 1 and deleting 2 exemption rules pertaining to systems of records under the Privacy Act of 1974.

EFFECTIVE DATE: These actions are effective August 8, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Cyrus H. Fraker, 202–693–0973.

SUPPLEMENTARY INFORMATION:

1. Exemption rules in § 505.9 applying to record systems identified as A0503.04USASA entitled "Security Clearance Case Files (SCCF)" and A0506.01bDAMI entitled "Security Access Information Files" are deleted since the systems of records to which they pertain were deleted.

2. So much of exemption rule for ID A0508.01fDAMI, entitled: "Security

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Clearance Information Files" is amended to read: "Personnel Security Clearance Information Files" to be consistent with the system of records to which it pertains.

August 2, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-24354 Filed 8-7-79; 8:45 am]

BILLING CODE 3710-08-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates; Rates to Canada

Correction

AGENCY: Postal Service.

ACTION: Correction of Final International Express Mail Rates to Canada.

SUMMARY: In the Federal Register of Tuesday, July 31, 1979, FR Doc. 79-23583, at 44 FR 44844, the Postal Service published the final International Express Mail rates to Canada for Custom Designed Service. The Postal Service stated that it intended to adopt without change the rates proposed on July 13, 1979 at 44 FR 40899 in Table 8-9. However, the rate for a 40 pound piece of Custom Designed International Express Mail, as shown in Table 8-9 published on July 31, 1979, is incorrect. The correct rate is $48.98. .

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT:
Patricia M. Gibert, (202) 245-5624.

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-24365 Filed 8-7-79; 8:45 am]

BILLING CODE 7710-12-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Fourth Rev. S.O. No. 1323]

Car Service; Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Fourth Revised Service Order 1323.

SUMMARY: Fourth Revised Service Order No. 1323 authorizes the Union Pacific Railroad Company to substitute three bi-level cars for two tri-level cars for shipments of automobiles.

DATES: Effective 11:59 p.m., July 31, 1979, and continuing in effect until further order of this Commission.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter, Telephone (202) 275-7840.

Decided July 31, 1979.

There are shortages of tri-level type multi-level auto rack flat cars on the Union Pacific Railroad Company (UP) required to transport automobiles subject to tariff restrictions requiring the use of such tri-level cars. This railroad has available supplies of bi-level cars of similar type which could be used for transporting these automobiles if tariff provisions permitted. The economic loss suffered by shippers dependent upon the UP for their car supplies can be alleviated by the substitution of bi-level cars for tri-level cars at the ratio of three bi-level cars for each two tri-level cars ordered.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of auto rack flat cars are ineffective to overcome these shortages of auto rack flat cars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1323 Fourth Revised Service Order No. 1323.

[1](a) *Distribution of freight cars:* Subject to the concurrence of the shipper the Union Pacific Railroad Company (UP) may substitute three bi-level auto rack flat cars, listed in the Official Railway Equipment Register, ICC RER No. 6410-B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "FA" for each two tri-level auto rack flat cars ordered by the shipper for transporting automobiles.

(b) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) Rates and minimum weights applicable: The rates to be applied to shipments for which three bi-level cars have been substituted for two tri-level cars ordered as authorized by paragraph (a) of this section shall be the rates applicable to the larger cars ordered. The minimum weight to be applied to each group of three bi-level cars substituted for two tri-level cars shall be the combined minimum weights applicable to the two tri-level cars ordered.

(d) Billing to be endorsed: The carrier substituting smaller cars for larger cars as authorized by paragraph (a) of this section shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

"Two tri-level cars ordered. Three bi-level cars furnished authority I.C.C. Fourth Revised Service Order No. 1323."

(e) Exception: This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(f) Exceptions: Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) Rules and regulations suspended: The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(h) Effective date: This order shall become effective at 11:59 p.m., July 31, 1979.

(i) Expiration date: This order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24422 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

[1] Chicago, Milwaukee, St. Paul and Pacific Railroad Company deleted.

49 CFR Part 1033

[S.O. 1391]

Car Service; Missouri-Kansas-Texas Railroad Co. Authorized To Operate Over Tracks of Missouri Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1391.

SUMMARY: The Missouri-Kansas-Texas Railroad Company is authorized to operate over tracks of the Missouri Pacific Railroad Company between Terminal Junction, Dallas, Texas, and Tower 55 at Fort Worth, Texas.

EFFECTIVE DATE: 12:01 a.m., August 3, 1979, until further order of this Commission.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter, (202) 275-7840.

Decided: August 2, 1979.

The Missouri-Kansas-Texas Railroad Company (MKT) operates its trains south of Dallas, Texas, via Hillsboro, Texas, over MKT tracks. There is an alternate route available over Missouri Pacific Railroad Company (MP) tracks between Terminal Junction, Dallas, Texas, and tower 55, Ft. Worth, Texas, thence via MKT tracks south of Ft. Worth to Hillsboro and stations South of Hillsboro. Present routing via MKT tracks between Dallas and Hillsboro is resulting in excessive delays, increased use of fuel, and poor car utilization due to deteriorated track conditions between Waxahachie and Hillsboro. MP has agreed to use by MKT of its tracks between Dallas and Ft. Worth.

Use of these MP tracks by MKT will result in more efficient operations, fuel savings, and improved car utilization. MKT will continue to serve all of its shippers between Dallas and Hillsboro. This operation between Dallas and Ft. Worth is restricted to bridge rights only.

MKT will file an application with the Commission for trackage rights over these tracks of the MP.

It is the opinion of the Commission that an emergency exists requiring operation of MKT trains over these tracks of MP in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1391 Service Order No. 1391.

(a) *Missouri-Kansas-Texas Railroad Company authorized to operate over tracks of Missouri Pacific Railroad Company.* The Missouri-Kansas-Texas Railroad Company (MKT) is authorized to operate over tracks of Missouri Pacific Railroad Company (MP) between Terminal Junction, Dallas, Texas, MP milepost 214.62 and tower 55, Ft. Worth, Texas, MP milepost 245.43, a distance of approximately 30.8 miles. These trackage rights will be used for bridge rights only.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by MKT over tracks of the MP is deemed to be due to carrier's disability, the rates applicable to traffic moved by the MKT over these tracks of the MP shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) In transporting traffic over these lines MKT and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) Nothing herein shall be considered as a prejudgment of the application of MKT seeking authority to operate over these tracks.

(f) *Effective date.* This order shall become effective at 12:01 a.m., August 3, 1979.

(g) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filling a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24423 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[S.O. 1392]

Car Service; Substitution of Trailers for Boxcars or Covered Hoppers

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1392.

SUMMARY: Service Order No. 1392 authorizes the ATSF Railway Company to substitute a maximum of four trailers for each boxcar or covered hopper ordered for shipments of grain.

EFFECTIVE DATE: 11:59 p.m., August 2, 1979, until further order of this Commission.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter (202) 275-7840.

Decided: August 2, 1979.

An acute shortage of boxcars and covered hoppers for transporting shipments of grain exists on The Atchison, Topeka and Santa Fe Railway Company (ATSF). The ATSF has an available supply of certain trailers that may be substituted for this traffic at a maximum of four trailers for each boxcar or covered hopper, and use of these trailers for the transportation of grain is precluded by certain tariff provisions, thus curtailing shipments of grain. There is a need for the use of these trailers to supplement the supplies of plain boxcars and covered hoppers for transporting shipments of grain. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1392 Service Order No. 1392.

(a) *Substitution of trailers for boxcars or covered hoppers.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations and practices with respect to its car service:

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(1) *Substitution of Cars.* The Atchison, Topeka and Santa Fe Railway Company (ATSF) may substitute a maximum of four trailers for each boxcar or covered hopper ordered for shipments of grain from any station on the ATSF and destined to any station on the ATSF, subject to the conditions provided in paragraphs (a) (2) through (5) of this order.

(2) *Concurrence of Shipper Required.* The concurrence of the shipper must be obtained before trailers are substituted for each boxcar or covered hopper ordered as authorized in paragraph (a)(1) of this order.

(3) *Minimum Weights.* The minimum weight per shipment for which trailers have been substituted for one boxcar or covered hopper, as authorized in paragraph (a)(1) of this order, shall be that specified in the applicable tariff for the car ordered.

(4) *Endorsement of Billing.* Bills of lading and waybills covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1392.

(5) *Exclusive ATSF Movement Required.* Shipments of grain for which trailers are substituted for one boxcar or one covered hopper must originate at stations on the ATSF and must be destined to stations on the ATSF.

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:59 p.m., August 2, 1979.

(e) *Expiration.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24424 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Regulations Frameworks for 1979–80 Early Hunting Seasons on Certain Migratory Game Birds in the United States; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction of final rule.

SUMMARY: This document corrects the final regulations frameworks for 1979–80 early hunting seasons on certain migratory game birds in the United States published by the Service on July 24, 1979. One page of text, inadvertently omitted from the document, affected the accuracy of the final frameworks. To correct the final rule, the missing text is added to that part of the final frameworks relating to gallinules, sandhill cranes, and scoter, eider and oldsquaw ducks in the Atlantic Flyway.

DATES: Effective on August 8, 1979.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone 202–254–3207.

SUPPLEMENTARY INFORMATION: On July 24, 1979, the U.S. Fish and Wildlife Service published in the **Federal Register** (44 FR 43424) final regulations frameworks for 1979–80 early hunting seasons on certain migratory game birds in the United States. It was subsequently noted that one page of the document was inadvertently omitted, affecting the accuracy of the final frameworks for gallinules, sandhill cranes, and scoter, eider, and oldsquaw ducks in the Atlantic Flyway. The omission occurred on page 43423, at line 12 of the second paragraph under *Gallinules*, following the words "not exceed its waterfowl season,". The final frameworks are corrected by adding the remaining text which was omitted earlier under *Gallinules*, by adding the omitted text for *Sandhill Cranes* and for *Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)*. As corrected, that portion of the *Final Regulations Frameworks for 1979–80 Early Hunting Seasons on Certain Migratory Game Birds* for the above-named species reads as follows:

Gallinules

States in the Atlantic, Mississippi and Central Flyways may select hunting seasons between September 1, 1979, and January 20, 1980, of not more than 70 days. States in the Pacific Flyway must select their hunting seasons within the waterfowl seasons. States may split their seasons without penalty. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 15 and 30, respectively.

States may select their gallinule seasons at the time they select their waterfowl seasons. If the selection is deferred, daily bag and possession limits will remain the same, but shooting hours must conform with those for waterfowl, and the season length will be the same as that for waterfowl, or 70 days, whichever is the shorter period. Exception: A gallinule season selected by any State in the Pacific Flyway may not exceed its waterfowl season, and the daily bag and possession limits may not exceed 25 coots and gallinules, singly or in the aggregate of the two species.

Sandhill Cranes

North Dakota and South Dakota may select sandhill crane seasons not to exceed 5 consecutive days during the period September 1 through 11, 1979, in certain designated areas.

In North Dakota, the season is confined to Kidder, Stutsman, Benson, Emmons, Pierce, McLean, Sheridan, and Burleigh Counties. In South Dakota the season is confined to Campbell, Walworth, Potter, Dewey, and Corson Counties. Shooting hours may be selected between ½ hour before sunrise and sunset. In both States, the bag limit is 3 birds daily and the possession limit is 6 birds. Each person participating in the season must obtain and carry in his possession while hunting a Federal sandhill crane hunting permit.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

A maximum season of 107 days for taking scoter, eider, and oldsquaw ducks may be selected between September 15, 1979, and January 20, 1980, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in *Maine, New Hampshire, Massachusetts, Rhode Island,* and *Connecticut;* in those coastal waters of the State of *New York* lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of *New York* lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in *New Jersey, South Carolina,* and *Georgia;* and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in *Delaware, Maryland, North Carolina,* and *Virginia;* and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Shooting hours between ½ hour before sunrise until sunset daily may be selected.

Any State desiring its sea duck season to open in September must make its selection no later than July 26, 1979. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl seasons.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or special falconry season) exceed 107 days for any geographical area.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Dated: August 3, 1979.

Lynn A. Greenwalt,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-24435 Filed 8-7-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Mattamuskeet National Wildlife Refuge, N.C.; Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the reopening of the Mattamuskeet National Wildlife Refuge, North Carolina, to duck hunting is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: The 1979–1980 hunting season will be the regular, split North Carolina waterfowl season. Hunts will be conducted during the entire early season and on Tuesdays, Wednesdays, Fridays, and Saturdays during the first three weeks of the regular season.

FOR FURTHER INFORMATION CONTACT: William C. Hickling, Area Manager, U.S. Fish and Wildlife Service, 279 Federal Building, Asheville, N.C. 28801. Telephone: 704–258–2850, Ext. 321 or Steven W. Frick, Refuge Manager, Mattamuskeet National Wildlife Refuge, Route 1, Box N–2, Swanquarter, N.C. 27885. Telephone: 919–926–4021.

SUPPLEMENTARY INFORMATION: Waterfowl hunting on the Mattamuskeet National Wildlife Refuge was permitted through 1972–73 waterfowl season. At that time, the refuge was closed to waterfowl hunting as a result of a decline in the Canada goose population, from a 40-year high of 135,000 geese in 1959–60 to a low of 15,000 geese in 1972–73, and a decline from 170,700 ducks to 42,900 ducks during the same period. In the six years since the closure of the goose hunt, there has not been a significant change in the goose population. However, the duck population has increased to a point where limited duck hunting is now biologically sound.

Pursuant to the requirements of subsection 102(2)(C) of the National Environmental Policy Act of 1969, an environmental assessment was prepared. It was determined that the reopening of the duck hunt was not a major federal action which would significantly affect the quality of the human environment. Thus, a negative declaration was signed on February 23, 1979. Pursuant to Section 7 of the Endangered Species Act of 1973, an intra-Service consultation was requested. It was determined that the reopening of the duck hunt is not likely to jeopardize the continued existence of the bald eagle, peregrine falcon, or red-cockaded woodpecker. In an effort to protect the endangered species, several actions will be implemented. The use of only non-toxic shot shells will be required during the hunt. If the Service cannot require the use of non-toxic shot, the hunt will be postponed until such use is required. Law enforcement activities on the refuge will be increased during the hunt. A hunter education program will include recognition of endangered species and familiarization with endangered species laws and penalties.

A recreational user fee will be charged for the use of blinds.

General

Hunting on the Mattamuskeet National Wildlife Refuge shall be in accordance with applicable State and Federal regulations subject to additional special regulations and the conditions as indicated. The portion of the Mattamuskeet Refuge which will be open to hunting will be designated by signs and/or delineated on maps.

The Refuge Recreation Act of 1966 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the Refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Mattamuskeet National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976; and the Environmental Assessment on the Proposed

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Mattamuskeet National Wildlife Refuge Duck Hunt, and Negative Declaration, signed February 23, 1979. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special Regulations; migratory game birds; for individual wildlife refuge areas.

North Carolina

Mattamuskeet National Wildlife Refuge

Duck hunting will be permitted on the Mattamuskeet National Wildlife Refuge on approximately 4,000 acres. Only ducks and coots may be taken.

Legal shooting hours will be from one-half hour before sunrise to 12:00 noon. All hunters must check out of the hunt area by 1:00 p.m. Hunting is restricted to the assigned blind. Only crippled birds may be shot from outside the blind. Hunting is restricted to non-toxic (steel) shot shells; no lead shot or other type shells will be permitted in the hunt area. The maximum number of shells each hunter is permitted to shoot will be equal to three times the daily bag limit of ducks. Alcoholic beverages are prohibited within the hunt area.

High shooting or any activity which interferes with the hunting opportunities of others will not be permitted. All hunters must check in and out daily. Hunters will report their kill before leaving the refuge. The use of retrievers is permissible and encouraged, but dogs must be under control at all times. Hunters under the age of 16 must be under the close supervision of an adult. The use of guides is permissible, but guides will not be allowed to hunt. Permits will be required. Each hunting party will be charged a $10.00 per day blind fee.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas, generally, which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Dated: July 31, 1979.

Richard A. Ivarie,

Acting Area Manager.

[FR Doc. 79-24367 Filed 8-7-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 33

Opening of Crab Orchard National Wildlife Refuge, Ill., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Crab Orchard National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1979, through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Wayne D. Adams, Project Manager, P.O. Box J, Carterville, Illinois 62918—telephone number 618/997-3344.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Crab Orchard National Wildlife Refuge, Illinois, only on the areas designated by signs as being open to fishing. These areas comprising 8,800 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Department of the Interior, Federal Building, Fort Snelling, Twin Cities, MN 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

1. The open season for sport fishing on the refuge extends from January 1, 1979, through December 31, 1979, in areas designated as Areas I and III; and from March 15, 1979, through September 30, 1979, daylight hours only, in area designated as Area II; except bank fishing is permitted from the Wolf Creek Road and State Highway 148 causeways, during daylight hours from January 1, 1979, through December 31, 1979. Boat fishing only is permitted from Wolf Creek Road west to the closed portion boundary line from January 1, 1979, through December 31, 1979.

2. The use of boats and motors is permitted, except that use of a boat with a motor larger than ten (10) horsepower is prohibited on Devils Kitchen and Little Grassy Lakes.

3. Snagging for carp, buffalo, freshwater drum, paddle fish, bowfin, gar, and carpsucker is permitted from the Crab Orchard Lake Spillway to a point 200 yards downstream.

4. Jug fishing in Crab Orchard Lake is authorized east of Wolf Creek Road from March 15, 1979, through September 30, 1979, during daylight hours only.

Jug fishing in Crab Orchard Lake west of Wolf Creek Road to the closed area buoy line is authorized from January 1, 1979, to December 31, 1979.

Jug fishing in Crab Orchard Lake west of the closed area buoy line is authorized from January 1, 1979, through December 31, 1979, except between May 30, 1979, and September 5, 1979, jug fishing is permitted from sunset to sunrise only.

5. Floating trot lines are not permitted in the open portion of the refuge west of the boundary during the hours of daylight from May 31, 1979, through September 6, 1979.

6. Fishing in designated ponds in the closed portion of the refuge is authorized from March 15, 1979, through September 30, 1979, during daylight hours only, or at the discretion of the Project Manager.

7. The minimum legal length for Black Bass (Largemouth) taken from Crab Orchard Lake is 14 inches or 35.56 centimeters.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally wich are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 OMB Circular A-107.

Wayne D. Adams,

Project Manager, Crab Orchard National Wildlife Refuge, P.O. Box J, Carterville, Ill.

January 2, 1979.

[FR Doc. 79-24366 Filed 8-7-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of Certain National Wildlife Refuges to Public Hunting in Oklahoma and Texas

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Area Manager has determined that the opening to hunting of certain national wildlife refuges in the states of Oklahoma and Texas is compatible with the objectives for which the area was established, and will provide additional recreation opportunity to the public. This document establishes special regulations effective for the upcoming hunting season.

EFFECTIVE DATES: September 1, 1979 through January 22, 1980.

FOR FURTHER INFORMATION CONTACT: The Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

SUPPLEMENTARY INFORMATION:

General

Public hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 32 and the following Special Regulations. Special conditions applying to individual refuges are listed on leaflets available at refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, 300 East 8th Street, Room G-121, Austin, Texas 78701.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purpose for which the areas were established, and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public hunting shall be in accordance with all applicable Federal and State laws and regulations subject to the following conditions:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Oklahoma

Sequoyah National Wildlife Refuge, P.O. Box 695, Vian, Oklahoma 74962. Telephone 918-773-5251. Mourning doves and teal ducks. Special Conditions:

The open season for hunting mourning doves on the refuge is limited to September 1 through October 30, 1979, inclusive; teal from September 8 through September 16, 1979, inclusive. (1) Hunting weapons of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Naviation Channel where weapons must be cased or broken down. (2) Only longbow and arrow or shotguns without slug ammunition are permitted. (3) Camping or possession of firearms on the refuge at night is prohibited. (4) All vehicles must be parked in designated parking areas as shown on maps available at refuge headquarters and at leaflet boxes throughout the public hunting area.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Oklahoma 73460, Telephone Number 405-371-2402. Mourning doves and teal ducks. Special Conditions:

(1) Open season for hunting mourning doves on the refuge (Wildlite Management Area) extends from September 1 through September 30, 1979 inclusive. (2) Open season for teal ducks on the refuge (Wildlife Management Area) extends from September 8 through September 16, 1979 inclusive. (3) Up to two (2) dogs per hunter may be used for the purposes of hunting and retrieving game. (4) Hunters, upon entering and leaving the hunting area, shall report at designated checking stations as may be established for the regulation of the hunt and shall furnish upon request information pertaining to their hunting activities. (5) Duck hunters, during the Special Early Teal Season, who hunt the following areas are required to use a boat or hunt with a retrieving dog as otherwise water depths would prevent adequate retrieval of downed birds: McAdams Pond, Teller Pond, Whiskey Creek Pond, Muel Lake, Reeves Ravine, Lost Lake and Bobcat Gulch.

Texas

Hagerman National Wildlife Refuge, Route 3, Box 123, Sherman, Texas 75090, Telephone Number 214-786-2826. Mourning dove. Special Conditions:

(1) The open season for hunting mourning doves on the refuge is limited to September 1 through September 30, 1979, inclusive. (2) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (3) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited.

Matagorda Island Unit, Aransas National Wildlife Refuge, P.O. Box 100, Austwell, Texas 77950. Telephone Number 512-286-3559. Mourning Dove. Special Conditions:

(1) Open season for hunting mourning dove on the Matagorda Island Unit extends from September 22 through November 4, 1979, inclusive. (2) All portions of Matagorda Island under federal ownership or control will be open to dove hunting with the exception of the old air force base itself which is fenced off. (3) Hunters may be transported to specific hunt areas at the discretion of the refuge manager or his appointed representative, depending on the work load at the time. (4) All hunters arriving at the Island docks must register with refuge personnel prior to the hunt.

Brazoria/San Bernard National Wildlife Refuge, P.O. Box 1088, Angleton, Texas 77515, Telephone Number 713-849-6062. Special Conditions: (1) The "special permit waterfowl hunting area" will not be open for hunting teal ducks. All other designated public hunting areas on these two (2) refuges will be open for hunting teal ducks from September 15 through September 23, 1979, inclusive. (2) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (3) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited. (4) Pits and/or permanent blinds are prohibited. (5) Due to being landlocked by private holdings and for other reasons, the only assured access to these open hunting areas for hunting teal ducks is by boat by way of public waters.

The provisions of this special regulation supplement the regulations which govern public hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Joseph R. Highham,

Area Manager, Austin, Tex.

July 31, 1979.

[FR Doc. 79-24485 Filed 8-7-79; 8:45 am]

BILLING CODE 4310-55-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1292-3]

Approval and Promulgation of Implementation Plans; Approval and Revision of the Pennsylvania Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of amendments to the Commonwealth of Pennsylvania's Air Resources Regulations as a revision of Pennsylvania's State Implementation Plan (SIP), pursuant to Section 110 of the Clean Air Act, 42 U.S.C. § 7410. The purpose of the amendments is to relax the SO_2 regulations for fuel burning sources while maintaining the national ambient air quality standards (NAAQS) for SO_2 and not violating the applicable prevention of significant deterioration (PSD) increments. The proposed revisions affect the following rules and regulations of the Pennsylvania Department of Environmental Resources (DER): Chapter 121 (relating to general provisions); Chapter 123 (relating to standards for contaminants); and Chapter 139 (relating to sampling and testing). As approved here, these new regulations apply only to those sources located in the Erie air basin (synonymous with Erie County).

EFFECTIVE DATE: August 8, 1979.

ADDRESSES: Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, 10th Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Ms. Patricia Sheridan.

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, Pennsylvania 17120, ATTN: Mr. James K. Hambright.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Garrison (3AH13), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; phone 215/597-2745.

SUPPLEMENTARY INFORMATION:

I. Background

On April 24, 1979, the Governor of the Commonwealth of Pennsylvania submitted to the Regional Administrator, Region III, amendments to the air pollution regulations of Pennsylvania's Department of Environmental Resources (DER). EPA was asked to consider the amended regulations as a revision of the Pennsylvania SIP. On May 9, 1979, EPA proposed the regulations as a revision to the Pennsylvania SIP (44 FR 27188 [1979]) and provided for a 30-day public comment period ending June 8, 1979. The regulations apply to sources of SO_2 throughout the Commonwealth. However, they were proposed, and are now being considered only as they apply to sources in the Erie air basin (which is the same as Erie County). The purpose of proposing, and now approving, the revision at this time is to provide the earliest possible decision for all parties affected by the SO_2 regulation changes. The Erie air basin is currently classified as attaining the NAAQS for SO_2.

The following is a summary of the key provisions of the new regulations that affect Erie County:

(1) General—The SO_2 emission limit for combustion units changes from a sliding scale of 1.8 to 3.0 lbs SO_2 per million Btu (MMBtu) heat imput per hour, to 4 lbs SO_2 per MMBtu heat input for all size units. Operators of large, solid fossil fuel-fired units may petition DER for application of an optional SO_2 emission limitation depending on averaging time, as follows:

30-day running average: 3.7 lb/MMBtu

Daily average, not to be exceeded more than twice in any 30-day period: 4.0 lb/MMBtu

Daily average, not to be exceeded at any time: 4.8 lb/MMBtu

(2) Commercial fuels—A requirement is added to limit the sulfur content of commercial fuel to 2.8% (Grade Nos. 4, 5, and 6 fuel oil) and .3% (Grade No. 2 fuel oil). An equivalency provision allows the burning of higher sulfur fuel oil if equipment or processes are used to remove SO_2 to an extent such that the emission rate would not exceed the rate that would result from burning fuel oil that complies with the sulfur-in-fuel limitations.

(3) Monitoring requirements; test methods and procedures—All sources who petition DER for application of the emission averaging provisions must install continuous monitoring devices for SO_2 which meet the requirements set forth in the amended regulations. These requirements are contained in Section 123.25 and in Subchapter C of Chapter 139. In addition to these monitoring requirements, the proposed amendments make several changes to the testing procedures in Chapter 139. The changes consist primarily of clarifications in language and in the addition of requirements for sampling and testing sulfur-in-fuel.

II. Control Strategy Demonstration

Since the proposed revision relaxes an existing SIP in an attainment area for SO_2, DER submitted an air quality demonstration to show first, that the national ambient air quality standards (NAAQS) for SO_2 will not be violated and second, that the applicable prevention of significant deterioration (PSD) increments for SO_2 will not be exceeded. The demonstration included diffusion modeling performed for DER by a consultant. The model used to assess the impact of the proposed revision on annual average SO_2 concentrations in Erie was EPA's Air Quality Display Model (AQDM). Short-term (3-hour and 24-hour) impacts were assessed using Larsen's statistical technique and APMAX, a Gaussian diffusion model developed by the consultant. The results of the diffusion modeling were evaluated by DER. For the Erie air basin, DER stated that the modeling study underpredicted the expected values. Consequently, DER has estimated that the actual impact of the proposed revision on ambient air quality will be greater than the modeling prediction and that by 1985, SO_2 concentrations in Erie County will be 80% of the NAAQS, and that a maximum of 11% of the applicable PSD increments will be consumed.

EPA's review of the air quality demonstration revealed that the modeling for the demonstration did not contain recommended features and was weak in the short-term (i.e. 24-hour) analysis. DER's judgement that the model underpredicted for the Erie air basin is supported by a screening analysis performed by EPA. This analysis is consistent with the Guidelines on Air Quality Models. The estimate by DER that concentrations will be as high as 80% of the NAAQS (particularly the 24-hour standard) appears to be more realistic.

Given the above findings, future sources in the Erie Air Basin must be subjected to careful scrutiny. The type of analysis conducted by the consultant taken alone will not suffice, particularly since the consultant appears to have already significantly underestimated air quality in the area. Any analysis of future sources must utilize techniques consistent with the EPA Guideline on Air Quality Models, and must consider all important meteorological factors. The consultant's analysis supplemented by DER's and EPA's further calculations is sufficient to support the present rule, however.

III. Submittal of Public Comments

During the 30-day comment period following the May 9, 1979 notice of proposed rulemaking, EPA received comments from Downwind Neighbors, the Erie County Farmers' Association, the Manufacturers Association of Erie, Hammermill Paper Company, General Electric, and Pennsylvania Electric Company. Generally, the Downwind Neighbors and the Erie County Farmers' Association expressed opposition to the regulation relaxation and the others expressed their support for the relaxation. Detailed responses to each of the public comments can be found in the rationale document prepared by EPA Region III which is available for review at any of the above addresses. The following summarizes the most significant comments and EPA's responses:

Issue: Coal sampling will be allowed in lieu of continuous in-stack monitoring to meet the monitoring requirements of § 123.25 of the new regulations.

Response: While not expressly forbidden, it is EPA's belief that coal sampling will not be allowed because it most likely will not meet the required performance specifications. Consequently, EPA interprets the continuous monitoring requirement as precluding the use of coal sampling.

Issue: There is not enough air quality data to support a relaxation in Erie.

Response: A diffusion model may be used in place of air quality data to assess the impact of proposed regulations. This is the approach taken by DER. However, EPA does agree with the comment that the current air quality monitoring system may give misleading results because of the paucity of data (12.9% valid data for the 12 months prior to April 1979). EPA Region III is aware of the problem and has taken steps to provide funding for improvement of the Erie SO_2 monitor. The funding is being made under the national air monitoring system (NAMS) and should be available in two to three months.

Issue: Increased SO_2 emissions will contribute to increased acid rainfall that will adversely affect crops in Erie County.

Response: The question of acid rainfall is one that EPA believes should receive close attention in terms of continued research and development efforts because of the current lack of knowledge as to its origins and effects. EPA, although cognizant of the problem, does not presently have the authority to regulate SO_2 emissions based on its concern with acid rainfall. In the case of Erie, however, this concern may not be as important as the commentor suggests, for the following reasons. First, the rate of atmospheric reaction of SO_2 is apparently slow enough that its contribution to acid rainfall may not be significant at short distances (such as the distances involved in Erie County) from the source of SO_2. Second, current research indicates that soil acidity attributable to nitrogen fertilizers greatly outweighs the acidity due to acid rain. Concern with acid rain is now focused primarily on its effect on fish populations.

IV. Approvability of the Proposed Revision

Based on an evaluation of the material submitted by DER and of the comments received during the public comment period, the Agency believes that the proposed revision satisfies the applicable requirements of Section 110 of the Clean Air Act and 40 CFR Part 51. Therefore, the Administrator approves the amendments to Chapters 121, 123, and 139 of Pennsylvania's Air Resources Regulations as they apply to sources in the Erie air basin, as a revision of Pennsylvania's State Implementation Plan, effective immediately upon publication of this notice. Concurrently, the Administrator amends 40 CFR Section 52.2020 (Identification of Plan) of Subpart NN (Pennsylvania) to incorporate this plan revision into Pennsylvania's SIP.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Authority: 42 U.S.C. 7401-7642)

Dated: August 3, 1979.

Douglas M. Costle,

Administrator.

1.Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

§ 52.2020 Identification of Plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified * * *

(20) Amendments to Chapters 121 (§ 121.1), 123 (§§ 123.22(b) and 123.45), and 139 (§§ 139.3, 139.4, 139.13, 139.16, 139.101, 139.102, 139.103, 139.104 and 139.105), dealing with sulfur dioxide emissions from fuel-burning installations, only as they apply to sources in the Erie air basin; submitted on April 24, 1979 by Governor Thornburgh.

[FR Doc. 79-24604 Filed 8-7-79; 11:16 am]

BILLING CODE 6560-01-M

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Proposed Rules

Federal Register
Vol. 44, No. 154
Wednesday, August 8, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[7 CFR Part 431]

Proposed Soybean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring soybean crops effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring soybeans in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than October 9, 1979 to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, 202–447–3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C 1501 *et seq.*), it is proposed that there be established a new Part 431 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 431, Soybean Crop Insurance.

This part prescribes procedures for insuring soybean crops effective with the 1980 crop year.

All previous regulations applicable to insuring soybean crops as found in 7 CFR 401.101–401.111, and 401.134, will not be applicable to 1980 and succeeding soybean crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) soybean insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring soybean crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 431 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (3) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (4) that the 60-day time period for filing a claim be eliminated, (5) that three coverage level options be offered in each county, (6) that when appraisals for unharvested acreage are made (except appraisals for abandoned acreage, other use without consent, uninsured causes, poor farming practices, and substitute crops) only the appraisals in excess of the lesser of 3 bushels or 20 percent of the guarantee will be included in the production to count, and (7) for an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 431.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The proposed Soybean Crop Insurance regulations provide a December 31 cancellation date for all soybean producing counties. These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.134, but these provisions shall remain in effect for FCIC soybean insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 431 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of soybeans, which shall remain in effect until amended or superseded, to read as follows:

PART 431—SOYBEAN CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

431.1 Availability of soybean insurance.
431.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
431.3 Public notice of indemnities paid.
431.4 Creditors.
431.5 Good faith reliance on misrepresentation.
431.6 The contract.
431.7 The application and policy.

Authority: Secs. 506, 16, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

§ 431.1 Availability of soybean insurance.

Insurance shall be offered under the provisions of this subpart on soybeans in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which soybean insurance will be offered.

§ 431.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for soybeans which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 431.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 431.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 431.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the soybean insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 431.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the soybean crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 431.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the soybean crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of application.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a contimation of a soybean contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Soybean Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Soybean Insurance Policy are as follows:

U.S. Department of Agriculture, Federal Crop Insurance Corporation

Application for 19—— and Succeeding Crop Years; Soybean Crop Insurance Contract

(Name and address) (Zip code)

(Contract Number)

(Identification Number)

(County) (State)

Type of entity

Applicant is over 18 Yes — No —

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the soybeans planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. The premium rates and production guarantees shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.

Level election

Price election

Example: For the 19—— crop year only (100% share):

Location/ Farm No.	Guarantee per acre*	Premium per acre**	Practice

*Your guarantee will be on a unit basis (acres x per acre guarantee x share).

**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until canceled or terminated as provided in the contract. This accepted application, the following soybean insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(Code No./Witness to signature)

(Signature of applicant)

————————, 19—— (date)

Address of office for county:

Phone ————————

Location of farm headquarters:

Phone ———————

Soybean Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. Causes of loss. (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. Crop and acreage insured. (a) The crop insured shall be soybeans which are planted for harvest as beans and which are grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage planted to soybeans on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table (not applicable in Arkansas, Louisiana and Mississippi), (3) which is destroyed and after such destruction it was practical to replant to soybeans and such acreage was not replanted, (4) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (5) of volunteer soybeans, (6) planted to a type or variety of soybeans not established as adapted to the area or shown as noninsurable on the actuarial table, or (7) planted with another crop.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is planted for the development or production of hybrid seed or for experimental purposes.

(d) Unless otherwise provided on the actuarial table, insurance shall attach only on acreage initially planted in rows far enough apart to permit cultivation, as determined by the Corporation, but, if such insured acreage is destroyed and replanted, whether in the same manner or by broadcasting, drilling or in rows too close to permit cultivation, it shall be regarded as insured acreage and not as acreage put to another use.

3. Responsibility of insured to report acreage and share. The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of soybeans planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. Production guarantees, coverage levels, and prices for computing indemnities. (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 3 bushels or 20 percent for any unharvested acreage.

5. Annual premium. (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

Loss Ratio 1/ Through Previous Crop Year	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year 2/														
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has be timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. Insurance period. Insurance on insured acreage shall attach at the time the soybeans are planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) combining, threshing, or removal of the soybeans from the field, (c) total destruction of the insured soybean crop, or (d) the date shown below of the calendar year in which soybeans are normally harvested:

Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia	Dec. 20
North Dakota	Oct. 31
All other States	Dec. 10

7. Notice of Damage or loss. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the soybeans on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to soybeans. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 DAYS* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire soybean crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for indemnity. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of soybeans on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of soybeans on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) substracting therefrom the total production of soybeans to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 4 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 14 percent; and if, due to insurable causes, any soybeans do not grade No. 4 or better in accordance witht he Official U.S. Grain Standards, the production shall be adjusted by (i) dividing the value per bushel of the damaged soybeans (as determined by the Corporation) by the price per bushel of U.S. No. 2 soybeans and (ii) multiplying the result by the number of bushels of such soybeans. The applicable price for No. 2 soybeans shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged soybeans were sold.

(2) Appraised production to be counted shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is planted before soybean harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential productions on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 3 bushel or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of soybeans becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. Misrepresentation and Fraud. The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. Transfer of Insured Share. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. Records and Access to Farm. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all soybeans produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. Life of Contract: Cancellation and Termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State	Cancellation date	Termination date for indebtedness
All states	Dec. 31	Mar. 31.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix

(Additional Terms and Conditions)

1. Meaning of Terms. For the purposes of soybean crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding soybean insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the soybean crop is normally grown and shall be designated by the calendar year in which the soybean corp is normally harvested.

(d) "Harvest" means the severance of mature soybeans from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the country" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured soybean crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the soybean crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of soybeans in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the soybean crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the country or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Acreage Insured. (a) The Corporation reserves the right to limit the insured acreage of soybeans to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of soybeans.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. Irrigated Acreage. (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual Premium. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. Claim for and Payment of Indemnity. (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured soybean acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, to is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the soybeans are planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. Subrogation. The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the Contract. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage Level and Price Election. (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. Assignment of Indemnity. Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract Changes. The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

This proposal has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A–40.

Approved by the Board of Directors on July 24, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-24450 Filed 8-7-79; 8:45 am]

BILLING CODE 3410-06-M

Agricultural Marketing Service

[7 CFR Part 979]

Melons Grown in South Texas; Proposed Change in Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the South Texas Melon Committee's fiscal period to October 1 through September 30 of the following year. This would improve the Committee's operations by providing sufficient time after shipments are completed to update their records and have an audit performed.

DATES: Comments due September 14, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:
Peter G. Chapogas (202) 447–5432.

SUPPLEMENTARY INFORMATION:
Marketing Agreement No. 156 and Order No. 979 (44 FR 22038) regulate the handling of melons grown in 19 designated counties in South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Melon Committee, established under the order, is responsible for its local administration. Although April 1 was originally set as the beginning date for the committee's fiscal period, the initial fiscal period did not begin until May 17 due to insufficient lead time in which to promulgate this marketing order program, appoint the committee and process rules and regulations. However, after further consideration, the South Texas Melon Committee recommended at a public meeting on July 12 that the fiscal period be changed. Section 979.43 of the order requires that an audit of the committee's finances be conducted at the end of the fiscal period by a competent accountant. The committee anticipates problems in obtaining the services of an accounting firm to perform an audit of the committee's books during April and May, the peak period for income tax preparation. This potential problem would be alleviated by changing the fiscal period to end on September 30.

The current fiscal period would be the period of May 17, 1979, through September 30, 1979, and the initial audit of the committee's finances would be required at the end of that period.

The proposal is to amend § 979.110 to read as follows:

§ 979.110 Fiscal period.

The fiscal period which began on May 17, 1979 (44 FR 28780) shall end September 30, 1979. Thereafter, each fiscal period shall begin on October 1 of each year and end on September 30 of the following year.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because the proposed regulation should become effective on October 1 to provide the desired continuity in program operations. Interested persons were given an opportunity to comment on the proposal at an open public meeting on July 12, where it was unanimously recommended by the committee. It is hereby determined that the period allowed for comments should be sufficient under these circumstances and will tend to effectuate the declared policy of the act. A determination has been made that this action should not be classified "significant." A Draft Impact Analysis is available from Peter G. Chapogas (202) 447–5432.

Dated: August 3, 1979.

James S. Miller,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-24429 Filed 8-7-79; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

[12 CFR Part 219]

[Reg. S; Docket No. R–0243]

Reimbursement to Financial Institutions for Assembling or Providing Financial Records; Proposed Rule

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors of the Federal Reserve System proposes to issue a new regulation required by section 1115 of the Right to Financial Privacy Act (12 U.S.C. 3415) to provide rates and conditions for reimbursement of reasonably necessary costs, directly incurred by financial institutions in assembling or providing customer financial records to a Federal Government authority.

The Right to Financial Privacy Act of 1978 (Title XI of Pub. L. 95–630) provides a limited protection against Federal Government access to individuals' financial records maintained by financial institutions by requiring that, with certain exceptions, Federal authorities seeking disclosure of these records must follow procedures prescribed by the Act.

For the first time, the Act and this proposed regulation require reimbursement on a broad scale to financial institutions for the cost of assembling or providing this financial information.

DATE: Comments must be received by September 10, 1979.

ADDRESS: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the Docket Number R–0243. Such material will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION, CONTACT:
MaryEllen A. Brown, Senior Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3608).

SUPPLEMENTARY INFORMATION: The Right to Financial Privacy Act of 1978 (the "Act") restricts Federal Government access to individual customers' financial records maintained by financial institutions. Access to or disclosure of these financial records must be pursuant to one of the procedures authorized by the Act: (1) Valid written customer authorization; (2) administrative summons or subpoena; (3) valid search warrant; (4) judicial subpoena; and (5) formal written request. The Act also restricts transfer of financial information thus obtained from one Federal agency to another.

Except in the case of a search warrant or court-ordered delay, the bank customer is also given notice of his or her rights to challenge the Federal Government's access and advice about how to effectuate these challenge rights.

A financial institution is prohibited from releasing a customer's financial records until the Federal agency seeking the records certifies in writing to the fininancial institution that it has fully complied with the Act.

Various exceptions to the Act's requirements are provided, including one that exempts the Board and other Federal financial supervisory agencies from these restrictions in the exercise of their supervisory, regulatory, or monetary functions.

Civil penalties, injunctive relief, and employee disciplinary proceedings are authorized as remedies for violations of the Act.

The Act also authorizes, with certain exceptions, reimbursement to financial institutions for resonably necessary costs directly incurred in assembling or providing required, requested, or authorized financial records.

Pursuant to this proposed regulation, financial institutions would be entitled to payment for reasonably necessary costs directly incurred to search for, reproduce, or transport financial records sought by a Federal authority.

Payment would be made only at the rates and under the conditions set forth in the proposed regulation. Only a financial institution would be entitled to reimbursement.

The rate of reimbursement for search costs would be $5 per hour or fraction of an hour and would be limited to the total amount of personnel time spent in locating, retrieving and reproducing documents or information required or requested by the Government authority. Specific salaries of personnel would not be included in search costs. In addition, search costs would not include salaries, fees, or similar costs for analysis of material or for managerial or legal advice, expertise, research, or time spent for any of these activities. Reimbursement for reproduction costs would be at the rate of 10 cents per page. Reimbursement for transportation costs would be limited to actual costs, as specified.

Financial institutions should keep an accurate record of personnel search time, computer costs, number of reproductions made, and transportation costs, by each request, and should include on the itemized bill or invoice the name of the customer to whom it relates. After a financial institution receives a Certificate of Compliance with the Act from the Government authority seeking access to financial records, the financial institution may submit an itemized bill or invoice to that Federal authority. If the financial institution does not receive a Certificate of Compliance because the Federal agency has withdrawn its request for disclosure or a customer has revoked his or her authorization, or because a customer has successfully challenged disclosure to the Federal agency, the financial institution may submit an itemized bill or invoice for assembling financial records up to the time that the Federal agency notifies it that its request is withdrawn or defeated.

The proposed regulation does not address the issue of internal procedures for Federal agencies because this issue is expected to be resolved by agencies' internal audit procedures.

The statute provides eleven types of exceptions from cost reimbursement which are incorporated into this draft regulation. Reimbursement for financial records sought pursuant to any of these exceptions is, accordingly, also excepted from this regulation.

This draft regulation is issued pursuant to 5 U.S.C. 553, 12 CFR 262.2 and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures (44 FR 3957). Since the regulation will reduce cost burdens to financial institutions by reimbursing them for searching for and reproducing customers' financial records as required

or requested by the Federal Government or as authorized by the customer, and in view of the fact that a final regulation must be adopted by October 1, 1979, expedited rulemaking procedures were followed in issuing this draft regulation, in accordance with the Board's Policy Statement. The Right to Financial Privacy Act requires the Board to establish, by regulation, the rates and conditions of cost reimbursement; thus, nonregulatory alternative were not considered during planning of these regulations.

Comments are invited particularly about how the reimbursement should be set and how it could be permitted to vary over time. Comments are also invited about any other provision of the draft regulation. All comments and information on this proposal should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received by September 10, 1979. All material submitted should include the Docket Number R–0243.

Under the authority of section 1115 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3415, the Board proposes to amend Title 12 of the Code of Federal Regulations by adding a new Part 219 (to be known as Regulation S) to read as follows:

[Reg. S]

PART 219—REIMBURSEMENT TO FINANCIAL INSTITUTIONS FOR ASSEMBLING OR PROVIDING FINANCIAL RECORDS

Sec.

219.1 Authority, purpose and scope.
219.2 Definitions.
219.3 Cost Reimbursement.
219.4 Exceptions.
219.5 Conditions for payment.
219.6 Payment procedures.

Authority: Sec. 1115, Right to Financial Privacy Act of 1978 (the "Act") (12 U.S.C. 3415).

§ 219.1 Authority, purpose and scope.

This part is issued by the Board of Governors of the Federal Reserve System under section 1115 of the Right to Financial Privacy Act of 1978 (the "Act") (12 U.S.C. 3415). It establishes the rates and conditions for reimbursement of reasonably necessary costs directly incurred by financial institutions in assembling or providing customer financial records to a Government authority.

§ 219.2 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) "Financial institution" means any office of a bank, savings bank, card issuer as defined in section 103 of the Consumers Credit Protection Act (15 U.S.C. 1602(n)), industrial loan company, trust company, savings and loan, building and loan, or homestead association (including cooperative banks), credit union, or consumer finance institution, located in any state or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(b) "Financial record" means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution.

(c) "Government authority" means any agency or department of the United States, or any officer, employee or agent thereof, except for Federal financial supervisory agencies, officers, employees, or agents, having statutory authority to examine the financial condition of a financial institution.

(d) "Person" means an individual or a partnership of five or fewer individuals.

(e) "Customer" means any person or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person's name.

(f) "Directly incurred costs" means costs incurred solely and necessarily as a consequence of searching for, reproducing or transporting books, papers, records, or data, in order to comply with legal process or a formal written request or a customer's authorization to produce a customer's financial records, but does not include proportionate allocation of fixed costs (overhead, equipment depreciation, etc.). If a financial institution has financial records that are stored at an independent storage facility that charges a fee to search for, reproduce, or transport particular records requested, these costs are considered to be directly incurred by the financial institution.

§ 219.3 Cost reimbursement.

Except as hereafter provided, a Government authority requiring or requesting access to financial records pertaining to a customer shall pay to the financial institution that assembles or provides the financial records a fee for reimbursement of reasonably necessary costs which have been directly incurred according to the following schedule:

(a) *Search costs.* (1) Reimbursement of search costs shall be the total amount of personnel direct time incurred in locating and retrieving records or information.

(2) The rate for search costs is $5 per hour of fraction of an hour and is limited to the total amount of personnel time spent in locating and retrieving documents or information required or requested. Specific salaries of such persons shall not be included in search costs. In addition, search costs do not include salaries, fees, or similar costs for analysis of material or for managerial or legal advice, expertise, research, or time spent for any of these activities. If itemized separately, search costs may include the actual cost of extracting information stored by computer in the format in which it is normally produced, based on computer time and necessary supplies; however, personnel time for computer search may be paid for only at the rate specified in this paragraph.

(b) *Reproduction costs.* (1) Reimbursement for reproduction costs shall be for costs incurred in making copies or duplicates of documents required or requested.

(2) The rate for reproduction costs for making copies or duplicates of required or requested documents is 10 cents for each page. Photographs, films, and other materials are reimbursed at actual cost.

(c) *Transportation costs.* Reimbursement for transportation costs shall be for (1) necessary costs, directly incurred, to transport personnel to locate and retrieve the information required or requested; and (2) necessary costs, directly incurred solely by the need to convey the required or requested material to the place of examination.

§ 219.4 Exceptions.

A financial institution shall not be reimbursed for costs incurred in assembling or providing financial records or information:

(a) As an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the financial institution itself or in its role as a fiduciary;

(b) In connection with a Government authority's consideration or administration of assistance to a customer in the form of a Government loan, loan guaranty, or loan insurance program; or as an incident to processing an application for assistance to a customer in the form of a Government loan, loan guaranty, or loan insurance agreement; or as an incident to processing a default on, or administering, a Government guaranteed or insured loan, as necessary to permit a responsible Government authority to carry out its responsibilities under the loan, loan guaranty, or loan insurance agreement;

(c) Which is not identified with or identifiable as being derived from the financial records of a particular customer;

(d) To a Federal financial supervisory agency in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial institution;

(e) In accordance with procedures authorized by the Internal Revenue Code, but reimbursement for disclosure of financial records to the Internal Revenue Service is provided for by procedures of that agency;

(f) Required to be reported in accordance with any Federal statute or rule promulgated thereunder;

(g) Sought by a Government authority under the Federal Rules of Civil or Criminal Procedure or comparable rules of other courts in connection with litigation to which the Government authority and the customer are parties;

(h) Sought by a Govenment authority pursuant to an administrative subpoena issued by an administrative law judge in an adjudicatory proceeding subject to section 554 to Title 5, United States Code, and to which the Government authority and the customer are parties;

(i) Sought by a Government authority, in accordance with the Right to Financial Privacy Act procedures and for a legitimate law enforcement inquiry, and limited only to the name, address, account number and type of account of any customer or ascertainable group of customers associated (1) with a financial transaction or class of financial transactions, or (2) with a foreign country or subdivision therof in the case of a Government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)); the International Emergency Economic Powers Act (Title II, Pub. L. 95–223); or section 5 of the United Nations Participation Act (22 U.S.C. 287(c));

(j) Sought by a Government authority in connection with a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records or at a legal entity which is not a customer;

(k) Until November 10, 1980, financial records and information sought by the Securities and Exchange Commission.

§ 219.5 Conditions for payment.

(a) Payment for reasonably necessary, directly incurred costs to financial institutions shall be limited to material required or requested.

(b) Payment shall be made only for costs that are both directly incurred and reasonably necessary. In determining whether costs are reasonably necessary, search, reproduction, and transportation costs shall be considered separately.

(c) No payment shall be made until the financial institution satisfactorily complies with the legal process or formal written request, or customer authorization, except that in the case where the legal process or formal written request is withdrawn or the customer authorization revoked, or where the customer successfully challenges access by or disclosure to a Government authority, the financial institution shall be reimbursed for reasonably necessary costs directly incurred in assembling financial records required or requested to be produced up to the time that the Government authority notifies the institution that the legal process or request is withdrawn or defeated, or that the customer has revoked his or her authorization.

(d) No payment shall be made unless the financial institution submits an itemized bill or invoice showing specific details concerning the search, reproduction, the transportation costs.

§ 219.6 Payment procedures.

(a) At the time a Government authority serves its legal process or request, the Government authority shall notify the financial institution that an itemized bill or invoice must be submitted for payment and shall furnish an office address for this purpose;

(b) If a Government authority withdraws the legal process or formal written request, or if the customer revokes his or her authorization, or if the legal process or request has been successfully challenged by the customer, the Government authority shall immediately notify the financial institution of these facts, and shall also notify the financial institution that the itemized bill or invoice must be submitted for payment of costs incurred up to the time that the financial institution receives this notice.

By order of the Board of Governors, effective August 2, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-24368 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 545 and 563]

[No. 79-417]

Investment in HUD Section 8 Low-Income Housing

August 2, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board proposes to liberalize its lending regulations (12 CFR 545.6–9 and 12 CFR 563.9–3) to enable savings and loan institutions to participate more fully in HUD's Section 8 low-income housing program. The Bank Board is also taking this opportunity to discuss methods of participation by savings and loan institutions in Section 8 projects and to inform the public of interpretations concerning related regulatory provisions.

DATES COMMENTS MUST BE RECEIVED BY: September 7, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Lois G. Jacobs, Attorney, Office of General Counsel, (202) 377–6466, at the above address.

SUPPLEMENTARY INFORMATION: The Housing and Community Development Act of 1974, 42 U.S.C. § 5301, Pub. L. 93–383, significantly altered national housing policy by making federal leasing subsidies the principal program for housing low-income people. The statute revised the earlier Section 23 leased housing program and redesignated it as Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. § 1401, *et seq.*).

Under regulations it promulgates, the U.S. Department of Housing and Urban Development ("HUD") provides a subsidy to the owner of existing, new, or rehabilitated multifamily units for the payment of the difference between a contract rent not exceeding the adjusted fair market rent for the dwelling and 15 to 25 percent of the tenant's gross income.

Owners of Section 8 housing may be either private or public entities. A lender may finance Section 8 projects through direct mortgage loans to an owner/developer, or through a three-party financing arrangement in which a lender makes a tax-exempt loan to or purchases tax-exempt bonds from a public housing agency ("PHA") or its instrumentality, and the agency or its

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instrumentality uses those funds to finance a private developer's construction or rehabilitation of low income housing.

Bank Board-regulated financing activities may involve one or more of the following eligible financers of such properties under HUD regulations (24 CFR 880.115): (1) lenders making uninsured loans or loans with private mortgage insurance; (2) lenders making HUD-FHA insured loans with the insurance processed concurrently with the Section 8 application; (3) state housing finance agencies using HUD "set-aside" funding and processing; and (4) local housing authorities with authority under state enabling statutes to raise money through bond issues for loans to developers of low income housing.

Section 8 Investment Through Public Agencies

Today, by Resolution Nos. 79–415 and 79–416, the Bank Board adopted final amendments which implement two sections of title XVII of Pub. L. 95–630, amending section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. § 1464(c)). Both regulations are relevant to Section 8 tax-exempt financing arrangements involving public agencies.

Resolution No. 79–415 expands the investment authority of Federal associations in state housing corporation obligations. Under new 12 CFR 545.7–3a, Federal associations can make investments in, commitments to invest in, loans to, or commitments to lend to any state housing corporation, if such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the National Housing Act, as amended. In the event of default, the holder of such obligations or loans must have the right directly, or indirectly through a fiduciary, to satisfy the debt with the real estate securing the obligation or insurance proceeds thereof. A Federal association can invest up to an aggregate of 30 percent of its assets in insured obligations of local state housing corporations and, for the first time, up to 10 percent of its assets in insured obligations of state housing corporations located outside the association's home State.

As defined in 12 CFR 571.8, a state housing corporaton is a "corporation established by a State for the limited purpose of providing housing and incidental services, particularly for families of low or moderate income." Since most PHAs and/or their instrumentalities would qualify as state housing corporations, new regulation 12 CFR 545.7–3a will broaden a Federal association's ability to invest in bonds issued to finance insured Section 8 projects.

Resolution No. 79–416, amending 12 CFR 545.7–11, increases the amount a Federal asociation may invest in mortgages and obligations of or issued by its home state or a political subdivision thereof if the obligations are used to support the rehabilitation, financing, or construction of residential real estate. The maximum level of investment is increased from 5 percent of net worth to the amount of the association's general reserves, surplus, and undivided profits. Most Section B mortgages and obligations of PHAs and their instrumentalities also would qualify for investment under this section.

Interpretation of Section 8 Financing Arrangements

The Bank Board has received inquiries as to whether some methods of structuring tax-exempt financing of a Section 8 project constitute "collateral loans" under 12 CFR 545.7–9 or fail to qualify as "loans on the security of first liens upon real property" under 12 CFR 541.14.

Tax-exempt Section 8 projects may be financed by a mortgage or bonds, or by a combination of both (bonds secured by a mortgage). The tax-exempt status is created by section 11(b) of the United States Housing Act, implemented by Part 811 of HUD regulations (24 CFR 811 et seq.), and not by the Internal Revenue Code. Under § 11(b), the issuer of the bonds or mortgage must be either a public housing agency or its instrumentality and, subject to other HUD regulatory limitations, the interest on its debt obligations is exempt from Federal taxation. Whether the exemption is granted to a particular project depends on compliance with HUD regulations, not with Bank Board regulations.

Under 12 CFR 541.14, loans secured by first liens include those "secured by an interest in real estate . . . if, in the event of default, the real estate could be used to satisfy the obligation with the same priority as a first mortgage or first deed of trust in the jurisdiction where the real estate is located."

The collateral loan regulation governs loans secured by a mortgage loan rather than a mortgage itself. The question of applicability of the collateral loan regulation arises when a tax-exempt Section 8 project involves two loans: the first by a savings and loan association to the PHA or its instrumentality by purchase of its bond or note; and the second by the PHA or its instrumentality which then lends this money to the owner/developer upon the security of a mortgage on the project site real estate. If applicable, the collateral loan regulation would allow the savings and loan to invest in only 90% of the outstanding balance of the PHA's loan to the developer.

The Bank Board finds that if: (1) Both loans are identical in amount, terms, etc., (2) the first loan contract (between the association and the PHA) provides that default on that contract triggers default in the other, (3) either an owner/developer gives a savings and loan a first mortgage on the property or the mortgagee assigns the mortgage to a trustee for the benefit of the association to secure the bond or note from the PHA, and (4) the mortgage qualifies as a first lien under applicable state law, then the entire financing arrangement is a single transaction for purposes of Bank Board regulations; that is, a mortgage loan from the savings and loan association to the developer through the conduit of a public agency is not a collateral loan under 12 CFR 545.7–9, and qualifies as a loan on the security of a first lien upon real property under 12 CFR 541.14.

Proposed Regulations

In order to assist the more than 4,400 Federally-chartered and Federally-insured savings and loan institutions to meet their responsibilities under the Community Reinvestment Act and to increase their levels of community investment, the Bank Board encourages lender participation in the Section 8 program and, therefore, proposes a number of amendments to its regulations regarding loans on low-rent housing, as set forth at 12 CFR 545.6–9.

Currently, conventional Section 8 loans on multifamily dwellings made by Federal associations are restricted to an 80 percent loan-to-value ratio under 12 CFR 545.6–2(b). By proposing in these new regulations to include Section 8 lending authority under 12 CFR 545.6–9, the Bank Board would permit Federal associations to make 90 percent loans on such dwellings.

A key element of the Section 8 program is the Housing Assistance Payment (HAP) contract under which HUD agrees to subsidize tenant rent payments according to a specific formula. To protect the security value of the collateral real estate, the Bank Board proposes that the lender require the property owner to enter into and renew a HAP contract for the maximum term available.

The execution of a HAP contract is conditioned upon completion of a project which meets all HUD standards for site development and building construction. Therefore, to protect the interim lender from cost overruns, the Bank Board proposes that all construction projects financed under § 545.6–9 be subject to a ten percent holdback on 90 percent financing loans; that is, total disbursements to the borrower would be restricted to no more than 80 percent of appraised value until HUD issues its final approval.

The Bank Board further proposes to delete the existing provision applicable to Section 23 in § 545.6–9 that loans may be made for up to 90% of the purchase price (rather than appraised value) if the real estate is to be purchased by a public housing authority. The Bank Board believes that housing agencies should be expected to adhere to the same prudent investment criteria demanded of private sector investors and that the same lending standards shold extend to all borrowers.

The appraisal rules in § 545.6–9 would also be modified to reflect current Bank Board appraisal requirements. FSLIC "R" Memorandum #41a–1, issued March 1, 1979, specifically addresses the valuation of property financed under or in connection with Section 8 programs. For HUD Section 8 programs, the appraiser may consider various subsidized income/vacancy guarantees and/or subsidized aspects of the specific financing/contractual programs. The final value estimate may not exceed the replacement cost, which includes land, labor, building materials, capital, entreprenurial profit, and most construction financing costs.

In connection with appraisals for loans secured by Section 8 projects, the reference in present § 545.6–9 to "the amount of the appraisal" would be changed to "appraised value of the security property", to avoid any misunderstanding about the value to be used in appraising the property.

The current loans-to-one-borrower limitations at 12 CFR 563.9–3 (limiting an investment to the greater of a $100,000 aggregate loan balance or 10% of an institution's withdrawable accounts) contain an exemption for loans secured by "a first lien on low rent housing." This language is meant to include only housing subject to a HUD subsidy under Section 23 loans originated under the authority of present § 545.6–9, because the commitment to pay the subsidy under Section 23 is an annual contributions contract and the United States' obligation to make it is unconditional. The Board believes that the more conditional nature of the HUD subsidy agreement under the Section 8 program should disqualify Section 8 loans from exemption under § 563.9–3. Therefore, the Bank Board proposes that the words "a first lien on low rent housing" be replaced by a specific reference to real estate subject to an annual contributions contract under Section 23.

The Bank board also proposes several technical and clarifying amendments. Reference to the HUD Section 23 program would be clarified to read "former Section 23", and language added referring specifically to the Section 8 program. In addition, specific reference would be made to real estate that is being *rehabilitated*, because the Section 8 program specifically encompasses projects involving rehabilitation of existing structures.

The Bank Board believes that a management plan is an important part of a successful Section 8 project and necessary for the lender's security. Such a plan is not included in the proposed amendment to § 545.6–9, however, for the following reasons. HUD has recently proposed revisions to its Section 8 regulations to require the owner of a project to submit a management plan and annual management reports as conditions of the HAP contract (44 FR 33804; June 12, 1979). If HUD adopts final regulations requiring a management plan, inclusion of a similar requirement in Bank Board regulations could be an unnecessary regulatory duplication. However, since HUD ultimately may not require a management plan acceptable for Bank Board purposes, the Bank Board requests comment on whether such a plan should more appropriately be described and required by Bank Board regulation or discussed in an operational bulletin prepared by Bank Board staff. The Bank Board also solicits comments on what the specific components of such a management plan should be, for example, plans for achieving occupancy, tenant screening, personnel and staffing policies, intent for repair and maintenance, and guidelines for resident/management relations. The Bank Board also asks commenters to consider whether the Bank Board should require the lender to retain the right to replace management if the management plan is not followed.

The Bank Board believes that new regulations §§ 545.7–3a and 545.7–11 which implement the changes to 12 U.S.C. § 1464(c), enactment of the regulatory changes proposed herein, and Bank Board interpretation of existing financing arrangements under Section 8 programs will enable Federal saving and loan associations to more effectively provide financing for HUD Section 8 low income housing.

Because the proposed amendments would provide additional methods of Section 8 financing, and lenders, developers, and investors need adequate time to consider project commitments for tax-planning purposes before the end of the calendar year, the Bank Board has determined that it is in the public interest to allow a 30-day comment period.

Accordingly, the Bank Board proposes to amend § 545.6–9 of the Rules and Regulations for the Federal Savings and Loan System, and § 563.9–3(b) of the Rules and Regulations for Insurance of Accounts, to read as set forth below.

1. Amend § 545.6–9 (formerly § 545.6–23) to read as follows:

SUBCHAPTER C—RULES AND REGULATIONS FOR THE FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

§ 545.6–9 Loans on low-rent housing.

(a) *General.* Limitations in this Part relating to maximum loan terms and loan-to-value ratios, except limitations in § 545.6–8, shall not apply to any loan secured by a first lien on real estate which is, or which is being constructed, remodeled, rehabilitated, or renovated to be, the subject of (1) an annual contributions contract for low-rent housing under former Section 23 of the United States Housing Act of 1937, as amended, or (2) a Housing Assistance Payment (HAP) contract for low-income housing under Section 8 of the United States Housing Act of 1937, as amended, which the mortgagor has agreed in writing to enter into or renew for the maximum term available: *Provided*, no such loan by a Federal association shall exceed 90 percent of the appraised value of the security property, and in no event shall loan proceeds in excess of 80 percent of such appraised value be disbursed to the borrower until the Department of Housing and Urban Development has issued its final approval of the project under the subsidy program.

(b) *Appraisals.* The appraisal of any real estate required by § 545.6–8 shall be rendered in accordance with the general appraisal guidelines issued by the Federal Savings and Loan Insurance Corporation.

2. Amend § 563.9–3(b) to read as follows:

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SUBCHAPTER D—RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

PART 563—OPERATIONS

§ 563.9-3 Loans to one borrower.

(a) * * *

(b) *Limitations.* No insured institution shall have outstanding any loan to one borrower, as defined in paragraph (a) of this section, if the sum of (1) the amount of such loan and (2) the total balances of all outstanding loans owed to such institution and its service corporation affiliates by such borrower exceeds an amount equal to 10 percent of such institution's withdrawable accounts or an amount equal to such institution's net worth, whichever amount is less: *Provided,* that notwithstanding any other limitation of this sentence, any such loan may be made if the sum of subparagraphs (1) and (2) of this paragraph does not exceed $100,000 or if such loan is secured by a first lien on real estate subject to an annual contributions contract under former Section 23 of the United States Housing Act of 1937, as amended.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. § 1464). Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. § 1725, 1726, 1730. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-24479 Filed 8-7-79; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 231]

Grazing Fee System, Southern Region

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the procedure for determining annual grazing fees on certain Federal lands administered by the Forest Service, U.S. Department of Agriculture. It would implement the grazing fees for the fee years 1980 through 1985 on these National Forests: National Forests in Alabama, Florida, Mississippi, North Carolina, South Carolina, Texas; Kisatchie, Daniel Boone, George Washington, Cherokee, Jefferson, Ouachita (excluding Oklahoma portion), and Ozark-St. Francis National Forests.

DATE: Comment period: Comments must be received on or before October 9, 1979.

ADDRESS: Send comments to: Regional Forester, USDA Forest Service, 1720 Peachtree Road, NW., Atlanta, Georgia 30309. Comments received will be available for public inspection in Room 828, 1720 Peachtree Road, NW., Atlanta, Georgia, 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sam D. Halverson, USDA Forest Service, 1720 Peachtree Road, NW., Atlanta, Georgia 30309, telephone, (404) 881–4569.

SUPPLEMENTARY INFORMATION: The Southern Region of the Forest Service, with headquarters in Atlanta, Georgia, administers National Forest System land in 14 states and Puerto Rico. National Forests in nine states currently collect grazing fees for active Forest Service grazing permits. National Forests in the remaining five states and Puerto Rico will be affected by the grazing fee system should grazing permits be issued in those areas.

The Forest Service is required to charge fair market value for grazing livestock on National Forest System lands. Determination of fair market value includes consideration for both value of grazing and the contributions provided by or required of the permittee in the care and use of the land for grazing livestock.

The system for determining fair market value is re-evaluated periodically. The proposed system represents the value of the use to the user. The following fee structure resulted from a study by Georgia State University of fair market fees in the Southern Region, as applied to a modification of the grazing fee formula contained in the Public Rangelands Improvement Act of 1978.

$$EV = \frac{BFMV \times BCPI}{100}$$

In which:

EV = Economic value
BFMV = Base fair market value
BCPI = Beef cattle price index

Base Fair Market Value

Economic value of grazing use on National Forest land is subject to annual adjustment as indicated by the Beef Cattle Price Index.

The Base Fair Market Value represents the 1978 private grazing land lease rate minus an operational cost difference. The private grazing land lease rate is the weighted average cost of $1.24 per month of grazing use in 1978 for woodland and woodland-open ranges used for grazing beef cattle. The operational cost difference is the difference between total costs associated with livestock grazing use of privately leased grazing lands and total non-fee costs associated with livestock grazing use of allotments on National Forest System lands in the Southern Region. The costs include only those costs of grazing livestock on, and their movement to and from, the Forest Service grazing allotment or the privately leased land used in the comparison. The general items of costs included are: Loss of animals, veterinary costs, movement of livestock to and from public or private grazing areas, herding and movement of livestock while on the grazing area, salting and feeding, travel by personnel to and from public or private grazing areas, pumping or hauling of water, horses used in movement and management of livestock, maintenance of fences and watering facilities, depreciation of users investments in construction of improvements, and other miscellaneous costs.

The annual weighted average cost of $1.24 per month adjusted by the difference in total costs of operating on private leased grazing lands versus National Forest lands results in an economic value of $0.71 for National Forest lands in the Southern Region except for those in Florida, where the economic value is $0.50.

Beef Cattle Price Index

The Beef Cattle Price Index (1978 equals 100) represents the change in annual beef cattle prices, excluding calves, for the Southeastern states compared with the base period average price of $47.60 per hundred weight. The data is calculated annually by the Economics, Statistics and Cooperatives Service for the preceding twelve months ending October 31.

Implementation

Data for 1979 (November 1, 1978, through October 31, 1979) will be used to compute the fee for the 1980 fee year (March 1, 1980, through February 28, 1981).

National Forests Except Florida

For the 1979 grazing season, the current grazing fee is $0.25 per animal month for beef cattle, and the economic value equals $0.71, a difference of $0.46. We will recover the difference in economic value in four annual steps of $0.10, $0.12, $0.12, and $0.12 beginning with the 1980 grazing season. The annual grazing fee will be the current fee plus the annual adjustment step plus the change in economic value due to changes in beef cattle prices.

Full implementation of the grazing fee schedule and collection of economic value will be achieved in 1983.

Annual adjustments of the grazing fee will not exceed 25% of the previous year's fee after fees being charged are equivalent to economic value. The grazing fee schedule is shown below for National Forests in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, North Carolina, Virginia, South Carolina, Tennessee, and Texas; economic value and actual fee are simulated for 1980–1981 fee years.

Data year	Fee year	Economic value	Change in economic value	Adjustment steps	Actual fee
1978	1979	$0.71	.....	.....	$0.25
1979	1980	0.82	+$0.11	$0.10	0.46
1980	1981	0.87	+0.05	0.12	0.63

National Forests in Florida

The grazing fee schedule for the National Forest in Florida is shown below; the economic value and actual fee are simulated for 1980–1981 fee years. The same procedures apply for computing the grazing fee for years subsequent to 1978 as previously described for the other National Forests in the Southern Region.

Data year	Fee year	Economic value	Change in economic value	Adjustment steps	Actual fee
1978	1979	$0.50	.....	.....	$0.25
1979	1980	0.58	+$0.08	$0.08	0.41
1980	1981	0.61	+0.03	0.08	0.52

Public Participation

Previous publication in the **Federal Register** on February 4, 1977, November 23, 1977, and December 14, 1978, together with public meetings in March and April, 1977, and Congressional Hearings during 1977 and 1978, have provided many opportunities for participation by many groups and individuals in the decision making processes on grazing fees. Public comments on this proposal for the Southern Region will be accepted for a period of 60 days. Copies of the proposal will be available to grazing permittees and other individuals and organizations at Forest Service field offices throughout the Southeastern states affected by this proposal, whose addresses appear below.

Forest Supervisor, National Forest in Alabama, 1765 Highland Avenue, P.O. Box 40, Montgomery, Alabama 36101.
Forest Supervisor, Cherokee National Forest, 2321 N. Ocoee Street N.W., P.O. Box 400, Cleveland, Tennessee 37311.
Forest Supervisor, Daniel Boone National Forest, 100 Vaught Road, Winchester, Kentucky 40391.
Forest Supervisor, National Forests in Florida, 2586 Sea Gate Drive, P.O. Box 13549, Tallahassee, Florida 32308.
Forest Supervisor, Francis Marion-Sumter National Forests, 1801 Assembly Street, P.O. Box 970, Columbia, South Carolina 29202.
Forest Supervisor, George Washington National Forest, 210 Federal Building, P.O. Box 233, Harrisonburg, Virginia 22801.
Forest Supervisor, Jefferson National Forest, 210 Franklin Road, SW, Roanoke, Virginia 24001.
Forest Supervisor, Kisatchie National Forest, 2500 Shreveport Highway, Pineville, Louisiana 71360.
Forest Supervisor, National Forests in Mississippi, 350 Milner Building, P.O. Box 1291, Jackson, Mississippi 39205.
Forest Supervisor, National Forests in North Carolina, 50 South French Broad Avenue, P.O. Box 2750, Asheville, North Carolina 28802.
Forest Supervisor, Ouachita National Forest, Federal Building, P.O. Box 1270, Hot Springs, Arkansas 71901.
Forest Supervisor, Ozark-St. Francis National Forests, 605 West Main, P.O. Box 1008, Russellville, Arkansas 72801.
Forest Supervisor, National Forests in Texas, Federal Building, P.O. Box 969, Lufkin, Texas 75901.

Robert N. Gashwiler,

Group Leader, Range and Wildlife Range, Timber and Wildife Staff Unit.

[FR Doc. 79-24369 Filed 8-7-79; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 51 and 52]

[FRL 1084-7, Docket No. OAQPS-79-12]

Emission Monitoring of Stationary Sources

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Under authority granted in sections 110, 114, and 301 of the Clean Air Act, EPA has established a program of source surveillance and specifically of continuous monitoring for certain significant stationary sources. Current programs for source monitoring generally do not determine compliance of sources with emission regulations on anything but an infrequent basis. This proposed action arises from the need for control agencies to be assured that regulated sources are meeting emission limitations on a continual basis. EPA, in light of the above, is contemplating actions to improve, expand, and expedite implementation of the continuous emission monitoring requirements for certain stationary sources. Comments are solicited on specific issues and aspects related to this contemplated action.

DATE: Comments received on or before October 9, 1979 will be considered by EPA.

ADDRESS: Comments should be submitted (in duplicate, if possible) to: Central Docket Section, (A–130), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Attention: Docket No. OAQPS–79–12.

Docket No. OAQPS–79–12, containing material relevant to this rulemaking, is located in the U.S. Environmental Protection Agency, Central Docket Section, Room 2903B, 401 M. Street, SW, Washington, DC 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Darryl D. Tyler, Environmental Protection Agency, (MD–15), Research Triangle Park, North Carolina 27711 Phone: (919) 541–5425.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency intends to develop regulations which will refine and expand certain portions of Title 40 of the Code of Federal Regulations, in particular, the continuous monitoring requirements of § 51.19(e). In addition, among other options, the Agency is contemplating taking actions which will expedite the implementation of the continuous monitoring requirements through the promulgation of requirements in 40 CFR, Part 52, and the use of authority granted to EPA by section 114 of the Clean Air Act.

Section 110(a)(2)(F) (ii) and (iii) of the Clean Air Act is the basis for EPA's State Implementation Plan requirements found in 40 CFR 51 and 52. This authority requires State Implementation Plans to contain legally enforceable procedures which require owners or operators of stationary sources to install equipment to monitor emissions from such sources and to report the data obtained. Section 114, which could be used to expedite implementation of the source surveillance requirements, further authorizes the Administrator to require any owner or operator of an emission source to "install, use, and maintain such monitoring equipment or methods . . . as he may reasonably require."

By the above regulations and associated administrative actions,

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certain existing air pollutant emission sources would be required to install and properly operate equipment which will continuously monitor parameters such as opacity (a measure of light attenuation caused by exhaust gases), sulfur dioxide, or certain operating parameters with respect to the control equipment.

To expedite the program, sources could be required, by administrative action, to install the monitors within one year of promulgation of the regulations; authority for this requirement lies in section 114 of the Act. State assumption of the program would be undertaken as a follow-up through the routine time schedules specified under Part 51 of Title 40.

The primary purpose of this notice is to inform interested parties of EPA's intent to begin a process which may result in additional requirements on States to adopt regulations and subsequently for sources to implement regulations concerning the measurement of emissions from stationary sources on a continual basis. Additionally, this Notice solicits comments on the practicability and the utility of these potential requirements.

Comment should be addressed, but not limited, to the following: (a) Is one year to comply with the requirements sufficient to acquire, install, and test the monitoring system?

(b) What sources should be included for technical evaluation?

(c) Will the program be effective in providing a qualitative and/or quantitative basis for ensuring continual compliance?

(d) Will the air quality benefits achieved offset the capital and operating expenditures required?

(e) Is fuel analysis a viable option to monitor SO_x emissions for large (greater than 250 million BTU/HR) boilers?

(f) Fuel analysis procedures and experiences.

(g) Reliability of continuous monitoring equipment.

(h) Experience in installation, operation and maintenance of continuous monitoring equipment.

(i) The technical feasibility of continuous monitoring.

(j) Alternative methods to continuous monitoring.

(k) Experience in use of continuous monitoring data as an enforcement tool.

(l) Quality assurance procedures used to ensure valid data.

(m) Experience in correlating continuous monitoring data and performance test.

(n) Control agency and source experiences with continuous monitoring and the benefits derived.

(o) Cost of installation and operation of continuous monitoring equipment.

(p) Estimated resource impacts on States and local air pollution agencies and on air pollution sources; and

(q) Experience to date with the use of continuous mass emission monitors.

Comments submitted in accordance with the September 19, 1978, **Federal Register** Proposal on Electric Utility Steam Generating Units need not be resubmitted as these comments will automatically be considered during the regulatory development process.

Copies of the development plan which serves as the operating plan for the proposed regulatory development process will be available for public inspection and copying at the EPA Central Docket Section, Room 2930B, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. The docket number is OAQPS–79–12 and will be available to public inspection during normal business hours.

This advance notice of proposed rulemaking is issued under the authority of sections 110, 114, and 301 of the Clean Air Act.

Dated: August 1, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79–24480 Filed 8–7–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

[FRL 1292–4]

Proposed Revision to the New Jersey State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: The purpose of this notice is to announce receipt of a comprehensive revision to the New Jersey State Implementation Plan, to discuss the results of the Environmental Protection Agency's review of this revision, and to invite public comment on the Environmental Protection Agency's proposed determinations regarding its adequacy. The 1977 amendments to the Clean Air Act require that the State Implementation Plan applicable to an area not in attainment of a national ambient air quality standard be revised by January 1, 1979 to provide for attainment of such standard. The revision received from New Jersey is intended to meet this requirement. It pertains to the following pollutants in the following areas:

Total Suspended Particulates (Secondary Standard)

—Seven areas in northeastern New Jersey (Hudson County, Elizabeth Linden, Carteret, Woodbridge, Perth Amboy, and a portion of Newark).

—The City of Camden.

—The City of Bridgeton.

Carbon Monoxide

—The ten central business districts of Jersey City, Newark, Elizabeth, Morristown, Perth Amboy, Somerville, Paterson, Hackensack, Asbury Park and Freehold in northeastern New Jersey.

—The four central business districts of Trenton, Burlington, Camden and Penns Grove in southwestern New Jersey.

—The two central business districts of Atlantic City and portions of Toms River.

Ozone

—The entire State of New Jersey.

DATES: Comments must be submitted on or before October 9, 1979.

ADDRESSES: All comments should be addressed to: Eckardt C. Beck, Regional Administrator, Region II Office, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

Copies of the SIP revision are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II, Air Programs Branch, Room 908, 26 Federal Plaza, New York, New York 10007.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

New Jersey Department of Environmental Protection, Bureau of Air Pollution Control, John Fitch Plaza, Labor and Industry Building, Room 1110, Trenton, New Jersey 08625.

New Jersey Department of Environmental Protection, Metropolitan Field Office, 1259 Route 46, Parsippany Troy Hills, New Jersey 07054.

New Jersey Department of Environmental Protection, Southern Field Office, 100 Larwin Road, Cherry Hill, New Jersey 08034.

New Jersey Department of Environmental Protection, Newark Field Office, 5th Floor, 1100 Raymond Boulevard, Newark, New Jersey 07102.

Monmouth County Library, 25 Broad Street, Freehold, New Jersey 07728.

Burlington County Free Library, Woodlane Road, Mount Holly, New Jersey 08060.

Cape May County Library, Cape May Court House, Mechanic Street, Cape May, New Jersey 08210.

Sussex County Library, Route 655, Homestead Road, Frankford Township, New Jersey 07860.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the requirements of Section 107(d) of the Clean Air Act, as amended, on January 25, 1979 the Environmental Protection Agency (EPA) published in the **Federal Register** at 44 FR 5119 a designation of the attainment status with respect to each national ambient air quality standard for every area within the State of New Jersey. These designations represented revisions, corrections and elaborations to designations originally published in the March 3, 1978 issue of the **Federal Register** at 43 FR 8962. The reader is referred to the January 25, 1979 **Federal Register** for a detailed description of the geographic areas covered by this proposed action.

Part D of the Clean Air Act requires that, for each area designated as not meeting a national ambient air quality standard, a State Implementation Plan (SIP) revision must be developed by the state and submitted to EPA by January 1, 1979. The SIP revision must provide for attainment of the contravened standard by December 31, 1982 or, for certain pollutants, no later than December 31, 1987. The required contents of such SIP revisions are described in Part D and, more generally, in section 110(a) of the Clean Air Act. These requirements are further discussed and elaborated upon in the April 4, 1979 issue of the **Federal Register** at 44 FR 20372. The reader is referred to this **Federal Register** notice for a complete discussion of SIP revision requirements; these are not repeated in great detail in this notice. The reader is also referred to a supplement to the April 4 notice which was published on July 2, 1979 (44 FR 38583) and involves, among other things, conditional approval.

EPA proposes to conditionally approve a plan where there are minor deficiencies and the State provides assurances that it will submit corrections by specified deadlines. This notice solicits comments on what items should be conditionally approved and on the deadlines where specified in this notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

On December 29, 1978 the Governor of the State of New Jersey formally adopted a SIP revision entitled, "Proposed New Jersey State Implementation Plan for the Attainment and Maintenance of Air Quality Standards," intended to meet these Clean Air Act requirements for those areas of the State designated as not meeting a national ambient air quality standard. In addition, supplemental material with respect to this revision was submitted by the State on April 17, 1979, June 20, 1979, and July 5, 1979.

In general there are four basic strategies for the attainment of carbon monoxide and ozone national ambient air quality standards included by the State in its SIP revision document. They are:

1. New regulations for the control of industrial and commercial emissions of volatile organic compounds.

2. Federal programs to reduce emissions from automobiles.

3. The State motor vehicle emission inspection and maintenance program.

4. Measures to reduce pollution from the overall New Jersey transportation system.

The first strategy will provide for the phased-in control of volatile organic compound emissions from industrial and commercial processes. Installation of these controls will be required, in most cases, by the end of 1982. The second strategy refers to the emission reductions expected to occur from the replacement of older model automobiles with newer models which, under the Federal Motor Vehicle Control Program, are required to have inherently lower emissions. The third strategy results in emission reductions by assuring, through an annual pass/fail emissions inspection program, proper mechanical maintenance of light duty vehicles registered in New Jersey. This strategy has been in effect in New Jersey since February 1, 1974. The fourth strategy is the most broad-based of the State's general strategies. It includes improved transportation planning coordination among interstate, State, regional and local authorities; a comprehensive review of the present regulatory and financial structure of public transportation in the State; a commitment of State, federal, and other funds to transit capital improvements; and the examination and experimental trial of certain "reasonably available" transportation control measures.

The New Jersey plan revision also includes commitments to the further study and evaluation of various potential control measures relating to mobile sources and the further study of the total suspended particulate problems. The State expects that additional control measures will emerge from these studies.

The remainder of this notice describes the content of the SIP revision with respect to each of the major criteria used by EPA to evaluate approvability. The deficiencies in this revision found by EPA and the corrective actions which should be undertaken by the State in order to make the revision approvable are also discussed.

II. Part D Requirements

A. Requirements for All Part D SIPs

(1) *SIP provisions shall be adopted by the State after reasonable notice and public hearing.*—The New Jersey SIP revision was adopted by the Governor on December 29, 1978 after public hearings were held in Newark, New Jersey on December 18, 1978 and in Atlantic City, New Jersey on December 19, 1978. The public hearings were held after at least 30 days of public notice. The State has provided documentation supporting the fact that the necessary notices, public hearings, and official adoption of the SIP revision were carried out in a manner acceptable to EPA.

(2) *The SIP revisions shall demonstrate that both primary (human health related) and secondary (public welfare related) national ambient air quality standards (NAAQS) will be attained within the nonattainment area as expeditiously as practicable, but for primary NAAQS no later than the following final deadlines:—December 31, 1982, except that—For ozone or carbon monoxide, December 31, 1987, if the state demonstrates that attainment by December 31, 1982 is impossible despite implementation of all reasonably available measures.*

(a) *Ozone/Carbon Monoxide*—The New Jersey SIP revision includes a demonstration that it is not possible to attain the carbon monoxide and ozone standards by the end of 1982. Such a demonstration is prerequisite to the granting of attainment date extensions for both pollutants and means that another SIP revision demonstrating attainment by the extended date must be submitted by the State on or before July 1, 1982.

The reduction in organic compound emissions necessary for attainment of the primary ozone standard as

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calculated by New Jersey and presented in the plan revision is in the range of 47 to 73 percent. It is further demonstrated in the plan revision that the emission reduction that could be expected by December 31, 1982 from the implementation of reasonably available measures would be in the range of 47 percent. Since 47 percent is at the bottom of the required range of reductions needed for ozone standard attainment, and the upper limit of that range was derived using more reliable methodology, the State felt justified in seeking an extension of the attainment date to the end of 1987.

The use of a simple rollback technique to determine the carbon monoxide reductions necessary to attain standards at New Jersey's 16 primary standard nonattainment sites shows that implementation of the selected strategies would bring about attainment at only six sites; five other sites are shown to remain in nonattainment status, and the remaining five sites were calculated to marginally attain the standard. However, due to monitor siting inadequacies, the measured violations at these sites may not be the most severe violations existing in the area and, therefore, emission reductions beyond those calculated by the State as necessary for attainment are probably necessary. The true magnitude and extent of New Jersey's carbon monoxide problem will be determined by a special study committed to in the SIP. Included as a part of this study is a determination of the extent of the carbon monoxide problem at 75 suspected "hotspots" which are identified in the SIP revision.

EPA proposes to find New Jersey's technical demonstrations of the need for an extension to December 31, 1987 of the attainment date for ozone and carbon monoxide standards adequate. Discussion of four related provisions of the New Jersey SIP revision which bear on the approvability of this extension request is provided in Section II B of this notice, *Additional Requirements for Ozone or Carbon Monoxide SIPs with Attainment Dates After 1982.*

It should be noted that, although the State provides a demonstration that ozone and carbon monoxide standards cannot be attained by December 31, 1982 through the implementation of reasonably available control measures, the demonstration further shows that substantial emission reductions are needed beyond those which are expected to occur. The State does not, however, consider the impact of all available measures, including transportation control measures, on standard attainment. Consequently, as the State further evaluates the effectiveness of these control measures, EPA expects that the State will reevaluate its finding that standards cannot be attained by December 31, 1982 and that the State will continue to apply all reasonably available control measures as expeditously as is practicable.

(b) *Total Suspended Particulates*—Section 110(b) of the Clean Air Act provides for an extension in the time allowed for the submission of SIPs for areas which are in violation of the secondary standard for total suspended particulate matter. According to EAP policy (44 FR 20372, April 4, 1979), if a state demonstrates that the installation of reasonably available control technology (RACT) on traditional stationary sources located in the secondary standard nonattainment area will not be sufficient to bring about attainment, then the state may be granted an extension of up to eighteen months to the plan revision submittal date.

Reference is made in the New Jersey plan revision to dispersion modeling studies which show that, in the absence of new control strategies for emission of particulate matter, the secondary standard nonattainment areas presently existing in the northeastern (metropolitan New York) and southwestern (metropolitan Philadelphia) urbanized parts of the State will remain in contravention of the standard and, in some cases, will expand in size. New Jersey claims that this fact is significant because its existing regulations for the control of particulate emissions require a degree of control at least equivalent to and, in most cases, more stringent than that denoted by RACT. Thus, the modeling studies demonstrate that the requirement for RACT on traditional stationary sources would not result in attainment in the metropolitan New York and Philadelphia areas.

New Jersey further claims that, since the Bridgeton secondary standard nonattainment problem is the result of an aerodynamic downwash problem at one industrial source in the area, the installation of RACT has already been shown inadequate to bring about attainment.

Consquently, New Jersey has sought an 18-month extension for submssion of secondary standard SIP revisions throughout the State.

The modeling studies referred to by the State for the metropolitan New York and Philadelphia areas are both being done under EPA contract and do, in fact, demonstrate what the State claims. EPA is also in agreement with the State's evaluation of its existing regulations. Consequently, an 18-month extension to the required SIP submission date is seen by EPA as appropriate for the metropolitan New York and Philadelphia areas.

However, it is acknowleged in the New Jersey SIP revision that the emissions from some of the stacks at the Bridgeton point source causing nonattainment are out of compliance with the State's regulations. Thus, it is questionable whether or not the application of RACT to this source is inadequate for attainment of the secondary standard in the City of Bridgeton. EPA proposes to conditon its approval of an extension to the plan submittal date for this area on receipt by October 1, 1979 of an appropriate RACT demonstration for this source.

(3) *The SIP revision shall require reasonable further progress in the period before attainment, including regular, consistent reductions sufficient to assure attainment by the required date.*

(a) *Ozone/Carbon Monoxide*—In the case of a plan revision for ozone or carbon monoxide demonstrating the need for an extended attainment date, reasonable further progress may be considered to be, at a minimum, the rate of emission reduction up to the end of 1982 that, if continued, would provide for attainment by the end of 1987.

The State has presented demonstrations and graphs depicting the changes in emissions which will result from the activities outlined in the SIP. EPA finds the rate of progress demonstrated to be acceptable for the SIP revision as currently submitted.

(b) *Total Suspended Particulates*—Since the State has requested, and EPA proposes to approve, an 18-month extension for plan submittal, a reasonable further progress demonstration is not required at this time.

(4) *The SIP revision shall provide for implementation of all reasonably available control measures as expeditiously as practicable insofar as is necessary to assure reasonable further progress and attainment by the required date. This requirement includes reasonably available transportation control measures.*

(a) *Ozone–Stationary Source Control Measures*—For stationary sources, the 1979 ozone plan submissions for major urban area must include, as a minimum, legally enforceable regulations to reflect the application of reasonably available volatile organic compound control technology to those stationary sources

for which EPA has published a Control Technology Guideline (CTG) document by January 1978, and provide for the adoption and submittal of additional legally enforceable RACT regulations on an annual basis, beginning in January 1980, for those CTGs that have been published by January of the preceeding year (44 FR 20376, April 4, 1979). For rural nonattainment areas, the regulations must provide, at a minimum, legally enforceable procedures for the present and future control of large volatile organic compound sources (i.e., those with 100 tons/year or more potential emissions).

To meet this requirement, the State has submitted to EPA proposed revisions to Title 7, Chapter 27, Subchapter 16, "Control and Prohibition of Air Pollution by Volatile Organic Substances," of the New Jersey Administrative Code (N.J.A.C. 7:27–16.1 et seq.). This proposed regulation is composed of the following sections:

16.1 Definitions.
16.2 Storage of volatile organic substances.
16.3 Transfer operations.
16.4 Open top tanks and surface cleaners.
16.5 Surface coating operations.
16.6 Source operations other than storage tanks, transfers, open top tanks, surface cleaners, and surface coaters.
16.7 Cutback paving asphalt.
16.8 Emission information and tests.
16.9 Variances.
16.10 Permit to construct and certificate to operate.
16.11 Applicability.
16.12 Exceptions.

It should be noted that this regulatory revision has not been legally adopted by the State as yet. As discussed more fully in Section II.A.10.a of this notice, EPA has been requested by the State to propose action on this regulation in its current status. Provided that the finally adopted regulation does not substantively differ from the proposed regulation submitted at this time, EPA will not propose action or solicit further public comment prior to final rulemaking.

Proposed Subchapter 16 is applicable statewide; each source category has a specific compliance schedule applicable to all sources in that category regardless of their location within the State. The only exception is for those sources previously regulated by unrevised Subchapter 16, which are required already to be in compliance. In addition, Subchapter 16 goes beyond the requirement of addressing designated CTG categories. Controls are required on all open top tanks and other source operations capable of emitting volatile organic compounds (VOC's). Also, the State has committed to adopt additional regulations, as necessary, to cover source categories addressed by additional CTG documents issued by EPA.

The CTG documents provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTG's, EPA believes that the submitted regulation represents RACT, except as discussed below. In those instances where the State's regulation is not supported by the information in the CTG's, the State must provide an adequate demonstration that its regulation represents RACT, or amends the regulation to be consistent with the information in the CTG's.

The remainder of the discussion under this subsection will deal with the adequacy of the proposed Subchapter 16 to provide for the control of VOC's. Discussion is organized around each section of the regulation.

• Section 16.1—Definitions

Section 16.1 contains definitions of the terms used in the State's regulation. This section contains a definition for "volatile organic substances" (VOS's). In part, VOS's are defined by the State as those substances which have a vapor pressure or partial pressure of organic substances equal to or greater than 0.02 pounds per square inch absolute (1.0 mmHg) measured at standard conditions (21.1°C and one atmosphere pressure). This definition differs from the one used by EPA, which defines a VOC in terms of a vapor pressure greater than 0.1 mmHg at standard conditions (20°C, 760 mmHg). The State indicates that its regulation provides for at least the same VOC emission reductions as would EPA's suggested control requirement, but the State provides only limited analysis to support its claim. Therefore, EPA is proposing conditional acceptance of this definition provided that on or before January 1, 1980 the State either submits adequate justification for its definition or revises it.

• Section 16.2—Storage of Volatile Organic Substances

Section 16.2 revises existing State provisions which are directed at controlling the emission of VOC's from the storage of volatile organic substances in stationary storage tanks having a capacity equal to or greater than 10,000 gallons and which require exposed storage tanks with capacities greater than 2,000 gallons to be painted white. Three ranges of controls are specified which are dependent on the tank size and the vapor pressure of the VOC contained with the tank: Range I does not require control, Range II requires a conservation vent, and Range III requires a floating roof. Except for minor revisions, this rule has been in effect since March 1, 1976.

The information in the CTG document addressing this source category shows that it is reasonable for all fixed roof tanks with a capacity of 40,000 gallons or greater and storing a petroleum liquid with a true vapor pressure greater than 10.5 kilo Pascals to be retrofitted with an internal floating roof or with equivalent vapor controls.

The State believes that the overall emission reduction achieved by its regulation is equivalent to the emission reduction achievable through application of the controls described by CTG. According to the State, the equivalent emission reductions result through the control of all stationary storgage tanks statewide (in both urban and nonurban areas), through requiring controls on some tanks smaller than 40,000 gallons, through requiring controls for VOC's with vapor pressures below 10.5 kilo Pascals, and through requiring controls on tanks which store substances other than petroleum liquids. The State has submitted documentation to justify this difference in control. In essence, New Jersey's experience indicates that in the petroleum industry the majority of storage tanks are of a capacity greater than 400,000 gallons. In this size range the State requires a greater degree of control than that suggested by the CTG. This additional control compensates for the less stringent control required by New Jersey on samller tanks and, thereby produces emission reductions similar to those anticipated by CTG. EPA is satisfied with the State's demonstration and, therefore, is proposing to find Section 16.2 acceptable.

• Section 16.3—Transfer Operations

Section 16.3 revises existing State provisions directed at controlling the emissions of VOC's from transfer operations. This section contains control requirements for gasoline service stations in Subsection 16.3 (a) and (c), gasoline bulk plants in Subsections 16.3 (a) and (e)(1), gasoline loading terminals in Subsections 16.3 (a) and (e)(2), and gasoline delivery trucks in Subsections 16.3 (a), (d), and (g). The regulation requires the submerged filling of all stationary and mobile tanks with capacities of 2,000 gallons or greater and

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which receive volatile organic substances.

Generally, this section meets or exceeds the required degree of control described in the pertinent CTG. While not explicit in the State's regulation, EPA understands that the State interprets its regulation to require vapor tight return lines. The only differences that exist are that the requirements only apply to delivery vessels equal to or greater than 2,000 gallons capacity and vapor balance is only required at service stations with tanks equal to or greater than 2,000 gallons capacity. The information in the CTG does not justify such exemptions. However, the State has submitted documentation which indicates that, from its experience in enforcing its existing gasoline vapor control regulation and from correspondence with the industry, if there are any delivery vessels smaller than 2,000 gallons, they would only service rural accounts. These rural accounts are primarily agricultural in nature or are the few existing gasoline stations with small exempted tanks (those existing tanks with less than 2,000 gallons storage capacity). In addition, new gasoline service stations being built are usually high volume "gas only"-type stations with tanks exceeding 2,000 gallons capacities. The State indicates that some suppliers will not deliver to tanks smaller than 2,000 gallons, which is another factor which limits the desirability of using small delivery vessels and of installing small tanks. This regulation also applies statewide, covering both urban and nonurban area gasoline service stations; as such, the State indicates that its impact on emissions is only marginally different from that obtainable through application of the CTG's control requirements.

EPA is satisfied with this justification as it relates to the State's exemption of small delivery vessels from control. However, EPA is proposing only conditional acceptance of the State's exemption of new gasoline storage tanks with capacities less than 2,000 gallons. By January 1, 1980 the State must adequately demonstrate that its exemption of new gasoline storage tanks with capacities less than 2,000 gallons results in an emission reduction only marginally different from that obtainable from the suggested control level in the CTG or that economic or other circumstances warrant a less stringent control requirement. Alternately, the State may revise its regulation to eliminate this exemption.

• Section 16.4—Open Top Tanks and Surface Cleaners

Section 16.4 is a new section directed at controlling the emissions of VOC's from open top tanks and surface cleaners (degreasers). This regulation covers besides the non-CTG category of open top tanks, the CTG-covered category of solvent metal cleaning (16.4(a)—(h)) and also a portion of the refinery CTG-covered category, wastewater separators (§ 16.4(i)).

The State has further broken down the CTG degreaser category into: unheated open top surface cleaners (top opening 6 sq. ft. to 25 sq. ft.), unheated open top surface cleaners (top opening greater than 25 sq. ft.), open top vapor surface cleaners, unheated conveyorized surface cleaners, conveyorized heated surface cleaners, and conveyorized vapor surface cleaners. In the CTG document for Solvent Metal Cleaning, two levels of control for each type of degreaser were identified, along with operating requirements. The State has selected control requirement composed of those contained in the first (less stringent) level plus elements of those contained in the second (more stringent) level. Subsection 16.4(j) requires that open top tanks or surface cleaners be operated, inspected and maintained in accordance with approved written instructions. These instructions are to be prepared using the State's guideline, "Instructions for Operating and Maintenance Procedures, Open Top Tanks and Surface Cleaners," which incorporates the operating requirements contained in the CTG. In addition, § 16.4(k) requires that personnel operating open top tanks or surface cleaners understand and follow specified procedures. While the State's regulation does not include detailed operating and disposal requirements, these are contained in the State's guideline. Subsection 16.4(i) requires any oil-water separator to be covered except for those sections of the oil-water separator containing powered mechanical devices operating above the liquid level. The State indicates that this exemption was included for safety reasons.

EPA is proposing to find § 16.4 acceptable.

• Section 16.5—Surface Coating Operations

Section 16.5 is a new section directed at controlling the emissions of VOC's from surface coating operations. This applies to the following sources: large appliance coating lines, magnet wire insulation coating lines, metal furniture coating lines, fabric coating lines, vinyl coating lines, paper coating lines, automobile assembly coating lines, coil coating lines, and can coating lines. This section specifies a maximum permitted emission rate (pounds of volatile organic compounds, minus water, per gallon of coating) for each source category and allows the source owner to choose the most economical method of control to meet the emission limitation specified. The various control methods available to sources are: reformulation to "low-solvent" coatings (water-borne, high solids, and powder coatings), "add-on" technology to recover or destroy VOC's in exhaust gases, and modification of processes to reduce the quantity of VOC emissions. EPA is proposing to find § 16.5 acceptable.

• Section 16.6—Source Operations Other Than Storage Tanks, Transfers, Open Top Tanks, Surface Cleaners, and Surface Coaters.

Section 16.6 is a new section directed at controlling the emissions of VOC's from source operations not elsewhere regulated. The degree of control is determined by categorizing the uncontrolled VOC emission into one of nine ranges. The vapor pressure and concentration of the VOC in the process source gases determines the applicable range; the range then specifies the maximum allowable emissions.

Subsection 16.6(c) contains provisions for addressing multiple emission source operations. These provisions permit the source to aggregate its emissions for purposes of determining the degree of control required. While EPA has not issued its procedures for dealing with the mathematical combining of emission sources ("bubble concept"), the State's submission appears adequate in this regard.

The State indicates that this section would apply to the CTG/covered subcategory of vacuum producing systems at refineries and that the degree of control would vary depending on the concentration of the source gas. The CTG subcategory, process unit turnaround, also would be handled by permit conditions and the requirements of § 16.6. Unlike the CTG, which specifed emission control equipment requirements, the State's regulation specifies emission limitations. The State has demonstrated that its emission limitations and permit procedures would produce emission reductions similar to those obtainable by application of the controls suggested in the CTG. EPA is satisfied with the demonstration and is proposing to find § 16.6 acceptable.

• Section 16.7—Cutback Paving Asphalt

Section 16.7 is a new section directed at controlling the emissions of VOC's from the use of cutback paving asphalt or emulsified paving asphalt containing petroleum solvents. It prohibits the use of these paving materials except during the colder months, when it is to be used as a penetrating prime coat, or when the user can demonstrate that there are no emissions of VOC's during normal use. EPA is proposing to find § 16.7 acceptable.

• Section 16.8—Emission Information and Tests.

Section 16.8 is an administrative section requiring emission sources to provide facilities and equipment necessary to determine the quantity and identity of the VOC's they emit, to maintain and make records available, and to provide sampling facilities and testing facilities as may be necessary to determine the nature and quantity of their VOC's emissions. This section does not, however, specify test methods to be used to determine compliance with the emission limitations contained in Subchapter 16. In order for the State to have a legally enforceable reuglation, test methods must be specified. The State indicates that it is in the process of preparing such test method specifications. Therefore, EPA is proposing conditional acceptance of Subchapter 16. On or before January 1, 1980 the State must submit adequate test methods which can be used to determine compliance with this regulation.

• Section 16.9—Variances

Section 16.9 provides a general variance mechanism. It allows for variances from the requirements of Subchapter 16 if it can be demonstrated to the satisfaction of the State that a particular souce is unable to meet the required degree of control. The State may issue a variance to a source which is valid for three years and when may be renewed upon application to the State. The variances issued shall be conditioned on compliance with any requirements which the State deems to be necessary. EPA is proposing to find Section 16.9 acceptable; however, each variance issued by the must be submitted to EPA for approval as a SIP revision.

• Section 16.10—Permit To Construct and Certificate To Operate

Section 16.10 requires a source to obtain a "Permit to Construct, Install or Alter Control Apparatus or Equipment" and a "Certificate to Operate Control Apparatus or Equipment." It also requires that all equipment or control apparatus used to control VOC's in accordance with relevant permits be connected and functioning properly. However, Subsection 16.10(d) allows the temporary discontinuation of the operation of such control apparatus during the months of November, December, January, February, and March. A discontinuation must be provided for in the permit and is based upon factors such as the nature of the pollutant, energy consumption of the control apparatus, and potential of local nuisance conditions.

Present EPA policy only allows for the seasonal operation of natural gas-fired afterburners provided that there is reasonable assurance that the action will not jeopardize the attainment or maintenance of the ozone standard. This policy does not apply to the other types of control equipment covered by New Jersey's variance provisions. Nevertheless, New Jersey's regulation requires application of the same criteria in evaluating a seasonal variance request as would be used by EPA. Therefore, EPA proposes to find this section acceptable, but each variance issued by the State must be submitted to EPA for approval as a SIP revision.

• Section 16.11—Applicability

Section 16.11 is a general section on the relationship of Subchapter 16 to other New Jersey regulations.

• Section 16.12—Exceptions

Section 16.12 exempts certain source operations from the provisions of Subchapter 16. These exemptions do not conflict with any SIP revision requirements.

(b) *Ozone/Carbon Monoxide—Transportation Control Measures.*—The proposed SIP revision contains a commitment by the State to implement specific transportation control measures which are presented as Appendix 10 to the SIP. These measures are identified as specific projects for which cost information and final implementation dates are provided. The projects are grouped under the headings of:

- Improved public transit
- Exclusive bus and carpool lanes
- Long-range transit improvements
- Park and ride and fringe parking lots
- Employer programs to encourage car and vanpooling, mass transit, bicycling, and walking
- Bicycle lanes and storage facilities
- Traffic flow improvements

For these projects the State should submit to EPA compliance dates for key milestone events (e.g., application for funding, initiation of construction).

In addition, commitments are included in the SIP revision for the further study of these measures. In Appendices 16 and 28 studies are presented for the general evaluation of potential transportation control measures. Studies for the evaluation of specific projects are presented as Appendix 11 to the SIP. These studies are grouped under the headings of:

- Improved public transit
- Exclusive bus and carpool lanes
- Long-range transit improvements
- On street parking controls
- Park and ride and fringe parking lots
- Bicycle lanes and storage facilities
- Traffic flow improvements

EPA finds that the State's program for the further study and future implementation of measures is deficient in that it does not adequately identify the process and steps needed to bring each measure to implementation. As mandated by Section 174(b) of the Clean Air Act, the study and implementation of measures are required to be coordinated with the continuing, cooperative and comprehensive (3C) transportation process of Section 134 of Title 23 of the United States Code. However, the proposed SIP revision shows no evidence that the transportation planning process has been modified to permit the necessary coordination to occur. Methods are needed to track, assess and report on the adequacy of the transportation planning process to address air quality concerns. This requirement includes the development of criteria for determining conformity of the transportation plans, programs and projects with the SIP and the identification of reasonable emission reduction goals to be obtained from the transportation system. Moreover, the products to be obtained from each study, the key decision points (technical, political, financial, etc.), the relationship between studies and measures, and the time schedule for these activities are not adequately identified.

Consequently, the New Jersey SIP revision is conditionally approved subject to the submittal to EPA by March 1, 1980 of a description of the transportation planning process highlighting those changes made to integrate this process with the air quality planning process so that it adequately addresses applicable commitments contained in the SIP. This process should have as one of its outputs the development of a schedule for the incorporation of transportation projects into the Transportation

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Improvement Program and its Annual Element.

(c) *Total Suspended Particulates.*—Installation of RACT for stationary sources of particulate matter was discussed in Subsection II.A.2.b.

(5) *The SIP revisions shall include an accurate, current inventory of emissions that have an impact on the nonattainment area, and provide for annual updates to indicate emissions growth and progress in reducing emissions from existing sources.*

(a) *Ozone/Carbon Monoxide*—The organic compound emissions inventory includes point, area and mobile source emission estimates and projections. The inventory for carbon monoxide represents only mobile source emissions and projection; however, this is acceptable to EPA since the overwhelming majority of carbon monoxide emissions are attributable to mobile sources.

Although there are deficiencies in the States's organic compound and carbon monoxide inventories, they were generated using data and techniques which EPA finds acceptable at this time. Furthermore, annual updates which will improve the quality of these inventories are provided for in the plan revision. Consequently, EPA proposes to accept the State's organic compound and carbon monoxide emission inventories.

(b) *Total Suspended Particulates*—A final emissions inventory must be submitted at such time as the total suspended particulate secondary standard attainment plan is submitted.

(c) *Data Base Consistency*—It should be noted that the techniques and assumptions used by a state in projecting future emissions should be consistent with those used in other state and local planning programs (e.g. water pollution abatement, energy, housing, transportation). The proposed New Jersey SIP revision recognizes the need for consistent planning data, but in the case of mobile source projections does not provide evidence that such consistency determinations were made. In this regard, it is suggested that the State examine the 1.6 percent statewide annual increase in vehicle-miles-travelled projected in the SIP revision to assure that it is consistent with projections used in other planning programs.

(d) *Annual Reporting*—The State has agreed to provide annual reports to EPA on progress made in adopting control measures, growth of new and modified major sources of air pollution, changes in emissions as required to track reasonable further progress, progress in updating emission inventories and the results of ongoing air quality studies related to the plans.

EPA proposes to find that the State's commitment with regard to Annual Reporting is acceptable.

(6) *The SIP revision shall expressly quantify the emissions growth allowance, if any, that will be allowed to result from new major sources or major modifications of existing sources, which may not be so large as to jeopardize reasonable further progress toward attainment by the required date. The SIP revision shall require preconstruction review permits for new major sources and major modifications of existing sources, to be issued in accordance with Section 173 of the Act.*

In order to assure that emission increases from new stationary sources or modifications of existing stationary sources will not exceed the projected "growth allowance" incorporated in the reasonable further progress demonstration, the State has submitted procedures providing for the "offsetting" of emissions from major sources or modifications and for the tracking of all minor and area source emission changes. The emission "offsets" will be required in accordance with a currently proposed State regulation, N.J.A.C. 7:27-18.1 et seq., "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)."

This proposed regulation requires new major sources and major modifications located in or significantly impacting a nonattainment area to offset new emissions by providing reductions at existing sources beyond those available from control strategies otherwise included in the SIP. A major source is defined as one having allowable emissions of 50 tons per year, 1000 pounds per day, or 100 pounds per hour of particulate matter, sulfur dioxide, nitrogen dioxide, carbon monoxide, or volatile organic compounds. A major modification is defined as a change to an existing source causing allowable emission to increase by these amounts for the specified pollutants.

Additionally, these sources are required by Section 173 of the Clean Air Act to meet the "lowest achievable emissions rate" (LAER). EPA has requested that the State clarify its definition of LAER (as defined in Section 18.1 of the regulation) to provide for equivalency with EPA's definition. Specifically, the State must require that the rate of emissions reflect the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of sources, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable. However, as a minimum, the limitations must meet a degree of emission control at least as stringent as that required by any standard of performance for a new stationary source [40 CFR, Part 60]. The State has provided EPA with written assurance that this clarification will be adopted prior to the final promulgation of its regulation by December 1, 1979. EPA approval of the regulation is therefore conditioned on this clarification being made.

Also, in accordance with the requirements of Section 173, the proposed regulation requires that, for a permit to be issued to an applicant, all other major sources in the State which are owned or operated by the applicant must be in compliance with State regulations or meeting the requirements of an approved compliance schedule.

The State has submitted procedures providing for the "offsetting" of emissions from major sources major and modifications while tracking all minor and area source emission changes. The State will "offset" all major source emission growth; minor and area source emission growth will be tracked against the annual emission changes accommodated for in the reasonable further progress demonstration discussed under Subsection II.A.3.a of this notice. If minor and area source growth exceeds these annual allowances, the State will require new major sources and major modifications to obtain additional emission reductions not already relied upon in the SIP to assure reasonable further progress toward attainment of standards.

On the condition indicated earlier, EPA proposes to find the State's SIP revision acceptable with respect to the requirements discussed under this subsection. As discussed more fully under Subsection II.A.10 of this notice, EPA has been requested by the State to propose action on this regulation in its current status. It should be noted, however, that the State has adopted Subchapter 18 on July 1, 1979 on an emergency basis without the required reasonable notice and public hearing. Therefore, EPA proposes also to condition its approval upon the State's completion of its full administrative procedures, including a public hearing scheduled for August 7, 1979, as necessary for formal adoption of Subchapter 18 by December 1, 1979. Assuming that these two conditions are met and that the formally adopted regulation is not substantively different from the proposed regulation submitted, EPA will not repropose action or solicit further public comment prior to final rulemaking.

(7) *The SIP revisions shall provide identification and commitment of the necessary resources to carry out the Part D provisions of the plan.*

(a) *Ozone/Carbon Monoxide.*—With the exception of the resources necessary to carry out some of the air quality aspects of the transportation planning process, the State has done an acceptable job of quantifying resource requirements and identifying sources of funding. However, the validity of the commitment to secure funding sources is unclear in that the proposed SIP revision only indicates whether or not the project is in the Transportation Improvement Program Annual Element (TIP/AE). EPA interprets the inclusion of a project in the TIP/AE as representing a commitment to take all necessary steps (e.g., filing an application for funding, inclusion in the State budget) to obtain Federal funds. Future SIP progress reporting must include a complete discussion of the status of the commitment of funds to each project. EPA thus proposes to find this element of the plan revision conditionally acceptable for ozone and carbon monoxide. Missing from the proposed SIP revision is an identification of funds and manpower necessary to insure a coordinated effort by involved State, regional and local participants in the transportation—air quality planning process. By March 1, 1980 the State must submit to EPA a summary of the manpower and financial resources at the State, local and regional level being devoted to the required work.

(b) *Total Suspended Particulates*—At such time as a total suspended particulate plan is submitted, an appropriate identification and committement to the resources necessary for its implementation will be required.

(8) *The SIP revisions shall provide evidence of public, local government, and state legislative involvement and consultation in accordance with Section 174 of the Act.*

(a) *Public Participation and Consultation*—The plan revision contains an extensive discussion of the consultation process being established with regard to future activities. This discussion mentions public participation efforts to be developed as a part of the detailed transportation planning work programs of the lead planning organizations, regular public meetings which will be held, and the establishment of an Office of Public Participation within the New Jersey Department of Environmental Protection (DEP). On this basis, EPA is proposing to find the State's plan revision acceptable with regard to public participation and consultation.

(b) *Intergovernmental Involvement and Consultation*—As is the case with public involvement, the emphasis in New Jersey's plan revision is on future activities. The State has indicated that it will coordinate, from the Governor's Office of Policy and Planning, the implementation of the SIP. That office will stress building upon the complementary activities of each State department, as well as assuring that various plans developed within the State are in agreement with the goals of the proposed plan. The New Jersey DEP and the New Jersey Department of Transportation are committed to continue to meet with local governments. In addition, local governmental officials are represented in the metropolitan planning organizations which were designated by the Govenor of the New Jersey as "lead planning organizations" to prepare the plan revision. EPA proposes to find the New Jersey SIP revision acceptable as regards intergovernmental involvement and consultation.

The lead planning organizations in New Jersey are:

- The Tri-State Regional Planning Commission
- The Delaware Valley Regional Planning Commission
- The Wilmington Metropolitan Area Planning Coordinating Council
- The Atlantic City Urban Area Transportation Study Policy Committee
- The Cumberland County Urban Area Transportation Study Policy Committee
- The Phillipsburg Urban Area Transportation Study Policy Committee

(9) *The SIP revisions shall provide an identification and brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions chosen and the alternatives considered and a summary of the public comments on the analysis.*

The New Jersey plan revision includes a work program for a pilot study of the effects of the plan revision on air quality, health, welfare, economics, energy and social conditions. The State indicated in the plan revision that a final report on the initial phase of the study is available and will be submitted to EPA shortly. In view of the ongoing nature of control strategy development in the New Jersey SIP revision, EPA proposes to find the plan revision acceptable as regards this requirement.

(10) *The SIP revisions shall provide written evidence that the State and other governmental bodies have adopted the necessary requirements in legally enforceable form, and are committed to implement and enforce the appropriate elements of the SIP.*

(a) *Part D Revision Requirements.*—New Jersey's commitment to continued implementation of its motor vehicle emissions inspection and maintenance program is considered adequate by EPA.

In general response to the provisions of Section 174 of the Clean Air Act, memoranda of understanding (MOU's) are being developed among the New Jersey Departments of Environmental Protection and Transportation and the involved metropolitan planning organizations in order to enumberate the specific reponsibilities, commitments and relationships associated with SIP revision development, implementation and enforcement. EPA has reviewed draft copies of these MOU's and has found them generally acceptable. However, in order to insure that the transportation-air quality planning work, discussed in Subsection II.A.4b of this notice, is properely carried out EPA is proposing to conditions its acceptance of The Stat's commitment on the State submitting, by October 1, 1979, acceptable MOU's.

As discussed in Subsections II.A.4.a and II.A.6 of this notice, the State has submitted proposed regulations for the control of volatile organic compounds from stationary sources and for the review of new sources in nonattainment areas. The State has requested that EPA review and seek comments on these regulations in their present status. Since these regulations have not been adopted as of yet, they presently are not legally enforceable.

As regards the State's volatile organic compound control reguations, N.J.A.C. 7:27-16-1 et seq., the adoption process has advanced through notice and public hearing, and the testimony received at the hearing has been analyzed by the State. Prior to final adoption, the Commissioner of the New Jersey Department of Environmental protection must sign the final regulation and file it with the Secretary of State. According to State estimates, this process should be completed by July 15, 1979.

The State has just begun its formal adoption process for its new source review regulation, N.J.A.C. 7:27-18.1 et seq. Public hearings on this proposed regulation are scheduled for August 7, 1979 and final adoption is not expected until the end of the year. However, the New Jersey Department of Environmental Protection has adopted

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its currently proposed regulation on an emergency basis, effective July 1, 1979. The authority for such emergency action is contained in Section 4(c) of the New Jersey Administrative Procedure Act, N.J.S.A. 51:14B–4(c) and an Emergency Adoption Order signed by the commissioner of the Department of Environmental Protection has been submitted to EPA.

In requesting EPA review of proposed regulations, the State indicated that it does not expect them to change as a result of the steps remaining prior to final adoption. If the finally adopted regulations are not substantively different from those submitted in proposed form, EPA will not repropose action on them or provide for futher public comment prior to final rulemaking. Consequently, EPA urges interested members of the public to review the proposed regulations in light of Clean Air Act requirements and to submit comments during the comment period established by this notice. EPA currently is proposing to find this element of the State's SIP revisions acceptable on the conditions that Subcharter 16 "Control and Prohibition of Air Pollution, by Volatile Organic Substances," and Subchapter 18, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule.)" are formally adopted, made effective and submitted to EPA by August 1, 1979 in the case of Subchapter 16 and by December 1, 1979 in the case of Subchapter 18.

There are no specific measures required for the control of total suspended particulates as of this time because receipt of the required plan revision has been delayed by the proposed plan submittal date extension.

EPA otherwise finds this element to be generally acceptable in that the plan has been officially adopted by the Governor.

(b) *Status of EPA Promulgated State Implementation Plan Requirements*—It should be noted that on November 13, 1973 (38 FR 31388), and on several subsequent occassions, EPA promulgated transportation and stationary source control measures (40 CFR 52.1583 et seq.). These measures consequently became part of the New Jersey SIP and, as such, are not automatically relaxed or revoked by the State's submittal of this proposed SIP revision. However, an existing control measure may be relaxed or revoked to the extent that the measure is demonstrated not to be reasonably available and the proposed SIP revision satisfies all other Part D requirements. (This interpretation of the Clean Air Act is discussed in the April 4, 1979 Federal Register at 44 FR 20372).

The State's currently proposed SIP revision discusses the status of most of the required actions contained in the 1973 SIP. The discussion generally indicates that some of the measures have been implemented, some are undergoing further study and others have been found by the State not to be reasonably available. However, the State analyses supporting these conclusions were not sufficiently detailed to enable EPA to propose formal rulemaking action.

It is the desire of EPA that, where appropriate, the State of New Jersey incorporate requirements promulgated in the 1973 SIP into the State-adopted SIP revision. In cases where a 1973 requirement has been implemented or proven reasonably available, it should be incorporated into the State submittal. This can be accomplished by including in the plan the requirement as originally presented or through inclusion of a similar requirement producing the same results. If such a requirement were not included in the revision, it remains in effect as promulgated by EPA.

In those cases where a 1973 requirement has not been studied sufficiently to determine its reasonableness, a program for study of the requirement should have been included in the 1979 submittal. In those cases where a 1973 requirement has been studied or implemented and has been found not to be reasonably available, the State must submit its findings to EPA. Upon acceptance of the State's demonstration, EPA will take action to delete the specific requirement.

EPA intends to continue working with the State to incorporate into the State enforced portions of the SIP appropriate EPA promulgated requirements and to develop the justification necessary to delete any requirement which is no longer appropriate. Such actions will be announced in future issues of the Federal Register along with an opportunity for public comment.

B. Additional Requirements for Ozone or Carbon Monoxide SIPs with Attainment Dates After 1982

(1) *Adequate on-going vehicle emission inspection/maintenance program.*—On February 1, 1974, New Jersey commenced a program requiring the mandatory exhuast emission inspection and maintenance of gasoline fueled light-duty vehicles registered within the State. This program was incorporated into the existing State vehicle safety inspection program, which is conducted at 38 State owned and operated stations with 68 lanes located throughout the State. Vehicles requiring reinspection can be inspected at either licensed private garages or at one of the centralized stations. Approximately four million vehicles are inspected each year.

The program requires all gasoline fueled light duty vehicles (vehicles with 6,000 pounds gross weight or less) to be inspected annually for carbon monoxide and hydrocarbon emissions using an idle exhaust test. The standards applied vary with the model year of the vehicle. Since November 1, 1975, a more stringent, Phase II, set of emission standards has been used in the program. Presently the rejection rate is averaging 18.5% of the vehicles tested.

In July 1976 New Jersey began a mechanic training program. Initially two instructors were trained. These individuals later conducted seminars for vocational instructors whose schools desired to participate in the program. These schools received training materials and have either set up day and evening mechanic training curricula or are in the process of instituting courses.

The State is committed to continue its present emissions inspection and maintenance program and to improve its effectiveness by optimizing Phase II emission standards, by using new test equipment and by placing greater emphasis on its mechanic training program.

EPA believes that a minimally acceptable program should achieve by the end of 1987 at least a 25% reduction from uncontrolled exhaust emissions of both hydrocarbons and carbon monoxide from light duty vehicles. Using EPA developed modeling techniques and emission reduction credits, the State has submitted information describing the anticipated future effectiveness of its programs. EPA is satisfied that the New Jersey emission inspection and maintenance program will meet acceptable goals. Therefore, EPA proposes to find the New Jersey emission inspection and maintenance program as meeting Clean Air Act requirements.

(2) *Inclusion of a program for selecting a package of transportation control measures (and any other necessary measures) to attain the emission reduction targets in the SIP.*

Although, as discussed in Subsection II.A.4.b, lists of projects and studies are included in the revised plan, there is no description of a comprehensive and systematic program for the selection of needed transportation control measures. However, New Jersey has committed itself to the documentation and submittal of such a program to EPA by March 1, 1980. EPA thus proposes conditional approval for this element pending receipt of this program description.

(3) *Inclusion of a commitment to establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and state and local funds.*

The New Jersey Department of Transportation is presently developing a statewide transportation master plan. The Department's draft plan will be made available to the public after July 1, 1979. After review and comment, New Jersey anticipates that State policy with respect to transportation issues will be approved and adopted by December of 1979. This plan is to address New Jersey's basic transportation needs in a comprehensive manner and to evaluate the costs and availability of funds to meet the costs involved. The plan will become the overall steering mechanism for New Jersey's transportation programs. When it is complete, the State will reevaluate its efforts in the area of basic transportation needs and submit to EPA the required measures.

EPA finds New Jersey's commitment to submit a plan to be acceptable. However, a commitment to use federal grants and State and local funds as necessary to meet basic transportation needs in not included in the current SIP revision. Such a commitment should be included in the adopted State policy.

(4) *Inclusion of a program that requires, before issuance of a preconstruction review permit, an analysis of alternative sites, sizes, production processes, and control techniques which demonstrates that the benefits of the proposed source significantly outweigh any environmental and social costs.*

New Jersey's emission offset regulation provides for all the required preconstruction analyses of major stationary facilities of volatile organic compounds. EPA finds this provision adequate.

Furthermore, New Jersey has expressed its belief that few, if any, analyses of alternatives would ever be justified by the circumstances surrounding a stationary carbon monoxide source. The State points out that only a few chemical processes emit enough carbon monoxide to be considered major emitting facilities, and these types of sources do not normally locate in central business districts where violations of the carbon monoxide standard is a problem. This position appears to EPA to be reasonable.

C. Summary of Unfulfilled Requirements

The following summary identifies plan improvement actions which EPA has found to be necessary for full, unconditioned approval of the New Jersey plan revision. These proposed conditions of approval are discussed in the Section II.A. and II.B of this Federal Register notice. The appropriate subsection number if referenced after each proposed condition.

(1) On or before October 1, 1979 the State must submit to EPA an analysis of the impact on ambient air quality of the application of State regulations for the control of particulate matter emissions from the point source located in bridgeton, New Jersey (Subsection II.A.2.b).

(2) On or before January 1, 1980 the State must either submit to EPA acceptable justification for the following provisions of N.J.A.C. 7:27–16.1 et seq., "Control and Prohibition of Air Pollution by Volatile Organic Substances" or submit to EPA an adopted regulatory revision reflecting the Control Technology Guidelines suggested control requirement (Subsection II.A.4.a):

(a) Section 16.1, Definitions, defines "volatile organic substances" in terms of a volatility which is less restrictive (higher) than that used by EPA in its definition.

(b) Section 16.3 Transfer Operations, exempts from control new gasoline storage tanks with a capacity less than 2,000 gallons. The CTG contains no such exemptions.

(3) On or before January 1, 1980 the State must submit to EPA acceptable test methods which can be used to determine compliance with the provisions of N.J.A.C. 7:27–16–1 et seq., "Control and Prohibition of Air Pollution by Volatile Organic Substances" (Subsection II.A.4.a).

(4) On or before March 1, 1980 the State must submit to EPA an acceptable description of the State's transportation planning process, which highlights those changes made to the existing process so as to integrate air quality planning concerns and to address applicable SIP commitments (Subsection II.A.4.b).

(5) On or before December 1, 1979 the State must clarify its definition of "lowest achievable emissions rate" as used in N.J.A.C. 7:27–18.1 et seq., "Control and Prohibition of Air Pollution from New or Alterered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)," so as to require a degree of emission control reflecting the most stringent achievable emission limitation which is contained in the implementation plan of any State for such class or category of sources. Such a limitation must further be at least as stringent as that required by any standard of performance for a new stationary source as promulgated under Section 111 of the Clean Air Act (Section II.A.6).

(6) On or before March 1, 1980 the State must submit to EPA a summary of the manpower and financial resources at the State, local and regional level which are being devoted to insure a coordinated effort in transportation—air quality planning (Subsection II.A.7.a).

(7) On or before October 1, 1979 the State must submit fully executed memoranda of understanding among the Departments of Environmental Protection and Transportation and involved metropolitan planning organizations which enumerate specific responsibilities, commitments and relationships associated with SIP revision development, implementation and enforcement (Subsection II.A.10.a).

(8) On or before August 1, 1979 the State must certify to EPA that N.J.A.C. 7:27–16.1 et seq., "Control and Prohibition of Air Pollution by Volatile Organic Substances," has been adopted and is enforceable. EPA acceptance of this certification will be based on a determination that the regulation has not been substantively changed from the proposed regulation submitted as part of the plan revision. Correction of regulatory deficiencies discussed in this action shall not be considered "substantive changes." Copies of the adopted regulation must be submitted along with the State's certification (Subsection II.A.10.a).

(9) On or before December 1, 1979 the State must certify to EPA that N.J.A.C. 7:27–18.1 et seq., "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas (Emission Offset Rule)," has been fully adopted and is enforceable. EPA acceptance of this certification will be based on a determination that the regulation has not been substantively changed from the proposed regulation submitted as part of the plan revision. Correction of regulatory deficiencies discussed in this action shall not be considered "substantive changes." Copies of the adopted regulation must be submitted along with the State's certification (Subsection II.A.10.a).

(10) On or before March 1, 1980 the State must submit to EPA description of the comprehensive and systematic program which will be used for the selection of needed transportation control measures (Section II.B.2).

III. Public Comment

Interested persons are invited to comment on any element of the subject revision and on whether or not the proposed New Jersey Implementation Plan revision meets Clean Air Act requirements. Comments received by (60 days following publication) will be considered in EPA's final decision. All comments received will be available for inspection at the Region II office of EPA at 26 Federal Plaza, Room 908, New York, New York 10007.

This current SIP revision request was submitted to EPA in accordance with all applicable EPA requirements as contained in 40 CFR Part 51.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of executive Order 12044.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted on whether the proposed revision to the New Jersey State Implementation Plan should be approved or disapproved.

(Sections 110, 172 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601))

Dated: July 11, 1979.

Eckardt C. Beck,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 79-24491 Filed 8-7-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 221]

Documentation, Transfer or Charter of Vessels; Amendment of Charges for Processing Certain Applications

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed regulation.

SUMMARY: Under Section 9 of the Shipping Act, 1916 (46 U.S.C. 808) Maritime Administration approval is required to sell or transfer in any manner to a noncitizen any interest in a vessel owned in whole or in part by a U.S. citizen and documented under U.S laws, or to transfer or place such a vessel under foreing registry. Pursuant to Section 37 of that Act, during time of war or national emergency, approval is required for such citizen where the vessel is owned in whole or in part by a U.S. citizen or corporation, or documented under U.S. laws. Approval is also required for the sale or transfer to a noncitizen of any shipyard, drydock, shipbuilding or ship repairing plant or facilities, or interest that is U.S owned in whole or part. An increase to charges for foreign transfer services is proposed in order to reflect the increased costs of processing the applications. These fees were last revised in 1974. A revised categorization also is proposed for services base on vessel tonnage. For vessels of 3,000 gross tons and over, a contract must be executed. This involves significantly more work, and the fee structure has been modified accordingly. In addition, a modification of the wording of two categories is proposed to clarify the type of applications covered.

COMMENT DATES: Written comments by interested persons must be received by close of business October 9, 1979.

ADDRESS: Send comments to the Secretary, Maritime Administration, Washington, D.C. 20230. All comments will be made available for inspection during normal business hours in Room 3099A, Department of Commerce Building.

FOR FURTHER INFORMATION CONTACT: Robert Willett, Maritime Administration, Office of Budget and Program Evaluation, Washington, D.C. 20230. Tel. (202) 377-3901.

A determination has been made that the proposed amendment to 46 CFR 221 does not require a regulatory analysis based on a review of the criteria that have been established pursuant to Executive Order 12044 (43 CFR 12661) and implementing Department of Commerce and Maritime Administration procedures.

Accordingly, it is proposed that Part 221 of Title 46, Code of Federal Regulations by amended by revising § 221.14 to read as follows:

§ 221.14 Charges for processing certain applications.

(a) An application for approval of any of the following actions pursuant to sections 9 or 37 or both of the Shipping Act, 1916, as amended, shall be accompanied by a fee in the sum as set forth below:

	Per vessel
(1) Sale and delivery to an alien, and transfer to foreign registry of newly constructed and existing vessels:	
(i) Vessel of 3,000 gross tons and over	$325
(ii) Vessel of less than 3,000 gross tons	170
(2) Mortgage of a vessel or of interest in a vessel to an alien	250
(3) Charter of a vessel to an alien	250
(4) Sale or transfer to an alien of a shipyard, drydock, shipbuilding or ship repairing plant or facility, or any interest therein, having a capacity to accommodate:	
(i) Vessels of 3,000 gross tons and over	325
(ii) Vessels of less than 3,000 gross tons	170
(5) Sale or transfer of stock in a corporation organized under the laws of the United States, or of any State, territory, district, or possession thereof, and owning any vessel, shipyard, drydock, or shipbuilding or ship repairing plant or facility, if by such sale or transfer the controlling interest or a majority of the voting power of the corporation is vested in, or for the benefit of, any person not a citizen of the United States	325
(6) Appointment of a qualified bank of trust company to act as trustee for an indebtedness secured by a mortgage on a vessel, or on a vessel under construction, or on a shipyard, drydock, or shipbuilding or ship repairing plant or facility and annual supplemental applications	215

(b) An application for approval of any of the following actions pursuant to certain Maritime Administration Contracts covering vessels transferred to a foreign ownership of registry or both shall be accompanied by a fee in the sum as set forth below:

	Per vessel
(1) Transfer of ownership or registry of a vessel or both	$260
(2) Sale or transfer to an alien of stock in the foreign corporate owner of a vessel	235
(3) Charter of a vessel to an alien	240

(c) An application for modification of any approval covered by paragraph (a) or (b) of this section shall be accompanied by the fee established for the original application.

(d) All fees set forth in this section will be retained to recover the cost of processing the applications.

(e) Application forms as required by this section may be obtained from and shall be submitted to: Foreign Transfer Officer, Office of Ship Operations, Maritime Administration, Washington, D.C. 20230.

(Sec. 43, Shipping Act, 1916, as amended (75 Stat. 776, 46 U.S.C. 841a), 31 U.S.C. 483a (65 Stat. 290. Reorganization Plan No. 21 of 1950 (64 Stat. 1273) (75 Stat. 1840) as amended by Pub. Law 91-469 (84 Stat. 1036), Department of Commerce Order 10-8 (38 FR 19707, July 23, 1973) (39 FR 22425, June 24, 1974).

Date: August 3, 1979.

By order of Assistant Secretary for Maritime Affairs.

Robert J. Patton, Jr.,

Acting Secretary.

[FR Doc. 79-24481 Filed 8-7-79; 8:45 am]

BILLING CODE 3510-15-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 81 and 83]

[Gen. Docket No. 79-189; FCC 79-470]

Inquiry into High Seas Public Coast Station Operations, Services and Industry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Commission initiates an inquiry into maritime telecommunications systems with particular emphasis on high seas public coast station operations, services and industry. The International Maritime Satellite Telecommunications Act instructed the Commission to study maritime telecommunications industry and submit a report thereon by November 1, 1979. This inquiry seeks information that will aid the Commission in developing a systematic approach for the provision of modern and effective maritime telecommunications systems.

DATES: Comments must be received on or before September 10, 1979, and reply comments must be received on or before September 25, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James W. Johnson, Office of Plans and Policy, (202) 653-7586.

SUPPLEMENTARY INFORMATION: In the matter of inquiry into high seas public coast station operations, services and industry Notice of inquiry.

Adopted: August 1, 1979.

Released: August 2, 1979.

By the Commission: Commissioner Lee absent.

1. Notice is hereby given of inquiry into the above-captioned matter.

2. The purpose of this proceeding is to comply with the requirement of Section 506 of the International Maritime Satellite Telecommunications Act, Pub. L. No. 95-564, 92 Stat. 2392 (1978), directing the Commission to conduct a study of public maritime coast station services, with emphasis on high seas public coast station operations in the United States. In accordance with Section 506, we intend to transmit a report to the Congress no later than November 1, 1979.

Introduction

Maritime Satellite Act

3. The International Maritime Satellite Telecommunications Act (herein referred to as the "Maritime Satellite Act" or the "Act") became law on November 1, 1978. The Act provides for United States participation in the International Maritime Satellite Organization (INMARSAT) and designates the Communications Satellite Corporation (COMSAT) as the United States operating entity in INMARSAT. INMARSAT is an international organization established to own and operate the space segment of a global maritime satellite telecommunications system to meet international maritime communications needs.

4. Section 506 of the Act provides: (a) The Commission shall conduct a study of public maritime coast station services, with particular emphasis on high seas services, with a view toward determining whether the rules and regulations of the Commission and the assignment of licenses and radio frequencies in effect on the effective date of this title should be subject to any alteration in order to establish a systematic approach for the provision of modern and effective maritime telecommunications systems. (b) The Commission shall transmit a report to the Congress not later than 12 months after the effective date of this title relating to the study of public maritime coast station services conducted under subsection (a). Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

The Need for a Systematic Approach for the Provision of Modern and Effective Maritime Telecommunications Systems

5. Modern and effective communication between ships and between ship and shore is essential for the safety of life and property at sea, and for the efficient conduct of commerce and trade. Prior to the introduction of a commercial maritime satellite system (MARISAT) in 1976, communications between ships on the high seas and points on land were limited to the use of high frequency (HF) radiotelephone and radiotelegraph. Over the years, communication by HF radio has been subject to long waiting times and delays in responses to communications. The delays have resulted from vagaries in HF propagation and operational problems, such as the limited watch duty hours of ship radio operators. Almost all such delays have been eliminated in maritime satellite communications.[1]

6. With the introduction of an international maritime satellite system (INMARSAT) in the near future, it is expected that more and more vessels will be equipped for communication by satellite. It is not expected, however, that all ships will turn to satellite communications, and thus there will be a continuing need for HF or "high seas" radiotelephone and radiotelegraph services.[2] For vessels not equipped to communicate by satellite, coast stations will remain the sole means of communication between ship and shore. Despite the continuing need for coast stations, traditional HF services will be faced by ever increasing competition from satellites, particularly if the cost of terminals and service can be brought within the reach of smaller vessels. This situation was recognized by the Congress in enacting the INMARSAT legislation and requiring a report from this Commission concerning our regulation of public coast stations servicing ships on the high seas.

7. Accordingly our ultimate goal in this proceeding is to develop a regulatory environment in which marketplace forces provide sufficient incentive for the carriers to provide modern and effective maritime communication services. We envision this environment as one that provides for competition both between traditional HF services and between these services and the satellite services, that encourages the introduction of new technology, that draws sufficient resources into the industry, and that meets consumer demand at the lowest possible cost (including administrative and regulatory imposed costs).

Present High Seas Service

8. There are presently 13 public coast stations providing "high seas" radiotelegraph service and 4 public

[1] There were 202 MARISAT ship terminals operating on June 6, 1979; 62 of the terminals are installed on United States-registered vessels.

[2] The Economic, Marketing and Financial Panel of the INMARSAT Preparatory Committee projects about 8,600 ships will be equipped with satellite terminals by 1995. The Intergovernmental Maritime Consultative Organization, however, estimates that by the year 2000, there will be more than 110,000 ships in the world 100 gross tons and over. See *Report of the Fourth Session of the Economic, Marketing and Financial Panel*, Prep/Econ/Report 4, (July 7, 1978), submitted to the INMARSAT Preparatory Committee, (July 13, 1978), and Report of the eighteenth session of the Sub-Committee on Radio-Communications (COM XVIII/13), Annex V, page 4 (January 25, 1978).

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coast stations providing "high seas" radiotelephone service.[3] In addition, there are over 1800 limited coast radiotelephone stations operating in the HF band.[4] Radiotelegraph service presently consists of manual Morse radiotelegraphy operations and narrow-band direct-printing (NB–DP) or radioteleprinter. Radiotelephone service is limited to voice communications.

9. The Commission has previously recognized that problems of poor maritime communications exist in both radiotelephony and radiotelegraphy.[5] Maritime radiotelegraph and radiotelephone communications are frequently subject to long and unnecessary delays. For example, when a radiotelegraphy message is to be transmitted to a ship, it is first sent to a coast station for relay. The coast station generates a traffic list of all ships for which it has traffic. The traffic list is then transmitted by the coast station usually about every two hours. When the ship radio operator hears the ship's call, the operator attempts to contact the coast station and, if successful, requests the ship's messages. (During peak traffic periods, this may mean being placed in a queuing line resulting in further delays before the ship's messages are received by the ship.) The potential for contact in this type of calling system is poor and accounts for much of the delay experienced in shore-to-ship communications. The variables that affect radio propagation, the selection of frequency, and the limit watch hours of ship radio operators, all add to the uncertainty in establishing contact. According to some estimates, contact is established only 10% of the time a call is first put on a traffic list and only 40% of the time after the call has been on a traffic list three times. A six-hour delay in contracting a ship under these conditions is typical. (See Maritime Administration report, *Maritime Digital Selective Calling System Technical Description*, MTR–7217 Rev. 2.) [6]

10. The record in Docket No. 19544[7] confirmed this problem and, in fact, identified delay in the exchange of traffic as being the main problem with public coast radiotelegraph operations. In pending General Docket No. 78–67,[8] The Commission indicated that the delay encountered in handling and delivering messages at radiotelegraph coast stations could be reduced by permitting the coast stations to route ship-to-shore traffic by a way most expeditions to addressees and by giving customers the greatest flexibility in routing shore-to-ship traffic. The Commission further indicated that the following measures should be implemented. First, a landline interconnect net network should be established by coast station licensees to spread out traffic during peak periods. Seconds, the coast stations should develop interconnection arrangements allowing users equipped with an international record carrier teleprinter to access any coast stations to send or receive traffic. Third, each public coast station should be able to directly send or receive traffic by TWX and domestic telex with users employing TWX and/or domestic telex.

Future High Seas Services

11. As stated above, the principal problem with the present high seas public coast service is delay in the exchange of traffic. This delay occurs in the attempt to establish communication between a ship and a coast station and, in the case of radiotelegraph stations, delays are encountered in handling and delivering messages received at the coast station. With the introduction of digital selective calling (SELCALL)[9] in the maritime service, many of the problems associated with contacting another station should be eliminated or minimized. The use of SELCALL may evenutually lead to the abandonment of the present complicated and inefficient traffic list and queuing systems. Thus, one of the major causes of delay in the HF services will be eliminated.

12. In addition to the introduction of SELCALL, narrow-band direct-printing (NB–DP) or radioteleprinter is expected to see expanded use in the near future. Combined with automated calling techniques and error-correcting systems, NB–DP has the potential to offer efficient, reliable record communications.

13. The introduction of this new technology has been a slow and tedious process. While we recognize that this is due in large measure to the international aspects of the maritime service, we feel it is essential that the Commission develop a policy which will not impede the introduction of new technology but will encourage it. The use of technological advances has the potential not only of providing improved communications but allowing for more efficient use of the spectrum as well.

Recommendations for Legislative or Other Action To Create a Modern and Effective Maritime Communications System

14. Safety of life and property at sea is the *raison d'être* for the maritime mobile service. The safety requirements imposed on ships are set forth in Parts II and III of Title III of the Communication Act (Sections 351 through 381), and in the Radio Regulations and the Safety of Life at Sea Convention, London, 1960 (SOLAS or Safety Convention). In addition, the Radio Regulations and the Commission's Rules require certain coast stations to provide safety watches. In paragraphs 15 through 17, and 19, we will discuss ship safety requirements. In paragraphs 18 through 25, we shall review the regulatory requirements governing public coast stations to determine if the Communications Act, Radio Regulations, or the Commission's Rules inhibit entry into the service or diminish competition among stations.

15. Part II of Title III of the Communications Act requires, *inter alia*, that certain United States vessels navigated in the open sea be equipped with radio. All passenger vessels and cargo vessels over 1600 gross tons are required to be equipped with a radiotelegraph station.[11] Cargo vessels over 300 gross tons but less than 1600 gross tons may, in lieu of a radiotelegraph station, be equipped with a radiotelephone station. The Safety Convention has similar requirements for vessels that are engaged in international voyages.

[3] See Appendix A.

[4] Under Section 81.3(g) of the Commission's rules, such stations serve the operational and business needs of ships but are not open to public correspondence.

[5] See *Notice of Proposed Rulemaking*, Docket No. 20813 (FCC 76–455), released June 4, 1976 (41 FR 24155).

[6] While these estimates are for shore-to-ship radiotelegraph communications, similar delays are also experienced in the ship-to-shore direction due to queuing, raido propagation conditions, *et cetero*. In addition, these factors also are responsible for delays at radiotelephone coast stations.

[7] *Public Coast Radiotelegraph Stations*, 59 FCC 2d 613 (1976), and 67 FCC 2d 790 (1978).

[8] *Public Coast Radiotelegraph Services*, 67 FCC 2d 774 (1978).

[9] "The primary purpose of the SELCALL equipment is in performing the selective calling function. This allows a ship or coast station user to send a message to a particular radio station to inform that station that communication is desired and to optionally convey the details facilitating the subsequent radio connection. Items such as working frequencies and calling station can be established. With specific allocated calling frequencies and efficient receiver monitoring techniques, the device minimizes the time needed to establish radio circuits. Additionally, the SELCALL device provides an effective medium for distress calls and control of remote equipment.

"The SELCALL equipment operates in conjunction with the ship's radio equipment when installed on a ship, or in conjunction with the shore radio equipment when it is installed at a shore station." (Maritime Administration report, *Maritime Digital Selective Calling Technical Description*, MTR–7217 Rev. 2, p. 3–1).

[11] Section 3(w) of the Communications Act defines a passenger ship as one which carries or is licensed or certified to carry more than twelve passengers; a cargo ship is any ship which is not a passenger ship.

16. In this age of rapid technological development, we recognize our continuing duty to assure that the most modern and effective safety communication systems are made available to the maritime community. While acknowledging our present international obligations, we consider it important that the Communications Act, as well as any future treaties to which the United States is signatory, contain language which will allow and encourage the most effective form of distress and safety telecommunications that modern technology can make available consistent with the needs of each particular vessel. We are therefor suggesting that the Communications Act contain more flexible language regarding the mandatory carriage of radio, and that the United States position in future treaty requirements promote such flexibility.

17. Comments are invited on the following amendments to Parts II and III of Title III of the Communications Act that we are considering:

(A) It shall be unlawful for any United States passenger vessel or for any United States cargo vessel three hundred gross tons or over, to be navigated in the open sea outside of a harbor or port, or for any such ship of the United States or any foreign country, to leave or attempt to leave any harbor or port of the United States for a voyage in the open sea, unless such ship is equipped with an efficient radio installation in operating condition. [Replaces section 351.]

(B) It shall be unlawful for any vessel of the United States, transporting more than six passengers for hire, to be navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or contiguous to the open sea, unless such vessel is equipped with an efficient radio installation in operating condition. [Replaces section 381.]

(C) The Commission shall have authority with respect to any vessel subject to this part—(1) to specify operating and technical conditions and characteristics including frequencies, emissions, power, communication capability and range, of installations required by reason of this part; [Replaces sections 353 to 358 and 384.]

(2) to approve the details as to the location and manner of installation of the equipment required by this part or of equipment necessitated by reason of the purposes and requirements of this part;

(3) to approve installations, apparatus and spare parts necessary to comply with the purposes and requirements of this part;

(4) to prescribe such additional equipment as may be determined to be necessary to supplement that specified herein for the proper functioning of the radio installation installed in accordance with this part or for the proper conduct of radio communication in time of emergency or distress.

(D) The Commission shall periodically review any regulations promulgated under (Section C) above. Such review shall be at intervals not longer than five years. [New Section.]

18. Section 310(d) of the Communications Act prohibits the transfer of a station license except upon prior approval by the Commission. There are seven different licensees operating the 17 high seas public coast stations, and the qualifications of each of the seven licensees have been found acceptable by the Commission. In accordance with the requirement of the Maritime Satellite Act that our report to Congress contain recommendations for legislative action, we are interested in receiving comments as to whether there is any need to continue requiring prior Commission approval for transfers of licenses among existing coast station licensees. Would this proposal or do our current policies raise any antitrust questions? Please comment.

19. The international Radio Regulations contain no specific requirements regarding the carriage of radio equipment aboard vessels. They do require, however, that all stations in the maritime mobile service operating in the band between 405 and 535 kHz maintain a watch on the safety frequency, 500 kHz. (See Radio Regulations Nos. 1130 and 1134 Mar.) We do not envision any present need to change this requirement with regard to ship stations. However, we will be reviewing this requirement as it pertains to public coast stations to determine whether the safety watch by these stations is necessary and effective or is a burden on the coast stations, or whether the safety watch should be provided solely by United States government stations operated by the U.S. Coast Guard. In this connection, we are interested in receiving information as to any occasions in which distress or safety communications received by a public coast station had not already been received by a U.S. Coast Guard station. In addition, with the introduction of new maritime safety systems, it is possible that changes in the Radio Regulations may be appropriate. For example, MARISAT provides a priority channel assignment capability for distress messages. Comments are invited in this matter.

20. In addition to possible legislative action, we will be reviewing the Commission's rules and regulations relating to the high seas services to determine what rule changes, if any, can be made to promote as more modern and effective maritime communication system. We will be looking at the traditional dichotomy between radiotelegraph and radiotelephone coast stations in the high seas service to determine if this division is useful. We will also be reviewing the Commission's present classification of coast stations by service areas (Class I, II and III) and by the type of correspondence (public or limited). We will be interested in receiving comments and suggestions as to possible changes in the classification and operation of coast stations, for example, by allowing all high seas coast stations to provide both radiotelegraphy and radiotelephony services.

21. We will also be reviewing possible changes in the assignment of frequencies to both radiotelegraph and radiotelephone public coast stations. Generally, high seas radiotelegraph stations are assigned frequencies in the 490 to 535 kHz band, and in the 2 to 22 MHz bands; high seas radiotelephone stations are assigned frequencies in the 2 to 22 MHz bands. (Sections 81.303 to 209 and 81.304 to 306 of the Commission's Rules.) There is at present relatively little sharing of frequencies by the public coast stations. For the most part, frequencies are assigned on an exclusive use basis. For example, the present MF assignment plan for the four high seas radiotelephone stations provides for the use of eleven 4 MHz frequencies, only two of which are shared.

22. We question whether the present assignment of frequencies to public coast stations has inhibited entry and diminished competition, since all frequencies are assigned to existing stations, leaving little or no opportunity for new entry into the market.[12] Consequently we will endeavor to review the present assignment plan to see if other methods of assignment will provide for open entry and more efficient use of the spectrum. We will be looking at frequency plans based, for example, on traffic and usage, or on a zonal assignment arrangement in which all stations in a particular zone, such as the Gulf of Mexico, are assigned the

[12] Article 9B of the Radio Regulations provides a procedure for the United States to obtain new or additional HF radiotelephone allotments. Realistically, we do not expect many frequencies could be made available through this procedure. For example, the United States is presently allotted every available 4 MHz and 6 MHz frequency and all but one of the thirty available 8 MHz frequencies.

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same frequencies. (Under the latter plan, the ship station rather than the coast station would determine the frequencies on which to operate.) Comments on these and other methods for the assignment of frequencies are welcome.

23. In Docket No. 19544, *supra*, the Commission considered requests for closure of certain public coast radiotelegraph stations. The Commission authorized closure of three stations, but denied requests to close four others. In acting on the applications, the Commission referred to the requirement in Section 214(a) of the Communications Act of 1934, as amended, that a carrier obtain Commission certification that "neither the present nor future public convenience and necessity will be adversely affected." The Commission stated "that application of this standard presents the Commission with a delicate task of balancing the legitimate interests of both the carriers (and their investors) and the user community." The Commission also stated that while Section 214(a) does not obligate a carrier to operate at a loss, it does require "that the public needs be balanced against the financial burden that would be imposed on the carrier by continued operation of its facilities." Thereupon, the Commission applied the following criteria in determining if closure was to be allowed: (1) whether the MF or 500 kHz safety coverage would suffer; (2) whether the remaining stations could handle the increased traffic; and (3) the financial viability of the station.

24. It appears that the Commission's interpretation of the requirements of Section 214(a) of the Communications Act may, in certain cases, adversely affect the operations of public coast stations by placing unnecessary regulatory burdens on the carriers, thereby preventing them from effecting necessary operating economies. In addition, while the provision of a medium frequency safety service (500 kHz watch requirement) may be a valid condition for the grant of a high seas radiotelegraph station, it may be argued that denial of closure of a station should not be predicated on such imposed requirement. Therefore we will be reviewing the above criteria in light of the public interest standards set forth in Section 214(a) to determine whether other criteria would be more appropriate. We seek the views of both the licensees and users on this issue.

25. We would also welcome comments on the use of limited coast stations for the provision of radiotelegraph service for business purposes. We envision that limited coast stations would be relatively simple stations employing some type of automated NB–DP or radioteletype on a small number of frequencies. There are presently no limited coast stations providing radiotelegraph service.[13] We feel that the use of limited coast stations for the provision of radiotelegraph service may be desirable and lead to more efficient use of the spectrum. For example, in the radiotelephone service, the ten public coast stations operating on HF frequencies (this includes some Class II (regional) stations and Great Lakes stations) are assigned 75 HF duplex channels, while the more than 1800 limited coast stations providing HF radiotelephone service operate on only 19 HF simplex channels.

26. Finally, we will be looking at constraints placed by the rules on the offering of new services, e.g., data and facsimile over radiotelephone channels. Accordingly, we request comments from interested parties on the above-mentioned topic as well as on any other related topic covered in the Commission's rules.

Questions To Be Addressed in This Inquiry

27. The Senate Committee on Commerce, Science, and Transportation in its consideration of the maritime satellite legislation referred to "the potential economic impact of maritime satellite services on traditional public coast station operations." S. Rep. No. 95–1036 at 16. We are not able at this time to make a reasonable estimate of such impact, in view of various unknowns, such as the rates for messages via INMARSAT, and possible changes in the international regulations pertaining to safety at sea. We hope, however, to be in a position to address that impact after our analysis of the responses of interested parties to the issues raised in this Inquiry, and to the questions listed in Appendix B hereto. We welcome and encourage comments on the issues as well as on the questions presented.

28. Who should file comments? We urge licensees, users, other Government agencies, the general public and all other interested parties to participate in this Inquiry. You may participate by sending information and opinions that are relevant to the issues and questions raised in this Inquiry.

[13] In SS Docket No. 78–351, the Commission deleted the provisions for the use of radiotelegraphy by limited coast stations, effective April 6, 1979. These stations had been restricted to serving governmental agencies only. (FCC 79–80), 71 FCC 2d 308, 45 RR 2d 296.

29. How will this information be used? These comments will be used to evaluate the issues that we have discussed above and will be considered by us in making our report to the Congress. Comments may lead to a further Notice of Inquiry or a Notice of Proposed Rule Making to improve public coast station services.

30. How comments should be prepared. Your comments must clearly show this docket number "General Docket No. 79– " on the first page. Please label your responses so that it will be clear which numbered question is being answered. If your comments are general and do not address a specific question, please state the issue being addressed. We encourage you to submit a one-page summary of your comments at the time you file.

31. How many copies should be sent? Section 1.419 of the rules requires that you file the original and five copies of your comments. If you want each Commissioner to receive a personal copy of your comments, you should include 7 additional copies. The FCC will fully consider all comments, even if only the original is filed.

32. Where to send comments: Send your comments to: Secretary, Federal Communications Commission, Washington, D.C. 20554.

33. How to see the comments of other parties. All comments will be available for public inspection in the FCC Dockets Reference Room, Room 239, 1919 M St., N.W., Washington, D.C. The FCC is open between 8:00 am and 5:30 pm on weekdays. You can reply to these comments by following the same procedure as you would for commenting.

34. Regarding questions on matters covered by this document, contact Jim Johnson (202) 653–7586.

35. Deadline for filing Comments. Comments must be received by September 10, 1979. Replies to comments must be received by September 25, 1979. All persons interested in exchanging comments and reply comments may file within ten days of the release of this Notice of Inquiry (August 13, 1979), a Notice to the Commission of their intention to participate in this Inquiry. Shortly thereafter, the Commission shall issue a Public Notice stating the names of parties desiring to exchange comments and reply comments. In view of the requirement of the Maritime Satellite Act that the Commission transmit a report to Congress no later than November 1, 1979, relating to the study we are initiating today, we will adhere strictly to the procedural deadlines established in this Notice.

36. The source of our legal authority. Sections 4(i), 4(j), 218, 303, 307, and 403 of the Communications Act of 1934, as amended, give the FCC the authority to conduct this Inquiry. Accordingly, the FCC orders that this Inquiry is instituted.

Federal Communications Commission,
William J. Tricarico,
Secretary.

Appendix A

Table I.—*Class I Radiotelegraph Public Coast Stations*

Area	Call	Location	Licensee
North Atlantic	WCC	Chatham, MA	RCA.
	WSL	Amagansett, NY	ITT.
	WMH	Baltimore, MD	Maryland Port Authority.
South Atlantic	WOE	Lantana, FL	RCA.
Gulf	WPD	Tampa, FL	Melvin B. Warner.
	WLO	Mobile, AL	MMR.
	WNU	New Orleans, LA	TRT.
	WPA	Port Arthur, TX	RCA.
	KLC	Arcadia, TX	ITT.
Pacific	KOK	Los Angeles, CA	ITT.
	KFS	San Francisco, CA	ITT.
	KPH	San Francsco, CA	RCA.
	KLB	Seattle, WA	ITT.

* RCA—RCA Global Communications, Inc.
ITT—ITT World Communications, Inc.
MMR—Mobile Marine Radio.
TRT—TRT Telecommunications Corporation.

Table II.—Class I Radiotelephone Public Coast Stations

Area	Call	Location	Licensee
North Atlantic	WOO	Manahawkin, NJ	AT&T.
South Atlantic	WOM	Fort Lauderdale, FL	AT&T
Gulf	WLO	Mobile, AL	MMR.
Pacific	KMI	Point Reyes, CA	AT&T.

Appendix B

1. Is our current regulatory program for public coast stations needed? Is it effective?

Is it one that impedes the use of new telecommunication technology on the high seas?

Is it a program that protects the status quo or one that encourages competition and new entry? How might the program be improved to allow the marketplace to be the check and balance of whether the price and quality of a service are correct?

2. Can the economic efficiency* of public coast stations' operations be improved? For example: through the marketplace? through regulation? through technological improvements? Explain fully.

3. Are there more efficient methods of assigning frequencies? For example, by increased sharing of frequencies?

4. Does the present configuration of 13 high seas radiotelegraph and 4 radiotelephone public coast stations result in an inefficient use of the frequency spectrum? Would fewer stations serve customers' needs?

5. Does Commission policy place an unwarranted restraint on the entry of others into the high seas services? For example, the present barring of limited coast radiotelegraph stations?

6. Have any individuals, groups or others interested in providing public coast station service been frustrated in attempts to enter the industry? If so, what prevented entry?

7. What is the impact of international treaty obligations (e.g., mandatory carriage of radio telegraph stations on ships) on public coast station operations and on users' choice of communications? In view of technological advances in communication facilities, what specific changes should the United States recommend to remove any unnecessary burdens from public coast station licensees and users?

8. Should public coast stations be required to provide safety watches? Should privately owned earth stations provide this service? Should the U.S. Government Coast Guard stations provide this service? Is a combination of the foregoing necessary or desirable?

9. Should the Commission permit closure of public coast stations on application and on submission of data (for example, traffic handled) meeting certain criteria? If so, what should such criteria include?

10. Should the Commission's regulatory program for public coast stations prescribe only general levels of service, as at present, or should it develop detailed requirements?

11. What are the benefits (e.g., protection of the status quo) and detriments (e.g., limits on the use of new technology-data transmission by radiotelephone, and operator license requirements) resulting from current statutory provisions and the Commission's present regulatory program for public coast stations?

*By economic efficiency, we are referring to the ratio between (1) the value of public coast station services to society, and (2) the value of the input resources (e. g., land, labor, capital and other resources, including the radio frequency spectrum). In other words, can the dollars spent providing these services be better spent in any other way?

12. What alternative regulatory programs would increase benefits and/or reduce detriments while still complying with all applicable statutory requirements?

13. Should the Commission's regulatory program permit all high seas public coast stations to provide both radiotelegraphy and radiotelephony?

14. What changes should the United States propose in treaties or in the international Radio Regulations to provide greater flexibility to the Commission in deregulating public coast stations?

15. What, if any, technical or economic impediments are inhibiting the introduction of higher efficiency equipment in public coast station operations? In ship station operations?

16. Should there be any modifications in the rules regarding equipment for public coast stations? In the regulations applicable to ship station equipment? If so, what should they be?

17. Is there a demand from the public for expanded service offerings (including facsimile, data, and teleprinter with error correction and selective calling) through public coast station facilities? If so, will public coast station licensees meet the demand and at what cost?

18. Should the Commission permit transfers of licenses among public coast station licensees without prior approval, subject only to an after-the-fact registration or notice of the transfer?

19. What discretion should licensees of public coast stations have in establishing, reducing, or increasing rates? Should the Commission establish rate of return guidelines for public coast stations? Should the Commission prescribe cost allocation and accounting procedures for public coast stations?

20. Do the Commission's present technical standards or requirements impose detriments on public coast station licensees? If so, to what extent?

21. What types of communications services (voice, data, record, HF, MF, VHF, satellite) do consumers consider necessary for their present and future operations? What are they prepared to pay for the services?

22. Are the services currently offered by public coast stations responsive to the requirements of users?

23. What quality of service do consumers desire from public coast stations? How much are consumers willing to pay for such quality of service?

24. What vessels will have the greatest propensity to equip for satellite communications? What factors will determine whether a vessel is so equipped?

25. What factors (e.g., price, quality) would determine whether a consumer would choose satellite communications in lieu of public coast station communications? Would the choice of satellite communications exclude the use of public coast station communications? Are there any advantages to using both?

[FR Doc. 79-24471 Filed 8-7-79; 8:45 am]
BILLING CODE 6712-01-M

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Notices

Federal Register
Vol. 44, No. 154
Wednesday, August 8, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

Notice is hereby given in accordance with Section 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties," (36 CFR Part 800), that a panel of members of the Advisory Council on Historic Preservation will meet on August 28, 1979, to consider the proposed demolition of Isherwood, Melville, and Griffin Halls at the U.S. Naval Academy in Annapolis, Maryland. Pursuant to Section 800.6(d)(2) of the Council's regulations, the Chairman of the Council decided on July 30, 1979, that a panel should consider this project in accordance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f, as amended, 90 Stat. 1320).

The Council was established by the National Historic Preservation Act to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretaries of the Interior; Housing and Urban Development; Commerce; Treasury; Agriculture; Transportation; State; Defense; Health, Education, and Welfare; and the Smithsonian Institution; the Attorney General; the Administrator of the General Services Administration; the Chairman of the Council on Environmental Quality; the Chairman of the Federal Council on the Arts and Humanities; the Architect of the Capitol; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; and twelve non-Federal members appointed by the President.

The Council's regulations require that the panel be composed of five members, three from the private sector (with one chairing) and two Federal members. This panel will consist of Mr. Calvin W. Carter of Tampa, Florida; Mrs. Sheila R. Weidenfeld of Washington, D.C.; the Chairman of the National Trust for Historic Preservation (Chairman); the Secretary of the Smithsonian Institution; and the Secretary of Agriculture.

The panel will meet in Annapolis. Place and time have yet to be set and may be obtained from the Executive Director.

The panel will consider written and oral statements from concerned parties. Written statements should be submitted to the Executive Director of the Council by August 21. Persons wishing to make oral statements should notify the Executive Director by August 24. Additional information concerning the meeting or the submission of statements to the panel is available from the Executive Director, Advisory Council on Historic Preservation, Suite 530, 1522 K Street, NW, Washington, D.C. 20005. (202) 254–3974.

Dated: August 3, 1979.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 79-24419 Filed 8-7-79; 8:45 am]

BILLING CODE 4210-10-M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Abbotts Creek Watershed, North Carolina; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Abbotts Creek Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Abbotts Creek Watershed, Davidson, Forsyth, Guilford, and Randolph Counties, North Carolina.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Federal Office Bldg., Raleigh, North Carolina 27611, telephone number 919–755–4165. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 9, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Dated: July 31, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-24338 Filed 8-7-79; 8:45 am]

BILLING CODE 3410-16-M

Juniper Swamp Watershed, North Carolina; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Juniper Swamp Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Juniper Swamp Watershed, Robeson County, North Carolina.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 552, Federal Office Building, Raleigh, North Carolina 27611, telephone number 919–755–4165.

An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 9, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C 1001–1008.)

Dated: July 31, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-24339 Filed 8-7-79; 8:45 am]

BILLING CODE 3410-16-M

Mud Creek Watershed, North Carolina; Intent Not To File an Evironmental Impact Statement for Deauthorization of Federal Funding of the Mud Creek Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Mud Creek Watershed, Henderson County, North Carolina.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 552, Federal Office Building, Raleigh, North Carolina 27611, telephone number 919–755–4165. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 9, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008)

Dated: July 31, 1979.

[FR Doc. 79-24339 Filed 8-7-79; 8:45 am]

BILLING CODE 3410-16-M

Stoney Creek Watershed, North Carolina; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Stoney Creek Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Stoney Creek Watershed, Wayne County, North Carolina.

The environment assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 552, Raleigh, North Carolina 27611, telephone number 919–755–4165. An enviromental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 9, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Joseph W. Haas,

Dated: July 31, 1979.

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-24336 Filed 8-7-79; 8:45 am]

BILLING CODE 3410-16-M

Tallulah Creek Watershed (Long Creek Portion), North Carolina; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Tallulah Creek Watershed (Long Creek Portion)

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Tallulah Creek Watershed (Long Creek Portion), Graham County, North Carolina.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data

developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 552, Federal Office Building, Raleigh, North Carolina 27611, telephone number 919–755–4165. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 9, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Dated: July 31, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79–24335 Filed 8–7–79; 8:45 am]

BILLING CODE 3410–16–M

Bear Swamp Watershed, N.C., Intent Not To Prepare a Supplement to a Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for adding an additional lateral channel to the Bear Swamp Watershed, Chowan and Perquimans Counties, North Carolina.

The environmental assessment of this federally assisted action indicates that this action will not cause significant local, regional, or national impact on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of a supplement or revised environmental impact statement is not needed for this project.

The project concerns a supplement to an existing plan that was developed to accomplish the following objectives:

1. Develop soil and water conservation plans on 85 percent of the farms in the watershed.

2. Have adequate treatment on not less than 50 percent of the open land in the watershed.

3. Improve fish habitat in the streams.

4. Reduce flood damage sufficient to continue current land uses.

5. Provide suitable outlets for internal drainage of open land.

Lateral No. 8 is being added to the project to provide needed flood reduction and adequate outlets for onfarm drainage.

The works of improvement consist of a 1,000 foot excavated channel (Lateral No. 8). The lateral to be excavated will follow the existing ditch and will be about 5 feet deep with a 4-foot bottom. A pipe will be installed where the latter enters the main channel.

The environmental impacts of this action are not expected to differ significantly from those described in the Bear Swamp Final Environmental Impact Statement. The installation of Lateral No. 8 will result in a minor reduction in water quality and a temporary increase in sedimentation.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 310 New Bern Avenue, Room 552, Federal Office Building, Raleigh, North Carolina 27611.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008)

Dated: July 27, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79–24445 Filed 8–7–79; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Docket 36198; Order 79–8–2]

Fuel Cost-Related Increases in International Passenger Fares Proposed by Braniff Airways, Inc. et al.; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of July, 1979.

By tariff revisions filed June 7, 1979, for effectiveness August 6, 1979, Braniff Airways, Inc. (Braniff) proposes a general seven percent increase in all U.S.-South America passenger fares to compensate for increased fuel costs. By subsequent tariff revision filed June 18, 1979, for effectiveness August 17, 1979, Braniff proposes an additional five percent increase in South American fares, as well as North Atlantic fares.[1] Eastern Air Lines, Inc. (Eastern), by tariff revisions filed June 15, 1979, for effectiveness August 14, 1979, proposes a general seven percent fuel-related increase in U.S.-Mexico and U.S.-Caribbean passenger fares.[2] American Airlines, Inc. (American) has also proposed a fuel-related U.S.-Caribbean passenger fare increase (filed June 19, 1979, for effectiveness August 18, 1979); most fares would be increased by seven percent although promotional fares in some markets would be incresed by varying amounts ranging from two to 17.5 percent.

Braniff's justification for its first round increase indicates returns on investment (ROI) in U.S.-South America scheduled passenger operations of 18.2 percent during calendar 1978, and 6.2 and 12.3 percent during the 12 months ending March 31, 1980, under present and proposed fares, respectively. In its justification for its second-round increase, which was filed in conjunction with a proposed 10 percent domestic fare increase,[3] Braniff does not include a profit/loss statement, and requests the Board to depart from its established policy of considering fare increases in light of all factors of carriers' historical cost/revenue relationships and take emergency notice of the single factor of precipitous fuel cost escalation. Braniff alleges that the proposed five percent increase was calculated on the basis of known fuel cost increases realized within the last 45 days;[4] the gravity of the situation is similar to that of the 1974/1975 fuel crisis when fuel surcharges totalling 13 percent were permitted on its international fares; in contrast to the last fuel crisis there are virtually no new operating efficiencies to offset increasing fuel costs; failure to allow timely recovery simply shifts the burden from present to future passengers; and it is proposing to increase all fare levels across-the-board to preserve present fare structure

[1] Braniff implemented a seven percent increase in most North Atlantic fares (except normal economy) on June 1.

[2] Eastern's U.S.-Mexico increases became effective July 5, 1979.

[3] The Board suspended braniff's domestic increase in Order 79–7–105, July 17, 1979.

[4] In total international operations (Latin America and North Atlantic) Braniff states that April 1979 fuel prices averaging 60 cents per gallon represent an increase of 18 percent over the December 1978 price of 51 cents per gallon; and prices confirmed for international operations beginning June 1, averaging 69 cents per gallon, show an increase of 36 percent over December 1978 levels.

relationships, with the view that all passengers should share equally the burden of fuel-related fare increases.

Eastern, in support of its proposal, states that it is relying solely on actual and anticipated fuel cost escalations, and has not escalated non-fuel expense increases beyond the tariff effective date in its forecast; from December 15, 1978, the date of the last fare increase in most of the affected markets, to May 15, 1979, its fuel price per gallon has increased by 11.7 cents, an average increase of 2.34 cents per month, but it has employed a more conservative figure of 1.75 cents per month to project fuel costs 45 days beyond the tariff effective date; and using these assumptions it will experience a 47.2 percent increase in fuel costs over the base period, which would warrant a total fare increase of 7.2 percent. Under the proposed 7.0 percent increase, Eastern's passenger ROI would be 9.0 percent compared to 3.6 percent during calendar 1978.[5]

American states that its Caribbean area fuel costs increased over 51 percent by April 1979 over the average experienced during calendar 1978, translating into a 9.8 percent in overall operating expense; combined with a conservative 1.4 percent increase projected in non-fuel expenses this will reduce America's ROI from the 14.4 percent experienced in 1978 to −0.4 percent under present fares; with the proposed fare increases revenue will improve 7.9 percent, raising ROI to 8.9 percent.

The Board has decided to suspend the proposed increases in Caribbean and North Atlantic normal economy fares in markets where such fares are not subject to the competitive pressures of open entry and pricing freedom; we will allow the first class and promotional Atlantic and Caribbean fare increases.[6] We will suspend all of Braniff's proposed U.S.-South America fare increases.

The suspension of normal economy fare increases in the Caribbean and North Atlantic markets is consistent with our recent action denying such increases in other markets.[7] With regard to the proposed increases in other fare categories, we believe Eastern and American have made convincing cases demonstrating revenue need due to drastic fuel cost escalations, and although we have concluded only one pro-competitive agreement in the Caribbean area, competitive conditions do exist due to destination substitution and the vying among Caribbean countries for tourist traffic.[8] Similar considerations apply to Braniff's proposed increases in North Atlantic promotional fares.

We cannot approve even the proposed discount and first-class fare increases in South America, however. As the Board stated previously in turning down Pan American's filings to increase South American fares, the fares are quite high already, competition in direct service is limited, prices are subject to approval of both governments, and in many cases entry is closed, capacity controlled, and charters disfavored. These same conditions exist in Braniff's South American markets as in Pan American's, and both carriers show very healthy earnings in the area under present fare levels.[9] Thus we will not approve any increases in U.S.-South America fares.[10]

Accordingly, pursuant to sections 102, 204(a), 801 and 1002(i) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendices A, B, C, D, E, and F hereof, and rules and regulations or practices affecting such fares and provisions, are or will be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful; and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we hereby suspend and defer the use of the tariff provisions in the attached:[11]

Appendix A from August 17, 1979, to and including August 16, 1980; *Appendix B* from August 18, 1979, to and including August 17, 1980; *Appendix C* from August 6, 1979, to and including August 5, 1980; *Appendix D* from August 14, 1979, to and including August 13, 1980; *Appendix E* from August 17, 1979, to and including August 16, 1980; *Appendix F* from August 27, 1979, to and including August 26, 1980;

unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President[12] and it shall become effective on August 17, 1979, with respect to the tariff provisions in Appendices A and E, on August 18, 1979 with respect to the tariff provisions in Appendix B, on August 6, 1979, with respect to the tariff provisions in Appendix C, on August 14, 1979, with respect to the tariff provisions in Appendix D, on August 27, 1979, with respect to the tariff provisions in Appendix F; and

4. We shall file copies of this order in the aforesaid tariffs and serve them upon Braniff Airways, Inc., Eastern Air Lines, Inc., American Airlines, Inc., Deutsche Lufthansa Aktiengesellschaft, and the Ambassador of the Federal Republic of Germany in Washington, D.C.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

All Members concurred except Member Schaffer who submitted the following dissent: For previously stated reasons (See Order 79–5–218) I concur in the suspension of all U.S.-South America fare increases and dissent from Board action suspending only normal economy fare increases in the Caribbean and North Atlantic markets.

[FR Doc. 79–24459 Filed 8–7–79; 8:45 am]

BILLING CODE 6320–01–M

[5] The forecast improvement in ROI over 1978 also reflects annualization of fare increases granted late last year.

[6] Braniff's normal economy fare increases will be allowed to take effect to and from Germany and the Netherlands, with which the United States has liberal agreements, and will be suspended in Braniff's other North Atlantic markets (France and the United Kingdom). Eastern and American's normal economy fare increases will be permitted to take effect only to and from Jamaica.

[7] See Order 79–5–218, May 17, 1979, which suspended fuel-related normal economy fare increases proposed by Pan American World Airways in Pacific and Western Hemisphere markets. In that order, the Board stated that while fuel cost escalations have been substantial, the situation is not so serious as to justify a departure from its long-standing policy of denying increases in normal economy fares in markets where such fares are not subject to the competitive pressures of open entry and pricing freedom. The same considerations apply here.

[8] The Board reached similar conclusions about Central American fares in Order 79–5–218. See also Order 79–7–30, June 28, 1979, page 3.

[9] Pan American projected an ROI of 20.2 percent under existing fares. Although Braniff states a 1978 ROI of 18.2 percent in South American passenger service and projects a 6.2 percent ROI under current fares, we believe these earnings figures to be grossly understated. Braniff's investment figure of $74,388,000 was allocated from System by operating expense, a method the Board has considered deficient. Allocating recognized System investment to U.S.-South America combination service by revenue block-hours and revenue aircraft miles would produce a much lower figure, raising ROI substantially.

[10] In addition to Braniff's filing, we will in this order suspend a filing by Lufthansa proposing a seven percent increase in U.S.-South America fares.

[11] Appendices A through F filed as part of the original document.

[12] We submitted this order to the President on July 23, 1979.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council and its Scientific and Statistical Committee; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee (SSC) will conduct a series of meetings.

DATES: September 12–14, 1979.

ADDRESS: The meetings will take place at the Cosmopolitan Motor Hotel, 1030 N.E. Union, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established a Scientific and Statistical Committee to assist in carrying out its responsibilities. Meeting Agendas follow:

Scientific and Statistical Committee (open meeting) September 12–13, 1979, (1 p.m. to 5 p.m. on September 12; 10 a.m. to 5 p.m. on September 13).

Agenda: Discuss fishery management plans (FMP's) under development, conduct a public comment period beginning at 3:30 p.m. on September 12, and conduct other Committee business.

Council (open meeting) September 13–14, 1979, (10 a.m. to 5 p.m. on September 13; 8 a.m. to 5 p.m. on September 14).

Agenda: Open Session—Review of FMP's; conduct other fishery management business, and conduct a public comment period beginning at 4 p.m. on September 13.

Council (Closed meeting) September 13 (8 a.m. to 10 a.m.)

Agenda: Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning appointments to vacancies on subpanels and teams. Only those Council members, Scientific and Statistical Committee members, and related staff having security clearance will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on June 20, 1979, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (6), as information which is properly classified pursuant to Executive Order and as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection facility, Room 5317, Department of Commerce.) All other portions of the meeting will be open to the public.

Dated: August 3, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24417 Filed 8-7-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Carlisle Barracks, Pa., Ongoing Missions; Filing of Environmental Impact Statement

The Army, on August 2, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the on-going missions at Carlisle Barracks, PA. The alternatives of maintaining, discontinuing, or changing missions at Carlisle Barracks are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the commander, Carlisle Barracks, ATTN: Directorate of Facilities Engineering, Carlisle Barracks, PA 17013.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694–3434.

Daniel R. Voss,

Acting Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 79-24451 Filed 8-7-79; 8:45 am]

BILLING CODE 3710-08-M

Fort A. P. Hill, Va., Ongoing Missions; Filing of Environmental Impact Statement

The Army, on August 3, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the on-going missions at Fort A. P. Hill, Virginia. The alternatives of maintaining, discontinuing, or changing millions at Fort A. P. Hill are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, Fort A. P. Hill, ATTN: Facilities Engineering Division, Building PO1220, Fort A. P. Hill, Bowling Green VA 22427.

In the Washington Area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694–3434.

Daniel R. Voss,

Acting Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 79-24450 Filed 8-7-79; 8:45 am]

BILLING CODE 3710-08-M

Fort Leonard Wood, Mo., Ongoing Missions; Filing of Environmental Impact Statement

The Army, August 3, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the on-going missions at Fort Leonard Wood, MO. The alternatives of maintaining, discontinuing, or changing missions at Fort Leonard Wood are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, Fort Leonard Wood, ATTN: Director of Facilities Engineering, U.S. Army Training Center Engineer and Fort Leonard Wood, Fort Leonard Wood, MO 65473, telephone: (314) 368–7010.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694–3434.

Daniel R. Voss,

Acting Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 79-2448 Filed 8-7-79 8:45 am]

BILLING CODE 3710-08-M

Fort McClellan, Ala., Ongoing Missions; Filing of Environmental Impact Statement

The Army, on August 3, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the on-going missions at Fort McClellan, Alabama. The alternatives of maintaining, discontinuing, or changing missions at Fort McClellan are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, Fort McClellan, ATTN: Director of Facilities Engineering, U.S. Army Military Police School/Training Center and Fort McClellan, Fort McClellan, AL 36201.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694–3434.

Daniel R. Voss,

Acting Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 79-24449 Filed 8-7-79; 8:45 am]

BILLING CODE 3710-08-M

Rocky Mountain Arsenal, Colo.; Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969 and in accordance with the President's Reorganization Plan No. 1, the Army on July 30, 1979, provided the Environmental Protection Agency, for filing, draft Environmental Impact Statements (DEISs) concerning Installation Restoration for environmental enhancement at Rocky Mountain Arsenal, Colorado.

Copies of the DEISs have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from Commander, US Army Toxic and Hazardous Materials Agency, ATTN: DRXTH-IS, Edgewood Area, Aberdeen Proving Ground, Maryland 21010 (phone: (301) 671–2041).

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310 (phone: (202) 694–1163).

Dated: July 30, 1979.

Bruce A. Hildebrand,

Deputy for Environment, Safety and Occupational Health, Office of the Assistant Secretary of the Army (Installations, Logistics and Financial Management).

[FR Doc. 79-24447 Filed 8-7-79; 8:45 am]

BILLING CODE 3710-08-M

Ongoing Mission at the U.S. Military Academy, West Point, N.Y.; Intent To Prepare an Environmental Impact Statement

Notice is hereby given of intent to prepare an Environmental Impact statement concerning the ongoing mission of the United States Military Academy, West Point, N.Y.; Stewart Army Subpost, Newburgh, N.Y.; and Galeville Training Site, Galeville, N.Y. A scoping meeting is planned for 22 August 1979, at West Point, N.Y. Those interested in attending the scoping meeting or otherwise contributing to the scoping process should contact CPT Stan Vonasek (914) 938–3234 at West Point, N.Y., or Mr. Joe Debler (212) 264–4662 at the New York District, Army Corps of Engineer.

By authority of the Secretary of the Army.

Dated: August 3, 1979.

Rome D. Smyth,

Colonel, U.S. Army, Director, Administrative Management TAGCEN.

[FR Doc. 79-24434 Filed 8-7-79; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Science Board Task Force on ECM; Notice of Change in Date

The meeting date for the Defense Science Board Task Force on ECM scheduled for a closed session on 17 August 1979 in Washington, DC, as published in the **Federal Register** (Vol. 44, No. 131, Friday, July 6, 1979, FR Doc. 79–20812) has been changed to 6–7 September 1979. In all other respects, the original notice cited above remains the same.

August 2, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 79-24362 Filed 8-7-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Unclassified Activities in Foreign Atomic Energy Programs

AGENCY: Department of Energy.

ACTION: Notice of 10 CFR Part 810 Determination by the Secretary.

SUMMARY: The Secretary has determined that it will not be inimical to the interest of the United States for U.S. companies or their foreign subsidiaries or licensees, to provide certain components, equipment or materials for use in two CANDU nuclear reactors, CERNAVODA 1 and 2, to be manufactured for Romania by Atomic Energy of Canada, Limited (AECL).

DATE: The determination was effective on April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Vance H. Hudgins, International Security Affairs, Rm. 5221, U.S. Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C. 20585, 202–376–5885.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to 57.b.(2) of the Atomic Energy Act of 1954, as amended, and the implementing regulations of 10 CFR Part 810, the Secretary has determined that it will not be inimical to the interests of the United States for U.S. companies or their foreign subsidiaries or licensees, to provide components, equipment or material identified in the appendix below, for use at CERNAVODA 1 and 2 reactors to be manufactured for Romania by AECL. The Secretary has also determined that it will not be inimical to the interest of the United States for U.S. companies to provide that technology necessary for the installation or use of the component, equipment or material, provided, no such activity shall involve the direct or indirect export of technical data relating to the U.S. naval nuclear propulsion plants.

U.S. companies wishing to export components, equipment or material, authorized by the Secretary are requested to notify the addressee above.

Persons desiring to export technology related to the fabrication or manufacturing of components, equipment or material for the CANDU reactors to be manufactured for Romania by the AECL must file a request for specific authorization by the Secretary of Energy pursuant to 10 CFR 810. In addition, persons are advised that this determination applies only to approval required by § 57.b.(2) of the Atomic Energy Act, as amended, and implemented by 10 CFR Part 810. All

other applicable statutes, licenses and approvals required by law, for example, those which may be required pursuant to the regulations of the Department of Commerce or the Nuclear Regulatory Commission, are unaffected by this determination.

Issued in Washington, D.C. on July 31, 1979.

Duane C. Sewell,

Assistant Secretary for Defense Programs.

Components, Equipment and Material for Cernavoda 1 and 2

Prestressing Equipment	Inflatable Seals
Fuelling Machine Door Buffer	Class 1 Nuclear Pipe Fittings
Grayloc Hubs and Seals	F/M Level Lowering Connections
Cap Screws for Feeder Couplings.	ASME Code Bolts
Seamless Zircaloy Tubing	Steam Generator Vertical Support Inc
F/M Head Ram Tubes	F/M Head Ram Assemblies
F/M Head Ram Ball Screws	Check Valves
F/M D_2O Marotta Valves	D_2O Vapor Recovery Filters
Ventilation Air Filters	General Purpose RTD's
Gaseous Fission Product Monitor.	Ion Chambers Amplifiers and Trip Comparators
Disc Memory Unit	Remex Tape Reader
16-Bit Analog/Digital Converter.	F/M D_2O Supply Pumps
Air Balancing Hoist	D_2O Vapour Recovery System
Feeder Pipe Automatic Welders	Feeder Pipe Welder Adaptor
High Temprature Control Cable	Shaft Encoders
R/B Exhaust Air Filtering Unit	Canned Pumps
Centrifugal Pumps	Check Valves
Gate Valves	Safety Relief Valves
Control Valves	Bellow Sealed Valves
Transmitters	Globe Valves
Bellows Sealed Control Valves.	Rupture Disc Assemblies
Spring Retaining Rings	Butterfly Valves
Roller Thrust Bearings	Accumulators
Pulsation Dampers	Catenary Chains
Flexible Metal Hose	Power Tracks
Annunciation Windows	Micro Push Button Switches
D.C. Power Supplies	Resistance Temperature Detectors
Conductivity Measuring Instrument.	Radiation Resistant Wire
Ram Force Calibration Facility	Variable Frequency Inverter
Ion Chambers	Special Flexible Cable
Shielded Cable	Co-Axial Cable
Diaphragm Valves	Carbon Steel Pipe
Air Sample Pumps	Pipe Fittings
Zirconium Tubular Extrusions	Alloy Steel-Tubular Extrusions
Nickel Alloy Sheet	Stainless Steel Plate
Zirconium Sheet	Zirconium Billets
Zirconium Sheet and Bar	Precision Castings
Carbon Steel Extrusions	Die Forgings (Special)
Alloy Steel Pipe	Grayloc Clamps (Hi-Pressure)
Alloy Steel Billets	Computer Components
Color Monitors	Fuelling Machine Doors Buffers
Large Diameter Heavy-walled Extrusions for Steam Generator Supports	Large Diameter Extrusions for Heading
Forgings for Fuelling Machine	Water Lubricated Bearings for Fuelling Machine
RAM Tubes for Fuelling Machine.	Ball Screws for Fuelling Machine
Motorized Globe Valves for Fuelling Machine.	Valves (Marotta) for Fuelling Machine
Snout Thrust Bearings for Fuelling Machine	Automatic Pipe Welder
Zirconium -Niobium Tube Reduced Extrusions for Pressure Tubes.	Zirconium Wire for Channel Spacers
Zirconium Tube for Shutdown Injection Nozzles.	Zirconium Sheathing, Plate, Rod and Wire for Core Fuel Bundles—And Billets for Zr -Nb Tube Reduced Extrusions for Pressure Tubes
Grayloc Hubs and Seal Rings for Feeder Couplings and Fuelling Machine.	Nickel Steel Sheet for Channel Annulus Bellows
Small bore Seamless Zirconium Tubing for Control Rods.	Inconel Tubing for Flux Detectors
Fuelling Machine Level Lowering Connection.	Supply Pumps for Fuelling Machine
Pulsation Dampers	Reactor Pumps
Steam Generators	Heat Transfer Equipment
Heat Exchangers, Coolers and Condensors.	Fuelling Machines
Pressure Tubes (Zr)	Reactor Control System
Turbo-Generator	Subsystems Computers Instrumentation

Any other componets, equipment or materials required for Cernavoda 1 & 2 but not including source material, special nuclear material, production or utilization facilities or any item for which a specific authorization is required from the Secretary of Energy under 10 CFR 810.7(a)(2).

[FR Doc. 79-24331 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CAS-RM-79-401]

Proposed Demonstration of Solar Heating and Cooling in Federal Buildings Program

AGENCY: Department of Energy.

ACTION: Notice of Availability of Environmental Assessment and Finding of No Significant Impact.

SUMMARY: The Department of Energy (DOE) announces the availability of its environmental assessment (EA) of a proposed Demonstration of Solar Heating and Cooling in Federal Buildings Program. DOE has determined, based on the EA, that this program does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* Therefore, a finding of no significant impact, pursuant to 40 CFR 1501.4(e), is hereby issued to notify the public that an environmental impact statement is not required for this action. Comments regarding the EA and DOE's finding of no significant impact are invited.

DATE: Written comments to be submitted no later than 4:30 p.m., August 23, 1979.

ADDRESS: Comments should be submitted to Margaret W. Sibley, Office of Conservation and Solar Applications, Mail Stop 2221C, Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Mr. William A. Lomeshewsky, Office of Conservation and Solar Applications, Department of Energy, Room 2221C, 20 Massachusetts Avenue NW., Washington, D.C. 20545, Phone: (202) 376-9622.

Dr. Robert J. Stern, Acting Director, NEPA Affairs Division Department of Energy, Room 4G-064, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone: (202) 252-4600.

Mr. John Bell, Department of Energy, Office of the General Counsel, Room 6G-087, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone: (202) 252-6947.

Ms. Verlette Gatlin, Department of Energy, Freedom of Information Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone: (202) 252-5989.

SUPPLEMENTAL INFORMATION:

I. Background

The National Energy Conservation Policy Act of 1978 (NECPA) (P.L. 95-619) established the Solar in Federal Buildings Program. The purpose of this 3-year program is to stimulate growth and technical improvements in solar technology through the installation and demonstration of solar heating and cooling in new and existing Federal buildings. This is to be accomplished by providing technical and financial assistance through interagency agreements. Assistance is limited to the design, acquisition, construction and installation of solar energy equipment.

The NECPA legislation requires DOE to promulgate by rule the requirements governing the content and procedures for submission of proposals, for project evaluation among proposed projects, and for the periodic reporting of data regarding maintenance and operation of subsequently funded solar energy systems. The Notice of Proposed Rulemaking for this program was published in the April 2, 1979 **Federal Register**. The proposed rulemaking included a statement that DOE, in accordance with the requirements of NEPA, was preparing an environmental assessment of this program and would complete this assessment and any additional required NEPA review prior to promulgation of the final rule.

DOE has determined, based on the EA, that no significant environmental impacts are expected to occur from the demonstration of solar heating and cooling technologies under this program. Potential environmental impacts will either be minimized or eliminated by adherence to Program Standards, including Intermediate Minimum Property Standards for Solar Heating and Domestic Hot Water Systems and Interim Performance Criteria for Solar Heating and Cooling Systems. The program requires each participating Federal agency to engage in continuous monitoring to assure effective implementation of Program Standards.

Accordingly, this program does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. Therefore, an environmental impact statement is not required for this program.

II. Comment Procedure

Single copies of the Solar in Federal Buildings Program EA may be obtained from the Solar in Federal Buildings Program Office of Conservation and Solar Applications, Department of Energy, Room 3220C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, (202) 376-9622. Copies of the EA are also available for public review in the DOE Freedom of Information Reading Room, at the address listed above, between the hours of 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Interested parties may submit written comments with respect to the EA and the negative determination to Margaret W. Sibley at the address indicated previously. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Solar in Federal Buildings Program." All comments should be received by DOE by 4:30 p.m., August 23, 1979, in order to insure consideration. Any person submitting written comments should forward 5 copies to DOE.

Any information or data submitted in response to this notice considered by the person furnishing it to be confidential must be so identified and submitted in writing, in one copy only, in accordance with procedures set forth in 10 CFR 1004.11. Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C. August 3, 1979.

Maxine Savitz,

Deputy Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-24485 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Refiners Crude Oil Allocation Program; Supplemental Notice for Allocation Period of April 1, 1979, through September 30, 1979

The notice specified in 10 CFR 211.65(g) of the refiner's crude oil allocation (buy/sell) program for the allocation period of April 1, 1979, through September 30, 1979, was issued March 30, 1979 (44 FR 21062, April 9, 1979). Subsequent to the publication of this Notice, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) assigned emergency allocations for the months of April, May, June, July and August 1979, pursuant to 10 CFR 211.65(c)(2) and 10 CFR 211.65 (a)(5) to a number of small refiners and issued supplemental buy/sell lists on April 11, 1979, (44 FR 24336, April 25, 1979), May 16, 1979, (44 FR 29955, May 23, 1979), June 8, 1979 (44 FR 34186, June 14, 1979), and June 29, 1979, (44 FR 39579, July 6, 1979). The ERA hereby issues a fifth supplemental buy/sell list for the allocation period of April 1, 1979, through September 30, 1979, which sets forth new emergency allocations for the months of July, August and September 1979, assigned pursuant to 10 CFR 211.65(c)(2), as amended on April 27, 1979, (44 FR 26060, May 4, 1979).

The supplemental buy/sell list for the allocation period April 1, 1979, through September 30, 1979, is set forth as an appendix to this notice. The list includes the names of the small refiners granted emergency allocations for the months of July, August and September 1979 and their eligible refineries; the quantity of crude oil each refiner is eligible to purchase; the fixed percentage share for each refiner-seller; the quantity of crude oil that each refiner-seller is obligated to offer for sale to refiner-buyers pursuant to the supplemental buy/sell notice for the April 1, 1979, through September 30, 1979, allocation period issued June 29, 1979; the new total sales obligation of each refiner-seller, which reflects each refiner-seller's obligation to sell to the refiner-buyer for the emergency allocation listed herein; and the total sales obligation for all refiner-sellers.

The allocations for the small refiners on the supplemental buy/sell list were determined in accordance with 10 CFR 211.65(c)(2). Sales obligations for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f).

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period, directly or through exchanges to refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR Section 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements therefor. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one of more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than August 28, 1979. Upon such request, the ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

In directing refiner-sellers to make such sales, ERA will consider the percentage of each refiner-seller's sales obligation for the allocation period that has been sold as reported pursuant to § 211.65(h), as well as the refiner-seller or sellers that can best be expected to consummate a particular directed sale. If, in ERA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to 10 CFR 211.65(f)(3)(ii).

If the refiner-buyer declines to purchase the crude oil specified by ERA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provision of 10 CFR 211.65.

Refiner-buyers making requests for directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions.

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oils that have historically been processed in each refinery.

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(iii) Statement of any restrictions, limitations, or contraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as ERA may request.

All reports and applications made under this notice should be addressed to:

Chief, Crude Oil Allocation Branch, 20th Street Postal Station, P.O. Box 19028, Washington, D.C. 20036.

Copies of the decisions and orders assigning the emergency allocations listed herein, as well as the applications, may be obtained from:

Economic Regulatory Administration, Public Information Office, 2000 M Street, N.W., Rm. B110, Washington, D.C. 20461, (202) 634–2170.

The ERA Public Information Office also has available copies of pending applications for emergency allocations under the buy/sell program.

ERA requires each applicant for an emergency allocation to serve all refiner-sellers with a copy of its application and any amendments thereto. If the applicant claims confidentiality for any of the information contained in its application, the basis for the claim must be clearly stated. Comments on each application will be accepted by ERA if filed within eight days of service of the application.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before September 7, 1979.

Issued in Washington, D.C., August 1, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

The Buy/Sell list for the period April 1, 1979, through September 30, 1979, is hereby amended to reflect emergency allocations for the months of July, August and September 1979, and the resulting changes in sales obligations of refiner-sellers. The amended list sets forth the name of each refiner-seller, the volumes of crude oil that each such refiner-seller is required to offer for sale to refiner-buyers, and emergency allocations for the months of July, August and September 1979. The amended list does not reflect volumes sold by refiner-sellers for the April 1, 1979, through September 30, 1979, allocation period.

Crude Oil Allocation Program Sales Obligations for the Period Apr. 1, 1979–Sept. 30, 1979

Refiner-sellers	Share*	Sales obligation as of June 29, 1979 (barrels)	New total (barrels)
Amoco Oil Co	.105	3,340,153	3,638,206
Atlantic Richfield Co	.077	2,434,201	2,653,076
Chevron U.S.A., Inc	.101	3,482,137	3,771,153
Cities Service Co	.025	1,445,833	1,515,829
Continental Oil Co	.004	124,871	196,253
Exxon Co., U.S.A	.089	2,778,372	3,031,630
Getty Refining & Marketing Co	.021	777,729	838,098
Gulf Refining & Marketing Co	.091	3,137,452	3,396,720
Marathon Oil Co	.022	704,479	769,515
Mobil Oil Corp	.094	2,988,662	3,256,387
Phillips Petroleum Co	.041	1,316,781	1,434,517
Shell Oil Co	.113	3,726,410	4,049,721
Sun Co	.055	1,852,430	2,010,352
Texaco Inc	.114	3,521,309	3,844,884
Union Oil Co. of California	.046	1,581,235	1,711,307
Total sales		33,212,054	36,057,648

*All Refiner-Sellers' percentage shares have been changed to reflect the Continental Oil Company and Exxon Company, U.S.A. Decision and Order dated March 20, 1979. Case numbers are FEX–0184 and FEX–0185.

Emergency Allocations for July, August, and September 1979

Refiner	Refinery location	July 1979 allocation (barrels)	August 1979 allocation (barrels)	September 1979 allocation (barrels)
CRA, Inc	Coffeyville, KS		739,133	502,290
Golden Eagle	Carson, CA		216,256	209,280
Placid	Port Allen, LA	221,030	221,030	
Seaview	Paulsboro, NJ		374,325	362,250
Total		221,030	1,550,744	1,073,820

	Barrels
Total Previously Published Allocations	33,212,054
Emergency Allocations (July)	221,030
Emergency Allocations (August)	1,550,744
Emergency Allocations (September)	1,073,820
Total allocations	36,057,648

[FR Doc. 79-24330 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

Application for a No Action Determination (Property Treated as a Stripper Well Property by a Producer); Final Approval

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Final Approval of Form ERA–102 by the Office of Management and Budget.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has received final approval of the Application for a No Action Determination (Property Treated as a Stripper Well Property by a Producer), Form ERA–102, from the Office of management and Budget (OMB). Potential applicants may request Form ERA–102 by writing to the address provided in the "Addresses" section of this Notice.

DATE: Form ERA–102 is available for use by potential applicants as of August 1, 1979.

ADDRESSES: Form ERA–102 may be obtained by submitting a written request to: John Marks, Crude Oil Producers, Office of Enforcement, Economic Regulatory Administration, Room 5302, 2000 M Street, NW., Washington, DC 20461.

FOR FURTHER INFORMATION CONTACT: John Marks (Office of Enforcement), Economic Regulatory Administration, Room 5302, 2000 M Street, NW., Washington, DC 20461, (202) 632–8761. Lona L. Feldman or Judith A. Mather, (Office of General Counsel), Department of Energy, Room 5308, 2000 M Street, NW., Washington, DC 20461, (202) 254–8700.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. General Discussion.
III. Other Matters.
A. Implementation of the Program.
B. Requests for Form ERA–102.

I. Introduction

On February 9, 1979, the ERA published notice of the transmittal of Form ERA–102 to the Office of Management and Budget for review and clearance under the Federal Reports Act, 44 U.S.C. § 3501 *et seq.*, and provided an opportunity for public comment on the proposed final version of the application form (44 FR 10104, February 16, 1979). The OMB completed its review of Form ERA–102 and notified the ERA of its approval of the form on June 26, 1979.

The ERA received public comments from three petroleum companies. The comments generally objected to the requirement that producers eligible to use Form ERA–102 must not have produced more than 10,000 barrels of crude oil during the most recent full calendar year, noting either that the volume limitation shoud be increased or that there should be no such restriction on those eligible to file Form ERA–102. One comment asserted that eligibility should not be limited to those producers who are not the subject of a DOE or Federal Energy Regulatory Commission (FERC) enforcement proceeding and that the program should not exclude those properties in which any part of the working interest is owned by a refiner. Finally, one comment stated that an undue burden is placed on a producer by requiring the submission of property production information from the year 1972 through the current period.

After reviewing the comments, the ERA has decided to implement the use of Form ERA–102, as approved by the OMB. The 10,000 barrel annual production limitation for use of the Form appears to be a reasonable initial basis for the procedure which will allow expeditious review of applications. However, as workload statistics become available and experience is gained in the administration of the program, it may be feasible to increase the 10,000 barrel per year limitation.

II. General Discussion

As approved by the OMB, Form ERA–102 will permit, on a voluntary basis, certain small producers of domestic crude oil who assert that one or more of their producing properties qualify for stripper well property treatment to obtain a determination from the ERA that no enforcement action shall be taken by the ERA with respect to the sale of stripper well property crude oil produced from these properties. (The first sale price of crude oil produced from a stripper well property is exempt from crude oil ceiling price controls under 10 CFR 212.54.) The ERA will base its determination for a particular property on Form ERA–102. However, in order to reach a decision, the ERA may request additional records or data from the producer as needed.

A producer is eligible to use Form ERA–102 if it has not produced more than 10,000 barrels of crude oil during the most recent full calendar year. Form ERA–102 is not applicable to properties in which any part of the working interest is owned by a refiner. In addition, producers who are currently the subject of a DOE or FERC enforcement proceeding may not file Form ERA–102.

An eligible producer may submit to the ERA a Form ERA–102 for each property on which the producer seeks a no action determination. The ERA will assume that the information submitted on and with Form ERA–102 is factually correct, complete and in accordance with the Mandatory Petroleum Allocation and Price Regulations and the instructions to Form ERA–102. An ERA no action determination based on erroneous or incomplete information or data will be rescinded *ab initio*. An audit of a producer's sale of crude oil produced from a particular property may be conducted at any time if it appears that the information submitted on Form ERA–102 was inaccurate or incomplete. The ERA's decision to issue a no action determination letter with respect to a particular property will not affect any other investigation or enforcement actions pending or brought in the future by the DOE against the producer seeking the no action determination. Moreover, the no action determination letter does not constitute a formal interpretation of the Mandatory Petroleum Allocation and Price Regulations as contemplated by 10 CFR Part 205, Subpart F.

III. Other Matters

A. Implementation of the Program

The ERA issued with the February 9, 1979 Notice the proposed final version of Form ERA–102 together with a set of instructions and definitions. As a result of the OMB review procedures several changes have been made to the format and wording of the application form and accompanying instructions. Substantively, however, the form and instructions remain as originally presented. The ERA is issuing with this Notice the final approved version of Form ERA–102 with instructions and definitions to be used in completing the application. Producers eligible to use Form ERA–102 may obtain the form and submit the completed application for ERA consideration as of August 1, 1979. If the ERA decides that a no action determination should be provided after reviewing a completed application, the ERA will issue a no action letter to the producer submitting the application.

B. Requests for Form ERA–102

Eligible producers seeking a no action determination may obtain Form ERA–102 by submitting a written request to John Marks, Crude Oil Producers, Office of Enforcement, Economic Regulatory Administration, Room 5302, 2000 M Street, NW., Washington, DC 20461. A completed Form ERA–102 should be submitted to the same address for each property on which a producer is seeking a no action determination. All requests for Form ERA–102 and all submissions of completed forms should be identified on the outside envelope with the designation "Form ERA–102, Application for a No Action Determination (Property Treated as a Stripper Well Property by a Producer)."

Issued in Washington, D.C., on August 2, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Form ERA–102

Application for a no action determination (property treated as a stripper well property by a producer)

Part I

Applicant Identification

1. Applicant's Name: ————
Address: (street) ————, (city)

————, (state) ————, (zip code) ————.

2. Is the applicant a parent firm? Yes —— No ——.

3. Name(s) and Address(es) of Applicant's Consolidated and Unconsolidated Entities, if any: ———— Consolidated ———— , Unconsolidated ————.

4. Contact Person for Purposes of this Application: Name: ————. Title: ————. Phone No.: (Area Code) ————.

5. Certification: I certify that the information submitted on and with this form is factually correct, complete and in accordance with DOE Regulations (Title 10, Code of Federal Regulations) and the Instructions to Form ERA–102.

Name of Applicant, or Applicant's Certifying Officer ————. Title ————.

Signature ————. Date Certified ————.

Title 18, U.S. Code (Crimes and Criminal Procedures), Section 1001, makes it a criminal offense for any person knowingly and willingly to make a false statement or representation to any Department or Agency of the United States as to any matter within its jurisdiction. The maximum penalty for such offense is a fine of $10,000, or five years imprisonment; or both.

Part II

Property and Production Information

1.a. What was the total amount of domestic crude oil produced by you and all of your consolidated and unconsolidated entities in the most recent full calendar year? ———— barrels.

b. How many crude oil properties do you and all of your consolidated and unconsolidated entities operate? ————.

c. In how many crude oil properties do you and all of your consolidated and unconsolidated entities have a working interest? ————.

2.a. Is the property for which you are requesting a no action determination subject to right a to produce domestic crude oil arising from a: (Check one)

[ ] lease
[ ] fee interest (deed)

b. Provide the following information about the property for which you are seeking a no action determination (if possible, information should be gathered from applicable state regulatory authority reports):

Property Name: ————
Lease or Deed Number: ————
Field Name: ————
County: ————. State: ————

3.a. Do you have a working interest in this property? Yes—— No——.

b. Do you have a royalty interest in this property? Yes—— No——.

c. Are you the operator of this property? Yes —— No ——.

d. Does the property produce natural gas? Yes —— No ——.

4.a. Is this property the sole premises or tract described in the lease or deed which confers the right to produce crude oil (*i.e.*, are the physical limits stated in the instrument conferring the right to produce the same as the physical limits or dimensions of the above-designated property)? Yes —— (proceed to Item 5 below); No —— (answer b. below).

b. Has the property been segregated from the remainder of the premises or tract described in the lease or deed because: (check *all* that apply)

☐ (1) it is a separate reservoir?
☐ (2) it is one of two or more non-contiguous tracts which were developed and produced separately?
☐ (3) it is one of two or more separate geological structures on a very large tract subject to the same right to produce which have been developed and produced separately?
☐ (4) it is the balance of the premises formerly subject to a single right to produce which has *not* been aggregated with any other rights to produce?
☐ (5) it is an identifiable portion of a premises from which production is required to be measured and accounted for separately for purposes of determining severance tax liability or for purposes of accounting to royalty owners?

5. Does the lease or deed conferring the right to produce crude oil impose different or special rights or obligations with respect to the development of and production from particular portions of the above-designated property? Yes—— No——.

6. Has this property been combined or aggregated with one or more other rights to produce crude oil? The response should be "Yes" if:

a. all or only part of the property has been combined or aggregated with one or more rights to produce crude oil,

b. the combination or aggregation is pursuant to either a voluntary or involuntary agreement, or

c. the combination or aggregation occurred with or without a unitization agreement approved by the appropriate federal, state, or local authorities. Yes—— No——.

7. For the property for which you are requesting a no action determination, provide:

a. the information requested in Schedule I (Attachment A) for the twelve-month qualifying period and the previous twelve-month period. Start with the first month of your qualifying period.

b. the information requested in Schedule II (Attachment B) for each calendar year beginning with 1972, through the most recent full calendar year.

c. the information requested in Schedule III (Attachment C) for each calendar year beginning with 1972, through the most recent full calendar year.

8.a. Were the wells identified in Schedule I operated at the maximum *feasible* rate of production during the qualifying period, in accordance with recognized conservation practices (*i.e.*, operated either at the maximum possible rate of production, or at something less than the maximum possible rate of production due to such considerations as recognized conservation practices; state regulations regarding allowable production rates for the property; the rate at which crude oil in the reservoir flows into the area of the well-bore from which it is pumped to the surface; or periodic shutdowns for reasons such as maintenance and mechanical repairs resulting in significant loss of production)? Yes—— (answer b. below) No—— (proceed to Item 9.a.)

b.—Has the state in which your property produces crude oil established allowable production rates? Yes—— No——.

—For any of the producing days tabulated in Schedule I, was production below the allowable production rates set by the state? Yes—— No——.

9.a. Was production during the qualifying period significantly curtailed by reason of mechanical failure, maintenance or other disruption in production (*i.e.*, for any reason, one or more wells were not operating for a period of more than twenty-four consecutive hours)? Yes—— (answer b. below) No—— (proceed to Item 10.a. below).

b.—Was the period of time during which production of crude oil from one or more wells was significantly curtailed by reason of mechanical failure, maintenance or other disruption in production in excess of the historical pattern for curtailments: (Check *all* that apply)

☐ (1) for a well operating on this particular property?
☐ (2) for similar wells operating in the same or nearby fields?
☐ (3) neither of the above.

If the period of time during which production was significantly curtailed or disrupted was in excess of the normal historical average for mechanical failure, maintenance, or other disruption in production, was that lost production subsequently recouped? Yes —— No ——.

10.a. Are any of the wells on this property:

(1) Wells which produce only non-associated gas? Yes —— No ——;

(2) Wells which produce from separate reservoirs by means of separate tubing strings contained in a single well-bore? Yes —— (answer (2)(a) below), No —— (proceed to Item 10.a.(3));

(a) in computing average daily production, is each tubing string counted as a separate well? Yes —— No ——;

(3) wells which produce from separate reservoirs by means other than separate tubing strings contained in a single well-bore? Yes —— (answer (3)(a) below) No —— (proceed to Item 10.b.);

(a) in computing average daily production, is the single well-bore counted as two or more wells? Yes —— No ——.

b. (1) Are any of the wells on the property used for the injection of fluids (*e.g.*, gas, water, air, steam, crude oil, etc.) into the ground? Yes —— (answer (2) below), No —— (proceed to Item 10.c.)

(2) In computing average daily production for the property, are these wells included in your count of producing wells? Yes —— No ——.

c. Were any of the wells noted in Schedule I "shut-in" during the qualifying period or during the twelve-month period prior to the qualifying period? Yes —— No ——.

11.a. Has crude oil produced from the property been removed from the property for purposes other than a sale of the crude oil? Yes —— (answer b. below) No —— (proceed to Item 12)

b. Has this crude oil been included in the total number of barrels of crude oil produced reported on both Schedule I and Schedule II? Yes —— No ——.

12. Attach copies of all documents delivered to purchasers of crude oil under 10 CFR 212.131 certifying the property for which you are requesting a no action determination.

13. Is any property in which you have an interest the subject of any past or current proceeding before the Department of Energy (DOE) (*e.g.*, exception proceeding under 10 CFR, Part 205, Subpart D; appeal proceeding under 10 CFR, Part 205, Subpart H; interpretation proceeding under 10 CFR, Part 205 Subpart F; enforcement proceeding under 10 CFR, Part 205, Subpart O; etc.) or the Federal Energy Regulatory Commission (FERC)?

☐ Yes—current proceeding—attach a copy of your initial correspondence to DOE or FERC concerning this matter.

☐ Yes—past proceeding—attach a copy of any order issued by DOE or FERC with respect to the property.

☐ No.

14. Certification: I certify that the information submitted on and with this form is factually correct, complete and in accordance with the Mandatory Petroleum Allocation and Price Regulations (Title 10, Code of Federal Regulations) and the Instructions to Form ERA–102.

Name of Applicant, or Applicant's Certifying Officer ————
Title
—Signature ————
Date Certified ————

Title 18, U.S. Code (Crimes and Criminal Procedures), Section 1001, makes it a criminal offense for any person knowingly and willingly to make a false statement or representation to any Department or Agency of the United States as to any matter within its jurisdiction. The maximum penalty for such offense is a fine of $10,000, or five years imprisonment; or both.

BILLING CODE 6450-01-M

Approved by OMB
038-R-0425
Expires 12-31-82

Attachment A

SCHEDULE I: QUALIFYING PERIOD PRODUCTION

PROPERTY NAME: _____

(A) Month Year (Qualifying Period)	(B) Number of Crude Oil Producing Wells		(C) Number of Days Crude Oil Produced		(D) Number of Curtailed 1/ Production Days		(E) Barrels of Crude Oil Produced	
	Qualifying Period	Previous 12 Months	Qualifying Period	Previous 12 Months	Qualifying Period	Previous 12 Months	Qualifying Period	Previous 12 Months
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								

1/ Days on which production was significantly curtailed by reason of mechanical failure or other disruption in production (i.e., for any reason, a well was not operating for a period of more than twenty-four consecutive hours).

Approved by OMB
038-R-0425
Expires 12-31-82

Attachment B

SCHEDULE II: ANNUAL PRODUCTION SCHEDULE

PROPERTY NAME: _____

Calendar Year	(A) Barrels of Crude Oil Produced	(B) Number of Crude Oil Producing Wells	(C) Variance in Number of Producing Wells (Yes / No)
19[illegible]			
19[illegible]			
19[illegible]			
19[illegible]			
1976			
19[illegible]			
19[illegible]			

MONTHLY PRODUCTION SCHEDULE 1

	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.
Year: ____												
Barrels of Crude Oil Produced:												
Number of Crude Oil Producing Wells:												
Year: ____												
Barrels of Crude Oil Produced:												
Number of Crude Oil Producing Wells:												

1/ Prepare a monthly Production Schedule only for those years in which there was a variance in the number of producing wells; (C) above is marked "Yes."

Approved by OMB
038-R-0425
Expires 12-31-82

Attachment C

SCHEDULE III: MONTHLY SALES

PROPERTY NAME: _____

Calendar Year: _____

Purchaser Name(s) & Classification:	JANUARY BBLS	FEBRUARY BBLS	MARCH BBLS	APRIL BBLS	MAY BBLS	JUNE BBLS	JULY BBLS	AUGUST BBLS	SEPTEMBER BBLS	OCTOBER BBLS	NOVEMBER BBLS	DECEMBER BBLS

Calendar Year: _____

Purchaser Name(s) & Classification:	BILLING CODE 6450-01-C

Instructions for Preparing the Application for a no Action Determination (Property Treated as a Stripper Well Property by a Producer)—Form ERA–102

General Instructions

Purpose of Form ERA–102: Form ERA–102 provides a means by which small independent domestic crude oil producers (those that produced 10,000 barrels of crude oil or less in the most recent full calendar year) may obtain a *no action determination* from the Economic Regulatory Administration (ERA) of the United States Department of Energy (DOE) regarding their treatment of certain of their crude oil producing properties as stripper well properties. The producer is requested to provide relevant information and data with respect to the property for which a no action determination is sought in Form ERA–102. A separate Form ERA–102 is to be submitted for each property for which a no action determination is sought. ERA will review the information in accordance with 10 CFR, Part 212, Mandatory Petroleum Price Regulations and will decide whether a no action determination should be issued to the applicant.

Who May File Form ERA–102: Form ERA–102 is a voluntary reporting form for small independent domestic crude oil producers. Eligibility is limited to those producers with annual crude oil production of 10,000 barrels or less and who are not the subject of a DOE or Federal Energy Regulatory Commission (FERC) enforcement proceeding. This application does not apply to properties in which any part of the working interest is owned by a refiner. Applicants must maintain a file that identifies by item number the source documents of information provided in this form.

Where to Submit Form ERA–102: Eligible domestic crude oil producers should submit a completed Form ERA–102 for each property for which a no action determination is sought to the United States Department of Energy, Office of Enforcement, Cruide Oil Producers, 2000 M Street, NW., Room 5302, Washington, D.C. 20461.

Request for Confidential Treatment: If the applicant claims that some or all of the information contained in the application is subject to confidential treatment and the applicant requests the DOE not to disclose such information, the applicant should file with the application a second copy of the application from which the alleged confidential information has been deleted. The applicant should indicate in the original application that the application is confidential or contains confidential information. The applicant must also file a statement justifying the non-disclosure of the alleged confidential information. If the information comes within the exception in Title 5, United States Code, Section 552(b)(4) for trade secrets and commercial or financial information, the applicant should include a statement specifying why such information is privileged or confidential. (*See* 10 CFR § 205.9(f))

Definitions: Definitions of terms utilized in the application are included below with the instructions and should be consulted prior to the completion of each item on the form. Authoritative citations also are provided for each definition, and these authorities may be consulted for further explanation of a term, if needed.

Part I—Applicant Identification

Item 1. Enter the legal name and the address of the applicant for whose property this report is being submitted. "Applicant" refers either to a natural person or to a firm.

Item 2. Indicate whether the applicant is a parent firm.

Item 3. Enter the legal name and address of each of the applicant's consolidated and unconsolidated entities, if any, indicating whether each such entity is consolidated or unconsolidated with the applicant. If none, enter "none."

Item 4. Enter the name, title, and office telephone number of the authorized person to be contacted by the DOE regarding the information provided in the application.

Item 5. Part I of Form ERA–102 must be certified by the applicant, the chief executive officer of a firm making the application, or the person specifically authorized by the applicant to make the certification.

Part II—Property and Production Information: General Instructions

A "Yes" or "No" response should be provided for the following questions: 3.a. through d., 4.a., 5, 6, 8.a. and b., 9.a., 10.a. through c., 11.a. and b.

Particular Instructions: Item 1.a. Enter the total number of barrels of domestic crude oil produced by the applicant and its consolidated and unconsolidated entities, if any, in the most recent full calendar year. To be eligible to file this application, total annual crude oil production must be 10,000 barrels or less.

b. Enter the total number of crude oil producing properties operated by the applicant and its consolidated and unconsolidated entities, if any, as of the date of this application. If none, enter "O".

c. Enter the total number of crude oil producing properties in which the applicant and its consolidated and unconsolidated entities, if any, have a working interest as of the date of this application. If none, enter "O".

Item 2.a. Indicate whether the right to produce domestic crude oil from this property arises from an oil and gas lease or from a fee interest in the property as evidenced by a deed.

b. In addition to the name and lease or deed number of the property, enter the name of the producing field in which the property is located, as well as the county and state in which this field is located.

Item 7.a. Prepare Scheule I (Attachment A) for the property for which a no action determination is requested according to the following instructions:

Column A: On line 1, enter the first month and year of the qualifying period for the property. Continue with lines 2 through 12 for the second through twelfth month of the qualifying period.

Column B: Enter the number of producing wells on the property for each month of the qualifying period and for each of the twelve consecutive months preceding the qualifying period. For example, if the first month of the qualifying period was March, 1976, and if there were 5 producing wells on the property that month and 4 producing wells on the property in March, 1975, the entry for Column B, line 1, would show 5 under the "qualifying period" and 4 under the "previous 12 months."

Column C: Enter the total number of days the property produced crude oil for each month of the qualifying period and for each of the twelve consecutive months preceding the qualifying period. This figure is the accumulated number of days during a given month that the wells on the property produced crude oil. For example, if in the month of March, 1976, the property had two wells, one of which produced crude oil fifteen days of the month and one of which produced crude oil twenty days of the month, the entry for March, 1976, would be 15 plus 20 days, or 35 producing days. If both wells produced crude oil on every day of March, 1976, the entry would be 31 plus 31, or 62 producing days.

Column D: Enter the total number of days during which production of crude oil from the property was significantly curtailed by reason of mechanical

failure or other disruption in production for each month of the qualifying period and for each of the twelve consecutive months preceding the qualifying period. The sum of the producing days (Column C) and the non-producing days (Column D) must equal the number of calendar days in the month multiplied by the number of producing wells on the property in that month.

Column E: Enter the number of barrels of crude oil produced from the property during each month of the twelve-month qualifying period and during each month of the twelve consecutive months preceding the qualifying period.

Item 7.b. Prepare Schedule II (Attachment B) for the property for which a no action determination is requested according to the following instructions:

General: Schedule II is a two part schedule: (1) Annual Production Schedule, and (2) Monthly Production Schedule. Complete the Annual Production Schedule first. If in any given calendar year there was a variance in the number of producing wells on the property (*i.e.*, a "Yes" response in Column C), the Monthly Production Schedule should be completed for the calendar year in which the variance occurred. (See instructions for Column C below)

Annual Production Schedule

Calendar Year: Complete the Annual Production Schedule for calendar years 1972 through the most recent full calendar year. Indicate the succeeding calendar year(s) for any year(s) after 1978.

Column A: Enter the total number of barrels of crude oil produced from the property during each calendar year beginning with 1972 through the most recent full calendar year.

Column B: Enter the total number of wells on the property which produced crude oil during any part of the year for each calendar year beginning with 1972 through the most recent full calendar year.

Column C: Indicate by checking "Yes" or "No" whether the number of producing wells on the property varied from month to month during each calendar year beginning with 1972 through the most recent full calendar year. A "Yes" response is required if the number of producing wells varied from any month to the next month during the calendar year. A "Yes" response also is required if the number of producing wells differed between the closing month of one calendar year and the opening month of the next calendar year. In this situation, check the "Yes" response for both calendar years affected and complete the Monthly Production Schedule for both years.

Monthly Production Schedule

The Monthly Production Schedule should be completed for each calendar year in which a variance occurred in the number of producing wells. In the space provided, indicate the calendar year in which such a variance occurred and provide separate monthly totals for the number of barrels of crude oil produced from the property and the number of producing wells on the property.

Item 7.c. Prepare Schedule III (Attachment C) for the property for which a no action determination is requested according to the following instructions:

Calendar Year: Schedule III: Provide monthly sales information for each calendar year beginning with 1972 through the most recent full calendar year. Enter the appropriate calendar year in the space provided in each section of the schedule. If you need additional space because you are completing Schedule III for more than two calendar years, make additional copies of Schedule III before entering any data.

Purchaser Name and Classification: Provide monthly sales information for each purchaser. Enter the name of each purchaser of crude oil during the designated calendar year. List a purchaser whether purchases were made during every month of the year or only during selected months of the year. Indicate the classification of each purchaser as a refiner of crude oil, a reseller of crude oil, or a refiner/reseller.

Monthly Columns: For each purchaser, provide the total number of barrels of crude oil produced from the property and sold to that purchaser in each month of the designated calendar year. If no sale of crude oil was made to a particular purchaser in a particular month, enter a dash (——) mark in the appropriate space.

Item 12. Attach copies of all documents delivered under 10 CFR 212.131 to purchasers of the crude oil produced from the property whether in the form of billings or invoices, or separate certification documents which were supplied to purchasers.

Item 14. Part II of Form ERA–102 must be certified by the applicant, the chief executive officer of a firm making the application, or by the person specifically authorized by the applicant to make this certification.

Definitions

Average Daily Production

The qualified maximum total production of curde oil (excluding condensate recovered in non-associated production) produced from a property, divided by a number equal to the number of days in the 12-month qualifying period times the number of wells that produced crude oil (excluding condensate recovered in non-associated production) from that property in that 12-month qualifying period. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production throughout the 12-month qualifying period and in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production. (10 CFR 212.54)

Consolidated Entity: A firm directly or indirectly controlled by the parent which is consolidated with the parent for purposes of financial statments prepared in accordance with generally accepted accounting principles. An individual shall be deemed to control a firm which is directly or indirectly controlled by him or by his father, mother, spouse, children or grandchildren. (10 CFR 212.31)

Crude Oil: A mixture of hydrocarbons that existed in liquid phase in underground reserviors and remains liquid at atmospheric pressure after passing through surface separating facilities. "Crude Oil" includes condensate recovered in assoicated production by mechanical separatiors, whether located on the lease, at central field facilities, or at the inlet side of a gas processing plant. (10 CFR 212.31, 212.54(a))

Firm: Any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The DOE may, in regulations and forms issued in this part, treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm. (10 CFR 212.31)

Parent Firm: A firm which is not directly or indirectly controlled by another firm. (10 CFR 212.31)

Price: Any consideration for the sale of any property or services and includes commissions, dues, fees, margins, rates, charges, tariffs, fares, or premiums, regardless of form. (10 CFR 212.31)

Producer: A firm or that part of a firm which produces crude oil or natural gas, or any firm which owns crude oil or natural gas when it is produced. (10 CFR 212.31)

Property: The right to produce domestic crude oil, which arises from a lease or from a fee interest. A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation. (10 CFR 212.72)

Qualifying Period: Any consecutive 12-month period of production of crude oil beginning after December 31, 1972 which is used as the measuring period for establishing whether a "property" has an average daily production of crude oil (excluding condensate recovered in non-associated production) per well of not more than 10 barrels per day. (10 CFR 212.54)

Stripper Well Property: A "property" whose average daily production of crude oil (excluding condensate recovered in non-assoicated production) per well did not exceed 10 barrels per day during any preceding consecutive 12-month period beginning after December 31, 1972. (10 CFR 212.54)

Unconsolidated Entity: A firm directly or indirectly controlled by a parent but not consolidated with the parent for purposes of financial statements prepared in accordance with generally accepted accounting principles. An unconsolidated entity includes any firm consolidated with the unconsolidated entity for purposes of financial statements prepared in accordance with generally accepted accounting principles. An individual shall be deemed to control a firm which is directly or indirectly controlled by him or by his father, mother spouse, children or grandchildren. (10 CFR 212.31)

[FR Doc. 79-24436 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER79-549]

Appalachian Power Co.; Proposed Tariff Change

August 2, 1979.

The filing Company submits the following:

Take notice that Appalachian Power Company, on July 31, 1979, tendered for filing proposed changes in its F.E.R.C. Electric Service Rate Schedule No. 23 applicable to service to Kingsport Power Company. The proposed changes would increase revenues from jurisdictional sales and service by $2,926,560 based on the twelve-month period ending December 31, 1979. Appalachian Power Company proposes that the rates and charges and terms and conditions of service revised by this filing become effective October 1, 1979.

The proposed changes reflected in the filing primarily involve:

1. Increased demand and energy charges.

2. A revised base cost of fuel as contained in a fuel adjustment clause prepared in conformity with Section 35.14 of the Commission's Regulations.

The proposed rate increase is occasioned by increases in the cost of providing electric service and the proposed rates are designed to recover such cost of providing electric service.

Copies of the filing were served upon Kingsport Power Company and the Public Service Commission of Tennessee.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not served to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24388 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-550]

Appalachian Power Co.; Proposed Tariff Change

August 2, 1979.

The filing Company submits the following:

Take notice that Appalachian Power Company (Appalachian) on July 31, 1979 tendered for filing proposed changes in its F.E.R.C. Rate Schedules for service to its twenty wholesale customers in the States of Virginia and West Virginia. The proposed rate changes would increase revenues from jurisdictional sales and service by $3,117,641 based upon the twelve-month period ending December 31, 1979. Appalachian proposes that the rates and charges which are revised by this filing become effective October 1, 1979.

The proposed changes reflected in the filing primarily involve:

1. Increase demands and energy charges

2. A revised base cost of fuel as contained in a fuel adjustment clause prepared in conformity with Section 35.14 of the Commission's Regulations.

The proposed rate increase is occasioned by increases in the cost of providing electric service, and the proposed rates are designed to recover such cost of providing electric service.

Copies of the filing were served upon Appalachian's jurisdictional customers and the State Corporation Commission of the Commonwealth of Virginia and the Public Service Commission of West Virginia.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20406, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in

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determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must filed a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24389 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-536]

Cambridge Electric Light Co.; Filing

August 2, 1979.

The filing company submits the following:

Take notice that Cambridge Electric Light Company on July 27, 1979, tendered for filing a proposed tariff for full requirements wholesale service, a form of rate schedule and an unexecuted Service Agreement thereunder as a change to its currently-effective Rate Schedule FERC No. 29. Such Rate Schedule FERC No. 29 currently governs Cambridge's wholesale sale of electric energy to the Municipal Light Department of the Town of Belmont, Massachusetts.

The proposed effective date of the rate schedule change is October 1, 1979.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24390 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-539]

Central Maine Power Co.; Proposed Tariff Change

August 2, 1979.

The filing company submits the following:

Take notice that Central Maine Power Company, on July 30, 1979, tendered for filing proposed changes in its FERC Electric Tariff, Volume No. 1 (Schedule W-1). The proposed changes would increase revenues from jurisdictional sales and service by $230,451 based on the 12 month period ending December 31, 1978.

Central Maine Power Company filed these changes in its FERC Electric Tariff in order to raise the rate of return from this class of customer to a level that is just and reasonable.

Copies of this filing were served upon the public utility's four jurisdictional customers and the Maine Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24391 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-538]

Community Public Service Co.; Filing

August 2, 1979.

The filing company submits the following:

Take notice that Community Public Service Company (CPS) on July 27, 1979, tendered for filing a proposed rate schedule in the form of service schedules "C", "D", "E" and "G" to a certain Interconnection Agreement between CPS and Public Service Company of New Mexico (PNM).

CPS states that it renders no electric utility service to PNM except for the transmission service provided for in the tendered service schedules and except for certain interchange energy of an emergency and economy nature and that, therefore, the tendered service schedules constitute an initial rate schedule within the meaning of 18 CFR § 35.12.

According to CPS, the tendered service schedules provide for dedication of transmission capacity and performance of transmission service by CPS to PNM. The transmission capacity by which CPS renders such service was constructed pursuant to an arrangement between PNM, CPS and El Paso Electric Company (EPE) as set forth in the Southwest New Mexico Transmission Project Agreement, which provides for construction of transmission facilities running across the southern tier of New Mexico. The rate payable by PNM to CPS under the tendered service schedules consists of reimbursement by PNM of capital costs and operating expenses associated with the transmission capacity provided by CPS thereunder.

CPS requests a waiver of the notice requirements and seeks effective dates of the tendered service schedules as of the dates of the commencement of service thereunder, namely, December 1, 1975, August 1, 1977, July 10, 1978, and August 1, 1977, respectively. CPS explains its failure to file the service schedules earlier on the ground of administrative inadvertence on its part. CPS asserts that nobody can be prejudiced by the late filing because the service schedules were the result of negotiation between CPS and PNM and provide for the recovery only of the incremental costs incurred by CPS to render such transmission service to PNM.

Copies of the filing were served on PNM, EPE, the New Mexico Public Service Commission, and the Public Utility Commission of Texas and are available for public inspection during regular business hours at CPS' principal office in Fort Worth, Texas, and the office of its attorneys in Washington, D.C.

Any person desiring to be heard or to protest said rate schedule tender should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24392 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-540]

The Connecticut Light & Power Co.; Filing of Rate Schedule

August 2, 1979.

The filing Company submits the following:

Take Notice that on July 27, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule of an exchange agreement (the "Agreement") between CL&P and The Hartford Electric Light Company (HELCO) (the NU Companies); and Village of Lyndonville Electric Department (Lyndonville). The Agreement, dated as of October 1, 1977, provides for the NU Companies to exchange capacity in Middletown Unit No. 4 and Montville Unit No. 6, both mid-range fossil-fired steam units, for gas turbine capacity from the Lyndonville system.

The Agreement provides that the parties will determine prior to 12:01 a.m. of the first Monday of each week during the term of the Agreement whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement, shall take place during that week. Lyndonville will pay capacity charges to the NU Companies in an amount equal to the capacity exchanged during the week times $0.00274 times the number of hours during each week subject to a pro rata deduction for any hour during which Lyndonville calls for receipts from or deliveries to the NU Companies and the NU Companies are unable to meet such demands. Lyndonville will purchase energy from such units at the incremental cost of providing such energy. The NU Companies will pay Lyndonville's incremental cost of providing any energy taken by the NU Companies pursuant to the Agreement.

CL&P requests an effective date of October 3, 1977 for the Agreement.

HELCO and Lyndonville have filed certificates of concurrence in this docket.

The Agreement has been executed by the NU Companies and by Lyndonville and copies have been mailed to each of them.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a petiton to intervene or protest for the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining appropriate action be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24393 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-319]

Consolidated Gas Supply Corp.; Order Establishing Procedures, Granting Petitions To Intervene and Initiating Expedited Hearing

Issued: July 27, 1979.

On May 21, 1979, Consolidated Gas Supply Corporation (Con Gas) filed an application for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act and a request for temporary certificate authorization. Con Gas seeks limited-term pregranted abandonment authorization to sell an average daily quantity of 100,000 dekatherms or an annual quantity of 36,500,000 dekatherms to Texas Gas Transmission Corporation (Texas Gas), all as more fully set out in its application which is on file with the Commission.

Con Gas states that the gas is to be taken from the volumes which it is now or will be authorized to purchase from independent producers in the South Louisiana area under certificates of public convenience and necessity. Con Gas estimates that more than eighty percent of the volumes to be sold to Texas Gas will be purchased by Con Gas from its affiliate, CNG Producing Company (CNG).

The Con Gas-Texas Gas agreement defines the limited term of the sale as 30 months from the date of initial deliveries. The agreement further provides that Con Gas and Texas Gas seek Commission assurance that participation in the proposed sale will not have a negative impact on their present or future allocations under any pipeline natural gas curtailment plan. Furthermore, Con Gas requests that the certificate contain pregranted abandonment authorization permitting the termination of this sale at the end of the term of the Agreemment.

The base rate for the sale is proposed to be $1.89 per dekatherm. The rate was increased by seven cents per dekatherm on July 1, 1979. It will be increased by an additional seven cents each January 1 and July 1 thereafter during the term of the agreement. Con Gas states that Texas Gas will utilize the volumes purchased from it as general system supply rather than for delivery to particular customers.

Con Gas is to deliver the gas to Texas Gas or for the account of Texas Gas at the existing measuring and regulating station located at the northern terminus of the Blue Water Pipeline System near Egan, Louisiana and the northern terminus of the High Island Offshore System. The northern terminus of the U.T. Offshore System facilities near Cameron Meadows in Cameron Parish, Louisiana is proposed as an alternate delivery point.

Con Gas states that the volumes of gas proposed to be sold herein are in excess of the present needs of its customers. Con Gas further states that Texas Gas is curtailing 24% of priority 3.

Con Gas requests the issuance of a temporary certificate. Two reasons are cited in support of the issuance of a temporary certificate. First, due to the level of curtailment on the Texas Gas system, "the early approval and commencement of the proposed sale is required in the public interest because it will aid Texas Gas in maintaining an adequate level of natural gas service on its system." Second, Con Gas states that "the early commencement of off-system sales is required in order to minimize the unit cost of gas to its customers." Furthermore, Con Gas argues that the sale will reduce the risk that take-or-pay penalties will be imposed under Con Gas' contracts with its suppliers.

After due notice by publication in the **Federal Register** on June 11, 1979, (44 FR 33460), petitions for leave to intervene were filed by Niagara Mohawk Power Corporation (Niagara Mohawk), Public Service Electric and Gas Company (Public Service), Columbia Gas Transmission Corporation (Columbia), Brooklyn Union Gas Company (BUG), East Ohio Gas Company (East Ohio), and Texas Gas. A late petition to intervene was filed by Peoples Natural Gas Company (Peoples). This late intervention will be granted because this order merely sets the matter for hearing.

Notice of intervention was filed by the State of Louisiana.

In its petition to intervene, Niagara Mohawk states that it is the largest non-affiliated jurisdictional customer of Con Gas. It further states that if the most recent Con Gas rate increase becomes effective, Niagara Mohawk will be required to pay a higher rate for gas it purchases from Con Gas than the rate Con Gas will charge Texas Gas. Niagara Mohawk states that it questions whether it is appropriate for Texas Gas to receive gas at a lower price than Con Gas proposes to charge Niagara Mohawk.

Discussion

I. The Request for Temporary Certificate

On the basis of the facts contained in Con Gas' application, the Commission on July 27, 1979, issued a 60-day temporary certificate to Con Gas. Its finding of emergency within the meaning of Sections 7 and 16 of the Natural Gas Act was based in substantial part on the fact that Texas Gas is presently in curtailment.

II. Hearing Procedures

The issue raised by Niagara Mohawk in its petition to intervene is but one of several issues which warrant development pursuant to an evidentiary record before we can decide whether to grant the certificate requested herein. Therefore, both Con Gas and Texas Gas shall file testimony in support of the application. The evidence shall, among other things, develop the following issues:

1. What is the origin of the gas to be sold by Con Gas to Texas Gas? Con Gas should provide supply and requirements projections which identify the excess gas to be sold, including any growth assumptions or requirements and reserve assumptions.

2. Could Con Gas alleviate its alleged unit cost of gas and take-or-pay penalty problems by backing off on its takes from Texas Gas and/or its other suppliers? It should explain possible remedies if the proposed certification is denied and the alleged problems that would be allevated if it is granted.

3. What level of deliveries will Con Gas take from Blue Water, HIOS, UTOS, without the proposed sale to Texas Gas?

4. Could Con Gas either husband or store the surplus gas on its system for the future use of its own customers?

5. What is the basis for the price to be charged by Con Gas to Texas Gas? What will be the disposition of the revenues received by Con Gas? Will Niagara Mohawk and other customers of Con Gas pay a higher price for their gas than will Texas Gas? If yes, explain why.

6. What will be the impact, if any, of the proposed arrangements on the customers and interstate suppliers of Con Gas and Texas Gas through 1981?

7. What is the alternate fuel capability and availability for the end uses projected to be curtailed, but for the Con Gas deliveries?

8. What is the nature of the service to be provided by Con Gas to Texas Gas?

9. What specific language is requested in the application regarding no negative impact on present or future allocations under any pipeline natural gas curtailment plan and why is such language necessary?

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the application in this docket be set for expedited formal hearing in accordance with the procedures hereinafter detailed.

(2) Participation by the petitioners to intervene may be in the public interest.

(3) Good cause exists to permit the late intervention of Peoples.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure (18 CFR, Part I), and the Regulations under the Natural Gas Act (18 CFR, Chapter I, Subchapter (e)), a public hearing shall be held on the subject application, in the manner provided for in the instant order.

(B) A Presiding Administrative Law Judge designated by the Chief Administrative Law Judge shall preside over the hearing provided for in this order and shall consistent therewith assure its timely commencement in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further rules and any other procedural dates as provided for in this order and in the Commission's Rules of Practice and Procedure.

(C) The Administrative Law Judge's intermediate decision in these proceedings is omitted and upon the conclusion of the hearing ordered, the record in these consolidated proceedings shall be certified directly to the Commission for decision.

(D) Petitioners to intervene are permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* that the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and, *Provided, further,* that the admission of said interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in these proceedings.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24394 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-526]

El Paso Electric Co.; Application for Tariff Change

August 2, 1979.

The filing company submits the following:

Take notice that El Paso Electric Company (El Paso), on July 27, 1979, tendered for filing proposed changes in its rates for wholesale service to customers served under its FERC Rate Schedules 17, 18 and 19. El Paso indicates that the proposed changes would increase revenues from jurisdictional sales and service by $409,415, based on the 12-month period ending September 30, 1979.

El Paso states that the filing is based upon inclusion of fuel conversion and pollution control Construction Work in Progress (CWIP) in rate base during a Period I test period ending December 31, 1978. El Paso also requests approval for an increase in the composite depreciation rate to 3.28% as a part of the proposed increase. El Paso requests an effective date of October 1, 179, and an expeditious implementation of the proposed increase pending Commission action on its application for inclusion of CWIP in rate base under the special relief provisions of Order No. 555 in Docket No. ER78-520 and ER77-488 (Phase I).

According to El Paso, copies of the filing were served upon Community Public Service Company and Rio Grande Electric Cooperative, Inc., El Paso's customers under these schedules, and upon the New Mexico Public Service Commission and the Public Utility Commission of Texas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24395 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-544]

Idaho Power Co.; Proposed Rate Schedule Change

August 2, 1979.

The filing Company submits the following:

Take notice that Idaho Power Company on July 30, 1979, tendered for filing a proposed increase in rates in its contract for sales of electric power and energy to C P National's Oregon Division, as filed with the Commission and designated as Idaho's Rate Schedule FPC No. 57, and to City of Weiser, as filed with the Commission and designated as Idaho's Rate Schedule FPC No. 42. The proposed changes, requested to become effective on October 1, 1979, would increase revenues from jurisdictional sales and service by approximately $1,182,900 from C P National and $221,200 from the City of Weiser, based on the 12-month period ending December 31, 1979.

The Company states that the proposed increase in rates is required to offset the effect of increased operating expenses, capital costs and plant additions.

Copies of the filing were served upon C P National, City of Weiser, the Public Utility Commissioner of Oregon, the Idaho Public Utilities Commission, and the Nevada Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24396 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-545]

Idaho Power Co.; Filing

August 2, 1979.

The filing Company submits the following:

Take notice that on July 30, 1979, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff Volume No. 1 (Supersedes Original Volume No. 1) during June, 1979, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24397 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-537]

Lockhart Power Co.; Filing

August 2, 1979.

The filing company submits the following:

Take notice that Lockhart Power Company, on July 27, 1979, tendered for filing proposed changes in its FERC Electric Service Tariff Rate Schedule Resale. The proposed changes would increase revenues from jurisidictional sales and service by $144,152 based on the 12-month period ending December 31, 1978.

The reason for the proposed increase is the Company's increased cost of doing business and its failure to earn a reasonable return on investment. In addition, Lockhart is seeking to modify its rate structure so as to conform with Commission determinations in Opinion Nos. 29 and 29A.

Copies of the filing have been served upon the City of Union, South Carolina, Lockhart's sole jurisdictional customer. A copy of the filing has also been mailed to the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24398 Filed 8-7-79; 8:45 am]

BILLING CODE 6550-01-M

[Docket No. RP73-43 (PGA79-2), (IT79-3) and (LFUT79-2)]

Mid Louisiana Gas Co.; Order Accepting for Filing and Suspending Proposed Tariff Sheet, Subject to Conditions

Issued: July 27, 1979.

On June 29, 1979, Mid Louisiana Gas Company (Mid Louisiana) filed revised tariff sheets [1] proposed to be effective August 1, 1979. Mid Louisiana states that the purpose of this filing is to reflect increased purchased gas costs. Mid Louisiana's filing also reflects a revised surcharge for amortizing the deferred balance in its unrecovered purchased gas cost account, a decrease in the transportation cost tracker and a decrease in the Louisiana First Use Tax adjustment.[2]

[1] Thirty-Third Revised Sheet No. 3a to FERC Gas Tariff, First Revised Volume No. 1 and Second Revised Sheet No. 3b to FERC Gas Tariff, First Revised Volume No. 1.

[2] This adjustment represents a temporary tracking surcharge for the Louisiana First Use Tax. This surcharge is to be effective until the Commission terminates the tracking provisions by order, following the final and non-appealable court order as to the validity of the tax.

Public notice of the filing was issued July 5, 1979 providing for protests or petitions to intervene to be filed on or before July 20, 1979.

Based upon a review of Mid Louisiana's filing this Commission finds that the proposed rates have not been shown to be just and reasonable, and may be unjust and unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept for filing Mid Louisiana's tariff sheets, subject to conditions; grant waiver of the 30 day notice requirement and suspend its effectiveness such that it shall become effective, subject to refund, as of August 1, 1979.

Mid Louisiana's filing includes a 0.55¢ per Mcf transportation cost rate adjustment proposed to be effective August 1, 1979 replacing the present 2.51¢ per Mcf. The transportation cost rate adjustment (0.55¢ per Mcf) was filed pursuant to Article V of Mid Louisiana's Stipulation and Agreement at Docket No. RP77–58 approved by Commission order issued October 12, 1978. Article V permits Mid Louisiana to file transportation cost rate adjustments semi-annually and concurrently with its PGA adjustments for the life of the settlement agreement. Included within this tracking adjustment is an effective charge of 23.25¢ per Mcf for the gathering, compression and dehydration of gas by Sunbelt, Inc. a wholly owned subsidiary of Mid Louisiana. The effective 23.25¢ per Mcf gathering, compression and dehydration charge is for gas purchased from Louisiana Land and Exploration Company (LLE).[3] This 23.25¢ per Mcf charge for gathering, compression, and dehydration is in addition to Mid Louisiana's proposed filing request for a Section 103 price, pursuant to the Natural Gas Policy Act of 1978 for the gas purchased from LLE.[4] Sunbelt entered into its gathering, compression, and dehydration contract with Mid Louisiana on July 1, 1978.

By order issued January 30, 1979, the appropriateness of this aspect of Mid Louisiana's transportation tracker was made the subject of a Commission investigation in Docket No. RP73–43 (PGA79–1 and TT79–2). In that docket the Commission ordered a hearing regarding the following issues, among others: (1) Whether Sunbelt's operations constitute gathering operations or transportation operations; (2) whether the Sunbelt charge is appropriately included in Mid Louisiana's transportation rate adjustment; (3) whether Sunbelt requires certificate authorization; (4) whether the Sunbelt charge exceeds the maximum lawful price under the Natural Gas Policy Act of 1978 and (5) such other issues as are necessary to make a determination of the appropriate rates. Since those and other issues remain unresolved in those proceedings acceptance of the instant filing is suspended subject to the final disposition of those proceedings.

Mid Louisiana's filing reflects the repricing of gas received by it from a producer-affiliate, South Louisiana Production Company, to a basis equal to that which would be received by independent producers for similar vintages under the NGPA. The Commission has not yet determined the appropriate treatment of the pricing of affiliate production under the NGPA. Accordingly, we shall require that the costs associated with the affiliate's production be collected subject to refund and subject to the Commission's final NGPA Regulation (on rehearing) governing this issue.

This filing also reflects NGPA prices under area rate clauses in the applicable contracts between the respective producers and Mid Louisiana. The Commission's acceptance of this PGA filing shall not constitute a final determination that any or all of the area rate clauses permit NGPA prices. That determination shall be made in accordance with the procedures prescribed in Order No. 23, issued March 13, 1979, as amended by order issued April 30, 1979, and Order No. 23–B, issued June 22, 1979, in Docket No. RM79–22. Should the Commission ultimately determine that a producer was entitled to an NGPA price under the area rate clause, the refunds which would be made by the producer to Mid Louisiana would be flowed through to Mid Louisiana's customers in accordance with the procedures prescribed in Mid Louisiana's PGA clause.

In addition, Mid Louisiana has reflected costs from producer and pipeline suppliers in its current adjustment which are anticipated to become effective on or before August 1, 1979. Accordingly, we shall require Mid Louisiana to file a revised tariff sheet reflecting elimination of costs from producer and pipeline suppliers which those suppliers are not authorized to charge Mid Louisiana on or before August 1, 1979, pursuant to applicable Commission orders, the Natural Gas Act and the Regulations thereunder, and the Natural Gas Policy Act of 1978 and the Regulations thereunder, provided that the elimination of such costs and volumes shall not result in rate levels higher than those in the initial filing in this docket.

The Commission orders: (A) Subject to the conditions of Ordering paragraphs (B) and (C) below, Mid Louisiana's proposed Thirty Third Revised Sheet No. 3a to FERC Gas Tariff, First Revised Volume No. 1 and Second Revised Sheet No. 3b to FERC Gas Tariff, First Revised Volume No. 1 are accepted for filing, suspended, and waiver of notice requirements is granted such that the filing shall become effective on August 1, 1979, subject to refund.

(B) Mid Louisiana shall file a revised tariff sheet to become effective subject to refund on August 1, 1979, reflecting elimination of such costs from producer and pipeline suppliers which those suppliers are not authorized to charge Mid Louisiana on or before August 1, 1979, pursuant to applicable Commission orders, the Natural Gas Act and the Regulations thereunder, and the Natural Gas Policy Act of 1978 and the Regulations thereunder, provided that the elimination of such costs and volumes shall not result in rate levels higher than those in the initial filing in this docket.

(C) Mid Louisiana shall collect the costs paid to its producer affiliate subject to refund and subject to the Commission's final NGPA regulation (on rehearing) governing this issue.

(D) Mid Louisiana shall collect the charges paid to Sunbelt subject to refund and subject to the final outcome of the proceedings in Docket No. RP73–43 (PGA79–1 and TT79–2).

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–24399 Filed 8–7–79; 8:45 am]

BILLING CODE 6450–01–M

[3] LLE was authorized in Docket No. CI78–200 to make this sale to Mid Louisiana on a temporary basis.

[4] Presently, LLE has not made any filing with the Commission to collect this rate on an interim basis pending determination that such gas qualifies for this rate.

[Docket No. ER79–546]

Pacific Power & Light Co.; Proposed Tariff Change

August 2, 1979.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on July 30, 1979, tendered for filing, in accordance with Section 35.13 of the Commission's Regulations, a Supplemental Agreement providing for an increase in rates for service to the City of Powell (Powell), Wyoming, under Pacific Rate Schedule FPC No. 119. The proposed change would increase revenues from jurisdictional sales by a total of $78,500 based on the 12-month period ending December 31, 1978.

The proposed changes have been filed to partially reflect the increase in Pacific's investment, operating expenses, and capital costs.

Copies of the filing were supplied to Powell and the Public Service Commission, The State of Wyoming.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–24400 Filed 8–7–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER79–547]

Pacific Power & Light Co.; Proposed Tariff Change

August 2, 1979.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on July 30, 1979, tendered for filing, in accordance with Section 35.13 of the Commission's Regulations, a Supplemental Agreement providing for an increase in rates for service to the Town of Torrington (Torrington), Wyoming, under Pacific Rate Schedule FPC No. 126. The proposed change would increase revenues from jurisdictional sales by a total of $33,550 based on the 12-month period ending December 31, 1978.

The proposed changes have been filed to partially reflect the increase in Pacific's investment, operating expenses, and capital costs.

Copies of the filing were supplied to Torrington and the Public Service Commission, The State of Wyoming.

Any person desiring to be heard or to protest said application should file a petiton to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–24401 Filed 8–7–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER79–548]

Pacific Power & Light Co., Proposed Tariff Change

August 2, 1979.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Paicfic) on July 30, 1979, tendered for filing, in accordance with Section 35.13 of the Commission's Regulations, a Supplemental Agreement providing for an increase in rates for service to the Town of Basin (Basin), the Town of Deaver (Deaver), and Svilar Light and Power, Inc., (Svilar), all of Wyoming, under Pacific Rate Schedule FPC No's. 120, 121, and 122, respectively. The proposed changes would increase revenues from jurisdictional sales by a total of $24,800 based on the 12-month period ending December 31, 1978.

The proposed changes have been filed to partially reflect the increase in Pacific's investment, operating expenses, and capital costs.

Copies of the filing were supplied to Basin, Deaver, Svilar and the Public Service Commission, the State of Wyoming.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordence with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–24402 Filed 8–7–79; 8:45 am]

BILLING CODE 6450–01–M

[Project No. 2932]

S. D. Warren Co.; Application for Short-Form License (Minor) for a Constructed Project

July 31, 1979.

Take notice that on May 15, 1979, S. D. Warren Company filed an application for license [pursuant to the Federal Power Act, 16 USC, § 791(a)—825(r)] for an existing water power project known as the Mallison Falls Project, FERC Project No. 2932, located on the Presumpscot River, a navigable waterway of the United States, near Gorham and South Windham, in Cumberland County, Maine.

Correspondence with the Applicant should be directed to the following persons: Mr. William H. Marra, Vice President, S.D. Warren Company, 225 Franklin Street, Boston, Massachusetts 02101; Mr. John B. Blatz III, Associate Counsel, Scott Paper Company, Scott Plaza One, Philadelphia, Pennsylvania 19113; and Mr. Bernard A. Foster III, Ms. Nancy J. Hubbard, Ross, Marsh & Foster, 730–15th Street, N.W., Washington, D.C. 20005

Purpose of the Project—Project energy is used by the Applicant in the operation of its Westbrook paper plant. An applicant states that because of the urban setting, industrial and commercial use of the land at the project, high population density, and the limited availability of open space, recreational opportunities are minimal.

Project Description—The existing project, constructed in the early 1900's, consists of: (1) a 20.5-foot-high, 260-foot-long dam with a crest elevation of 90.62 feet m.s.l.; (2) a headgate structure; (3) a 675-foot-long intake canal; (4) a powerhouse with an installed capactiy of 800-kW; and (5) appurtenant facilities. The annual generation for the project averages 5,529,600 kWh which represents about 3% of the Westbrook paper plant's energy requirements. The project is a run-of-the-river operation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal

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Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before October 5, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–24403 Filed 8–7–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER79–542]

Southern California Edison Co.; Filing of Rate Schedule Change

August 2, 1979.

The filing Company submits the following: Take notice that Southern California Edison Company (Edison), on July 27, 1979, tendered for filing the Second Amended Edison-San Diego Interruptible Transmission Service Agreement (the "Agreement") with the San Diego Gas and Electric Company (San Diego) providing for the transmission by Edison, on an interruptbile basis, of energy purchased or sold by San Diego from or to various sources. This Agreement amends and restates Amended Edison-San Diego Interruptible Transmission Service Agreement dated December 4, 1978, to provide for the transmission of energy in addition to the purchased energy contemplated under the amended agreement and to provide for transmission service in either direction. The Agreement provides that Edison will charge San Diego for transmission, dispatching, and scheduling services. San Diego will reimburse Edison in kind for transmission losses. The Agreement is proposed to become effective, and service under the Agreement to commence, when accepted for filing by the FERC and will continue until May 1, 1986, or until terminated on 30 days notice.

Edison states that San Diego requests that service be initiated at the earliest possiblor date under this Agreement, and for that reason Edison requests that the prior notice requirements of the Commission's regulations be waived and the filing be permitted to become effective as soon as possible.

Copies of this filing were served upon San Diego Gas and Electric Company and the Public Utilities Commission of the State of California.

Any persons desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–24404 Filed 8–7–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. EF79–4011]

Southwestern Power Administration; Correction

August 2, 1979.

Take notice that the Assistant Secretary for Resource Applications of the Department of Energy on June 28, 1979 filed with the Commission a corrected Rate Schedule F–3 to take the place of the incorrect Rate Schedule F–3 transmitted with Rate Order No. SWPA–1 requesting confirmation and approval on a final basis of six power system rate schedules of the Southwestern Power Administration.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–24405 Filed 8–7–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP79–48]

Texas Eastern Transmission Corp. and Texas Gas Transmission Corp.; Petition To Amend

July 31, 1979.

Take notice that on July 13, 1979, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, and Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42301 (Petitioners), filed in Docket No. CP79–48 a petition to amend the order of February 23, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for an additional point of receipt of natural gas from Texas Eastern to Texas Gas, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

The order of February 23, 1979, authorized Petitioners to transport and exchange up to 20,000 Mcf of natural gas per day from High Island Area Block A–568, offshore Texas (HI–A568) and West Cameron Area Block 237, offshore Louisiana (WC 237), pursuant to a transportation and exchange agreement dated November 30, 1978, between Texas Gas and Texas Eastern.

By the terms of the November 30, 1978, agreement Texas Eastern desires to have Texas Gas receive volumes of gas produced in High Island Area Block A–480 offshore Texas, which volumes Texas Eastern has acquired the right to purchase from Texas Eastern Exploration Co. (Exploration). Consequently, Texas Gas proposes to receive natural gas tendered for delivery by Texas Eastern at the existing authorized receipt point and at the proposed additional point of receipt at a point of interconnection of High Island Offshore System with the pipeline facilities being constructed [1] by Texas Eastern. There will be no increase in the volume exchanged, Petitioners assert.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 22, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–24406 Filed 8–7–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP77–421]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

July 31, 1979.

Take notice that on May 31, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77–421 a petition to amend the Commission's order issued March 22, 1979, in said docket pursuant to Section 7(c) of the Natural Gas Act by authorizing the extension for two years of the terms of certain transportation services and by authorizing the transportation of natural gas for the account of Eastern Pennsylvania Exploration Company (Eastern Pennsylvania), in lieu of Philadelphia Electric Company (Philadelphia Electric), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of March 22, 1979, authorized Transco to transport natural gas for the account of eleven of its distribution company customers, its one direct industrial coustomer and two industrial customers of its distribution customers, or affiliates of such customers, which participated in three exploration and development programs engaged in the search for the development of new natural gas reserves in onshore areas, or in state waters, in the Gulf Coast region. The transporation services for the direct and indirect industrial customers were limited to two years without prejudice to requesting extensions for such services. Transco states that the two-year terms of the transporation services from the following fields are about to expire: Loisel Field, Iberia Parish, Louisiana, August 23, 1979; West Mermentau Area, Acadia Parish, Louisiana, September 6, 1979; and Kawitt Area, Karnes and Dewitt Counties, Texas, September 23, 1979. Accordingly, Transco requests two-year extensions from such dates, subject to the right to refile for longer terms depending on the outcome of the proceeding in Docket No. CP77–71, *et al.*, wherein the Commission is considering policy issues concerning long-term transporation of industry-owned gas.

Further, the order, of March 22, 1979, authorized Transco to transport gas for Philadephia Electric which is participating in two of the drilling programs through its subsidiary, Eastern Pennsylvania. Under the transportation agreement, Transco receives gas tendered by Philadelphia Electric in the fields and transports the gas through facilities for delivery at existing delivery points to Philadelphia Electric. Philadelphia Electric has requested Transco to provide the transportation service for the gas production to which it is entitled from successful discoveries of the drilling programs for the account of its subsidiary, Eastern Pennsylvania, instead of for its account, as authorized by the order of March 22, 1979.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 22, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–24407 Filed 8–7–79; 8:45 am]

BILLING CODE 6450–01–M

[1] Facilities required to attached gas supplies available from HI A–480 are being constructed jointly by the various purchasers, pursuant to authorization granted in Docket No. CP78–386.

Southeastern Power Administration

[Rate Order No. SEPA–5]

Georgia-Alabama Projects; Notice of Order Confirming and Approving Power Rates on an Interim Basis

AGENCY: Department of Energy, Southeastern Power Administration (SEPA).

ACTION: Notice of Approval on Interim Basis of Georgia-Alabama Projects' Rates.

SUMMARY: On July 31, 1979, the Assistant Secretary for Resource Applicaions under Delegation Order No. 0204–33, 43 FR 60636 (December 28, 1978) confirmed and approved, on an interim basis, Wholesale Power Rate Schedules GAMF–1–B and GAMF–2–B, ALA–1–B, MISS–1–B, SC–1–B, SC–2–B, CAR–1–B and CAR–2–B applicable to Georgia-Alabama Projects' power. The rates will produce an increase of $3,621,000 in annual revenue, or an increase of approximately 13 percent above the amount produced by rates previously in effect. The rates are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

EFFECTIVE DATES: The rates are confirmed and approved on an interim basis effective October 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Julian T. Brown, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Elberton, Georgia 30635.

John J. DiNucci, Office of Power Marketing Coordination, Department of Energy, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: The rate schedules replace rates previously approved by the Federal Power Commission on November 29, 1976, and extended by the undersigned on an interim basis through September 30, 1979, by Order dated May 2, 1979, 44 FR 28088.

Issued in Washington, D.C., July 31, 1979.

George S. McIsaac,

Assistance Secretary Resource Applications.

Order Confirming and Approving Power Rates on an Interim Basis

In the Matter of: Southeastern Power Administration—Georgia-Alabama Projects Power Rates; July 31, 1979.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978) the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary.

Background

Contractual Arrangements and Existing Rates

Power from the Georgia-Alabama System of Projects (Allatoona, Buford, Carters, Clark Hill, Hartwell, Jones Bluff, Millers Ferry, Walter George and West Point) is presently delivered into the Georgia, Alabama, Mississippi, Gulf and Duke Power Company systems and into the System of South Carolina Public Service Authority. Wheeling contracts with these utilities enable SEPA to sell power from the Georgia-Alabama projects to 123 preference customers and five non-preference customers. Existing contracts were executed between December 1963 and August 1977, and have varying expiration or termination dates, the most future being May 31, 1983. The projects have an installed generating capacity of 1,550,000 kilowatts and an average estimated annual energy production of 3,200,000,000 kilowatt-hours.

The power is presently sold under Rate Schedules GAMP–1–A, GAMP–2–A, ALA–1–A, MISS–1–A, SC–1 (Revised), SC–2, CAR–1 (Revised) and CAR–2 (Revised). These rate schedules were previously confirmed and approved by the Federal Power Commission on November 29, 1976, for a period ending June 30, 1979. By Order dated May 2, 1979, the undersigned extended the confirmation and approval of said rate schedules, on an interim basis, through September 30, 1979, 44 FR 28088, to permit adjusted rates to be developed, confirmed and approved and placed in effect. Existing rates produce approximately $27,862,000 annually.

Public Notice and Comment

SEPA prepared a Power Repayment Study in December 1978 (finalized March 1979) for the Georgia-Alabama Projects which showed that an increase in existing rates was necessary to produce revenues sufficient to pay all power costs during the system repayment period as required to meet cost recovery criteria. Based on this Repayment Study, an increase in average annual revenues of approximately $3,600,000 was proposed for the period ending September 30, 1983, an increase of approximately 13 percent. Revised rate schedules were drafted to reflect the estimated increased revenue requirements.

Opportunities for public review and comments on the proposed increased power rates were announced by Notice published in the **Federal Register** on January 2, 1979, 44 FR 108, and all customers were notified by mail. A public comment forum was held in Atlanta, Georgia on March 20, 1979, where an opportunity for oral presentation of views was afforded. Written comments were invited by the Notice through April 6, 1979. A transcript of the public comment forum was made. No oral presentations were offered at the forum and no written comments were received.

Discussion

System Repayment

SEPA's system Power Repayment Study of March 1979 is basically an update of its system Repayment Study dated March 1976, upon which existing rates are predicated. The March 1976 study embraced the present nine project system and reflected SEPA's present marketing area for the power. Increased operation and maintenance expenses, increased marketing costs and increased capital costs including costs for additions and replacements are reflected in the March 1979 Repayment Study and indicate the new revenue level required and the necessary revision in rates and charges. Proposed Rate Schedules GAMP–1–B, GAMP–2–B, ALA–1–B, MISS–1–B, SC–1–B, SC–2–B, CAR–1–B and CAR–2–B will produce an estimated increase of $3,621,000 in annual revenue, or an increase of 13 percent above existing rates. Projected annual revenues will total $31,483,000 with the rate increase.

Rate Design

The rate design here employed is the same as has previously existed. The same percentage increase has been applied, in a practical manner, to each unit of power sold from the system. When applied to the available product, the rates will recover the total costs required to be recovered from power revenues as demonstrated by the March 1979 Repayment Study.

Environmental Impact

SEPA has reviewed the possible environmental impacts of the rate adjustments under consideration and has concluded with Departmental concurrence that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Price Stability

SEPA is a "Government enterprise" within the meaning of the price standards of the President's Council on Wage and Price Stability. The rate increase approved herein complies with the operating margin limitation of these standards because the revenues will be only those necessary to cover the Government's costs and expenses.

Availability of Information

Information regarding these rates including studies, public comment forum transcript, and other supporting material are available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Submission to the Federal Energy Regulatory Commission

The rates herein confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period ending no later than September 30, 1983.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy. I hereby confirm and approve on an interim basis, effective October 1, 1979, attached Wholesale Power Rate Schedules GAMP–1–B, GAMP–2–B, ALA–1–B, MISS–1–B, SC–1–B, SC–2–B, CAR–1–B and CAR–2–B. The rate schedules shall remain in effect on an interim basis through September 30, 1980, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued at Washington, D.C., this 31st day of July 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

U.S. Department of Energy,
Southeastern Power Administration

U.S. Department of Energy,
Southeastern Power Administration

Wholesale Power Rate Schedule GAMF–1–B

Availability: This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in Georgia, Alabama, southeastern Mississippi, and panhandle Florida owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and, respectively, the Georgia Power Company, Alabama Power Company, Mississippi Power Company, and Gulf Power Company (any one of which is hereinafter called the Company).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.02 per kilowatt of total contract demand.

Energy Charge: 3.65 mills per kilowatt-hour.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to an annual energy quantity specified by contract and prorated on an equal daily amount throughout the year. The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at it own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Custoner's system, the demand charge for the month shall be appropriatedly reduced.

October 1, 1979.

U.S. Department of Energy,
Southeastern Power Adminsitration

Wholesale Power Rate Schedule GAMF–2–B

Availability: This rate schedule shall be available to the Georgia Power Company, the Alabama Power Company, the Mississippi Power Company, and the Gulf Power Company (any one of which is hereinafter called the Company).

Applicability: This rate schedule shall be applicable to electric capacity available from the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects (hereinafter called the Projects) and sold under contract between the Government and the Company.

Character of Service: Electric capacity and energy delivered to the Company will be three-phase alternating current at a nominal frequency of 60 Hertz and will be delivered at mutually agreeable points in the vicinity of the Projects' power stations at approximately 115,000 volts, except that delivery from the Hartwell and Carters Projects will be at approximately 230,000 volts or at points of interconnection between the Companies.

Monthly Rate: The monthly rate for capacity sold under this rate schedule shall be:

Demand Charge: $1.02 per kilowatt per billing month for monthly dependable capacity made available to the Compnay for its own use.

Monthly dependable capacity is the monthly capacity, specified by contract, which based on past water records would be available for scheduling by the Companies within the energy limitations also specified by contract, except during the worst water period of record and except for a few minor short-term reductons under flood conditions.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor: The Company shall take capacity and energy from the Government at such power factor as will best serve the company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other customers.

Service Interruption: When delivery of capacity to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agree to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.02}{\text{Number of days in billing month}}$$

October 1, 1979.

U.S. Department of Energy, Southeastern Power Administration

Wholesale Power Rate Schedule ALA–1–B

Availability: This rate schedule shall be available to the Alabama Electric Cooperative, Incorporated (hereinafter called the Cooperative).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects and sold under contract between the Cooperative and the Government.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at the Walter F. George Project or other points of interconnection between the Cooperative and Alabama Power Company.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.02 per kilowatt of total contract demand.

$0.28 per kilowatt for standby capacity made available, plus $0.035 per kilowatt per calendar day for such capacity as the Cooperative actually utilizes.

Energy Charge: 3.00 mills per kilowatt-hour for scheduled energy.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor: The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption; When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.02}{\text{Number of days in billing month}}$$

October 1, 1979.

U.S. Department of Energy, Southeastern Power Administration

Wholesale Power Rate Schedule MISS–1–B

Availability: This rate schedule shall be available to the South Mississippi Electric Power Association (hereinafter called the Cooperative).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects and sold under contract between the Cooperative and the Government.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at points of interconnection between the Cooperative and Mississippi Power Company.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.02 per kilowatt of total contract demand.

Energy Charge: 3.65 mills per kilowatt-hour for scheduled energy.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor: The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption: When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.02}{\text{Number of days in billing month}}$$

October 1, 1979.

United States Department of Energy, Southeastern Power Administration

Wholesale Power Rate Schedule SC–1–B

Availability: This rate schedule shall be available to the South Carolina Public Service Authority (hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Clark Hill Project (hereinafter called the Project) and sold in wholesale quantities.

Character of Service: Electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second and shall be delivered at a nominal voltage of 115,000 volts at the 115 kv bus of the Project power plant. The actual operating voltage of the Government shall within the limits of good operating practice be suitable for operation with the Customer's system.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.02 per kilowatt per billing month for dependable capacity made available to the Customer for its own use.

$0.28 per kilowatt per billing month for standby capacity made available, plus $0.035 per kilowatt per calendar day (or fraction thereof) for such capacity as the Customer actually utilizes.

Energy Charge: 3.00 mills per kilowatt-hour for energy declared for the peak period hours and for energy made available to meet stream flow requirements.

2.25 mills per kilowatt-hour for dump energy.

Energy Sold to the Customer: The Customer shall purchase and pay for all dump energy made available by the Government and accepted by the Customer. Additionally, the Customer shall purchase and pay for all energy, exclusive of dump energy, declared and made available from the Project to the Customer's system over and above such energy made available for transmission to the Government's other preference customers.

Billing Month: All project energy shall be accounted for on a weekly basis and the total quantities of energy billed monthly shall be the sum of the weekly quantities. Energy declared or made available for any week which falls within 2 billing months shall be divided between the months on the basis of weekly schedules for energy delivery furnished by the Customer.

The billing month for power sold under this rate schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor: The Customer shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Condenser Operation: The Government shall, upon the request of the Customer, cause its generating units (up to the maximum number specified by contract) to be operated as condensers if, in the sole judgment of the Government, such operation is not contrary to good operating practice, is not detrimental to such generating facilities in excess of ordinary wear and tear, and does not overload such generating facilities. Such condenser operation, subject to the preceding limitations, shall be in accordance with procedures and schedules developed and agreed upon from time to time by the operating representatives of the parties hereto. The Customer shall pay the Government $5.65 per generating unit so operated for each hour that such condenser operation is requested by the Customer.

Service Interruption: When capacity made available to the Customer's system is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not agreed to in advance nor due to conditions on the Purchaser's system, the montly demand charge for dependable capacity shall be reduced for each on-peak hour (the nearest number of whole hours) that such capacity is reduced or interrupted, by an amount equal to $1.02 divided by the number of peak hours in the billing month times the reduction, in kilowatts, of such capacity; and the amount of energy previously scheduled and not taken during the time of interruption shall be placed in storage to the Customer's account. If the Customer advises the Government within 1 working day after a day in which energy is placed in storage that it does not desire to retain ownership of such energy, the ownership of the energy will revert to the Government and the Customer shall not be obligated to pay for such energy.

October 1, 1979.

U.S. Department of Energy, Southeastern Power Administration

Wholesale Power Rate Schedule SC–2–B

Availability: This rate schedule shall be available to any of the following whose requirements or a portion thereof the Government shall contract to supply by delivery from the South Carolina Public Service Authority's (hereinafter called the Authority) system: a municipality or county located in part or completely within the Authority's service area, owning its own transmission or distribution system, and desiring to purchase capacity and energy from the Government for resale to the public in its territory; Central Electric Cooperative, Incorporated; or an electric cooperative not a member of Central, operating under the laws of the State of South Carolina, and located in part or completely within the service area of the Authority desiring to purchase capacity and energy from the Government for resale to ultimate consumers under the provisions of said laws (any one of such municipalities, counties, or cooperatives is hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Clark Hill Project (hereinafter called the Project) and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Authority's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.02 per kilowatt of total contract demand.

Energy Charge: 3.65 mills per kilowatt-hour.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy from the Project each billing month up to a total amount annually of 4,500 hours per kilowatt of contract demand.

For billing purposes, the energy allocated on an annual basis to accompany the Customer's contract demand as assigned to individual delivery points shall be allocated in equal quantities each day throughout the year. Such Customer shall be billed by the Government by delivery points for its contract demand and for its accompanying monthly energy allocation in amounts determined by multiplying its respective daily allocation by the number of days in the billing month. The quantity of energy to be billed under this rate schedule in any billing month shall be the quantity considered to have been transmitted for the account of the Government by the Authority.

Billing Month: The billing month for power sold under this rate schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Authority on its side of the delivery point.

Service Interruption: When the energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1979.

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U.S. Department of Energy, Southeastern Power Administration

Wholesale Power Rate Schedule CAR–1–B

Availability: This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be wheeled pursuant to contract between the Duke Power Company (hereinafter called the Company) and the Government.

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Hartwell and Clark Hill Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.02 per kilowatt of total contract demand.

Energy Charge: 3.65 mills per kilowatt-hour.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy from the Projects to the extent that it is available at the Projects each billing month up to a total amount annually of 4,500 hours per kilowatt of contract demand.

For billing purposes, the energy allocation available on an annual basis to accompany the Customer's contract demand as assigned to individual delivery points shall be allocated in equal quantities each day throughout the year. In those billing months when the quantity of energy available from the Projects, less six and one-half (6½) percent losses, is sufficient to supply the energy allocations which accompany the total contract demands of all customers purchasing power pursuant to this rate schedule, the Customer will be billed by the Government by delivery points for its monthly energy allocation in an amount determined by multiplying the daily energy allocation by the number of days in the billing month. In those billing months when energy available from the Projects, less six and one-half (6½) percent losses, is insufficient to supply the energy allocations which accompany the total contract demands of all customers purchasing power pursuant to this rate schedule, the Customer shall be billed by the Government by delivery points for that portion of its monthly energy allocation determined by multiplying the ratio which the total energy available from the Projects for all said Cutomers' use during the particular billing month bears to the quantity necessary to supply the energy allocations which accompany the total contract demands of all said customers during such month by the quantity of energy necessary to meet the energy allocation of the Customer for said billing month.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service: The customer shall at its own expense provide, install, and maintain on it side of each delivery point the equipment necessary to protect and control it own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on it side of the delivery point.

Service Interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1979.

Wholesale Power Rate Schedule CAR–2—B

Availability: This rate schedule shall be available to the Duke Power Company (hereinafter called the Company).

Applicability: This rate schedule shall be applicable to electric capacity and energy generated at the Hartwell and Clark Hill Projects (hereinafter called the Projects) and sold under contract between the Government and the Company.

Character of Service: Electric capacity and energy delivered to the Company will be Three-phase alternating current at a nominal frequency of 60 cycles per second and will be delivered at approximately 230,000 volts where the Company's transmission line is connected to the bus in the Hartwell switchyard and at approximately 115,000 volts where the Company's transmission line is connected to the bus at Clark Hill.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.02 per kilowatt per billing month for dependable capacity made available to the Company for its own use.

Energy Charge: (1) 3.00 mills per kilowatt-hour for energy declared for the peak period hours.

(2) 2.25 mills per kilowatt-hour for energy declared for other than peak period hours.

(3) 2.25 mills per kilowatt-hour for dump energy.

Energy Sold to the Company: The Company shall purchase and pay for all dump energy made available by the Government and accepted by the Company. Additionally, the Company shall purchase and pay for all energy, exclusive of dump energy, declared and made available from the Projects to the Company's system in any billing month after first deducting 810,375 kilowatt-hours multiplied by the number of days in said billing month; provided, however, that the energy to be deducted shall first come from minimum release energy and energy declared for the eighty-four (84) peak period hours per week as specified by contract.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Power Factor: The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other Customers.

Condenser Operation: The Government shall, upon the request of the Company, cause one or two of its generating units at the Projects to be operated as condensers if, in the sole judgment of the Government, such operation does not unreasonably interfere with the delivery of capacity and energy by the Government to any of its customers, is not contrary to good operating practice, is not detrimental to such generating facilities in excess of ordinary wear and tear, and does not overload such generating facilities. Such condenser operation, subject to the preceding limitations, shall be in accordance with procedures and schedules developed and agreed upon from time to time by the operating representatives of the parties hereto. The Company shall pay the Government $10.15 per generating unit for units at Hartwell and $5.65 per generating unit for units at Clark Hill each hour that such condenser operation is requested by the Company.

Service Interruption: When delivery to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the charge for dependable capacity will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in the proportion that the number of declaration hours during such period of interruption or reduction bears to the total number of declaration hours during the period covered by such charge. For purposes of this rate schedule the declaration hours consist of 100 hours per week as specified in the contract.

October 1, 1979.

[FR Doc. 79-24420 Filed 8-7-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-31030; FRL 1293-1]

Receipt of Application To Register Pesticide Product Entailing a Changed Use Pattern

Mobay Chemical Corp., PO Box 4913, Hawthorn Road, Kansas City, MO 64120, has submitted to the Environmental Protection Agency (EPA) an application to register the product Matacil 1.5 Oil Soluble Concentrate (EPA File Symbol 3125–GET) containing 19% and 31% respectively of the activbe ingredients 4-(dimethylamino)-3-methylphenol methylcarbamate (ester) and petroleum distillate. The application received from Mobay Chemical Corp. proposes that the use pattern of this pesticide be changed to include use on coniferous trees for spruce budworm control. The application also proposes that the product be classified for general use. Notice of this application is given pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C 136) and the regulations thereunder (40 CFR 162).

Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to Product Manager (PM) 12, Room E–335, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 201/426–2636. The comments must be received by September 7, 1979 and should bear a notation indicating the EPA File Symbol "3125–GET". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by Mobay Chemical Corp., as well as all written comments filed pursuant to this notice, will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Notice of approval or denial of this application to register Matacil 1.5 oil soluble concentrate will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the **Federal Register** if an application is approved.

Dated: July 30, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-24472 Filed 8-7-79 8:45 am]

BILLING CODE 6560-01-M

[OPP-180168B; FRL 1293-3]

Montana Departments of Agriculture and Livestock; Amendment to Specific Exemption To Use Compound 1080 To Control Columbia Ground Squirrels

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of amendment to specific exemption.

SUMMARY: EPA has issued an amendment to a specific exemption granted to the Montana Departments of Agriculture and Livestock (hereafter referred to as the "Applicants") to use Compound 1080 to control Columbian ground squirrel damage in twelve counties in western Montana. The amendment permits the re-allocation of 8,000 acres in one county, of the 71,831 acres authorized for treatment in the State, among five other counties included in the exemption.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On May 9, 1979 (44 FR 27259), EPA published a notice in the **Federal Register** which announced the granting of a specific exemption to the Applicants to use 35,415 pounds (354 ounces of technical grade 1080) of treated bait on 71,831 acres of grain and hay land to control the Columbian ground squirrel. Since then, the Applicants have requested permission to redistribute some of the acreage and pesticide which one county has not used. According to the Applicants, budgetary problems have prevented Powell County, from completing its treatment program with Compound 1080 (sodium monofluoroacetate). The Applicants requested permission to divide these 8,000 remaining acres among five other counties where damage by Columbian ground squirrels was greater than anticipated. The five counties are Flathead, Granite, Lincoln, Ravalli, and Sanders. No increase in total quantity of pesticide to be applied or acreage to be treated is involved, only a redistribution of what was authorized in the 1978 exemption.

After reviewing the application and other available information, EPA has determined that the requested amendment would not significantly change the specific exemption originally granted and would not result in significant environmental risks. Accordingly, EPA has granted the amendment to authorize the re-allocation of the amount of 1080 grain bait which would have been necessary to treat 8,000 acres of land in Powell County had the program in that county been completed. The counties named above may use the remaining 8,000 acreage allotment for their control programs on small grains and irrigated and nonirrigated hay land and peripheral areas of such. This amendment does not alter the total acreage or quantity of compound 1080 authorized on August 4, 1978. All of the remaining provisions and restrictions

concerning use of 1080 under this specific exemption remain in force.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: August 2, 1979.

Edwin L. Johnson,

Deputy Assistant Administrotor for Pesticide Programs.

[FR Doc. 79-24474 Filed 8-7-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-50380C; FRL 1293-2]

Issuance of Experimental Use Permit; Correction

On Monday, September 25, 1978 (43 FR 43380), information appeared pertaining to the issuance of an experimental use permit, No. 2224-10, to Mobil Chemical Co. In the 13th line, "185 acres" should have read "1,850 acres."

Dated: July 30, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-24473 Filed 8-7-79; 8:45 am]

BILLING CODE 6560-01-M

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Administration

Advisory Committee on Information Network Structure and Functions; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Administration announces the following meeting:

Name: Advisory Committee on Information Network Structure and Functions.

Date: Wednesday, August 22, 1979.

Time: 9 a.m. to 3:30 p.m.

Place: Room 3104 New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C.

Type of meeting: Partially open, subject to space limitations. Those wishing to attend must call the contact person below at least 48 hours in advance of the meeting. An ad hoc security subcommittee of the Advisory Committee will meet in closed session (see below).

Contact person: Edward K. Zimmerman, Advisory Committee Executive Secretary, Office of Administration, Executive Office of the President, Washington, D.C. 20500; Telephone 202-456-2244.

Purpose of Advisory Committee: The Committee will advise the Director, Office of Administration (OA), on matters pertinent to OA's plans for the establishment of a communications network to serve the Executive Office of the President (EOP). The Committee will outline a structural and functional plan for the EOP network. This plan will be developed on the basis of current and expected technological developments and will strive for immediate implementation and a minimum useful life of ten years. The plan will address such issues as network hardware and protocol structure, expected structure of servers, gateways and other connections to the network, expected feasible functions, and privacy and authentication mechanisms.

A final report containing the plan is contemplated, and it should provide answers to three questions:

1. What kind of network should the EOP have?
2. What is it likely to cost?
3. How long is it likely to take to implement?

Agenda: 10 a.m.-12—series of briefings on EOP communications facilities and uses, and on recent innovations in networking; 12-1:30 p.m.—luncheon break; 1:30 p.m.-3:30 p.m.—committee discussion. There will be a brief closed meeting of an ad hoc subcommittee at 9 a.m. to hear and discuss material relating to communications security.

Reasons for closing: The ad hoc subcommittee will be briefed on sensitive and classified information involving secure communications within the EOP. These discussions come under exemption 1 of the Government in the Sunshine Act. Section 552b(c), Title 5 U.S.C., relating to criteria established in Executive Order No. 12065.

Authority for closing: The Director, Office of Administration has determined that the abovementioned subcommittee meeting deals with matters classified for national security and therefore should be closed.

William Pollak,

General Counsel.

[FR Doc. 79-24618 Filed 8-7-79; 10:25 am]

BILLING CODE 3115-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 145]

Arncam Shipping Co., Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Arncam Shipping Company, Inc., One World Trade Center, Suite 2007, New York, New York 10048, FMC No. 145, was cancelled effective July 15, 1979.

By letter dated June 18, 1979, Arncam Shipping Company, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 145 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Arncam Shipping Company, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, That Independent Ocean Freight Forwarder License No. 145 be and is hereby revoked effective July 15, 1979.

It is ordered, That Independent Ocean Freight Forwarder License No. 145, issued to Arncam Shipping Company, Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Arncam Shipping Company, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-24370 Filed 8-7-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1428R]

Timothy O. Hannon Co.; Order of Revocation

On July 19, 1979, Timothy O. Hannon Company, 5629 Pearl Street, Rosemont, Illinois 60018, Voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1428R for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1428R issued to Timothy O. Hannon Company be and is hereby revoked effective July 19, 1979, without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Timothy O. Hannon Company.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-24371 Filed 8-7-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Co.; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than August 31, 1979.

A. *Federal Reserve Bank of New York,* 33 Liberty Street, New York, New York 10045:

CICTORP, New York (consumer lending, credit-related insurance activities; western Montana): to engage, through its subsidiary, Nationwide Financial Servcies Corporation, operating as Nationwide Financial Corporation of Montana, in making consumer installment personal loans; purchasing and servicing for its own account consumer installment sales finance contracts; making loans for the account of others, such as one-to-four family unit mortgage loans; making loans to individuals and businesses secured by real and personal property, the proceeds of which may be for purposes other than personal, family or household usage; and sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers to the extent permissible under applicable state insurance laws and regulations; and the sale of credit related property and casualty insurance protecting personal and real property subject to a security agreement with Nationwide Financial Corporation of Montana and to the extent permissible under applicable state insurance laws and regulations. In regard to credit related insurance, the business of a general insurance agency will not be conducted. Credit related decreasing term life insurance and accident and health insurance may be reinsured by Family Guardian Life Insurance Company, an affiliate of Nationwide Financial Corporation of Montana. These activities will be conducted from an office in Missoula, Montana, serving the following counties: Missoula, Powell, Minerall, Lake, Sanders, Ravalli, Granite, Deer Lodge, Silverbow, Jefferson, Madison Broadwater, Gallatin, Lewis & Clark, Cascade and Flathead.

B. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

1. BANKAMERICA CORPORATION, San Francisco, California (finance Company, loan servicing, and insurance activities): to engage, through its indirect subsidiary, FinanceAmerica Corporation, in the activity of making or acquiring for its own account loans or other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit. Such activities will include but not be limited to making consumer installment loans, purchasing installment sales finance contracts, making loans or other extensions of credit to small businesses, and making loans secured by real and personal property; and the offering of credit-related life, credit-related accident and disability insurance, and credit-related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation. Such Activities will be conducted from an office located in Escondido, California, serving the State of California.

2. CROCKER NATIONAL CORPORATION, San Franciso, California (mortgage banking activities; California and Georgia) to engage, through its subsidiary Crocker Mortgage Company, in acquiring entire or partial interests in real estate loans and extensions of credit secured by real estate; creating, acquiring, holding and disposing of bonds, debentures, pass-through certificates or other instruments which are secured by interests in real estate; making leases of real property in accordance with the Board's Regulation Y; acting as agent, broker or advisor in connection with the activities listed above; servicing real estate loans and other extensions of real estate credit. Comments on this application must be received by August 27, 1979.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 1, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24372 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. section 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate

Federal Reserve Bank not later than August 29, 1979.

A. *Federal Reserve Bank of New York,* 33 Liberty Street, New York, New York 10045:

1. MANUFACTURERS HANOVER CORPORATION, New York, New York (commercial and industrial leasing activities; Michigan): to engage, through its subsidiary, MANUFACTURERS HANOVER LEASING CORPORATION, New York, New York, in leasing real and personal property on a full payout basis; acting as agent, broker or advisor in leasing of such property; making and acquiring for its own account or for the account of others, loans and other extensions of credit with respect to such property; and servicing such leases, loans and other extensions of credit. These activities would be conducted from an office in Detroit, Michigan, serving the State of Michigan.

2. UNITED JERSEY BANKS, Princeton, New Jersey (mortgage banking and insurance activities; New York and New Jersey): to engage, through its subsidiary, United Jersey Mortgage Company, in making, acquiring, originating, and servicing (including providing escrow services) real estate mortgages for its own account or for the account of others; acting as insurance agent or broker in offices of United Jersey Mortgage Company with respect to credit life insurance, credit and mortgage accident and health insurance, mortgage cancellation or redemption insurance directly related to any extensions of credit or other financial services offered by United Jersey Mortgage Company; and servicing and collecting premiums with respect to such insurance offered by offices of United Jersey Banks or its subsidiaries. These activities would be conducted from offices located in Hackensack, Princeton, and Princeton Junction, New Jersey and in New York City, serving the Greater New York area and the State of New Jersey.

3. MANUFACTURERS HANOVER CORPORATION, New York, New York (mortgage banking and insurance activities; Arizona): to engage, through its subsidiary, Manufacturers Hanover Mortgage Corporation ("MHMC"), in making, acquiring, and servicing mortgage loans; and to engage, through its indirect subsidiary, CMC Insurance Agency, Inc., in selling credit life and credit accident and health insurance directly related to extensions of credit made by MHMC. These activities would be conducted at an office in Tucson, Arizona, serving Tucson and all of Pima County, Arizona.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 30, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24373 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

Clarence Bancshares, Inc.; Formation of Bank Holding Co.

Clarence Bancshares, Inc., Clarence, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Clarence Savings Bank, Clarence, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 1, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24374 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

Cumming Bancshares, Inc.; Formation of Bank Holding Co.

Cumming Bancshares, Inc., Cumming, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Cumming, Cumming, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 2, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24359 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

Michigan National Corp.; Acquisition of Bank

Michigan National Corporation, Bloomfield Hills, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(3)) to acquire 100 percent of the voting shares of the following proposed new banks: Michigan Bank—South Metro, Lincoln Park, Michigan; Michigan Bank—Livingston, Brighton, Michigan; Michigan Bank—Midland, Michigan; and Michigan Bank—Northwest, Petoskey, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than August 30, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 31, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24376 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

Minnesota Bankshares Corp.; Formation of Bank Holding Co.

Minnesota Bankshares Corporation, Brainerd, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 55.2 percent of the voting shares of Brainerd National Bank, Brainerd, Minnesota, and thereby increasing to 80 percent its ownership interest in the bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 2, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24358 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

Southwest Bancshares, Inc.; Acquisition of Bank

Southwest Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C section 1842 (a)(3)) to acquire 100 percent of the voting shares (less director's qualifying shares) of Dallas Bank and Trust Company, Dallas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 27, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24377 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

United Texas Financial Corp.; Formation of Bank Holding Co.

United Texas Financial Corporation, Wichita Falls, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of Parker Square State Bank, Wichita Falls, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 1, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24360 Filed 8-7-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education and Welfare, Health Care Financing Administration (HCFA), as published July 16, 1979, is amended to reflect the reorganization of the Office of Management and Budget, HCFA. Part F now reads as follows:

Section FI.10 Office of Management and Budget (FM) (organization)

The Office of Management and Budget, under the leadership of the Director for Management and Budget, includes: A. The office of Financial Management Services (FMF); B. The Office of Human Resources and Administrative Services (FMH); C. The Office of Management Services (FMI); D. The Office of the Attorney Advisor (FM-1); and E. The Provider Reimbursement Review Board (FM-2).

Section FI.20 Office of Management and Budget (FM) (Functions)

Provides HCFA-wide policy direction, coordination, and control in the areas of budget, financial and accounting operations, personnel, management evaluation and analysis, administrative services, project grants, contracting and procurement and work planning. Develops and promulgates HCFA policy in these functional areas and executes these policies throughout HCFA.

A. Office of Financial Management Services (FMF)

Provides financial and accounting services, leadership and policy direction for HCFA's financial management program, including preparation, justification and execution of the HCFA budget and financial and manpower management policies and activities. Develops and manages the HCFA accounting, budget, manpower management and cost allocation systems.

1. Division of Budget (FMF1): Consolidates, prepares and executes HCFA's budget and operates HCFA's budget system. Serves as the central information point for all budgetary matters including interagency agreements impacting HCFA funding and transfer of funds to and from other agencies. Reviews proposed and existing legislation and coordinates the development of materials detailing budgetary impact for consistency with HCFA fiscal budgets and plans. Provides advice on reporting of program and financial data necessary for presentation and defense of budget requests. Provides advice, guidance, and assistance to HCFA components in the development of budget justification materials and analysis, including implementation of zero base budgeting, mission budgeting, current services budgeting, and other budgetary principles required by the Office of Management and Budget (Executive Office of the President) and the Congress. Provides technical directions to HCFA regional components on all budgetary matters. Develops budget control systems necessary to insure that appropriate measures are in place to prevent violation of Anti-Deficiency Act.

Maintains and monitors an allotment and allowance system sufficient to pinpoint responsibility and accountability for Federal funds.

2. Division of Accounting (FMF2): Plans, directs and operates the HCFA accounting, fiscal and financial reporting functions. Administers and operates the HCFA accounting system. Establishes policy for the allocation of costs among appropriations. Develops methodologies to determine costs by program, organization and source of funds. Performs accounting functions for all appropriations, fund warrants, apportionments, allotments and allowances. Processes all obligations and expenditure documents, including verification of entitlement for all commercial and intergovernmental financial transactions for the compensation and related cost of personnel (payroll), and for employee travel and transportation (domestic and foreign). Reviews time and attendance reports prior to transmittal to the Central Payroll Office, resolves employee leave and payroll problems, and conducts a time and attendance report preparation training program. Performs accounting for all grants issued to fund programs, and schedules payaments by check to those grantees not funded through DFAFS. Reviews and reconciles grantees' advance accounts on the basis of verified expenditures. Monitors and reconciles data generated in Agency appropriations as a result of entries made in the Regional Accounting System. Provides cashier services, processes collections, and maintains accounts receivable control records. Develops accounting policy and procedures for HCFA.

3. Division of Financial Systems (FMF3): Provides the Office of Financial Managment Services with internal systems expertise to develop and maintain automated financial systems. Develops analysis of requirements, and general systems specifications to support financial management systems. Maintains and operates all automated financial management systems.

4. Division of Program Review (FMF4): Provides the Director of Managment and Budget with staff expertise in the review and analysis of budgetary, operational, legislative or regulatory proposals by HCFA operating components. Reviews these proposals to determine fiscal impact on and consistency with HCFA and HEW management and programmatic objectives. Develops financial management policy as it relates to HCFA's programmatic objectives. Directs allocation of HCFA manpower among HCFA components, issues manpower employment ceilings and authorized position ceilings, and directs HCFA manpower management system. Assures the validity of cost allocation data and monitors adherence to financial managment policies among HCFA components.

B. Office of Managment Services (FMJ)

Provides service, policy direction and coordination with respect to HCFA's management program, including the planning and execution of management processes, management analysis; organizational analysis, management control systems. Develops HCFA policy in these areas and assures the implementation of these policies throughout HCFA.

1. Division of Management Planning and Analysis (FMJ1): Directs the development and implementation of HCFA-wide processes by which HCFA plans, organizes and controls its activities to accomplish programmatic goals. Provides policy direction and coordinates HCFA efforts in support of the Departmental Major Initiative Tracking System (MITS) and Departmental systems to track and control the reduction of fraud, abuse and waste (FAW) in HEW programs. Provides the Director of Management and Budget and the Administrator with analytic support in preparing HCFA MITS and FAW submissions for the Office of the Secretary. Plans and conducts management studies of major program or administrative issues as assigned by the Director of Management and Budget.

2. Division of Management Support (FMJ2): Develops policy for and monitors HCFA-wide management directives and directs publication of the administrative issuance system. Establishes policies and procedures for clearing public-use reports and coordinates the reduction of paper work burden. Develops HCFA policy with respect to the Privacy Act and supports HCFA's performance in this area. Conducts organizational analyses and studies to assess and improve the structural and functional organization of HCFA. Provides advice and assistance to HCFA components in the development of organizational proposals. Develops policies and procedures for the issuance of delegations of authority. Prepares functional analyses for Director on proposed HCFA component organizational structures and delegations of authority. Maintains the official HCFA record of organization and assigns and maintains the structural administrative codes. Develops and maintains HCFA policies and procedures manual. Provides internal support as needed to the Office of Management Services with respect to the on-going development and operations of HCFA management control systems.

C. Office of Human Resources and Administrative Services (FMH)

Provides services, policy direction, coordination and broad operational control of HCFA's personnel and related activities, administrative services, project grants, contracting and procurement, facilities management, and related support services. Develops and promulgates HCFA-wide policy to these areas.

1. Division of Human Resources (FMH1): Provides service, leadership, direction and control with respect to personnel and related services within HCFA. Serves as the principal advisor to the Director of Management and Budget on the operation of HCFA's personnel system including recruitment and placement, position classification, personnel management evaluation, performance appraisal, employee and labor relations, employee development and training and organizational development.

2. Division of Procurement Services (FMH2): Provides procurement services for other HCFA components including project grant and contract solicitation, award and administration; cost and advisory function; and procurement related training. Monitors annual HCFA contract plan and prepares and submits required reports. Solicits, negotiates, analyzes, and coordinates proposal evaluation and prepares and awards contracts.

3. Division of General Services (FMH3): Provides direct service or establishes policy for other HCFA components with respect to facilities and property management, supply, security and personal services, including space acquisition, management and maintenance, conference facilities, occupational safety and health, emergency preparedness planning, parking and other activities related to environmental and health matters. Provides or secures labor, warehouse, shipping, moving services, equipment loans, machine repairs, rentals, etc. Develops comprehensive budget estimates for and management of centralized facilities management funds.

4. Division of Communications Services (FMH4): Provides service, leadership, direction and control of HCFA's publications, printing, records management, mail services, library services, word processing services and telecommunications. Serves as principal advisor to the Director on and is responsible for the direction, control, and maintenance of centralized publications, including storage, distribution, printing and reproduction of publications, correspondence management, Alpha-Numeric Filing Code System, processing, control, and distribution of incoming and outgoing mail.

5. Procurement Policy Staff (FMH–1): Plans, develops and implements comprehensive policies and procedures for HCFA grant and contract programs. Evaluates procurement, grant and contract practices in HCFA components to assure compliance by HCFA's components with law, policy and regulations. Serves as principal point of contact with Departmental officials on matters of grant, contract, and procurement policy. Assures implementation of the Federal Grants and Cooperative Agreements Act. Provides reports as required by the Federal Procurement Data System.

D. Office of the Attorney Advisor (FM–1)

Recommends initiation of "own motion review" of Provider Reimbursement Review Board decisions under section 1878 (f)(1) of the Social Security Act, as amended. Evaluates cases under "own motion review" and recommends as to the disposition of such cases by the Administrator. The Office of the Attorney Advisor is located in the Office of Management and Budget for administrative support only.

E. Provider Reimbursement Review Board (FM–2)

Conducts hearings and renders decisions on appeals from Medicare providers under circumstances described in Section 1878 of the Social Security Act. The Provider Reimbursement Review Board is located in the Office of Management and Budget for administrative support only.

Dated: July 31, 1979.

Frederick M. Bohen,

Assistant Secretary for Management and Budget.

[FR Doc. 79-24457 Filed 8-7-79; 8:45 am]

BILLING CODE 4110-35-M

Office of the Assistant Secretary for Health

Health Care Technology Study Section; Renewal

Pursuant to the Federal Advisory Committee Act, Public Law 92–463 (5 U.S.C. Appendix I), the Office of the Assistant Secretary for Health announces the renewal by the Secretary, HEW, with concurrence by the General Services Administration, of the following advisory committee:

Designation: Health Care Technology Study Section.

Purpose: The Study Section shall advise the Secretary and make recommendations to the Director, National Center for Health Services Research, and the Director, National Center for Health Care Technology, on research grant applications in the information sciences (computer science, communications technology) and decision sciences (operations research, industrial engineering, health-care administration), diagnostic and therapeutic technologies, bioengineering and related fields as applied to community health services, hospital medicine, and patient care. The members of this Study Section shall survey, as scientific leaders, the status of research in their field.

Authority for this Committee will expire on July 17, 1981, unless the Secretary, HEW, with the concurrence of the General Services Administration, formally determines that continuance is in the public interest.

Dated: August 3, 1979.

Marilyn McCarroll,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 79-24458 Filed 8-7-79; 8:45 am]

BILLING CODE 4110-85-M

National Institutes of Health

National Arthritis Advisory Board; Education and Training Work Group; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Education and Training Work Group of the National Arthritis Advisory Board on August 20 thru 22, 1979, in Salt Lake City, Utah. The time and meeting location may be obtained by contacting Mr. William Plunkett, Executive Director of the Board, P.O. Box 30286, Bethesda, Maryland 20014, telephone (301) 496–1991.

The meeting, which will be open to the public, is being held to continue review of the status and implementation of national arthritis programs. Attendance by the public will be limited to space available.

Mr. William Plunkett, address above, will provide summaries of the meeting and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: August 3, 1979.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 79-24512 Filed 8-7-79; 8:45 am]

BILLING CODE 4110-08-M

Office of the Secretary

Notice of Interim Federal Education Data Acquisition Council Review Procedures and Request for Comments

AGENCY: Department of Health, Education, and Welfare.

ACTION: Interim FEDAC Review Procedures and request for comments.

SUMMARY: This document describes interim procedures that the Secretary of HEW uses to review data collection activities by Federal agencies when they collect data from educational agencies and institutions for purposes related to Federal education programs as stated in the Control of Paperwork Amendments of 1978. Activities subject to this review are no longer subject to OMB's review under OMB Circular A–40 and the Federal Reports Act. The Federal Education Data Acquisition Council (FEDAC) that was created by the above legislation has approved these interim procedures. The purpose of the procedures is to reduce the paperwork burden Federal agencies impose on educational agencies and institutions while ensuring that data are collected by the most efficient and effective methods.

DATES: These procedures are effective upon publication. Public and agency comments are invited before final procedures will be adopted. The deadline date for receipt of comments is October 9, 1979.

ADDRESS: Send comments to the Executive Director, Federal Education Data Acquisition Council Saff, NCES, Room 3159–B, 400 Maryland Avenue, SW., Washington, D.C. 20202. All comments received will be available for public inspection and copying at this address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Francis V. Corrigan, (202) 245–1022, (address as above).

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SUPPLEMENTARY INFORMATION: The review procedures are required by Section 400A of the General Education Provisions Act, as amended by P.L. 95–561. The statute requires the Secretary of HEW to "coordinate the collection of information and data acquisition activities of all Federal agencies, (i) whenever the respondents are primarily educational agencies or institutions, and (ii) whenever the purpose of such activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs" (Section 400A(a)(1)(A) of GEPA).

The Secretary delegated this authority to the Assistant Secretary for Education.

The statue also requires that the Secretary establish a Federal Education Data Acquisition Council (FEDAC) to, among other functions, approve any paperwork control proedures. FEDAC met in a public meeting on April 28, 1979, and approved the following procedures on an interim basis. The Council will examine how the FEDAC staff operates under these interim procedures and will review public and Federal agency comments on the interim procedures in deciding what procedures to recommend as final procedures.

Interim Procedures

The interim FEDAC review procedures (also known as the "Control of Paperwork Procedures") basically require that any Federal agency proposing to collect data subject to these review procedures shall:

1. Develop a plan for the data activity;
2. Submit the plan to the Secretary of HEW for review;
3. Publish a summary of the data activity plan in the **Federal Register** no later than the Febraury 15 preceding the school year in which the agency seeks to collect data, unless the Secretary determines that an unusual circumstance or urgent need exists;
4. Collect and summarize public comments on the data activity for the Secretary's review; and
5. Revise the plan and data instrument(s) as directed by the Secretary in accordance with the Secretary's review and public comments.

Issues

We especially seek comments from the public, educational agencies and institutions, and Federal agencies on the following issues:

What data activities should be subject to FEDAC review? A major issue is what data activities are subject to FEDAC review. In considering the issue, it is important to remember that activities that are not subject to FEDAC review are still subject to OMB review under OMB Circular A–40. Thus, the issue is not that of determining whether certain activities should be reviewed, but which review procedures apply. In light of a consensus among FEDAC members that we interpret the scope of FEDAC review more *narrowly* for these interim procedures and closely monitor how the FEDAC staff implements these procedures, we propose to interpret the statutory language in Section 400A(a)(1)(A) set out above as meaning that FEDAC review applies:

1. Whenever a majority (over 50 percent) of the respondents are educational agencies or institutions (including their employees or students and their families), or when the assistance of the educational agencies or institutions is required for the data collection.

2. Whenever the purpose of the activity is to request information needed for:

(I) Management of Federal education programs (including applications and plans); or

(ii) Formulation of policy related to Federal education programs; or

(iii) Research or evaluation studies related to the implementation of Federal education programs.

We interpret "educational agency or institution" to mean any public or private agency or institution whose principal function is education. This includes State and local educational agencies, schools, colleges, other institutions of higher education, educational organizations and educational research groups. It does not include, for example, hospitals or correctional facilities.

This interpretation also means that data activities are covered where students or employees of the educational agency or institution are asked to respond individually rather than in their official capacities *if* the educational agency or institution must, in fact, assist in the data activity in various ways such as defining the sample or universe of respondents, providing the information, distributing the data forms, or helping students or employees to complete the forms.

What is a Federal education program? FEDAC members discussed several options on whether or how to define or list "Federal education programs." The interim procedures contain the following definition: any Federal activity with a primary purpose of offering instruction, financing instruction, or affecting an educational agency's or institution's ability to offer instruction or provide access to education. FEDAC staff are developing a list of Federal programs that may fall within this definition for discussion among Federal agencies and the FEDAC members.

What is a small school district, college or other educational agency and institution? The statute mandates that special consideration be given to data collection burdens that are imposed on small agencies and institutions.

The Council did not decide on an appropriate definition for them. We welcome comments from the public and agencies as a basis for developing an appropriate definition of a "small agency and institution".

What is a data activity? The statue ties the definition of "data activity" or "information" to the definition in the Federal Reports Act, which OMB implements under OMB Circular A–40. There are several important points to make about the definition that is set out in Section 4 of the procedures:

1. It covers any Federal agency request for answers to identical questions from ten or more persons (except Federal employees).

2. It includes telephone or other oral requests as well as written questionnaires and other instruments.

3. It covers application forms (for grants and other types of aid) as well as report forms, questionnaires, and other instruments.

However, it is important to point out that OMB is currently considering revisions to OMB Circular A–40. (We would incorporate any revisions that OMB makes as appropriate).

One issue that both OMB and FEDAC members are considering, relating to this definition and to the scope of both OMB and FEDAC reviews, is how to treat *pretests* of forms and other data collection instruments. ("Pretest" in this context refers to pilot testing of instruments, not the initial testing in a pre-post testing study design.)

There are at least two opposing points of view on this issue. One view, advocated by some program managers and researchers, is that to be able to develop an adequate and appropriate data collection insturment, it is essential to be able to informally test the instrument prior to presenting the instrument for either OMB or FEDAC review. They believe, in some cases, an adequate pretest may require contacting 10 or more persons. They would like to reach agreement that either (1) limited pretests (contacting 10–50 persons) are not subject to either OMB or FEDAC review; or (2) these types of pretests are only subject to special, limited review.

The opposite view is that either OMB or FEDAC review is essential before the pretest stage when OMB or FEDAC staff may provide assistance in determining whether the data exist elsewhere in substantially identical form, or whether the proposed data activity is otherwise unnecessary, excessive or burdensome.

Since the "10 person" criterion is in the statutory definition, final resolution of this issue may require a statutory change. FEDAC members did express support for some sort of limited review or expedited clearance of pretests. Of relevance is a requirement in the FEDAC statute that, "The procedures established by the Secretary shall include a review of plans for evaluations and for research when such plans are in their preliminary stages" (Section 400A(a)(3)(C)). This statutory provision suggests that the Congress not only intended FEDAC staff to provide suggestions on pretests (a preliminary stage) but also that the special procedures for preliminary reviews might differ from the procedures for full review of more completely developed data activity plans and instruments.

What must happen prior to February 15? The statute provides that "no information or data will be requested of any educational agency or institution unless that request has been *approved and publicly announced* by the February 15 immediately preceding the beginning of the new school year" (Section 400A(b)(2)(A)).

If the February 15 date requirement means that Federal agencies will have to develop their data activity plans and data collection instruments many months in advance of the time they propose to collect data, this will cause major problems in some instances, especially where the Congress enacts new statutory programs with immediate effective dates requiring new applications, reports, evaluations, and other data activities. Alternatively, the requirement may be construed as meaning that the proposed "request" be announced by then, with additional time being allowed before the full plan and the exact data instrument are made available.

While exceptions to the February 15 date and to other review requirements have been specified (see Sections 13 and 14 of the procedures), we seek to further interpret the requirements in a reasonable way to allow Federal agencies adequate time to develop data activity plans and instruments, while also providing educational agencies and institutions the maximu amount of advance notice of the data acquisition activities.

The narrowest interpretation of the statutory language is that the activity plans and instruments must be both announced *an approved* prior to the February 15 preceding the new school year.

However, these interim procedures are based on a broader interpretation: that the Secretary approves publication of a summary of the data activity plan prior to February 15, but may review and finally approve the plan and data instrument after February 15. The publication in the **Federal Register** would include not only a summary of the data activity, but also information about where affected educational agencies or institutions, or the public, may obtain the full plan or data instrument upon request.

When the plan or exact data instrument are not available by February 15, a Federal agency must provide a second announcement to give potential respondents an opportunity to obtain a copy of the plan or exact data instrument and to comment on specific aspects.

If the idea of a preliminary approval of the data request were to be considered for adoption, it could lead to requirements for a preliminary approval of the "request" (summary of the plan for the proposed data collection activity) by February 15 with subsequent announcements and approval of the plan and specific instrument(s) to be made later in the spring, but at least seven months prior to the beginning of data collection. This would allow sponsors more time to prepare materials planned for collection in the forthcoming school year, while retaining the seven-month lead time implicit in the February 15 announcement requirement.

What happens in the case of data that Federal agencies propose to collect in school year 1979–80? These interim procedures are effective immediately upon publication. After today, any Federal agency that is proposing a data activity for School Year 1979–80 must comply with these procedures. Where information has already been assembled in accordance with OMB forms and procedures, agencies need only provide FEDAC staff with those forms and any additional information required by Sections 8 and 12. Agencies must publish a summary of the data plan as soon as possible. The Secretary will have to determine whether the data activity may be conducted (using the "waiver authorities" in Sections 13–14). We expect—given the newness of these procedures—that the Secretary will have to make liberal use of the waiver authorities for School Year 1979–80. We assume educational agencies and institutions will understand the necessity for taking this approach where certain data activities (applications, report forms, etc.) for essential purposes are involved.

A more complicated question is how to treat data activities developed after the enactment of these requirements (November 1, 1978), but before we and FEDAC members approved these interim procedures.

One step we took last winter was to obtain from all Federal agencies a list of all education data activities for School Year 1979–80 which had either (1) already been approved by OMB, or (2) were being developed at that time. To provide educational agencies and institutions as much advance information as possible, this list was published on February 15, 1979 in the **Federal Register** (44 FR 9869). In that notice, the Secretary determined that all of the activities previously approved by OMB could proceed under the "unusual circumstance" waiver authority.

We left open the question of how to treat not-yet-approved data activities. Those activities must now be reviewed under these interim procedures, as discussed above. FEDAC staff will give expedited attention to these activities, taking into account any other reviews of the data activity that the Federal agency has had within the agency, outside the agency (for example, review by organizations such as the Chief State School Officers' Committee for Evaluation and Information Systems), or with OMB previously.

General

Since these procedures are rules of agency procedure, we do not believe rule making is required. If rule making were required, we would waive it as impracticable and contrary to the public interest because these procedures must be in place as soon as possible to allow appropiate review of covered data activities. However, we are seeking public comments which we will consider before adopting final procedures. A regulatory analysis under E.O. 12044, *Improving Government Regulations*, is not required.

Accordingly, we adopt the interim procedures set out below.

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UMI

Dated: August 1, 1979.

Mary F. Berry,

Assistant Secretary for Education.

Interim Federal Education Data Acquisition; Council Review Procedures

Subpart A—General

Sec.
1 Purpose.
2 Summary of requirements.
3 Activities subject to these review procedures.
4 Definitions.

Subpart B—Data Acitivity Announcement

5 Announcement in the Federal Register.
6 Announcement—Comments on plan and data instrument.

Subpart C—Data Activity Plan

7 Plan requirement.
8 Plan contents.
9 Approval by Secretary.
10 Additional review required for changes proposed by a Federal agency.
11 Additional requirements for evaluation and research studies.
12 Procedures the Secretary uses to determine whether a data activity is appropriate.

Subpart D—Waivers

13 Waiver—general.
14 Waiver—certain research and evaluation studies.

1. Purpose

The purpose of these review requirements is to reduce the paperwork burden Federal agencies impose on educational agencies and institutions while helping Federal agencies collect information in the most efficient and effective possible manner.

2. Summary of Requirements

A Federal agency proposing to collect information subject to these review procedures must:

(a) Develop a plan for the data activity;

(b) Submit the plan and a summary of it to the Secretary for review prior to publication of the summary in the **Federal Register;**

(c) Publish an approved summary of the plan in the **Federal Register** no later than the February 15 preceding the school year in which the Federal agency proposes to collect data unless an unusual circumstance or urgent need exists;

(d) Provide copies of the plan and the exact data instrument to interested members of the public;

(e) Collect and summarize public comments on the data activity for the Secretary's review; and

(f) Simultaneously with (e) above, revise the plan and data instrument as warranted, fully considering all substantive comments as a result of the **Federal Register** announcement, and submit the revisions to the Secretary for review and approval.

3. Activities Subject to These Review Procedures

(a) A Federal agency which proposes to collect information must comply with these review procedures:

(1) Whenever a majority of the respondents are education agencies or institutions or the information is collected from employees or students in the agencies or institutions in ways that require the assistance of the agency or institutions; and

(2) Whenever the purpose of the activity is to request information needed for:

(i) Management of Federal education programs (including applications and plans); or

(ii) Formulation of policy related to Federal education programs; or

(iii) Research or evaluation studies related to the implementation of Federal education programs.

(b) A data activity subject to these procedures is not subject to OMB review.

(c) A Federal agency proposing data collection activities subject to these procedures which are included as part of any request for proposal (RFP) or other contract must request preliminary approval by the FEDAC staff. If the RFP does not prescribe the plan, or if it allows considerable flexibility, the agency shall submit the plan prior to the signing of the contract if the plan is described in the contract. When the contract (or other agreement) leaves to the contractor (or grantee) the development of the (survey) plan, the agency must include a statement in the contract that its completion is subject to approval of the plan by FEDAC, and the plan should be submitted by the Federal agency as soon as it is developed.

(d) *HEW only.* A component of HEW sponsoring a data acquisition activity that is not subject to these procedures buy involves educational agencies or institutions as respondents shall consult with the FEDAC staff to ensure that the criteria in Section 12 are considered. Consultation may be prior to, or concurrent with, clearance under OMB Circular A–40. An example might be a Departmental survey relating to health policies that includes education agencies or institutions as respondents.

4. Definitions

"Educational agency or institution" means any public or private agency or institution whose primary function is education.

"Federal agency" means an executive department, commission, independent establishment, corporation owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government but does not include the General Accounting Office, independent Federal regulatory agencies, nor the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions. The term includes contractors and grantees, where their data activity is sponsored by the Federal agency (as defined under OMB Circular A–40.)

"Federal Education Program" means any Federal activity with a primary purpose of offering instruction, financing instruction, or affecting an educational agency's or institution's ability to offer instruction or provide access to education.

"Information" or "data" means facts obtained or solicited by the use of written report forms, application forms, schedules, questionnaires, or other similar methods calling either for answers to identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States or for answers to questions from agencies, instrumentalities, or employees of the United States which are to be used for statistical compilations of general public interest. Information as used here includes data on opinions and attitudes as well as recordkeeping requirements.

"Secretary" means the Secretary of Health, Education, and Welfare, or an official or employee of the Department to whom the Secretary has delegated authority.

Subpart B—Data Activity Announcement

5. Announcement in the Federal Register

(a) A Federal agency must announce in the **Federal Register** a summary (outline attached—Appendix A) of its plan no later than the February 15 immediately preceding the beginning of the school year in which the data will be collected.

(b) The Federal agency proposing the data activity must accept comments for at least 30 days after the summary of the plan is published in the **Federal Register.** In certain circumstances (e.g., complex data collection instruments), the agency may provide a 45- or 60-day public comment period and additional forms of public notice may be recommended.

6. Announcement—Comments on Plan or Data Instrument

The announcement must include:

(a) Information about how the public may comment on the plan; and

(b) Information about where copies of the plan and exact data instruments may be obtained.

Subpart C—Data Activity Plan

7. Plan Requirement

A Federal agency must prepare a plan for each data activity subject to these review procedures and submit the plan to the Secretary. After the public comment period ends, the agency must submit copies of the comments and a summary of them to the Secretary.

8. Plan Contents

(a) Each plan must include:

(1) A concise description of the proposed data activity;

(2) A detailed justification of how information once collected will be used;

(3) An analysis of how the activity was developed so as not to be excessive, including (i) evidence of early involvement and communication with respondent populations; (ii) how the agency considered the criteria in Section 12; and (iii) how the agency complied with E.O. 12044, *Improving Government Regulations;*

(4) A description of the methods of analysis which will be applied to the data;

(5) A citation of the legislative authority under which the data activity will be conducted;

(6) The timetable for disseminating the collected data or an explanation of why a timetable is inappropriate (e.g., it is collected for administrative purposes or other special uses);

(7) An estimate of:

(i) The average costs and person-hours required by the educational agencies or institutions to complete the request; and

(ii) The total cost to the Federal agency to collect, process and analyze the data;

(8) A copy of the exact data instrument, including the instructions and the cover letter, or a draft copy of the data instrument with information as to where and when the exact data instrument will be available for public review and comment; and

(9) A specific justification for a request for a multi-year approval, if appropriate. The Secretary considers, on a case-by-case basis, the following types of factors in determining whether to grant a multi-year approval: it is a routine administrative form; it represents a small or minimal burden; or it has been successfully used in the past.

(b) If the plan is submitted after the February 15 preceding the school year in which the data are to be collected the plan must include evidence of any urgent need or unusual circumstance requiring the data.

9. Approval by Secretary

(a) The Secretary, within 30 days after receiving the comments, either:

(1) Approves the plan;

(2) Requests modifications suggested by HEW and other reviewers or by commenters; or

(3) Disapproves the plan.

(b) If the Secretary disapproves a plan, the Federal agency proposing the plan may appeal to the Director of OMB. The Director of OMB issues a decision within 10 days after receipt of the request for review.

10. Additional Review Required for Changes Proposed by a Federal Agency

(a) If a Federal agency decides to change its data activity or the data collection instrument after the plan has been approved by the Secretary, the Federal agency must

(1) develop an amended plan;

(2) publish a new announcement in the **Federal Register;** and

(3) obtain the Secretary's approval of any changes.

(b) This additional review is not required for non-substantive changes or for deletions proposed by the Federal agency sponsoring the activity unless the Secretary decides otherwise (e.g., an agency was committed to collecting certain data that other agencies may use). However, the Federal agency must inform the Secretary before such non-substantive changes or deletions are made.

11. Additional Requirements for Evaluation and Research Studies—Preliminary Review

(a) A Federal agency must submit to the Secretary a preliminary plan for an evaluation or research data collection activity pertaining to Federal education programs. This requirement applies even if the agency seeks a waiver under Section 14.

(b) A Federal agency must submit the preliminary plan in the early stages of the development of the data activity.

(c) The Secretary advises the head of the Federal agency proposing the plan on how to avoid collecting excessive or unnecessary data.

12. Procedures the Secretary Uses To Determine Whether a Data Activity Is Appropriate

The Secretary uses the following procedures to determine whether a data activity is appropriate. The Secretary:

(a) Carefully reviews each data collection plan and instrument to ensure that the response requirements are not excessive, unnecessary, redundant, duplicative, ineffective, or excessively costly;

(b) Requires each Federal agency proposing a data activity to include in its plan for the activity an account of the consideration that it gave to each of the issues in subsection (a) in developing the activity;

(c) Requires that sampling techniques, rather than universal responses, be used wherever possible;

(d) Requires that special consideration be given to the burden placed upon small educational agencies and institutions, and that in respect to all agencies and institutions of whatever size, data definitions and categories be structured to facilitate institutional and agency ability to respond without costly transformations of their internal data collection and data management systems;

(e) Does not approve a data activity seeking data shown to exist in the same or similar form by FEDAC's automated indexing system; and

(f) Requires use of standard definitions and terminology where practicable.

Subpart D—Waivers

13. Waiver—General

The Secretary may grant a waiver of the requirements for a plan and **Federal Register** announcement by the February 15 immediately preceding the school year if the Secretary determines:

(1) There is an urgent need for the information; or

(2) A very unusual circumstance exists regarding the information.

14. Waiver—Certain Research and Evaluation Studies

(a) Additionally, the Secretary may grant a waiver for individual research or evaluation studies which are *not* used for individual project monitoring or review if *all* of the following conditions are met:

(1) The study is of a nonrecurring nature;

(2) An educational agency or institution may choose whether to participate (and the decision may not be used by any Federal agency for monitoring or funding decisions);

(3) The person-hours necessary to respond are not excessive and the requests for information are not excessive in detail, unnecessary, redundant, ineffective, or excessively costly; and

(4) The Federal agency requesting data has announced the plan for the study in the **Federal Register** in accordance with Subpart B and has provided the Secretary with an advance copy of the announcement, along with a request for a waiver.

(b) The Secretary narrowly construes this exception and rigidly applies criteria for its use.

(c) The Secretary informs the relevant agency or institution of the waiver decision within 30 days following receipt of the waiver request and a copy of the **Federal Register** announcement, or the waiver is automatically granted.

Appendix A

Summary of the Data Activity Plan

A summary of the plan shall include:
(a) Title of Proposed Activity
(b) Agency/Bureau/Office
(c) Agency Form Number
(d) Legislative Authority for the Activity
(e) Concise Description of the Proposed Activity
(f) Voluntary/Obligatory Nature of Reponse
(g) Justification of How Information Collected Will Be Used
(h) Data Acquisition Plan
(1) Method of Collection
(2) Time of Collection
(3) Frequency
(4) Method(s) of Analysis
(i) Timetable for Dissemination of the Collected Data
(j) Respondents
(1) Type
(2) Estimated Number by Type
(3) Estimated Average Person-Hours Respondent Time per Type of Respondent
(k) Estimated Costs and Person-Hours to the Respondents (Total)
(l) Estimated Costs to the Federal Agency to Collect, Process and Analyze the Data (Contract, S & E)
(m) A List of the Specific Data To Be Collected From Each Type of Respondent
(n) Name and Address of Individual or Office From Which a Copy of the Data Instrument(s) May be Obtained

If appropriate, indicate that a multiyear approval or a waiver is requested.

[FR Doc. 79-24443 Filed 8-7-79; 8:45 am]
BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Near-Reservation Designations

July 6, 1979.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

In accordance with Title 25—Indians, Chapter 1—Bureau of Indian Affairs, Department of the Interior, Subchapter D—Social Welfare, Part 20—Financial Assistance and Social Services Program (25 CFR 20), the Assistant Secretary—Indian Affairs has designated certain locales as "near-reservation" locations appropriate for the extension of Bureau of Indian Affairs financial assistance and/or social services.

The locales listed alphabetically below by Bureau Agency office jurisdiction are those designated for this purpose:

Agency: Colville, Coulee Dam, Washington

Tribe: Colville Confederated Tribes.
"Near-reservation" location: Counties of Ferry, Stevens, Okanogan, Grant, and Douglas (all within the State of Washington).

Agency: Eastern Nevada, Owyhee, Nevada

Tribes: Battle Mountain Indian Colony of the Te-Moak Band of the Western Shoshone, Confederated Tribes of the Goshute Reservation, Duck Valley Shoshone—Paiute, Duckwater Shoshone Tribe, Elko Community Committee, Ely Colony of Western Shoshone, Te-Moak Bands of the Western Shoshone, South Fork Community Committee organization.
"Near-reservation" location: The Nevada counties of Elko, Eureka, Lander, Nye, and White Pine inclusively; the community of Winnemucca, Nevada; the Utah county of Tooele; the Idaho counties of Ada, Canyon, Elmore, and Owyhee.

Agency: Northern Idaho, Lapwai, Idaho

Tribe: Nez Perce Tribe.
"Near-reservation" location: The towns of Lewiston, Kendrick, Grangeville, and Cottonwood in Idaho, and the towns of Asotin and Clarkston in Washington.

Agency: Shawnee, Shawnee, Oklahoma

Tribes: Absentee Shawnee Tribe of Oklahoma, Citizen Band Potawatomi Tribe of Oklahoma, Iowa Tribe of Oklahoma, Kickapoo Tribe of Oklahoma, Sac and Fox Tribe of Oklahoma.
"Near-reservation" location: All of Payne County north of the Cimarron River except that part which lies within the boundaries of the Pawnee Tribe's former reservation; and all the area within a six-mile-wide strip of land in Logan, Oklahoma, and Cleveland Counties, beginning at the extreme southwest corner of Payne County where the line intersects with the Cimarron River, then running due south to the South Canadian River (all within the State of Oklahoma).

Agency: Spokane, Wellpinit, Washington

Tribe: Kalispel Tribe.
"Near-reservation" location: Counties of Pend Oreille, Stevens, and Spokane (all within the State of Washington).
Tribe: Spokane.
"Near-reservation" location: Counties of Spokane, Lincoln, Stevens and Pend Oreille (all within the State of Washington).

Agency: Warm Springs, Warm Springs, Oregon

Tribe: Warm Springs Confederated Tribes.
"Near-reservation" location: Counties of Jefferson, Wasco, Clackamas, Marion, Linn, Crook, Deschutes, and Hood River (all within the State of Oregon).

Agency: Western Washington, Everett, Washington

Tribe: Chehalis Confederated Tribes.
"Near-reservation" location: Counties of Grays Harbor, Lewis, Thurston, Cowlitz, and Mason (all within the State of Washington).
Tribe: Shoalwater Bay
"Near-reservation" location: Counties of Grays Harbor and Pacific (both within the State of Washington).
Tribe: Squaxin Island
"Near-reservation" location: Counties of Mason, Kitsap, Pierce, and Thurston (all within the State of Washington).

Agency: Yakima, Toppenish, Washington

Tribe: Confederated Tribes of the Yakima Indian Nation
"Near-reservation" location: Counties of Klickitat, Grant, Yakima, and Skamania; towns of Wenatchee and Ellensburg (all within the state of Washington).

25 CFR 20—*Financial Assistance and Social Services Program* regulations have full force and effect when extending Bureau of Indian Affairs assistance and/or services in the above designated "Near-reservation" locations. Further information about these "Near-reservation" designations may be obtained from the Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone 703-235-2756.

Rick Lavis,
Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-24340 Filed 8-7-79; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

New Mexico; Intent To Prepare an Environmental Impact Statement

July 26, 1979.

The Department of the Interior, Bureau of Land Management, Albuquerque District Office will prepare an Environmental Impact Statement (EIS) in connection with determining range resource use and management on 970 thousand acres of public land in northwestern New Mexico. The proposed grazing management program has evolved from coordinated land use allocations for resources developed through the Bureau's land use planning system. The objectives of the proposed program are to enhance the vegetative resource, improve range condition, provide quality habitat for wildlife and wild horses, provide a continuous supply of livestock forage, reduce soil erosion and sedimentation damage, improve water quality, improve recreation and visual resources, and protect archaeologic and historical sites.

The EIS will include alternatives to the proposed grazing management program. Some of the expected alternatives include no action, no livestock grazing, a substantial reduction in present livestock grazing, and forage allocations with differing emphasis which would either optimize or reduce forage availability for livestock, wildlife, wild horses, or watershed protection.

The environmental statement will identify the impacts that can be expected from implementation of either the proposed grazing management program or one of the alternatives. The statement will not recommend any particular course of action but will be an analytical tool used to assist in making decisions for managing livestock grazing in the San Juan Planning Unit of the Farmington Resource Area.

A public meeting will be held on August 14, 1979, at 7 p.m. at the San Juan College, Theater, in Farmington, New Mexico. The meeting will concentrate on determining the scope of the issues to be addressed in the EIS, identifying the significant issues which must be discussed in detail in the EIS, and identifying the issues that do not require detailed study.

For information concerning the proposed action or the environmental statement, contact the following individual: Bill W. Sharp, Project Manager, Bureau of Land Management, USDI, 3550 Pan American Freeway, NE., P.O. Box 6770, Albuquerque, NM 87107; Telephone: Commercial Number (505) 766-2455, FTS 474-2455.

Michael T. Solan,
Acting State Director.

[FR Doc. 79-24341 Filed 8-7-79; 8:45 am]
BILLING CODE 4310-84-M

[U-910-4310-84]

Utah; Initial Wilderness Inventory, Final Decisions and Official Start of Intensive Inventory

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The final decision on the initial wilderness inventory of BLM-managed public lands in Utah will be announced August 13, 1979. On that date the intensive inventory in Utah will officially start. This decision will become effective September 12, 1979—30 days after the announcement.

The decision on interstate units will not become final until each respective state announces a decision on their portion of the unit.

Utah's announcement follows a 90-day public comment period which began April 4, 1979 and ended July 2, 1979. Comments were received and analyzed from approximately 1,600 people or organizations.

At the time of announcement, the BLM Utah state office will mail a state-wide map (showing all inventoried units) and a summary booklet (with narratives on those units that were changed—boundary or otherwise—from the original proposal) to all addressees on the Utah wilderness mailing list. Additional copies of these materials will also be available at all BLM offices in the state.

FOR FURTHER INFORMATION CONTACT: Mr. Kent Biddulph, Wilderness Coordinator, Utah State Office, 136 East South Temple, Salt Lake City, Utah 84111, (801) 524-5326.

Dated: July 30, 1979.

W. D. Brough,
Acting State Director.

[FR Doc. 79-24342 Filed 8-7-79; 8:45 am]
BILLING CODE 4310-84-M

Geological Survey

Known Recoverable Coal Resource Area; Rawlins (Little Snake River), Wyo.; Revision

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of Wyoming have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(50) Wyoming

Revised Rawlins (Little Snake River) (Wyoming) Known Recoverabe Coal Resource Area (KRCRA); August 15, 1977; 505,623 acres were added to the KRCRA. Total area now classified for leasing is 628,536 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: July 30, 1979.

J. R. Balsley,
Acting Director.

[FR Doc. 79-24343 Filed 8-7-79; 8:45 am]
BILLING CODE 4310-31-M

National Park Service

Intention To Extend Concession Permits

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession permits with Adventure Bound, Inc., Colorado Outward Bound School and Hatch River Expeditions, Inc., authorizing them to continue to provide river running concession facilities and services for the public at Dinosaur National Monument for a period of two (2) years from January 1, 1979, through December 31, 1980.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the

Office of the Superintendent, Dinosaur National Monument, Dinosaur, Colorado 81610.

The foregoing concessioners have performed their obligations to the satisfaction of the Secretary under existing permits which expired by limitation of time on December 31, 1978, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permits and in the negotiation of a new permit.

This provision, in effect, grants Adventure Bound, Inc., Colorado Outward Bound School and Hatch River Expeditions, Inc., as the present satisfactory concessioners, the right to meet the terms of responsive proposals for the proposed new permits and a preference in the award of the permits, if, thereafter, the proposals of Adventure Bound, Inc., Colorado Outward Bound School and Hatch River Expeditions, Inc, is substantially equal to others received. In the event a responsive proposal superior to that of Adventure Bound, Inc., Colorado Outward Bound School and Hatch River Expeditions, Inc., (as determined by the Secretary) is submitted, Adventure Bound, Inc., Colorado Outward Bound School and Hatch River Expeditions, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new permits will be negotiated with Adventure Bound, Inc., Colorado Outward Bound School and Hatch River Expeditions, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioners, must be post marked or hand delivered on or before the thirtieth (30th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Superintendent, Dinosaur National Monument, Dinosaur, Colorado 81610, for information as to the requirements of the proposed permits.

Dated: July 31, 1979.

Daniel J. Tobin, Jr.,

Associate Director, National Park Service.

[FR Doc. 79-24334 Filed 8-7-79; 8:45 am]

BILLING CODE 4310-70-M

Eleanor Roosevelt National Historic Site; Public Meeting and Availability of Assessment of Alternatives, General Management Plan

Notice is hereby given that the National Park Service has prepared an assessment of general management plan alternatives for Eleanor Roosevelt National Historic Site. A public meeting will be held at 8:00 p.m. on August 28, 1979, at the Bellefield Mansion (adjacent to the Home of Franklin D. Roosevelt National Historic Site), Hyde Park, New York, to enable the public to comment on these general management plan alternatives.

The assessment of alternatives is available from or may be inspected at the North Atlantic Regional Office, 15 State Street, Boston, Massachusetts 02109; Federal Hall National Memorial, 26 Wall Street, New York, New York 10005; or the Superintendent's Office, Home of Franklin D. Roosevelt and Vanderbilt Mansion National Historic Sites, Hyde Park, New York 12538.

The assessment discusses three alternative ways of managing and preserving the cultural and natural resources of Eleanor Roosevelt National Historic Site. In addition to describing the alternatives, the assessment analyzes the impacts of each alternative and identifies various measures that could be employed to mitigate these impacts, as well as any adverse effects that could not be avoided should the alternative be implemented.

Written statements regarding the assessment of alternatives are also invited and may be submitted at the public meeting or may be addressed to the Superintendent, Home of Franklin D. Roosevelt and Vanderbilt Mansion National Historic Sites, Hyde Park, New York 12538. The official record for these written comments will close on September 27, 1979.

Date: July 31, 1979.

Jack E. Stark,

Regional Director, National Park Service.

[FR Doc. 79-24455 Filed 8-7-79; 8:45 am]

BILLING CODE 4310-70-M

[Order 77, Amdt. 9]

Regional Directors and Alaska Area Director

August 2, 1979.

Order No. 77, approved February 27, 1973, and published in the **Federal Register** of March 22, 1973 (38 FR 7478) and the amendments to Order No. 77 listed below are hereby amended to change the designation references from Regional Directors to Regional Directors and Alaska Area Director.

Amendment No. 1, approved June 18, 1973 (38 FR 16789)
Amendment No. 2, approved January 29, 1974 (39 FR 4597)
Amendment No. 3, approved October 21, 1975 (39 FR 38118)
Amendment No. 4, approved June 25, 1975 (40 FR 28111)
Amendment No. 5, approved May 5, 1976 (41 FR 20602)
Amendment No. 6, approved June 30, 1976 (41 FR 28332)
Amendment No. 7, approved August 13, 1976 (41 FR 35203)
Amendment No. 8, approved March 2, 1979 (44 FR 12281)

(205 DM, as amended; 245 DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950)

William J. Whalen,

Director, National Park Service.

[FR Doc. 79-24442 Filed 8-7-79; 8:45 am]

BILLING CODE 4310-70-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Visual Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby that a meeting of the Arts Advisory Panel (Art in Public Places) to the National Council on the Arts by held August 23 and August 24, 1979, from 9:00 a.m. to 5:30 p.m., in room 1340, Columbia Plaza Office Building, 2401 E Street, NW, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 31, 1979.

[FR Doc. 79-24344 Filed 8-7-79; 8:45 am]

BILLING CODE 7537-01-M

National Council on the Humanities; Notice of Change

August 1, 1979.

This is to announce a change in the National Council on the Humanities committee meetings to be held on August 15, 1979 at the Shoreham

Building, 806 15th Street, N.W., Washington, D.C., notice of which was published in the **Federal Register** on July 31, 1979. Two committees will convene as follows:

3:00 p.m.—Research Programs—Room 1130
4:30 p.m.—Public Programs and State Programs—1st Floor

The times have been changed from the original 2:00 p.m. time. These committee meetings are open to the public.

The remaining meetings originally scheduled for 2:00 p.m. on August 15, 1979, which are listed below, are hereby cancelled.

Education Programs
Fellowships Programs
Planning and Special Programs

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 79-24418 Filed 8-7-79; 8:45 am]

BILLING CODE 7536-01-M

OFFICE OF THE FEDERAL REGISTER

Seal of the Office of the President Pro Tempore, United States Senate



The disc is of blue as in the National flag.

Above the shield at the center is a representation of the original ivory gavel or knocker used since 1789 and symbolizing the authority of the President pro tempore.

The crossed quills allude to the drafting of legislation.

The laurel branches denote honor and achievement.

The shield has seven white and six red stripes, consistent with those of the shield of the U.S. coat of arms.

The eleven stars on the chief of the shield signify those states which had ratified the Constitution prior to the First Session of the First Congress, called for March 4, 1789 in New York City.

(Sec. 3, Senate Res. Aug. 14, 1954)

Ernest J. Galdi,
Acting Director, Office of the Federal Register.

[FR Doc. 79-24333 Filed 8-7-79; 8:45 am]
BILLING CODE 6820-27-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10807; 812-4396]

Israel Development Corp., and AMPAL-American Israel Crop.; Filing of Application for an Order Permitting Proposed

August 2, 1979.

Notice is hereby given that Israel Development Corporation ("IDC") and Ampal-American Israel Corporation (together with its consolidated subsidiaries "Ampal") (IDC and Ampal hereinafter sometimes referred to collectively as "Applicants") 10 Rockefeller Plaza, New York, New York 10020, filed an application on November 22, 1978, and an amendment thereto on July 20, 1979, for an order, pursuant to Sections 17(b) and 17(d) of, and Rule 17d-1 under, the Investment Company Act 1940 ("Act"), exempting the proposed merger of the Applicants ("Merger") from Section 17(a) of the Act and permitting it under Section 17(d) of the Act and Rule 17d-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants

IDC is a non-diversified, closed-end, management investment company registered under the Act. The fudamental policy of IDC is to further the industrial and mineral development of Israel through investment in enterprises deemed profitable or potentially profitable by its management. The principal source of IDC's funds has been sales of common stock and debentures. Applications represent that since 1973, the financial condition of IDC has weakened considerably, with a generally declining net asset value and dividends.

Ampal operates primarily as a finance company and is principally engaged in the business of financing, primarily through loans and to a lesser extent through equity investment, industrial, financial, commercial, and agricultural enterprises in Israel, and assisting Israel business enterprises and individuals in establishing operations outside of Israel which the management of Ampal believes may benefit Israel. Ampal and its consolidated subsidiaries have at no time experienced defaults on any loans or notes receivable. In general, Ampal has operated on an increasingly profitable basis since 1973.

Ampal follows a policy of borrowing from banks and others, including principally persons affiliated with Ampal, in order to obtain funds necessary for its operations. Such leveraging is fundamental to Ampal's business and practices. Ampal presently has the following authorized and outstanding classes of shares: (1) Common Stock, par value $50.00 ("Ampal Common Stock"), (2) Class A Stock, par value $1.00 ("Class A Stock"); and (3) 4% cumulative convertible preferred stock, par value $5.00 ("Existing Preferred Stock"). Holders of the Existing Preferred Stock are entitled to receive dividends at an annual rate of 4% before any dividends are paid upon Ampal Common Stock or Class A Stock. Before any additional dividends may be paid upon the Existing Preferred Stock, the holders of Class A Stock are entitled to receive non-cumulative annual dividends of 4% par value per share. Before any dividends are paid to the holders of Ampal Common Stock, the Existing Preferred Stock and Class A Stock are entitled to non-cumulative dividends of 8% par value per shares. If any surplus remains, the Ampal Common Stock is entitled to non-cumulative dividends not exceeding 12% of its par value per share. In the event of liquidation, the Existing Preferred Stock is senior and the Class A Stock and Ampal Common Stock are jointly junior in priority. The Existing Preferred Stock is convertible into five share of Class A Stock.

Applicants represent that Ampal was instrumental in the formation of IDC, and as of June 30, 1979, owned approximately 9% of the outstanding voting stock of IDC. Furthermore, five persons who are officers and directors of Ampal also serve as officers or directors of IDC. Accordingly, Applicants state that Ampal may be deemed to be an "affiliated person" of IDC within the meaning of Section 2(a)(3) of the Act, which defines affiliated person of another person to include any person, directly or indirectly, owning or controlling 5% or more of the outstanding voting securities of such other person, any person 5% or more of whose outstanding voting securities are owned by such other person and any person, directly or indirectly, under common control with such other person.

The Proposed Transaction

Applicants state that if the Merger is consummated, Ampal would be the surviving entity (sometimes referred to hereinafter as "Surviving Corporation"), and the shareholders of IDC (other than Ampal, whose shares of IDC common stock will be cancelled in the Merger) would receive 3.30 shares of a new series of Ampal preferred stock to be designated 6½% Cumulative Convertible Preferred Stock, par value $5.00 ("New Preferred") for each share of IDC common stock held at the time of the Merger. Each share of New Preferred, in turn, would be convertible at any time into three shares of Ampal's Class A Stock. As a result, a holder of one share of IDC common stock would be entitled to receive 9.90 shares of Class A Stock upon conversion of the 3.30 shares of New Preferred received in the Merger. Pursuant to the terms of the Merger, no fractional shares of New Preferred will be issued; each IDC shareholder who would otherwise have been entitled to a fractional share of New Preferred will receive, from Ampal, a cash amount based on the net asset value of the IDC shares not converted.

Applicants also state that IDC's outstanding 5½% Sinking Fund Debentures, Series B, 1979, will be redeemed upon maturity on September 1, 1979, by IDC, if the Merger has not been consummated by that date, or by the Surviving Corporation, if the Merger has been consummated by that date. Ampal has undertaken that the Surviving Corporation will, if the Merger is consummated, redeem IDC's outstanding 7% Sinking Fund Debentures, Series D, 1986, prior to the declaration of the first dividend on any class of its equity securities by the Surviving Corporation. Accordingly, Applicants believe all the outstanding IDC debentures will be redeemed in 1979. The specific terms and conditions of the Merger will be set forth in an Agreement and Plan of Reorganization and Merger to be entered into by the Applicants.

Applicants state that the Merger will not be consummated unless each of the following conditions, among others, has been satisfied: (i) Approval of the Merger and an increase in the authorization of the New Preferred and Class A Stock by the voting shareholders of Ampal; (ii) approval of the Merger and a proposal that IDC cease to be an investment company by holders of IDC Common Stock; (iii) issuance by the Commission of an exemptive order; (iv) no action or proceeding shall be pending or

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threatened challenging the Merger, including any action initiated by the Antitrust Division of the United States Department of Justice or the Federal Trade Commission and (v) receipt by the Applicants of a favorable tax ruling from the Internal Revenue Service or an opinion of counsel with respect to certain tax matters. The Merger may also be terminated (i) at the option of the Board of Directors of either IDC or Ampal or (ii) by Ampal, if the holders of 5% or more of the outstanding shares of IDC seek statutory appraisal rights.

In order to slow the pace of IDC's decreasing net asset value, which reflects the progressive devaluation of the Israeli pound since 1974, IDC has decreased its equity investments in Israel and has used an increasing portion of its assets to make loans to Israeli businesses. Thus, the investment objectives of IDC and Ampal have converged and Applicants have conluded that IDC and Ampal should not continue as separate entities. In addition, Applicants believe that the Merger will permit IDC's assets to be invested with greater flexibility than currently is the case, because, as an investment company, IDC needs the approval of the Commission to effect investments where Ampal or its affiliate has a direct or indirect interest in the transaction. Applicants further state that Ampal engages in a policy of "leveraging" its assets to a greater extent than IDC would be permitted under the standards of Section 18, which prevents IDC from incurring debt if immediately thereupon its asset coverage would be less than 300%. As of December 31, 1978, the ratio of Ampal's outstanding indebtedness to shareholders' equity was 25.8:1. This policy has proved to be profitable for Ampal, and in light of prevailing economic conditions in Israel and other factors which are expected to persist in the foreseeable future, it is anticipated that such a policy would continue to prove beneficial. Ampal currently estimates that it will incur $85 million principal amount of indebtedness on the strength of the additional assets and shareholders' equity provided by IDC. Finally, Applicants assert that the Merger would result in certain cost savings.

Upon effectuation of the Merger, holders of the New Preferred and Exsisting Preferred Stock will receive cumulative cash dividends of 6½% and 4% per annum, respectively, *pari passu* before any dividends are paid upon the Class A Stock or Ampal Common Stock. The New Preferred, which will receive the larger, fixed initial dividend, is not entitled to any further dividends. The dividend rate of 6½% per annum on the New Preferred ensures that IDC shareholders will receive annual dividends in a greater amount than the total dividends currently received by them on their IDC Common Stock.

Applicants submit that the market price of the New Preferred issuable in connection with the Merger cannot be predicted with certainty. However, Lehman Brothers Kuhn Loeb ("LBKL"), an investment banking firm hired by IDC to negotiate the merger terms on its behalf, has advised Applicants that assuming that the New Preferred trades in the market at prices that reflect its value (without giving effect to any conversion premium), the market price of the 3.30 shares of New Preferred received in the Merger for each share of IDC Common Stock is anticipated by Applicants to range from approximately $9.33 to approximately $10.21. This compares favorably with the market price of IDC Common Stock, which between January 1, 1979, and June 29, 1979, ranged from $6¼ to $7½ per share on the American Stock Exchange.

Applicants submit that in reaching the estimated values of the New Preferred, LBKL advised the Applicants that the New Preferred is likely to be valued in relation to the dividend rate, prevailing market levels and yields of comparable preferred stocks and, particularly with regard to this issue, the range of yields at which IDC Common Stock has traded in the recent past. LBKL also took into consideration the prevailing yields of the Existing Preferred Stock. Other factors which were taken into consideration were the following: the reduction in marketability of the IDC shareholder's security (the New Preferred will be traded in the over-the-counter market); the history, preformance and prospects of IDC, Ampal and the Surviving Corporation; the nature and expectations of the IDC shareholders; and the general economic and political conditions prevailing in Israel and the United States.

Applicants represent that care has been taken to assure that IDC shareholders receive in the Merger the full and fair value of their shares. The net asset value of such shares was $11.49 as of May 31, 1979, the most recent date as of which IDC computes its net asset value. Certain adjustments to IDC's net asset value were agreed upon by Applicants to reflect the "value" to Ampal of the IDC Common Stock being exchanged in the Merger. Applicants have first agreed that Ampal's decision to bear all of the Merger expenses is transferring a value to IDC, and as such, those expenses incurred solely on behalf of IDC, which amount is approximately $0.13 per share, should be deducted from IDC's net asset value.

Applicants also state that IDC has had the practice, in complying with the provisions of Subchapter M of the Internal Revenue Code, of distributing a portion of each year's net investment income during the fiscal year and declaring and distributing the remainder as part or all of the first regular dividend in the next fiscal year. The "year end" dividend for 1979, however, will have added to it from amounts earned by IDC in fiscal 1979 an amount which is necessary to meet the requirements of Subchapter M through the daté on which the Merger is completed. Assuming consummation of the Merger on or about September 30, 1979 the amount so added, amounting to $0.22 per share, would not have been paid to IDC shareholders in 1979 but for the Merger. Consequently, Applicants believe that IDC's net asset value should be adjusted to reflect this extraordinary dividend requirement.

Applicants represent that the final adjustment reflects the thorough evaluation by Ampal of the IDC assets it will be acquiring. In exchanging equity for IDC's assets, Ampal had to consider what assets an investment of equal amount might alternatively have purchased. Accordingly, Ampal requested that LBKL revalue IDC's debt portfolio in an appropriate manner to reflect the change in the level of general interest rates in the United States from May 31, 1978, to June 15, 1979, the latter being a current date at the time that the revised terms of the Merger were being formulated. LBKL calculated the change in IDC's debt portfolio principal and, consequently, its net asset value per share, which resulted from equating the weighted average yield to maturity of each debt issue to 8¼%, and then 11¾%, the prevailing prime rates at May 31, 1978, and June 15, 1979, respectively. Such prime rates were selected as "proxies" for the change in interest rates rather than as indicators of what the appropriate yield on the IDC debt portfolio should be. Perpetual debentures were similarly revalued at the prime rates on a current yield basis. Thus, in order for the weighted average yield to maturity of IDC's debt portfolio to be increased from 8¼% to 11¾%, the principal amount of the portfolio would decrease IDC's net asset value by $1.11 per share.

Applicants state that based on the foregoing adjustments, it would be fair to adjust IDC's net asset value by a total amount of $1.46 per share, resulting in an adjusted per share net asset value for purposes of the Merger of $10.03.

Orders Requested

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, knowingly to sell any security or other property to, or knowingly to purchase any security or other property from, such registered company. Section 17(b) of the Act provides, however, that the Commission, upon application, shall exempt a transaction from such prohibition if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d–1 thereunder provide, in pertinent part, that it shall be unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person to participate in or effect any transaction in connection with any joint enterprise or arrangement in which any such registered investment company is a participant, unless an application regarding such arrangement has been granted by the Commission. In passing upon such application, the Commission will consider whether the participation of such registered investment company is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from, or less advantageous than, that of the other participants.

Applicants submit that they and LBKL have taken into consideration the following additional factors in reviewing the fairness and reasonableness of the Merger, and based on that consideration and consideration of the foregoing, are of the view that the Merger is fair and reasonable.

Applicants state that the ability of IDC shareholders to receive a reasonable, steady income return on their investment is met by, and enhanced through, the Merger. Applicants further state that the ability to convert the New Perferred affords the IDC shareholders the opportunity to participate directly in the future prospects of, and as voting stockholders in, the Surviving Corporation (holders of the New Preferred and Existing Preferred Stock are not entitled to vote unless there has been dividend arrearages for three successive years). Applicants believe that the merger will result in an entity with greater earning potential than either of the component corporations. Applicants assert that of the economies that the Surviving Corporation may realize in connection with the Merger is a decrease in its cost of borrowing because the Surviving Corporation will have greater total assets and, even more importantly, greater equity, than has Ampal.

It is the opinion of IDC's management that its shareholders are motivated largely by a desire to contribute to the economic development of Israel. Applicants submit that, as a combined entity, the Surviving Corporation will have greater economic power and will be capable of engaging in larger projects and more significant and diverse investment opportunities. Applicants state that the Surviving Corporation will become a more significant presence in Israel, and the Applicants' managements believe that the Surviving Corporation will then be better able to achieve the paramount objective of all the security holders of Ampal and IDC, which is assisting the economic development of Israel.

Applicants finally represent that LBKL, which has acted as financial adviser to IDC, supports their view that the Merger is fair and reasonable, does not involve overreaching, and is not inconsistent with the policies of the Act. Applicants also assert that the Merger satisfies the standards of Section 17(d) and Rule 17d–1. Accordingly, Applicants request an order be granted permitting the Merger and exempting it from the provisions of Section 17(a) of the Act.

Notice is further given that any interested person may, not later than August 27, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-24410 Filed 8-7-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 6006; 18-50]

The King & Spalding Retirement Plan and Trust Agreement; Filing of Application

August 1, 1979.

Notice is hereby given that King & Spalding (the "Applicant"), a law firm organized as a partnership under the laws of the State of Georgia, has on April 16, 1979 and July 9, 1979 filed an application for exemption from the registration requirements of the Securities Act of 1933 ("Act") for participations or interests issued in connection with the King & Spalding Retirement Plan and Trust Agreement (the "Plan") 2500 Trust Company Tower, Atlanta, GA 30303. All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein which are summarized below.

I. Introduction

Applicant states that Applicant has adopted the Plan to provide retirement benefits for its partners, associates and non-legal employees. Applicant states that because the Plan covers persons (in this case, Applicant's partners) who are employees within the meaning of Section 401(a)(1) of the Internal Revenue Code of 1954 (the "Code"), the Plan is excepted from the exemption provided by Section 3(a)(2) of the Act of interests or participations in employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension of profit-sharing plan which covers employees some or all of whom are employees within the meaning of Section 401(c)(1)

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of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description of the Plan

Applicant states that the Plan was adopted on January 1, 1968 to provide retirement benefits for partners, associates and non-legal employees of Applicant. Applicant further states that the Plan and Trust Agreement received favorable determination letters from the Internal Revenue Service ("I.R.S.") that the Plan and amendments to the Plan adopted January 1, 1976 and January 1, 1978 satisfied the requirements of Section 401(a) of the Code and that the Trust qualifies for tax exemption under Section 501(a) of the Code. A further amendment to the Plan has been adopted and Applicant states the amendment will be submitted to the I.R.S. for a determination that it does not adversely affect the status of the Plan under Section 401(a) and 501(a) of the Code. Applicant requests that for purposes of this application the Commission assume that a favorable determination will be rendered by the I.R.S.

The Plan covers all partners, associate and full-time employees of Applicant immediately upon commencement of employment, or if a part-time employee, upon completion of 1000 hours of service during any calendar year or during the first twelve months of service. As of December 31, 1978, 46 partners, 53 associates and 152 non-legal employees were entitled to participate in the Plan.

Applicant contributes on behalf of every participant amounts equals to specified percentages of the participant's compensation in such year up to a maximum contribution of $7,500 for each participant. The contribution made for each partner is deducted from his own share of Applicant's income. However, no contributions are required to be made by other employee participants on their own behalf. In addition, each participant in the Plan may make his or her own voluntary contribution, the aggregate of which may not exceed 10% of such participant's aggregate compensation for all calendar years in which he or she has been a participant.

The assets of the Plan are maintained by a trustee which has exclusive authority and discretion to manage and control such assets. The trustee is Trust Company Bank, Atlanta, Georgia. The Plan is administered by a committee which presently consists of three partners of Applicant. The Committee is responsible for controlling and managing the operation and administration of the Plan. Applicant, however, has ultimate authority to control the operations of the Plan since it has the power to appoint the Trustee and members of the Committee in addition to having the power to amend the Plan.

The assets of the Plan are segregated into two investment funds—a fixed income fund and a mixed fund. The fixed income fund presently consists of fixed income securities selected by the Trustee, while the mixed fund consists of common stocks, fixed income securities and other investments also selected by the trustee.

III. Discussion

Applicant States that if the partnership were a corporation, interests and participations in the Plan would be exempt under Section 3(a)(2) of the Act. Applicant submits that merely because Applicant is unincorporated is not reason for subjecting such interests and participations to the registration requirements of the Act. Applicant further submits that the intent of Congress in excluding from the exemption, plans in which self-employed persons were participants was to prevent the sale without registration of interests in prepackaged plans offered by financial institutions to self-employed persons lacking the sophistication to protection themselves and their employees, and that the provision permitting the Commission to grant exemption upon application was included in Section 3(a)(2) of the Act to make available an exemption for partnership plans where the plan and the entity involved are comparable to corporate plans exempted by Section 3(a)(2).

Applicant states that the Plan covers partners and employees of a single firm and is not a uniform prototype plan of a type designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as Applicant is required under the Employee Retirement Income Security Act of 1974 to distribute to participants or to employees) and has not made and does not intend to make any solicitation of voluntary contributions under the Plan. Applicant makes available to Plan participants for inspection, upon request and without charge, copies of the Plan and all documents relating to it.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involves financially sophisticated and complex matters and, for that reason as well as the extensive administrative control over the Plan maintained by the Partnership, is able to represent adequately its interests and the interests of its employees who are participants in the Plan.

Applicant concludes that for the foregoing reasons, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 27, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any Such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address state above. Proof of such service (by affidavit or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following August 27, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-24411 Filed 8-7-79; 8:45 a.m.]

BILLING CODE 8010-01-M

[Release No. 16073; File No. 1-6664]

Pacific Resources, Inc., Order Amending Effective Date of Withdrawal From Listing and Registration and Extending the Exemption of Certain Persons and Securities From the Provisions of Rule 17a-15

August 2, 1979.

On June 22, 1977 we approved the application of Pacific Resources, Inc. ("PRI") to withdraw its securities from listing and registration on the Pacific Stock Exchange Incorporated ("PSE").[1] We prescribed as a term of that delisting that it not become effective until the time of our determination with respect to the PSE's application for unlisted trading privileges in PRI common stock, but in no event later than 120 days after June 22, 1977.[2] We have amended, several times, the date upon which PRI's withdrawal from listing and registration on the PSE becomes effective; most recently, the effective date was August 2, 1979.[3] We found that the initial delay in the effective date of the delisting and the extension until August 2, 1979 were necessary principally because a temporary disruption in trading in PRI stock on the PSE would result in a lessening of potential competition among dealers and between exchange markets and markets other than exchange markets during any interim period after delisting, but before unlisted trading privileges are (if at all) granted.[4]

Our ultimate determination on the PSE application for unlisted trading privileges in PRI stock involves the consideration of several major policy issues including, among others, whether sufficient progress has been made toward the development of a national market system to satisfy the standards of Section 12(f)(2), whether the progress contemplated by Congress in adopting that Section is met by PSE's rescission of its off-board trading rules as they apply to transactions in PRI common stock, whether that progress and the statutory goals of eliminating unnecessary burdens on competition are satisfied by existing communications facilities and provisions for access between the PSE and over-the-counter ("OTC") markets, and whether last sale reporting of all PRI stock transactions would be appropriate should unlisted trading privileges be granted.

We have not yet resolved these issues insofar as they arise with respect to our consideration of the PSE application for unlisted trading privileges and, accordingly, we have been unable to complete our deliberations concerning the hearing on that application. We believe, however, that the purposes of the Act, particularly those which encourage competition among dealers acting as market makers in a security and between markets in that security,[5] make it appropriate for us to permit the existing competition in PRI stock to continue during the interim period necessary for us to conclude our deliberations. Accordingly, for the principal reason enunciated in the June 22 delisting order, and as stated above, we find it necessary to extend until December 31, 1979 the effective date of removal of PRI stock from listing and registration on the PSE.

PRI stock has been traded both on the PSE and OTC since issuance of our June 22 order.[6] At that time we also exempted, for a period of up to 120 days, the National Association of Securities Dealers, Inc. ("NASD") and all brokers and dealers from the reporting requirements of Rule 17a-15 under the Securities Exchange Act of 1934 relating to last sale reports of OTC transactions in the common stock of PRI. Previously, the duration of that exemption had been extended to August 2, 1979. Until we make a determination on the PSE's application for unlisted trading privileges in PRI stock, we believe that there will be uncertainty as to whether real-time reporting in PRI stock will be required as a general matter and that a continued exemption from Rule 17a-15 is appropriate.[7] We continue to believe that is is not necessary in the public interest or for the protection of investors to require members of the PSE, (who may trade PRI stock in the OTC market) and other brokers and dealers to develop and implement reporting procedures for transactions in this single security during the time before we make a determination as to the PSE's application. Accordingly, we have determined to, and hereby exempt, until December 31, 1979, the NASD and all brokers and dealers from the requirements of Rule 17a-15 relating to last sale reports of OTC transactions in the common stock of PRI.[8]

Accordingly, it is hereby ordered that our order of June 22, 1977, as amended, granting PRI's application to withdraw from listing and registration on the PSE be, and it hereby is, amended as set forth herein.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-24413 Filed 8-7-79; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release No. 13657 (June 22, 1977); 42 FR 33398 (June 30, 1977).

[2] The PSE filed an application, pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934, for unlisted trading privileges in PRI stock on March 25, 1977 in response to PRI's application to withdraw that security from listing and registration on the PSE (filed March 23, 1977). Concurrently with our order withdrawing PRI stock from listing, we ordered a hearing on the PSE application. *See* Securities Exchange Act Release No. 13658 (June 22, 1977); 42 FR 33402 (June 30, 1966).

[3] *See* Securities Exchange Act Release No. 15590 (February 27, 1979).

[4] In addition, we had noted that if delisting were effective immediately, new extensions of margin credit would be prohibited until the security was admitted to the List of OTC Margin Stocks issued periodically by the Board of Governors of the Federal Reserve System. PRI common stock was so admitted on October 2, 1978.

[5] *See e.g.*, Section 11A(a)(1)(C)(ii).

[6] The PSE has exempted from its off-board trading restrictions securities, such as PRI stock, which are both the subject of a delisting application and in which the PSE has applied for unlisted trading privileges. *See* Securities Exchange Act Release No. 13656 (June 22, 1977); 42 FR 33400 (June 30, 1977).

[7] If the unlisted trading privileges application of the PSE is denied, PRI stock will be traded solely OTC and therefore, will not be subject to current reporting under Rule 17a-15.

[8] This exemption does not prohibit those persons individually from complying voluntarily with Rule 17a-15 as long as such broker or dealer complies with the Rule in a uniform and consistent manner.

[Release No. 21169; 70-6335]

The Potomac Edison Co.; Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

August 1, 1979.

Notice is hereby given that the Potomac Edison Company ("Potomac") Downsville Pike, Hagerstown, Maryland 21740, a wholly-owned electric utility subsidiary company of Allegheny Power System, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Potomac proposes to issue up to $30,000,000 aggregate principal amount of its First Mortgage Bonds (the "Bonds") in one or more series, each such series to have a term of not less than five years nor more than 30 years and to sell such bonds at competitive bidding for the best price obtainable but for a price to Potomac of not less than 100% (unless Potomac shall have authorized a lower percentage not less than 99%) nor more than 102¾% of the principal amount thereof. Potomac may

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request by amendment hereto that such sale be excepted from the competitive bidding requirements of Rule 50 should circumstances develop which, in the opinion of Potomac's management, make competitive bidding impractical or undesirable and make such exception in the best interest of Potomac and its investors and consumers.

The Bonds will be issued under and secured by the Indenture dated as of October 1, 1944, between Potomac and Chemical Bank and Thomas J. Foley, as Trustee, as heretofore supplemented and amended and as to be further supplemented and amended by a Supplemental Indenture to be dated September 1, 1979.

Potomac states that it is difficult to determine, under present bond market conditions, whether it would be more advantageous to Potomac to sell bonds having a 30-year or some shorter term. Potomac states that it desires to have available the necessary flexibility to adjust its financing program to developments in the market for long-term debt securities when and as they occur in order to obtain the best possible price and interest rate for its Bonds. Potomac proposes, therefore, that Potomac decide on the term and number of series of the Bonds at a later time, which may be before or after September 11, 1979, and notify prospective purchasing underwriters by telegraphic or other written notice of its decision, not less than 72 hours prior to the day the Bonds are to be offered.

It is proposed that the Bonds will be redeemable at any time at the option of Potomac, except that prior to September 1, 1984, the Bonds shall not be redeemable directly or indirectly, at the regular redemption price, described in the Indenture, with, or in anticipation of, monies borrowed at an interest cost to Potomac of less than the cost of money to Potomac in respect of such Bonds.

Potomac proposes to publicly invite sealed written proposals for the Bonds at least 6 days prior to entering into any contract or agreement for the issuance and sale of the Bonds. It is expected that bids will be submitted for the Bonds on or as soon after September 18, 1979, as market conditions appear to Potomac to be appropriate. It is expected that the successful bidder will make a public offering of the Bonds.

Potomac proceeds to use the proceeds from the sale of the Bonds to pay or pre-pay short-term debt, and to finance its construction program which was expected to have gross expenditures aggregating between $150,000,000 and $155,000,000 for 1979 and 1980. Short-term debt outstanding at the time of issuance of the Bonds is estimated at approximately $40,000,000 rising from $36,000,000 outstanding on June 30, 1979.

The fees and expenses to be filed by amendment. It is stated that the State Corporation Commission of Virginia and the Public Service Commission of Maryland have jurisdiction over the issuance and sale of the Bonds. It is further stated that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address; and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79- Filed 8-7-79; 8:45 am]

BILLING CODE 8010-10-M

[Release No. 10802; 812-4505]

The Prudential Insurance Co. of America and the Prudential Variance Contract Account-2; Application

August 1, 1979.

Notice is hereby given that the Prudential Insurance Company of America ("Prudential"), Prudential Plaza, Newark, NJ 07101, and The Prudential Variable Contract Account-2, The Prudential Insurance Company of America, Group Pension Office, 71 Hanover Road, Florham, MJ 07932, ("VCA-2") (hereinafter collectively referred to as "Applicants"), filed an application on July 12, 1979, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

VCA-2 is a separate account of Prudential registered as an open-end management investment company under the Act. Prudential is the investment adviser to VCA-2 and the principal underwriter of the Group Variable Annuity Contracts issued through VCA-2 ("Contracts") for use in connection with annuity purchase plans adopted by public school systems and certain other organizations which satisfy the conditions set forth in Section 403(b) of the Internal Revenue Code.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted Section 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of Section 51.358 were impliedly in effect upon the establishment of the Prgram (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

Sections 27(c)(1), 22(e) and 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proporitionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Section 51.358 as it pertains to (i) redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order and (ii) redemption values under Contracts issued prior thereto but attributable to payments made subsequent to the date of such order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Prudential will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salepeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 27, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 27, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

A G 8 7 9 UMI

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-24415 Filed 8-7-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 10803; 812-4485]

The Prudential Insurance Co. of America, et al.; Application

Notice is hereby given that the Prudential Insurance Company of America ("Prudential"), Prudential Plaza, Newark, NJ 07101, Prudential's Gibraltar Fund, The Prudential Insurance Company of America, 3003 North Central Avenue, Phoeniz, AZ 85012 ("PGF"), and The Prudential Variable Contract Account-2 ("VCA-2"), The Prudential Insurance Company of America, 71 Hanover Road, Florham Park, NJ 07932, have filed an application for an order under Section 17(b) of the Investment Company Act of 1940 (the "Act"), exempting applicants from the provisions of Section 17(a) of the Act to the extent necessary to permit certain purchases and sales of securities between PGF or VCA-2 and several separate accounts (the "unregistered separate accounts") established by Prudential that are not investment companies and are not, therefore, registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Prudential is a mutual life insurance company that is registered as an investment adviser under the Investment Advisers Act of 1940 and as a broker-dealer under the Securities Exchange Act of 1934. Prudential serves as investment adviser to PGF and VCA-2 and also acts, to a limited extent, as investment adviser with respect to assets held by employee retirement funds. PGF is registered as an open-end management investment company under the Act. PGF does not offer shares to the public. PGF sells shares only to Prudential and to certain of its separate accounts. VCA-2 currently holds assets derived from purchase payments under variable annuity contracts, issued by Prudential in connection with plans adopted by public school systems and certain other organizations, which satisfy the conditions set forth in Section 403(b) of the Internal Revenue Code.

Prudential also manages the unregistered separate accounts that will be participants in the proposed transactions described in the application. Three are pooled separate accounts; that is, each holds assets derived from the retirement plans of many different employers. All are excepted from the definition of investment company by virtue of Section 3(c)(11) of the Act. The other five separate accounts each holds assets derived from the retirement plans established by a single employer; four are private corporations and one is a city. All of these plans, except for the plan established by the city, are subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") and Prudential is a fiduciary with respect to the assets held in these seven accounts and as such is obligated to comply with the provisions of Section 404 of ERISA. ERISA does not apply to the plan established by the city, because governmental plans are excluded by Section 4(b)(1) of ERISA.

Prudential represents that it has recently conducted a major review of the portfolios of PGF and VCA-2, and has decided upon significant changes in those portfolios. As a result of a similar analysis of the portfolios of the unregistered accounts, Prudential has also decided to make substantial changes in their portfolios. Upon making initial, tentative decisions as to which securities should be bought and sold by PGF, VCA-2, and the unregistered accounts, it became apparent that, in a large number of instances, securities that Prudential desired to purchase for one or more accounts were expected to be sold by one or more other accounts. The applicants believe that if inter-account purchases and sales could be made of these securities, substantial brokerage cost savings could be achieved and the adverse price impact that often results from large market transactions could be avoided. The applicants estimate that PGF will save about $500,000 and VCA-2 approximately $400,000 if such inter-account transactions could be carried out instead of making all the purchases and sales contemplated on the open market.

Prudential has recommended to the PGF Board of Directors and the committee which supervises the operations of VCA-2 that, insofar as possible, the restructuring of their portfolios be accomplished through purchases and sales on the terms and conditions contained in Rule 17a-7 under the Act. Neither Prudential's general account nor any of its subsidiaries would sell any securities to, or buy any securities from, PGF or VCA-2 or any of the unregistered separate accounts. The proposal has been unanimously approved by the PGF Board and the VCA-2 Committee respectively for their review before the date set for execution of the transactions. Applicants anticipate that, once the current restructuring of the portfolios of PGF and VCA-2 is completed, any further changes in their portfolios deemed desirable will be made through purchases or sales in the open market.

Section 17(a) of the Act, among other things, makes it unlawful for any affiliated person of a registered investment company (other than a company of the character described in Section 12(d)(3) (A) and (B) of the Act), or any affiliated person of such an affiliated person knowingly to sell to, or knowingly to buy from, the registered investment company any security or other property. Section 2(a)(3) of the Act defines "affiliated person" of another person to include any person directly or indirectly controlling, controlled by, or under common control with, such other person; and, if such other person is an investment company, the investment adviser thereof or any member of an advisory board thereof. Section 17(b) of the Act provides, however, that the Commission may exempt a proposed transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; that the proposed transaction is consistent with the policy of each registered investment company concerned; and that the proposed transaction is consistent with the general purposes of the Act. Rule 17a-7 under the Act provides that a purchase or sale transaction between two registered investment companies that are affiliated persons or affiliated persons of affiliated persons of each other shall be exempt from Section 17(a) if the transaction is a purchase or sale, for no consideration other than cash payment against prompt delivery, of a security traded on a national securities exchange or of a security traded in the over-the-counter market; if the prices paid and received are computed by reference to independent market prices pursuant to Rule 17a-7 (b) or (c), as the case might be; if the transaction is consistent with the policy of each registered investment company involved; and if no brokerage commission, fee (except for customary transfer fees) or other remuneration is paid in connection with the transaction.

Applicants assert that the terms of the proposed transactions are reasonable and fair and do not involve any overreaching of any person concerned; that the transactions are consistent with the policies of PGF and VCA-2; and that the transactions are consistent with the purposes of the Act.

On the basis of the foregoing facts and representations, applicants seek an order under Section 17(b), exempting them from the provisions of Section 17(a) of the Act to the extent necessary to allow purchases and sales of securities between PGF or VCA-2 and the various unregistered accounts as described above.

Notice is further given that any interested person may, not later than August 27, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on this matter, accompanied by a statement as to the nature of his or her interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or may request to be notified if the Commission should order a hearing thereunder. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the applicants at the addresses stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following August 27, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or orders issued on this matter, including the date of the hearing (if ordered) any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 79-24416 Filed 8-7-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16079; File No. SR-MSRB-79-2]

Withdrawal of Proposed Rule Change by the Municipal Securities Rulemaking Board

August 2, 1979.

On March 2, 1979, the Municipal Securities Rulemaking Board (the "MSRB") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 and Rule 19b-4 thereunder, a proposed rule change to modify existing MSRB rule G-12 on uniform practice. The proposed amendment would provide explicitly that delivery of municipal securities accompanied by a delivery ticket containing an error relating only to the CUSIP number of the securities shall constitute good delivery. The proposed rule change would not require that the party receiving the delivery ticket notify the contra-party of such an error. The provision of MSRB rule G-12 requiring the use of CUSIP numbers on delivery tickets became effective January 1, 1979.

On December 21, 1978, the MSRB, in a notice announcing Commission approval of a previous amendent to MSRB rule G-12 (File No. SR-MSRB-78-17), indicated its position that delivery of municipal securities should not be rejected if the only error on the delivery ticket relates to the CUSIP number and stated that it would consider further clarification of MSRB rule G-12 with respect to errors in CUSIP numbers on delivery tickets. Notice of the proposed rule change together with its terms of substance was given by publication of a Commission release (Securities Exchange Act Release No. 15622 (Mar. 9, 1978)) and by publication in the **Federal Register** (44 FR 20325 (1979)). The Commission received one comment letter which expressed concern that the proposed amendment might be interpreted to "undercut" the use of CUSIP numbers, thereby hindering the achievement of a uniform processing and clearance system for the municipal securities industry.

By letter dated July 27, 1979, the MSRB advised the Commission that it wished to withdraw the proposed rule change from further consideration because of the MSRB's concerns that the proposed amendment, by singling out errors in CUSIP numbers, might be "misconstrued to permit municipal securities professionals to reject delivery of securities for other informational errors on delivery tickets." In its letter, the MSRB stated that it nevertheless continues to believe that delivery of municipal securities should not be rejected solely because of an error in the CUSIP number appearing on the delivery ticket.

The Commission has considered the above-mentioned letter from the MSRB as a request for consent to the withdrawal of the referenced rule proposal. Accordingly, the proposed amendment included in the referenced submission is withdrawn.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-24412 Filed 8-7-79; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30, Rev. 15, Amdt. 30]

Program Activities in Field Offices; Delegation of Authority

Delegation of Authority No. 30, Rev. 15, republished in the **Federal Register** on November 24, 1978 (43 FR 55229), as amended (44 FR 963, 44 FR 5039, 44 FR 19572, 44 FR 21108, and 44 FR 44636), is further amended to delegate authority for the finance, disaster, and portfolio management programs to the Assistant Branch Manager for Finance and Investment in the Milwaukee Branch Office.

Accordingly, Parts I, II, and IV of Delegation of Authority No. 30, Revision 15, is amended as follows:

Part I—Financing Program

Section A—Loan Approval Authority

1. * * *
a. * * *

* * * * *

	Approve	Decline
(8) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only.....	$250,000	$350,000

b. * * *

* * * * *

	Approve	Decline
(8) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only.....	$250,000	$500,000

2. * * *

* * * * *

H. Assistant Branch Manager of F&I Biloxi, Springfield, and Milwaukee Branch Offices only.

* * * * *

3. * * *

a. * * *

(8) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only	Approve $300,000

b. * * *

(8) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only	Approve $500,000

4. * * *

a. * * *

(8) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only	Approve $300,000

b. * * *

(8) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only	Approve $500,000

5. * * *

(h) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only	Approve $100,000

Section B * * *

1. * * *

G. Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only.

2. * * *

a. * * *

(8) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only.

b. * * *

(8) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only.

3. * * *

a. * * *

(7) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only.

4. * * *

(h) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only.

Part II—Disaster Program

Section A * * *

1. * * *

a. * * *

(1) * * *

(i) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only.

(2) * * *

(i) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only	$500,000

2. * * *

	Home loans	Business loans
(i) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only	$100,000	$500,000

3. * * *

	Business loans
(i) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only	$300,000

4. * * *

(i) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only	$500,000

5. * * *

f. Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only

7. * * *

a. * * *

(7) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only

b. * * *

(8) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only

8. * * *

a. * * *

(8) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only

Part IV—Portfolio Management (PM) Program

Section A * * *

1. * * *

(9) Assistant Branch Manager for F&I, Biloxi, Springfield, and Milwaukee Branch Offices only

Effective date: August 8, 1979.

Dated: August 1, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-24441 Filed 8-7-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-5274]

Unity Capital Corp.; Application for License To Operate as a Small Business Investment Co.

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended [15 U.S.C. 661 *et seq.*], has been filed by Unity Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers, directors and stockholders are as follows:

Frank W. Owen, 4819 Emerald Street, Torrance, California 90503, President, Director, 34% Stockholder.

Calvin Stanger, P.O. Box 576, Pagosa Springs, Colorado 81147, Vice President, Director, 16% Stockholder.

Margia V. Owen, 4819 Emerald Street, Torrence, California 90503, Secretary, Director.

Masao Okubo, 1-19-14 Kamisagiomiya, Nakanoku, Tokyo, Japan, 16% Stockholder.

The applicant will maintain its principal place of business at 3620 30th Street, Suite B, San Diego, California 92104. It will begin operations with $310,000 of private capital derived from the sale of 155,000 shares of common stock to a maximum of 10 investors. It is anticipated that the private capital will be increased to $500,000 after licensing.

Th applicant will conduct its operations primarily in the State of California.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before August 23, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW, Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Diego, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

Dated: August 1, 1979.

[FR Doc. 79-24440 Filed 8-7-79; 8:45 am]

BILLING CODE 8025-01-M

VETERANS ADMINISTRATION

Clinical Addition, VAMC, Fayetteville, N.C.; Finding of No Significant Impact

The action proposed by this project is the development of a freestanding new building south of existing Building No. 1C. The new building will include approximately 50,000 gross square feet on 3 levels and will contain facilities for ambulatory care functions and other support clinical operations.

The implementation of this project is not anticipated to create any significant impacts on the human environment. The project does not involve actions which, if properly mitigated, would cause any degradation to the environmental conditions at the VAMC and its surroundings. These mitigation measures will include implementation of erosion control methods, onsite noise abatement techniques and compliance with appropriate air quality regulations. An analysis of all environmental factors related to the project indicates a "Finding of No Significant Impact."

The assessment is being place for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Questions may be addressed to and requests for single copies of the Environmental Assessment may be made to the above office.

Dated: August 2, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-24425 Filed 8-7-79; 8:45 am]

BILLING CODE 8320-01-M

Fort Sam Houston National Cemetery, San Antonio, Tex.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the acquisition of 31.9 acres of land adjacent to the Fort Sam Houston National Cemetery for cemetery expansion.

Although approximately 13 of the 31.9 acres are within a floodplain, no structures other than driveways, irrigation water lines and interment areas will be developed within the acquisition.

Findings conclude that the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require preparation of an Environmental Impact Statement. The Environmental Assessment has been made in accordance with requirements of Section 102 of the National Environmental Policy Act and VA Manuel MP-1, Part 1, Chapter 9. A "Finding of No Significant Impact" has been reached based on the information presented in the assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420 (202-389-2526). Questions may be addressed to and requests for single copies of the Environmental Assessment may be made to the above office.

Dated: August 2, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-24426 Filed 8-7-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 26]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications.

Date: July 25, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitons, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 5227 (Sub-46) (M1F) (notice of filing of petition to modify commodity description), filed May 8, 1979. Petitioner: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Petitioner holds motor *common carrier* Certificate No. MC 5227 Sub 46, issued April 6, 1979, authorizing transportation over irregular routes, of *aluminum irrigation pipe*, from the facilities of Kroy Metals Products, Inc., at or near York, NE, to points in AL, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, LA, ME, MI, MN, MS, MO, MT, NE, NJ, NY, ND, OH, OK, OR, PA, SD, TN, TX, UT, VA, WA, WI and WY. By the instant petition, petitioner seeks to change the commodity description to "irrigation pipe, fittings, and accessories and irrigation systems", in lieu of "aluminum irrigation pipe".

MC 35077 (M1F) (notice of filing of petition to modify territorial description), filed July 2, 1979. Petitioner: COURIER SYSTEMS, INC., 34 Providence St., Newark, NJ 07107. Representative: George A, Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate No. MC 35077, issued October 28, 1964, authorizing transportation, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Passaic, Bergen, Morris, Essex, Hudson, Union, Somerset, and Middlesex Counties, NJ, on the one hand, and, on the other, New York, NY. By the instant petition, petitioner seeks to modify the territorial description to read as follows: "Between points in New Jersey, on the one hand, and, on the other, New York, NY".

MC 75835 (Sub-9) (M1F), filed February 2, 1979 (notice of filing of petition to modify the territorial description). Petitioner: EDGAR W. ROOT, INC., 17 Hillside Ave., Westfield, MA 01085. Representative: James M. Burns, Johnson's Bookstore Bldg., 1383 Main St., Suite 413, Springfield, MA 01103. Petitioner holds motor *common carrier* in MC–75835 Sub 9, issued March 3, 1970 authorizing transportation, over irregular routes, of *such merchandise* as is dealt in by retail department stores and catalog order houses, and related advertising material, between the facilities of Sears, Roebuck and Co., at Springfield, West Springfield, and Westfield, MA, on the one hand, and, on the other, points in Litchfield, Hartford, and Tolland Counties, CT. By the instant petition, petitioner seeks to modify the territorial description to read: "between the facilities of Sears, Roebuck and Company, at Newington, CT, Springfield, West Springfield, Westfield, and Holyoke, MA, on the one hand, and, on the other, points in Litchfield, Tolland, and Hartford Counties, CT, and Hampden, Hampshire, Berkshire, and Franklin Counties, MA."

MC 90373 (Sub-12) (M1F) (notice of filing of petition to modify permit), filed May 18, 1979. Petitioner: RLS TRUCKING CORPORATION, Avenel, NJ 07011. Representative: Robert B. Pepper, The Forrest Park Building, 168 Woodbridge Avenue, Highland Park, NJ 08904. Petitioner holds a motor *contract carrier* Permit in MC 90373 (Sub-12), issued January 26, 1959, to transport in interstate or foreign commerce, over irregular routes, *Asphalt*, in bulk, in tank vehicles, From the plant facilities of Cities Service Oil Company, at Linden, NJ, to points in CT, that part of NY on and south of U.S. Highway 20 and on and east of U.S. Hwy 11, and that part of PA on and east of U.S. Hwy 15, with no transportation for compensation on return except as otherwise authorized. Restriction: The above-described operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with Cities Service Oil Company, of New York, NY. By the instant petition, petitioner seeks to modify the authority as follows: (1) Change the territorial description to "from Linden, NJ" (as the Cities Service Oil Company facilities has been completely dismantled in Linden, NJ.) (2) In the restriction, substitute Peckham Materials Corp., of White Plains, NY as the shipper, in lieu of Cities Service Oil Company of New York, NY.

MC 108587 (Sub-12) (M1F) (notice of filing of petition to modify territorial description), filed May 11, 1979. Petitioner: SCHUSTER EXPRESS, INC., 48 Norwich Ave., Colchester, CT 06415. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, N.W., Washington, DC 20005. Petitioner holds motor *common carrier* Certificate No. 108587 (Sub-12), issued May 6, 1965, authorizing, as pertinent, transportation over irregular routes of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CT, MA, points in RI on U.S. Hwy 1 from the MA–RI State line to the RI–CT State line, points in RI on U.S. Hwys 6 and 44 and RI Hwy 3, portions of PA and Salem and Winslow, NJ. By the instant petition, petitioner seeks to serve all points in RI, in lieu of the specified portion indicated above.

MC 115452 (Sub-2) (M1F) (notice of filing of petition to modify certificate), filed May 25, 1979. Petitioner: HUSBAND TRANSPORT, LIMITED, London, Ontario, Canada. Representative: William R. Okal, Suite 1125, 43 Court Street, Buffalo, NY 14202. Petitioner holds a motor *common carrier* Certificate in MC 115452 (Sub-2) issued August 22, 1973, authorizing transportation, in foreign commerce, over irregular routes, *General commodities* (except those of unusual value, classes A and B explosivies, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between ports of entry on the United States-Canada Boundary line at Buffalo and Niagara Falls, NY, on the one hand, and, on the other, Buffalo and Niagara Falls, NY, solely for the purpose of interchanging traffic with connecting carriers. Restriction: The authority granted herein is restricted to the transportation of shipments moving to or from points in Canada. By the instant petition, petitioner seeks to modify the authority as follows: delete the language "solely for the purpose of interchanging traffic with connecting carriers."

MC 123797 (Sub-5) (M1F) (notice of filing of petition to modify restriction), filed July 2, 1979. Petitioner: ATLANTIC INTERSTATE MESSENGERS, INC., 201 Henry St., Stamford, CT 06904. Representative A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Petitioner holds motor *common carrier* Certificate MC 123797 (Sub-5), issued October 27, 1978, authorizing transportation over irregular routes, of *general commodities* (except foodstuffs, in mechanically refrigerated vehicles, articles of unusual value, classes A and B explosives, household goods as defined by the Commission,

commodities in bulk, and those requiring special equipment), (1) between points in Connecticut (except Old Saybrook), Massachusetts, and Rhode Island, (2) between points in Delaware, Maryland, New Jersey, the District of Columbia, Pennsylvania, and those in New York on and north of Interstate Hwy 84, on the one hand, and on the other, points in Maine, New Hampshire, and Vermont, (3) between points in Connecticut (except Old Saybrook), Massachusetts, and Rhode Island, on the one hand, and, on the other, points in Delaware, Maryland, Maine, New Hampshire, New Jersey, Pennsylvania, Vermont, the District of Columbia, and points in that part of New York on and north of Interstate Hwy 84, (4) between points in that part of New York on and south of Interstate Hwy 84, on the one hand, and, on the other, points in Delaware, Maryland, Maine, Connecticut (except Old Saybrook), Massachusetts, Rhode Island, New Hampshire, New Jersey, Pennsylvania, and Vermont, restricted in (1), (2), (3) and (4) above against the transportation of articles weighing in the aggregate more than 1,000 pounds from one consignor at one location to one consignee at one location on any one day, and further restricted to the transportation of shipments originating at and destined to points in the named areas. By the instant petition, petitioner seeks to delete the restriction which reads "against the transportation of articles weighing in the aggregate more than 1,000 pounds from one consignor at one location to one consignee at one location on any one day" and insert in lieu thereof "against the transportation of shipments weighing more than 3,000 pounds."

MC 133565 (Subs-2 and 11) (M1 F) (notice of filing of petition to modify certificates), filed March 1, 1979. Petitioner: TRUE TRANSPORT, INC., Box 829, 293 Wilson Ave., Newark, NJ 07101. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. Petitioner holds *common carrier* motor authority in MC 133565 (Sub-2 and Sub-11), served October 19, 1972 and August 4, 1978, respectively, MC 133565 (Sub-2) authorizes the transportation, over irregular routes, *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers or in trailers having a prior or subsequent movement by water, between points in that part of the New York, N.Y. Commercial Zone, as defined in Commercial Zones and Terminal Areas, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), on the one hand, and, on the other, points in CT, DE, MD, MA, NH, NJ, RI, points in that part of PA on and east of a line beginning at the PA–NY State line at or near Lawrenceville, PA, and extending along U.S. Hwy 15 to junction U.S. Hwy 11 at or near Camp Hill, PA, then along U.S. Hwy 11 to the PA–MD State line, and points in that part of NY on and east of a line beginning at the NY–PA State line at or near Lawrenceville, PA, and extending along U.S. Hwy 15 to Corning, NY, then along NY Hwy 17 to Horseheads, NY, then then along NY U.S. Hwy 13 to Cortland, NY, then along U.S. Hwy 11 to Syracuse, NY, then along U.S. Hwy 5 to Schenectady, NY, then along NY Hwy 50 to Saratoga Springs, NY, then along U.S. Hwy 9 , Via Glens Falls, NY, to junction NY Hwy 149, then along NY Hwy 149 to junction U.S. Hwy 4, at or near Fort Ann, NY, then along U.S. Hwy 4 to the NY-VT State line at or near Fair Haven, VT. MC 133565 Sub 11 authorizes, as pertinent, over irregular routes, (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers or in trailers, having a prior or subsequent movement by water, between points in the New York, NY Commercial Zone, on the one hand, and, on the other, points in that of NY west and north of a line beginning at the New York-Pennsylvania State line at or near Lawrenceville, PA, and extending along U.S. Hwy 15 to Corning, NY, then along NY Hwy 17 to Horseheads, NY, then along NY Hwy 13 to Cortland, NY, then along U.S. Hwy 11 to Syracuse, NY, then along U.S. Hwy 5 to Schenectady, NY, then along NY Hwy 50 to Saratoga Springs, NY, then along U.S. Hwy 9, via Glens Falls, NY, to junction NY Hwy 149, than along NY Hwy 149 to junction U.S. Hwy 4, at or near Fort Ann, NY, then along U.S. Hwy 4 to the NY-VT State line at or near Fair Haven, VT. By the instant petition, petitioner seeks to modify its Sub 2 and Sub 11 by deleting the restriction "having a prior or subsequent movement by water."

MC 142664 (Sub-3) (M1F) (notice of filing of petition to broaden the commodity description), filed March 1, 1979. Petitioner: IMPORT DEALER SERVICE CORPORATION, 222 East Sepulveda, Carson, CA 90744. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Petitioner holds *common carrier* authority in MC 142664 (Sub-3), MC 142664 (Sub-3) authorizes the transportation of automobiles, over irregular routes, in truckaway service, between Los Angeles, CA, on the one hand, and, on the other, points in AZ, NV, and NM. By the instant petition, petitioner seeks to modify the commodity description to read: "automobiles and trucks, in truckaway service."

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously notice in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 61396 (Sub-372) (republication), filed January 20, 1978, published in the **Federal Register** issue of March 9, 1978 under MC 144203 (Sub-1), and republished this issue. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: John E. Smith II (same address as applicant). A Decision of the Commission, Review Board No. 1, decided December 20, 1978, and served February 28, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *flour and middlings*, from Martins Creek, Red Lion, and Treichlers, PA, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Maine, New Hampshire, Vermont, Virginia, and the District of Columbia; and (2) *flour*

enrichment, from Totowa, NJ, and Woodside and Brooklyn, NY, to Martins Creek, Treichlers, Red Lion, and York, PA. The purpose of this republication is to indicate the authority filed as contract carrier rights were found to be common instead, and to modify the commodity and territorial descriptions.

Broker, Water Carrier and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100. 247). These rules provide, among other things, that a protest to the granting of an application must be filed the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things related upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

Broker

MC130564F, filed April 2, 1979. Applicant: RAINBOW TRAVEL INC., R. R. 4 Box 157, Bremen, IN 46506. Representative: Larry W. Ullery (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Bremen, IN, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at Bremen and Plymounth, IN, and extending to points in the United States (except AK and HI). (Hearing site: South Bend or Fort Wayne, IN.)

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conversion Act of 1975.

Certificate Modification in MC–F–13373

Agency: Interstate Commerce Commission.

Action: Notice of certificate modification.

Summary: This notice informs the public of a proposed certificate modification in docket MC–F–13373 and invites comments.

Comments due: Written comments may be filed with the Commission's Office of Proceedings (Section of Finance) on or before September 7, 1979. Replies are due on or before October 1, 1979.

Effective date: If no comments are filed with the Commission within the above time frame, then—on September 12, 1979—the Commission's decision in docket MC–F–13373 (approving the acquisition of certificate MC–F–142228, as modified in the finance proceeding) shall become effective. If, however, comments are filed, the cited decision will not become effective until after the Commission has duly considered the comments and any replies.

For further information contact: Michael Erenberg, Deputy Director, Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202–275–7245.

Supplementary information: In docket MC–F–13373, *J&G Express, Inc.—Control and merger—M–T Express, Inc.*, J&G Express Inc. (J&G) filed an application under 49 U.S.C. §§ 11343–44 to control and merge with M–T Express Inc. (M–T). J&G also filed a petition to modify M–T's certificate MC 142228—so as to remove Restriction (b)—prior to J&G's acquisition of that certificate. [1]

In a decision in MC–F–13373 (decided February 22, 1979; served March 15, 1979), the Commission, Division 1, approved J&G's acquisition of M–T's certificate MC 142228 (with Restriction "b" deleted as sought in J&G's petition to modify), *subject* to the condition that notice of J&G's petition be published in the **Federal Register** and comments invited from interested persons. *(See* Division 1's decision at pp. 3, 8, 10.)

Accordingly, any person interested in or prejudiced by the removal of Restriction (b), as sought in J&G's petition to modify, may file with the Commission an original and 6 copies of a petition of the type described in the next paragraph. Petitioners must also serve a copy of their petitions upon applicants J&G and M–T at the following addresses:

J&G Express, Inc., P.O. Box 1637, Jackson, MS 39201

and

James N. Clay III, M–T Express Inc., 2700 Sterick Building, Memphis, TN 38106.

Petitions filed in response to this notice must satisfy the following criteria. To be accepted, a petition (and requisite copies) must be filed, within 30 days of the date of this publication, with the Commission's Office of Proceedings (Section of Finance) and with applicants J&G and M–T. Each petition must further set forth the position and precise interest of the petitioners and specify why J&G's acquisition of M–T's certificate MC 142228 (with Restriction "b" deleted) would be harmful to petitioner.

Applicants J&G and M–T shall file an original and 6 copies of their replies, if any, to the filed petitions within 50 days of the date of this publication (with appropriate service of a copy on petitioners).

If not petitions are filed with the Commission within the above time frame, then—on the 35th day after this notice is published in the **Federal Register**—the Commission's decision in docket MC–F–13373 (approving J&G's acquisition of M–T's certificate with

[1] Certificate MC 142228 presently reads as follows: "*Regular routes: General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, Commodities in bulk, and commodities which because of size or weight require the use of special equipment), Between Memphis, TN, and Coldwater, MS, serving no intermediate points: From Memphis over Interstate Hwy 55 to Coldwater, and return over same route. *Restriction:* The authority granted herein is restricted (a) against the transportation of shipments originating at or destined to Coldwater, MS, and (b) to the transportation of shipments received from or delivered to connecting carriers at Coldwater, MS.

Restriction "b" removed) shall become effective. *See* Division 1's decision at pp. 8 and 10–11.

Conversely, if petitions are timely filed, the cited decision in No. MC–F–13373 will not become effective until after the Commission has duly considered the comments and any replies.

MC–F–14046F. Authority sought for the purchase by Western Transportation Systems, Inc., 902 Avenue N, Grand Prairie, Texas 75050, of a portion of the operating rights of Sunbelt System Transport, Inc., 1256 La Quinta Drive, Orlando, Florida 32809, and for acquisition by Don L. Siratt and C. Michael Robinius, Western Transportation Systems, Inc., 902 Avenue N, Grand Prairie, Texas 75050, of control of such rights through the purchase. Applicant's attorney: D. Paul Stafford, Suite 1125 Exchange Park, Dallas, Texas 75245. Operating rights sought to be purchased: Copying machines, and parts, materials, and supplies used in the manufacture, installation, or sale of copying machines, as a contract carrier over irregular routes, Between Arlington, TX, on the one hand, and, on the other, points in New Mexico, Between Hobbs, NM, on the one hand, and, on the other, points in that part of Texas on and west of U.S. Highway 277. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Xerox Corporation of Dallas, Texas. Western Transportation System, Inc., holds emergency temporary authority as a contract carrier between Los Angeles, CA, and Dallas, TX. Application has been filed for temporary authority under section 210a(b).

MC–F–14047F, filed May 30, 1979. Transferee: T.F.S., INC., Box 126, Rural Route 2, Grand Island, Nebraska 68801. Transferor: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Texas 75245. Representative: Lavern R. Holdeman, Peterson, Bowman, Swanson & Johanns, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, Nebraska 68501; D. Paul Stafford, P.O. Box 45538, Dallas, Texas 75245. Authority sought to purchase by T.F.S.; Inc., Box 126, Rural Route 2, Grand Island, Nebraska, 68801, of a portion of the operating rights of Cox Refigerated Express, Inc., 10606 Goodnight Lane, Dallas, TX, 75245, of control of such rights through the transaction. Applicants' representatives: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE, 68501, and D. Paul Stafford, P.O. Box 45538, Dallas TX, 75245. Operating rights, as a *common carrier*, over irregular routes, sought to be transferred: (1) *Canned goods*, from the plant site of Bruce Foods, Inc., at Wilson, NC, to Cade, LA, and points in CA, AZ, CO, ID, NV, OR, UT, TX and WA, with no transportation for compensation on return except as otherwise authorized; (2) *Electrical appliances, equipment, and parts*, as defined in Appendix VII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 283, from the facilities of Gibson-Metalux Corporation, at or near Americus, GA, to points in AZ, CA, CO, ID, IA, NE, NV, NM, OR, UT and WA, with no transportation for compensation on return except as otherwise authorized; (3) *Iron and steel pipe fittings*, from the plant site and warehouse facilities of Tube-Line Manufacturing Co., located in Queens County, NY, to points in AL, AZ, AR, CA, CO, ID, KY, MO, NM, OK, OR, TN, TX, UT, and WA, with no transportation for compensation on return except as otherwise authorized; (4) *Canned goods, not frozen*, from Belledeau and St. Francisville, LA, to points in AZ, CA, CO, ID, IL, MT, NM, OR, UT, WA, WY, WI and NV. Restriction: The Commission reserves the right to impose such terms, conditions or limitations in the future as it may find necessary to insure that carrier's operation conform to the provisions of Section 210 of the Act; (5) *Such merchandise as is dealt in by grocery and food business houses* (except commodities in bulk, in tank vehicles), *in vehicles equipped with mechanical refrigeration*, (1) from the facilities of Kraft, Inc., at Pocatello, ID, to points in WA, OR, CA, MT, NV, WY, UT, CO, NM, AZ, ND, SD, NE, KS, OK, MO, TX, IA, MI, WI and IL and (2) from points in WA, CA, MT, UT, AZ, ND, SD, NE, KS, MO, MI, WI, and IL, to the facilities of Kraft, Inc. at Pocatello, ID, restricted in (1) and (2) to the transportation of traffic originating at the indicated origins and destined to the indicated destinations. T.F.S., holds authority as a contract carrier conducting operations between various points in the U.S. for the accounts of Oxford Cheese Corporation, Ag Service, Inc., Morgen Manufacturing Co., Bonsail Pool Co., and Endicott Clay Products Co. Application has been filed for temporary authority under Section 210a(b).

MC–F–14049F. Authority sought for continuance of control by LEASEWAY LTD. (non carrier), P.O. Box 283, Royal Trust Tower, Toronto Dominion Centre, Toronto, Canada M5K 1K4, of CHARLTON TRANSPORT (Quebec) Canada (non carrier), 458 22nd Avenue, Blainville, Quebec, Canada J7E 4K3, and for acquisition by LEASEWAY TRANSPORTATION CORP., 3700 Park East Drive, Cleveland, Ohio 44122, of control of such rights through the transaction. Applicant's Attorney, J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Operating rights sought to be continued in control: Charlton Transport (Quebec) Limited is not a motor carrier at this time. However, it has pending before the Commission an Application for Authority to Operate as a Contract Carrier in the transportation of motor vehicles, between points in the Province of Quebec, on the one hand, and, on the other, Champlain and Rouses Point, NY and Derby Line, VT, through the Ports of Entry on the International Boundary Line between the United States and Canada located in NY and VT, under continuing contract or contracts with General Motors Corporation, in Docket MC 141240 (Sub-1F). Charlton Transport (Quebec) Limited is a subsidiary of Leaseway Ltd. which, in turn, is a subsidiary of and controlled by Leaseway Transportation Corp. The purpose of this application is to seek approval for Leaseway Ltd. and, in turn, Leaseway Transportation Corp., to continue in control of Charlton Transport (Quebec) Limited when it becomes a contract motor carrier. Leaseway Ltd. holds no authority from this Commission; Leaseway Transportation Corp. holds no authority from this Commission but is in control of certain common and contract carriers, some of which are authorized to operate throughout the United States. Application has not been filed for Temporary Authority under Section 210a(b).

MC–F–14050F. Transferee: MARIANO BROTHERS, INC., Shelter Rock Road, Danbury, Connecticut 06810. Transferor: FOUR WINDS VAN LINES, INC., 7035 Convoy Court, P.O. Box 81985, San Diego, California 92138. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to purchase by transferee of the operating rights of transferor as set forth in Certificate of Public Convenience and Necessity No. MC–15643, described as follows: Irregular Routes; *Household Goods* as defined by the Commission. Between points in Connecticut on the one hand, and, on the other, Pennsylvania, New Jersey, New York, Ohio, Michigan, Indiana, North Carolina, Maryland, Missouri, Virginia, West Virginia,

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Wisconsin, Rhode Island, and the District of Columbia.

MC–F–14051F. Transferee: MOHAWK VAN LINES, INC., 28 Marietta Drive, Westbury, New York 11590. Transferor: PLYMOUTH VAN LINES, INC., 4444–41 Howley Street, Pittsburgh, Pennsylvania 15224. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue NW., Washington, D.C. 20036. Alfano & Alfano, 550 Mamaroneck Avenue, Harrison, New York 10528. Authority sought to purchase by transferee of the operating rights of transferor as set forth in Certificate of Public Convenience and Necessity M. MC 65748 Sub. No. 5G Section 24 Subsections (a), (b), and (c), described as follows: Irregular Routes: *Household goods,* as defined by the Commission. 24 (a) Between points in New York, on the one hand, and on the other, points in Alabama, Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, that part of Michigan, on and west of Interstate Highway 75, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Tennessee, Utah, and Wisconsin. (b) Between points in that part of New York on south, and east of New York Highway 7, on the one hand, and, on the other, points in Michigan. (c) Between points in that part of New York on and north of Interstate Highway 90, on the one hand, and on the other, points in that part of North Carolina on and west of Interstate Highway 85, South Carolina, that part of Virginia on and west of U.S. Highway 220, and that part of West Virginia on and west of U.S. Highway 21.

MC–F–14052F. Authority sought for purchase by KSS TRANSPORTATION CORP., P.O. Box 3052, Route 1 and Adams Station, North Brunswick, NJ 080902. of a portion of the operating rights of LTL Perishables, 505 E. 5th Street South, Milwaukee, WI 55075, and DAKOTA EXPRESS, INC., 505 E. 5th Street South, Milwaukee, WI 55075. Applicant's Attorney: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Operating rights sought to be purchased: Dakota Express, Inc.: (1) *Meats, meat products and meat by-products, and articles distributed by meat packing houses,* as describe in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certifications,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), From Estherville and Ottumwa, IA to points in CT, DE, IL, KS, ME, MD, MA, MN, MO, NE, NH, NJ, NY, PA, RI, SD, VT, VA, WV, and DC with no transportation for compensation of return except as otherwise authorized. Restriction: The operations herein are restricted to the transportation of shipments originating at the facilities of John Morrell & Co., at Estherville, IA, and destined to points in the above-named States, and restricted to the transportation of shipments originating at the facilities of George A. Hormel & Company at Ottumwa, IA, and destined to points in the above-named States. (2) *Meats, meat products, and meat by-products, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), From the plantsite and storage facilities of George A. Hormel & Company at Fremont, NE, to Points in SD, CT, DE, ME, MD, MA, NH, NJ, NY, VT, WV, VA, RI, PA, and DC, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the above-named origin points and destined to the above-named destination points. LTL Perishables, Inc.: *Such commodities* as are dealt in by retail and wholesale department and hardware stores (except commodities in bulk, foodstuffs and flat glass), From points in CT, DE, ME, MD, MA, NH, NY, NJ, OH, PA, RI, VT, VA, WV, and DC to Crawfordsville, IN, Brookings, SD, and Kansas City, MO, with no transportation for compensation on return except as otherwise authorized. From points in IL, IN, KY, MI, and WI to Kansas City, MO, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to shipments originating at the named origins and destined to the facilities of Coast-to-Coast Stores Central Organizations, Inc., located at or near the above-named destinations. Transferee is presently authorized to operate as a contract carrier throughout the United States. Transferor Dakota Express proposes to split its authority and will sell the above-noted portion. Transferor will retain that portion which authorizes transportation of the same commodities from Madison, SD to points in IL, IA, KA, MN, MO and NE, with no transportation for compensation on return except as otherwise authorized, and From Sioux Falls, SD to points in IA, KS, MO and NE, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations herein are restricted to the transportation of shipments originating at the facilities of John Morrell & Co., at Madison and Sioux Falls, SD and destined to points in the above-named states; and From the plantsite and storage facilities of George A. Hormel and Co. at Fort Dodge, IA to points in SD, CT, DE, ME, MD, MA, NH, NJ, NY, VT, VA, WV, RI, PA, and DC, with no transportation for compensation on return except as otherwise authorized, From the plantsite and storage facilities of George A. Hormel and Company at Algona, IA to Chicago, IL and points in CT, DE, ME, MD, MA, NH, NJ, NY, VT, VA, WV, RI, PA and DC, with no transportation for compensation on return except as otherwise authorized, and From the plantsite and storage facilities of Scottsbluff Packing Company, at Scottsbluff, NE, to Chicago, IL and points in SD, CT, DE, ME, MD, MS, NH, NJ, NY, VT, VA, WV, RI, PA and DC, with no transportation for compensation on return except as otherwise authorized. Approval of this application will not result in duplication of authority. Approval will result in dual operations. Application has been filed for temporary authority under Section 210a(b).

MC–F–14053F. Authority sought for transfer to Van Diest Trucking, Inc., 1415 East Ninth Avenue, Pomona, CA 91766 (transferree) of the operating rights of Martin E. Van Diest doing business as M. Van Diest Company, 8087 Victoria Avenue, Riverside, CA 92504 (transferor) and of control of such rights by Martin E. Van Diest and Daniel L. Herman through the acquisition. Applicants' representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Operating rights sought to be transferred and controlled: *Wine,* in bulk, as a *common carrier,* over irregular routes, from points in CA to the ports of entry on the International Boundary Line between the United States and Canada located in Washington as more fully described in MC 143812 Sub 1F, Authority is also requested for the substitution of transferee as the applicant in MC 143812 Sub Nos. 2TA, 3F, 4TA, 5TA, 6TA, 7F, 8TA, 9TA, 10TA, 11F, 12F, and 13F. Transferee holds no authority from the Commission but is controlled by Martin E. Van Diest, President of transferee, and Daniel L. Herman. Daniel L. Herman, Vice President of transferee, is sole stockholder and President of Danny Herman Trucking, Inc., a common carrier operating over irregular routes in all points in the United States under MC 142368 and subs thereto. Approval of this transaction will not result in any dual operations nor is there any duplicating authority involved.

Application has not been filed for temporary authority under 49 USC 11349.

MC–F–14054F. Authority sought for purchase by KSS TRANSPORTATION CORP., P.O. Box 3052, Route 1 and Adams Station, North Brunswick, NJ 08902, of a portion of the operating rights of HALL WAY, INC., P.O. Box 22, Ankeny, IA. Applicant's Attorney: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Operating rights sought to be purchased: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), From the facilities of Tama Meat Packing Corporation, at Tama, IA to points in IL, IN, KA, MI, MN, MO, NE, ND, OH, SD and WI, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of shipments originating at the above-described facilities and destined to the above-named destinations; *Meat, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), From Spencer and Hartley, IA, to points in IL, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the facilities of Spencer Foods, Inc., and destined to points in IL. Transferee is presently authorized to operate as a contract carrier throughout the United States. Transferor Hall Way, Inc. proposes to split its authority and will sell the above-noted portion. Transferor will retain that portion which authorized transportation of *Frozen foods,* From the facilities of the Kitchens of Sara Lee Corporation at or near New Hampton, IA to points in IL, IN, KA, MI, MN, MO, NE, ND, SD and WI, with no transportation for compensation or return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of shipments originating at the above-described facilities and destined to the above-named destinations. Approval of this application will not result in duplication of authority. Approval will result in dual operations. Application has been filed for temporary authority under Section 210a(b).

MC–F–14055F. Authority sought for the purchase by R. R. Stanley, 1738 Empire Central, Dallas, Texas, 75235, of a portion of the operating rights of COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Texas, 75220. Applicant's Attorney: D. Paul Stafford, Suite 1125, Exchange Park, Dallas, Texas, 75245. Operating rights sought to be purchased: *Water closet bowls and tanks, sheet steel sinks, and bathtubs* from Hearne and Dallas, TX, to points in AZ, CA, CO, FL, and NM, with no transportation for compensation on return except as otherwise authorized. Also, (1) *Plumbing fixtures, materials, and supplies,* from Plano, and Abilene, TX, to the District of Columbia, and points in NM, AZ, CA, OR, WA, NV, ID, MT, NJ, NY, MA, CT, PA, MD, DE, RI, VA, WV, and KY. (2) *Flexible gas connectors* from Los Angeles, CA, to Abilene and Plano, TX, Louisville, KY, and Carlstadt, NJ. R. R. Stanley holds no permanent operating authority, but has applications for contract and common carrier authority pending. Application has been filed for temporary authority under Section 210 a(b).

MC–F–14056F. Authority sought for purchase by Interstate Transport, Inc., 1600 Highway 129 South, Gainesville, GA, 30501, of a portion of the operating rights of COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Texas, 75245, and for acquisition by William L. Ferguson, P.O. Box 845, Springdale, AR, 72764, of control of such rights through the purchase. Transferee's Attorney: Charles M. Williams, KIMBALL, WILLIAMS & WOLFE, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO, 80203, (303) 839–5856. Transferor's Attorney: D. Paul Stafford, P.O. Box 45538, Dallas, TX, 75245. Operating rights sought to be transferred is authority in Transferor's MC 140033 (Sub-No. 36), authorizing operations as a common carrier by motor vehicle over irregular routes transporting: Canned goods, unfrozen, from the facilities of Joan of Arc Company at Hoopeston and Princeville, IL and Mayville, WI to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, and TX. Interstate Transport, Inc. operates as a common carrier in MC–134064 and Subs thereto and is controlled by William L. Ferguson who also controls Polar Express, Inc., which operates as a common carrier in MC–134467 and Subs thereto. They, collectively, have authority to operate in all points in the United States (except AK and HI). An application for temporary authority under 49 U.S.C. § 11349 (formerly Section 210a(b)) has been filed. (Hearing site: Dallas, TX.)

MC–F–14057F, filed June 14, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Representatives: S. E. Somers, Jr., 2050 Kings Road, Jacksonville, FL 32209, A. Michael Bernstein, Esq., 1441 East Thomas Road, Phoenix, AZ 85014. Authority sought for the purchase by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209, for the operating rights of HEFLIN INDUSTRIES, INC., 3878 Fern Valley Road, Medford, OR 97501, and for acquisition by I.U. Transportation Services, 1105 N. Market Street, The Wilmington Tower, Wilmington, DE 19801, and in turn, by I.U. International Corp., of the same address, of control of such rights through the transaction. Operating rights sought to be transferred: I. (1) *Gift-wrapped and packaged foods, food products, and commodities dealt in by retail gift shops* (except frozen), and (2) *Plants and bulbs* when moving at the same time and in the same vehicle with the commodities in (1) above, From Medford, Oregon to points in the United States (except Alaska and Hawaii). *Restricted to transportation originating at the facilities of Harry and David at Medford, OR.* II. *Textiles,* From Prattville, AL, Shoemakersville, PA, and Jefferson, SC, to the facilities of Arizona Textile Corp., in Casa Grande, AZ. *Restricted to shipments destined to the above-named facilities.* III. (1) *Frozen smoked turkeys, smoked pheasants, smoked hams, smoked sausages, bakery goods and cheesecakes* from the facilities of Harry and David at or near Medford, OR to points in the U.S. (2) *Material, equipment and supplies used in or incidental to the packing of fruit and nursery stock,* between the facilities of Harry and David, Jackson & Perkins Co., and the Bear Creek Corporation at or near Medford, OR on the one hand, and on the other, points in the U.S. *(1) and (2) are restricted to shipments originating at the facilities mentioned therein,* (3) *Exempt commodities when moving together with commodities under parts (1) and (2) above, between points in the U.S.* The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. Vendee is authorized to operate pursuant to Certificate No. MC 2900 and Subs as a common carrier of general and specified commodities in the States of AL, AR, CT, DE, FL, GA, IL,

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IN, KY, LA, MA, MD, ME, MI, MO, MS, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WI, WV, and DC. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Washington, DC.)

MC–F–14061F, filed June 15, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: Roland Rice, Esq., Suite 501 Perpetual Building, 1111 E Street NW., Washington, DC 20004. Mr. Keith A. Jacobsen, Vice President, Finance and Administration, Associated Freight Lines, 2403 Willow Street, Oakland, CA 94607. H. Beatty Chadwick, Esq., 1500 Walnut Street, Philadelphia, PA 19102. Authority sought for the purchase by Pacific Intermountain Express Co., 25 North Via Monte, Walnut Creek, CA 94598 of a portion of the operating rights of Associated Freight Lines, 2403 Willow Street, Oakland, CA 94607, and for acquisition by I.U. Transportation Services, 1105 N. Market Street, The Wilmington Tower, Wilmington, DE 19801, and in turn, by I.U. International Corp., of the same address, of control of such rights through the transaction. Operating rights sought to be transferred: General commodities (except commodities in bulk, household goods as defined by the Commission, livestock, wood chips, and shavings, and commodities requiring special equipment for transportation), as a common carrier over regular routes (1) Between Oceanside, CA and Santa Ysabel, CA, serving all intermediate points: From Oceanside over California Highway 76 to Santa Ysabel, and return over the same route. (2) Between Sebastopol, CA and Burson, CA, serving all intermediate points: From Sebastopol over California Highway 12 to Burson, and return over the same route. (3) Between Watsonville, CA and junction U.S. Highway 101 at a point approximately 9 miles south of Gilroy, CA, serving all intermediate points: From Watsonville over California Highway 129 to junction U.S. Highway 101 at a point approximately 9 miles south of Gilroy, and return over the same route. (4) Between Santa Cruz, CA and Saratoga, CA, serving all intermediate points: From Santa Cruz over California Highway 9 to Saratoga, and return over the same route. (5) Between Petaluma, CA and junction California Highway 121 at a point approximately 5 miles south of Sonoma, CA, serving all intermediate points: From Petaluma over California Highway 116 to junction California Highway 121 at a point approximately 5 miles south of Sonoma, and return over the same route. Transferee is authorized to operate as a motor common carrier in all states in the United States (except AK and HI). Application has been made for temporary authority under Section 210a(b) of the Act. (Hearing site: Washington, DC or San Francisco, CA).

MC–F–14062F. Authority sought for control by DALE N. SCHLEICHER, an individual, R.D. 1, Lehighton, PA 18235, of P. C. M. TRUCKING, INC., P.O. Box 129, Kearnsville Road, Orefield, PA 18069, through acquisition of stock. Dale N. Schleicher presently controls through stock ownership East Penn Trucking Company, a motor carrier. Applicant's attorney: S. Berne Smith, Esq., McNees, Wallace & Nurick, P.O. Box 1166, Harrisburg, PA 17108. Operating rights sought to be controlled: *Specified commodities* such as fresh fruits, fertilizer, fertilizer ingredients, animal and poultry feed and ingredients, pet foods, and related items, as a *common carrier*, over irregular routes, from, to and between specified points in PA, DE, DC, FL, GA, IN, ME, MD, NH, NJ, NY NC, OH, RI, SC, VA, WV, and CT, as more fully described in certificates MC 50493 and subs; *specified commodities* as a *contract carrier* for Robert A. Reichard, Inc. and Lebanon Chemical Corporation from, to or between specified points in PA, NY, NJ, DE, CT, VT, and MA, as more fully described in permits MC 115859 and subs. This notice does not purport to be a complete description of all of the operating rights of P. C. M. Trucking, Inc. It is believed to be sufficient for the purpose of public notice regarding the nature and extent of P. C. M. Trucking's operating rights without stating in full the entirety thereof. East Penn Trucking Company is authorized as a common carrier at MC 135237 and a contract carrier at MC 139255 to transport specified commodities from, to or between specified points throughout the United States, except AK and HI. The dual operations of both P. C. M. Trucking, Inc. and East Penn Trucking Company have previously been approved. Application for temporary control by Dale N. Schleicher has been filed.

MC–F–14063F. Authority sought for purchase by BRIGGS TRANSPORTATION CO., North 400 Griggs-Midway Bldg., St. Paul, MN 55104, of a portion of the operating rights of JUNG TRANSPORTATION CO., 8901 W. Flagg Avenue, Milwaukee, WI 53225, and for acquisition of control of such rights by George E. Briggs, P.O. Box 906, Eau Claire, WI 54701, and Michael P. Wardwell, North 400 Griggs-Midway Bldg., St. Paul, MN 55104, through the purchase. Applicants' attorneys: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL and Abraham A. Diamond, 29 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be transferred are as a *common carrier*, over regular routes as follows: MC 41960 *General commodities*, with the usual exceptions, between points in Milwaukee, West Milwaukee, West Allis, Wauwatosa, Sherwood and Whitefish Bay, WI, and the towns of Milwaukee, Lake, Greenfield, Wauwatosa, and Granville, Milwaukee County, WI. Briggs Transportation Co. is authorized to operate in the States of IL, IN, IA, OH, WI, MN, KS, KY, MO, NE, SD, CO and WY as a common carrier. Application has not been filed for temporary authority under Section 210a(b).

MC–F–14065F. Authority sought for purchase by EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Dallas, Texas 75207, of the operating rights of Echo Freight Lines, Inc., 844 Union Street, West Springfield, Massachusetts 01089, and for acquisition by H. R. Bright, Individually, and as Executor and Trustee of the Estate of Mary Frances Smith Bright, Deceased, also of 2355 Stemmons Freeway, Dallas, Texas 75207, of control of such rights through the purchase. Applicant's attorney, J. Raymond Chesney, P.O. Box 10125, Dallas, Texas 75207. Operating rights sought to be transferred: *General Commodities*, with specified exceptions, over regular routes, between Springfield, Mass. and West Suffield, Conn. serving the intermediate points of Agawam, Mass. and Suffield, Conn. and the off-route point of Feeding Hills, Mass., as more fully described in Docket No. MC–FC–77322; and *General Commodities*, with specified exceptions, over irregular routes, between points in Massachusetts, as more fully described in Docket No. MC 121074 (Sub No. 2). Vendee is authorized pursuant to Certificate MC 41432 and subs thereunder and MC–F–12872 and MC–F–13871 as a common carrier in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin and the District of Columbia. Approval of the proposed transaction will result in Vendee acquiring

duplicating authority only in the Boston, Mass. area. Approval of the proposed transaction will not result in retention of duplicating authority by Vendor. Application has been filed for temporary authority under Section 210a(b) of the Act.

MC–F–14066F. Authority sought for purchase by DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, Texas 79408, of a portion of the operating rights of Cox Refrigerated Express, Inc., 10606 Goodnight Lane, Dallas, Texas 75245, and for acquisition by Robert Heath, 940 East 66th Street, P.O. Box 2491, Lubbock, Texas 79408, of control of such rights through the purchase. Transferee's Attorney: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203, (303) 839–5856. Transferor's Attorney: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Operating rights sought to be transferred are authority in Transferor's MC–140033 (Sub-No. 17), authorizing operations as a common carrier by motor vehicle over irregular routes transporting: Toilet preparations, from the facilities of Roux Laboratories, Inc., located at or near Jacksonville, FL to points in AL, LA, MS, and TX, restricted to the transportation of traffic originating at the above-named origin. Vendee is authorized to operate as a common carrier in MC–134783 and Subs thereto and as a contract carrier in MC–139309 and Subs thereto in all states in the United States (except AK and HI). An application for temporary authority under 49 U.S.C. § 11349 (formerly Section 210a(b)) has been filed. (Hearing site: Dallas, TX.)

MC–F–14067F. Transferee: AMERICAN FARMS LINES, INC., 8125 SW. 15th Street, P.O. Box 75410, Oklahoma City, Oklahoma 73107. Representative: Wm. L. Peterson, Jr. (attorney), P.O. Box 817, Oklahoma City, Oklahoma 73101. Authority sought by applicant to lease a portion of the operating rights of Refrigerated Foods, Inc., 1420 33rd Street, (P.O. Box 1018), Denver, CO 80201. Operating rights sought to be purchased: (1) canned goods from points in CA, to points in AL, AR, FL, GA, KY, LA, MS and TN, (2) canned animal foods from Terminal Island, CA to points in AL, AR, FL, GA, KY, LA, MS and TN, (3) food stuffs, not frozen, from the facilities of Hunt-Wesson Foods, Inc., at Fullerton, Hayward, Davis and Oakdale, CA to points in GA, LA, and TN, and (4) canned pet foods, in mixed loads with canned goods, from San Diego, CA to points in AL, AR, FL, GA, KY, LA, MS and TN.

MC–F–14068F. Authority sought by ALLTRANS LTD., a noncarrier corporation to be organized under laws of Ontario, Canada, whose principal address will be 5280 Maingate Drive, Mississauga, Ontario, Canada L5A3S3, for the merger into it of all of the operating rights of Overland Western Limited and Alltrans Express Ltd., both located at 5280 Maingate Drive, Mississauga, Ontario, Canada L5A3S3, and control of such operating rights through the merger by Alltrans Canada Ltd., 5280 Maingate Drive, Mississauga, Ontario, Canada L5A3S3, and Thomas Nationwide Transport Limited, TNT Plaza-Door 1, Lawson Square, Redfern NSW, Australia 2016. Applicants' Attorney: Jack Goodman, 39 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be transferred from Overland Western Limited are contained in Certificate of Public Convenience and Necessity No. MC 111307 and sub numbers thereunder, authorizing the transportation of *General Commodities*, except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, over irregular routes, between the boundary line of the United States and Canada at Windsor, on the one hand, and, on the other, Detroit and points in the United States within five miles thereof; between the boundary line of the United States and Canada at Port Huron, on the one hand, and, on the other, Port Huron, restricted to traffic moving to or from points in Canada interchanged with other carriers at Port Huron; between the port of entry on the United States-Canadian boundary line at Buffalo and Niagra Falls, NY, on the one hand, and, on the other, Buffalo and Niagara Falls, NY, solely for the purpose of interchanging traffic with other connecting carriers, restricted to the transportation of shipments moving to and from points in Canada; a regular route between Detroit, MI and the port of entry at Port Huron, over U.S. Hwy. 25, restricted to traffic moving from or to points in Canada, and against the transportation of shipments originating at or destined to Sarnia, Ontario; between the plantsite of Ford Motor Company in Wayne County, MI, as an off-route point in connection with regular route operations to and from Detroit; over irregular routes between Detroit, MI and Willow Run, MI, near Ypsilanti, restricted to traffic having an immediately prior or subsequent movement by air; between the plantsite and facilities of Ford Motor Company at Romeo, MI, on the one hand, and, on the other, ports of entry at the United States-Canadian boundary line located on the Detroit and St. Clair Rivers between Buffalo and Alden, NY, serving all intermediate points, over a regular route extending from Buffalo over NY Hwy 130 to Depew, NY, thence over U.S. Hwy 20 to Alden; over irregular routes between points in Erie County, NY, on the one hand, and, on the other, points in Erie and Niagara Counties, NY. Operating rights proposed to be transferred from Alltrans Express Ltd. are contained in MC 135904 and Sub No. 2, authorizing the transportation of *General Commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment, over regular routes: Between Tacoma, WA and the port of entry on the United States-Canadian boundary line at Blaine, WA, serving Seattle, WA as an intermediate point; restricted to the transportation of traffic moving from, to or through the said port of entry at Blaine, WA, and serving junction Interstate Hwy 5 and WA Hwy 539 (formerly Alternate U.S. Hwy 99) at Bellingham, WA, for purposes of joinder only: From Tacoma over Interstate Hwy 5 to the port of entry on the United States-Canadian boundary line at Blaine, and return over the same route; Between junction Interstate Hwy 5 and WA Hwy 539 (formerly Alternate U.S. Hwy 99) at Bellingham, WA, and the port of entry on the United States-Canadian boundary line at Sumas, WA, serving no intermediate points and serving junction Interstate Hwy 5 and WA Hwy 539 (formerly Alternate U.S. Hwy 99) at Bellingham, WA, for purposes of joinder only: From junction Interstate Hwy 5 and WA Hwy 539 (formerly U.S. Hwy 99) at Bellingham, WA, over WA Hwy 539 (formerly portion of U.S. Hwy 99) to junction WA Hwy 544, thence over WA Hwy 544 to junction WA Hwy 9, and thence over WA Hwy 9 to Sumas, and return over the same route.

Note—Vendors are now affiliated by being commonly controlled by Thomas Nationwide Transport Limited. Upon consummation it will continue to control Vendors' operating rights through Vendee, its subsidiary. The objective of the application is to attain corporate simplification.

Caption Summary

MC–F–14069F. Authority sought for the lease and ultimate purchase by

NOERR MOTOR FREIGHT, INC., 205 Washington Avenue, Lewistown, Pa 17044 of all of the common motor carrier operating rights of RICHARD C. NOERR, JR., d.b.a. METAL TRANSPORT, R.D. #3, P.O. Box 492, Lewistown, PA 17044. Applicants' representatives: William D. Taylor and Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, California 94111; telephone: 415/986–1414. Operating rights sought to be acquired: 1. *MC–82509 (Sub 2),* authorizing transportation as a common carrier, on interstate and foreign commerce, over irregular routes of (a) *Waste or scrap materials, metals and metal* articles, between Lewistown, PA, and all points in Decatur and Derry Township, Mifflin County, PA., on the one hand, and, on the other points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hempshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia (except metal alloys from Philadelphia, Pa., and metal alloys, other than loose, from Baltimore, Md., to Lewistown, Pa., and points in Decatur and Derry Townships, Mifflin County, Pa); (b) *Waste or scrap materials, metals, and scrap or used metal articles.* Between Lewistown, Pa., and points in Decatur and Derry Townships, Mifflin County, Pa., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Louisiana, North Carolina, South Carolina, and Texas, (except the transportation of articles which because of size or weight require the use of special equipment); (c) *Waste or scrap materials, metals and scrap or used metal articles* (except automobile parts), Between Lewistown, PA., and points in Decatur and Derry Townships, Mifflin County, Pa., on the other, points in Mississippi and Tennessee, (except the transportation of articles which because of size or weight require the use of special equipment); and (2) *MC–82509 (Sub 3),* authorizing transportation in interstate and foreign commerce, as a common carrier, over irregular routes, of (a) *Waste or scrap materials, metals, and metal articles,* between the facilities of Sitkin Smelting and Refining, Inc., located at or near Lewistown, PA., on the one hand, and, on the other, points in Arkansas, Missouri and Minnesota. An application has been filed for temporary control under Section 210a(b).

Note.—Lessee/transferee intends to interchange shipments will Lessor/transferor at all common points and upon purchase to tack or join the rights being acquired with those held by Lessee/transferee. Lessee/transferee is authorized to operate as a common motor carrier in all states of the United States (except AK and HI) pursuant to the authorities issued in MC–111611 and the various subs thereto.

MC-F–14070F. Authority sought for purchase by KLM, INC., Old Highway 49 South (P.O. Box 6098), Jackson, MS of the Certificate of Public Convenience and Necessity of COX REFRIGERATED EXPRESS, INC., Dallas, TX. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Operating rights sought to be purchased: authority issued in MC–140033 (Sub. No. 59F) authorizing operations as a motor common carrier, over irregular routes, transporting the following: *Foodstuffs* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc. at Lakeland, FL to points in MO, MS, LA and TX. Restriction: Restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations.

Vendee is authorized to operate as a common carrier of specified commodities to or from all points in the United States (except AK and HI) as more fully described in MC–138308 and subs thereto. The holding by KLM, Inc. of common and contract carrier authority was approved in MC-FC–76273 and in MC–138308 and subs thereto. No temporary authority under Section 11349 (a) (formerly § 210a(b)) is being sought. Hearing site: Jackson, MS or Dallas, TX.

MC–F–14071F. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought for control by Claude Hays and Ruth Ann Hays, R. R. 3 (Box 80A), Eldon, Missouri, of H & S MOTOR FREIGHT, INC., a Missouri corporation, and FREIGHTWAYS, INC., a Missouri corporation, both of 412 East 2nd Street, Eldon, Missouri 65026, and of the certificate held by Claude Hays, d.b.a. OTTEN TRUCK LINES, of Cole Camp, Missouri. Applicant's Attorney: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Operating rights sought to be controlled: Regular routes: *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Cole Camp, MO, and Sedalia, MO, serving all intermediate points: from Cole Camp over Missouri Highway 52 to junction U.S. Highway 65, thence over U.S. Highway 65 to Sedalia, and return over the same route. Irregular routes: *Livestock,* from Cole Camp, MO, and points within 10 miles thereof, to Kansas City, KS; and *Feed, fertilizer, oil, and grease* in containers, and *livestock,* from Kansas City, KS, to Cole Camp, MO, and points within 10 miles thereof. (1) *Such commodities* as are dealt in by manufacturers or distributors of heat transfer, refrigeration and air conditioning units; (2) *parts and attachments* for these commodities, and (3) *equipment, materials and supplies* for the commodities described in (1) above, over irregular routes, between the plant site of Sundstrand Corporation at or near Camdenton, MO, on the one hand, and, on the other, points in TX, OK, KS, AR, MI, IN, TN, AL, OH, NB, ND, SD, WI, IL, MS, and GA. *Lumber, glue, furniture parts, cedar closet linings, wood residuals, and paper bags,* between the facilities of Osage Products Company at or near Eldon, MO, on the one hand, and, on the other, points in AL, AR, IL, IN, IA, KS, KY, MN, NE, OH, OK, TX, and WI. *Automotive parts and accessories; rubber and rubber products* (except in bulk); and *equipment, materials and supplies* (except in bulk) used in the manufacture, distribution, and sale of automotive parts and accessories and rubber and rubber products, between Versailles, MO, on the one hand, and, on the other, AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, NB, NC, OH, OK, PA, SC, TN, TX, WV, and WI. *Pallets,* from Macks Creek, MO, to points in OH, MI, WI, IL, IN, KY, TN, MS, AL, LA, AR, TX, OK, KS, NB, IA, SD, ND, CO, and MN. Regular routes: *General Commodities,* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Kansas City, KS, and East St. Louis, IL, serving the intermediate points of Kansas City, Cole Camp, Stover, Barnett, Eldon, St. Louis, and Versailles (except for the transportation of (1) feed, building materials, and oil in containers, from Kansas City, KS, to Versailles, MO, (2) livestock from Versailles, Stover, Barnett, and Eldon, MO, and Kansas City, KS, and (3) livestock between Versailles, Eldon, Barnett, and Stover, MO, on the one hand, and East St. Louis, IL, on the other): from Kansas City, KS over U.S. Highway 50 to junction U.S. Highway 65 to junction Missouri Highway 52, thence over Missouri Highway 52 to junction U.S. Highway 54, thence over U.S. Highway 54 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction Highway 66, thence over U.S. Highway 66 to East St. Louis, and return over the same route. Restriction: Service under the above-specified authority shall be subject to the following conditions: Carrier is not authorized to transport shipments originating at, or interchanged at East St. Louis, IL, or St. Louis, MO, when destined to Kansas City, MO, or Kansas City, KS, or points beyond or to transport shipments originating at or interchanged at Kansas City, MO, or Kansas City, KS, when destined to St. Louis, MO, East St. Louis, IL, or points beyond. *Feed, building materials, and oil* in containers, from Kansas City, KS, to Versailles, MO, serving no intermediate points: from Kansas City, KS over city streets to Kansas City, MO, thence over U.S. Highway 50 to Sedalia, MO, thence over U.S. Highway 65 to junction Missouri Highway 52, thence over Missouri Highway 52 to Versailles, and return over the same route with no transportation for compensation except as otherwise authorized. Irregular routes: *Livestock,* from Versailles, MO and points within 15 miles of Versailles, to Kansas City, KS, with no transportation for compensation on return except as otherwise authorized, and between Versailles, MO and points within 15 miles of Versailles, on the one hand, and, on the other, East St. Louis, IL. Regular routes: *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities, in bulk, and those requiring special equipment, between Eldon, MO, and Camdenton, MO: from Eldon over U.S. Highway 54 to Camdenton, and return over the same route. Between Camdenton, MO, and Versailles, MO: from Camdenton over Missouri Highway 5 to Versailles, and return over the same route. Between junction U.S. Highway 54 and Missouri Highway 52 over Missouri Highway 52, and Tuscumbia, MO: from junction U.S. Highway 54 and Missouri Highway 52 to Tuscumbia, and return over the same route. Service on the above routes is authorized at all intermediate points and the off-route points located in that area of the Lake of the Ozarks bounded by U.S. Highway 54 and Missouri Highway 5, including those areas known as Horseshoe Bend and Shawnee Bend, in connection with carrier's authorized regular-route operations between Kansas City and St. Louis, MO. Restriction: Carrier is not authorized to transport shipments originating at, or interchanged at East St. Louis, IL, or St. Louis, MO, when destined to Kansas City, MO, or Kansas City, KS, or points beyond, or to transport shipments originating at, or interchanged at Kansas City, MO, or Kansas City, KS, when destined to St. Louis, MO, or East St. Louis, IL, or points beyond. Regular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Jefferson City, MO, and Eldon, MO, serving all intermediate points: from Jefferson City over U.S. Highway 54 to Eldon, and return over the same route. Between Springfield, MO, and Camdenton, MO, serving Macks Creek, MO, and all intermediate points between Macks Creek and Camdenton, MO: from Springfield over U.S. Highway 65 to junction Missouri Highway 32, thence over Missouri Highway 32 to junction Missouri Highway 73, thence over Missouri Highway 73 to junction U.S. Highway 54, and thence over U.S. Highway 54 to Camdenton, and return over the same route. Restriction: The service authorized herein shall be subject to the following conditions: The authority granted herein is restricted against tacking or joinder with any authority presently held to provide a through service between St. Louis and Kansas City, MO, and points in their commercial zones as defined by the Commission. The authority granted herein is restricted against the transportation of traffic between Springfield and Jefferson City, MO, or between those points, on the one hand, and, on the other, St. Louis or Kansas City, MO. Authority has been filed or temporary authority under Section 11349(a) formerly Section 210a(b)). If a hearing is deemed necessary, applicant requests it be held in Kansas City, MO.

MC–F–14074F. Transferee: NELSON-WESTERBERG, INC., 1201 Arthur Avenue, Elk Grove Village, Illinois 60007. Transferor: RELIANCE MOVING & STORAGE, INC., 16 Passaic Avenue, Fairfield, New Jersey 07006. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Authority sought to purchase by transferee of the operating rights of transferor as set forth in Certificate of Public Convenience and Necessity No. MC–74565 described as follows: Irregular routes: *Household goods,* as defined by the Commission, between Hackensack, New Jersey and points in New Jersey within 60 miles thereof, on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, New York, Pennsylvania and Rhode Island.

MC–F–14075F. Authority sought for purchase by W. J. DIGBY, INC., 6015 E 58th, Commerce City, CO 80022, of a portion of the operating rights of REFRIGERATED FOODS, INC., 1420 33rd Street, P.O. Box 1018, Denver, CO 80201, and for acquisition by James F. Digby and Donald R. Digby of 6015 E 58th, Commerce City, CO 80022 and Latisha S. Carston of 2920 Ross Street, Vernon, CA 90058 of control of such rights through the purchase. Transferee's Attorney: Charles J. Kimball, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203, (303) 839–5856. Transferor's Representative: Joseph W. Harvey, 1420 33rd Street, P.O. Box 1018, Denver, CO 80201. Operating rights sought to be transferred is authority in Transferor's MC–138018 (partial) and MC–134068 (partial) authorizing operations as a common carrier by motor vehicle over irregular routes transporting: MC–138018, Meats, meat products, and meat by products, and articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plant sites and warehouses of Sterling Colorado Beef Packers, at or near Steriling, CO, to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. From the plant sites and warehouses of American Beef Packers, Inc., at or near Fort Morgan, CO, to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. Restriction: Said authority is restricted to the transportation of traffic originating at the above plant sites and warehouses and destined to points in the above-named destination states.

MC–134068 (in part), Canned goods in mixed loads with frozen foods or agricultural commodities as defined in Section 203(b)(6) of the Act, as amended; and frozen foods in mixed loads with canned goods or agricultural commodities as defined in Section 203(b)(6) of the Act, as amended, from points in California to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, and Tennessee. Agricultural commodities as defined in Section 203(b)(6) of the Act, as amended, when transported at the same time and in the same vehicle with canned goods or forzen goods (authorized in the commodity description next above), from points in Arizona and California, to points in

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, and Tennessee. W. J. Digby, Inc. operates as a common carrier under MC–115826 and Subs thereto and is controlled as shown above. It operates, under temporary lease, appoved in MC–F–13656 the authority of Cycles, Ltd. (Common and Contract) and seeks in that case approval of the purchase of that authority. Transferee has authority to operate at all points in the United States (except AK and HI). An application for temporary authority under 49 U.S.C. § 11349 (formerly Section 210a(b) has been flied. Hearing site: Denver, Colorado.

MC–F–14076F. Authority sought for purchase by TRI–STATE TRANSPORT, INC., 140 Wales Avenue, Avon, MA 02322 of a portion of the operating rights of FELDMAN'S EXPRESS, INC. (George B. Rubin, Trustee in Bankruptcy), 10 Emerson Place, Boston, MA 02114, and for acquisition by Paul B. Waitze, 140 Wales Ave., Avon, MA of control of such rights to the purchase. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Operating rights sought to be purchased: Frozen meats, over irregular routes, from Boston, MA to points ME, NH, VT, and Albany, NY as more fully described in Certificate No. MC–96986 (Sub 4). Transferee is authorized to operate as a common carrier of specific commodities in CT, ME, MA, NH, NY, RI, NJ, DE, and VT. Application for temporary authority under 49 U.S.C. 11349 has been filed.

MC–F–14078F. Authority sought by HALLAMORE MOTOR TRANSPORTATION, INC., 795 Plymouth Street, Holbrook, MA 02343 to control JOHN SCHUTT, JR., INC., 665 River Road, Tonawanda, NY 04120. Applicants' attorneys: Frank J. Weiner, 15 Court Square, Boston, MA 02108 and Donald S. Day, 1500 Liberty Bank Building, Buffalo, NY 14202. Operating rights sought to be controlled: (1) *Commodities,* the transportation of which, because of size or weight, requires the use of special equipment and *related machinery parts,* when their transportation is incidential to the transportation by said carrier of commodities which, by reason of size or weight, require special equipment, between points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Orleans, Niagara, and Wyoming Counites, NY, on the one hand, and, on the other, points in DE, MD, the Lower Pen MI, NJ, NY, OH, PA, and WV subject to restrictions; (2) *sand, gravel, crushed stone, haydite,* and *cement,* in dump trucks, between points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Orleans, Niagara, and Wyoming Counties, NY on the one hand, and, on the other, Lewiston and North Tonawanda, NY and points in PA and OH; (3) malt, in bulk, from Buffalo, NY to points in CT, DE, MD, MA, NH, NJ, NY, PA, and RI; (4) *cement,* in bulk, in tank vehicles, from Buffalo, NY to Erie, Warren, and Bradford, PA; (5) *aluminum chloride anhydrous,* in bulk, in tank vehicles equipped with pneumatic unloading devices, from Lockport, NY to Institute, WV; (6) *self-propelled articles,* each weighing 15,000 lbs. or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Niagara, Orleans and Wyoming Counties, NY, on the one hand, and, on the other, points in DE, MD, the Lower Peninsula of MI, NJ, NY, OH, PA, and WV subject to restriction; (7) *aluminum chloride,* in bulk, in tank vehicles from Elberta, NY to Institute, WV; (8) *fly ash* and *fly ash pellets,* from the plant sites of Niagara Mohawk Power Corporation located in Chautaugua and Erie Counties, NY to points in NJ, OH, and PA; (9) *aluminum chloride,* in bulk, in tank vehicles, from the port of entry on the U.S.-Canada Boundary line at Buffalo, NY to points in that part of WV on and west of U.S. Hwy 19; (10) *aluminum chloride,* in bulk, from Elberta and Lockport, NY and ports of entry on the U.S.-Canada Boundary line located at the Niagara River to points in AL, CT, DE, FL, GA, IL, (except points in St. Louis, MO-East St. Louis, IL Commercial Zone as defined by the Commission), IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI; (11) *dry aluminum chloride,* in bulk, in tank vehicles (a) from Elberta and Lockport, NY to points in TX and LA, (b) from Brainards, NJ to Ashtabula, OH, Baltimor, MD, Institute, WV, West Elizabeth, PA and Staten Island, NY; (c) from Elton, MD to Ashtabula, OH, Institute, WV, West Elizabeth, PA and Staten Island, NY; and (d) from LaPorte, TX to Ashtabula, OH, Baltimore, MD, Institute, WV, West Elizabeth, PA and Staten Island, NY; (12) *anhydrous aluminum chloride,* dry, in bulk, in tank vehicles, from ports of entry on the U.S.-Canada Boundary line located in MI and NY to points in LA, MD, and TX restricted to traffic originating at the facilities of Welland Chemical, Ltd. at Sarnia, Ontario, Canada; (13) *cryogenic tanks* and *parts, accessories, equipment, materials and supplies* used in the installation or assembly of cryogenic tanks, from the facilities of Linde Division, Union Carbide Corporation, at Theodore, AL, to points in CA, CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC and *parts, materials and supplies* (except commodities in bulk) used in the manufacture of cryogenic tanks and accessories thereto, from the above-named destination states and DC to the facilities of Linde Division, Union Carbide Corporation, Theodore, AL; (14) (a) *farm equipment,* and *parts and accessories* for farm equipment, from the ports of entry on the International Boundary line between the U.S. and Canada located in MI and NY to points in the U.S. (except AK and HI) restricted to traffic originating at the facilities of White Farm Equipment, a division of White Motor Corporationm of Canada, Ltd. at Brantford and Hagersville, Ontario, Canada; (b) *farm machinery,* and *equipment, materials, and supplies* and supplies used in the manufacture of farm equipment (except commodities in bulk), from points in the U.S. (except AK and HI) to the ports of entry on the International Boundary line between the U.S. and Canada located in MI and NY restricted to the transportation of traffic destined to the facilities of White Farm Equipment, a division of White Motor Corporation of Canada, Ltd. at Brantford and Hagersville, Ontario, Canada; (15) *chloride producing systems* and *parts and accessories* for the commodities used in chloride producing systems, between ports of entry in NY and MI on the International Boundary line between the United States and Canada on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to traffic originating at or destined to the facilities of E.S. Fox, Ltd., at Niagara Falls, Ontario, Canada. Vendee is authorized to operate as a common carrier in ME, NH, VT, MA, RI, CT, NY, NJ, PA, and OH. Application has been filed for temporary authority under 49 U.S.C. 11349 [(Section 210a(b))].

MC–F–14079F. Transferee: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, Nebraska 68041. Transferor: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, Colorado 80201. Representatives: A. J. Swanson, Attorney for Eckley Trucking, Inc., 300 South Thompson Avenue, Sioux Falls, South Dakota 57103. Joseph W. Harvey, Executive Vice President, Refrigerated Foods, Inc., P.O. Box 1018, Denver, Colorado 80201. Authority sought to purchase by Eckley Trucking, Inc., P.O. Box 201, Mead, NE 68041, of a portion of the operating rights of Refrigerated Foods, Inc., P.O. Box 1018, Denver, CO 80201, and for acquisition by James Eckley, P.O. Box 201, Mead, NE 68041, of control of such rights through the transaction. Applicants' representatives: A. J. Swanson, 300 South Thompson Avenue, Sioux Falls, SD 57103, and Joseph W. Harvey, P.O. Box 1018, Denver, CO 80201. Operating rights, as a *common carrier,* over irregular routes, sought to be transferred: *Crude rubber* (except in bulk), from points in LA and TX, to points in CA and OR, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to traffic destined to the plant sites and storage facilities utilized by Amf Voit, Inc., located in CA and OR. Application has been filed for temporary authority under Section 210a(b).

MC–F–14080F. Authority sought for purchase by RUDOLF EXPRESS CO., 1650 Armour Road, Bourbonnais, IL 60914, to purchase a portion of the operating rights of WESTERN TRANSPORTATION COMPANY, 1300 West 35th Street, Chicago, IL 60609, and for acquisition of control of such rights by Marie I. Rudolf, 11 Brittany Lane, Bourbonnais, IL 60914. through the purchase. Applicants' attorney: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be transferred are as a common carrier, over regular routes, as follows: General commodities, with the usual exceptions, between Davenport and Bettendorf, IA and Rock Island, Moline, East Moline, Carbon Cliff, Silvis and Milan IL. Application has been filed for temporary authority under Section 210a(b).

MC–F–14081F. Authority sought for purchase by MAYFIELD TRANSFER CO., INC., 3200 West Lake Street, Melrose Park, IL 60160, of a portion of the operating rights of WESTERN TRANSPORTATION COMPANY, 1300 West 35th Street, Chicago, IL 60609, and for acquisition of control of such rights by Raymond J. Emerick, Sr., 3200 West Lake Street, Melrose Park, IL 60609, through the purchase. Applicants' attorney: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be transferred are as a *common carrier,* over regular routes, as follows: *General commodities* (with the usual exceptions), between Chicago, IL, and Moline, IL, serving all intermediate points. Application has been filed for temporary authority under Section 210a(b).

Note.—
Mayfield Transfer Co., Inc., proposes to tack the authority sought to be acquired with its existing authority.

MC–F–14082F. Authority sought for purchase by CHIPPEWA MOTOR FREIGHT, INC., 1000 East 41st Street, Sioux Falls, SD 57105, to purchase a portion of the operating rights of WESTERN TRANSPORTATION COMPANY, 1300 West 35th Street, Chicago, IL 60609, and for acquisition of control of such rights by Lewis Industries, Inc., 510 Northwestern Bank Building, Sioux Falls, SD 57102, through the purchase. Applicants' attorney: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred are as a common carrier, over regular routes, as follows: General commodities, with the usual exceptions, between Moline, IL and Des Moines, IA and the facilities of Duane Arnold Energy Center, near Paola, IA and Minnesota Mining and Manufacturing Company at or near Knoxville, IA as off-route points. Application has been filed for temporary authority under Section 210a(b).

MC–F–14083F. Applicant: THE AETNA FREIGHT LINES, INC., 2507 Youngstown Road S.E., P.O. Box 350, Warren, OH 44482. Representatives: Leroy Hallman and Ralph W. Pulley, Jr., Phinney, Hallman, Pulley & Coke, 4555 First National Bank Building, Dallas, TX 75202. Authority sought for purchase by the Aetna Freight Lines, Inc., 2507 Youngstown Road S.E., P.O. Box 350, Warren, OH 44482, a portion of operating rights of Oliver Motor Service, Inc., East Highway 54, Box 223, Mexico, MO 65265, and for acquisition by J. Phil Felburn, 2507 Youngstown Road S.E., P.O. Box 350, Warren, OH 44482, of control of such rights through the purchase. Operating rights sought to be pruchased, all over irregular routes: *Iron and steel articles* (except those artilces which because of their size and weight require the use of special equipment), from the facilities of Granite City Steel Company at Granite City, IL, to Kansas City, KS, and to points in MO, with no transportation for compensation on return except as otherwise authorized; *iron and steel articles* (except such articles which because of size and weight require the use of special equipment), from the plant site and storage facilities of Continental Steel Corporation, at or near Kokomo, IN, to points in IA, with no transportation for compensation on return except as otherwise authorized; *steel articles* (except such articles which because of their size or weight require the use of special equipment), from the plant sites and storage facilities of United States Steel Corporation, at Joliet and South Chicago, IL, and Gary, IN, Inland Steel Company, at Indiana Harbor, IN, Bethlehem Steel Corporation, at Burns Harbor, IN, Wyckoff Steel Divison of Ampco-Pittsburgh Corporation, at Chicago, IL, Republic Steel Corporation, at South Chicago, IL, and Union Drawn Division of Republic Steel Corporation, at Gary, IN, to points in MO, that part of IA on, south, and east of a line beginning at the Missouri River, then along U.S. Hwy. 30 to Ames, then along U.S. Hwy. 69 to junction U.S. Hwy. 20, then along U.S. Hwy. 20 to the Mississippi River, that part of IL which is located in the St. Louis, MO-East St. Louis, IL, Commercial Zone, as defined by the Commission, at date of shipment, and that part of Kansas which is located in the Kansas City, MO-Kansas City, KS, Commercial Zone, as defined by the Commission at date of shipment, with no transporation for compensation on return except as otherwise authorized; *plastic conduit, plastic and iron fittings and connections, valves, hydrants and gaskets* (except oil field commodities as defined in Mercer *Extension Oil Field Commodities,* 74 M.C.C. 459), from the plant site and storage facilities of the Clow Corporation at Columbia, MO, to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, OK, TN and WI, with no transportation for compensation on return except as otherwise authorized; *iron and steel articles* (except such commodities which because of size or weight require the use of special equipment), from the plant site and storage facilities of Keystone Steel & Wire, Division of Keystone Consolidated Industries, Inc., at or near Peoria, IL to points in AR, KS and MO, with no transportation for compensation on return except as otherwise authorized; *steel tubing,* from the plant site and storage facilities of Bull Moose Tube Company, at Gerald, MO, to points in KS, IN, MI, IL and IA, with no transportation for compensation on return except as otherwise authorized. This certificate is issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR 1065 may not be tacked or joined with carrier's other irregular-route authority unless specifically authorized herein; *fuel oil,* in bulk, in tank vehicles, from Ludington, MI, to the facilities of Harbison-Walker Refractories, Division of Dresser Industries, Inc., at or near Fulton and Vandalia, MO, with no transporation for compensation on return except as otherwise authorized; *iron and steel articles* (except commodities which, because of size or weight, require the use of special equipment), from the facilities of Penn-Dixie Steel Corp., at or near Kokomo,

IN, to points in KS and MO, with no transportation for compensation on return except as otherwise authorized. This certificate is issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR 1065 may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized herein; *ground clay,* from Oran, MO, to points in the United States (except AK and HI), with no transportation for compensation on return except as otherwise authorized. This certificate is issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR 1065 may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized: *iron and steel articles,* from Centerville, IA, to points in AR, IL, IN, IA, KS, KY, MI, MO, PA, TN and WI, with no transportation for compensation on return except as otherwise authorized. This certificate is, issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR 1065 may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized herein; *iron and steel articles, and building and construction materials* (except in bulk), from the plantsite and facilities of Penn-Dixie Steel Corporation at Kokomo, IN, to points in IL located on and south of a line consisting of U.S. Hwy. 34 from the IA–IL State Line to junction IL Hwy. 116, then over IL Hwy. 116 to junction U.S. Hwy. 52 near L'Erable, IL and then over U.S. Hwy. 52 to the IL–IN State Line; *materials and supplies used in the manufacture and distribution of the above commodities* (except in bulk), from points in IL located on and south of a line consisting of U.S. Hwy. 34 from the IA–IL State Line to junction IL Hwy. 116, then over IL Hwy. 116 to junction U.S. Hwy. 52 near L'Erable, IL, and then over U.S. Hwy 52 to the IL–IN State Line, to the plantsite and facilities of Penn-Dixie Steel Corporation at Kokomo. IN. This certificate may not be joined or tacked with the carrier's other irregular-route authority; *iron and steel articles* (except those which because of their size or weight require the use of special equipment), from Chicago, IL, and points within its commercial zone, to points in Coffey County, KS, and Callaway County, MO, and to the facilities of A. M. Castle & Co., at North Kansas City, MO: Wichita, KS; and Tulsa, OK. Restriction: The authority granted herein is restricted to the transportation of shipments destined to the above named points. Any duplication in this document of authority presently held by carrier does not confer more than one operating right. This certificate may not be joined or tacked with the carrier's other irregular-route authority; *roofing and roofing materials,* from the facilities of the roofing division of the Masonite Corporation at Little Rock, AR, to points in IL (except points in the commercial zone of St. Louis, MO-East St. Louis, IL), IN, IA, KS, KY, MO (except St. Louis, MO, and points within its commercial zone and points in St. Louis County, MO), OK and TN (except Memphis, TN). This certificate may not be tacked or joined with the carrier's other irregular-route authority; (1) *iron, steel, zinc, lead,* and *articles or products thereof* (except in bulk); *springs;* and *construction materials, supplies and equipment* (except in bulk), from the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., located at or near Lansing and Grand Rapids, MI; Blue Island and Joliet, IL; Kokomo, Elkhart, Ft. Wayne, and Cicero, IN; Centerville, IA; Jackson, MS; Columbus and Toledo, OH, to points in AR, IL, IA, KS, MO, IN and OK; and (2) *materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the destination states in (1) to the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel, Corp., and Steven Springs, Inc., located at or near the origin points named in (1) above. Restriction: The authority granted herein is restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce. Any duplication in this document of authority presently held by carrier does not confer more than one operating right. This certificate may not be tacked or joined with the carrier's other irregular-route authority; *iron and steel articles* (except in bulk), from the facilities of Northwestern Steel Wire Company, at Rock Falls and Sterling, IL, to points in AR, IN, IA, KY, MO, and WI. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the facilities of Northwestern Steel & Wire Company at Rock Falls, and Sterling, IL. This certificate may not be tacked or joined with the carrier's other irregular-route authority. Transferee, The Aetna Freight Lines, Inc. seeks to be substituted as applicant in all pending applications.

Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

An original and one copy of portests to the granting of the authorities must be filed with the Commission on or before September 7, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy.

MC 30446 (Sub-10F), filed June 29, 1979. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., P.O. Box 5647, Charlotte, NC 28225. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, N.W., Washington, DC 20036. By order, served December 26, 1978, the Commission, Review Board Number 5, granted the gateway elimination application in Docket No. MC-30446 (Sub-No. 10F). By the same order, the Review Board approved the directly related merger of Air Freight Incorporated into Bruce Johnson Trucking Company, Inc. in Docket No. MC–F–13648. The gateway elimination application inadvertently omitted authority to perform certain operations which had previously been performed through interline. The authority omitted would permit Bruce Johnson Trucking Company, Inc. to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* except those requiring special equipment, unmanufactured tobacco and accessories, commodities in bulk, household goods as defined by the Commission, classes A and B explosives, commodities of unusual value, livestock, and brick, between points in North Carolina within 40 miles of Charlotte, NC (except those in Mecklenburg County, NC), on the one hand, and, on the other, points in North Carolina. Applicant has filed a Petition to Reopen Proceedings to Consider and Grant Gateway Elimination Authority Inadvertently Omitted in order to acquire authority to continue to perform operations previously conducted through interline.

MC 4484 (Sub-11F), filed May 25, 1979. Applicant: CROWN TRANSPORT, INC., Rural Delivery No. 2, Wampum, PA 16157. Representative: Andrew R. Clark, 1000 First National Bank, Minneapolis, Minnesota 55402. Authority sought as a *common carrier* by motor vehicle over irregular routes in the transportation of *commodities* which because of size or weight require special handling or the use of special equipment, *self-propelled articles* each weighing more than 15,000 pounds, and *related machinery, tools, parts* and *supplies* moving in connection therewith, and *construction materials and supplies,* and *machinery* and *machinery parts,* (1) between points in PA, OH, NY, and WV, on the one hand, and, on the other, points in NJ, NY, MA, CT, RI, DE, MD, VA, PA, WV, KY, OH, IN, IL, MI, and the District of Columbia; (2) Between MA, CT, RI, NJ, DE, MD, and VA, on the one hand, and, on the other points in KY, IL, IN, and MI; (3) Between points in KY, IL, IN, and MI; and (4) Between points in MA, CT, RI, NJ, DE, MD, and VA. (Hearing now set September 24, 1979, Washington, DC.)

Note.—This application is directly related to MC–F–13763F, Crown Transport, Inc., Purchase Masterson published in the **Federal Register** October 26, 1978. The purpose of filing this application is to eliminate the gateway points in: Part (1) and (2) Warren, PA, and points in NY and OH, and parts (3) and (4) Warren, PA. This application was previously filed as MC 4484 (Sub-5F).

MC 138902 (Sub-16F), filed June 18, 1979. Applicant: ERB TRANSPORTATION CO., INC., P.O. Box 65, Crozet, VA 22932. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Authority sought to operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen bakery products* from the facilities of Mrs. Smith's Pie Company at Pottstown, PA, to points in AR, AL, GA, FL, NC, and SC, (II) *frozen foodstuffs* from the plant site and warehouse facilities of Ore-Ida Foods at Greenville, MI to points in AL, FL, and GA, and (III) *frozen foods, including packinghouse products* from Madison, WI, to points in AL, DE, FL, GA, and MD. (Hearing site: Washington, DC.)

Note.—This application is directly related to MC–F–13930, Erb Transportation Co., Inc.—Purchase—Eastern Refrigerated Transport, Inc., published in the March 15, 1979, issue of the **Federal Register**. The purpose of this application is to eliminate, in each instance, the gateway of Crozet, VA.

MC 141364 (Sub-4F), filed May 4, 1979. Applicant: AFFILIATED VAN LINES, INC., 2124 Washington Street, Box 204, Lawton, OK 73502. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: household goods as defined by the Commission, between points in MT and WY, on the one hand, and, on the other, points in LA, TX, NM, OK, CO, KS, AR, MO, IL, IA, and NE. (Hearing site: Oklahoma City, OK.)

Note.—The purpose of this application is to eliminate the gateways of Oklahoma City, OK and points within 200 miles thereof. This matter is directly related to MC–F–14016F, published in the June 11, 1979, issue of the **Federal Register** Notice.

MC 58721 (Sub-3), filed December 29, 1978. Applicant: ASKINS MOVING & STORAGE, INCORPORATED, P.O. Box 3954, Florence, SC 29501. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting (1) *Household Goods* between points in SC and (2) *Commodities in General (Except in bulk, household goods, and Explosives and Hazardous Materials)* between points in Darlington and Florence Counties, SC and between points in Darlington and Florence Counties, SC, on the one hand, and on the other, points in SC. (Hearing site: Columbia, SC, Florence, SC or Charlotte, NC.)

Note.—The purpose of this application is to convert applicant's Certificate of Registration to Certificate of Public Convenience and Necessity. This matter is directly related to MC–FC–78001, published in the May 4, 1979, issue of FR.

MC 136720 (Sub-7F), filed May 11, 1979. Applicant: APEX BULK COMMODITIES, P.O. Box 872, Whittier, CA 90608. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products,* in bulk, between points in CA. (Hearing site: Los Angeles, CA.)

Note.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This application is directly related to MC–FC–78143, published in the June 22, 1979, issue of the **Federal Register.**

Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 208(a), 211, 312(b), and 410(b) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before September 7, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protest believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC–FC–78116, filed April 25, 1979. Transferee: RALPH J. MARQUANDT & SONS, INC., R.R. 1, Box 203A, Volin, SD 57072; and PAYNE MOTOR LINES, INC., P.O. Box 1937, Elko, NV 89801. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought for purchase by transferee of authority held by transferor in Certificate No. MC 138274 Sub 6, issued November 1, 1974, as follows: meats, meat products, and meat by-products, and articles distributed by meat packinghouses (except in bulk and hides), from the facilities of Yankton Sioux Industries, at or near Wagner, SD, to points in WY, CO, UT, NV, CA, OR, WA, ID, AZ, and MT. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC–FC–78149, filed May 7, 1979. Transferee: HTC, INC., 999 Pontiac Ave., Cranston, RI 02920. Transferor:

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HERCULES TRUCKING CO., INC., 999 Pontiac Ave., Cranston, RI 02920. Representative: L. Agnew Myers, Jr., 734 Fifteenth St. NW, Washington, DC 20005. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificates MC-7923, and MC-7923 (Sub-Nos. 1 and 3), issued February 16, 1942, December 7, 1964, and August 9, 1978, respectively, as follows: *General commodities,* except those of unusual value, dangerous explosives, automobiles, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Providence, RI and Boston, MA, over specified regular routes; Between Providence, RI, on the one hand, and, on the other, points in Bristol, Kent, and Providence Counties, RI; *Automatic sprinkling apparatus, humidifying, and air conditioning apparatus, and pipes, valves, fittings, tools, accessories, and materials* used in the installation of such apparatus, between Cranston and Providence, RI, on the one hand, and, on the other, points in MA, and those in that part of CT on and east of CT Hwy 10. *Heating apparatus, and boilers, radiators, pipes, fitting grates, tools, and materials* used in the installation of such apparatus, between Cambridge and Westfield, MA, on the one hand, and, on the other, points in RI. *Shoe manufacturing machinery,* between Providence, RI and Beverly, MA. *General commodities,* except those of unusual value, Classes A and B explosives, Household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment other than those requiring special handling or rigging because of weight or bulk, between points in RI, on the one hand, and, on the other, points in CT and MA. *Heavy machinery,* between Bristol, Cranston, and Providence, RI, on the one hand, and, on the other, New York, NY and Ampere, Kenilworth, and Newark, NJ. *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, Commodities in bulk, and those requiring special equipment, serving all points in MA in connection with carrier's presently authorized regular-route operations between Providence, RI and Boston, MA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78151, filed May 8, 1979. Transferee: NEWARK BOXBOARD CO., a corporation, 57 Freeman St., Newark, NJ 07105. Transferor: DOMENICK LIGUORI TRUCKING, INC., 515-517 Jefferson St., Hoboken, NJ 07030. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificates MC-96493 and MC-96493 (Sub-No. 1), issued May 8, 1963 and July 18, 1966, respectively, as follows: *Rags, waste cotton, waste paper, and machinery, materials and supplies* for the manufacture of paper, from New York, NY, to Bogota, Garwood, Rutherford, Little Ferry, Elizabethport, New Brunswick, Newark, Clifton, Perth Amboy, Hillside, Old Bridge, Parlin, East Rutherford, Manville, Elizabeth, Jersey City, and Hoboken, NJ, and Piermont, NY; and from Jersey City and Hoboken, NJ, to Piermont, NY. *Paper and paper products,* between New York, NY, and Hoboken, NJ, on the one hand, and, on the other, points in NJ and NY within 50 miles of Hoboken, NJ, and those in NJ and NY within 50 miles of New York, NY. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78178, filed June 6, 1979. Transferee: JOSEPH HEENAN, JR., 76 Main St., Tidioute, PA 16351. Transferor: JOSEPH HEENAN, d.b.a. HEENAN TRUCKING COMPANY, 9 Second St., Tidioute, PA 16351. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Authority sought for the purchase by transferee of the operating rights of transferor in Permit No. MC 128930, issued June 17, 1968, authorizing structural steel, from Lackawanna, NY, Sparrows Point, MD, Cleveland, OH, and Weirton, WV, to Corry, PA; steel trusses, steel weldments, and steel girders, from Corry, PA, to points in NY, OH, WV, IN, and IL, under constract with Rogers Structural Steel Co., of Corry, PA. Transferee holds no authority from the Commission. Temporary lease authority is not sought.

Authority sought for purchase by SKYLINE MOVERS, INC., 2330 W. Horner Avenue, Park Forest South, IL 20466, of a portion of the operating rights of FOUR WINDS VAN LINES, INC., 7035 Convoy Court, San Diego, CA 92138. Operating rights sought to be purchased: *Household Goods,* as defined by the Commission, between points in IL, on the one hand, and, on the other, CT, PA, NJ, NY, OH, MO, IN, MI, NC, MD, VA, WV, WI, RI, and DC, as described in Certificate MC-15643. Vendee holds no Interstate Commerce Commission authority. Application has been filed for temporary authority under Section 210a(b). Representatives: R. J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036; and D. James Bader, 3612 W. Lincoln Highway, Olympia Field, IL 60461.

MC-FC-78187, filed May 29, 1979. Transferee: C AND W HORSE TRANSPORTATION, INC., 233 Pond Street, Franklin, MA 02038. Transferor: LOWDER'S HORSE TRANSPORT, INC., 801 Atlanta Street, Roswell, GA 30075. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought for purchase by transferee of operating rights of transferor as set forth in Certificate No. MC 136271 (Sub 2) issued August 26, 1975, authorizing the transportation of *horses,* other than ordinary horses, and, in the same vehicle therewith, mascots, personal effects of attendants, and supplies and equipment used in the care, maintenance, and exhibition of such horses, (1) between points in AL, AR, FL, GA, LA, KY, MS, NC, SD, and TN; and (2) between points in the states named in (1) above, on the one hand, and, on the other, points in IL, IN, MI, MO, OH, TX, VA, and WV. Application has been filed for temporary authority under 49 U.S.C. 11349. Transferee holds authority from the Commission under docket number MC 141775, and has filed a directly related gateway elimination application.

MC-FC-78195, filed May 6, 1979. Transferee: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Transferor: LYNDEN TRANSPORT, INC., P.O. Box 433, Lynden, WA 98264. Representative: J. Albert Sebald, 1700 Western Federal Bldg., Denver, CO 80202. Authority sought for purchase by transferee of operating rights of transferor in Permit No. MC 136438 Sub-1, authorizing liquid concrete admixtures, in bulk, in tank vehicles, from Seattle, WA, to points in OR, ID, MT, and a portion of CA, under contract with Master Builders Division of Martin-Marietta Corporation. Transferee holds authority from the Commission under docket number MC 111434. An application for temporary lease has not been filed.

MC-FC-78201, filed June 11, 1979. Transferee: JOHN CHRABOLOWSKI MOVING & STORAGE CO., INC., 136 McDonald St., Hempstead, NY 11550. Transferor: O'KEEFE MOVERS, INC., 200 Miller Place, Hicksville, NY 11801. Representative: Richard M. Gates, 100 Merrick Road, Rockville Centre, NY 11570. Authority sought for purchase by transferee of operating rights held by transferor in Certificate NO. MC 93463, authorizing transporation of household goods as defined by the Commission, between New York, NY, and points on Long Island, NY, on the one hand, and, on the other, points in NJ, NY, CT, RI, and MA, and those in that part of PA on and east of U.S. Highway 15; and between New York, NY, on the one hand, and, on the other, points in MD, VA, NC, and DC. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC-FC-78204, filed June 22, 1979. Transferee: WEST AMERICAN TRANSPORT, INC., 1260 West North Temple, Salt Lake City, UT 84116. Transferor: COMET TRUCKING, INC., 295 East 4th North, American Fork, UT 84003. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. Authority sought for the purchase by transferee of transferor's operating rights in Permit No. MC-135344 (Sub-2). issued September 13, 1972, as follows: Cast iron and steel furnace retorts, and cast iron and steel furnace components, parts and fittings, from Salt Lake City, UT, to points in the United States (except Alaska, Hawaii, and Utah), under contract with Envirotech Systems, Inc., of Brisbane, CA. Transferee holds no authority from the Commission. An application for temporary lease authority has been filed.

MC-FC-78206, filed June 22, 1970. Transferee: DONALD W. SHEA, d.b.a. SHEA'S TRANSFER, 569 State St., Meadville, PA 16335. Transferor: DONALD J. SHEA and STANLEY J. SHEA, a Partnership, d.b.a. SHEA'S TRANSFER, same address as transferee. Representative: James K. McNamara, 1400 Baldwin Bldg., Erie, PA 16501. Authority sought for purchase by transferee of the transferor's operating rights in Certificate No. MC 5520, issued July 10, 1969, authorizing household goods, between Meadville, PA, on the one hand, and, on the other, points in OH, NY, and WV. Transferee holds no authority from the Commission. A temporary authority application has not been filed.

MC-FC-78210, filed June 20, 1979. Transferee: S & M HEAVY HAULING, INC., 1270 Main Street, Box 354, Chatham, MA 02633. Transferor: MARK PRODUCTS & SERVICES, INC., 1270 Main Street, Box 354, Chatham, MA 02633. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 146705 as follows: *Such commodities* as require special equipment by reason of size or weight, between points in a defined area in MA, on the one hand, and, on the other, points in RI, CT and defined areas in NY, NH and VT. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 USC 11349.

MC-FC-78212, filed July 6, 1979. Transferee: JOHN W. WEYER, d.b.a. CLEAR LAKE STOCK & FREIGHT, Route 1, Clear Lake, WI 54005. Transferor: BURTIS H. ROSEN, Clear Lake, WI 54005. Authority sought for purchase by transferee of operating rights held by transferor in Certificate No. MC 39783 Sub 3, issued July 22, 1963, as follows: general commodities, with exceptions, between points in the Towns of Lincoln, Black Brook, Clear Lake, and Clayton, Polk County, WI, Forest, St. Croix County, WI, and Vance Creek, Barron County, WI, on the one hand, and, on the other, South St. Paul, St. Paul, and Minneapolis, MN; livestock, from points in Forest Township, St. Croix County, WI, and points within ten miles thereof, to South St. Paul, MN; and barn equipment, building materials, dairy feeds, farm machinery, furniture, household goods, pipe, tile and washing machines, from Minneapolis, St. Paul, and South St. Paul, MN, to points in Forest Township, St. Croix County, WI, and points within ten miles thereof. Transferee holds no authority from this Commission. An application for temporary lease authority has not been filed.

MC-FC-78214, filed July 5, 1979. Transferee: FIRST SERVICE DRIVEAWAY, INC., 127 South Cornell Circle, Fort Wayne, IN 46007. Transferor: AMERICAN INTERNATIONAL DRIVE-AWAY, 677 Ala Moana Blvd., Suite 1012, Honolulu, HI 96813. Representatives: Constance J. Goodwin, Suite 800, Circle Tower Bldg., Indianapolis, IN 46204. Anthony E. Young, 29 S. LaSalle St., Chicago, IL 60603. Authority sought for purchase by transferee of operating rights of transferor in Certificate No. MC 129615 Sub 7, issued August 31, 1972, authorizing transportation of motor homes, in driveaway service, between Decatur and Elkhart, IN, on the one hand, and, on the other, points in the United States (except CA and HI). Transferee holds no authority from the Commission. An application for temporary lease authority had been filed.

MC-FC-78221, filed June 29, 1979. Transferee: FIELD VIEW FARM TRANSPORTATION, INC., 707 Derby Ave., Orange, CT 06477; Transferor: THE MALCO TRUCKING COMPNAY, same address as Transferee. Representative: William J. Meuser, 86 Cherry St., P.O. Box 507, Milford, CT 06460. Authority sought for purchase by transferee of authority held by transferor in Certificate No. MC 14708, issued October 23, 1952, as follows: paper and paper boxes, from New Haven, CT, to New York, NY, and Newark, and Jersey City, NJ; lumber, from West Haven, CT, to New York, NY; scrap metals, from Hamden, New Haven and Bridgeport, CT, to New York, NY, and Jersey City, Carteret, and Perth Amboy, NJ; shirts, from New Haven, CT, to New York, NY; and cut-piece goods, shirt materials, and groceries, from New York, NY, to New Haven, CT. Transferee holds authority from the Commission under docket number MC 140000. An application for temporary lease authority has not been filed.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket T 9339, filed July 6, 1979. Applicant: DIANE BEREZA, d.b.a. NORTHEASTERN MOBILE HOME SPECIALTIES, R.D. 6, Route 50, Saratoga Springs, NY 12866. Certificate of public Convenience and Necessity sought to operate a freight service as follows: Transportation of: Mobile homes and modulars, between the Counties of Albany, Fulton, Montgomery, Rensselaer, Schenectady, Warren, Saratoga, Washington, Schoharie and all points in the State. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to S. G. Ducker, Department of Transportation, 1220

Washington Ave., State Campus, Building #4, Room G–21 Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket MC 3279 (Sub-4), filed June 11, 1979. Applicant: LEWISBURG TRANSFER COMPANY, INC., 1045 Verona Rd., Lewisburg, TN. Representative: JEAN NELSON BECKNER and VAL SANFORD, P.O. Box 2757, Nashville, TN 37219. Certificate of public Convenience and Necessity sought to operate a freight service as follows: Transportation of: *General commodities*, except household goods, Classes A and B explosives, commodities in bulk, and those articles which because of their size, weight or shape require special handling or equipment, from Nashville, TN, to Jackson, TN, over Interstate Hwy 40 and return over the same route, serving no intermediate points; with an alternate route for operating convenience only from Nashville, TN, to Jackson, TN, over U.S. Hwy 70 and return over the same route, serving no intermediate points; to be used in conjunction with applicant's existing authority. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1–110 Cordell Hull Building, Nashville, TN, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket MC 4777 (Sub-7), filed July 2, 1979. Applicant: AVERITT EXPRESS, INC., P.O. Box 273, Livingston, TN 38570. Representative: ROBERT L. BAKER, 618 United American Bank Building, Nashville, TN 37219. Certificate of public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* (except Classes A and B explosives, used household goods, commodities in bulk, and those requiring special equipment) as follows: (1) Between Knoxville and Chattanooga, TN. From Knoxville over I–75 to Chattanooga and return over the same route serving all intermediate points in Knox and Loudon Counties and serving all other points in Blount, Knox and Loudon Counties as off-route points. *Restriction:* Service at Chattanooga is restricted against the transportation of shipments originating at, destined to or interlined at Nashville, TN and its commercial zone. (2) Between Knoxville and Oneida, TN. From Knoxville over TN Hwy. 62 to junction with U.S. Hwy. 27, then over U.S. Hwy. 27 to Oneida and return over the same route, serving all intermediate points and serving all other points in Anderson, Morgan and Scott Counties as off-route points. (3) Between Knoxville and Harriman, TN. From Knoxville over I–40 to junction with U.S. Hwy. 27, then over U.S. Hwy. 27 to Harriman and return over the same route, serving all intermediate points and serving all other points in Roane County as off-route points. (4) Between Cookeville and Baxter, TN. From Cookeville over I–40 or U.S. Hwy. 70N to junction with TN Hwy. 56, then over TN Hwy. 56 to Baxter and return over the same route, serving all intermediate points. (5) Between Knoxville and Sevierville, TN. From Knoxville over U.S. Hwy. 441 to Sevierville and return over the same route, serving all intermediate points. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1–110 Cordell Hull Building, Nashville, TN, and should not be directed to the Interstate Commerce Commission.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 7, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 2228 (Deviation No. 6), MERCHANTS FAST MOTOR LINES, INC., P.O. Drawer 5, Abilene, TX 79604, filed July 12, 1979. Carrier's representative: Jerry Prestridge, Capitol National Bank Bldg., P.O. Box 1148, Austin, TX 78767. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Freeport, TX, over TX Hwy. 36 to Brenham, TX, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Freeport, TX, over TX Hwy. 288 to Houston, TX, then over U.S. Hwy 290 to Brenham, TX, and return over the same route.

MC 29555 (Deviation No. 34), BRIGGS TRANSPORTATION CO., North 400 Griggs-Midway Bldg., St. Paul, MN 55104, filed July 17, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Galesburg, IL, over Interstate Hwy 74 to Junction Interstate Hwy 80, then over Interstate Hwy 80 to Junction U.S. Hwy 51, then over U.S. Hwy 51 to Rockford, IL, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Galesburg, IL, over U.S. Hwy 34 to Chicago, IL, then over U.S. Hwy 20 to Rockford, IL, and return over the same route.

MC 11220 (Deviation No. 46), GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101, filed July 13, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Gadsden, AL, over U.S. Hwy. 431 to junction Interstate Hwy. 20 near Oxford, AL, then over Interstate Hwy. 20 to Atlanta, GA, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Gadsden, AL, over U.S. Hwy. 278 to Atlanta, GA, and return over the same route.

MC 109821 (Deviation No. 1), TAYNTON FREIGHT SYSTEM, INC., 40 Main St., Issaquah, WA 98027, filed June 6, 1979, as amended. Applicants representative: Michael Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over deviation routes as follows: (1) from Syracuse, NY, over Interstate Hwy. 81 to junction Interstate Hwy. 83 then over Interstate Hwy. 83 to junction Interstate Hwy. 695, then over Interstate Hwy. 695, to Baltimore, MD, and (2) from Syracuse, NY, over Interstate Hwy. 81 to junction New York Hwy. 13, then over New York Hwy. 13 to junction New York Hwy. 14, then over New York Hwy. 14 to junction Pennsylvania Hwy. 14, then over Pennsyvania Hwy. 14 to junction U.S. Hwy. 15, then over U.S. Hwy. 15 to junction Interstate Hwy. 83, then over Interstate Hwy. 83 to junction Interstate Hwy. 695, then over Interstate Hwy. 695 to Baltimore, MD, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Syracuse, NY, over Interstate Hwy. 81 to junction northeast extension of the Pennsylvania Turnpike, then over the northeast extension of the Pennsylvania Turnpike to Norristown, PA, then over U.S. Hwy. 202 to junction U.S. Hwy. 30, then over U.S. Hwy. 30 to Coatesville, PA, then over Pennsylvania Hwy. 82 to junction unnumbered Hwy., then over unnumbered Hwy. to junction Pennsylvania Hwy. 10, near Cochranville, PA, then over Pennsylvania Hwy. 10 to Oxford, PA, then over U.S. Hwy. 1 to junction unnumbered Hwy., then over unnumbered Hwy. to the Pennsylvania-Maryland State line, then continue over unnumbered Hwy. to junction Maryland Hwy. 273, then over Maryland Hwy. 273 to junction U.S. Hwy. 1, then over U.S. Hwy. 1 to Washington, DC, and return over the same route. Restriction: The operations authorized herein are restricted against local service on U.S. Hwy. 1 between Baltimore, MD, and Washington, DC, including the named points.

MC 111231 (Deviation No. 68), JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764, filed July 12, 1979. Carrier's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Dallas, TX, over Interstate Hwy. 20 to Minden, LA, then over U.S. Hwy. 79 to Homer, LA, then over LA Hwy. 9 to junction U.S. Hwy. 167, then over U.S. Hwy. 167 to El Dorado, AR, and return over the same route, for operating convenience only. The notice indicates the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Dallas, TX, over U.S. Hwy. 67 to junction Interstate Hwy. 30, then over Interstate Hwy. 30 to Texarkana, AR, then over U.S. Hwy. 82 to El Dorado, AR, and return over the same route.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

Date

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 20, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 107002 (Sub-E238) (correction), filed May 20, 1974, published in the **Federal Register** of May 12, 1978. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Petroleum products*, in bulk, in tank vehicles, from Jacksonville, FL, to points in AR (Jackson County, MS, and Cripp and Rogerslacy, MS*) LA (Jackson County, MS and Vicksburg, MS*) OK (Jackson and Washington Counties MS*) TX (Jackson County, MS*), those in MS on, south and west of a line beginning at the AL–MS State line, and extending along MS Hwy 19 to junction MS Hwy 15, then along MS Hwy 15 to junction MS Hwy 9, then along MS Hwy 9 to junction MS Hwy 7, then along MS Hwy 7 to the MS–TN State line (Jackson County, MS*), those in MO on, west and south of a line beginning at the AR–MS State line, and extending along US Hwy 67 to junction US Hwy 60, then along US Hwy 60 to junction MO Hwy 34, then along MO Hwy 34 to junction MO Hwy 21, then along MO Hwy 21 to junction MO Hwy 49, then along MO Hwy 49 to junction MO Hwy 19, then along MO Hwy 19 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction US Hwy 54, then along US Hwy 54 to junction MO Hwy 22, then along MO Hwy 22 to junction US Hwy 63, then along US Hwy 63 to the IA–MO State line, to those in Choctaw, Mobile, and Washington Counties, AL, and those in Shelby County, TN (Jackson County, MS, and points in MS within the Memphis, TN Commercial zone I) those in Choctaw, Mobile, and Washington Counties, AK (Jackson and Union Counties, MS, and the site of the pipeline terminal of OK MS River Products Co., Inc. near West Memphis, AR*); petroleum products, in bulk, in tank vehicles, from Lynn Haven, FL, to points in AR, LA, MS, MO, OK, TX and those in TN on and west of a line beginning at the MS–TN State line, and extending along US Hwy 72 to junction TN Hwy 57, then along TN Hwy 57 to Collerville, then along unnumbered highway to Arlington, then along US Hwy 79 to Brownsville, then along TN Hwy 19 to Ripley, and then along US Hwy 51 to the TN–KY State line, restricted to the transportation of petroleum products described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 to points in AR, TN, and OK and restricted against the transportation of asphalt, points in OK and dry chemicals to points in TX (Jackson County, MS*). (Gateways eliminated: asterisk) Purpose of republication—clarify subnumber.

MC 107002 (Sub-E278) (correction) filed May 12, 1974, published in the **Federal Register** of August 26, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Liquified petroleum gas*, in bulk, in tank vehicles, from Delhi, LA, to points in AL, GA, KY, MI, points in AR on and north of a line beginning at the AR–OK State line extending along U.S. Hwy 270 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction U.S. Hwy 49, then along U.S. Hwy 49 to the AR–MS State line, and points in MS east and north of a line beginning at the MS–TN State line extending along U.S. Hwy 61 to junction U.S. Hwy 49, then along U.S. Hwy 49 to junction U.S. Hwy 49E, then along U.S. Hwy 49E to junction U.S. Hwy 82, then along U.S. Hwy 82 to the MS–AL State line. (Gateways eliminated: points in FL, IL, IN, MO, OH, IA, WI, NC, SC, TN, Vicksburg and Hathiesburg, MS, points in AR within the Memphis, TN Commercial Zone, Barfield AR, and points within 10 miles thereof, and Fox, AK). Purpose of republication—reflect MI as a destination State.

MC 107002 (Sub-E279) (correction) filed May 12, 1974, published in the

Federal Register of August 28, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth. *Vegetable oil,* in bulk, in tank vehicles, from points in MS on, east and south of a line beginning at the TN–MS State line extending along U.S. Hwy 51 to junction I Hwy 20, then along I Hwy 20 to the MS–LA State line, to points in AR in . north and east of a line beginning at the TN–AR State line extending along I Hwy 55 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction AR Hwy 17, then along AR Hwy 17 to junction AR Hwy 14, then along AR Hwy 14 to junction AR Hwy 125, then along AR Hwy 125 to the AR–MO State line, (Gateway eliminated. Memphis, TN). Purpose of republication—clarify MS territory.

MC 107002 (Sub-E292) filed June 13, 1975 published in the Federal Register of September 4, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. BOX 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Chemicals* (except petrochemicals and dry fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Decatur, AL, to points in KS, MO and WI, restricted against the transportation of dry chemicals to the St. Louis, MO, Commercial Zone. (Gateway eliminated—points in TN within 10 miles of Barfield, AR). Purpose of republication— reflect the restriction.

MC 107002 (Sub-E327) (Correction) filed May 12, 1974, published in the Federal Register of September 4, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's Representative: John J. Barth (same as above). *Petroleum products,* as defined by the Commission, in bulk, in tank vehicles, from Memphis, TN, to points in NC, SC, FL, LA, and points in TX in end south of a line beginning at the LA–TX State line extending along TX Hwy 21 to junction TX Hwy 7, then along TX Hwy 7 to junction US Hwy 79, then along US Hwy 79 to junction TX Hwy 95, then along TX Hwy 95 to junction TX Hwy 29, then along TX Hwy 29 to junction I Hwy 10, then along I Hwy 10– to the TX–NM State line, restricted to the transportation of petroleum products as defined by the Commission on movements from the facilities of the Oklahoma-Mississippi River Products, Inc., at West Memphis, to points in NC, SC, and FL. (Gateways eliminated: Tuscaloosa, AL or Mobile, AL, or Vicksburg, MS, or Natchez MS). Pupose of republication clarify authority and to cancel (283 as duplicative).

MC 107002 (Sub-E340) (Correction) filed May 24, 1974, published in the Federal Register of September 18, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Petroleum products,* as described by the Commission, in bulk, in tank vehicles, from points in Pike County, MS, to points in AR (except points in Little Rock, Miller, Lafayette, Hempstead, Nevada, Columbia, Ovachita, Calhaun, Union, Bradley, Drew, Ashley, Desha, and Chicot Counties) (Crupp, MS*), IL, IN, KY, OH, OK, VA and WV (Washington County, MS*) and points in TN (Tuscaloosa, AL or Friars Point, MS and the pipeline facilities of Oklahoma-Mississippi River Products Line, Inc., at West Memphis, TNM* (m restricted against the transportation of liquified petroleum gases to AR and against the transportation of asphalt and liquified petroleum gases to IL, IN, KY, OH, OK, VA, and WV; and to points in NC, SC, (Tuscaloosa, AL*), TX (Vidalia, LA-Natchez, MS Commercial Zone*) and GA Tuscalosa or Mobile, AL*). (Gateways eliminated: indicated by asterisks) Purpose of republication—clarify restriction.

MC 107002 (Sub-E349) filed May 14, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Chemicals,* in bulk, in tank vehicles from Harrison and Jackson Counties, MS, to points in Sullivan, Washington, Carter, Johnson, Unici, Hawkins, Greene, and Hamblen Counties, TN (Gateway eliminated-Mobile, AL).

MC 107002 (Sub-E350) (correction) filed May 20, 1974, published in the Federal Register of September 4, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Repellents, insecticides, and ingredients* repellent and insecticides, in bulk, in tank vehicles, from Clarksdale, Cleveland, and Marks, MS, to points in IL, IN, IA, KS, KY, MI, MO, OH, and WI. (Gateway eliminated: Blytheville, AR). Purpose of republication clarify sub-number.

MC 107002 (Sub-E352) (correction) filed May 12, 1974, published in the Federal Register of August 26, 1975. Applicant: MILLER TRANSPORTER, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). (1) *Petroleum products,* in bulk in tank vehicles, from Jacksonville, FL, to points in AR (Jackson County, MS, and Cripp and Rogerslacy MS *); LA (Jackson County, MS, and Vicksburg, MS *); OK (Jackson and Washington Counties, MS *); TX (Jackson County, MS *) points in MS on, south and west of a line beginning at the AL-MS State line extending along MS Hwy 19 to junction MS Hwy 15, then along MS Hwy 15 to junction MS Hwy 9, then along MS Hwy 9 to junction MS Hwy 7, then along MS Hwy 7 to the MS-TN (Jackson County, MS *); points in MO on, west and south of a line beginning at the AR-MO State line extending along U.S. Hwy 67 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction MO Hwy 34, then along MO Hwy 34 to junction MO Hwy 21, then along MO Hwy 21 to junction MO Hwy 49, then along MO Hwy 49 to junction MO Hwy 19, then along MO Hwy 19 to junction I Hwy 70, then along I Hwy 70 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction MO Hwy 22, then along MO Hwy 22 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the IA-MO State line, and points in Chactaw, Mobile and Washington Counties, AL, and Shelby County, TN (Jackson County, MS, and points in MS within the Memphis, IN, commercial zone or the pipeline facilities of Oklahoma-Mississippi River Products Co., Inc. at West Memphis, AR *); and (2) *petroleum products* in bulk, in tank vehicles, from Lynn Haven, FL, to points in AR, LA, MS, MO, OK, TX, points in TN on and west of a line beginning at the MS-IN State line extending along U.S. Hwy 72 to junction TN Hwy 57, then along TN Hwy 57 to Collierville, then along unnumbered highway to Arlington, then along U.S. Hwy 79 to Brownsville, then along TN. Hwy 19 to Riply, than along U.S. Hwy 51 to the TN-Ky State line (Jackson County, MS *). Restricted: to the transportation of petroleum products as described in Appendix XIII to the report in *Description in Motor Carrier Certificates,* 61 M.C.C. 209 to points in AR, TN, and OK and restricted against the transportation of asphalt and liquificate petroleum gases to points in OK, dry chemicals to points in TX, and liquified petroleum gases to points in AR, (Gateways eliminated: indicated by astericks). Purpose of republication clarify sub number.

MC 107403 (Sub-E730) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid petroleum products,* (except petrochemicals), in bulk in tank vehicles, from points in WV within 150 miles on Monongahela, PA, to points in CO, WY, and points in NE on and west of U.S. Hwy. 83 (Chicago, IL),

points in NV, OK, WA, AZ, CA and ID (St. Louis, MO*). (Gateways eliminated: asterisked.)

MC 107403 (Sub-E727) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals,* as described in *The Maxwell Co., Extension—Addyston,* 63 M.C.C. 677, in bulk, in tank vehicles, from points in OH within 150 miles of Monongahela, PA, to points in MT, NM, and UT. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E728) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals,* in bulk, in tank vehicles, from points in OH to points in CO and WY. (Gateways eliminated: Dover, OH, and Chicago, IL.)

MC 107403 (Sub-E729) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Dry plastics,* synthetic, in bulk, in tank or hopper-type vehicles, from Delaware City, DE, to points in NC, UT, NM, CO, and ID. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E730) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Dry plastics,* synthetic, in bulk, in tank or hopper-type vehicles, from Delaware City, DE, to points in MT, WA, OK, and CA. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E731) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals,* as defined in *The Maxwell Co., Extension-Addepton,* 63 M.CX.C. 677, in bulk, in tank vehicles, from Hopewell, VA, to points in CO and WY. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E732) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals,* as defined in *The Maxwell Co., Extension—Addyston,* 63 M.C.C. 677, in bulk, in tank vehicles, from Hopewell, VA, to points in ID, NV, and OK. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E733) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals,* as defined in *The Maxwell Co., Extension—Addepton,* 63 M.C.C. 677, in bulk, in tank vehicles, from Hopewell, VA, to points in AZ, CA, and WA. (Gateway eliminated: St. Louis, MD.)

MC 107403 (Sub-E734) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Petroleum products* (except petrochemicals), in bulk, in tank vehicles, from Boston, MA, to points in CO, WY, and points in NE on and west of U.S. Hwy. 83. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E735) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Dry chemicals,* in bulk, in tank vehicles, from Carneys Point, Deepwater, Gibbsbaro, NJ, and points in NJ north of NJ Hwy 33 to points in MT, WA, OK, CA, NC, UT, NM, CO, and ID. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E736) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Dry chemicals,* in bulk, from Springfield, MA, to points in NV, UT, NM, CO, ID, MT, WA, OK and CA. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E737) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Dry chemicals,* in bulk, in tank vehicles, from Salvay and Niagara Falls, NY, to points in MT, WA, OK, CA, NV, UT, NM, CO, and ID. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E738) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Petroleum and petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 299, (except petrochemicals) in bulk, in tank vehicles, from Claymont and Delaware City, DE, to points in CO, WY, and points in NE on and west of U.S. Hwy 83. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E739) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid petroleum products* (except petrochemicals) in bulk, in tank vehicles, from points in MD to points in AZ, CA, ID, NV, OK and WA (Congo, WV, and St. Louis, MO*) and points in CO, WY and points in NE on and west of U.S. Hwy 83 (Congo, WV, and Chicago, IL*). (Gateways eliminated: asterisked.)

MC 107403 (Sub-E740) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Petroleum products* (except petrochemicals), in bulk, in tank vehicles, from points in NY to points in AZ, CA, ID, NV, OK and WA (St. Louis, MO*) and CO, WY and points in NE on and west of U.S. Hwy 83 (Chicago, IL*.) (Gateways eliminated: asterisked.)

MC 107403 (Sub-E741), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Petroleum products,* in bulk, in tank vehicles, from Paulsboro, Pettys Island, Eagle Point, Bayonne, Carteret, Jersey City, Linden, Camden, Edgewater, Dundee, Bayway, NJ, and points in NJ on and east of U.S. Hwy 1 and north of the Raritan River to points in CO, WY and points in NE on and west of U.S. Hwy 83. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E742), filed March 22, 1979. Applicant: MATLACK, INC., 10 W Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid petroleum products,* in bulk, in tank vehicles, from Paulsboro, Pettys Island, Eagle Point, Bayonne, Carteret, Jersey City, Linden, Camden, Edgewater, Dundee, Bayway, NJ and points in NJ on and east of U.S. Hwy 1 and north of the Raritan River, to points in AZ, CA, and ID. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E743), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid petroleum products,* in bulk, in tank vehicles, from Paulsboro, Pettys Island, Eagle Point, Bayonne, Carteret, NJ, and points in NJ on and east of U.S. Hwy 1 and north of the Raritan River to points in NC, WA and OK. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E744), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid petroleum products* (except petrochemicals), in bulk, in tank vehicles, from points in PA and OH to points in CO, WY, and points in NE on and west of U.S. Hwy 83 (Congo, WV, and Chicago, IL), points in NV, WA, OK, AZ, CA and ID (Congo, WV, and St. Louis, MO*). (Gateways eliminated: asterisked.)

MC 107403 (Sub-E745), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals,* in bulk, in tank vehicles, from Ashland, KY, to points in AZ, CA, ID, NV, OK, and WA (St. Louis, MO), and points in CO and WY (Chicago, IL). Gateways eliminated: asterisked.)

MC 113855 (Sub-E135), filed May 30, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., SE., Rochester, Minn. 55901. Representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. (A) *Heavy machinery* and *other contractor's materials, supplies, and equipment* which because of size or weight require the use of special equipment, and *self-propelled articles* each weighing 14,000 pounds or more and *related machinery, tools, parts and supplies* moving in connection therewith (restricted to commodities transported on trailers) and (B) *commodities* the transportation of which because of their size and weight require the use of special equipment, and *related machinery, parts* and *related contractors' materials and supplies* when incidental to the transportation of commodities which because of their size or weight require special equipment and *self-propelled articles,* each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted *to* commodities transported on trailers) from points in ND on and east of ND Hwy 1 to points in AZ. (Gateway eliminated: Des Moines, IA.)

MC 113855 (Sub-E150) filed May 30, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., S.E., Rochester, Minn. 55901. Representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. (1)(a) *New construction, road-building earth-moving, excavating, loading, maintenance, logging, and mining machinery and equipment, tractors* (excluding truck-tractors), and *pipelayers* and (b) *generators, internal combustion engines, and generators and engines combined* when moving in combination loads on the same vehicles from the same consignor or consignors of the commodities in (1)(a) (expect aircraft and missile engines), and (c) *attachments accessories, and parts* the transportation of which because of their size or weight require the use of special equipment, and (2) *self-propelled* articles described in (1) above not requiring special equipment for their transportation, each weighing 15,000 pounds or more and *related machinery and parts* moving in connection therewith (restricted *to* commodities transported on trailers, and further restricted *against* the transportation of iron and steel articles) from Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazelton, PA, and mines in that part of PA on, south and west of a line beginning at the PA & OH State line extending along U.S. Hwy 224 to junction U.S. Hwy 422, then along U.S. Hwy 422 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction unnumbered highway near Portersville, then along unnumbered highway through prospect junction U.S. Hwy 422, then along U.S. Hwy 422 to Ebensberg, then along U.S. Hwy 22 the junction U.S. Hwy 522, then along U.S. Hwy 522 to junction PA Hwy 641 then along PA Hwy 641 to junction PA Hwy 997, then along PA Hwy 997 to the PA–MD State line, to points in AZ. (Gateway eliminated. Elgin, IL)

MC 119777 (Sub-E88) (correction), filed April 23, 1974, published in the **Federal Register** July 10, 1975, republished September 29, 1975. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: Jim Barnett (same as above). *Lumber . . .* (55)(e)(ii) Between points in CO on, south and west of a line beginning at the CO–UT State line extending along U.S. Hwy 666 to junction U.S. Hwy 160, then along U.S. Hwy 160 to junction U.S. Hwy 550, then along U.S. Hwy 550 to the CO–NM State line, on the one hand, and, on the other, points in WI on and east of a line beginning at the WI–MI State line extending along U.S. Hwy 45 to junction WI Hwy 70, then along WI Hwy 70 to junction WI Hwy 17, then along WI Hwy 17 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction U.S. Hwy 23, then along WI Hwy 12 to junction WI Hwy 78, then along WI Hwy 78 to junction WI Hwy 92, then along WI Hwy 92 to junction WI Hwy 69, then along WI Hwy 69 to the IL–WI State line; (58)(d) Between points in FL on and west of a line beginning at the AL–FL State line extending along U.S. Hwy 231 to Panama City, on the one hand, and, on the other, points in NY on, north and west of a line beginning at the NY–PA State line extending along NY Hwy 305 to junction NY Hwy 17, then along NY Hwy 17 to junction NY Hwy 21, then along NY Hwy 21 to junction NY Hwy 36, then along NY Hwy 36 to junction NY Hwy 70, then along NY Hwy 70 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction NY Hwy 361, then along NY Hwy 371 to junction NY Hwy 245, . . . (61)(h)(i) between points in IL on and south of a line beginning at the MO–IL State line extending along U.S. Hwy 67 to junction IL Hwy 140, then along IL Hwy 140 to junction IL Hwy 4, then along IL Hwy 4 . . . (61)(n)(ii) Between points in IL on and east of a line commencing at the IL–WI State line extending along Hwy 2 to junction of U.S. Hwy 51, then along U.S. Hwy 51 to junction of IL Hwy 29, then along IL Hwy 29 to junction of IL Hwy 89, then on IL Hwy 89 to junction of IL Hwy 116, then IL Hwy 116 to junction of Int. Hwy 74, then along Hwy 74 to junction IL Hwy 78, then along IL Hwy 78 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction IL Hwy 99, then along IL Hwy 99 to junction of IL Hwy 104, then along IL Hwy 104 to junction of IL Hwy 100 then along on IL Hwy 100 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the IL–MO State line, on the one hand, and, on the other, points in NV; (61)(r)(i) Between points in IL on south, and east of a line beginning at the IL–MO State line extending along U.S. Hwy 67 to junction IL Hwy 16, then along IL Hwy 16 to junction IL Hwy 4, then along IL Hwy 4 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction U.S. Business Route 66, then along U.S. Business Route 66 to junction U.S. Hwy 66, then along U.S. Hwy 66 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction IL Hwy 9, then along IL Hwy 9 to junction IL Hwy 54, then along IL Hwy 54 to junction U.S. Hwy 45, then along Hwy 45 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the IL–IA State line, on the one hand, and, on the other . . . (yl)(s)(iii) Between points in IL bounded on the north by a line commencing at the IL–IA State line extending along U.S. Hwy 34 to junction U.S. Hwy 34 to junction U.S. Hwy 150, then along U.S. Hwy 150 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction U.S. Hwy 36, then U.S. Hwy 36 to the IL–IN State line; and bounded on the east by the IL–IN State line; and bounded on the south by a line commencing at the IL–IN State line extending along U.S. Hwy 40 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction IL Hwy 127, then IL Hwy 127 to junction U.S. Hwy 460 then U.S. Hwy 460, then U.S. Hwy 460 to junction Hwy 4, then along IL Hwy 4 to junction IL Hwy 150, then along IL Hwy 150 to, and including Chester, IL and bounded on the west by the IL–MO State line, on the one hand, and, on the other, points in OH, on south and east of a line commencing at Sandusky, extending along Hwy 4 to junction of OH Hwy 47, then along OH Hwy 47 to the OH–IN State line; (66)(b) U.S. Hwy 315 should read LA Hwy 318. (Gateway eliminated Paris, IL). Purpose of correction to clarify territorial descriptions.

MC 119864 (Sub-E7) (correction) filed May 14, 1974, published in the **Federal Register** July 22, 1974, republished February 27, 1976. Applicant: CRAIG TRANPSORTATION CO., 26699 Eckel Road Avenue, Perrysburg, OH 43551. Representative: Dale K. Craig (same as above). *Metal containers* as are incidental to the production, packing, and sale of products and dairy products and by-products, . . . (7) from Chicago, Joliet, Freeport, and Marshall, IL, and points in IN, to points in NY and NJ. (Gateway eliminated: Rossfard, OH.) Purpose of republication clarify territory which was inadvertently omitted.

Note.—This application is republished to reflect the correct territorial description.

HG–15–79 (Special certificate—used household goods), filed July 2, 1979. Applicant: BONDED WAREHOUSES OF MONROE, INC., 705 Natchitoches St., P.O. Box 1357, West Monroe, LA 71291. Representative: John A. Wilhite, Vice President and Manager, Bonded Warehouses of Monroe, Inc., (address same as applicant). Authority sought: Between points in Adams, Amite, Franklin, Jefferson and Wilkerson Counties, MS, serving England Air Force Base, Alexandria, LA.

HG–16–79 (special certificate—used household goods), filed July 5, 1979. Applicant: TEXTILE WAREHOUSE CO., INC., 320 Arcadia Dr., Northwood Industrial Park, P.O. Box 3526, Greenville, SC 29608. Representative: Xavier M. Dugas, General Manager, Textile Warehouse Co., Inc. (address same as applicant). Authority sought: Between points in Greenville, Abbeville, Laurens, Union, Chester, York, Cherokee, Spartanburg, Anderson, Oconee, and Pickens Counties, SC; serving Ft. Jackson, SC.

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations [49 CFR 1056.40] promulgated in "Pack-and-Crate" operations in Ex Parte No. MC–115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before August 28, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register,** subject to its tariff publication effective date.

HG–12–79 (Special certificate—used household goods), filed April 25, 1979. Applicant: BOB'S TRANSFER, INC., Moorhead, Minnesota 56560. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, North Dakota 58108. Authority sought between points in MN and ND (except between points in Barnes, Stutsman, Cass, LaMoure, Ranson, Richland, Sargent,and Dickey Counties, ND, and Norman, Mahnomen, Clay, Becker, Wilkin, Otter Tail, Big Stone, Chippewa, Douglas, Grant, Lac Qui Parle, Pope, Stevens, Swift, Traverse, Yellow Medicine, Benton, Isanti, Kandiyohi, Meeker, McLeod, Sherburne, Stearns, Wright, Lincoln, Cottonwood, Lyon, Murray, Nobles, Pipestone, Redwood, Renville, Rock, Blue Earth, Brown, Faribault, Freeborn, Le Sueur, Nicollet, Rice, Sibley, Steele, Waseca, and Watonwan Counties, MN, on the one hand, and, on the other Moorhead, MN), serving Grand Forks Air Force Base, Grand Forks, ND, Duluth Air Force Base, Duluth, MN, Fort Snelling, St. Paul, MN, and Finley Radar Station, Finley, ND.

Office of Proceedings

Substitution Applications: Single-Line Service for Existing Joint-Line Service

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before September 7, 1979.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occured within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the Applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality

of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act.)

In the absence of legally sufficient petitions for intervention, filed on or before September 7, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Joyce, Jones, and Carlton.

MC 59488 (Sub-46F), filed April 2, 1979. Applicant: SOUTHWESTERN TRANSPORATION COMPANY, a corporation, 1766 El Camino Real, P.O. Box 990, Burlingame, CA 94010. Representative: Lloyd M. Roach, 7600 South Central Expressway, P.O. Box 226187, Dallas, TX 75266. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporating *general commodities* (except those of unusual value, classes A and B explosive, household good as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Shreveport, LA, and Myrtle Beach, SC, from Shreveport over Interstate Hwy 20 to Florence, SC, then over U.S. Hwy 76 to junction U.S. Hwy 501, then over U.S. Hwy 501 to Myrtle Beach, and return over the same route, (2) between Memphis, TN, and Greensboro, NC, over Interstate Hwy 40, (3) between Atlanta, GA, and Norfolk, VA, from Atlanta over Interstate Hwy 85 to junction Interestate Hwy 95, then over Interstate Hwy 95 to Richmond, VA, then over Interstate Hwy 64 to Norfolk, and return over the same route, (4) between Nashville, TN, and Savannah, GA, from Nashville over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 16, then over Interstate Hwy 16 to Savannah, and return over the same route, (5) between junction Interstate Hwys 85 and 95, at or near Petersburg, VA, and Savannah, GA, over Interstate Hwy 95, (6) between Nashville, TN, and Birmingham, AL, over Interstate Hwy 65, (7) between junction Interstate Hwys 26 and 40, and Charleston, NC, over Interstate Hwy 40, (8) between Durham and Smithfield, NC, from Durham over Interstate Hwy 40, to Raleigh, NC, then over U.S. Hwy 70 to Smithfield, and return over the same route, (9) between Knoxville, TN, and Birmingham, AL, over U.S. Hwy 11, and (10) between Charlotte and Wilmington, NC, over U.S. Hwy 74, serving all intermediate points on routes (1) through (10) above. (Hearing site: Dallas, TX, or Atlanta, GA.)

Note.—Dual operations may be involved. Applicant formerly conducted joint-line operations with Ryder Truck Lines, Inc. The sole purpose of this application is to substitute single-line for joint-line operations that have been terminated by Ryder Truck Lines, Inc.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24379 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 124—July 11, 1979

MC 200 (Sub-375TA), filed June 18, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Same as above. *Glass bottles,* serving the off-route point of Dunkirk (Jay County), IN, in connection with carrier's existing regular route service between Kingdom City, MO, and New York, NY, as set forth in MC-200 Route 63. Supporting shipper(s): Kerr Glass Manufacturing Corp., P.O. Box 91, Sand Springs, OK 74063. Send protests to: Vernon V. Coble, D/S, I.C.C., 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 720 (Sub-68TA), filed June 6, 1979. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman (same address as applicant). *Such commodities as are dealt in by wholesale, retail, chain grocery stores, food processing houses, drug stores, variety houses, manufacturers, converters and distributors of paper and paper products* from facilities of Dry Storage Corp. located in IL within the Chicago Commercial Zone to points in IN, MI, OH and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dry Storage Corp., 2005 W. 43rd St., Chicago, IL 60609. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm., 619, Milwaukee, WI 53202.

MC 730 (Sub-453TA), filed June 6, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge (same address as applicant). *JP4 (jet fuel) in bulk, in tank vehicles,* from Salina KS to Los Angeles, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mercury Refueling, Inc., 6851 West Imperial Highway, Los Angeles, CA 90045. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 4941 (Sub-48TA), filed May 24, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street Brockton, MA 02403. Representative: R. S. Callahan (same address as applicant). *Lubricating oils and greases; carbon, gum or sludge removing compounds; automotive filters, valves, and parts; fender covers; brake fluids and compressor oils; antifreeze and engine coolant preparations; cleaning, scouring, washing, buffing, or polishing compounds (except commodities in bulk)* from the facilities of STP Corporation, at Painesville, OH to Boston, Lowell, Worcester, MA, New York, NY, Philadelphia, PA, Providence, RI, and points in their respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): STP Corporation, 1400 West Commercial Boulevard, Fort Lauderdale, FL 33310. Send protests: John B. Thomas, DS, ICC, 150 Causeway Street, Boston, MA 02114.

MC 4941 (Sub-49TA), filed May 24, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello, St., Brockton, MA 02403. Representative: Russell S. Callahan (same as applicant). *Wollanstonite* (except in bulk) from the facilities of Interpace Corporation in Willsboro, NY to points in IL and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Interpace Corporation, Mountain View Drive, Willsboro, NY 12996. Send protest to: John B. Thomas, D/S, ICC., 150 Causeway St., Boston, MA 02114.

MC 4941 (Sub-50TA), filed June 21 1979. Applicant: QUINN FRIEGHT LINES INC., 1093 North Montello St., Brockton, MA 02403. Representative: R. S. Callahan (same address as applicant). *Common carrier:* Irregular routes: *paper and paper products* from the facilities of Union Camp Corporation at or near Franklin, VA to points in CT, ME, MA, NH, RI and VT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corporation, 1600 Valley Rd., Wayne, NJ 07470. Send protest to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 6031 (Sub-50TA), filed May 25, 1979. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 E. National Ave., Milwaukee, WI 53204. Representative: Wm. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract carrier;* irregular routes: *Fiberglas insulation and materials and supplies used in the installation of insulation,* from facilities of Central Glass Insulations, Inc. at Milwaukee, WI to points, in IL on and north of IL Hwy. 17 and points in IN within the Chicago, IL Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Glass Insulations, Inc., 5629 W. Wollworth Ave., Milwaukee, WI 53218. Send protest to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 12330 (Sub-6TA), filed May 8, 1979. Applicant: HARRIS TRANSPORTATION CO., 14880 Love's Lane, P.O. Box 1100, Victorville, CA 92392. Representative: R. Y. Schureman, Attorney-at-Law, 1545 Wilshire Boulevard, Los Angeles, CA 90017. *Common:* Irregular: *Crude, talc, in bulk,* from points in Inyo County, California to the Los Angeles, California Harbor Commercial Zone, as defined by the Commission, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Continental Minerals Corporation, 1700 E. Desert Inn Rd., Las Vegas, NV 89109. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 13070 (Sub-2TA), filed May 23, 1979. Applicant: GERALD LIPPOLD AND RODNEY ARNETT d.b.a. LIPPOLD & ARNETT, 1302 South Broad Street, Carlinville, IL 62626. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract Carrier:* irregular routes; *Beer;* from St. Louis, MO to Benld, IL for the account of Hebenstreit Distributing for 180 days. Supporting shipper(s): Hebenstreit Distributing, 103 North Second Street, Benld, IL 62626. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Chicago, IL 60604.

MC 19201 (Sub-135TA), filed June 15, 1979. Applicant: PENNSYLVANIA TRUCK LINES, INC., 49th St. and Parkside Ave., Phila., PA 19131. Representative: S. Berne Smith & Robert H. Griswold, P.O. Box 1166, 100 Pine St., Harrisburg, PA 17108. *General commodities (except household goods in use as defined by the Commission, commodities of unusual value, Classes A and B explosives, commodities in bulk, and commodities which because of size or weight require special equipment),* between the facilities of World Color Press, Inc., at or near Salem and Mt. Vernon, IL, on the one hand, and, on the other, pts. in Indianapolis, IN and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Restricted to shipments having a prior or subsequent movement via rail service. Supporting shipper(s): World Color Press, Inc., P.O. Box 1248, Effingham, IL 62401. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 24060 (Sub-2TA), filed May 23, 1979. Applicant: MAHALLY TRUCKING SERVICE, Rear 289 New Grant Street, P.O. Box 1294, Wilkes-Barre, PA 18703. Representative: John W. Frame, P.O. Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. *Aluminum shell parts, bases, booms and fins* between Forty Fort, PA and New Bedford, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kanarr Processing Specialities, 90 Dilley St., Forty Fort, PA 18704. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 30111 (Sub-1TA), filed June 7, 1979. Applicant: SAL-SON TRUCKING COMPANY, INC., 248 South Street, New York, NY 10002. Representative: Chester A. Zyblut, Esq., 1030 15th St., N.W., Suite 366, Washington, DC 20005. *General commodities, except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, when moving on bills of lading of freight forwarders as defined in Section 402(a)(b) of the Act,* between New York, NY and Newark, NJ, on the one hand, and, on the other, Philadelphia, PA, Nassau, Suffolk, Orange, Rockland, Westchester, Putnam, and Dutchess Counties, NY, points in NJ on and north of NJ Highway 70 and 72, and New Haven, CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arrow-Lifschultz Freight Forwarders, Inc., 386 Park Avenue South, New York, NY 10016. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 35320 (Sub-329TA), filed May 25, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same as applicant). *Synthetic plastic pallets* from Houston, TX and its

commercial zone Adrian, MN its commerical zone, for 90 days. Supporting shipper(s): Rexene Polyolefins Co., W. 115 Century Road, Paramus, NJ 07652. Send protests to: Martha Powell, TA, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 95320 (Sub-335TA), filed June 18, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas, (same as applicant). *Sprayers, NCI, with or without engines* from Briar Industries, Inc. at Gardner, KS to all points in the United States. An underlying ETA for 90 days authority filed. Supporting shipper(s): Briar Ind., Inc., 790 N Center, Gardner, KS 66030. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27, Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 41951 (Sub-46TA), filed May 10, 1979. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Hwy., Washington, DC 20014. *Unfrozen foodstuffs* (except commodities in bulk), from points in IL, IN and WI to points in DE, MD, NJ, NY, PA and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. W. Sisk & Sons, Inc., Preston, MD 21655. Send protests to: I.C.C., Room 620, 101 N. 7th St., Phila, PA 19106.

MC 41951 (Sub-47TA), filed April 27, 1979. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4303 East-West Hwy., Washington, DC 20014. *Canned goods,* from Kent and Sussex Counties, DE; Queen Anne, Talbot, Dorchester, Caroline, Wicomico, Somerset and Worchester Counties, MD; Winchester, VA and Accomack and Northampton Counties, VA to points in AL, FL, GA, NC, SC, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. W. Sisk & Sons, Inc., Preston, MD 21655. K.M.C. Foods, Inc., P.O.B. 298, Queen Anne, MD 21657. Send protests to: I.C.C., Fed. Res. Bank Bldg., Room 620, 101 N. 7th St., Phila, PA 19106.

MC 53841 (Sub-33TA), filed June 26, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, Esquire, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. *Containers and materials, equipment and supplies* used in the manufacture and sale of containers (except commodities in bulk) and empty pallets, between the facilities of Beverage Bottle Division, Hoover Universal, Inc., at or near Franklin, IN, on the one hand, and, on the other, points in IL, KY, MI, MO, NJ, OH, PA and WI, for 180 days. Supporting shipper(s): Beverage Bottle Division, Hoover Universal, Inc., Route 2, Triport Road, Georgetown, KY 40324. Send protests to: John J. England, D/S, I.C.C., 2111 Federal Building, Pittsburgh, PA 15222.

MC 57591 (Sub-24TA), filed May 4, 1979. Applicant: EVANS DELIVERY COMPANY, INC., P.O. Box 268, Pottsville, PA 17901. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *General Commodities (except Classes A and B explosives and commodities in bulk in tank or hopper type vehicles),* Between Harrisburg, PA on the one hand, and, on the other, points in Lackawanna, Luzerne, Carbon, Monroe, Northampton, Lehigh, Bucks, Berks, Delaware, Montgomery, Chester, Lancaster, York, Cumberland, Dauphin, Labanon, Schuylkill, Northumberland, Columbia, Montour, Union, Lycoming and Snyder Counties, PA for 180 days. Restricted to transportation having a prior or subsequent move by motor carrier or rail carrier on traffic having an origin of destination beyond points in PA. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 7 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 57591 (Sub-25TA), filed May 14, 1979. Applicant: EVANS DELIVERY COMPANY, INC., P.O. Box 268, Pottsville, PA 17901. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *General Commodities (except bulk commodities, classes A and B explosives and commodities requiring special handling and equipment),* between Philadelphia Commercial Zone, PA and York, Scranton and Williamsport, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 57880 (Sub-21TA), filed June 25, 1979. Applicant: ASHTON TRUCKING CO., 1245 North Highway 285, Monte Vista, CO 81144. Representative: F. Kimball Joyner, 1660 Lincoln Street, Denver, CO 80264. *Cabinets and parts thereof,* (1) from Auburn, NE and San Antonio, TX to Mesa County, CO; and (2) from Mesa County, CO to Albuquerque, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Customline Products Company 564 25th Road, Grand Junction, CO 81501. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 57880 (Sub-21TA), filed June 25, 1979. Applicant: ASHTON TRUCKING CO., 1245 North Highway 285, Monte Vista, CO 81144. Representative: F. Kimball Joyner, 1660 Lincoln Street, Denver, CO 80264. *Cabinets and parts thereof,* from Auburn, NE and San Antonio, TX to Mesa County, CO; and (2) from Mesa County CO to Albuquerque, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Customline Products Company, 564 25th Road, Grand Junction, CO 81501. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 57880 (Sub-22TA), filed June 22, 1979. Applicant: ASHTON TRUCKING CO., 1245 North Highway 285, Monte Vista, CO 81144. Representative: David E. Driggers, 1660 Lincoln Street, Denver, CO 80264. (1) *Potato products and potato starches,* from points in Rio Grande County, CO, to points in the U.S. (except AK and HI), and (2) *materials, equipment and supplies* used in the manufacture or distribution of the commodities named in (1), except in bulk, in the reverse direction, restricted in (1) and (2) to the transportation of traffic originating at or destined to points in Rio Grande County, CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nonpareil Processing Corportion, P.O. Box 169, Monte Vista, CO 81144. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 59531 (Sub-116TA), filed June 14, 1979. Applicant: AUTO CONVOY CO., 3020 South Haskell Ave., Dallas, TX 75223. Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013.*motor vehicles, except trailers, in secondary movements, in truckaway service* from Houston, TX to points in CO for 180 days. An underlying ETA seeks 90 days authority filed. Supporting shipper(s): Fiat Motors of North America, 155 Chestnut Ridge Road, Montvale, NJ 07645. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27, Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 61231 (Sub-151TA), filed May, 31, 1979. Applicant: EASTER ENTERPRISES, INC. d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309.

Scrap batteries and lead from points in MT, ND, SD and WY to Omaha, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gould Inc., Metals Division, P.O. Box 43484, St. Paul, NM 55164. Send protests to: Interstate Commerce Commission, 518 Federal Bldg., Des Moines, IA 50309.

MC 61231 (Sub-152TA), filed June 1, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Railroad ties* (1) from points in IA to points in IL, KS, MN, MO, NE, SD, and WI; and (2) from Quincy, IL to point in IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Brokerage Corp. P.O. Box 1201, Marshalltown, IA 50158.. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg. Des Moines, IA 50309.

MC 65660 (Sub-14TA), filed May 21, 1979. Applicant: WARNER & SMITH MOTOR FREIGHT, INC., 66 Third St., Masury, OH 44438. Representative: C. R. Johnson 66 Third St. Masury, OH 44438. *Common carrier,* regular routes, *general commodities, except those of unusual value, and except livestock, Class A and B explosives, household commodities requiring special equipment, and those injurious or contaminating to other lading,* serving Medina, OH as an off-route point in connection with its presently authorized regular-route operations, for 180 days. Applicant intends to tack this authority with authority it presently holds and to interline at Erie, Grove City and Pittsburgh, PA. Supporting shipper(s): There are 6 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 66100 (Sub-26TA), filed June 25, 1979. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK 74003. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. *Fire prevention and prevention and sprinkler systems, and parts equipment, materials, and supplies, used in the installation of fire prevention and sprinkler systems,* between points in TX, on the one hand, and, on the other, points in AR, CO, IA, KS, LA, MO, NE, NM, & OK, restricted to the transportation of traffic originating at or destined to the job site and facilities of Grinnell Fire Protection Systems Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grinnell Fire Protection Systems Company, Inc., 161 Glass, Dallas, TX 75207. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 71920 (Sub-8TA), filed June 12, 1979. Applicant: PROGRESSIVE TRANSPORTATION COMPANY, 5455 Irwindale Avenue, Irwindale, CA 91706. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Reinforced concrete products,* from the facilities of The Tanner Companies at or near Etiwanda, CA to the construction site of the Fashion Show shopping mall at or near Las Vegas, NV, for 180 days An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The Tanner Companies, TPAC Division, 3052 S. 19th Avenue, Phoenix, AZ 85036. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angles, CA 90053.

MC 75830 (Sub-16TA), filed June 14, 1979. Applicant: INTER–CITY TRANSPORT & MOTOR COMPANY, Liggett Addition, P.O. Box 88, Buckhannon, WV 26021. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. *Contract carrier:* irregular routes: *Foodstuffs and materials, equipment and supplies used in the manufacture and sale of foodstuffs* (except commodities in bulk), between Chicago, IL, Grand Rapids, MI and North Sioux City, SD, on the one hand, and, on the other, Akron, Bedford Heights, Cincinnati, Dayton Groveport, Toledo and Younstown, OH, Aston, Carnegie, Cornwells Heights, Ephrata, Mechanicsburg, Philadelphia, and Pittsburgh, PA, Ayre, and Framingham, MA Batavia, Hauppage, Henrietta, Jamestown, Latham, and Syracuse, NY, Manchester and Stratford, CT, Edison, Moonachie and Rosenhayn, NJ, Manassas, Norfolk and Ravensworth, VA, and Bluefield, WV, for 180 days. An underlying ETA seeks 90 days authority. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Keebler Co., Elmhurst, IL. Supporting shipper(s): Keebler Company, 1 Hollow Tree Lane, Elmhurst, IL 60126. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 77061 (Sub-18TA), filed June 15, 1979. Applicant: SHERMAN BROS., INC., 29534 Airport Road (Box 706), Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. *Iron and steel articles,* between points in Multnomah County, OR, on the one hand, and Shasta County, CA, on the other. Restricted to shipments originating at or destined to facilities of American Steel, a Division of American Industries, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Steel & Supply Redding, Inc., P.O. Box "V," Redding, CA 96001. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 83850 (Sub-12TA), filed May 11, 1979. Applicant: JOHNSONS TRANSFER, INC., 6951 Norwitch Dr., Phila., PA 19153. Representative: Hugh M. Dever, P.O. Box 5395, Phila., PA 19153. *Plastic pipe, conduit, couplings, fittings, vinyl siding and gabions and accessories necessary for installation of such commodities and plastic building materials,* from Williamsport, MD, to CT, DE, ME, MA, NH, NJ, NY, PA, RI, VT, VA, WV, DC, and MD for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): CertainTeed Corp., 1400 Union Meeting Rd., Blue Bell, PA 19422. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 85961 (Sub-5TA), filed June 1, 1979. Applicant: LYNNE SIGLER d.b.a. ALTURAS FORT BIDWELL STAGE LINE, 1200 E. 11th Street, Alturas, CA 96101. Representative: Robert G. Harrison, 4299 James Drive, Carson City NV 89701. Common carrier-regular route, *General Commodities* except commodities of unusual value, Class A and B explosives, household goods as defined by the Interstate Commerce Commission, between Alturas, CA and Klamath Falls, OR over the following regular routes: from Alturas, CA via CA Hwy 299 to Canby, then north to the CA–OR state line via CA Hwy 139, then north to Klamath Falls, OR via OR Hwy 39 and return over the same route serving all intermediate points, for 180 days. An underlying ETA granted for 90 days authority. Supporting shipper(s): There are 6 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: W. J. Huetig, D.S., 203 Federal Bldg., 705 N. Plaza St., Carson City, NV 89701.

MC 95540 (Sub-1119TA), filed June 7, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). (1) *Foodstuffs* (except commodities in bulk) moving in vehicles equipped with mechanical refrigeration; and (2) *restaurant furniture, fixtures and supplies* when moving in mixed loads with the commodities in (1) above from Dallas, TX to GA for 180 days. Supporting shipper(s): Norco Mfg. & Distributing

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Company, 2565 West Commerce, Dallas, TX 75212. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 103210 (Sub-7TA), filed June 15, 1979. Applicant: SERVICE BUS CO. INC., 845 Nepperhan Avenue, Yonkers, NY 10703. Representative: Sidney J. Leshin, 575 Madison Avenue, New York, NY 10022. *Passengers in non-scheduled special round trip operations,* beginning and ending between points in the Counties of Westchester and Putnam, NY, and extending to Atlantic City, NJ, for 180 days. Supporting shipper(s): There are eleven (11) shippers (passengers) supporting the application. Their statements may be examined at the office listed below and headquarters. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 105461 (Sub-109TA), filed May 4, 1979. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 8, Quarryville, PA 17566. Representative: Robert Herr (same address as applicant). *(1) Zinc, zinc oxide, zinc dust, and metallic cadmium, and, (2) zinc dross, zinc residue, lead sheets, and materials, equipment and supplies used in the manufacture of the basic commodities in (1) above (except commodities in bulk),* between the facilities of St. Joe Zinc Company, Josephtown, PA (Beaver County) and points in MD, NY, NJ and DE for 180 days. Supporting shipper: St. Joe Zinc Company, Two Oliver Plaza, Pittsburgh, PA 15222. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 108380 (Sub-101TA), filed June 1, 1979. Applicant: JOHNSTON'S FUEL LINERS, INC., P.O. Box 100, Newcastle, WY 82701. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. *Petroleum products,* from refining points in WY to all points in SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dave Gustafson & Co., Inc., 500 E. 6th St. (P.O. Box 926), Sioux Falls, SD 57105. Send protests to: D/S Paul A. Naughton, Rm. 105, Federal Bldg., 111 South Wolcott, Casper, WY 82601.

MC 110380 (Sub-14TA), filed June 20, 1979. Applicant: BERSCHENS OF MADISON, INC., 120 W. Verona Ave., Verona, WI 53593. Representative: Rolfe Hanson, 121 W. Doty St., Madison, WI 53703. *Iron and steel and iron and steel articles,* from facilities of Wheeling-Pittsburgh Steel Corp. at Martins Ferry, OH and Beech Bottom, WV to points in MN and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wheeling-Pittsburgh Steel Corp., P.O. Box 116, Pittsburgh, PA 15230. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111401 (Sub-559TA), filed April 11, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., Enid, Oklahoma 73701. Representative: Victor R. Comstock, P.O. Box 632, Enid, Oklahoma 73701. *Dipropylamine, in bulk, in tank vehicles* from Banks, AL to Brownsville, TX in foreign commerce only. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eli Lilly Interamerica, Inc., P.O. Box 32, Indianapolis, IN 46206. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office Bldg., 215 N.W. Third Street, Oklahoma City, Oklahoma 73102.

MC 111401 (Sub-572TA), filed June 6, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Chemicals,* in bulk, in tank vehicles, from Lake Charles, LA, to points in and east of WI, IL, KY, TN, MS, LA, and to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Oil Company, P.O. Box 2197, Houston, TX 77001. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 111401 (Sub-573TA), filed June 20, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum oil,* in bulk, in tank vehicles, from Oklahoma City, OK, to Los Angeles, CA, for 180 days. Supporting shipper(s): Crowley Chemical Co., 261 Madison Ave., New York, NY 10016. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 112520 (Sub-373TA), filed May 31, 1979. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Liquefied petroleum gas, in bulk,* in tank vehicles, from Pascagoula, MS to Mobile, AL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wanda Petroleum Company, P.O. Box 53120, Houston, TX 77052. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 112801 (Sub-240TA), filed May 28, 1979. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith (address same as applicant). *Liquid chemicals, in bulk, in tank vehicles,* from Cincinnati, OH, St. Louis, MO and points in Wayne County, MI to points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Shamrock Corp., 1100 Superior Avenue, Cleveland, OH 44114. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 112801 (Sub-241TA), filed June 6, 1979. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith (same address as applicant). *Liquid chemicals, in bulk, in tank vehicles,* from the facilities of Dow Chemical USA at Freeport, TX, to points in AL, DE, FL, GA, LA, MA, MS, NC, NJ, NY, PA, SC, VA and WV for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): Dow Chemical USA, P.O. Drawer K, Freeport, TX 77541. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 115311 (Sub-358TA), filed May 15, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Mark C. Ellison, P.O. Box 56387, Atlanta, GA 30343. *Particleboard* from the facilities of Georgia-Pacific Corp., located at or near Whiteville, NC to points in the states of OH, MI and IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia-Pacific Corp., 2176 Parklake Drive, NE, Atlanta, GA 30345. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 115931 (Sub-90TA), filed May 29, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59806. Representative: William Grimshaw (same address as applicant). *Knocked down log buildings and accessories used in the erection thereof,* from Latah County, ID to points in MN, IA, IL, MI and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DeForest Enterprises, Box 963, Janesville, WI 53545. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 115931 (Sub-91TA), filed June 1, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59806. Representative: William Grimshaw (same address as applicant). *Lumber, poles and posts* from Osage and Hulett, WY and Willmar, MN to points in ND, SD, MN, IA, NE, MT and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Timber Wholesalers, Clara City, MN 56222. Send protests to Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 116140 (Sub-10 TA), filed June 4, 1979. Applicant: CAPITOL TRANSIT, INC., d.b.a. CONCORD COACH LINES, South Main St., Concord, NH 03301. Representative: Joseph G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Common carrier;* regular routes: *passengers and their baggage, and express and newspapers in the same vehicle with passengers.* Between Glen, NH, and Boston, MA, serving all intermediate points north of Manchester, NH: From Glen over NH Hwy. 16 to junction NH Hwy. 25 at West Ossipee, NH, then over NH Hwy. 25 to Meredith, NH, then over U.S. Hwy. 3 to junction NH Hwy. 104 near Meredith, NH, then over NH Hwy. 104 to junction Interstate Hwy. 93 near New Hampton, NH, then over Interstate Hwy. 93 to Boston, and return over the same route. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 29 statements in support attached to this application which may be examined at the I.C.C. in Boston, MA. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 116300 (Sub-50 TA), filed June 18, 1979. Applicant: NANCE AND COLLUMS, INC. P.O. Drawer J, Fernwood, MS 39205. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. *Salt cake* from Weeks Island, LA to Redwood, MS and Mulford, TX, for 180 days. Supporting shipper(s): Morton Chemical Company, Div. of Morton-Norwich Products, Inc., 110 N. Wacker Drive, Chicago, IL 60606. Send protests to: Alan C. Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 116371 (Sub-17TA), filed May 31, 1979. Applicant: LIQUID CARGO LINES LIMITED, P.O. Box 269, Clarkson, Ontario L5J 2Y4. Representative: John W. Ester, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013. *Liquid sugar, in bulk, in tank vehicles,* from ports of entry on the International Boundary Line between the United States and Canada to points in IL, IN and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Redpath Sugars Limited, 95 Queenskey East, Toronto, Ontario M5E 1A3. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 117730 (Sub-60TA), filed May 24, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Welding materials and supplies, electric motors, electric welders, hand trucks, and parts and accessories therefor,* from the facilities of the Lincoln Electric Company at Cleveland and Mentor, OH to points in IL, IN, MI, WI, and Waverly, Waterloo, Dubuque, Cedar Rapids, Clinton, Davenport, Ottumwa, and Burlington, IA, and Troy, Cape Girardeau, and Caruthersville, MO and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): The Lincoln Electric Company, 22801 St. Clair Avenue, Cleveland, OH 44117. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 117820 (Sub-34TA), filed May 17, 1979. Applicant: AURELIA TRUCKING CO., 2121 Petit Avenue, Port Huron, MI 48060. Representative: Robert D. Schuler, 100 West Long Lake Road Suite 102, Bloomfield Hills, MI 48013. (1) *Auto body parts NOI or trim* having a density of at least four but less than den PCF (pounds per cubic foot); (2) *Materials and supplies used in the manufacture of the items in (1) above;* from the facilities of Inmont Corporation at Port Huron, MI to Jacksonville, FL; Doraville, GA; Chicago, IL; Fort Wayne, IN; Louisville, KY; Baltimore, MD; Framingham, MA; St. Paul, MN; Kansas City, St. Louis, and Hazelwood, MO; Linden and Mahwah, NJ; Tarrytown, NY; Greensboro, NC; Warren, Norwood, and Toledo, OH; Oklahoma City, OK; New Stanton, PA; Arlington, TX; Norfolk, VA; Janesville and Kenosha, WI; (2) from the destination points in (1) above to the origin in (1) above. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inmont Corporation, 1905 Beard St., Port Huron, MI. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 117820 (Sub-36TA), filed June 15, 1979. Applicant: AURELIA TRUCKING CO., 2121 Petit Avenue, Port Huron, MI 48060. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013.

Commodities dealt in by retail and wholesale automotive supply houses, from Detroit and Hastings, MI; Bedford Heights, Cincinnati and Painsville, OH, Chicago, and Sauget, IL and Fords, NJ; Louisiana, MO and Oklahoma City, OK to the facilities of Amsoil, Inc. at Superior, WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amsoil, Inc., Amsoil Building, Superior, WI 54880. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 118831 (Sub-178TA), filed June 20, 1979. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Tom Paulson, P.O. Box 7007, High Point, NC 27264. *Dry polyvinyl alcohol starch mixture, in bulk, in hopper type vehicles,* from Roebuck, SC to Lanett, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Abco Chemicals Inc., P.O. Box 335, Roebuck, SC 29376. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 119630 (Sub-24TA), filed May 3, 1979. Applicant: VAN TASSEL, INC., 5th & Grand, Pittsburg, KS 66762. Representative: Dean Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Plastic pipe,* from Booneville, MS to points in AR, IL, LA and MO; 180 days, common, irregular. Supporting shipper: H & W Industries, Inc., 200 Park Place, Booneville, MS. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 119700 (Sub-60TA), filed April 16, 1979. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. *Iron and steel articles and aluminum articles* (1) Between points in AR, on the one hand, and, on the other, points in IL, IN, IA, LA, MO, MI, MS, OH, TX, WI, AL, CO, KY, KS, NE and OK; and (2) from the facilities of Merco Manufacturing, Inc. located at or near Dallas and Houston, TX, to points in TX, OK, LA, MS, MO, KS, TN and AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Barg Steel Co., Inc., 1902 E. 22nd St., Little Rock, AR 72206. Send protests to: Vernon V. Coble, D/S, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo 64106.

MC 119741 (Sub-194TA), filed June 4, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O.

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Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Frozen foodstuffs* between Indianapolis, IN, on the one hand, and, on the other, points in AR, CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI for 180 days. Restricted to shipments originating at or destined to the facilities of Monument Distributing Warehouse, Inc., Indianapolis, IN. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington, Ave., Indianapolis, IN 45203. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-196TA), filed June 5, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* between the facilities of Lauridsen Foods, Inc. at Britt, IA and Armour & Company at Mason City, IA, on the one hand, and on the other, points in AR, CO, CT, DE, IL, IN, KS, MD, MA, MI, MO, NE, NJ, NY, OH, OK, PA, RI, TX, VA, WV, and DC for 180 days. Restricted to traffic originating at and/or destined to the above named points. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour & Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-197TA), filed June 20, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Bakery goods, NOI, O/T frozen,* from the facilities of Midwest Biscuit Company at Burlington, IA to points in AR, CA, CO, CT, IL, IN, KS, MA, MI, MN, MO, NE, NJ, NM, OH, OK, ND, PA, SD, TX and WI for 180 days. Restricted to traffic originating at the named origin and destined to the named destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midwest Biscuit Company, 3000 Mount Pleasant St., Burlington, IA 52601. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-198TA), filed June 21, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Scrap metal* from the facilities of Aaron Ferer & Sons at or near Omaha, NE to points in CO, IL, IN, KS, MI, MO, PA, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aaron Ferer & Sons, 909 Abbott Dr., Omaha, NE 68106. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-199TA), filed June 29, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Foodstuffs, paint, and paint products (except commodities in bulk),* between the facilities of SCM Corporation at or near Chicago, IL: Louisville, KY: Cleveland, Huron, and Sharonville, OH: and Parkesburg and Shiremanstown, PA on the one hand, and, on the other, points in CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI for 180 days. Restricted to traffic originating at the named origins and destined to the named destinations. An underlying ETA seeks 90 days. Supporting shipper(s): SCM Corporation, 900 Union Commerce Bldg., Cleveland, OH 44115. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 121060 (Sub-110TA), filed May 11, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Iron and steel articles,* from the facilities of Laclede Steel Co., at or near Alton, IL, to points in AL, MS, GA and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Laclede Steel Company, Equitable Building, St. Louis, MO 63102. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 121060 (Sub-111TA), filed May 14, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Plastic pipe and fittings* from Henderson, KY to points in IL, NC and SC, for 180 days. Supporting shipper(s): Cresline Plastic Pipe Co., Inc., 851 U.S. 41 South, Henderson, KY 42420. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 121060 (Sub-112TA), filed June 15, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Iron and steel articles,* from the facilities of Connors Steel Co., Inc. at Huntington, WV, to points in the United States in and east of WI, IL, MO, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Connors Steel Company, Inc., P.O. Box 118, Huntington, WV 25706. Send protests to: Mabel E. Holston, T/A, Room 1616, 2121 Building, ICC, Birmingham, AL 35203.

MC 121470 (Sub-28TA), filed June 15, 1979. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan Street, Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). *Aluminum, iron, or steel in sheets or in coils,* between the facilities of Nashville Steel Corporation, at or near Nashville, TN, on the one hand, and, on the other, Henderson, TX and Houston, TX, for 180 days. Restriction: Restricted to the transportation of traffic orginating at or destined to the facilities of Nashville Steel Corporation. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nashville Steel Corporation, 7211 Centennial Blvd, P.O. Box 90267, Nashville, TN 37209. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 123061 (Sub-128TA), filed May 21, 1979. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 East South Temple No. 501, Salt Lake City, UT 84102. *Light weight shale rock,* from Richmond and Port Costa, CA to Bellingham, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Builders Concrete, Inc., C and Maple Street, Bellingham, WA 98225. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124141 (Sub-22TA), filed June 11, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 207 Dolley Madison Blvd., McLean, VA 22101. *Bagged animal feeds and poultry feeds* from Kansas City, MO to points in the states of AR, NM, OK and TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days. Supporting shipper(s): Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 124251 (Sub-71TA), filed April 19, 1979. Applicant: JACK JORDAN, INC., 3681 South Dixie Road, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Chemicals, liquid and dry, in bulk* from Gordon County, GA to points in that part of the U.S. in and east of MN, MO, IA, AR and LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Goodyear Tire & Rubber Co., U.S. 41 South, Calhoun, GA 30701. Send protests to: Sara K. Davis, T/A, ICC, 1252 West Peachtree St. NW., Rm. 300, Atlanta, GA 30309.

MC 124411 (Sub-21TA), filed May 7, 1979. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, IA 50251. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. (1) *Anhydrous ammonia, in bulk, in tank vehicles,* from Blair, NE to points in IA, and (2) *Liquid fertilizer solutions, in bulk,* from Council Bluffs, IA to points in NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Suppliers, Inc., P.O. Box 538, Eldora, IA 50627. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124821 (Sub-51TA), filed June 13, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. *Foodstuffs and grocers' supplies,* from Marion, East Williamson, Newark, Oaks Corners, Alton, Brockport, Holley, Phelps, Shortsville, Egypt, Red Creek, Waterloo, Rushville, Leicester, LeRoy, Oakfield, South Dayton, Rochester, Syracuse, Buffalo, Retsof, Canandaigua, Watkins Glen, Elmira, Williamson, and Horseheads, NY, to Paterson, Passaic, Newark, and Jersey City, NJ; and Lackawanna, Luzerne, and Wayne Counties, PA, including points in the commercial zones of the named cities; and *Foodstuffs and grocers' supplies,* from Avenel, Paterson, Passaic, Newark and Jersey City, NJ, to Binghamton, Waverly, Elmira, Horseheads, Watkins Glen, Olean, Jamestown, Falconer, Buffalo, Rochester, Syracuse and Geneva, NY, including points in the commercial zones of the named cities. Supporting shipper(s): There are 9 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 125470 (Sub-53TA), filed May 2, 1979. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, NE 68701. Representative: Lavern R. Holdeman, Peterson, Bowman, Swanson & Johanns, 521 So. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Irrigation systems and parts, equipment, materials and supplies used in the manufacture, sale and distribution thereof,* between the facilities of Lindsay Manufacturing Co., at or near Amarillo, TX, on the one hand, and, on the other, points in AL, AZ, CA, CO, FL, GA, IL, IN, KS, LA, MN, MS, MO, NE, NM, NV, NC, OK, SC, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lindsay Manufacturing Co., P.O. Box 156, Lindsay, NE 68644. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 125951 (Sub-47TA), filed June 7, 1979. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, Nebraska 68106. Representative: Robert M. Cimino (same as above). *Foodstuffs* from the facilities of Globe Products Company, Inc. at or near Clifton, NJ to points in SD, NE, KS, MN, IA, MO, WI, IL, IN, KY, TN, OH, MI and AR for 180 days. An underlying ETA seeks 90 days authority. Restricted to the transportation of traffic originating at the named origin and destined to the designated destination states. Supporting shipper(s): Globe Products Company, Inc., P.O. Box 1927, 55 Webro Road, John A. Coneys, Director of Traffic, Clifton, NJ 07015. Send protests to: D/S Carroll Russell, ICC, 100 No. 14th St., Omaha, NE 68102.

MC 126930 (Sub-25TA), filed May 11, 1979. Applicant: BRAZOS TRANSPORT COMPANY, 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. (1) *Building materials, gypsum and gypsum products;* (2) *materials, equipment, and supplies* used in the manufacture and distribution of such commodities, (1) from the facilities of National Gypsum Co. at Westwego, LA to points in AR, OK, and TX, and (2) from points in AR, OK, and TX to the facilities of National Gypsum Co. at Westwego, LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gold Bond Building Products, Division, National Gypsum Company, 2001 Rexford Road, Charlotte, NC 28211. Send protests to: Martha Powell, Transportation Assistant, Interstate Commerce Commission, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 128190 (Sub-15TA), filed June 21, 1979. Applicant: FREMONT CONTRACT CARRIERS, INC., P.O. Box 489, Fremont, NE 68025. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Contract carrier:* Irregular routes: *(1) Truck bodies, hydraulic dump bodies, hydraulic lift gates, under body conversion type hoists, pump and allied hydraulic component parts,* from the facilities of Anthony York Company located at or near Streator, IL, to points in United States (except AK and HI); and *(2) Materials, equipment and supplies utilized in the manufacture of the commodities named in (1) above,* from points in the United States (except AK and HI) to the facilities of Anthony York Company located at or near Streator, IL, restricted to traffic originating at or destined to the facilities of Anthony York Company located at or near Streator, IL and further restricted to traffic moving under a continuing contract or contracts with Anthony York Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anthony York Company, 1807 No. Bloomington St., Streator, IL 61364. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 129301 (Sub-10TA), filed June 18, 1979. Applicant: ENGLISH AND SONS CORPORATION, 412 Kingshighway, Thorofare, NJ 08086. Representative: James H. Sweeney, P.O. Box 684, Woodbury, NJ 08096. *Contract,* irregular. *Detergents, cleaning compounds and toilet articles* from Cinnaminson, NJ to points in AL, FL, GA, KY, LA, MS, NC, SC, TN and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Certified Chemicals, Inc., 2200 Garry Road, Cinnaminson, NJ 08077. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 133591 (Sub-73TA), filed June 11, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Charles A. Daniel, P.O. Box 303, Mount Vernon, MO 65712. *Cheese,* from Stockton, MO to Salt Lake City, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Stockton Cheese Company, P.O. Box T, Stockton, MO 65785. Send protests to John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut, Kansas City, MO 64106.

MC 134090 (Sub-6TA), filed May 21, 1979. Applicant: ALL BEST TRANSFER AND WAREHOUSE, INC., 107 Trumbull Street, Elizabeth, NJ 07206. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract,* irregular. *Lawn and garden care*

products, between the warehouse facilities of O. M. Scott & Sons Co. located at or near North Brunswick, NJ on the one hand, and, on the other, the plant facilities of O. M. Scott & Sons Co. located at or near Marysville, OH. Under a continuing contract(s) with O. M. Scott & Sons Co., Marysville, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): O. M. Scott & Sons Company, 333 N. Maple St., Marysville, OH 43040. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 134730 (Sub-15TA), filed June 12, 1979. Applicant: METALS TRANSPORT, INC., 528 S. 108th St., West Allis, WI 53214. Representative: M. H. Dawes (same address as applicant). *Contract carrier;* irregular routes; *Forest products, lumber, millwork, plywood, building supplies and hardware and materials, parts, supplies and equipment used in the manufacture, production and repair of the above* between Plymouth, WI on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, MI, MO, MN, NE, TN & VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilderness Log Homes, Inc., Route 2, Plymouth, WI 53073. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 134970 (Sub-25TA), filed May 17, 1979. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, El Paso, IL 61738. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NB 68501. *Weed killing compounds,* (except in bulk), from Indianapolis and Lafayette, IN to Fargo ND; Omaha, NE; Des Moines, IA and Memphis, TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eli Lilly & Co., P.O. Box 618, Indianapolis, IN 46206. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 135070 (Sub-74TA), filed June 13, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. *Bananas and agricultural commodities exempt from regulation moving in mixed loads with bananas,* from points at or near the point of Norfolk, VA to points in the United States, in and east of ND, SD, NE, CO, OK, and TX for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s) Best Banana Company, 3616 East Virginia Beach Blvd., Norfolk, VA 23502. Send protests to: Martha A. Powell, Trans Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-75TA), filed June 13, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs and restaurant equipment, materials and supplies (except in bulk.)* from the facilities of Sambo's Restaurants, Inc., at or hear Carpinterea, CA to Florence, KY for 180 days. Supporting shipper(s): Sambo's Restaurants, Inc., 1000 North Cindy Lane, Carpenterea, CA 93013. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-76TA), filed May 9, 1979. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. Nonalcoholic carbonated beverages and fountain syrups, from Houston, TX to points in LA, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Shasta Beverages, A Consolidated Foods Co., 26901 Industrial Boulevard, Hayward, CA 94545. An underlying ETA seeks 90 days authority. Send protests to: Martha Powell, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 135170 (Sub-43TA), filed May 24, 1979. Applicant: TRI–STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. *Contract Carrier,* irregular routes: *Containers, container ends and accessories, and materials, equipment and supplies used in the manufacture, sale and distribution of containers and container ends and accessories (except commodities in bulk and those which, because of size or weight, require the use of special equipment,* under a continuing contract with Continental Forest Industries, a Member of the Continental Group, Inc., from Fredericksburg, VA to East Chicago, IN., for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): C. E. McCarty, Continental Forest Industries, 51 Weaver St., Greenwich Office Park II, Greenwich, CT 06830. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 135170 (Sub-44TA), filed June 13, 1979. Applicant: TRI–STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Contract carrier;* irregular routes: *Paper and plastic bags and plastic film or sheeting* from the facilities of Great Plains Bag Corporation, New Philadelphia, OH to Edison, Irvington, Newark, Glassboro, Perth Amboy and Boundbrook, NJ, Red Lion, Temple, Pottstown, E. Greenville, Narvon, Reading and Belleville, PA, Wilkesboro, Burlington, Greensboro and Wilson, NC, Baltimore, MD, Delaware City and Wilmington, DE, Richmond, Riverton and Clearbrook, VA, under a continuing contract with Great Plains Bag Corp., for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Ronald E. Shoemaker, TM, Great Plains Bag Corporation, 2127 Reiser, New Philadelphia, OH 44663. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21210.

MC 136220 (Sub-78TA), filed June 15, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Aluminum dross, aluminum scrap and smelting residue,* (in bulk, in dump vehicles), from points in NC and PA, to points in OK, for 180 days. Supporting shipper(s): Metal Exchange Corp., 111 West Port Plaza, St. Louis, MO 63141. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136511 (Sub-61TA), filed May 23, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Rd., Lynchburg, Va. 24507. Representative: Lester R. Gutman, 666 Eleventh St., NW., 805 McLachlen Bank Bldg., Washington, DC 20001. *New furniture and furniture parts,* from facilities of The Furniture Div. of S&H Co. at Morristown, TN to points in AZ, CA, CO, ID, MT, NV, MN, OR, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Residential Wood Furniture Group-Furn. Div., The Sperry & Hutchinson Co., One Plaza Center, Box HP3, High Point, NC 27261. Send protests to: I.C.C., Federal Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 136511 (Sub-62TA), filed June 1, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Rd., Lynchburg, VA 24502. Representative: David C. Venable, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. *(1) Extruded and/or injection molded rubber and plastic products and (2) materials, supplies and equipment used in the manufacture, sale and distribution of extruded or injection molded rubber and plastic products* from the facilities of Entek Corp. of America at or near Irving and Saginaw, TX, to pts. in the United States (except AK, HI, ME, MT, NH, RI, VT, and WY for 180 days. Supporting shipper(s): Entek Corporation of America, 104 County Line Rd., Irving, TX 75060. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136511 (Sub-64TA), filed June 6, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. *Chemicals, compounds, solvents, paints, lacquer, varnish, gum, resins, plastic liquids, plastic sheeting, defoaming compounds, ink, pallets, containers, and equipment and machinery used in the production or distribution of the aforementioned commodities (except commodities in bulk),* (1) between points in Orange County, CA, on the one hand, and, on the other, Elmhurst, IL, Herndon, VA, Woburn, MA, Indianapolis, IN, Terre Haute, IN, Kearney, NJ, Farmingdale, NY, Matthews, NC, South Hadley Falls, MA, Charlotte, NC, Casselberry, FL, and Moss Point, MS, and (2) from Moss Point, MS to Charlotte, NC and South Hadley Falls, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thiokol-Dynachem Corporation, 2631 Michelle Drive, Tustin, CA 92680. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138000 (Sub-50TA), filed June 4, 1979. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Slag (except in bulk)* from Strasburg, VA and its commercial zone to Camden, NJ and its commercial zone. From Camden, NJ and its commercial zone to Chelsea MI and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): LRI Industries, Inc., 11770 Dexter Road, Chelsea, Michigan 48113. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138420 (Sub-39TA), filed June 19, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53083. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Malt beverages and malt beverage dispensing equipment* when shipped therewith from Evansville, IN to points, in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. Heileman Brewing Co., Inc., 925 S. Third St., LaCrosse, WI 54601. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 140241 (Sub-56TA), filed June 5, 1979. Applicant: DALKE TRANSPORT, INC., P.O. Box 7, Moundridge, KS 67107. Representative: Lester C. Arvin, 814 Century Plaza Bldg, Wichita, KS 67202. *Iron and steel articles* from the facilities of Jones & Laughlin Steel Corporation at or near Hennepin, IL to points in KS and Kansas City US–MO Commercial Zone; for 180 days, common, irregular, permanent filed concurrently; Supporting shippper: Jones & Laughlin Steet Corporation, P.O. Box 325, Hennepin, IL. Send protests to: M. E. Taylor, District Supervisor, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 141921 (Sub-60TA), filed May 4, 1979. Applicant: SAV–ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03108. Representative: Louis N. Kolivas, 143 Frontage Road, Manchester, NH 03108. *Canned and preserved foodstuffs* from the facilities of Heinz USA at or near Holland, MI to points in CT, ME, NH, NJ, RI, and VT, and to points in NY on and north of highway 17 and on and east of Highway 30, restricted to traffic origination at the named origins and destined to the named states. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Ross J. Seymour, DS, ICC, Room 3, 6 Loudon Road, Concord, NH 03301.

MC 142680 (Sub-10TA), filed May 29, 1979. Applicant: SUMTER TIMBER COMPANY, INC., P.O. Box 104, Cuba, AL 36907. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Lumber,* from the facilities of American Can Co./Cogle Lumber Products, at or near Thomasville, AL, to points in GA, LA, FL, MS and TN, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): American Can Co./Cogle Lumber Products Thomasville, AL 36784. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 142811 (Sub-5TA), filed June 8, 1979. Applicant: S.R.I. TRUCKING CO., 1000 N. Cindy Lane, Carpinteria, CA 93013. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Contract:* irregular: *Frozen foods,* from points in FL to points in OH, MI, IL, IN, KY, and TN for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Citrus Central, Inc., P.O. Box 17774, Orlando, FL 32860. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 143570 (Sub-14TA), filed June 12, 1979. Applicant: D & G TRUCKING, INC., 4420 E. Overland Rd., Meridian, ID 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Meat and bone meal, in bulk,* from the plantsite of Iowa Beef Processors, Inc. at Wallula, WA to points in CA, for 180 days. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota, NE 68731. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 143621 (Sub-22TA), filed June 13, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 Fifth Avenue N. Nashville, TN 37219. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Iron and steel articles* from the facilities of Nashville River Terminal and Nashville Barge Terminal at or near Nashville, TN to points in TN, for 180 days. Restriction: Restricted to traffic having a prior movement by water. Supporting shipper(s): Nashville Barge Terminal, Inc., P.O. Box 100463, Nashville, TN 37210. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-23TA), filed June 15, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 Fifth Avenue North, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). *Cross ties* from Kerr McGee Chemcial Corporation plantsite, Tracy City and Dickson, TN to Kerr-McGee Chemcial Corp. treating plant at Madison, IL and/or Indianapolis, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr-McGee Chemical Corporation, Kerr-McGee Center, P.O. Box 25861, Oklahoma City, OK 73125. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143921 (Sub-1TA), filed June 6, 1979. Applicant: BAMA EXPRESS, INC., P.O. Box 222, Tuscaloosa, AL 35203. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *(1) Pipe, pipe fittings, pipe fabrications, tanks breechings, boxes and/or any fabricated metals, materials and supplies used in fabrication or installation of the aforementioned commodities,* from the facilities of

McAbee Construction Company at Tuscaloosa, AL to all points in FL, GA, KS, KY, LA, MS, MO, NC, SC, TN, VA, AR, OK, TX, OH, IN, IL, WV, PA, MD, DE, and NJ; and *(2) Materials, equipment and supplies used in the manufacture of commodities named in (1) above* from points in the destination States named in (1) to the facilities of McAbee Construction Co., at Tuscaloosa, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McAbee Contruction, Inc., P.O. Box 1429, Tuscaloosa, AL 35203. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingthm, AL 35203.

MC 144140 (Sub-37TA), filed may 7, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same as applicant). *(1) Bananas and (2) commodities otherwise exempt from economic regulation when moving in mixed loads with bananas,* from Norfolk, VA, to points in the U.S. in and east of MN, IA, MO, AR, and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Best Banana Co., 3616 E. Virginia Beach Blvd., Norfolk, VA 23502. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144140 (Sub-38TA), filed May 7, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same as applicant). *(1) Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, (except in bulk, in tank vehicles), and filters,* from points in Warren County, MS to AL, FL, GA, IN, KY, MI, OH, and TN. *(2) Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, materials, supplies, and equipment as are used in the manufacture, sale, and distribution of the commodities named in (1) above (except in bulk, in tank vehicles),* from points in AL, GA, IN, KY, and OH to points in Warren County, MS for 180 days. Restricted in (1) and (2) above to shipments originating at or destined to the facilities of Quaker State Oil Refining Corporation located in Warren County, MS. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144330 (Sub-62TA), filed April 12, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same as applicant). *Lumber and lumber mill products,* except in bulk, from points in MS to points in UT, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): J. G. Buehl Co., P.O. Box 25123, Salt Lake City, UT 84125. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-63TA), filed April 12, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same as applicant). *Lumber and wood products,* except in bulk, from Dillon, MT to points in AR, AZ, CA, CO, NM, OK, TX, UT, WY and ID, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): F. H. Stoltze Land & Lumber Co., P.O. Box 490, Columbia Falls, MT 59912. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-64TA), filed April 12, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same as applicant). *Lumber and lumber mill products,* except in bulk, from points in MS to points in CO, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): Frank Paxton Lumber Company, 4837 Jackson St., P.O. Box 16343, Denver, CO 80216. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-65TA), filed May 18, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). *Iron and steel articles,* except in bulk, from the facilities of Lithro Strip Corp. at or near Chicago, IL, to Hutchinson and Winnfield, KS and Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Litho-Strip Company Div. Amsted Ind., Inc., 4800 S. Kilbourne, Chicago, IL 60632. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-66TA), filed May 18, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same as applicant). *Lumber and lumber mill products,* except in bulk, from Evansville, IN to: Oklahoma City, OK, Tulsa, OK, Joplin, MO, Dakota City, IA, Hutchinson, KS, Ft. Dodge, IA, Minot, ND, Provo, UT, Garnet, KS, Little Rock, AR, Lincoln, NE, Omaha, NE and Calmar, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. L. Krug Lumber, Inc., P.O. Box 27, Chesterfield, MO. 63017. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-67TA), filed May 23, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). *Lumber, lumber mill products, and wood products,* except in bulk, from Corrigan, TX to points in AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Commercial Lumber Sales, Inc., P.O. Box 2797, Little Rock, AR. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-68TA), filed May 24, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). *Lumber* from Chickasaw, AL to Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Paxton Lumber Co., P.O. Box 16343, 4837 Jackson, Denver, CO 80216. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-69TA), filed May 23, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff, (same as applicant). *Lumber, lumber mill products and wood products,* except in bulk, from AR to KS, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Commercial Lumber Sales, Inc., P.O. Box 2797, Little Rock, AR. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144740 (Sub-14TA), filed June 12, 1979. Applicant: L. G. DE WITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street, NW, Suite 300, Washington, DC 20006. *Contract carrier*-irregular routes; *Foodstuffs* from the facilities of or utilized by Foodways National, Inc., located at Wethersfield and Hartford, CT, and New Paltz, NY to points in ID, NY and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foodways National, Inc., 1000 Silas Deane Highway, Wethersfield, CT 06109. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 144910 (Sub-5TA), filed January 1, 1979. Applicant: TYREE D. PRUITT, d.b.a. TY PRUITT TRUCKING, 611 Landay Ave., Baltimore, MD 21237. Representative: Chester A. Zyblut, 1030 15th St., N.W., Washington, DC 20005. *Malt beverages and related advertising material* from the facilities of Pabst Brewing Company, Newark, NJ and Pabst (Houston County), GA to points in MD and OH, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): J. R. Behrends, Pabst Brewing Company, 917 W. Juneau Avenue, Milwaukee, WI 53201. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 145441 (Sub-44TA), filed June 4, 1979. Applicant: A. C. B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same as applicant). *Citrus juices and beverages* in containers (except commodities in bulk), from the facilities of Tropicana Products, Inc. in Manatee County, FL to points in NE, KS, OK, TX, MO, AR, LA, IL, IN, OH, PA, WV, KY and TN, for 180 days as a *common carrier* over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tropicana Products Co., P.O. Box 338, Bradenton, FL 33506. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145550 (Sub-1TA), filed June 1, 1979. Applicant: LACKIE BROS. LIMITED, 10 Centennial Road, P.O. Box 1238, Kitchener, Ontario N2G 4G8. Representative: William J. Hirsch, Attorney-at-Law, Suite 1125, 43 Court Street, Buffalo, NY 14202. *Contract carrier*—irregular routes. *Fiberglass products,* from ports of entry on the International Boundary line between the United States and Canada, to all points in the United States, and return shipments in return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: C.A.E. Fiberglass Products Ltd., 271 Massey Rd., Guelph, Ontario. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 145930 (Sub-4TA), filed May 23, 1979. Applicant: WILLIAM E. MOROG, d.b.a. JONICK & CO., 2815 E. Liberty Ave., Vermilion, OH 44089. Representative: Michael M. Briley, 300 Madison Ave., 12th Floor, Toledo, OH 43603. *Lime, limestone and limestone products,* in bulk, from Sandusky County, OH to points in IL, IN, KY, MI, NY, PA, WV. Supporting shipper(s): Ohio Lime Co., P.O. Box 128, Woodville, OH 43469. The J. E. Baker Co., P.O. Box 1189, York, PA 17405. Woodville Lime & Chemical Co., 643 Lime Rd., Woodville, OH 43469. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 145950 (Sub-28TA), filed June 14, 1979. Applicant: BAYWOOD TRANSPORT, INC., Rt. 6 Box 2611, Waco, TX 76706. Representative: Arthur W. Grimes (same as applicant). *Bananas and agricultural commodities* exempt from regulation in section 10526(a)(6) of the Interstate Commerce Commission act for transporting in mixed loads with bananas, restricted to the transportation of traffic having a prior movement by water from the Port of Tampa, FL to points in the state of MI, IL, WI, OH, IN, and MN for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Del Monte Banana Co., 1201 Brickell Ave., Miami, FL 33101. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145981 (Sub-9TA), filed June 13, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Chemicals and materials, equipment and supplies* used in the manufacture and sale of chemicals (except commodities in bulk), (1) between the facilities of Hamblet & Hayes Co., Inc. located at or near Salem, MA on the one hand, and, on the other, Chicago, IL; Johnstown, NY; Toledo, OH; and Milwaukee, WI and (2) between Toledo, OH and Johnstown, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hamblet & Hayes Co., Inc., Colonial Road, Salem, MA 01970. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145990 (Sub-1TA), filed April 16, 1979. Applicant: LAWRENCEBURG TRUCKING, INC., 21 Catalpa Avenue, Lawrenceburg, IN 47025. Representative: John R. Bagileo, Esq., 918 16th Street, N.W., Washington, DC 20006. *Alcoholic beverages, except in bulk* from Lawrenceburg, IN to Chicago, Plainfield, Springfield, Decatur, and Champaign, IL for 180 days. Supporting shipper: Joseph E. Seagram & Sons, Inc., 375 Park Avenue, NY, NY. Send protests to: Beverly J. Williams, Transportation Asst., ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204

MC 146021 (Sub-3 TA), filed June 21, 1979. Applicant: RALPH OWENS TRUCKING CO., INC., P.O. Box 711, Hereford, TX 79045. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Knocked down corrugated cartons (pulpboard or fibreboard)* from the plantsite of Southwest Forest Ind., located at El Paso, TX, to Portales, NM for 180 days. Supporting shipper(s): Southwest Forest Industries, P.O. Box 7548, Phoenix, AZ 85011. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146071 (Sub-15TA), filed June 5, 1979. Applicant: DEETZ TRUCKING, INC., Box 2, Strum, WI 54770. Representative: Charles Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Clay products and refractory products and raw materials and supplies used in the manufacturing and installation of clay products,* from facilities of Clow Corp., Clay Products Div., at or near Carol Stream, IL to points in WI, MN & IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clow Corp., Clay Products Div., P.O. Box 714, Wheaton, IL 60187. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146131 (Sub-3TA), filed June 18, 1979. Applicant: TRANSPORT ENTERPRISES, INC., 857 E. St. Francis Rd., DePere, WI 54115. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. (1) *Paper and paper products* from the facilities of Central Paper Co., Inc. Div. of Uninsource Corp., an Alco Standard Co., at Menasha, WI to MT, WY, CO, NM, AZ, UT, ID, WA, OR, NV, and CA; and (2) *Materials, equipment and supplies, used or useful in the manufacture, sale or distribution of paper and paper products* from the above-named States to the facilities of Central Paper Co., Inc., a Div. of Uninsource Corp., an Alco Standard Co., at Menasha, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Paper Co., Inc., Div. of Uninsource Corp., an Alco Standard Co., 747 4th St., Menasha, WI 54952. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146351 (Sub-2TA), filed June 11, 1979. Applicant: CARROLL'S TRANSFER, INC., P.O. Box 265, Dublin, NC 28332. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Contract carrier*—Irregular routes; *Iron, steel and brass rods and coil stock* from points in CT to the facilities of Veeder-Root Company at Elizabethtown, NC, for 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper(s): Veeder-Root Company, 70 Sargeant St., Hartford, CT 06102. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 146520 (Sub-5TA), filed April 6, 1979. Applicant: QUALITY TRANSPORT, INC., 4404 West Berteau, Chicago, IL 60641. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Appendix A, C and D of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* between the facilities of Lauridsen Foods, Inc. at or near Britt, IA and the facilities of Armour and Company at or near Mason City, IA, on the one hand, and, on the other, points in CT, DE, KY, IL, IN, MA, MD, ME, MI, NH, NJ, OH, PA, RI, VA, VT, WV and DC, for 180 days. Restricted to the transportation of traffic orginating at or destined to the facilities of Lauridsen Foods, Inc. at or near Britt, IA and/or the facilities of Armour and Company at or near Mason City, IA. Supporting shipper(s): Armour Food Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: Annie Booker, TA, ICC, 1386 Everett Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 146520 (Sub-6TA), filed April 13, 1979. Applicant: QUALITY TRANSPORT, INC., 4404 West Berteau, Chicago, IL 60641. Representative: William J. Boyd, 600 Enterprise Drive, Oak Brook, IL 60521. *Bananas and agricultural commodities exempt from economic regulation under Section 10526 (a)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas,* from Albany, NY, points in NY and NJ located within the Commercial Zone of New York City, NY, and Baltimore, MD to points in IL, IA, IN, KY, MI, MN, MO, OH and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chiquita Brands, Inc., 15 Mercedes Drive, Montvale, NJ 07645. Send protests to: Annie Booker, TA, ICC, 1386 Everett Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 146600 (Sub-2TA), filed June 13, 1979. Applicant: K & J TRUCKING, 2802 W. 6th Street, Sioux Falls, SD 57104. Representative: Mark Menard, 5301 No. Cliff, Box 480, Sioux Falls, SD 57101. *Window sash balance systems,* from the plant site of Balance Systems, Inc., Sioux Falls, SD to points in IA, IL, IN, MI, MN, OH, PA, and WI, for 180 days. *Window sash parts and accessories,* from points in IA, IL, IN, MI, MN, OH, PA, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Balance Systems, Inc., P.O. Box 626, 517 E. 52nd St. N., Sioux Falls, SD 57101, Patrick J. Koerner, Vice President. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501

MC 146720 (Sub-1TA), filed June 6, 1979. Applicant: DAVID WATSON, d.b.a. WATSON BROTHERS TRUCK LINES, 432 Browning Avenue, Bismarck, ND 58501. Representative: David Watson (same address as above). *Contract carrier;* irregular routes: *Steel buildings and related building materials,* from Oklahoma City, OK, to all points in ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A & A Metal Buildings, Inc., 527 Memorial Highway, Bismarck, ND 58501. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Room 268, Fed. Bldg. and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 146730 (Sub-3TA), filed June 26, 1979. Applicant: L & W TRANSPORTATION, INC., Route 3, Box 195, Sedalia, MO 65301. Representative: Charles J. Fain, 333 Madison Street, Jefferson City, MO 65101. *Iron, steel, and aluminum articles,* from Cook and Du Page Counties, IL; Porter and Lake Counties, IN; and St. Louis, MO to all points in the United States; and from all points in the United States to Cook and Du Page Counties, IL; Porter and Lake Counties, IN; and St. Louis, MO. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nine shippers supporting application. Statements may be viewed in Washington, DC or District Office. Send protests to: John V. Barry, D/S, Interstate Commerce Commission, Room 600, Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 146751 (Sub-1TA), filed April 9, 1979. Applicant: J. C. LAWRENCE TRUCKING, INC., P.O. Box 5331, Lake Station, IN 46405. Applicant's representative: Bernard J. Kompare, 10 South LaSalle Street, Suite 1600, Chicago, Illinois 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Iron and steel* and (2) *iron and steel articles,* from the facilities of United States Steel Corporation located at or near Gary, IN; Chicago, Joliet and Waukegan, IL, to points in AL, GA, MS and TN. Restriction: Restricted to the transportation of traffic originating at the above-named origins and destined to the above-named destinations. An underlying ETA seeks 90 days. Supporting shipper(s): United States Steel Corporation, 1000 East 80th Place, Merrillville, IN 46410. Send protests to: Ms. Annie Booker, Transportation Assistant, Interstate Commerce Commission, Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 147020 (Sub-1TA), filed May 18, 1979. Applicant: NORTHWESTERN TRADING CO., INC., P.O. Box 173, Milton-Freewater, OR 97862. Representative: M. C. Risser, Suite 501, 1410 S. W. Morrison St., Portland, OR 97205. *Vegetables, canned, (other than dehydrated, dried, evaporated or frozen)* from facilities of Rogers Walla Walla, Inc., located in Walla Walla, WA, Milton, Freewater and Athena, OR; to points in Fresno, Los Angeles, Sacramento and Solano Counties, CA, for 180 days. A corresponding ETA MC 147020 R was granted May 4, 1979, expires August 1, 1979. A permanent will be filed. Supporting shipper(s): Rogers Walla Walla, Inc., P.O. Box 998, Walla, Walla, WA 99362. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 147051 (Sub-1TA), filed June 21, 1979. Applicant: PALMER FARMS, INC., R.F.D. 1, Cambridge, MD 21613. Representative: David A. Sutherlund, Fulbright & Jaworski, 1150 Connecticut Ave., NW., Washington, DC 20036. *Contract carrier,* irregular routes: *Feed and feed ingredients,* between points in DE, MD, NJ, NC, PA, VA, and WV; on the one hand, and, on the other, DE, IL, IN, IA, KY, ME, MD, MI, MN, NE, NJ, NY, NC, OH, PA, VA, WV, WI and DC, under contracts with Zapata-Haynie Corp., Byproducts, Inc., Wilbur Ellis Co., Purdue Incorporated and Haynie, Inc., for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Five supporting shippers. Their statements may be examined at Headquarters or at the office listed below. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 147061 (Sub-1TA), filed April 19, 1979. Applicant: COX TRANSPORT CORPORATION, P.O. Box 61, Centerfield, UT 84622. Representative: Harry D. Pugsley, Attorney, 1283 East South Temple No. 501, Salt Lake City, UT 84102. *Coal,* in bulk, from J. B. King mine, formerly Dog Valley Mine (15 miles east of Salina, UT) to tailheads at Aurora and Mills Junction, UT, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): Western States Minerals Corporation, 7475 West 5th Avenue, Lakewood, CO 80226. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 147100 (Sub-1TA), filed May 24, 1979. Applicant: TRANSWEST, INC., P.O. Box 1791, Gastonia, NC 28052. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Hot tops, and materials and supplies used in the manufacture and installation of hot tops* to, from and between Conneaut, OH on the one hand, and Marshall, TX on the other, for 180 days An underlying ETA seeks 90 days authority. Supporting shipper(s): Exomet, Inc., P.O. Box 647, Conneaut, OH 44030. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 147120 (Sub-1TA), filed May 16, 1979. Applicant: DLT, INC., R.R. No. 5, Box 396, Muscatine, IA 52762. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA. (1) *Liquid fertilizer, in bulk, in tank vehicles* from the facilities of River Terminal Corporation at or near Mascatine, IA to points in MN; (2) *Condensed fish solubles, in bulk, in tank vehicles* from the facilities of River Terminal Corporation at or near Muscatine, IA to points in IL, MO and WI; and (3) *Feed and feed ingredients,* between the facilities of CK Processing Co. at or near Muscatine, IA and points in IL, MO, NE and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Suppliers, Inc., P.O. Box 538, Eldora, IA. CK Processing Co., R.R. No. 5, Muscatine, IA 52761. Knappen Mollasses, A Division of Pacific Mollasses Company, 13550 S. Indiana Ave., Chicago, IL 60627. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147140 (Sub-1TA), filed May 23, 1979. Applicant: MARK RENNER, d.b.a. MT. HOOD TIMBER PRODUCTS, P.O. Box 17370, Portland, OR 97217. Representative: Mark Renner, P.O. Box 17370, Portland, OR 97217. *Contract,* irregular, (1) *Woodchips, sawdust and hog fuel* from Clatskanie, OR to Longview, WA; (2) *Lumber* from Clatskanie, OR to Kalama, WA for 180 days. An ETA MC 147140 R has been granted. Restriction: Restricted in (1) and (2) above to traffic moving under a continuing contract or contracts with Beaver Lumber Company of Clatskanie, Inc., Catskanie, OR. Supporting shipper(s): Beaver Lumber Company of Clatskanie, Inc., P.O. Box 96, Clatskanie, OR 97016. Send protests to: R. V. Dubay, I.C.C., 114 Pioneer Courthouse, Portland, OR 97204.

MC 147161 (Sub-2TA), filed June 22, 1979. Applicant: MASS TRANSIT, INC., 2450 Orange Ave., Signal Hill, CA 90806. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Contract:* Irregular: *Canned fruits and vegetables,* from the facilities of Northwest Packing Co. at or near Vancouver, WA, to the facilities of Thriftymart, Inc., located at Vernon, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Thriftimart, Inc., 1837 S. Vernont Ave., Los Angeles, CA 90006. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 147171 (Sub-1TA), filed June 8, 1979. Applicant: LLOYD J. AND MARY J. JOHNSON, d.b.a. WEGNER TRUCKING, 13005 Ingersoll Avenue, Hugo, MN 55038. Representative: Lloyd J. Johnson (same address as applicant). *Contract carrier:* irregular routes: *Coils of steel and riveted metal pipe and related items and corrugated steel sheets and finished culverts* from (1) Minneapolis-St. Paul, MN Commerical Zone to Fargo, ND; and (2) Fargo, ND to points in MN, under a continuing contract(s) with H. V. Johnston Culvert Co., Blaine, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): H.V. Johnston Culvert Co., 3575 85th Avenue, Northeast, Blaine, MN 55432. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 147220 (Sub-1TA), filed June 1, 1979. Applicant: DIESEL ALLEY TRANSPORT, INC., Crystal Truck Stop, Hwy. 77 South, South Sioux City, NE 68776. Representative: D. Douglas Titus, Suite 510 Benson Building, Sioux City, IA 51101. *Confections, confectionery products, snack foods and materials and supplies utilized by candy and snack food manufactures* from the plantsite and storage facilities of Charms Company at Covington, TN to Birmingham, AL; Little Rock, AR; Phoenix, AZ; Hayward and La Mirada, CA: Stratford, CT; Washington, D.C.; Jacksonville, Miami, Orlando and Tampa, FL: Atlanta, GA; Des Moines and Sioux City, IA; Melrose Park, IL: Indianapolis, IN; Louisville, KY; New Orleans, LA; Arlington, Avon, Lowell and Randolph, MA; Baltimore, MD: Detroit and Grand Rapids, MI: Eagon, MN: St. Louis, MO; Jackson, MS; Charlotte and Raleigh, NC; Freehold, NJ; Cattaraugus, Buffalo, Rochester and Syracuse, NY; Cincinnati, Cleveland and Columbus, OH; Philadelphia and Pittsburgh, PA: Dallas, El Paso, Houston and San Antonio, TX; Richmond, VA; Seattle, WA; and Milwaukee, WI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charms Company, Halls Mill Road, Freehold, NH 07728. Send protests to: Carroll Russell, District Supervisor, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 147221 (Sub-1TA), filed June 1, 1979. Applicant: KIZAR INTERNATIONAL, INC., 2711 North 125th Circle, Omaha, NE 68164. Representative: J. F. Crosby, P.O. Box 37205, Omaha, NE 68137. *Meats and packinghouse products* from the facilities of Cornhusker Packing Co. at Omaha, NE to Los Angeles, CA and points in its commercial zone. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Cornhusker Packing Co., 4436 Dahlman Avenue, Omaha, NE 68107, Irv A. Sherman, president. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 147271 (Sub-1TA), filed May 29, 1979. Applicant: A & D EXPRESS, INC., Upper Jersey Avenue, Box 52, North Brunswick, NJ 08902. Representative: William J. Augello, Esq., Pezold & Hirschmann, P.C., 120 Main Street, P.O. Box Z, Huntington, NY 11743. *Malt beverages* between Newark, NJ and Baltimore, MD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Terminal Distributing Co., Inc., 7670 Canton Center Drive, Baltimore, MD 21224. Pabst Brewing Company, 917 W. Juneau Avenue, Milwaukee, WI 53201. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147290 (Sub-1TA), filed June 12, 1979. Applicant: BIGFOOT TRUCKING COMPANY, INC., P.O. Box 212, Cleveland, MS 38732. Representative: John Paul Jones, 189 Jefferson Avenue, Memphis, TN 38103. *Agricultural implements; machinery, and parts; and such articles as are dealt in by agricultural machinery and implement dealers* (except commodities in bulk) from Memphis, TN to Cleveland, MS via U.S. Hwy. 61, serving intermediate points of Clarksdale and Tunica, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are seven supporting shipper statements attached to this application. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

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MC 147291 (Sub-3TA), filed June 25, 1979. Applicant: OCCO TRANSPORT, INC., Industrial Park Boulevard, Cokato, MN 55321. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Contract carrier:* irregular routes: *Wooden reels,* from Pine River, MN to St. Joseph, MO, for the account of Durkee Manufacturing Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Durkee Manufacturing Company, Pine River, MN 56474. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 147300 (Sub-1TA), filed June 11, 1979. Applicant: G & G TRUCKING, INC., 4237 Clayton, Denver, CO 80216. Representative: Sam Anderson or Dean Musgrave (same address as applicant). *Contract carrier;* irregular routes: *Pickles and pickle related products, honey, syrup, plastic pellets for pickle jars, plastic jars for pickles,* (1) from Denver, CO to Kent, WA; Salt Lake City, UT; Amarillo, El Paso, Lubbock and San Antonio, TX; Los Angeles, CA; Albuquerque, NM; Omaha and Lincoln, NE; Wichita and Kansas City, KS; Oklahoma City, OK; Casper, WY and Butte, MT and (2) from Houston, TX to Denver, CO for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper: Bluehill-American Products, 13100 E. 39th Ave., Denver, CO. Send protests to: D/S Roger L. Buchanan, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 147351 (Sub-1TA), filed June 5, 1979. Applicant: YORK ENTERPRISES, INC., d.b.a. DIAMOND Y HOT SHOT, P.O. Box 1117, Mills, WY 82644. Representative: Kennth E. York (same address as applicant's). (1) *Machinery, material, equipment and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products, and (2) *Machinery, materials, equipment and supplies,* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of piplelines, including the stringing and picking up thereof, between points in WY, UT, MT, ND, SD, CO, NE and ID, restricted against the transportation of complete oil field drilling rigs, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are (8) shippers. Their statements may be examined at the office shown below and Headquarters. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 147360 (Sub-1TA), filed June 11, 1979. Applicant: ROCHESTER CHEESE EXPRESS, INC., 4219 North Frontage Road, Rochester, MN 55901. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. *Cheese* (1) from the facilities of Rochester Cold Storage at or near Rochester, MN to points in CA, ID, IA, KS, MO, UT, WI, WY; and (2) from points in IA, NJ, NY, OH, PA and WI to the origin named in (1) above, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rochester Cheese Sales, Inc., 4219 North Frontage Road, Rochester, NM 55901. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minnieapolis, MN 55401.

MC 147371 (Sub-1TA), filed June 8, 1979. Applicant: G & L TRANSPORT, INC., 8 E. Race Street, Yakima, WA 98902. Representative: Earle V. White, 2400 S.W. Fourth Ave., Portland, OR 97201. *Contract,* irregular, *Fruit juice and fruit juice concentrates* (except in bulk) from points in Yakima and Chelan Counties, WA to points in AZ, CA and OR for 180 days. A corresponding ETA was granted June 8, 1979 for 30+2. Supporting shipper(s): Tree Top, Incorporated, Selah, WA 98942. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 147410 (Sub-1TA), filed June 20, 1979. Applicant: SALVADOR AND ARNULFO BONILLAS, a partnership, 515 Western Ave., Nogales, AZ 85062. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Stone fountains, benches, urns, art sculptures, roof tile, floor tile, leather chairs and iron railing,* from the International border between Mexico and the United States at Nogales, AZ to the facilities of The Stone Cutters in Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Stone Cutters, 1210 E. Northern, Phoenix, AZ. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 147421 (Sub-TA), filed May 31, 1979. Applicant: J. N. L'HEUREUX INC., 95 College Avenue, Waterville, ME 04901. Representative: Daniel J. L'Heureux, 95 College Avenue, Waterville, ME 04901. *Contract:* Irregular: (1) *Malt beverages,* (2) *wine,* (3) *containers* (1) from Philadelphia, PA and Baldwinville, NY to Waterville, ME; (2) from Farmingdale, Brooklyn and Canadagua, NY and Boston, MA to Waterville, ME, with (3) empty containers on return. Supporting shipper(s): Colonial Distributors, Inc., Marston Road, Marston Park, Waterville, ME 04901. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04111.

MC 147500 (Sub-1TA), filed June 15, 1979. Applicant: ERNEST L. "BOB" CORNISH, P.O. Box 14, Shoshoni, WY 82649. Representative: Ernest L. Cornish (same address as applicant). *Iron and steel products and articles, including barbed wire,* between points in Cook County, IL and points in Fremont County, WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Steel Barn Division, Basic Oil of Wyoming Inc., P.O. Box 154, Kinnear, WY 82516. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm. 105 Federal Bldg. & Court House, 111 South Wolcott, Casper, WY 82601.

MC 147520 (Sub-1Ta), filed June 1, 1979. Applicant: INLAND DIVERSIFIED CORPORATION dba INLAND FREIGHT CARRIERS, 1387 Center Street, Riverside, CA 92507. Representative: Elizabeth I. Abreu, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *General Commodities,* between points in Riverside County, San Bernardino County and Pomona, CA, for 180 days. Supporting shippers: Alumax Fabricated Products, Inc., 1495 Columbia Ave., Riverside, CA 92517. Modernistic Industries ALJO Travel-Trailer, 335 S. Lyon, Hemet, CA 92343. Diversified Shippers Cooperative, Inc., 1440 S. Alameda, Los Angeles, CA 90013. Send protests to: Irene Carlos, T/A, ICC.

MC 147531 (Sub-1TA), filed June 15, 1979. Applicant: RUSH TRANSPORT, INC., 818 N.E. 192nd, Portland, OR 97230. Representative: Philip G. Skofstad, 1300 N.E. Linden Avenue, Gresham, OR 97030 (503–667–6173). *Contract, Irregular such commodities as are dealt in or used by agricultural equipment, industrial equipment and lawn and leisure product dealers* (except commodities in bulk in tank vehicles) between Portland, OR, on the one hand, and on the other, points in WA, ID, and MT, for 180 days. Supporting shipper(s): John Deere & Co., P.O. Box 20098, Portland, OR 97220. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, OR 97204.

MC 147581 (Sub-1TA), filed June 11, 1979. Applicant: RKM, INC., P.O. Box 201, 107 Eastman St., Easton, MA 02334. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *Contract carrier:* irregular routes: (1) *Cleaning compounds, motor fuel water absorption and anti-icing compounds, and toilet preparations* (except in bulk). From Holbrook , MA to points in ME, NH, VT, RI, CT, NY, NJ, PA, MD, VA, and DC. (2) *Equipment, materials, and supplies,* used in the manufacture and distribution of the commodities described in (1) above (except in bulk). From points in NY, NJ, and PA to Holbrook, MA. For 180 days. Supporting shipper(s): The Barcolene Company, Holbrook, MA 02343. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 147590 (Sub-1TA), filed May 31, 1979. Applicant: GOLD STREAK FREIGHT LINES, INC., 2849 Porcupine Dr., Anchorage, AK 99501. Representative: Larry K. Coor (same as above). *General commodities, except Class A and B explosives and household goods as defined by the Commission,* between Seattle and Tacoma, WA on the one hand, and points in AK, on the other, and between points in AK for 180 days. Applicant proposes to interline with other carriers at Seattle and Tacoma, WA. Supporting shipper(s): There are 6 shippers. Their statements may be examined at the office listed below and headquarters. Send protests to: Hugh H. Chaffee, D/S, ICC, 858 Federal Bldg., Seattle, WA 98174.

Passengers

MC 147270 (Sub-1TA), filed May 30, 1979. Applicant: B & M TRANSIT CORPORATION, 15 N. Michigan Avenue, Atlantic City, NJ 08401. Representative: Ira G. Megdale, Esquire, 400 Cooper Landing Road, Cherry Hill, NJ 08002. *Passengers and their baggage in charter and special operations in vehicles capable of transporting 11 passengers or less.* Between Philadelphia International Airport on the one hand, and, on the other, points in Atlantic County, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Jersey Airways, Inc., Bader Field, Atlantic City, NJ 08401. Send protests to: Robert J. Laterwicz, TR & TS, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

By the Commission.
H. G. Homme, Jr.,
Secretary.

Notice No. 126

July 18, 1979.

MC 200 (Sub-362TA), filed June 5, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody, 903 Grand Ave., Kansas City, MO 64106. *Automobile parts and accessories (except in bulk),* serving Kokomo, IN as in intermediate point on U.S. Hwy 31 and off-route point in connection with applicant's regular route authority on U.S. 40, U.S. 24 and U.S. Hwy 52. (Applicant seeks to substitute single line service in place of two line hauls), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chrysler Corporation, Kokomo, 6334 Lynch Road, P.O. Box 1976, Detroit, Michigan 48288. Send protests to: Vernon Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-363TA), filed June 1, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody, 903 Grand Ave., Kansas City, MO 64106. *Plastic articles except in bulk,* serving Peru, IN as an off-route point in connection with applicant's regular route authority, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): AGP Plastics, Peru, IN 46970. Send protests to: Vernon Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 531 (Sub-409TA), filed June 20, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., Houston, TX 77021. Representative: Wray E. Hughes (same as applicant). *Industrial washing compound and liquid chemicals,* in bulk, in tank vehicles from Calvert City, KY to CA and UT for 180 days. Supporting shipper(s): GAF Corporation, 1361 Alps Rd., Wayne, NJ 07470. Send protests to: John F. Mensing, D/S, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 730 (Sub-448TA), filed May 25, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: F. C. Munson (same address as applicant). *Gasoline* from Phoenix, AZ to Las Vegas, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texas Independent Oil Co., P.O. Box 6040, Phoenix, AZ 85005. Send protests to: A. J. Rodriguez, 211 Mian Street, Suite 500, San Francisco, CA 94105.

MC 730 (Sub-449TA), filed May 25, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: F. C. Munson (same address as applicant). *Cleaning compound, in bulk, in tank vehicles,* from Hoboken, NJ to Los Angeles, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Henkel Inc., 12607 Cerise Avenue, Hawthorne, CA 90250. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 730 (Sub-450TA), filed May 29, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: Alfred G. Krebs (same address as applicant). *Common carrier,* regular routes: *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Carson City, NV as an off-route point in connection with carrier's authorized regular-route operations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 7 shippers. Their statements may be examined at the office listed below & Headquarters. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 730 (Sub-451TA), filed June 14, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge (same address as applicant). *Gasoline and diesel fuel,* in bulk, in tank vehicles, from Fruita, CO to San Bernardino & Escondido, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kasler Corp., POB 1899, Escondido, CA 92025. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 1181 (Sub-2TA), filed May 29, 1979. Applicant: D. A. WOOLEVER AND E. C. WOOLEVER, d.b.a. WOOLEVER TRANSFER, 112 South Loyalsock Avenue, Montoursville, PA 17754. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. *Cross ties, bridge ties, and lumber,* between the facility of Koppers Company, Inc. in Clinton Twp., Lycoming County, PA and pts. in Steuben, Chenango, Otsego, Broome, Schoharie, Cortland, Wayne and Onondaga Counties, NY and Hudson, Essex and Gloucester Counties, NJ for

180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Koppers Company, Inc., 850 Koppers Building, Pittsburgh, PA 15219. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 2900 (Sub-381TA), filed May 30, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408R, Jacksonville, FL 32203. Representative: John Carter (same as applicant). *Steel wire and the return of empty wire carriers;* from plantsite of the Laclede Steel Company, Alton, IL, to points in IN and MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Laclede Steel Company, Equitable Building, St. Louis, MO 63102. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 2900 (Sub-386TA), filed July 2, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). *Common carrier,* irregular routes, transporting: *malt beverages, empty containers, related advertising matter and pallets,* from Williamsburg, VA, as an off route point in connection with carrier's otherwise authorized regular route operations between Richmond, VA, and Washington, DC, restricted to the transportation of shipments moving from or to the plantsite and warehouse facilities of Anheuser-Busch, Inc., for 180 days. An underlying ETA seeks 90 days authority. Applicant seeks to tack this authority with that issued in MC–2900. Supporting shipper(s): Anheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, MO 63118. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 2960 (Sub-33TA), filed June 20, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, 2301 McKinney St., Houston, TX 77023. Representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. *General commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Shreveport, LA and Dallas, TX over Interstate Highway 20 serving no intermediate pts., for 180 days. Supporting shipper(s): There are 30 statements of support attached to the application which may be examined at the I.C.C. in Washington, D.C., or at the field office named below. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 3281 (Sub-12TA), filed June 15, 1979. Applicant: POWELL TRUCK LINE, INC., 800 South Main Street, Searcy, AR 72143. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, serving Osceola, AR and its commercial zone, as an off-route point in conjunction with the authority issued in MC 3281 and subs thereto, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Approximately 11 shippers. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 10811 (Sub-5TA), filed June 18, 1979. Applicant: B. PANELLA DRAYAGE CO., 851 No. 10th St., P.O. Box 467, San Jose, CA 95103. Representative: E. Q. Carmody, 15523 Sedgeman St., San Leandro, CA 95103. *Insulation and insulation materials,* other than in bulk, between the facilities of Certainteed Corp., at or near Chowchilla, CA, on the one hand, and the states of OR, WA, ID, UT, NV, and AZ, on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Certainteed Corp., P.O. Box 860, Valley Forge, PA 19482. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA, 94105.

MC 33970 (Sub-22TA), filed June 6, 1979. Applicant: GEORGE HILDEBRANDT, INC., R.D. 2, Hudson, NY 12534. Representative: Neil D. Breslin, Esq., 600 Broadway, Albany, NY 12207. *Salt and salt products in packages,* from White Marsh, MD to all points in MA and CT, for 180 days. Supporting shipper(s): Watkins Salt Company, P.O. Box 150, Watkins Glen, NY 14891. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 38921 (Sub-12TA), filed May 29, 1979. Applicant: WM. H. P., INC., 1342 N. Howard St., Phila., PA 19122. Representative: James A. Rutherford (same as applicant). *Copper cathodes,* from Camden, Jersey City and Newark, NJ, New York, NY to Arcola and Marion, IN, Three Rivers, MI, and Abingdon, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gerald Metals, Inc., One Battery Park Plaza, New York, NY 10004. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 43421 (Sub-60TA), filed April 9, 1979. Applicant: DOHRN TRANSFER COMPANY, 4016 9th Street, P.O. Box 1237, Rock Island, IL 61201. Representative: Walter J. Leahy (same address as applicant). Common carrier-irregular route: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, serving Fort Madison, IA and Muscatine, IA as off-route points to present regular route authority, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority applied for to other authority held by it and to interline with another carrier. Supporting shipper(s): There are 10 shippers. Their statements may be examined at the office listed below and headquarters. Send protests to: Annie Booker, TA, ICC, 1386 Everett Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 51861 (Sub-68TA), filed May 29, 1979. Applicant: WILLS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: John Wilson (same as applicant). *Iron and steel articles* between Cleveland, OH on the one hand and on the other, pts. in the lower peninsula of MI and pts. in the states of IL, IN, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corp., 3341 Jennings Rd., Cleveland, OH 44109. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 52861 (Sub-66TA), filed May 22, 1979. Applicant: WILLS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: John Wilson (same address as applicant). *Iron and steel and iron and steel articles* from the facilities of Wheeling-Pittsburgh Steel Corporation located at Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH; Allenport and Monessen, PA; Beechbottom, Benwood, Follansbee, and Wheeling, WV to points in the states of IL, IN, KY, MD, MI, NY, OH, PA, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corp., P.O. Box 18, Pittsburgh, PA 15230. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 52861 (Sub-67TA), filed May 22, 1979. Applicant: WILLS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: John Wilson

(same address as applicant). *Iron and steel articles,* from the plant sites of Allegheny Ludlum Steel Corporation in Brackenridge, Bagdad, and Leechburg, PA to points in OH and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allegheny Ludlum Steel Corp., P.O. Box 565, Leechburg, PA 15656. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 52861 (Sub-69TA), filed June 13, 1979. Applicant: WILLIS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: John Wilson (Same address as applicant). *Iron and steel articles* from the plant sites of Alleghany Ludlum Steel Corporation in Brackenridge, Bagdad, and Leechburg, PA to pointsd in OH, MI, and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allegheny Ludlum Steel Corporation, P.O. Box 565, Leechburg, PA 15656. Send protests to: D/S, I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 52861 (Sub-70TA), filed June 12, 1979. WILLIS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: John Wilson (Address same as applicant). *Iron and steel, and iron and steel articles,* between the facilities of Weirton Steel Division of National Steel Corporation, Weirton, WV, on the one hand, and, on the other, points in PA, NY, OH, MI, IL, IN, KY, CT, MD, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weirton Steel Division National Steel Corp., Weirton, WV 26062. Send protests to: D/S, I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 56270 (Sub-30TA), filed June 20. 1979. Applicant: LEICHT TRANSFER & STORAGE CO., 1401–55 State St., Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). *Commodities which because of size or weight require the use of special equipment or special handling,* between points in WI and the UP of MI on the one hand, and, on the other, points in AR, CO, KS, KY, LA, MO, NE, NM, OH, OK, TN & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 16 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 59241 (Sub-8TA), filed May 14, 1979. Applicant: JOHN GIBBONS, INC., 650 Eddystone Ave., Eddystone, PA 19013. Representative: Maxwell Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. *Reels, skids and pallets and materials and supplies used in the manufacture thereof,* between Baltimore, MD, on the one hand, and, on the other, points in the State of NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nelson Company, 2116 Sparrows Point Road, Sparrows Point, MD 21219. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 59680 (Sub-229TA), filed May 23, 1979. Applicant: STRICKLAND TRANSPORTATION COMPANY, INC., 11353 Reed Hartman Highway, Cincinnati, OH 45241. Representative: Milton H. Bortz (same as applicant). *General commodities, except those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment* serving Longview, TX and Marshall, TX, and their commerical zones, as off-route pts. in connection with carrier's presently authorized regular routes for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 28 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm 620, Phila., PA 19106.

MC 61401 (Sub-16TA), filed May 25, 1979. Applicant: MARX TRUCK LINE, INC., 220 Lewis Blvd., Sioux City, IA 51101. Representative: Robert A. Wichser, P.O. Box 417, Sioux City, IA 51102. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by* retail lumber yards (except commodities in bulk), between points in IA, IL, KS, MN, MO, and NE, for 180 days, restricted to a transportation service under a continuing contract(s) with Payless Cashways, Inc. Supporting shipper(s): Payless Cashways, Inc., 1801 Dace, Sioux City, IA 51107. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 68860 (Sub-38TA), filed June 8, 1979. Applicant: RUSSELL TRANSFER, INCORPORATED, 5259 Aviation Drive, Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr. (address same as above). *Glass containers, bottles and jars,* from the plant site and facilities of Owens-Illinois, Huntington, WV to points in NC and VA for 180 days. Supporting shipper(s): Owens-Illinois, Inc., Glass Container Division, P.O. Box 1035, Toledo, OH 43666. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 78400 (Sub-73TA), filed June 15, 1979. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Charcoal, charcoal briquettes,* and *wood chips* from Meta and Salem, MO to points in CO, IA, IL, KS, MI, MN, ND, NE, OK, SD and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Company, P.O. Box 1033, Louisville, KY 40201. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC (Sub-175TA), filed May 31, 1979. Applicant: GATEWAY TRANSPORTATION CO., INC., 435 Park Plaza Drive, LaCrosse, WI 54601. Representative: Lem Smith (same address as applicant). *Iron and steel articles, materials, equipment and supplies used in the manufacture and distribution of iron and steel articles, plant material and supplies,* (except in bulk), between facilities of North Star Steel Co., Newport, MN on the one hand, and on the other, points in IL, IN, IA, OH & WI, for 180 days., Supporting shipper(s): North Star Steel Co., P.O. Box 3189, St. Paul, MN 55165. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 82841 (Sub-285TA), filed June 4, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE. 68127 Representative: William E. Christensen (same as above). *Brass, bronze or copper tubing and articles and products* used in the manufacture of same from Pulaski, TN to points in AR, AZ, CO, IA, IL, KS, LA, MS, MO, NE, NM, OK, and TX. Supporting shipper(s): Reading Industries, Inc., P.O. Box 128, Reading, PA 19603, Melvin J. Wagner, Corporate Traffic Manager. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 89021 (Sub-2TA), filed June 19, 1979. Applicant: LEVINE'S EXPRESS & TRUCKING COMPANY, P.O. Box 237, 1001 Roosevelt Avenue, Carteret, NJ 07008. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 80904. *Advertising displays, samples and materials,* between points in RIC, CT, MA, NJ, NY and PA, on and east of Highway 15, on the one hand, and, on the other, points in the US except AK, CT, DE, HI, IN, MI, MD, MA, NJ, NY, OH, PA and RI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Howard Displays Corporation, 500 Tenth Avenue, New York, NY 10018. Send protests to: Irwin

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Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 105501 (Sub-37TA), filed June 5, 1979. Applicant: TERMINAL WAREHOUSE COMPANY, 1851 Raddison Road, Northeast, Blaine, MN 55434. Representative: Samuel Rubenstein/David Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *(1) Carbonated beverages in containers* from the facilities of Shasta Beverages, Inc. at or near Omaha NE to points in ND, SD, MN and WI; and *(2) Material and supplies used in the manufacture and sale and distribution of carbonated beverages* from Minneapolis, MN and its commercial zone to the facilities of Shasta Beverages, Inc. at or near Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shasta Beverages Inc., 26901 Industrial Boulevard, Hayward, CA 94545. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 106920 (Sub-84TA), filed June 5, 1979. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, OH 45869. Representative: David C. Venable, 666 Eleventh St., N.W., Washington, DC 20001. *Frozen foods,* from Fogelsville, Lake Winola, Philadelphia, and Pottstown, PA, to points in FL, GA, IL, IN, KS, KY, MI, MO, NC, OH, SC, TN, and WI, for 180 days. Supporting shipper(s): Mrs. Smith's Pie Company, South & Charlotte Sts., Pottstown, PA 19464. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 109490 (Sub-18 TA), filed June 18, 1979. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 97, Union Center, WI 53962. Representative: Ronald Laitsch, 113 N. 3rd St., Watertown, WI 53094. (1) *Wood burning furnaces and wood burning boilers* from Elroy, WI to points in MN, IA, IL, IN, MI, OH, PA, NY, NJ & MD and (2) *Materials and supplies used or useful in the manufacture of wood burning furnaces and wood burning boilers* from points in MN, IA, IL, IN, MI, OH, PA, NY, NJ & MD to Elroy, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Royall Furnace, Inc., 208 S. Center St., Elroy, WI 53029. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 110391 (Sub-3TA), filed June 8, 1979. Applicant: CHESTER A. DE YOUNG AND KAREN M. DE YOUNG, d.b.a. DE YOUNG TRANSFER & STORAGE CO., 214 East Park, Livingston, MT 59047. Representative: Chester A. DeYoung (same as applicant). *General commodities, dry freight* (except commodities in bulk and commodities which because of size and weight require special equipment), over regular routes from Livingston, MT over Hwy 10/191 to Bozeman, MT, then southerly over Hwy 191 to West Yellowstone, MT, for 180 days. Supporting shipper(s): David B. Dindessgred, Savage Shop, West Yellowstone, MT 59758. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 111401 (Sub-568TA), filed May 29, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Liquid supplement (livestock feed),* in bulk, in tank vehicles, from Hooker, OK, to Libera, Elkhart, Mosco, KS, for 180 days. Supporting shipper(s) Cargill, Incorporated, P.O. Box 9300, Dept #20, Minneapolis, MN 55440. Send protests to: Connie Stanley, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 111401 (Sub-569TA), filed May 29, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum oil,* in bulk, in tank vehicles, from Oklahoma City, OK, to Albion, IL, and Kingsford, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crowley Chemical Company, 261 Madison Avenue, New York, NY 10016. Send protests to: Connie Stanley, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 111401 (Sub-570TA), file June 14, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum products,* in bulk, in tank vehicles, from the facilities of Mobil Oil Corporation, at or near Augusta, KS, to points in AR, for 180 days. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway, #522, Dallas, TX 75206. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 111401 (Sub-571TA), file June 14, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum products,* in bulk, in tank vehicles, from the facilities of Mobil Oil Corporation, at or near Beaumont, TX, to points in AR, FL, GA, IL, LA, & WI, for 180 days. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway, #522, Dallas, TX 75206. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 110420 (Sub-827TA), filed June 8, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. *Spent aluminum sulfate and spent phosphoric acid, in bulk, in tank vehicles,* from Grand Rapids and Muskegon, MI to Milwaukee, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hydrite Chemical Co., 1237 W. Bruce St., Milwaukee, WI 53204. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 110420 (Sub-828TA), filed June 8, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Liquid chemicals,* in bulk, from Houston, TX to IL, IN, IA, KY, PA, TN & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111320 (Sub-73TA), filed June 11, 1979. Applicant: KEEN TRANSPORT, INC., Post Office Box 1417, Hudson, OH 44236. Representative: Michael Spurlock, Esq., 275 E. State St., Columbus, OH 43215. *Roadbuilding and construction equipment, and parts thereof,* from the facilities of Euclid, Inc., located at Euclid, OH, and the General Motors Corporation (Terex Division) located at Cleveland, OH, to points in WA, OR, CA, NV, ID, MT, WY, AZ, NM, CO, and UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Motors Corporation, P.O. Box 2169, Hudson, OH 44236, Euclid, Inc., Euclid, OH. Send protests to: D/S, ICC, 101 North Seventh St., Philadelphia, PA.

MC 112750 (Sub-350TA), filed June 7, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same address as applicant). *Contract carrier,* irregular routes: *Commercial papers, documents and written instruments (except currency and negotiable securities), as are used in the business of banks and banking institutions,* between Cincinnati, OH, on the one hand, and, on the other, points in the Kentucky Counties of Bell, Breathitt, Clay, Elliot, Estill, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, McCreary, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Whitley, and Wolfe; Restriction: The operations are limited to a transportation service to be performed under a continuing contract or contracts with banks and banking institutions; for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 1. The Fifth Third Bank, 38 Fountain Square Plaza, Cincinnati, OH 45202. 2. Central Trust Company, 310 Race St., Cincinnati, OH 45201. 3. The First National Bank of Cincinnati, Fourth & Walnut Sts., Cincinnati, OH 45202. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 112801 (Sub-236TA), filed May 29, 1979. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith (same address as applicant). *Liquid chemicals, in bulk, in tank vehicles,* from the facilities of PPG Industries, Inc. at Lake Charles, LA, Beaumont, TX and points in Harris County, TX to points in AR, FL, GA, IL, IN, LA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX and WI for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 112801 (Sub-237TA), filed June 6, 1979. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith (address same as applicant). *Cleaning compounds,* in bulk, in tank vehicles from Chicago, IL to Dallas, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McIntyre Chemical Co., 4851 South St. Louis Avenue, Chicago, IL 60625. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 112801 (Sub-238TA), filed June 14, 1979. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith, 15 Salt Creek Lane, Hinsdale, IL 60521. *Liquid fertilizer solutions,* in bulk, in tank vehicles from Ottawa, IL to points in IN, IA, MO, MN, WI, OH, PA, MI, KY, NE, ND and SD for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Texas Sulphur Products, Subsidiary of Kerley Industries, Inc., P.O. Box 554, Ottawa, IL 61350. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 112801 (Sub-239TA), filed June 13, 1979. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith (same as applicant). *Liquid Chemicals,* in bulk, in tank vehicles from the facilities of Dow Chemical USA, in Michigan to Freeport, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Chemical USA, 690 Building, Midland, MI 48640. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 114761 (Sub-16TA), filed May 22, 1979. Applicant: GETTER TRUCKING INCORPORATED, P.O. Box 1635, Billings, MT 59103. Representative: John R. Davidson, Davidson, Veeder, Baugh & Broeder, PC 805 Midland Bank Building, Billings, MT 59101. (1) *Machinery, equipment, materials* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of manufactured and natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, between points in CO, ID, MT, NE, ND, SD, UT, WA and WY on the one hand, and, on the other, points in AZ, CA, KS, NV, NM, OK, OR, and TX; and (2) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in CO, ID, MT, NE, ND, SD, UT, WA and WY, on the one hand, and, on the other, points in AZ, CA, KS, NV, MN, OK, OR, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R & L Oilwell Supplies, First Northwestern Bank Bldg., Billings, MT 59101, Tucker Pipe & Supply Co., Inc., First NW Bank Bldg., Billings MT 59101, John E. Burns Drilling Co., 6850 W. Yellowstone, Casper WY, ATCO Drilling, Inc., 7000 W. Yellowstone, Mills, WY, Energy Reserve Group, Inc., 217 N. Water, Wichita, KS. Send protests to: Paul J. Labanau DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 114890 (Sub-93TA), filed June 8, 1979. Applicant: COMMERCIAL CARTAGE CO., 343 Axminster Dr., Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. *Liquid fertilizer,* in bulk, in tank vehicles, from the facilities of United States Steel Corporation at or near Selma, MO to points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 233 Peachtree St., N.E., Atlanta, GA 30303. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 114890 (Sub-94TA), filed June 15, 1979. Applicant: COMMERCIAL CARTAGE CO., 343 Axminster Dr., Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. *Barium sulfide slurry,* in bulk, in tank vehicles, from Coffeyville, KS to Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sherwin Williams Company, P.O. Box 855, Coffeyville, KS 67337. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115311 (Sub-359TA), filed May 21, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 56387, Atlanta, GA 30343. *Composition board* from the facilities of the United States Gypsum Co., at or near Danville, VA to points in IL, IN, KY, MI and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Rm. 300, Atlanta, GA 30309.

MC 115331 (Sub-503TA), filed May 25, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt, 11040 Manchester Road, St. Louis, MO 63122.

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Wine, in bulk, from the facilities of Guild Wine Company at Lodi, Fresno, Sanger and Delano, CA to Gallup, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Guild Wineries & Distilleries, Lodi, CA. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115331 (Sub-504TA), filed April 24, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt, 11040 Manchester Rd., St. Louis, MO 63122. *Alcohol* NOS, in bulk, from Bardstown, KY to Bayside, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bay River, Inc., P.O. Box 244, Bay Side, TX 78340. Send protests to: P. E. Binder, OC, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115331 (Sub-505TA), filed May 11, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt, 11040 Manchester Rd., St. Louis, MO 63122. *Powdered glass,* in containers, from Cleveland, OH to St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Flexolite, Inc., P.O. Box 4366, St. Louis, MO 63123. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115841 (Sub-722TA), filed June 13, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Meats* from Portland, TN to points in AL, GA, LA, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stevison Ham, Highway 109 North, Portland, TN 37148. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-723TA), filed June 13, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Foodstuffs (except commodities in bulk)* from Douglas, GA to points in MI; IN; OH; NC; SC; NY; NJ; Los Angeles, CA; Portland, OR; Chicago, IL; Lawrence, KS; and Stillwell, OK, for 180 days. Supporting shipper(s): Douglas Food Service, P.O. Box 71, Johnson City, NY 13905. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115931 (Sub-97TA), filed June 4, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Prefabricated metal buildings, knocked down or in sections, and parts and accessories used in the installation thereof,* from the facilities of Trachte Metal Buildings Company located at or near Madison, WI to points in CA, CO, MT and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Trachte Metal Buildings Company, 102 North Dickinson St., Madison, WI 53703. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 117940 (Sub-346TA), filed May 24, 1979. Applicant NATIONWIDE CARRIERS, INC., P.O. Box 104 Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. *Foodstuffs (other than in bulk)* from the facilities of The Pillsbury Company at Minneapolis, MN to points in AL, FL, GA, NC, SC and TN, for 180 days. Supporting shipper(s): The Pillsbury Company, 608 Second Avenue South, Minneapolis, MN 55402. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Bui1.

MC 119630 (Sub-25TA), filed June 8, 1979. Applicant: VAN TASSEL, INC., 5th & Grand, Pittsburg, KS 66762. Representative: Dean Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Plastic Pipe* from Booneville, MS to points in KY, OK & TN for 180 days, common, irregular; Supporting shipper: H & W Industries, Inc., Booneville, MS; Send protects to: M. E. Taylor, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority. Supporting shipper(s): H&W Industries, Inc., 200 Park Place, Booneville, MS 38829. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 119641 (Sub-172TA), filed May 21, 1979. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. *Zinc, zinc dross, zinc residue, zinc skillings, and materials, equipment and supplies used in the manufacture of zinc and zinc products,* between the facilities of St. Joe Zinc Company, located at Josephtown (Potter Township, Beaver County), PA, on the one hand, and on the other, points in the States of IA, IL, IN, MI, MN, MO, OH and WI for 180 days. Supporting shipper: St. Joe Zinc Company, No. 2 Oliver Plaza, Pittsburgh, PA 15222. Send protests to: Beverly J. William Transportation Assistant, ICC, 46 East Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 119961 (Sub-6TA), filed June 21, 1979. Applicant: MARSHALL MOTOR COACH, INC., P.O. Box 428, Marshalltown, IA 50158. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Passengers and their baggage, in charter operations,* beginning and ending at points in Polk County, IA and extending to points in the U.S. (except HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hawkeye Tours, Inc., 8450 Hichman Rd., Suite 20, Des Moines, IA 50322. Send protests to: Herbert W. Allen, DS, ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 120761 (Sub-56TA), filed June 21, 1979. Applicant: NEWMAN BROS. TRUCKING COMPANY, 6559 Midway Road, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. *Building and roofing materials (except in bulk)* from the facilities of Bird & Son, Inc. at Shreveport, LA, to points in TX for 180 days. An underlying ETA for 90 days authority filed. Supporting shipper(s): Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 120781 (Sub-7TA), filed June 14, 1979. Applicant: KRAFTOURS CORPORATION, P.O. Box 45790, Tulsa, OK 74145. Representative: Donna Kraft (same address as applicant). *Passengers and their baggage,* in special operations in round-trip sightseeing and pleasure tours, beginning and ending at points in the State of OK and extending to all points in the United States, Canada and Alaska, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 7 supporting shipper statements to this application. They may examined at Headquarters or the field office listed below. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 120910 (Sub-23TA), filed June 7, 1979. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35403. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *(1) Roofing paper, building paper, roofing cement, asphaltum, roofing asphalt, prepared roofing, prepared shingles, filter felt, and materials and supplies used in the installation thereof, (except liquid in bulk, in tank vehicles)* from Tuscaloosa County, AL, to points in GA, FL, NC, SC, KY. *(2) Materials and supplies used in the manufacture of items in (1) above (except liquid in bulk, in tank vehicles),* from the destination states in (1) above and Knoxville, TN to Tuscaloosa, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tamko Asphalt, Inc., P.O. Box 2149, Tuscaloosa, AL 35401. Elk Corporation, Inc., P.O. Box 465, Tuscaloosa, AL 35401. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 121101 (Sub-2TA), filed June 15, 1979. Applicant: FORGE VILLAGE TRANSPORTATION CO., INC., 39 Central Avenue, Ayer, MA 01432. Representative: Frank J. Weiner, 15 Court Sq., Boston, MA 02108. *Common carrier:* irregular routes: *Printed matter, and materials, supplies, and equipment* used by book publishing and book printing companies (except in bulk), between points in Massachusetts and Brattleboro, VT, on the one hand, and, on the other, points in MA, RI, CT, NY, NJ, VT, PA, OH, IN, IL, MO, KY, VA, MD, TN, and MI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harper & Row, Publishers Inc., Scranton, PA 18512. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 121420 (Sub-13TA), filed May 30, 1979. Applicant: DART TRUCKING COMPANY, INC., 61 Railroad St., Canfield, OH 44406. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Iron and steel articles,* (1) from the facilities of Jones & Laughlin Steel Corporation at or near Youngstown and Cleveland, OH to points in the lower peninsula of MI and points in IN on and north of Interstate Highway 70; (2) from the facilities of Jones & Laughlin Steel Corporation at or near Aliquippa and Pittsburgh, PA to points in the lower peninsula of MI, points in IN on and north of Interstate Highway 70, and points in Erie, Sandusky, Ottawa, Wood, Henry, Fulton, Lucas, Hancock, Williams, Defiance, Richland, Ashland, Huron, Seneca, Crawford and Wyandot Counties, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corp., 1600 West Carson St., Pittsburgh, PA 15763. Send protests to: D/S, ICC, 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 124170 (Sub-136TA), filed June 14, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *General Commodities* (except Class A and B Explosives, commodities in bulk, commodities which, because of size or weight, require special equipment, and household goods as defined by the Commission; from Chicago, IL and its commercial zone, to points in the lower peninsula of MI. (Restriction: The above authority is restricted to the transportation of traffic originating at the facilities of Dry Storage Corporation in Chicago, IL and its commercial zone.) For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dry Storage Corporation, 2005 West 43rd Street, Chicago, IL 60609. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 124170 (Sub-137TA), filed June 14, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, P. C., 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *General Commodities* (except Class A & B explosives, commodities in bulk, commodities which, because of size or weight, require special equipment, and household goods as defined by the Commission), from Chicago, IL, and its commercial zone to points in KY. (Restriction: The above authority is restricted to the transportation of traffic originating at the facilities of Dry Storage Corporation in Chicago, IL and its commercial zone.) For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dry Storage Corporation, 2005 West 43rd Street, Chicago, IL 60609. Send protests to: C. R. Fleming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 124170 (Sub-138TA), filed June 19, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. *Bakery products;* from Livonia, MI to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and DC. (Restricted to the transportation of traffic originating at the facilities of Awrey Bakeries, Inc., at Livonia, MI.) For 180 days. Supporting shipper(s): Awrey Bakeries, Inc., 12301 Farmington Road, Livonia, MI 48150. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing MI 48933.

MC 124211 (Sub-364TA), filed June 14, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 DTS, Omaha, NE 68101. Representative: Norma J. Kuebler (same address as applicant). *Aluminum scrap, rod and cable,* from the facilities of the Aluminum Co. of America located at or near Scottsville, TX to points in the U.S., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aluminum Co. of America, 1501 Alcoa Building, Pittsburgh, PA 15219. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St., Omaha NE 68102.

MC 124230 (Sub-38TA), filed June 12, 1979. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, CO 81321. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. *Molten sulphur, in bulk,* between points in WY and CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Carbide Corporation, One California Street, San Francisco, CA 94111. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 124511 (Sub-57TA), filed May 25, 1979. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, E. Hwy. 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 S. La Salle St., Chicago, IL 60603. *Iron and Steel Articles,* from Chicago, IL and points within its commercial zone, to Independence, MO; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allis-Chalmers Corp., Box 1099, 631 Cottage, Independence, MO 64051. Send protests to: Vernon Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 124711 (Sub-92TA), filed June 22, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Norman A. Cooper (same address as above). *Petroleum and petroleum products,* in bulk, from the Chase Pipeline Terminal, eight miles north of Scott City, KS, to points in NE west of the western boundaries of Red Willows, Frontier, Lincoln, Custer, Blaine, Brown and Keyapaha Counties, NE; 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Kugler Oil Co., P.O. Box 308, Culbertson, NE 69024. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 124711 (Sub-93TA), filed June 22, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Norman A. Cooper (same address as above). *Asphalt,* in bulk, from Kansas City, KS to Ottumwa and Perry, IA. 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Carter-Waters Corporation, 2440 Pennway, Kansas City, MO 64108. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 125561 (Sub-2TA), filed May 28, 1979. Applicant: SUNNYSIDE TRANSFER, INC., 7th & Railroad, P.O. Box 526, Sunnyside, WA 98944. Representative: Robert Gerald Sanders or Sonny Joe Sanders, 7th & Railroad, P.O. Box 526, Sunnyside, WA 98944. General commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which, because of size or weight, require special equipment. (1) between Kennewick, WA and Yakima, WA, serving all intermediate points and off route points of Moxee City, Harrah, White Swan; including the commercial zones of each over regular routes as follows: (A) From Kennewick, WA over U.S. Highway 12 and return over the same route; (B) From Kennewick, WA over U.S. Highway 12 to its junction with State Highway 22 at or near Prosser, WA and then over State Highway 22 to its junction with U.S. Highway 97 at or near Toppenish, WA and then via U.S. Highway 97 to Yakima, WA and return over the same route. Restriction: The service to be performed shall be limited to traffic moving in interline service with other motor common carriers. Supporting Shipper(s): Standard Paint, 101 N. 3rd Ave., Yakima, WA. Yakima Implement & Irrig. Inc. 1922 S. 1st, Yakima, WA 98903. Empire International, 1730 S. 1st, P.O. Box 10388, Yakima, WA 98903. Send protests to: R. V. Dubay, D/S, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 125650 (Sub-20TA), filed June 22, 1979. Applicant: MOUNTAIN PACIFIC TRUCKING, INC., Route 2, Missoula, MT 59801. Representative: Michael D. Duppenthaler, 211 So. Washington St., Seattle, WA 98104. *Such commodities as are dealt in by grocery and food business houses* and *equipment, materials and supplies used in the conduct of such business* (except in bulk, in tank vehicles) from points in OR and WA to points in MT and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 20 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 125951 (Sub-45TA), filed May 25, 1979. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). *Meats, meat products, and articles distributed by meat packinghouses,* from the facilities of Wilson Foods Corporation at or near Omaha, NE to all points in AL, NC, SC, TN, and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 127811 (Sub-18TA), filed June 18, 1979. Applicant: BRYNWOOD TRANSFER, INC., 175 8th Avenue, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Iron or steel articles* from Minneapolis, MN to points in IL, IA, ND, SD, Upper Peninsula of MI, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Bethlehem Steel Corporation, Prudential Building, Chicago, IL. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 127840 (Sub-109TA), filed May 2, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. *Animal fats, animal oils, vegetable oils and products and blends thereof,* (1) from Denver, CO to points in OR, ID, WA, UT, CA, TX, WI and MN; (2) from points in CA and OR to Denver, CO, for 180 days. Supporting Shipper(s): Rust Sales Company, East 61st Avenue & Franklin St., Denver, CO 80216. Send protest to: Annie Booker, TA, ICC, 1386 Dirksen Bldgs., 219 So. Dearborn St., Chicago, IL 60604.

MC 127840 (Sub-110TA), filed May 15, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Insecticides,* in bulk, from the Rocky Mountain Arsenal, near Denver, CO to points in WY and NE for 180 days. An underlying ETA was granted for 90 days. Supporting Shipper(s): Shell Oil Co., P.O. Box 2099, Houston, TX 77001. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-111TA), filed May 15, 1979. applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William Towle, 180 North LaSalle Street, Chicago, IL 60601. *Acids and chemicals,* from Denver, CO to points in WY and NE for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Vanwaters & Rogers, 4300 Holly Street, Denver, CO 80217. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-112TA), filed May 29, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Liquid chemcials,* in bulk, from points in TX and LA to points in the United States (except Alaska and Hawaii) for 180 days. Supporting shipper(s): PPG Industries, Inc., 1 Gateway Center, Pittsburgh, PA 15222. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-113TA), filed May 29, 1979. Applicant: MONTGOMERY TANK LINES, 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Petroleum and petroleum products,* in bulk, from the facilities of Gulf Oil Company-U.S. at Port Arthur, TX to points in AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OK, SC, SD, TN, UT and WI, for 180 days. Supporting shipper(s): Gulf Oil Company, U.S., P.O. Box 3706, Houston, TX 77001. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-116TA), filed June 5, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William Towle, 180 North LaSalle Street, Chicago, IL 60601. *Bulk vinegar ingredients;* from Denver, CO to Dallas and Paris, TX for 180 days. Supporting shipper(s): Speas Company, Subsidiary of Pillsbury Co., 808 2nd Avenue, South, Minneapolis, MN 55402. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 128371 (Sub-6TA), filed June 15, 1979. Applicant: BELLEVUE AGGREGATE HAULERS, INC., 9410 Airport Highway, Box 296, Holland, OH 43528. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. *Scrap metal,* from Napoleon, OH to Neville Island, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vulcan Materials Co., P.O. Box 7497, Birmingham, AL 35223. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 128940 (Sub-40TA), filed April 24, 1979. Applicant: RICHARD A. CRAWFORD, d.b.a. R. A. CRAWFORD TRUCKING SERVICE, P.O. Box 303, Gambrills, MD 21054. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. Contract carrier, irregular routes, *plastic bags and plastic film,* from Pottsville, PA and its commercial zone to Chicago, IL and Memphis, TN, and their respective commercial zones and points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Exxon Chemical Co., P.O. Box 395, Pottsville, PA. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 133541 (Sub-9TA), filed May 15, 1979. Applicant: MCKIBBEN MOTOR SERVICE, INC., 494 W. Sharon Rd., Cincinnati, OH 45246. Representative: James Duvall, 220 W. Bridge St., Dublin, OH 43017. *Contract; Irregular:* (1) *Containers, container ends and materials, equipment and supplies used in the manufacture, sale and distribution of containers,* between pts in GA, IL, IN, KY, MI, OH, PA, TN, WV, and WI, and (2) *malt beverages,* from Evansville, IN, and Newport, KY to pts in the states named in (1) above for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Four supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 133591 (Sub-72TA), filed June 11, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Charles A. Daniel, P.O. Box 303, Mount Vernon, MO 65712. (1) *Radio, television, stereo and video tape equipment and electrical appliances;* and (2) *supplies, materials and components used* in assembly of radio, television, stereo and tape equipment and electrical appliances, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zenith Radio Corp., 1900 North Austin Ave., Chicago, IL 60639. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 134670 (Sub-5TA), filed June 4, 1979. Applicant: DIVERSIFIED TRANSPORTATION, INC., P.O. Box 1406, Mountain View, CA 94042. Representative: W. B. Hill, Suite 805, 666 11th St., N.W., Washington, DC 20001. *General Commodities,* except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Lake, Marin Mendocino, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Tulare, Yolo, and Yuba Counties, CA. Restricted to traffic having a prior or subsequent movement by air, for 180 days. Supporting shipper(s): Daylight Transport, 272 Meserole Ave., Brooklyn, NY 11222. Air Freight Associates, P.O. Box 1837, St. Paul, MN 55111. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 134730 (Sub-14TA), filed June 13, 1979. Applicant: METALS TRANSPORT, INC., 528 S. 108th St., West Allis, WI 53214. Representative: M. H. Dawes (same address as applicant). Contract carrier; irregular routes; *Aluminum, aluminum scrap and scrap metals,* between points in AL, AR, GA, IL, IN, IA, KS, KY, MN, MS, MO, OH, OK, TN, TX and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Metal Exchange Corp., 735 N. Water, Milwaukee, WI 53202. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 135410 (Sub-71TA), filed May 25, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Refractories,* from Mexico, MO to East Moline, Rock Island and Galva, IL and Bettendorf and Davenport, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Valley Foundry Supply, P.O. Box 83, Rock Island, IL 61201. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 135891 (Sub-35TA), filed June 21, 1979. Applicant: DALLAS CARRIERS CORP., P.O. Box 402626, Dallas, TX 75240. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Contract Carrier, irregular route, *Such merchandise as dealt in or distributed by pharmaceutical houses (except commodities in bulk)* From Norwich and North Norwich, NY and Greenville, SC to Toledo, OH; Elk Grove Village, IL; City of Commerce, CA; and Dallas TX; and between Norwich, and North Norwich, NY on the one hand, and on the other, Greenville, SC; Restriction: restricted to traffic moving under a continuing contract with Norwich-Eaton Pharmaceuticals, a Division of Morton-Norwich, Norwich, NY for 180 days. An underlying ETA for 90 days authority filed. Supporting shipper(s): Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich, 13 Eaton Avenue, Norwich, NY 13815. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27, Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135861 (Sub-53TA), filed June 19, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Contract carrier*—irregular routes: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk)* from facilities of Armour and Company at or near Brownsville, TX to points in AL, LA, and MS, under contract(s) with Armour Fresh Meats Co., Phoenix, AZ for 180 days. An underlying ETA for 90 days authority. Supporting shipper(s): Armour Fresh Meats Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 136220 (Sub-75TA), filed May 25, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164 Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Ferroalloys* (in bulk, in dump vehicles), from Rockwood, TN, to points in CO, IA, KS, LA, NE, OK, TX, and UT, for 180 days. Supporting shipper(s): Derby and Company, Inc., 400 Holiday Dr., Pittsburgh, PA 15220. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136220 (Sub-76TA), filed May 25, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164 Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El

Reno, OK 73036. *Aluminum dross, aluminum dross residue and aluminum scrap* (loose, in dump vehicles), between Bicknell, IN, on the one hand, and, on the other, points in IL, KS, KY, LA, MS, MO, NC, OH, OK, PA, TN, TX, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Apex International Alloys, Inc., P.O. Box 188, Bicknell, IN 47512. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136220 (Sub-77TA), filed May 25, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164 Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Flue dust,* (in bulk), from Armco Steel Co., at Sand Springs, OK, to the facilities of Eagle Picher Industries, Inc., (Ag-Chem Division), at Galena, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eagle Picher Industries, Inc., P.O. Box 83, Joplin, MO 64801. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136220 (Sub-79TA), filed June 6, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Foundry coke,* in bulk, from St. Louis, MO, to Glenlord, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miller and Company, 55 East Monroe, Chicago, IL 60603. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136220 (Sub-80TA), filed June 6, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Tmothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Lime,* in bulk, in dump vehicles, from the facilities of Texas Lime Company at Cleburn, TX, to Ponca City and Stillwater, OK, for 180 days. An underlying ETA seeks 90 days authorty. Supporting shipper(s): Evans and Associates, Construction Co., Inc., P.O. Box 30, Ponca City, OK 74601. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136711 (Sub-28TA), filed May 25, 1979. Applicant: McCORKLE TRUCK LINE, INC., P.O. Box 94968, Oklahoma City, OK 73143. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Roofing granules* (in bulk), from the facilities of 3M Company at or near Little Rock, AR, to the facilties of Masonite Corporation, at or near Meridian, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Masonite Corp., (Roofing Division), P.O. Box 5777, Meridian, MS 39301. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 140011 (Sub-6TA), filed May 22, 1979. Applicant: A. C. DENNLER CO., 13023 Arroyo Avenue, San Fernando, CA 91240. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. *Contract:* Irregular: *Hospital Supplies,* from Kenne, New Hampshire to Los Angeles, Glendale, Burlingame and San Frnacisco, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Concord Laboratories, Inc., Kit Street, Keene, NH 03431. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 140421 (Sub-20TA). Applicant: ACTION MOTOR EXPRESS, INC., P.O. Box 29102, New Orleans, LA 70189. Representative: Sandra H. Roberson (same address as applicant). Applicant is seeking authority to operate as a contract carrier over irregular routes transporting (1) *Carbonated beverages, cans, components, containers, materials and supplies* from the facilities of Coca Cola Bottling Company at or near New Orleans and Baton Rouge, LA to points in AL, AR, LA, MS, TN, TX, IL, IN, MO, GA, SC, NC, and VA; and (2) *the return of materials and supplies* from the states named in (1) above to the facilities of Coca Cola Bottling Company at or near New Oreals and Baton rouge, LA, for 180 days. Restricted against bulk and this will be under a continuing contract or contracts with Coca Cola Bottling Company, New Orleans, LA. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Coca Cola Bottling Company, P.O. Box 50400, New Orleans, LA 70150. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 141700 (Sub-1TA), filed June 7, 1979. Applicant: KENNETH G. SCHUCK, R.D. 3, Blue Barn Road, Allentown, PA 18104. Representative: Paul B. Kemmerer, 1620 N. 19th St., Allentown, PA 19104. *Contract carrier:* irregular routes: *Plastic pipe, plastic ducts, plastic tubes, fittings and attachments for such commodities, and materials and supplies used in the installation of plastic pipe, plastic ducts and plastic tubes,* from the facilities of Carlon An Indian Head Company located at Nazareth, PA to pts. in DE and VT and from pts. in DE and VT to facilities of Carlon An Indian Head Company located in Nazareth, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carlon An Indian Head Company, 635 East Lawn Rd., Nazareth, PA. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 143610 (Sub-15TA), filed June 4, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Contract, irregular, *(1) such commodities as are dealt in by toy and game retailers and (2) materials, supplies and equipment used in the conduct of such business,* from points in and east of WI, IA, MO, AR and LA to Compton and San Jose, CA, for 180 days. An underlying ETA seeks 90 days authority SUPPORTING SHIPPER: Toys-R-Us, Inc., 299 Market St., Saddlebrook, NJ 07662. SEND PROTESTS TO: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N., 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Toys-R-Us, Inc., 299 Market St. Saddlebrook, NJ 07662. SEND PROTESTS TO: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Toys-R-Us, Inc., 299 Market St., Saddlebrook, NJ 07662. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143621 (Sub-20TA), filed June 20, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Avenue North, P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). *Iron and steel articles* from facilities utilized by Heil Quaker Corporation, Nashville, TN having prior movement in Interstate Commerce to Heil Quaker Corporation, Lewisburg, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heil Quaker Corporation, 1714 Heil Quaker Blvd., LaVergne, TN 37086. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-21TA), filed June 19, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Avenue, North, P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). *Iron and steel articles* from the facilities of Production Steel, Inc., located at Nashville, TN to

Columbus, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Production Steel, Inc., Hailey's Harbor, Nashville, TN. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143651 (Sub-10TA), filed June 11, 1979. Applicant: BLACKHAWK EXPRESS, INC., P.O. Box 705, Lake View, IA 51450. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Fresh meat,* from Sioux City and Estherville, IA to all points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., South LaSalle Street, Chicago, IL 60604. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 144061 (Sub-5TA), filed June 7, 1979. Applicant: SICOMAC CARRIERS, INC., 347 Sicomac Street, Wyckoff, NJ 07481. Representative: Arthur J. Piken, Esq., One Lefrak City Plaza Flushing, NY 11368. Contract, irregular. *Printing ink, in bulk, in tank vehicles.,* from East Rutherford, NJ to points in CT, DE, MD, MA, NJ, NY, NC, PA, VA, & WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sun Chemical Corp., 222 S. Marginal Road, Ft. Lee, NJ 07024. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144061 (Sub-6TA), filed June 7, 1979. Applicant: SICOMAC CARRIERS, INC., 341 Sicomac Street, Wyckoff, NJ 07481. Representative: Arthur J. Piken, Esq., One Lefrak City Plaza, Flushing, NY 11368. Contract, irregular. *Petroleum wax, in bulk, in tank vehicles.* From points in ARK, IL, IN, KY, LA, NJ, OK, PA, TX & WV, to points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MD, MI, MO, NJ, NY, OH, PA, SC, TN, TX, WV & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moore and Munger, Fairfield Office Center, 140 Sherman St., Fairfield, CT 06430. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144910 (Sub-4TA), filed June 8, 1979. Applicant: TYREE D. PRUITT, d.b.a. TY PRUITT TRUCKING, 811 Landay Ave., Baltimore, MD 21237. Representative: Chester A. Zyblut, 1030 15th St., N.W., Washington, DC 20005. *Foodstuffs, related advertising media, materials, equipment and supplies used in the preparation and serving of foodstuffs in restaurants or commissaries,* between Washington, DC, on the one hand, and, on the other, points in FL. An underlying ETA seeks 90 days. Supporting shipper(s): William D. Lees, Marriott Corporation, 4800 Addison Road, Washington, DC 20027. Send protests to: W.L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 145300 (Sub-2TA), filed June 12, 1979. Applicant: MINUTE MAN TRANSIT, INC., 24 Williams Street, Dedham, MA 02026. Representative Wesley S. Chused, 15 Court Square, Boston, MA 02108. (1) *Plastic molded components or parts,* from Providence, RI to Utica, NY and (2) *membrane filters and filtration and purification equipment and systems, and commodities used in the manufacture thereof,* between points in MA on the one hand, and, on the other, Jaffrey, NH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Millipore Corporation, Bedford, MA 01730. ICL, Inc., Route 12 North, ICL Plaza, Utica, NY 13502. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway St., Boston, MA 02114.

MC 145361 (Sub-5TA), filed may 24, 1979. Applicant: S & P TRUCKING CO., INC., P.O. Box 1058, Fletcher, NC 28732. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. *contract* carrier-Irregular routes: *Boilers, baseboard heating and air conditioning apparatus* from Greenvale, NY to WA, OR, CA NV, AZ, UT, ID, MT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, WI, MI, IL, IA, IN, and OH, under a continuing contract or contracts with Slant/Fin Corporation of Greenvale, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Slant/Fin Corporation, 100 Forest Drive, Greenvale, NY 11548. Send protests to: Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 145441 (Sub-43TA), filed June 12, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. *Paper and paper products (except in bulk), and products* (except in bulk) produced or distributed by manufacturers and converters of paper and paper products, from the plantsite and facilities used by Nekoosa Papers, Inc. in Little River County, AR, to points in AZ, CA, OR and WA, for 180 days. Supporting shipper(s): Nekoosa Papers, Inc., 100 Wisconsin River Dr., Port Edwards, WI 54469. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145470 (Sub-2TA), filed June 15, 1979. Applicant: ALL FREIGHT SYSTEMS, INC., 1025 South 10th Street, Kansas City, KS 66105. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore Ave., Kansas City, MO 64106. *Paper forms, printed, NOI, and printed pads and materials, equipment and supplies used in the production and sale of printed checks, deposit tickets and related forms,* between the facilities of Deluxe Check Printers, Inc., and it's suppliers located in CA, CO, IL, IA, KS, LA, MN, MS, MO, MT, NE, NM, OK, OR, TN, TX, WA and WI under a continuing contract with Deluxe Check Printers, Inc., of St. Paul, MN, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Deluxe Check Printers, Inc., 1080 West County Road F. St. Paul, MN 55112. Send protests to: Vernon V. Coble, D/S, I.C.C., Room 900 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 145500 (Sub-3TA), filed May 22, 1979. Applicant: EAST TEXAS CARTAGE COMPANY, 3300 West Front Street, Tyler, TX 75711. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Common carrier, regular routes, *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring* special equipment). (1) Between Dallas, TX and Mt. Pleasant, TX via I–30 serving all intermediate points except Greenville and Sulphur Springs and the off route point of Winnsboro, TX; (2) between Mt. Pleasant, TX on the one hand, and on the other, Mt. Pleasant, TX to Daingerfield, TX via TX 49, thence US 259 to Cedar Springs, thence TX 155 to Gilmer, TX, thence US 271 to Mt. Pleasant, TX serving all intermediate points, with the right to interline with other carriers and the right to serve the commercial zone of each authorized point, all in connection with both routes, which will be tacked together, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): There are twenty-six (26) supporting shippers. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 75202.

MC 145690 (Sub-1TA), filed May 28, 1979. Applicant: WIRT TRANSPORT CO., 400 Martin Street, Bay City, MI 48706. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Fly Ash* from the facilities of the Consumer Power Company located at Essexville, West Olive, Erie, Lansing, and Muskegon, MI to points in IL, IN, and OH. (For representative destination points see

attachment No. 1). For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consumers Power Company, 1945 Parnall Road, Jackson, MI. Send protests to: C. R. Fleming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 145950 (Sub-26TA), filed June 15, 1979. Applicant: BAYWOOD TRANSPORT, INC., Rt. 6 Box 2611, Waco, TX 76706. Representative: Arthur W. Grimes (same as applicant). *Bananas, and agricultural commodities exempt from regulation in Section 10526(a)(6) of the Interstate Commerce Commission act for transporting in mixed loads with bananas, restricted to the transportation of traffic having a prior movement by water* from the facilities of Del Monte Banana Co. at or near Charleston, SC to points in the states of MI, IL, WI, OH, IN and MN for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Del Monte Banana Co., 1201 Brickell Ave., Miami, FL 33101. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146071 (Sub-14TA), filed June 14, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. (1) *Paper products, and disposable diapers* from Eau Claire and Ladysmith, WI to points in ND, SD, NE, KS, OK, TX, CO, OH, IL, MN & IA and (2) *Waste and scrap paper* from points in the destination states named in Part (1) above to Eau Claire & Ladysmith, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brown Company, 243 E. Paterson St., Kalamazoo, MI 49007. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146180 (Sub.3TA), filed June 13, 1979. Applicant: QUALITY EXCHANGE, INC., Rt. 4, Box 459–A, Kings Mountain, NC 28086. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. *Contract* carrier—Irregular routes: *Iron and steel welding wires and electrodes* from the facilities of the Reid Avery Co. located at or near Dundalk, MD to points in the US (excluding AK and HI) under a continuing contract or contracts with Reid Avery Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reid Avery Company, Chesapeake & Cleveland Avenues, Dundalk, MD 21222. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd—Rm CC516, Martin Office Building, Charlotte, NC 28205.

MC 146481 (Sub-1TA), filed June 12, 1979. Applicant: WOLF LEASING COMPANY, INC., 1612 Caves Street, Whistler, AL 36603. Representative: James David Mills, P.O. Box 2664, Mobile, AL 36601. *Tanks* (fiberglass and rubber lined steel), which by reason of size or weight require the use of special equipment; and equipment, materials and supplies used in the manufacture of fiberglass tanks. From the facilities of Bittner Industries, Inc., in Mobile County, AL to points in the United States, except HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bittner Industries, Inc., P.O. Box 649, Mobile, AL 36601. Send protests to: Mabel E. Holston, T/A, Room 1616, 2121 Building, ICC, Birmingham, AL 35203,

MC 146481 (Sub-2TA), filed June 8, 1979. Applicant: WOLF LEASING COMPANY, INC., 1612 Caves Street, Whistler, AL 36603. Representative: James David Mills, P.O. Box 2664, Mobile, AL 36601. *Pipe and pipe fittings, (except steel and oilfield production equipment) which by reason of size or weight require the use of special equipment; and equipment, materials and supplies used in the manufacture of said pipe and pipe fittings;* between the facilities of Armco Inc. in Mobile County, AL and Tampa, FL and points in the United States, except HI. Supporting shipper(s): Armco Inc., Mobile, AL 36610. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203,

MC 146520 (Sub-7TA), filed June 13, 1979. Applicant: QUALITY TRANSPORT, INC., 4404 WEST Berteau, Chicago, IL 60641. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *Banana* and *agricultural commodiates* exempt from economic regulation under Section 10526(a)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas from Portsmouth, Norfolk, and Hamption Roads, VA to points in IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, SD, and WI for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): The Best Banana Company, 34–12 113th Street, Corona, NY 11368. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146691 (Sub-1TA), filed May 17, 1979. Applicant: JED, INC., P.O. B. 123, Milton, DE 19968. Representative: Wayne D. Hudson (same address as applicant). *Railroad cross ties,* from Frankford, DE to the facility of Koppers Co. at or near Montgomery, Pa, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Koppers Co., Inc., 850 Koppers Bldg., Pittsburgh, PA 15219. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106

MC 146751 (Sub-2TA), filed June 8, 1979. Applicant: J. C. LAWRENCE TRUCKING, INC., 1519 Ripley Street, Lake Station, IN 46405. Representative: Fred H. Daly, 2550 M Street, NW, Suite 475, Washington, D.C. 20037. *Cast iron pipe, fittings valves, hydrants, castings and accessories thereto* from the facilities of U.S. Pipe and Foundry Co. located at Birmingham and Bessemer, AL to points in IL, IN, OH and MI. Restricted to the transportation of traffic originating at and destined to above named origins and destinations; for 180 days. Supporting shipper(s): United States Pipe and Foundry Co., 3300 First Avenue North, Birmingham, AL 35202. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146781 (Sub-1TA), filed April 19, 1979. Applicant: ZANE SHACKELFORD, d.b.a. ZANE SHACKELFORD TRUCKING, P.O. Box 112, Millport, AL 35576. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *Peel cores and wood residuals* (except in bulk, in tank vehicles) from the facilities of Weyerhaeuser Company located at or near Millport, AL to Counce, TN and points in MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, P.O. Box 577, Bruce, MS 38915. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 146870 (Sub-1TA), filed May 1, 1979. Applicant: C. L. MORTELLO TRUCKING, INC., 13 Hagemount Avenue, Hightstown, NJ 08520. Representative: Lorraine L. Mortello (same address as above). *Contract carrier:* irregular routes: *Sugar, beet or cane,* in packages, between facilities of National Sugar Refining Co., Philadelphia, PA, on the one hand, and, on the other, points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The National Sugar Refining Company, 1037 N. Delaware Avenue, Philadelphia, PA 19125. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 146890 (Sub-6TA), filed May 21, 1979. Applicant: C & E TRANSPORT, INC. d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., Washington, DC 20001. (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses* and (2) *materials, ingredients and supplies used in the manufacture, distribution, and sale of products in (1) above,* between the facilities of Ralston Purina Company at or near Minneapolis, MN; Clinton and Davenport, IA; Battle Creek, MI; Lancaster and Sharonville, OH; Mechanicsburg (Cumberland County), PA; Dunkirk, NY; Louisville, KY and Jersey City, NJ, on the one hand, and, on the other points in, north and east of MN, IA, MO, AR, TN and NC, for 180 days. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: D/S, ICC, 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 147060 (Sub-1TA), filed May 22, 1979. Applicant: JAMES D. HOFFMAN, d.b.a. HOFFMAN TRUCKING, Box 778, Fort Pierre, SD 57532. Representative: James D. Hoffman or Edith G. Hoffman, 257 Ash, Fort Pierre, SD 57532. *Contract carrier:* irregular routes: *Dry fertilizer in bags and bulk, liquid fertilizer in tank trailer, crop protection chemicals and animal feed* from Port Neal Landing, Merrill and Sioux City, IA; Omaha, NE; Savage and Minneapolis, MN to Pierre, SD for the account of Cone Ag-Service, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cone Ag-Service, Inc., Box 1136, 2400 E. Dakota, Pierre, SD 57501. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 147241 (Sub-1TA), filed May 23, 1979. Applicant: MARVIN J. COGLE d.b.a. COGLE TRUCKING, 5858 Live Oak Lane, Redding, CA 96001. Representative: David C. White, 2400 S.W. Fourth Avenue, Portland, OR 97201. *Contract carrier,* irregular routes: *Iron and steel articles and roofing materials* from facilities of American Steel at Portland, OR to facilities of American Steel & Supply Redding, Inc., at Redding, CA, under continuing contract with American Steel & Supply Redding, Inc., for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): American Steel & Supply Redding, Inc., P.O. Box "V" Redding, CA 96001. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Franciso, CA.

MC 147251 (Sub-2TA), filed May 25, 1979. Applicant: FRISKNEY & HARDING TRUCKING, INC., General Delivery, Kendallville, IN 46755. Representative: Donald W. Smith, Suite 945–9000 Keystone Crossing, Indianapolis, IN 46240. Polyurethane foam from the facilities of Reeves Bros., Inc., Curon Division at Auburn, IN to Detroit, Marshall and Grand Rapids, MI; Toledo, Middletown, Medina, Cleveland, Arron, and Mansfield, OH and Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reeves Bros., Inc., Curon Division, P.O. Box 188, Cornelius, NC 28301. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm. 429, Indianapolis, IN 46024.

MC 147260 (Sub-1TA), filed May 24, 1979. Applicant: MANUAL LAWRENCE, d.b.a. LAWRENCE & SONS TRUCKING, 32 Lanouette Street, Meriden, CT 06450. Representative: (same address as above). *Contract carrier,* irregular routes, (1) *men's garments on hangers* (2) *stationery products,* (1) from Bowdon, GA to Newton Center, MA (2) from Holyoke, MA to points in NC, SC, GA, AL, TN, and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crown Clothing Corp., 60 Wells Ave., Newton Center, MA 02159. National Blank Book Inc., Water St., Holyoke, MA 01040. Send protests to: J. D. Perry, Jr., D/S, ICC, 135 High Street, Hartford, CT 06101.

MC 147280 (Sub-1TA), filed May 30, 1979. Applicant: WARREN GRADWELL, d.b.a. W. L. GRADWELL TRANSPORT, Rural Route #1, P.O. Box 52, Mingo, IA 50168. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract authority. *Fresh or frozen pork products (except in bulk),* (1) from points in IA to San Francisco, CA, under continuing contract(s) with C. J. Figone & Son; and (2) from points in IA to San Leandro, CA, under continuing contract(s) with Joe Larwill, Fresh Pork; and (3) from Perry IA to Reno, NV and Sacramento, CA, under continuing contract(s) with Calvada Sales Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. J. Figone & Son, 815 Tennessee St., San Francisco, CA 94107. Calvada Sales Co., P.O. Box 5535, Reno, NV 89503. Joe Larwill Fresh Pork, 560 Estabrook, San Leandro, CA 94577. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147281 (Sub-1TA), filed May 30, 1979. Applicant: Robert G. Willment and Edward J. Blyzwick, Jr. d.b.a. KEYSTONE AIR FREIGHT EXPEDITING, 49 Warren Street, Pittsburgh, PA 15205. Representative: William J. Lavelle, Esquire, 2310 Grant Building, Pittsburgh, PA 15219. *General Commodities, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which require the use of special equipment,* (1) Between the Greater Pittsburgh International Airport located in Allegheny County, PA, on the one hand, and, on the other, the Cleveland-Hopkins International Airport located near Cleveland, OH. (2) Between the Greater Pittsburgh International Airport located in Allegheny County, PA, on the one hand, and, on the other, points in Belmont County, Ohio, Preston, Taylor, Harrison, Barbour, Marion, Doddridge, Ohio, Marshall, Wetzel, Upshur, Lewis and Monongalia Counties, WV and Westmoreland, Fayette, Greene and Washington Counties, PA for 180 days. An underlying ETA seeks 90 days authority. Restricted to the transportation of shipments having a prior or subsequent movement by air. Supporting shipper(s): There are 62 supporting shippers. Their statements may be examined at the Pittsburgh, PA field office. Send protests to: J. J. England, DS, ICC, 2111 Federal Bldg., Pittsburgh, PA 15222.

MC 147300 (Sub-2TA), filed June 11, 1979. Applicant: G & G TRUCKING, INC., 4237 Clayton St., Denver, CO 80216. Representative: Sam Anderson or Dean Musgrave (same address as applicant). *Contract* carrier: *irregular* routes: *Paper, printed matter, not* from Denver, CO to Salt Lake City, UT and Manchester, MO for 180 days. Underlying ETA filed seeking 90 days authority. SUPPORTING SHIPPER: Multi List, Inc., 2550 W. 2nd Ave., Denver, CO. SEND PROTESTS TO: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202. Supporting shipper(s): Multi List, Inc., 2550 W. 2nd Ave., Denver, CO. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 147301 (Sub-1TA), filed June 5, 1979. Applicant: ALSIP TRUCKING CO., 4608 West 137th, Crestwood, IL 60445. Representative: David Falk, 11717 S. Keeler, Alsip, IL 60658. Contract carrier: irregular routes; *Kitchen and household cabinets, counter-tops and vanities* from the facilities of Brammer Mfg. Co., Chicago, IL to points in Washington, Ozaukee, Milwaukee, Waukesha, Walworth, Racine and Kenosha, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brammer Manufacturing Company, 3865 West 41st Street, Chicago, IL 60632. Send protests to: Annie Booker, TA, 219

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South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 147321 (Sub-1TA), filed May 3, 1979. Applicant: BILL STARR TRUCKING, INC., 1716 Berry Road, Independence, MO 64057. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105 *Toilet Preparations,* from the facilities of Avon Products, Inc. at Kansas City, MO to Shreveport, LA, for 180 days. Supporting shipper: Avon Products, Inc., 83rd and College, Kansas City, MO 64141. Send protests to: V. V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106. An underlying ETA seeks 90 days authority. Supporting shipper(s): Avon Products, Inc., 83rd and College, Kansas City, MO 64141. Send protests to: V. V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 147411 (Sub-1TA), filed June 14, 1979. Applicant: ARTHUR G. KAHLER, Burt, IA 50522. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. *Steel buildings, bins and materials, supplies and parts used in the manufacture and distribution thereof,* from Galesburg, IL and Kansas City, MO to points in Kossuth County, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bradley Supply Co., P.O. Box 38, Burt, IA 50522. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147361 (Sub-1TA), filed June 20, 1979. Applicant: YELLOW CHECKER CAB COMPANY, INC., 120 Arno, NE., Albuquerque, NM 87102. Representative: Sam Honegger (same address as applicant). *General commodities,* except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment because of size and weight, having prior or subsequent transportation by air and further restricted to shipments weighing 100 pounds or less, from Albuquerque, NM to points and places within the state of NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are five supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 147400 (Sub-1TA), filed June 12, 1979. Applicant: RAEMARC, INC., 1903 Chickory Rd., Racine, WI 53403. Representative: Daniel Sullivan, 10 S. LaSalle St., Chicago, IL 60603. *General commodities* (except commodities in bulk, and Classes A & B explosives), between points in Racine and Kenosha Counties, WI on the one hand, and the Milwaukee, WI and Chicago, IL Commercial Zones, on the other, restricted to traffic having a prior or subsequent movement by rail or water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S.C. Johnson & Sons, Inc., 1525 Howe St., Racine WI 53402; Morelli Overseas Export Service, 110 55th St., So. Dock, Kenosha, WI 53140; and Western Publishing Co., Inc., 1220 Mound Ave., Racine, WI 53404. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 147291 (Sub-2TA), filed May 25, 1979. Applicant: OCCO TRANSPORT, INC., Industrial Park Boulevard, Cokato, MN 55321. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Contract carrier:* irregular routes: (1) Hoisting, lifting, towing and material tie-down systems or assemblies; (2) Parts, materials, supplies and equipment (except in bulk) used in the manufacture and distribution of commodities in (1) above; and (3) Contractors tools, equipment and supplies, new, (except in bulk), between Beulah, ND and Cokato and Minneapolis, MN on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Olsen Chain and Cable Company, Inc., 7847 Chicago Avenue South, Minneapolis, MN 55420. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 147420 (Sub-TA), filed May 10, 1979. Applicant: (New Applicant) SHAVER TRUCKING, INC., P.O. Box 104, 3600 W. Sunset, Springdale, AR 72764. Representative: Larry D. Douglas, P.O. Box 284, 120 Commercial, Springdale, AR 72764. *Heating and cooling units* manufactured by Rheem Manufacturing Company of Fort Smith, AR, from the plantsite of Rheem Manufacturing Company at or near Fort Smith, AR to all points within the continental United States, for 180 days as a contract carrier over irregular routes. Supporting shipper(s): Rheem Manufacturing Company, 5600 Old Greenwood Road, Fort Smith, AR 72906. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 147460 (Sub-TA), filed June 12, 1979. Applicant: SPARTAN TRUCKING, P.O. Box 74, Westerville, OH 43081. Representative: Stephen H. Wolfe (same address as applicant). Contract carrier-irregular routes: *General commodities* (with the exception of commodities in bulk, in tank vehicles) from points in OH, KY, and WV to Chicago, IL and in the reverse direction; and from points in WV to Columbus, OH rail ramps, under continuing contract(s) with California Western Freight Association, for 180 days. Supporting shipper(s): California Western Freight Association, 3336 San Fernando Rd., Los Angeles, CA 90065. Send protests to: D/S, I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 147471 (Sub-TA), filed May 29, 1979. Applicant: ALLSTATE TRANSPORT CO., INC., P.O. Box 73, 410R Rutherford Ave., Charlestown, MA 02129. Representative: James M. Fiore (same address as applicant). *Contract carrier:* irregular routes: *general commodities* (except those requiring special equipment, Classes A and B explosives and household goods as defined by the Commission) between facilities of Merchandise Warehouse Co., Inc., Boston, MA, on the one hand, and on the other, all points in MA, ME, NH, VT, CT and RI for the account of Merchandise Warehouse Co., Inc. for 180 days. Supporting shipper(s): Merchandise Warehouse Co., Inc., 410R Rutherford Ave., Charlestown, MA 02129. Send protests to: John B. Thomas, D/S, ICC, 150 Causeway Street, Boston, MA 02114.

MC 147480TA, filed June 19, 1979. Applicant: THE ARROW LINE, INC., 105 Cherry Street, East Hartford, Connecticut 06108. Representative: Dominick T. Bisesti (same address as applicant). Common carrier: irregular routes: *Passengers and their baggage,* when moving in the same vehicles with passengers in Special Round Trip operations, during the respective baseball season of each year, at each of the ball parks named herein: Beginning and ending at Manchester, Connecticut, East Hartford, Connecticut, Hartford, Connecticut, West Hartford, Connecticut, and Waterbury, Connecticut, on the one hand, and, on the other, the site of Yankee Stadium at New York, New York, and beginning and ending at Waterbury, Connecticut, West Hartford, Connecticut, Hartford, Connecticut, East Hartford, Connecticut, and Manchester, Connecticut on the one hand, and on the other, the site of Fenway Park at Boston, Massachusetts. Said operations are restricted to the transportation of passengers and their baggage having a sole desire to attend the home games of the New York Yankees, and the Boston Red Sox. For 180 days. Supporting shippers: Douglas R. Gardner—79 Madison St., Hartford, CT 06106; Norman J. Works—36 Oak Ridge La, W. Hartford, CT 06107; Frank X. Baumert—23 Oak Ridge La, West Hartford, CT 06107; Joseph H. Labbe—154 Cambria Ave., Hartford, CT 06111; Charles Wilkie—298 Hillside Ave., Hartford, CT 06106; Leo R. Thibodeau—60 Sandra Drive, East Hartford, CT 06118; Henry J. Fortier—141 Allen Place, Hartford, CT 06106; James F. Stavola—17 Clarendon St., Hartford, CT 06114; Aldea Duclos—107 Oak St., Hartford, CT 06106; Edward J. Griffith, 204 Timber La, Canton, CT 06019; Marylyn Mauth—127 Prospect St., East Hartford, CT 06108; Reginald R. Pelletier—59 Linwood Ave., Newington, CT 06111; Carl LaRosa—147 Lyons St., New Britain, CT; Douglas L. Owen—143 Stoddard Dr. Apt 204, Meriden, CT; Alcide A. Bolduc—235 S. Quaker Lane, West Hartford, CT 06109; Kevin L. Bell—61 Glenn Rd., Apt. C 4, E. Hartford, CT; Thomas Jaconiello—35 Grimes Rd., Rocky Hill, CT; Steven L. Tray—27 Burke Rd., Vernon, CT 06066; John Diaz—238 Burnside Ave., E. Hartford, CT; Joseph Leo Berube—107 Lincoln St., Hartford, CT; Gary Covey—949 Pleasant Valley Rd., S. Windsor, CT 06074; James M. Hichborn—79 Hilton Drive, So. Windsor, CT; Donald A. Hatfield—160 Long Hill Rd., S. Windsor, CT; William M. Mills—51 Laurel Rd., Enfield, CT 06082; Keith A. Schultz—115 Kensington Ave., Apt. 1, Meriden, CT; Donald R. Miller—235 Oxford St., Hartford, CT 06105; Anthony P. Martucci—220 Raymond Rd., West Hartford, CT 06107. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, Connecticut 06103.

MC 147481 (Sub-TA), filed June 26, 1979. Applicant: TAYLOR DISTRIBUTORS OF INDIAN TRAIL, INC., Rt. 9, Poplin Rd., Monroe, NC 28110. Representative: Olin T. Taylor (same as above). *Contract* carrier-irregular routes; *Electric heaters, metering devices, switches, controllers, transformers, circuit breakers and parts thereof* from the facilities of Federal Pacific Electric Company located at or near Fort Mill, SC to its facilities in Los Angeles, CA, for 180 days. Supporting shipper(s): Federal Pacific Electric Company, Ft. Mill, SC 29715. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24378 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: August 3, 1979.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Hathco Lines, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): 1300 Market Street, Wilmington, Del. 19801.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Hwy. 45, North, Selmer, TN 38375.

Person to Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): William Hathcock, P.O. Box 641, Selmer, TN 38375.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24380 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 119]

Assignment of Hearings

August 2, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to published notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141124 (Sub-36F), Evangelist Commercial Corporation, now assigned for Prehearing Conference on September 5, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 145399 (Sub-2F), Shay Distributing Co., Inc., now assigned for hearing on September 11, 1979 at Los Angeles, CA, and will be held in Room No. 203, U.S. County Court House, 111 North Hill Street.

MC 138635 (Sub-67F), Carolina Western Express, Inc., now assigned for hearing on September 11, 1979 at Los Angeles, CA, and will be held in Room No. 203, U.S. County Court House, 111 North Hill Street.

MC 93649 (Sub-26F), Gaines Motor Lines, Inc., now assigned for hearing on September 17, 1979 at New York, NY, and will be held in Room No. F-2220, Federal Building, 26 Federal Plaza.

MC 2202 (Sub-582F), Roadway Express, Inc., transfer to modified procedure.

MC 123361 (Sub-7F), Cantwell Motor Service, Inc., transfer from modified procedure to Unopposed modified procedure.

MC 135944 (Sub-2F), Rodgers Express, Inc., transfer to modified procedure.

MC 142664 (Sub-5F), Import Dealers Service Corporation, transfer to modified procedure.

MC 106674 (Sub-345F), Schilli Motor Lines, Inc., now assigned for hearing on September 26, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 134082 (Sub-14F), K. H. Transport, Inc., now assigned for hearing on September 19, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 138255 (Sub-6F), Dayton Air Freight, Inc., now assigned for hearing on October 3, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 119641 (Sub-151F), Ringle Express, Inc., now assigned for Prehearing Conference on September 17, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 143059 (Sub-45F), Mercer Transportation Co., now assigned for Prehearing Conference on September 25, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 41432 (Sub-160F), East Texas Motor Freight Lines, Inc., now assigned for Prehearing Conference on October 1, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 142909 (Sub-4F), Timber Trucking, Inc., now assigned for Prehearing Conference on October 3, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 127042 (Sub-232F), Hagen, Inc., now assigned for Preheating Conference on

October 3, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 108633 (Sub-17F), Barnes Freight Line, Inc., now assigned for hearing on October 10, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 59583 (Sub-170F), The Mason And Dixon Lines, Incorp., now assigned for Prehearing Conference on October 10, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 141804 (Sub-161F), Western Express, Division Of Interstate Rental, Inc. now assigned for hearing on September 17, 1979 (1 day), at Los Angeles, CA, in a hearing room to be later designated.
MC 141804 (Sub-162F), Western Express, Division Of Interstate Rental, Inc., now assigned for hearing on September 18, 1979 (1 day), at Los Angeles, CA, in a hearing room to be later designated.
MC 134501 (Sub-34F), Incorporated Carriers, LTD, now assigned for hearing on September 19, 1979 (3 days), at Los Angeles, CA, in a hearing room to be later designated.
MC 145158 (Sub-1F), Rex L. Austin, DBA Rex Transport, Transfer to modified procedure.
MC 2900 (Sub-347F), Ryder Truck Line, Inc., now being assigned for continued hearing on August 15, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.
MC 200 (Sub-317F), Riss International Corporation, MC 2860 (Sub-174F), National Freight, Inc., MC 5888 (Sub-47F), Mid-American Lines, Inc., MC 47583 (Sub-77F) Toline Freightways, Inc., MC 61231 (Sub-132F), Easter Enterprises, Inc., MC 106401 (Sub-59F), Johnson Motor Lines, Inc., MC 123255 (Sub-182F), B & L Motor Freight Inc., now assigned for hearing on September 18, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 121777 (Sub-2F), Packard Truck Lines, Inc., now assigned for hearing on September 24, 1979 (3 days), at Baton Rouge, LA, in a hearing room to be later desingated.
MC 51146 (Sub-629F), Schneider Transport, Inc., now assigned for Prehearing Conference on September 10, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 125156 (Sub-2F), Dawson's Charter Service, Inc., now assign for hearing on September 5, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 30844 (Sub-624F), Kroblin Refrigerated Xpress, Inc., now assigned for hearing on September 25, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 15975 (Sub-12F), Buske Lines, Inc., MC 42261 (Sub-140F) Langer Transport Corp., MC 95540 (Sub-1072F), WATKINS MOTOR LINES, INC., MC 115311 (Sub-327F), J & M Transportation Co., Inc., MC 119726 (Sub-157F), N.A.B. Trucking Co., Inc., MC128273 (Sub-331F), Midwestern Distribution, Inc., MC142559 (Sub-82F), Brooks Transportation, Inc., MC145152 (Sub-43F), Big Three Transportations, Inc., now being assigned for prehearing conference on September 5, 1979 at the Offices of the Interstate Commerce Commission in Washington, D.C.
MC115331 (Sub-465F), Truck Transport Incorporated a Deleware Corporation, now assigned for hearing on September 18, 1979 at St. Louis, MO. will be held at the U.S. Courts & Custom House, Room No. 322, 1114 Market, St. Louis, MO.
MC 143521 (Sub-1F), Twehous Excavating Company, Inc., now assigned for hearing on September 20, 1979 at St. Louis, MO. will he held at the U.S. Courts & Custom House, Room No. 322, 1114 Market, St. Louis, MO.
MC 133591 (Sub-58F), Wayne Daniel Truck, Inc., now assigned for hearing on September 21, 1979 at St. Louis, MO. will be held at the U.S. Courts & Custom House, Room No. 322, 1114 Market, St. Louis, MO.
MC 41849 (Sub-43F), Keightley Bros. Inc. a Deleware Corp. now assigned for hearing on September 24, 1979 at St. Louis, MO. will be held at the U.S. Courts & Custom House, Room No. 322, 1114 Market, St. Louis, MO.
MC 135518 (Sub-11F), Western Carriers, Inc., now assigned for hearing on September 17, 1979 at Los Angeles, CA. will be held at the U.S. County Court House, Room 203, 111 North Hill St., Los Angeles, CA.
MC 119399 (Sub-90F), Contract Freighters, Inc., now being assigned for hearing on October 2, 1979 at the Offices of the Interstate Commerce Commission in Washington, D.C.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24386 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 47-A Under Service Order No. 1344]

Soo Line Railroad Co., et al.; Rerouting Traffic

To: All railroads.

Upon further consideration of I.C.C. Order No. 47 (Soo Line Railroad Company, Algoma Central Railway and CP Rail), and good cause appearing therefor:

It is ordered: I.C.C. Order No. 47 is vacated.

This order shall become effective July 26, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 26, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent

[FR Doc. 79-24381 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; Rule 19; 67th Revised Exemption No. 90]

Aberdeen & Rockfish Railroad Co. et al.; Car Service Rules

August 2, 1979.

To all Railroads:

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR
Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator
Reporting Marks: AA
Apalachicola Northern Railroad Company
Reporting Marks: AN
Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Bath and Hammondsport Railroad Company
Reporting Marks: BH
*Berlin Mills Railway Inc.
Reporting Marks: BMS
Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT
City of Prineville
Reporting Marks: COP
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Columbus and Greenville Railway Company
Reporting Marks: CAGY
Duluth, Missabe and Iron Range Railway Company
Reporting Marks: DMIR
East Camden & Highland Railroad Company
Reporting Marks: ECH
*Galveston Wharves
Reporting Marks: GWF
Genesee and Wyoming Railway Company
Reporting Marks: GNWR
Greenville and Northern Railway Company
Reporting Marks: GRN
The Hutchinson and Northern Railway Company
Reporting Marks: HN
Indiana Eastern Railroad and Transportation, Inc., d.b.a. The Hoosier Connnection
Reporting Marks: HOSC
Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI
Lenawee County Railroad Company, Inc.
Reporting Marks: LCRC
Louisiana Midland Railway Company
Reporting Marks: LOAM
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Manufacturers Railway Company
Reporting Marks: MRS
*Maryland and Delaware Railroad Company
Reporting Marks: MDDE
Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT–BKTY
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
New Orleans Public Belt Railroad
Reporting Marks: NOPB
New York, Susquehanna and Western Railroad Company
Reporting Marks: NYSW
*Octararo Railway, Inc.
Reporting Marks: OCTR
Oregon & Northwestern Railroad Co.
Reporting Marks: ONW
Pearl River Valley Railroad Company
Reporting Marks: PRV
Peninsula Terminal Company
Reporting Marks: PT
Port Huron and Detroit Railroad Company
Reporting Marks: PHD
*Port of Tillamook Bay Railroad
Reporting Marks: POTB
Providence and Worcester Company
Reporting Marks: PW
Raritan River Rail Road Company
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Lawrence Railroad
Reporting Marks: NSL
Savannah State Docks Railroad Company
Reporting Marks: SSDK
Sierra Railroad Company
Reporting Marks: SERA
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
The Texas Mexican Railway Company
Reporting Marks: TM
Tidewater, Southern Railway Company
Reporting Marks: TS
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Company
Reporting Marks: WCTR
Youngstown & Southern Railway Company
Reporting Marks: YS
Yreka Western Railroad Company
Reporting Marks: YW

Effective August 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C. July 26, 1979.

Interstate Commerce Commission

Joel E. Burns,

Agent.

[FR Doc. 79-24382 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

*Additions.

[Ex Parte 241; Rule 19; Corrected 29th Revised Exemption No. 129]

Atlanta & Saint Andrews Bay Railroad Co., et al.; Mandatory Car Service Rules

August 2, 1979.

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–A, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
*New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
Southern Railway Company
Reporting Marks: CG–NS–SA–SOU

*Addition.

Effective 12:01 a.m., July 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 12, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-24383 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; Rule 19; 13th Revised Exemption No. 129]

Atlanta & Saint Bay Railroad; et al.; Mandatory Car Service Rules

August 2, 1979.

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these care to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuaant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical desingation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
*North Stratford Railroad Corporation
Reporting Marks: NSRC
Southern Railway Company
Reporting Marks: CG–NS–SA–SOU

Effective 12:01 a.m., August 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 26, 1979.

*Addition.

V 4 4 / 1 5 4

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-23484 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; Rule 19; 16th Revised Exemption No. 128]

The Atchinson, Topeka & Sante Fe Railway Co. et al.; Car Service Rules

August 2, 1979.

To: The Atchison, Topeka and Santa Fe Railway Company; Boston And Maine Corporation; Chicago, Milwaukee, St. Paul and Pacific Railroad Company; Chicago, Rock Island and Pacific Railroad Company; Consolidated Rail Corporation; Illinois Central Gulf Railroad Company; Louisville and Nashville Railroad Company; Missouri-Illinois Railroad Company; Missouri Pacific Railroad Company; Seaboard Coast Line Railroad Company; *Waterloo Railroad Company.

It appearing, That the railroads have mutually agreed to the use of each other's empty plain cars having mechanical designations "XM," "XMI," "XMIH," "FM"-less than 200,000 lbs., "GA," "GB," "GD," "GH," and "GS" and bearing reporting marks assigned to such carriers.

It further appearing, That these railroads have mutually agreed to participate in an Expanded Clearinghouse Project in which each road will treat the cars of the other roads as system cars, with the Car Service Division of the AAR acting as agent.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, empty plain cars described in the Official Railway Equipment Register, ICC RER 6410-B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations of "XM," "XMI," "XMIH," "FM"-less than 200,000 lbs., "GA," "GB," "GD," "GH," and "GS" and bearing the following reporting marks are exempt from provisions of Car Service Rules 1 and 2, while on the lines of any of the railroads named below. Any clearinghouse ownership car bearing one of the applicable mechanical designations may be loaded out via a non-clearinghouse railroad if the car is placed empty by a clearinghouse road at a point open to reciprocal switching.

The Atchison, Topeka and Santa Fe Railway Company
Reporting Marks: ATSF Effective August 22, 1976.

Boston and Maine Corporation
Reporting Marks: ATSF Effective February 4, 1979.

Chicago, Milwaukee, St. Paul and Pacific Railroad Company
Reporting Marks: MILW Effective July 15, 1976.

Chicago, Rock Island and Pacific Railroad Company
Reporting Marks: RI-ROCK Effective September 12, 1976.

Consolidated Rail Corporation
Reporting Marks: BCK-CNJ-CR-DL&W-EL-ERIE-LV-NH-NYC-PAE-PC-PCA-PRR-RDG-TOC Effective November 6, 1977.

Illinois Central Gulf Railroad Company
Reporting Marks: ICG-GM&O-IC Effective August 22, 1976.

Louisville and Nashville Railroad Company
Reporting Marks: L&N-CIL-MON-NC Effective August 15, 1976.

Missouri-Illinois Railroad Company
Reporting Marks: MI Effective July 15, 1976.

Missouri Pacific Railroad Company
Reporting Marks: MP-C&EI-KO&G-T&P Effective July 15, 1976.

Seaboard Coast Line Railroad Company
Reporting Marks: SCL-ACL-C&WC-SAL Effective August 15, 1976.

*Waterloo Railroad Company
Reporting Marks: WLO Effective August 1, 1979.

It is further ordered, That this order will become effective for specific ownerships on dates to be set by the Car Service Division as each road is phased into the Project participants, and to advise the undersigned.

Effective 12:01 a.m., August 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 26, 1979.

Interstate Commerce Commission.

Joel E.Burns,

Agent.

[FR Doc. 79-24385 Filed 8-7-79; 8:45 am]

BILLING CODE 7035-01-M

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*Addition.

A G 8 7 9 UMI

Sunshine Act Meetings

Federal Register
Vol. 44, No. 154
Wednesday, August 8, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Securities and Exchange Commission	12

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., August 17, 1979.

PLACE: 2033 K Street N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1568-79 Filed 8-6-79; 9:07 am]

BILLING CODE 6351-01-M

2

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: August 3, 1979, 44 FR 45818.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: August 7, 1979, 10 a.m.

CHANGE IN THE MEETING:

Addition of the following item to the closed session:

2. Docket No. 78-51: Agreement No. 10349—A Cargo Revenue Pooling and Sailing Agreement—Argentina/United States Atlantic Trade; and Docket No. 78-52: Agreement No. 10346—A Cargo Revenue Pooling and Sailing Agreement—Argentina/United States Gulf Trade—Compliance with the Commission's Report.

[S-1574-79 Filed 8-6-79; 2:46 pm]

BILLING CODE 6730-01-M

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, August 10, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 2, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1576-79 Filed 8-6-79; 3:46 pm]

BILLING CODE 6210-01-M

4

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 44, August 2, 1979, Page No. 45546.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1 p.m., Wednesday, September 26, 1979.

CHANGES IN THE AGENDA: The Federal Trade Commission has changed the date of its previously announced open meeting of Wednesday, September 26, 1979, 1 p.m., to Thursday, September 27, 1979, 1 p.m.

[S-1577-79 Filed 8-6-79; 3:46 pm]

BILLING CODE 6750-01-M

5

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, August 16, 1979.

PLACE: Hearing Room "A", Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open Special Conference.

MATTER TO BE CONSIDERED: The Commission's Fiscal Year 1981 Budget.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone: (202) 275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1570-79 Filed 8-6-79; 12:27 pm]

BILLING CODE 7035-01-M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

August 2, 1979.

TIME AND DATE: 2 p.m., July 31, 1979 and continued to 10 a.m., August 1, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTER TO BE CONSIDERED: *Secretary of Labor and UMWA* v. *Monterey Coal Co.*, Docket No. HOPE 78-469, etc.; *Secretary of Labor* v. *Old Ben Coal Company*, Docket No. VINC 79-119-P.

VOTE: Voting to close the meeting: Commissioners Waldie (Chairman), Backley, Jestrab, Nease. Abstaining: Commissioner Lawson. It was determined by this vote that Commission business required that this meeting be closed.

CONTACT PERSON FOR MORE INFO: Jean Ellen, 202-653-5632.

[S-1569-79 Filed 8-6-79; 10:18 am]

BILLING CODE 6820-12-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: August 1, 3, and 6, 1979 (Changes).

PLACE: Commissioner's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Wednesday, August 1, 2 p.m.

Continuation of Discussion of Issues in Restart of TMI-1 (Continued from July 31—Approximately 3 hours—Public meeting—Replaces Budget Markup).

Friday, August 3, 9:30 a.m.

1. Continuation of Budget Presentations (Public meeting—Approximately 1 hour).

2. Budget Markup Session (Approximately 2 hours)—(Closed-Exemption 9).

Friday, August 3, 2 p.m.

Continuation of Discussion of Issues in Restart of TMI-1 (Approximately 3 hours—

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Continued from August 1—Public Meeting—Replaces Budget Markup).

Monday, August 6, 9:30 a.m.

Budget Markup Session (Approximately 3 hours—Closed-Exemption 9—As announced).

Monday, August 6, 3 p.m.

Briefing on Licensing Requirements for Uranium Mills (Approximately 1 hour—Additional item—Public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–1575–79 Filed 8–6–79; 2:46 pm]

BILLING CODE 7590–01–M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: August 8 and 9, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Wednesday, August 8, 9:30 a.m.

1. Budget Markup Session (Approximately 2 hours—Closed—Exemption 9).

Wednesday, August 8, 2 p.m.

1. Discussion of Personnel Matter (Approximately 3 hours—Closed—Exemption 6).

Thursday, August 9, 9:30 a.m.

1. Meeting with Federal, State and Local Officials on Nuclear Power Issues (Approximately 2 hours—Public meeting).

2. Affirmation Session (Approximately 10 minutes—Public meeting).

Further Consideration of Response to U.S. Circuit Court of Appeals Decision, *Gainesville Utilities Dept.* v. *Fla Pwr & Light Co.*

Thursday, August 9, 2 p.m.

1. Discussion of Personnel Matter (Approximately 3 hours—Closed—Exemption 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

August 1, 1979.

[S–1576–79 Filed 8–6–79; 2:46 pm]

BILLING CODE 7590–01–M

9

PAROLE COMMISSION.

TIME AND DATE: Thursday, August 16, 1979, starting at 9 a.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 12 cases decided by the National Commissioners pursuant to a reference under 28 CFR § 2.17 and appealed pursuant to 28 CFR § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst (202) 724–3094, 320 First Street NW., Washington, D.C.

[S–1571–79 Filed 8–6–79; 2:46 pm]

BILLING CODE 4410–01–M

10

PAROLE COMMISSION.

TIME AND DATE: Friday, August 17, and Saturday, August 18, 1979, Friday, August 17—9:30 a.m. to 5:30 p.m.—Saturday, August 18—9 a.m.–12 noon.

PLACE: Room 500—320 First Street NW., Washington, D.C., 20537.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of previous meetings.
2. Reports of the Chairman, Vice-Chairman, and Commissioners.
3. Legal Report
4. a. Discussion of adoption of final rules on the following subjects:

Rescission of Parole: Superior program achievement; Guidelines at time of sentencing; Dispositional Revocation Hearings.

b. Discussion of a proposed rule regarding disclosure at preliminary interviews.

5. Voting Quorums:

a. National Appeals Board, Original Jurisdiction Cases—Regional Appeals.

b. Full Commission (en banc) cases.

6. Status Report on Search & Seizure
7. Procedures regarding District of Columbia Parole Cases.
8. Interchange of Commissioners
9. File Jackets
10. Guideline Manual Revisions
11. The following previously reported Consent Agenda Items if specifically requested to be opened for discussion at the meeting:

a. Parolees—Permission to carry firearms

b. Probable Cause Letter Format

c. Greatest Severity Cases before November, 1977

d. Guideline Retroactivity

e. Notice of Action Worksheets

f. Miscellaneous Procedure Manual Changes.

12. Distribution of **Federal Register** for Public Comment.
13. Criteria for Issuance of Warrants
14. American Indian Federal Mandate.

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman; 320 First Street, N.W., Washington, D.C., 20537; (202) 724–3095.

[S–1572–79 Filed 8–6–79; 2:46 pm]

BILLING CODE 4410–01–M

11

PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Monday, August 20, 1979, at 10 a.m.

PLACE: Room 828, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 15 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst, (202) 724–3094.

[S–1573–79 Filed 8–6–79; 2:46 pm]

BILLING CODE 4410–01–M

12

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: [44 FR 44346 July 27, 1979/To be published].

STATUS: Closed meeting; Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Tuesday July 24, 1979; Tuesday July 31, 1979.

CHANGES IN THE MEETING: Deletion; Additional item.

The following item was not considered at an open meeting scheduled for Thursday, August 2, 1979, at 10 a.m.:

Consideration of the application of Marcus Plotkin, Murray Yolles and Robert W. Siegel, of the law firm of Plotkin, Yolles, Siegel and Turner, P.C., Southfield, Michigan, for reinstatement to appear and practice before the Commission pursuant to Rule 2(e) of the Commission's Rules of Practice. For further information, please contact Donald C. Langevoort at (202) 755–1268.

The following additional item was considered at a closed meeting scheduled for Thursday, August 2, 1979, immediately following the 10 a.m. open meeting:

Regulatory matter bearing enforcement implication.

Chairman Williams and Commissioners Loomis, Evans and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Ketels at (202) 755–1129.

August 3, 1979.

[S–1567–79 Filed 8–6–79; 9:07 am]

BILLING CODE 8010–01–M

federal register

Wednesday
August 8, 1979

Part II

Department of Energy

Economic Regulatory Administration

Information Form To Accompany Petitions for Temporary Public Interest Exemption for Use of Natural Gas by Existing Powerplants

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 508

Information Form To Accompany Petitions for Temporary Public Interest Exemption for Use of Natural Gas by Existing Powerplants

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Issuance of Form ERA-316.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is announcing the issuance of Form ERA-316, published herewith, which is to accompany petitions filed pursuant to 10 CFR Part 508 for Temporary Public Interest Exemptions for Use of Natural Gas by Existing Powerplants authorized by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 et seq.

FOR FURTHER INFORMATION CONTACT: Alfred C. Metz, Department of Energy, Economic Regulatory Administration, Office of Fuels Conversion, Room 3322-E, 2000 M Street, NW, Washington, D.C. 20461 (202) 634-6520.

SUPPLEMENTARY INFORMATION:

I. Background
II. How to Obtain Form ERA-316

I. Background

On April 9, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy published in the **Federal Register** (44 FR 21230) a Special Rule (10 CFR Part 508) providing for a temporary exemption for the use of natural gas by existing powerplants under FUA. The Special Rule established criteria and expedited procedures by which owners and operators of existing powerplants may petition for a temporary public interest exemption from the prohibitions against the use of natural gas contained in Section 301(a) (2) and (3) of FUA. Form ERA-316 is designed to provide in a specific format the evidence required in support of a petition as outlined in § 508.7 of the Special Rule. Petitions for temporary public interest exemptions filed pursuant to the Special Rule after the date of publication of this Notice must be accompanied by Form ERA-316. Properly completed, Form ERA-316 will insure that all the evidentiary requirements of Section 508.7 of the Special Rule are fulfilled and will facilitate ERA's final determination.

III. How to Obtain Form ERA-316

You may reproduce Form ERA-316 published herewith, or copies may be obtained by calling Mr. Alfred Metz at (202) 634-6520, or writing to: Department of Energy, Economic Regulatory Administration, Office of Fuels Conversion, (RG-64-Mail Stop 3322 2000 M) (FORM ERA 316), 2000 M Street, NW, Washington, D.C. 20461.

Issued at Washington, D.C. on July 30, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

BILLING CODE 6450-01-M

ERA-316
(6-79)

U.S. DEPARTMENT OF ENERGY
Economic Regulatory Administration
Washington, D.C. 20461

Form Approved
OMB No. 38-S79021

INSTRUCTIONS FOR THE TEMPORARY PUBLIC INTEREST EXEMPTION FOR USE OF NATURAL GAS BY EXISTING POWERPLANTS

GENERAL INFORMATION

I. Authority/Purpose

This form is required pursuant to the provisions of Title 10 of the Code of Federal Regulations, Part 508, Public Law 95-620, Powerplant and Industrial Fuel Use Act of 1978, Nov. 9, 1978 (FUA).

Form ERA-316 is to be filed with the Economic Regulatory Administration by those who are petitioning for a Temporary Public Interest Exemption from the prohibitions contained in Section 301(a)(2) and (3) of FUA against using natural gas as a primary energy source in an existing electric powerplant.

II. Who Can Submit

Owners or operators of existing powerplants may petition for a temporary public interest exemption.

III. Where to Submit

Submit one (1) copy of ERA-316 to:

U.S. Department of Energy
Assistant Administrator
Office of Fuels Conversion
Economic Regulatory Administration
Case Control Unit Box 4629 Room 2313
2000 M Street, NW
Washington, D.C. 20461

SPECIFIC INSTRUCTIONS

Item No.	Instruction
Lines 01 to 05, Column (b)	Enter the name, mailing address, city, state and zip code of any individual corporation, company, partnership, association, firm, institution, society, trust, joint venture, stock company, or County, State or Federal entity which has the actual responsibility for operating the powerplant.
Line 04, Columns (a), (b) and (c)	Use the postal abbreviations for the 50 states. For example, Virginia would be entered as "VA". Continue to use the postal abbreviations for the 50 states whenever asked to enter the state.

ERA-316
(6-79)

U.S. DEPARTMENT OF ENERGY
Economic Regulatory Administration
Washington, D.C. 20461

Form Approved
OMB No. 38-S79021

TEMPORARY PUBLIC INTEREST EXEMPTION FOR USE OF NATURAL GAS BY EXISTING POWERPLANTS

DOE USE ONLY
Case Number
Docket Number

This form is authorized under P.L. #95-620.

ERA-316 must be accompanied by a transmittal letter.

Submit a separate Temporary Public Interest Exemption for use of Natural Gas for each unit for which you are seeking an exemption.

Line No.	I. IDENTIFICATION INFORMATION [Section 503.7(a)(1) and (2) Reg.]									
01	This exemption request is	(1) ☐ Original (2) ☐ Resubmission								
	What is the name, mailing address, city, state and zip code for the facility, operating company and parent company, if applicable?	Facility (a)		Operating Company (b)			Parent Company (Complete this section only if there is an entity which controls, wholly or partially owns, or is responsible for the operating company.) (c)			
02	Name:			Name:			Name:			
03	Street Address:			Street Address:			Street Address:			
04	City:		DOE USE	City:		DOE USE	City:			DOE USE
05	State:	Zip Code:	DOE USE	State:	Zip Code:	DOE USE	State:	Zip Code:		DOE USE
06	County:		DOE USE	County:		DOE USE	County:			DOE USE
07	What is the name of the generating station at which this unit is located?									
08	What is the unit identification? (For example: Boiler #234)									

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(6-79)

Form Approved
OMB No. 38-S79021

Line No.	I. IDENTIFICATION INFORMATION (Con.)	DOE Use Only Case Number
09	What is the name, title, mailing address, and telephone number of the person in your company to whom questions regarding this petition may be directed?	Name
10		Title
11		Street Address
12		City
13		State Zip Code
14		( ) Area Code Telephone Number at Work

II. FACILITY INFORMATION

15	What type of utility is this? (Check the appropriate box.)	(1) ☐ Investor Owned (2) ☐ Co-Operative (3) ☐ Federal (4) ☐ State (5) ☐ Municipal (6) ☐ Other: _____		
	For what type of unit are you seeking an exemption? (Check the box that most accurately describes the type of generating unit.) (a)	What is the design capacity of your unit? MMBTU's/Hour Heat Input (b)	Pounds of Steam/Hour Output (c)	Megawatts Output (d)
16	(1) ☐ Boiler/Generator →			
	(2) ☐ Combustion Turbine →			
	(3) ☐ Combined Cycle →			

ERA-316
(6-79)

Form Approved
OMB No. 38-S79021

Line No.	II. FACILITY INFORMATION (Con.)	DOE Use Only Case Number
17	What is the date that the powerplant became operational? (Use six digits for the date.)	MONTH / DAY / YEAR
18	Is your powerplant prohibited from using natural gas as a primary energy source because it did not use natural gas as a primary energy source at any time during calendar year 1977? [Section 301(a)(2) of FUA, and Section 508.7(a)(3)(ii)(A) Reg.]	(1) ☐ Yes (2) ☐ No
	Is your powerplant prohibited from increasing its natural gas usage over the average yearly proportion as established either during the years 1974 through 1976, or, if the powerplant began operations on or after January 1, 1974, during the first two calendar years of operation? [Section 301(a)(3) of FUA, and Section 508.7(a)(3)(ii)(B) Reg.]	(1) ☐ Yes (2) ☐ No

What is the amount of distillate oil, residual oil and natural gas that was burned in this powerplant for each of the following years?

[For the distillate oil and residual oil, enter the amount in terms of barrels (Bbl.), and for the natural gas, enter the amount in terms of thousands of cubic feet (MCF).]

	Year (a)	Distillate Oil in Bbl. (b)	Residual Oil in Bbl. (c)	Natural Gas in MCF. (d)
20	1974			
21	1975			
22	1976			
23	1977			
24	1978			

ERA-316
(6-79)

Form Approved
OMB No. 38-S79021

Line No.	II. FACILITY INFORMATION (Con.)	DOE Use Only Case Number

For each year that you are petitioning for an exemption, what is the type, amount and sulfur content of the fuel oil that you estimate will be displaced by the use of natural gas in this unit if the temporary exemption is granted?

(If an item is not applicable, enter "NA" to indicate that you have not omitted any information. See 505.5 Definitions 10CFR Part 508.)

		Middle Distillate			Residual Oil			Other Alternate Fuel		
	Year (a)	Type (b)	Amount (bbls) (c)	Sulfur (%) (d)	Type (e)	Amount (bbls) (f)	Sulfur (%) (g)	Type (Specify) (h)	Amount (Specify) (i)	Sulfur (%) (j)
25										
26										
27										
28										
29										

30 For each year that you are petitioning for an exemption, what is the amount of natural gas that will be used to displace the oil listed in Lines 25 to 29 above?

(If the exact amount of natural gas is not known, give the maximum yearly amount of natural gas that is expected to be burned. If an item is not applicable, enter "NA" to indicate that you have not omitted any information.)

(1) 1st Year: _____ MCF

(2) 2nd Year: _____ MCF

(3) 3rd Year: _____ MCF

(4) 4th Year: _____ MCF

(5) 5th Year: _____ MCF

ERA-316
(6-79)

Form Approved
OMB No. 38-S79021

Line No.	II. FACILITY INFORMATION (Con.)	DOE Use Only Case Number

What is the name and mailing address for each of your proposed natural gas suppliers? (Attach a copy of your proposed contract, or letter of intent to purchase natural gas, for each of your natural gas suppliers.)

	Supplier #1 (a)	Supplier #2 (b)	Supplier #3 (c)	Supplier #4 (d)
31	Name:	Name:	Name:	Name:
32	Street Address:	Street Address:	Street Address:	Street Address:
33	City:	City:	City:	City:
34	State: Zip Code:	State: Zip Code:	State: Zip Code:	State: Zip Code:

What is the name and telephone number of a contact person for each of your natural gas suppliers?
(This contact person should be an individual who can answer questions relating to the supply contract.)

	Supplier #1 (a)	Supplier #2 (b)	Supplier #3 (c)	Supplier #4 (d)
35	Name:	Name:	Name:	Name:
36	Telephone Number: ( ) Area Code	Telephone Number: ( ) Area Code	Telephone Number: ( ) Area Code	Telephone Number: ( ) Area Code

III. EXEMPTION INFORMATION

37	Will the proposed use of natural gas displace coal or any other alternate fuel in any of the facilities in your utility system, including the facility for which you are petitioning for an exemption? [Section 508.7(a)(3)(ii)(D) Reg.]	(1) ☐ Yes (2) ☐ No
38	Are you requesting a temporary exemption for more than two years?	(1) ☐ Yes....Answer the question at the top of the next page. (2) ☐ No.....Skip to page 7.

ERA-316
(6-79)

Form Approved
OMB No. 38-S79021

Line No.	III. EXEMPTION INFORMATION (Con.)	DOE Use Only Case Number

Why it would be in the public interest for ERA to grant your petition for more than two years?

[Use an attachment if necessary. Section 508.7(b) Reg.]

ERA-416
(6-79)

Form Approved
OMB No. 38-S79021

IV. CERTIFICATION/AFFADAVIT	DOE Use Only Case Number

Note: This certification/affadavit must be witnessed by a Notary Public.

I certify that I am a responsible officer of the petitioning company and that the information contained herein and appended hereto is true and accurate to the best of my knowledge.

Name:	Title:	Signature:	Date: Mo / Day / Yr

Signature of Notary Public:

Title 18, USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

Enter any additional remarks here:

[FR Doc. 79-24230 Filed 8-8-79; 8:45 am]
BILLING CODE 6450-01-C

federal register

Wednesday
August 8, 1979

Part III

Environmental Protection Agency

Voluntary Aftermarket Part Self-Certification Regulations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 85]

[FRL-1260-7]

Voluntary Aftermarket Part Self-Certification Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes regulations establishing a Voluntary Aftermarket Part Self-Certification Program (hereinafter "Certification Program") and announces public hearings regarding these regulations. Section 207(a)(2) of the Clean Air Act (hereinafter "Act") requires the Environmental Protection Agency (hereinafter "Agency" or "EPA") to promulgate final regulations establishing this program by August of 1979.

The primary purpose of the Certification Program is to reduce the potential adverse economic impact on the automotive aftermarket industry that could result from full implementation and enforcement of the emission warranties, while at the same time assuring that certified parts do not cause vehicle emissions to increase.

The Certification Program would accomplish this objective by enabling part manufacturers, on the basis of quick and inexpensive, but reliable means, to serve notice to the public that their parts are equivalent to the original equipment parts with respect to their impact on emissions, and further that no emission warranty claim can be denied by a vehicle manufacturer on the basis of the use of that part. Thus the Certification Program, as proposed, would allow full implementation of the emission warranties without disrupting the competitive structure of the automotive aftermarket industry.

DATES: Comments will be received until November 12, 1979. The Hearing will begin on October 3, 1979, at 9:00 a.m. and continue through October 5, 1979, if necessary. Any person desiring to participate in the hearing should notify the Agency of his or her intention along with an outline of the points to be discussed and the time needed to discuss these points no later than 10 days prior to the hearing.

Final regulations, modified as the Administrator deems appropriate after consideration of comments, will be promulgated as soon as practicable after such consideration.

ADDRESSES: Send written comments to: Public Docket EN-79-8, Central Docket Section (A-130) Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. A person should submit his or her intention to participate in the hearing along with an outline of points to be discussed to: Director, Mobile Source Enforcement Division (EN-340) U.S. Environmental Protection Agency, 401 M Street, Washington, D.C. 20460. The hearing will be held at the following location:

Royal Court Room, Ascot House, 1100 South Michigan Street, Chicago, Illinois.

Public Docket

Copies of materials relevant to this rulemaking proceeding are contained in *Public Docket EN-79-8* at the Central Docket Section of the U.S. Environmental Protection Agency, Room 2903 B, Waterside Mall, 401 "M" Street, S.W., Washington, D.C. 20460 and are available for review between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. David Feldman or Mr. Richard Ackerman, Mobile Source Enforcement Division (EN-340), Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460, (202) 472-9350.

SUPPLEMENTARY INFORMATION:

I. Explanatory Statement

A. Related Provisions

The following provisions of the Clean Air Act are relevant to the Voluntary Aftermarket Part Self-Certification Program:

Section 207(a)

"(1) Effective with respect to vehicles and engines manufactured in model years beginning more than 60 days after the date of the enactment of the Clean Air Amendments of 1970, the manufacturer of each new motor vehicle and new motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that such vehicle or engine is (A) designed, built, and equipped so as to conform at the time of sale with applicable regulations under section 202, and (B) free from defects in materials and workmanship which cause such vehicle or engine to fail to conform with applicable regulations for its useful life (as determined under sec. 202(d)).

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer or rebuilder of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of the enactment of this paragraph."

Section 207(b)

"If the Administrator determines that (i) there are available testing methods and procedures to ascertain whether, when in actual use throughout its useful life (as determined under section 202(d)), each vehicle and engine to which regulations under section 202 apply complies with the emission standards of such regulations, (ii) such methods and procedures are in accordance with good engineering practices, and (iii) such methods and procedures are reasonably capable of being correlated with tests conducted under section 206(a)(1), then—

(1) he shall establish such methods and procedures by regulation, and

(2) at such time as he determines that inspection facilities or equipment are available for purposes of carrying out testing methods and procedures established under paragraph (1), he shall prescribe regulations which shall require manufacturers to warrant the emission control device or system of each new motor vehicle or new motor vehicle engine to which a regulation under section 202 applies and which is manufactured in a model year beginning after the Administrator first prescribes warranty regulations under this paragraph. The warranty under such regulations shall run to the ultimate purchaser and each subsequent purchaser and shall provide that if—

(A) the vehicle or engine is maintained and operated in accordance with instructions under subsection (c)(3),

(B) it fails to conform at any time during its useful life (as determined under section 202(d)) to the regulations prescribed under section 202, and

(C) such nonconformity results in the ultimate purchaser (or any subsequent purchaser) of such vehicle or engine having to bear any penalty or other sanction (including the denial of the right to use such vehicle or engine) under State or Federal law, then such manufacturer shall remedy such nonconformity under such warranty with the cost thereof to be borne by the manufacturer. No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2). For purposes of the warranty under this subsection, for the period after twenty-four months or twenty-four thousand miles (whichever first occurs) the term "emission control device or system" means a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. Such term shall not include those vehicle components which were in general use prior to model year 1968."

Section 207(c)

"(3)(A) The manufacturer shall furnish with each new motor vehicle or motor vehicle engine written instructions for the proper maintenance and use of the vehicle or engine by the ultimate purchaser and such instructions shall correspond to regulations which the Administrator shall promulgate. The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment or individual using any automotive part which has been certified as provided in subsection (a)(2).

(B) The instruction under subparagraph (A) of this paragraph shall not include any condition on the ultimate purchaser's using, in connection with such vehicle or engine, any component or service (other than a component or service provided without charge under the terms of the purchase agreement) which is identified by brand, trade, or corporate name; or directly or indirectly distinguishing between service performed by the franchised dealers of such manufacturer or any other service establishments with which such manufacturer has a commercial relationship, except that the prohibition of this subsection may be waived by the Administrator if—

(i) the manufacturer satisfies the Administrator that the vehicle or engine will function properly only if the component or service so identified is used in connection with such vehicle or engine, and

(ii) the Administrator finds that such a waiver is in the public interest."

B. Background

As previously stated, the primary purpose of the Certification Program is to reduce the potential adverse economic impact on the automotive aftermarket industry that could result from full implementation and enforcement of the emission warranties, while at the same time assuring that certified parts do not cause vehicle emissions to increase.

Section 207(a)(1) of the Act requires all vehicle manufacturers to warrant their vehicles to be free from defects in materials and workmanship that will cause the vehicle to fail to meet applicable emission related regulations. In addition, section 207(b) of the Act requires that EPA promulgate regulations requiring vehicle manufacturers to warrant the emission control devices and systems of each new vehicle such that if the vehicle, although maintained and used in accordance with the manufacturer's written instructions, fails an EPA approved emission short test, the cost of repairing the emission control devices or systems would be borne by the vehicle manufacturer. EPA expects these regulations to be promulgated in time to take effect for 1980 model year vehicles.

The use of inferior quality parts can cause a vehicle to exceed emission standards. They can do this in two ways. First, a part, such as a catalytic converter, can directly cause the vehicle to exceed emission standards by failing to perform in the same manner as the original equipment part (hereinafter "OE part"). Second, a part can indirectly cause emission standards to be exceeded by operating in a manner adversely affecting another part which in turn causes vehicle emissions to increase. Vehicle manufacturers, in order to protect themselves from being required to pay for repairs necessitated by the use of such parts, have specified in the maintenance and use instructions provided to new vehicle owners, that vehicles should be maintained and repaired with only OE parts or parts equivalent to OE parts. Further, the instructions have stated that the vehicle manufacturer will not be responsible for any repairs necessitated by the installation of a non-equivalent part. At present, there is no way to enable vehicle owners to identify parts that are equivalent to OE parts from an emission standpoint. Therefore, until an easy way of determining equivalency is provided to vehicle owners, the only way a car owner can be absolutely certain that his or her vehicle remains eligible for free emission warranty repairs is to use OE parts.

As a result of the situation discussed above, in December 1974, the Subcommittee on Environmental Problems Affecting Small Business found that the maintenance and use instructions, coupled with the emission warranties, create a psychological and financial tie-in between the new car owner and OE parts for 5 years or 50,000 miles.[1] On the basis of this finding the Subcommittee was of the opinion that the 5 year/50,000 mile warranty provisions of the Act are anticompetitive and provide the means by which the major vehicle manufacturers can monopolize the automotive aftermarket part industry to the serious detriment of the over 1,700 independent parts manufacturers and 22,000 wholesalers and distributors.

Because of Congress's concern that the emission warranties could have an anticompetitive effect, section 207(a) of the Act was amended in August 1977, to require EPA to promulgate regulations establishing an aftermarket part certification program by August of 1979. EPA, together with the affected industries, had been developing a voluntary aftermarket self-certification program for a number of years prior to the enactment of this amendment.

In July 1973, EPA attempted to determine the full extent of public concern regarding the possible anticompetitive effects of the warranty provisions of the Act. The Agency accomplished this by developing and distributing a voluntary questionnaire to the aftermarket industry (primarily through trade associations), vehicle and engine manufacturers, selected state air pollution control agencies and public interest groups. The questionnaire appeared in its entirety in the Federal Register on November 14, 1974, at 37 FR 40192. The Agency also published an Advance Notice of Proposed Guidelines (ANPG) outlining a program for the voluntary self-certification of aftermarket parts, the major portions of which are included in this proposal.

Since that time, the Agency has been in continuous contact with representatives of the major affected industries regarding this program. In addition, EPA has advised other interested parties of the program and requested their participation either directly with EPA or through the appropriate industry representatives. The proposal is based in part upon a recommended voluntary self-certification program and standards for specific replacement parts submitted to EPA by the Automotive Liaison Council (ALC). The ALC represents the Automotive Parts and Accessories Association, Automotive Parts Rebuilders Association, Automotive Service Industry Association, Automotive Warehouse Distributors Association and the Motor and Equipment Manufacturers Association. The ALC invited and received input from motor vehicle manufacturers in the development of their recommended program and part standards.

II. Outline of Certification Procedure

The certification of parts pursuant to this proposal would be voluntary. Certification by the part manufacturer would be on the basis of the completion of tests and analyses which demonstrate compliance with the applicable Emission Related Standards set forth in the proposal or on the basis of back-to-back emission testing. Once a manufacturer has complied with the requirements of these procedures, it may represent the applicable parts to the public as "Certified to EPA Standards". This representation shall mean that the part is equivalent to the original part with regard to its impact on emissions and that the use of that part would

[1] Subcommittee of the Permanent Select Committee on Small Business in a Report on the "Monopolistic Tendencies of Auto Emission Warranty Provisions" H.R. Rep. No. 628, 93d Cong., 2nd Sess.

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assure continued emission warranty coverage.

Although the certification would be made by the part manufacturer and not by EPA, sixty days prior to selling a part as certified, a part manufacturer would be required to send a notice of its intent to certify the part to EPA and to the manufacturer of the vehicles for which the part is to be certified. During this sixty day period, EPA or the affected vehicle manufacturer could object to the certification, in which case more information may be required to be submitted to EPA. If EPA took no action or the manufacturer adequately addressed any questions raised, a part manufacturer would be able to sell the parts as certified without any further communication with the Agency.

Because this would be a self certification program in which EPA would, under normal circumstances, not be directly involved, part manufacturers would be required to establish and maintain records which contain descriptions and results of all certification tests performed on the parts, as well as other information relating to the integrity of the parts and the certification procedures utilized. This information would be available to the Agency upon written request and would be considered by the Agency when making determinations of whether the part should be decertified. The proposed regulations provide criteria and procedures whereby the Agency can decertify parts determined not to be in compliance with these regulations.

III. Specific Provisions

The major sections of the proposed regulations are discussed below.

A. Section 85.2112 General Applicability

Section 85.2112 would provide that all automotive aftermarket parts would be eligible for certification except for those parts which have no effect on vehicle emissions or emission control systems. Thus, under this section virtually all vehicle or engine components that affect emissions, including tires, could be certified. For example, tires with rolling resistance greater than original equipment tires will reduce fuel economy and increase HC and NO_x emission. Thus, if tires are certified as equivalent to original equipment with regard to rolling resistance characteristics, the emission performance as well as fuel economy will not be degraded. The equivalency of rolling resistance of tires may be determined by test methods that are presently being developed by EPA and the industry. EPA invites comment on the inclusion of such parts in this program and the appropriate test procedures that may be used to demonstrate equivalency to original equipment.

The Act provided little guidance as to which parts should be eligible for certification. The Agency's major consideration in this regard was whether to limit the certification program to scheduled maintenance replacement items (i.e., spark plugs, filters, etc.) or whether to include parts not normally scheduled for replacement (i.e., carburetors, distributors, valves, etc.) but which may have to be replaced for some reason during the vehicle's useful life. In addition, consideration was given whether to include modified and add-on high performance specialty parts (i.e., turbochargers, headers, etc.) in this program.

The only guidance provided by section 207(a)(2) of the Act is that the aftermarket part certification regulations are to carry out the purposes of subsection (b), the emission performance warranty. Strictly speaking, the reference to 207(b) could be interpreted as limiting the program to scheduled maintenance replacement items as are necessary for owner's compliance with the written instructions for maintenance and use. This is also the main concern of the aftermarket industry in relation to the performance warranty. However, the Agency believes that a number of significant reasons exist for opening the program up to parts other than scheduled replacement parts. Parts other than scheduled replacement parts are often replaced prior to the end of a vehicle's useful life. Although many of these are replaced under warranty, others are not. For those replacements not covered under warranty, a vehicle owner should not be forced to choose between buying an OE part or risking loss of his or her emission warranty coverage.

Some vehicle owners may wish to replace OE parts with a higher quality replacement part for improved fuel economy, safety, reliability or performance. The Agency believes that a vehicle owner should not be discouraged from upgrading his or her vehicle by the threat of losing emission warranty coverage, provided the replacement part will not adversely affect vehicle emissions.

Of greater concern was the question of whether modified and add-on parts should be eligible for certification. As presently drafted, the proposal would allow these parts to be certified if they will have no immediate or long term adverse effect on emissions.

Some modified and add-on parts are designed to improve vehicle durability, performance and/or fuel economy. The Agency realizes that the installation of these parts, in particular some high performance add-on parts, could affect the durability or performance characteristics of an engine. This in turn may require the modification of the maintenance and use instructions necessary to allow the vehicle to meet emission standards. The Agency will not allow the certification of these parts unless the manufacturers of these parts (i) state that use of their parts will not necessitate a modification of the maintenance and use requirements or (ii) and advise owners of any new maintenance and use requirements that may be necessary.

The Agency expects that the final emission performance warranty regulations will provide that no claim can be denied on the basis of the use of a certified part even if that part is defective. The Agency realizes that additional administrative burdens will be placed on vehicle manufacturers who would be required to repair or replace certified add-on parts. However, the Agency expects the financial burden to be minimal since the certification regulations would require the part manufacturer to reimburse a vehicle manufacturer for such costs.

An outgrowth of allowing modified and add-on parts to be certified is that it would allow a part manufacturer to advise service facilities that the proper installation of these parts would not constitute "tampering" in violation of section 203(a)(3) of the Act. The Agency invites public comment on the inclusion of "modified" and "add-on" parts in this program.

B. Section 85.2114 Basis of Certification

The proposal would set forth two bases upon which an aftermarket part could be certified. As stated previously, certification would be based on equivalency of a part's parameters that are critical to emissions or on back-to-back emission testing. Both bases are designed to assure that the proper installation of the part would not cause a vehicle's emissions to "increase" for the replacement interval of the part or for the useful life of the vehicle. This would assure owners of continued emission warranty coverage for vehicles which are maintained and repaired with certified parts. Similarly, it should prevent vehicle manufacturers from having to incur nonreimbursable expenses in performing emission warranty repairs for situations over which they have no control.

The Agency considered allowing parts to be certified, even if they caused vehicle emissions to be increased, providing that the part would not cause a vehicle to exceed emission standards for any regulated pollutant. The Agency rejected this approach because it would limit EPA's control over the total emissions of in-use vehicles. A single certified aftermarket part could cause a vehicle's emissions to increase without exceeding emissions standards. However, owners would be free to install many of these parts on their vehicles. Such vehicles, because of cumulative increases in emissions, could fail an I/M test with resulting emission warranty liability for the vehicle manufacturer. Although a vehicle manufacturer would have the right to recover from a part manufacturer for warranty claims necessitated because of the use of the certified part, it would be impractical to determine which part caused the emissions failure. As a result, one aim of the certification program would be to assure that certified parts do not cause vehicle emissions to increase.

The Federal Test Procedure (FTP). [see 40 CFR Part 86] has been the primary means of assessing the impact of a part on vehicle emissions. However, the time, expense and burden of subjecting many aftermarket parts to the FTP is prohibitive to much of the industry and is unnecessarily technical. As a result, the proposal would provide for aftermarket part manufacturers to demonstrate that their parts do not cause vehicle emissions to increase by showing that the emission critical parameters of the aftermarket part are equivalent to those of the OE part(s) it is replacing. It will be assumed that parts which demonstrate equivalent emission critical parameters will evidence similar emissions. We anticipate this to be the predominant means of certification.

An alternative method based on back to back FTP emission testing of the vehicles with and without the part to be certified would be permitted for parts where emission critical parameters have not yet been defined.

Section 85.2122 identifies those parts which presently would be eligible to be certified on the basis of equivalency of emission critical parameters, and lists the relevant parameters for those parts. The parts and related standards included in the proposal are based in great part on proposed standards provided by technical subcommittes of the ALC, the Automotive Products Emissions Committee (hereinafter "APEC"). APEC formed committees to identify the critical parameters for the parts that they believed should be included in the Certification Program. These subcommittees were composed of various manufacturers and distributors of these parts, as well as representatives of the vehicle manufacturers. The Agency reviewed these standards and incorporated modification where necessary. The parameters and procedures have been reviewed by the technical staff of the Office of Enforcement, Office of Mobile source Air Pollution Control and a private automotive consultant. We have determined the proposed standards to be valid for the purposes of this program. Copies of the minutes of the committee meetings and a document explaining the EPA changes to the standards are included in the Public Docket.

The standards submitted by APEC also included the critical parameters and the tests, which may be performed by a part manufacturer to demonstrate compliance with the standards. The Agency is receptive to the use of other methods to demonstrate compliance with the standards. Therefore, methods which are equally as valid and accurate as the EPA recommended tests would be allowed, provided that a description of those test methods is included in the notice of intent to certify.

From time to time EPA will promulgate additional part standards. Any party wishing to submit emission related standards for a part, other than those included in today's proposal, should do so by sending a copy to the Director, Mobile Source Enforcement Division (EN–340), U.S. Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460. The Agency will review the standards and may, in its discretion, propose standards for such part(s).

To certify a part on the basis of emission testing, a part manufacturer would be required to perform back-to-back emission tests. Section 85.2114 would require at least two tests be performed on a vehicle set to the proper manufacturer's specifications and containing only original equipment parts. At least two *additional* tests would be performed in the identical manner as the previous tests except that the aftermarket part which is to be certified would be installed in or on the vehicle. The results of these tests would have to show that the proper installation and use of the certified part would not cause vehicle emissions to increase. To account for test-to-test variability, a part would be considered not to increase a vehicle's emissions if the mean results of the latter tests (with the certified part) do not exceed the mean results of the former tests (with OE parts only) by the amounts specified.[2] In addition, the mean of the test results with the aftermarket part must not exceed the applicable emission standard for any pollutant.

The determination of the number of emission tests required does not provide the level of confidence that might be necessary for other Agency programs. It does, however, represent a balancing of the certifier's burden in light of the vehicle manufacturer's potential liability. In an attempt to reduce the testing burden where feasible, § 85.2114(b)(5) would permit the certifier to apply the emission test results to other vehicle or engine configurations upon a showing that the configuration tested represents the "worst case" with respect to emissions. The rationale and data supporting this worst case determination must be provided to the agency in the notice of intent to certify. The Agency does not want to specify nor limit the type of data or analysis that may be used to support this conclusion. However the "B" selection criteria recently proposed by the Office of Mobile Source Air Pollution Control [3] for abbreviated vehicle certification, represents one acceptable means of evaluating a worst case configuration. This concept is applied similarly in EPA vehicle certification and the California aftermarket parts program. Public comment on the stringency of this requirement is invited.

The proposal provides that the only emission test that can be used as a basis for certification is the Federal Test Procedure as set forth at 40 CFR Part 86. The proposal sets forth a few instances where performance of portions of the FPT are irrelevant and, therefore, may be waived. In addition, the proposal would allow other portions to be waived upon request to and written approval by EPA. The Agency is interested in receiving comments on additional instances in which portions of the FTP

[2] Test-to-test variability is a concept dependent on numerous factors, primary of which are the test facility, applicable standards and the vehicle tested. Therefore, there are no universally accepted set of numbers that quantify this phenomenon. The percentages used in the proposal represent a general composite of the analyses done in this area by EPA and others. These can be found in the Public Docket EN–79–8 Category Numbers V–22 thru 28. In order to minimize any additional adverse impact on exhaust emission, EPA chose 10% for all other regulated pollutants for which test-to-test variability data do not exist.

[3] Guidelines proposed March 20, 1979, for *Exhaust Emission Light-Duty Vehicles and Light-Duty Trucks*. These guidelines are available, in the Public Docket or upon written request to: Director, Mobile Source Enforcement Division, U.S. Environmental Protection Agency, Washington, D.C. 20460.

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should be uniformly waived for a particular type of aftermarket part.

The Agency gave some consideration to allowing parts to be certified on the basis of an emissions "short test" which correlates with the FTP. This approach was rejected on the basis that the short tests were developed to identify whether a vehicle would pass the FTP rather than being able to measure emission values. As previously stated, for the purposes of part-certification it is inadequate to merely know that the use of a part will not cause a vehicle to exceed emissions standards. In addition, some of the short tests only measure hydrocarbon (HC) and carbon monoxide (CO) emissions and not oxides of nitrogen (NO_x) emissions which many parts substantially affect.

C. Section 85.2115 Notification of Certification

The program would be voluntary with the certification testing conducted by the certifying manufacturer. Although the Agency will normally not be directly involved in this process, it is important that EPA, as well as the affected vehicle manufacturers, be aware of which parts are certified and for which vehicles the parts are certified. Section 85.2115 provides that, at least 60 days prior to the sale of any certified part the Agency and the manufacturer of every model vehicle for which the part is to be utilized must receive notice of a part manufacturer's intent to certify. During this period, the Agency and the affected vehicle manufacturer may review the information in the notification and raise any concerns that either may have. If no action is taken by the Agency during this 60 day period, the part manufacturer could begin marketing the part(s) as certified.

This section also requires that the notice contain provisions stating that the part manufacturer will comply with all of the terms of the certification program. In particular EPA is concerned that part manufacturers acknowledge and agree to ultimately accept responsibility for emission warranty liability that accrues as a result of their parts. The Agency believes that all of the information required in the notification is relevant and necessary.

D. Section 85.2116, Objections to Certification

At any time during the 60 day period between receipt by the Agency of a notice of intent to certify a part and the intended first day of sale of that part, the Agency may notify the part manufacturer that the part may not be sold as certified, pending further investigation. Sections 85.2116(a)(1)–(6) set forth the bases upon which the Agency will send such notice. The Agency will probably only become involved in the certification process when the notices are incomplete, when certification tests appear inadequate, when substantiated objections are presented to the Agency by vehicle manufacturers or, when consumers have reported problems with similar parts in the past.

Subsection (b) would allow any interested party to comment, in writing, on any part certification. This subsection also provides that the Director of the Mobile Source Enforcement Division (hereinafter Director), in his or her discretion, may allow oral presentations. The format of these oral presentations would be determined by the Director. The Director may request data or evidence in support of an objection to certification raised by any party.

After the Director has decided whether a contested part may be certified, he or she will notify the part manufacturer, and other interested parties, of his or her decision in writing. This notification will include the basis upon which the decision was made.

Any party adversely affected by such a decision may appeal the decision to the Deputy Assistant Administrator for Mobile Source and Noise Enforcement or his or her delegate.

E. Sections 85.2117 and 85.2122 Emission Related Standards

These sections identify the parameters for those parts which could be certified in accordance with § 85.2114(a)(1). As parameters are identified for other parts, they will be added to this section. Section 85.2122(b) has been set aside for add-on parts for which parameters may be appropriately identified in the future.

Modified parts, in accordance with the definition of § 85.2113, present several unique situations. An exhaust header, for example, may replace an exhaust system component or components in a substantially different configuration from the original configuration for the primary purpose of increased vehicle performance. In this case, the part would be both a modified and an add-on part. Thus, subsection (d) would require that such a part meet all applicable parameters.

An advanced electronic ignition system, for example, which eliminates multiple ignition system parts and which is capable of firing the spark plugs at the proper timing and intensity would not have to meet all the relevant parameters of the replaced parts. Only the input/output characteristics of the new "system" would have to meet those of the original parts it replaces. Subsection (c) is intended to address this situation.

F. Section 85.2119 Labelling Requirements.

All certified parts shall have the words "Certified to EPA Standards" on the part and the packaging of the part. EPA is not requiring that certified parts have equivalent maintenance and replacement intervals to the original equipment parts they replace. Therefore, parts certified for a lesser service interval than an OE part must be accompanied with instructions that appropriately advise the purchaser of the maintenance schedule changes. In addition, if a written warranty is not to be provided with the part, the packaging of the part must be so labelled. If a written warranty is provided, then the part manufacturer should comply with the labelling requirements of the Magnuson Moss Act and the regulations thereunder.

Other information required to be printed on the part and/or the packaging for that part is specified in this section. The Agency believes that all of this information is necessary for consumers to properly use the part.

G. Section 85.2120 Maintenance and Submittal of Records.

Because this is a self-certification program, questions may arise as to whether a part was properly certified initially or should subsequently be decertified. Therefore, any part manufacturer who chooses to certify parts would be required to establish and maintain records regarding each certified part. These records would have to be made available to the Agency upon written request.

The Agency believes that all of the specified records are necessary to determine the adequacy and validity of the basis upon which parts have been certified. Most of the data that would be required to be maintained would be generated during any certification process conducted in accordance with sound engineering procedures. The Agency does not believe that this record keeping requirement is burdensome.

H. Section 85.2121 Decertification

The certification is voluntary and is made by the part manufacturer. However, because of the possible adverse impacts of improperly certified parts, the Agency is retaining the right to decertify any part for the reasons enumerated in § 85.2121(a)(1).

Decertification will not occur until a part manufacturer has an opportunity to present information and data in support of continued certification. The decertification process will commence when written notice is provided to the part manufacturer indicating the Agency's basis for considering possible decertification. If the part manufacturer wishes to contest this decision, it may provide a written statement addressing why the part should remain certified. Similar to the hearings pursuant to § 85.2116 of the proposal, an opportunity to present oral arguments may be granted at the discretion of the Director. In addition, a party adversely affected by such a decision shall also have an appeal right similar to the one provided in § 85.2116.

Once a final decision to decertify a part has been received by the part manufacturer, the manufacturer would be required to notify its immediate customers (other than retail customers) and offer to replace the decertified parts remaining in the possession of the immediate purchaser with properly certified parts. If no properly certified parts are available, then the part manufacturer must offer to repurchase the decertified parts. This requirement will limit the number of vehicles which will exceed emission standards and fail I/M tests as a result of the decertified part. In the Agency's opinion, any replacement or repurchase of parts beyond the immediate customers would become complicated and ineffective.

Regardless of whether a part is eventually decertified, any part previously sold as certified will remain certified. As such, no 207(b) emission warranty claim may be denied on the basis of the use of that part.

IV. Other Significant Issues

If part manufacturers are permitted to advertise their parts as certified, the Agency believes that some protection to the consumer must be provided. This raises the issue of whether a part manufacturer should be required to provide some warranty with parts as a condition to certification. Two approaches were considered. One was to require that the part manufacturer provide a warranty directly to the consumer. The warranty could either be a general warranty covering all aspects including performance, or one that warrants that the part will not cause vehicle emissions to be increased. This approach was rejected for a number of reasons. The aftermarket industry has stated that a warranty requirement may make it impossible for small manufacturers to certify their parts because of the expenses and difficulties in setting up warranty claim procedures as well as procedures for investigating questionable claims. Another problem with this approach is that it would require independent part manufacturers to provide a warranty, and build the cost into the price of their parts, which original equipment manufacturers presently do not have to provide except with regard to those parts installed on the vehicle as delivered. The Agency believes that this may be beyond the purpose of the certification program which is to allow independent part manufacturers to compete on an equal basis with original equipment manufacturers. Instead, the proposal takes an alternative approach. The proposal provides that a participating parts manufacturer would have to agree to reimburse a vehicle manufacturer for any emission warranty expenses incurred as a direct result of a certified part's failure to perform adequately. This measure will give the automobile manufacturer, who under the 207(b) warranty regulations will not be able to deny emission warranty claim on the basis of use of a certified part, added assurance that he will be reimbursed for cost incurred as a result of a failure of the certified part. This added assurance should make the automobile manufacturers more willing participants in the 207(b) warranty program. Under the Section 207(b) warranty regulations as proposed, vehicle owners would not be faced with the situation of being bounced back and forth between part manufacturers and vehicle manufacturers in an attempt to recover. Similarly, the owner would not have to argue the merits of a part claim with the part manufacturer who may be several layers (through distributors) removed from the retail establishment from which the part was originally purchased.

Despite the emission warranty protection and the labelling requirements proposed, EPA recognized that consumers may still be misled as to the significance of parts being "certified to EPA standards." We may ultimately determine that some form of additional warranty protection is necessary. For the purposes of this proposal, the warranty requirements will be as stated in the regulations. The Agency requests comments on this issue and will consider requiring a full warranty with certified parts in the final regulations.

Another issue of significant impact is whether the program should allow a part manufacturer to certify a part which has a replacement or maintenance interval different from the original equipment part it is to replace. The Agency realizes that there are persuasive arguments which can be made on both sides of this issue. For instance, allowing differing replacement intervals would alter the vehicle's maintenance schedule and could confuse vehicle owners. This could result in parts which are certified for shorter intervals than the OE part, being left in a vehicle for the full interval in the owner's manual with a resulting adverse impact on emissions. Although there will always be some confusion, we believe that adequate labelling would limit vehicle owner difficulties in this regard.

Arguments weighing against requiring aftermarket part manufacturers to certify their parts to the OE part's replacement interval also exist. For instance, there may be antitrust questions associated with designating the OE manufactuers recommended service intervals as the service intervals that must be specified by the aftermarket industry for replacement parts. In addition, we do not want to deny vehicle owners the opportunity to purchase parts which, if replaced or serviced more often, will work as effectively or even better than the original equipment parts. Certainly, the Agency would not want to discourage aftermarket manufacturers from manufacturing higher quality part with longer replacement or service intervals. Therefore, in most instances the proposal would allow aftermarket part manufacturers to determine the replacement and service intervals of their parts.

Presently, EPA regulations on the certification of motor vehicles require minimum mileage maintenance and replacements intervals for certain items. In addition, regulations have been proposed for heavy duty engines and light duty trucks which specify minimum allowable service or replacement intervals for parts. The Agency believes that holding vehicle manufacturers to these maintenance interval requirements, while allowing certified replacement parts to be sold that require more frequent servicing or replacement, would defeat the purposes of the regulations setting forth these intervals. Therefore the proposal would provide that no part may be certified that requires servicing or replacement more frequently than any minimum interval specified for that part by any regulation in Part 86 of Title 40 of the United States Code of Federal Regulations.

This does not mean that a part manufacturer would no longer be able to sell replacement parts with a lesser service or replacement interval. It only means that such parts would not be

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eligible for certification in accordance with these regulations.

V. Environmental Impact

The Agency expects no adverse environmental impacts as a result of these regulations. These regulations, although primarily directed to addressing potential anticompetitive effects of other enforcement programs, may lead to some air quality benefits to the extent that they would foster further quality control in the automotive aftermarket industry. No voluntary environmental impact statement (EIS) has been prepared pursuant to EPA guidelines set forth in 39 FR 37419.

VI. Reporting and Recordkeeping Requirements

These regulations do impose new reporting and recordkeeping requirements on aftermarket part manufacturers that choose to take advantage of the certification program. A Reports Impact Analysis has been prepared and is included in the Public Docket. As previously stated, the Agency does not believe that these requirements are excessive, however the Agency specifically invites comments on ways that these requirements might be reduced.

Under the EPA's new "sunset" policy for reporting requirements in regulations, any reporting requirements in this regulation will automatically expire five years from the date of promulgation unless EPA takes affirmative action to extend them. To accomplish this, a provision automatically terminating the reporting requirements at that time will be included in the text of the final regulations.

VII. Evaluation Plan

The Agency intends to review the effectiveness and need for continuation of the provisions contained in this action no more than five years after initial implementation of the final regulations. In particular, the Agency will solicit comments from the affected parties concerning how well the program is serving the purpose of limiting the anticompetitive effects of the emission warranties. In addition, the Agency will be interested in determining the consumer protection implications of the program as well as what effect the program is having on in-use compliance of motor vehicles with emission standards, including any increase or decrease in burdens the program may be putting on motor vehicle manufacturers.

VIII. Public Hearings.

Notice is hereby given that there will be public hearings on the proposed Certification Program. The purpose of these hearings is to provide all interested parties with an opportunity to provide an oral statement on the record regarding any aspect of the proposal. Any party desiring to make a statement at the hearing should notify the Agency of his or her intention along with an outline of the points to be discussed and the time needed to discuss these points. This information should be received by the Director, Mobile Source Enforcement Division (EN–340), U.S. Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460, no later than 10 days prior to the hearing. As time permits, any party not filing a notice of intent shall be allowed to give a presentation after the completion of the presentations of those who have filed a notice of intent.

Since the public hearing is designed to give interested persons an opportunity to participate in this rulemaking process by the presentation of data, views, arguments, or other pertinent information concerning the proposed regulations, there are no adversary parties as such. Statements by the participants will not be subject to cross examination. However, a panel of agency representatives may ask participants questions concerning their statements. Members of the audience will be provided an opportunity to submit questions to the panel which the panel, in its discretion, may ask the participant. The Presiding Officer is authorized to strike from the record statements which he deems irrelevant or needlessly repetitious, and to impose reasonable limits on the duration of the statement of any witness.

A verbatim record of the proceeding will be made. A copy of the transcript can be requested from the reporter during the hearing and will be made at the expense of the person so requesting.

Note.—The Agency has determined that this document is not a "significant regulation" requiring the preparation of a Regulatory Analysis under Executive Order 12044. An Economic Analysis has been prepared and is included in the Public Docket. The Analysis concluded that this program will not have a significant adverse economic impact on any party. However, the Agency invites any comments on the anticipated costs of this program.

Dated: July 31, 1979.

Barbara Blum,

Acting Administrator.

Accordingly, notice is hereby given that proposed Subpart V of Part 85 of Title 40 is proposed to be revised by the addition of the sections set forth below.

Subpart V—Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program

Sec.

85.2112 Applicability.
85.2113 Definitions.
85.2114 Basis of Certification.
85.2115 Notification of Certification.
85.2116 Objections to Certification.
85.2117 Emission Related Standards.
85.2118 Changes After Certification.
85.2119 Labelling Requirements.
85.2120 Maintenance and Submittal of Records.
85.2121 Decertification.
85.2122 Emission Critical Parameters.

Authority.—Secs. 207 (42 U.S.C. 7541), 208 (42 U.S.C. 7542) and 301 (42 U.S.C. 7601); Clean Air Act.

§ 85.2112 Applicability.

The provisions of this subpart to all automotive aftermarket parts that affect:

(a) The emissions of new motor vehicles or new motor vehicle engines to which regulations under section 202 apply or

(b) Any device or system which has an effect on motor vehicle or motor vehicle engine emissions.

§ 85.2113 Definitions.

(a) As used in this subpart, all terms not defined shall have the meaning given them in the Act:

(1) "Act" means Part A of Title II of the Clean Air Act, 42 U.S.C. 7421 *et seq.* (formerly 42 U.S.C. 1857 *et seq.*) as amended.

(2) "Add-on Part" means any automotive aftermarket part which is not a modified part or a replacement part and for which there is no original equipment equivalent.

(3) "Aftermarket Part" means any part offered for sale for installation in or on a motor vehicle or motor vehicle engine after such vehicle or engine has left the production line.

(4) "Aftermarket Part Manufacturer" means

(A) A manufacturer of an aftermarket part or

(B) A party that markets aftermarket parts under its own brand name or

(C) A rebuilder of original equipment or aftermarket parts.

(5) "Agency" means the Environmental Protection Agency.

(6) "Deputy Assistant Administrator" means the Deputy Assistant Administrator for Mobile Source and Noise Enforcement of the Agency or his or her delegate.

(7) "Certified Add-on Part" means any add-on part which has been certified pursuant to this subpart.

(8) "Certified Modified Part" means any modified part which has been certified pursuant to this subpart.

(9) "Certified Replacement Part" means any aftermarket replacement part which has been certified pursuant to this subpart.

(10) "Director" means the Director of the Mobile Source Enforcement Division of the Office of Enforcement of the Agency or his or her delegate.

(11) "Emission Warranty" means those warranties given by vehicle manufacturers pursuant to section 207 of the Act.

(12) "Emission Related Standards" means those critical parameters and tolerances which, if equivalent from one part to another, will not alter a vehicle or engine's emissions with such parts installed.

(13) "Engine Family" means the basic classification unit of a vehicle or engine manufacturer's product line for a single model year used for the purpose of emission-data vehicle or engine selection and as determined in accordance with 40 CFR 86.078–24.

(14) "Modified Part" means any automotive after-market part(s) intended to replace an original equipment part(s) and which is not identical to the original equipment part(s) in all respects but which performs the same basic function as the original part(s).

(15) "Vehicle or Engine Configuration" means the specific subclassification unit of an engine family as determined by differences in engine displacement, fuel system, engine code, transmission and inertia weight class as applicable.

§ 85.2114 Basis of Certification.

(a) An automotive aftermarket part manufacturer may certify a part either:

(1) On the basis of demonstrating conformance of that part with all of the relevant Emission Related Standards set forth for that part in §§ 85.2117 and 85.2122; or

(2) On the basis of performing emission tests in each applicable vehicle or engine configuration for which the part is to be certified in accordance with the requirements of this section.

(b) The only emission test on which certification can be made pursuant to paragraph (a)(2) of this section shall be the Federal Test Procedure as set forth in the applicable portions of 40 CFR Part 86 (except as provided in paragraph (a)(3) of this section).

(1) At least four emission tests shall be required in order to certify an aftermarket part pursuant to paragraph (a)(2) of this section. At least two tests shall be performed on a vehicle containing only original equipment parts and set to all the vehicle manufacturer's specifications. At least two additional tests shall be performed according to the Federal Test Procedure on the same vehicle set to the vehicle manufacturer's specifications, except for the installation of the automotive aftermarket part which is to be certified.

(2) The test results must demonstrate that the proper installation of the certified aftermarket part will not cause vehicle emissions to be increased. For the purposes of this subpart, this will be demonstrated if the mean emission levels of all tests with the aftermarket part do not exceed the applicable emission standard for any regulated pollutant *and* that the mean of the tests with the aftermarket part does not exceed the mean of the tests with the original parts by more than the following amount for each pollutant:

(i) Carbon Monoxide—20 pct
(ii) Hydrocarbon—15 pct
(iii) Oxides of Nitrogen—10 pct
(iv) Evaporative loss—20 pct
(v) All other regulated pollutants—10 pct

(3) The following portions of the Federal Test Procedure are not required to be performed when certifying a part in accordance with paragraph (a)(2) of this section:

(i) Compliance with evaporative emissions standard if the part to be certified is an ignition system component and the manufacturer of that part has a reasonable basis for believing that the use of the part has no effect on the vehicle's evaporative emissions,

(ii) Compliance with exhaust emissions standard if the part manufacturer has a reasonable basis for believing that the part affects only the evaporative emissions of a vehicle or engine,

(iii) Other portions therein which the part manufacturer believes are not relevant provided that the part manufacturer has requested and been granted a waiver in writing by the Director.

(4) For the purpose of the certification of parts on the basis of emission testing for use in vehicle or engine configurations other than those tested under paragraph (a)(2) of this section, the certifier may apply the results of tests performed under paragraph (a)(2) of this section upon a showing that the configuration tested represents the "worst case" with respect to emissions of those configurations for which the results are to be applicable.

(i) Such a showing shall include:

(A) A technical discussion that supports the conclusion that the configuration tested represents the worst case and

(B) All data that support the above conclusion.

(ii) The worst case configuration shall be that configuration which is least likely to meet the applicable emission standards amongst those configurations for which the emission test results under paragraph (a)(2) of this section are to be applied. This determination:

(A) Shall be based on a technical judgement of the impact of the particular design or calibration of a particular parameter or combination of parameters and/or an analysis of appropriate data, and

(B) Shall only be applicable for Configurations that are required to meet the same or less stringent (higher) emission standards than those applicable to the configuration tested.

(c) Before a part may be certified pursuant to this subpart, evidence must exist to demonstrate that such a part will not cause a vehicle's emissions to increase for the full interval for which the part is to be certified.

(1) For parts without a scheduled replacement, this interval shall be the useful life of the motor vehicle or motor vehicle engine.

(2) If a Recommended Durability Procedure is contained in the Appendix for a part, then that test or another test of equivalent validity and reliability must be used to demonstrate the durability of the part.

(3) An aftermarket part manufacturer may use reasonable engineering analyses or testing to demonstrate durability for all parts for which no Recommended Durability Procedure is contained in the Appendix.

(4) If any provision of 40 CFR Part 86 establishes a minimum replacement or service interval for a part during vehicle or engine certification, then no aftermarket part of that type may be certified with a shorter replacement or service interval.

(d) An aftermarket part manufacturer may certify a part on the basis of conformance with all Emission Related Standards only after the part manufacturer has performed such tests, analyses, or other procedures necessary to ascertain with a high degree of certainty the emission critical parameter specifications and tolerances for the original equipment part for which a certified part is to be a replacement.

(1) If information is available to identify the applicable emission critical

parameters, the prospective certifier must use such information.

(2) If sampling and analysis of original equipment parts is relied upon, the prospective certifier must use sound statistical sampling techniques to ascertain the mean and range of the applicable emission parameters.

(e) Any replacement part certified pursuant to § 85.2114(a)(1) shall be installed in or on a vehicle in the same manner as the original equipment part.

(f) Installation of any certified part shall not result in the removal or rendering inoperative of any original equipment component, require the readjustment of any component to other than the original manufacturer specifications, cause or contribute to an unreasonable risk to the public health, welfare or safety, or result in any additional range of parameter adjustability or accessibility to adjustment than that of the original equipment manufacturer's in-service replacement parts.

(g) Certification in accordance with § 85.2114(a) (1) or (2) must be based upon tests utilizing representative production aftermarket parts selected in a random manner in accordance with accepted statistical procedures.

§ 85.2115 Notification of Certification.

(a) At least sixty days prior to the sale of any certified automotive aftermarket part, notification of the intent to certify must be received by the Agency and the manufacturer of every vehicle or engine for which the part is to be utilized.

(1) The notification shall include:

(i) Identification of each part to be certified, including the part number as assigned by the aftermarket part manufacturer and by the original equipment manufacturer.

(ii) Identification of all vehicle or engine configurations for which the part is being certified including make(s), year(s), engine size(s) and all other specific configuration characteristics necessary to assure that the part will not be installed in any configuration for which it has not been certified.

(iii) A description of the tests and methods utilized to demonstrate compliance with §§ 85.2114(a) (1) and 85.2114(c); *except that,* if the proceure utilized is recommended in the Appendix, then only a statement advising of such is necessary. If certification is sought in accordance with § 85.2114(a)(2), the results of all emission tests performed shall be included. Include a description of all statistical analyses used to determine the emission critical parameters of the original equipment parts and compliance of the certified part(s) with those parameters including numbers of parts tested, selection criteria, means, variance, etc.

(iv) A statement that the aftermarket part manufacturer shall reimburse a manufacturer of any vehicle or engine for which a part is certified for all reasonable expenses incurred by the vehicle manufacturer as a result of honoring an emission warranty claim resulting from the failure of the certified part.

(v) A statement of agreement to all the relevant terms and conditions of this subpart.

(vi) The service intervals of the part, including maintenance and replacement intervals in months and/or miles as applicable if different than the original equipment requirements.

(vii) A statement, if applicable, that the part will not meet the labelling requirements of § 85.2119(a) and a description of the markings the aftermarket manufacturer intends to put on the part in order to comply with § 85.2119(b).

(viii) The information required pursuant to § 85.2114(b)(4) if applicable.

(ix) The office or officer of the part manufacturer authorized to receive correspondence regarding certification requirements pursuant to this subpart.

(2) Notification to the Agency and vehicle or engine manufacturers shall be by certified mail or another method by which date of receipt can be established.

(3) The notice shall be submitted to:

(i) Director, Mobile Source Enforcement Division (EN–340), 401 "M" Street, S.W., Washington, D.C. 20460.

(ii) The vehicle manufacturer's home office. A list of the home offices of each vehicle manufacturer may be obtained upon request to the Director, Mobile Source Enforcement Division, (EN–340), Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460.

(b) A part may be sold as certified sixty days after the receipt by the Agency of the notice given pursuant to this subsection provided that the Agency has not notified the part manufacturer otherwise.

§ 85.2116 Objections to Certification.

(a) At any time prior to the end of the sixty day period after a notification of intent to certify an aftermarket part is received by the applicable parties as specified in § 85.2115, the Director may notify the manufacturer of the aftermarket part that such aftermarket part may not be certified pending further investigation. The basis upon which this notification shall be made may include, but not be limited to, the following:

(1) Tests sufficient to demonstrate compliance with the applicable Emission Related Standards were not performed or if performed such test results did not indicate compliance with the requirements of this subpart.

(2) The part is to be certified on the basis of emission testing, and the procedure used in such tests was not in substantial compliance with those portions of the Federal Test Procedure not waived pursuant to § 85.2114(b).

(3) Use of the certified part will cause a vehicle's emissions of any regulated pollutant to be increased (as determined under § 85.2114(b)(2)).

(4) The durability requirement of § 85.2114(c) has not been complied with.

(5) Use of the certified part could cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function.

(6) Installation of the certified part requires procedures or equipment which would likely cause it to be improperly installed under normal conditions or would likely result in a vehicle being in a state of misadjustment.

(7) Information and/or data required in the Notification of Certification, Section 85.2115, have not been provided.

(b) The aftermarket part manufacturer or any interested party, may respond in writing to the statements made in the notification by the Director, or the aftermarket part manufacturer shall withdraw its notice of intent to certify. The Director may, at his or her discretion, allow oral presentations by the aftermarket manufacturer or any interested party in connection with a contested part certification.

(c) If a notification has been sent to an aftermarket part manufacturer pursuant to paragraph (a) of this section, the Director shall, after reviewing all pertinent data and information, inform the aftermarket part manufacturer in writing as to whether such part may be certified and under what conditions the part may be certified. The notification shall include an explanation upon which the decision was made.

(1) The notification shall be sent to all identified interested parties.

(2) Within 20 days of receipt of a decision made pursuant to this subsection, a party may file a written appeal to the Deputy Assistant Administrator. The Deputy Assistant Administrator may, in his or her discretion, allow additional oral or written testimony, prior to rendering a final decision.

(3) If no party files an appeal with the Deputy Assistant Administrator, then the decision of the Director shall be final.

§ 85.2117 Emission Related Standards.

(a) A replacement part may be certified in accordance with § 85.2114(a)(1) only if the part's emission critical parameters as set forth in § 85.2122(a) are equivalent to those of the original equipment part it is to replace.

(b) An add-on part may be certified in accordance with § 85.2114(a)(1) only if the part's emission critical parameters meet the specifications set forth in § 85.2122(b).

(c) A modified part may be certified in accordance with § 85.2114(a)(1) only if the part meets the applicable parameters of § 85.2122 for each part or parts which the modified part is to replace. If a modified part is to replace more than one part or an entire system, compliance must be demonstrated for all emission critical parameters involved, except those which relate solely to the interface between the parts being replaced by the modified part.

(d) A part which serves both as a modified part and as an add-on part must comply with all of the requirements of paragraphs (b) and (c) of this section. A certifier of a modified or add-on part must have evidence that such parts will not adversely impact the durability of any emission control device, engine or the vehicle upon which such parts are installed.

(e) Compliance with the Emission Related Standards may be demonstrated by compliance with the relevant Test Procedure and Criteria specified in the Appendix. An aftermarket part manufacturer may choose to utilize other tests and methods to demonstrate compliance with § 85.2114(a)(1) provided that the tests and methods are of equal validity and reliability to those provided in the Appendix.

§ 85.2118 Changes after certification.

The aftermarket part manufacturer shall be required to recertify any part which:

(a) Was certified pursuant to § 85.2114(a)(1) and modifications are subsequently made to the part which could affect the results of any test or judgement made that the part meets all the applicable Emission Related Standards.

(b) Was certified pursuant to § 85.2114(a)(2) and modifications are made to the part which affect emissions.

(c) Was certified and is subsequently modified in a manner affecting the durability of the part or any emission control device, engine or the vehicle upon which such parts are installed.

§ 85.2119 Labeling requirements.

(a) Except for those components specified in paragraph (b) of this section, each part certified pursuant to these regulations shall have "Certified to EPA Standards" and the name of the aftermarket part manufacturer placed conspicuously on the part.

(b) Parts that are too small for the information required in paragraph (a) of this section to be placed conspicuously on the part, must contain identification markings that can be referred to the information required in paragraph (a) of this section. Notification that such marking is intended in lieu of the information required above, must be made to the Agency. The Agency may not allow the part manufacturer to use such markings if it determines that the parts are of sufficient size to comply with paragraph (a) of this section.

(c) The package in which the certified aftermarket part is contained must have the following information conspicuously placed thereon:

(1) The name of the manufacturer,

(2) The statement "Certified to EPA Standards",

(3) A list of the vehicles or engines (in accordance with § 85.2115(a)(1)(ii)) for which the part has been certified,

(4) A statement of the service interval for which the part has been certified,

(5) A description of the services necessary to be performed on the part in the proper maintenance and use of the part only if such services are in addition to or different from those services necessary to be performed on the original equipment part. For modified and add-on parts, the certifier must identify any other vehicle or engine maintenance and use instructions which will be altered (ie., proper fuel, oil change interval, etc.) as a result of the use of such parts,

(6) The instructions for proper installation,

(7) If a written warranty running to the consumer is not provided with the part, the following statement must be included: "This certification only assures continued emission warranty coverage for your vehicle (engine) and is not an express warranty."

(d) The information required by paragraphs (c)(5) and (6) of this section may be provided on a written insert with the certified aftermarket part if that the insert also contains the information required in paragraphs (c) (1), (2) (3) and (4) of this section.

(e) When an aftermarket part manufacturer desires to certify existing in service stocks of their products, they may do so provided:

(1) The part does not differ in any operational or durability characteristic from the aftermarket parts specified in the notification made pursuant to § 85.2115 and

(2) A supplemental information sheet is made available with all parts sold as certified and that such sheet complies with all requirements of paragraph (c) of this section.

§ 85.2120 Maintenance and submittal of records.

(a) For each certified aftermarket part, the manufacturer of such part must establish, maintain and retain for 5 years the following adequately organized and indexed records:

(1) detailed production drawings showing all dimensions, tolerances, performance requirements and material specifications and any other information as is necessary to completely describe the part,

(2) A description of the testing program, including all production part sampling techniques used to verify compliance of the certified aftermarket part with the applicable Emission Related Standards and Durability Requirements,

(3) All data obtained during testing of the part and subsequent analyses based on that data, including the mileage and the vehicle or engine configuration determinants if emission testing is utilized as the basis for certification,

(4) All information used in determining those vehicles for which the part is represented as being equivalent from an emissions standpoint to the original equipment part,

(5) A description of the quality control plan used to monitor production and assure compliance of the part with the applicable certification requirements,

(6) All data taken in implementing the quality control plan, and any subsequent analyses based on that data,

(7) A description of all the methodology, analysis, testing and/or sampling techniques used to ascertain the emission critical parameter specifications of the original equipment part,

(8) All in-service data, internal analyses or correspondance with subvendors, distributors, consumers, retail outlets or vehicle manufacturers regarding any design, production or in-service problems associated with any certified part,

(9) A list of all claims made by vehicle manufacturers for reimbursement for expenses incurred as a result of providing an emission warranty remedy

necessitated by a certified part. Such list shall include:

(i) A description of the part(s) involved and the vehicle or engine configuration from which it was removed.

(ii) A description of the basis upon which the claim was made.

(iii) The final disposition of each claim including the costs involved in honoring the claim.

(b) The records required to be maintained in paragraph (a) of this section shall be made available to the Agency upon written request.

§ 85.2121 Decertification.

(a) The Director may notify an aftermarket part manufacturer that the Agency has made a preliminary decision to decertify one or more parts.

(1) Such a preliminary decision may be made if there is reason to believe that:

(i) Tests required to be performed to demonstrate compliance of the part with the applicable Emission Related Standards

(A) Were not performed on the part(s) or,

(B) Were insufficient to demonstrate compliance.

(ii) The part was certified on the basis of emission tests and:

(A) The procedures used in such test were not in substantial compliance with a portion or portions of the Federal Test Procedure which were not waived pursuant to § 85.2114(b)(3), or

(B) The emission results were not in compliance with the requirements of § 85.2114(b).

(iii) Use of the certified part is causing vehicle emissions for any regulated pollutant to be increased (as determined under § 85.2114(b)(2)).

(iv) Use of the certified part causes or contributes to an unreasonable risk to public health, welfare or safety or degrades driveability in its operation or function.

(v) The part has been modified in a manner requiring recertification pursuant to § 85.2118

(vi) The manufacturer of such part has not established, maintained or retained the records required pursuant to § 85.2120

(2) Notice of a preliminary decision to decertify shall contain:

(i) A description of the noncomplying part(s).

(ii) The basis for the Director's preliminary determination.

(iii) The date by which the manufacturer must:

(A) Terminate the sale of the part as a certified part, or

(B) Make the necessary change if so recommended by the Agency, and

(C) Request an opportunity in writing to determine whether the allegations of the notice are correct.

(b) If the aftermarket part manufacturer requests an opportunity to refute such allegations, the manufacturer and other interested parties may submit written presentations, including the relevant information and data, to the Director. The Director, in his or her discretion, may provide an opportunity for oral presentations.

(c) If a notification has been sent to an aftermarket part manufacturer pursuant to paragraph (a) of this section, the Director shall, after reviewing any additional information, notify the aftermarket part manufacturer whether the part may continue to be sold as certified. This notification shall include an explanation upon which the decision was made and the effective date for decertification.

(d) Within 20 days from the date of a decision made pursuant to paragraph (c) of this section, any adversely affected party may appeal the decision to the Deputy Assistant Administrator.

(1) A petition for appeal to the Deputy Assistant Administrator must state all of the reasons why the decision of the Director should be reversed.

(2) The Deputy Assistant Administrator may, in his or her discretion, allow additional oral or written testimony.

(3) If no appeal is filed with the Deputy Assistant Administrator within the permitted time period, the decision of the Director shall be final.

(e) If any part is decertified following the procedures set forth herein, the manufacturer of such part shall notify his immediate customers (other than retail customers) that, as of the date of the final determination, the part in question has been decertified. The part manufacturer shall offer to replace decertified parts in the customer's inventory, with certified replacement parts; or if unable to do so shall at the customer's request, repurchase such inventory at a reasonable price.

(f) Notwithstanding the requirements of paragraph (e) of this section, a part purchased by a vehicle owner as certified, shall be considered certified pursuant to this subpart.

§ 85.2122 Emission Critical Parameters.

(a) The following parts may be certified in accordance with § 85.2114(a)(1):

(1) *Carburetor Vacuum Break* (Choke Pull-Off)

(i) The emission critical parameters for carburetor vacuum breaks are:

(A) Diaphragm Displacement

(B) Timed Delay

(C) Modulated Stem Displacement

(D) Modulated Stem Displacement Force

(E) Vacuum Leakage

(ii) For the purposes of this paragraph:

(A) "Diaphragm Displacement" means the distance through which the center of the diaphragm moves when activated. In the case of a non-modulated stem, diaphragm displacement corresponds to stem displacement.

(B) "Timed Delay" means a delayed diaphragm displacement controlled to occur within a given time period.

(C) "Modulated Stem Displacement" means the distance through which the modulated stem may move when actuated independent of diaphragm displacement.

(D) "Modulated Stem Displacement Force" means the amount of force required at start and finish of a modulated stem displacement.

(E) "Vacuum Leakage" means leakage into the vacuum cavity of a vacuum break.

(F) "Vacuum Break" ("Choke Pull-off") means a vacuum operated device to open the carburetor choke plate a predetermined amount on cold start.

(G) "Modulated Stem" means a stem attached to the vacuum break diaphragm in such a manner as to allow stem displacement independent of diaphragm displacement.

(H) "Vacuum Purge System" means a vacuum system with a controlled air flow to purge the vacuum system of undesirable manifold vapors.

(2) *Carburetor Choke Thermostats.* (i) The emission critical parameters for all Choke Thermostats are:

(A) Thermal Deflection Rate

(B) Mechanical Torque Rate

(C) Index Mark Position

(ii) The emission critical parameters for Electrically Heated Choke Themostats are:

(A) Those parameters set forth in subparagraph (2)(ii) of this paragraph

(B) Time to rotate coil tang when electrically energized

(C) Electrical circuit resistance

(D) Electrical switching temperature

(iii) For the purpose of this paragraph:

(A) "Choke" means a device to restrict air flow into a carburetor in order to enrich the air/fuel mixture delivered to the engine by the carburetor during cold-engine start and cold-engine operation.

(B) "Thermostat" means a temperature actuated device.

(C) "Electrically-heated Choke" means a device, which contains a means for applying heat to the thermostatic coil by electrical current.

(D) "Thermostatic Coil" means a spiral-wound coil of thermally sensitive material which provides rotary force (torque) and/or displacement as a function of applied temperature.

(E) "Thermostatic Switch" means an element of thermally sensitive material which acts to open or close an electrical circuit as a function of temperature.

(F) "Mechanical Torque Rate" means a term applied to a thermostatic coil, defined as the torque accumulation per angular degree of deflection of a thermostatic coil.

(G) "Thermal Deflection Rate" means the angular degrees of rotation per degree of temperature change of the thermostatic coil.

(H) "Index or Index Mark" means a mark on a choke thermostat housing, located in a fixed relationship to the thermostatic coil tang position to aid in assembly and service adjustment of the choke.

(I) "PTC Type Choke Heaters" means a positive temperature coefficient resistant ceramic disc capable of providing heat to the thermostatic coil when electrically energized.

(3) *Carburetor Accelerator Pumps.* (i) The emission critical parameter for accelerator pumps (plungers or diaphragms) is the average volume of fuel delivered per stroke by the pump within prescribed time limits.

(ii) For the purpose of this paragraph an "Accelerator Pump (Plunger or Diaphragm)" means a device used to provide a supplemental supply of fuel during increasing throttle opening as required.

(4) *Positive Crankcase Ventilation (PCV) Valves.* (i) The emission critical parameter for a PCV valve is the volume of flow as a function of pressure differential across the valve.

(ii) For the purposes of this paragraph a "PCV Valve" means a device to control the flow of blow-by gasses and fresh air from the crankcase to the fuel induction system of the engine.

(5) *Breaker Points.* (i) The emission critical parameters for breaker points are:

(A) Bounce

(B) Dwell Angle

(C) Contact Resistance

(ii) For the purposes of this paragraph:

(A) "Breaker Point" means a mechanical switch operated by the distributor cam to establish and interrupt the primary ignition coil current.

(B) "Bounce" means unscheduled point contact opening(s) after initial closure and before scheduled reopening.

(C) "Dwell Angle" means the number of degrees of distributor mechanical rotation during which the breaker points are conducting current.

(D) "Contact Resistance" means the opposition to the flow of current between the mounting bracket and the insulated terminal.

(6) *Capacitors/Condensers.* (i) The emission critical parameters for capacitors/condensers are:

(A) Capacitance

(B) Series Resistance

(C) Breakdown Voltage

(ii) For the purposes of this paragraph:

(A) "Capacitance" means the property of a device which permits storage of electrically separated charges when differences in electrical potential exist between the conductors and measured as the ratio of stored charge to the difference in electrical potential between conductors.

(B) "Series Resistance" means the sum of resistances from the condenser plates to the condenser's external connections.

(C) "Breakdown Voltage" means the voltage level at which the capacitor fails.

(D) "Capacitor/Condenser" means a device for the storage of electrical energy consisting of two oppositely charged conducting plates separated by a dielectric and which resists the flow of direct current.

(7) *Distributor Caps and/or Rotors.* (i) The emission critical parameters for distributor caps and/or rotors are:

(A) Physical and Thermal Integrity

(B) Dielectric Strength

(C) Flashover

(ii) For the purposes of this paragraph:

(A) "Flashover" means the discharge of ignition voltage across the surface of the distributor cap and/or rotor rather than at the spark plug gap.

(B) "Dielectric Strength" means the ability of the material of the cap and/or rotor to resist the flow of electric current.

(C) "Physical and Thermal Integrity" means the ability of the material of the cap and/or rotor to resist physical and thermal breakdown.

(8) *Spark Plugs.* (i) The emission critical parameters for spark plugs are:

(A) Heat Rating

(B) Gap Spacing

(C) Gap Location

(D) Flashover

(E) Dielectric Strength

(ii) For the purposes of this paragraph:

(A) "Spark Plug" means a device to suitably deliver high tension electrical ignition voltage to the spark gap in the engine combustion chamber.

(B) "Heat Rating" means that measurement of engine indicated mean effective pressure (IMEP) value obtained on the engine at a point when the supercharge pressure is 25.4mm (one inch) Hg below the preignition point of the spark plug, as rated according to SAE J549A Recommended Practice.

(C) "Gap Spacing" means the distance between the center electrode and the ground electrode where the high voltage ignition arc is discharged.

(D) "Gap Location" means the position of the electrode gap in the combustion chamber.

(E) "Dielectric Strength" means the ability of the spark plug's ceramic insulator material to resist electrical breakdown.

(F) "Flashover" means the discharge of ignition voltage at any point other than at the spark plug gap.

(9) *Inductive System Coils.* (i) The emission critical parameters for inductive system coils are:

(A) Open Circuit Voltage Output

(B) Dielectric Strength

(C) Flashover

(ii) For the purposes of this paragraph:

(A) "Coil" means a device used to provide high voltage in an inductive ignition system.

(B) "Flashover" means the discharge of ignition voltage across the coil.

(C) "Dielectric Strength" means the ability of the material of the coil to resist electrical breakdown.

(10) *Primary Resistors.* (i) The emission critical parameter for primary resistors is the DC resistance.

(ii) For the purpose of this paragraph a "Primary Resistor" means a device used in the primary circuit of an inductive ignition system to limit the flow of current.

(11) *Breaker Point Distributors.* (i) The emission critical parameters for breaker point distributors are:

(A) Spark Timing

(*1*) Initial Timing

(*2*) Centrifugal Advance Characteristics

(B) Dwell Angle

(C) Breaker point contact operation

(D) Electrical resistance to ground

(E) Capacity for consistency with § 85.2122(a) (5), (6), (7), (8) and (9).

(ii) For the purposes of this paragraph:

(A) "Distributor" means a device for directing the secondary current from the induction coil to the spark plugs at the proper intervals and in the proper firing order.

(B) "Distributor Firing Angle" means the angular relationship of breaker point

V 4 4 / 1 5 4 A G 8 7 9 UMI

openings from one opening to the next in the firing sequence.

(C) "Dwell Angle" means the number of degrees of distributor mechanical rotation during which the breaker points are capable of conducting current.

(12) *Engine Valves.* (i) The emission critical parameter for engine valves is leakage.

(ii) For the purpose of this paragraph an "engine valve" means a mechanical device for regulating the primary flow of gasses directly into and out of the combustion chamber of an internal combustion engine.

(13) *Camshafts.* (i) The emission ciritcal parameters for Camshafts are:

(A) Cam Lobe Profile (See Figure 1)

(*1*) Ramp

(*2*) Flank

(*3*) Lift

(*4*) Base Circle Runout

(B) Journal Runout

(C) Cam Lobe Phasing

(D) Camshaft Timing (Indexing) Location

(ii) For the purposes of this paragraph:

(A) "Camshaft" means a device used to impart the desired motion to open and close the engine valves a predetermined amount and for a predetermined interval in an internal combustion engine.

(B) "Journal" means that portion of a camshaft which runs in a supporting bearing.

(C) "Journal Runout" means the measured eccentricity of a journal with respect to the shaft when rotated between centers.

(D) "Base Circle Runout" means the measured eccentricity of the base circle of a cam lobe with respect to adjacent journals.

(E) "Cam Lobe Phasing" means the angular relationship between nose center lines of the cam lobes.

(F) "Camshaft Timing Location" means the included angle between the keyway or dowel pin and a specified cam lobe.

(14) *Pistons.* (i) The emission critical parameters for Pistons are:

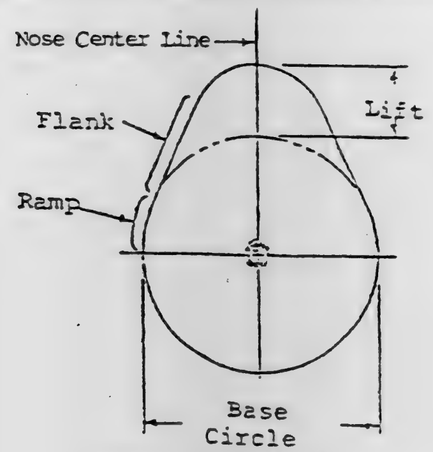
(A) Top land width (See Figure 2)

(B) Top land chamfer

(C) Surface contour of piston head

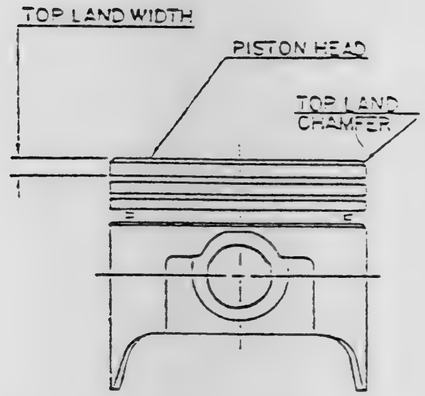
(D) Compression ratio

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CAMSHAFT LOBE PROFILE

FIGURE 2



TYPICAL PISTON

(ii) For the purposes of this paragraph

(A) "Piston" means a device in an engine through which the forces from the combustion process are transmitted to the mechanical linkage causing rotation of the crankshaft.

(B) "Compression Ratio" means the total cylinder volume with the piston at bottom center divided by the cylinder volume (combustion chamber volume) with the piston at top center.

(C) "Surface-to-Volume Ratio" means the combustion chamber surface area divided by combustion chamber volume with the piston at top center.

(15) *Oxidizing Catalytic Converter.* (i) The emission critical parameters for oxidizing catalytic converters are:

(A) Initial Conversion Efficiency

(B) Final Conversion Efficiency

(C) Light-off Time

(D) Mechanical and Thermal Integrity

(ii) For the purposes of this paragraph:

(A) "Catalytic Converter" means a device installed in the exhaust system of an internal combustion engine that utilize catalytic action to oxidize hydrocarbon (HC) and carbon monoxide (CO) emissions to carbon dioxide (CO_2) an water (H_2O).

(B) "Conversion Efficiency" means the measure of the catalytic converter's ability to oxidize HC/CO to CO_2/H_2O under fully warmed-up conditions stated as a percentage calculated by the following formula:

$$\frac{\text{Inlet conc.} - \text{outlet conc.}}{\text{Inlet conc.}} \times 100$$

Conversion efficiency initial and final refers to the efficiency of a new converter and a converter at the end of its intended useful life (Aged Catalytic Converter), respectively.

(C) "Light-off Time or LOT" means the time required for a catalytic converter (at ambient temperature 68–86°F) to warm-up sufficiently to convert 50% of the incoming HC and CO to CO_2 and H_2O.

(D) "Peak Air Flow" means the maximum engine intake mass air flow rate measures during the 195 second to 202 second time interval of the Federal Test Procedure.

(E) "Feed Gas" means the chemical composition of the exhaust gas measured at the converter inlet.

(F) "Aged Catalytic Converter" means a converter that has been installed on a vehicle or engine stand and operated thru a cycle specifically designed to chemically age, including exposure to representative lead concentrations, and mechanically stress the catalytic converter in a manner representative of in-use vehicle or engine conditions.

(G) "Mechanical and Thermal Integrity" means the ability of a converter to continue to operate at its previously determined efficiency and light-off time and be free from exhaust leaks when subject to thermal and mechanical stresses representative of the intended application.

(16) *Air Cleaner Filter Element.* (i) The emission critical parameter for Air Cleaner Filter Elements is Air Flow Restriction.

(ii) For the purposes of this paragraph "Air Cleaner Filter Element" means a device to remove particulates from the primary air that enters the air induction system of the engine.

(17) *Electronic Inductive Ignition System and Components.* (i) The emission critical parameters for electronic ignition system and components are:

(A) Spark Rise Time

(B) Spark Duration

(C) Spark Voltage Output

(D) Ignition Timing or Delay

(ii) For the purpose of this paragraph

(A) "Electronic Inductive Ignition System and Components" means a triggering device and electronic control unit which delivers the proper electrical signal to an ignition system coil.

(B) "Spark Rise Time" means the time required for the spark voltage to increase from 10% to 90% of its maximum value.

(18) *Electronic Inductive Distributors.* (i) The emission critical parameters for electronic inductive distributors are:

(A) Spark Timing:

(*1*) Initial Timing.

(*2*) Centrifugal Advance Characteristics.

(B) Sensor/Trigger Operation.

(C) Capacity for consistency with § 85.2122 (7), (8), (9) and (17).

(ii) For the purposes of this paragraph:

(A) "Sensor/Trigger" means a device which provides the timing signal for the electronic ignition system components.

(B) "Distributor Firing Angle" means the angular relationship from one cylinder firing to the next in the firing sequence.

(b) Reserved for Add-on part standards.

This notice of proposed rulemaking is issued under authority of the following sections of the Clean Air Act as amended: 207 (42 U.S.C. 7541), 208 (42 U.S.C. 7542) and 301 (42 U.S.C. 7601). The regulations would implement section 207(a)(2) of the Clean Air Act as Amended August 1977.

Appendix—Recommended Test Procedures and Test Criteria and Recommended Durability Procedures To Demonstrate Compliance With Emission Related Standards.

A. Carburetor Vacuum Break (Choke Pull-Off)

1. *Test Procedure and Criteria.* a. Vacuum leakage: Apply 457 ± 13 mm (18.0 ± 0.5 inches) Hg. vacuum to the vacuum unit to achieve full diaphragm displacement. Seal vacuum source to unit. There shall be no visible loss of diaphragm displacement or drop in vacuum gage reading after a 15 second observation. Vacuum purge system and diaphragm displacement adjusting screw holes should be temporarily sealed during this test when applicable.

b. Diaphragm displacement: At stabilized temperature of −29° C and 121° C (−20° F and 250° F) with 457 ± 13 mm (18.0 ± 0.5 inches) Hg. vacuum applied to unit, the diaphragm displacement shall be within ± 1 mm (0.04 inches) of the nominal original equipment displacement. The vacuum purge system must be open during this test when applicable. Adjusting screws that limit displacement should be temporarily removed and adjusting screw holes temporarily sealed during this test.

c. Timed delay: (when applicable) With 457 ± 13 mm (18.0 ± 0.5 inches) Hg. applied to the unit, the vacuum break diaphragm displacement shall occur within ± 20% of the original equipment time over the specified range of displacement. The diaphragm displacement shall be timed over the same distance for the original equipment as the replacement part and shall not be less than 60% of the total displacement range. The vacuum purge system must be open and the adjusting screw holes should be temporarily sealed during this test when applicable.

d. Modulated stem displacement: (when applicable) With a force sufficient to extend the modulated stem to its full displacement, the displacement shall be within ± 0.8 mm (± 0.03 inches) of the original equipment specification.

e. Modulated stem displacement force: (When applicable) The force required to start and finish the modulated stem displacement shall be within ± 35% of the original equipment specification for forces up to 142 grams (5 ounces) and shall be within ± 20% of the original equipment specification for forces exceeding 142 grams (5 ounces).

2. *Durability Procedures:* After 250,000 full displacement cycles (from atmospheric pressure to a minimum of 530 mm (21 inches) Hg. vacuum at a temperature of 79° C (175° F)) in air, the following conditions shall be met:

a. Diaphragm displacement shall not degrade more than 10% from the original test measurements of paragraph 1.b. above.

b. Timed delay shall not degrade more than 10% from the original test measurement in paragraph 1.c. above.

c. Following these tests, the units must be free of visible defects.

B. Carburetor Choke Thermostats

1. *Test Procedures and Criteria.* a. All chokes.

i. *Thermal deflection rate.* When tested on a suitable fixture, the deflection rate shall be within ± 6% of the original equipment value. The initial temperature and final temperature for purposes of this test may vary but shall exhibit a test temperature range of at least 44° C (80° F). Recommended test equipment, test procedures, and associated calculations are outlined in ASTM B389 (latest revision) or American National Standards Institute Z155–20.

ii. *Mechanical torque rate.* When tested on a suitable fixture, the torque rate shall be within ± 12% of the mean original equipment value. Recommended test equipment, test procedures, and associated calculations are outlined in ASTM B362 (latest revision) or American National Standards Institute Z155–18 (latest revision).

iii. *Index mark position.* When stabilized for four hours at room temperature, the relative position of the thermostatic coil outer tang or loop and the index mark, when corrected to 24° C (75° F), shall be within ± 5 angular degrees of the mean original equipment positions.

b. Electrically-heated Chokes.

i. *Time to rotate coil tang.* When tested on a suitable fixture, the time to rotate through a prescribed angle at a prescribed temperature and prescribed voltage, for the specific choke device under test shall be within ± 12 seconds or ± 25% of the mean original equipment value whichever is greater.

ii. *Electrical circuit resistance.* In an electrically-heated choke utilizing PTC type choke heater, the circuit resistance shall be within ± 1.5 ohms of the mean original equipment value at 24 ± 3° C (75° ± 5° F) unenergized.

iii. *Electrical switching temperature.* In an electrically heated choke thermostat utilizing a thermostatic disc switch in the electrical circuit, the temperature to open the circuit shall be within ± 5.5° C (10° F) and the temperature to close the circuit shall be within ± 11° C (20° F) of the mean original equipment value. Circuit opening temperature shall be measured on a decreasing temperature change, and the circuit closing temperature shall be measured on an increasing temperature change.

C. Carburetor Accelerator Pumps

1. *Test Procedure and Criteria.* a. Expose plunger or diaphragm assembly to temperatures of −30° C and +120° C (−20° F and +250° F); for 70 hours at each temperature with a commercial grade fuel or equivalent.

b. Within one hour after temperature exposure of 1.a. above, each plunger or diaphragm assembly, when installed in an applicable carburetor or test fixture, shall, at room temperature, deliver a volume of test fluid (Stoddard solvent or equivalent) from a 10 stroke cycle,* within ± 30% of the volume from a 10 stroke cycle of an original equipment plunger or diaphragm assembly.

*10 stroke cycle: 10 strokes from closed throttle plate position to wide open throttle plate position occurring within a 15–25 second time period.

2. *Durability Procedure:* After 250,000 operational cycles, at approximately 30 cycles per minute, at room temperature in test fluid, the output of the plunger/diaphragm shall not drop below 90% of the low limit as established in 1.b.

D. Positive Crankcase Ventilation Valve

1. *Test Procedure and Criteria.* a. Measure the flow of the PCV valve in standard cubic feet per minute (SCFM) vs. pressure differential across the valve over the intended range of operation at standard atmospheric conditions (70° F (21.1° C) at 29.92 inches (755 mm) Hg.).

b. A PCV valve shall flow within the vehicle manufacturer's specifications or shall meet the following criteria: Whenever the mean of the original equipment flow curve is below 1 SCFM, a maximum deviation of the mean replacement PCV valve shall not exceed ±0.1 SCFM. Whenever the mean original equipment curve is equal to or greater than 1 SCFM, a maximum deviation of the mean of the replacement PCV valve shall not exceed ±10%. The total flow tolerance of the replacement valve shall not exceed the original equipment variation from the mean, at any pressure differential.

2. *Durability Procedure:* The flow of any specific PCV valve must not deviate from its original flow curve by more than the total original allowable tolerance when operated in the intended vehicle application over the service interval stated by the certifier.

E. Breaker Points

1. *Test Procedures and Criteria.* a. Set up test system circuit and equipment per Figure 3 with an OE breaker point assembly. Connect the primary to a 14 ± .5 V DC regulated power supply.

b. Record dwell angle and open-circuit output voltage at 300, and 500 distributor rpm and at 500 rpm intervals up to the maximum speed of the intended application.

c. Insert the replacement part in the test system and repeat the observations per b above under identical test conditions.

d. The data observed with the replacement part in the system must meet the following criteria:

(1) The dwell angle change: Not to exceed that of the original equipment by more than ±1° at all measured rpm intervals.

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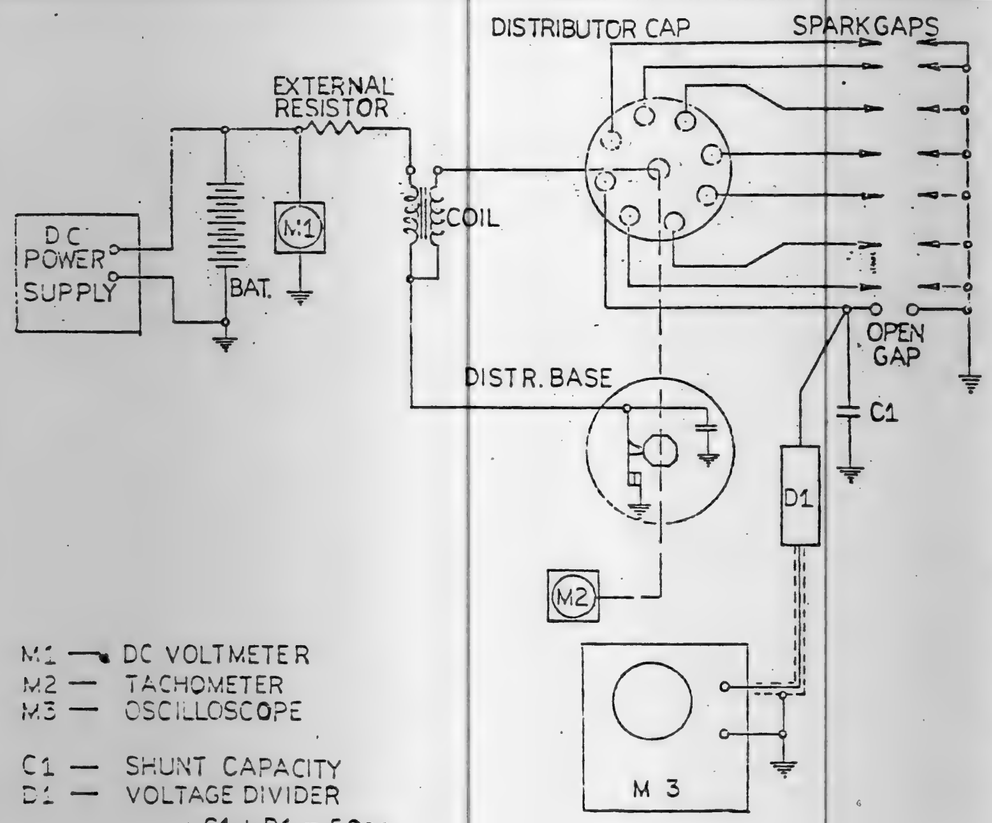


FIGURE 3

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(2) The open circuit output voltage (M–3): Not less than 90% of the OE breaker point assembly at any measured rpm.

e. Repeat step c above at −40° C (−40° F) and 100° C (212° F).

f. The breaker points shall operate without evidence of point bounce at all test speeds and temperatures and shall operate easily without binding when operated manually.

2. *Durability Procedures.* a. Set up a bench ignition system using an applicable distributor or electro-mechanical equivalent.

b. Install the breaker point assembly under test in the distributor; lubricate and adjust per applicable vehicle manufacturer's specifications. Use applicable coil, primary resistor, capacitor, cap and rotor.

c. Connect the primary of the test system with a power supply regulated at 14±0.5 V DC for a 12 V system.

d. The secondary portion of the test system is to be connected to a 12±2KV spark gap.

e. An external heat source shall generate an ambient temperature of 88° to 93° C (190° to 200° F) for the distributor.

f. Drive the distributor at 1750±50 rpm for 200 hours. After each 50 hour interval, run the distributor for 5 minutes with one open circuit spark gap instead of a 12 KV gap.

g. The replacement breaker point assembly must have the capability of performing throughout the duration of the test without evidence of any failure resulting in loss of spark in the 12 KV spark gap.

h. After the 200 hours repeat step 1.c. above. The open circuit output voltage must be at least 90% of that measured in 1.c.

F. Capacitors/Condensers

1. *Test Procedures and Criteria.* a. The electrostatic capacitance of the replacement condenser shall be within ±20% of the value of the original part at 20±3° C (68 ±5° F). The capacitance is to be measured on a capacitance bridge having an accuracy of ±1% at 1 KHz frequency.

b. Set up the test system in accordance with Figure 3. The condenser series resistance shall be such that the output voltage at 500 distributor rpm with the replacement condenser shall not be less than 90% of the output voltage (M–3) with the original equipment condenser.

c. The capacitor must be able to withstand a minimum test voltage of 500 V DC for a minimum of 0.1 seconds without failure.

d. (1) Measure capacitance after 4 hours minimum soak at 88° to 93° C (190° to 200° F).

(2) After one hour at room temperature, place capacitor at −18° C (0° F) for 4 hours minimum and measure capacitance.

(3) Place capacitor at room temperature for 4 hours minimum and measure capacitance.

e. After thermal cycling, repeat 1. a. and b. The results must be within ±10% of the initial measurements.

2. *Durability Procedure.* a. Set up a bench ignition system using an applicable distributor or an electro-mechanical equivalent.

b. Install the capacitor under test in the distributor adjusted to applicable vehicle manufacturer's specifications. Use applicable coil, primary resistor, breaker points, cap and rotor.

c. Connect the primary of the test system with a power supply regulated at 14±0.5 V DC for 12 V system.

d. The secondary portion of the test system is to be connected to a 12±2 KV spark gap.

e. An external heat source shall generate an ambient temperature of 88° to 98° C (190° to 200° F) for the distributor.

f. Drive the distributor at 1750±50 rpm for 200 hours. After each 50 hour interval, run the distributor for 5 minutes with one open circuit spark gap instead of a 12 KV gap.

g. The replacement part must have the capability of performing throughout the duration of the test without evidence of any failure resulting in loss of spark in the 12 KV spark gap.

h. After the 200 hours, the condenser shall be within 10% of the capacitance and voltage measured in 1a. and b. respectively.

G. Distributor Caps and/or Rotors

1. *Test Procedures and Criteria.* a. Set up test system in accordance with the circuit and equipment per Figure 3 with OE distributor cap and/or rotor. Connect the primary to a 14±.5 V DC regulated power supply.

b. Record open circuit output voltage (M–3) at 300 and 500 distributor rpm and at intervals of 500 distributor rpm up to the maximum speed of the intended application.

c. Insert the intended replacement part(s) in the system and repeat step b. above under identical test conditions.

d. Subject the intended replacement parts to the following thermal sequence through five complete cycles:

1. 12 hours at −40° C (−40° F).
2. 2 hours at room temperature.
3. 4 hours at 100° C (212° F).
4. 2 hours at room temperature.

e. Repeat step b. above with the replacement part(s).

f. The output voltages measured with the replacement part in the system must be at least 90 percent of the output voltage with the OE cap and/or rotor.

2. *Durability Procedures.* a. Set up test system in accordance with circuit and equipment per Figure 3.

b. Install the cap and/or rotor under test in the distributor, lubricate and adjust per applicable vehicle manufacturer's specifications. Use equivalent coil, primary resistor, breaker points and capacitor.

c. Connect the primary of the test system with a power supply regulated at 14±0.5 V. D.C.

1. In breaker point operated systems, connect secondary to a 12 KV±2 KV gap.

2. In electronic ignition systems, connect secondary to a gap equivalent to at least 50 percent of peak open-circuit voltage.

d. An external heat source shall generate an ambient temperature of 88° to 93° C (190° to 200° F) for the distributor.

e. Distributor shall be driven at 1750±50 rpm for 200 hours. After each 50 hour interval, run the distributor for 5 minutes with one open circuit spark gap instead of a 12 KV gap.

f. The replacement parts must have the capability of performing throughout the duration of the test without evidence of any failure resulting in loss of spark at the spark gap.

g. Repeat step 1.c. above. The open circuit output voltage must be at least 90 percent of that measured in step 1.c.

h. The replacement cap and/or rotor must be free of any visual cracks, arcing or melting.

H. Spark Plugs

1. *Test Procedures and Criteria.* a. Heat rating: When comparatively rated in the SAE 17.6 Spark Plug Rating engine according to the SAE J549a Recommended Practice, the comparative average rating of at least five (5) replacement spark plugs shall not be less than 85 percent of the average IMEP of at least five (5) OE spark plugs.

b. Gap spacing: The electrode spark gap shall be equivalent or adjustable to the recommended gap for the original equipment spark plug.

c. Gap location: The electrode gap position in the chamber shall be the same as specified by the vehicle manufacturer.

d. Flashover: The spark plug terminal end, with the properly fitted connecting boot, shall not flashover at peak anticipated voltage for the intended application.

I. Inductive System Coils

1. *Test Procedures and Criteria.* a. Set up the circuit in accordance with Figure 3. Operate the circuit by an applicable distributor or equivalent triggering device and applicable primary resistor with a 50 pf load at 14.0±0.50 volts DC input as applicable and stabilized at an ambient temperature of 20° C±3° C (68° F±5° F).

b. With the original equipment coil installed, record the predominant minimum peak voltage at 300 and 500 distributor rpm, and at 500 rpm intervals up to the maximum intended operating speed. The measurement is to be taken after 4 minutes operation at each speed.

c. Install the replacement coil to be tested and repeat step b. above.

d. The replacement coil shall have an open-circuit output voltage (M–3) at least 90 percent of the OE coil output voltage at each distributor test speed.

2. *Durability Procedure.* a. Install the replacement ignition coil in the ignition system using the applicable rotor, cap, capacitor, breaker points, and primary resistor.

b. Operate the circuit with a regulated power supply of 14.0±.5 volts DC connected to the primary at an ambient temperature of 90° C (194° F) at 1750±50 distributor rpm for a duration of 200 hours. After each 50 hour interval, run the distributor for 5 minutes with one open circuit spark gap instead of a 12 KV gap.

c. The ignition coil shall perform throughout the test without any evidence of coil failure which would result in the loss of the spark in the 12 KV spark gap.

d. Repeat Step 1.c above. The open circuit output voltage must be at least 90 percent of that measured in 1.c.

J. Primary Resistors

1. *Test Procedures and Criteria.* a. Configure the circuit shown in Figure 4, using the original equipment resistor.

b. At 20±3° C (68±5° F), apply voltage for 15 minutes; maintain current at 2.5 amps. At conclusion of 15 minutes, read voltage and current. Calculate resistance using the relationship.

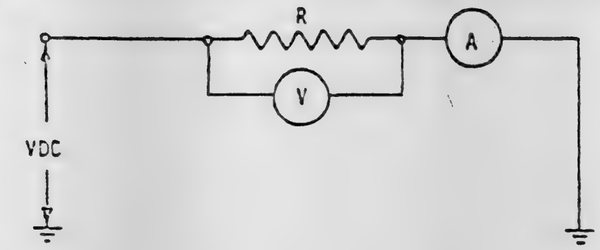
$$R = E/I$$

where

R = Resistance in ohms,
E = Voltage (V) in volts,
I = Current (A) in amps.

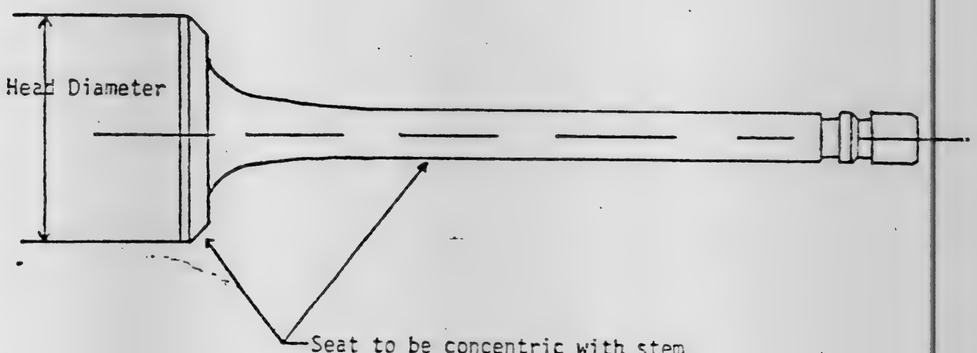
c. Replace OE test sample with part to be certified and repeat step b. above.

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Current A to be maintained at 2.5 amps for duration of test.

FIGURE 4



Seat to be concentric with stem diameter to within 0.05mm (0.002 in.) * total indicator reading.

*0.076mm (0.003 in.) concentricity when head O.D. over 2.0 inches.

FIGURE 5

BILLING CODE 6560-01-C

d. Resistance of the part shall be within ± 20% of original equipment resistance.

2. *Durability Procedure.* a. Using the circuit shown in Figure 1, apply current at 80° to 93° C (192° to 200° F), for 200 hours.

b. After 200 hours retest as in step 1.c above, and verify that resistance is within ± 20% of the value as measured in step 1.b. above.

K. Distributors—Breaker Point

1. *Test Procedures and Criteria.* a. Using an appropriate test installation, operate the distributor through its intended speed range.

b. The advance mechanism shall function within the tolerance of the vehicle manufacturer's original specification over the speed range of the intended application.

c. The advance mechanism shall repeatedly return to the zero setting ± 0.5 distributor degrees after advancing and retarding through the operating range.

d. The distributor firing angle accuracy shall remain within the originally specified tolerances throughout the speed range of the intended application.

e. The distributor shall be capable of maintaining the dwell angle of the original equipment specification ± 2 degrees throughout the speed range of the intended application.

f. The distributor shall be free from contact bounce and be capable of open-circuit output voltage (M–3) equal to at least 90% of the voltage produced by the original equipment system over the speed range of the intended application.

2. *Durability Procedure.* a. At an ambient temperature of 88 to 93° C (190° to 200° F), operate the distributor at 1750 ± 50 rpm for 300 hours.

b. The distributor must meet the requirements of paragraph 1b through f after the 300 hours.

L. Engine Valves

1. *Test Procedure and Criteria.* a. The valve must conform to the stem-to-seat concentricity requirement as illustrated and specified in Figure 5.

b. The valve must comply with the following leak test acceptance procedure or an alternate procedure which the certifier can correlate with the specified procedure:

(i) With a valve installed on a master seat with a pressure of 20 PSIG applied to the combustion chamber side, the leakage rate shall not exceed 5.000 cc (305 inch^3) of air per minute or the OE leakage rate as measured in the same manner, whichever is less.

M. Camshafts

1. *Test Procedures and Criteria.* The camshaft shall meet the tolerances of the vehicle manufacturer if available, or the following tolerances if OE data are not available:

Characteristic	Tolerance
Ramp	±0.025 mm (±0.001 Inches).
Flank	±0.076 mm (±0.003 Inches).
Lift	±0.076 mm (±0.003 Inches).
Base Circle Runout	0.025 mm (.001 Inches) TIR.*
Journal Runout	0.102 mm (.004 Inches) TIR.*
Lobe Phasing	±30 Minutes.
Cam Timing	±30 Minutes.

*Total Indicated Reading.

N. Pistons

1. *Test Procedures and Criteria.* a. Top land width shall not exceed that of the original equipment part.

b. Top land chamfer shall not be less than that of the original equipment part.

c. Head surface contour shall be that of the original equipment part and shall not increase the surface-to-volume ratio of the total combustion chamber by more than 10% (with surface-to-volume ratio calculated according to SAE Recommended Practice J604C).

d. Compression ratio variation from original equipment part shall not exceed ± .5 ratio (with compression ratio calculated according to SAE Recommended Practice J604C).

O. Oxidizing Catalytic Converters

1. *Test Procedures and Criteria.* a. The Conversion Efficiency and Light-off Time of the replacement catalytic converter shall be equal to or exceed that of the original equipment converter for CO and HC emissions. These parameters shall be determined for both converters under the same conditions using the following steady state feed gas concentrations and conditions for LOT and Conversion Efficiency respectively:

	Lot	Conversion efficiency
Exhaust mass flow rate	See note (2)	See note (1).
Total Hydrocarbons	See note (3)	See note (3).
Carbon Monoxide	2.0% maximum.	1.0% maximum.
Hydrogen	0.33 × % CO maximum.	0.33 × % CO maximum.
Oxygen	1.5 × % Co maximum.	1.5 × % CO maximum.
Converter Inlet Gas Temperature.	850 F to 750 F.	850 F to 950° F.

NOTE 1.—Not less than peak air flow of the vehicle or engine configuration being certified for. If more than one vehicle or engine application is to be covered by a generic converter, the greatest peak vehicle or engine air flow shall be used.

NOTE 2.—Not greater than 0.40 times the value determined in Note 1.

Note 3.—300 parts per million by volume minimum based on Methane calibration. If a non-engine simulator gas source is used, a mixture ratio of 10% propane to 90% propylene by volume will constitute an acceptable synthetic for total exhaust hydrocarbons.

(i) LOT tests shall be conducted by exposing the converter to a step change in temperature, from ambient to that specified above: 650°–750°. Converter inlet and outlet exhaust emissions are measured. Light-off time is then determined by recording the time required for the converter to reduce the outlet emissions (HC and CO) to 50% of the inlet emissions, on a volumetric concentration basis, measured from the step temperature change.

(ii) Conversion efficiency measurements shall be obtained by passing stabilized feed gas through the converter (at conditions specified above) and making simultaneous measurements of inlet and outlet emission volume concentrations. The conversion efficiency for CO and HC is then calculated.

(b) Aged catalytic converters may be obtained by operating the converter on the individual vehicle or engine application for which it is intended on the Federal Test Procedure road durability driving cycle for the stated service interval for the replacement converter or for the warranted life of the original equipment converter.

(c) Where one generic converter is intended to cover multiple vehicle or engine configurations, converter aging may be obtained per Paragraph (b) above, on a vehicle or engine which represents the greatest peak air flow of the group of vehicle configurations to be covered, and whose calibration and feed gas concentrations are representative of the vehicle or engine configurations being certified for.

2. *Other Considerations.* (a) Replacement converter location on the vehicle must be within ±8 inches of the original equipment converter location.

(b) Pressure drop measured between inlet and outlet pipe interconnecting points on the replacement converter shall be within ±25% of similar measurements for the original equipment converter being replaced, when measured at each of three flow conditions 50 SCFM, 100 SCFM and 150 SCFM with a suitable fluid medium such as air. All measurements must be normalized to equal density conditions.

P. Air Cleaner Filter Element

1. *Test Procedures and Criteria.* (a) On a suitable test stand or fixture, such as described in SAE J–726, measure the air flow restriction, in terms of pressure drop across the original equipment air filter element at a minimum of 200 SCFM.

(b) Under conditions identical to the above, measure the air flow restriction of the air filter element to be certified.

(c) The restriction measured in (b) shall be less than 9 inches H_2O greater than that measured in (a).

2. *Durability Procedure.* (a) After use in the intended vehicle or engine application for the recommended service interval, the replacement element shall not result in a further restriction of 9 inches H_2O pressure drop than that measured in 1.(b) above when tested in the identical manner.

Q. Electronic Inductive Ignition System and Components

1. *Test Procedures and Criteria.* a. Set up test system circuit and equipment per Figure 6 with OE electronic ignition system components. All bench tests shall be performed at 20° C±3° (68° F±5°) ambient temperature with component temperatures stabilized at operating temperature for repeatability. The DC power source shall be 14V±0.5V with a minimum output current capability of 10 amperes. Excluding coil capacitance, the total secondary shunt capacitance shall be 50±5 picofarads.

b. Using OE components, measure spark rise time, spark duration, spark voltage output and ignition timing or delay at 300 and 500 distributor rpm and at 500 rpm intervals up to the maximum speed of the intended application.

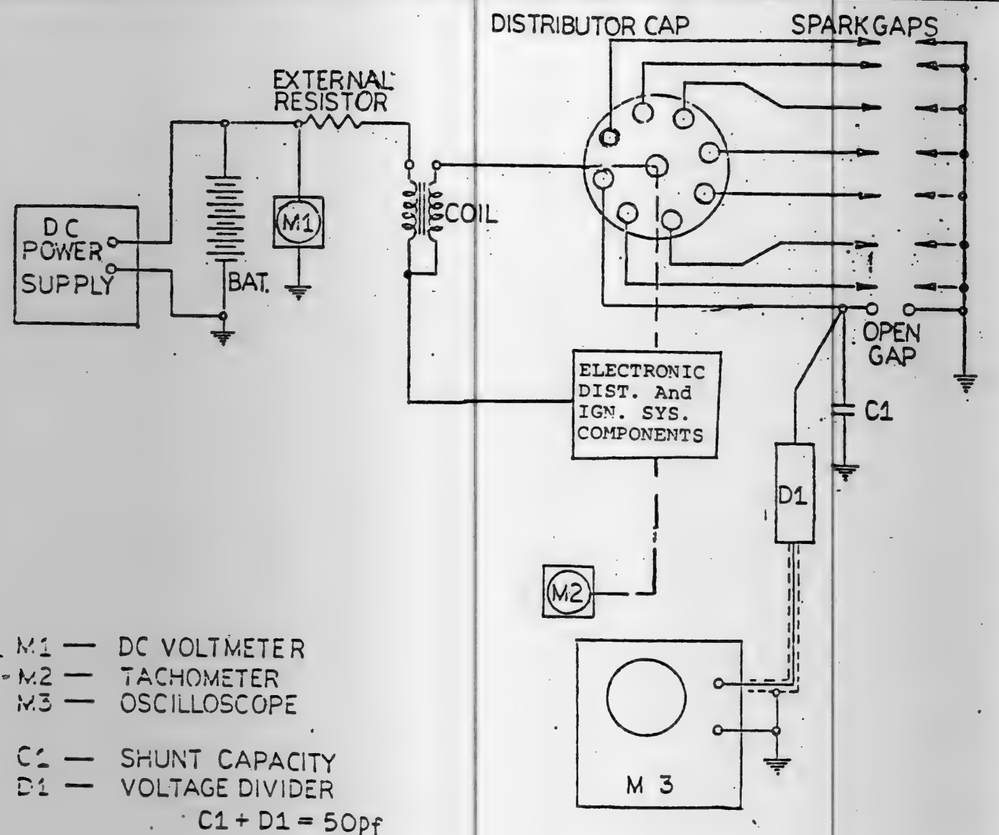
c. Repeat step b. above using the electronic ignition system components to be certified in place of the OE components.

d. (1) Spark rise time: The secondary voltage rise time shall be no more than 10% greater than the OE rise time at any speed.

(2) Spark duration: When measured in a standard 12±2 KV spark gap over the speed range of the intended application, the spark duration using the part(s) to be certified shall be at least 90% of that obtained when original equipment parts are used.

(3) Spark voltage output: The open circuit peak output voltage with the part(s) to be certified shall be at least 90% of the output voltage delivered by the original equipment system.

BILLING CODE 6560-01-M



M1 — DC VOLTMETER
M2 — TACHOMETER
M3 — OSCILLOSCOPE

C1 — SHUNT CAPACITY
D1 — VOLTAGE DIVIDER
C1 + D1 = 50pf

FIGURE 6

BILLING CODE 6560-01-C

(4) Ignition timing or delay: The electronic timing delay shall not be more than three (3) engine degrees (referenced to the initial engine setting) at the OE maximum rated speed of the engine.

2. *Durability Procedure.* a. Set up the circuit according to Figure 6 using the part(s) to be certified.

b. At an ambient temperature of 88 to 93° (190 to 200° F) generated by an external heat source, operate the distributor at 1750±50 rpm for 300 hours.

c. The system and/or components shall operate without any failure which would result in loss of the spark in the 12 KV spark gap for a duration of 300 hours. At the conclusion of the test, the system and/or components shall meet the requirements of Paragraph 1.d. above.

R. Electronic Inductive Distributors

1. *Test Procedures and Criteria.* a. When operated throughout the speed range of the intended application at 20°±3° C, the advance mechanism shall function within the original equipment manufacturer's specifications.

b. The advance mechanism shall repeatedly return to the zero setting, ±0.5 distributor degrees, after advancing and retarding through the operating range.

c. The distributor firing angle accuracy shall remain within the originally specified tolerances throughout the speed range of the intended application.

d. Repeat a, b, and c above at −40° C (−40° F) and 93° C (200° F), allowing ±3° C (5° F) tolerance in each case.

2. *Durability Procedure.* a. At an ambient temperature of 88° to 93° C (190° to 200° F), operate the distributor at 1750±50 rpm for 300 hours.

b. The distributor must meet the requirements of 1 a, b, and c after the 300 hours.

[FR Doc. 79-24329 Filed 8-7-79; 8:45 am]

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federal register

Wednesday
August 8, 1979

Part IV

Department of Commerce

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities Program; Acceptance of Applications for Filing

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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities Program; Acceptance of Applications for Filing

Notice is hereby given that the following described applications for Federal financial assistance are accepted for filing under provisions of Title III, Part IV of the Communications Act of 1934, as amended (47 U.S.C. 390–94, 397–99), and in accordance with 15 CFR Part 2301.

The acceptance of applications for filing is a procedure designed for making preliminary determinations of eligibility, and for providing the opportunity for public comment on applications. Acceptance of an application does not preclude subsequent return or disapproval of an application if it is found to be not in accordance with the provisions of 15 CFR Part 2301, or if the applicant fails to file any additional information requested by the Administrator, National Telecommunications and Information Administration. Acceptance for filing does not assure an application of being funded; it merely qualifies it to compete for funding with other applications which have also been accepted for filing.

Pursuant to 15 CFR 2301.11 applicants are required to publish in a newspaper of general circulation in the community to be served by the applicant, a notice that such application has been tendered to the National Telecommunications and Information Administration. The notice shall be published once a week for two consecutive weeks within the three week period following the date of this publication in the **Federal Register**. The notice shall contain substantially the same information concerning the application that is published in this notice of acceptance. In addition, it will include (1) information as to where within the community to be served a copy of the application, and any amendments thereto, may be inspected by the public during normal business hours, and (2) an invitation for parties supporting or opposing the application to file comments with the Administrator, National Telecommunications and Information Administration, Public Telecommunications Facilities Program, Washington, DC 20005. Such filings are to be made within 30 calendar days from the date of this public notice of acceptance of the application, and must be accompanied by a certificate that a copy of the comments have been mailed to the applicant.

Projects marked with an asterisk (*) request special consideration under provision of Section 392 (f) of the Public Telecommunications Financing Act of 1978 (Pub. L. 95–567). Special consideration is to be given to applications which will increase minority and women's ownership of, operation of, and participation in public telecommunications entities.

Planning Applications

*United Tribes Educational Technical Center, 3315 South Airport Road, Bismark, North Dakota 58501, File No. 1–P/C790047PR to plan for the establishment of an AM public radio facility to serve North Dakota's Indian and non-Indian population. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $78,573. Application signed by: David Gipp, Executive Director.

Agency for Public Telecommunications, c/o Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, File No. 2–P/C790040–P to plan coordinated facilities for interactive telecommunications serving the needs of special populations currently underserved in Western North Carolina. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $112,750. Grant requested: $89,250. Application signed by: Joseph W. Grimsley, Secretary of Administration.

*Agency for Public Telecommunications, c/o Department of Administration, 116 W. Jones Street, Raliegh, North Carolina 27611, File No. 3–P/C790039–P to plan for increasing access to public telecommunications services by aggregating users and systems within the State of North Carolina. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $129,140. Grant requested: $105,740. Application signed by: Joseph W. Grimsley, Secretary of Administration.

University of Montana, Missoula, Montana 59812, File No. 4–P/C790147–P for planning to determine the most efficient and economical way to provide a public television signal to Western Montana. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $27,885. Grant requested: $20,873. Application signed by: Raymond C. Murry, Associate Vice President for Research.

*Gates County Board of Education, P.O. Box 125, Gatesville, North Carolina 27938, File No. 5–P/C790018–PRA to plan for the establishment of a noncommercial FM radio station to serve Gates County. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $35,452. Grant requested: $26,560. Application signed by: John E. R. Perry, Superintendent.

National League of Cities, Aimret, Inc., 1620 Eye Street, NW, Washington, DC 20006, File No. 6–P/C790042–P to identify and evaluate telecommunications technologies and systems which could aid cities in providing access to public services. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $99,845. Application signed by: Lawrence A. Williams.

Delaware Citizens Committee, P.O. Box 311, Ocean View, Delaware 19970, File No. 7–P/C790001–P to plan establishment of educational broadcasting facilities on Channel 34, Dover and a network of statewide facilities utilizing Channel 64, Seafood. Proposal determined acceptable: May 31, 1979. Estimated total project cost and grant requested: $96,732. Application signed by: Shelton J. Merrill.

*Montana Inter-Tribal Policy Board, 300 North 25th Street, Suite 103, Billings, Montana 59101, File No. 8–P/C790082–P for planning to utilize public telecommunications facilities to deliver programming and services to the seven Indian Tribes of Montana. Proposal determined acceptable: June 5, 1979. Estimated total project cost and grant requested: $195,480. Application signed by: Tom Whitford, Director.

*Kentuckiana Radio Information Service, 1332 South Second Street, Louisville, Kentucky 40208, File No. 9–P/C790046–P for planning to develop a service to the print handicapped utilizing the SCA subchannel of WUOL-FM, Louisville, Kentucky. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $28,598. Application signed by: Dr. Milton I. Patrie, Chairman of Board.

*WATTS Labor Community Action Committee, 11401 S. Central Avenue, Los Angeles, California 90059, File No. 10–P/C790030–P to plan for establishment of minority television station in Los Angeles. Proposal determined acceptable: June 6, 1979. Estimated total project cost and grant requested: $128,970. Application signed by: Ted Watkins.

Noncommercial Radio Consortium of Oregon, Inc., P.O. Box 235, Ashland, Oregon 97520, File No. 11–P/C790091–PRE/I for planning funds to determine feasibility and costs of interconnection of public radio stations in Oregon or alternative delivery system to permit sharing of programming. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $6,425. Grant requested: $6,225. Application signed by: Ronald Kramer, Chairperson.

South Carolina Educational TV Commission, P.O. Drawer L, Columbia, South Carolina 29250, File No. 12–P/C790005–P for planning funds to develop models of alternative telecommunications systems to meet present and future needs of all the residents of South Carolina. Proposal determined acceptable: May 31, 1979. Estimated total project cost and grant requested: $75,000. Application signed by: Henry J. Cauthen, President and General Manager.

*City of Seattle, Office of Cable Communications, 303 Municipal Building, Seattle, Washington 98104, File No. 13–P/C790087–P to plan for coordinated use of public telecommunications facilities in Metropolitan Seattle. Proposal determined acceptable: June 5, 1979. Estimated total project cost and grant requested: $142,144. Application signed by: Charles Royer, Mayor, City of Seattle.

University of Washington, KCTS–TV, 4045 Brooklyn Avenue, NE, Seattle, Washington 98105, File No. 14–P/C790079–PTA to plan a new public television station to serve a northwest region of the State, specifically the counties of Whatcom, Skagit and San Juan. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $191,741. Grant requested: $153,168. Application signed by: Donald R. Baldwin, Director, Grant & Contract Services.

*State of New Jersey, Department of Energy, 1100 Raymond Blvd., Newark, New Jersey 07102, File No. 15–P/C790003–P by interconnecting New Jersey's cable television systems via microwave delivery to provide special interest and minority public telecommunications services to communities so served. Proposal determined acceptable: June 1, 1979. Estimated total project cost and grant requested: $80,200. Applications signed by: John P. Cleary, Director.

New Jersey Public Broadcasting Authority, 1573 Parkside Avenue, Trenton, New Jersey 08638, File No. 16–P/C790033–P by relocating television Channel 50, Montclair, New Jersey, to Woodport, New Jersey. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $38,200. Grant requested: $28,650. Application signed by: Gordon A. MacInnes, Jr., Exec. Director.

Wayne Board of Education, 50 Nellis Drive, Wayne, New Jersey 07470, File No. 17–P/C790092–PT by cable access means to provide instructional television services to the community. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $46,355. Grant requested: $46,000. Applications signed by: David H. O'Grady.

Delaware Citizens Committee, P.O. Box 311, Ocean View, Delaware 19970, File No. 18–P/C790066–P for planning to establish first public radio service at Dover and Seaford, Delaware. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $101,900. Application signed by: Shelton J. Merrill.

*Fort Berthold Communications Enterprise, P.O. Box 220, New Town, North Dakota 58763, File No. 19–P/C790049–P for planning funds to establish appropriate public telecommunications facilities to serve the Fort Berthold Reservation in Northwestern North Dakota. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $42,083. Grant requested: $35,069. Application signed by: Austin Gillette, Chairman.

Tennessee State Board of Education, Tennessee Educational Television, C3–302 Cordell Hull Building, Nashville, Tennessee 37219, File No. 20–P/C790062–P for planning necessary to improve and extend statewide ETV services, to add radio services, and to provide specialized telecommunications services through non-broadcast delivery systems. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $28,360. Grant requested: $25,360. Application signed by: E. A. Cox, Chairman, Tennessee State Board of Education.

*Kentucky Authority for ETV, 600 Cooper Drive, Lexington, Kentucky 40502, File No. 21–P/C790037–P to plan for the establishment of a long-range, cost-efficient, service-oriented instructional telecommunications center to bring statewide services to the people of Kentucky and expanded instructional programming services to the Nation. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $70,507. Grant requested: $55,649. Application signed by: O. L. Press, Executive Director.

Town of Manchester, General Government, 41 Center Street, Manchester, Connecticut 06040, File No. 22–P/C790141–P to plan to construct microwave facilities and interconnects to other entities. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $164,532. Grant requested: $157,200. Application signed by: Robert B. Weiss.

*Kentucky Authority for ETV, 600 Cooper Drive, Lexington, Kentucky 40502, File No. 23–P/C790036–PRA for planning to study the feasibility of establishing a statewide FM radio system with subcarrier transmission capability to provide programming to general and special audiences in need of additional instructional and informational media services. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $77,890. Grant requested: $61,476. Application signed by: O. L. Press, Executive Director.

*Bilingual Broadcasting Foundation, Inc., KBBF–FM, Box 7189, Santa Rosa, California 95401, File No. 24–P/C790102–PR to investigate extending present signal via translators and improve signal quality in outlying and improve existing facilities. Proposal determined acceptable: June 7, 1979. Estimated total project cost stand grant requested: $20,325. Application signed by: Patricia Cordero.

Regents of University of California, University of California, Irvine, California 92717, File No. 25–P/C790130–P to plan for centralized University Facility for cable software origination and dissemination. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $103,379. Grant requested: $98,160. Application signed by: W. R. Selwfsky, Manager Contracts and Grants.

*White Mountain Apache Tribe, P.O. Box 1150, Whiteriver, Arizona 85941, File No. 26–P/C790143–P to establish radio station on Fort Apache Indian Reservation. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $27,000. Grant requested: $24,000. Application signed by: Ronnie Lupe.

State of Colorado, Office of Planning and Budgeting, State Capitol, Denver, Colorado 80203, File No. 27–P/C790050–P for the development of a 5-year plan to extend the delivery of public telecommunications services for the total State of Colorado. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $346,156. Grant requested: $219,898. Application signed by: David Foote, Executive Director, Office of Planning and Budgeting.

KCPB, Inc., P.O. Box 1405, Thousand Oaks, California 91360, File No. 28–P/C790059–PT to plan for establishing TV station and coverage to Santa Barbara, Santa Barbara County and in adjacent

counties of San Luis Obispo and Ventura. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $50,800. Application signed by: Alfred James Miller, President.

The Aspen Center, P.O. Box 361, Aspen, Colorado 81611, File No. 29–P/C790073–PR for planning to establish a noncommercial radio station in Aspen, Colorado. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $10,000. Grant requested: $6,000. Application signed by: Dr. Louis K. Loewenstein, Project Director.

*Pacifica Foundation, KPFA–FM, 2207 Shattuck Avenue, Berkeley, California 94704, File No. 30–P/C790170–PR to plan for digital broadcasting. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $61,602. Grant requested: $52,102. Application signed by: Warren Van Orden.

*Educational Service District #121, 1410 South 200th, Seattle, Washington 98148, File No. 31–P/C790156–PR to develop a plan for statewide coverage of noncommercial radio facilities and services. Proposal determined acceptable: June 6, 1979. Estimated total project cost and grant requested: $140,186. Application signed by: Robert J. Marum, Superintendent.

*KAOS–FM, The Evergreen State College, Olympia, Washington 98505, File No. 32–P/C790080–PRE for planning to extend the signal of KAOS–FM to serve residents of Grays Harbor County in southwest Washington. Proposal determined acceptable: June 5, 1979. Estimated total cost and grant requested: $21,375. Application signed by: Dean E. Clabough, Administrative Vice President.

Washington State University, KWSU, E. R. Murrow Communications Center, Pullman, Washington 99164, File No. 33–P/C790133–PR/T for the planning of public telecommunications facilities needed to provide services to rural eastern Washington State. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $145,469. Grant requested: $143,150. Application signed by: C. J. Nyman, Dean, Graduate School.

Seattle School District #1, 815 Fourth Avenue, North, Seattle, Washington 98109, File No. 34–P/C790045–PRE for planning to expand and improve the facilities and services of noncommercial radio station KNHC–FM, operating on 89.5 MH/z Seattle, Washington. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $110,288.06. Application signed by: Dr. Harold Reasby, Associate Superintendent.

Township of Piscataway, 455 Hoes Lane, Piscataway, New Jersey 08854, File No. 35–P/C790165–P to plan for first service by cable access meant to provide public telecommunications services for special interest purposes. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $26,463. Grant requested: $22,163. Application signed by: Ted H. Light, Mayor.

St. Cloud State University, St. Cloud, Minnesota 56301, File No. 36–P/C790123–PR to plan extending existing system by expanding power and extending telecommunications services to the community. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $20,001. Application signed by: Charles J. Graham, President.

Fresh Air, Inc., 3104 16th Avenue, South, Minneapolis, Minnesota 55407, File No. 37–P/C790140–PR to plan extending existing radio system of KFAI operating on 90.3 MH/z in Minneapolis, Minnesota. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $37,175. Grant requested: $31,175. Application signed by: Bryan R. Peterson, President.

Pacifica Foundation, National Office, 5316 Venice Blvd., Los Angeles, California 90019, File No. 38–P/C790157–P to plan cost-effective utilization of public radio satellite system by Pacifica Radio Group. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $45,396. Grant requested: $33,897. Application signed by: Joel Kugelmass, Executive Director.

Sierra Community College Library, 5000 Rocklin Road, Rocklin, California 95677, File No. 39–P/C790149–P to determine feasibility of using microwave telecommunications to increase educational programming in Placen and Nevada Counties. Proposal determined acceptable: June 7,1979. Estimated total project costs: $12,000. Grant requested: $9,000. Application signed by: Gerald C. Angove, President.

Public Service Satellite Consortium, Inc., 4040 Sorrento Valley Blvd., Suite D, San Diego, California 92121, File No. 40–P/C790043–P to plan for establishing a public broadcasting network for the State of Wyoming. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $76,021. Application signed by: Robert A. Mott.

*State of South Dakota, Department of Vocational Rehibilitation, Kneip Building, Illinois Street, Pierre, South Dakota 57501, File No. 41–P/C790026–P to develop a statewide plan for using telecommunications to provide services to the visually and physically handicapped and the aging. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $26,186. Grant requested: $20,940. Application signed by: John E. Madigan, Secretary.

Western North Carolina Associate Communities, P.O. Box 103, Cullowhee, North Carolina 28723, File No. 42–P/C790121–P for planning to bring public telecommunications facilities and services to southwestern North Carolina. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $20,000. Application signed by: Dr. Aaron Hyatt, President.

Telecommunications Area, Speech Theatre Department, Northern Arizona University, Box 6006, Flagstaff, Arizona 86011, File No. 43–P/C790056–P to conduct feasibility studies for construction of Radio and TV facilities in Flagstaff, Arizona. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $66,998. Applications signed by: L. R. Pitcher, Vice-President Financial Affairs.

Arizona Western College, KAWC (AM)–FM, Box 929, Yuma, Arizona 85364, File No. 44–P/C790055–P to conduct feasibility study for translator in Yuma, Arizona. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $20,900. Application signed by: Robert E. Hardy, President.

University of Connecticut, U–1, Storrs, Connecticut 06268, File No. 45–P/C790171–PN to plan to determine the need for a statewide cable telecommunications system. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $150,660. Grant requested: $112,995. Application signed by: Kenneth Wilson.

*Southwestern Technical Institute, North Carolina Department of Community Colleges, P.O. Box 67, Sylva, North Carolina 28779, File No. 46–P/C790068–PRA for planning to establish a noncommercial radio station at Sylva, North Carolina. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $47,181. Grant requested: $28,044. Application signed by: Edward E. Bryson, President.

*Swain County Public Schools, Post Office Box U, Swain County, Bryson City, North Carolina 28713, File No. 47–P/C790093–PNA to plan for a public service cable television system in Swain County, North Carolina. Proposal determined acceptable: June 5, 1979. Estimated total project cost and grant requested: $31,500. Application signed by: James F. Causby, Superintendent.

*Fayetteville State University, WFSS–FM, The Communications Center, 1200 Murchison Road, Fayetteville, North Carolina 28301, File No. 48–P/C790159–PRE to plan for the expansion of noncommercial radio station WFSS–FM operating on 88.1 MH/z, Fayetteville, North Carolina. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $83,263. Grant requested: $20,000. Application signed by: Dr. Charles "A" Lyons, Jr., Chancellor.

San Bernardino Community College District, KVCR–TV, 701 South Mt. Vernon Avenue, San Bernardino, California 92410, File No. 49–P/C790013–PT to provide for effective telecommunications delivery for San Bernardino and Riverside Counties. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $76,269. Grant requested: $42,941. Application signed by: Dr. Raymond F. Ellerman, Chancellor.

Sonoma State University, Academic Foundation, Inc., 1801 E. Cotati Avenue, Rohnert Park, California 94928, File No. 50–P/C790081–P to plan for radio and TV facilities to serve the six county area north of San Francisco Bay. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $59,578. Grant requested: $38,289. Application signed by: B. Y. Quong, Treasurer.

San Diego State University Foundation, KPBS–TV, 5300 Campanile Drive, San Diego, California 92182, File No. 51–P/C790020–PT to conduct engineering study and field strength measurements to determine most effective means of improving TV coverage. Proposal determined acceptable: June 4, 1979. Estimated total project costs and grant requested: $88,759. Application signed by: Lawrence B. Feinberg, Associate Dean.

*Hispanic Communications Foundation, P.O. Box Z, Beverly Hills, California 90213, File No. 52–P/C790084–P to plan to design and develop the acquisition and/or construction of public broadcasting network. Proposal determined acceptable: June 5, 1979. Estimated total project cost and grant requested: $204,450. Application signed by: Ramon L. Ponce, Executive Director.

KCPB, Inc., P.O. Box 1405, Thousand Oaks, California 91360, File No. 53–P/C790061–PR to plan to establish southern California clear channel AM radio station. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $71,850. Application signed by: Alfred James Miller, President.

Office of the Governor, Division of Policy Development and Planning, Pouch AD, Juneau, Alaska 99811, File No. 54–P/C790139–P to develop a 5-year comprehensive State plan for public telecommunications. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $267,238. Grant requested: $183,838. Application signed by: John Halterman, Deputy Director.

*Sho-Ban Communications Group, Shoshone-Bannock Tribes, Inc., P.O. Box 306, Fort Hall, Idaho 83203, File No. 55–P/C790090–PR for planning to establish a noncommercial FM radio station on the Fort Hall Indian Reservation, Fort Hall, Idaho. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $45,875. Grant requested: $39,095. Application signed by: Gilbert Teton, Chairman, Tribal Business Council.

*Major Maker Productions, Inc., 2935 Redondo Avenue, Long Beach, California 90806, File No. 56–P/C790096–P to develop a 5-year plan to improve existing telecommunications facilities and to extend existing delivery system. Proposal determined acceptable: June 6, 1979. Estimated total project costs: $49,000. Grant requested: $39,000. Application signed by: Andrew W. Thornhill, General Manager.

*Community College of Denver, Auraria Media Center, 1600 Downing, Denver, Colorado 80218, File No. 57–P/C790098–PN to plan for the establishment of an ITFS system to deliver off-campus college courses. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $66,770. Grant requested: $46,517. Application signed by: Thomas R. Lutes, Business Manager.

California Postsecondary Education Commission, 1020 12th Street, Sacramento, California 95814, File No. 58–P/C790126–P to develop comprehensive plan for statewide development and use of telecommunications for education and information. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $119,825. Grant requested: $86,522. Application signed by: Kenneth B. O'Brien, Jr., Associate Director.

*Fort Wayne Public Television Inc., P.O. Box 39, Fort Wayne, Indiana 46801, File No. 59–P/C790089–P to plan extending existing system by investigating fully the public telecommunications needs and services of the Fort Wayne, Indiana community. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $68,913. Grant requested: $67,856. Application signed by: Ann V. Oxley, Executive Director.

*Prairie Air, Inc., P.O. Box 1664, Champaign, Illinois 61820, File No. 60–P/C790100–PR to provide additional public radio services to the Champaign-Urbana, Illinois communities. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $24,480. Grant requested: $21,760. Application signed by: Bill Thomas, Chair of Prairie Air Inc.

Illinois Eastern Community Colleges, 2200 College Drive, Mt. Carmel, Illinois 62863, File No. 61–P/C790148–PR to plan to extend and improve the noncommercial radio station WVJC–FM operating on 94.9 MH/z in Mt. Carmel, Illinois. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $71,844. Grant requested: $21,600. Application signed by: James S. Spencer, Chancellor.

*WICN Public Radio, Inc., 75 Grove Street, Worcester, Massachusetts 01605, File No. 62–P/C790008–P/R to plan to boost power (double) and to complete a comprehensive regional project and become full service CPB station. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $44,827. Grant requested: $24,827. Application signed by: William A. Munin.

Little Rock Public School District, 7701 Scott Hamilton Drive, Little Rock, Arkansas 72209, File No. 63–P/C790070–PR to plan for a possible power increase up to 100,000 watts for radio station KLRE–FM operating on 90.5 MH/z in Little Rock, Arkansas. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $2,850. Application signed by: Paul W. Masem, Superintendent.

*School Board of Broward County, Florida, 6600 S.W. Nova Drive, Ft. Lauderdale, Florida 33314, File No. 64–P/C790032–P to determine whether radio or TV would be the best way to provide the needed public telecommunications services in Ft. Lauderdale, Florida. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $21,000. Application signed by: Harry F. McComb, Acting Deputy Superintendent.

*Broward Public Radio Associate, Inc., P.O. Box 4457, Ft. Lauderdale, Florida 33338, File No. 65–P/C790017–PR to establish first full service public radio station for Broward County between cities of Ft. Lauderdale and Hollywood including Pompano Beach. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $20,000. Grant requested: $18,000. Application signed by: Philip Y. Hahn, Vice President.

Community TV Foundation of South Florida, Inc., P.O. Box 610001, Miami, Florida 33161, File No. 66–P/C790063–P

to plan to establish additional service by activating Channel 21 in Fort Pierce, Florida for service to the 3 county area of Indian River, St. Lucie, and Martin. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $67,118. Application signed by: George Dooley, President.

*Radio Free Georgia Broadcasting Foundation, P.O. Box 5332, Atlanta, Georgia 30307, File No. 67–P/C790051–PR to perform ascertainment study and to develop a comprehensive plan for WRFG's transition to a full power radio service. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $8,758. Application signed by: Christine A. Carroll, General Manager.

Division of Health Communication, Medical College of Georgia, 1459 Laney-Walker Blvd., Augusta, Georgia 30912, File No. 68–P/C790010–P planning to activate production center and 4 channel ITFS system serving 18 counties in the Augusta region. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $114,582. Grant requested: $61,571. Application signed by: Lois T. Ellison, Provost.

Valdosta State College, Valdosta, Georgia 31601, File No. 69–P/C790031–P planning for improvement of college TV production studios and expansion of distribution system. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $66,175. Grant requested: $57,275. Application signed by: Hugh C. Bailey, President.

North Trails Area Education Agency 2, Box M, Clear Lake, Iowa 50428, File No. 70–P/C79002–PN planning to establish ETV interactive system for statewide network. Proposal determined acceptable: May 31, 1979. Estimated total project cost and grant requested: $70,226. Application signed by: James A. Clark, Director.

Kansas Public Telecommunications Service, Inc., 352 N. Broadway—P.O. Box 288, Wichita, Kansas 67202, File No. 71–P/C790012–PR planning and engineering costs in preparing CP and PTFP construction application to activate a public radio station for Wichita and Hutchinson, Kansas. Proposal determined acceptable: May 31, 1979. Estimated total project costs: $28,820. Grant requested: $26,200. Application signed by: Zoel Parenteau, President and General Manager.

Louisiana State University at Alexandria, Alexandria, Louisiana 71301, File No. 72–P/C790167–PR planning to establish public radio station on campus of Louisiana State University in Alexandria, Louisiana. Proposal determined acceptable: June 5

of utilizing the existing AM channel assignment. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $23,170. Application signed by: Charles A. Clemans, Director, Intergovernmental Relations.

*City of Portland, Oregon Commissioner of Public Works, 1220 S.W. 5th Avenue, Portland, Oregon 97204, File No. 103–P/C790118–PN for planning funds to develop governmental and public access use of the cable TV systems being developed in the City of Portland. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $100,000. Application signed by: Connie McCready, Commissioner of Public Works.

*Utah State University of Agriculture and Applied Science, Cache County, Logan, Utah 84322, File No. 104–P/C790116–PR/I for planning to increase coverage of KUSU–FM, operating on 91.5 MH/z, Logan, Utah. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $2,720. Application signed by: W. B. Christenson.

University of Utah, Media Services Department, 204 James Talmage Building, Salt Lake City, Utah 84112, File No. 105–P/C790025–P to develop a plan to extend public telecommunications services to rural Utah as well as rural areas in western United States. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $111,933. Grant requested: $60,000. Application signed by: Richard H. Timpson, Director, Office of Research Administration.

*KRCL Listeners Community Radio for Utah, 262 E. 100 S., Salt Lake City, Utah 84111, File No. 106–P/C790137–PR/I for planning funds to improve KRCL–FM's production capability and begin SCA services to residents of nursing homes and other extended care facilities in metropolitan area of Salt Lake City, Utah. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $18,095. Application signed by: Stephen Holbrook, Project Director.

Pennsylvania Department of Education, Bureau of Instructional Services, Box 911, Harrisburg, Pennsylvania 17126, File No. 107–P/C790122–P to study existing telecommunications services, research newer technologies, and develop master plan to coordinate effective utilization of available and projected telecommunications in Harrisburg, Pennsylvania. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $158,400. Grant requested: $120,000. Application signed by: Robert G. Scanlon.

South Central Educational Broadcasting Council, P.O. Box Z, Hershey, Pennsylvania 17033, File No. 108–P/C790125–P to study potential use of SCA, an interactive cable TV link with the reading translator, and use of computer technology to serve underserved areas. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $27,540. Application signed by: Robert F. Larson.

Milwaukee Regional Medical Instructional Television Station Inc., 8701 Watertown Plank Road, Milwaukee, Wisconsin 53226, File No. 109–P/C790142–P for inter-connection of facilities and expansion of services to community cable by origination facilities of stations in Wood, Wisconsin. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $68,900. Grant requested: $51,675. Application signed by: George W. Spuda, Director of Operations.

*Earlham College, Richmond, Indiana 47343, File No. 110–P/C790105–PR to plan to extend existing system of station WECI 91.5 MH/z in Richmond, Indiana. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $24,729. Application signed by: Richard Davis, Associate Professor.

*Round Valley Intertribal Council, P.O. box 448, Covelo, California 95428, File No. 111–P/C790046–P to plan for construction and operation of community based non-community radio station for Round Valley Indian Reservation. Proposal determined acceptable: June 4, 1979. Grant requested: $47,689. Application signed by: Margaret Breedlove.

West Virginia Board of Regents on behalf of West Virginia University, P.O. Box TV–24, Morgantown, West Virginia 26505, File No. 112–P/C790034–P to determine feasibility of constructing facilities to distribute public TV service to unserved areas within the "Quiet Zone" in Morgantown, West Virginia. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $15,000. Application signed by: Gene A. Budig.

Pocahontas Communications Cooperative Corp., Box 86, Marlinton, West Virginia 24954, File No. 113–P/C790085–PR to plan for establishment of first service public radio. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $29,500. Grant requested: $19,500. Application signed by: Gibbs Kinerman.

Center for Excellence, Inc., P.O. Box 158, Williamsburg, Virginia 23185, File No. 114–P/C79011–P to plan to identify and define the major unfilled educational, medical and social service needs of the areas it serves and make intensive use of modern telecommunications technology to deliver needed service in Williamsburg, Virginia. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $99,757. Grant requested: $72,057. Application signed by: John A. Curtis.

University of Wisconsin—La Crosse, 1725 State Street, La Crosse, Wisconsin 54601, File No. 115–P/C790101–P to provide telecommunications services for existing and additional services to Trempealeau County communities. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $23,799. Application signed by: Dr. Carl Wimberly, Acting Chancellor.

*Lac Courte Oreilles, Tribal Governing Board, Route 2, Hayward, Wisconsin 54843, File No. 116–P/C790112–P to plan to serve the public telecommunications needs of Lac Courte Oreilles reserve and the counties of Couderay, Hayward and Stone Lake, Wisconsin. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $20,000. Grant requested: $10,000. Application signed by: Gordon Thayer, Vice Chairman.

The University of the State of New York, Bureau of Mass Communications, Albany, New York 12230, File No. 117–P/C790119–PR to plan to establish a noncommercial radio station by engaging in a cooperative planning activity with the Public Television Councils of New York, the New York Network and the New York State Education Department. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $155,234. Grant requested: $98,680. Application signed by: Gordon M. Ambach, President, The University of the State of New York.

City of Syracuse, Office of Federal and State Aid, 225 City Hall, Syracuse, New York 13202, File No. 118–P/C790052–P to plan to establish additional service through effective utilization of public access channels available with community cable system. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $50,836. Grant requested: $44,967. Application signed by, Lee Alexander, Mayor.

*Brentwood Union Free School District, First and Fifth Avenues, Brentwood, New York 11717, File No. 119–P/C790097–PR planning to extend and improve noncommercial radio station by increasing transmission power, origination and related facilities at WXBA–FM 88.5 MH/z in Brentwood, New York. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $26,000. Grant requested: $18,500. Application signed by: Everett A. Reese, Administrator and General Manager.

*The City College of the City University of New York, Convent Avenue at 138th Street, New York, New York 10031, File No. 120–P/C790106–PR planning to extend and improve noncommercial radio station at WCCR 90.3 in New York, New York. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $38,082. Grant requested: $27,909. Application signed by: Morton F. Kaplon, Vice President for Administrative Affairs and Morton M. Pavane, Director, City College Office Research Foundation of CUNY.

*Center for Non-Broadcast TV, Inc., 49 East 68th Street, New York, New York 10021, File No. 121–P/C790094–P to plan to develop recommendations for telecommunications services for the States of New Jersey, New York and Connecticut. Proposal determined acceptable: June 5, 1979. Estimated total project cost and grant requested: $351,948. application signed by: William F. Rushton, Director of Research.

*John L. Reilly, Global Village Video Resource Center, Inc., 454 Broome Street, New York, New York 10013, File No. 122–P/C790111–P planning to establish additional service via satellite interconnection services. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $308,000. Application signed by: John L. Reilly, Executive Director.

*Northwest Indian Public Broadcasting, 8149 Kennedy Avenue, Highland, Indiana 46332, File No. 123–P/C790883–PT planning to establish first service for noncommercial TV in Highland, Indiana. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $52,875. Grant requested: $42,375. Application signed by: Mr. Gerald L. Fitzgerald, Vice-Chairman.

Orange County Community College, 115 South Street, Middletown, New York 10940, File No. 124–P/C790027–P planning to establish additional service and extend existing system of coordinated public noncommercial telecommunications services for the Mid-Hudson county area. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $82,040. Application signed by: Dr. Robert Novak, President.

*Southern Tier Educational Television Association, Inc., P.O. Box 97, Endwell, New York 13760 File No. 125–P/C790006–PT planning to establish additional service and extend existing system by a variety of public noncommercial telecommunications means for WSKG channel 46 in Binghamton, New York. Proposal determined acceptable: May 31, 1979. Estimated total project costs: $37,200. Grant requested: $31,500. Application signed by: Arthur F. Dees, President and General Manager.

Young Filmakers Foundation, Inc., 4 Rivington Street, New York, New York 10002, File No. 126–P/C790108–PT planning to establish additional service by interconnecting telecommunications production facilities with community cable access. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $87,275. Grant requested: $72,275. Application signed by: Rodger Larson, Executive Director.

Board of Education Lenape Regional High School District, Church and Hartford Roads, Medford, New Jersey 08055, File No. 127–P/C790162–P planning to establish additional service for cable access to television in Medford, New Jersey. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $138,140. Grant requested: $126,070. Application signed by: K. Kiki Konstantinos, Superintendent.

State of Wisconsin, Department of Administration, One West Wilson Street, Madison, Wisconsin 53702, File No. 128–P/C790088–P planning to conduct cooperative regional telecommunications developments in conjunction with the States of Nebraska, North Dakota, Illinois, Indiana, Iowa, Michigan, Minnesota, and Wisconsin. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $78,500. Grant requested: $54,000. Application signed by: Kenneth E. Lindner, Secretary.

*Junior League of Summit, 37 DeForest Avenue, Summit, New Jersey 07901, File No. 129–P/C790057–P planning to establish additional service for cable access to television in Summit, New Jersey. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $66,085. Grant requested: $40,885. Application signed by: D. Anne Atherton, President.

Theater of Universal Images, P.O. Box 10036, Newark, New Jersey 07101, File No. 130–P/C790067–P planning to provide additional public telecommunications service to the Newark area. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $124,837. Application signed by: Clarence Lilley, Director.

University of New Hampshire, Box Z, Durham, New Hampshire 03824, File No. 131–P/C790107–PR/T plan for replacement of State Network transmitters, relocation of channel 11, activation of a new UHF satellite in Laconia area, and activation of a Public Radio Network. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $252,600. Grant requested: $203,900. Application signed by: Keith Nighbert.

*United Indians of All Tribes Foundation Administration, 1515 Dexter Horton Building, Seattle, Washington 98104, File No. 132–P/C790115–P for planning funds to determine how existing telecommunications systems can be modified or extended to incorporate additional transmitting/receiving capabilities to initiate and/or improve delivery of consulting and field services to isolated Indian reservations in Oregon, Idaho, and Washington. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $166,350. Application signed by: Bernie Whitebear, Executive Director.

*Ogala Sioux Tribe, P.O. Box 468, Pine Ridge, South Dakota 57770, File No. 133–P/C790129–P for planning funds to develop a broadcast facility to serve the Pine Ridge Reservation. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $53,392. Application signed by: Gerald J. Sherman, NATP.

*North Fork Valley Public Radio, Inc., Rt. 1, Box 62, Paonia, Colorado 81428, File No. 134–P/C790093–PR for planning to expand the 10-watt noncommercial radio station operating channel 215/90.9 MH/z in Paonia, Colorado. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $20,038. Grant requested: $16,812. Application signed by: David C. Johnston, President.

*Associated for the Advancement of Minorities in Telecommunications, 3052 Balis Drive, Baton Rouge, Louisiana 70808, File No. 135–P/C790019–PR to activate a minority owned and operated public radio station in Baton Rouge, Louisiana. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $47,755. Grant requested: $40,000. Application signed by: Alex Hamilton, Jr., President.

Catonsville Community College, 800 S. Rolling Road, Catonsville, Maryland 21228, File No. 136–P/C790109–P planning for extension of educational

programming in Catonsville, Maryland. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $91,890. Grant requested: $45,750. Application signed by: Vincent Coleianne.

Hudson County Audio Visual Aids Commission, Jersey City Public Library, 678 Newark Avenue, Jersey City, New Jersey 07306, File No. 137–P/C790024–PT planning to establish additional service for cable access to television for the twelve city areas in Hudson County, New Jersey. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $19,602. Grant requested: $17,102. Application signed by: Alfred Frattner, Director.

*Artists' Post-Production Studio, 2300 East Ocean Blvd., Long Beach, California 90803, File No. 138–P/C790076–P plan to investigate, plan and prepare construction grant for interconnect system between Long Beach Museum of Arts Studio and local cable stations. Proposal determined acceptable: June 5, 1979. Estimated total project cost and grant requested: $64,190. Application signed by: Russell J. Moore.

Stanley J. Grenn, Blind Association of Western New York, 1170 Main Street, Erie, New York 14209, File No. 139–P/C790160–PR planning to establish additional service and extend existing system on station WBFO 88.7 MH/z in Buffalo, New York. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $106,970. Grant requested: $96,970. Application signed by: Stanley J. Grenn.

*Hancock County Board of Education, Box 125, Hawesville, Kentucky 42348, File No. 140–P/C790110–P to plan to establish a noncommercial FM radio facility to serve Hancock and surrounding counties. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $27,559.29. Application signed by: Clifton Banks, Superintendent.

Snohomish County Media Cooperative Associate, c/o Edmonds Community College, 2000–68th Avenue, Lynnwood, Washington 98036, File No. 141–P/C790095–PR/N for planning funds to establish a telecommunications center operating a noncommerical radio station and television facilities to utilize educational and public access channels of existing cable companies in Lynnwood, Washington. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $27,020. Grant requested: $23,900. Application signed by: Rich J. Bushman, President.

*The Center for Video Arts, P.O. Box 345, Portland, Maine 04112, File No. 142–P/C790154–P plan to establish public telecommunications facilities, coordinate production capabilities in the development of programming for cable TV and dissemination statewide via most efficient means of delivery. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $58,030. Application signed by: Patricia Corey.

*San Carlos Apache Tribe, P.O. Box 9 San Carlos, Arizona 85550, File No. 143–P/C790134–P to develop a plan to provide telecommunications system for the Apache Indian Reservation in San Carlos, Arizona. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $54,335. Applications signed by: Ned Anderson.

*The Other School System, Inc., P.O. Box 840, Nashville, Tennessee 37202, File No. 144–P/C790146–P for planning funds to determine apparatus required for a television center to train volunteers engaged in helping others. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $42,294. Grant requested: $30,210. Application signed by: Dr. James E. Alexander, Executive Director.

*Montana Public Telecommunications Corp., P.O. Box 9172, Missoula, Montana 59807, File No. 145–P/C790131–P to plan for the establishment of a noncommercial television station to serve the Missoula-Butte area. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $42,000. Grant requested: $32,000. Applications signed by: James Hyde.

*Appalshop, Inc., P.O. Box 743, Whitesburg, Kentucky 41858, File No. 146–P/C790169–P to plan for a noncommercial radio station to serve Letcher, Knott, Perry and Leslie counties in the state of Kentucky. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $28,200. Application signed by: Dee Davis, President.

*National Federation of Community Broadcasters, 1000 11th Street, NW, Washington, DC 20001, File No. 147–P/C790041–PR to plan the development of facilities for production and national distribution of public radio programs. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $84,565. Application signed by: Thomas J. Thomas.

University of Nebraska at Linclon, P.O. Box 83111, Lincoln, Nebraska 68501, File No. 148–P/C790069–P planning to extend service through video disc in the public telecommuncations network in Lincoln, Nebraska. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $280,980. Grant requested: $140,980. Application signed by: Dr. Francis Schmehl, Research Administrator.

Public Broadcaster Organization of Michigan, c/o Northern Michigan University, Marquette, Michigan 49855, File No. 149–P/C790018–P to determine current level of telecomunications service in State, and create a statewide telecommunications plan. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $72,000. Application signed by: George E. Lott, Jr.

*First American Commission for Telecommunications, P.O. Box 180, Zuni, New Mexico, File No. 150–P/C790117–P to plan to explore a means of interconnecting telecommunications systems among American Indian Tribes and Alaskan Natives. Proposal determined acceptable: June 5, 1979. Estimated total project cost and grant requested: $260,940. Application signed by: Lawrence TeKala, President.

Community Free School, Inc., Communications Institute of Boulder, P.O. Box 1724, Boulder, Colorado 80306, File No. 151–P/C790023–PN to plan to establish a new community service by the broadcasting of visual information and instructional services through slow-scan video and digital broadcasting over the subcarrier channel of KGNU-FM 88.5 MH/z in Boulder, Colorado. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $51,500. Grant requested: $41,000. Application signed by: Dennis R DuBe', Executive Director.

*Gila River Indian Community, P.O. Box 97, Sacaton, Arizona 85247, File No. 152–P/C790136–P to develop a plan to provide a public telecommunication system for the Gila River Indian Community. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $53,650. Application signed by: Alexander Lewis, Sr.

*Urban Scientific and Educational Research, Inc., P.O. Box 19112, 20th Street Station, Washington, DC 20036, File No. 153–P/C790086–PT to evaluate economic benefits and plan the implementation of a camera control vehicle coupled with a mobile uplink to PBS (or other) satellite channel. Proposal determined acceptable: June 5, 1979. Estimated total project cost and grant requested: $89,373. Application signed by: Vincent S. Darago.

National Public Radio, 2025 M Street, NW, Washington, DC 20036, File No. 154–P/C790044–P to plan one year R&D project resulting in an FCC acceptable low cost, receive only satellite earth terminal compatible with public radio satellite interconnect system. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $80,490. Grant requested: $49,700. Application signed by: Thomas C. Warnock.

*Occur's Community Information Service, (OCIS) 1419 Broadway, Suite 708, Oakland, California 94612, File No. 155–P/C790114–P to plan to establish a public telecommunications and production center in Oakland, California. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $100,000. Grant requested: $89,200. Application signed by: Paul Cobb.

*Women's Telecommunications Project, 3543 18th Street, San Francisco, California 94110, File No. 156–P/C790152–P to plan for the construction of public TV station owned and operated by Women's Centers, Inc., in San Francisco, California. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $470,709. Grant requested: $455,329. Application signed by: Helen Weiss.

University of Nebraska at Lincoln, University TV Department-Cable, P.O. Box 83111, Lincoln, Nebrasks 68501, File No. 157–P/C790035–P planning to extend additional service through CATV in the public telecommunications Network in Lincoln, Nebraska. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $134,558. Grant requested: $69,558. Application signed by: Dr. Francis L. Schmehl, Research Administrator.

Theater of Universal Images, P.O. Box 10036, Newark, New Jersey 07101, File No. 158–P/C790067–P planning to provide additional public telecommunications service to the Newark area. Proposal determined acceptable: June 4, 1979. Estimated total project cost and grant requested: $124,837. Application signed by: Clarence Lilley, Director.

Midcoast Radio Project, Inc., P.O. Box 6126, Kansas City, Missouri 64110, File No. 159/C790168–PA planning to establish a full service public radio station for Kansas City, Missouri. Proposal determined acceptable: June 7, 1979. Estimated total project cost and grant requested: $52,604. Application signed by: Gil Werner, President.

Construction Applications

Television Facilities

*Delaware Citizens Committee, P.O. Box 311, Ocean View, Delaware 19970, File No. 714–T/C790003–TA, to construct a six-hop microwave relay system serving a one KW translator at Seaford, Delaware. Proposal determined acceptable: May 31, 1979. Estimated total project cost: $776,640. Grant requested: $402,600. Application signed by: Shelton J. Merrill.

*Hawaii Public Broadcasting Authority, 2350 Dale Street, Honolulu, Hawaii 96822, File No. 715T/C790090–TE, for replacement of feedlines for principal transmitter in Honolulu, installation of microwave system Honolulu to transmitter site in Mau, installation of satellite recording equipment, and upgrade of obsolete equipment for noncommercial television station. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $792,309. Grant requested: $594,231. Application signed by: Denzil Rose.

Baker TV Tax District, P.O. Box 580, Baker, Montana 59313, File No. 716–T/C790065–TA, to construct telecommunications facilities to bring public television programming to residents of rural Fallon County, Montana. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $40,540. Grant requested: $30,405. Application signed by: Sheldon F. Redeske, President and Trustee.

Wolf Point TV District, Box 668, Wolf Point, Montana 59201, File No. 717–T/C790067–TA to construct telecommunications facilities to bring public television programming to residents of Roosevelt, Valley, and McCone Counties of Montana. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $34,420. Grant requested: $25,815. Application signed by: Robert A. Lundstrom, President.

Mohawk-Hudson Council on Educational Television, Inc., P.O. Box 17, Schenectady, New York 12301, File No. 718–T/C790069–T, to extend existing public television services by providing interconnecting network and origination facilities for WHMT, CH 17, Schenectady, New York. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $781,867. Grant requested: $586,400. Application signed by: Donald E. Schein, President.

*Central California Educational TV, Inc., P.O. Box 6, Sacramento, California 95801, File No. 719–T/C790100–TE/I, to extend the delivery system of KVIE–TV, CH 6, Sacramento, California via multimicrowave delivery systems. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $408,561. Grant requested: $306,420. Application signed by: Marilyn Shearer.

*KQED, Inc., 500 Eighth St., San Francisco, California 94103, File No. 720–T/C790057–T, to replace a 27 year old transmitter with state-of-the-art equipment and to expand the present viewing area of KQED–TV, CH 9, San Francisco, California. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $758,523. Grant requested: $455,114. Application signed by: Jennifer B. Arps.

Community TV of Southern California/KCET–TV, 4401 Sunset Boulevard, Los Angeles, California 90027, File No. 721–T/C790015–TE, to provide textual information services, participating and live programming and teleconferencing from remote sites of noncommercial television station KCET–TV, CH 28, Los Angeles, California. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $783,000. Grant requested: $587,250. Application signed by: William J. Lamb.

*San Mateo County Community College District, 3401 CSM Drive, San Mateo, California 94403, File No. 722–T/C790009–TA, to develop and equip a multi-purpose TV studio to interact with adjunct mobile Van control room studio associated with noncommercial television station, KCSM, CH 60, San Mateo, California. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $414,928. Grant requested: $286,707. Application signed by: Glenn P. Smith.

State Board of Education & Board of Regents of University of Idaho, 650 West State, Room 307, Boise, Idaho 83720, File No. 723–T/C790038–TE, to expand the services of Idaho's three Public Television stations by constructing 32 translators throughout the State. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $314,000. Grant requested: $235,500. Application signed by: John W. Swartley, M.D., Vice President.

*Capitol Community Broadcasting Inc., 224 4th Street, Juneau, Alaska 99801, File No. 724–T/C790058–T/E–I, to expand and improve noncommercial television station KTOO–TV, CH 3, Juneau, Alaska. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $509,546. Grant requested: $381,725. Application signed by: Charles M. Northrop, General Manager.

Meagher County TV District, P.O. Box 421, White Sulphur Springs, Montana 59645, File No. 725–T/C790064–TA, to construct telecommunications facilities to bring public television programming to residents of the Western part of Meagher County, Montana. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $27,460. Grant requested $20,595. Application signed by: Merritt E. Smith, Chairman.

Connecticut Educational Telecommunications Corp., 24 Summit

Street, Hartford, Connecticut 06106, File No. 726–T/C790083–TI, to improve CH 49 Bridgeport and acquire engineering equipment for noncommercial television station, WEDH, CH 24, Hartford, Connecticut. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $326,150. Grant requested: $146,150. Application signed by: Paul K. Taff.

*Santa Clara County Board of Education/KTEH, 100 Skyport Drive, San Jose, California 95110, File No. 727–T/C790045–TE, to provide first noncommercial TV service to residents of Santa Cruz County from KTEH–TV, CH 54, San Jose, California. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $94,744. Grant requested: $71,058. Application signed by: Maynard E. Orme.

Board of Education, Jefferson City, Kentucky/WKPC–TV, P.O. Box 1515, Louisville, Kentucky 40201, File No. 728–T/C790027–TI, to improve noncommercial television station WKPC–TV, CH 15, Louisville, Kentucky. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $300,000. Grant requested: $225,000. Application signed by: Jerry V. Weaver, Executive Vice President and General Manager.

University of North Carolina Center for Public TV, P.O. Box 2688, Chapel Hill, North Carolina 27515, File No. 729–T/C790049–TA, to establish a noncommercial television facility operating on CH 19 at Jacksonville, North Carolina as a part of the UNC–TV Network. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $1,281,000. Grant requested: $871,500. Application signed by: L. Felix Joyner, Vice President, Finance.

Rio Blanco County TV Association, Box 1047, Meeker, Colorado 81641, File No. 730–T/C790111–TE, to construct translators at 7 sites to make available noncommercial television programming of KRMA, CH 6, Denver to rural areas of Rio Blanco and Forrio Blanco Counties, Colorado. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $88,246. Grant requested: $66,184. Application signed by: George E. Benner, Jr., County Attorney.

Circle TV Booster Club, Inc., P.O. Box 194, Circle, Montana 59215, File No. 731–T/C790061–TA, to construct telecommunications facilities to bring public television programming to Circle-Brockway communities in McCone County, Montana. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $38,190. Grant requested: $28,462. Application signed by: Dale Bond, President.

Roundup TV Tax District, Court House, Main Street, Roundup, Montana 59072, File No. 732–T/C790098–TA, to construct telecommunications facilities to bring public television programming to the town of Roundup, Montana and its suburbs. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $23,955. Grant requested: $17,966. Application signed by: Nat Allen, Chairman.

Powder River County TV Board, County Clerk, Broadus, Montana 59317, File No. 733–T/C790066–TA, to construct telecommunications facilities to bring public television programming to residents on Broadus, Belle Creek, and Powder River Counties of Montana. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $42,980. Grant requested: $32,235. Application signed by: R. C. Denson, Chairman, Powder River County Commission.

East Butte TV Club, Inc., P.O. Box 656, Chester, Montana 59522, File No. 734–T/C790109–TA, to construct telecommunications facilities to bring public television programming to residents of Liberty, Hill, Toole, Blaine, Pondera, Glacier, and Chouteau Counties of Montana. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $35,810. Grant requested: $23,500. Application signed by: Vern R. Pimley, President.

Metropolitan Indianapolis Television Association, Inc., 1440 North Meridian Street, Indianapolis, Indiana 46202, File No. 735–T/C790025–TI, to construct by acquiring state-of-the-art production/studio facilities of noncommercial television station WFYI–TV, CH 20, Indianapolis, Indiana. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $350,300. Grant requested: $262,725. Application signed by: Frank Meek, Executive Vice President.

Educational Communications Board, 732 North Midvale Boulevard, Madison, Wisconsin, 53705, File No. 736–T/C790074–TA, to construct and extend existing system of noncommercial television station WHWC–TV, CH 28, Menomonie/River Falls, Wisconsin. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $162,325. Grant requested: $81,162. Application signed by: Richard Wisnewski, Chairperson, Education Communications Board.

Grand Valley State College, College Landing, Allendale, Michigan 49401, File No. 737–T/C790075–TI, to upgrade the origination and production facilities of noncommercial television station, WGUC–TV, CH 35, Grand Rapids, Michigan. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $400,000. Grant requested: $300,000. Application signed by: James Starkweather, Director of Budgets.

*The Greater Toledo Educational Television Foundation, 415 North Saint Clair Street, Toledo, Ohio 43604, File No. 738–T/C790029–TEI, to install new transmission facilities of noncommercial television station WGTE–TV, CH 30, Toledo, Ohio. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $1,029,875. Grant requested: $772,406. Application signed by: Robert D. Smith, President and General Manager.

Greater Cincinnati Television Educational Foundation, 1223 Central Parkway, Cincinnati, Ohio 45214, File No. 739–T/C790020–TE, to establish an interconnected network with community cable operations and improving production facilities with mobile capability of noncommercial television station WCET–TV, CH 48, Cincinnati, Ohio. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $110,915. Grant requested: $83,185. Application signed by: Charles W. Vaughn, General Manager and President.

*Alabama ETV Communication, Mobile County Public School System, P.O. Box 1327, Mobile, Alabama 36601, FIle No. 740–T/C790002–TI, to improve the capability of the State network by establishing a production center at Mobile, Alabama. Proposal determined acceptable: May 31, 1979. Estimated total project costs: $687,185. Grant requested: $515,388. Application signed by: Dr. Abe L. Hammons/Dennis Stork.

Community Television, Inc., 2037 Main Street, Jacksonville, Florida 32206, File No. 741–T/C790056–T, to improve and augment noncommercial television station, WJCT–TV, CH 7, Jacksonville, Florida. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $3,317,098. Grant requested: $2,459,623. Application signed by: Fred Rebman.

Board of Regents of Florida State University (WFSU–TV), 202 Dodd Hall, Florida State University, Tallahassee, Florida 32306, File No. 742–T/C790051–TI, to improve noncommercial television station WFSU–TV, CH 11, Tallahassee, Florida. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $473,000. Grant requested: $354,750. Application signed by: Edward L. Herp.

*Florida West Coast Public Broadcasting, WEDU–TV, 1300 North Boulevard, Tampa, Florida 33607, File No. 743–T/C790085–TI, to improve noncommercial television station WEDU–TV, CH 3, Tampa, Florida. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $674,000. Grant requested: $505,500. Application signed by: R. LeRoy Lastinger.

*Atlanta Board of Education, WETV, 740 Bismark Road, N.E., Atlanta, Georgia 30324, File No. 744–T/C790080–TI, to augment noncommercial television station WETV–TV, CH 30, Atlanta, Georgia. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $404,845. Grant requested: $303,633. Application signed by: Alonzo A. Crim.

State Education Radio and TV Facility Board, P.O. Box 1758, Des Moines, Iowa 50306, File No. 745–T/C790041–T, to improve the State ETV network by constructing six additional translators to provide better service to residents of Iowa. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $1,082,450. Grant requested: $602,947. Application signed by: Rod Thole, Executive Director.

State Educational Radio and TV Facility Board, P.O. Box 1758, Des Moines, Iowa 50306, File No. 746–T/C790040–TI, to improve the noncommercial television facilities in the State of Iowa. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $202,000. Grant requested: $102,000. Application signed by: Rod Thole.

Smokey Hills Public Television Corp., 1011 Fort Street, Suite 211, Hays, Kansas 67601, File No. 747–T/C790007–TA, to construct telecommunication facilities to bring public television programming on CH 14 to the community of Hays, Kansas. Proposal determined acceptable: May 31, 1979. Estimated total project cost: $1,688,870. Grant requested: $578,327. Application signed by: Norbert R. Dreiling, Chairman.

*New Wave Corporation, 915 East Broadway, Columbia, Missouri 65201, File No. 748–T/C790101–TA, to construct a translator to provide service for Columbia, Missouri. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $110,662. Grant requested: $82,996. Application signed by: Patricia Watkins, Station Manager.

Springfield Community TV, Inc., MPO Box 21, Springfield, Missouri, 65811, File No. 749–T/C790110–TI, to improve the broadcast facilities of noncommercial television station KOZK–TV, CH 21, Springfield, Missouri. Proposal determined acceptable: June 7, 1979. Estmated total project cost: $452,425. Grant requested: $339,319. Application signed by: Laure Young, Chairman.

Board of Regents (Central Missouri State University), Administration Building, Warrensburg, Missouri 64093, File No. 750–T/C790108–TI, to improve the production capability of noncommercial television station KMOS–TV, CH 6, Sedalia, Missouri. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $588,000. Grant requested: $441,000. Application signed by: Warren C. Louinger, President.

Mohawk-Hudson Council on Educational Television, Inc., P.O. Box 17, Schenectady, New York 12301, File No. 751–T/C790035–TI, to upgrade origination and interconnection facilities of noncommercial television station, WMHT–TV, CH 17, Schenectady, New York. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $580,340. Grant requested: $435,255. Application signed by: Donald E. Schein, President.

Regents, University of New Mexico and Board of Education, 1130 University, NE, Albuquerque, New Mexico 87102, File No. 752–T/C790094–TE/I, to expand the broadcast facilities of noncommercial television station KNME–TV, CH 5, Albuquerque, New Mexico. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $1,234,687. Grant requested: $926,015. Application signed by: Robert M. Gordon, General Manager.

Regents of New Mexico State University, Box 3J, Las Cruces, New Mexico 88003, File No. 753–T/C790010–TE, to expand and improve the broadcast facilities of noncommercial television station KRWG–TV, CH 22, Las Cruces, New Mexico. Proposal determined acceptable: May 31, 1979. Estimated total project cost: $259,100. Grant requested: $194,325. Application signed by: John J. Monagle, Director.

Central Texas College, KNCT–TV, Highway 190W, Killeen, Texas 76541, File No. 754–T/C790117–TI, to improve the broadcast facilities and services of noncommercial television station KNCT–TV, CH 46, Killeen, Texas. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $39,080. Grant requested: $29,310. Application signed by: Phillip A. Swartz, Vice President.

Northeastern ETV of Ohio, Inc., 1640 Franklin Avenue, Kent, Ohio 44240, File No. 755–T/C790089–T, to increase the dissemination capability of noncommercial television station WEAO–TV, CH 49, Akron, Ohio, to expand public telecommunications services. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $1,539,376. Grant requested: $1,130,805. Application signed by: John D. Hershberger, General Manager.

Texas Tech University, Box 4159, Lubbock, Texas 79409, File No. 756–T/C790039–TE, to expand the broadcast facilities of noncommercial television KTXT–TV, CH 5, Lubbock, Texas, by raising tower height and increasing transmission power. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $597,500. Grant requested: $294,500. Application signed by: J. Knox Jones, Jr.

University Regional Broadcasting, Inc., 3440 Office Park Drive, Dayton, Ohio 45439, File No. 757–T/C790042–TE, to increase the capability of the dissemination facilities of noncommercial television station WPTD–TV, CH 16, Kettering, Ohio, to extend public telecommunications services. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $1,059,000. Grant requested: $559,000. Application signed by: Dr. Clair R. Tettemer, Executive Director.

Central Educational Network Association, 5400 N. St. Louis Avenue, Chicago, Illinois 60625, File No. 758–T/C790047–TI, to improve the broadcast capability of the network by acquiring additional origination apparatus. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $73,165. Grant requested: $51,123. Application signed by: John A. Montgomery, Executive Director.

*Educational Television Association of Metropolitan Cleveland, 4300 Brookpark Road, Cleveland, Ohio 44134, File No. 759–T/C790043–TI, to improve the facilities of WVIZ–TV, CH 25, Cleveland, Ohio, by upgrading studio lighting and program origination capability. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $279,830. Grant requested: $209,872. Application signed by: Betty Cope, President and General Manager.

*Long Island ETV Council, Inc., Duncan Avenue, Garden City, New York 11530, File No. 760–T/C790078–TI, to improve the broadcast facilities of WLIW–TV, CH 21, Garden City, New York, by the acquisition of origination and interconnection equipment. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $238,625. Grant requested: $178,969. Application signed by: Charles F. Bell, General Manager.

Illinois Valley Public Telecommunication Corp., 1501 W. Bradley Avenue, Peoria, Illinois 61625, File No. 761–T/C790095–TE, to expand the broadcast facilities of WTVP–TV,

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CH 47, Peoria, Illinois, by increasing the capability of dissemination equipment to expand telecommunications services to Illinois communities. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $913,477. Grant requested: $621,357. Application signed by: Philip Weinberg, President.

*Chicago Metropolitan Higher Education Council, 9501 S. King Drive, Chicago, Illinois 60628, File No. 762–T/C790072–T, to establish additional noncommercial public broadcasting services through WCME–TV, CH 20, Chicago, Illinois. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $1,574,100. Grant requested: $976,000. Application signed by: Presley D. Holmes, President.

*University of Illinois, 354 Administration Building, Urbana, Illinois 61801, File No. 763–T/C790079–TE, to extend the public television programming (through cable television) of noncommercial television station WILL–TV, CH 12, Urbana, Illinois. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $800,017. Grant requested: $600,010. Application signed by: Linda Wilson, Secretary Research Board.

Twin Cities Public Television, Inc., 1640 Como Avenue, St. Paul, Minnesota 55108, File No. 764–T/C790071–T, to expand the broadcast facilities of noncommercial television station KTCI–TV, CH 17, St. Paul, Minnesota to provide additional service. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $1,298,140. Grant requested: $973,605. Application signed by: William H. Kobin, President and General Manager.

Board of Cooperative Education Services of Chautauqua, 9520 Fredonia-Stockton Road, Fredonia, New York 14063, File No. 765–T/C790013–TE, to extend public broadcasting services by the addition of translator television services via CH 56, W56A, Silver Creek and CH 58, Riply, New York. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $94,410. Grant requested: $70,800. Application signed by: Philip J. LoGuidice, District Supertintendent.

*Fresno County Board of Education/KMTF–TV, 2314 Mariposa Street, Fesno, California 93721, File No. 766–T/C790005–TE/I, to provide state-of-the-art production equipment to serve minorities residing in the coverage area of noncommercial television station KMTF–TV, CH 18, Fresno, California. Proposal determined acceptable: May 31, 1979. Estimated total project cost: $366,773. Grant requested: $275,080. Application signed by: Ernest A. Poore.

West Central Illinois Educational Telecommunications Corp., 100 North First Street, Springfield, Illinois 62701, File No. 767–T/C790059–T, to imnprove network origination equipment at Moline, Rock Island, East Peoria/Pekins, Springfield, Macomb, Jacksonville and Quincy, Illinois; Hannibal, Missouri, and Davenport and Bettendorf, Iowa, associated with stations WJPT, CH 14, Jacksonville and WQPT, CH 24, Moline, Illinois. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $803,926. Grant requested: $602,945. Application signed by: George L. Hall, President.

Northeast, New York, Educational Television Association, P.O. Box 617, Plattsburg, New York 12901, File No. 768–T/C790081–TE, to expand the facilities of noncommercial television station WCFE–TV, CH 57, Plattsburg, New York by establishing translator facilities at CH 60, Addison, Vermont and CH 67 Ticonderoga, New York. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $124,353. Grant requested: $93,264. Application signed by: Paul C. Hassenplug.

Board of Trustees of Southern Illinois University, 1056 Communications Building, Carbondale, Illinois 62901, File No. 769–T/C790018–TI, to improve the broadcast facilities of noncommercial television station WSIU–TV, CH 8, Carbondale, Illinois by increasing reliability and performance of dissemination equipment for a translator broadcast facility at CH 16, Onley, Illinois. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $812,776. Grant requested: $609,582. Application signed by: Frank E. Horton, Vice President.

State of Oregon, Acting By and Through the State Board of Higher Education (Oregon Educational and Public Broadcasting Service), 2828 SW Front Avenue, Portland, Oregon 97201, File No. 770–T/C790092–TE, to extend and expand the OEPBS public television signal to isolated areas in Eastern Oregon. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $290,143. Grant requested: $217,607. Application signed by: Donald S. Bryant, Director, OEPBS.

*University of Washington/KCIS–9, 4045 Brooklyn Avenue, NE, Seattle, Washington, 98105, File No. 771–T/C790096–T, to augment the broadcast facilities of noncommercial television station KCTS–TV, CH 9, Seattle, Washington. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $713,129. Grant requested: $534,846. Application signed by: Donald R. Baldwin, Director, Grants and Contract Services.

Washington State University/KWSU–TV, E. R. Murrow Community Center, Pullman, Washington 99164, File No. 772–T/C790011–TI, to improve the broadcast facilities of noncommercial television station KWSU–TV, CH 10, Pullman, Washington. Proposal determined acceptable: May 18, 1979. Estimated total project cost: $244,988. Grant requested: $183,741. Application signed by: C. J. Nyman, Dean, Graduate School.

WHYY, Inc., 150 N. 6th Street, Philadelphia, Pennsylvania 19106, File No. 773–T/C790023–TI, to improve the broadcast facilities of noncommercial television station WHYY–TV, CH 12, Wilmington, Delaware. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $467,808. Grant requested: $850,856. Application signed by: James Karany.

Metropolitan Pittsburgh Public Broadcasting, 4802 Fifth Avenue, Pittsburgh, Pennsylvania 15213, File No. 774–T/C790104–T, to improve the broadcast facilities of noncommercial television station WQED–TV, CH 13, Pittsburgh, Pennsylvania, by replacing its transmitter to provide a quality signal. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $848,090. Grant requested: $636,000. Application signed by: David Menair.

*The Regents of the University of Michigan, Administration Building, Ann Arbor, Michigan 48109, File No. 775–T/C790028–T, to improve the broadcast facilities of noncommercial television station operating on CH 28, Flint, Michigan. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $1,330,700. Grant requested: $998,025. Application signed by: C. W. Matthews, Controller.

*Ohio State University Telecommunications Center, 2400 Olentangy River Road, Columbus, Ohio 43210, File No. 776–T/C790008–TI, to improve and upgrade the broadcast facilities of noncommercial television station WOSU–TV, CH 34, Columbus, Ohio. Proposal determined acceptable: May 22, 1979. Estimated total project cost: $1,122,400. Grant requested: $841,800. Application signed by: Elizabeth L. Young, Director.

Regional Translator Association, c/o Northeastern Colorado Regional Council of Governments, P.O. Box 1782, Sterling, Colorado 80751, File No. 777–T/C790014–T, to extend the public broadcasing signal of KRMA–TV, CH 6, Denver to residents of Sedgwick, Phillips and Yuma Conties by means of a system of UHF television translators.

Proposal determined acceptable: June 4, 1979. Estimated total project cost: $139,146. Grant requested: $104,359. Application signed by: Richard A. Starkebaum, Chairman.

Tacoma School District No. 10/KTPS, 601 S. 8th Avenue, P.O. Box 1357, Tacoma, Washington 98402, File No. 778–T/C790073–TA/E, to expand KTPS–TV, Tacoma, Washington and to activate a satellite station on CH 15 near Olympia, Washington to serve six counties: Lewis, Cowlitz, Grays Harbor, Pacific, Whakrakum and Jefferson. Proposal determined acceptable: July 20, 1979. Estimated total project cost: $1,926,311. Grant requested: $1,396,311. Application signed by: Toney Shelton, Deputy Secretary and Business Manager.

*Front Range Educational Media Corp., 406 A E. Simpson Street, Box 4262, Lafayette, Colorado 80026, File No. 779–T/C790112–TA, to establish noncommercial television station, KBDI–TV, CH 12, Broomfield, Colorado. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $1.237,165. Grant requested: $927,873.75. Application signed by: John Schwartz, President.

University of Southern Colorado, 2200 North Bonforte Boulevard, Pueblo, Colorado 81004, File No. 780–T/C790103–TE/I, for the expansion and improvement of noncommercial television station KTSC–TV, CH 8, Pueblo, Colorado. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $165,400. Grant requested: $124,050. Application signed by: Richard E. Pesqueira, President.

*Hampton Roads Educational Telecommunication Association, Inc., 5200 Hampton Boulevard, Norfolk, Virginia 23508, File No. 781–T/C790032–TI, to improve the broadcast facilities of noncommercial television station WHRO–TV, CH 15, Norfolk, Virginia, for the replacement of out-of-date television origination apparatus. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $570,000. Grant requested: $427,500. Application signed by: John R. Morison.

The County of Pitkin, 506 East Main Street, Aspen, Colorado 81611, File No. 782–T/C790070–TA, to extend the public broadcast signal of KRMA–TV, CH 6, Denver, to residents of Pitkin County and adjacent portions of Eagle Conty in the Frying Pan Valley by means of microwave relays and 8 translators. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $51,835. Grant requested: $38,835. Application signed by: John Elbert.

Tacoma School District No. 10, 601 S. 8th Avenue, P.O. Box 1357 Tacoma, Washington 98402, File No. 783–T/C790086–TE, to expand the noncommercial facilities of KTPA–TV to permit residents in Pacific and Wahkiakum Counties to receive noncommercial televison programming from a Washington station. Proposal determined acceptable: July 16, 1979. Estimated total project cost: $16,500. Grant requested: $12,375. Application signed by: Toney Shelton.

Board of Trustees, Vincennes University, 1002 North 1st Street, Vincennes, Indiana 47591, File No. 784–T/C790106–TI, to improve the broadcast facilities of noncommercial television station WVUT–TV, CH 22, Vincennes, Indiana. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $291,200. Grant requested: $217,500. Application signed by: Isaac K. Beckes, President, Vincennes University.

Educational Broadcasting Corp., 356 West 58th Street, New York, New York 10019, File No. 785–T/C790006–TI, to improve and upgrade the origination capability of noncommercial television station WNET–TV, CH 13, New York, New York. Proposal determined acceptable: May 31, 1979. Estimated total project cost: $481,027. Grant requested: $240,513. Application signed by: Gerard L. Appy, Vice President for Administration.

*WIPB—Ball State University, 246 Minnetrista Boulevard, Muncie, Indiana 47303, File No. 786–T/C790037–TE, to expand the broadcast facilities of noncommercial television station WIPB–TV, CH 49. Muncie, Indiana by increasing transmission power. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $999,487. Grant requested: $749,595. Application signed by: Richard N. Burkhardt, Acting President.

Board of Trustees, Indiana State University, 217 North 6th Street, Terre Haute, Indiana 47809, File No. 787–T/C790115–T, to establish a noncommercial television station, WISU–TV, CH 26, Terre Haute, Indiana. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $1,135,000. Grant requested: $851,250. Application signed by: J. Kenneth Moulton, Vice President Business Affairs/Acting President.

Independent School District #492, 1900 Eighth Avenue, N.W. Austin, Minnesota 55912, File No. 788–T/C790017–TE, to expand the broadcast facilities of noncommercial television station KAVT–TV, CH 15, Austin, Minnesota. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $1,083,250. Grant requested: $790,750. Application signed by: Barry G. Baker, General Manager.

Chicago Educational Television Association, 5400 N. St. Louis Avenue, Chicago, Illinois 60625, File No. 789–T/C790099–T, to improve and augment the broadcast facilities of noncommercial television station WTTW–TV, CH 11, Chicago, Illinois, by upgrading their origination equipment and interconnecting production locations. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $550,911. Grant requested: $413,183. Application signed by: John C. Rahmann, Station Manager.

University of Wisconsin—LaCrosse, 1725 State Street, LaCrosse, Wisconsin 54601, File No. 790–T/C790055–T, to improve existing facilities by increasing the number of channels available to the interconnected telecommunications system and upgrading origination equipment for production. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $60,902. Grant requested: $45,699. Application signed by: Dr. W. Carl Wimberly, Acting Chancellor.

Nebraska ETV Communication/KXNE–TV, Norfolk, P.O. 8311, Lincoln, Nebraska 68501, File No. 791–T/C790034–TI, to improve the broadcast facilities by a transmitter for KXNE–TV, CH 19, Norfolk, Nebraska. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $400,160. Grant requested: $225,160. Application signed by: Jack McBride, Secretary and General Manager.

*Central Virginia Educational TV Corp., 23 Sesame Street, Richmond, Virginia 23235, File No. 792–T/C790001–TI, to expand and improve the broadcast facilities of noncommercial television stations. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $946,986. Grant requested: $710,240. Application signed by: Richard E. Hall.

*Fundacion Educativa Ana G. Mendez, Box "AE", Rio Piedra, Puerto Rico 00928, File No. 793–T/C790021–TA, to extend distribution services to mainland areas, and improve studio and production facilities at its main facilities in Rio Piedras, Puerto Rico. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $980,262. Grant requested: $735,195. Application signed by: Jose F. Mendez, President.

*Wichita Falls Educational Translator, Inc., P.O. Box 2130, Wichita Falls, Texas 76307, File No. 794–T/C790033–TE, to expand the broadcast facilities of noncommercial television station KIDZ–TV, CH 24, Wichita Falls,

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Texas. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $71,350. Grant requested: $52,750. Application signed by: Richard N. Sutton, President.

Sheridan TV Translator, Inc., Box 150, Sheridan, Wyoming 83801, File No. 795–T/C790062–T, to construct telecommunications facilities to bring public television programing to residents of Sheridan County, Ranchester, Big Horn and Big Goose, Wyoming. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $34,250. Grant requested: $25,687. Application signed by: Joe R. Byrtus, President.

Ferris State College and Grand Valley State Colleges, 901 S. State Street, Big Rapids, Michigan 49307, 796–T/C790012–T, to establish a first noncommercial public telecommunications service to the communities to be served by channel 21 in Manistee, Michigan. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $1,425,183. Grant requested: $1,068,887. Application signed by: Robert L. Ewigleben, President Ferris State College and James P. Starkweather, Director of Budgets, Grand Valley State Colleges, Michigan.

Radio Facilities

University of Denver (Colorado Seminary), 2058 S. York Street, Denver, Colorado 80208, File No. 466–R/C790024–RI, to improve noncommercial FM radio station KCFR operating on 90.1 MH/z, Denver, Colorado. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $107,455. Grant requested: $79,371. Application signed by: Howard L. Mai, Director, Office of Grants and Contracts.

Arizona Board of Regents for Benefit of University of Arizona, University of Arizona—KUAT, Tucson, Arizona 85721, File No. 467–R/C790021–RI, to replace the twenty year old transmitter (50 kw) of noncommercial radio station KUAT–AM, Tucson, Arizona. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $211,191. Grant requested: $158,393. Application signed by: Sherwood Carr, Contracting Officer.

Lynn Canal Broadcasting, P.O. Box 245, Haines, Alaska 99827, File No. 468–R/C790015–RA, to establish a noncommercial FM radio station operating on Channel 272A/102.3 MH/z, Haines, Alaska. Proposal determined acceptable: May 31, 1979. Estimated total project cost: $239,100. Grant requested: $179,325. Application signed by: Harold E. Hopper, President.

*Granfalloon Denver Educational Broadcasting, Inc., 1764 Gilpin Street, P.O. Box 18470, Denver, Colorado 80218, File No. 469–R/C790067–RA, to establish a noncommercial FM radio station operating on 89.3 MH/z, Denver, Colorado. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $281.500. Grant requested: $211,125. Application signed by: V. Tobi Kanter, Executive Director.

Board of Regents, Murray State University, Murray, Kentucky 42071, File No. 470–R/C790029–RE, for the establishment of a noncommercial radio station at Reed, Kentucky on 89.5 MH/z to be operated as a satellite of WKMS–FM 91.3 MHz, Murray, Kentucky. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $153,579.40 Grant requested: $115,184.55. Application signed by: Constantine W. Curtis, President.

*Kuskokwim Public Broadcasting Corp., P.O. Box 164, McGrath, Alaska 99627, File No. 471–R/C790013–RA, to establish a noncommercial AM radio, 830 KH/z, station operating in McGrath, Alaska. Proposal determined acceptable: May 31, 1979. Estimated total project cost: $246,830. Grant requested: $185,122. Application signed by: Michael Harrington, President.

Western Kentucky University, Bowling Green, Kentucky 42101, File No. 472–R/C790016–RA, for the establishment of a noncommercial FM radio station operating on Channel 205/88.9 MH/z, Bowling Green, Kentucky. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $223.229. Grant requested: $152,422. Application signed by: Paul B. Cook, Assistant to the President.

Arizona Western College, KAWC(AM) Radio Station, P.O. Box 929, Yuma, Arizona 85364, File No. 473–R/C790057–RI, to replace the twenty-two year old transmitter of KAWC–AM, Yuma, Arizona. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $14,982. Grant requested: $11,236. Application signed by: Dr. Kenneth E. Bonland, President.

Pataphysical Broadcasting Foundation, Inc., P.O. Box 423 Santa Cruz, California 95061, File No. 474–R/C790129–R, to expand production facilities and improve the signal to provide additional service of noncommercial radio station KUSP–FM operating on 88.5 MH/z, Santa Cruz, California. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $19,755. Grant requested: $14,816. Application signed by: Stephanie Kaza.

North Orange County Community College District, 321 E. Chapan, Fullerton, California 92534, File No. 475–R/C790163R to increase the coverage area, double broadcasting time, and increase the program time devoted to bilingual service programs of noncommercial FM radio station KBPK, operating on 90.1 MH/z, Fullerton, California. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $36,787.81. Grant requested: $26,555.25. Application signed by: Philip W. Bonst.

Radio Bilingue, Inc., P.O. Box 12682, Fresno, California 93778, File No. 476–R/C790124–R, to construct the first bilingual public radio station in the San Joaquia Valley of California, KSJV-FM operating on 91.5 MHz, Fresno, California. Proposal determined acceptable: $168,510.50. Grant requested: $126,382.87. Application signed by: Hugo Morales.

*Lane Community College, 4000 East 30th Avenue, Eugene, Oregon 97405, File No. 477–R/C790116–RI, to improve the broadcast facilities of noncommercial radio station KLCC-FM operating on 89.7 MH/z, Eugene, Oregon. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $114,329. Grant requested: $85,746. Application signed by: Eldon C. Schafer, President.

*Hoopa Valley Telecommunications Corp., P.O. Box 1220, Hoopa, California 95546, File No. 478–R/C790048–RE, to establish a noncommercial FM radio station for the Indian Reservation to be operating on 91.3 MH/z, Hoopa, California. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $252,836. Grant requested: $182,547. Application signed by: Byron Nelson.

*California State University at Chico, California State University, Chico, California 95929, File No. 479–R/C790092–R, to extend the signal, and the radio reading service for the blind (SCA) noncommercial radio station KCHO–FM, operating on 91.1 MH/z, Chico, California. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $14,400. Grant requested: $10,800. Application signed by: Len C. McCandliss.

Western Kentucky University, College Heights, Bowling Green, Kentucky 42101, File No. 480–R/C790030–RA, to establish a noncommercial FM radio station, operating on 89.5 MH/z, Owensboro, Kentucky. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $124,635. Grant requested: $93,476. Application signed by: Paul B. Cook, Assistant to the President.

*The Trustees of Davidson College, WDAV-FM, Davidson, North Carolina 28036, File No. 481–R/C790078–RI, to improve the production capability of noncommercial radio station WDAV–FM, operating on 89.9 MH/z, Davidson, North Carolina. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $21,260. Grant requested: $15,945. Application signed by: Samuel R. Spencer Jr.

*Santa Monica Community College District/KCRW, 1900 Pico Blvd., Santa Monica, California 90405, File No. 482–R/C790109–R, to replace transmitter and antenna, relocate transmission facilities to extend coverage, and upgrade the studio facilities of KCRW–FM, 89.9 MH/z Santa Monica, California. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $325,004. Grant requested: $225,003. Application signed by: Richard Moore.

*San Jose State University Foundation, KSJS–FM, 125 South 7th Street, San Jose, California 95192, File 483–R/C790088–RI, to refurbish the secondary control room, and the radio control room of noncommercial radio station KSJS–FM, operating on 90.7 MH/z, San Jose, California. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $58,577.00. Grant requested: $42,877.00. Application signed by: John G. Weihaupt.

DeLaunay Services Assist Community Network, Inc., 117 South Los Robles Avenue, Pasadena, California 91101, File No. 484–R/C790119–R, to provide service to the print handicapped through SCA authorization of noncommercial radio station KROQ–FM, operating on 106. MH/z, Pasadena, California. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $259,659.20. Grant requested: $194,676.90. Application Signed by: Jerry DeLaunay.

Association of California Public Radio Stations, Senator Hotel, Suite 12, Sacramento, California 95814, File No. 485–R/C790070–R, to provide state-of-the-art production equipment for an improved news service operation, Sacramento, California. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $23,892. Grant requested: $17,919. Application signed by: Thomas R. McManus.

Pasadena Area Community College District, 1570 E. Colorado Blvd., Pasadena, California 91106, File No. 486–R/C790069–R to relocate transmitter for a greater service area, and provide expanded SCA service for noncommercial radio station KPCA–RM operating on 89.3 MH/z, Pasadena, California. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $76,199. Grant requested: $57,149. Application signed by: Richard S. Meyers.

University of Maine/Maine Public Broadcasting Network, Alumni Hall, Orono, Maine 04469, File No. 487–R/C790072–R, to upgrade and expand the main studio production capability of network's operating center, and to install translator in Portland to overcome areas of signal interference of noncommercial radio stations WMEH/WMEM/WMEA of the network. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $145,788. Grant requested: $105,788. Application signed by: Robert Binswangen.

University of North Carolina at Charlotte, UNCC Station, WFAE–FM, Charlotte, North Carolina 28223, File No. 488–R/C790059–RA, to improve the broadcast facilities of noncommercial radio station WFAE–FM, operating on 90.7 MH/z, Charlotte, North Carolina, by addition of satellite reception capabilities. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $15,000.00. Grant requested: $11, 250.00. Application signed by: E. K. Fretwell, Jr., Chancellor.

Sound and Print United, Inc., P.O. Box 365, Warrenton, North Carolina 27589, File No. 489–R/C790063–RE, to expand the broadcast facilities of noncommercial FM radio station WVSP, Channel 215/90.9 MH/z, Warrenton, North Carolina. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $86,572. Grant requested: $64,829. Application signed by: Valeria L. Lee.

*Back Porch Radio Broadcasting, Inc., P.O. Box 3219, Madison Wisconsin 53704, File No. 490–R/C790079–RE/I, to expand and improve noncommercial radio station WORT–FM, operating the 89.7 MH/z, Madison, Wisconsin, by increasing the power of its transmitter and upgrading studio and production broadcast facilities of station. Proposal determined acceptable; June 5, 1979. Estimate total project cost: $166,010. Grant requested: $124,508. Application signed by: Joan R. Rubel, General Manager.

Minnesota Public Radio, Inc., KCCM–FM (Moorhead, Minnesota) 400 Sibley Street, St. Paul, Minnesota 55101, File No. 491–R/C790089–R, to expand and improve the broadcast facilities of noncommercial radio station KCCM–FM operating on 91.1 MH/z Moorhead, Minnesota. Proposal determined: June 7, 1979. Estimated total project cost: $246,210. Grant requested: $178,283. Application Signed by: William H. Kling, President.

*Wayne State University, 655 Merrick Street, Detroit, Michigan 48202, File No. 492–R/C790066–R, to improve the services of noncommercial radio station WDET–FM operating on 101.9 MH/z, Detroit, Michigan by increasing the number of sub-carrier authorized receivers available to the community. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $24,400. Grant requested: $18,300. Application signed by: Daniel J. Graf, Acting Director, Research and Sponsored Programs.

Ovid-Elsie Area Schools, 8989 Colony Road, Elsie, Michigan, 48831, File No. 493–R/C790001–RE, to expand the service of noncommerical radio station WOES–FM, operating on 91.3 MH/z, Ovid-Elsie, Michigan, by increasing power and acquiring related broadcast facilities. Proposal determined acceptable: May 25, 1979. Estimated total project costs: $20,000. Grant requested: $11,250. Application signed by: Donald D. Kenney, Superintendent of Schools.

Cheyenne Mountain Public Broadcast House, Inc., 68 Minnehaha Avenue, Manitou Springs, Colorado 80829, File No. 494–R/C790112–RE/I, to expand and improve the facilities of noncommerical radio station KCME–FM to operate on 88.1 MH/z, Manitou Springs, Colorado. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $117,467. Grant requested: $88,100. Application signed by: C. M. Edmonds, President.

Oregon Educational and Public Broadcasting Service, 2828 SW Front Avenue, Portland, Oregon 97201, File No. 495–R/C790086–RE, to further develop the OEPBS microwave relay system for Eastern Oregon to deliver KOAP–FM's signal to transmitter site of KRBM–FM Pendleton, and KEOL–FM La Grande. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $17,319. Grant requested: $12,989. Application signed by: Donald S. Bryant, Executive Director.

Utah State University of Agriculture and Applied Science, Cache County, Logan, Utah 84322, File No. 496–R/C790093–RE to expand the broadcast facilities of noncommerical radio station KUSU–FM 91.5 MH/z, Logan, Utah. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $84,281. Grant requested: $63,210. Application signed by: W. B. Christensen, Vice President-Business.

KRCL Listeners Community Radio of Utah, 262 E. 100 S., Salt Lake City, Utah 84111, File No. 497–R/C790100–RI, to improve the broadcast capability of noncommercial radio station KRCL–FM to operate on 90.9 MH/z, Salt Lake City, Utah. Proposal determined acceptable: June 7, 1979. Estimated total project

costs: $50,337. Grant requested: $37,752. Application signed by: Stephen Holbrook, Project Director.

North Carolina Agricultural and Technical St. University/WNAA, Suite 200, Price Hall, Greensboro, North Carolina 27411, File No. 498–R/C790031–RE/I, to expand the broadcast facilities of noncommercial FM radio station WNAA, operating on 90.5 MH/z, Greensboro, North Carolina. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $236,405. Grant requested: $177,303. Application signed by: Lewis C. Dowdy, Chancellor.

Volunteer State Community College/WVCP–Radio, Nashville Pike, Gallatin, Tennessee 37066, File No. 499–R/C790060–RE/I, to expand and improve the noncommercial broadcast facilities of noncommercial FM radio station WVCP operating on 88.3 MH/z at Gallatin, Tennessee. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $43,981. Grant requested: $32,985. Application signed by: Hal R. Ramer, President.

University of Minnesota, Radio Station KUOM, Rarig Center, 330 21st Street Avenue South, Minneapolis, Minnesota, 55455, File No. 500–R/C790120–R, to augment the facilities of noncommercial radio station KUOM–AM, 770 KH/z, Minneapolis, Minnesota by upgrading and increasing the station's origination and studio equipment. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $81,210. Grant requested: $36,210. Application signed by: Anton R. Potami, Director, Research Administration.

Alabama ETV Commission, WRLH–FM, 222 Holmes Avenue, Huntsville, Alabama 35801, File No. 501–R/C790010–R, to expand the broadcast facilities of noncommercial radio station WLRH–FM, operating on 89.3 MH/z, Huntsville, Alabama. Proposal determined acceptable: May 31, 1979. Estimated total project costs: $4,482. Grant requested: $1,383. Application signed by: Dennis N. Stork.

Board of Trustees of University of Alabama, University Station, Birmingham, Alabama 35294, File No. 502–R/C79005/RE, to extend the services of the SCA capabilities of noncommercial radio station WBHM–FM, operating on 90.3 MH/z, Birmingham, Alabama. Proposal determined acceptable: May 31, 1979. Estimated total project costs: $37,860. Grant requested: $28,395. Application signed by: Kenneth M. Prisitt.

Board of Trustees of University of Alabama, P.O. Box "BT", University, Alabama 35485, File No. 503–R/C790051–R, to expand and improve the broadcast facilities of noncommerical radio station WUAL–FM, operating on 91.7 MH/z, Tuscaloosa, Alabama. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $355,078. Grant requested: $266,308. Application signed by: Robert A. Wright.

Nathan B. Stubblefield Foundation-WMNF, 305 S. Blvd., Tampa, Florida 33606, File No. 504–R/C790043–R(I), to improve the broadcast facilities of noncommercial radio station WNMF–FM, operating on 88.5 MH/z, Tampa, Florida. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $103,815. Grant requested: $77,861. Application signed by: Bette Damouny.

School Board of Palm Beach County, WHRS–FM, 505 S. Congress Avenue, Boynton Beach, Florida 33435, File No. 505–R/C790083–R(I), to improve the broadcast facilities of noncommerical radio station WHRS–FM, operating on 90.7 MH/z, Boynton Beach, Florida. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $60,998. Grant requested: $45,741. Application signed by: Thomas J. Mills.

Community TV, Inc., WJCT–FM, 2037 Main Street, Jacksonville, Florida 32206, File No. 506–R/C790107–R(I), to improve the broadcast facilities of noncommercial radio station WJCT–FM, operating on 89.9 MH/z, Jacksonville, Florida. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $360,850. Grant requested: $270,637. Application signed by: Fred J. Rebman.

Univeristy of South Florida, WUSF–FM, 4202 Fowler Avenue, Tampa, Florida 33620, File No. 507–R/C790082–R(E/I), to expand and improve the broadcast facilities of noncommerical radio station WUSF–FM, operating on 89.7 MH/z, Tampa, Florida. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $257,277. Grant requested: $192,958. Application signed by: Erwin V. Johaningmeir.

*Georgia Public Radio, P.O. Box 9826, Savannah, Georgia 31412, File No. 508–R/C790050–R(A), to establish a noncommercial radio station on 91.1 MHz, Atlanta, Georgia. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $466,701. Grant requested: $346,701. Application signed by: Alvin Leonard Kantziper.

*Atlanta Public Schools WABE–FM, 740 Bismark Road, NE, Atlanta, Georgia 30324, File No. 509–R/C790065–R, to expand the broadcast facilities of noncommercial radio station WABE–FM, operating on 90.1 MHz, Atlanta, Georgia. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $308,226. Grant requested: $231,169. Application signed by: Alonzo A. Crim.

Broadcasting Service, Inc., KPGY, 1199 Filey Hall, Iowa State University, Ames, Iowa 50012, File No. 510–R/C790113–RE/I, to expand and improve the broadcast facilities of noncommercial radio station KPGY–FM operating on 91.9 MHz, Ames, Iowa. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $47,324. Grant requested: $29,064. Application signed by: Albert E. Steinbach.

Hutchinson Community Jr., College, KHCC, 1300 North Plum, Hutchinson, Kansas 67501, File No. 511–R/C790052–R, to augment the broadcast facilities of noncommercial radio station KHCC–FM, operating on 90.1 MHz, Hutchinson, Kansas. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $20,000 Grant requested: $15,000. Application signed by: G. L. Cooper.

Holmes Junior College (Vocational-Technical Div), Goodman, Mississippi 39079, File No. 512–R/C790075–R, to establish a noncommercial radio station on 89.5 MHz, Goodman, Mississippi. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $88,650. Grant requested: $45,560. Application signed by: M. R. Thorne.

Northwest Mississippi Jr., College, WNJC–FM, P.O. Box GG, Senatobia, Mississippi 38668, File No. 513–R/C790054–RI, to improve the broadcast facilities of noncommercial radio station WNJC–FM, operating on 90.3 MHz, Senatobia, Mississippi. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $45,795. Grant requested: $34,346. Application signed by: Henry B. Koon.

Union College KUCV–FM, 3800 South 48th Street, Lincoln, Nebraska 68506, File No. 514–R/C790114–RA/I, to expand the broadcast service of noncommercial radio station KUCV–FM operating on 91.3 MHz, Lincoln, Nebraska, by establishing a repeater station at Shelton, Nebraska. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $555,233. Grant requested: $416,424. Application signed by: Eric M. Graham.

Oklahoma State University, KOSU–FM, University & Hester Streets, Stillwater, Oklahoma 74074, File No. 515–R/C790128–RE/I, to expand the SCA services and improve the broadcast facilities of noncommercial radio station KOSU–FM, operating on 91.7 MHz, Stillwater, Oklahoma. Proposal determined acceptable: June 7, 1979.

Estimated total project cost: $25,576 Grant requested: $19,182 Application signed by: Dr. L. L. Boyer.

*Spring Hill College, 4307 Old Shell Road, Mobile, Alabama 36608, File No. 516–R/C790073–RI, to improve the broadcast facilities of noncommercial radio station WHIL–FM, operating on 91.3 MHz, Mobile, Alabama. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $77,696. Grant requested: $53,339. Application signed by: Paul S. Tipton.

Kent State University, 524 Wright Hall, Kent, Ohio 44242, File No. 517–R/C790035–RE, to expand the broadcast facilities of noncommercial radio station WKSU–FM, operating on 89.7 MHz, Kent, Ohio. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $211,979. Grant requested: $152,995. Application signed by: Brage Golding, President.

*Western Illinois University, 900 West Adams Street, Macomb, Illinois 61455, File No. 518–R/C790006–REI, to expand and improve the broadcast facilities of noncommercial radio station WIVM–FM, operating on CH 217, Macomb, Illinois by acquiring new dissemination and origination equipment to reach unserved areas in the community. Proposal determined acceptable: May 31, 1979. Estimated total project cost: $93,471. Grant requested: $70,103. Application signed by: James J. Murphy, Associate Provost.

*Bradley University, 1501 W. Bradley Avenue, Peoria, Illinois 61626, File No. 519–R/C790020–RIE, to expand and improve the broadcast facilities of noncommercial radios station WCBU–FM, operating on 89.9 MHz, Peoria, Illinois by the acquisition of dissemination and origination equipment to increase services to the community. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $210,487. Grant requested: $157,800. Application signed by: Dr. Martin G. Abegg, President.

*City of New York for WNYC–AM, 1 Centre Street, New York, New York 10007, File No. 520–R/C790115–RI, to improve the broadcast facilities of noncommercial radio station WNYC–AM operating on CH 830, New York, N.Y. by upgrading origination and other related equipment for the station. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $225,625 Grant requested: $146,656 Application signed by: Mary Perot Nichols, Director.

Community College of Baltimore/WBJC–FM, 2901 Liberty Heights Avenue, Baltimore, Maryland 21215, File No. 521–R/C790017–RE, to expand the services of noncommercial radio station WBJC–FM, Baltimore, Maryland, by acquiring additional SCA receivers to extend their radio reading service to unserved areas. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $30,000. Grant requested: $22,500. Application signed by: Rafael Cortadd.

Curry College, 1071 Blue Hill Avenue, Milton, Massachusetts 01003, File No. 522–R/C790012–RE/I, to expand and improve the broadcast facilities of noncommercial radio station WMLN–FM, operating on 91.5 MHz, Milton, Massachusetts. Proposal determined acceptable: May 31, 1979. Estimated total project cost: $29,380. Grant requested: $22,035. Application signed by: William Boyle, Jr.

University of Massachusetts, Hampshire House, Amherst, Massachusetts 01003, File No. 523–R/C790061–RI, to improve the broadcast facilities of noncommercial radio station WFCR–FM, operating on 88.5 MH/z, Amherst, Massachusetts by acquiring apparatus for a mobile van. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $37,530. Grant requested: $28,147. Application signed by: Allen Linkowski.

Boston University/WBUR, 630 Commonwealth Avenue, Boston, Massachusetts 02215, File No. 525–R/C790071–RI, to improve and upgrade the broadcast facilities of noncommercial radio station WBUR–FM, operating on 90.9 MH/z, Boston, Massachusetts. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $141,881. Grant requested: $106,410. Application signed by: Charles W. Smith.

Eastern Public Radio Network, 125 Western Avenue, Boston, Massachusetts 02134, File No. 526–R/C790101–R, to construct a microwave system linking Hartford, Connecticut, Amherst, Massachusetts and Boston, Massachusetts, for use by the network. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $210,320. Grant requested: $157,740. Application signed by: John Beck.

University of Nevada-Reno, 106 College of Education, Reno, Nevada 89557, File No. 527–R/C790037–REI, to expand and improve the broadcast facilities of noncommercial radio station KUNR–FM operating on 88.7 MH/z, Reno, Nevada, by increasing power from 2 kW to 20 kW and by providing stereo and SCA capability to unserved areas. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $95,591. Grant requested: $71,693. Application signed by: Joseph N. Crowley.

Chicagoland Radio Information Service, 3100 Oak Park Avenue, Berwyn, Illinois 60402, File No. 528–R/C790022–RE, to improve the broadcast facilities of noncommercial radio station WBEZ–FM, operating on 91.5 MH/z, Chicago, Illinois, by upgrading the amount of origination equipment and subcarrier channel facilities for the station. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $92,972. Grant requested: $67,956. Application signed by: Harry King, Director of Development.

College of DuPage, 22nd Street & Lambert Road, Glen Ellyn, Illinois 60137, File No. 529–R/C790123–RI, to improve the broadcast capability of noncommercial radio station WDCB–FM, operating on 90.9 MH/z, Glen Ellyn, Illinois. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $43,412. Grant requested: $32,097. Application signed by: H. D. McAninch, President.

Mohawk-Hudson Council on ETV, Inc., P.O. Box 17, Schenectady, New York 12301, File No. 530–R/C790042–RE, to increase the amount of reception equipment available for subcarrier authorized telecommunications services provided by WMHT–FM, operating on 89.1 MH/z, Schenectady, New York. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $11,800. Grant requested: $8,850. Application signed by: Donald E. Schein, President.

University of Cincinnati, 110 Emery Hall, Cincinnati, Ohio 45221, File No. 531–R/C790053–RE, to expand the broadcast facilities of noncommercial radio station WGVC–FM, operating on 90.9 MH/z, Cincinnati, Ohio, by increasing power and capabilities of dissemination, and by acquiring additional SCA facilities. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $282,077. Grant requested: $172,032. Application signed by: Dr. Albert C. Yates, University Dean for Graduate Education.

*Ohio State University Telecommunication Center, 2400 Olentangy River Road, Columbus, Ohio 43210, File No. 532–R/C790009–RI, to improve the broadcast facilities of noncommercial radio stations WOSU–AM operating on 820 MH/z, and WOSU–FM operating on 89.7 MH/z, Columbus, Ohio. Proposal determined acceptable: May 22, 1979. Estimated total project cost: $82,425. Grant requested: $46,818. Application signed by: Elizabeth L. Young, Director.

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State of Oregon, Acting By and Through the State Board of Higher Education, P.O. Box 3175, Eugene, Oregon 97403, File No. 533–R/C790094–RE, to expand the broadcast facilities of noncommercial radio station KSOR–FM, operating on 90.1 MH/z, Ashland, Oregon. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $222,210. Grant requested: $166,500. Application signed by: Wilma Foster, Secretary.

*University of Washington/KUOW, 1 Administrative Building, AD–24, Seattle, Washington 98195, File No. 534–R/C790106–RI, to improve the broadcast facilities of noncommercial radio station KUOW–FM, operating on 94.9 MH/z, Seattle, Washington. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $149, 040. Grant requested: $111,780. Application signed by: Donald R. Baldwin, Director, Grants and Contracts.

*Buchnell University, Lewisburg, Pennsylvania 17837, File No. 535–R/C790095–RE, to expand the broadcast facilities of noncommercial radio station WVBU–FM, operating on 90.5 MH/z, Lewisburg, Pennsylvania. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $50,585. Grant requested: $35,663. Application signed by: Dennis O'Brien.

WHYY, Inc., 150 N. 6th Street, Philadelphia, Pennsylvania 19106, File No. 536–R/C790027–RI, to improve the broadcast facilities of noncommercial radio station WUHY–FM, operating on 90.9 MH/z, Philadelphia, Pennsylvania. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $173,310. Grant requested: $129,983. Application signed by: James Karayn.

*University of Mass/Boston, Harbor Campus, Dorchester, Massachusetts 02125, File No. 537–R/C790125–RA, to establish a noncommercial radio station on 91.9 MH/z, Boston, Massachusetts, to serve the City of Boston and eight communities south of Boston. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $98,246. Grant requested: $73,246. Application signed by: Carl S. Finn.

University of Southern Colorado, KTSC–FM, 2200 North Bonforte Boulevard, Pueblo, Colorado 81004, File No. 538–R/C790098–REI, to expand the public broadcasting signal of KTSC–FM, operating on 89.5 MH/z, Pueblo, to residents of Southeastern Colorado. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $182,900. Grant requested: $137,175. Application signed by: Richard Pesqueira, President.

South Carolina Educational TV Commission, P.O. Drawer L, Columbia, South Carolina 29250, File No. 539–R/C790011–RA, to establish noncommercial radio station, WERV–FM, operating on 89.9 MH/z at Beaufort, South Carolina. Proposal determined acceptable: July 12, 1979. Estimated total project cost: $150,000. Grant requested: $112,500. Application signed by: Henry J. Cauthen, President & General Manager.

State University of New York for College of Arts and Sciences at Oswego, State University Plaza, Albany, New York 12246, File No. 540–R/C790074–RI, to improve the broadcast facilities of noncommercial radio station WRVO–FM, operating on 89.9 MH/z, Oswego, New York. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $40,345. Grant requested: $30,258. Application signed by: Harry K. Sprindler, Vice Chancellor for Finance and Business.

*City of New York for WNYC–FM, Municipal Broadcasting System, 1 Centre Street, New York, New York 10007, File No. 541–R/C790117–R, to improve the broadcast facilities of noncommercial radio station WNYC–FM, operating on 93.9 MH/z, New York, New York. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $256,385. Grant requested: $166,650. Application signed by: Mary Perot Nichols, Director.

Virginia Voice for the Print Handicapped, Inc., P.O. Box 9259, Richmond, Virginia 23227, File No. 542–R/C790044–R, to provide hardward for the establishment of radio reading service for the blind and handicapped of Richmond, Virginia. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $31,140. Grant requested: $22,225. Application signed by: Carlton P. Brooks.

Medialle College, 18 Agassiz Circle, Buffalo, New York 14214, File No. 543–R/C790099–R, to expand the services of noncommercial radio station WJPM–FM, operating on 89.9 MH/z, Buffaol, New York. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $33,236. Grant requested: $24,927. Application signed by: Leo R. Downey, President.

*Board of Trustees, University of Illinois, 354 Administration Building, Urbana, Illinois 61820, File No. 544–R/C790003–R, to improve their broadcast capability by acquiring additional production studio facilities to meet expanding community needs for subcarrier authorized program services of WILL–FM on 90.9 MH/z, Champaign, Illinois. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $8,825. Grant requested: $6,618. Application signed by: Linda S. Wilson, Research Board.

St. Lawrence Valley Educational Television Council, Inc., Box 114, Watertown, New York 13601, File No. 545–R/C790040–RA, to establish a noncommercial public radio station WNPE–FM, operating on 89.5 MH/z, Watertown, New York. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $177,843. Grant requested: $121,907. Application signed by: Richard A. Jones, President.

Ball State University, 2000 University, Muncie, Indiana 47306, File No. 546–R/C790041–RA, to improve the broadcasting facilities of noncommercial radio station WBST–FM, operating on 92.1 MH/z, Muncie, Indiana. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $111,293. Grant requested: $83,465. Application signed by: Richard W. Burkhardt, Acting President.

Piscataway Board of Education, Hoes Lane, Piscataway, New Jersey 08854, File No. 547–R/C790126–R, to expand the public broadcasting service of WVPH–FM, operating on 90.3 MH/z, Piscataway, New Jersey. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $12,000. Grant requested: $9,000. Application signed by: Edgar S. Alster, Advisor.

WCUW, Inc., 950 Main Street, Worcester, Massachusetts 01610, File No. 548–R/C790116–R, to augment the broadcasting facilities of noncommercial radio station WCUW–FM, operating on 91.3 MH/z, Worcester, Massachusetts by purchasing remote broadcasting equipment. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $23,934. Grant requested: $17,950. Application signed by: Jane F. Garabedian.

Sunrise Communications, Inc., KZUM–FM, 1142 K Street, Suite 1, Lincoln, Nebraska 68508, File No. 549–R/C790064–RI, to improve the broadcasting facilities of noncommercial radio station KZUM–FM, operating on 89.5 MH/z, Lincoln, Nebraska. Proposal determined acceptable: June 5, 1979. Estimated total project cost: $21,046. Grant requested: $15,814. Application signed by: J. Mark Turner.

Jasha M. Levi-In Touch Networks, Inc., 322 West 48th Street, New York, New York 10036, File No. 550–R/C790127–R, to expand and improve the broadcasting facilities of noncommercial radio station WKCR–FM, New York, New York by improving origination and other equipment and expanding receiving capacity for subcarrier channel authorized services. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $131,300. Grant requested: $100,000. Application signed by: Jasha M. Levi, Executive Director.

Virginia Western Community College, 3095 Colonial Avenue, SW, Roanoke, Virginia 24015, File No. 551–R/C790045–RE, to expand and improve the broadcasting facilities of noncommercial radio station WVMR–FM, operating on 89.1 MH/z, Roanoke, Virginia by expansion of SCA system with addition of 300 receivers and support equipment. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $21,685. Grant requested: $16,263. Application signed by: Harold H. Hopper.

*Bilingual Broadcasting Foundation, Inc./KBBF–FM, Box 7189, Santa Rosa, California 94501, File No. 552–R/C790080–RI, to provide state-of-the-art production and remote equipment to improve signal to Spanish and English speaking audiences, on KBBF–FM, operating on 89.1 MH/z, Santa Rosa, California. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $80,208. Grant requested: $52,703. Application signed by: Patricia Corder.

Mount Union College, 1972 Clark Avenue, Alliance, Ohio 44601, File No. 553–R/C790034–R, to expand and improve broadcasting facilities of noncommercial radio station WRMV–FM, operating on 91.1 MH/z, Alliance, Ohio by extending the available supply of subcarrier channel receivers and improving transmission equipment. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $58,229. Grant requested: $43,672. Application signed by: Ronald G. Weber, President.

Northwestern University, 633 Clark Street, Evanston, Illinois 60201, File No. 554–R/C790084–RI, to improve the broadcasting facilities of noncommercial radio station WNUR–FM, operating on 89.3 MH/z, Evanston, Illinois by upgrading broadcast originating and relating facilities. Proposal determined acceptable: June 8, 1979. Estimated total project cost: $58,800. Grant requested: $44,100. Application signed by: David Mintzer, Vice President for Research & Dean of Science.

*State University of New York, College at Fredonia, Fredonia, New York, 14063, File No. 555–R/C790036–RE, to improve the broadcasting facilities of noncommercial radio station WCVF–FM, operating on 88.9 MH/z, Fredonia, New York. Proposal determined acceptable: July 12, 1979. Estimated total project cost: $28, 475. Grant requested: $21,356. Application signed by: Perrin W. Fenske, Director Sponsored Research.

*Voces Unidas Bilingual Broadcasting Foundation, 1121 N. Main Street, Salinas, California 93906, File No. 556–R/C790049–RA, to establish a noncommercial radio station on 90.9 MH/z, Salinas, California. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $190,095. Grant requested: $142,571. Application signed by: Felix Robles.

*Argo Community High School, 7329 W. 63rd Street, Summit, Illinois, 60501, File No. 557–R/C790025–RE, to expand and improve the broadcasting facilities of noncommercial radio station WARG–FM, operating on 88.9 MH/z, Summit, Illinois by increasing dissemination and originating facilities to expand the community area served. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $29,430. Grant requested: $22,072. Application signed by: Thomas A. Janiak, Director of Media.

The Washington Ear, In., 10111 Colesville Road, #125, Silver Spring, Maryland 20901, File No. 558–R/C790038–RT, to replace original obsolete and worn-out equipment and to equip additional studios for WETA–FM, operating on 90.9 MH/z, Silver Spring, Maryland. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $41,920. Grant requested: $38,920. Application signed by: Margaret Rockwell.

KCPB, Inc., Box 1405, Thousand Oaks, California 91360, File No. 559–R/C790032–RI, to improve the broadcasting facilities of noncommercial radio station KCPB–FM, Thousand Oaks, California by providing multichannel microwave links, equip production studio, and provide subcarrier receivers to specialized audience. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $181,272. Grant requested: $135,954. Application signed by: Alfred James Miller.

South Pike County Consolidated School, 250 West Bay Street, Magnolia, Mississippi 39652, File No. 560–R/C790103–RA, to establish a noncommercial radio station for Magnolia, Mississippi. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $30,700. Grant requested: $23,025. Application signed by: Seth O. Dillion, Jr. Superintendent.

Vermont Public Radio, Box 89.5, Windsor, Vermont 05089, File No. 561–R/C790110–R, to establish a noncommercial radio station at Burlington, Vermont for first service public radio. Proposal determined acceptable: June 27, 1979. Estimated total project cost: $320,000. Grant requested: $240,000. Application signed by: Raymond G. Dilley.

Public Radio for Arizona, 1341 E. Brill, Phoenix, Arizona 85006, File No. 562–R/C790004–R, to establish a noncommercial radio station (bilingual, bicultural) KIAI–FM, operating on 89.5 MH/z, Phoenix, Arizona. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $73,000. Grant requested: $54,000. Application signed by: Felix DeLa Cruz, President.

Great Silence Broadcasting Foundation/KAZU, P.O. Box 206, Pacific Grove, California 93950, File No. 563–R/C790076–RE, to expand and improve the broadcasting facilities of non-commercial radio station KAZU–FM, operating on 90.3 MH/z, Pacific Grove, California by replacing transmitter, antenna and relocate transmission facilities to increase coverage area. Proposal determined acceptable June 5, 1979. Estimated total project cost: $110,651. Grant requested: $82,988. Application signed by: Donald Mussell.

*Greater Atlanta Radio Reading Service, Inc., 761 Peachtree Street, NE, Atlanta, Georgia 30308, File No. 564–R/C790018–R, to establish a noncommerical radio station to link with WABE, Atlanta, Georgia. Proposal determined acceptable: June 4, 1979. Estimated total project cost: $146,500. Grant requested: $109,875. Application signed by: James E. Cashin.

Radio Talking Book Service, Inc., 3219 Cuming Street, Omaha, Nebraska 68131, File No. 565–R/C790090–R, to expand the broadcasting facilities of noncommercial radio station with service through KIOS–FM, in Omaha and KSRE–FM, a commercial station in Seward, Nebraska. Proposal determined acceptable: May 31, 1979. Estimated total project cost: $11,800. Grant requested: $8,850. Application signed by: Richard Parker.

*West Virginia Library Commission, Science & Cultural Center, Charleston, West Virginia 25305, File No. 566–R/C790109–R, to extend SCA service to the blind in 28 counties of S. West Virginia via a 3 station network. WVPN, Charleston, WVPB Beckley, and WHPW, Harrington. Requesting 2000 receivers and production equipment. Proposal determined acceptable May 31, 1979. Estimated total project cost: $170,000. Grant requested: $150,000. Application signed by: Frederick J. Glazer.

Memphis/Shelby County Public Library & Information Center, 1850 Peabody Avenue, Memphis, Tennessee

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38104, File No. 567–R/C790108–RE, to establish the "Memphis Talking Library" to bring programming to the blind and physically handicapped of Shelby County utilizing the SCA and capacity of WKNO–FM, Memphis, Tennessee. Proposal determined acceptable: June 7, 1979. Estimated total project cost: $74,790. Grant requested: $56,092. Application signed by: C. Lamar Wallis, Director.

Nonbroadcast Facilities

*City of Oakland and Oakland Unified School District, 1421 Washington Street, Oakland, California 94612, File No. 1–N/C790014–N to interconnect city and public school building in Oakland to Cable CATV System. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $387,955. Grant requested: $288,928. Application signed by: David A. Self.

*California State University, Chico, W. First and Normal Street, Chico, California 95929, File No. 2–N/C790039–N to establish first service microwave/ITFS links to complete ITFS network. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $332,380. Grant requested: $249,285. Application signed by: Robert Fredenburg.

Office of Research and Development, Montana State University, Bozeman, Montana 59717, File No. 3–N/C790019–NT for origination facilities to produce local programming to be distributed to Montana cable companies and when activated via satellite to seven rural Montana locations. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $400,291. Grant requested: $300,141. Application signed by: John W. Jubla, Vice President for Research.

City of Yreka, 701 Fourth Street, Yreka, California 96097, File No. 4–N/C79022–N to provide video equipment to provide "on line" broadcast signals to public access cable company facilities in Yreka, California. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $42,099. Grant requested: $33,679. Application signed by: James L. Dillon.

Superintendent of Schools Department of Education, San Diego County, 6401 Linda Vista Road, San Diego, California 92111, File No. 5–N/C790015–N to extend cable TV/ITFS to areas not now served including some magnet schools to support San Diego City Schools integration effort. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $468,000. Grant requested: $351,000. Application signed by: Gerald A. Rosander.

*The Regents of the University of Colorado Education Media Center, Educational Media Center, Boulder, Colorado 80309, File No. 6–N/C790041–NA to establish color television production capability in Boulder to offer several public telecommunications systems in the city (cable, ITFS, etc.) local programming. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $250,000. Grant requested: $287,500. Application signed by: Milton Lipetz, Vice Chancellor for Research.

Mercer County Community College, 1200 Old Trenton Road, Trenton, New Jersey 08690, File No. 7–N/C790024–N to establish cable by expanding telecommunications origination facilities in order to provide additional service to WOW99 ITFS/GPB in West Windson, New Jersey. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $313,287. Grant requested: $234,960. Application signed by: John P. Hanley, President.

Research Foundation of CUNY jointly with Brooklyn College of CUNY, 1515 Broadway, 40th Floor, New York, New York 10036, File No. 8–N/C790035–N to construct nonbroadcast facility by interconnecting studios at Brooklyn College with channel 31 ETV, New York City, New York. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $28,775. Grant requested: $23,000. Application signed by: Linda Sitea, Director, Office of Grants and Research.

*Knoxville Communications Coorperative, Inc., 1022 College Street, Knoxville, Tennessee 37921, File No. 9–N/C790033–N to expand existing telecommunications capacity by providing cable television services, Knoxville, Tennessee. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $106,425. Grant requested: $79,819. Application signed by: Emanuel Bailey, Administrative Vice President.

Applachian Regional Commission, 1666 Connecticut Ave., NW, Washington, DC 20235, File No. 10–N/C790004–NE to purchase dissemination (22 Earth Stations) equipment to provide service to rural and under-represented audiences in 42 communities via RCA satcom I satellite. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $1,536,227. Grant requested: $1,041,227. Application signed by: Harold E. Morse.

*Palomar Community College, 1140 W. Mission Road, San Marcos, California 92083, File No. 11–N/C790026–N to develop and extend use of instructional TV to meet the needs of higher education for north San Diego County. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $246,112. Grant requested: $169,112. Application signed by: Theodore Kilman.

*Tri-County Regional Library, P.O. Box 277, Rome, Georgia 30161, File No. 12–N/C790032–N to extend library video services in Floyd, Bartow, and Polk Counties and to Chattanooga County, through establishing microwave facilities and to upgrade its production studio. Estimated total project costs: $790,848. Grant requested: $593,136. Application signed by: Emily C. Payne, Director.

*Kirkwood Community College, P.O. Box 2068, Cedar Rapids, Iowa 52406, File No. 13–N/C790005–NA to establish interactive microwave ITFS system within 7 counties of Iowa with 8 cities having local origination capability. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $1,820,191. Grant requested: $1,365,143. Application signed by: Dr. Bill F. Stewart, President.

*South Carolina Education Television Commission, P.O. Drawer L, Columbia, South Carolina 29250, File No. 14–N/C790003–NA to establish ITFS services for Georgetown County, South Carolina as a means of improving basic skills of students, providing adult education, providing in-service training for school personnel, and communicating with residents throughout the county. Proposal determined acceptable: May 31, 1979. Estimated total project costs: $510,972. Grant request: $383,229. Application signed by: Henry J. Cauthen, President and General Manager.

*Northeastern Pennsylvania Education Television Association, Old Boston Road, Pittston, Pennsylvania 18640, File No. 15–N/C790043–N to construct a sophisticated and wide-ranging telecommunications system by tying together existing elements as well as providing new systems to homes, government offices, schools, etc., through satellite, ITFS, cable and closed circuit. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $1,571,380. Grant request: $1,178,535. Application signed by: George H. Strimel.

*Agency for Public Telecommunications, 116 West Jones Street, Raleigh, North Carolina 27611, File No. 16–N/C790017–N to establish a facility to provide tape duplication to extend various public telecommunications services throughout the State. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $58,000. Grant request: $43,500. Application signed by: John W. Gremsley, Secretary of Administration.

Trustees of Bethany College, Bethany, West Virginia 26032, File No. 17–N/C790028–N to supplement existing programs for the elderly by developing 25 cablecast programs dealing with inadequate income, housing health care, nutrition, law and the elderly and aging process. Programs will be "bicycled" to more than 20 cable systems and 33 satellite centers. Also, to request equipment required for project. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $234,922. Grant request: $176,192. Application signed by: William E. Tucker.

*Oldtown Community System, Route 1 Box 19, Oldtown, Maryland 21555, File No. 18–N/C790008–NA to provide a model for National application of Broadband Communications in rural areas. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $895,363. Grant request: $232,436. Application signed by: Richard McNally.

Center for Excellence, Inc., P.O. Box 158, Williamsburg, Virginia 23185, File No. 19–N/C790007–NE for completion of backbone of America's first multi-service, multi-channel, two way, privacy-protected consortium operated public service telecommunications delivery system network in Williamsburg, Virginia. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $436,000. Grant request: $327,000. Application signed by: John A. Curtis.

*Venango Video, Inc., 503 13th Street, Franklin, Pennsylvania 16323, File No. 20–N/C790011–N to request grant to construct a complete color TV equipment mobile van for production and play back through two local cable systems. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $22,000. Grant request: $12,000. Application signed by: William C. Corbett.

*Lyndon State College, Vail Hill, Lyndonville, Vermont 15851, File No. 21–N/C790031–N to establish new TV interconnection and production facility at Lyndon State College Vermont. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $104,764. Grant request: $78,573. Application signed by: Janet G. Murphy, Director of Development.

*Board of Cooperative Education Service (BOCES) of Nassau City, Wyngate and Peony Drive, North Massapequa, New York 11758, File No. 22–N/C790025–N to construct a community cable production unit and improve station KNU channel 43 in North Massapequa, New York. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $169,650. Grant request: $127,237. Application signed by: Dr. William T. Callahan, Director.

Corning Community College, Corning, New York 14830, File No. 23–N/C790013–N to construct a cable television inter-connection system in Corning, New York. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $9,937. Grant request: $7,453. Application signed by: Dr. Donald H. Hangen, President Corning Community College.

*Memphis/Shelby County Public Library and Information Center, 1850 Peaboy Avenue, Memphis, Tennesee 38104, File No. 24–N/C790027–N to establish a production facility for non-profit community groups to utilize in programming public access channels provided by Memphis CATV, Inc. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $70,150. Grant request: $17,538. Application signed by: C. Lamar Wallis, Director.

State University of New York, Plattsburgh Campus, c/o Instructional Resources, P.O. Box 9, Albany, New York 12201, File No. 25–N/C790010–NE/I to construct a cable/ITFS system and improve station by upgrading origination equipment for WBK 219 2500 MH/z in Plattsburgh, New York. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $98,160. Grant request: $70,675. Application signed by: Dr. Paul Roman, Dean of Graduate Studies and Research.

*Burlington County College, Pemberton-Browns Mills Rd., Pemberton, New Jersey 08068, File No. 26–N/C790030–N to construct a cable television system and extend existing system by upgrading origination and interconnection equipment to serve regional community telecommunications needs in Pemberton, New Jersey. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $366,790. Grant requested: $268,990. Application signed by: Harmon B. Pierce, President.

*Union Township Board of Education, 2369 Morris Avenue, Union, New Jersey 97983, File No. 27–N/C790020–N to construct a nonbroadcast cable/microwave system; extend and improve station at WGM–95 channel 8 in Union, New Jersey. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $116,430. Grant requested: $87,322. Application signed by: Dr. James Caulfield, Superintendent of Schools.

Albright College, 13th and Exeter Streets, Reading, Pennsylvania 19603, File No. 28–N/C790018–N to upgrade equipment of origination in radio station, link TV studio to cable system (also radio) provide organization from theater, chapel, gym, and stadium at WXAC–FM 91.3 in Reading, Pennsylvania. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $91,582. Grant requested: $68,865. Application signed by: David G. Ruffen.

*Eastern Band of Cherokee Indians, P.O. Box 455, Cherokee, North Carolina 28719, File No. 29–N/C790006–NA to assist in the establishment of a cable system to deliver public service and educational programming to residents of the Cherokee Indian Reservation. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $359,500. Grant requested: $269,625. Application signed by: John A. Crowe, Principal Chief.

*University of Alaska, Media Services Department, 3211 Providence Drive, Anchorage, Alaska 99504, File No. 30–N/C790029–N to establish public telecommunications facilities which interface with the cable system, the statewide satellite system, and the AFSN satellite system. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $563,721. Grant requested: $422,790. Application signed by: Dr. Frank Harrison, Chancellor.

Ohio County Board of Education, National Road, Wheeling, West Virginia 26003, File No. 31–N/C790036–N to establish a basic TV production studio to increase effective utilization of school and community resources. Expansion of basic services at Wheeling Park and other county schools and community via cable. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $127,800. Grant requested: $100,800. Application signed by: Henry Marockie.

State University of New York, College of Arts and Sciences at Oswego, State University Plaza, Albany, New York 12246, File No. 32–N/C790001–N to upgrade origination equipment and install microwave interconnection equipment to furnish public telecommunications services to the Oswego community via community cable. Proposal determined acceptable: June 5, 1979. Estimated total project costs: $85,840. Grant requested: $64,380. Application signed by: Harry K. Spindler, Vice Chancellor for Finance and Business.

Board of Cooperative Educational, Spring Road, Verona, New York 13478,

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File No. 33–N/C790040–N to extend existing system by establishing microwave interconnection services between telecommunications dissemination and origination facilities in the community. Proposal determined acceptable: June 7, 1979. Estimated total project costs: $53,882. Grant requested: $40,411. Application signed by: Dr. Andrew D. Rossitti.

University of Houston, Gulf Region Educational TV Affiliates, 4513 Cullen Boulevard, Houston, Texas 77004, File No. 34–N/C790042–N to acquire equipment to deliver instructional TV services to school districts within the signal coverage of the University's PTV station KUHT–TV. Proposal determined acceptable: June 4, 1979. Estimated total project costs: $273,452.95. Grant requested: $205,089.71. Application signed by: Julie T. Norris, Director.

Combined Radio/Television Facilities

Southern Tier Educational Television Association, Box 97, Endwell, New York 13760, File No. 1–C/C790001–CR/T to improve station by acquiring origination and test facilities for public television station WSKG channel 46 and for radio station WSKG–FM 89.3 MH/z both in Binghamton, New York. Proposal determined acceptable: May 31, 1979. Estimated total project costs: $516,115. Grant requested: $387,086. Application signed by: Arthur F. Dees, President and General Manager.

(47 U.S.C. 390–95; 397–99).

(Catalog of Federal Domestic Assistance Program No. 11.550, Public Telecommunications Facilities Program.)

This Notice issued in Washington, D.C.

Henry Geller,

Administrator, National Telecommunications and Information Administration.

[FR Doc. 79–24461 Filed 8–7–79; 8:45 am]

BILLING CODE 3510–60

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federal register

Wednesday
August 8, 1979

Part V

Securities and Exchange Commission

Going Private Transactions by Public Companies or Their Affiliates

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 33-6100 and 34-16075; IC-10505]

Going Private Transactions by Public Companies or Their Affiliates

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of a new rule and schedule relating to going private transactions by public companies or their affiliates. The rule and schedule prohibit fraudulent, deceptive and manipulative acts or practices in connection with going private transactions and prescribe new filing, disclosure and dissemination requirements as a means reasonably designed to prevent such acts and practices. This action is necessary and appropriate in the public interest and for the protection of investors because of the continued occurrence of going private transactions, the variety of methods employed in such transactions, and the possible deleterious effects to investors and their confidence in securities markets absent full and adequate disclosure.

EFFECTIVE DATE: September 7, 1979.

FOR FURTHER INFORMATION CONTACT: John Granda or John Huber (202-755-1750), Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of a new Rule 13e-3 and related Schedule 13E-3 pursuant to Sections 17(a) and 19 of the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and Sections 3(b), 10(b), 13(e), 14(a), 14(c), 14(e), and 23(a) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) with respect to going private transactions by public companies or their affiliates. The Rule and Schedule are intended to augment and implement the present statutory provisions by prohibiting fraudulent, deceptive and manipulative acts or practices in connection with going private transactions and by prescribing new filing, disclosure and dissemination requirements as a means reasonably designed to prevent such acts and practices.

The Commission is also concurrently publishing for comment a proposed amendment to Schedule 13E-3 which would require disclosure of projections of revenues, income (loss), or earnings (loss) per share under certain circumstances. In addition, the Commission is concurrently adopting Rule 13e-4 and related Schedule 13E-4 which provide substantive regulation and disclosure requirements with respect to tender offers by certain issuers for their own securities. Since these tender offers may involve going private transactions, attention is directed to the provisions of that rule and schedule.

Rule 13e-3 and Schedule 13E-3 are based primarily on the proposals published for comment by the Commission in November 1977 [1] (the "1977 proposals" or the "former proposals"), the 49 letters of comment received in response thereto,[2] and the Commission's experience. The release announcing the 1977 proposals (the "1977 release") included an extended discussion of the nature of going private transactions, the development of the 1977 proposals, and, most significantly, the need for Commission rules governing these transactions and its statutory authority to adopt such rules. In addition to questioning the need for the proposals, the commentators were especially critical of the breadth of their application as well as the requirement that a Rule 13e-3 transaction be fair to unaffiliated security holders. Although the proposals have been revised, as described below, to address those, as well as certain other concerns raised by the commentators, the Commission continues to believe that the views expressed in the 1977 release are sound and therefore specifically affirms those views.[3]

Most of the commentators were opposed to the requirement in the 1977 proposals that a Rule 13e-3 transaction must be both substantively and procedurally fair to unaffiliated security holders. A number of these commentators expressed the view that the Commission does not have the authority to adopt such a requirement. They also maintained that, in the absence of an explicit legislative mandate to regulate the fairness of going private transactions, the Commission should, as a matter of policy, refrain from doing so because substantive regulation of corporate affairs is, in their view, a subject for state and not federal cognizance. It was noted in this regard that recent decisions by state courts indicate that state law provides protection to unaffiliated security holders if control persons act unfairly when taking a company private.[4] The imposition of a federal fairness requirement was also criticized because it would, in their view, result in the staff making decisions concerning the fairness of a proposed transaction in connection with its review of registration statements, preliminary proxy materials and tender offer documents relating to going private transactions. These commentators believe that the staff would not have the resources and expertise to handle such a role.

The Commission believes that the question of regulation of the fairness of going private transactions should be deferred until there is an opportunity to determine the efficacy of the provisions of Rule 13e-3. Further developments in the remedies provided by state law for unfairness in going private transactions will also be important in this regard. In the interim, the Commission believes that the protection of investors will be enhanced substantially by the more meaningful disclosure, particularly with respect to the fairness of going private transactions, and the other protections afforded by Rule 13e-3.

Several commentators criticized the application of the 1977 proposals to transactions which in their view do not involve the potential for abuse and overreaching associated with the normal going private transaction. Thus, they were of the view that the following types of transactions, among others, should not be covered: (i) mergers following an any and all tender offer by a bidder who, as a result of the tender offer, becomes an affiliate if the same price were being paid in each transaction; (ii) exchange offers to holders of non-redeemable preferred stock or convertible debentures; (iii) transactions structured to create a holding company or reincorporate the entity in a new jurisdiction; and (iv) mergers with and exchange offers by affiliates in which unaffiliated security holders would receive common stock of the surviving entity. In response to these comments, exceptions for such transactions are not provided by paragraphs (g)(1) and (g)(2) of Rule 13e-3, assuming that the other conditions of those provisions are satisfied.

[1] Securities Exchange Act Release No. 34-14185 (November 17, 1977) (42 FR 60090).

[2] Copies of these comment letters are available for public inspection and copying at the Commission's Public Reference Room (File No. S7-729).

[3] The 1977 release also included a discussion of the implication of a private right of action under Section 13(e) of the Exchange Act. Release No. 34-14185 (42 FR at 60099-60100). The Commission is aware of case law subsequent to the 1977 release, see, e.g., *Cannon* v. *University of Chicago*, 47 U.S.L.W. 4549 (U.S. May 14, 1979) and *Touche Ross & Co.* v. *Redington*, 47 U.S.L.W. 4732 (U.S. June 18, 1979), and continues to adhere to the position in the 1977 release.

[4] The commentators cited the following decisions for this proposition: *Berkowitz v. Power/Mate Corp.*, 135 N. J. Super. 36, 342 A.2d 566 (Super. Ct. Ch. Div. 1975); *People v. Concord Fabrics*, 371 N.Y.S.2d 550 (Sup. Ct. N.Y. City 1975) aff'd mem. 377 N.Y.S.2d 84 (A.D. 1st Dept. 1976); *Singer v. Magnavox*, 380 A.2d 969 (Del. 1977); *Tanzer v. International General Industries, Inc.*, 379 A.2d 1121 (Del. 1977).

Discussion

(a) Overview of Application of Rule 13e-3—Rule 13e-3 and Schedule 13E-3 operate in essentially the manner proposed. Thus, the application of the rule will depend on three factors: (1) whether the transaction involved is a Rule 13e-3 transaction; (2) if so, whether an exception from the application of Rule 13e-3 is available; and (3) if no exception is available, whether the equity securities which are the subject of the Rule 13e-3 transaction are of a class which is registered pursuant to Section 12 of the Exchange Act or of a class of an issuer which is required to file periodic reports pursuant to Section 15(d) of the Exchange Act.

A Rule 13e-3 transaction is defined to mean any transaction or series of transactions involving one or more of the transactions specified in paragraph (a)(4)(i) which has either a reasonable likelihood or purpose of producing, directly or indirectly, any of the effects specified in paragraph (a)(4)(ii). The specified transactions are: (a) a purchase of any equity security by the issuer of such security or by an affiliate of such issuer; (b) a tender offer or request or invitation for tenders of any equity security made by the issuer of such class of securities or by an affiliate of such issuer; or (c) a solicitation or distribution subject to Regulation 14A [§§ 240.14a-1 to 240.14a-103] or Regulation 14C [§§ 240.14c-1 to 14c-101] in connection with certain corporate events. The corporate events include a merger, consolidation, reclassification, recapitalization, reorganization or similar corporate transaction by an issuer or between an issuer (or its subsidiaries) and its affiliates; a sale by the issuer of substantially all of its assets to its affiliate; or a reverse stock split of any class of equity securities of the issuer involving the purchase of fractional interests.

As proposed, the effects selected to trigger the application of Rule 13e-3 were entirely in the disjunctive. As noted by the commentators, this produced the unintended result of applying Rule 13e-3 to specified transactions which had the reasonable likelihood or purpose of causing, for example, a class of equity securities of the issuer to be subject to delisting from an exchange, even though the securities would have continued to be authorized to be quoted on an inter-dealer quotation system of a registered national securities association. As revised, Rule 13e-3 is triggered by a specified transaction which has either the reasonable likelihood or purpose of causing either (i) the termination of reporting obligations under the Exchange Act, by virtue of the class of securities being held of record by less than 300 persons, or (ii) the securities to be neither listed on any exchange nor authorized to be quoted.[5] on an inter-dealer quotation system of any registered national securities association. Accordingly, in the above illustration, delisting of a class of equity securities from an exchange would not trigger the application of Rule 13e-3 if the securities were nevertheless authorized to be quoted on an inter-dealer quotation system of a registered national securities association.

The tests of "a reasonable likelihood" or "a purpose" that the transaction or series of transactions will produce a specified effect operate as alternative standards. The tests are designed to operate independently; the presence of either will trigger the application of Rule 13e-3. In a given situation, however, both tests may be met. The tests would apply equally to issuers and affiliates of issuers. In resolving close questions as to the application of the tests, issuers and affiliates are encouraged to resolve such questions in favor of compliance with the more limited burdens imposed by the revised requirements of the rule.

Both tests were criticized by the commentators on the ground that they are overly subjective. However, a more objective standard would lend itself to circumvention through skillful planning. The Commission believes, moreover, that it is reasonable for the protection of investors to require the person who is engaging in a transaction which may have a specified effect to determine whether either or both of these tests are satisfied. In order to be effective, the disclosure required by Rule 13e-3 must be received by security holders before consummation of the transaction or the earliest transaction in a series of transactions having a specified effect. These tests ensure that this objective will be accomplished.

The special position occupied by the persons subject to Rule 13e-3 should enable them to make the necessary determination before the transaction without substantial difficulty. Thus, the issuer and affiliates, through their control of the issuer, have access to all of the information which is necessary to determine whether the reasonable likelihood test, which focuses on the circumstances of the issuer, is met. The "purpose test," on the other hand, focuses on the reasons for the transaction. The issuer or affiliate is obviously in a position to know whether a reason for the transaction is to produce a specified effect.

In addition, objectivity is provided by the effects selected for identifying a "going private transaction." These specific standards provide certainty and avoid, where practicable, having the application of the rule turn upon subjective evaluations of the purposes and intentions of persons proposing to enter into a transaction. Each of these effects has the result of depriving a security holder of the benefits of public ownership. The effects are selected because of this result and not because the Commission's regulatory jurisdiction with respect to such securities will be terminated.

Questions have been raised as to whether multi-step sale of assets transactions of the type described in Securities Exchange Act Release No. 34-15572 (44 FR 11537) fall within the definition of a Rule 13e-3 transaction. Typically, transactions of this type involve a cash sale of substantially all of the assets of a public company ("seller") to another company ("purchaser"), often a private company not otherwise engaged in a trade or business, with the management of the business continuing to be conducted by the managers of the seller. In some cases, the sale of assets, if approved, may be followed closely by a tender offer by the seller to repurchase its shares for cash out of the proceeds received from the sale. Another variation of such transaction involves a second sale of the seller's assets (which, after the sale, consist solely of cash) to a tax exempt bond fund. The seller is then dissolved and its shareholders receive shares of the tax exempt fund.

A multi-step sale of asset transactions of the type described above which involves an issuer tender offer or purchases by the issuer would normally constitute a Rule 13e-3 transaction. A Rule 13e-3 transaction is defined to include a series of transactions

[5] The standards for securities which are authorized to be quoted in the nationwide automated quotation system of the National Association of Securities Dealers ("NASD"), known as the NASDAQ System, are set forth in Schedule D to the by-laws of the NASD.

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involving one or more of the transactions described in paragraph (a)(4)(i) which has either a reasonable likelihood or purpose of producing, directly or indirectly, any of the effects described in paragraph (a)(4)(ii). While a sale of assets to a non-affiliate is not a transaction specified in paragraph (a)(4)(i), a tender offer or purchases by the issuer is such a transaction. Thus, the combination of these transactions constitutes a series of transactions involving a transaction specified in paragraph (a)(4)(i). A tender offer or purchases by the issuer in these circumstances will generally have a purpose or a reasonable likelihood of producing the effects described in paragraph (a)(4)(ii). Accordingly, the requisite elements of a Rule 13e–3 transaction are usually present.

Even though a multi-step sale of assets transaction of this type is structured without a tender offer or purchases by the issuer, it will nevertheless constitute a Rule 13e–3 transaction if the purchaser is an affiliate of the seller. An affiliate of the issuer is defined in Rule 13e–3(a)(1) to include a person that controls, is controlled by or is under common control with such issuer. Accordingly, if a person or group of persons owns a controlling equity interest in both the purchaser and the seller, the sale of assets would be made to an affiliate of the issurer and would be clearly covered by Rule 13e–3, assuming there is a solicitation or distribution subject to Regulation 14A [§§ 240.14a–1 to 14a–103] or 14C [§§ 240.14c–1 to 14c–101], respectively. The determination of whether a person is in control of an issuer, of course, depends on all the facts and circumstances and is not limited to control obtained through ownership of equity securities. Thus, affiliates of the seller often become affiliates [6] of the purchaser through means other than equity ownership as part of the overall sales transaction and thereby are in control of the seller's business both before and after the transaction. In such cases the sale, in substance and effect, is being made to an affiliate of the issuer and would constitute a Rule 13e–3 transaction if a solicitation subject to Regulation 14A [§§ 240.14a–1 to 14a–103] or distribution subject to Regulation 14C [§§ 240.14c–1 to 14c–101] is involved.

[6] For the purpose of these transactions, the Commission would not view a person as an affiliate of the purchaser solely because such person enters into or agrees to enter into a reasonable and customary employment agreement or is elected or there is an agreement to elect such person as an executive officer or director of the purchaser.

If the requirements of a Rule 13e–3 transaction are present, the application of the rule would be triggered unless an exception ia available. Accordingly, the second factor to be considered is the availability of the exceptions set forth in paragraph (g). The exceptions included in the 1977 proposals, *viz.* transactions by a holding company registered under the Public Utility Holding Company Act of 1935, certain solicitations by an issuer with respect to a plan of reoganization under Chapter X of the Bankruptcy Act, and redemptions, calls or purchases pursuant to the instruments creating or governing the class of equity securities involved, have been adopted essentially as proposed. Two new exceptions have also been added.

First, Rule 13e–3(g)(1) excepts second-step, clean-up transactions which occur within one year of a tender offer by or on behalf of a bidder who, as a result of such tender offer, became an affiliate, provided that the equal consideration, disclosure and other requirements of the rule are met. The Commission believes that if a transaction is structured to meet the conditions of that rule it may safely be viewed as a unitary transaction which is not within the purview of the purposes of Rule 13e–3.

Second, Rule 13e–3(g)(2) provides an exception for transactions, including recapitalizations, in which, *inter alia*, security holders are offered only an equity security which is either common stock or has essentially the same attributes as the equity security which is the subject of the Rule 13e–3 transaction. The Commission believes that such transactions are also outside the purpose of Rule 13e–3 since all holders of that class of security are on an equal footing and are permitted to maintain an equivalent or enhanced equity interest.

The third factor to be considered in the application of Rule 13e–3 is the status under the Exchange Act of the issuer or the class of equity securities of the issuer. If the class of equity securities, which is subject to the Rule 13e–3 transaction, is registered pursuant to Section 12 of the Exchange Act (a "Section 12 issuer"), Rule 13e–3(b) [17 CFR 240.13e–3(b)] would apply. Rule 13e–3(b) is divided into two subparagraphs, the first of which defines fraudulent, deceptive or manipulative acts or practices in connection with a Rule 13e–3 transaction and the second of which prescribes means reasonably designed to prevent such acts and practices. Thus, a Section 12 issuer or an affiliate of such issuer proposing to engage in a Rule 13e–3 transaction would be required to comply with the anti-fraud provisions of proposed Rule 13e–3(b). Compliance with these provisions would be in addition to compliance by a Section 12 issuer or affiliate of such issuer with the filing, disclosure and dissemination requirements of paragraphs (d), (e) and (f) of Rule 13e–3, respectively.

If the issuer of the class of securities which is subject to the Rule 13e–3 transaction is required to file periodic reports pursuant to Section 15(d) of the Exchange Act (a "Section 15(d) issuer") Rule 13e–3(c) [17 CFR 240.13e–3(c)] would apply. Under paragraph (c), a Section 15(d) issuer or an affiliate of such an issuer proposing to engage in a Rule 13e–3 transaction would be required to comply with the filing, disclosure and dissemination requirements of paragraphs (d), (e) and (f) or Rule 13e–3, respectively.

Since the provisions of Rule 13e–3 are not exclusive, the transaction would also be subject to other applicable provisions of the Federal securities laws. For example, if an affiliate of a Section 12 issuer made a tender offer for a class of equity securities of such an issuer which would be deemed to be a Rule 13e–3 transaction, the affiliate would also be subject to the other requirements of the Federal securities laws including, but not limited to, Sections 10(b), 14(d) and 14(e) of the Exchange Act and the rules promulgated thereunder. Similarly, if an affiliate of a Section 15(d) issuer made a tender offer for a class of equity securities of such an issuer which would be deemed to be a Rule 13e–3 transaction, the affiliate would also be subject to the other requirements of the Federal securities laws, including, but not limited to, Sections 10(b) and 14(e) of the Exchange Act, the rules promulgated thereunder, and Rule 13e–4.

(b) Filing Requirements—Under Rule 13e–3(d)(1) [17 CFR 240.13e–3(d)(1)], the issuer or affiliate engaging in a Rule 13e–3 transaction would be required to file a Rule 13e–3 Transaction Statement on Schedule 13E–3 [17 CFR 240.13e–100], including all exhibits thereto, with the Commission. The time for such an initial filing is set forth in General Instruction A to Schedule 13E–3. This instruction recognizes the variety of methods employed in such transactions. Consequently, the initial filing requirement for the proposed Schedule would depend on the type of Rule 13e–3 transaction involved. If the transaction involves the filing with the Commission of soliciting materials or an information statement pursuant to Regulations 14A [17 CFR 240.14a–1 to 240.14a–103] or 14C [17 CFR 240.14c–1 to 240.14c–101], respectively, the Schedule 13E–3 would be filed concurrently with the filing of "Preliminary Copies" of such soliciting materials or information statement. If the transaction involves the filing of a registration statement under the Securities Act, the Schedule would be filed concurrently therewith. If the transaction involves a tender offer, the Schedule would be filed as soon as practicable on the date the tender offer is first published, sent or given to security holders of the class of equity securities which is the subject of the Rule 13e–3 transaction. In cases where the transaction does not involve a solicitation, an information statement, the registration of securities or a tender offer, as described above, the Schedule would be required to be filed with the Commission at least 30 days prior to the date of any purchase by the issuer or affiliate of any securities of the class of securities subject to the Rule 13e–3 transaction. If the Rule 13e–3 transaction involves a series of transactions, the issuer or affiliate would file a Rule 13e–3 Transaction Statement on Schedule 13e–3 at the specified time for the first transaction in such series and would promptly amend the schedule with respect to each subsequent transaction.

Material changes in the information set forth in the initial filing of the Schedule would be required to be promptly filed with the Commission under Rule 13e–3(d)(2) [17 CFR 240.13e–3(d)(2)]. These filings would be denominated as amendments on Schedule 13e–3.[7]

A final amendment on Schedule 13e–3 disclosing the results of the Rule 13e–3 transaction would be required to be filed under Rule 13e–3(d)(3)] [17 CFR 240. 13e–3(d)(3) promptly but not later than ten days after the termination of the transaction. If the Rule 13e–3 transaction is a tender offer governed by Rule 13e–4 [17 CFR 240.13e–4], the final amendment would be filed no later than ten business days after the termination of such tender offer.

The need for a separate filing requirement was questioned in the letters of comment. The Commission believes, however, that a specific filing framework specifically tailored to Rule 13e–3 transactions is an administrative necessity if the Commission is to monitor these transactions effectively. Moreover, the resulting burden has been reduced to the extent feasible. Thus, if the Rule 13e–3 transaction reported on in the Schedule involves a transaction subject to Regulation 14A or 14C under the Exchange Act, the registration of securities under the Securities Act, or a tender offer subject to Regulation 14D or Rule 13e–4, General Instruction F to Schedule 13E–3 would require the Items of the Schedule to be answered by information incorporated by reference from the proxy or information statement, the registration statement, the Schedule 14D–1 or Schedule 13E–4. In such cases, the filing requirement under Rule 13e–3 will be satisfied by filing a Schedule 13E–3 containing a cover sheet, cross reference sheet, a copy of the proxy material, information statement, registration statement, Schedule 14D–1 or Schedule 13E–4 and a signature page.

General Instruction F to the proposed Schedule would not be applicable in transactions where no other filings, as described above, would be required under the Federal securities laws. An example of such a transaction is a short form merger.[8] In such transactions, the Schedule 13E–3 would be the only filing with the Commission concerning the Rule 13e–3 transaction.

(c) Disclosure Requirements—Rule 13e–3(e) establishes the information required to be included in the disclosure document furnished to holders of the class of equity securities which is the subject of the transaction. This disclosure provision consists of two elements: (1) the information required by Items 1 through 6 and 10 through 16 of Schedule 13E–3 [17 CFR 240.13e–100], or a fair and adequate summary thereof, and Items 7, 8 and 9 of the Schedule and (2) any other information required to be disclosed pursuant to any other applicable rule or regulation under the Federal securities laws.

Rule 13e–3(e)(3)(ii) requires the placement of a legend on the outside front cover page of the document which contains the information required by paragraph (e). The wording of the legend will depend on whether the Rule 13e–3 transaction involves a prospectus. If a prospectus is involved, the legend required by Rule 13e–3(e)(3)(ii)(B) shall be used in lieu of the legend set forth in Rule 425 (17 CFR 230.425). Commentators objected to the legend requirement in the proposal on the grounds that it would not be helpful to investors and that Rule 13e–3 transactions should not be singled out for this purpose.

The Commission believes that the legend will be of assistance to investors by clarifying the Commission's role in reviewing Rule 13e–3 transactions, and by assuring, to the extent possible, that they do not place false reliance upon such review. The need for such a warning is evident from the letters which the Commission receives from investors complaining of the effects of going private transactions. Those letters reflect the misimpression that the Commission passes upon the substantive merits of transactions and guarantees the accuracy and adequacy of the disclosure. Without requiring a legend, the potential for such misimpressions is increased by the disclosure now required with respect to the fairness of the transaction to unaffiliated security holders.

The Commission believes that certain of the required disclosures are particularly important to investors in the context of a Rule 13e–3 transaction and is therefore requiring that they be adequately highlighted. Thus, Rule 13e–3(e) requires the information called for by Items 7, 8 and 9 of Schedule 13E–3, relating to the purpose for and fairness of the transaction and certain reports, opinions, appraisals and negotiations, to be prominently set forth in a special factors section to be included in the forepart of the disclosure document furnished to security holders.

(d) Dissemination Requirements—Rule 13e–3(f) prescribes the methods of dissemination of the information required to be disclosed to the security holders of the class of equity securities which is the subject of the Rule 13e–3 transaction. The method of dissemination applicable to a Rule 13e–3 transaction depends on the type of transaction involved.

If the Rule 13e–3 transaction is a purchase as described in Rule 13e–3(a)(4)(i)(A) [17 CFR 240.13e–3(a)(4)(i)(A)] or a vote, consent or authorization or distribution of information statements, as described in proposed Rule 13e–3(a)(4)(i)(C) [17 CFR 240.13–3(a)(4)(i)(C)], Rule 13e–3(f)(1) [17 CFR 240.13e–3(f)(1)] would apply. While the disclosure would be disseminated in accordance with the provisions of applicable Federal or state law, in no event would such dissemination occur later than 20 days prior to: any such purchase; any such vote; consent or authorization; or with respect to the distribution of information statements, the meeting date, or if corporate action is to be taken by means of the written authorization or consent of security

[7] General Instruction H of the Schedule would permit the person filing an amendment to the Schedule disclosing a material change in the information set forth therein to omit any information previously disclosed in the Schedule.

[8] In a short form merger a corporation owning a large percentage of the outstanding shares of another corporation may merge such other corporation into the parent corporation upon approval of the parent corporation's board of directors and without the approval of the shareholders of either corporation. *See, e.g.*, Del. Gen. Corp. Law § 253 (1967) (90% ownership required).

holders, the earliest date on which corporate action may be taken. Thus, Rule 13e–3(f)(1)(i)(A) would provide for a 20 day waiting period during which a Rule 13e–3 transaction could not be effected.[9] Moreover, Rule 13e–3(f)(1)(i)(B) requires that the disclosure be disseminated to persons who are record holders as of the date not more than 20 days prior to the date of dissemination. For example, if the vote on a Rule 13e–3 transaction will occur on August 30, the disclosure would be disseminated no later than August 10. If August 10 is the date of dissemination, the disclosure would be transmitted to persons who are listed as record holders as of date not earlier than July 21.

Certain commentators were of the view that the twenty day waiting period is arbitrary and has no justification and shoud be left entirely to the requirements of state law unless Congress expressly determines that it should be a matter of federal regulation.

The twenty day advance disclosure requirement is intended to provide reasonable assurance that the information required to be disclosed to security holders in a Rule 13e–3 transaction will be disseminated sufficiently far in advance of the specified transactions to permit security holders to make an unhurried and informed choice as to their alternatives. Unless security holders receive disclosure prior to consummation of the transaction, disclosure requirements are of limited utility since security holders are forced to select an alternative[10] without adequate information. The Commission therefore believes that dissemination is necessary to make disclosure effective.

The suggestion was made that the requirements in General Instruction A to Schedule 13e–3 that a Rule 13e–3 Transaction Statement be filed at least 30 days prior to a purchase which is not subject to the other provisions of that Instruction should be conformed to the twenty day period described above. The thirty day period has been retained in General Instruction A because it normally will afford the staff a ten day period, like that in the proxy rules, within which to examine the filing prior to the time the information set forth therein is disseminated to security holders.

If the Rule 13e–3 transaction is a tender offer for equity securities which is subject to Regulation 14D or Rule 13e–4, the tender offer containing the information required by paragraph (e) would be disseminated in accordance with Regulation 14D or Rule 13e–4, respectively. The tender offer would be required to be published, sent or given to security holders of the class of equity securities being sought.

(e) Schedule 13E–3—Schedule 13E–3 establishes specific disclosure requirements for Rule 13e–3 transactions. As noted in General Instruction E to the Schedule, these requirements are in addition to those of other applicable provisions of the Federal securities laws and supersede such requirements where there is a conflict. The Commission believes that the Schedule will provide more meaningful disclosures to investors in the context of a Rule 13e–3 transaction.

The comments on the items of the Schedule were generally technical in nature and were directed to clarifying the application of the items or reducing the compliance burden. The suggested revisions were adopted where it would not deprive security holders of information material to informed investment decisionmaking in the context of a Rule 13e–3 transaction.

The most significant change in the items of the Schedule is with respect to disclosure of the fairness of the transaction. Item 8 requires the issuer or affiliate to state whether it reasonably believes the Rule 13e–3 transaction is fair or unfair to unaffiliated security holders. The issuer or affiliate is also required to provide a detailed discussion of the material factors upon which that belief is based. This discussion is required to address the extent to which the following factors were taken into account: (1) whether the transaction is structured so that approval of at least a majority of unaffiliated security holders is required; (2) whether the consideration offered to unaffiliated security holders constitutes fair value; (3) whether the majority of non-employee directors has retained an unaffiliated representative to act solely on behalf of unaffiliated security holders for the purposes of negotiating the terms of the transaction and/or preparing a report concerning the fairness of the transaction; (4) whether the Rule 13e–3 transaction was approved by a majority of the directors of the issuer who are not employees of the issuer; and (5) whether a report, opinion or appraisal of the type described in Item 9 of the Schedule was obtained. In order to minimize meaningless, boilerplate responses an instruction specifies that conclusory statements are not considered sufficient disclosure in responding to this requirement.

These factors are based to a large extent on the considerations set forth in the Note to proposed Rule 13e–3(b) which rule would have required that the transaction be fair to unaffiliated security holders. The commentators were concerned that the factors chosen would conflict with the standards under state law for determining fairness. Since a substantive fairness requirement is not being adopted at this time, this concern is now inapplicable. Moreover, Instruction 1 to Item 8(b) of Schedule 13E–3 indicates that the factors which are important in determining the fairness of a transaction to unaffiliated security holders, and the weight which should be given to them in a particular context, will vary. The context in which this determination is made, of course, includes the applicable state law. Accordingly, accommodation with those requirements is assured.

In any event, the Commission believes that increased discussion of factors bearing upon fairness to unaffiliated security holders is necessary in view of the potential for abuse which exists in a Rule 13e–3 transaction. The absence of arms-length negotiations which is characteristic of going private transactions requires that unaffiliated security holders be furnished with detailed information so that they can determine whether their rights have been adequately protected.[11]

Certain Findings

In publishing the 1977 proposals, the Commission specifically invited comments with respect to: (1) whether the cost of the proposals to an issuer or affiliate engaging in a Rule 13e–3 transaction would outweigh their benefits to investors and the public interest; and (2) the adverse impact or burdens of the proposals on competition which are neither necessary nor appropriate in furthering the purposes of the Exchange Act.

The comment letters did not provide any significant basis for concluding that the implementation of the Commission's statutory mandate in the manner proposed would be outweighed by such possible additional costs. Accordingly, the Commission finds that the costs imposed on issuers and affiliates by the rule and schedule adopted herein are not unreasonable and are far outweighed by the benefits which will accrue to investors.

As required by Section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the rule and schedule adopted herein will have on competition. The Commission finds that compliance by issuers and affiliates with these actions will not impose any significant burden on competition. In any event, the Commission has determined that any possible competitive burden will be outweighed by, and is necessary and appropriate to achieve, the benefits of these actions to investors.

Operation of Rules Adopted, Effective Date

Rule 13e–3 and Schedule 13E–3 will become effective September 7, 1979.

Any person who so chooses may rely on Rule 13e–3 and Schedule 13E–3 immediately. No person is relieved from complying with such person's present obligations under other provisions of the federal securities laws pending the effective date of the rule and schedule.

Text of Adopted Rule and Schedule

The following are the actions being taken:

17 CFR Part 240 is amended by adding § 240.13e–3 and § 240.13e–100 as follows:

§ 240.13e–3 Going private transactions by certain issuers or their affiliates.

(a) *Definitions.* Unless indicated otherwise or the context otherwise requires, all terms used in this section and in Schedule 13E–3 [§ 240.13e–100] shall have the same meaning as in the Act or elsewhere in the General Rules and Regulations thereunder. In addition, the following definitions apply:

(1) An "affiliate" of an issuer is a person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with such issuer. For the purposes of this section only, a person who is not an affiliate of an issuer at the commencement of such person's tender offer for a class of equity securities of such issuer will not be deemed an affiliate of such issuer prior to the stated termination of such tender offer and any extensions thereof;

(2) The term "executive officer" means the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance) or any other person who performs similar policy making functions for the issuer;

(3) The term "purchase" means any acquisition for value including, but not limited to, (i) any acquisition pursuant to the dissolution of an issuer subsequent to the sale or other disposition of substantially all the assets of such issuer to its affiliate, (ii) any acquisition pursuant to a merger, (iii) any acquisition of fractional interests in connection with a reverse stock split, and (iv) any acquisition subject to the control of an issuer or an affiliate of such issuer;

(4) A "Rule 13e–3 transaction" is any transaction or series of transactions involving one or more of the transactions described in paragraph (a)(4)(i) of this section which has either a reasonable likelihood or a purpose of producing, either directly or indirectly, any of the effects described in paragraph (a)(4)(ii) of this section;

(i) The transactions referred to in paragraph (a)(4) of this section are:

(A) A purchase of any equity security by the issuer of such security or by an affiliate of such issuer;

(B) A tender offer for or request or invitation for tenders of any equity security made by the issuer of such class of securities or by an affiliate of such issuer; or

(C) A solicitation subject to Regulation 14A [§§ 240.14a–1 to 240.14a–103] of any proxy, consent or authorization of, or a distribution subject to Regulation 14C [§§ 240.14c–1 to 14c–101] of information statements to, any equity security holder by the issuer of the class of securities or by an affiliate of such issuer, in connection with: a merger, consolidation, reclassification, recapitalization, reorganization or similar corporate transaction of an issuer or between an issuer (or its subsidiaries) and its affiliate; a sale of substantially all the assets of an issuer to its affiliate or group of affiliates; or a reverse stock split of any class of equity securities of the issuer involving the purchase of fractional interests.

(ii) The effects referred to in paragraph (a)(4) of this section are:

(A) Causing any class of equity securities of the issuer which is subject to section 12(g) or section 15(d) of the Act to be held of record by less than 300 persons; or

(B) Causing any class of equity securities of the issuer which is either listed on a national securities exchange or authorized to be quoted in an inter-dealer quotation system of a registered national securities association to be neither listed on any national securities exchange nor authorized to be quoted on an inter-dealer quotation system of any registered national securities association.

(5) An "unaffiliated security holder" is any security holder of an equity security subject to a Rule 13e–3 transaction who is not an affiliate of the issuer of such security.

(b) *Application of section to an issuer (or an affiliate of such issuer) subject to section 12 of the Act.*

(1) It shall be a fraudulent, deceptive or manipulative act or practice, in connection with a Rule 13e–3 transaction, for an issuer which has a class of equity securities registered pursuant to Section 12 of the Act or which is a closed-end investment company registered under the Investment Company Act of 1940, or an affiliate of such issuer, directly or indirectly

(i) To employ any device, scheme or artifice to defraud any person;

(ii) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(iii) To engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

(2) As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices in connection with any Rule 13e–3 transaction, it shall be unlawful for an issuer which has a class of equity securities registered pursuant to Section 12 of the Act, or an affiliate of such issuer, to engage, directly or indirectly, in a Rule 13e–3 transaction unless:

(i) Such issuer or affiliate complies with the requirements of paragraphs (d), (e) and (f) of this Section; and

(ii) The Rule 13e–3 transaction is not in violation of paragraph (b)(1) of this section.

(c) *Application of section to an issuer (or an affiliate of such issuer) subject to Section 15(d) of the Act.*

(1) It shall be unlawful as a fraudulent, deceptive or manipulative act or practice for an issuer which is required to file periodic reports pursuant to Section 15(d) of the Act, or an affiliate of such issuer, to engage, directly or indirectly, in a Rule 13e–3 transaction unless such issuer or affiliate complies with the requirements of paragraphs (d), (e) and (f) of this section.

[9] It should be noted that this period is in addition to any waiting periods prescribed by other applicable provisions. For example, if a solicitation subject to Regulation 14A [§§ 240.14a–1 to 240.14a–103] is involved, the proxy material to be furnished to security holders would have to be filed at least 10 days prior to the date definitive copies of such material are first disseminated in accordance with Rule 13e–3(f). Moreover, in view of the substantial disclosure issues which arise in the context of going private transactions, issuers are encouraged to file as early as possible.

[10] Alternatives include participating in the transaction, election of appraisal rights, where available, and utilizing remedies available under state law to challenge the transaction.

[11] The materiality of information which would be useful to security holders in challenging the transaction under state law is well established. *See e.g., Wright* v. *Heizer Corp.*, 560 F.2d 236, 250 (7th Cir. 1977), *cert. denied*, 434 U.S. 1086 (1978) and *SEC* v. *Parklane Hosiery Co.*, 558 F.2d 1083, 1088–9 (2d Cir. 1977).

(2) An issuer or affiliate which is subject to paragraph (c)(1) of this section and which is soliciting proxies or distributing information statements in connection with a transaction described in paragraph (a)(4)(i)(A) of this section may elect to use the timing procedures for conducting a solicitation subject to Regulation 14A [§§ 240.14a–1 to 240.14a–103] or a distribution subject to Regulation 14C [§§ 240.14c–1 to 14c–101] in complying with paragraphs (d), (e) and (f) of this section, *provided that* if an election is made, such solicitation or distribution is conducted in accordance with the requirements of the respective regulations, including the filing of preliminary copies of soliciting materials or an information statement at the time specified in Regulation 14A or 14C, respectively.

(d) *Material required to be filed.* The issuer or affiliate engaging in a Rule 13e–3 transaction shall, in accordance with the General Instructions to the Rule 13e–3 Transaction Statement on Schedule 13E–3 [§ 240.13e–100]:

(1) File with the Commission eight copies of such schedule, including all exhibits thereto;

(2) Report any material change in the information set forth in such schedule by promptly filing with the Commission eight copies of an amendment on such schedule; and

(3) Report the results of the Rule 13e–3 transaction by filing with the Commission promptly but no later than ten days (ten business days if Rule 13e–4 [§ 240.13e–4] is applicable) after the termination of such transaction eight copies of a final amendment to such schedule.

(e) *Disclosure of certain information.* (1) The issuer or affiliate engaging in the Rule 13e–3 transaction, in addition to any other information required to be disclosed pursuant to any other applicable rule or regulation under the federal securities laws, shall disclose to security holders of the class of equity securities which is the subject of the transaction, in the manner prescribed by paragraph (f) of this section, the information required by Items 1, 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 15 and 16 of Schedule 13e–3 [§ 240.13e–100], or a fair and adequate summary thereof, and Items 7, 8 and 9 and include in the document which contains such information the exhibit required by Item 17(e) of such Schedule. If the Rule 13e–3 transaction involves (i) a transaction subject to Regulation 14A [§§ 240.14a–1 to 240.14a–103] or 14C [§§ 240.14c–1 to 240.14c–101] of the Act, (ii) the registration of securities pursuant to the Securities Act of 1933 and the General Rules and Regulations promulgated thereunder, or (iii) a tender offer subject to Regulation 14D [§§ 240.14d–1 to 240.14d–101] or Rule 13e–4 [§ 240.13e–4], such information shall be included in the proxy statement, the information statement, the registration statement or the tender offer for or request or invitation for tenders of securities published, sent or given to security holders, respectively.

(2) If any material change occurs in the information previously disclosed to security holders of the class of equity securities which is the subject of the transaction, the issuer or affiliate shall promptly disclose such change to such security holders in the manner prescribed by paragraph (f)(iii) of this section.

(3) Any document transmitted to such security holders which contains the information required by paragraph (e)(1) of this section shall:

(i) set forth prominently the information required by Items 7, 8 and 9 of the Rule 13e–3 Transaction Statement on Schedule 13E–3 [§ 240.13e–100] in a Special Factors section to be included in the forepart of such document; and

(ii) Set forth on the outside front cover page, in capital letters printed in bold face roman type at least as large as ten point modern type and at least two points leaded, the statement in paragraph (e)(3)(ii)(A) of this section, if the Rule 13e–3 transaction does not involve a prospectus, or the statement in paragraph (e)(3)(ii)(B) of this section, if the Rule 13e–3 transaction involves a prospectus, and in the latter case such statement shall be used in lieu of that required by Rule 425 [§ 230.425].

(A) THIS TRANSACTION HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE FAIRNESS OR MERITS OF SUCH TRANSACTION NOR UPON THE ACCURACY OF ADEQUACY OF THE INFORMATION CONTAINED IN THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

(B) NEITHER THIS TRANSACTION NOR THESE SECURITIES HAVE BEEN APPROVED OR DISARPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION. THE COMMISSION HAS NOT PASSED UPON THE FAIRNESS OR MERITS OF THIS TRANSACTION NOR UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED IN THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

Instructions. 1. Negative responses to any item of Schedule 13E–3 [§ 240.13e–100] need not be included in the information disseminated to security holders unless otherwise indicated.

2. Although the financial information necessary to present a fair and adequate summary of Item 14 of Schedule 13E–3 [§ 240.13e–100] may vary depending on the facts and circumstances involved, the following historical and pro forma summary financial information normally will be sufficient for purposes of paragraph (e) of this section:

(a) Summary financial information equivalent to that required by paragraph (e) of Guide 59 of the Guides for Preparation and Filing of Registration Statements for (i) the two most recent fiscal years and (ii) the latest year-to-date interim period and corresponding interim period of the preceding year;

(b) Ratio of earnings to fixed charges for the same periods required by 2(a) above;

(c) Book value per share as of the most recent fiscal year end and as of the date of the latest interim balance sheet; and

(d) If material, pro forma data for the summarized financial information described in 2(a), (b), and (c) above, disclosing the effect of the transaction, should be provided for the most recent fiscal year and latest year-to-date interim period.

If the information required by Item 14 is summarized, appropriate instructions should be included stating how more complete financial information can be obtained.

(f) *Dissemination of disclosure.* (1) If the Rule 13e–3 transaction involves a purchase as described in paragraph (a)(4)(i)(A) of this section or a vote, consent, authorization, or distribution of information statements as described in paragraph (a)(4)(i)(C) of this section, the issuer or affiliate engaging in the Rule 13e–3 transaction shall:

(i) Provide the information required by paragraph (e) of this section: (A) in accordance with the provisions of any applicable federal or state law, but in no event later than 20 days prior to: any such purchase; any such vote, consent or authorization; or with respect to the distribution of information statements, the meeting date, or if corporate action is to be taken by means of the written authorization or consent of security holders, the earliest date on which corporate action may be taken, (B) to each person who is a record holder of a class of equity securities subject to the Rule 13e–3 transaction as of a date not more than 20 days prior to the date of dissemination of such information.

(ii) If the issuer or affiliate knows that securities of the class of securities subject to the Rule 13e–3 transaction are held of record by a broker, dealer, bank or voting trustee or their nominees, such issuer or affiliate shall (unless Rule 14a–3(d) [§ 240.14a–3(d)] or 14c–7 [§ 240.14c–7] is applicable) furnish the number of copies of the information required by paragraph (e) of this section that are requested by such persons (pursuant to inquiries by or on behalf of the issuer or affiliate), instruct such persons to forward such information to the beneficial owners of such securities in a timely manner and undertake to pay the reasonable expenses incurred by such persons in forwarding such information; and

(iii) Promptly disseminate disclosure of material changes to the information required by paragraph (d) of this section in a manner reasonably calculated to inform security holders.

(2) If the Rule 13e–3 transaction is a tender offer or a request or invitation for tenders of equity securities which is subject to Regulation 14D [§§ 240.14d–1 to 240.14d–101] or Rule 13e–4 [§ 240.13e–4], the tender offer containing the information required by paragraph (e) of this section, and any material change with respect thereto, shall be published, sent or given in accordance with Regulation 14D or Rule 13e–4, respectively, to security holders of the class of securities being sought by the issuer or affiliate.

(g) *Exceptions.* This section shall not apply to:

(1) Any Rule 13e–3 transaction by or on behalf of a person which occurs within one year of the date of termination of a tender offer in which such person was the bidder and became an affiliate of the issuer as a result of such tender offer *provided* that the consideration offered to unaffiliated security holders in such Rule 13e–3 transaction is at least equal to the highest consideration offered during such tender offer and *provided further* that:

(i) If such tender offer was made for any or all securities of a class of the issuer;

(A) Such tender offer fully disclosed such person's intention to engage in a Rule 13e–3 transaction, the form and effect of such transaction and, to the extent known, the proposed terms thereof; and

(B) Such Rule 13e–3 transaction is substantially similar to that described in such tender offer; or

(ii) If such tender offer was made for less than all the securities of a class of the issuer:

(A) Such tender offer fully disclosed a plan of merger, a plan of liquidation or a similar binding agreement between such person and the issuer with respect to a Rule 13e–3 transaction; and

(B) Such Rule 13e–3 transaction occurs pursuant to the plan of merger, plan of liquidation or similar binding agreement disclosed in the bidder's tender offer.

(2) Any Rule 13e–3 transaction in which the security holders are offered or receive only an equity security *provided* that:

(i) Such equity security has substantially the same rights as the equity security which is the subject of the Rule 13e–3 transaction including, but not limited to, voting, dividends, redemption and liquidation rights except that this requirement shall be deemed to be satisfied if unaffiliated security holders are offered common stock;

(ii) Such equity security is registered pursuant to section 12 of the Act or reports are required to be filed by the issuer thereof pursuant to section 15(d) of the Act; and

(iii) If the security which is the subject of the Rule 13e–3 transaction was either listed on a national securities exchange or authorized to be quoted in an interdealer quotation system of a registered national securities association, such equity security is either listed on a national securities exchange or authorized to be quoted in an inter-dealer quotation system of a registered national securities association.

(3) Transactions by a holding company registered under the Public Utility Holding Company Act of 1935 in compliance with the provisions of that Act;

(4) Redemptions, calls or similar purchases of an equity security by an issuer pursuant to specific provisions set forth in the instrument(s) creating or governing that class of equity securities; or

(5) Any solicitation by an issuer with respect to a plan of reorganization under Chapter X of the Bankruptcy Act, as amended, if made after the entry of an order approving such plan pursuant to section 174 of that Act and after, or concurrently with, the transmittal of information concerning such plan as required by section 175 of the Act.

§ 240.13e–100 Schedule 13E–3 [§ 240.13e–3], Rule 13e–3 transaction statement pursuant to section 13(e) of the Securities Exchange Act of 1934 and rule 13e–3 [§ 240.13e–3] thereunder.

Securities and Exchange Commission,
Washington, D.C. 20549

Rule 13e–3 Transaction Statement

(Pursuant to Section 13(e) of the Securities Exchange Act of 1934)

[Amendment No.———]

(Name of the Issuer)

(Name of Person(s) Filing Statement)

(Title of Class of Securities)

(CUSIP Number of Class of Securities)

(Name, address and telephone number of person authorized to receive notices and communications on behalf of person(s) filing statement)

This statement is filed in connection with (check the appropriate box):

a. ☐ The filing of solicitation materials or an information statement subject to Regulation 14A [17 CFR 240.14a–1 to 240.14a–103], Regulation 14C [17 CFR 240.14c–1 to 240.14c–101] or Rule 13e–3(c) [§ 240.13e–3(c)] under the Securities Exchange Act of 1934.

b. ☐ The filing of a registration statement under the Securities Act of 1933.

c. ☐ A tender offer.

d. ☐ None of the above.

Check the following box if the soliciting materials or information statement referred to in checking box (a) are preliminary copies: ☐

Instruction: Eight copies of this statement, including all exhibits, should be filed with the Commission.

General Instructions

A. Depending on the type of Rule 13e–3 transaction, this statement shall be filed with the Commission:

1. Concurrently with the filing of "Preliminary Copies" of soliciting materials or an information statement pursuant to Regulations 14A or 14C under the Act;

2. Concurrently with the filing of a registration statement under the Securities Act of 1933;

3. As soon as practicable on the date a tender offer is first published, sent or given to security holders; or

4. At least 30 days prior to any purchase of any securities of the class of securities subject to the Rule 13e–3 transaction, if the transaction does not involve a solicitation, an information statement, the registration of securities or a tender offer, as described in 1, 2 or 3 of this Instruction.

5. If the Rule 13e–3 transaction involves a series of transactions, the issuer of affiliate shall file this statement at the time indicated in 1–4 of this general instruction for the first transaction of such series and shall promptly amend this schedule with respect to each subsequent transaction in such series.

B. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

C. If the statement is filed by a general or limited partnership, syndicate or other group the information called for by Items 2, 3, 5, 6, 10, and 11 shall be given with respect to: (i) each partner of such general partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each

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member of such syndicate or group; and (iv) each person controlling such partner of member. If the statement is filed by a corporation or if a person referred to in (i), (ii), (iii) or (iv) of this Instruction is a corporation, the information called for by the above mentioned items shall be given with respect to: (a) each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation ultimately in control of such corporation.

D. Information contained in exhibits to the statement or in a filing by the issuer, other than filings the incorporation of which is governed by Instruction F, may be incorporated by reference in answer or partial answer to any item or sub-item of the statement, unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference pursuant to this Instruction shall be clearly identified in the reference by page, paragraph, caption or otherwise. Any express statement that the specified matter is incorporated by reference pursuant to this Instruction shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Commission for all purposes of the Act.

E. The information required by the items of this statement is intended to be in addition to any disclosure requirements of any other form or schedule which may be filed with the Commission in connection with the Rule 13e–3 transaction. To the extent that the disclosure requirements of this statement are inconsistent with the disclosure requirements of any such forms or schedules, the requirements of this statement are controlling.

F. If the Rule 13e–3 transaction involves a transaction subject to Regulation 14A [§§ 240.14a–1 to 240.14a–103] or 14C [§§ 240.14c–1 to 240.14c–101] of the Act, the registration of securities pursuant to the Securities Act of 1933 and the General Rules and Regulations promulgated thereunder, or a tender offer subject to Regulation 14D [§§ 240.14d–1 to 240.14d–101] or Rule 13e–4 [§ 240.13e–4], the information contained in the proxy or information statement, the registration statement, the Schedule 14D–1 [§ 240.14d–100], or the Schedule 13E–4, respectively, which is filed with the Commission shall be incorporated by reference in answer to the items of this statement or amendments thereto; this statement shall include an express statement to that effect and a cross reference sheet showing the location in the proxy or information statement, the registration statement, the Schedule 14D–1 or the Schedule 13E–4 of the information required to be included in response to the items of this statement. If any such item is inapplicable or the answer thereto is in the negative and is omitted from the proxy or the information statement, the registration statement, the Schedule 14D–1, or the Schedule 13E–4, a statement to that effect shall be made in the cross reference sheet.

G. If the Rule 13e–3 transaction involves a proxy or an information statement subject to Regulation 14A [§§ 240.14a–1 to 240.14a–103] or Regulation 14C [§§ 240.14c–1 to 14c–101] and if preliminary copies of such materials have been incorporated by reference into this statement pursuant to Instruction F of this statement, this Schedule 13E–3 shall be deemed to constitute "Preliminary Copies" within the meaning of Rule 14a–6(e) [§ 240.14a–6] and Rule 14c–5 [§ 240.14c–5] and shall not be available for public inspection before an amendment to this statement containing definitive material has been filed with the Commission.

H. Amendments disclosing a material change in the information set forth in this statement may omit any information previously disclosed in this statement.

Item 1. Issuer and Class of Security Subject to the Transaction.

(a) State the name of the issuer of the class of equity security which is the subject of the Rule 13e–3 transaction and the address of its principal executive offices.

(b) State the exact title, the amount of securities outstanding of the class of security which is the subject of the Rule 13e–3 transaction as of the most recent practicable date and the approximate number of holders of record of such class as of the most recent practicable date.

(c) Identify the principal market in which such securities are being traded and, if the principal market is an exchange, state the high and low sales prices for such securities as reported in the consolidated transaction reporting system or, if not so reported, on such principal exchange for each quarterly period during the past two years. If the principal market is not an exchange, state the range of high and low bid quotations for each quarterly period during the past two years, the source of such quotations and, if there is currently no established trading market for such securities (excluding limited or sporadic quotations), furnish a statement to that effect.

(d) State the frequency and amount of any dividends paid during the past two years with respect to such class of securities and briefly describe any restriction on the issuer's present or future ability to pay such dividends.

Instruction: If the person filing this statement is an affiliate of the issuer, the information required by Item 1(d) should be furnished to the extent known by such affiliate after making reasonable inquiry.

(e) If the issuer and/or affiliate filing this statement has made an underwritten public offering of such securities for cash during the past three years which was registered under the Securities Act of 1933 or exempt from registration thereunder pursuant to Regulation A, state the date of such offering, the amount of securities offered, the offering price per share (which should be appropriately adjusted for stock splits, stock dividends, etc.) and the aggregate proceeds received by such issuer and/or such affiliate.

(f) With respect to any purchases of such securities made by the issuer or affiliate since the commencement of the issuer's second full fiscal year preceding the date of this schedule, state the amount of such securities purchased, the range of prices paid for such securities and the average purchase price for each quarterly period of the issuer during such period.

Instruction: The information required by Item 1(f) need not be given with respect to purchases of such securities by a person prior to the time such person became an affiliate.

Item 2. Identity and Background. If the person filing this statement is the issuer of the class of equity securities which is the subject of the Rule 13e–3 transaction, make a statement to that effect. If that statement is being filed by an affiliate of the issuer which is other than a natural person or if any person enumerated in Instruction C to this statement is a corporation, general partnership, limited partnership, syndicate or other group of persons, state its name, the state or other place of its organization, its principal business, the address of its principal executive offices and provide the information required by (e) and (f) of this Item. If this statement is being filed by an affiliate of the issuer who is a natural person or if any person enumerated in Instruction C of this statement is a natural person, provide the information required by (a) through (g) of this Item with respect to such person(s).

(a) Name;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment or occupation is conducted;

(d) Material occupations, positions, offices or employments during the last 5 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which such occupation, position, office or employment was carried on;

(e) Whether or not, during the last 5 years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case;

(f) Whether or not, during the last 5 years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining further violations of, or prohibiting activities subject to, federal or state securities laws or finding any violation of such laws; and, if so, identify and describe such proceeding and summarize the terms of such judgment, decree or final order; *Instruction:* While negative answers to Items 2(e) and 2(f) are required in this schedule, they need not be furnished to security holders.

(g) Citizenship(s).

Item 3. Past Contacts, Transactions or Negotiations. (a) If this schedule is filed by an affiliate of the issuer of the class of securities which is the subject of the Rule 13e–3 transaction:

(1) Briefly state the nature and approximate amount (in dollars) of any transaction, other

than those described in Item 3(b) of this schedule, which has occurred since the commencement of the issuer's second full fiscal year preceding the date of this schedule between such affiliate (including subsidiaries of the affiliate and those persons enumerated in Instruction C of this schedule) and the issuer: *Provided, however,* That no disclosure need be made with respect to any transaction if the aggregate amount involved in such transaction was less than one percent of the issuer's consolidated revenues (which may be based upon information contained in the most recently available filing with the Commission by the issuer unless such affiliate has reason to believe otherwise) (i) for the fiscal year in which such transaction occurred or (ii) for the portion of the current fiscal year which has occurred, if the transaction occurred in such year; and

(2) Describe any contacts, negotiations or transactions which have been entered into or which have occurred since the commencement of the issuer's second full fiscal year preceeding the date of this schedule between such affiliate (including subsidiaries of the affiliate and those persons enumerated in Instruction C of this schedule) and the issuer concerning: a merger, consolidation or acquisition; a tender offer for or other acquisition of securities of any class of the issuer; an election of directors of the issuer; or a sale or other transfer of a material amount of assets of the issuer or any of its subsidiaries.

(b) Describe any contacts or negotiations concerning the matters referred to in Item 3(a)(2) which have been entered into or which have occurred since the commencement of the issuer's second full fiscal year preding the date of this schedule (i) between any affiliates of the issuer of the class of securities which is the subject of the Rule 13e–3 transaction; or (ii) between such issuer or any of its affiliates and any person who is not affiliated with the issuer and who would have a direct interest in such matters. Identify the person who initiated such contacts or negotiations.

Item 4. Terms of the Transaction. (a) State the material terms of the Rule 13e–3 transaction.

(b) Describe any term or arrangement concerning the Rule 13e–3 transaction relating to any security holder of the issuer which is not identical to that relating to other security holders of the same class of securities of the issuer.

Item 5. Plans or Proposals of the Issuer or Affiliate. Describe any plan or proposal of the issuer or affiliate regarding activities or transactions which are to occur after the Rule 13e–3 transaction which relate to or would result in: (a) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the issuer or any of its subsidiaries;

(b) A sale or transfer of a material amount of assets of the issuer or any of its subsidiaries;

(c) Any change in the present board of directors or management of the issuer including, but not limited to, any plan or proposal to change the number or term of directors, to fill any existing vacancy on the board or to change any material term of the employment contract of any executive officer;

(d) Any material change in the present dividend rate or policy or indebtedness or capitalization of the issuer;

(e) Any other material change in the issuer's corporate structure or business;

(f) A class of equity securities of the issuer becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Act; or

(g) The suspension of the issuer's obligation to file reports pursuant to Section 15(d) of the Act.

Item 6. Source and Amounts of Funds or Other Consideration. (a) State the source and total amount of funds or other consideration to be used in the Rule 13e–3 transaction.

(b) Furnish a reasonably itemized statement of all expenses incurred or estimated to be incurred in connection with the Rule 13e–3 transaction including, but not limited to, filing fees, legal, accounting and appraisal fees, solicitation expenses and printing costs and state whether or not the issuer has paid or will be responsible for paying any or all of such expenses.

(c) If all or any part of such funds or other consideration is, or is expected to be, directly or indirectly borrowed for the purpose of the Rule 13e–3 transaction,

(1) Provide a summary of each such loan agreement containing the indentity of the parties, the term, the collateral, the stated and effective interest rates, and other material terms or conditions; and

(2) Briefly describe any plans or arrangements to finance or repay such borrowings, or, if no such plans or arrangements have been made, make a statement to that effect.

(d) If the source of all or any part of the funds to be used in the Rule 13e–3 transaction is a loan made in the ordinary course of business by a bank as defined by Section 3(a)(6) of the Act and Section 13(d) or 14(d) is applicable to such transaction, the name of such bank shall not be made available to the public if the person filing the statement so requests in writing and files such request, naming such bank, with the Secretary of the Commission.

Item 7. Purpose(s), Alternatives, Reasons and Effects. (a) State the purpose(s) for the Rule 13e–3 transaction.

(b) If the issuer or affiliate considered alternative means to accomplish such purpose(s), briefly describe such alternative(s) and state the reason(s) for their rejection.

(c) State the reasons for the structure of the Rule 13e–3 tranisaction and for undertaking such transaction at this time.

(d) Describe the effects of the Rule 13e–3 transaction on the issuer, its affiliates and unaffiliated security holders, including the federal tax consequences.

Instructions: (1) Conclusory statements will not be considered sufficient disclosure in response to Item 7.

(2) The description required by Item 7(d) should include a reasonably detailed discussion of the benefits and detriments of the Rule 13e–3 transaction to the issuer, its affiliates and unaffiliated security holders. The benefits and detriments of the Rule 13e–3 transaction should be quantified to the extent practicable.

(3) If this statement is filed by an affiliate of the issuer, the description required by Item 7(d) should include but not be limited to, the effect of the Rule 13e–3 transaction on the affiliate's interest in the net book value and net earnings of the issuer in terms of both dollar amounts and percentages.

Item 8. Fairness of the Transaction. (a) State whether the issuer or affiliate filing this schedule reasonably believes that the Rule 13e–3 transaction is fair or unfair to unaffiliated security holders. If any director dissented to or abstained from voting on the Rule 13e–3 transaction, identify each such director, and indicate, if known, after making reasonable inquiry, the reasons for each dissent or abstention.

Instruction. A statement that the issuer or affiliate has no reasonable belief as to the fairness of the Rule 13e–3 transaction to unaffiliated security holders will not be considered sufficient disclosure in response to Item 8(a).

(b) Discuss in reasonable detail the material factors upon which the belief stated in Item 8(a) is based and, to the extent practicable, the weight assigned to each such factor. Such discussion should include an analysis of the extent, if any, to which such belief is based on the factors set forth in instruction (1) to paragraph (b) of this Item, paragraphs (c), (d), and (e) of this Item, and Item 9.

Instructions: (1) The factors which are important in determining the fairness of a transaction to unaffiliated security holders and the weight, if any, which should be given to them in a particular context will vary. Normally such factors will include, among others, those referred to in paragraphs (c), (d) and (e) of this Item and whether the consideration offered to unaffiliated security holders constitutes fair value in relation to:

(i) current market prices

(ii) historical market prices

(iii) net book value

(iv) going concern value

(v) liquidation value

(vi) the purchase price paid in previous purchases disclosed in Item 1(f) of Schedule 13e–3

(vii) any report, opinion, or appraisal described in Item 9 and

(viii) firm offers of which the issuer or affiliate is aware made by any unaffiliated person, other than the person filing this statement, during the preceding eighteen months for (A) the merger or consolidation of the issuer into or with such person or of such person into or with the issuer,

(B) the sale or other transfer of all or any substantial part of the assets of the issuer or

(C) securities of the issuer which would enable the holder thereof to exercise control of the issuer.

(2) Conclusory statements, such as "The Rule 13e–3 transaction is fair to unaffiliated security holders in relation to net book value, going concern value and future prospects of the issuer" will not be considered sufficient disclosure in response to Item 8(b).

(c) State whether the transaction is structured so that approval of at least a majority of unaffiliated security holders is required.

(d) State whether a majority of directors who are not employees of the issuer has retained an unaffiliated representative to act solely on behalf of unaffiliated security holders for the purposes of negotiating the terms of the Rule 13e–3 transaction and/or preparing a report concerning the fairness of such transaction.

(e) State whether the Rule 13e–3 transaction was approved by a majority of the directors of the issuer who are not employees of the issuer.

(f) If any offer of the type described in instruction (vii) to Item 8(b) has been received, describe such offer and state the reason(s) for its rejection.

Item 9. Reports, Opinions, Appraisals and Certain Negotiations.

(a) State whether or not the issuer or affiliate has received any report, opinion (other than an opinion of counsel) or appraisal from an outside party which is materially related to the Rule 13e–3 transaction including, but not limited to, any such report, opinion or appraisal relating to the consideration or the fairness of the consideration to be offered to security holders of the class of securities which is the subject of the Rule 13e–3 transaction or the fairness of such transaction to the issuer or affiliate or to security holders who are not affiliates.

(b) With respect to any report, opinion or appraisal described in Item 9(a) or with respect to any negotiation or report described in Item 8(d) concerning the terms of the Rule 13e–3 transaction:

(1) Identify such outside party and/or unaffiliated representative;

(2) Briefly describe the qualifications of such outside party and/or unaffiliated representative;

(3) Describe the method of selection of such outside party and/or unaffiliated representative;

(4) Describe any material relationship between (i) the outside party, its affiliates, and/or unaffiliated representative, and (ii) the issuer or its affiliates, which existed during the past two years or is mutually understood to be contemplated and any compensation received or to be received as a result of such relationship;

(5) If such report, opinion or appraisal relates to the fairness of the consideration, state whether the issuer or affiliate determined the amount of consideration to be paid or whether the outside party recommended the amount of consideration to be paid.

(6) Furnish a summary concerning such negotiation report, opinion or appraisal which shall include, but not be limited to, the procedures followed; the findings and recommendations; the bases for and methods of arriving at such findings and recommendations; instructions received from the issuer or affiliate; and any limitation imposed by the issuer or affiliate on the scope of the investigation.

Instruction: The information called for by subitem 9(b)(1), (2) and (3) should be given with respect to the firm which provides the report, opinion or appraisal rather than the employees of such firm who prepared it.

(c) Furnish a statement to the effect that such report, opinion or appraisal shall be made available for inspection and copying at the principal executive offices of the issuer or affiliate during its regular business hours by any interested equity security holder of the issuer or his representative who has been so designated in writing. This statement may also provide that a copy of such report, opinion or appraisal will be transmitted by the issuer or affiliate to any interested equity security holder of the issuer or his representative who has been so designated in writing upon written request and at the expense of the requesting security holder.

Item 10. Interest in Securities of the Issuer.

(a) With respect to the class of equity security to which the Rule 13e–3 transaction relates, state the aggregate amount and percentage of securities beneficially owned (identifying those securities for which there is a right to acquire) as of the most recent practicable date by the person filing this statement (unless such person is the issuer), by any pension, profit sharing or similar plan of the issuer or affiliate, by each person enumerated in Instruction C of this Schedule or by any associate or majority owned subsidiary of the issuer or affiliate giving the name and address of any such associate or subsidiary.

Instructions: 1. For the purpose of this Item, beneficial ownership shall be determined in accordance with Rule 13e–3 [17 CFR 240.13d–3] under the Exchange Act.

2. The information required by this paragraph should be given with respect to officers, directors and associates of the issuer to the extent known after making reasonable inquiry.

(b) Describe any transaction in the class of equity securities of the issuer which is the subject of a Rule 13e–3 transaction that was effected during the past 60 days by the issuer of such class or by the persons named in response to paragraph (a) of this Item.

Instructions: 1. The description of a transaction required by Item 10(b) shall include, but not necessarily be limited to: (i) the identity of the person covered by Item 10(b) who effected the transaction; (ii) the date of the transaction; (iii) the amount of securities involved; (iv) the price per security; and (v) where and how the transaction was effected.

2. If the information required by Item 10(b) is available to the person filing this statement at the time this statement is initially filed with the Commission, the information shall be included in the initial filing. However, if the information is not available to such person at the time of such initial filing, it shall be filed with the Commission promptly but in no event later than seven days (or 2 business days with respect to a tender subject to Regulation 14D [§§ 240.14d–1 to 240.14d–101] or 10 business days with respect to a tender offer subject to Rule 13e–4 [§ 240.13e–4]) after the date of such filing and, if material, disclosed to security holders of the issuer pursuant to Rule 13e–3(e) [§ 240.13e–3(e)], and disseminated to them in a manner reasonably calculated to inform security holders.

Item 11. Contracts, Arrangements or Understandings with Respect to the Issuer's Securities. Describe any contract, arrangement, understanding or relationship (whether or not legally enforceable) in connection with the Rule 13e–3 transaction between the person filing this statement (including any person enumerated in Instruction C of this schedule) and any person with respect to any securities of the issuer (including, but not limited to, any contract, arrangement, understanding or relationship concerning the transfer or the voting of any such of such securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or the giving or withholding proxies, consents or authorizations), naming the persons with whom such contracts, arrangements, understandings or relationships have been entered into and giving the material provisions thereof. Include such information for any of such securities that are pledged or otherwise subject to a contingency, the occurrence of which would give another person the power to direct the voting or disposition of such securities, except that disclosure of standard default and similar provisions contained in loan agreements need not be included.

Item 12. Present Intention and Recommendation of Certain Persons with Regard to the Transaction.

(a) To the extent known by the person filing this statement after making reasonable inquiry, furnish a statement of present intention with regard to the Rule 13e–3 transaction indicating whether or not any executive officer, director or affiliate of the issuer or any person enumerated in Instruction C of this statement will tender or sell securities of the issuer owned or held by such person and/or how such securities, and securities with respect to which such person holds proxies, will be voted and the reasons therefor.

Instruction: If the information required by Item 12(a) is available to the person filing this statement at the time this statement is initially filed with the Commission, the information shall be included in the initial filing. However, if the information is not available to such person at the time of such initial filing, it shall be filed with the Commission promptly but in no event later than seven days (or two business days with respect to a tender offer subject to Regulation 14D [§ 240.14d–1 to 240.14d–101] or ten business days with respect to a tender offer subject to Rule 13e–4 [§§ 240.13e–4]) after the date of such filing and, if material, disclosed to security holders of the issuer pursuant to Rule 13e–3(e) [§ 240.13e–3(e)], and disseminated to them in a manner reasonably calculated to inform security holders.

(b) To the extent known by the person filing this statement after making reasonable inquiry, state whether any person named in paragraph (a) of this item has made a recommendation in support of or opposed to the Rule 13e–3 transaction and the reasons

for such recommendation. If no recommendation has been made by such persons, furnish a statement to that effect.

Item 13. Other Provisions of the Transaction.

(a) State whether or not appraisal rights are provided under applicable state law or under the issuer's articles of incorporation or will be voluntarily accorded by the issuer or affiliate to security holders in connection with the Rule 13e–3 transaction and, if so, summarize such appraisal rights. If appraisal rights will not be available under the applicable state law, to security holders who object to the transaction, briefly outline the rights which may be available to such security holders under such law.

(b) If any provision has been made by the issuer or affiliate in connection with the Rule 13e–3 transaction to allow unaffiliated security holders to obtain access to the corporate files of the issuer or affiliate or to obtain counsel or appraisal services at the expense of the issuer or affiliate, describe such provision.

(c) If the Rule 13e–3 transaction involves the exchange of debt securities of the issuer or affiliate for the equity securities held by security holders of the issuer who are not affiliates, describe whether or not the issuer or affiliate will take steps to provide or assure that such securities are or will be eligible for trading on any national securities exchange or an automated inter-dealer quotation system.

Item 14. Financial Information.

(a) Furnish the following financial data concerning the issuer: (1) Audited financial statements for the two fiscal years required to be filed with the issuer's most recent annual report under sections 13 and 15(d) of the Act;

(2) Unaudited balance sheets and comparative year-to-date income statements and statements of changes in financial position and related earnings per share amounts required to be included in the issuer's most recent quarterly report filed pursuant to the Act;

(3) Ratio of earnings to fixed charges for the two most recent fiscal years and the interim periods provided under Item 14(a)(2); and

(4) Book value per share as of the most recent fiscal year end and as of the date of the latest interim balance sheet provided under Item 14(a)(2).

(b) If material, provide pro forma data disclosing the effect of the Rule 13e–3 transaction on: (1) The issuer's balance sheet as of the most recent fiscal year end and the latest interim balance sheet provided under Item 14(a)(2);

(2) The issuer's statement of income, earnings per share amounts, and ratio of earnings to fixed charges for the most recent fiscal year and the latest interim period provided under Item 14(a)(2); and

(3) The issuer's book value per share as of the most recent fiscal year end and as of the latest interim balance sheet date provided under Item 14(a)(2).

Item 15. Persons and Assets Employed, Retained or Utilized.

(a) Identify and describe the purpose for which any officer, employee, class of employees or corporate asset of the issuer (excluding corporate assets which are proposed to be used as consideration for purchases of securities which are disclosed in Item 6 of this schedule) has been or is proposed to be employed, availed of or utilized by the issuer or affiliate in connection with the Rule 13e–3 transaction.

(b) Identify all persons and classes of persons (excluding officers, employees and class of employees who have been identified in Item 15(a) of this Schedule) employed, retained or to be compensated by the person filing this statement, or by any person on behalf of the person filing this statement, to make solicitations or recommendations in connection with the Rule 13e–3 transaction and provide a summary of the material terms of such employment, retainer or arrangement for compensation.

Item 16. Additional Information. Furnish such additional material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not materially misleading.

Item 17. Material to be Filed as Exhibits. Furnish a copy of:

(a) Any loan agreement referred to in Item 6 of this Schedule;

Instruction: The identity of any bank which is a party to a loan agreement need not be disclosed if the person filing the statement has requested that the identity of such bank not be made available to the public pursuant to Item 6 of this schedule.

(b) Any report, opinion or appraisal referred to in Items 8(d) or 9 of this schedule;

(c) Any document setting forth the terms of any contract, arrangements or understandings or relationships referred to in Item 11 of this schedule; and

(d) Any disclosure materials furnished to security holders in connection with the transaction pursuant to Rule 13e–3(d) [§ 240.13e–3(d)].

(e) A detailed statement describing the appraisal rights and the procedures for exercising such appraisal rights which are referred to in Item 13(a) of this schedule.

(f) If any oral solicitation of or recommendations to security holders referred to in Item 15(b) are to be made by or on behalf of the person filing this statement, any written instruction, form or other material which is furnished to the persons making the actual oral solicitation or recommendation for their use, directly or indirectly, in connection with the Rule 13e–3 transaction.

Signature

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

(Date) (Signature)

(Name and Title)

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the person filing this statement), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

Authority

The Commission hereby adopts Rule 13e–3 and Schedule 13E–3 pursuant to Sections 17(a) and 19 of the Securities Act and Sections 3(b), 10(b), 13(e), 14(a), 14(c), 14(e) and 23(a) of the Exchange Act. The Commission finds that any changes in the adopted rule and schedule from that published in the 1977 release have already been generally subject to comment and are either technical in nature or are less burdensome than the 1977 proposals so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

[Sec. 17(a), 19(a), 48 Stat. 84, 85; secs. 3(b), 10(b), 13(e), 14(a), 14(d), 14(e), 23(a), 48 Stat. 882, 894, 895, 891, 901; sec. 209, 48 Stat. 908; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 10, 68 Stat. 686; sec. 5, 78 Stat. 569, 570; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 84 Stat. 1497; secs. 3, 18, 89 Stat. 97, 155; 15 U.S.C. 77g(a), 77s(a), 78c(b), 78j(b), 78m(e), 78n(a), 78n(c), 78n(e), 78w(a).]

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

August 2, 1979.

[FR Doc. 79–24453 Filed 8–7–79; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release Nos. 33-6101; and 34-16076; IC-10806; File No. S7-792]

Going Private Transactions by Public Companies or There Affiliates

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to rule and schedule.

SUMMARY: The Commission proposes for comment amendments to new Rule 13e-3 and Schedule 13e-3 relating to going private transactions by public companies or their affilitates. If adopted, these proposals would require an issuer or affiliate engaging in a going private transaction to disclose projections or revenues, income (loss), or earnings (loss) per share prepared by or on behalf of the issuer during the preceding eighteen months which have been furnished to lenders or to persons who have provided certain reports, opinions or appraisals which are materially related to the transaction. The Commission believes that such information should be required to be disclosed because of its importance to an investor's assessment of a company's future earning power, and because, in the particular circumstances of the requirement, the burdens are outweighed by the benefits.

DATE: Comments must be received on or before September 24, 1979.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-792. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: John Granda or John Huber (202-755-1750) Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today proposed for comment amendments to new Rule 13e-3 and Schedule 13E-3 under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975) which would mandate disclosure of certain projections information in the context of going private transactions by public companies of their affilitates. In particular, the proposals would require an issuer or affiliate engaging in a Rule 13e-3 transaction to disclose a fair and adequate summary of a projection of revenues, income (loss), or earnings (loss) per share prepared by or on behalf of the issuer during the preceding eighteen months which has been furnished, directly or indirectly, to a person who has made a loan described in Item 6 of Schedule 13E-3 or a person who has furnished a report, opinion or appraisal described in Item 9 of such schedule. Certain information, in addition to a summary of the projection, would also have to be disclosed, including: (i) the identity of the person to whom the projection was furnished; (ii) a brief description of the reasons for furnishing the projections and the use which was to be made of it; and (3) any other material information which is necessary to make the projection not misleading. In addition, the projection would have to be filed as an exhibit to the Rule 13e-3 Transaction Statement on Schedule 13E-3.

The Commission is also concurrently adopting Rule 13e-3 and Schedule 13E-3. That rule and schedule provide definitions, specific disclosure and dissemination requirements, and particular antifraud provisions with respect to going private transactions.

Rule 13e-3 and Schedule 13E-3 presently require disclosure of projections where it is necessary to make the required statements, in the light of the circumstances under which they are made, not materially misleading. Voluntary disclosure of projections is also encouraged by the Commission if made in accordance with Guides 62 and 5, "Disclosure of Projections of Future Economic Performance" (the "Guides") under the Securities Act of 1933 (15 U.S.C. 77a et seq. as amended by Pub. L. No. 94-29) (June 4, 1975), and the Exchange Act, respectively.

The Commission believes that in the context of a going private transaction in which projections have been previously furnished to specified persons outside the company the balance between the benefits and burdens of mandatory public disclosure shifts in favor of disclosure of such projections. Projections are important to an investor's assessment of a company's future earning power. This is particularly so in the context of a going private transaction because unaffiliated security holders must determine whether the consideration they are being offered in exchange for the reduction or elimination of their equity interest constitutes fair value.

By tying disclosure of the projection to its prior dissemination to a person who has loaned funds for the purpose of the 13e-3 transaction or a person who has prepared a report, opinion or appraisal which is materially related to such transaction, the degree of reliability associated with such a projection can be expected to be higher than with a strictly internal projection. The risks run by these persons if the company's performance varies materially from that stated in the projection suggests that they would not be willing to rely on the projection unless they believed it to have a substantial degree of reliability. This external check on the reliability of the projections should, therefore, serve as a useful standard for screening out those projections which are not suitable for consideration by security holders.

Moreover, since the proposal only requires disclosure of projections which have been previously furnished to specified persons outside the company, the arguments against mandatory disclosure do not apply with equal force. Thus, the company would not have to incur any additional burden or expense in producing the projection because it is available by definition. The availability of the projection also demonstrates that the company is able to make such disclosure.

Concern regarding exposure to liability for disclosure of projections under the proposals is also mitigated by the recent adoption of a safe harbor from the liability provisions of the Federal securities laws for projections or other items of forward looking information.[1] The safe harbor would be available for a statement containing or relating to such a projection unless it is shown that the statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

Specific Inquiries

In addition to the issues raised by the particular proposals being published for comment the Commission requests written comment on the following:

(1) Whether Schedule 13E-3 should require disclosure of projections of revenues, income (loss), or earnings (loss) per share prepared by or on behalf of the issuer during the last five years which relate to the current or any succeeding fiscal period, without regard to whether such projections have been furnished to persons outside the company;

(2) Whether the costs imposed on an issuer or an affiliate of such issuer engaging in a Rule 13e-3 transaction by these proposals would outweigh their benefits to investors and the public interest; and

(3) Whether the proposals, if adopted, would have an adverse effect on competition or would impose a burden on competition which is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(1) of the Exchange Act. Comments on this inquiry should include, to the extent feasible, detailed empirical and other evidentiary material in support of any conclusions, opinions or positions.

Text of Proposals

(Attention—The text of the following proposed amendments uses ►◄ to indicate additions and [ ] brackets to indicate deletions.)

It is proposed to amend 17 CFR 240 as follows:

I. By amending paragraph (e)(1) of § 240.13e-3 to read as follows:

§ 240.13e-3 Going private transactions by certain issuers or their affiliates.

* * * * *

(e) *Disclosure of certain information.*

(1) The issuer or affiliate engaging in the Rule 13e-3 transaction, in addition to any other information required to be disclosed pursuant to any other applicable rule or regulation under the federal securities laws, shall disclose, to security holders of the class of equity securities which is the subject of the transaction, in the manner prescribed by paragraph (f) of this section, the information required by Items 1, 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 15 [and] ►, ◄ 16 ► and 17 ◄ of Schedule 13E-3 [§ 240.13e-100], or a fair and adequate summary thereof, and Items 7, 8 and 9 and include in the document which contains such information the exhibit required by Item [17(e)] ► 18(f) ◄ of such Schedule. If the Rule 13e-3 transaction involves (i) a transaction subject to Regulation 14A [§§ 240.14a-1 to 240.14a-103] or 14C [§§ 240.14c-1 to 240.14c-101] of the Act, (ii) the registration of securities pursuant to the Securities Act of 1933 and the General Rules and Regulations promulgated thereunder, or (iii) a tender offer subject to Regulation 14D [§§ 240.14d-1 to 240.14d-101] or Rule 13e-4 [§240.13e-4], such information shall be included in the proxy statement, the information statement, the registration statement or the tender offer for or request or invitation for tenders of securities published, sent or given to security holders, respectively.

* * * * *

II. By amending the General Instructions of § 240.13e-100 to read as follows:

§ 240.13e-100 Schedule 13E-3, Rule 13e-3 (§ 240.13e-3) transaction statement pursuant to section 13(e) of the Securities Exchange Act of 1934.

* * * * *

General Instructions

* * * * *

C. If the statement is filed by a general or limited partnership, syndicate or other group the information called for by Items 2, 3, 5, 6, [10 and] 11 and 12 shall be given with respect to: (i) each partner of such general partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a corporation (other than the issuer) or if a person referred to in (i), (ii), (iii) or (iv) of this Instruction is a corporation (other than the issuer), the information called for by the above mentioned items shall be given with respect to: (a) each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation ultimately in control of such corporation.

* * * * *

Item 8. Fairness of the Transaction.

* * * * *

(b) If the issuer or affiliate reasonably believes that the Rule 13e-3 transaction is fair to unaffiliated security holders, discuss in reasonable detail the material factors upon which such belief is based and, to the extent practicable, the weight assigned to each such factor. Such discussion should also include an analysis of the extent, if any, to which such belief is based on the factors set forth in the instruction to this paragraph (b), paragraphs (c), (d), and (e) of this Item, and [Item] ► Item ◄ 9 ► and 10 ◄.

Instruction. (1) The factors which are important in determining the fairness of a transaction to unaffiliated security holders and the weight, if any, which should be given to them in a particular context will vary. Normally such factors will include, among others, those referred to in paragraphs (c), (d) and (e) of this Item and whether the consideration offered to unaffiliated security holders constitutes fair value in relation to:

(i) current market prices
(ii) historical market prices
(iii) net book value
(iv) going concern value
(v) liquidation value
(vi) the purchase price paid in previous purchases disclosed in Item 1(f) of Schedule 13e-3
(vii) any report, opinion, or appraisal described in Item 9 [and]
(viii) firm offers made by any unaffiliated person, other than the person filing this statement, during the preceding eighteen months for (A) the merger or consolidation of the issuer into or with such person or of such person into or with the issuer, (B) the sale or other transfer of all or any substantial part of the assets of the issuer or (C) securities of the issuer which would enable the holder thereof to exercise contol of the issuer ► and
(ix) any projection described in Item 10.◄

* * * * *

►Item 10. Projections of Revenues, Income (Loss), or Earnings (Loss) Per Share.

(a) State whether or not the issuer or affiliate has furnished, directly or indirectly, a projection of revenues, income (loss), or earnings (loss) per share prepared by or on behalf of the issuer during the preceding eighteen months to a person who has made a loan described in Item 6 of this Schedule or a person who has furnished a report, opinion or appraisal described in Item 9 of this schedule.

(b) With respect to any such projection:

(1) Identify the person to whom the projection was furnished;

(2) Briefly describe the reason for furnishing the projection to the person identified in (1) and the use which was to be made of it; and

(3) Furnish a fair and adequate summary of such projection and include such further material information, if any, as may be necessary to make the projection not misleading.◄

Item [10] ►11◄ Interest in securities of the Issuer.

* * * * *

Item [11] ►12◄ Contracts, Arrangements or Understandings with Respect to the Issuer's Securities.

* * * * *

[1] Securities Act Release No. 33-6084 (June 25, 1979) (44 FR 38810).

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Item [12] ►13◄ Present Intention and Recommendation of Certain Persons with Regard to the Transaction.

* * * * *

Item [13] ►14◄ Other Provisions of the Transaction.

* * * * *

Item [14] ►15◄ Financial Information.

* * * * *

Item [15] ►16◄ Persons and Assets Employed, Retained, or Utilized.

* * * * *

Item [16] ►17◄ Additional Information.

* * * * *

Item [17] ►18◄ Material to be Filed as Exhibits.

* * * * *

►(c) Any projection referred to in Item 10;◄

[(c)] ►(d)◄ Any document setting forth the terms of any contract, arrangement or understanding referred to it Item 11 of this schedule; and

[(d)] ►(e)◄ Any disclosure materials furnished to security holders in connection with the transaction pursuant to Rule 13e–3(d) [§ 240.13e–(d)].

[(e)] ►(f)◄ A detailed statement describing the appraisal rights and the procedures for exercising such appraisal rights which are referred to in Item 13(a) of this schedule.

[(f)] ►(g)◄ If any oral solicitation of or recommendations to security holders referred to in Item 15(b) is to be made by or on behalf of the person filing this statement, any written instruction, form or other material which is furnished to the persons making the actual oral solicitation or recommendation for their use, directly or indirectly, in connection with the Rule 13e–3 transaction.

* * * * *

[Sec. 17(a), 19(a), 48 Stat. 84, 85; secs. 3(b), 10(b), 13(e), 14(a), 14(d), 14(e), 23(a), 48 Stat. 882, 894, 895, 891, 901; sec. 209, 48 Stat. 908; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 10, 68 Stat. 686; sec. 5, 78 Stat. 569, 570; secs. 2, 3, 82 Stat. 454, 455); secs. 1, 2, 3–5, 84 Stat. 1497; secs. 3, 18, 89 Stat. 97, 155; 15 U.S.C. 77g(a), 77s(a), 78c(b, 78j(b), 78m(e), 78n(a), 78n(c), 78n(e), 78w(a).]

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

August 2, 1979.

[FR Doc. 79-24454 Filed 8-7-79; 8:45 am]

BILLING CODE 8010-01-M

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Wednesday
August 8, 1979

Part VI

Securities and Exchange Commission

Resales of Restricted and Other Securities

17 CFR Part 231

[Release No. 33-6099]

Resales of Restricted and Other Securities

AGENCY: Securities and Exchange Commission.

ACTION: Interpretations of rules.

SUMMARY: The Commission has authorized the issuance of a release which sets forth the views of its staff on various interpretive questions relating to the resale of restricted and other securities. The purpose of the release is to resolve certain recurring issues that have arisen under the Commission's rules applicable to such resales.

FOR FURTHER INFORMATION CONTACT: With respect to Items (1) through (49), (59) through (68), and (80) through (92), contact: Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, (202) 755-1240.

With respect to Items (50) through (58), contact: Andre Weiss, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, (202) 376-7470.

With respect to Items (69) through (79), contact: M. Blair Corkran, Jr., Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, (202) 755-8961.

SUPPLEMENTARY INFORMATION: Commencing in September 1977, the Commission issued a number of releases [1] concerning changes in certain of its rules under the Securities Act of 1933 the ("1933 Act") [15 U.S.C. 77a et seq.] relating to the resale of restricted [2] and other securities. The changes discussed in those releases have resulted in numerous oral and written requests for interpretations of the new provisions. To provide guidance on the matters raised by the requestors and on other significant recurring issues as well, the Commission has authorized the issuance of this release setting forth the views of its Divisions of Corporation Finance and Market Regulation.

The interpretations contained in this release primarily relate to Rule 144 [17 CFR 230.144] under the 1933 Act, although interpretations of Rule 145(d) [17 CFR 230.145(d)], 148 [17 CFR 230.148], and 237 [17 CFR 230.237] under the Act also are set forth herein. The Commission previously issued an interpretive release on Rule 144 in September 1972.[3] All of the issues discussed in the prior release have been included herein, although in a somewhat different form than that in which they originally appeared. The prior release may therefore be considered superseded by this release. It should be noted that some of the views expressed in the prior release no longer apply, and attention in this regard is directed to Items (29), (81) and (84) herein.

This release also discusses the staff's current views on various recurring issues that have arisen under the rules mentioned above. Although many of these issues have previously been dealt with by the Staff in interpretive letters that are publicly available, the staff has, upon reflection, revised some of the positions expressed in those letters. Attention in this regard is particularly directed to Items (9), (12), (22), (28), (30), (34), (47), (62), (69) and (70) herein. It should be noted, however, that this release does not discuss all of the matters dealt with in prior interpretive letters on the subject rules issued by the staff. To the extent that the views expressed in those letters are not discussed in this release, those views may still be considered to represent the staff's position on the questions raised.

The Commission is hopeful that the issuance of this release will reduce the need for members of the public to request interpretive advice from the staff regarding the rules in question. Although the staff will continue to respond to requests for such advice, it will adhere to its past practice of not providing a substantive response to letters involving the following: (1) hypothetical situations (responses to such inquiries can be misconstrued in actual fact situations), (2) the removal of restrictive legends from securities (the removal of such legends is subject solely to the discretion of the issuer of the securities), (3) whether a person is an affiliate [4] (this is a factual question which the staff is not in a position to resolve from a distance), and (4) requests for a no-action position regarding securities acquired after April 15, 1972 (Rule 144 became effective on that date and the Commission stated at the time that its staff would not consider no-action requests for securities acquired thereafter).[5]

Finally, to assist readers of the release, a brief paraphrase of each rule provision being interpreted has been included, where appropriate, at the beginning of each series of interpretations relating to that provision. Also, to avoid confusion, it should be noted that the references herein to subparagraphs of the rules in question follow the classification system set forth in volume 17 of the Code of Federal Regulations. For example, subparagraph (d)(4)(ii) of Rule 144 corresponds to subparagraph (d)(4)(B) under the original classification system used for the rule at the time of its adoption.

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I. Interpretations Applicable To All Four Rules

(1) *Question:* Are there any restrictions on securities sold in reliance upon Rules 144, 145(d), 148 and 237?

Answer: No. If all applicable conditions of the rule under which the securities are sold are satisfied, the purchaser receives unrestricted securities. However, if the purchaser is an affiliate of the issuer, he must resell the securities either pursuant to a registration statement or in a manner (such as compliance with the conditions of Rule 144) that demonstrates an underwriter[6] is not involved.

[1] See in this regard Release Nos. 33-5865 (September 16, 1977) [42 FR 47848], 33-5918 (March 29, 1978) [43 FR 14445], 33-5932 (May 15, 1978) [43 FR 21660], 33-5979 (September 19, 1978) [43 FR 43709], 33-5980 (September 20, 1978) [43 FR 43726], 33-5995 (November 8, 1978) [43 FR 54229], and 33-6032 (March 5, 1979) [44 FR 15610].

[2] The term "restricted securities" is defined in Rule 144(a)(3) and includes securities acquired in non-public offerings, such as those under section 4(2) of the 1933 Act, as well as securities acquired in offerings made in reliance upon Rule 240 [17 CFR 230.240] under the Act.

[3] Release No. 33-5306 (September 26, 1972) [37 FR 23180].

[4] An "affiliate" of an issuer is defined in Rule 144(a)(2) as a "person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such issuer."

[5] Release No. 33-5223 (January 11, 1972) [37 FR 596].

[6] The term "underwriter" is broadly defined in Section 2(11) of the 1933 Act and includes "any person who has purchased from an issuer with a

Footnotes continued on next page

(2) *Question:* Is prior approval by the Commission or its staff necessary before a person may rely on any of the rules?

Answer: No. Rules 144, 145(d), 148 and 237 are designed to be self-operative. Accordingly, neither the Commission nor its staff will respond to requests for approval of proposed transactions under the rules.

II. Rule 144

A. *Definitions*—1. *Rule 144(a)(2)(i):* The term "person" includes the seller of securities under the rule, his spouse, and any of his or his spouse's relatives who share his home.

(3) *Question:* Are the seller and all members of his family, including those who have established permanent homes of their own, considered to be one person for purposes of the rule?

Answer: No. The definition of the term "person" was not intended to aggregate members of a family who are independent of the seller, assuming that such persons do not act in concert in selling securities under the rule. However, if a family member resides elsewhere on a temporary basis (e.g., a child attending college) but maintains his permanent home with the seller, that member's sales under Rule 144 would be aggregated with those of the seller.

(4) *Question:* If a person transfers restricted securities to his or her spouse as part of proceedings which lead to a divorce settlement, must subsequent sales of the transferee under the rule be aggregated with those of the transferor?

Answer: No. If the spouse to whom the securities were transferred maintains an independent home from the transferor and does not act in concert with the transferor in selling securities under the rule, such individual is considered to be a separate person for purposes of the rule.

2. *Rule 144(a)(2)(ii):* The term "person" includes any trust or estate in which the seller owns 10% or more of the total beneficial interest or serves as trustee, executor, or in any similar capacity.

(5) *Question:* Does Rule 144(a)(2)(ii) require a bank which serves as executor or trustee for various estates and trusts to aggregate the sale transactions for its own account under the rule with sale transactions of the estates and trusts which it administers?

Answer: Yes.

(6) *Question:* Conversely, must the individual trusts and estates administered by the bank be considered one "person" because they share a common fiduciary?

Answer: No. The sharing of a common fiduciary does not, by itself, require the trusts and estates to be treated as a single unit. [7]

(7) *Question:* Are directors of a charitable organization deemed to act in a capacity similar to that of an executor or trustee within the meaning of Rule 144(a)(2)(ii) so that sales by such directors under Rule 144 must be aggregated with those of the charitable organization?

Answer: No. Such directors are not deemed by analogy to serve in a capacity similar to that of a trustee or executor. Accordingly, sales of restricted securities by directors of a charitable organization need not be aggregated with sales by the organization, assuming that the directors and the organization do not act in concert in selling securities under the rule.

3. *Rule 144(a)(2)(iii):* The term "person" includes any corporation or other organization in which the seller of securities under Rule 144 beneficially owns 10 percent or more of any class of equity securities or 10 percent or more of the equity interest.

(8) *Question:* Would a parent company and a second-tier subsidiary (e.g., a company wholly-owned by a direct subsidiary of the parent) be treated as one person under the rule with respect to sales of restricted securities of another issuer held in their respective investment portfolios?

Answer: Yes. The parent in such circumstances is the beneficial owner of more than 10% of the equity securities of the second-tier subsidiary. Accordingly, they are considered to be a single person and the sales of both under the rule must be aggregated.

4. *Rule 144(a)(3):* The term "restricted securities" includes securities acquired from the issuer or an affiliate thereof in a transaction or chain of transactions not involving a public offering.

(9) *Question:* Are the securities held by a trust or estate which is not an affiliate of the issuer considered to be restricted under any of the following circumstances:

(a) The securities were acquired in the open market by the settlor, who was an affiliate of the issuer at the time the securities were transferred to the trust?

(b) The securities were acquired in the open market by the decedent, who was an affiliate at the time of death, and were transferred to the estate as a result of the death of the decedent?

(c) The securities were acquired in the open market by the trustee or executor, who is an affiliate?

Answer: The securities may be restricted in situation (a), but would not be restricted in situations (b) and (c). Ordinarily, securities acquired in the open market are not considered to be restricted securities for purposes of Rule 144 because they are acquired in public transactions. However, where such securities are acquired by an affiliate and then transferred in a non-public transaction to another person, such as a trust, the securities become restricted. Thus, in situation (a) above, the securities would be considered restricted if they were sold by the settlor to the trust. If, however, the securities were donated by the settlor to the trust, they would be considered restricted only for that period of time the settlor remained an affiliate. This is due to the fact that, in a gift transaction, the donee assumes the status of the donor for purposes of Rule 144. Since the donor (i.e., the settlor) in situation (a) would be subject to Rule 144 with respect to sales of any securities acquired by him in the open market so long as he remains an affiliate, the donee (i.e., the trust) likewise would be subject for that period of time. But if the donor ceases to be an affiliate, he would be free to sell the open-market securities immediately without any restrictions, and the donee similarly could sell such securities in the same manner.

In situation (b), the securities are not restricted in the hands of the estate because there was no transaction in which an affiliate transferred securities to the estate. (Death is not considered to have created such a transaction).

In situation (c), the securities are not restricted in the hands of the trust or estate because they were acquired in the open market for the account of an entity (i.e., the trust or estate) which is not an affiliate. The fact that the trustee or executor is an affiliate does not change the result so far as the trust or estate is concerned because the trustee or executor is not acting on its own

Footnotes continued from last page
view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates a direct or indirect participation in any such undertaking, or participates or has a participation in direct or indirect underwriting of any such undertaking; . . . As used in this paragraph the term 'issuer' shall include, in addition to an issuer, any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect control with the issuer."

[7] It should be noted, however, that if the fiduciary administers the trusts and estates in a manner that results in their acting in concert together, they would be treated as one person by virtue of paragraph (e)(3)(vi) of the rule. That paragraph states that "When two or more affiliates or other persons agree to act in concert for the purpose of selling securities of an issuer, all securities of the same class sold for the account of all such persons during any period of three months shall be aggregated for the purpose of determining the limitation on the amount of securities sold."

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behalf in acquiring the securities but on behalf of the non-affiliate trust or estate. The trustee or executor in situation (c), however, would have to aggregate its personal sales, pursuant to Rule 144(a)(2)(ii), with those of the trust or estate.

(10) *Question:* Is Rule 144 available for the sale of securities acquired by an underwriter or finder as compensation for services rendered in connection with a registered public offering?

Answer: No. The securities held by the underwriter or finder are not considered "restricted securities" because they were nor acquired "in a transaction or chain of transactions not involving any public offering." Accordingly, Rule 144 may not be relied upon for their sale.[8]

B. *Conditions to be Met—Rule 144(b):* Any person who sells restricted securities for his own account and any person who sells restricted or other securities for the account of an affiliate of the issuer shall be deemed not to be engaged in a distribution of the securities and therefore not an underwriter if all of the conditions of the rule are met.

(11) *Question:* Must a former affiliate comply with Rule 144 when he seeks to sell securities acquired by him in the open market while he was an affiliate?

Answer: No. The rule applies only to sales of restricted and other securities by affiliates and sales of restricted securities by non-affiliates. Securities acquired in the open market are not restricted. And, since the seller is no longer an affiliate, the sale of non-restricted securities by him is not subject to Rule 144.

(12) *Question:* If an affiliate donates nonrestricted securities to a charitable organization and subsequently ceases to be an affiliate, must the charitable organization continue to comply with the requirements of Rule 144?

Answer: No. The donee in such circumstances should be in no worse position than the donor. And since the donor, as a former affiliate, would not have to comply with the provisions of Rule 144 with respect to the resale of non-restricted securities, the donee likewise need not comply.

(13) *Question:* Must all of the provisions of Rule 144 be complied with when an affiliate seeks to rely upon it for the sale of non-restricted securities?

Answer: No. The two-year holding period requirement of paragraph (d) of the rule need not be complied with if the securities are not restricted. All other conditions of the rule, however, must be satisfied by the affiliate before he can rely on it for the resale of such securities.

C. *Current Public Information*—1. *Rule 144(c)(1):* There shall be available adequate current public information with respect to the issuer of securities sold under the rule. In the case of an issuer subject to the periodic reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (the "1934 Act") [15 U.S.C. 78a et seq.], this condition shall be satisfied if the issuer has been subject to such requirements for at least 90 days immediately preceding the sale of the securities and has filed all of the reports required to be filed under those sections during the 12 months preceding the sale (or such shorter period that the issuer was required to file such reports).

(14) *Question:* May sales of an issuer's securities be made in reliance upon Rule 144 during the 90-day period following the date on which the issuer initially became subject to the periodic reporting requirements of Section 13 or 15(d) of the 1934 Act?

Answer: No. Rule 144(c)(1) clearly requires that issuers subject to the reporting requirements of Section 13 or 15(d) must have been so subject for at least 90 days prior to any sales under the rule and have filed all required reports during the period.

Illustration 1: Facts: Y, a non-public company, goes public through a 1933 Act registration statement which became effective on May 1, 1979. X owns restricted securities of Y and wants to sell them on May 15, 1979. Interpretation: Rule 144 is not available to X on May 15 because Y company has not been subject to Section 15(d) for at least 90 days. On August 1, 1979, 90 days after the effective date of its 1933 Act registration statement, Y will have been subject to the requirements of Section 15(d) for the minimum period required by Rule 144(c)(1). Accordingly, X may rely on the rule on that date, assuming Y has filed all reports required during the preceding 90 days and all other requirements of the rule are satisfied.

Illustration 2: Facts: Y, a company not previously subject to the periodic reporting requirements of Section 13 or 15(d) of the 1934 Act, filed a Form 10 registration statement [17 CFR 249.210] under the Act on February 1, 1979. The registration statement became effective on April 1, 1979. X owns restricted securities of Y and wants to sell them on May 1, 1979. Interpretation: Rule 144 is not available to X on May 1 because Y has not been subject to the requirements of Section 13 for at least 90 days. On July 1, 1979, 90 days after the date of effectiveness of the Form 10 registration statement, Y will have been subject to the requirements of Section 13 for the minimum period specified in Rule 144(c)(1). Accordingly, X may rely on the rule on that date, assuming Y has filed all reports required during the preceding 90 days and all other requirements of the rule are satisfied.

(15) *Question:* May an issuer which is delinquent in filing periodic reports required under Section 13 or 15(d) of the 1934 Act properly assert that it is in compliance with the public information requirement of Rule 144(c)(1) because it makes available the information specified in Rule 144(c)(2)? [9]

Answer: No. The provisions of Rule 144(c)(2) are applicable only to issuers which are not subject to Section 13 or 15(d). Accordingly, an issuer subject to either Section 13 or 15(d) must file the reports required thereunder in order to satisfy Rule 144(c)(1).

(16) *Question:* May a seller of restricted securities rely upon the issuer's representation in its most recent periodic report that it has filed all reports required under Section 13 or 15(d) of the 1934 Act?

Answer: Generally, Yes. Rule 144(c)(1) states that a seller under the rule may rely on a statement made by the issuer in its most recent quarterly or annual report filed under the 1934 Act that it (the issuer) has filed all reports required under Section 13 or 15(d) during the preceding 12 months, or such shorter period that it was required to file such reports. The rule also provides, however, that if the seller knows or has reason to believe that the issuer has not complied with the requirements of Section 13 or 15(d), the seller may not rely on the statement by the issuer concerning compliance with Section 13 or 15(d).

Illustration 1: Facts: Y company stated in its most recent report on Form 10–Q that it had filed all reports required to be filed within the preceding 12 months. In fact, Y had not filed a Form 8–K required during that period. X owns restricted securities of Y and wants to sell them.

[8] Although it is clear from an interpretive standpoint that Rule 144 is not available for the sale of securities received by an underwriter or finder in connection with a registered public offering, the Division of Corporation Finance has stated in a number of letters that it will not recommend any enforcement action to the Commission if an underwriter (or a finder) sells such securities pursuant to the provisions of Rule 144 (except for the provision requiring Form 144 to be filed) under certain conditions. The conditions are: (1) the securities were originally registered as part of the public offering, and (2) at least two years have elapsed from the date of the last sale of the public offering. See, e.g., letter re *Communications Properties, Inc.* dated March 13, 1978.

[9] See Part 2 of Section C of this release for a description of the information specified in Rule 144(c)(2).

Interpretation: X may rely on the statement made by Y and sell his securities under Rule 144, unless he knows or has reason to believe that the statement is incorrect.

Illustration 2: Facts: Y company stated in its Form 10–Q for the quarter ended March 31, 1979 that it had filed all reports required during the preceding 12 months. X, who owns restricted securities of Y, decides on October 1, 1979 to sell them. He determines that the most recent periodic report by Y on file with the Commission is the 10–Q referred to above. Interpretation: X cannot rely on Rule 144 because he has reason to believe that Y has not filed a form 10–Q for the quarter ended June 30, 1979. The Form 10–Q for the quarter was required to be filed by July 15, 1979, and the fact that 2½ months have elapsed from its due date provides X with a substantial indication that the 10–Q in fact has not been filed. In such circumstances, X should contact Y directly to determine the status of the 10–Q

(17) *Question:* If an issuer which has been filing periodic reports with the Commission pursuant to Section 15(d) of the 1934 Act finds that it is no longer obligated to file reports under that section, may it voluntarily continue filing reports pursuant to that provision in order to satisfy the current public information requirement of Rule 144?

Answer: Yes. Continued voluntary reporting under Section 15(d) (or under Section 13, as well) is permissible in order to satisfy the requirements of Rule 144(c).

2. *Rule 144(c)(2):* There shall be available adequate current public information with respect to the issuer of securities sold under the rule. In the case of an issuer which is not subject to Section 13 or 15(d) of the 1934 Act, this condition shall be satisfied if the issuer makes publicly available the information concerning itself specified in subsections (i) to (xiv) and subsection (xvi) of Rule 15c2–11(a)(4) [17 CFR 240.15c2–11(a)(4)] under the Act.

(18) *Question:* If an issuer is not subject to the periodic reporting requirements of Section 13 or 15(d) of the 1934 Act, how may it satisfy the current public information requirement of Rule 144?

Answer: The issuer may comply in two ways: (1) it may make publicly available the information concerning itself specified in Rule 15c2–11(a)(4), or (2) it may voluntarily become subject to the reporting requirements of Section 13 by filing a Form 10 registration statement under Section 12(g) of the 1934 Act.

(19) *Question:* Is there a minimum period prior to a sale under Rule 144 during which the information specified in Rule 15c2–11(a)(4) must be available to the public before Rule 144(c)(2) will be deemed satisfied?

Answer: No. The rule requires only that the information be publicly available.[10]

(20) *Question:* What must an issuer do to assure itself that the information concerning itself specified in Rule 15c2–11(a)(4) is considered "publicly available" within the meaning of Rule 144(c)(2)?

Answer: The issuer should make the information available on an ongoing and continuous basis (e.g., through the issuance of annual and quarterly reports) to security holders, market makers, brokers, financial statistical services, and any other interested persons.

Illustration: Facts: Y company is not subject to Section 13 or 15(d) of the 1934 Act. X owns restricted securities of Y and wants to sell such securities. Y has furnished the information specified in Rule 15c2–11 to the broker for X. Interpretation: Rule 144 is not available to X. Furnishing the specified information solely to the broker through whom X proposes to sell his restricted securities does not make such information publicly available.

D. *Holding Period for Restricted Securities*—1. *Rule 144(d)(1):* Restricted securities sold pursuant to the rule must be beneficially owned and fully paid for by the seller for at least two years prior to their sale.

(21) *Question:* If restricted securities of the same class are acquired at different times, is it necessary for the holder to be able to trace the securities to their respective purchase dates at the time any of them are sold?

Answer: Yes. In order to assure that the holding period requirement of Rule 144 is satisfied, the seller must be able to trace the specific securities being sold.

Illustration: Facts: On April 1, 1977, X acquired 5,000 shares of restricted securities of Y company. On December 1, 1977, X acquired an additional 5,000 shares of restricted securities of Y. On May 1, 1979, X wants to sell 4,000 shares of his restricted securities. Interpretation: Rule 144 is available to X, provided he sells the particular restricted securities acquired on April 1, 1977.

(22) *Question:* When does the holding period commence with respect to restricted securities issued under an employee benefit plan which requires the plan participants to remain as employees for a specified period of time before the securities will vest?

Answer: The holding period in such circumstances will commence when the securities are allocated to the account of an individual plan participant. The fact that the securities may not vest until some later date does not alter the result.

(23) *Question:* If restricted securities are to be issued pursuant to a written agreement, does the holding period for such securities commence on the date of the agreement or on the date the securities are delivered?

Answer: The answer to this question depends on when the person who will receive the securities is deemed to have paid for the securities and thereby assumed the full risk of economic loss with respect to them. If that risk is assumed as of the date of the agreement, then the holding period starts on that date, even though actual delivery of the securities may not occur until later. Conversely, if the risk of loss is not assumed until the date of delivery, the holding period will not commence until the securities are actually delivered.

2. *Rule 144(d)(2):* A promissory note or other obligation given to the person from whom the securities are purchased shall not be deemed full payment of the purchase price unless the note or other obligation: (i) provides for full recourse against the purchaser; (ii) is secured by collateral, other than the securities purchased, having a fair market value at least equal to the purchase price of the securities; and (iii) is discharged by payment in full prior to the sale of the securities. Similarly, entering into an installment purchase contract with the seller shall not constitute full payment unless the three conditions specified above are met.

(24) *Question:* What is the effect of giving a promissory note to the seller that fails to comply with conditions (i) or (ii) above?

Answer: The holding period for the securities is tolled and will not begin to run until both conditions are satisfied. If the conditions are not satisfied during the life of the note, the holding period will not commence until the note is fully paid. Even if both conditions are satisfied and the securities are then held for two years, the holding period requirement will not be met and Rule 144 will not be available until the note is paid in full prior to the time the securities are resold.

(25) *Question:* Will the holding period be tolled if the purchaser pays the seller in full for the securities but obtains the

[10] *See* Item (20) herein for the staff's view of when the information is considered to be "publicly available."

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funds to do so from a non-affiliate third party to whom he has given a promissory note that fails to satisfy either the full recourse or collateralization requirements of the rule?

Answer: No. The conditions in Rule 144(d)(2) are applicable only when the purchase of securities is financed through the seller. In the above situation, the purchaser completed the transaction involving the purchase of the securities by paying the seller in full, and his holding period commenced at that point. The fact that the proceeds for the purchase were obtained through the issuance of a promissory note to a non-affiliate third party does not alter this result.

(26) *Question:* If the purchaser gives a promissory note to the seller that is secured by collateral which later increases in market value beyond the amount of the outstanding obligation on the note, may the purchaser withdraw the excess collateral without affecting the holding period under Rule 144(d)?

Answer: Yes. Rule 144(d)(2) requires only that the collateral have a market value at least equal to the purchase price of the securites.

(27) *Question:* Conversely, if the collateral decreases in market value below the amount of the outstanding obligation on the note, will it be necessary for the purchaser to deposit additional collateral to cover the difference in order to avoid tolling the holding period?

Answer: Yes. The fair market value of the collateral for the note must at all times be equal to the outstanding obligation. If the fair market value of the collateral falls below the amount of the outstanding obligation, the holding period in Rule 144(d) will be tolled until the fair market value of the collateral is at least equal to the amount of the outstanding obligation.

(28) *Question:* If an installment contract is entered into for the purchase of restricted securities and it fails to satisfy the full recourse or collateralization requirements of Rule 144(d)(2), is the holding period for all of the securities covered by the contract tolled until such time as the final installment payment is made, or may the holding period commence for some of the securities at the time equivalent payments for them are made under the contract?

Answer: The holding period in such circumstances may commence on a staggered basis, as illustrated below.

Illustration: Facts: X enters into an installment contract for the purchase of 1,000 restricted shares of Z company stock for $50,000. The contract does not provide for full recourse against X. Annual payments of $10,000 each are to be made on July 1 of each successive year, beginning on July 1, 1979. Interpretation: Under this contract, X will in effect pay one-fifth of the total purchase price on July 1 of each year. Accordingly, the holding period for one-fifth of the shares will commence with the payment of each installment. Therefore, the holding period for 200 shares will commence when the first payment of $10,000 is made on July 1, 1979 and the holding period for additional segments for 200 shares will commence when further payments of $10,000 are made in the future.

It should be noted that the computation of the holding period indicated above will not be affected by the presence or absence in the installment contract of a clause releasing specified numbers of shares from the contract as individual installment payments are made. Similarly, the fact that the purchaser fails to make all of the required installment payments and therefore receives only a portion of the shares covered by the contract will not alter the computation of the holding period with respect to those shares which are received.

3. *Rule 144(d)(3):* The holding period for equity securities shall be tolled during the period that the seller had a short position in, or any put or other option to dispose of, securities of the same class or securities convertible into securities of that class. The holding period for nonconvertible debt securities shall also be tolled under the same circumstances.

(29) *Question:* Does the existence of a short position in, or a put or other option to sell, securities toll the holding period for all restricted securities of that class held by a person or only the number of restricted securities equal to those subject to the short position, put, or other option to sell?

Answer: The holding period is tolled only for the number of restricted securities equivalent to the number of securities subject to the short, put, or other option to sell.

Illustration: Facts: on April 15, 1978, X acquired 10,000 shares of restricted common stock of Y company. X is not an affiliate of Y. On February 1, 1979, X sold short 2,000 shares of common stock of Y. On May 1, 1979, X covered his short with the securities that he purchased in the open market. Interpretation: The three-month period during which X had a short position in 2,000 shares of Y's common stock would be excluded from the computation of the two-year holding period for 2,000 shares of the restricted stock of Y company held by X. The holding period for the 8,000 other shares of Y restricted stock held by X, however, would not be affected by the short sale and would therefore continue to run during the three-month period the short existed.

(30) *Question:* Is a put or other option to sell securities deemed to exist in any of the following situations:

(a) An employee receives restricted securities under an employee benefit plan and is given the right to sell the securities back to his employer at a specified price?

(b) A company purchases assets in exchange for some of its restricted securities and agrees to compensate the seller with additional securities if a specified resale price for the securities originally issued is not obtained during a certain period of time?

Answer: Each of the above situations involves a put or other option to sell. In each instance, the holder of restricted securities possesses a right which assures him a certain minimum price for his securities. Thus, neither the employee in situation (a) nor the seller of assets in situation (b) are at complete risk with respect to their securities during the period their respective rights are exercisable. Accordingly, under Rule 144(d)(3) the holding period for each such person is tolled during the period the right may be utilized.

Illustration: Facts: X is a participant in the employee benefit plan of Y company. X receives shares of Y on March 1 pursuant to the plan. The plan provides that, for a 30-day period each year commencing on September 1, participants in the plan may sell their shares back to Y at a specified price. Interpretation: X's holding period for the shares would be tolled during the 30-day period each year that he can exercise his right to sell the shares back to Y.

4. *Rule 144(d)(4):* This section describes how the holding period under the rule should be computed in certain specific situations.

(31) *Question:* Will a trust be able to tack the holding period of the settlor to its own in the following situations involving restricted securities:

(a) The securities held by the trust were donated to it by the settlor?

(b) The securities held by the trust were sold to it by the settlor?

Answer: Tacking will be permitted in situation (a) but not in situation (b). Rule 144(d)(4)(vi) permits a trust to tack the settlor's holding period to its own where the securities are donated by the settlor to it. But if the securities are sold to the trust in a private transaction unregistered under the 1933 Act, an investment decision has been made (unlike the gift situation) that destroys the affinity between the settlor and the trust so far as the computation of the holding period is concerned.

(32) *Question:* Must an estate which holds securities that were restricted in the hands of the decedent comply with the holding period requirement of Rule 144 in the following situations:

(a) The estate is an affiliate of the issuer of the securities?

(b) The estate is not an affiliate of the issuer?

(c) The estate is not an affiliate of the issuer but one of the beneficiaries is?

Answer: The holding period requirement must be complied with in situation (a) but not in situations (b) and (c). Although an estate which is an affiliate must comply with the holding period requirement, Rule 144(d)(4)(vii) permits the estate to tack the holding period of the decedent to its own. If the estate ceases to be an affiliate, or never was an affiliate, then it need not comply with the holding period requirement, regardless of the fact that one or more beneficiaries is an affiliate. Any beneficiary who is an affiliate and receives restricted securities from the estate may tack the holding period of both the decedent and the estate to his own, pursuant to Rule 144(d)(4)(vii).

(33) *Question:* Will the tacking of holding periods be permitted in any of the following situations?

(a) An individual transfers restricted shares to a corporation solely in exchange for a portion of its outstanding securities?

(b) An individual transfers restricted shares to a corporation solely in exchange for all of its outstanding securities?

(c) A corporation transfers without consideration restricted shares held in its investment portfolio to one of its wholly-owned subsidiaries?

Answer: Tacking will be permitted in situations (b) and (c) but not in situation (a). In situations (b) and (c) the transferor retained complete control over the transferee and there was, therefore, no shift in the economic risk of the investment in the restricted securities. In situation (a), however, some of the economic risk was shifted to the other shareholders of the transferee corporation and therefore a new holding period for that corporation must commence under the rule.

(34) *Question:* Will tacking of holding periods be permitted in either of the following situations:

(a) A closely-held limited partnership distributes to its security holders on a pro-rata basis restricted securities of another issuer held in its investment portfolio?

(b) A closely-held corporation distributes to its security holders on a pro-rata basis restricted securities of another issuer held in its investment portfolio?

Answer: Tacking will be permitted in both situations.[11] Thus, the limited partners of the partnership and the shareholders of the corporation who receive restricted securities of another issuer may add the holding period of the corporation or partnership to their own.[12]

However, the shareholders or limited partners in such circumstances may be required to aggregate their sales under the volume limitations provisions of Rule 144 for up to two years after the distribution, as indicated in Item (45) herein.

(35) *Question:* Will tacking of holding periods be permitted in either of the following situations:

(a) A corporation changes its domicile by reincorporating in another state?

(b) A corporation undergoes a recapitalization which results in a change in the par value of the restricted securities previously issued by it?

Answer: Tacking will be permitted in both situations, assuming the substance of the corporation (viz., the nature of its business and management) in each instance remains essentially the same as before.

(36) *Question:* Will a person who acquires restricted securities by exercising warrants and paying cash be able to tack the holding period of the warrants to that of the restricted securities?

Answer: No. Rule 144(d)(4)(ii) permits tacking only if the consideration surrendered upon exercise of the warrants consists solely of other securities of the same issuer. In this instance, securities *and* cash were surrendered, with the result that the exercise of the warrants is deemed to involve the acquisition of new restricted securities for which tacking is not permitted.

E. *Limitation on Amount of Securities Sold*—1. *General:* Rule 144(e) states that, subject to certain exceptions, the amount of securities that can be sold under the rule during any three-month period shall not exceed the greater of one percent of the outstanding securities of the class being sold or the average weekly trading volume for the class during the four-week period preceding the sale of the securities.

(37) *Question:* How is the three-month period for measuring sales under the rule computed?

Answer: The period includes only the three months immediately preceding the date of sale under the rule.

Illustration: Facts: On April 12, X decides to sell the maximum number of Y Company shares allowable under Rule 144. The volume limit at the time is 15,000 shares. X has made the following sales of Y stock since the beginning of the year: 7,000 shares on January 5, 2,000 on January 20 and 3,000 on February 15.

Interpretation: X may immediately sell 10,000 shares of Y stock, since he has sold only 5,000 shares during the three-month period (viz., January 13–April 12) immediately preceding the date on which he intends to sell more shares of Y stock. Moreover, if the volume limit remains unchanged, X could sell an additional 2,000 shares on April 20, since the sale of a similar number of shares on January 20 would no longer have to be considered under the volume limitation provision, due to the fact it would be outside the three-month measuring period on that date.

(38) *Question:* How is the four-week period for computing the average weekly trading volume determined?

Answer: Rule 144(e)(1) makes it clear that the period includes only the four calendar weeks (rather than the 20 business days) preceding the filing of the notice on Form 144 required by paragraph (h) of the rule, or, if no such notice is required, the date of receipt of the order to execute the transaction by the broker or the date of execution of the transaction directly with a market maker.

[11] The answer assumes that the security holders are not required to furnish any consideration in return for the distributed securities. If they must furnish consideration (e.g., where their interests in the distributing entity are being redeemed), the tacking of holding periods will not be permitted.

[12] It should be noted that the distribution by a partnership or corporation of another entity's securities to its own security holders (commonly known as a "spin-off") may be deemed to involve a transaction that is subject to registration under the 1933 Act. See, e.g., Release No. 33-4982 (July 2, 1969) [34 FR 11581]. Thus, the staff's position permitting tacking in the spin-off situations outlined in Item (34) should not be construed as approval of the use of spin-offs to achieve novel unregistered distributions of the securities of non-public issuers. The Division of Corporation Finance, however, has indicated that it will not recommend any enforcement action to the Commission if a spin-off is made without registration under the following circumstances: (1) both the distributing entity and the entity whose securities are being distributed are subject to the periodic reporting requirements of the 1934 Act and are currently in compliance with such requirements, and (2) the distributing entity is not part of the group in control of the other entity. See letter re *American Express Company* dated August 25, 1975.

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(39) *Question:* If the average weekly trading volume increases during the three-month measuring period, may a person sell additional amounts of securities equal to the increase?

Answer: Yes. But in determining the new amount limitation, the person must exclude from the computation of the average weekly trading volume any securities that he sold during the new four-week period in which the increased trading volume occured. Further, the person must file an amended Form 144 indicating the amount of additional securities he wants to sell.

Illustration: Facts: On September 1, X, who has not made any sales under Rule 144 during the preceding three months, decides to sell the maximum number of Y company shares allowable under Rule 144. The average weekly trading volume for Y company during the four preceding calendar weeks was 20,000 shares, an amount greater than one percent of the outstanding shares of the class. X then proceeds to sell 20,000 shares on September 1. On September 15, X notes that the average weekly trading volume for Y shares during the four preceding weeks was 30,000 shares. Interpretation: X may sell up to 5,000 additional shares on September 15 but should file an amended Form 144 indicating the amount of additional securities he wants to sell. The determination that X may sell 5,000 additional shares was made as follows:

Total number of shares traded during the preceding 4 calendar weeks (30,000 average per week multiplied by 4 weeks)	120,000
Less shares traded by X during the 4 week period	(20,000)
Total shares upon which revised volume limit may be computed	100,000
Divided by the 4 weeks in the period	÷4
Average weekly volume during the preceding 4 weeks (excluding the shares traded by X)	25,000
Less shares traded by X during the preceding 3 months	(20,000)
Additional number of shares which X can sell on September 15	5,000

(40) *Question:* If the average weekly trading volume decreases during the three-month measuring period, may the seller nevertheless rely on the trading volume figure utilized at the time Form 144 was filed for the period?

Answer: Yes.

Illustration: Facts: On April 1, X, who has not made any sales under Rule 144 during the preceding three months, decides to sell the maximum number of Y company shares allowable under the rule. The average weekly trading volume during the preceding four calendar weeks was 20,000 shares, an amount greater than one percent of the outstanding shares of the class. X files on April 1 a Form 144 for the sale of 20,000 shares. On May 1, X, who has sold 16,000 shares since April 1, notes that the average weekly trading volume during the four preceding weeks has decreased to 15,000 shares. Interpretations: X may sell 4,000 additional shares during the remaining two months of his three-month measuring period, even though the average weekly trading volume has decreased below the amount already sold.

(41) *Question:* May a seller of securities under Rule 144 make concurrent sales of securities of the same class outside the rule without violating the rule's volume limitations?

Answer: Yes. Rule 144(e)(3)(vii) provides that securities sold pursuant to an effective registration statement under the 1933 Act or pursuant to an exemption provided by Regulation A under the Act or in a transaction exempt pursuant to Section 4 of the Act and not involving any public offering need not be included in determining the amount of securities sold in reliance upon the rule.

2. *Unlimited Resale Provision:* Rule 144(e)(2) permits holders of restricted securities to disregard the volume limitations (but not the other provisions) of the rule if: (1) the person is not an affiliate of the issuer and has not been an affiliate during the three months preceding the sale, and (2) the securities have been held either three years (in the case of securities which are listed on a national securities exchange or quoted in NASDAQ) or four years (in the case of securities which, although not exchange-listed or NASDAQ-quoted, are issued by an entity which files periodic reports under Section 13 or 15(d) of the 1934 Act).

(42) *Question:* Can the unlimited resale provision of Rule 144 be utilized if the issuer of the securities does not file periodic reports with the Commission pursuant to Section 13 or 15(d) of the 1934 Act?

Answer: No. The provision is available only for the securities of issuers which file such reports in accordance with the requirements of paragraph (c)(1) of Rule 144. Paragraph (c)(1) states that the issuer must have been subject to the reporting requirements of Section 13 or 15(d) for at least 90 days and must have filed all reports required to have been filed within the preceding 12 months or such shorter period that the issuer was subject to the reporting requirements.

(43) *Question:* During the three-month period following the termination of his status as an affiliate, may a person sell restricted securities under the unlimited resale provision?

Answer: No. The provision is not available to the former affiliate during that period. However, he is not precluded from making sales during the period that are within the volume limitations of the rule.

(44) *Question:* May a person utilize the unlimited resale provision at the same time he is selling securities of the same class pursuant to the volume limitations of the rule?

Answer. Yes. If the securities have been held the requisite three or four years and all other conditions of the unlimited resale provision have been met at the time of sale, the securities are free of any volume restrictions under the rule. Thus, sales of them need not be taken into account in connection with sales under the rule of other securities of the same class held less than the requisite period.

Illustration: Facts: X, who has never been an affiliate of Y company, purchased 10,000 restricted shares of Y common stock on April 1, 1976 and an additional 15,000 restricted shares on April 1, 1977. Y common stock is listed on a national securities exchange. On April 1, 1979 Y wishes to sell the maximum number of shares allowable under Rule 144. The volume limitation on April 1, 1979 is 8,000 shares. Interpretation: X may sell 18,000 shares, consisting of the 8,000 permitted by the volume limitation provision and the 10,000 permitted by the unlimited resale provision.

(45) *Question:* Will the unlimited resale provision be available in the following situations:

(a) The limited partners of a closely-held investment partnership wish to sell restricted securities of another issuer distributed to them on a pro-rata basis by the partnership?

(b) The shareholders of a closely-held corporation wish to sell restricted securities of another issuer distributed to them on a pro-rata basis by the corporation?

Answer: The provision will be available in both situations if all of its conditions are met. In determining whether the holding period requirement of the unlimited resale provision has been satisfied, the distributees may tack the holding period of the distributing entity to their own, as indicated in Item (34) herein. Even though the holding period requirement may be satisfied through the tacking of holding periods, however, the provision nevertheless may not be immediately available if the distributing entity was an affiliate of the issuer of the securities at the time of the distribution. This is due to the requirement in the unlimited resale provision that the securities must not have been held by an affiliate during the three months preceding their resale under the provision. Accordingly, if the partnership or corporation was an affiliate, then the unlimited resale provision will not be available to the distributees until three months have elapsed from the date of distribution. During the period that the unlimited resale provision is unavailable, and for a maximum of two years after the distribution, the individual distributees would have to aggregate their sales under the volume limitation provisions of Rule 144.

Illustration 1: Facts: XYZ, a closely-held limited partnership, acquired shares of restricted common stock of Y company on April 1, 1976. Neither XYZ nor any of its general or limited partners have ever been affiliates of Y company, whose common stock is quoted in NASDAQ. On April 1, 1979, XYZ distributes to its limited partners on a pro rata basis all of the common stock of Y held by it. Interpretation: The unlimited resale provision is available, since (1) neither the limited partners, the general partners, nor XYZ are affiliates of Y company or have been during the preceding three months, and (2) the securities of Y company are NASDAQ-quoted and are deemed to have been held for the requisite three years through tacking the holding period of XYZ to that of the limited partners. Thus, each of the limited partners may sell the stock of Y company distributed to them by XYZ without regard to the volume limitations of Rule 144.

Illustration 2: Facts: The facts are the same as in Illustration 1, except that one of the general partners of XYZ is an affiliate of Y company. Interpretation: The unlimited resale provision may not be relied upon until July 1, 1979, three months after the date of distribution of Y company stock by XYZ. This is due to the fact that the partnership, through one of its general partners, was an affiliate of Y at the time of the distribution. Since the limited partners are deemed to stand in the shoes of the partnership (thus permitting them to tack the partnership's holding period to their own), they are considered to have assumed the partnership's affiliate status during the time the partnership held the shares. Accordingly, the limited partners must wait for three months after the distribution by the partnership before attempting to utilize the unlimited resale provision.

Illustration 3: Facts: The facts are the same as in Illustration 1, except that one of the limited partners of XYZ is an affiliate of Y company. Interpretation: The interpretation in Illustration 1 applies to Illustration 3, except that the limited partner who is an affiliate of Y company may not under any circumstances utilize the unlimited resale provision during the period he is an affiliate. The fact, however, that he is an affiliate woud not affect the availability of the provision for the other limited partners, assuming they do not act in concert with him in selling securities under the rule.

Illustration 4: Facts: X, a closely-held corporation, acquired restricted shares of Y company on March 1, 1977. X is not affiliated with Y, whose shares are listed on a national stock exchange. On July 1, 1979, X distributes all of the shares of Y held by it to its shareholders on a pro-rata basis. Interpretation: The unlimited resale provision will not be available to the shareholders of X until March 1, 1980, three years following the date of acquisition by X. During the interim between July 1, 1979 and March 1, 1980, the shareholders of X must aggregate their sales under Rule 144 of the distributed stock.

Illustration 5: Facts: X corporation acquired shares of Z company on April 1, 1975. The shares of Z are neither listed on a national securities exchange nor quoted in NASDAQ, and Z does not file periodic reports under Section 13 or 15(d) of the 1934 Act. On April 1, 1979, X distributes all of the shares of Z held by it to its security holders on a pro-rata basis. Interpretation: The unlimited resale provision is not available because Z's shares are neither listed on a national securities exchange nor quoted in NASDAQ, and Z does not file periodic reports under the 1934 Act. Accordingly, the security holders of X must aggregate their sales under Rule 144 of the Z stock for a period of two years following the date the securities were distributed to them.

3. *Rule 144(e)(3):* This section describes how the volume limitations of the rule are to be applied in certain specific situations.

(46) *Question:* How is the volume limitation computed in the following situations:

(a) Convertible securities are sold during a single three-month period?

(b) Convertible securities and securities of the class into which they are convertible are sold during a single three-month period?

Answer: In situation (a), where convertible securities alone are sold, the seller would base the volume computation on Rule 144(e)(1). Thus, he could sell the greater of one percent of the outstanding securities of the class of convertible securities or the average weekly trading volume (if any) for that class during the four calendar weeks preceding the sale. In situation (b), however, where both convertible securities and securities of the class into which they are convertible are sold, the volume computation would be based on Rule 144(e)(3)(i). That provision states that the volume limits of Rule 144(e)(1) shall be applied as if the only securities sold during the period were the underlying securities. Thus, the sale of the convertible securities in situation (b) would be treated as if it involved a sale of the underlying securities and the amount derived thereby would be aggregated with actual sales of the underlying securities to determine the volume limit of Rule 144(e)(1). Rule 144(e)(3)(i) is not applicable, however, where a person converts securities solely to circumvent the volume limitations of Rule 144(e)(1).

Illustration: Facts: X acquired restricted debentures of Y company that are convertible into Y common stock. In computing the amount of securities that can be sold under Rule 144, X realizes that if the quantity limitations of Rule 144(e)(3)(i) were to apply he would be able to sell a greater quantity of debentures than if the limitations of Rule 144(e)(1) were applied. Accordingly, X devises a plan to convert one of his debentures and sell a few shares of the underlying common stock at the same time that he sells his debentures. Interpretation: X's device to convert a debenture and sell a few of the underlying common shares concurrently with the debentures is a plan to circumvent the quantity limitations provided for in Rule 144(e)(1) and is not permissible under the rule.

(47) *Question:* If a gift of restricted securities is made, must the donor and donee aggregate their sales in order to comply with the volume limitation provisions of Rule 144?

Answer: The answer depends on whether the securities, if retained by the donor, could be resold by him pursuant to the unlimited resale provision of Rule 144(e)(2) during the two-year period following the gift. Rule 144(e)(3)(iii) states that the donor and donee shall aggregate their sales for a period of two years after the donation in accordance with the volume limitations of paragraphs (e)(1) and (e)(2) of Rule 144. If the donor is not an affiliate of the issuer of the securities, and the securities, if retained by him, could be sold under the unlimited resale provision, then sales of such securities by the donee need not be aggregated with sales by the donor. If, however, the securities could not be resold pursuant

to the unlimited resale provision, either because the donor is an affiliate or because the securities otherwise do not meet the requirements of the provision, then aggregation of sales by the donor and donee must continue for two years after the gift, or until the unlimited resale provision could be relied upon by the donor for the sale of the securities if he still retained them, whichever occurs first.

Illustration 1: Facts: X, who has never been an affiliate of XYZ company, donates 2,000 restricted shares of XYZ stocks to Y Foundation on April 1, 1979. The shares of XYZ are quoted in NASDAQ and were acquired by X on April 1, 1976. Interpretation: X and Y Foundation need not aggregate their sales under Rule 144 because the shares, if retained by X, could be resold by him pursuant to the unlimited resale provision.

Illustration 2: Facts: A, an affiliate of XYZ company, gives 10,000 restricted shares of XYZ common stock to Z, his brother-in-law, on October 1, 1978. The shares of XYZ are quoted in NASDAQ and were acquired by A on October 1, 1975. Interpretation: A and Z must aggregate their sales under the volume limitation provisions of Rule 144 for two years following October 1, 1978. This result occurs because the unlimited resale provision would not be available to A, due to the fact that he is an affiliate of XYZ. The donee, Z, can be in no better position than the donor, A, and therefore must aggregate his sales for two years with A.[13]

Illustration 3: Facts: The facts are the same as in Illustration 2, except that A ceases to be an affiliate of XYZ on January 1, 1979. Interpretation: A and Z must continue to aggregate their sales for the three-month period following the termination of A's status as an affiliate. As of April 1, 1979, however, A and Z no longer would have to aggregate their sales under the rule, since the shares of XYZ could, if they were still held by A, be sold by him pursuant to the unlimited resale provision.

(48) *Question:* Must all donees who receive securities from the same donor aggregate their sales under Rule 144 with each other, as well as the donor?

Answer: No. Rule 144(e)(3)(iii) does not require horizontal aggregation with other donees. Thus, each donee must aggregate only with the donor, who, in turn, must aggregate with all of his donees.

Illustration 1: Facts: X, an affiliate of XYZ company, donates 2,000 shares each of restricted common stock of XYZ to A, B, and C on April 1, 1979. The shares of XYZ were acquired by X on April 1, 1977. On June 1, 1979, at a time when the volume limitation for XYZ is 5,000 shares, A, B, and C each wish to sell the maximum amount permitted under Rule 144. X has sold 1,000 shares of XYZ stock during the preceding three months. Interpretation: A, B, and C, assuming they are not acting in concert, each may sell 2,000 shares on June 1. Since each must aggregate with the donor only, their sales or 2,000 shares each, when combined with the donor's sale of 1,000 shares would amount to 3,000 shares per person, an amount not in excess of the 5,000 share volume limit. X, however, would not be able to make any sales of XYZ stock for the next three months (assuming the volume limit remains unchanged) because his sale of 1,000 shares, when aggregated with the sales of 6,000 shares by all of his donees, would result in his exceeding the volume limit if he made any further sales.

(49) *Question:* Must an estate which wishes to rely on Rule 144 for the sale of restricted securities comply with the volume limitation requirements of the rule if it is not an affiliate of the issuer of the securities but one of its beneficiaries is?

Answer: No. Paragraph (e)(3)(v) of the rule makes it clear that the volume limitations do not apply if the estate itself is not an affiliate of the issuer. Similarly, the holding period and manner of sale requirements of the rule likewise do not apply to a non-affiliated estate, by virtue of paragraphs (d)(4)(vii) and (f), respectively. In fact, the only provisions of Rule 144 applicable to non-affiliated estates who wish to sell restricted securities in reliance upon it are the current public information requirement of paragraph (c) (which must be satisfied by the issuer of the securities) and the notice requirement of paragraph (h) (which is applicable only if certain specified amounts of securities are sold).

F. *Manner of Sale—Rule 144(f):* This provision states that securities sold under the rule shall be sold either in brokers' transactions or in transactions directly with a market maker.

1. *Transactions with a Market Maker.*

(50) *Question:* Are securities acquired by a market maker in a Rule 144 transaction thereafter subject, solely because it was a Rule 144 transaction, to any restrictions on the manner in which they may be resold?

Answer: No.[14] Assuming that all applicable conditions of Rule 144 are complied with, securities acquired by a market maker are not subject to any restrictions and may be treated as if they had been purchased in an open-market, non-Rule 144 transaction. Thus, e.g., a market maker may solicit buy orders subsequent to effecting his acquisition.[15]

(51) *Question:* Does Rule 144 permit a market maker which is acting as a broker in a Rule 144 transaction to avoid the restrictions applicable to a brokers' transaction.

Answer: No. The restrictions placed on a broker-dealer by Rule 144 are distinguished on the basis of the function of the broker-dealer during a Rule 144 transaction, not on the basis of its normal activities. Accordingly, in order to qualify as a market maker in a Rule 144 transaction, the broker-dealer must act as principal in the transaction. If the broker-dealer acts as a broker in the transaction (even though it is a market maker for the subject class of securities), the brokers' transaction restrictions are applicable and, except as provided by Rule 144(g)(2), the broker-dealer is precluded from soliciting buy orders.

(52) *Question:* As provided by the rule, a market maker must qualify as one of the three classes of persons described in Section 3(a)(38) of the 1934 Act. Those three classes are:

1. "any specialist permitted to act as a dealer,"

2. "any dealer acting in the capacity of a block positioner," and

3. "any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis."

Who may qualify as a block positioner under Section 3(a)(38) for purposes of Rule 144,

Answer: The term "block positioner" is not defined by the 1934 Act.[16] For purposes of Rule 144, the staff would take the position that any person who qualifies as a block positioner within the meaning of Rule 17a–17(b) (1) and (3) [17 CFR § 240.17a–17(b) (1) and (3)] as modified by the definition of "block" for purposes of Rule 144[17] under the Act would qualify as a block positioner for purposes of Rule 144, provided that the Rule 144 transaction involves securities with the same type of trading characteristics as those of the securities the block positioner generally holds himself out as ready and able to purchase. For example, if a block positioner has traditionally limited its block activities to securities listed on the New York and Averican Stock Exchanges for which there is an interest among institutional purchasers, it may not claim that it is acting as a block positioner in a Rule 144 transaction when it purchases securities for which there is no bona fide institutional interest.

(53) *Question:* Assuming that the purchaser qualifies as a block positioner (but not otherwise as a market maker), may the amount of securities purchased in a Rule 144 transaction aggregate less than a block size?

Answer: No. In order for the purchase by a block positioner to qualify as a Rule 144 transaction, a "block" of securities must be purchased. However, if a person sells both securities subject to Rule 144 and other securities of the same class not subject to the rule in a single transaction to a block positioner, the sale would qualify as a Rule 144 transaction if the aggregate of securities purchased by the block positioner constituted a "block."

(54) *Question:* What is a "block"?

Answer: There is no definition of the term "block" in the 1934 Act. The Commission has stated in the past that the term "block transaction" means a transaction in which a member firm, by reason of the size of the order in relation to conditions in the exchange market, reasonably concludes that it is in the interest of the customer to search and negotiate for a matching interest on the other side of the market (including, if necessary, negotiating as principal with the customer) rather than to attempt to excute the order directly in the ordinary course of the auctionmarket.[18]

Block positioners may rely on the sliding scale definition of a "block" provided in paragraph (a)(10)(ⅰ)(i) of Appendix C which is appended to routine exemptions granted from Rule 10b–8 [17 CFR 240.10b–6] under the 1934 Act.[19]

(55) *Question:* The third class of market makers included within Section 3(a)(38) of the 1934 Act is "any dealer who, with respect to a security, holds himself out * * * as willing to buy and sell such security * * *" Under that definition, may a broker-dealer initiate its market making with the Rule 144 transaction?

Answer: No. This is the so-called "instant" market maker problem. In order to qualify as a market maker for purposes of Rule 144, the broker-dealer must have previously held itself out and must currently be holding itself out as being willing to buy and sell the security being purchased in the Rule 144 transaction.[20] Paragraph (g)(2)(iii) of Rule 144 provides a useful guideline for determining who is a bona fide market maker for purposes of that rule. The paragraph, which describes the circumstances under which a broker acting as an agent in a Rule 144 transaction may publish quotations during the pendency of a broker's transaction within the meaning of the rule, suggests that a market maker should have published bid and asked quotations for the security

in an inter-dealer quotation system provided that such quotations are incident to the maintenance of a bona fide inter-dealer market for the security for the [market maker's] own account and that the [market maker] has published bona fide bid and ask quotations in an inter-dealer quotation system on each of at least twelve days within the preceding thirty calendar days [preceding the Rule 144 transaction] with no more than four business days in succession without such two-way quotations.

In addition, if the subject security is covered by Rule 11Ac1–1[21] under the 1934 Act, the market maker must be currently disseminating quotations pursuant to Rule 11Ac1–1 (or be

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[13] The same result would occur, of course, for more remote donees, such as universities, churches, and charitable organizations. The requirement in Rule 144(e)(3)(iii) that aggregation by the donor and donee occur for two years after the gift (absent the availability of the unlimited resale provision) was included in the rule for the purpose of preventing abuses (such as an unregistered distribution) that might be effected through the medium of a gift.

[14] The response, of course, assumes that the market maker is not an "affiliate" of the issuer of the subject securities within the meaning of Rule 144(a)(1). *See* Item (1) *supra.*

[15] Recently, in *Securities and Exchange Commission* v. *Aaron* [Current] Fed. Sec. L. Rep. (CCH) ¶96,800 (2d Cir. March 12, 1979), the court found that two transactions effected prior to the recent amendments to Rule 144 announced in Release No. 33–5979 violated Section 5 of the 1933 Act. That situation involved the solicitation by E. L. Aaron & Co. ("Aaron"), a market maker in Lawn-A-Mat Chemical & Equipment Corp. ("LAM") common stock, of two LAM affiliates to sell shares of their common stock to Aaron. In an effort to avoid the registration requirements under Section 5 by constructing a broker's transaction for purposes of Rule 144 (which at that time permitted only unsolicited brokers' transactions), Aaron arranged for J. W. Weller & Co., Inc., another broker-dealer, to act as "agent" on behalf of the two LAM affiliates, for the purpose of selling their common stock to Aaron, which in turn would solicit buyers for the shares. The court refused to sanction "this obvious sham transaction." In response to the assertion that Rule 144 had been amended to permit direct purchases by market makers because the broker's transaction restriction was more stringent than necessary, the court further indicated (in *dicta*) that Aaron's "actions in soliciting the [LAM affiliates'] to sell and in soliciting other customer buy orders in anticipation of the purchase of the [LAM affiliates'] shares" would not have been in compliance with the amended Rule 144. Although the court correctly pointed out that brokers and market makers may not solicit buy orders for Rule 144 securities, the staff notes that the solicitation either by a broker or by a market maker of affiliates *to sell* their securities is not proscribed by the Rule. *See also* Item (56) herein.

[16] In Release No. 34–15533 (January 29, 1979) [44 FR 6084], the Commission stated that for purposes of Section 11(a) of the 1934 Act:

> The Commission believes that the term "block positioner" is generally used to describe a broker-dealer that facilitates the execution of a block transaction in an equity security by positioning at least some part of the block—that is, by purchasing securities for its own account to fill all or a part of a customer's block sale order * * *.
>
> While this description related to the unique problems presented by Section 11(a), it nevertheless provides a general description of the type of activity that, in the context of a Rule 144 sale, would normally be engaged in by a block positioner. *See* Item (56).

[17] For purposes of determining whether the purchaser qualifies as a "block positioner", the relevant portion of Rule 17a–17(b) would read

> (b)For the purpose of this rule, a "Block Positioner" is a dealer who is registered with the Commission pursuant to section 15 of the Act, or is a member of a national securities exchange, and is subject to and in compliance with Rule 15c3–1 [17 CFR 240. 15c3–1] (or is subject to and in compliance with the capital rules of an exchange of which he is a member if the members thereof are exempt from Rule 15c3–1 by subparagraph (b)(2) thereof), and who has and maintains net capital as defined in Rule 15c3–1 (or in such capital rules of such exchange) of $1.000.000 and who, except when such activity is unlawful, meets all of the following conditions: (1) he engages in the activity of purchasing long or selling short as principal, from time to time, from or to a customer, (other than a partner or a joint venture or other entity in which a partner, the dealer, or a person associated with such dealer as defined in Section 3(a)(18) of the Act participates) a block of stock (other than a convertible security as described in section 3[a)(18) of Regulation U [12 CFR 221.3]) with a current market value as provided in paragraph (a)(10)(ⅰ) of Appendix C (*see* Item (54), infra.) in a single transaction, or in several transactions at approximately the same time from a single source, to facilitate a sale or purchase by such customer; . . . (3) he sells the shares comprising the block as rapidly as possible commensurate with the circumstances* * *.

[18] *See* Release No. 34–8791 (December 31, 1969).

[19] Appendix C is published at 2 CCH, Fed. Sec. L. Rep. ¶22, 797, at 16,613–4 to 16,614 (August 9, 1978). Paragraph (a)(10)(ⅰ) of Appendix C reads, in relevant part, as follows: "The term 'block' shall mean a quantity of a security which (i) has an aggregate price of not less than $50,000 if the market price per share of the security is less than $10; an aggregate price of not less than $75,000 if the market price per share of the security is at least $10 but less than $20; an aggregate price of not less than $125,000 if the market price per share of the security is at least $20 but less than $35; an aggregate price of not less than $175,000 if the market price per share of the security is at least $35 but less than $40; or an aggregate price of not less than $200,000 if the market price per share of the security is $50 or more." [The remaining portion of the definition is not relevant for purposes of Rule 144.]

[20] The staff notes that any person effecting a Rule 144 transaction with a market maker should document in his files that the purchaser is a *bona fide* market maker.

[21] Rule 11Ac1–1 under the Act [17 CFR 240.11Ac1–1], which became effective August 1, 1978, requires each self-regulatory organization to collect, process and make available to securities information vendors quotations and quotation sizes for all securities as to which last sale information is included in the consolidated transaction reporting system contemplated by Rule 17a–15 under the Act [17 CFR § 240.17a–15]. Brokers and dealers are required to communicate their quotations to the appropriate self-regulatory organization. *See* Release No. 34–14415 (January 26, 1978) [43 FR 4342].

excepted or exempted from the rule by the Commission).[22]

(56) *Question:* May a market maker specifically solicit a buy order for the securities he proposes to purchase in a Rule 144 transaction?

Answer: No. The prior solicitation of buy orders would resemble a broker's transaction rather than a market maker purchase, and, except as provided in Rule 144(g)(2), a broker may not solicit the buy side of the Rule 144 transaction. But normal activities of a market maker should not be deemed to constitute a solicitation for purposes of Rule 144. Thus, for example, a market maker would not have to withdraw a buy recommendation or a favorable research report published prior to effecting a Rule 144 transaction, provided that those activities are consistent with the market maker's prior history and were not undertaken in direct anticipation of an effort to sell the securities to be purchased in the Rule 144 transaction. Similarly, the market maker would not be prohibited from engaging in its normal and customary activities associated with making a market in the particular securities (e.g., disclosing an interest in AUTEX or other media designed to advertise an interest in a security). But the rule does not permit a special effort to solicit buyers for stock to be acquired in a Rule 144 transaction prior to the time that the market maker purchases the stock. Any such activity would be comparable to the activity which is precluded by Rule 144(g)(2).

The staff recognizes that the no prior solicitation requirement may impose a special burden on block positioners. Due to the significant risks attendant to block positioning, block positioners, as a matter of course, attempt to solicit some or all of the buy side of a block order, usually from institutional investors, prior to agreeing to purchase the block as principal. Indeed, to the degree that a block positioner can find a purchaser(s) for the entire block sale at a price satisfactory to both buyer and seller, it will have performed successfully its function. But Rule 144(g)(2) would preclude, except as provided by that subsection (i.e., soliciting a customer that had expressed an unsolicited bona fide interest in the securities within the preceding ten days), the solicitation of buy orders prior to the time that the block positioner commits itself to buy the block. With respect to securities which are listed or admitted to unlisted trading privileges on an exchange which has restrictions on the off-board trading of its members, a block positioner which is a member of that exchange must execute the block on and exchange. Although there is a formal requirement that the trade be executed on an exchange, the staff understands that the seller and the block positioner will consider that they have made a binding commitment at the time that the block positioner agrees to accept the order. Accordingly, in the case of a security which is listed or subject to unlisted trading privileges on an exchange, the block positioner may solicit buy orders subsequent to making a binding commitment to purchase the stock but prior to the actual execution of the transaction on an exchange.[23] Once a block positioner has made a binding commitment to purchase the block of securities, the purposes of Rule 144 are not furthered by requiring the block positioner to accept additional risks by prohibiting any solicitation by him of some or all of that block prior to the transaction being executed on an exchange.

(57) *Question:* At the time the Commission liberalized the volume limitation provisions of Rule 144 in September 1978, it stated that,

> Consideration should be given by persons who may be subject to Rule 10b–6 [17 CFR 240.10b–6] under the 1934 Act to whether the liberalized volume limitations of Rules 144 and 148, under certain circumstances, may involve distributions for purposes of Rule 10b–6.[24]

What are the guidelines for determining when a sales transaction under Rule 144 constitutes a distributions for purposes of Rule 10b–6?[25]

Answer: In 1975, the staff took the position that sales of securities pursuant to Rule 144 will not be treated as distribution for purposes of Rule 10b–6.[26] That position remains in effect with respect to sales within the pre-September 1978 volume limitations. With respect to sales of amounts in excess of those limitations, seller should consider the following indicia, among others, to determine whether a distribution exists for purposes of Rule 10b–6: (i) magnitude of the offering, (ii) selling efforts, and (iii) selling methods used.[27]

(58) *Question:* In reselling securities purchased in a Rule 144 transaction, is the market maker subject to Rule 10b–6?

Answer: Yes, if the sales are deemed to constitute a distribution for purposes of Rule 10b–6. In determining whether the sales constitute a distribution, market makers should refer to the criteria described in the response to Item (57) above. Specifically, market makers should be aware that additional compensation offered to registered representatives in a retail distribution may be considered to be an unusual selling effort. In addition, in determining the magnitude of the offering, market makers must aggregate all of the securities of the same class and series which are then being offered, including those securities which were not purchased in the Rule 144 transaction.

2. *Brokers Transactions.*

(59) *Question:* May a broker act on behalf of both the buyer and the seller in a Rule 144 transaction and receive a commission from both?

Answer: Yes. But the broker is precluded by Rule 144(g)(1) from receiving any more than the usual and customary broker's commission from either party.

(60) *Question:* May a broker who receives an order to sell securities under Rule 144 telephone his customers to determine whether they have any interest in purchasing the securities?

Answer: The broker may telephone only those customers who within the preceding 10 business days have indicated a bona fide, unsolicited interest in securities of the class being sold. The telephoning of customers under any other circumstances would be considered a solicitation by the broker of an order to buy the securities, an act which is expressly prohibited by Rule 144(g)(2). In order to establish the bona fide nature of prior indications of interest by his customers, the broker should maintain written records of all unsolicited indications of interest at the time they are received.

[22] E.g., block positioners are not required to disseminate quotations pursuant to Rule 11Ac1–1.

[23] The delay between the commitment to purchase and the execution of the purchase is relevant only to exchange traded securities, by reason of the requirement that all principal orders be brought to the floor of an exchange for execution. *See, e.g.*, NYSE Rule 390.

At the time that the binding commitment is made, the block positioner must time stamp the order to sell the block. If the block positioner finds any buy orders prior to bringing the block to the floor, the block positioner must cross the orders as agent *see, e.g.* NYSE Rule 92), as well as satisfy limit orders on the specialist book, orders in the crowd and the specialist's interest in accordance with the rules of the exchange where the transaction is taking place. *See, e.g.*, NYSE Rule 127. The cross and the block positioner's purchase of the excess, if any and if at the same price, would be printed as one transaction on the tape. The confirmation of the transaction should indicate the part of the block that was executed as principal and the part that was crossed as an agency order.

[24] Release No. 33–5979 (September 19, 1978), n. 13.

[25] Rule 10b–6 prohibits purchases of securities which are subject to a distribution for purposes of that rule by participants in such distribution.

[26] *See* letter re *General Electric Company*, dated April 21, 1975.

[27] *See Bruns, Nordeman & Co.*, 40 S.E.C. 652, 660 (1961).

(61) *Question:* Will a broker's transaction under Rule 144(f) exist if securities are sold in a transaction executed by the trust department of a banking subsidiary of a bank holding company that acts as a clearinghouse for matching buy and sell orders of the holding company's securities?

Answer: No. Rule 144(f) requires that the transaction be executed by a broker. In the situation referred to above, the transaction would not be executed by a broker.[28]

(62) *Question:* Will the issuance of research reports during the period a broker is acting as an agent for a client in a Rule 144 transaction violate the prohibition in Rule 144(f) against the solicitation of buy orders?

Answer: No, provided that (1) the reports are issued in the broker's regular course of business; (2) such reports concerning the issuer have been previously issued by the broker; (3) the broker receives no consideration from its client for the issuance of such reports; and (4) the reports are not issued for the purpose of facilitating any aspect of the client's transaction. The issuance of research reports under any other circumstances, however, will be deemed to involve a solicitation of buy orders.[29]

G. *Form 144—Rule 144(h):* This paragraph requires the filing of a notice on Form 144 if the amount of securities to be sold in reliance upon the rule during any period of three months will exceed 500 shares or other units or will have an aggregate sale price in excess of $10,000.

(63) *Question:* Is an estate which is not an affiliate of the issuer required to file Form 144?

Answer: Yes. Although such estates are exempt from the volume limitation, holding period, and manner of sale requirements of the rule, they are not exempt from the Form 144 filing requirement. Accordingly, if an unaffiliated estate expects to sell restricted securities during a three-month period that will exceed 500 shares or other units or have a market value in excess of $10,000, it must file Form 144.

(64) *Question:* Can Form 144 be signed by a pledgee who wishes to sell securities pledged to him as collateral for a defaulted loan?

Answer: Yes. To require the pledgor to sign the form would create practical difficulties, since he may be uncooperative because of his default on the loan. The pledgee should keep in mind, however, that pursuant to Rule 144(e)(3)(ii), sales by himself and the pledgor may have to be aggregated for up to two years after the default for purposes of determining the amount of securities that can be sold under the rule.[30]

(65) *Question:* If a person decides to sell his securities through a broker other than the one listed on the Form 144 previously filed by him, must he file an amended form to reflect this change?

Answer: Yes.

(66) *Question:* If a person files a Form 144 but does not sell all of the securities listed thereon within a three-month period, must he again file a Form 144 with respect to the unsold securities when he seeks to sell them at a later date?

Answer: Yes, but only if the total number of securities to be sold during the subsequent three-month period exceeds the jurisdictional limits for filing the form (viz., more than 500 shares or other units or securities having a market value in excess of $10,000).

(67) *Question:* With respect to securities received in a gift transaction, may the donee consider only his own proposed sales of those securities in determining whether the jurisdictional limits for filing the form are met, or must he also consider the sales made by the donor as well?

Answer: Only the donee's proposed sales need be considered in determining whether the form must be filed, unless the donee and donor are acting in concert.

(68) *Question:* Must a person who receives securities as a result of a divorce settlement consider the sales of the former spouse in determining whether the jurisdictional limits for filing the form are met?

Answer: No. The determination is based solely on the sales of the person who received the securities, assuming the former spouses do not act in concert in selling securities under the rule.

H. *Miscellaneous—1. Call Options Traded on National Securities Exchanges.*[31]

(69) *Question:* May an affiliate write call options?

Answer: Yes. The position previously expressed in Release No. 33–5890 (December 20, 1977) [43 FR 1415] has been revised, however, to require compliance with the conditions of Rule 144 or Rule 145(d) only at the time of writing the call option rather than both at the time of writing and at the time of exercise of the option.[32]

(70) *Question:* May a non-affiliate owning restricted securities write call options?

Answer: Yes. The extent to which Rule 144 is applicable will depend upon the manner in which the option was written.

(a) If the non-affiliate does not use restricted securities for purposes of covering[33] the option position or for

[28] *See* Section 3(a)(34) of the 1934 Act, which states that the term "broker" means "any person engaged in the business of effecting transactions in securities for the account of others but does not include a bank."

[29] As indicated in Item (57), under certain circumstances a Rule 144 transaction may constitute a distribution for purposes of Rule 10b–6. One of the indicia of a distribution is a special sales effort. Accordingly, the issuance of a favorable research report or buy recommendation by the broker may indicate that the Rule 144 transaction constitutes a distribution for purposes of Rule 10b–6. If the Rule 144 transaction constitutes a distribution, the broker would be prohibited from engaging in market making or other activities proscribed by Rule 10b–6.

[30] The need for aggregation would depend, as in the situation involving gifts (see Item (47) herein), on whether the unlimited resale provision would have been available to the pledgor during the two-year period following the pledge. If it would have been available during that period, the need to aggregate under Rule 144(e)(3)(ii) would cease at that point.

[31] A "call option" is a contract giving the holder the right to buy a specified number of shares (usually 100) of the underlying stock at a specified price within a specified period of time. For purposes of this section, the term "call option" is limited to options traded on a national securities exchange ("standardized options"). Other types of options present special problems which are not addressed in this release.

[32] The Division of Corporation Finance previously expressed the view that the writing of a call option should be considered as an offer to sell the underlying securities upon exercise of that option, and the delivery of the underlying securities upon the exercise of the option should be considered a sale of those securities. Therefore, Section 5 of the 1933 Act would require the filing of a registration statement prior to the writing of a call option and an effective registration statement at the time the securities were delivered upon exercise of the option. *See* Release No. 33–5890, at note 10. For that reason, the Division of Corporation Finance took the position that it was necessary that the conditions of Rule 144 be complied with both at the time the option was written and at the time the securities were delivered upon receipt of notice of exercise.

The Divisions of Market Regulation and Corporation Finance have since reconsidered the foregoing position. Unlike the usual offer and sale situation, in the case of standardized options, the securities underlying the options may be required to be delivered at any time prior to their expiration since notices of exercise are assigned at random by the Options Clearing Corporation. As a result, the writer of the option relinquishes control over the timing of delivery (and, therefore, the sale) at the time that the option is written, and, therefore, will be unable to know the volume limitations that would be applicable upon delivery. In order to avoid placing the option writer at the risk of a subsequent decrease in the trading volume for the securities underlying the option and except as indicated in the response to the next question, Rule 144 need be complied with only at the time that the option is written.

[33] A call option is deemed to be covered when the writer of that option owns the securities against which the option is written and places those securities in his options account or provides the broker with an escrow receipt, depository receipt or bank guarantee letter for those securities.

purposes of meeting his margin obligations [34] (i.e., by placing the restricted securities in a margin account for the option position) and does not deliver restricted securities upon receipt of the notice of exercise, the option transaction is not subject to Rule 144.

(b) If the non-affiliate uses restricted securities for purposes of covering the option position, the non-affiliate must comply with the conditions of Rule 144 at the time that the options are covered by the restricted securities.

(c) If the non-affiliate uses restricted securities for purposes of meeting his margin obligations,[35] the non-affiliate must comply with the conditions of Rule 144 at the time he places the restricted securities in a margin account. For purposes of determining compliance with the volume limitations, only the securities placed in the margin account, not the amount of securities underlying the options, are to be considered.

(d) If the non-affiliate uses only restricted securities for delivery, he must comply with the conditions of Rule 144 at the time of delivery.

As indicated, the writing of call options by affiliates and non-affiliates is treated differently for purposes of Rule 144. Because any securities that an affiliate would deliver upon receiving the notice of exercise of options that he has written are subject to Rule 144, he is deemed to have offered those securities for sale at the time the options were written and, therefore, to have engaged in a transaction contemplated by Rule 144 at that time. A non-affiliate, on the other hand, may engage in options writing and not be subject to Rule 144 until he either segregates restricted securities to cover or meet his margin obligations for that option position or delivers restricted securities upon exercise of that call option.

Illustration 1: Facts: X, a non-affiliate of Y Company, owns 10,000 shares of restricted securities of Y Company. On January 1, 1979, X writes call options for 10,000 shares of Y Company securities and meets his margin obligation for that position by placing cash in his margin account. Interpretation: X has not engaged in a Rule 144 transaction because he has not used restricted securities to cover or meet his margin obligations for his option position.

Illustration 2: Facts: The facts are the same as in Illustration 1, except that after one month the options remain outstanding and X replaces the cash in the margin account with restricted securities. Interpretation: X must comply with Rule 144 at the time that the restricted securities were placed in the margin account.

Illustration 3: Facts: The facts are the same as in Illustration 1, but X delivers restricted securities upon receiving the notice of exercise. Interpretation: X must comply with Rule 144 at the time of delivery.

(71) *Question:* How does the limitation on the amount of securities which may be sold under Rule 144(e) during any three-month period apply to transactions in call options?

Answer: (a) If the option writer is an affiliate, the amount of securities underlying the option must be aggregated at the time the option is written [36] with (i) the amount of securities of the same issuer sold by the writer within the preceding three months pursuant to Rule 144, and (ii) the amount of securities of the same issuer underlying options previously written and still outstanding. The total amount cannot exceed the volume limitation of Rule 144(e), as illustrated below.

Illustration 1: Facts: X, an affiliate of Z Company, owns 20,000 shares of stock of Z company. The volume limitation of Rule 144(e) throughout this illustration and the two which follow is 10,000 shares. On January 1, 1979 X sells 5,000 shares of Z Company stock pursuant to Rule 144. On February 1, 1979, X wishes to write options on his stock. Interpretation: X can write options for no more than 5,000 shares of his securities on that date.

Illustration 2: Facts: The facts are the same as in Illustration 1, except that on February 1, 1979, X writes options for 2,000 shares of Z stock. On March 1, 1979, while the options written in February are still outstanding, X wishes to write additional options on his stock. Interpretation: X can write options for no more than 3,000 shares of his securities on that date.

Illustration 3: Facts: The facts are the same as in Illustrations 1 and 2, except that on March 1, 1979, X does in fact write options for 3,000 shares of his stock. Interpretation: Assuming the options written in February and March remain outstanding, X can make no further sales of his securities under Rule 144 or write options on such stock under the rule until April 1, 1979, at which time he would be able to sell or write options on an additional 5,000 shares under the rule.

(b) If the option writer is a non-affiliate owning restricted stock, he may write, without being subject to Rule 144, options which are neither covered nor margined by restricted securities. For purposes of writing options which are covered or margined by restricted securities, he must aggregate the amount of securities segregated (i.e., used for covering or margin purposes) at the time that the option is written with (i) the amount of restricted securities of the same issuer sold by the writer within the preceding three months pursuant to Rule 144, and (ii) the amount of restricted securities of the same issuer that remain segregated in connection with previously written and still outstanding options.

Illustration 1: Facts: X, a non-affiliate of Y, owns 20,000 restricted shares of Y company stock. The volume limitation throughout this illustration is 10,000 shares. On January 1, 1979, X sells 5,000 restricted shares of Y company stock, writes call options for another 5,000 shares margined by cash, and writes covered options for another 5,000 shares. On April 1, 1979, (all options still outstanding) X wishes to write additional covered options on his stock. Interpretation: X may write covered options for 5,000 shares on April 1, 1979. The options margined by cash written on January 1, 1979 are not included in the computation of the volume limitations of Rule 144.

Illustration 2: Facts: X, a non-affiliate of Y Company, writes options for 5,000 shares of Y Company stock. X Places 1,000 shares of restricted Y stock into his margin account as collateral against those options. Interpretation: Assuming that the volume limitations during the period that those options are outstanding is 10,000 shares, X may sell up to 9,000 shares of restricted securities during any three-month period that restricted securities serve as margin for X's options position. X is deemed to have effected a Rule 144 transaction at the time that the options are written only to the extent that restricted Y company stock was placed in his margin account.

(72) *Question:* May a non-affiliate who has already sold the maximum amount of securities allowable under Rule 144(e) write an option covered or margined by additional restricted securities of the same issuer if it is unlikely that the option will be exercised during the current three-month measuring period?

[34] If an option position is not covered, Regulation T of the Federal Reserve Board and exchange rules require the option writer to place in a margin account cash, securities underlying the option, or other marginable securities representing a specified percentage of the value of the underlying securities.

[35] All exchanges impose certain restrictions on the extent to which Rule 144 securities will be considered for margin purposes. *See e.g.* Amex Rule 462(c)(9).

[36] Because any securities that the affiliate may deliver upon exercise of those options are subject to Rule 144, it is irrelevant whether the option writer uses securities underlying the option position to cover or meet his margin obligations for that option position.

Answer: No. The writing of a call option in such circumstances would cause the person to exceed the volume limitation requirement of Rule 144(e).

(73) *Question:* What effect does the expiration, repurchase or exercise of an option in a closing purchase transaction have in applying the volume limitation of Rule 144(e)?

Answer: As indicated in the answer to Item (70), the amount of underlying securities subject to Rule 144 which covers an outstanding option is included in computing the amount of securities which may be sold under that rule. Once the option has expired or has been exercised or repurchased without delivering such securities, they are no longer included in the computation.

(74) *Question:* Must the amount of restricted securities which are being used to cover or margin an outstanding call option position which was written more than three months previously be included in the computation of the amount of securities which may be sold under Rule 144?

Answer: Yes, assuming the securites underlying the option are subject to resale under Rule 144. The underlying restricted securities used to cover an outstanding option must always be included in calculating the volume limitation of Rule 144(e).

(75) *Question:* With respect to the writing of options by affiliates or non-affiliates, may the securities attributable to the writing of call options and/or their exercise be included into computing the trading volume for purposes of determining the volume limitation of Rule 144(e)?

Answer: No, neither the number of shares underlying the options nor the number of shares delivered upon exercise of the options should be included in the computation of trading volume. The seller should not subtract that number from the reported trading volume since neither the writing nor the delivery of those shares is reported in the consolidated transaction reporting system.

(76) *Question:* May a non-affiliate who has written an option covering restricted securities and filed a notice on Form 144 deliver non-restricted securities upon exercise of the option in lieu of the restricted securities? If so, will the transaction be treated as a Rule 144 sale?

Answer: A non-affiliate, upon receiving an exercise notice, may deliver non-restricted securities and, in that event, the transaction will not be treated as a Rule 144 transaction. It should be noted, however, that Rule 144(i) requires that the person filing the notice on Form 144 have a bona fide intention to sell the securities referred to therein.

(77) *Question:* What information should be provided in the Form 144 filed at the time the covered call option or restricted margined option is written?

Answer: The Form 144 should be completed as though it is covering the sale of underlying securities. Thus, the *Title of the Class of Securities, The Number of Shares to be Sold,* in the case of a covered option (or the number of restricted shares which margin the option position), *The Aggregate Market Value,* etc., would be related to the underlying securities and not the option. Under the *Approximate Date of Sale,* reference can be made to the *Remarks* section. Also, a similar reference should be made in response to the *Name of Each Securities Exchange.* The *Remarks* section is the only section of the Form 144 that should make reference to the option. A typical disclosure could read: "This Form 144 reflects the intention to write (*number*) of covered call options [or to place (*number*) of shares of securities in a margin account to meet the margin obligations resulting from the writing of standardized options] with an exercise price of $——— and expiration date of ———."

(78) *Question:* May a non-affiliate who initially wrote an option covered by restricted stock without filing a notice of Form 144 at the time of writing the option subsequently, upon exercise of the option, file a Form 144 and deliver restricted securities?

Answer: No. The notice requirement of Rule 144(h) for the sale of restricted securities must be satisfied at the time of the writing of the option.

(79) *Question:* May a non-affiliate who initially wrote an uncovered option which was margined with cash decide later to (1) deposit restricted securities to cover or margin that option (perhaps because of an increase in the applicable volume limitation) or (2) deliver restricted securities upon exercise?

Answer: Yes. In these circumstances the Form 144 would be filed at the time of deposit or delivery.

2. *Short Sales Against the Box.* [37]

(80) *Question:* May Rule 144 or Rule 145(d) be reli l upon for short sales against the box?

Answer: Yes, assuming all applicable conditions of the rule being relied upon are satisfied at the time the short sale is made. [38] For purposes of the manner of sale requirement of Rule 144(f), a short sale against the box is deemed to involve a broker's transaction on the date the short sale is executed.

(81) *Question:* Must the securities held in the box actually be used to cover the short sale?

Answer: No. The short sale in such circumstances may be covered by the delivery of other securities of the same class.

(82) *Question:* Will a non-affiliate who sells securities short without placing his restricted securities "in the box" and later uses the restricted securities to cover the short position be able to rely on Rule 144 if he complies with its requirements only at the time the short position is covered?

Answer: No. It is necessary that the initial sales transaction comply with Rule 144. The purpose of this prohibition is to preclude a non-affiliate from avoiding the requirements of Rule 144 (f) and (g) by effecting a short sale without complying with those sections and thereafter covering his short position with restricted securities.

3. *Availability of Rule 144.*

(83) *Question:* May Rule 144 be relied upon by a subsidiary for the sale of restricted or other securities issued by its parent?

Answer: No, the parent-issuer could not directly sell its own securities pursuant to the rule. And the rule is not available to permit the parent-issuer to do indirectly through a subsidiary what it could not do directly. Both the parent and the subsidiary must be considered the same entity because the parent is in control of the subsidiary.

(84) *Question:* May Rule 144 be relied upon for the resale of securities in any of the following situations:

(a) The securities are included in a registration statement that has been withdrawn by the issuer?

(b) The securities are included in a registration statement that can no longer be used because the information therein is not current under the requirements of the 1933 Act?

(c) The securities are included in a registration statement that contains current information and can presently be used?

Answer: Rule 144 is immediately available in situations (a) and (b) because the registration statements in

[37] A "short sale against the box" is one in which the seller owns an amount of securities equivalent to the number he sells short but nevertheless asks his broker to borrow the necessary number of shares to deliver to the buying broker. The seller's securities are held by his broker and are used subsequently to replace the borrowed securities.

[38] The answer assumes that the seller is not a beneficial owner of more than 10 percent of any class of the issuer's equity securities which is registered pursuant to Section 12 of the Act, or an officer or director of that issuer. If the seller is one of those persons, he must deliver his securities against the sale within twenty days of the sale. *See* Section 16(c) of the 1934 Act.

those instances cannot currently be used for the resale of securities. The rule also will be available in situation (c) if the registration statement expressly states that the securities may be sold either pursuant to the registration statement or pursuant to Rule 144. If the registration statement does not so state, the rule will not be available unless the securities are deregistered from the registration statement or the registration statement is amended to state that the securities may be sold pursuant to Rule 144.

III. Rule 145(d)

Rule 145(d): This rule states that a former affiliate of an entity acquired in a Rule 145 transaction registered under the 1933 Act shall not be deemed an underwriter when he seeks to sell the securities received by him in the transaction if:

(1) the securities are sold pursuant to the requirements of paragraphs (c) [public information], (e) [volume limitation], (f) and (g) [manner of sale] of Rule 144, or

(2) the person is not an affiliate of the issuer and has held the securities for at least two years, and the issuer of the securities (i) is subject to the periodic reporting requirements of Sections 13 or 15(d) of the 1934 Act, (ii) has been so subject for at least the 12 preceding months, and (iii) has filed all the reports required to be filed under those sections during the 12 preceding months.

(85) *Question:* May a person who receives securities in a registered Rule 145 transaction immediately resell them?

Answer: If the person was not an affiliate of the acquired entity at the time of acquisition, he may immediately resell the securities without any restrictions. If the person was an affiliate at the time of the acquisition, he may either register the securities for resale or comply with the requirements of Rule 145(d). Under Rule 145(d)(1), the former affiliate could immediately resell the securities in amounts that are within the volume limitations of Rule 144(e), provided there also is compliance at the same time with the public information and manner of sale requirements of Rule 144. There is no need, however, for the former affiliate to comply with the holding period or notice of sale requirements of Rule 144, since those requirements are not applicable to sales made pursuant to Rule 145(d).

(86) *Question:* What requirements, if any, of Rule 144 must be complied with if a person seeks to sell registered Rule 145 securities under Rule 145(d)(2)?

Answer: Assuming all of the provisions of Rule 145(d)(2) are satisfied (viz., the seller is not an affiliate of the issuer and has held the securities for two years, and the issuer meets the reporting requirements of the rule), none of the requirements of Rule 144 would have to be complied with. Thus, there is no limit on either the amount of securities that may be sold under that provision or the manner in which they may be sold.

(87) *Question:* May the provisions of Rule 145(d) be relied upon for the resale of securities issued in transactions that are covered by Rule 145 but not registered under the 1933 Act because of the availability of an exemption, such as that provided by Sections 3(a)(9), 3(a)(10), 3(a)(11), or 4(2) of the 1933 Act, or Regulation A under the Act?

Answer: Rule 145(d) specifically states that it shall be applicable only to registered securities. Notwithstanding the language of the rule, the Division of Corporation Finance, as a matter of discretion, will not recommend any enforcement action to the Commission if the requirements of Rule 145(d) are followed with respect to resales of securities which are issued in a Rule 145 transaction but not registered because of the availability of either the Section 3(a)(9) or 3(a)(10) exemption, or the Regulation A exemption. This position of the staff, however, does not cover resales under any other exemption.

(88) *Question:* May call options be written on, or short sales made of, securities that may be resold under Rule 145(d)?

Answer: Yes. Call options and short sales involving Rule 145(d) securities are permitted, as noted in Items (69) and (80) herein.

IV. Rule 148

Rule 148: This rule provides a safe harbor for the resale of securities issued under a plan in bankruptcy proceedings, as well as securities held in the debtor's portfolio. As does Rule 144, it sets forth conditions which, if met, permit persons who hold such securities to sell them publicly without the need for registration and without being deemed underwriters under the 1933 Act. The conditions relate to the availability of adequate current public information about the issuer, the amount of securities that can be sold under the rule, and the manner of selling such securities.

(89) *Question:* Rule 144 states that it is applicable to the sale of "restricted *and other*" securities held by affiliates. (emphasis added) Rule 148, on the other hand, makes no mention of affiliates but simply states that it is applicable to the sale of certain securities relating to bankruptcy proceedings. Which of these two rules applies to the sale by affiliates of bankruptcy-related securities?

Answer: Rule 148 is applicable. Although the rule is silent on the matter, affiliates who hold securities subject to Rule 148 may rely on that rule, rather than Rule 144, for the resale of such securities. The major difference between Rule 144 and Rule 148 so far as affiliates are concerned is that Rule 148 does not have a two-year holding period requirement for securities sold in reliance upon it.

(90) *Question:* Rule 148(b)(2)(i) states that no sales may be made in reliance upon the rule unless the information specified in Item 3(b) of Form 8–K [17 CFR 249.308] has been filed by the debtor with the Commission.[39] If the debtor came out of bankruptcy prior to the effective date (May 1, 1978) of the Item 3(b) requirement, must the debtor nevertheless file the information specified in the Item with the Commission in order to satisfy the current public information requirement of Rule 148(b)(2)(i)?

Answer: If the information presently required by Item 3(b) can reasonably be ascertained by examining the reports and other documents already filed by the debtor, then a filing on Form 8–K setting forth the requisite information need not be made. If, however, the information cannot be so ascertained, an 8–K or similar filing should be made if the debtor wishes that Rule 148 be available for the sale of its securities. Any such filing, however, would not be considered a delinquent filing by the Commission, since it was not required to be filed by the debtor at the time it came out of bankruptcy.

(91) *Question:* Section 1145 of the Bankruptcy Reform Act of 1978 [Pub. L. No. 95–598 dated November 6, 1978] deals in part with some of the matters covered by Rule 148. How will Rule 148 interact with Section 1145?

Answer: Section 1145 will not become effective until October 1, 1979. As indicated in Note 10 of Release No. 33–6032 (March 5, 1979), the Commission expects to consider prior to that date whether to modify or rescind Rule 148 in light of the existence of Section 1145. Rule 148, however, will continue in full force and effect until at least October 1, 1979.

[39] Item 3(b) of Form 8–K requires that the following information be filed with the Commission if an order confirming a plan of reorganization, arrangement or liquidation has been entered by a court or governmental authority: (1) the identity of the court or governmental authority; (2) the date the order confirming the plan was entered; (3) a fair summarization of the material features of the plan; (4) the number of shares or other units of the debtor outstanding and reserved for future issuance in settlement of claims and interests; and (5) information as to the assets and liabilities of the debtor.

V. Rule 237

Rule 237: This rule provides a safe harbor for the resale of securities by non-affiliates. It resembles Rule 144 in some respects in that it contains holding period, volume limitation, and manner of sale requirements.

(92) *Question:* Must there be current public information available about the issuer of securities that are sold in reliance upon Rule 237?

Answer: No. Rule 237 is designed to provide a safe harbor for the resale of securities that cannot qualify for resale under Rule 144 because the issuer of the securities does not publish information concerning itself in accordance with Rule 144(c). Rule 237 requires that the securities have been beneficially owned by the seller for at least five years (as opposed to two years under Rule 144) and that the securities be sold in bona fide negotiated transactions otherwise than through a broker or dealer (as opposed to brokers' transactions or transactions with a market maker under Rule 144). In addition, the amount of securities that can be sold under the rule cannot exceed $50,000 during any period of one year.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

August 2, 1979.

[FR Doc. 79–24462 Filed 8–7–79; 8:45 am]

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Part VII

Environmental Protection Agency

Appeal Procedures; Request for Comments

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1281-5]

Appeal Procedures: Request For Comments

The U.S. Environmental Protection Agency (EPA) is publishing this notice to advise the public that we have designated new procedures to govern appeals in assistance disputes under 40 CFR Part 30, Subpart J, and to invite comments on the procedures.

EPA regulations give assistance recipients (parties to EPA grants and cooperative agreements) and, in some cases, applicants for assistance, a right to appeal a "final" agency decision (see 40 CFR 30.1100 for details). The regulations give the General Counsel authority to designate procedures for these appeals (40 CFR Part 1150).

For the past five years, EPA has been using the Department of Transportation Board of Contract Appeals procedures, with some modifications. Based on our experience with these procedures and comments from parties to appeals and others, we have developed new procedures which are better suited to EPA's assistance programs.

There are four major aspects to note.

First, the procedures establish for the first time an EPA Board of Assistance Appeals, whose members will preside at hearings and decide all grant appeals (§ 109). In the past, hearing examiners were appointed by the General Counsel on an *ad hoc* basis. We believe that the creation of the Board will result in quicker and more consistent resolution of appeals. It also ensures that there will be one place where all questions can be directed.

Second, there is a significant difference between the old and new procedures in the provisions concerning development of the appeal file. Under the old procedures, the appeal file was developed by government counsel. Under the new procedures, the appellant must file copies of all documents relevant to disposition of the dispute with the Board and government counsel within thirty days of receiving acknowledgement of the appeal (§ 117). In order to avoid undue burdens on the appellant, the procedures provide that documents already within the government's possession may be indicated on the index, and will be added to the file by government counsel, with any other documents relevant to the dispute. We encourage the parties to cooperate in establishing a jointly prepared appeal file. We also encourage them to be careful to include all relevant documents at this stage, as submission of documents may be limited later in the proceedings (§§ 119(a), 121(e)(3), 123(d)(2)).

The third important aspect is the distinction between three separate kinds of procedures. Appeals concerning less than $50,000 are generally decided on the written record, without a hearing. The decision on the written record is the quickest and simplest procedure, and may be streamlined even further by election of one or more expediting mechanisms (§ 119(b)). That procedure is designed to handle appeals which center on questions of law or audit issues. The conference hearing procedure is partially non-adversarial, and is useful for appeals where additional facts must be introduced into the record, but in general those facts are not in controversy (§ 121). The evidentiary hearing is the most formal procedure, and it is especially useful for appeals where facts central to the disposition of the case are in dispute (§ 123). Selection of one of these alternatives, with one or more of the expediting mechanisms, where appropriate (§§ 119(b), 121(h)), will ensure that each appeal is decided as quickly and fairly as is possible.

Finally, a distinctive element of the procedures is the emphasis placed on informal dispute resolution prior to hearings. These procedures are not called into play unless informal attempts at resolution of the dispute have failed. The Board will support, and even initiate settlement negotiations whenever possible. The procedures are designed to give the Board maximum flexibility in using prehearing conferences to limit the scope of the appeal (§§ 121(c), 123(b)). The Board may even require mediation (§ 133).

The procedures became effective on June 29, 1979, but we will modify them as appropriate, based on our experience in applying them and on the comments and suggestions which we receive as a result of this notice. Please address your comments to Norval D. (John) Settle, Chair, EPA Board of Assistance Appeals (A-134), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. For additional information, call Mr. Settle or Ms. Nell Minow, Standing Member of the Board, at 202/426-8830.

Dated: August 8, 1979.

Joan Z. Bernstein,

General Counsel.

Environmental Protection Agency

Disputes Procedures

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101 Purpose.

These procedures supplement the regulations in Subpart J-Disputes, 40 CFR Part 30, which establish a process for assistance applicants and recipients to appeal adverse final EPA decisions.

102 Objective.

The objective of these procedures is to provide quick, fair and flexible ways of resolving disputes concerning final decisions of EPA officials about issues in assistance programs, with minimal formality and expense.

103 Summary.

Any grantee or party to a cooperative agreement with EPA has a right of appeal in disputes with the agency, and in certain instances specified in EPA regulations, some applicants for assistance also have this right. The regulations provide that the applicant or assistee must exercise this right within 30 days after an Agency official has issued a "final decision" on the matter in dispute. These procedures then come into play.

Appeals are decided by the Board of Assistance Appeals, members of which are appointed by EPA's General Counsel. Unless waived by the appellant in accordance with these procedures, the Board will issue a written opinion deciding the appeal.

There are three means of resolving the appeal. The easiest and fastest is to proceed on the basis of a written record, without any oral presentations. The next simplest process is a conference hearing, in which the procedures for resolution on the basis of a written record are supplemented with a non-adversary hearing. Finally, the appellant may select an evidentiary hearing, which is conducted like a trial, but with less formal evidence submission practices than found in the courts. If necessary, the Board may "upgrade" the process selected to produce a more extensive record.

Although most of the provisions below describe the details of participation in these three processes, in operation much of the Board's emphasis is on preliminary informal resolution of disputes. For example, the Board may call meetings of the parties (perhaps by telephone conference call) to define issues and explore settlement. The Board may also help the parties use the services of a mediator.

All processes are designated to be as informal and flexible as possible, with the caveat that the Board must be able to develop a complete and orderly record to provide a basis for a sound decision. While the services of an attorney are not necessarily required, the appellant should note the EPA (the Agency) is almost always represented by one or more attorneys; hearings, if held, are transcribed and witnesses are under oath; an orderly presentation of evidence is required; and the appellant has the burden of persuading the Board that the Agency's final decision was wrong.

105 How appeals are filed and acknowledged.

(a) Under Subpart J, an assistance applicant or recipient who wishes to appeal a final decision must, within 30 days after receiving the decision, submit a brief written notice of appeal indicating that an appeal is intended, identifying the final Agency decision, and briefly stating the reasons for the appeal. The appeal must be mailed or delivered to the Grant Approving Official or Project Officer (see §§ 30.135-12 and 30.135-19 for definitions of these terms).

(b) Within one working day after receiving the notice of appeal, the EPA official who received it must indicate on the notice the date of receipt, and send a copy of the notice (with a copy of the final EPA decision from which appeal is taken) to each of the following:

(1) The EPA Board of Assistance Appeals, Room 513W, U.S. Environmental Protection Agency (A-134), 401 M Street, SW., Washington, D.C. 20460.

(2) The Assistant General Counsel for Grants, Room 1031WT, U.S. Environmental Protection Agency (A-134), 401 M Street, SW., Washington, D.C. 20460.

(3) The appropriate EPA Regional Counsel, if the appeal concerns a final decision of a regional official.

(c) The Board will promptly write to the appellant acknowledging the notice of appeal and enclosing a copy of these procedures. The acknowledgment will inform the appellant of the next steps under these procedures, and identify a Board contact to help with questions about these procedures.

107 Who represents each of the parties.

(a) *Who represents the appellant.*

The appellants' notice of appeal, or the appellant's election letter submitted under § 111, must specify the name, address and telephone number of the appellant's representative. An attorney's signature on the notice of appeal or other documents submitted under these procedures is a representation that he or she is authorized to act for the appellant. If the appellant is represented by someone other than an attorney, the notice of appeal or election letter must also include a declaration, signed by a responsible official of the appellant, that the person is authorized to act for the appellant.

(b) *Who represents EPA.*

As soon as practicable after receiving the notice of appeal under § 105, the Assistant General Counsel for Grants (or the Regional Counsel, as appropriate, after consulting with the Assistant General Counsel for Grants) will inform the Board of the name, address and telephone number of counsel assigned to represent the Agency. He or she must also notify the appellant, if the Board has not already done so, of the name of Agency counsel.

109 Who decides the appeal.

The General Counsel appoints members of a Board of Assistance Appeals, to hear and decide appeals in accordance with 40 C.F.R. § 30.1120. The Board consists of a Chair, one or more other standing members, and those additional appeal examiners who may be appointed as Board members by the General Counsel for particular appeals. All appeal decisions are decisions of the Board and each decision is issued by the Chair and the particular presiding member (or panel of members) who conduct proceedings on behalf of the Board. Powers, functions and responsibilities of Board Members are set forth in § 135. The appellant and Agency counsel will be notified as soon as possible of the names of the particular board member or members assigned to the appeal.

111 How the appellant chooses an appeal process.

Within thirty days after the appellant receives the Board's acknowledgment of the notice of appeal, the appellant must submit to the Board a letter choosing one of the three processes available below. This election letter must identify the attorney or other person who will represent the appellant, if the notice of appeal did not already do so (see § 107(a) for details). With the election letter, the appellant must include two copies of documents relevant to the dispute, and a designation of relevant documents in the Agency's possession (see § 117 below for details). At the same time, the appellant must send a copy of the election letter, and its enclosures, to Agency counsel (or, if counsel has not yet been identified, to the Regional Counsel or Assistant General Counsel for Grants, as appropriate). The appellant does not make an election of process for a dispute involving less than $50,000, since only one process—proceeding on a written record—is available for that kind of appeal (see §§ 115(a)(1), 119). But in *all* cases, the appellant must at this stage prepare and submit the compilation of relevant documents in accordance with § 117. The appellant should not present any argument about the dispute in the election letter, since subsequent steps provide an opportunity for argument. In cases involving less than $50,000 (and in all other cases where the appellant elects an expedited appeal on the written record under § 119(b)), the appellant may submit all

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necessary information at one time, with the notice of appeal.

113 Complaints and answers.

Generally, written complaints and answers are not required, since the final decision and the notice of appeal should adequately describe the matter in dispute. However, if the Board determines that the issues and subject matter of an appeal are not clearly defined, or if Agency counsel notifies the Board that the Agency needs a clearer statement to defend its final decision, the Board may require the appellant to submit a written complaint, and the Agency to answer, in a form and by deadlines established by the Board.

115 The three appeal processes available.

(a) *General.*

EPA has three processes available to resolve disputes:

(1) Decision on a *written record,* without an oral hearing (see § 119 below). This is the fastest and simplest process available to an appellant. All appeals involving less than $50,000 will be decided on this basis, as well as all other appeals where the appellant choose this process. This process generally is appropriate, for example, for disputed audit results involving accounting questions.

(2) *A conference hearing (see § 121 below).*

Next to proceeding on the basis of a written record, the conference hearing is the fastest process available to an appellant, because it is nonadversarial, may require relatively little testimony, and may even be conducted by a telephone conference call if appropriate.

(3) *A full scale evidentiary hearing (see § 123 below).*

Because of the procedural and logistical aspects of an evidentiary hearing, this process is more expensive and time consuming than the other two processes, both for EPA and the appellant. Generally, the appellant should consider choosing this process only if there are complex facts in dispute.

(b) *Resolving disputes informally; mediation.*

As discussed in § 135(b), the Board has authority to use preliminary procedures to help the parties to clarify issues and to resolve the dispute informally. As discussed in § 133, this may include use of a mediator.

117 The appeal file.

In all three of the available processes, EPA requires an appeal file, which is a chronological, indexed compilation of the documents that are relevant to the matter in dispute. The appeal file is developed as follows:

(a) As noted in § 111, with its election letter, the appellant must submit to the Board two copies of all of the documents that the appellant considers relevant to the appeal and must send one copy to Agency counsel. The documents must be organized chronologically and accompanied by an indexed list identifying each document by date, originator and addressee. The appellant must include: The final decision on which the appeal is based; relevant portions of the assistance agreement; any relevant correspondence between the parties; and a statement of the amount in dispute. To reduce the burden on the appellant, the appellant may specify relevant documents already in the hands of EPA which EPA then merely adds to the appeal file under (b).

(b) Within thirty days after the Agency counsel receives the appellant's submission, the Agency must submit to the Board and the appellant copies of documents specified under the last sentence in (a) and any additional documents it considers relevant, organized and indexed as required under (a).

(c) Promptly after the Board receives the submissions of the parties (or, if either party does not submit documents, after the time periods under (a) and (b) have expired), the Board will organize and number the submitted documents in an appeal file based on the parties' submissions, and send both parties a consolidated index of the contents.

(d) The Board encourages the parties to cooperate with each other in developing a grant appeal file. They may present a jointly prepared file, or agree to preparation by one of them.

(e) It is important to have a complete appeal file, but the parties should take care to include *only* those documents which are material to resolution of the dispute.

(f) Any objections to documents in the appeal file should be raised as early as possible, and the parties should attempt to resolve the dispute between themselves. The Board is responsible for resolving objections which the parties cannot resolve, and may issue an order resolving an objection. To meet the objective of informality, the Board need not adhere rigidly to federal rules of evidence, and generally will admit any document unless convinced that it is clearly irrelevant, immaterial or unduly repetitious. For those appeals that are submitted for resolution on the basis of a written record under § 119, the parties may object to inclusion of material in the appeal file at any point until conclusion of the briefing schedule. For those appeals that are submitted for resolution using a hearing under §§ 121 or 123, the parties may object at any point through the conclusion of the hearing.

(g) The Board, on its own initiative or in response to a request from a party, may order a party to include additional material in the appeal file which the Board believes would be useful in resolving the dispute.

119 Proceeding on the written record without a hearing.

The procedures for a decision based on the written record are as follows:

(a) *Regular procedure.*

Within 30 days after the appellant receives the notice of contents of the appeal file from the Board, the appellant must submit to the Board (with a copy to Agency counsel) a brief or statement containing the appellant's argument supporting its claim that the EPA final decision was wrong. Within 30 days after the Agency counsel receives the copy of the appellant's argument, the Agency may submit to the Board (with a copy to the appellant) a brief or statement containing the Agency's defense of its decision and its response to the appellant's argument. If the appellant wishes, it may submit a reply, but must do so within fifteen days after receiving the Agency submission. Briefs or statements should be no longer than twenty double-spaced pages, and the appellant's reply should be no longer than five double-spaced pages. These submissions may not include exhibits. The record that the Board reviews will consist of the appeal file (including the notice of appeal and the agency decision on which the appeal was based), and the briefs or statements of the parties. The Board will develop a decision as soon as practicable after all submissions are filed or after the time for filing has expired.

(b) *Speeding the Regular Procedure.*

The appellant may choose one or more of the following mechanisms to speed the process under (a) by so stating in the election letter:

(1) The appellant may choose to submit a single brief or statement with or as part of its election letter, and may consolidate the election letter with the notice of appeal.

(2) Where the appeal involves an amount under $50,000, the appellant may choose to have the Board issue a final order affirming or reversing the Agency decision without a written opinion. (The Board may nonetheless issue a brief written opinion if the Board thinks it is appropriate to do so).

(3) The appellant may elect to have the case submitted to the Board for final decision on the basis of the appeal file, without a brief (although Agency counsel may nevertheless choose to submit a brief).

(c) *Further information or procedures.*

(1) If the Board decides that the written record presented is inadequate, the Board may present written questions to the parties; order further briefing on specified issues; order oral testimony; or take any other actions that are necessary to develop a record upon which to base a sound decision.

(2) The Agency counsel may sometimes feel that an issue on appeal needs more development than proceeding on the written record would give it. Therefore, on request of Agency counsel, and if the Board decides it is appropriate, after consultation with the parties, the Board may require the appellant to use procedures applicable to hearings under §§ 121 or 123, or to meet some other requirement under (c)(1) above.

121 Using a conference hearing.

The procedures for a conference hearing are as follows:

(a) *Witness statement.*

Within 30 days after the appellant and the Agency receive the notice of contents of the appeal file (see § 117(c)), each party must submit a witness statement to the Board, with a copy to the other party. The witness statement must contain a list of anticipated witnesses, with a brief summary of the expected testimony of each, and a description of the testimony's relevance to the claim. The statement may also contain a list of questions for the presiding Board Member to ask each witness, or an identification of issue areas in which inquiry would be appropriate.

(b) *Response to the witness statement.*

Within 30 days after each party receives the other's witness statement, each party may respond by submitting a supplementary statement to the Board, with a copy to the other party. The supplementary statement may add to earlier information, and present any written objections to the relevance, materiality or repetitiousness of proposed questions, or of proposed evidence, or to the competency of witnesses.

(c) *Informal meeting to establish witness statement.*

At the request of a party or on its own initiative, the Board may convene a meeting (which may be held by telephone conference call) to develop a consolidated witness statement. If such a meeting is scheduled, the parties need not develop separate witness statements under (a) and (b). At the meeting, the Board and the parties may consider settlement, clarification of issues, and other matters in the same manner as at a prehearing conference under § 123(b).

(d) *Resolving objections, exploring settlement.*

The Board will attempt to resolve objections, clarify issues, and explore settlement during the meeting described in (c) or by having other informal meetings or telephone conferences with the parties. The Board will only sustain an objection to a question or proposed evidence if it is clearly irrelevant or immaterial or unduly repetitious. The Board will only sustain an objection to the competency of a witness if the witness clearly lacks knowledge or expertise concerning the subject of testimony. The Board may on its own initiative reject unduly repetitious, lengthy or otherwise burdensome questions, and may order a party to include additional witnesses.

(e) *The hearing.*

(1) As soon as practicable after the steps above, the Board will set a date for a hearing. The Presiding Board Member will conduct the hearing. The parties are responsible for producing witnesses specified in the witness statements. A transcript or recording will be made.

(2) At the hearing, the Presiding Board Member will summarize the issues on appeal. The parties may make brief closing and opening statements. The Presiding Board Member will then question the witnesses, based on the witness statements and appeal file, and may inquire further of each witness. At the end of each witness' testimony, the parties may suggest additional questions, which the Presiding Board Member may ask, if no objections to questions have been sustained. The Presiding Board Member may permit or require parties or their representatives to comment in issues of fact or law.

(3) Except for opening and closing statements, and as otherwise specifically allowed by the Presiding Board Member, the only oral communications in the record will be those of the Presiding Board Member and the witnesses. Generally, no written evidence will be received at the hearing. Although the conference hearing is informal, witnesses will be sworn and may be punished for false statements just as if they were appearing at an evidentiary hearing (see § 123(d)(3)).

(f) *Transcript.*

The parties share the cost of preparing the transcript. As soon as the transcript is prepared, a copy will be sent to Agency counsel and to the appellant. The parties may note any major prejudicial errors in an addendum to their briefs submitted under (g) (or, if no briefs are submitted, in a letter to the Board).

(g) *Procedures after the hearing.*

The date that the appellant receives the transcript from the Board will be the starting point for a briefing process which is the same process that applies to a regular decision on the written record (see § 119(a)). The record for review by the Board will consist of the appeal file (including the notice of appeal and the Agency decision from which appeal was taken), the witness statements, the briefs of the parties, and the transcript.

(h) *Speeding up the conference hearing process.*

The appellant may choose to speed resolution by giving up the right to submit briefs. The Board may, however, require further briefing or information in the same manner as for an appeal based on the written record (see § 119(c)).

123 Using an evidentiary hearing.

(a) *Special requirement for choosing an evidentiary hearing.*

If the appellant decides it is appropriate to seek a full evidentiary hearing, the election letter submitted under § 111 must specifically indicate this choice and must set forth the reasons for the choice (for example, that there are complex factual issues in dispute).

(b) *Informal conference before the hearing.*

Generally, the Board will require the parties to appear for a prehearing conference (which may be conducted by telephone conference call) to consider any of the following: Simplifying and clarifying issues; stipulations and admissions; limitations on evidence and witnesses that will be presented at the hearing; the possibility of settlement or agreement on issues in dispute; and any other matter that may aid in disposing of the appeal. The conference will be conducted informally and off the record; however, the Board, after consulting with the parties, may reduce results of the conference to writing in a document which will be made part of the record.

(c) *Notice of the hearing, where hearings are held.*

Hearings generally are held in Washington, D.C. However, if a party shows good cause, the Board may hold the hearing at an EPA regional office or laboratory. The Board will schedule hearings taking into consideration the parties' conflicting time demands and

desires, and will give the parties at least 15 days notice of the time and place for hearings.

(d) *Conduct of the hearing.*

(1) A Presiding Board Member or panel will conduct the hearing for the Board. Hearings will be conducted as informally as reasonably possible, keeping in mind the need to establish an orderly record. The hearing will be transcribed. To meet the objective of informality, federal rules of evidence do not control the hearing, although the Presiding Board Member or panel may use such rules for guidance. The Presiding Board Member or panel generally will admit evidence unless it is determined to be clearly irrelevant, immaterial or unduly repetitious. Therefore, the parties should avoid making frequent objections to questions and documents. The parties may make brief opening and closing statements.

(2) Since the parties have ample opportunity to participate in developing a complete appeal file, there should rarely be a need to introduce exhibits at the hearing. A party that wishes to introduce an exhibit must explain to the satisfaction of the Presiding Board Member or panel why the exhibit was not included earlier in the appeal file.

(3) Witnesses will be examined orally under oath or affirmation. Cross-examination, redirect and recross are allowed. Witness' statements are subject to sections 287 and 1001 of title 18 of the United States Code, and any other penalties for knowingly making false statements in connection with claims against the United States.

(e) *Procedures following the evidentiary hearing.*

(1) The parties share the cost of preparing the transcript. As soon as the transcript is prepared, a copy will be sent to Agency counsel and to the appellant. The parties may note any major prejudicial errors in an addendum to their briefs.

(2) Within 30 days after the appellant receives the transcript, the appellant must submit to the Board (with a copy to Agency counsel) a brief containing the appellant's argument in support of its claim that the EPA final decision was wrong. Within 30 days after the Agency counsel receives a copy of the appellants' brief, the Agency must submit to the Board (with a copy to the appellant) a brief setting forth the Agency's defense—and its response to the appellant's brief. If the appellant wishes, it may sumit a reply brief, but must do so within fifteen days after receiving the Agency's brief. Briefs may not include exhibits.

(3) The record for review by the Board will consist of the appeal file (including the notice of appeal and the Agency decision on which appeal was based), orders or stipulations that resulted from prehearing conferences, the transcript, any additional exhibits introduced at the hearing, and the briefs of the parties. The Board will develop a decision as soon as practicable after all briefs are filed or after the time for filing briefs expires.

125 Dismissal for failure to meet deadlines and other requirements.

EPA is offering its resources for dispute resolution in order to give appellants an opportunity to quickly, fairly and inexpensively resolve their disputes with the Agency. EPA's resources are limited, and must be used in the most effective manner. Therefore, if an appellant fails to meet any filing or procedural deadlines, appeal file or brief submission requirements, or other requirements established by the Board, the Board may dismiss the appeal. Any significant delays by Agency counsel will be reported by the Board to the General Counsel for such action as he or she decides is appropriate.

127 Burden of persuasion.

The appellant has, in all cases, the burden of persuading the Board that the decision of the Agency was wrong (i.e., that the Agency action violates applicable requirements, is based on an erroneous interpretation of facts of law, or is otherwise unreasonable).

129 Issues on appeal.

Except as the Board otherwise determines, the only matters to be resolved in the appeal are the matters specifically identified as matters in dispute in the final decision of the Agency on which the appeal is based.

131 Parties to the appeal.

Generally, the only parties to the appeal are the assistance applicant or recipient which received the final Agency decision on which the appeal is based, and the Agency. However, the Board may allow a third party to present the case on appeal or to appear with a party in the case, after consultation with the parties, when the Board determines that the third party is a real party in interest (for example, where an audit disallowance would result in a contractor of the assisted Agency losing the amount in dispute, or where a State under a delegated program played an important role in the decision on which the appeal is based). The Board may also allow other parties to participate, in the manner and by the deadlines established by the Board, where the Board decides that the intervenor has a clearly identifiable and substantial interest in the outcome of the dispute, that participation would sharpen issues or otherwise be helpful in resolution of the dispute, and that participation would not result in substantial delay.

123 Mediation.

If the Board decides that mediation would be useful to resolution of a dispute, the Board, in consultation with the parties, may require use of mediation techniques and will assist in selecting a mediator. The mediator may take any steps agreed upon by the parties to seek resolution of the dispute or clarification of issues. The results of mediation are not binding on the parties unless the parties so agree in writing. The mediator and the Board may not communicate about the merits of the case in the absence of the parties.

135 The Board's powers, functions and responsibilities.

(a) Powers. In addition to the powers that are specified elsewhere in these procedures, the Board has the power to issue orders; to examine witnesses; to take all steps necessary for the conduct of an orderly hearing; to rule on requests and motions, including motions to dismiss; to dismiss for failure to prosecute; to dismiss for lack of jurisdiction; to dismiss frivolous claims; to order or assist the parties to obtain or produce testimony or information; and to take all other actions necessary to resolve disputes in accordance with the objectives of these procedures.

(b) *Preliminary attempts at resolving the dispute.*

In any of the three processes, the Board may take whatever steps are necessary to resolve the dispute informally (including convening meetings of the parties in person or by telephone conference call and bringing in the services of a mediator). If the Board decides it is appropriate, it may require Agency counsel to submit a written statement on behalf of the Agency setting forth the attempts that have been made to resolve the dispute, and explaining the reasons why the dispute cannot be resolved without resorting to these procedures. Also, the Board may refer an issue back to the official who issued the decision on which the appeal is based, or to some other appropriate EPA official, with a request for a determination (by some deadline) whether the issue can be resolved before further Board proceedings.

(c) *Requiring additional information.*

At any time, the Board may require additional information (in the form of affidavits, testimony, documents or briefs) which the Board deems necessary to help resolve the dispute.

(d) *Modifying procedural requirements.*

The Chair may waive or modify any requirement of these procedures for good cause.

(e) *Weight of evidence.*

The Board shall determine the weight to be given to any evidence in the record.

(f) *Exparte communications (communications outside the record).*

A Board member shall not receive from any person any written or oral communication outside the record about the merits of an appeal. This does not apply to consultations among Board members and staff, nor to exparte discussions concerning the Board's administrative functions or procedures.

(g) *Duties; removal.*

Each Board member must conduct fair and impartial proceedings in accordance with these procedures; keep order at hearings; avoid unnecessary delay; and issue an opinion as promptly as feasible after the record is complete. The General Counsel may remove a Board member for cause.

137 How to calculate deadlines.

In calculating deadlines under these procedures, Saturdays, Sundays and federal holidays are not included.

[FR Doc. 79-24483 Filed 8-7-79; 8:45 am]

BILLING CODE $560-01-M

In calculating deadlines under these procedures, Saturdays, Sundays and federal holidays are not included.

[FR Doc. 79-24483 Filed 8-7-79; 8:45 am]

BILLING CODE $560-01-M

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INFORMATION AND ASSISTANCE

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

TREASURY DEPARTMENT

Customs Service—

27385 Imported manhole covers and frames; marking requirements

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

33801 6–12–79 / Request for information on ventilation of animal shipping containers; comments by 8–13–79

Federal Crop Insurance Corporation—

41809 7–18–79 / Proposed grain sorghum crop insurance regulations; comments by 8–17–79

41815 7–18–79 / Proposed cotton crop insurance regulations; comments by 8–17–79

Forest System—

29107 5–18–79 / National Forest System lands, special uses; comments by 8–16–79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

39509 7–6–79 / Nondiscrimination in federally assisted programs of the National Endowment for the Arts; civil rights guidelines; comments by 8–15–79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

38529 7–2–79 / Atlantic herring; approval of amendment to fishery management plan, and emergency regulations; comments by 8–14–79

34607 6–15–79 / Foreign fishing for billfish, oceanic sharks, wahoo and mahimahi in the Pacific Ocean; comments by 8–12–79

40099 7–9–79 / Groundfish of Gulf of Alaska; fishery management plan; comments by 8–16–79

41899 7–18–79 / Proposed fish and wildlife coordination rules; comment extended to 8–17–79

[Originally published at 44 FR 29300, 5–18–79]

COMMODITY FUTURES TRADING COMMISSION

41830 7–18–79 / Financial early warning system; proposed rule; comments by 8–17–79

CONSUMER PRODUCT SAFETY COMMISSION

34968 6–18–79 / Exemption of potassium supplements in effervescent tablet form containing not more than 50 milliequivalents of potassium from child protection packaging; comments by 8–17–79

ENERGY DEPARTMENT

40521 7–11–79 / Claims of patent and copyright infringement; comments by 8–15–79

Economic Regulatory Administration—

29018 5–17–79 / Alternate fuels; comments by 8–15–79

28530 5–15–79 / Definitions and Administrative Procedures; interim rule; comments by 8–15–79

36002 6–20–79 / Electric utility system compliance option; comments by 8–15–79

28594 5–15–79 / Prohibition against increased use of petroleum by existing electric powerplants; comments by 8–13–79

ENVIRONMENTAL PROTECTION AGENCY

39480 7–6–79 / Air quality implementation plans: Metropolitan Prima County portion of the Arizona State plan; comments by 8–16–79

41489 7–17–79 / Alabama; air quality control regions, criteria and control techniques; attainment status designations; comments by 8–16–79

33905 6–13–79 / California air pollution plan; revision; comments by 8–13–79

41254 7-16-79 / Florida State Implementation Plan; proposed 1979 revisions; conditional approval; comments by 8-15-79

34840 6-15-79 / Glass manufacturing plants, standards of performance for new stationary sources; comments by 8-14-79

40901 7-13-79 / Implementation plans; South Carolina: proposed 1979 plan revisions; comments by 8-13-79

41258 7-16-79 / Massachusetts State Implementation Plan to attain primary standards for total suspended particulates; comments by 8-15-79

41253 7-16-79 / North Dakota State Implementation Plan; approval of revisions; comments by 8-15-79

41264 7-16-79 / Ohio State Implementation Plan for sulfur dioxide; comments by 8-15-79

40655 7-12-79 / Revision of Michigan State implementation plan; comments by 8-13-79

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

34494 6-15-79 / Equal employment opportunity in the Federal Government; comments by 8-15-79

FEDERAL COMMUNICATIONS COMMISSION

25347 5-15-79 / Cable television syndicated program exclusivity rules; inquiry into the economic relationship between television broadcasting and cable television; reply comments by 8-16-79

20465 4-5-79 / Clean channel broadcasting in the standard broadcast band; reply comments period extended from 5-9 to 8-13-79

[Originally published at 44 FR 4502, 1-22-79]

33122 6-8-79 / FM broadcast station, proposed changes in table of assignments; Bandera, Tex.; comments by 8-13-79

33123 6-8-79 / FM broadcast station, proposed changes in table of assignments; Fordyce, Ark.; reply comments by 8-14-79

[Corrected at 44 FR 36081, 6-20-79]

33120 6-8-79 / FM broadcast stations, proposed changes in table of assignments; Fort Neches and Bridge City, Tex.; reply comments by 8-13-79

33124 6-8-79 / FM broadcast station, proposed changes in table of assignments; Oakhurst, Calif.; reply comments by 8-14-79

33126 6-8-79 / FM broadcast station, proposed changes in table of assignments; Haynesville, La.; reply comments by 8-13-79

33121 6-8-79 / Television broadcast stations in High Point, N.C.; proposed changes in table of assignments; reply comments by 8-13-79

40133 7-9-79 / TV Broadcast applications; application by 8-15-79

FEDERAL DEPOSIT INSURANCE CORPORATION

43287 7-24-79 / Allowance for routine public disclosure of the trust department annual reports of assets filed with the FDIC by State nonmember banks; comments extended to 8-16-79

[Originally published at 44 FR 34510, 6-15-79]

FEDERAL MARITIME COMMISSION

33913 6-13-79 / Filing with the Commission of cargo statistics; comments by 8-13-79

FEDERAL TRADE COMMISSION

41222 7-16-79 / Preservation of Consumers' Claims and Defenses; amendment; comments by 8-17-79

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service—

34499 6-15-79 / Records management; transfer of permanent records; comments by 8-14-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

35186 6-18-79 / Arts Education Program; comments by 8-17-79

34167 6-14-79 / Award of special grants to local educational agencies; comments by 8-13-79

34024 6-13-79 / Health Education Program; comments by 8-13-79

FOOD AND DRUG ADMINISTRATION—

34515 6-15-79 / Calibration of hematocrit centrifuges and vacuum blood agitators; comments by 8-14-79

9542 2-13-79 / Diagnostic ultrasound equipment, intent to propose rules and develop recommendations; comments by 8-13-79

34513 6-15-79 / Indirect food additives; proposed revocation of use of hydrogenated 4,4'-Isopropylidenediphenolphosphite ester resins; comments by 8-14-79

33693 6-12-79 / Removal of hydrazine from food additive use; comments by 8-13-75

41726 7-17-79 / Uredofos tablets; proposed revocation of approval; comments by 8-16-79

HISTORIC PRESERVATION ADVISORY COUNCIL

40653 7-12-79 / National Environmental Policy Act implementation procedures; comments by 8-13-79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing, Federal Housing Commissioner—

33804 6-12-79 / Section 8 housing assistance payments program to new construction; comments by 8-13-79

Federal Disaster Assistance Administration—

34048 6-13-79 / Floodplain management; comments by 8-13-79

INTERIOR DEPARTMENT

Fish and Wildlife Service—

33915 6-13-79 / Endangered and threatened wildlife; review of the status of ten birds and two mammals from Guam; comments by 8-18-79

41274 7-16-79 / Filsenthal National Wildlife Refuge, Ark., D'Arbonne National Wildlife Refuge, La., J.N. "Ding" Darling National Wildlife Refuge, Fla.; opening to sport fishing, comments by 8-15-79

41899 7-18-79 / Proposed fish and wildlife coordination rules; comments extended to 8-17-79

[Originally published at 44 FR 29300, 5-18-79

41894 7-18-79 / Proposed changes to the special rule concerning the American alligator; comments by 8-17-79

LABOR DEPARTMENT

33697 6-12-79 / Redwood Employee Protection Program; comments by 8-16-79

Employment and Training Administration—

34512 6-15-79 / Extended benefits; revision of regulations; comments by 8-14-79

Pension and Welfare Benefit Programs Office—

34517 6-15-79 / Rules and regulations for fiduciary responsibility; eligible individual account plans; comments by 8-14-79

PERSONNEL MANAGEMENT OFFICE

34461 6-15-79 / Appointment, reassignment, transfer and development in the Senior Executive Service; comments by 8-14-79

33688 6-12-79 / Provisions for retention of benefits upon employment by Indian tribal organization; comments by 8-13-79

SECURITIES AND EXCHANGE COMMISSION

36912 6-22-79 / Designation of National Market System Securities; comments by 8-15-79

SMALL BUSINESS ADMINISTRATION

40897 7-13-79 / Methods of determining small business status for loan assistance; comments by 8-13-79

33884 6-13-79 / Procurement assistance; assistance to small business in Federal contracting programs; comments by 8-13-79

TRANSPORTATION DEPARTMENT

Coast Guard—

37631 6-28-79 / 6-28-79 / Puget Sound; tank vessel operations; comments by 8-15-79

Federal Aviation Administration—

34150 6-14-79 / Petitions for rulemaking; summary of petitions received and disposition of those denied; comments by 8-14-79

43002 7-23-79 / Rulemaking; summary of petitions received and dispositions of petitions denied; comments by 8-15-79

Federal Highway Administration—

34932 6-18-79 / Toxic gases in commercial motor vehicles; comments by 8-17-79

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36211 6-21-79 / Polyethylene packagings; comments by 8-14-79

National Highway Traffic Safety Administration—

16461 3-19-79 / Motor vehicle safety standards; speed capability of commercial vehicles; comments by 8-17-79

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau—

41487 7-17-79 / American viticultural area designations; comments by 8-16-79

41833 7-18-79 / Regulations to implement the proposed Distilled Spirits Tax Revision Act of 1979; comments by 8-17-79

Fiscal Service—

37836 6-28-79 / Regulations governing Savings Bonds Series EE and HH; comments by 8-15-79

VETERANS ADMINISTRATION

34971 6-18-79 / Improving government regulations; semiannual agenda; comments by 8-17-79

Next Week's Meetings:

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Science and Education Administration—

44202 7-27-79 / Joint Council on Food and Agricultural Sciences Executive Committee, Washington, D.C. (open), 8-17-79

[Rescheduled at 44 FR 46307, 8-7-79]

Transportation Office—

44202 7-27-79 / Rural Transportation Advisory Task Force, Washington, D.C. (open), 8-14 and 8-15-79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

42343 7-19-79 / Humanities Panel Advisory Committee, Washington, D.C. (closed), 8-13 through 8-17-79

44307 7-27-79 / Literature Advisory Panel, Washington, D.C. (closed), 8-17 through 8-19-79

40738 7-12-79 / Media Arts Panel, Washington, D.C. (closed), 8-13 through 8-15-79

44984 7-31-79 / National Council on the Humanities Advisory Committee, Washington, D.C. (partially open), 8-15 through 8-17-79

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This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 4591 / Pub. L. 96–46 to make technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978, and for other purposes. (August 6, 1979; 93 Stat. 338) Price $.75.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

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PRINCIPLES OF REGULATIONS WRITING SEMINAR—AUGUST 1979

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8-9-79
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Thursday
August 9, 1979

Highlights

46949 **Health Careers Opportunity Program** HEW/PHS announces acceptance of grants for fiscal year 1980; applications by 1–4–80

46948 **Graduate Training in Family Medicine Grants** HEW/PHS makes approximately $16 million available for fiscal year 1980; applications by 9–4–79

46899 **Medical Assistance Programs** HEW/HCFA proposes Federal requirements under the Medicaid Program for the provision of family planning services; comments by 10–9–79

46949 **Medicare Program** HEW/HCFA request additional comments on schedule of limits on hospital inpatient general routine operating costs; comments by 9–10–79

46948 **Guaranteed Student Loan Program** HEW/OE announces that for the three-month period ending 6–30–79, a special allowance at an annual rate of 4 percent will be paid to holders of eligible loans

46948 **Health Education Assistance Loan Program** HEW/OE announces that for the three month period ending 9–30–79, the variable interest rate on loans shall be at the annual rate of 11 percent

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Highlights

46928 **National Nutrition Education Conference** HEW/Office of the Assistant Secretary for Health sets forth four Task Force papers to be used in conference on 9–27 and 9–28–79; comments by 8–31–79

46947 **Emergency School Aid** HEW/OE invites applications from public agencies for activities related to school desegregation; applications by 9–14–79

46947 **Emergency School Aid** HEW/OE announces the fiscal year 1979 programming categories for production of integrated children's television series

46881 **Employment Retirement Income Security** Joint Board for the Enrollment of Actuaries proposes to amend its rules governing eligibility for enrollment to perform actuarial services; comments by 9–10–79

46836 **Community Development Block Grants** HUD issues interim rule governing applicants of entitlement grants and small cities grants with respect to lower-income households; effective 9–26–79; comments by 10–9–79

47012 **Affirmative Fair Housing Marketing** HUD/FHEO establishes a comprehensive review procedure for determining compliance requirements; effective 9–10–79 (Part IV of this issue)

46996 **Housing** HUD/FHC revises requirements for development of public housing; effective 11–7–79; comments by 10–9–79 (Part II of this issue)

46886 **Housing** HUD/FHC proposes changes in its rules which will provide for greater HUD–FHA participation in home improvement and rehabilitation programs; comments by 10–9–79

46835 **Housing** HUD/FHC introduces interim rule on dollar limitation increase for solar energy systems; effective 9–26–79; comments by 10–9–79

46885 **Mortgage Insurance and Home Improvement Loans** HUD/FHC proposes changes which will permit government agencies to secure repayment of funds; comments by 10–9–79

46991 **Sunshine Act Meetings**

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46996 **Part II, HUD/FHC**
47006 **Part III, HUD/Sec'y**
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Vol. 44, No. 155
Thursday, August 9, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 624; Valencia Orange Regulation 623, Amendment 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 10–16, 1979, and increases the quantity of such oranges that may be so shipped during the period August 3–9, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective August 10, 1979, and the amendment is effective for the period August 3–9, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act.

The committee met on August 7, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is very weak.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accordance with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, (202) 447–5975.

§ 908.924 Valencia Orange Regulation 624.

1. *Order.* (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 10, 1979, through August 16, 1979, are established as follows:

(1) District 1: 238,000 cartons;
(2) District 2: 212,000 cartons;
(3) District 3: Unlimited.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

§ 908.923 [Amended]

2. Paragraph (a)(1) in § 908.923 Valencia Orange Regulation 623 (44 FR 45359), is hereby amended to read:

(9) * * *

(1) District 1: 288,000 cartons

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 8, 1979.

D. S. Kuryloski
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-24624 Filed 8-8-79; 12:13 pm]

BILLING CODE 3410-02-M

7 CFR Part 1011

[Milk Order No. 11]

Milk in the Tennessee Valley Marketing Area; Termination of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of the order.

SUMMARY: This document terminates all but certain administrative provisions of the Tennessee Valley Federal milk marketing order, effective midnight, September 30, 1979. The remaining administrative provisions will be terminated at a later date.

On the basis of a public hearing on proposed amendments to the order, the department concluded that the order should be amended in several respects. In a referendum, the issuance of the proposed amended order was not approved by the required two-thirds of the producers voting. Since the Department had determined from the hearing evidence that the order must be amended to carry out the applicable statutory authority, and in view of insufficient producer support for the proposed amended order, the department notified the public that termination of the present order was being considered. Comments on the proposed termination were invited.

After reviewing the comments filed, and on the basis of the record of the public hearing, the Department has concluded that the present order should be terminated.

EFFECTIVE DATE: Midnight, September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued August 23, 1978; published August 28, 1978 (43 FR 38412).

Recommended Decision—Issued January 18, 1979; published January 23, 1979 (44 FR 4696).

Extension of Time for Filing Exceptions—Issued Febrhary 9, 1979; published February 15, 1979 (44 FR 9761).

Final Decision—Issued April 23, 1979; published April 26, 1979 (44 FR 24563).

Referendum Order—Issued May 21, 1979; published May 25, 1979 (44 FR 30353).

Notice Proposing Termination of the Order—Issued June 20, 1979; published June 26, 1979 (44 FR 37232).

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the "Act," and of the order, as amended, regulating the handling of milk in the Tennessee Valley marketing area (7 CFR Part 1011), it is hereby found and determined that:

(a) The terms and provisions of the current order, as amended, do not tend to effectuate the declared policy of the Act.

A public hearing on proposed amendments to the Tennessee Valley milk order was held at Knoxville, Tennessee, on September 13, 1978, pursuant to notice thereof issued August 23, 1978 (43 FR 38412). Following the issuance of a recommended decision and the opportunity for filing exceptions, the Deputy Assistant Secretary for Marketing and Transportation Services issued on April 23, 1979 (44 FR 24563) a final decision on the issues considered at the hearing. It was concluded that the order should be amended in several respects and that the provisions of the proposed amended order would tend to effectuate the declared policy of the Act. Having found on the basis of the hearing evidence that certain provisions of the current order should be amended, it necessarily follows that the current provisions in question are not effectuating the declared policy of the Act.

(b) The required number of producers do not favor the issuance of the proposed amended order as set forth in the April 23, 1979, decision.

On May 21, 1979, the Deputy Assistant Secretary issued an order (44 FR 30353) directing that a referendum be conducted among producers to determine whether they approved the issuance of the order as proposed to be amended by the decision issued on April 23, 1979. Less than two-thirds of the producers who participated in the referendum favored the issuance of the proposed amended order. Approval by at least two-thirds of the producers voting in a referendum is required before an amended order may be issued.

(c) The comments filed in response to the notice of proposed termination (44 FR 37232) do not provide a sufficient basis for retaining the order as currently effective.

Comments favoring the retention of the current order were received from a proprietary handler and from a cooperative association that represents a large majority of the producers on the market. Another proprietary handler, while supporting the order program in general, supported the termination of the Tennessee Valley order under the circumstances involved in this proceeding. When taken into consideration with the evidence received at the public hearing, the comments received do not provide a basis for concluding that the current order is effectuating the declared policy of the Act and should be retained.

It is therefore ordered, That the terms and provisions of the order, as amended, regulating the handling of milk in the Tennessee Valley marketing area, except for §§ 1000.4 (c) and (d), 1000.5 (b) and (c), and 1000.6 of 7 CFR Part 1000 that are incorporated by reference in § 1011.1 of the order, are hereby terminated effective at midnight, September 30, 1979.

(Sec. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: Midnight, September 30, 1979.

Signed at Washington, D.C., on: August 3, 1979.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79-24552 Filed 8-8-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 65

[Docket No. 18739; Amendments Nos. 21-49 and 65-24]

Exhibition, Air-Racing, and Amateur-Built Aircraft; Airworthiness Certificate and Repairman Certification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments provide for the issuance of experimental certificates for exhibition, air-racing, and amateur built aircraft for periods longer than one year and for repairman certification of the primary builders of these aircraft, who may then perform the required condition inspection on such aircraft. The purpose of these amendments is to reduce, without any derorgation of safety, the burden on certain experimental aircraft owners associated with annual recertification by the FAA.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch, AVS-24, Safety Regulations Staff, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Background

These amendments to Parts 21 and 65 of the Federal Aviation Regulations (FAR) are based on a Notice of Proposed Rule Making (NPRM) issued as Notice 79-4 and published in the **Federal Register** on March 5, 1979 (44 FR 12042).

Notice 79-4 proposed to extend the duration of experimental certificates for aircraft certificated for the purpose of exhibition, air racing, or operating amateur-built aircraft for a period longer than one year. It also proposed that primary builders of these aircraft be eligible for repairman certification.

Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all matter presented. Two hundred and twelve comments pertaining to the proposals were received and they are discussed below.

Present section 21.181(a)(3) provides that an experimental airworthiness certificate is effective for one year after the date of issuance or renewal, unless a shorter period is prescribed by the Administrator. Generally, this has meant that aircraft having experimental certificates are recertificated annually by FAA inspectors. This recertification process has included a condition inspection performed by the FAA.

A recent survey indicates that there are about 9,000 aircraft on the U.S. Registry certificated in the experimental category; approximately 7,000 of these are certificated for the purpose of exhibition, air racing, or operating an amateur-built aircraft. This large and ever-increasing number of experimental aircraft, particularly the amateur-built, has resulted in extended delays for many applicants seeking certification or recertification of their experimental aircraft.

Extending the duration of these experimental certificates will relieve this burden on aircraft owners by eliminating the annual recertification by the FAA. Experience with the present rule has shown that safety considerations do not require that FAA inspectors conduct the annual recertification inspection of such aircraft provided that they are inspected in a manner similar to aircraft certificated in a standard category. To ensure an adequate level of safety, the FAA will impose an operating limitation during certification requiring that, at least once a year, the aircraft receive a condition inspection in accordance with Appendix D of FAR Part 43 and be found to be in a safe condition, and that an entry recording that inspection be made in the aircraft's maintenance records.

These inspections will be able to be conducted by a certificated mechanic holding an airframe and powerplant rating (A & P mechanic) or an appropriately rated repair station. In addition, these amendments will further reduce the burden on some owners by providing for the repairman certification under Part 65 of certain aircraft builders. If a person qualifies for certification, that individual will be allowed to perform the condition inspection on the aircraft that person has built. The builder's certification as an airman is required to satisfy Section 610(a)(2) of the Federal Aviation Act of 1958 which makes it unlawful for any person to serve in any capacity as an airman without an airman certificate authorizing him to serve in this capacity.

These amendments are issued in accordance with Executive Order 12044 and the Department of Transportation's Regulatory Policies and Procedures which are intended to reduce the unnecessary burdens of regulation on the public.

Discussion of Comments

A majority of the comments received in response to Notice 79-4 contained a recommendation that the duration of experimental certificates for amateur-built, exhibition, and air-racing aircraft be permanent or for an indefinite period. Other commenters suggested that the duration of the certificates be for the length of time the aircraft is owned by the builder while some others would specify a certain number of years. The FAA agrees that once the aircraft has been shown to pose no hazard to the general public it should be certificated for an unlimited time. Since most experimental aircraft do not conform to an FAA approved type design and must be subject to a trial period of operation, the initial period of certification must necessarily be of limited duration. The FAA certificating inspector must retain the latitude needed to establish the initial certification period based on personal inspection of the aircraft and data presented by the applicant. Thereafter, following the initial certification and successful operation within the assigned flight test area for a specified period of time, it is the FAA intent that amateur-built, air racing, and exhibition aircraft be given an experimental certificate of unlimited duration. The rule therefore provides that such aircraft will be certificated for an unlimited period unless the Administrator finds for good cause that a specific period should be established.

The FAA will monitor the safety record of the aircraft certificated under this new rule. Should it appear at any time in the future that certificates of specific duration are required in order to safeguard the general public, appropriate rule making action will be taken.

One commenter objected to the proposal on the ground that it was unsafe. His major concern was that the work on these aircraft be accomplished by an A & P mechanic or under his direct supervision. As an alternative to the proposal contained in Notice 79-4, the commenter suggested that the construction of experimental aircraft be under the craftsmanship or direct supervision of a certificated mechanic, and that a mechanic holding an inspection authorization rating reissue the experimental certificate at the time of the annual inspection which would be conducted by such an inspector. The FAA has had a long-time policy of encouraging assistance of qualified private persons during aircraft construction and believes that amateur-aircraft builders should continue to utilize those persons if the need arises. A delegation of authority for issuance of experimental certificates, however, is not warranted. The FAA wishes to retain the responsibility for certification, including a determination that the aircraft is in a condition for safe operation, and for prescribing appropriate operating limitations. With respect to the conduct of the annual recurring condition inspection, the FAA has concluded that an inspection by the original builder if he holds a repairman certificate, an A & P mechanic, or a repair station holding appropriate ratings can provide a satisfactory level of safety.

As suggested above, the FAA concurs with the suggestion of several commenters that appropriately rated repair stations be allowed to conduct the annual inspection. No additional rule change is required to implement this decision.

In order to increase the time available to FAA inspectors for other required functions, one commenter suggested that A & P mechanics perform the in-progress construction inspections. He also objected to the issuance of repairman certificates to "so-called aircraft builders," many of whom, he contended, do not build the aircraft and lack building and maintenance skills. It is during the in-progress inspection that FAA inspectors can concurrently inspect the aircraft and begin their assessment of the builder's skills and qualification for repairman certification. Only qualified builders will be certificated. Thus, it is important that the FAA maintain its inspection role during aircraft construction. This commenter's contention that the repairman certification process and repairman surveillance will be a drain on the FAA inspectors' time is rejected. As already noted, much of this one-time determination of qualification will be made during the construction.

One commenter suggested that A & P mechanics were not sufficiently qualified to make the required condition inspection of certain sophisticated aircraft, such as ex-military and jet aircraft, and suggested that a mechanic holding inspection authorization should be required in these cases. Another commenter suggested that certificated mechanics with inspection authorization be required in all cases. The FAA disagrees. The scope of the recurring condition inspection is the same as that required for a 100-hour inspection of standard category aircraft. Since A & P mechanics have long been permitted to conduct 100-hour inspections, there is no reason to doubt their ability to conduct

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this inspection of experimental aircraft. Furthermore, under § 65.81 a certificated mechanic may perform only the maintenance for which he is rated and that only if he has satisfactorily performed the work concerned at an earlier date.

Several commenters objected to the issuance of a repairman certificate to the original builder of an amateur-built aircraft. Their concern was that the builder may have no experience in the inspection or detection of conditions causing or leading to defects in the aircraft. They also stated that, for the most part, the amateur-aircraft builder lacks the facilities and equipment necessary to maintain the aircraft, and therefore the annual inspection should be conducted by an authorized inspector. Those original builders who obtain repairman certification will have demonstrated, to the satisfaction of the FAA, sufficient knowledge and skill to allow them to inspect the aircraft they have built. The concern over lack of facilities is not valid. Under the present rule, the FAA inspector conducts the recertification inspection, for the most part, using the same facilities and equipment available to the aircraft owner.

Another commenter objected on two grounds. First, he asserted that having built a part of the aircraft does not qualify a person to inspect all of that aircraft. For example, he noted that while a home-built constructor may actually have built only a part of the airframe, his repairman certificate would permit him to inspect a powerplant, electrical, or hydraulic component of which he may not have sufficient knowledge. In this connection the scope and detail of the Part 43, Appendix D, inspection does not require extensive knowledge of such systems. It should be noted that in the case of repair stations, one which has only an appropriate airframe rating may conduct the inspection. Second, he objected to the fact that the FAA was turning over much administrative work to the general public rather than to a professional member of the aviation community. In fact, as a result of the adoption of these amendments there should be less administrative work since there will be no need for the owner to make annual application for recertification.

One commenter objected to the proposal on the ground that its adoption will impose a financial burden on owners who are not the original builders. Additional cost will be required for condition inspections.. However, it is the conclusion of the FAA, apparently supported by most commenters who support the proposal, that such cost will be more than offset by relief from the time delays associated with seeking recertification of their aircraft by the FAA and by the added flexibility made available for selecting the time and place of inspection.

In a related matter, several commenters suggested that the services of an FAA inspector be available to owners of amateur-built aircraft who are not the original builders when they are unable to secure an inspection from a certificated A & P mechanic. In those cases where an owner can show inability to get an inspection, he may apply for the services of an FAA inspector. In addition an owner may also utilize an appropriately rated repair station to perform the required inspection.

Several commenters proposed that Experimental Aircraft Association designees be authorized to perform the condition inspection. As in the case of those owners who are not the original builders, the FAA would not have a standard by which to judge the knowledge and skills of these persons.

Two commenters suggested that persons who have constructed an aircraft from a kit should not be eligible for a repairman certificate. Furthermore, one of these commenters stated his belief that a repairman certificate should only be issued to a builder whose workmanship is of acceptable quality. It should be noted that according to Advisory Circulars 20–27B, dated April 20, 1972, and 20–28A, dated December 29, 1972, aircraft which are merely assembled from kits composed completely of prefabricated components and parts, and pre-cut pre-drilled materials, are not eligible for certification as amateur-built aircraft, since the major portion of the aircraft would not have been fabricated and assembled by the builder as is required by FAR § 21.191(g). Although there is not a specific quality of workmanship requirement for receiving a repairman certificate, this is implicit in requiring that a person demonstrate to the satisfaction of the Administrator the requisite skill to determine whether the aircraft is in a condition for safe operation.

Several commenters suggested that a repairman certificate be made available to all owners of amateur-built aircraft after they demonstrate the required level of knowledge and skill needed to maintain their aircraft. Extending repairman certification to all owners of amateur-built aircraft would be impractical because the FAA does not have a standard by which to judge the knowledge and skills of owners who have not built their aircraft. The FAA conducts inspections of amateur-built aircraft at various stages of their construction. In this way, the builder is able to demonstrate the knowledge and skills considered necessary for conducting an inspection and determining that the aircraft will be in a condition for safe operations.

Because this observation of the builder and his work is the essential means for determining a builder's knowledge and skill required for issuance of a repairman certificate, the FAA rejects the suggestion of one commenter that a written examination be required. If such an examination is considered necessary, it can be required by administrative means; a regulation is not required.

One commenter suggested that once issued a repairman certificate on the basis of having built an amateur-built aircraft, a person should be allowed to inspect other amateur-built aircraft. Another commenter stated that the condition inspection should be able to be performed by any amateur builder who had built an aircraft of the same type. The FAA cannot accept these suggestions. Although many amateur-built aircraft may be of similar type, they are not fabricated to a type design or specification and the builders frequently make changes based on personal desires or the availability of materials. These changes are often significant. Thus, the original builders may possess the expertise to inspect the aircraft they have built but not one built by another person or one of similar type.

Several commenters requested that the original builder of an amateur-built aircraft be allowed to continue to conduct the required inspection of the aircraft after its sale to a new owner, if the new owner so desired. Although the proposal did not address the situation directly, it was intended that the qualified original builder be allowed to continue to inspect the aircraft after its sale, at the request of the new owner.

Several commenters suggested a "grandfather" clause be applied to the issuance of repairman certificates to allow present amateur-built aircraft owners who are not the builders of the aircraft to be eligible for a repairman certificate. These commenters believe that since they have been performing their own maintenance and repairs under the present rule they should be qualified to perform the annual condition inspection under the new rule. A "grandfather" clause for amateur-built owners who are not the builders is not warranted. The nonbuilders do not have the privilege of performing the annual condition inspection under the present rule; therefore, they cannot be "grandfathered" to perform it under the new rule. As previously stated, the original builders are the ones who most likely will possess the expertise to inspect the aircraft they have built. To issue repairman certificates to amateur-built aircraft owners who are not the builders on the basis of their performing maintenance would require that the FAA issue repairman certificates to the present owners of exhibition and air-racing aircraft for the same reason. This would not be in the interest of safety.

One commenter proposed that the original builder be allowed to sign-off the recurring inspection and repairs performed by subsequent owners. As stated above, it is not in the interest of safety to allow nonbuilders to conduct the required inspection. Furthermore, while the FAA recognizes that qualified original builders have sufficient expertise to perform the inspection, it does not necessarily follow that they are sufficiently qualified to approve or disapprove another person's maintenance.

Several commenters proposed deletion of the citizenship requirement to be eligible for a repairman certificate. One of the commenters is a Canadian citizen who was admitted to the U.S. as a permanent resident and now holds an FAA Repairman Certificate. It is also noted that Section 501(b) of the Federal Aviation Act of 1958 was recently amended to allow an individual citizen of a foreign country who has been admitted to the United States as a permanent resident to register aircraft. Therefore, proposed Section 65.104(a)(4) is revised to provide for the issuance of a repairman certificate to an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States.

Two commenters suggested an annual inspection certificate be executed by the person performing the condition inspection. The original certificate would be contained in the logbook with a copy sent to the local district office. An annual inspection certificate is not deemed necessary. The amendment provides for the FAA to impose operating limitations requiring the condition inspection to be recorded in the aircraft's maintenance records. In the case of standard category aircraft, no certificate is issued. An entry is made in the maintenance records. This should be sufficient for experimental aircraft. However, in line with these comments, the FAA does make available an annual inspection reminder. This reminder is a decal which is secured in a conspicuous area in the aircraft and reminds the operator of the next inspection date.

One commenter suggested that the FAA perform spot checks to ensure the quality of maintenance and condition inspections of these experimental aircraft. This is an ongoing function of the FAA as to all aircraft and such surveillance will continue.

Several commenters suggested revising the applicability of Part 43 to include experimental aircraft and to require that they be inspected in accordance with Part 91. Applying such restrictions would be contrary to the intent of the amateur-built aircraft program, which is fabricating and assembling an aircraft for educational or recreational purposes. In addition, many exhibition and air-racing aircraft are ex-military aircraft and applying Parts 43 and 91 to them would be excessively restrictive on their owners.

One commenter expressed his belief that an advisory circular giving inspection guidelines is needed. While advisory material is going to be released concerning these amendments, no inspection guidelines advisory circular is planned. Appendix D of FAR Part 43 is considered to be adequate.

One commenter suggested that an airworthiness certificate be renewed by an FAA inspector or a certificated mechanic holding an inspection authorization if there is a lapse in the recurring condition inspections to prevent the sale of an unsafe aircraft to an unsuspecting person. Such a provision in the regulation is not needed. The operating limitations will not permit flight of an aircraft unless during the previous twelve months it has been inspected and found to be in safe condition.

Several commenters suggested that the repairman certificate be issued only after the aircraft has flown off its initial restriction. While it is anticipated that the certificates will be issued at this time, such a decision is being retained as a matter for policy determination. One commenter also wanted to require that the owner be in possession of the applicable service manuals and plans before repairman certification. Since some amateur-built aircraft do not even have plans, such a regulation is not considered appropriate.

Two commenters made proposals, neither of which is related to the rule changes proposed in Notice 79–4. One suggested that an experimental certificate be converted to a standard airworthiness certificate after a specified period of satisfactory operation and inspection. The FAA cannot accept this proposal. Standard category airworthiness certificates are issued only after an exacting and detailed finding that the design meets specific regulatory requirements. The mere operation of an experimental aircraft with limited inspections falls far short of the detailed compliance findings required for issuance of a standard airworthiness certificate.

The other commenter proposed to amend § 21.191 to permit the issuance of experimental certificates for the purpose of operating certain nonstandard aircraft for recreation. A similar proposal by that commenter in the form of a petition for rule making has already been denied.

Adoption of the Amendment

Accordingly, Parts 21 and 65 of the Federal Aviation Regulations (14 CFR Parts 21 and 65), are amended effective September 10, 1979, as follows:

1. By revising § 21.181(a)(3) to read as follows:

§ 21.181 Duration.

(a) * * *

(3) An experimental certificate for research and development, showing compliance with regulations, crew training, or market surveys is effective for one year after the date of issue or renewal unless a shorter period is prescribed by the Administrator. The duration of amateur-built, exhibition, and air-racing experimental certificates will be unlimited unless the Administrator finds for good cause that a specific period should be established.

* * * * *

2. By designating the text of current § 65.101 as § 65.101(a), by redesignating current paragraphs (a) through (f) of § 65.101, as paragraphs (a)(1) through (a)(6), respectively, and by adding a new § 65.101(b) to read as follows:

§ 65.101 Eligibility requirements: General.

* * * * *

(b) This section does not apply to the issuance of repairman certificates (experimental aircraft builder) under § 65.104.

3. By adding a new § 65.104 to read as follows:

§ 65.104 Repairman certificate—experimental aircraft builder—Eligibility, privileges and limitations.

(a) To be eligible for a repairman certificate (experimental aircraft builder), an individual must—

(1) Be at least 18 years of age;

(2) Be the primary builder of the aircraft to which the privileges of the certificate are applicable;

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(3) Show to the satisfaction of the Administrator that the individual has the requisite skill to determine whether the aircraft is in a condition for safe operations; and

(4) Be a citizen of the United States or an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States.

(b) The holder of a repairman certificate (experimental aircraft builder) may perform condition inspections on the aircraft constructed by the holder in accordance with the operating limitations of that aircraft.

(c) Section 65.103 does not apply to the holder of a repairman certificate (experimental aircraft builder) while performing under that certificate.

(Sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1422; sec. 6(a) of the Department of Transportation Act, 49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the Final Regulatory Evaluation is filed in the Public Docket. Copies of this evaluation may be requested from Raymond E. Ramakis, Regulatory Projects Branch, AVS-24, Safety Regulations Staff, Federal Aviation Administration, 800 Independence Ave., S.W., Washington, D.C. 20591; Telephone (202) 755-8716.

Issued in Washington, D.C., on August 2, 1979.

Langhorne Bond,

Administrator.

[FR Doc. 79-24556 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-NW-23-AD, Amdt. 39-3526]

Boeing Model 747 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) to require inspection and replacement as required of the lower cargo door sill truss and latch support fittings. Truss fitting cracking could eventually reduce the door latch pin fitting attachment strength to the point cabin pressurization could not be maintained.

DATES: Effective date August 15, 1979. Compliance required within 300 hours time-in-service after the effective date of this AD unless already accomplished.

ADDRESS: The Boeing service bulletin specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT: Mr. Iven D. Connally, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Several instances of cracked truss fitting have been reported at the forward and aft lower cargo doorways. The cracks are due to stress corrosion in 7079-T6 aluminum alloy. Loss of two adjacent support fittings could allow the cargo door to distort sufficiently to allow loss of cabin pressure. Since this condition is likely to exist or develop in other Boeing 747 airplanes, action is taken herein to require inspection and replacement, if required, of the latch support truss fittings.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing.—Applies to all Model 747 series airplanes certificated in all categories listed in Boeing Service Bulletin 747-53-2200. Compliance required within 300 hours time-in-service after the effective date of this AD unless already accomplished.

To prevent failure of the 7079-T6 truss and related 7079-T6 latch support fittings on the lower sill of the forward and aft lower cargo doorway, accomplish the following:

A. Within 300 hours time-in-service after the effective date of this AD unless already accomplished, visually inspect the 7079-T6 truss and related 7079-T6 latch support fittings on the lower sill of forward and aft lower cargo doorways for corrosion, cracking and blocked drainage paths in accordance with Boeing Service Bulletin 747-53-2200 dated May 8, 1979, or methods approved by the Chief, Engineering and Manufacturing Branch, Northwest Region.

B. Clear all blocked drainage paths, replace cracked latch support fittings, replace or repair corroded or cracked truss fittings in accordance with Boeing Service Bulletin 747-53-2200 before further flight.

C. Repeat the inspection in accordance with Paragraph A above at intervals not to exceed 2,000 flight hours until all affected fittings are replaced with 7075-T73 fittings. Apply LPS-3, BMS3-23 or equivalent to the internal lower sill areas after each inspection.

D. Replace all 7079-T6 aluminum alloy fittings listed in Boeing Service Bulletin 747-53-2200 with 7075-T73 alloy fitting no later than April 1, 1982.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective August 15, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Seattle, Wash, on July 30, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79-24321 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-NW-22-AD; Amdt. 39-3525]

Rockwell International Model NA-265-60 Airplanes Modified in Accordance With Raisbeck Supplemental Type Certificate SA687NW; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) requires the addition of drainage provisions and a new aft balance limit for the elevators of Rockwell International NA-265-60 airplanes which have been modified in accordance with Raisbeck Supplemental Type Certificate SA687NW. This AD is necessary since service experience has shown water may accumulate in the elevators of Rockwell NA-265-60 airplanes, which are similar to the elevators of the Raisbeck modified airplanes. The accumulation of water could result in flutter-caused catastrophic failure of the horizontal tail.

DATES: Effective date August 15, 1979.

ADDRESSES: Raisbeck service bulletins specified in this directive may be obtained upon request to The Raisbeck Group, 7777 Perimeter Road South, Boeing Field International, Seattle, Washington 98108. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Perrella, Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTAL INFORMATION: Service history of the Rockwell Model NA-265-80 airplanes has shown that water can accumulate in the elevators, which are similar to those used on NA-265-60 models modified in accordance with Supplemental Type Certificate SA687NW. Since the elevators do not have adequate drainage provisions, the accumulation of water can shift the elevator balance point beyond the aft limit. It has been shown by analyses and tests that catastrophic failure of the horizontal tail could result from this shift in static balance aft of 4.4 inch pounds (leading edge heavy). It has also been demonstrated that a maximum shift of 2.72 inch pounds is possible even with the additional drainage provided by this AD and this necessitates a new aft limit of 7.12 inch pounds (leading edge heavy).

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure herein are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Rockwell International.—Applies to Rockwell NA-265-60 airplanes which have been modified by Raisbeck Group Supplemental Type Certificate SA687NW. To prevent flutter caused by the accumulation of undrained water in the elevators, accomplish the following, unless already accomplished within 30 days or 30 flight hours, whichever occurs first:

A. Modify the elevators to provide water drainage provisions in accordance with Raisbeck Service Bulletin No. 8, dated July 13, 1979, or later FAA approved revisions.

B. Using the procedure specified in Raisbeck Service Bulletin No. 8, dated July 13, 1979, or later FAA approved revisions, determine the static balance of the elevators and if required, rebalance them in accordance with instructions in that service bulletin.

C. Equivalent modifications may be approved by the Chief, Engineering and Manufacturing Branch, Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to The Raisbeck Group, 7777 Perimeter Road South, Boeing Field International, Seattle, Washington 98108. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective August 15, 1979.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1973.)

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Seattle, Wash., on July 30, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79-24322 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 19429; Amdt. 39-352]8

Airworthiness Directives; Messerschmitt-Bolkow-Blohm Model BO-105A and BO-105C Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amends maneds an existing airworthiness directive (AD) applicable to Messerschmitt-Bolkow-Blohm Model BO-105 helicopters by increasing the replacement time interval specified in the AD. The amendment will allow greater utilization of the main rotor gearbox supports currently in service with no adverse effect on safety.

DATES: Effective August 23, 1979. Compliance schedule—as prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513,38.30, or C. Christie, Chief, Technical Analysis Branch, AWS-110, Federal Aviation Adminstration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: 202-426-8374.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-2835, 42 FR 9670, AD 77-04-06, which currently imposes a 4,800 hours time service limit on the main rotor gearbox support P/N's 105-10161 and 105-10162 on Messerschmitt-Bolkow-Blohm Model BO-105A and BO-105C helicopters. Since issuing Amendment 39-2835, the FAA has determined that based on service experience and additional test investigations the total time in service for the main rotor gearbox supports P/N's 105-10161 and 105-10162 can be increased with no adverse effect on safety.

Therefore, the FAA is amending Amendment 39-2835 by increasing the replacement time for the main rotor gearbox support P/Ns 105-10161 and 105-10162 on the Messerschmitt-Bolkow-Blohm Model BO-105A and BO-105C helicopters.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedures hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-2835, 42 FR 9670, AD 77-04-06, by deleting the term "4,800" wherever it appears in the AD, and inserting in place thereof the term "6,800".

This amendment becomes effective August 23, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transporation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by writing to C. Christie, Chief, Technical Analysis Branch, AWS–110, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

Issued in Washington, D.C., on August 2, 1979.

James O. Robinson,

Acting Director, Office of Airworthiness.

[FR Doc. 79–24409 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 79–RM–13]

Alteration of Airway Floor

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reduces the lower limits of VOR Federal Airway No. V–439 which extends from Dickinson, N. Dak., to Williston, N. Dak. This action adds approximately 300 vertical feet of controlled airspace along a segment of the airway that is not within transition areas thereby reducing chart clutter and possible confusion caused by the present airway floor variation being segmented both latitudinally and longitudinally.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

History

On June 4, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to remove the flow restriction on V–439 airway (44 FR 32001).

Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection to the proposal. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1979 (44 FR 307). This amendment is the same as proposed in the notice.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations changes the lower limits of V–439 from a variable MSL floor to 1,200 feet AGL floor. This contributes to easier interpretation and chart depiction of this federal air regulation.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

Under V–439 "Dickinson, N. Dak., 13 miles, 62 miles, 40 MSL," is deleted and "Dickinson, N. Dak., to" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24290 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 78–NW–10]

Alteration of Controlled Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reduces the width of additional control areas known as Control 1418 and Control 1419, which extend seaward from Hoquiam, Wash., and Newport, Oreg., respectively. This action permits more extensive use of the adjacent airspace for military training without derogating the safety that is provided by the present control areas.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

History

On May 14, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to reduce the width of additional control areas, Control 1418 and Control 1419, (44 FR 27999). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. Section 71.163 of Part 71 was republished in the **Federal Register** on January 2, 1979, (44 FR 347). This amendment is the same as proposed in the notice and has been coordinated with the Department of State and the Department of Defense in accordance with Executive Order 10854.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 347) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

In § 71.163, Under Control 1418, the text is amended to read as follows:

"From Hoquiam, Wash., to the INT of the Hoquiam 232° radial and the E. boundary of the Oakland Oceanic Control Area, excluding the airspace at and below 2,000 feet MSL."

Under Control 1419, the text is amended to read as follows:

"From Newport, Oreg., to the INT of the Newport 237° radial and the E. boundary of the Oakland Oceanic Control Area, excluding the airspace at and below 2,000 feet MSL."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24295 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 79–SW–11]

Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters V–15, V–16 and V–66 airways by deleting an alternate airway segment in each of their definitions. V–15E between Scurry, Tex., and Blue Ridge, Tex., V–16S between Acton, Tex., and Scurry, and V–66N between Bridgeport, Tex., and Blue Ridge are no longer required or used for controlling air traffic and can no longer be justified as an assignment of airspace. This action reduces chart clutter and makes available additional airspace for other types of use.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

History

On May 21, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to delete unused alternate airway segments near Dallas, Tex. (44 FR 29483). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1979, (44 FR 307). This amendment is the same as proposed in the notice.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) and amended (44 FR 1087, 23203, 31944, 34103 and 34112) is further amended, effective 0901, G.m.t., October 4, 1979 as follows:

Under V–15, "Blue Ridge, Tex., including an east alternate via INT Scurry 023° and Blue Ridge 153° radials;" is deleted and "Blue Ridge, Tex.;" is substituted therefor.

Under V–16, "Scurry, Tex., including a south alternate;" is deleted and "Scurry, Tex.;" is substituted therefor.

Under V–66, "Blue Ridge, Tex., including a north alternate via INT Bridgeport 069° and Blue Ridge 285° radials;" is deleted and "Blue Ridge, Tex.;" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24313 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 79–ASW–14]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Control Zone: Houston (David Wayne Hooks Memorial Airport), Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is the designation of the control zone at Houston, Tex. The intended effect of this action is to provide controlled airspace to the surface for aircraft executing instrument approach procedures to the David Wayne Hooks Memorial Airport, Houston, Texas. The circumstance which created the need for the action is that the FAA will be commissioning a part-time Airport Traffic Control Tower (ATCT) at the David Wayne Hooks Memorial Airport in October 1979. The airport will meet the requirements for a part-time control zone by having communication available down to the runway surface and a federally certified weather observer to take hourly and special weather observations at the airport during the times the control zone is effective.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101; telephone (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On May 29, 1979, a notice of proposed rule making was published in the **Federal Register** (44 FR 30691) stating that the Federal Aviation Administration proposed to designate the Houston (David Wayne Hooks Memorial Airport), Texas, control zone. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

The Rule

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Houston (David Wayne Hooks Memorial Airport), Texas, control zone. This action provides controlled airspace from the surface for the protection of aircraft executing instrument approach procedures to the David Wayne Hooks Memorial Airport.

Adoption to the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 353) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

In Subpart F, § 71.171 (44 FR 353), the following control zone is added:

Houston, Tex. (David Wayne Hooks Memorial Airport)

Within a 5-mile radius of the David Wayne Hooks Memorial Airport (Latitude 30°04'00" N., Longitude 95°33'00" W.). The control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979.) Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Texas, on July 26, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-24408 Filed 8-8-79; 8:45]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-13]

Designation of Transition Area; Corning, Ark.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Corning, Ark. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Corning Municipal Airport. The circumstance which created the need for the action is the development of a standard instrument approach procedure using the Walnut Ridge VORTAC. Coincident with this action, the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER IMFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On June 7, 1979, a notice of proposed rulemaking was published in the **Federal Register** (44 FR 32709) stating that the Federal Aviation Administration proposed to designate the Corning, Ark., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No objections were received to the proposal. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Corning, Ark., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Corning Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

In Subpart G, § 71.181 (44 FR 442) the following transition area is added:

Corning, Ark.

That airspace extending upward from 700 feet above the surface within a 5.0 statute mile radius of the Corning Municipal Airport, Corning, Ark., latitude 36°24'14" N., longitude 90°38'58" W.

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Texas, on July 26, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-24427 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-SO-48]

Alteration of Transition Area, Albany, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Albany, Georgia, 700-foot transition area by revoking the portion associated with the Sylvester Airport as it is no longer required.

EFFECTIVE DATE: August 31, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In the Albany, Georgia, transition area, described in § 71.181 (44 FR 442), a portion was designated to provide controlled airspace for instrument operations at the Sylvester Airport. The non-Federal, nondirectional radio beacon which supported the standard instrument approach procedure at the airport has been decommissioned and the approach procedure, NDBRWY1, has been canceled. Therefore, it is necessary to revoke the transition area as it no longer serves a useful purpose. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., August 31, 1979, as follows:

Albany, Ga.

All after "* * * 9.5-mile radius area to the VORTAC * * *" is deleted.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on August 1, 1979.

Lonnie D. Parrish,

Acting Director, Southern Region.

[FR Doc. 79-24428 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 79-AL-1]

Alteration of Airways and Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments realign VOR Federal Airway V-436 and Jet Route J-125 in the Anchorage, Alaska, area and designate a new VOR Federal Airway in the vicinity of Big Lake, Alaska. These airway/route changes improve traffic flow in the Anchorage terminal area.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER IMFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

On May 21, 1979, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to realign V-436 and J-125 near the Anchorage, Alaska, area, and designate new VOR Federal Airway V-491 in the vicinity of Big Lake, Alaska (44 FR 29484).

These changes provide additional route/airway segments that give controllers additional airspace flexibility in the Anchorage terminal area to expedite traffic. This action increases aviation safety and reduces controller workload by providing reliever routes, thereby improving traffic flow. Subpart C of Part 71 and Subpart B of Part 75 were republished in the **Federal Register** on January 2, 1979, (44 FR 341 and 722). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. These amendments are the same as proposed in the notice.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (44 FR 341 and 722) are amended, effective 0901 G.m.t., October 4, 1979, as follows:

In § 71.125:

1. Under V-436, "From Anchorage, Alaska, via Talkeetna, Alaska;" is deleted and "From Anchorage, Alaska, via INT Anchorage 347° and Talkeetna, Alaska, 196° radials Talkeetna;" is substituted therefor.

2. "V-491 From Big Lake, Alaska; to Talkeetna, Alaska." is added.

In § 75.100:

"Under Jet Route No. 125 "via Anchorage, Alaska; Talkeetna, Alaska" is deleted and "via Anchorage, Alaska; INT Anchorage 347° and Talkeetna, Alaska, 196° radials; Talkeetna;" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958. (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24293 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 79-RM-21]

Special Use Airspace; Change to Restricted Areas

AGENCY: Federal Aviation Administration, (FAA) DOT.

ACTION: Final rule.

SUMMARY: A recent amendment to § 73.26, Fort Carson, Colo., and § 73.64, Dugway Proving Ground, Dugway, Utah, with an effective date of June 14, 1979, changed the time of use of several restricted areas from "Continuous" to "Intermittent, activated by NOTAM 24 hours in advance." Subsequent to the publication of the amendment it has been determined that the time of use, as amended, does not satisfy military requirements. This action amends those provisions so that the affected restricted areas will revert to the "Continuous" time of use.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) was amended and published in the **Federal Register** on April 19, 1979, (44 FR 23207) changing the "Time of designation" for Restricted Areas R-2601, R-2602, R-6402 and R-6407, from "Continuous" to "Intermittent, activated by NOTAM 24 hours in advance." Subsequent to the publication of the amendment it has been determined that the altered time of use would not satisfy military requirements and the "Continuous" time of use should be reestablished. This action rescinds the effect of Airspace Docket No. 78-RM-31. Since immediate action is necessary to reinstate the previous time of designation to reflect the continuing military requirements of the areas, I find that notice and public procedure regarding this amendment is impractical and that good cause exists for making it effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 713 and 680) and amended (44 FR 23207) is further amended, effective upon publication in the **Federal Register** as follows:

§ 73.26 [Amended]

Under § 73.26

R-2601 Fort Carson, Colo. Time of designation. "Intermittent, activated by NOTAM 24 hours in advance." is deleted and "Continuous." is substituted therefor.

R-2602 Fort Carson, Colo. Time of designation. "Intermittent, activated by NOTAM 24 hours in advance." is deleted and "Continuous." is substituted therefor.

§ 73.64 [Amended]

§ 73.64

R-6402 Dugway Proving Ground, Dugway, Utah. Time of designation. "Intermittent, activated by NOTAM 24

hours in advance." is deleted and "Continuous." is substituted therefor.

R–6407 Dugway Proving Ground, Dugway, Utah. Time of designation. "Intermittent, activated by NOTAM 24 hours in advance." is deleted and "Continuous." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 2, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24421 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 79–WA–2]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Route J–25 between Tulsa, Okla., and Des Moines, Iowa, via Kansas City, Mo., rather than via Butler, Mo. This realignment eliminates two doglegs in this route segment thereby reducing the distance and fuel consumption required.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett. L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3715.

SUPPLEMENTARY INFORMATION:

History

The FAA on May 21, 1979, with a correction on June 14, 1979, proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign J–25 between Tulsa, Okla., and Des Moines, Iowa (44 FR 29485, 34153). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objections. Section 75.100 was republished in the **Federal Register** on January 2, 1979 (44 FR 722). This amendment is the same as proposed in the notice.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations realigns a segment of J–25 to extend from Tulsa to Des Moines via Kansas City which is on a direct route between these points. This route bypasses Butler and an INT south of Lamoni, Iowa. A segment of J–89 continues to be designated from Tulsa to Kirksville, Mo., via Butler, retaining a jet route segment for use between Tulsa and Butler. Flight planning and pilot/controller coordination is reduced by the realigned route.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) is amended, effective 0901 G.m.t., October 4, 1979 as follows:

Under Jet Route No. 25, "Butler, Mo.; INT of the Butler 009° and the Des Moines, Iowa, 196° radials; Des Moines;" is deleted and "Kansas City, Mo.; Des Moines, Iowa;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24315 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 79–RM–6]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns a segment of J–10 from Gunnison, Colo., to Denver, Colo., via the Gunnison 046° rather than the 041° magnetic radial to permit the use of lower altitudes. This action helps to reduce fuel consumption and improve descent procedures for landings at Denver.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3715.

SUPPLEMENTARY INFORMATION:

History

On May 14, 1979, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign J–10 between Gunnison, Colo., and Denver, Colo. (44 FR 28000). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. Section 75.100 of Part 75 was republished January 2, 1979 (44 FR 722). This amendment is the same as proposed in the notice.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations realigns a segment of J–10 to extend from Gunnison to Denver via a route that permits use of lower altitudes for a more advantageous descent to Denver.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

Under Jet Route No. 10, "INT Gunnison, Colo., 055°" is deleted and "INT Gunnison 060°" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)]

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24289 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace docket No. 78–EA–17]

Alteration of Federal Airways and Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: In a rule published in the **Federal Register** of June 4, 1979, Volume 44, page 31944, and amended June 14, 1979, volume 44, page 34103, to change the effective date to October 4, 1979, the effective date is further changed to November 29, 1979, because of technical problems encountered in the installation process for the Calverton, N.Y., VORTAC.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION: FR Doc. 79–17237 was published on June 4, 1979, (44 FR 31944) with an effective date of August 9, 1979, which was changed to October 4, 1979, (44 FR 34103), and alters several airways and a reporting point caused by the relocation of the Riverhead, N.Y., VORTAC to Calverton, N.Y. Technical problems arising from this relocation will not be resolved in time to flight check and commission the navigation aid prior to October 4, 1979. For this reason the effective date of this action is changed to November 29, 1979.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Federal Register Document 79–17237 as published on June 4, 1979, page 31944, and amended June 14, 1979, page 34103, is further amended effective August 9, 1979 as follows: In the "EFFECTIVE DATE" and in the "ADOPTION OF THE AMENDMENT" "October 4, 1979." is deleted and "November 29, 1979." is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24291 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 79–AL–6]

Alteration of Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the FRIED and MOCHA reporting points to be based on radio signals from nondirectional beacons (NDB) rather than very high frequency omnirange stations (VOR) at Nichols, Alaska and Sandspit, British Columbia, Canada. Use of the NDBs rather than the VORs permit lower flight altitudes because better radio signal is received from the NDBs at these locations.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 71 is to redesignate the FRIED and MOCHA reporting points using radio signals that will permit flight operations at lower altitudes at these locations. FRIED will move slightly to the center of the route. Because this action merely moves one reporting point slightly and defines it and another by the use of different radio signals without altering any route structure or airspace, it is a minor matter on which the public would have no particular desire to comment. Therefore, I find that notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, §§ 71.211 and 71.213 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 650 and 652) are amended, effective 0901 G.m.t., October 4, 1979, as follows:

Under § 71.211

"FRIED" title and text are deleted and "FRIED: Lat. 54°13'20" N., Long. 133°37'51" W. (INT Nichols, Alaska, NDB 235°, Sandspit, British Columbia, Canada, NDB 314° bearings)." are substituted therefor.

In MOCHA: "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials.)" is deleted and "(INT Nichols, Alaska, NDB 236°, Sandspit, British Columbia, Canada, NDB 331° bearings)." is substituted therefor.

Under § 71.213

"FRIED" title and text are deleted and "FRIED: Lat. 54°13'20" N., Long. 133°37'51" W. (INT Nichols, Alaska, NDB 235°, Sandspit, British Columbia, Canada, NDB 314° bearings)." are substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24316 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-AL-15]

Revocation of Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes Cape Sarichef and MORDI, Alaska compulsory reporting points located on Airway Green 8 between Cold Bay, Alaska, and Dutch Harbor, Alaska. The U.S. Coast Guard decommissioned the Cape Sarichef navigation aid, which supports those compulsory reporting points. This action revokes Cape Sarichef and MORDI reporting points.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke compulsory reporting points Cape Sarichef and MORDI, Alaska, on Airway Green 8 between Cold Bay, Alaska, and Dutch Harbor, Alaska. The U.S. Coast Guard has decommissioned the Cape Sarichef Nondirectional Radio Beacon (NDB) which provides the radio signal for those reporting points and action is taken herein to revoke Cape Sarichef and MORDI compulsory reporting points. Subpart I of Part 71 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1979 (44 FR 650). Since this amendment is a minor matter on which the public would have no particular desire to comment, I find that notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 650) is amended, effective 0901 G.m.t., October 4, 1979 as follows:

Under § 71.211 Alaska Low Altitude reporting points.

1. "Cape Sarichef, Alaska, NDB" is deleted.

2. "MORDI: Lat. 54°52'29" N., Long. 165°03'54" W. (INT Cold Bay, Alaska, LOM 253°, Cape Sarichef, Alaska, NDB 344° bearings)." is deleted.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24314 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 78-EA-73]

Alteration of Federal Airways and Restricted Area, Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the **Federal Register** of June 14, 1979, Volume 44, page 34112, the amendment to the segment of V-44 airway inadvertently used the word south rather than east in defining the alternate airway portion. This action corrects that error.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION: FR Doc. 79-18514 was published on June 14, 1979, with an effective date of August 9, 1979, and altered V-44 airway as one of the actions.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 79-18514 as published on June 14, 1979 page 34112 is amended by deleting the eighth line from the last in the right column, which reads, "including a south alternate via INT" and substituting, "including an east alternate via INT" therefor.

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958, (49 U.S.C. 1348(a) and 1354(a) and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24294 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 79-SW-9]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Establishment of Jet Routes and Area High Routes; Extension of Airway and Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments extend V-81 airway from Midland, Tex., via Fort Stockton, Tex., and Marfa, Tex., to the United States/Mexican Border and extend J-42 from Dallas-Fort Worth, Tex., via Abilene, Tex., and Fort Stockton, Tex., to the United States/Mexican Border. This action complys with the request by the Government of Mexico to join their airway from Chihuahua and jet route from Delicias in Mexico. Flight planning and communication time is reduced by designating the routes as an airway and jet route.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

On May 24, 1979, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to extend V-81 and J-42 from their present points of origin, southwestward to the United States/Mexican Border (44 FR 30101). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection to the proposal. Subsequent to publication of the notice, the Government of Mexico requested that V-81 be directed from the Marfa VOR to the Chihuahua VOR rather than the Chihuahua NDB. Because this is a change from the notice of only 2° in the route centerline from Marfa it is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary. Except for this change that is adopted herein, this action is the same as proposed in the notice. Section 71.123 of Part 71 and § 75.100 of Part 75 were republished in the **Federal Register** on January 2, 1979 (44 FR 307 and 722).

Adoption Of The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (44 FR 307 and 722) are amended, effective 0901 GMT, October 4, 1979 as follows:

In § 71.123, under V-81 "From Midland, Tex., via" is deleted and "From the Chihuahau, Mexico, via Marfa, Tex.; Fort Stockton, Tex.; Midland, Tex.;" is substituted therefor. Also, "The airspace outside the United States is excluded." is added.

In § 75.100, under Jet Route No. 42 "From Dallas-Fort Worth, Tex., via" is deleted and "From Delicias, Mexico, via Fort Stockton, Tex.; Abilene, Tex.; Dallas-Fort Worth, Tex.;" is substituted therefor. Also, "The portion of this route outside of the United States is excluded." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 2, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24540 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 79-CE-9]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area, New Madrid, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at New Madrid, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the County Memorial Airport, New Madrid, Missouri, which is based on a non-directional radio beacon, a navigational aid, being installed on the airport. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the County Memorial Airport, New Madrid, Missouri, has been established utilizing a nondirectional radio beacon being installed on the airport as a navigational aid. The establishment of a new instrument approach procedure based on this approach aid entails the alteration of the transition area at New Madrid, Missouri, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

DISCUSSION OF COMMENTS: On pages 34150 and 34151 of the **Federal Register** dated June 14, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at New Madrid, Missouri. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making. Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442), is amended effective 0901 GMT October 4, 1979, by altering the following transition area:

New Madrid, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of County Memorial Airport (latitude 36°32'10"N, longitude 89°35'50"W); and within 2 miles each side of the Malden, MO, VOR 95° radial, extending from the 5-mile radius area to 8 miles east of the VOR, excluding the portion which overlies the Malden, MO, 700-foot floor transition area; and within 3.5 miles each side of the 360° bearing from the airport, extending from the 5-mile radius area to 6 miles north of the airport.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routing amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

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Issued in Kansas City, Missouri, on July 30, 1979.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 79-24548 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-35-M

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14 CFR Part 73

[Airspace Docket No. 79-AL-16]

Revocation of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes Restricted Area R-2204 in the vicinity of Shemya, Alaska. The Department of the Air Force has advised the FAA they no longer use the area. This action returns airspace for public use.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to revoke Restricted Area R-2204 in the Shemya, Alaska area. The Department of the Air Force has requested Restricted Area R-2204 be rescinded because they no longer utilize the area, and the FAA concurs with this action since the restricted airspace will be released for public use. Section 73.22 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1979 (44 FR 671). Since this amendment is a minor matter on which the public would have no particular desire to comment and since the FAA concludes there are immediate benefits to be derived by the aviation community in the affected area, I find that notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 671) is amended, effective 0901 GMT, October 4, 1979 as follows:

Under Section 73.22 "R-2204 Shemya, Alaska title and text" are deleted.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

The FAA had determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 2, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24542 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 79-SO-24]

Special Use Airspace; Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the time of designation of the Macon, Miss., restricted area R-4404 to seven days instead of six days a week. Increase in the pilot training requirements at this location, for the foreseeable future, requires that additional time be made available for the use of R-4404.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

On June 4, 1979, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to increase the time of designation of the Macon, Miss., Restricted Area R-4404 to permit additional time for military training at this location, (44 FR 32003). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. Section 73.44 was republished in the **Federal Register** on January 2, 1979, (44 FR 698). This amendment is the same as proposed in the notice.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) extends the time of designation of R-4404 to sunrise to sunset daily, thereby permitting its use seven days a week rather than the present six days a week. The Naval Air Training Command student pilot training load at Training Air Wing One (TRAWING ONE), has increased to the point that it has become necessary to have special use airspace available for flight training purposes seven days a week. This requirement is expected to continue for the foreseeable future. The Department of Navy has stated that the requirements of the National Environmental Policy Act have been met.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.44 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 698) is amended, effective 0901 GMT, October 4, 1979, as follows:

In R-4404 Macon, Miss., under time of designation: "Sunrise to Sunset, Monday through Saturday." is deleted and "Sunrise to Sunset." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 2, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-24541 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-16077]

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is amending its Rules of Organization to delegate to the Director of the Division of Market Regulation authority to exempt broker-dealers from the Commission's regulations concerning customer confirmations.

In view of the increasing number of exemptive requests, the Commission believes that it would facilitate the processing of those requests under the rule if authority to grant exemptions were delegated to the Director of the Division of Market Regulation.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: Susan P. Davis, Esq., Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 755-7610.

SUPPLEMENTARY INFORMATION: Securities Exchange Act Rule 10b-10 (17 CFR 240.10b-10) requires that a broker or dealer deliver to a customer, at or before the completion of a transaction in securities (other than U.S. Savings Bonds or municipal securities), a confirmation disclosing various facts concerning such transaction. Paragraph (e) of that rule allows the Commission to exempt any broker or dealer from the confirmation delivery and disclosure requirements with regard to specific transactions or specific classes of transactions. The Commission believes that it would facilitate the processing of exemptive requests under Rule 10b-10 if authority to grant exemptions were delegated to the Director of the Division of Market Regulation. Accordingly, the Commission, acting pursuant to the Act of August 20, 1962, Pub. L. No. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2), hereby amends Section 200.30-3 (17 CFR 200.30-3) of the Commission's rules relating to general organization by adding a new paragraph (a)(32) to delegate to the Director of the Division of Market Regulation authority to grant exemptions from Rule 10b-10.

The Commisison finds, in accordance with 5 U.S.C. 553(b)(A) and 5 U.S.C. 553(d) of the Administrative Procedure Act, that the foregoing action relates solely to agency organization, procedure, or practice and that notice and public procedures in accordance with 5 U.S.C. 553 are not necessary, pursuant to subsection (b) thereof and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness. In addition, the Commission finds that the foregoing action does not impose any burden on competition.

Part 200 of Title 17 of the Code of Federal Regulations is amended by adding paragraph (a)(32) to § 200.30-3, as follows:

§ 200.30-3 Delegation of Authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(32) Pursuant to paragraph (e) of Rule 10b-10 (240.10b-10(e) of this chapter), to grant exemptions from Rule 10b-10.

By the Commission.

Dated: August 2, 1979.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-24605 Filed 8-8-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 79-220]

Foreign Discriminating Duties of Tonnage and Impost With Respect to Vessels of and Certain Imports From Bermuda Suspended and Discontinued

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule adds Bermuda to the list of nations whose vessels are exempted from the payment of higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. Satisfactory evidence has been obtained by the Department of State that no discriminating duties of tonnage or impost are imposed in ports of Bermuda upon vessels belonging to citizens of the United States or on their cargoes.

EFFECTIVE DATE: The exemption became effective January 12, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick J. Casey, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money," on all foreign vessels which enter United States ports (46 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof satisfactory to the President that no discriminatory duties of tonnage or imposts are imposed by that foreign nation on United States vessels or their cargoes (46 U.S.C. 141). The President has delegated the authority to grant this exemption to the Secretary of the Treasury. Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

On March 12, 1979, the Department of State advised Customs that no discriminating duties of tonnage or imposts are imposed or levied in the ports of Bermuda upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported from the United States or from any foreign country in vessels of the United States. Consequently, there is satisfactory evidence which would permit the Secretary of the Treasury to find that vessels of Bermuda are entitled to the exemption, and the Department of State has requested that such vessels be afforded the exemption.

Declaration

Therefore, by virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951, as amended by Executive Order No. 10882, July 18, 1960 (3 CFR 1959-1963 Comp., Ch. II), and pursuant to the authorization provided by Treasury Department Order No. 101-5 (44 FR 31057), I declare that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, in respect to vessels of Bermuda and the produce, manufactures, or merchandise imported into the United States in such vessels from Bermuda or from any other foreign country.

This suspension and discontinuance shall take effect from January 12, 1979, in respect to vessels of Bermuda and

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shall continue only for so long as the reciprocal exemptions of vessels wholly belonging to citizens of the United States and their cargoes shall be continued.

Amendment to the Regulations

In accordance with this declaration, section 4.22, Customs Regulations (19 CFR 4.22), is amended by adding "Bermuda" in the appropriate alphabetical sequence in the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

(R. S. 251, as amended, 4219, as amended, 4225, as amended, 4228, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 3, 121, 128, 141))

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely implements a statutory requirement, notice and public procedure are unnecessary, and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

Regulation Determined To Be Nonsignificant

In a directive published in the **Federal Register** on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the **Federal Register** and codified in the Code of Federal Regulations to be "significant". However, it has been determined that this amendment does not meet the Treasury Department criteria in the directive for a "significant" regulation because it is nonsubstantive, essentially procedural, does not materially change existing or establish new policy, and does not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected.

Drafting Information

The principal author of this document was Shannon McCarthy, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and the Treasury participated in its development.

Dated: July 16, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-24559 Filed 8-8-79; 8:45 am]

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19 CFR Parts 10, 11, 24, 127, 132, 141, 142, 143, 144, 151, 158, 159, 172, and 173

[T.D. 79-221]

Customs Regulations, Relating to the Entry of Merchandise, Liquidation of Entries, Warehousing Periods, and Marking of Bulk Containers of Alcoholic Beverages, Amended

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Pub. L. 95-410, the "Custom Procedural Reform and Simplification Act of 1978", made numerous changes in laws administered by the Customs Service relating to the entry of imported merchandise, the liquidation of entries, warehousing periods, and the marking of bulk containers of alcoholic beverages. This document amends the Customs Regulations to establish new procedures needed to reflect these changes.

Some of the more significant changes to the regulations are:

1. To provide for a revised entry concept under which documentation necessary to obtain the release of merchandise is the "entry". Additional documentation necessary to appraise and classify the merchandise and to collect accurate statistics, designated as the "entry summary", with estimated duties attached, ordinarily will continue to be required within 10 working days after the time of entry.

2. To provide that the applicable rate of duty on merchandise is the rate in effect at the time of entry.

3. To ensure the collection of accurate and timely statistics on imported merchandise.

4. To provide time limitations for the liquidation of entries.

5. To set forth a uniform time period of 1 year after the date of liquidation for reliquidating an entry to correct a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of law if the error is adverse to the importer.

6. To provide for preliminary review of entry summary documentation by import specialists before the arrival of the merchandise within the port limits to expedite processing.

7. To extend the Customs bonded warehousing period from 3 to 5 years.

8. To provide for the marking of bulk containers of distilled spirits, wines, and malt liquors at the discretion of the district director.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Legal aspects: Benjamin H. Mahoney, Entry Procedures and Penalties Division (202-566-5778); operational aspects—entry and liquidation: Herbert Geller, Duty Assessment Division (202-566-5307); operational aspects—warehousing: Alice Rigdon, Inspection and Control Division (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 95-410 (92 Stat. 888), the "Customs Procedural Reform and Simplification Act of 1978", approved October 3, 1978 (the "Act"), made significant changes in the Customs laws relating to the entry of imported merchandise, the liquidation of entries, warehousing periods, and the marking of bulk containers of alcoholic beverages.

A notice of proposed rulemaking to give effect to these changes was published in the **Federal Register** on November 29, 1978 (43 FR 55774). A notice was published subsequently in the **Federal Register** to correct errors in the printing of that document (43 FR 60291, December 27, 1978).

The preamble of the document published on November 29, 1978, provided a detailed discussion of the specific changes in the Customs laws and related proposed amendments to the regulations and should be read in conjunction with this document. However, Customs believes it appropriate to highlight certain fundamental aspects of that discussion below.

Changes in Concept

Before enactment of Pub. L. 95-410, most merchandise was released under the immediate delivery procedure before entry was made. The immediate delivery procedure in fact was an "exception" to the general requirement that entry shall be made and estimated duties deposited *before* release of merchandise. The Act eliminated the general requirement and provided that the filing of documents necessary to obtain the release of merchandise under 19 U.S.C. 1484(a) is the "entry".

The entry of merchandise is a two-part process consisting of (1) filing the documents necessary to determine whether merchandise may be released from Customs custody and (2) filing the documents which contain information

for duty assessment and statistical purposes.

The notice of November 29, 1978, proposed that, with certain limited exceptions, the documentation formerly filed with an application for immediate delivery will continue to be required to obtain the release of merchandise, but now will be characterized as the "entry". The act of filing that documentation similarly will be considered "entering" the merchandise.

That notice also proposed that the documentation formerly characterized as the "entry" and required to be filed, with estimated duties attached, within 10 working days after release of merchandise under the immediate delivery procedure, will be required within 10 working days after the "time of entry", as defined in proposed § 141.68, but will be designated as the "entry summary".

Specific Changes to Law and Regulations

Rate of Duty

Section 101 of the Act amended section 315(a), Tariff Act of 1930, as amended (19 U.S.C. 1315(a)), by establishing the date for determining the rate of duty in those cases in which duty may be paid after filing the documents necessary to secure release of imported merchandise from Customs custody. The rate of duty is that rate in effect at the "time of entry".

Filing Entry Documents

Section 102 of the Act amended section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), by providing that entry shall be made by filing that documentation necessary to enable Customs to determine whether the merchandise may be released from Customs custody. Section 102 also provided that documentation necessary to classify and appraise merchandise and to verify statistical information shall be filed at the time prescribed by regulation, either when entry is made, or at any time within 10 working days thereafter. Either class of documentation may be filed at any place prescribed by regulation within the Customs district where the merchandise is released. Furthermore, section 102 provided for the issuance of regulations to ensure the accuracy and timeliness of statistics under the new entry procedures, particularly statistics with regard to the classification and value of imports.

The proposed notice stated that because Customs "Automated Merchandise Processing System" ("AMPS") has not been implemented fully and because of limited resources, Customs was unable to provide for entry documentation to be filed at any place in the Customs district other than where now required. Therefore, the notice stated:

1. Documents necessary to obtain release of the merchandise shall continue to be filed at the customhouse or at the Customs location, approved by the district director, where the merchandise is to be released, and

2. Documents needed to enable Customs to classify and appraise the merchandise and to collect statistics shall continue to be filed either at the customhouse at the port where the merchandise is released or, with the approval of the district director, at a Customs station.

Deposit of Estimated Duties

Section 103 of the Act amended section 505(a), Tariff Act of 1930, as amended (19 U.S.C. 1505(a)), to permit the payment of estimated duties either at the time of making entry or at a time prescribed by regulation, not later than 30 days after making entry.

For most entries, estimated duties now must be deposited within 10 days after release of the merchandise. Because the Act equates the filing of documents necessary to obtain release of the merchandise with "entry", the notice stated Customs will continue to permit the deposit of estimated duties within 10 working days after the "time of entry".

Proposed Amendments to Part 142

The notice stated that Part 142 would be revised completely and divided into 3 subparts entitled "Entry Documentation", "Entry Summary Documentation", and "Special Permit for Immediate Delivery". The first 2 subparts would contain provisions relating to the release of merchandise under 19 U.S.C. 1484(a), and the third would contain provisions relating to the release of merchandise under a special permit for immediate delivery under 19 U.S.C. 1448(b).

Proposed Subpart A, relating to entry documentation, specified the entry documentation required to secure release of merchandise. The importer would be required to file the following:

(1) Customs Form 3461, appropriately modified, or Customs Form 7533, in duplicate, appropriately modified,

(2) Evidence of the right to make entry,

(3) A commercial invoice or a substitute as authorized under proposed § 141.83(d),

(4) A packing list, where appropriate, and

(5) Other documents required by Federal, state, or local agencies on particular shipments.

It also was proposed that when the entry summary is filed at time of entry, that document would serve as both the entry and the entry summary, and Customs Form 3461 or Customs Form 7533 would not be required.

Proposed Subpart B, relating to entry summary documentation, prescribed the use of Customs Form 7501 as the "entry summary" unless a different form is prescribed elsewhere in the regulations. The notifce stated that in most instances, the importer would have the option to file the entry summary at the "time of entry" or within 10 working days after the "time of entry". Estimated duties ordinarily would be required to be deposited when the entry summary is filed and would be separated from the entry summary immediately after filing and deposited in the appropriate depository by Customs no later than the following business day.

However, the importer could submit the entry summary for preliminary review before arrival of the merchandise, or could be required to file the entry summary and deposit any estimated duties before release of the merchandise in certain specified circumstances.

If the entry documentation were filed before the entry summary, one copy of the entry document and the commercial invoice or its substitute would be returned to the importer after Customs authorizes release of the merchandise and would be required to be filed with the entry summary. In addition, Customs Form 5101, the Entry Record, and any documents required for the particular shipment also would be filed with the entry summary. If the entry summary were filed at time of entry, Customs Form 5101 and any documents required for the particular shipment would be required to accompany the entry summary, which would serve as both the entry and the entry summary.

Proposed Subpart C provided for the following circumstances in which a special permit for immediate delivery may be used:

1. An application for a special permit for immediate delivery may be filed for merchandise arriving from Canada or Mexico.

2. An application for a special permit also may be filed for the transportation of fresh fruits and vegetables for human consumption arriving from Canada or Mexico to the importer's premises within the port of importation, but

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removed from the area immediately contiguous to the border.

3. The only other merchandise eligible for release under the immediate delivery procedure would be (1) merchandise released from warehouse to be followed by a warehouse withdrawal for consumption, and (2) merchandise for which Customs Headquarters specifically gives its approval.

It was proposed to eliminate the use of the immediate delivery procedure for merchandise subject to a tariff-rate quota.

Proposed Amendments to Part 141

Proposed Part 141 defined "entry" "entry summary", "submission", "filing", and "presentation".

"Entry" would mean the documentation required to secure release of merchandise from Customs custody, or the act of filing that documentation.

"Entry summary" would mean the documentation needed by Customs to assess duties and collect statistics on merchandise and to determine whether other requirements of law and regulation are met.

"Submission" would mean the voluntary delivery to the appropriate Customs officer of entry summary documentation for preliminary review, or of entry documentation for other purposes, including the scheduling of examination of the merchandise to secure expeditious release.

"Filing" would mean:

(1) The delivery to Customs of the entry documentation required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain release of the merchandise, or

(2) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to Customs of the entry summary which would serve as both the entry and the entry summary, together with the deposit of estimated duties.

"Presentation" would be used only in connection with quota-class merchandise and was defined in proposed § 132.1(d), Customs Regulations.

The "Time of Entry"

Paragraph (a) of proposed § 141.68 set forth the circumstances when the entry documentation is filed without an entry summary. In that case, the time of entry would be:

(1) The time the appropriate Customs officer authorizes release of merchandise covered by the entry documentation filed in proper form;

(2) The time the entry documentation is filed in proper form, if requested by the importer on the entry documentation at the time of filing, and if the merchandise already has arrived within the port limits, or

(3) The time the merchandise arrives within the port limits, if the entry documentation is submitted before arrival, and if requested by the importer on the entry documentation at the time of submission.

Paragraph (b) set forth the time of entry when the entry summary serves as both entry and entry summary. In that case, the time of entry would be the time the entry summary is filed in proper form, with estimated duties attached. Paragraph (c) set forth the time of entry for quota-class merchandise as the time of presentation of the entry summary in proper form, together with the deposit of estimated duties. Paragraph (d) provided that merchandise shall not be released, and the entry documentation or entry summary shall not be considered filed or presented, until the merchandise has arrived within the port limits with the intent to unlade. Paragraphs (e) through (g) continued the present rules as time of entry for these special categories of entries: informal mail entry, withdrawal from warehouse for consumption, appraisement entry, informal entry, combined entry for rewarehouse and withdrawal for consumption, and entry under carnet.

Proposed Amendments to Part 132

The notice of November 29, 1978, proposed in part to revise Part 132, relating to import quotas. It was proposed to eliminate the use of the immediate delivery procedure for merchandise subject to tariff-rate quota by requiring (1) the presentation of the entry summary documentation and (2) the deposit of estimated duties, before the merchandise may be released. Similarly, it was proposed that quota-class merchandise would not be released under an entry before the presentation of an entry summary, with estimated duties attached.

Warehouse and General Order Merchandise

Section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), provides a time limitation of 1 year from the date of importation for merchandise in "general order" before it is considered as unclaimed and abandoned to the Government.

Sections 557 and 559, Tariff Act of 1930, as amended (19 U.S.C. 1557, 1559), formerly permitted merchandise to be kept in a Customs bonded warehouse at the owner's expense for a period up to 3 years after arrival of the merchandise in the United States.

Presidential Proclamation No. 2948, 64 Stat. c41 (1951), which declared a national emergency because of the Korean War and authorized the 1-year general order period and the 3-year warehouse period to be extended for an unlimited number of successive 1-year periods was terminated as of September 14, 1978, by the National Emergencies Act (90 Stat. 1255).

Section 108 of the Act amended 19 U.S.C. 1557 and 1559 to permit merchandise to remain in a Customs bonded warehouse at the owner's expense for a period up to 5 years. There is no provision for an extension of this period. Merchandise in a bonded warehouse on October 3, 1978, the date of enactment of Pub. L. 95–410, may remain in the warehouse for up to 5 years from that date.

To conform the Customs Regualtions to the Act in this respect, it was proposed to delete the references to extensions of the general order and warehousing periods which appear in Parts 127 and 144 and to change the reference to a 3-year warehousing period in Part 127 to 5 years.

Under 19 U.S.C. 1557, it formerly was provided that estimated duties shall be deposited before merchandise could be withdrawn from warehouse for consumption. Section 108 amended 19 U.S.C 1557 to authorize the withdrawal for consumption, without the payment of duties, of merchandise entered for warehouse, if the consignee or transferee is permitted to pay duties at a later time under the regulations to be prescribed pursuant to section 505, Tariff Act of 1930 (19 U.S.C. 1505), as amended by section 103 of the Act. However, until AMPS is fully operational, Customs will continue to require that estimated duties be deposited at the time of filing the warehouse withdrawal when merchandise is withdrawn for consumption. Therefore, no amendment to the Customs Regulations was proposed regarding this provision.

Marking of Bulk Containers of Distilled Spirits, Wines, and Malt Liquors

Section 201 of the Act eliminated the mandatory inspection, marking, and stamping requirements of section 11 of the Act of March 1, 1897 (19 U.S.C. 467). The Act permits the Secretary to require by regulation any marks, brands, and

stamps, or devices to be placed on any bulk container of imported distilled spirits, wines, and malt liquors as he determines to be necessary in the administration of the Federal laws applicable to those products.

It was proposed to amend § 11.6, Customs Regulations, to provide that the district director, in his discretion, (1) may require that bulk containers be marked or stamped in accordance with 19 U.S.C. 1467, and (2) shall determine the acceptability of any marks, brands, and stamps, or devices he requires, based on the nature, surface, and composition of the container.

Time for Liquidation

Prior to enactment of Pub. L. 95–410, there was no requirement that liquidation be completed within a specific time period.

Section 209 of the Act adds a new section 504 to the Tariff Act of 1930. Subsection (a) of section 504 provides that an entry is deemed to be liquidated (i.e., liquidated by operation of law) if not actually liquidated within 1 year from:

1. The date of entry of the merchandise,

2. The date of final withdrawal of all the merchandise covered by a warehouse entry, or

3. The date of withdrawal from warehouse of merchandise for consumption if duties may be deposited after the filing of an entry or withdrawal from warehouse.

An entry deemed liquidated by operation of law is liquidated at the rate of duty, value, quantity, and amount of duties asserted by the importer, his consignee, or agent at the time of entry.

Subsection (b) permits extensions of the 1-year period for liquidation if Customs needs further information or at the request of the importer for good cause shown. Customs is required to give notice of the extension to the importer, his consignee, or agent.

Subsection (b) also provides for extensions if liquidation is suspended as required by statute or court order. Subsection (c) requires Customs to give notice of any suspension of liquidation required by statute or court order to the importer or consignee and to his authorized agent and surety.

Subsection (d) provides that an entry not liquidated at the expiration of 4 years from the applicable date set forth in subsection (a) shall be deemed liquidated unless the liquidation continues to be suspended as required by statute or court order. When the suspension is removed, the entry shall be liquidated within 90 days.

These amendments are limited to entries or withdrawals of merchandise for consumption made on or after April 1, 1979, 180 days after enactment, and do not include vessel repair entries or drawback entries.

The notice stated that the proposed regulations set forth 2 of the 3 circumstances the Act specifies for entries deemed liquidated—1 year from date of entry or 1 year from the date of final withdrawal of all merchandise covered by a warehouse entry.

Comment Period

Pursuant to the notice of proposed rulemaking published in the **Federal Register** on November 29, 1978, interested parties were given until December 29, 1978, to submit relevant data, views, or arguments.

Discussion of Major Comments

The following is a section-by-section analysis to the major comments received, presented in ascending numerical order:

1. *Section 10.1(d).* Two commenters object to the deletion of the word "reasonably" before "satisfied" from the proposed amendment on the basis that this would change the standard of the district director's discretion in determining whether to waive certain documentation establishing that merchandise is American goods returned.

No change in meaning was intended. However, to avoid any confusion, the word "reasonably" is being retained.

2. *Section 10.31.* One commenter suggests that a new § 10.31(a)(3)(iv) be added to require that an importer declare the approximate length of time, up to the 1-year limit, that an article imported under a temporary importation bond is to remain in the United States.

Customs does not believe such a requirement is necessary to reflect the importer's understanding of the time period during which the merchandise may remain in the United States, as suggested. Schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202; footnote 34 to section 10.31, Customs Regulations), and § 10.37, Customs Regulations, set forth the time limitations.

3. *Section 10.91(b).* One commenter notes that the last sentence of proposed § 10.91(b) should not be in the same typeface as the endorsement.

Customs agrees and has changed the typeface for the last sentence, so that it differs from the endorsement.

4. *Parts 132 and 142 (in general).* Many commenters object to the proposal to eliminate the use of the immediate delivery procedure for merchandise subject to a tariff-rate quota. Commenters object to the proposed requirements that the "consumption entry" (now the "entry summary") be presented before the merchandise is released and that estimated duties be deposited when this documentation is presented. It is claimed that adoption of the proposal would result in delays in transporting the merchandise, increased transportation expenses, spoilage, demurrage charges, and increased inflation.

Under the notice, the procedures for the release of both absolute and tariff-rate quota merchandise were the same. However, based upon the comments received and Customs internal review, it was determined to provide for the use of the immediate delivery procedure for merchandise subject to absolute and tariff-rate quota in specified circumstances.

Accordingly, a new § 142.21(e)(1) has been added to provide that merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery at the discretion of the district director, provided the importer has on file one of the types of bonds described in § 142.4. An entry summary, with estimated duties attached, shall be presented within the time specified in section 142.23, or within the quota period, whichever expires first. If the entry summary, with estimated duties attached, is presented after the tariff-rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall deposit duty at the over-quota rate.

A new § 142.21(e)(2) has been added to provide that at the discretion of the district director, perishable merchandise of a class approved by Headquarters which is subject to an absolute quota may be released under a special permit for immediate delivery for removal to the importer's premises, to any other location approved by the district director, until an entry summary, with estimated duties attached, is presented. An entry summary, with estimated duties attached, shall be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. If the absolute quota is filled before the importer has presented the entry summary, with estimated duties attached, he either may present an entry summary for warehouse, or under Customs supervision, export or destroy the merchandise.

Part 132 has been revised to reflect these changes. The last sentence of

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proposed § 132.12(c)(2)(ii) (stating that the importer shall not take delivery before he deposits estimated duties) has been deleted.

Proposed § 132.13(a)(1) has been separated into 2 paragraphs. Paragraph (a)(1)(i), relating to tariff-rate quota merchandise when the quota is nearing fulfullment, provides that when instructed by Headquarters, the district director shall require an importer to present an entry summary for consumption, with estimated duties attached, at the over-quota rate until Headquarters has determined the quantity, if any, of the merchandise entitled to the quota rate of duty. The paragraph also provides that the importer may request his merchandise not be released until Headquarters has determined the quantity entitled to the quota rate of duty. It further provides for a refund in the case of merchandise entitled to a quota rate of duty which was entered at the over-quota rate.

Paragraph (a)(1)(ii), relating to absolute quota merchandise when the quota is nearing fulfillment, provides that except in emergency cases, absolute quota merchandise shall not be released under the immediate delivery procedure. The importer shall present the entry summary, with estimated duties attached, and await Customs determination of the quantity of merchandise entitled to absolute quota status and priority.

Section 132.14(a)(1) has been revised to state that quota-class merchandise shall not be released upon filing entry documentation before presentation of an entry summary for consumption, or a warehouse withdrawal for consumption, with estimated duties attached. However, quota-class merchandise may be released under a special permit for immediate delivery in accordance with § 142.21(e). A new § 132.14(a)(2) has been added to state that release under the immediate delivery procedure before presentation of an entry summary for consumption, with estimated duties attached, shall not accord the merchandise any quota priority or status or entitle it to any other quota benefit.

Additional Specific Comments Relating to Part 132

5. *Section 132.3.* One commenter notes that although the proposal provides for the presentation of an entry summary for consumption and warehouse withdrawal for consumption for quota-class merchandise during official office hours of 8:30 a.m. to 5:00 p.m. in all time zones, many Customs districts observe an 8:00 a.m. to 4:30 p.m. day. He notes that the establishment of official office hours for quota purposes outside the normal working day would require customhouses at those locations to remain open an extra half an hour per day solely to administer quotas. The commenter suggests the official office hours for quota purposes be from 8:30 a.m. to 4:30 p.m.

Customs agrees with this suggestion and has changed the official office hours for quota purposes. Although official working hours are generally from 8:30 a.m. to 5:00 p.m., local conditions may dictate that different but equivalent hours be established (See 19 CFR 101.6(b)). In this regard, certain districts have established the hours of 8:00 a.m. to 4:30 p.m. as their official office hours. Therefore, (1) so that ports normally opening at 8:30 a.m. will not be required to open one-half hour earlier, and ports normally closing at 4:30 p.m. will not be required to remain open one-half hour later merely to receive entry summaries or warehouse withdrawals for quota-class merchandise, and (2) to prevent any importer from achieving an unfair advantage over another importer by filing the entry summary at a port which remains open for administering quotas while others are closed, official office hours for quota purposes are from 8:30 a.m. to 4:30 p.m. in all time zones. Section 132.3 reflects this change. These restrictions on office hours are applicable to the time when the entry summary shall be presented for purposes of determining priority and status and not necessarily when quota-class merchandise may be released from Customs custody.

6. *Section 132.11(a).* Two commenters, in addition to urging the use of the immediate delivery procedure for release of quota-class merchandise, suggest that the time of release of the merchandise serve as the time of entry.

Customs is not adopting this suggestion. Under the immediate delivery procedure as provided for in 19 U.S.C. 1448(b), the special permit for immediate delivery is issued before entry. Additional classification and appraisement information provided by the entry summary documentation is essential for determining quota priority and status.

7. *Section 132.11(b).* Two commenters believe that when an entry summary is not presented in proper form, the merchandise should be regarded as not entered only when there are material errors rather than clerical and *de minimis* errors.

Customs disagrees and believes the present and proposed rule should be retained. A "clerical" error such as understating the quantity of merchandise could cause inequitable treatment in administering quotas if Customs accepted the time of first presentation while allowing the entry summary to be corrected and subsequently presented.

8. *Section 132.12(c).* One commenter objects to the provision that if a quota is prorated, entry summaries shall be returned to the importer for adjustment. The commenter believes that this will require the retyping of each entry summary.

Customs believes it is necessary that the entry summary be returned to the importer so that it can be adjusted to reflect the amount the importer may bring in under the quota. This could be accomplished by making pen and ink changes. The importer may designate the quantity to be entered under the quota and the respective duty determination, as well as the remaining quantity to be entered and the respective over-quota duty rate (for tariff-rate quota merchandise).

9. *Section 132.13(a)(1).* One commenter objects to this provision requiring Headquarters to authorize release of quota-class merchandise on the basis that it would not permit the release of tariff-rate quota merchandise unless the over-quota duty deposit were made. He believes that this requirement would result in additional work for Customs and the importer necessitated by changing the documentation.

The requirement to deposit estimated duties at the over-quota rate in the case of tariff-rate quota merchandise is applicable only when the quota is nearing fulfillment. When the quota is not nearing fulfillment, this procedure would not apply. Accordingly, the provision is retained.

10. *Section 132.14(a)(2).* One commenter objects to providing that an inadvertent release before presentation of an entry summary, with estimated duties attached, shall not accord the merchandise any quota priority, status, or other benefit. He believes this provision could be read as denying merchandise quota status and priority under any circumstances and, therefore, penalize importers unfairly. The commenter suggests that the provision be redrafted to state that "an inadvertent release shall not affect quota status or priority".

The purpose of this section is to deny any importer an unfair advantage over another as a result of an inadvertent release. Customs believes the language as expressed in the proposed notice is clear on this point and should not be revised.

11. *Section 132.14(a)(3).* Several commenters object to providing for the assessment of liquidated damages of at least $25 when, in a given situation, the Customs officer makes the inadvertent release and the importer has no responsibility. They believe the importer should not be subject to a penalty unless he has contributed directly to the inadvertent release.

Another commenter believes that if the district director demands the return to Customs custody of the merchandise inadvertently released, a notice of redelivery should be issued no later than 30 days after release. One commenter believes that the term "near fulfillment" used in this section is too vague and should be defined and that there should be a reference to the availablity of the specific "near fulfillment" level for each type of quota merchandise.

Customs has reconsidered its position and has revised this section to designate the circumstances under which the district director may cancel the claim for liquidated damages. The provision for the payment of a minimum of $25 has been deleted.

The requirement that the notice of redelivery be issued no later than 30 days after release is referenced in § 132.14(a)(3)(i)(A) by a cross-reference to § 141.113 of this chapter. The term "near fulfillment" as used in proposed Part 132 is intended to have the same meaning as the term "prior to fulfillment" in § 132.13(a) of the present regulations and proposed notice. The section heading of proposed § 132.13(a) is being changed to "Procedure when nearing fulfillment" and the word "nearing" is being substituted for "near" wherever it appears in this context, for editorial clarity only.

12. *Part 141.* Two commenters suggest that proposed Parts 141 and 142 be consolidated.

Although this suggestion may have some merit, Customs does not believe it appropriate to undertake such a project within the scope of this document, the primary purpose of which is to implement the entry and liquidation procedures necessitated by Pub. L. 95–410.

13. *Section 141.0a(b).* Five commenters object to the definition of "entry summary" in this section on the basis that it may be misunderstood and that different ports may require different documents. Two of these commenters suggest that the definition be amended to the effect that the entry summary documents not include purchase orders and resale invoices which generally are requested by Customs Form 28, "Requests for Information", unless specifically required by regulation. One commenter suggests that the words "required by the regulations" be inserted between the words "documentation" and "necessary" in the definition of "entry summary".

Customs believes that the proposed definition of "entry summary" is clear and should remain unchanged. Section 102(a) of the Act provides that the consignee shall file with the Customs officer "such other documentation as is necessary to enable such officer to assess properly the duties * * *, collect accurate statistics * * *, and determine whether any other applicable requirement of law * * * is met". To administer these other requirements of law, Customs believes that it should not be limited only to that documentation required by the Customs regulations. Also, proposed § 141.0a(b) should be read together with proposed § 142.16, which discusses the entry summary documentation. Furthermore, in some cases, a purchase order or a resale invoice may be needed when filing the entry summary documentation for classification, appraisement or statistical purposes.

14. *Section 141.19.* One commenter raises the question whether there has been any change in that part of § 141.19 relating to a nominal consignee. It appears the commenter is referring to § 141.19(b)(3) of the present regulations and the paragraph designated as "(3) * * *" under proposed § 141.19 in the notice of November 29, 1978. There is no change in the present section.

15. *Sections 141.19, 141.20, 142.4.* One commenter notes that proposed § 142.4 provides a general requirement for filing a bond at the time of entry, and proposed § 142.19 provides for filing a bond when an entry summary which serves as both an entry and entry summary is filed. However, there is no explicit provision for requiring a bond at the time of filing an entry summary after entry and release. He also notes that § 141.20 as drafted is limited to a consignee in whose name an entry is made.

Additionally, this commenter and others believe that proposed §§ 141.19 and 141.20 could be interpreted to deny the general practice authorized by Customs which permits a broker to file an application for immediate delivery in his own name under his bond and the importer to file the entry summary in his own name under his bond without the necessity of a superseding bond or actual owner's declaration.

Customs believes that these objections have merit and has revised proposed §§ 141.20 and 142.4 to take account of these objections.

Proposed § 141.20(a) has been clarified to state that a superseding bond and actual owner's declaration is needed upon filing an entry summary for consumption, warehouse, or temporary importation under bond, or upon filing a rewarehouse, entry or manufacturing warehouse entry.

A new paragraph (b)(1) has been added to proposed § 142.4 to provide that if the entry summary is filed after entry, the bond filed at the time of entry shall continue to be obligated unless a superseding bond is filed or a bond described in proposed § 142.4(a) is filed under the circumstances described in the new paragraph (b)(2). That paragraph provides for the practice which permits an agent to file an entry in his own name under his bond, and the importer to file the entry summary in his name under his bond without the importer's filing the superseding bond and actual owner's declaration otherwise required by § 141.20. This is because the entry declaration is not made until the entry summary is filed.

16. *Section 141.61(a).* One commenter objects to the requirement that all copies of Customs Form 3461 be legible and suggests it be revised. He believes that the form should have only 3 copies (one for the broker or importer, one for Customs, and one for filing with the entry); that the original be returned to the importer for filing with the entry summary; and that the form be free to the public.

The five copies of Customs Form 3461 are used as follows: The green card (the original copy) serves as the releasing document when signed by the Customs inspector. One tissue copy is retained by the inspector and serves to clear the manifest. Two tissue copies are provided for the convenience of the importer or broker. The first ordinarily is removed by the importer or broker for his record prior to filing the form; the second ordinarily is retained by the importer or broker after signature by the Customs inspector and is substituted for the first tissue copy. The yellow card copy is returned to the importer or broker to be submitted with the entry summary.

Customs recognizes that the yellow card copy may not be legible if not prepared with care; however, it is the responsibility of the preparer to ensure that all copies of the form are legible. The form has been designated as a saleable form in accordance with § 24.14, Customs Regulations (19 CFR 24.14).

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Customs is considering a proposal (see T.D. 79-144, published in the Federal Register on May 23, 1979; 44 FR 29916) to revise Customs Form 7501, the "Consumption Entry" (to be redesignated the "Entry/Entry Summary") which, if adopted, would simplify the paperwork involved because the form then would be used both at the time of filing entry documentation and entry summary documentation and would reduce substantially the use of Customs Form 3461. Customs, therefore, does not believe it appropriate to revise Customs Form 3461 at this time.

One commenter suggests that the requirement in § 141.61(a)(1) that the entry summary be signed by the "importer" should be changed to "importer of record".

Customs disagrees because the definition of the term "importer" in § 101.1(k) includes "importer of record".

One commenter wishes verification that the marks and numbers on the forms specified in proposed § 141.61(a)(2) will be required on the "entry release document".

Under § 141.86(a)(3), Customs requires each invoice for merchandise imported into the United States to set forth the marks and numbers of packages in which the merchandise is packed. In this circumstance, it is unnecessary for this data to appear on the forms specified in proposed § 141.61(a)(2) at the time of filing entry or entry summary documentation. If the invoice is not produced at the time of entry, however, the marks and numbers shall be given on the releasing document, an attachment thereto, or on an accompanying document.

Proposed § 141.61(a)(2) is being revised to clarify that if the marks and numbers have been provided previously, the data need not appear on the forms specified therein for packages released or withdrawn.

17. *Section 141.61(b).* One commenter, although not objecting to the signing of the entry summary, which would be considered as the "signing of the entry" required by 19 U.S.C. 1484(d), would object to this requirement if he also had to sign Customs Form 3461.

"Signing of the entry" occurs when the entry summary is filed. However, it is necessary for the importer or agent also to sign the releasing document so as to establish liability under the appropriate bond.

18. *Section 141.61(d).* One commenter believes there is a contradiction between proposed § 141.61(d)(2), relating to a consolidated entry summary covering merchandise of more than 1 ultimate consignee, and proposed section 142.17, which permits the filing of 1 entry summary for merchandise the subject of separate entries if, among other circumstances, the merchandise is consigned to the same consignee.

Customs believes the comment has merit. Proposed § 141.61(d) permits a broker as nominal consignee to enter merchandise in his own name under his own bond for various ultimate consignees under certain circumstances. Accordingly, Customs has added a new § 142.17a (discussed below) which sets forth this procedure.

19. *Section 141.61(d)(3).* One commenter suggests that if Customs Form 4811, which authorizes the mailing of refunds, bills, or notices of liquidation by Customs to an agent of the importer, were used, Customs should provide the importer or broker with a receipt for this form. It is contended that the receipt will serve as proof that the form has been filed because the present system has no control.

Customs believes that a receipt for filing Customs Form 4811 would increase paperwork unnecessarily and, therefore, is not adopting this suggestion.

20. *Section 141.61(e)(1).* One commenter notes that this section should include a statement that Customs import specialists should submit statistical changes regularly to the Department of Commerce to assist in ensuring the integrity of Generalized System of Preferences (GSP) and other trade statistics.

Guidelines and instructions were issued to Customs field officers in Customs Statistical Circular No. 135, dated February 24, 1978. Customs believes it is desirable to issue these guidelines and instructions by statistical circulars instead of incorporating them into the regulations.

One commenter suggests that the regulations provide detailed instructions for completing Customs Form 7501 so that it would be unnecessary to maintain separate computer programs at each port.

The revised Customs Form 7501 now under consideration would have an instruction sheet to provide the necessary explanatory material to ensure uniformity at all ports. Customs, therefore, believes it is unnecessary to incorporate detailed instructions in the regulations.

21. *Sections 141.61(e)(1) and 141.61(f)(2).* Several commenters complain that the proposed regulations make statistical reporting paramount throughout all phases of the entry process and place statistical reporting responsibility on the importer rather than Customs. The commenters note that brokers may not be able to make necessary changes in programming their automatic data processing equipment. Many commenters object to the requirements of this section and proposed § 141.61(f)(2) that (1) if multiple invoices are involved, the total quantities and total entered values of like merchandise appearing on each of the multiple invoices shall be shown on the entry summary and other documents, and (2) the computations necessary to arrive at the final figures appearing on the entry summary shall be shown on an attached worksheet. Several of these commenters state that to summarize like tariff item numbers from all invoices covered by a mulitple invoice entry summary would pose a tremendous burden on brokers. Others state that preparation of the worksheet should be Customs responsibility. Some commenters believe that adoption of these requirements would result in an increase in the number of entries because importers would find it too expensive to file multiple invoice entries. They state that preparation of a worksheet is too costly and duplicative, and that the requirement should be deleted. One commenter suggests that the information needed should be placed on the entry summary.

One of the main objectives of the Act is to ensure collection of accurate and timely statistics on imported merchandise.

For many years, statistical users, such as the Commerce Department's Office of Textiles and the U.S. International Trade Commission, have complained of the loss of statistical data caused by § 141.61(e)(1), Customs Regulations, which requires that each class of merchandise within each invoice subject to a separate statistical reporting number be listed separately on the entry or warehouse withdrawal. They cite as an example the case of an entry of 5 invoices, each covering identical merchandise valued at $225. The regulations now require 5 separate line items on the entry. Although the entire shipment totals $1,125, none of the data would be included in the trade statistics under the applicable TSUSA reporting number because only line items valued over $250 are verified by Customs and included in the detailed Census statistics.

To minimize this loss of detail, Customs has determined to require one posting of a TSUSA number for each formal entry or withdrawal. In this way, many line items valued under $250 will be combined with other line items using the same TSUSA number and included in the detailed data instead of in the one percent sample of line items valued under $250 published by total values by country of origin.

A Census Bureau study disclosed that consolidation can reduce the number of reported line items by 16 percent annually. This means that for fiscal year 1978, the line count of 7,625,000 could have been reduced by some 1,220,000 lines. For both Customs and the Census Bureau, this change would reduce significantly the data required to be computerized.

In addition, consolidation would eliminate the laborious and time consuming manual task of annually underlining in red ink some 7,930,000 separate items (country of origin, quantity, values, etc.) which Customs officers must verify, and it should reduce the number of statistical errors and rejects by Census. To the extent practicable, Customs will assist anyone who may have difficulty in programming the changes because of technical problems. Accordingly, Customs believes the sections relating to multiple invoices should remain unchanged.

22. *Sections 141.61(e)(2) and 141.91(d).* Sixteen commenters object to the proposal to reduce from 2 months to 1 month after the date of withdrawal from warehouse, or to 20 days after the date the entry summary is required to be filed, the time within which to produce required statistical documents for which a bond has been given. They also object to the requirement that if an invoice is needed for statistical purposes, it shall be produced within 20 days after the date the entry summary documentation is filed. It is claimed that some district directors would require that all missing documents be supplied earlier, that this time frame is inadequate to produce a missing document; and that as a result, numerous requests for extensions of time would be made. Several of these commenters suggest alternative approaches, such as 2 months from the date of withdrawal from warehouse, or 50 days after the entry summary is filed. Others suggest 45 or 90 days after the date of the entry summary. Some suggest that the 6-month requirement of present § 141.91 be retained.

Based upon the comments, Customs has reconsidered its position. Proposed § 141.61(e)(2) has been revised to require the additional documentation described in that section to be produced within 2 months after the date of withdrawal, or within 50 days after the date the entry summary (or the entry, if there is no entry summary) is required. Proposed § 141.91(d) has been revised to require an invoice needed for statistical purposes to be produced within 50 days after the date the entry summary (or the entry, if there is no entry summary) is required, instead of the 6-month period otherwise allowed for producing the invoice. In either case, the time for filing may be extended by the district director for a reasonable period upon good cause shown.

23. *Section 141.61(e)(2).* One commenter objects that the reference to the requirement to provide additional documentation is too vague. Another objects on the basis that the person filing the form is responsible for providing the necessary information and suggests the responsible party should be the importer or importer of record.

This section specifically provides that additional documentation may be requested to substantiate the statistical information required by § 141.61(e)(1), which requires the reporting of information required by the TSUSA general statistical headnotes. The headnotes enumerate the information the importer must provide.

All documents are not needed for the reporting of statistics. Many are needed to satisfy other agency requirements; others must be furnished to prove use of the merchandise in the United States. Customs envisions that the bond given for statistical information is to be used primarily to obtain missing or incomplete data or to substantiate ocean freight charges. In any case, these are documents which should be in the importer or broker's files or readily available to them.

Customs considers the person in whose name and under whose bond the entry summary is filed to be the person filing the form and thus responsible for providing the necessary information. If an agent files the entry summary on behalf of an importer under the importer's bond, it is the importer who is the responsible person.

24. *Section 141.61(e)(3).* One commenter notes that because all freight charges at the Canadian border are estimated, it would be cumbersome to use the designation "est". He suggests using the letter "E" to designate estimated values or the letter "A" to designate actual values.

Customs agrees and has revised this section to exempt Canadian rail and truck charges from the requirement that estimated charges be designated as such. However, if the transaction value were estimated, a notation to this effect would be required on the entry. Customs also has revised this section to permit the use of the letter "(E)" in addition to "(estimate)" and "(est)". Customs does not believe it necessary to adopt use of the letter "A" to designate actual values.

25. *Section 141.61(e)(4).* One commenter objects to authorizing a Customs officer to reject a form required as part of entry summary documentation for failure to provide the necessary information because the rejection would jeopardize the importer's right to declare the entry date.

When the entry summary is filed after the entry and release of the merchandise, statistical information is received at the time of filing the entry summary and time of entry already has been established. However, in accordance with proposed § 141.64, Customs may reject entry and entry summary documentation if not filed in proper form. Rejection at the time of filing entry documentation, or entry summary documentation which serves as both entry and entry summary, would preclude a determination of the time of entry because Customs would not have the necessary documentation to authorize release of the merchandise.

26. *Section 141.61(e)(5).* One commenter indicates that this section should be revised to provide some guidance as to the circumstances under which a penalty procedure might be involved if erroneous statistical data is submitted.

This provision has been a part of Customs procedures since December 7, 1973, when Customs Statistical Circular No. 41 was issued to implement an agreement reached with the American Importers Association by several Government agencies (Treasury, Commerce, and International Trade Commission) on implementing the FOB/CIF program for reporting statistical data. Because Customs is aware of no problems with this provision, no additional guidance is needed. Further, Customs believes that district directors should have discretion to decide the merits of each case.

27. *Section 141.61(f).* One commenter notes that in addition to being rated, an invoice filed at time of entry must be completed by deducting non-dutiable charges and adding dutiable charges such as assists. He mentions that this would be very difficult to accomplish on the night shifts on the Canadian border.

Proposed § 141.61(f) must be read in conjunction with proposed § 141.61(e). A rated invoice for which an entry summary is required by proposed § 141.61(e) need not contain, at the time of entry, the various charges mentioned in proposed § 141.61(f). Therefore, in these cases, the importer has 10 days from the time of entry to provide the value information. However, the rated

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invoice for which an entry summary is not required by proposed § 141.61(e) (appraisement entry, manufacturing warehouse entry, and rewarehouse entry) shall include the information required by proposed § 141.61(f). In these circumstances, Customs believes there is no alternative for providing the information at the time of entry.

28. *Section 141.62(a).* Several commenters note that since Customs Form 3461 is a serially pre-numbered, multi-part form, it provides the medium for immediate implementation of that portion of AMPS which would allow for filing of entries and entry summaries at different ports within a district. Another commenter notes that this section would preclude the district director from approving the filing of entry summaries at outports such as Gloucester and New Bedford, Massachusetts. He suggests that the regulation be revised to permit the documents to be filed at the Customs station, customhouse at the port of entry, or at the headquarters port of the region in which the port of entry is located.

Customs has reviewed its position on the place of filing the entry-related documents. Because of different physical and geographical locations and the variety and volume of importations, some Customs districts have the capability to permit merchandise to be released at one port and an entry summary to be filed at another port in the same district. However, other ports do not have this capability. Therefore, proposed § 141.62(a) has been revised to provide that entry, entry summary, or warehouse withdrawal documentation may be filed at the customhouse or at any other Customs location approved by the district director in the district where the merchandise is to be or has been released.

One commenter requests implementation of a procedure for advising the Customs officer at the cargo location that an entry has been filed, to avoid placing the cargo in general order when an entry summary which serves as both an entry and entry summary has been filed at the customhouse.

Customs believes the suggestion has merit and will undertake a study to develop a procedure to solve this problem.

29. *Sections 141.62(b) and 142.6.* Many commenters object to the "inflexible" office hours when the customhouse is open for the general transaction of business, especially with regard to the immediate delivery procedure. They claim that these hours would restrict importations and create a backlog at some ports. Commenters also object to the restriction on release and entry of quota-class merchandise to the official office hours.

Customs believes these objections have merit. Proposed § 142.6, relating to the entry of merchandise from Mexico and Canada when the customhouse is closed, has been deleted because that section, when read with § 141.62(b), is unclear.

To state more clearly the times when entry, entry summary, and withdrawal documentation, and applications for immediate delivery shall be filed, proposed § 141.62(b) has been revised as follows:

(1) Except for overtime service, applications for immediate delivery and entry documentation shall be filed when the customhouse is open for the general transaction of business, or when Customs has established a regular tour of duty.

(2) Except for overtime service, entry summary and withdrawal documentation shall be filed when the customhouse is open for the general transaction of business.

(3) Except as provided for quota-class merchandise, (a) entry summary and withdrawal documentation, and (b) applications for immediate delivery and entry documentation (when no regular tour of duty has been established), may be filed when overtime has been authorized even though the customhouse is not open for the general transaction of business.

(4) Overtime shall not be authorized for the *presentation* of entry summary documentation for quota-class merchandise without Headquarters authorization.

Under the discussion of comments submitted on proposed § 132.3, relating to quotas, it was noted that restrictions on official office hours are applicable to when the entry summary shall be presented for purposes of determining quota priority and status. Similarly, proposed § 141.62(b)(2)(ii) is concerned with overtime for the presentation of entry summary documentation. Office hours and overtime are relevant to presentation of entry summary documentation for purposes of determining quota priority and status and not necessarily to when quota-class merchandise may be released from Customs custody. As noted in the discussion of comments relating to Parts 132 and 142, the immediate delivery procedure may be used for merchandise subject to absolute and tariff-rate quota in specified circumstances. Accordingly, the reference in proposed § 141.62(b)(2) to § 142.6 has been deleted.

30. *Section 141.63(b).* Three commenters request clarification of whether entry summary documentation may be submitted for preliminary review without deposit of estimated duties during the 10-day period after time of entry and release of the merchandise.

Except for quota-class merchandise, the proposed section does not provide for the submission, after the merchandise has arrived, of entry summary documentation for preliminary review without estimated duties attached and thus, in effect, would eliminate "pre-entry review".

It is necessary that duty be deposited as early as possible; therefore, the duty shall be attached to the entry summary when the entry summary is filed. Eliminating pre-entry review would reduce the amount of time involved in double processing the entry summary. Of course, if an importer or broker has any questions concerning completion of his entry or entry summary, he may discuss the matter with the appropriate Customs official.

31. *Section 141.64.* Several commenters object to the requirement that entry and entry summary documentation shall be returned to the importer if errors are found. One notes that because statistical information is filed generally at the time of filing the entry summary, it would not be useful to review the entry documentation when filed without the entry summary documentation. It also is contended that the entry summary should be rejected only when "clearly erroneous", or when errors are "substantial" or "material". Another commenter requests a provision be added that Customs would not reject an entry if there is a dispute as to the classification which ordinarily must be shown on a rated invoice. A commenter suggests that a provision be added for an additional 10-day period after an entry summary is rejected to resubmit the entry summary.

The notice of November 29, 1978, proposed to amend present § 141.64 to provide for the review of statistical requirements as well as entry requirements (as provided in present § 141.64).

Present § 141.64 requires Customs officers to review the documentation to ensure that the indicated values and rates of duty "are correct". The proposed section reads "appear to be correct" and, therefore, is a relaxation of the existing requirement. To provide accurate statistics to the Bureau of the Census, the import specialist must have full authority to reject for correction entry summaries he believes have

incorrect, insufficient, or missing information. If there is a dispute as to the classification or value, those rates and values the import specialist believes are correct must be used because he is responsible for the accuracy of the data. Of course, the importer may protest the decision of the import specialist.

To ensure that trivial errors are not cause for rejection, guidelines were issued to field officers in Customs Statistical Circular No. 146, on September 20, 1978, and again in a letter to each Regional Commissioner on February 16, 1979.

The 10-day time limit for filing an acceptable entry summary must be adhered to so that the statistical information may be forwarded to Census on a timely basis.

32. *Section 141.68.* One commenter suggests that a paragraph be added to this section to define the time of entry for merchandise released under the immediate delivery procedure.

Customs agrees and has added a new paragraph to provide that the time of entry of merchandise entered under the immediate delivery procedure shall be the time the entry summary is filed in proper form, with estimated duties attached.

Another commenter suggests that a mechanism be developed to provide for the importer to declare the date of entry if he wishes it to be other than the date of release.

Customs believes proposed §§ 141.68 (a)(2) and (a)(3) are dispositive. The request must be made on the entry documentation.

Another commenter urges that § 141.68(a)(2) be revised to provide that if the importer requests the time of entry to be the time when the entry documentation is filed, Customs should permit the payment of duties within 10 days after the date of release of the merchandise.

After consideration of this request, Customs has determined that no change is needed. Accordingly, estimated duties shall be deposited at the time the entry summary is filed; that is, 10 days after the entry documentation is filed.

33. *Section 141.69.* One commenter raises a question concerning the date of the effective rate of duty when an immediate transportation entry is filed.

Customs made no change in present §§ 141.69 (b) and (c) and, therefore, did not include these sections in the November 29, 1978, notice. Section 141.69(b) provides that the specific rate of duty shall be determined as of the date Customs accepts the immediate transportation entry at the port of original importation.

34. *Section 141.83(c).* One commenter interprets this section to prohibit acceptance by the district director of a "photostatic" copy of a required commercial invoice.

A copy of a required commercial invoice, including a photostatic or other photographic copy, is acceptable. The only qualification is that if the importer submits a copy which is not a photostatic or other photographic copy, the copy shall contain a declaration that it is a true copy. A photostatic or other photographic copy needs no such declaration. The proposed section is being revised to include a reference to a photographic copy.

35. *Section 141.83(d).* Under the present regulations, neither a Special Customs Invoice ("SCI") nor a commercial invoice is required, and a pro forma invoice may be submitted, for merchandise unconditionally free of duty or subject only to a specific rate of duty (paragraph (d)(3)), or merchandise subject to a rate of duty dependent on value but entered under a conditionally free provision if all free entry documents and evidence required to establish the exemption from duty are produced at the time of entry (paragraph (d)(4)). The notice of November 29, 1978, proposed to delete these paragraphs. Many commenters object to the proposed deletion, claiming that it establishes a new requirement which imposes an unnecessary burden on importers and foreign suppliers to produce the SCI and will hinder the flow of merchandise. Several state the adoption of the proposal virtually would eliminate the availability of pro-forma invoices for all fish products and perishables in general. Others note that the only way a pro-forma invoice could be used is to rely on the waiver provisions of § 141.92. One commenter wants the regulation to state clearly that the SCI is not required when a commercial invoice is filed.

Customs believes there is no inherent reason why merchandise subject to free or specific rates of duty should be exempt from the requirements to furnish a commercial invoice. Some of the most strategic and sensitive commodities, such as petroleum and sugar, fall into this category. In addition, dumping complaints often are brought against merchandise which is free of duty or carries a specific rate, and the petitioners look to the official trade statistics to alert them to the problem and to provide them with the initial basis to file a complaint.

A pro forma invoice filed in lieu of a commercial invoice or a SCI may have data sufficient for duty purposes, but it seldom entirely satisfies the statistical requirements. Customs believes that commercial invoices are available for most of this merchandise but are not submitted simply because Customs does not require it. Customs doubts that the rate of duty involved determines whether or not a commercial invoice is prepared.

As a result of this amendment, only a commercial invoice will be required and a SCI will not be required. Accordingly, Customs is amending the first sentence of present § 141.83(a) to clarify that even though § 141.83(d)(4) is being deleted, only a commercial invoice will be required for merchandise subject to a rate of duty dependent on value which is entered under a conditionally free provision if all free entry documents and evidence required to establish the exemption from duty are produced at the time of filing the entry summary.

Also, notwithstanding the deletion of § 141.83(d)(3), the criteria set forth in present § 141.83(a) eliminate the requirement for an SCI for merchandise unconditionally free or subject only to a specific rate of duty.

In those cases where a commercial invoice is not available at the time of filing the entry summary for free and specific rate goods (e.g. some perishables), a pro forma invoice may be presented and bond taken for production of the commercial invoice under proposed § 141.91.

36. *Section 141.86(a)(8).* Several commenters object to the deletion of the phrase "when known to the seller or shipper" from this section on the basis that invoice information not available to its author would be required. One commenter claims that the proposed regulation would require the separate itemization of unnecessary FOB information and suggests that selling commissions not be itemized if included in the invoice price and so identified.

Customs does not believe that any change to proposed § 141.86(a)(8) is necessary. If the seller or shipper has the required information, he must itemize it on the invoice. If the seller or shipper does not have the information, the importer then must provide it on an attachment to the invoice. This information is necessary to collect accurate FOB/CIF data. The proposed regulation will ease the burden somewhat by not requiring the itemization of packing and inland freight charges to the port of exportation if they are included in the invoice price and are so identified.

Selling or buying commissions affect the unit value of the imported merchandise for purposes of sections 402 and 402a, Tariff Act of 1930, as

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amended (19 U.S.C. 1401a, 1402), and antidumping determinations and, therefore, should be itemized separately.

37. *Section 141.86(c).* One commenter objects to the requirement to produce a resale invoice, in addition to the original invoice, on the basis that a statement of sale to the importer showing ownership and the right to make entry should be sufficient.

Customs believes the comment has merit and has revised this proposed section to provide that, in addition to the original invoice, a resale invoice *or* a statement of sale showing the price paid for each item by the purchaser shall be filed as part of the entry, entry summary, or withdrawal documentation.

38. *Section 141.89(b).* One commenter notes that before enactment of Pub. L. 95–410, the Special Summary Steel Invoice ("SSSI") was required to be filed at the time of entry (now the "entry summary"). However, he contends that the introductory language of present § 141.89(b)(1) and present § 141.89(b)(1)(E) indicate that when merchandise is released under an entry before the filing of the entry summary, the SSSI would be required with the entry (i.e., the release).

This is not the intention of the regulations. Accordingly, these provisions are being amended to permit the filing of the SSSI at the time the entry summary is filed. If the SSSI is not filed with the entry summary, Customs will reject the entry and order redelivery of the merchandise in accordance with § 141.113(d). If the demand for redelivery is not complied with, liquidated damages will be assessed in accordance with § 141.113(g).

39. *Sections 141.101 and 142.12(c).* Numerous commenters object to the requirement that estimated duties be deposited at the time the entry summary documentation is filed. One commenter suggests the language be revised to provide for the deposit of estimated duties at the time the entry summary is reviewed and approved by Customs. It is claimed this method would allow for a more accurate entry summary, thereby decreasing corrections on liquidation. Another commenter objects to the requirement to deposit estimated duties at the time of entry rather than at the time the entry summary is filed, in certain circumstances. Others express concern about requiring deposit of estimated duties earlier than the 10-day period.

Section 505(a), Tariff Act of 1930, as amended (19 U.S.C. 1505(a)), sets forth the general requirement that estimated duties be deposited at the time of entry. Section 103 of Pub. L. 95–410 did not change this general requirement but merely created another exception to it. The general requirement is applicable to entries such as informal and appraisement entries which require no entry summaries but require deposit of estimated duties with the entry. The exception provides for the deposit of estimated duties at the time of entry or at a later time prescribed by regulation, not to exceed 30 days after making entry.

Proposed § 141.101(a) provides that if merchandise is released under the entry documentation before filing of the entry summary, deposit of estimated duties generally shall be made at the time the entry summary is filed (i.e., within 10 working days after the "time of entry").

Customs believes that for the present, there should be no change in the language of the proposed section. It is necessary to maintain the Government's cash flow by collecting duties as early as practicable to maximize the use of Customs collections and to preclude unnecessary borrowing and associated interest costs. Accordingly, the 10-day period to deposit estimated duties at the time the entry summary documentation is filed will remain as drafted.

40. *Part 142.* Numerous commenters object to the provisions of the proposed notice that would restrict the use of the immediate delivery procedure. Objections relating to its use in connection with quota-class merchandise are addressed in the discussion under Part 132. Other objections are discussed in Customs comments relating to specific sections of Part 142, which follow, and also under the heading "Other Changes".

One commenter requests the elimination of the immediate delivery procedure. However, Pub. L. 95–410 did not repeal section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), the statutory authority for the immediate delivery procedure. The language of this provision providing "permits for delivery, prior to formal entry" precludes Customs from defining "time of entry" as time of release. Under new § 141.68(c), the time of entry shall be the time the entry summary is filed in proper form, with estimated duties attached.

41. *Section 142.2.* One commenter suggests that the section be revised to provide for the automatic extension of the 5-day lay order period for certain specified reasons.

Customs disagrees and believes the question of granting extensions should be left to the discretion of the district director without specifying reasons in the regulations. Customs also believes there should be no change in the basic 5-day period without further study.

42. *Section 142.3.* One commenter objects to the requirement in proposed § 142.3(a)(1) that Customs Form 7533 be filed in duplicate under the new entry procedure.

Customs wishes to note that this form is necessary for control purposes. Generally, one copy remains with Customs as the entry, and the other is returned to the importer to be filed with the entry summary.

One commenter appears to object to the use of Customs Form 7533 as a release document under this section while favoring its use as a releasing document under the immediate delivery procedure.

Customs believes that it is proper for Customs Form 7533 to serve as a releasing document in either circumstance and, therefore, is retaining the proposed language.

One commenter questions whether it is appropriate for Customs to require the filing of other documents which may be required by Federal, state, or local agencies under § 142.3(a)(5).

Because Customs enforces the laws of other Federal, state and local agencies, it may be necessary to require other documentation for a particular shipment in order that Customs may carry out its enforcement responsibilities.

43. *Section 142.3a.* One commenter suggests that the prenumbering system not be limited to formal consumption entries but should apply to all other types of entries (informal, T.I.B., drawback). This commenter also suggests that entry numbers be obtained on the basis of the calendar year rather than the fiscal year. Several commenters express the opinion that the prenumbering system would be very beneficial.

The prenumbering system would apply to entry summaries for consumption, warehouse, and temporary importation under bond. It would not apply to any other entries. However, it is Customs policy to develop and utilize this procedure as extensively as possible. Customs anticipates expanding it to include other types of entries in the future.

Customs is unable at the present time to assign numbers other than on a fiscal year basis.

One commenter expresses concern that proposed § 142.3a(e), as well as proposed §§ 142.13 (a) and (b), and 142.24 (a) and (b) (discussed below), may hamper severly the operations of a broker or importer. He suggests that the regulations provide a procedure to ensure due process before the district director invokes the sanctions of proposed § 142.3a(e).

Customs disagrees and notes that the assignment of entry numbers is a procedure which is being established to provide a privilege and benefit to the importer. This privilege does not give rise to Fifth Amendment considerations.

Another commenter objects that the assignment of entry numbers other than during the hours of 8:00 a.m. to 5:00 p.m., Monday to Friday, would result in high overtime.

Customs believes that the importer is responsible for ensuring that he has sufficient entry numbers for his use, and notes that numbers ordinarily will be assigned in blocks of not less than 100. Also, this section has been revised to provide that the district director may assign numbers in blocks of less than 100, if warranted.

44. *Section 142.5.* Two commenters question the necessity for a bond rider to the entry bonds. The current editions of the entry bonds (Customs Forms 7551, 7553, and 7595) provide, in pertinent part, that if merchandise is released under section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), the immediate delivery procedure, the principal on the bond is liable for liquidated damages if he fails to make entry and deposit estimated duties within the allowable period. Although 19 U.S.C. 1448(b) continues to provide a valid method for securing release of merchandise, Pub. L. 95–410 amended section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to provide an alternative means for securing release.

Because 19 U.S.C. 1448(b) limits the types of merchandise entitled to be released under the immediate delivery procedure, and 19 U.S.C. 1484(a) is not so limited, Customs intends that most releases take place under 19 U.S.C. 1484(a). Therefore, the bond rider, which is conditioned on release under 19 U.S.C. 1484(a), is necessary to guarantee performance of the importer's obligation to file an entry summary timely. Otherwise, without the rider, if a release were made under 19 U.S.C. 1484(a), the entry bonds would not be obligated because the current editions are conditioned strictly upon releases of merchandise under 19 U.S.C. 1448(b).

One commenter states that if Customs intends to require the rider only to implement the terminology relating to the new entry procedure, Customs should revise the bond rider to repeat precisely the language of existing bonds except to alter the terminology to comply with the new procedure. Customs believes that the language of the bond rider should not be changed, as suggested, because merchandise now may be released under 2 statutes instead of 1. However, because merchandise will be released under 19 U.S.C. 1484(a), in most instances, instead of 19 U.S.C. 1448(b), and the 2 procedures for securing release are mutually exclusive, the bond rider must cover release under 19 U.S.C. 1484(a) as well as 19 U.S.C. 1448(b).

The same commenter believes that the rider and new bond editions should be revised to conform to Condition (2) of the current general term bond, Customs Form 7595: (The principal) "* * * shall pay to the said district director such amounts as liquidated damages as may be demanded by him in accordance with the law and regulations". He believes that this language would protect the revenue without the threat of initial demands for the value of the merchandise plus duty and taxes if the principal fails to conform to the conditions of the bond.

Customs believes that because the new entry procedure supplements but does not replace the existing immediate delivery procedure, as noted previously, a provision is necessary to cover explicitly the new entry procedure, instead of relying on what is at best a general condition, such as Condition (2) of Customs Form 7595. Condition (1) of Customs Form 7595 relates to the timely filing of entry documentation after merchandise is released under the immediate delivery procedure, and Customs believes similar language is necessary in connection with the new entry procedure. Even if Condition (2) were considered sufficiently broad to cover submission of documents under the new entry procedure, that provision does not provide for the timely deposit of estimated duties following the release of merchandise. For all of these reasons, Customs does not agree with this commenter.

Another commenter believes that a bond rider must be attached to each term bond at the time of execution. He appears to believe that the rider may not be attached after execution because § 113.23(d), Customs Regulations, provides that except in cases in which a change in a bond is authorized by regulation or instruction of the Commissioner, no change shall be made in the bond after execution.

It is Customs position that the rider incorporated in proposed § 142.5 effects a change expressly authorized by regulations, and that the rider established by Headquarters telex BON–3–O:D:E AO of November 20, 1978, which is substantially similar to that incorporated in proposed § 142.5 (except that the telex refers to modifications required by provisions of law and Customs instructions, instead of by provisions of regulations), effects a change expressly authorized by instruction of the Commissioner, within the meaning of § 113.23(d). Therefore, the rider may be attached to a bond after, as well as at the time of, execution.

This commenter notes that the minimum 60-day time delay provided by § 113.26(a), Customs Regulations, before a bond rider may become effective precludes its immediate use.

Customs agrees. The procedure provided in § 113.26(a) also may be used by a principal who desires to amend an existing bond with an approved rider. The principal is required to submit the rider and the bond transcript, Customs Form 53, at the appropriate port. The rider would take effect a minimum of 60 days after submission and would terminate with the underlying bond. Customs has provided by Headquarters instruction for a waiver of the 60-day effective requirement of § 113.26(a), for the bond rider set forth in proposed § 142.5 and for the bond rider established by Headquarters telex of November 20, 1978, previously referred to, until the normal termination date of the underlying bond. When the bond is renewed, the rider set forth in § 142.5 shall be required.

The same commenter also notes that the rider in proposed § 142.5 should have a letter identification similar to other bond riders. Customs agrees and has revised proposed § 142.5 to identify the bond rider as "RIDER R".

Another commenter states that the proposed bond rider was implemented by Headquarters telex dated November 20, 1978, without the benefit of public comment, and therefore violates the notice requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). In Customs Service Decision ("C.S.D.") 79–217, Customs ruled that a Customs bond is neither a rule of general applicability nor a rule of procedure as referred to in the Administrative Procedure Act, but that it is a contract and, consequently, there is no legal requirement to follow the rulemaking procedure of 5 U.S.C. 553 in promulgating the format for a Customs bond. In addition, section 623(b)(1), Tariff Act of 1930, as amended (19 U.S.C. 1623(b)(1)), gives the Secretary of the Treasury or Customs broad discretionary power to prescribe the conditions and forms of bonds.

This commenter states that the procedures for obtaining release by

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filing entry documents should be eliminated from the rider. Customs disagrees because 19 U.S.C. 1484(a) requires a consignee of imported merchandise to make entry by filing documentation which will enable a Customs officer to determine whether the merchandise is eligible for release.

The commenter apparently believes that if the importer fails to make entry timely, as provided for by § 141.5, and the merchandise is sent to general order, the importer's entry bond will be obligated. Customs does not agree because the bond is not obligated until an entry is filed by the importer.

The same commenter states that the provision of the rider relating to filing documents is not clear as to whether an importer may be "charged" (and the surety thereby be obligated) for failure to "file" the documents required by Customs to assess duties and to determine that applicable requirements of law or regulation are met in the following situations:

(1) In response to a Request for Information, Customs Form 28;

(2) For a failure to produce and "file" documents in response to a summons issued under section 509, Tariff Act of 1930, as amended (19 U.S.C. 1509); and

(3) For a failure to "file" documents which, as to the importer, may constitute a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

In C.S.D. 79–217, Customs ruled that:

1. For the purpose of satisfying the conditions of the bond rider, the rider refers to documentation required by a law or regulation to be filed at the time entry summary documentation is filed. The requirement of § 141.66 for a bond to guarantee production of a missing document assumes that the document is known to be missing at the time entry summary documentation is filed. If the entry summary documentation were filed without any required document, failure to furnish the missing document timely subjects the importer as principal and the surety to liquidated damages for breach of the condition of the bond which requires the missing document to be filed timely. Assuming the entry summary documentation is filed timely in proper form, there is no breach of condition as to the filing of the documentation. The bond is not designed to guarantee production of documents or information determined to be necessary only after Customs reviews the entry summary documentation and makes a request for additional information or documents on Customs Form 28. Of course, failure to file a necessary document or to provide information when requested may cause Customs to extend the 1-year period for liquidation of an entry or result in the assessment of increased duties at the time of liquidation on the basis of the best information available to Customs.

2. An importer's failure to comply with a summons issued under 19 U.S.C. 1509 does not subject the surety to liability under an entry bond.

3. An importer's failure to file a document does not subject the surety to liability under 19 U.S.C. 1592.

The same commenter notes that the statement in the first whereas clause of the bond rider—"Whereas certain merchandise which is described in a bond * * * "—is misleading because no existing Customs bond provides for a description of the merchandise, and recommends that this clause be deleted.

Customs agrees that use of the word "described" in the context may be misleading. However, rather than eliminate the clause, the phrase "referred to" has been substituted for the word "described" in the bond rider set out in proposed § 142.5.

45. *Section 142.6.* Two commenters raise questions relating to this section.

As noted under the discussion of comments relating to proposed § 141.62(b), proposed § 142.6 has been deleted. Accordingly, proposed §§ 142.7, 142.8, and 142.9 have been renumbered as §§142.6, 142.7, and 142.8, respectively.

46. *Section 142.7* (now 142.6). Many commenters object to the requirement of this section that the invoices be rated by showing the appropriate 5-digit item number from the Tariff Schedules of the United States ("TSUS"). They contend that on numerous occasions, the information may not be available and thus cause delays in release of the merchandise, or there may be a dispute as to the proper rate. Another question why this information is needed at the time of entry and notes that under T.D. 78–174, an importer may subject himself to penalty liability by providing the information. One commenter notes that the proposed section does not provide for a change without prejudice from an incorrect 5-digit classification in documents supporting the entry to a corrected 7-digit classification in documents supporting the entry summary. Several commenters note that this information should be required only at the time of filing the entry summary. Several commenters suggest that this proposed section be amended to provide that (1) entries shall not be rejected because of any questions as to proper rating when the invoice descriptions are complete and accurate, (2) importers may make rating changes between entry and entry summary, and (3) rating errors should not be the basis for penatly proceedings. One commenter suggests that the section provide that the district director may waive the rated invoice requirement. Other commenters suggest proposed § 142.7(a)(4) be deleted.

In light of the comments, Customs has reconsidered its position. A sentence has been added to this proposed section to provide that the district director may waive the requirement to provide the 5-digit TSUS item number from the invoice when the information is not available at the time release of the merchandise is authorized. Additionally, when required, it is within the discretion of the district director to permit an importer to change the TSUS number at time of filing the entry summary. Whether or not a penalty would be imposed depends upon the facts and circumstances surrounding the filing of the documentation, which would determine whether there is a falsity without reasonable cause to believe the truth of the rating shown on invoice.

47. *Section 142.11(a).* Several commenters suggest this section be revised to permit Customs Form 5119–A or 7501 to serve as follow-up documentation for merchandise entered under an informal entry and released under the entry documentation set forth in §142.3(a).

Customs agrees that Customs Form 5119–A or 7501 should serve as follow-up documentation for merchandise entered under an informal entry and released under the entry documentation, and accordingly, has revised proposed §§ 141.68, 142.11, and present § 143.23. A sentence has been added to proposed § 142.11(a) referring the reader to present § 143.23 in situations relating to merchandise entitled to be entered under an informal entry.

Present § 143.23(f) is being amended to provide that for merchandise entitled to be entered under an informal entry and released under the immediate delivery or entry documentation, Customs Form 5119–A or 7501 (annotated "Informal Entry" in the upper right hand corner) may be used as the follow-up documentation.

Proposed § 141.68(h) is being revised to state the time of entry for informal entries. If merchandise eligible for informal entry is released under immediate delivery and then Customs Form 5119–A or 7501 is filed, the time of entry shall be the time the Customs Form 5119–A or 7501 is filed in proper form, with any related documents and estimated duties attached. However, if merchandise eligible for informal entry is released under the entry documentation set forth in § 142.3(a) and then Customs Form 5119–A or 7501 is filed, the time of entry shall be in accordance with proposed § 141.68(a).

One commenter questions whether Customs Form 3311 would serve as entry and entry summary regardless of value.

Proposed §§ 10.1 (g) and (h) permit Customs Form 3311 to be used as an entry summary for consumption for certain aircraft and aircraft parts and equipment and for nonconsumable vessel stores and equipment regardless of value. If the value of other merchandise is over $250 for American goods returned, an entry summary for consumption on Customs Form 7501 is required.

Another commenter suggests that the provisions for filing entry summary documentation 10 days after release of merchandise be limited to merchandise entered for consumption or under informal entries, and that merchandise not be released under TIB entries or entries for warehouse unless the documentation otherwise required as part of the entry summary is furnished before release.

Customs is of the opinion that the Act does not limit the filing of an entry summary to situations where the merchandise is entered for consumption or under an informal entry. Accordingly, no change is being made in this proposed section.

48. *Section 142.12.* Many commenters object to any action on the part of Customs to require deposit of estimated duties earlier than 10 working days after the time of entry. It is claimed that requiring estimated duties earlier would create undue burdens for many importers because 10 days is the minimum time in which customhouse brokers can calculate duty, obtain deposits from the importer, prepare the entry summary, and locate and file documents with Customs.

As noted in the discussion under proposed § 141.101, Customs is retaining the 10-day period for the present.

Several commenters request clarification as to the timing and count of the 10-day period, noting that this proposed section does not mention Customs position regarding the length of time documents are in Customs possession in determining the 10-day period, and suggest this position be incorporated in the regulations.

One commenter suggests that the phrase "unless otherwise provided in [section] 141.64" be added to proposed § 142.12(b). It appears that the commenter is suggesting that if the entry summary is returned to the importer because it is not filed in proper form, the time it was under review by Customs shall not be included in the 10 working days during which the entry summary, with estimated duties attached, ordinarily must be filed.

Customs position on this matter is set forth in instructions to its field offices. Basically, the period of time Customs holds the entry summary is included within the 10-working-day period. However, if it is necessary to return the entry summary for correction, the importer is allowed at least 2 working days to make the necessary corrections, provided the entry summary was filed initially within the 10-working day period.

One commenter suggests that the regulations provide that Saturdays and Sundays not be included in the 10-day count. It is unnecessary to refer to Saturdays and Sundays in determining the 10-day count, because proposed section 142.12(b) explicitly mentions "working days".

49. *Section 142.13.* One commenter notes that in light of proposed § 141.64 (which provides that if errors are found, the entry and entry summary documentation shall not be considered "filed" and be returned to the importer), proposed § 142.13(a)(3) is contradictory and superfluous. The basis for this reasoning is that because "filing" does not occur until the entry summary is correct and complete, an importer cannot repeatedly "file" incomplete or erroneous entry summaries.

Because Customs agrees with this comment, the non-technical term "delivered" has been substituted for the technical term "filed" in this section. Customs is concerned about the repetitious delivery to Customs of entry summaries which are incomplete or which contain erroneous information.

Several commenters request that the term "repeatedly", as used in proposed §§ 142.13(a)(1) and (3), and the phrase "substantially or habitually delinquent", as used in proposed § 142.13(b), be defined.

Customs believes that the term "repeatedly" need not be defined. This term will be given its normal dictionary meaning. Similarly, Customs believes the phrase "substantially or habitually delinquent", used in present § 142.7 for suspension of immediate delivery privileges (proposed § 142.26), need not be defined in the regulation.

The term "habitually deliquent" means to fail repeatedly to pay Customs bills within 30 days. The term "substantially delinquent" means to fail to pay a large amount of money due to the United States within 30 days.

One commenter believes that due process requires a hearing with a right of appeal to Customs Headquarters before the regional commissioner may act under § 142.13(b).

Customs disagrees. There is no due process issue involved. Section 102 of Pub. L. 95–410 provides that the entry summary shall be filed at the time of entry of the merchandise or within 10 working days after time of entry. Section 103 provides that the importer shall deposit estimated duties at the time of entry or by regulation at a later time, not to exceed 30 days. Customs has interpreted this to permit deposit of estimated duties within 10 working days after the time of entry. If the importer is habitually or substantially delinquent in the payment of Customs bills, then Customs has the right to require filing of the entry summary, with estimated duties attached, before the merchandise may be released. Customs believes that this does not generate a due process claim. Similarly, Customs considers the use of the immediate delivery procedure a privilege rather than a right. Suspension of the privilege would require an importer to deposit estimated duties at the time of release, which is consistent with 19 U.S.C. 1505(a).

Two commenters suggest that when a regional commissioner requires the entry summary to be filed and estimated duties deposited before release of the merchandise, as provided in proposed § 142.13(b), the sanction (as set forth in proposed § 142.14) should be restricted to the particular port or ports where the entry requirements are being violated.

Customs disagrees. The immediate delivery procedure previously provided for the suspension of the immediate delivery privilege for the particular region involved. However, based upon Customs experience, it is necessary to amend present § 142.7 to provide for suspension in any Customs region (see T.D. 76–78). Proposed § 142.26 contains provisions similar to those in proposed § 142.14.

50. *Section 142.17.* Several commenters are concerned that adoption of a weekly consolidated entry for merchandise consigned to the same consignee would eliminate the daily consolidated entry of "like" merchandise for ultimate consignees by a customhouse broker under his own name and bond.

Customs did not intend to eliminate this practice. A new § 142.17a is being added to Part 142 to permit a customhouse broker as nominal consignee to file a daily consolidated entry summary in his own name under his own bond to cover shipments of like

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or similar merchandise consigned to multiple ultimate consignees provided the merchandise is imported on the same day, itemized as to each category of merchandise by statistical reporting number, and released on the same day. This practice, which has been in effect since 1954, is merely being made a part of the regulations.

One commenter objects that proposed § 142.17(b)(5) would prohibit the filing of one entry summary of multiple entries of merchandise subject to internal revenue tax.

Customs has reconsidered its position and because this prohibition has been found to be unnecessary, has revised proposed § 142.17(b) by deleting subparagraph (5), relating to merchandise subject to internal revenue tax.

51. *Section 142.21(a).* Several commenters suggest that the proposed section should permit the use of the immediate delivery procedure for other than land shipments from Canada or Mexico.

Customs believes that the immediate delivery procedure is an exception to the general rule that under Pub. L. 95–410, the "entry" is the releasing document and, therefore, should be used only in special circumstances. The use of the immediate delivery procedure in connection with merchandise from contiguous countries is limited to land shipments to avoid congestion at the border ports. The same circumstances do not apply to shipments arriving by air and sea, because there is time to prepare the necessary entry documentation in connection with such shipments. Accordingly, proposed § 142.21(a) is being revised to make clear that the immediate delivery procedure applicable to shipments from contiguous countries is limited to land shipments.

52. *Section 142.21(b).* One commenter questions why the procedure set forth in this proposed section includes only certain merchandise transported to an importer's premises within the port of importation but removed from the area immediately contiguous to the border.

Other commenters suggest that the provision apply to fresh cut flowers, livestock, frozen strawberries, tropical fish, and other merchandise.

Customs believes this section cannot be expanded to cover the transportation of merchandise to an importer's premises outside the port limits because it is necessary to maintain strict control and accountability of the merchandise released under this liberalized procedure.

It also is Customs position that this procedure should include only fresh fruits and vegetables and should not be expanded.

53. *Section 142.21(d)* (now § 142.21(g)). One commenter asks what type of merchandise would fall within the context of this proposed section which provides that Headquarters may authorize release of merchandise under the immediate delivery procedure.

This proposed section was added to provide for the immediate release of merchandise on a case-by-case basis in situations which may arise in the future.

54. *Section 142.22(a).* Although one commenter notes that this section provides that an importer may deliver to Customs a pro forma invoice, he questions whether the other invoice requirements would apply at time of filing the entry summary.

The invoice requirements in proposed § 142.16(a) would apply when an entry summary is filed as a follow-up document after the release of merchandise under the immediate delivery procedure.

55. *Section 142.22(b).* One commenter notes that it would be more accurate to state that the document filed under § 142.22(b)(1) is actually a combined entry/entry summary.

An entry summary may be filed (1) after the merchandise is released under an entry, (2) at the time of entry, in which case the entry summary shall serve as an entry and entry summary, or (3) after the merchandise is released under the immediate delivery procedure. As previously noted, a separate proposal is under consideration to revise Customs Form 7501, to be entitled the "Entry/Entry Summary".

One commenter questions whether under this section, an importer could have merchandise released under a special permit for immediate delivery, return the merchandise to Customs custody several days later, and file an exportation entry, thereby negating the need to file an entry summary.

The filing of an exportation entry after release under an application for immediate delivery is permitted only under proposed §§ 142.21(b), relating to fresh fruits and vegetables, and 142.21(e)(2), relating to absolute quota merchandise.

56. *Section 142.23.* Two commenters note that although the proposed section continues to provide for the 10-working-day period for filing documentation after release, longer periods have been allowed for monthly consolidated entries. One of these commenters suggests that § 142.23 be revised to provide for periods longer than 10 working days when authorized by Customs Headquarters.

The monthly consolidated entry procedure presently is under review. It is not intended that proposed § 142.23 make any change in the procedure. Customs believes the language should remain as proposed.

57. *Sections 158.21a and 158.43(c)(2).* One commenter believes there is no reason why an abatement or a refund should not be permissible throughout the full 5-year term authorized for warehouse entries.

Customs believes this matter was explained satisfactorily in the proposed notice of November 29, 1978 (43 FR 55780).

58. *Section 159.9(c).* Several commenters object to Customs considering the legal notice of liquidation to be the bulletin notice posted in the customhouse. One commenter suggests that Customs eliminate the practice of considering the bulletin posting of liquidation as the official notice and instead consider the mailed "courtesy" notice as the official notice.

Section 500 of the Tariff Act of 1930, as amended (19 U.S.C. 1500), authorizes the Secretary of the Treasury to prescribe regulations for the liquidation of entries of imported merchandise. Under this authority, present § 159.9(a) provides that a notice of liquidation of formal entries shall be made on a bulletin notice of liquidation, Customs form 4333 or 4335. The Customs Court in *Reliable Chemical Company* v. *United States,* C.R.D. 78–111 (1978), held that the notice of liquidation must be given in the form and manner prescribed by the Secretary of the Treasury and the regulations so prescribed have the force of law.

One commenter questions whether the bulletin notice would serve as the only legal evidence of liquidation and refers to the above-cited case, wherein the Customs Court held that Customs Form 4333–A constituted a direct, formal, and decisive notice of liquidation. Two commenters recommend that Customs continue to provide a courtesy notice in addition to the bulletin notice. Other commenters question whether importers would receive a notice of liquidation for entries that are liquidated before the 1-year period and for entries deemed liquidated by operation of law.

Customs has determined that the bulletin notice shall serve as the only legal evidence of liquidation. However, Customs will review the procedure to provide alternate means of providing legal evidence of liquidation when AMPS is developed further.

Also, Customs will implement the suggestion of the Customs Court in *Reliable Chemical Company* v. *United States, supra.* In this regard, a new paragraph (d) has been added to present § 159.9 to provide that Customs will endeavor to provide a Customs form 4333–A, the "Courtesy Notice", for all entries specified in § 159.9(a)(1) which are scheduled to be liquidated. Customs also will provide the courtesy notice, in addition to the bulletin notice specified in proposed § 159.9(c)(2)(iii), for all entries which are deemed liquidated by operation of law. Customs Form 4333–A is being revised to provide (and § 159.9(d) specifically states) that the form shall serve only as an informal courtesy notice and not as a direct, formal, and decisive notice of liquidation. However, a courtesy notice will not be provided for informal entries liquidated under present § 159.10(c)(3).

A new sentence has been added to §§ 159.11(a), 159.12(f), and 159.12(g) to state that Customs will endeavor to provide a Customs Form 4333–A pursuant to § 159.9(d).

Several commenters raise questions about the period of time for filing protests after liquidation. Proposed § 159.9(c)(2)(iii) provides that for entries liquidated by operation of law, a protest shall be filed within 90 days from the date the bulletin notice of liquidation is posted or lodged in the customhouse. The commenter requests this section be revised to provide that the 90-day protest period should begin to run on the date of liquidation by operation of law. Another commenter suggests that Customs provide 2 applicable 90-day periods: 90 days from (1) the date of bulletin notice, as provided in proposed § 159.11, or (2) the date of expiration of the appropriate statutory period, whichever occurs first.

Customs has reviewed this matter and has determined that no change is necessary. The protest must be filed within 90 days from the date the bulletin notice of liquidation of an entry liquidated by operation of law is posted or lodged in the customhouse. However, it is proper for a protest to be filed on the date of liquidation of an entry deemed liquidated by operation of law, or within 90 days thereafter, even though the importer has not as yet received the bulletin notice of liquidation. The importer will have, in effect, 2 time frames within which to file a protest. Proposed section 159.9 specifies the longer period of time.

59. *Section 159.11(a).* One commenter objects to the language that an entry not liquidated within the 1-year period shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted by the importer at time of entry. He believes these factors should be fixed as of the date the entry summary is filed.

Customs believes this comment has merit. "Time of entry" is used in section 209 of Pub. L. 95–410 (19 U.S.C. 1504) to refer to the time the merchandise enters the commerce of the United States. Therefore, for purposes of liquidation, Customs believes this term has a different meaning than that set forth in proposed § 141.68.

Customs believes that for purposes of liquidation, "time of entry" occurs when an entry summary in proper form, with estimated duties attached, is filed, or in the case of merchandise entered for warehouse, when the merchandise is withdrawn from warehouse for consumption and estimated duties are deposited. Therefore, proposed §§ 159.11(a) and 159.12(f) have been revised to reflect that an entry deemed liquidated by operation of law shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of filing the entry summary for consumption in proper form, with estimated duties attached, or at the time of filing a warehouse withdrawal for consumption in proper form, with estimated duties attached.

The same commenter believes Customs also should take into consideration any tender of duties submitted by the importer after the entry summary is filed. A definitive answer to this comment would depend on the facts and circumstances surrounding the tender. For example, a tender of additional duties may be required as liquidated damages for failure to produce a missing document timely, in accordance with § 141.66, Customs Regulations, or for failure to meet a conditionally free entry requirement. Generally, however, Customs believes that the action contemplated by 19 U.S.C. 1504 is fixed at the time of filing the entry summary and would not be applicable to any voluntary tender of duties made after the filing of the entry summary, with estimated duties attached.

One commenter requests clarification of the meaning of the terms "asserted" and "amount of duties asserted by the importer". He wishes to know whether the term "asserted" implies any TSUS rate the importer states and how this rate would be documented in reject situations.

The statute requires that an entry deemed liquidated by operation of law shall be liquidated at the TSUS rate of duty, value, quantity, and amount of duties which is "asserted". In this context, "asserted" means that which is claimed and indicated by the importer, his consignee or agent on the entry summary or warehouse withdrawal.

60. *Section 159.11(b).* Several commenters object that this proposed section and proposed § 159.12 shall apply to entries or withdrawal of merchandise for consumption made after March 31, 1979. They believe that the procedure should apply to all unliquidated entries.

Section 209(b) of Pub. L. 95–410 states:

> The amendment made by this section applies to the entry or withdrawal of merchandise for consumption on or after 180 days after the enactment of this Act.

Therefore, proposed §§ 159.11(b) and 159.12 apply only to entries or withdrawals of merchandise for consumption made after March 31, 1979, and cannot be applied to unliquidated entries made before that date. This delayed effective date was incorporated into the statute to enable Customs to program the automated systems required to administer the new provision.

61. *Section 159.12(a).* One commenter questions the meaning of the phrase "not available" in paragraph (a)(1) in the context of American Selling Price (ASP) appraisement. He believes that the phrase "not available" would preclude postponement or extension of time for an ASP determination because the information on domestically-produced shoes is "available" in the market place at the time of importation.

Customs believes that the statutory authority to extend the period for liquidation to develop additional information relating to the appraisement of merchandise extends to situations in which the information is not before Customs for any reason. Accordingly, the time for liquidation of ASP entries may be extended if the information is not before Customs, notwithstanding its availability in the market place.

62. *Section 159.12(g).* One commenter suggests that Customs Form 4333 be used as the means of notification of liquidation, and that Customs supply a print-out of entries liquidated for each customhouse broker having an interest.

As indicated above, Customs will endeavor to provide a courtesy notice as well as the bulletin notice. Customs is considering the request to supply a print-out of liquidation for the individual customhouse broker having an interest.

63. *Section 172.22.* Although the notice of November 29, 1978, contained no reference to amending Part 172, one commenter notes that because Part 142

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has been rewritten, the reference to § 142.15 in § 172.22(d) is incorrect. Customs agrees.

Therefore, § 172.22 is amended to reflect appropriate cross-references to the immediate delivery procedure and to release under an entry.

64. *Other comments.* One commenter suggests that the terms "importer", "importer of record", and "consignee" be defined.

The term "importer" is defined in § 101.1(k) and includes within its meaning a "consignee" and "importer of record".

Two commenters object because only 30 days was given for the public to provide written comments on the proposed notice of November 29, 1978.

As stated in the notice, the comment period was 30 days rather than 60 days because it was necessary to expedite implementation of the legislative changes made by Pub. L. 95-410 which became effective either upon enactment, or 60 to 180 days thereafter.

Other Changes

Upon its own review, Customs has made additional changes in the amendments proposed in the notice published in the **Federal Register** on November 29, 1978. Customs also is amending certain sections of the Customs Regulations which were not referred to in the notice. Because these amendments merely liberalize existing requirements, or represent conforming and editorial changes, notice and public procedure thereon are found to be unnecessary.

1. *Section 24.3.* Section 24.3(b), relating to bills and accounts and receipts, not discussed in the November 29, 1978, notice, is amended to provide that a payer shall be furnished a receipt for estimated duties at the time of payment, rather than the time of entry, if he furnishes with his payment an additional copy of the documentation submitted in support of the payment. The reference to furnishing an additional copy of Customs Form 5101 has been deleted because this form is not used for this purpose. Additionally, minor editorial changes have been made.

2. *Section 132.14.* Proposed § 141.0a(e) provides that the term "presentation" is to be used only in connection with quota-class merchandise. However, the term "filing", defined in proposed § 141.0a(d), was used inadvertently in two sections in Part 132. Therefore, the term "presentation" has been substituted for the term "filing" in proposed § 132.14(a)(3)(i)(B) (renumbered § 132.14(a)(4)(i)(B)).

The term "presentation" also has been substituted for the term "filing" in proposed § 132.14(a)(3)(ii) (now § 132.14(a)(4)(ii)).

3. *Section 141.0(a).* This proposed section defines terms used in connection with the entry of merchandise. Three additional definitions have been added to this section.

The term "entered for consumption" means that an entry summary for consumption has been filed with Customs in proper form, with estimated duties attached.

The term "entered for warehouse" means that an entry summary for warehouse has been filed with Customs in proper form.

The term "entered under a temporary importation bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper form.

These terms are being added because the type of entry is not determined until the information set forth on the entry summary is provided.

4. *Section 141.55.* Section 141.55, relating to a single entry summary for shipments arriving under one transportation entry, not discussed in the November 29, 1978 notice, is being amended to reflect the use of the term "entry summary". As amended, this section provides that an entry summary ordinarily may be filed for the entire quantity of merchandise transported under one immediate transportation entry from the port of origin to the port of final destination in installments. Minor editorial changes also have been made.

5. *Section 141.56.* A new § 141.56, relating to a single entry summary for multiple transportation entries consigned to the same consignee, is added. This section provides that a district director may accept an entry summary for merchandise covered by multiple entries for immediate transportation. However, a single entry summary shall not be accepted for any merchandise listed in proposed § 142.17(d).

6. *Section 141.61(d)(1).* Proposed § 141.61(d)(1) provides that except in the case of a consolidated entry summary covering merchandise of more than 1 ultimate consignee, the importer number of the importer of record and of the ultimate consignee shall be reported for each consumption or warehouse entry summary and for each appraisement, vessel/aircraft repair, or drawback entry. The proposed section also provides that if the importer of record and the ultimate consignee are the same, the importer number shall be entered in both spaces provided on Customs Form 5101.

If the importer of record and ultimate consignee are the same, it is unnecessary to require the importer number to be entered in both spaces. Therefore, the second sentence of proposed § 141.61(d)(1) has been revised to provide that in this circumstance, the importer number may be entered in both spaces, or the importer number may be entered in the space provided for the importer of record, and the word "same" may be entered in space provided for the ultimate consignee. This change should reduce the number of errors which result from improper data transcription.

7. *Section 141.61(e)(1).* This section sets forth various Customs forms upon which the applicable statistical information is required to be shown. Several technical changes in citing the forms have been made. References have been added to:

(1) Customs Form 7500, "Appraisement Entry",

(2) Customs Form 7512, "Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit", when used to document an incoming vessel shipment proceeding to a third country by means of transportation and exportation, or immediate exportation, and

(3) Customs Form 226, "Record of Vessel/Aircraft Foreign Repair or Equipment Purchase".

The reference to Customs Form 7502, when used as a rewarehouse entry, has been deleted.

8. *Section 141.62(b)(1) (now 141.62(b)(1)(ii).* The phrase "special permit for", in describing the immediate delivery application, may be confusing and, therefore, is deleted.

9. *Section 141.68(a).* Proposed § 141.68(a)(1) provides that if entry documentation is filed in proper form without the entry summary, the time of entry is the time authorized for release of the merchandise. However, merchandise may take several to unlade. The counting, for purposes of filing the entry summary, with estimated duties attached, begins when the Customs officer authorizes release of any part of the merchandise covered by the entry. This section has been revised to reflect this point.

10. *Section 141.88.* A Special Customs Invoice ("SCI"), Customs Form 5515, is required for each shipment of merchandise imported into the United States when the purchase price exceeds $500 and the rate of duty is dependent in any manner upon the value of the merchandise. This invoice also is required for merchandise not imported pursuant to a purchase or agreement to purchase when the value is over $500.

The general information required by section 481(a), Tariff Act of 1930 (19 U.S.C. 1481(a)), to be shown on all invoices, including the SCI, for merchandise imported into the United States, is set forth in § 141.86(a).

Pursuant to section 481(d), Tariff Act of 1930 (19 U.S.C. 1481(d)), exemptions from the requirements of 19 U.S.C. 1481(a) may be made by the Secretary as he deems advisable. An exemption has been found advisable in the case of the SCI.

In cooperation with the National Committee on International Trade Documentation, Customs has revised the SCI to align it with the United States Standard Master for International Trade. The United States Standard Master for International Trade was designed to facilitate the use of forms in international trade by creating uniform specifications for form, size, and content, and to allow importers to use automatic data processing equipment in completing trade forms.

As a result, certain information required by § 141.86(a) to be included on all invoices no longer need appear on the SCI, and the requirement for furnishing the information has been deleted from this form.

Accordingly, the SCI is excepted from the general informational requirements of § 141.86(a), and a new § 141.86(j) has been added to reflect the specific informational requirements of this form.

11. *Section 141.91.* The phrase "other than a special summary invoice" was omitted inadvertently from the introductory language of this section in the November 29, 1978, notice, and is being inserted by this document.

12. *Section 141.92(b).* The introductory language of this section is being amended to reflect the new entry/entry summary terminology.

13. *Section 142.3a.* This paragraph has been revised to define the first fiscal year as beginning on October 1, 1979, and ending on September 30, 1980.

Customs plans to begin to initiate assigning entry numbers nationwide on October 1, 1979. Although pilot tests are being conducted and others will be initiated prior to October 1, 1979, the national capability for implementing this procedure will not occur until that date.

14. *Section 142.17(a)(2). Proposed § 142.17(a)(2)* provides that a district director generally may permit the filing of 1 entry summary for merchandise the subject of separate entries if the merchandise arrives by the same air carrier or the same mode of land transportation. However, upon review, it has been determined that this procedure may be used for merchandise arriving by the same vessel, and that there is no need to restrict this procedure to the same mode of land transportation. Therefore, this section is being revised to provide that the procedure may be used when the merchandise arrives by land, by the same vessel, or by the same air carrier.

15. *Section 142.17(b).* Proposed § 142.17(b) sets forth 5 situations in which 1 entry summary may not be used for multiple entries. As previously noted, reference to the fifth situation has been deleted. Customs has added a new fifth limitation to cover the situation when the rate of duty on merchandise covered by the same TSUS item number changes during the period of consolidation. This limitation would apply to entries and immediate transportation entries so that only those filed before the change in the rate of duty could be consolidated into 1 entry summary and those filed on or after the change could be consolidated into another entry summary. Customs believes that the procedure otherwise would be too burdensome to use.

16. *Section 142.21.* Proposed § 142.21 sets forth the circumstances under which merchandise may be released under the immediate delivery procedure. However, the November 29, 1978, notice inadvertently omitted the use of the immediate delivery procedure for merchandise consigned to or for the account of any agency or office of the United States Government, or to an officer or official of the agency in his official capacity. Therefore, a new § 142.21(c) has been added to provide for this use of the immediate delivery procedure.

The notice also inadvertently omitted the use of the immediate delivery procedure for articles entered for a trade fair, as provided for in § 147.13 of this chapter. Therefore, a new § 142.21(d) has been added to provide for this use of the immediate delivery procedure.

17. *Section 142.21(a).* The second sentence of this section has been revised to provide a cross-reference to § 142.21(b)(1) to reflect the type of entry summary documentation which shall be filed.

18. *Section 142.22(b)(1).* This section has been revised to include a reference to an "entry summary for warehouse and entry summary for entry under temporary importation bond". This change is being made to conform to the current practice.

19. *Section 142.25.* Proposed § 142.13(a) sets forth 3 circumstances in which the district director may require that the entry summary documentation by filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released. However, proposed § 142.25(a) (the title of § 142.25 inadvertently was omitted from the November 29, 1978, notice) sets forth only 2 provisions for which the district director may discontinue the immediate delivery procedure. A third circumstance, similar to that in proposed § 142.13(a)(3), has been added to § 142.25 as paragraph (a)(3). Customs considers the comments made on proposed § 142.13(a)(3) to apply to the new § 142.25(a)(3).

20. *Part 151.* The following sections of this part are being amended to reflect the new entry/entry summary terminology:

1. The first and last sentences of § 151.47,

2. The section heading and first sentence of § 151.63,

3. Paragraph (a) and (b) of § 151.64. and

4. The first, third, and fourth sentences of § 151.64.

21. *Part 158.* The following sections of this part are being amended to reflect the new entry/entry summary terminology:

1. The section heading and first sentence of § 158.2, and

2. The section heading and first sentence of § 158.3.

22. *Section 159.11(b).* The notice stated that the amendments relating to the time limits for liquidation did not include vessel repair entries or drawback entries. This limitation has been incorporated in proposed § 159.11(b).

For editorial clarity, this proposed section also has been revised by referring to the effective date as "on or after April 1, 1979" rather than "after March 31, 1979".

23. *Sections 159.12 (b) and (c).* Proposed §§ 159.12 (b) and (c) provide the district director shall notify the importer or appropriate party in writing of an extension or suspension of liquidation. These sections have been revised to provide that notification shall be on "Customs Form 4333-A, appropriately modified".

24. *Section 159.12(f)(1).* The phrase "for consumption" has been deleted

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from this paragraph. This phrase may be confusing because final withdrawals may not always be withdrawals for consumption.

25. *Section 172.22(b).* This section is being amended to (1) reflect the new entry/entry summary terminology, and (2) provide for the production of a required invoice within 50 days after the date the entry or entry summary is filed. The second change is being made to conform this section with proposed §§ 141.61(e)(2) and 141.91(d).

26. *Section 173.1.* Section 173.1 provides that district directors have broad responsibility and authority to review transactions to ensure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is in accordance with law. However, this section makes no reference to the Regional Commissioner of Customs, New York, and is being amended to refer to that official.

27. *Section 173.4(c).* Proposed § 173.4(c) provides that a clerical error, mistake of fact, or other inadvertence meeting the requirements of § 173.4(b) shall be brought to the attention of the district director at the port of entry within 1 year after the date of liquidation or exaction. However, proposed § 173.4(c) makes no reference to the Regional Commissioner of Customs, New York, and is being amended to refer to that official.

After consideration of the comments received and upon Customs internal review, it has been decided to adopt the regulations as proposed with the changes set forth in this document.

Inapplicability of Executive Order 12044

This document is not subject to the provisions of the Treasury Department directive (43 FR 52120) implementing EO 12044, "Improving Government Regulations", because the subject matter was in an advanced state of preparation before May 22, 1978.

Drafting Information

The principal authors of this document were Charles D. Ressin and Benjamin H. Mahoney, Regulations and Legal Publications Division, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendments to the Regulations

Parts 10, 11, 24, 127, 132, 141, 142, 143, 144, 151, 158, 159, 172, and 173, Customs Regulations (19 CFR Parts 10, 11, 24, 127, 132, 141, 142, 143, 144, 151, 158, 159, 172, and 173), are amended as set forth below.

William T. Archey,

Acting Commissioner of Customs.

Approved: July 17, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. §§ 10.1 (d), (g) and (h) are amended to read as follows:

§ 10.1 Domestic products; requirements on entry.

* * * * *

(d) If the district director is reasonably satisfied, because of the nature of the articles, or production or other evidence, that the articles are imported in circumstances meeting the requirements of item 800.00 or 805.00, Tariff Schedules of the United States, and the related headnotes, he may waive the requirements for producing the documents specified in paragraphs (a) and (b) of this section except when Customs Form 3311 is used as an entry summary (as defined in § 141.0a(b) of this chapter) under paragraphs (g) or (h), or as an informal entry under paragraph (i).

* * * * *

(g) *Aircraft and aircraft parts and equipment.* (1) In the case of aircraft and aircraft parts and equipment returned to the United States under item 800.00, Tariff Schedules of the United States, by or for the account of an aircraft owner or operator and intended for use in his own aircraft operations, within or outside the United States, the entry summary may be made on Customs Form 3311. The entry summary on Customs Form 3311 shall be executed by the entrant and supported by the entry documentation required by § 142.3 of this chapter. If the Customs officer is satisfied that the articles are products of the United States, that they have not been improved in condition or advanced in value while abroad, and that no drawback has been or will be paid, the other documents described in this section shall not be required, and no bond need be filed for their production.

(2) The entrant shall show on Customs Form 3311:

(i) The name and address of the aircraft owner or operator by whom or for whose account the articles are returned to the United States, in the block headed "Articles Returned To (Name and Address)",

(ii) The name of the importing vessel or conveyance,

(iii) The date of its arrival,

(iv) A description of the articles,

(v) The value of the articles, and

(VI) That the articles are intended for use by the aircraft owner or operator in his own aircraft operations.

(3) If Customs Form 3311 is filed at time of entry, it shall serve as both the entry and the entry summary.

(h) *Nonconsumable vessel stores and equipment.* (1) In the case of nonconsumable vessel stores and equipment returned to the United States under item 800.00, Tariff Schedules of the United States, the entry summary may be made on Customs Form 3311. The entry summary on Customs Form 3311 shall be executed in duplicate by the entrant and supported by the entry documentation required by § 142.3 of this chapter. Before an entry summary on Customs Form 3311 may be accepted for nonconsumable vessel stores and equipment, the Customs officer shall be satisfied that:

(i) The articles are products of the United States.

(ii) The articles have not been improved in condition or advanced in value while abroad.

(iii) No drawback has been or will be paid, and

(iv) No duty equal to an internal revenue tax is payable under item 804.20, Tariff Schedules of the United States.

(2) The declaration of the foreign shipper described in paragraph (a)(1) of this section and the certificate of exportation described in paragraph (a)(3) of this section shall not be required in connection with an entry for nonconsumable vessel stores and equipment on Customs Form 3311.

(3) To satisfy the Customs officer that no drawback has been or will be paid on the articles in connection with their removal from the United States, the master of the vessel or other person having knowledge of the facts shall furnish a written declaration which may be made on the reverse side of Customs Form 3311 showing that the articles were:

(i) Exported as stores or equipment on a United States vessel or a vessel operated by the United States Government,

(ii) Not landed in a foreign country, except for any needed repairs, adjustments, or refilling and return to the vessel from which landed or,

(iii) For transshipment as stores or equipment to another vessel.

(4) The entrant also shall show:

(i) The name of the importing vessel,

(ii) The date of its arrival,

(iii) A description of the articles, and

(iv) The value of the articles.

(5) If Customs Form 3311 is filed at time of entry, it shall serve as both the entry and the entry summary.

2. § 10.31(a) is amended to read as follows:

§ 10.31 Entry; bond.

(a)(1) Entry of articles brought into the United States temporarily and claimed to be exempt from duty under Schedule 8, Part 5C, Tariff Schedules of the United States (TSUS),[34] unless covered by an A.T.A. carnet as provided in Part 114 of this chapter, shall be made on Customs Form 3461 or 7533, supported by the documentation required by § 142.3 of this chapter. However, when § 10.35 or § 10.36a is applicable, or the aggregate value of the article is not over $250, the form prescribed for the informal entry of importations by mail, in baggage, or by other means, may be used. When entry is made on Customs Form 3461 or 7533, an entry summary, Customs Form 7501, shall be filed within 10 days after time of entry, in accordance with Subpart B, Part 142 of this chapter.

(2) If Customs Form 7501 is filed at time of entry, it shall serve as both the entry and entry summary, and Customs Form 3461 or 7533 shall not be required. Customs Form 7501 shall be in original only, except for entries under item 864.05, TSUS, which require a duplicate copy for statistical purposes. When articles are entered under an A.T.A. carnet, the importation voucher of the carnet shall serve as the entry.

(3) In addition to the data usually shown on a regular consumption entry summary, each temporary importation bond entry summary shall include:

(i) The TSUS item number under which entry is claimed.

(ii) A statement of the use to be made of the articles in sufficient detail to enable the district director to determine whether they are entitled to entry as claimed, and

(iii) A declaration that the articles are not to be put to any other use and that they are imported for sale or sale on approval.

* * * * *

3. § 10.91 is amended to read as follows:

§ 10.91 Importation under item 306.00; entry or withdrawal under bond.

(a) The entry summary for wool or hair of the camel [82] imported for use in the manufacture of any of the articles enumerated in item 306.00, Tariff Schedules of the United States (TSUS),[83] shall be made on Customs Form 7501 and filed with the entry documentation listed in § 142.3(b) of this chapter before the merchandise shall be released, unless the merchandise is to be entered for warehouse. If the merchandise is to be entered for warehouse, the entry summary shall be made on Customs Form 7502 and filed with the entry documentation listed in § 142.3(b) of this chapter in either case, Customs Form 7501 or 7502, as appropriate, shall serve as both the entry and the entry summary.

(b) When the entry summary is made on Customs Form 7501, it shall contain the following endorsement:

Above merchandise entered under bond for use in the manufacture of _____ (camel hair belting, felt or knit boots, floor coverings, heavy fulled lumbermen's socks, press cloth, papermakers' felts, or pressed felt for polishing plat and mirror glass) under the provision of item 306.00, Tariff Schedules of the United States.

The endorsement shall be signed by the obligor on the bond.

(c) When the merchandise is entered for warehouse, withdrawals for use in the manufacture of the articles enumerated shall be made on Customs Form 7506 in the name of the obligor on the bond.

(d) Wool or hair of the camel which has been released from Customs custody shall not be restored to a Customs status from which it thereafter could be entered or withdrawn under the provisons of item 306.00, TSUS.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 11—PACKING AND STAMPING; MARKING [1]

1. Section 11.6 is amended to read as follows:

§ 11.6 Distilled spirits, wines, and malt liquors in bulk.

(a) The district director, in his discretion, may require marks, brands, stamps, labels, or similar devices to be placed on any bulk container used for holding, storing, transferring, or conveying imported distilled spirits, wines, and malt liquors, in accordance with 19 U.S.C. 467.[2]

(b) Marks, brands, stamps, labels, or similar devices required by Federal, state, or local statute or regulation may be affixed, and Customs inspection, gauging, marking, or measurement may be done, at the place of unlading or other suitable place, unless the district director determines that inspection, gauging, marking, or measurement shall be done at a public store, warehouse, or other appropriate facility.

(c) Marks, brands, stamps, labels, or similar devices shall be permanent in nature and not subject to obliteration or removal as a result of handling or other condtions. The district director shall determine whether a mark, brand, stamp, label, or similar device is acceptable, based on the nature, surface, and composition of the container.

2. Footnote 2 to Part 11 is amended to read as follows

[2] "The Secretary of the Treasury may by regulation require such marks, brands, and stamps or devices to be placed on any bulk container (including a pipeline) used for holding, storing, transferring or conveying imported distilled spirits, wines, or malt liquors as he deems necessary and proper in the administration of the Federal laws applicable to such imported distilled spirits, wines, or malt liquors and may specify those marks, brands, and stamps or devices which the importer or owner shall place or have placed on such containers. Any such container of imported distilled spirits, wines, or malt liquors withdrawn from customs custody purporting to contain imported distilled spirits, wines, or malt liquors found without having thereon any mark, brand, stamp, or device the Secretary of the Treasury may require, shall be with its contents, forfeited to the United States of America." (19 U.S.C. 467)

"Beverages in this subpart, containing over 24 percent of ethyl alcohol by volume when imported are classed as spirits under item 168.52." (Schedule 1, part 12C, headnote I. Tariff Schedules of the United States.)

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Section 24.3(b), Customs Regulations, is amended to read as follows:

§ 24.3 Bills and accounts; receipts.

(a) * * *

(b) A receipt for the payment of estimated Customs duties shall be provided a payer at the time of payment if he furnishes with his payment an additional copy of the documentation submitted in support of the payment. The appropriate Customs official shall validate the additional copy as paid and return it to the payer. Otherwise, a copy of the document filed by the payer and the payer's cancelled check shall constitute evidence of payment.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 127—GENERAL ORDER, UNCLAIMED AND ABANDONED MERCHANDISE

§ 127.3 [Deleted]

1. Part 127 is amended by deleting § 127.3.

2. Section 127.4 is amended to read as follows:

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§ 127.4 General order period defined.

The general order period is that period of time during which general order merchandise, as defined in § 127.1, is not subject to sale. The general order period expires 1 year from the date of importation.

3. Section 127.11 is amended to read as follows:

§ 127.11 Unclaimed merchandise.

Any entered or unentered merchandise (except merchandise under section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), but including merchandise entered for transportation in bond or for exportation) which remains in Customs custody for 1 year from the date of importation, or a lesser period for special merchandise as provide by §§ 127.28 (c), (d), and (h), and without all estimated duties and storage and other charges having been paid, shall be considered unclaimed and abandoned.

(Sec. 491, 46 Stat. 728 as amended (19 U.S.C. 1491).)

4. Section 127.12(a)(2) is amended to read as follows:

§ 127.12 Abandoned merchandise.

(a) * * *

(1) * * *

(2) Any imported merchandise upon which any duties or charges are unpaid: remaining in a bonded warehouse beyond the 5-year warehouse period.

5. Section 127.14(c)(1) is amended to read as follows:

§ 127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

* * * * *

(c) * * *

(1) Merchandise upon which all duties and charges have been paid which remains in a bonded warehouse beyond the 5-year warehouse period.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 132—QUOTAS

1. Section 132.1 is amended by deleting paragraph (c) and by revising paragraph (d) to read as follows:

§ 132.1 Definitions.

* * * * *

(d) *Presentation.* "Presentation" is the delivery in proper form to the appropriate Customs officer of:

(1) An entry summary for consumption, which shall serve as both the entry and the entry summary, with estimated duties attached (see § 141.0a(b)), or

(2) A withdrawal for consumption, with estimated duties attached.

* * * * *

2. Section 132.3 is amended to read as follows:

§ 132.3 Observation of official hours.

An entry summary for consumption or a withdrawal for consumption for quota-class merchandise shall be presented only during official office hours, except as provided in §§ 132.12 and 141.62(b) of this chapter. For purposes of administering quotas, "official office hours" shall mean 8:30 a.m. to 4:30 p.m. in all time zones.

3. Section 132.11 (a) and (b) are amended to read as follows:

§ 132.11 Quota priority and status.

(a) *Determination of quota priority and status.* Quota priority and status are determined as of the time of presentation of the entry summary for consumption, or withdrawal for consumption, in proper form in accordance with § 132.1(d).

(b) *Documentation and deposit of duties in proper form required.* Merchandise covered by an entry summary for consumption which serves as both the entry and the entry summary, or by a withdrawal for consumption, which is not in proper form, or for which duties have not been attached or deposited in proper form, shall not be regarded as entered for purposes of quota priority and shall not acquire quota status.

See §§ 141.4, 141.83, 141.68, 141.69, and 141.101 of this chapter.

4. Part 132 is amended by adding new § 132.11a to read as follows:

§ 132.11a Time of presentation.

(a) *General Rule.* Except as provided in paragraph (b) of this section, the time of presentation of an entry for quota purposes shall be the time of delivery in proper form of:

(1) An entry summary for consumption, which serves as both the entry and the entry summary, with estimated duties attached, or

(2) A withdrawal for consumption, with estimated duties attached.

(b) *Before arrival of merchandise.* The entry summary for consumption, without estimated duties attached, may be submitted for preliminary review before the merchandise arrives within the limits of the port where entry is to be made. In that case, the time of presentation of the entry summary for consumption shall be the time estimated duties are deposited after the importing carrier arrives within the port limits.

5. Section 132.12 is amended to read as follows:

§ 132.12 Procedure on opening of potentially filled quotas.

(a) *Preliminary review before opening.* When it is anticipated that a quota will be filled at the opening of the quota period, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall not be presented before 12 noon Eastern Standard Time in all time zones. However, an entry summary for consumption, or withdrawal for consumption, for merchandise which has arrived within the Customs territory of the United States may be submitted for preliminary review without deposit of estimated duties within a time period before the opening approved by the district director. Submission of these documents before opening will not accord the merchandise quota priority or status.

(b) *Simultaneous presentation.* Special arrangements shall be made so that all entry summaries for consumption, or withdrawals for consumption, for quota merchandise may be presented at the exact moment of the opening of the quota in all time zones. All importers prepared to present entry summaries for consumption, or withdrawals for consumption, when the quota opens shall be given equal opportunity to do so. All entry summaries for consumption, or withdrawals for consumption, presented in proper form (including those submitted for review before opening of the quota period if accompanied by the deposit of estimated duties) shall be considered to have been presented simultaneously.

(c) *Proration of quantities.* (1) The quantities on all entry summaries for consumption, or withdrawals for consumption, submitted simultaneously shall be prorated by Headquarters against the quota quantity admissible to determine the percentage to be allocated to each importer under the quota. Merchandise in excess of the quota shall be disposed of in accordance with § 132.5.

(2) In the event a quota is prorated, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall be returned to the importer for adjustment. The time of presentation for quota purposes, in that event, shall be the exact moment of the opening of the quota provided—

(i) An adjusted entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is deposited within 5 working days after Headquarters authorizes release of the merchandise, and

(ii) The importer takes delivery of the merchandise within 15 working days after release is authorized.

6. Section 132.13(a) is amended to read as follows:

§ 132.13 Quotas after opening.

(a) *Procedure when nearing fulfillment.* To secure for each importer the rightful quota priority and status for his quota-class merchandise, and to close the quota simultaneously at all ports of entry—

(1) *For release of merchandise.*—(i) *Tariff-rate.* When instructed by Headquarters, the district director shall require an importer to present an entry summary for consumption, with estimated duties attached, at the over-quota rate of duty until Headquarters has determined the quantity, if any of the merchandise entitled to the quota rate. If any of the merchandise entered at the over-quota rate is entitled to the quota rate, Customs shall amend the entry summary and refund to the importer any excess duties paid. This section does not prohibit an importer from obtaining release of the merchandise under the immediate delivery procedure. If an importer desires to enter only that quantity entitled to the quota rate, he may request that the merchandise not be released from Customs custody until Headquarters has determined the quantity entitled to the quota rate.

(ii) *Absolute.* Except in emergency cases, as provided for in § 142.21(e)(2) of this chapter, absolute quota merchandise shall not be released under the immediate delivery procedure if the quota is nearing fulfillment. An entry summary for consumption, with estimated duties attached, setting forth the quantity desired to be entered, shall be presented. However, the merchandise shall not be released until Customs has determined the quantity entitled to absolute quota status and priority. After this determination, the importer shall amend his entry summary and deposit estimated duties to reflect the quantity Customs has determined is entitled to absolute quota status and priority.

(2) *Notation on entry papers.* The appropriate Customs officer shall note the exact date, hour, and minute of presentation on each entry summary for consumption, or withdrawal for consumption, and shall report these facts to Headquarters.

7. Section 132.13(b) is amended by deleting "or of official acceptance" in the first sentence.

8. The section heading and § 132.14 are amended to read as follows:

§ 132.14 Special permits for immediate delivery; entry of merchandise before presenting entry summary for consumption; permits of delivery.

(a) *Effect of issuance of special permit for immediate delivery or filing entry documentation before presentation of entry summary—(1) Requirements for release.* Quota-class merchandise shall not be released upon filing entry documentation before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached. However, quota-class merchandise may be released under a special permit for immediate delivery in accordance with § 142.21(e) of this chapter.

(2) *Effect of release under immediate delivery.* Release of quota-class merchandise under a special permit for immediate delivery before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord merchandise any quota priority or status or entitle it to any other quota benefit.

(3) *Effect of inadvertent release.* Inadvertent release under a special permit for immediate delivery, or upon filing entry documentation, before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord the merchandise any quota priority or status or entitle it to any other quota benefit.

(4) Procedures following inadvertent release.

(i) *Quota nearing fulfillment.* If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is nearing fulfillment, the district director—

(A) May demand the return to Customs custody of the released merchandise in accordance with § 141.113 of this chapter,

(B) Shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with the estimated duties attached, and

(C) May assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties (computed at the over-quota rate for tariff-rate quota merchandise), if the merchandise is (*1*) released before presentation of an entry summary for consumption or a withdrawal for consumption, with estimated duties attached; (*2*) the merchandise is not returned to Customs custody within 30 days from the date of demand for redelivery; or (*3*) the entry summary for consumption, or the withdrawal for consumption, with estimated duties attached, is not presented timely.

(D) The district director may cancel the claim for liquidated damages if he is satisfied by the evidence that release was due to causes wholly beyond the control of the importer, that no act or omission on the part of the importer formed the basis for the release, and that there was no intent on the part of the importer to evade any law or regulation. The district director also may cancel the claim for liquidated damages if the merchandise is redelivered to Customs custody within 30 days from the date of the demand, or if the entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is presented timely.

(ii) *Quota not nearing fulfillment.* If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is not nearing fulfillment, the district director—

(A) Shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and

(B) May assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties (computed at the over quota-rate for tariff-rate quota merchandise), if the merchandise is (*1*) released before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached; or (*2*) if the entry summary for consumption, or the withdrawal for consumption with estimated duties attached, is not presented timely.

(C) The district director may cancel the claim for liquidated damages if he is satisfied by the evidence that the release was due to causes wholly beyond the control of the importer, that no act or omission on the part of the importer formed the basis for release, and that there was no intent on the part of the importer to evade any law or regulation. The district director also may

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cancel the claim for liquidated damages if the entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is presented timely.

(b) *Permit of delivery.*—(1) *Effect of filing.* The issuance of a permit of delivery shall not accord the merchandise any quota priority or status nor entitle it to any other quota benefit.

(2) *Time of issuance.*—(i) *Absolute quota merchandise.* A permit of delivery for merchandise subject to an absolute quota shall not be issued before a determination of the quota status of the merchandise.

(ii) *Tariff-rate, quota merchandise.* A permit delivery for merchandise subject to a tariff-rate quota shall not be issued before a determination of the quota status of the merchandise unless estimated duties are deposited at the over-quota rate of duty.

§ 132.15 [Amended]

9. § 132.15 is amended by substituting "141.68(c)" for "141.68(d)", and "presentation" for "acceptance".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 141—ENTRY OF MERCHANDISE

1. Part 141 is amended by adding a new § 1241.0a, to read as follows:

§ 141.0a Definitions.

Unless the context requires otherwise or a different definition is prescribed, the following terms shall have the meanings indicated when used in connection with the entry of merchandise:

(a) *Entry.* "Entry" means that documentation required by § 142.3 of this chapter to be filed with the appropriate Customs officer to secure the release of imported merchandise from Customs custody, or the act of filing that documentation.

(b) *Entry summary.* "Entry summary" means any other documentation necessary to enable Customs to assess duties, and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

(c) *Submission.* "Submission" means the voluntary delivery to the appropriate Customs officer of the entry summary documentation for preliminary review or of entry documentation for other purposes.

(d) *Filing.* "Filing" means:

(1) The delivery to Customs of the entry documentation required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain the release of merchandise, or

(2) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation which shall serve as both the entry and the entry summary.

(e) *Presentation.* "Presentation" is used only in connection with quota-class merchandise and is defined in § 132.1(d) of this chapter.

(f) *Entered for consumption.* "Entered for consumption" means that an entry summary for consumption has been filed with Customs in proper form, with estimated duties attached.

(g) *Entered for warehouse.* "Entered for warehouse" means that an entry summary for warehouse has been filed with Customs in proper form.

(h) *Entered under a temporary importation bond.* "Entered under a temporary importation bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper form.

§ 141.5 [Amended]

2. The first sentence of § 141.5 is amended by inserting "or aircraft," after "vessel".

3. The first sentence of § 141.19(a), § 141.19(b)(1), and the first sentence of § 141.19(b)(2) are amended to read as follows:

§ 141.19 Declaration of entry.

(a) *Declaration by consignee.* The consignee in whose name an entry is made under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), shall execute the declaration specified in section 485(a), Tariff Act of 1930, as amended (19 U.S.C. 1485(a)) on:

(1) The entry summary for merchandise entered for consumption, for warehouse, or for temporary importation under bond, or

(2) The rewarehouse or the bonded manufacturing warehouse entry.

The declaration need not be under oath. * * *

(b) *Declaration by agent of consignee*—(1) *Authorized agent with knowledge of the facts.* When entry is made in a consignee's name by an agent who has knowledge of the facts and who is authorized under a proper power of attorney by that consignee to make declarations in accordance with section 485(f), Tariff Act of 1930, as amended (19 U.S.C. 1485(f)), a declaration on the entry or entry summary executed by that agent is sufficient and no bond to produce a declaration of the consignee is required.

(2) *Other agents.* When entry is made in a consignee's name by an agent who does not meet the qualifications in paragraph (b)(1) of this section either:

(i) A declaration of the consignee on Customs Form 3347–A shall be filed with the entry documentation or entry summary or

(ii) A charge for the production of the declaration shall be made against the entry bond.

(3) * * *

* * * * *

4. Section 141.20(a) is amended to read as follows:

§ 141.20 Actual owner's declaration and superseding bond of actual owner.

(a) *Filing*—(1) *Declaration of owner.* A consignee in whose name an entry summary for consumption, warehouse, or temporary importation under bond is filed, or in whose name a rewarehouse entry or a manufacturing warehouse entry is made, and who desires, under the provisions of section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), to be relieved from statutory liability for the payment of increased and additional duties shall declare at the time of the filing of the entry summary or entry documentation, as provided in § 141.19(a), that he is not the actual owner of the merchandise, furnish the name and address of the owner, and file with the district director within 90 days from the time of entry (see § 141.68) a declaration of the actual owner of the merchandise acknowledging that the actual owner will pay all additional and increased duties. The declaration of owner shall be filed on Customs Form 3347.

(2) *Bond of actual owner.* If the consignee desires to be relieved from contractual liability for the payment of increased and additional duties voluntarily assumed by him under the single-entry bond which he filed in connection with the entry documentation and/or entry summary, or under his term bond against which the entry and/or entry summary is charged, he shall file a bond of the actual owner on Customs Form 7601 with the district director within 90 days from the time of entry.

* * * * *

5. Section 141.55 is amended to read as follows:

§ 141.55 Single entry summary for shipments arriving under one transportation entry.

Except for merchandise subject to a quantitative or tariff-rate quota, district directors are authorized to accept one entry summary for consumption or for warehouse for the entire quanity of merchandise covered by an entry for immediate transportation after the arrival of any part of the merchandise at the port of destination or at a place of deposit outside the port as may be authorized in accordance with § 18.11(c) of this chapter.

6. Part 141 is amended by adding a new § 141.56 to read as follows:

§ 141.56 Single entry summary for multiple transportation entries consigned to the same consignee.

(a) *Requirement.* District directors may accept one entry summary for consumption or for warehouse for merchandise covered by multiple entries for immediate transportation, subject to the requirements of § 142.17(a) of this chapter, provided the merchandise covered by each immediate transportation entry is released at the port of destination under a separate entry, in accordance with § 142.3 of this chapter.

(b) *Limitation.* A single entry summary for multiple transportation entries shall not be accepted for any merchandise listed in § 142.17(b) of this chapter.

(c) *Information on the entry summary.* Each entry for immediate transportation shall be identified separately on the entry summary by the immediate transportation entry number and the corresponding entry number.

7. Section 141.61 is amended to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(a) *Preparation.* (1) Entry and entry summary documentation shall be prepared on a typewriter, or with ink, indelible pencil, or other permanent medium. The entry summary shall be signed by the importer (see § 101.1(k)). Entries, entry summaries, and accompanying documentation shall be on the appropriate forms specified by the regulations and shall set forth clearly all required information. All copies shall be legible.

(2) An importer may omit from the entry summary for consumption, Customs Form 7501, the warehouse entry summary, Customs Form 7502, or the warehouse withdrawal for consumption, Customs Form 7505 or 7519, the marks and number previously provided for packages released or withdrawn.

(b) *"Signing of the entry".* the signing of the consignee's declaration on the entry summary for merchandise entered for consumption, for warehouse, or for temporary importation under bond, in accordance with § 141.19, shall be regarded as the "signing of the entry" required by section 484(d), Tariff Act of 1930, as amended (19 U.S.C. 1484(d)). For a rewarehouse or a bonded manufacturing warehouse entry, the signing of the consignee's declaration on the entry documentation shall satisfy 19 U.S.C. 1484(d).

(c) [Reserved]

(d) *Customs Form 5101.* An Entry Record, Customs Form 5101, shall be prepared by the importer, in triplicate, with carbon paper left in, and shall be filed with each consumption or warehouse entry summary and with each appraisement, vessel/aircraft repair, or drawback entry. The importer number shall be reported as follows:

(1) *Generally.* Except as provided in paragraph (d)(2) of this section, the importer number of the importer of record and of the ultimate consignee shall be reported for each consumption or warehouse entry summary and for each appraisement, vessel/aircraft repair, or drawback entry. When the importer of record and the ultimate consignee are the same, the importer number may be entered in both spaces provided on Customs Form 5101, or the importer number may be entered in the space provided for the importer and the word "same" may be entered in the space provided for the ultimate consignee.

(2) *Exception.* In the case of a consolidated entry summary covering the merchandise of more than one ultimate consignee, the importer number shall be reported on Customs Form 5101, and the notation "consolidated" shall be made in the space provided for the importer number of the ultimate consignee.

(3) *When refunds, bills, or notices of liquidation are to be mailed to agent.* If an importer of record desires to have refunds, bills, or notices of liquidation mailed in care of his agent, the agent's importer number also shall be reported on Customs Form 5101. In this case, the importer of record shall file, or shall have filed previously, a Customs Form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

(e) *Statistical information*—(1) *Information required on entry summary or withdrawal form.*—(i) *Where form provides space.* For each class or kind of merchandise subject to a separate statistical reporting number, the applicable information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated ("TSUSA"), shall be shown on the appraisement entry, Customs Form 7500; the entry summary, Customs Form 7501 or 7502; the transportation entry and manifest of goods, Customs Form 7512, when used to document an incoming vessel shipment proceeding to a third country by means of an entry for transportation and exportation, or immediate exportation; the rewarehouse entry, Customs Form 7519; the manufacturing warehouse entry, Customs Form 7521; the withdrawal form, Customs Form 7505 or 7506; or the record of vessel/aircraft foreign repair or equipment purchase, Customs Form 226, in the space provided. If a class or kind of merchandise from the same country of origin subject to the same statistical reporting number is included in more than one invoice, the information shall be combined and reported under one statistical reporting number. When consolidating information from several invoices under one reporting number, a work sheet itemizing the entered value of the merchandise from each invoice in the manner prescribed in paragraph (f)(1) of this section shall be attached to the appropriate form.

(ii) *Where form does not provide space.* In addition to the information required by paragraph (e)(1)(i) of this section, statistical information for which spaces are not provided on the appropriate form, shall be shown as follows:

(A) The name, the abbreviated designation or 4 digit code of the country of registry (flag) of the vessel expressed in terms of Annex 8, TSUSA, shall be placed in the block on the entry document for the name of the importing vessel or carrier.

(B) The notation "related" or "not related," as appropriate, shall be placed at the top of columns 3, 4, and 5 of Customs Forms 7501, 7502, 7505, 7506, and 7521, and in the top right hand portion of Customs Form 7519, to identify the transaction as one between a buyer and a seller who are related in any manner specified in section 402(g)(2), Tariff Act of 1930, as amended (19 U.S.C. 1401a(g)(2)), or as one between a buyer and a seller who are not so related.

(C)(1) The transaction value, charges, and equivalent value shall be listed on Customs Forms 7501, 7502, 7505, 7506, and 7521 in column 4 immediately below the TSUSA reporting number. These

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amounts shall be identified by placing (in the following order) PEXT (port of exportation transaction value), CHGS (aggregate cost of freight, insurance and all other charges), and EPEX (equivalent port of exportation value) in column 3 immediately below the entered value and to the left of each statistical value and charge.

(2) The transaction value, charges, and equivalent value shall be listed on Customs Form 7519 in the rate column with the descriptions (PEXT, CHGS, EPEX) immediately to the left of each statistical value and charge.

(3) In the case of related parties, if the district director is satisfied that the person filing the form cannot reasonably ascertain or estimate the equivalent port of exportation value (EPEX) that would exist had the transaction occurred between parties who were not related, he may permit that person to use the entered value adjusted, if necessary, to the port of exportation value, as provided for in subparagraph (xv), General Statistical Headnote 1(a), TSUSA, or any other value the district director considers appropriate. However, if the transaction value between related parties is higher than the entered value, the transaction value shall be used.

(2) *Responsibility.* The person filing the form is responsible for providing the information required by paragraph (e)(1) of this section. If the information required by subparagraph (xiv), (xv) and (xvi) General Statistical Headnote 1(a), TSUSA, cannot be obtained readily, the person filing the form shall provide reasonable estimates of the required information. The acceptance of an estimate for a particular transaction does not relieve the person filing the form from obtaining the necessary information for similar future transactions. The district director may require additional documentation to substantiate the statistical information required by paragraph (e)(1) of this section. The importer shall give an appropriate bond for the production of the required documentation, as follows:

(i) Except for merchandise entered for warehouse, the documentation shall be produced within 50 days after the entry summary (or the entry, if there is no entry summary) is required to be filed.

(ii) If merchandise is entered for warehouse, the documentation shall be produced within 2 months after the date of withdrawal, except that if an invoice is part of the documentation, the invoice shall be produced within 50 days after the entry summary for warehouse is required to be filed.

The district director may grant a reasonable extension of time to produce the required documentation for good cause shown. (See § 141.91(d) for bond requirements relating to failure to produce an invoice.)

(3) *Estimates of statistical information.* When the person filing the form estimates any of the values or charges, as provided for in subparagraph (v), General Statistical Headnote 1(b), TSUSA, except Canadian rail and truck charges, he shall place either "(estimate)", "(est)", or ("E") after the amount of each value or charge.

(4) *Rejection of form.* The district director shall reject a form for failure to provide required statistical information if the information is omitted or if the information provided clearly appears on its face, or is known to the Customs officer, to be erroneous.

(5) *Penalty procedures; when not invoked.* Penalty procedures relating to erroneous statistical information shall not be invoked against any person who in good faith attempts to comply with the statistical requirements of the General Statistical Headnotes, TSUSA.

(f) *Value of each invoice.*—(1) *Single invoice.* If the entry, entry summary, or withdrawal documentation, as specified in paragraph (e)(1)(i) of this section, covers a single invoice, the invoice information shall be restated to show:

(i) Gross amount of the invoice;

(ii) Deduction of the aggregate amount of any non-dutiable charges involved in the amount;

(iii) Further deduction of the aggregate of any deductions from the invoice values to make entered values; and

(iv) Addition of the aggregate of any dutiable charges not included in the gross amount of the invoice and of any other additions to the invoice values to make entered values. The final amount in the summary computations shall represent the aggregate of the entered values of all the merchandise covered by the invoice. The required information shall be shown on a worksheet attached to the form or placed across columns (2a) or (2b) on Customs Form 7501 and 7502, and in the same general location on Customs Forms 7505, 7506, 7519, and 7521.

(2) *Multiple invoices.* If the entry, entry summary, or withdrawal documentation, as specified in paragraph (e)(1)(i) of this section, covers mulitple invoices, the information required to be restated by paragraph (f)(i) of this section for a single invoice shall be restated for each invoice. The final amount in the summary computation shall represent the aggregate of the entered values of all the merchandise on each of the multiple invoices. The required information shall be shown on an attached worksheet.

(ii) The worksheet also shall contain:

(A) A statistical reporting number restatement for the merchandise from each invoice subject to the same statistical reporting number from the same country of origin, and

(B) An aggregate total value which represents the entered values.

(iii) To permit the identification of the merchandise entered under each reporting number, each class or kind of merchandise from one country reported under a single statistical reporting number shall be coded identically on each invoice and on the worksheet.

8. Section 141.62 is amended to read as follows:

§ 141.62 Place and time of filing.

(a) *Place.* An application for immediate delivery and entry, entry summary, or withdrawal documentation shall be filed at the customhouse or at any other Customs location approved by the district director in the district where the merchandise is to be or has been released.

(b) *Time.*—(1) *Normal business hours.* (i) Except as provided in paragraph (b)(2) of this section, an application for immediate delivery or entry documentation shall be filed when the customhouse is open for the general transaction of business, or when Customs has established a regular tour of duty in accordance with § 101.6(f) of this chapter.

(ii) Except as provided in paragraph (b)(2) of this section, entry summary or withdrawal documentation shall be filed when the customhouse is open for the general transaction of business, as provided in § 101.6 of this chapter.

(2) *Overtime services.*— (i) *Generally.* Except as provided in paragraph (b)(2)(ii) of this section, an application for immediate delivery or entry documentation may be filed when the customhouse is not open for the general transaction of Customs business and no regular tour of duty has been established; and entry summary or withdrawal documentation may be filed when the customhouse is not open for the general transaction of business, if—

(A) The person desiring to transact business has applied for and received authorization for overtime services on a reimbursable basis, as provided for in § 24.16 of this chapter, and

(B) Overtime services of Customs officers are available.

(ii) *Quota-class merchandise.* Overtime shall not be authorized for the presentation of entry summary documentation which serves as both the entry and entry summary or withdrawal documentation, for quota-class merchandise without Headquarters authorization. If Headquarters authorization is granted, the time of delivery of the entry summary or withdrawal documentation, with the estimated duties attached, shall be the time of presentation for quota purposes. However, if an entry summary or withdrawal for quota-class merchandise is delivered inadvertently during overtime hours without Headquarters authorization, the time of presentation for quota purposes shall be the opening of business on the next business day.

9. Section 141.63 is amended to read as follows:

§ 141.63 Submission of entry summary documentation for preliminary review.

(a) *Before arrival of merchandise.* Entry summary documentation may be submitted at the customhouse for preliminary review, without estimated duties attached, within such time before arrival of the merchandise as may be fixed by the district director—

(1) If the entry summary documentation will be filed at time of entry to serve as both the entry and the entry summary, as provided in § 142.3(b) of this chapter, or

(2) In the case of quota-class merchandise, if the entry summary for consumption will be presented at time of entry, as provided in § 132.11a of this chapter.

Estimated duties shall not be accepted before arrival of the merchandise within the port limits.

(b) *After arrival of merchandise.* Entry summary documentation may be submitted at the customhouse for preliminary review, without estimated duties attached, within such time after arrival of quota-class merchandise as may be fixed by the district director, if the entry summary for consumption will be presented at the opening of the quota period, as provided in § 132.12(a) of this chapter. Estimated duties shall not be accepted before the opening of the quota period.

10. Section 141.64 is amended to read as follows:

§ 141.64 Review and correction of entry and entry summary documentation.

Entry and entry summary documentation shall be reviewed before acceptance to ensure that all entry and statistical requirements are complied with and that the indicated values and rates of duty appear to be correct. If any errors are found, the entry and the entry summary documentation shall not be considered to have been filed in proper form and shall be returned to the importer for correction.

§ 141.65 [Deleted]

11. Part 141 is amended by deleting § 141.65.

12. Section 141.67 is amended to read as follows:

§ 141.67 Recall of documentation.

The importer may recall the entry and entry summary documentation at any time before the effective time of entry set forth in § 141.68. The entry shall be considered canceled, and documents shall be returned to the importer.

13. Section 141.68 is amended to read as follows:

§ 141.68 Time of entry.

(a) *When entry documentation is filed without entry summary.* When the entry documentation is filed in proper form without an entry summary, the "time of entry" shall be:

(1) The time the appropriate Customs officer authorizes the release of the merchandise or any part of the merchandise covered by the entry documentation, or

(2) The time the entry documentation is filed, if requested by the importer on the entry documentation at the time of filing, and the merchandise already has arrived within the port limits; or

(3) The time the merchandise arrives within the port limits, if the entry documentation is submitted before arrival, and if requested by the importer on the entry documentation at the time of submission.

(b) *When entry summary serves as entry and entry summary.* When an entry summary serves as both the entry documentation and entry summary, in accordance with § 142.3(b) of this chapter, the time of entry shall be the time the entry summary is filed in proper form with estimated duties attached.

(c) *When merchandise is released under the immediate delivery procedure.* The time of entry of merchandise released under the immediate delivery procedure shall be the time the entry summary is filed in proper form, with estimated duties attached.

(d) *Quota-class merchandise.* The time of entry for quota-class merchandise shall be the time of presentation of the entry summary or withdrawal for consumption in proper form, with estimated duties attached, as provided in § 132.11a of this chapter.

(e) *When merchandise has not arrived.* Merchandise shall not be authorized for release, nor shall an entry or an entry summary which serves as both the entry and entry summary be considered filed or presented, until the merchandise has arrived within the port limits with the intent to unlade.

(f) *Informal mail entry.* The time of entry of merchandise under an informal mail entry, Customs Form 3419 or 5110–A, is the time the preparation of the entry documentation by a Customs employee is completed.

(g) *Withdrawal from warehouse for consumption.* The time of entry of merchandise withdrawn from warehouse for consumption (the process preparatory to the issuance of a permit for the release of the merchandise to or upon the order of the warehouse proprietor) is when:

(1) Customs Form 7505 is executed in proper form and filed together with any related documentation required by these regulations to be filed at the time of withdrawal, and

(2) Estimated duties, if any, required to be paid at the time of withdrawal have been deposited.

Unless the requirements of this paragraph and section 315(a), Tariff Act of 1930, as amended (19 U.S.C. 1315(a)), including the deposit of estimated duties, if any, are completed within 60 days from the date of presentation of Customs Form 7505, the request for withdrawal shall be considered abandoned.

(h) *Appraisement entry, informal entry, combined entry for rewarehouse and withdrawal for consumption, and entry under carnet.* The time of entry of merchandise under an appraisement entry, Customs Form 7500, an informal entry, Customs Form 5119–A (or other form prescribed in § 143.23 or elsewhere in the chapter for use as an informal entry), a combined entry for rewarehouse and withdrawal for consumption, Customs Form 7519, or an A.T.A. carnet issued under Part 114 of this chapter, shall be the time the specified form is executed in proper form and filed, together with any related documents required by these regulations, and estimated duties, if any, have been deposited. If merchandise eligible for informal entry is released under a special permit for immediate delivery and Customs Form 5119–A or 7501 is filed in accordance with § 142.23 of this chapter, the time of entry shall be the time Customs Form 5119–A or 7501 is filed in proper form, together with any related documents required by this chapter, and estimated duties, if any, have been deposited. However, if merchandise eligible for informal entry is released under the entry

documentation set forth in § 142.3(a) of this chapter and Customs Form 5119–A or 7501 is filed in accordance with § 142.23, the time of entry shall be in accordance with paragraph (a) of this section.

14. The introductory text and paragraph (a) of § 141.69 are amended to read as follows:

§ 141.69 Applicable rates of duty.

The rates of duty applicable to merchandise shall be the rates in effect at time of entry, as specified in § 141.68, except as otherwise specifically provided for by Executive Order, and in the following cases:

(a) *Warehouse entries.* Merchandise entered for warehouse is dutiable at the rates in effect at the time withdrawal from warehouse for consumption is made in accordance with § 141.68(f).

* * * * *

15. The first sentence of § 141.81 is amended to read as follows:

§ 141.81 Invoice for each shipment.

A special Customs invoice, a special summary invoice, or a commercial invoice shall be presented for each shipment of merchandise at the time the entry summary is filed, subject to the conditions set forth in these regulations. * * *

16. The first sentence of § 141.83(a) and § 141.83(c) are amended to read as follows:

§ 141.83 Type of invoice required.

(a) *Special Customs Invoice.* A Special Customs Invoice, (Customs Form 5515) shall be filed for each shipment of merchandise (1) which is subject to a rate of duty dependent in any manner on value (including such merchandise entered under a conditionally free provision when all free entry documents and evidence required to establish the exemption from duty are not produced at the time of filing the entry summary), and (2) which is determined by the district director to have an aggregate purchase price over $500, including all expenses incident to placing the merchandise in condition packed ready for shipment to the United States, or in the case of merchandise not imported in pursuance of a purchase or agreement to purchase, an aggregate value over $500 as determined in accordance with § 152.21 of this chapter. * * *

* * * * *

(c) *Commercial invoice.* (1) A commercial invoice shall be filed for each shipment of imported merchandise not required by paragraph (a) to have a Special Customs Invoice and and not exempted by paragraph (d) from both a Special Customs Invoice and a commercial invoice. The commercial invoice shall be prepared in the manner customary in the trade, contain the information required by §§ 141.86 through 141.89, and substantiate the statistical information required by § 141.61(e) to be given on the entry, entry summary, or withdrawal documentation.

(2) The district director may accept a copy of a required commercial invoice in place of the original. A copy, other than a photostatic or photographic copy, shall contain a declaration by the foreign seller, the shipper, or the importer that it is a true copy.

17. Subparagraphs (3) and (4) of § 141.83(d) are deleted and the introductory language is amended to read as follows:

(d) *Special Customs or commercial invoice not required.* A Special Customs Invoice or a commercial invoice shall not be required in connection with the filing of the entry, entry summary, or withdrawal documentation for merchandise listed in this paragraph. The importer, however, shall present any invoice, memorandum invoice, or bill pertaining to the merchandise which may be in his possession or available to him. If no invoice or bill is available, a pro forma (or substitute) invoice, as provided for in § 141.85, shall be filed, and shall contain information adequate for the examination of merchandise and the determination of duties, and information and documentation which verify the information required for statistical purposes by § 141.61(e). The merchandise subject to the foregoing requirements is as follows:

* * * * *

18. The introductory language of paragraph (a), paragraph (a)(8), and paragraph (c) of § 141.86 are amended, and a new paragraph (j) is added to read as follows:

§ 141.86 Contents of invoices and general requirements.

(a) *General information required on the invoice.* Each invoice of imported merchandise, except the Special Customs Invoice (Customs Form 5515) (see paragraph (j) of this section), shall set forth the following information:

* * * * *

(8) All charges upon the merchandise itemized by name and amount, including freight, insurance, commission, cases, containers, coverings, and cost of packing; and if not included above, all charges, costs, and expenses incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first United States port of entry. The cost of packing, cases, containers, and inland freight to the port of exportation need not be itemized by amount if included in the invoice price, and so identified. Where the required information does not appear on the invoice as originally prepared, it shall be shown on an attachment to the invoice; and

* * * * *

(c) *Merchandise sold in transit.* If the merchandise is sold on the documents while in transit from the port of exportation to the port of entry, the original invoice reflecting the transaction under which the merchandise actually began its journey to the United States, and the resale invoice or a statement of sale showing the price paid for each item by the purchaser, shall be filed as part of the entry, entry summary, or withdrawal documentation. If the original invoice cannot be obtained, a pro forma invoice showing the values and transaction reflected by the original invoice shall be filed together with the resale invoice or statement.

* * * * *

(j) *Special Customs Invoice.* Each Special Customs Invoice, Customs Form 5515, required by § 141.83(a) shall set forth the following information:

(1) Names and addresses of seller, consignee, and buyer (if other than consignee);

(2) Origin of goods;

(3) Terms and conditions of sale, payment, and discount;

(4) Currency used, and exchange rate (whether fixed or agreed);

(5) Date order was accepted for purchased goods;

(6) Marks and numbers on shipping packages, number of packages; full description of goods, and quantity;

(7) Home market unit price, invoice unit price, and invoice totals;

(8) An explanation if the production of the goods involved furnishing goods or services to the seller and the value is not included in the invoice price, if previously requested by the district director as provided for in § 141.88;

(9) Packing costs, ocean or international freight charges, domestic freight charges, insurance costs, and other costs;

(10) Declaration of seller/shipper (or agent).

19. The introductory paragraph to § 141.89(b)(1) and § 141.89(b)(1)(E) are amended to read as follows:

§ 141.89 Additional information for certain classes of merchandise.

* * * * * * *

(b) *Special Summary Steel Invoice.* (1) A Special Summary Steel Invoice (Customs Form 5520) shall be filed in duplicate at the time of filing the entry summary for each shipment which is determined by the district director to have an aggregate purchase price of $10,000 or over or, if from a contiguous country, of $5,000 or over, including all expenses incident to placing the merchandise in condition packed ready for shipment to the United States, and which contains any of the articles of steel listed in paragraph (b)(2) of this section. In addition to the information required by § 141.86, the Special Summary Steel Invoice shall set forth the following:

* * * * *

(E) The name of the producer, the importer, and the price paid by the first unrelated purchaser in the United States, if that price is available at the time of filing the entry summary. One or more continuation sheets may be used to supply this information, if necessary.

* * * * *

20. The introductory language and paragraphs (c) and (d) of § 141.91 are amended to read as follows:

§ 141.91 Entry without required invoice.

If a required invoice, other than a special summary invoice, is not available in proper form at the time the entry or entry summary documentation is filed and a waiver is not granted in accordance with § 141.92, the entry or entry summary documentation shall be accepted only under the following conditions:

* * * * *

(c) The invoices and other documents contain information adequate for the examination of merchandise, the determination of estimated duties, if any, and statistical purposes; and

(d) The importer gives an appropriate bond for the production of the required invoice, which must be produced within 6 months after the date of the filing of the entry summary (or the entry, if there is no entry summary) documentation, unless the invoice is needed for statistical purposes. If needed for statistical purposes, the invoice shall be produced within 50 days after the date of the entry summary (or the entry, if there is no entry summary) is required to be filed, unless a reasonable extension of time is granted by the district director for good cause shown.

21. Sections 141.92(a)(2) and (b)(4) are amended to read as follows:

§ 141.92 Waiver of invoice requirements.

(a) *When waiver may be granted.* The district director may waive production of a required invoice, except a special summary invoice required by § 141.83(b), when he is satisfied that either: * * *

(2) The examination of merchandise, final determination of duties, and collection of statistics can be effected properly without the production of the required invoice.

(b) *Documents to be filed by importer.* As a condition to the granting of a waiver, the importer shall file the following documents with the entry or entry summary: * * *

(4) Any other information required by the district director for either appraisement or classification of the merchandise, or for statistical purposes.

22. Section 141.101 is amended by redesignating paragraphs (a), (b), (c), and (d) as paragraphs (b), (c), (d), and (e), respectively, by amending the introductory language, and by adding a new paragraph (a) to read as follows:

§ 141.101 Time of deposit.

Estimated duties shall be deposited with the Customs officer designated to receive the duties at the time of the filing of the entry documentation or the entry summary documentation when it serves as both the entry and entry summary, except in the following cases:

(a) *Merchandise released under entry documentation.* In the case of merchandise released under the entry documentation listed in § 142.3 of this chapter before filing of the entry summary, deposit of estimated duties shall be made at the time the entry summary is filed unless the merchandise is entered for warehouse. If the merchandise is entered for warehouse, estimated duties shall be deposited in accordance with paragraph (b) of this section.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 142—ENTRY PROCESS

It is proposed to revise Part 142 to read as follows:

Sec.

142.0 Scope.

Subpart A—Entry Documentation

142.1 Definitions.
142.2 Time for filing entry.
142.3 Entry documentation required.
142.3a Assigned entry numbers.
142.4 Bond requirements.
142.5 Bond Rider.
142.6 Invoice requirements.
142.7 Examination of merchandise.
142.8 Failure to file entry timely.

Subpart B—Entry Summary Documentation

142.11 Entry summary form.
142.12 Time for filing or submission for preliminary review.
142.13 When entry summary must be filed at time of entry.
142.14 Delinquent payment of Customs bills.
142.15 Failure to file entry summary timely.
142.16 Entry summary documentation.
142.17 One entry summary for multiple entries.
142.17a One consolidated entry summary for multiple ultimate consignees.
142.18 Entry summary not required for prohibited merchandise.
142.19 Release of merchandise under the entry summary.

Subpart C—Special Permit for Immediate Delivery

142.21 Merchandise eligible for special permit for immediate delivery.
142.22 Application for special permit for immediate delivery.
142.23 Time limit for filing documentation after release.
142.24 Term special permit.
142.25 Discontinuance of immediate delivery privileges.
142.26 Delinquent payment of Customs bills.
142.27 Failure to file documentation timely.
142.28 Withdrawl or entry summary not required for prohibited merchandise.
142.29 Other procedures applicable.

Authority: R.S. 251, as amended, secs. 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759; 19 U.S.C. 66, 1448, 1484, 1624, Pub. L. 95–410 (92 Stat. 888). Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 142.0 Scope.

This part sets forth requirements and procedures relating to (a) the entry of merchandise, as authorized by section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), and (b) special permits for immediate delivery of merchandise, as authorized by section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)).

Subpart A—Entry Documentation

§ 142.1 Definitions.

For definitions of "entry", "entry summary", "submission", "filing", "presentation", "entered for consumption", "entered for warehouse", and "entered under a temporary importation bond", as these terms relate to the entry of merchandise, see § 141.0a of this chapter.

§ 142.2 Time for filing entry.

(a) *General rule: After arrival of merchandise.* Merchandise for which entry is required shall be entered by the consignee within 5 working days after the entry of the importing vessel or aircraft, report of the vehicle, or arrival

at the port of destination in the case of merchandise transported in bond, unless a longer time is authorized by law or regulation, or by the district director in writing.

(b) *Before arrival of merchandise*—(1) *Entry.* The entry documentation required by § 142.3(a) may be submitted before the merchandise arrives within the limits of the port where entry is to be made, in which case the time of entry shall be the time specified in § 141.68(a).

(2) *When entry summary serves as entry.* The entry summary when it will be filed at time of entry to serve as both the entry and the entry summary, as provided in § 142.3(b), may be submitted for preliminary review in accordance with §§ 141.63(a) and 142.12(a)(2).

§ 142.3 Entry documentation required.

(a) *Contents.* Except as provided in paragraph (b) of this section, the entry documentation required to secure the release of merchandise shall consist of the following:

(1) *Entry.* Customs Form 3461 (appropriately modified), except that Customs Form 7533 (appropriately modified), in duplicate, may be used in place of Customs Form 3461 for merchandise imported from a contiguous country. The form used shall be prepared in accordance with § 141.61(a)(1) of this chapter.

(2) *Evidence of the right to make entry.* Evidence of the right to make entry, as set forth in § 141.11 of this chapter.

(3) *Commercial invoice.* A commercial invoice, except that in those instances listed in § 141.83(d) of this chapter where a commercial invoice is not required, a pro forma invoice or other acceptable documentation listed in that section may be submitted in place of a commercial invoice.

(4) *Packing list.* A packing list, where appropriate.

(5) *Other documentation.* Other documents which may be required by Customs or other Federal, State, or local agencies for a particular shipment.

(b) *Entry summary filed at time of entry.* When the entry summary is filed at time of entry, in accordance with § 142.12(a)(1) or § 142.13.

() Customs Form 3461 or 7533 shall not be required, and

(2) Customs Form 7501, 7502, or 3311, as appropriate (see § 142.11), shall serve as both the entry and the entry summary documentation if the additional documentation set out in paragraphs (a)(2), (3), (4), and (5) of this section and § 142.16(b) is filed.

(c) *Extra copies.* The district director may require additional copies of the documentation.

§ 142.3a Assigned entry numbers.

(a) *Request and authorization.* Upon the written request of an importer or broker, the district director shall assign sufficient entry numbers for use by the importer or broker at any port within the district during the fiscal year. Numbers shall be assigned in blocks of not less than 100, unless the district director determines that an assignment of a block of less than 100 is warranted. Additional requests and assignments may be made during the fiscal year if additional numbers are needed.

(b) *"Fiscal year" defined.* For purposes of this section, the initial "fiscal year" shall begin on October 1, 1979, and end on September 30, 1980. Thereafter, each fiscal year shall begin on October 1 and end on September 30.

(c) *Assigned entry number and its use.* The assigned entry number shall be a six-digit number preceded by the last two digits of the fiscal year and a space: for example, 79 100001. The importer or broker shall place the assigned entry number on the entry and the corresponding entry summary documentation. The number shall be preprinted, stamped, typed or written legibly. Each number shall be used only once.

(d) *Report.* Within 30 days after the end of the fiscal year, each importer or broker to whom entry numbers have been assigned shall account in writing to the district director for each entry number which has not been used. Entry numbers assigned but not used during the fiscal year shall be cancelled.

(e) *Refusal to assign entry numbers; cancellation.* The district director may refuse to assign entry numbers to an importer or broker, or may cancel entry numbers previously assigned and remaining unused, if the importer or broker:

(1) Fails to account satisfactorily to the district director for any numbers assigned but not used, or

(2) Misuses numbers which have been assigned to him.

(f) *Alternative procedure.* If an importer or broker does not request assignment of entry numbers, or if the district director, in accordance with paragraph (e) of this section, refuses to assign entry numbers, or cancels entry numbers, previously assigned, the importer or broker shall obtain an entry number at the customhouse before his merchandise may be released. The entry number so obtained shall be placed on the entry and the corresponding entry summary documentation.

§ 142.4 Bond requirements.

(a) *At time of entry.* Except as provided in § 10.101(d) of this chapter, merchandise shall not be released from Customs custody at the time Customs receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, as required by § 142.3, unless one of the following types of bonds, executed by an approved corporate surety, or secured by cash deposits or obligations of the United States, as provided for in § 113.39(a) of this chapter, has been filed.

(1) *Single entry bond.* A single entry bond on Customs Form 7551, with the amount of the bond determined in accordance with § 113.14(g)(1) of this chapter. When any of the imported merchandise is subject to a tariff-rate quota and is to be released at a time when the applicable quota is filled, the full rates shall be used in computing the estimated duties to determine the amount of the bond.

(2) *Term bond.* A term bond on Customs Form 7563, with the amount of the bond determined in accordance with § 113.14(g)(2) of this chapter.

(3) *General term bond.* A general term bond on Customs Form 7595, with the amount of the bond determined in accordance with §§ 113.14(s) and 113.62 of this chapter.

(b) *If entry summary is filed after entry.* (1) Except as provided in § 141.102(d) of this chapter, if the entry summary is filed after the entry, the bond filed at the time of entry, as required by paragraph (a) of this section or by § 142.19, shall continue to be obligated unless a superseding bond is filed, as provided in § 141.20 of this chapter, or unless a bond of the type described in paragraph (a) of this section is filed under the circumstances described in paragraph (b)(2) of this section. If a superseding bond is filed, or if a bond is filed under the circumstances described in paragraph (b)(2) of this section, the obligations of the initial bond shall be terminated as to any liability which may accrue after the superseding or other bond becomes effective.

(2) If entry is made in the name of an agent, supported by the agent's bond, or in the name of a principal, supported by the principal's bond, and the entry summary thereafter is filed in the name of the other party, the party named in the entry summary shall file one of the bonds enumerated in paragraph (a) of this section. In this circumstance, the bond obligation of the party in whose name entry was made shall be terminated, as to liability which may accrue after the bond filed by the party named in the entry summary becomes effective, and the party filing the entry summary need not file the separate declaration of the actual owner and the superseding bond otherwise required under § 141.20 of this chapter.

§ 142.5 Bond rider.

A bond rider in the following form shall be executed and attached to any entry bond provided for in § 142.4, utilized by an importer who makes entry under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484):

Rider "R"

(To be attached to all entry bonds)

Whereas certain merchandise which is referred to in a bond dated————, in the amount of ———, executed by ————, as principal, and————, as surety, to which this rider relates has been imported at the port of————, and entered at said port on entry No. ——, dated———19—, or the principal expects to enter merchandise during the period covered by a term bond to which this rider relates dated———19—, in the amount of———, executed by————, as principal, and————, as surety.

Whereas the merchandise, in whole or in part, may be entered under the provisions of section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), and duties deposited under the provisions of section 505(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1505(a)).

It is hereby expressly agreed by the prinicpal and surety on the bond referenced above that the following condition, in addition to the conditions appearing in the bond, shall apply: And if where entry is made pursuant to section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the bounden principal, within the time prescribed in the Customs Regulations, shall file with the appropriate Customs officer the documentation required by the Customs Regulations to enable Customs to (1) determine whether the merchandise may be released from Customs custody, (2) properly assess duties on the merchandise, (3) collect accurate statistics with respect to the merchandise, and (4) determine whether applicable requirements of law or regulation are met; and if the bounden principal, within the time prescribed in the Customs Regulations, shall deposit the duties and taxes imposed upon or by reason of importation estimated to be due thereon; or if, in the event of failure to file the documentation or to deposit duties and taxes, he shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise as to which there shall have been default, plus the duties and taxes thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of the merchandise as determined by the district director, and that the decision of the district director as to the status of the merchandise, whether free or dutiable, together with the rate and amount of duties and taxes, also shall be binding on all parties to this obligation).

Witness our hands and seals this —— day of ——— 19—.

(Seal)

Principal ————————————

(Seal)

Surety————————————

Certificate as to Corporate Principal

I, ———— certify that I am the [1]——— of the corporation named as principal in the rider; that ————, who signed the said rider on behalf of the principal was then ———— of said corporation, that I know this signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

(To be used when no power of attorney has been filed with the district director of Customs)

§ 142.6 Invoice requirements.

(a) *Contents.* The commercial invoice, or the documentation acceptable in place of a commerical invoice in those instances listed in § 141.83(d) of this chapter, shall be furnished with the entry and before release of the merchandise is authorized. The commercial invoice or other acceptable documentation shall contain:

(1) An adequate description of the merchandise.

(2) The quantities of the merchandise.

(3) The values or approximate values of the merchandise.

(4) The appropriate five-digit item number from the Tariff Schedules of the United States. If the importer is uncertain of the appropriate tariff item number, Customs shall assist him at his request. The district director may waive this requirement if he is satisfied that the information is not available at the time release of the merchandise is authorized.

(b) *Information not required when filing entry.* In addition to the information specified in paragraph (a) of this section, the commercial invoice or substitute document filed with the entry documentation also may include any other invoice information required by §§ 141.86 through 141.89 of this chapter. However, if this information does not appear on the invoice or substitute document filed with the entry documentation, it shall be included in the invoice or substitute document presented at the time the entry summary documentation is filed.

[1] May be executed by the secretary, assistant secretary, or other officer of the corporation.

§ 142.7 Examination of merchandise.

No merchandise for which the entry documentation required by § 142.3 has been filed shall be released until it has been examined, or until adequate samples have been taken in the case of merchandise which is to be classified and appraised by means of samples, unless this requirement is waived by the district director in accordance with section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499).

§ 142.8 Failure to file entry timely.

Merchandise for which timely entry is not filed as required by § 142.2 shall be treated in accordance with § 4.37 and Part 127 of this chapter.

Subpart B—Entry Summary Documentation

§ 142.11 Entry summary form.

(a) *Customs Form 7501.* The entry summary shall be on Customs Form 7501 unless a different form is prescribed elsewhere in this chapter. Customs Form 7501 shall be used for both merchandise formally entered for consumption, and formally entered under a temporary importation bond under § 10.31. The entry summary for merchandise which may be entered free of duty in accordance with § 10.1(g) or (h) of this chapter may be on Customs Form 3311 instead of on Customs Form 7501, and the entry summary for warehouse entries shall be on Customs Form 7502. For merchandise entitled to be entered under an informal entry, see § 143.23 of this chapter.

(b) *Extra copies.* The district director may require additional copies of the entry summary.

§ 142.12 Time for filing or submission for preliminary review.

(a) *At option of importer*—(1) *Filing.* Except as provided in § 142.13, the importer may file the entry summary documentation at the time of entry in which case the entry summary, with estimated duties attached, shall serve as both the entry and the entry summary.

(2) *Submission for preliminary review.* If the importer intends to file the entry summary documentation at the time of entry, he may submit the entry summary documentation for preliminary review before arrival of the merchandise, in accordance with § 141.63(a) of this chapter. After preliminary review is completed, the entry summary shall be returned to the importer for filing in accordance with paragraph (a)(1) of this section.

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(b) *When required.* If the importer is not required to file the entry summary documentation at the time of entry under the provisions of § 142.13, or if he does not elect to do so, the entry summary documentation shall be filed, with estimated duties attached, within 10 working days after the time of entry.

(c) *Estimated duties.* Estimated duties, if any, shall be deposited in accordance with the provisions of Subpart G of Part 141 of this chapter.

§ 142.13 When entry summary must be filed at time of entry.

(a) *Authority of district director.* The district director may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer:

(1) Has failed repeatedly to file timely entry summary documentation without justification,

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.15 for failure to file entry summary documentation timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages, shall petition for relief or pay the amount claimed and, in appropriate cases, file the entry summary documentation and deposit estimated duties, if any, or

(3) Has repeatedly delivered entry summary documentation, which is incomplete or which contains erroneous information.

(b) *Authority of regional commissioner.* The regional commissioner may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer is substantially or habitually delinquent in the payment of Customs bills. See § 142.14.

(c) *Special classes of merchandise.*—(1) *Quota-class merchandise.* Quota-class merchandise shall not be released upon delivery of entry documentation before presentation of an entry summary for consumption, with estimated duties attached, or a withdrawal for consumption, with estimated duties attached. (See Part 132 of this chapter.)

(2) *Other classes of merchandise.* Entry summary documentation, with estimated duties attached, or a withdrawal for consumption with estimated duties attached, shall be filed at the time of entry before release of any other merchandise of a class designated by Headquarters.

(d) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for release of the importer's merchandise in the broker's name and under the broker's bond.

§ 142.14 Delinquent payment of Customs bills.

The following procedure shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that he shall file the entry summary documentation with estimated duties attached, before his merchandise may be released from Customs custody in that region. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the notice, he shall be required to file the entry summary document with estimated duties attached, before his merchandise may be released in any Customs region. In either case, the entry summary shall serve as both the entry and the entry summary.

(b) *Removal or requirement by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the requirement shall be removed, and the importer need file only the entry documentation specified in § 142.3 to secure release of his merchandise.

(c) *Removal of requirement by Headquarters.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, he also shall be required to file the entry summary documentation, with estimated duties attached, in each Customs region. In this case, the entry summary shall serve as both the entry and the entry summary. This requirement shall remain in effect in each port of entry until notification is received from Headquarters that the requirement is removed and that the importer need submit only the entry documentation listed in § 142.3 to secure release of his merchandise.

§ 142.15 Failure to file entry summary timely.

If the entry summary documentation is not filed timely, the district director shall make an immediate demand for liquidated damages in the entire amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application to cancel liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.16 Entry summary documentation.

(a) *Entry summary not filed at time of entry.* When the entry documentation is filed before the entry summary documentation, one copy of the entry document and the commercial invoice, or the documentation filed in place of a commercial invoice in the instances listed in § 141.83(d) of this chapter, shall be returned to the importer after Customs authorizes release of the Merchandise. The importer may use these documents in preparing the entry summary. Customs Form 7501, and shall file them with the entry summary documentation within the time period stated in § 142.3. The entry summary documentation also shall include Customs Form 5101 and any other documents required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515, unless a bond for missing documents is on file, as provided in § 141.66 of this chapter.

(b) *Entry summary filed at time of entry.* When the entry summary documentation is filed at time of entry, the documentation listed in § 142.3 shall be filed at the same time, except that Customs Form 3461 or 7533 shall not be required. The importer also shall file Customs Form 5101 and any additional invoice required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515.

§ 142.17 One entry summary for multiple entries.

(a) *Requirements.* Except as provided in paragraph (b) of this section, the district director may permit the filing of one entry summary for merchandise the subject of separate entries if:

(1) The merchandise has the same country of exportation, and the same country of origin,

(2) The merchandise arrives by land, by the same vessel or by the same air carrier,

(3) The merchandise is consigned to the same consignee,

(4) The time between the date of the first entry and the date of the last entry does not exceed 1 week,

(5) The entry summary document is filed within 10 working days from the date of the first entry, and

(6) Each entry is identified separately by entry number on the entry summary.

(b) *Merchandise not eligible.* One entry summary shall not be used for multiple entries of the following:

(1) Quota-class merchandise,

(2) Prohibited merchandise,

(3) Merchandise subject to restrictions which require processing and documentation more frequently than on a weekly basis,

(4) Merchandise for which liquidation has been withheld, and

(5) Merchandise classifiable under the same Tariff Schedules of the United States item number having different rates of duty for which entries or immediate transportation entries have been filed. However, this provision is not applicable in the following circumstances:

(i) *Entries.* Entries may be consolidated if the time of entry is—

(A) Before the date of change in rate of duty, or

(B) On or after the date of change in rate of duty.

(ii) *Immediate transportation entries.* Immediate transportation entries may be consolidated if the date of acceptance is—

(A) Before the date of change in the rate of duty, or

(B) On or after the date of change in rate of duty.

(c) *Entry documentation not in proper form.* If an entry summary covering multiple entries refers to entry documentation which is not in proper form, the entry summary and the entry documentation shall be returned for correction.

§ 142.17a One consolidated entry summary for multiple ultimate consignees.

(a) *Applicability.* The district director may permit a broker as nominal consignee to file a consolidated entry summary in his own name under his own bond covering shipments of like or similar merchandise consigned to various ultimate consignees provided that all the merchandise is—

(1) Imported on the same day,

(2) Itemized as to each category of merchandise by Tariff Schedules of the United States Annotated statistical reporting number, and

(3) Released on the same day, either under the entry documentation specified in § 142.3, or under a special permit for immediate delivery. A consolidated entry summary may be filed for merchandise arriving by land, by the same vessel, or by the same air carrier.

(b) *Information required on the entry summary*—(1) *Separate listing according to ultimate consignee.* The broker shall list separately on the face of the consolidated entry summary the merchandise for each ultimate consignee, together with the appropriate entry or special permit numbers.

(2) *If different land carriers are involved.* If merchandise arriving by different land carriers is included on one entry summary, necessary information pertaining to each carrier shall be shown on the face of the entry summary related to the applicable shipment.

§ 142.18 Entry summary not required for prohibited merchandise.

(a) *Exportation or destruction of prohibited merchandise.* If merchandise released at time of entry is later found to be prohibited, the district director shall demand its return to Customs custody in accordance with § 141.113 of this chapter, and an entry summary and the deposit of estimated duties, if any, shall not be required provided:

(1) An entry for exportation, Customs Form 7512, or an application to destroy the merchandise under Customs supervision is made within 10 days after the time of entry, and the exportation or destruction is accomplished promptly, or

(2) An entry for transportation and exportation, Customs Form 7512, is made within 10 days after the time of entry and domestic carriage of the merchandise does not conflict with the requirements of another Federal agency.

(b) *Procedures for exportation or destruction.* The exportation or destruction of prohibited merchandise as required by paragraph (a) shall be in accordance with §§ 158.41 and 158.45(c) of this chapter.

§ 142.19 Release of merchandise under the entry summary.

Merchandise, for which an entry summary serves as both an entry and an entry summary, shall not be released from Customs custody until an appropriate bond has been filed, or the entry has been liquidated, as follows:

(a) *Bond.* Merchandise not designated for examination may be released to, or upon the order of, the carrier if an entry bond is filed on Customs Form 7551, 7555, or 7595, in an amount determined in accordance with Part 113 of this chapter. Merchandise designated for examination may be released under the entry bond after examination has been completed if:

(1) It has been found to be truly and correctly invoiced,

(2) It is entitled to admission into the commerce of the United States, and

(3) Its release is not precluded by any law or regulation. If merchandise is entered by or on behalf of a United States Government department or agency, the stipulation prescribed in § 141.102(d) of this chapter shall be accepted in place of a bond.

(b) *After liquidation.* If a bond has not been filed in accordance with paragraph (a) of this section, the merchandise shall not be released before:

(1) The entry has been liquidated and the full amount of all duties and taxes due, including dumping or other special duties and charges, has been paid, or the right to free entry established.

(2) The district director determines that the merchandise may be admitted into the commerce of the United States, and

(3) All documents relating to the merchandise which are required by law or regulation have been filed.

Subpart C—Special Permit for Immediate Delivery

§ 142.21 Merchandise eligible for special permit for immediate delivery.

Merchandise may be released under a special permit for immediate delivery, in accordance with section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), in the following circumstances:

(a) *Contiguous countries.* At the discretion of the district director, merchandise arriving by land from Canada or Mexico may be released under a special permit for immediate delivery provided the importer has on file one of the types of Customs bonds described in § 142.4. An entry summary shall be filed in accordance with § 142.22(b)(1), and estimated duties, if any, shall be deposited, within the time period specified in § 142.23 for all merchandise from contiguous countries released under a special permit except for fresh fruits and vegetables for human consumption released under the provisions of paragraph (b) of this section.

(b) *Fresh fruits and vegetables.* (1) An application for a special permit for immediate delivery may be made for the transportation of fresh fruits and vegetables for human consumption arriving from Canada or Mexico to the importer's premises within the port of importation, but removed from the area immediately contiguous to the border.

(2) The application shall be supported by a term bond on Customs Form 7553, or a general term bond on Customs Form 7595 as prescribed in § 142.4, to which a rider in the following format has been added:

Immediate Delivery of Fresh Fruits and Vegetables Arriving from Canada or Mexico—to be added to Customs Forms 7553 and 7595.

In addition to the conditions appearing in the bond dated ————, in the amount of

———, executed by ————, as principal and ————, as surety, to which this stipulation relates. It is hereby expressly agreed by the principal and surety thereon that the following additional condition shall apply:

If, pursuant to section 448(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), and § 142.21(a) of the Customs Regulations, fresh fruits and vegetables have been released for immediate delivery from ———— to the importer's premises at ————, the produce shall be transported and stored in accordance with the regulations, and may be examined and disposed of according to § 158.11(b) of the Customs Regulations; the balance of the produce shall be entered for consumption, entered for transportation and exportation, or transported in bond under an entry for immediate transportation without appraisement. In the event of failure to make an appropriate entry or deposit the estimated duties due, when so required, the above-bounden principal shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise plus the charges and duties thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of such merchandise as determined by the district director of Customs, and that the decision of the district director of Customs as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, also shall be binding on all parties to this obligation).

Witness our hands and seals this —— day of ———, 19—.

(Seal)
Principal ————————
(Seal)
Surety————————

Certificate as to Corporate Principal

I, ————, certify that I am the[1] ———— of the corporation named as principal in the rider; that ————, who signed the said rider on behalf of the principal, was then ———— of said corporation; that I know his signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

[To be used when no power of attorney has been filed with the district director of Customs]

(3) The fresh fruits and vegetables shall be transported to the importer's premises in the vehicles in which they crossed the border or, if transshipment is necessary in vehicles provided by the importer. The fresh fruits and vegetables may be examined at the importer's premises. Those portions without commercial value may be disposed of in accordance with the provisions of § 158.11(b) of this chapter, and the balance shall be entered for consumption or transported in bond under an entry for immediate transportation without appraisement or under an entry for transportation and exportation.

[1] May be executed by the secretary, assistant secretary, or other officer of the corporation.

(c) *Agency of U.S. Government.* Merchandise may be released under the immediate delivery procedure if the shipment is consigned to or for the account of any agency or office of the United States Government, or to an officer or official of any such agency in his official capacity, as provided in § 10.101 of this chapter.

(d) *Articles of a trade fair.* Articles for a trade fair may be released under the immediate delivery procedure, as provided in § 147.13 of this chapter.

(e) *Quota-class merchandise.*—(1) *Tariff-rate.* At the discretion of the district director, merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery provided the importer has on file one of the type of bonds enumerated in § 142.4. An entry summary, with estimated duties attached, shall be presented within the time specified in § 142.23, or within the quota period, whichever expires first. If the entry summary, with estimated duties attached, is presented after the tariff-rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall deposit duties at the over-quota rate.

(2) *Absolute.* At the discretion of the district director, perishable merchandise of a class approved by Headquarters which is subject to an absolute quota may be released under a special permit for immediate delivery for removal to the importer's premises, or to any other location approved by the district director, until an entry summary, with estimated duties attached, is presented. An entry summary, with estimated duties attached, shall be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. If the absolute quota is filled before the importer has presented an entry summary, with estimated duties attached, he either may present an entry summary for warehouse or, under Customs supervision, export or destroy the merchandise.

(f) *Release from warehouse followed by warehouse withdrawal for consumption.* At the discretion of the district director, merchandise may be released from warehouse under a special permit provided the importer has on file one of the types of Customs bonds provided for in § 142.4. The immediate delivery permit shall be annotated to state that a warehouse withdrawal for consumption will be filed for this merchandise.

(g) *When authorized by Headquarters.* Headquarters may authorize the release of merchandise under the immediate delivery procedure in circumstances other than those described in paragraphs (a), (b), (c), (d), (e), and (f) of this section provided an appropriate bond is on file.

§ 142.22 Application for special permit for immediate delivery.

(a) *Form.* An application for a special permit for immediate delivery shall be made on Customs Form 3461 supported by the documentation provided for in § 142.3, except that a commercial invoice shall not be required. Instead of a commercial invoice, the importer may deliver to Customs a pro forma invoice, waybill, or other document setting forth an adequate description of the merchandise and the quantities, together with the values or approximate values when values are needed for the purpose of examination. If the merchandise is to be released under a term special permit, the documentation also shall show the term special permit number, as provided for in § 142.24.

(b) *Customs custody.* Merchandise for which a special permit for immediate delivery has been issued under § 142.21 shall be considered to remain in Customs custody until the filing of one of the following:

(1) An entry summary for consumption, with estimated duties attached, an entry summary for warehouse, or an entry summary for entry under a temporary importaton bond;

(2) A withdrawal for consumption, with estimated duties attached;

(3) An entry for transportation and exportation, immediate transportation without appraisement, or direct exportation; or

(4) An application to destroy.

§ 142.23 Time limit for filing documentation after release.

The applicable documentation described in § 142.22(b) shall be filed, and estimated duties, if any, shall be deposited, within 10 working days after the merchandise or any part of the merchandise is authorized for release under a special permit for immediate delivery.

§ 142.24 Term special permit.

(a) *Conditions for issuance.* At the discretion of the district director, a term special permit for immediate delivery may be issued on Customs Form 3461, appropriately modified, for a class or classes of merchandise particularly described in the application for the permit, to be imported during a period not to exceed 1 year from the date of the permit.

(b) *Notation of value for each shipment.* When applying for the release of a shipment of merchandise under a term special permit for immediate delivery, the importer shall note a value for the shipment on the documentation presented. The value so noted shall not be less than the invoice value.

§ 142.25 Discontinuance of immediate delivery privileges.

(a) *Authority of district director.* The district director may discontinue immediate delivery privileges if the importer:

(1) Has failed repeatedly to file the applicable Customs documentation set forth in § 142.22(b) timely without justification, or

(2) Has not taken prompt action to settle a claim for liquidation damages issued under § 142.27 for failure to file the application Customs documentation set forth in § 142.22(b) timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages shall petition for relief or pay the amount claimed and, file the applicable documentation and deposit estimated duties, if any.

(3) Has repeatedly delivered documentation required by § 142.22(b) which is incomplete or which contains erroneous information.

(b) *Authority of regional commissioner.* The regional commissioner may discontinue immediate delivery privileges if the importer is substantially delinquent in the payment of Customs bills. See § 142.26.

(c) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for the immediate release of the importer's merchandise in the broker's name and under the broker's bond.

§ 142.26 Delinquent payment of Customs bills.

The following procedures shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that his immediate delivery privileges have been suspended in that region. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the notice, the importer's immediate delivery privileges also shall be suspended in all Customs regions.

(b) *Reinstatement of privileges by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the suspension shall be removed, and the importer's immediate delivery privileges shall be reinstated.

(c) *Reinstatement of privileges by Headquarters.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, his immediate delivery privileges shall be suspended in all Customs regions. This suspension shall remain in effect in each port of entry until notification is received from Headquarters that the suspension is removed and that the importer's immediate delivery privileges have been reinstated.

§ 142.27 Failure to file documentation timely.

If the applicable Customs documentation set forth in § 142.22(b) is not filed within the time provided in § 142.23, the district director shall make an immediate demand for liquidated damages in the amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application for cancellation of liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.28 Withdrawal or entry summary not required for prohibited merchandise.

(a) *Exportation or destruction of prohibited merchandise.* If merchandise released under a special permit for immediate delivery later is found to be prohibited, the district director shall demand its recall in accordance with § 141.113 of this chapter (applicable to the recall of merchandise released from Customs custody), and withdrawal or entry summary documentation and the deposit of estimated duties, if any, shall not be required provided:

(1) the merchandise is exported or destroyed under Customs supervision within the time limit for entry specified in § 142.23, or

(2) An entry for exportation or for transportation and exportation on Customs form 7512, or an application to destroy the merchandise, is made within the specified time limit, and the exportation or destruction is accomplished promptly.

(b) *Procedures for exportation or destruction.* The exportation or destruction of prohibited merchandise required by paragraph (a) of this section shall be under the same procedures as exportation or destruction of prohibited merchandise covered by a consumption entry with remission or refund of duties. See §§ 158.41 and 158.45(c) of this chapter.

(c) *Notation on exportation entry.* An entry for exportation or for transportation and exportation of prohibited merchandise for which no entry summary for consumption has been filed shall be stamped or imprinted conspicuously with the legend:

Prohibited Merchandise, No Other Entry Filed

§ 142.29 Other procedures applicable.

Merchandise released under a special permit for immediate delivery shall be subject to the same procedures applicable to all other imported merchandise, unless specific procedures are set forth in this subpart.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 143—APPRAISEMENT AND INFORMAL ENTRIES

§ 143.1 [Deletec]

§ 143.2 [Deleted]

§ 143.3 [Deleted]

1. Sections 143.1, 143.2, and 143.3 are deleted.

2. Section 143.23(f) is amended to read as follows:

§ 143.23 Form of entry.

* * * * *

(f) Merchandise released under the immediate delivery procedure or the entry documentaton required by section 142.3(a), and entry is made on Customs Form 7501, annotated "Informal Entry" in the upper right hand corner.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. Section 144.5 is amended to read as follows:

§ 144.5 Period of warehousing.

(a) *Generally.* Except as provided in paragraph (b) of this section, merchandise shall not remain in a bonded warehouse beyond 5 years from the date of importation.

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(b) *Exception.* For merchandise remaining in a bonded warehouse on October 3, 1978, the date of enactment of Pub. L. 95–410 (92 Stat. 888), any period of time the merchandise was in a bonded warehouse before that date shall be disregarded and the 5-year period shall commence on that date.

§ 144.6 [Deleted]

2. Section 144.6 is deleted.

3. Section 144.7 is amended to read as follows:

§ 144.7 Disposition of merchandise after expiration of warehousing period.

Merchandise remaining in a bonded warehouse after the expiration of the warehousing period shall be disposed of in accordance with § 127.14 of this chapter.

4. Section 144.11 is amended to read as follows:

§ 144.11 Form of entry.

(a) *Entry.* The documentation required by § 142.3 of this chapter shall be filed at the time of entry. If the warehouse entry summary, Customs Form 7502, is filed at time of entry, it shall serve as both the entry and the entry summary, and Customs Forms 3461 or 7533 shall not be required. If the warehouse entry summary is not filed at the time of entry, it shall be filed within the time limit prescribed by § 142.12 of this chapter. If merchandise is released before the filing of the warehouse entry summary, the importer shall have a bond on file, as prescribed by § 142.4 of this chapter.

(b) *Customs Form 7502.* The entry summary for merchandise entered for warehouse shall be executed in triplicate on the Warehouse or Rewarehouse Entry, Customs Form 7502, appropriately modified, and shall include all of the statistical information required by § 141.61(e) of this chapter. The district director may require an extra copy or copies of the Warehouse or Rewarehouse Permit, Customs Form 7502–A, for use in connection with delivery of the merchandise to the bonded warehouse.

(c) *Designation of warehouse.* The importer shall designate on the warehouse entry summary, Customs Form 7502, the bonded warehouse in which he desires his merchandise deposited and the bonded cartman or lighterman by whom he wishes the goods transferred.

(d) *Specification list.* When packages which are not uniform in contents, quantities, values, or rates of duties are grouped together as one item on an entry summary, a specification list (original only) shall be furnished with the entry summary, showing separately opposite the marks or numbers of each package, the quantity of each class of merchandise, the entered value of each class, and the rates of duty claimed for each. However, a specification list is not needed if one withdrawal is to be filed for all the merchandise covered by the entry summary.

5. Section 144.12 is amended to read as follows:

§ 144.12 Contents of entry summary; estimated duties.

The entry summary, Customs Form 7502, shall show the value, classification, and rate of duty as approved by the district director at the time the entry summary is filed. However, no deposit of estimated duties shall be required until the merchandise is withdrawn for consumption.

6. Section 144.13 is amended to read as follows:

§ 144.13 Bond requirements.

(a) *Entry summary not filed at time of entry.* A bond on Customs Form 7551, 7553, or 7595 shall be required when the entry documentation is filed if the entry summary documentation is not filed at that time. When the entry summary is filed thereafter, as prescribed in § 142.13 of this chapter, a bond on Customs Form 7555 or 7595 shall be required if a bond on Customs Form 7551 or 7553 is on file in support of the entry documentation. If a bond on Customs Form 7595 is on file in support of the entry documentation, that bond shall be sufficient to support the entry summary.

(b) *Entry summary filed at time of entry.* If the entry summary is filed at time of entry, the entry summary shall serve as both the entry and the entry summary, and a bond on Customs Form 7555 or 7595 shall be required.

7. Section 144.14 is amended to read as follows:

§ 144.14 Removal to warehouse.

When the entry summary, Customs Form 7502, and the appropriate bond have been filed, the merchandise shall be sent to the bonded warehouse, except for:

(a) Merchandise for which an immediate dock withdrawal if filed, or

(b) Packages designated for examination elsewhere than at the warehouse, which shall be sent to the warehouse after examination.

8. The first sentence of § 144.36(b) is amended by substituting "entry summary, Customs Form 7502" for "warehouse entry".

9. Section 144.36(d) is amended to read as follows:

§ 144.36 Withdrawal for transportation.

* * * * *

(d) *Information required.* In addition to the statement of quantity required by § 144.32, Customs Form 7512 shall show the following information for the merchandise being withdrawn:

(1) The original entry number, date of entry, date of entry summary, and port at which filed;

(2) The name of the consignee at the port of destination;

(3) Any ascertained weight, gauge, or measure;

(4) The entered value of the merchandise;

(5) Estimated duties, if any;

(6) A statement that the merchandise is or is not admissible for consumption and the reason for non-admissibility, if applicable; and

(7) The statistical information required by § 141.61(e) of this chapter.

When the withdrawal is made after the merchandise has been rewarehoused, the rewarehouse entry number, date, and port at which filed also shall be shown.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. The first and last sentences of § 151.47 are amended to read as follows:

§ 151.47 Entered quantities of crude petroleum released under entry or immediate delivery.

(a) *Optional entry of net quantity.* As an alternative to stating on the entry summary the total quantity of crude petroleum released under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), the importer may file an entry summary for the net quantity of crude petroleum landed. * * *

The commercial laboratory report shall be filed with the entry summary.

2. The section heading and first sentence of § 151.63 are amended by inserting the word "summary" after the word "entry".

3. Section 151.64(a) is amended by inserting the word "summary" after the word "entry".

4. Section 151.64(b) is amended to read as follows:

§ 151.64 Additional documents.

* * * * *

(b) *Extra copy of entry summary.* One extra copy of the entry summary covering wool or hair subject to duty at a rate per clean pound shall be filed in addition to the copies otherwise required.

5. The first sentence of § 151.65 is amended to read as follows:

§ 151.65 Duties.

Duties on wool or hair subject to duty at a rate per clean pound may be estimated at the time of filing the entry summary on the basis of the clean yield shown on the entry summary if the district director is satisfied that the revenue will be properly protected.

6. The third and fourth sentences of § 151.65 are amended by inserting the word "summary" after the word "entry" each time it appears.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

1. The section heading and first sentence of § 158.2 are amended to read as follows:

§ 158.2 Shortages in packages released under immediate delivery or entry.

An importer may file an entry summary for consumption or an entry summary for warehouse for less than the invoiced and manifested number of packages in a shipment "permitted" and delivered to him or deposited in a bonded warehouse under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), if he files with the entry summary a Customs Form 5931 in triplicate.

* * * * *

§ 158.3 [Amended]

2. The section heading and first sentence of § 158.3 are amended by inserting the word "summary" after the word "entry".

3. Part 158 is amended by adding a new § 158.21a to read as follows:

§ 158.21a Time period.

An abatement or refund of duties shall be made in the case of injury to, or destruction of, merchandise in a bonded warehouse as a result of accidental fire or other casualty only if the fire or casualty occurs within 3 years from the date of importation.

§ 158.27 [Amended]

4. Section 158.27(b) is amended by inserting "the entry summary (where appropriate)," after "entry".

5. Section 158.43 is amended by changing the heading of paragraph (c) to *"Abandonment."*, by adding a new subheading entitled *"Costs."* to the existing paragraph, by redesignating the existing paragraph as "(c)(1)", and by adding a new paragraph (c)(2) to read as follows:

§ 158.43 Abandonment or destruction of merchandise in bond.

* * * * *

(c) *Abandonment.*—(1) *Costs.* * * *

(2) *Time period.* The importer may abandon his warehoused merchandise voluntarily to the Government within 3 years from the date of importation.

6. Section 158.43 is amended by changing the heading of paragraph (d) to "Destruction", by adding a new subheading entitled "Costs." to the existing paragraph, by redesignating the existing paragraph as "(d)(1)", and by adding a new paragraph (d)(2) to read as follows:

§ 158.43 Abandonment of destruction of merchandise in bond.

* * * * *

(d) *Destruction*—(1) *Costs.* * * *

(2) *Time period.* The importer may request destruction of his warehoused merchandise within 5 years from the date of importation.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 159—LIQUIDATION OF DUTIES

1. Section 159.9(c) is amended to read as follows:

§ 159.9 Notice of liquidation and date of liquidation for formal entries.

* * * * *

(c) *Date of liquidation*—(1) *Generally.* The bulletin notice of liquidation shall be dated with the date it is posted or lodged in the customhouse for the information of importers. The entries for which the bulletin notice of liquidation has been prepared shall be stamped "Liquidated", with the date of liquidation, which shall be the same as the date of the bulletin notice of liquidation. This stamping shall be deemed the legal evidence of liquidation.

(2) *Exception: Entries liquidated by operation of law.* (i) Entries liquidated by operation of law at the expiration of the time limitations prescribed in section 504, Tariff Act of 1930, as amended (19 U.S.C. 1504), and set out in §§ 159.11 and 159.12, shall be deemed liquidated as of the date of expiration of the appropriate statutory period.

(ii) The bulletin notice of liquidation shall be posted or lodged in the customhouse within a reasonable period after each liquidation by operation of law and shall be dated as of the date of expiration of the statutory period.

(iii) A protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and Part 174 of this chapter shall be filed within 90 days from the date the bulletin notice of liquidation of an entry by operation of law is posted or lodged in the customhouse.

2. Section 159.9 is amended by adding a new paragraph (d) to read as follows:

* * * * *

(d) *Courtesy notice of liquidation.* Customs will endeavor to provide importers or their agents with Customs Form 4333–A, "Courtesy Notice", for entries specified in § 159.9(a)(1), scheduled to be liquidated or deemed liquidated by operation of law. This notice shall serve as an informal, courtesy notice and not as a direct, formal, and decisive notice of liquidation.

3. Part 159 is amended by adding new §§ 159.11 and 159.12 to read as follows:

§ 159.11 Entries liquidated by operation of law.

(a) *Time limit generally.* Except as provided in section 159.12, an entry not liquidated within 1 year from the date of entry of the merchandise, or the date of final withdrawal of all merchandise covered by a warehouse entry, shall be deemed liquidated by operation of law at the rate of duty, value, quantity, and amount of duties asserted by the importer at the time of filing an entry summary for consumption in proper form, with estimated duties attached, or a withdrawal for consumption in proper form, with estimated duties attached. Notice of liquidation shall be given on the bulletin notice of liquidation, Customs Form 4333 or 4335, as provided in §§ 159.9 and 159.10(c)(3). Customs will endeavor to provide a courtesy notice of liquidation on Customs Form 4333–A in accordance with § 159.9(d).

(b) *Applicability.* The provisions of this section and § 159.12 shall apply to entries of merchandise for consumption or withdrawals of merchandise for consumption made on or after April 1, 1979, but shall not apply to vessel repair entries or drawback entries.

§ 159.12 Extension of time for liquidation.

(a) *Reasons*—(1) *Extension.* The district director may extend the 1–year statutory period for liquidation for an additional period not to exceed 1 year if:

(i) *Information needed by Customs.* Information needed by Customs for the proper appraisement or classification of the merchandise is not available, or

(ii) *Importer's request.* The importer requests an extension in writing before

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the statutory period expires and shows good cause why the extension should be granted. "Good cause" is demonstrated when the importer satisfies the district director that more time is needed to present to Customs information which will affect the pending action, or there is a similar question under review by Customs.

(2) *Suspension.* The 1-year liquidation period may be suspended as required by statute or court order.

(b) *Notice of extension.* If the district director extends the time for liquidation, as provided in paragraph (a)(1) of this section, he promptly shall notify the importer or the consignee and his agent and surety on Customs Form 4333–A, appropriately modified, that the time has been extended and the reasons for doing so.

(c) *Notice of suspension.* If the liquidation of an entry is suspended as required by statute or court order, as provided in paragraph (a)(2) of this section, the district director promptly shall notify the importer or the consignee and his agent and surety on Customs Form 4333–A, appropriately modified, of the suspension.

(d) *Additional extensions*—(1) *Information needed by Customs.* If an extension has been granted because Customs needs more information and the district director thereafter determines that more time is needed, he may extend the time for liquidation for an additional period not to exceed 1 year provided he issues the notice required by paragraph (b) of this section before termination of the prior extension period.

(2) *At importer's request.* If the statutory period has been extended for 1 year at the importer's request, and the importer thereafter determines that additional time is necessary, he may request another extension in writing before the original extension expires, giving reasons for his request. If the district director finds that good cause (as defined in paragraph (a)(1)(ii) of this section) exists, he shall issue a notice extending the time for liquidation for an additional period not to exceed 1 year.

(e) *Limitation on extensions.* The total time for which extensions may be granted by the district director may not exceed 3 years.

(f) *Time limitation*—(1) *Generally.* An entry not liquidated within 4 years from either the date of entry, or the date of final withdrawal of all the merchandise covered by a warehouse entry, shall be deemed liquidated by operation of law at the rate of duty, value, quantity, and amount of duty asserted by the importer at the time of filing the entry summary for consumption in proper form, with estimated duties attached, or the withdrawal for consumption in proper form, with estimated duties attached, unless liquidation continues to be suspended by statute or court order. Customs will endeavor to provide a courtesy notice of liquidation on Customs Form 4333–A, in accordance with § 159.9(d), in addition to the bulletin notice specified § 159.9(c)(2)(ii).

(2) *Suspension of liquidation by statute or court order.* When liquidation of an entry continues to be suspended beyond the 4-year period specified in paragraph (f)(1) of this section due to a statute or court order, the entry shall be liquidated within 90 days after removal of the suspension.

(g) *Notice of liquidation.* If an entry is liquidated after an extension expires or a suspension is removed, notice of liquidation shall be given on the bulletin notice of liquidation. Customs Form 4333 or 4335, as provided in §§ 159.9 and 159.10(c)(3). Customs will endeavor to provide a courtesy notice of liquidation on Customs Form 4333–A in accordance with § 159.9(d)

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 172—LIQUIDATED DAMAGES

1. The introductory paragraph of § 172.22(b) is amended to read as follows:

§ 172.22 Special cases acted on by district director of Customs.

* * * * *

(b) *Nonproduction of Special Customs Invoices or commercial invoices.* If a required Special Customs Invoice, Customs Form 5515, or a commercial invoice is not produced (1) on the date the entry or entry summary is filed, (2) within 6 months after the date the entry or entry summary is required to be filed, or (3) if the invoice is needed for statistical purposes, within 50 days after the date the entry or entry summary is required to be filed, then unless the production is waived under the provisions of § 141.92 of this chapter, the bond charge for the production thereof may be canceled by the district director upon the payment of $25 as liquidated damages, if: * * *

2. The introductory language of § 172.22(d) is amended to read as follows:

* * * * *

(d) *Failure to file timely entry summary after release under entry or immediate delivery permit.* If a timely entry summary for merchandise not subject to quota has not been filed after release under an entry or a special permit for immediate delivery, the district director may act upon an application for relief from liquidated damages assessed in accordance with § 142.15 or 142.27, respectively, of this chapter as follows: * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

1. The first sentence of § 173.1 is amended to read as follows:

§ 173.1 Authority to review for error.

District directors, or in the New York Customs Region, the Regional Commissioner of Customs, have broad responsibility and authority to review transactions to ensure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with the law. * * *

2. The introductory language to § 173.4(b) is amended, § 173.4(c) is amended, and a new § 173.4(d) is added, to read as follows:

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

* * * * *

(b) *Transactions which may be corrected.* Correction pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), may be made in any entry, liquidation, or other Customs transaction if the clerical error, mistake of fact, or other inadvertence:

* * * * *

(c) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section shall be brought to the attention of the district director at the port of entry, or in the New York Customs Region, the Regional Commissioner of Customs, within 1 year after the date of liquidation or exaction.

(d) *"Liquidation" includes reliquidation.* "Liquidation" when used in section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), and in this section, includes reliquidation of an entry.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[FR Doc. 79-24494 Filed 8-8-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 230

[FHWA Docket No. 79–30]

Equal Employment Opportunity Reports

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: This amendment revises FHWA regulations to substitute Form PR 1391 (Rev. 3–79), Federal-Aid Highway Contractors Annual EEO Report, and Form PR 1392 (Rev. 3–79), Federal-Aid Highway Construction Summary of Employment Data (Including Minority Breakdown) For all Federal-Aid Highway Projects for Month Ending July 31, 19—, for Form PR 1391 (Rev. 9–77) and Form PR 1392 (Rev. 11–74). The revised, substituted forms are necessary to provide the racial and ethnic data required by U.S. Department of Commerce, Directive 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting, 43 FR 19269, May 4, 1978.

DATES: Comments must be received on or before October 9, 1979. The effective date of this amendment is July 31, 1979.

ADDRESS: Anyone wishing to submit written comments may do so. Comments should be sent, preferably in triplicate, to FHWA Docket No. 79–30, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday. Comments may be considered as a request for rule revision and will be utilized in processing future amendments to this regulation. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: K. L. Ziems, Chief, Contract Administration Branch, Construction and Maintenance Division, Office of Highway Operations, 202–426–4847; or S. James Wiese, Attorney, Office of the Chief Counsel 202–426–0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Part 230 of 23 CFR codifies material contained in Volume 6, Chapter 4, Section 1, of the Federal-Aid Highway Program Manual. (The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.) 23 CFR 230.121 requires the use of FHWA Form PR 1391 and FHWA Form PR 1392. Forms PR 1391 and PR 1392 appear in 23 CFR Part 230, Subpart B as Appendices C and D, respectively.

In consideration of the foregoing, Part 230, Subpart B of Chapter I, Title 23, Code of Federal Regulations is amended as follows:

Appendix C [Amended]

1. Form PR 1391 (Rev. 9–77) in Appendix C is replaced by Form PR 1391 (Rev. 3–79) [see attached form].

Appendix D [Amended]

2. Form PR 1392 (Rev. 11–74) in Appendix D is replaced by Form PR 1392 (Rev. 3–79) [see attached form].

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044. This rule is being issued as final rule and a full regulatory evaluation has not been prepared as this rule has minimal impact and merely implements U.S. Department of Commerce requirements.

(23 U.S.C. sec. 140(a), 315; 49 CFR 1.48(b))

Issued on: August 1, 1979.

Karl S. Bowers,

Federal Highway Administrator.

BILLING CODE 4910-22-M

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

OMB NO. 04-R2427

FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTORS ANNUAL EEO REPORT

REPORT FOR JULY _____ 19 ___

1. CHECK APPROPRIATE BLOCK ☐ CONTRACTOR ☐ SUBCONTRACTOR	2. NAME AND ADDRESS OF FIRM	3. FEDERAL AID PROJECT NUMBER	4. TYPE OF CONSTRUCTION

5. COUNTY AND STATE	6. PERCENT COMPLETE	7. BEGINNING CONSTR. DATE	8. DOLLAR AMOUNT OF CONTRACT	9. ESTIMATED PEAK EMPLOYMENT	
				MONTH AND YEAR (a)	NUMBER OF EMPLOYEES (b)

10. EMPLOYMENT DATA

JOB CATEGORIES	Table A: TOTAL EMPLOYEES		TOTAL MINORITIES		BLACK *Not of Hispanic Origin*		HISPANIC		AMERICAN INDIAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		WHITE *Not of Hispanic Origin*		Table B: APPRENTICES		ON THE JOB TRAINEES	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
OFFICIALS *(Managers)*																		
SUPERVISORS																		
FOREMEN/WOMEN																		
CLERICAL																		
EQUIPMENT OPERATORS																		
MECHANICS																		
TRUCK DRIVERS																		
IRONWORKERS																		
CARPENTERS																		
CEMENT MASONS																		
ELECTRICIANS																		
PIPEFITTERS, PLUMBERS																		
PAINTERS																		
LABORERS, SEMI-SKILLED																		
LABORERS, UNSKILLED																		
TOTAL																		
Table C: APPRENTICES																		
ON THE JOB TRAINEES																		

11. PREPARED BY: *(Signature and Title of Contractors Representative)* DATE

12. REVIEWED BY: *(Signature and Title of State Highway Official)* DATE

This report is required by law and regulation (23 U.S.C. 140(a) and 23 CFR Part 230). Failure to report will result in noncompliance with this regulation.

Form PR-1391 PREVIOUS EDITIONS ARE OBSOLETE

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

OMB NO. 04-R2427

FEDERAL-AID HIGHWAY CONSTRUCTION

SUMMARY OF EMPLOYMENT DATA (INCLUDING MINORITY BREAKDOWN) FOR ALL FEDERAL-AID HIGHWAY PROJECTS FOR MONTH ENDING JULY 31st, 19____

NOTE: See Instructions on REVERSE

STATE-REGION (5-6)	NUMBER OF PROJECTS (9-12)	TOTAL DOLLAR VALUE (13-23)
01		

EMPLOYMENT DATA

JOB CATEGORIES	Table A: TOTAL EMPLOYEES 9-13		14-18		TOTAL MINORITIES 19-23		24-28		BLACK *Not of Hispanic Origin* 29-33		34-38		HISPANIC 39-43		44-48		AMERICAN INDIAN OR ALASKAN NATIVE 49-53		54-58		ASIAN OR PACIFIC ISLANDER 59-63		64-68		WHITE *Not of Hispanic Origin* 69-73		74-78		APPRENTICES 79-83		84-88		ON THE JOB TRAINEES 89-93		94-98
	M		F		M		F		M		F		M		F		M		F		M		F		M		F		M		F		M		F	
02 OFFICIALS (MANAGERS)																																				
03 SUPERVISORS																																				
04 FOREMEN/WOMEN																																				
05 CLERICAL																																				
06 EQUIPMENT OPERATORS																																				
07 MECHANICS																																				
08 TRUCK DRIVERS																																				
09 IRONWORKERS																																				
10 CARPENTERS																																				
11 CEMENT MASONS																																				
12 ELECTRICIANS																																				
13 PIPEFITTERS, PLUMBERS																																				
14 PAINTERS																																				
15 LABORERS, SEMI-SKILLED																																				
16 LABORERS, UNSKILLED																																				
17 TOTAL																																				
Table B: 18 APPRENTICES																																				
19 ON THE JOB TRAINEES																																				

PREPARED BY *(Signature & Title)* DATE

REVIEWED BY *(Signature & Title of State Hwy. Official)* DATE

This report is required by law and regulation (23 U.S.C. 140(a) and 23 CFR Part 230). Failure to report will result in noncompliance with this regulation.

Form PR-1392 (Rev. 3-79) PREVIOUS EDITIONS ARE OBSOLETE

General Information and Instructions

This form is to be developed from the "Contractor's Annual EEO Report." This data is to be compiled by the State and submitted annually. It should reflect the total employment on all Federal-Aid Highway Projects in the State as of July 31st. The staffing figures to be reported should represent the project work force on board in all or any part of the last payroll period preceding the end of July. The staffing figures to be reported in Table A should include journey-level men and women, apprentices, and on-the-job trainees. Staffing figures to be reported in Table B should include only apprentices and on-the-job trainees as indicated.

Entries made for "Job Categories" are to be confined to the listing shown. Miscellaneous job classifications are to be incorporated in the most appropriate category listed on the form. All employees on projects should thus be accounted for.

This information will be useful in complying with the U.S. Senate Committee on Public Works request that the Federal Highway Administration submit a report annually on the status of the Equal Employment Opportunity Program, its effectiveness, and progress made by the States and the Administration in carrying out Section 22 (A) of the Federal-Aid Highway Act of 1968. In addition, the form should be used as a valuable tool for States to evaluate their own programs for ensuring equal opportunity.

It is requested that States submit this information annually to the FHWA Divisions no later than August 25.

Line 01.—State & Region Code. Enter the 4-digit code from the list below.

Alabama	01-04	Montana	30-08
Alaska	02-10	Nebraska	31-07
Arizona	04-09	Nevada	32-09
Arkansas	05-06	New Hampshire	33-01
California	06-09	New Jersey	34-01
Colorado	08-08	New Mexico	35-06
Connecticut	09-01	New York	36-01
Delaware	10-03	North Carolina	37-04
Dist. of Col	11-03	North Dakota	38-08
Florida	12-04	Ohio	39-05
Georgia	13-04	Oklahoma	40-06
Hawaii	15-09	Oregon	41-10
Idaho	16-10	Pennsylvania	42-03
Illinois	17-05	Puerto Rico	43-01
Indiana	18-05	Rhode Island	44-01
Iowa	19-07	South Carolina	45-04
Kansas	20-07	South Dakota	46-08
Kentucky	21-04	Tennessee	47-04
Louisiana	22-06	Texas	48-06
Maine	23-01	Utah	49-08
Maryland	24-03	Vermont	50-01
Massachusetts	25-01	Virginia	51-03
Michigan	26-05	Washington	53-10
Minnesota	27-05	West Virginia	54-03
Mississippi	28-04	Wisconsin	55-05
Missouri	29-07	Wyoming	56-08

[FR Doc. 79-24469 Filed 8-8-79; 8:45 am]
BILLING CODE 4910-22-C

23 CFR Part 630

Federal-Aid Programs Approval and Authorization; Amendment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: This amendment revises current Federal-aid programs approval and project authorization procedures. The amendment is designed to focus attention on the standards provisions of 23 U.S.C. 109 which apply to project authorization and, in particular, on a new provision added by section 141(g) of the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599, 92 Stat. 2689). The new provision prevents FHWA from approving any project that would sever a non-motorized transportation route unless there is a reasonably alternate route (23 U.S.C. 109(n)).

EFFECTIVE DATE: August 13, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas Jennings, Highway Design Division, Office of Engineering (202-426-0314) or Reid Alsop, Office of the Chief Counsel (202-426-0800); Federal Highway Administration, 400 Seventh Street SW, Washington, DC 20590.

In consideration of the foregoing, The Federal Highway Administration is amending Part 630, Subpart A of Chapter I, Title 23, Code of Federal Regulations, as follows:

PART 630—PRECONSTRUCTION PROCEDURES

1. In the authority statement add "23 U.S.C. 109."

2. In § 630.114 the second sentence of paragraph (a) is amended and paragraph (h) is added as follows:

§ 630.114 Authorization to proceed.

(a) * * * Authorization can be given only after applicable prerequisite requirements of Federal laws, and implementing regulations and directives have been satisfied, e.g., A-95 clearinghouse review and standards as prescribed by 23 U.S.C. 109.

* * * * *

(h) No project shall be authorized that will result in the severance or destruction of an existing major route for non-motorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044. Because this amendment merely references existing statutory provisions, its impact is so minimal that neither public comment nor a full regulatory evaluation is required.

(23 U.S.C. sections 109 and 315; 49 CFR 1.48(b).)

Issued on: July 31, 1979.

Karl S. Bowers,

Federal Highway Administrator.

[FR Doc. 79-24470 Filed 8-8-79; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 220, 221, 222, 226, 235

[Docket No. R-79-693]

Mutual Mortgage Insurance and Improvement Loans; Dollar Limitation Increase for Solar Energy Systems

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule and request for comments.

SUMMARY: The interim rule provides for an increase in the dollar limitations by up to 20 percent if such increase is necessary to account for the increased cost of a residence due to the installation of a solar energy system.

EFFECTIVE DATE: September 26, 1979.

COMMENTS DUE: October 9, 1979.

ADDRESS: Interested persons are invited to submit written comments, suggestions or data regarding the interim rule to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. All relevant material received on or before October 9, 1979, will be considered before adoption of a final rule. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: William L. Halpern, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street S.W., Washington, D.C. 20410, (202) 755-6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 248(a) of the National Energy Conservation Policy Act amended section 203(b)(2) of the National Housing Act to permit an increase in dollar limitation of up to 20 percent in the amount which can be insured if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system. For purposes of clarity and incorporation by reference in the programs, a new section (§ 203.18a) was considered appropriate in implementing the statutory change. In addition to the solar energy system changes, the maximum mortgate amounts in Part 226 have been amended bringing the section 809 maximum mortgage amount limitations in line with section 203(b) as required by statute. The Department has determined that the increase in dollar limitations should be made available to the public as soon as possible and that it is, therefore, impractical and contrary to the public interest to provide for comment and public participation before making these provisions effective.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of Rules Docket Clerk at the address set forth above.

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Accordingly, 24 CFR, Part 203 is amended as follows:

1. After § 203.18, add a new § 203.18a as follows:

§ 203.18a Solar energy system.

(a) The dollar limitation provided in § 203.18(a) may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system.

(b) "Solar energy system" is defined as any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources and which is in conformity with such criteria and standards as shall be prescribed by the

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Secretary in consultation with the Secretary of Energy.

2. Amend paragraph (d)(1) of § 203.18 by adding the following sentence at the end thereof:

§ 203.18 Maximum mortgage amounts.

* * * * *

(d)(1) * * *

Such limits may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system as defined in § 203.18a(b).

* * * * *

§ 203.43c [Amended]

3. Amend § 203.43c(g) by adding the phrase, "and § 203.18a", after the phrase "under § 203.18(a)."

4. Amend § 203.45 as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) * * *

(1) The limits prescribed by §§ 203.18(a), 203.18(b) and 203.18a or,

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

§ 220.1 [Amended]

5. Part 220 is amended by adding, in § 220.1, "203.18a Solar energy systems" after "203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

§ 221.1 [Amended]

6. Part 221 is amended by adding, in § 221.1, "203.18a Solar energy systems" after "203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

§ 222.1 [Amended]

7. Part 222 is amended by adding, in § 222.1, "203.18a Solar energy systems" after "203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

PART 226—ARMED SERVICES HOUSING—CIVILIAN EMPLOYEES [SEC. 809]

8. Part 226 is amended by revising § 226.4, revising paragraph (a) of § 226.5 and reserving § 226.6.

§ 226.4 Maximum mortgage amount; dollar limitation.

The mortgage shall involve a principal obligation in a dollar amount not in excess of:

(a) 60,000 in the case of a dwelling designed principally for a one-family residence.

(b) 65,000 in the case of a two-family residence.

(c) 65,000 in the case of a three-family residence.

(d) 75,000 in the case of a four-family residence.

§ 226.5 Maximum mortgage amount; loan-to-value limitation.

(a) In addition to meeting the dollar limitation set forth in § 226.4, the mortgage shall be in an amount not exceeding the following:

(1) Approval prior to construction. If the mortgage covers a dwelling approved for mortgage insurance (or for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs) prior to the beginning of construction or a dwelling which was completed more than one year preceding the date of the application for mortgage insurance, the sum of the following percentages of the Commissioner's appraised value of the property, as of the date the mortgage is accepted for insurance:

(i) 97 percent of the first $25,000 of such value (100 percent of $25,000 of such value or the sum of such value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner minus $200, whichever appraisal amount or sum is the lesser, in the case of a mortgagor meeting the veteran's qualifications of Section 203.18(b)).

(ii) 95 percent of such value in excess of $25,000. (2) No prior approval. A loan-to-value limitation of 90 percent of the entire appraised value of the property, as of the date the mortgage is accepted for insurance if the dwelling does not meet the requirements in the introductory text of subparagraph (1) of this paragraph.

* * * * *

§ 226.6 [Reserved]

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

§ 235.1 [Amended]

9. Part 235 is amended by adding, in § 235.1, "203.18a Solar energy systems" after "203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

(Sec. 3, Pub. L. 75-424, 52 Stat. 9 (12 U.S.C. 1715b); Sec. 7(d) Pub. L. 89-174, 79 Stat. 670 (42 U.S.C. 3535 (d)).)

Issued at Washington, D.C., July 19, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-24526 Filed 8-8-79; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-79-685]

Community Development Block Grants; Households Who Could Reasonably Be Expected to Reside; Interim Rule

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule and request for comments.

SUMMARY: This rule amends paragraph (b)(2)(ii) of § 570.306 of Subpart D governing the rules to be followed by applicants for entitlement grants and small cities grants with respect to lower-income households who could reasonably be expected to reside in an applicant's jurisdiction. These changes are being made to conform to the Housing and Community Development Amendments of 1978.

EFFECTIVE DATE: September 26, 1979.

COMMENT DUE DATE: October 9, 1979.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: James Broughman or Don Darling, Entitlement Cities Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, S.W, Washington, D.C. 20410, or telephone (202) 755-9267 (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Housing and Community Development Amendments of 1978 necessitate a change in the current rules governing the development of the estimated number of lower-income households who could reasonably be expected to reside in an applicant's community. Such estimates form a necessary component of the Housing Assistance Plan (HAP) required to be submitted as part of a Community Development Block Grant (CDBG) application.

Until March 1, 1978, the regulations required the use of an employment based formula in establishing the number of low- and moderate-income households which could be expected to reside. The March 1, 1978, regulations substituted a fair share formula. Congress, in the 1978 Amendments to the Housing and Community Development Act of 1974, required that we return to an employment based formula including existing and planned employment and added elderly households as a separate factor. The Department is therefore returning to the basic approach contained in the regulations prior to March 1, 1978, to comply with Congressional instructions and because most CDBG grantees are already familiar with it. However, that portion of those prior regulations, which allowed adjustments to the estimates made by those applicants who already have a high proportion of lower/income households relative to their surrounding area, is being modified to more effectively adjust for undue concentrations of lower-income households.

In addition to the considerations for those lower-income households expected to reside because of projected employment in a community and those lower-income households already employed but not currently residing in a community, a rule has been included to govern the estimating of elderly households who, because of established waiting lists for assisted housing or use of health facilities, could reasonably be expected to reside in the community. Provision has also been made for applicants, who may have more recent data and/or alternative estimating methodologies, to propose the usage of such data and/or methodologies.

Because this amendment is necessary to conform current regulations to the Housing and Community Development Amendments of 1978, and involves reverting to the use of procedures formerly in effect, the Secretary has determined that it is unnecessary to invite public comment on this amendment before its effective date. However, interested persons are invited to participate in this rulemaking by filing data, comments and suggestions with the Rules Docket Clerk at the above address, on or before the comment due date. Each comment should include the commentor's name and address, and must refer to the docket number indicated in the heading of this document. All relevant comments will be considered before adoption of a final rule and copies of all written comments will be available for copying and inspection in the Office of the Rules Docket Clerk at the above address.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection in the Office of the Rules Docket Clerk at the above address.

Accordingly, the Department amends Chapter V of Title 24 of the Code of Federal Regulations by revising paragraph (b)(2)(ii) of § 570.306, *Housing Assistance Plan*, to read as follows:

§ 570.306 Housing Assistance Plan.

* * * * *

(b) * * *

(2) * * *

(ii) The applicant shall assess the housing assistance needs of lower-income households, by household type, who could reasonably be expected to reside in the community, based on existing or projected employment. The applicant shall also assess the housing assistance needs of elderly households who could reasonably be expected to reside in the community because they are seeking housing in the community or use services, such as health facilities, in the community. The following rules shall be followed in developing estimates of needs for households who could be expected to reside.

(A) If the applicant is a participant in a State or Areawide Housing Opportunity Plan approved by the Secretary, the expected to reside estimates in the applicant's Housing Assistance Plan and those in the approved Housing Opportunity Plan shall be consistent.

(B) For all other applicants, the expected to reside estimates should be based on the following:

(*1*) *Expected to reside as a result of planned employment:* Estimate the total number of lower-income families with workers expected to be employed in the community in the next three years as a result of known commercial, industrial, governmental, or service employment to be generated by new or expanded development. Such estimates shall be derived from generally available data. Sources of information may include approved development plans, building permits, and awards of significant contracts. Of this total, estimate the number of these jobs which will likely be filled by persons not currently residing within the applicant's jurisdiction, but who would move into the jurisdiction as a result of the planned employment.

(*2*) *Expected to reside who are currently working, but not residing in the applicant's jurisdiction:* An applicant community should utilize the following methodology to derive the minimum estimate of the number of lower-income families with workers employed in the community, but living elsewhere, who can be expected to reside in the applicant community. First, estimate the number of lower-income families with workers employed in the applicant community, but living elsewhere. Second, estimate the number of lower-income families with workers employed in the community who also live in the community. The sum of these two figures is the estimated total number of lower-income families with workers employed in the applicant community. Third, for applicants in a metropolitan area, determine an overall metropolitan area percentage of lower-income families with workers who live in the same community in which they work, based on those communities in the metropolitan area for which data are available. This percentage is calculated by dividing the total number of lower-income families with workers who work and live in all such communities, by the total number of lower-income families with workers employed in all such communities. Nonmetropolitan applicants located in a county which is contiguous to a metropolitan area should use the metropolitan area percentage described above. Other nonmetropolitan applicants should use the statewide nonmetropolitan area average. (These figures will be made available by HUD.) Fourth, multiply the overall applicable percentage by the following percentage: the number of lower-income families with workers employed in the applicant community,

but living elsewhere, divided by the total number of lower-income families, both resident and non-resident, with workers employed in the applicant community. Fifth, multiply the resulting percentage by the number of lower-income families with workers employed in the applicant community, but living elsewhere, to produce the estimate of the number of such families which may be expected to reside in the applicant community.

Example. As an example, an applicant who estimates that it has 1,000 lower-income families with workers employed in the applicant community but living elsewhere, estimates that it has 2,200 lower-income families, both resident and non-resident, with workers employed in the community, and estimates the overall metropolitan percentage to be forty percent, would compute the number of families expected to reside based on workers already employed as follows:

40% × (1,000 divided by 2,200) × 1,000 = 182

Note.—For most applicants who had a 1970 population in excess of 25,000, the HUD Area Office has data for this computation. For all other communities, estimates should be developed based on the most recent applicable data available from such other sources as State Employment Services, local planning departments, major employers in the area, or local surveys. (Documentation of any such data and the basis for estimate must be submitted to HUD.)

(*3*) *Expected to reside elderly households:* Where the community has assisted housing already available for the elderly, the estimate for the elderly expected to reside may be obtained from the number of qualified non-resident elderly households on the most current waiting lists for such assisted housing. Where there is either no elderly assisted housing in the community or if there is insufficient data on non-resident elderly households on waiting lists for assisted housing that is available, the estimate for this paragraph may be based on the following: Of the total number of non-resident, elderly, lower-income households known to currently use health facilities within the applicant's jurisdiction, the number which the applicant believes would move into the community if adequate housing were available at a reasonable cost.

(C)(*1*) Applicants shall not be required to include an estimated number of lower-income households who could be expected to reside in the community to the extent that such estimated number, together with lower-income households already residing in the community, would result in a ratio of lower-income households to total households in the community which is greater than the applicable area percentage of lower-income households to total households. In such case, applicants may reduce their estimated number of households expected to reside in the community, proportionately by household type, to the point where the resultant ratio of lower-income households to total households in the community is equal to, but not less than, the applicable area percentage.

(*2*) Applicants in a metropolitan area or in counties contiguous to a metropolitan area shall use data for that metropolitan area. Applicants in a county which is neither within nor contiguous to a metropolitan area shall use data for the statewide nonmetropolitan area. (These figures will be supplied by HUD.)

(D) Applicants who wish to use an alternative methodology for developing estimates of the current employment portion of the expected to reside component (§ 570.306(b)(2)(ii)(B)(*2*)) should contact the HUD Area Office in advance of preparing such estimates to discuss such methodologies and secure HUD approval of their usage for this purpose. Alternative methodologies must address the following statutory requirements: (*1*) Estimate the number of lower-income households with workers currently employed but not residing in the jurisdiction; (*2*) estimate the number of these who could reasonably be expected to reside; and (*3*) adjust estimates to avoid impactions of lower-income households.

(E) The requirements of paragraph (b)(2)(ii) of this section are not intended to preempt a State or judicial requirement that a community undertake a greater share of the responsibility in meeting the housing needs of lower-income families.

Authority.—Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95–128); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); and Title I, Housing and Community Development Amendments of 1978 (Pub. L. 95–557; 42 U.S.C. 1452b).

The legislative review provisions of Section 7(o) of the Department of Housing and Urban Development Act have been complied with.

Issued at Washington, D.C., July 17, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 79–24557 Filed 8–8–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7637; LR–2086]

Income Tax; Taxable Years Beginning After December 31, 1953: Consolidated Return Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to consolidated returns. Changes to the applicable tax law were made by the Tax Reform Act of 1969. The regulations provide the public with guidance needed to comply with that Act and affect corporations that file consolidated returns.

DATE: Generally, the regulations are effective for taxable years for which the due date of the return is after August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Lawrence M. Axelrod, the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention CC:LR:T (202–566–3458 not a toll-free call).

SUPPLEMENTAL INFORMATION:

Background

On January 4, 1973, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code of 1954, 38 FR 774. The amendments were proposed to conform the regulations to section 512 of the Tax Reform Act of 1969 (83 Stat. 638) and to make certain other changes. A public hearing was held on March 15, 1973. After consideration of all comments regarding the proposed amendments, some of those amendments are adopted as revised by this Treasury decision.

General Statement of Purpose

The purpose of the amendments is to make certain changes in the consolidated return regulations to reflect section 512 (relating to capital loss carrybacks) of the Tax Reform Act of 1969 (83 Stat. 638) and to make other miscellaneous changes. The amendments revise § 1.1502–22 (relating to computation of consolidated net capital gain), § 1.1502–41 (relating to consolidated net long-term gain and net short-term loss), and § 1.1502–79 (relating to the carryover and carryback of a consolidated net capital loss to

separate return years) to take into account the capital loss carryback permitted by section 512 of the Tax Reform Act of 1969. In addition, other sections of the consolidated return regulations requiring the computation, for a specified purpose, of consolidated taxable income or the income of a member are revised to reflect the capital loss carryback, including § 1.1502–4 (relating to the foreign tax credit), § 1.1502–24 (relating to charitable contributions), § 1.1502–25 (relating to the Western Hemisphere trade corporation deduction), and § 1.1502–27 (relating to the section 247 deduction).

The amendments, as proposed, also change the consolidated return regulations regarding the negative adjustment under § 1.1502–32 (b) and (c) for distributions out of earnings and profits accumulated in a separate return limitation year of a member. In effect the amendments would provide for a negative adjustment to the basis of the stock of such a member under § 1.1502–32 (b) and (c). The amendments also would have the effect of eliminating the exception in § 1.1502–32(d)(6) to the negative adjustment rules for distributions out of earnings and profits carried over in certain transactions to which section 381(a) applied. Comments received opposed adoption of the changes in the negative basis adjustment rules, but the rules are adopted essentially as proposed. In addition, paragraph (d)(6) has been revised to clarify the relationship between that provision and the new negative adjustment rules. No inference as to existing law is to be drawn from this revision.

The notice of proposed rulemaking in § 1.1502–5 would have reversed the Service's position in Rev. Rul. 69–622, 1969–2, C.B. 169, which permitted a group filing a consolidated return to pay estimated tax, for the first 2 years, on a separate or consolidated basis. The notice would have required payments to be made on a separate basis only. After reconsidering the issue, it was decided that the existing policy allowing groups an option does not present any significant abuse potential and alleviates possible inconvenience to taxpayers. However, changes are made in § 1.1502–5 to conform to the elimination of the estimated tax exemption and the declaration of estimated tax by corporations.

The Treasury decision adopts § 1.1502–42 of the notice without substantive change. That section uses a thrift institution-member's portion of consolidated taxable income to compute the bad debt deduction pursuant to the percentage of taxable income method under section 593(b)(2). However, changes in the language of the notice have been made for technical reasons. Under existing regulations, a thrift institution that is a member of an affiliated group that files a consolidated return computes the bad debt reduction using its separate taxable income. The effect of the new rule is illustrated by the following example.

An affiliated group consists of corporations X, Y, and Z. X is a thrift institution that computes a bad debt deduction under section 593(b)(2). The total income of the group without the bad debt deduction is $500, made up of separate taxable income (or loss) of $1,000 for X, ($1,500) for Y, and $1,000 for Z. Under the old rule, using an applicable percentage of 40 percent computed on X's separate taxable income, the bad debt deduction is $400 (*i.e.*, 40 percent of $1,000). Accordingly, the consolidated taxable income is $100 (*i.e.*, $500−$400), resulting in a tax of $46 which is 9.2 percent (*i.e.*, $46÷$500) of the total income of the group. Under the rule adopted by the Treasury decision, the bad debt deduction is $100, that is, 40 percent of $250 (X's allocable share of consolidated taxable income, *i.e.*, $500×$1,000/$2,000). The consolidated taxable income is $400 (*i.e.*, $500−$100), resulting in a tax of $184, which is 36.8 percent of the consolidated taxable income before the bad debt deduction ($184÷$500). Therefore, the new rule achieves the appropriate compromise between the 46 percent rate generally imposed on corporations, and the lower effective rate accorded thrift institutions. However, if the new rule has a substantial adverse effect on the group, the group may apply to the Commissioner, under § 1.1502–75(c), for permission to discontinue filing consolidated returns.

In adopting the "portion of consolidated taxable income" approach to compute the bad debt deduction, the Treasury Department considered various sources and comments. Among them was the report of June 14, 1978, by the General Accounting Office regarding savings and loan associations and the regulation of their service corporations. The report described a scheme by which thrift institutions could manipulate income and expenses between a savings and loan association and a service corporation. By legally shifting income to the association and expenses to its service corporation, the association can qualify for a higher bad debt deduction since the deduction is computed as a percentage of taxable income. In the absence of a consolidated return, the shifting of income and expenses would create a larger bad debt deduction, but might also generate a net operating loss for the service corporation which it may not be able to use. By filing a consolidated return, expenses that are shifted to the service corporation may be used to offset the taxable income of the association as already reduced by the higher bad debt deduction. The rule adopted by the Treasury decision reduces the incentive for such manipulation.

Other alternatives for computing "taxable income" for purposes of the bad debt deduction were considered, but rejected as inappropriate. For example, under § 1.1502–27(a)(ii), the taxable income of public utilities, for purposes of the limitation on the consolidated section 247 deduction, is the aggregate of the taxable income (or loss) of each member of the group that is a public utility. That aggregate, however, is merely a limitation. For any consolidated section 247 deduction to be allowed, the public utilities must actually pay dividends on preferred stock. By contrast, the deduction under section 593 is artificial in the sense that it does not reflect actual expenses and is largely equivalent to a preferential rate of tax. Moreover, the opportunity for abuse or artificial inflation of the bad debt deduction is much greater.

Based on the foregoing considerations, it has been determined that the rule provided in the notice of proposed rulemaking, using the portion of consolidated taxable income attributable to the thrift institution, not only reaches the correct result in normal situations, but also is necessary to prevent tax avoidance. Accordingly, this rule has been adopted without substantive change.

The proposed amendments to § 1.1502–3 which were designed to reflect section 106 of the Revenue Act of 1971 (85 Stat. 506) (relating to the investment credit) have been withdrawn because they have become largely obsolete.

Drafting Information

The principal author of these regulations is Lawrence M. Axelrod of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

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Adoption of Amendments to the Regulations

Accordingly, the amendments published with notice of proposed rulemaking in the **Federal Register** for January 4, 1973 (38 FR 774) are adopted, subject to the following changes:

Paragraph 1. The amendments to § 1.1502–3, as set out in paragraph 1 of the notice of proposed rulemaking, are withdrawn.

Par. 2. Paragraph 3 of the notice of proposed rulemaking is revised to read as follows:

Par. 3. Section 1.1502–5 is amended by revising paragraphs (a), (b)(1), and (b)(2); by redesignating paragraph (b)(3) as paragraph (b)(5) and substituting for the period at the end of the paragraph "and § 1.1502–33 (d)(2)."; by adding new paragraphs (b)(3) and (b)(4); and by revising paragraph (c). These new and revised provisions read as follows:

§ 1.1502–5 Estimated tax.

(a) *General rule*—(1) *Consolidated estimated tax.* If a group files a consolidated return for two consecutive taxable years, it must make payments of estimated tax on a consolidated basis for each subsequent taxable year, until such time as separate returns are properly filed. Until such time, the group is treated as a single corporation for purposes of section 6154 (relating to payment of estimated tax by corporations). If separate returns are filed by the members for a taxable year, the amount of any estimated tax payments made with respect to a consolidated payment of estimated tax for such year shall be credited against the separate tax liabilities of the members in any manner designated by the common parent which is satisfactory to the Commissioner. The consolidated payments of estimated tax shall be deposited with the authorized commercial dispositary or Federal Reserve Bank with which the common parent deposits its estimated tax payments. A statement should be attached to the payment setting forth the name, address, employer identification number, and internal revenue service center of each member.

(2) *First two consolidated return years.* For the first 2 years for which a group files a consolidated return, it may make payments of estimated tax on either a consolidated or separate basis. If a consolidated return is filed for such year, the amount of any estimated tax payments made for such year by any member shall be credited against the tax liability of the group.

(3) *Effective date.* This section applies to taxable years for which the due date (without extensions) for filing returns is after August 6, 1979. For prior taxable years see 26 CFR 1.1502–5 (Revised as of April 1, 1978).

(b) *Addition to tax for failure to pay estimated tax under section 6655*—(1) *Consolidated return filed.* For the first two taxable years for which a group files a consolidated return, the group may compute the amount of the penalty (if any) under section 6655 on a consolidated basis or separate member basis, regardless of the method of payment. Thereafter, for a taxable year for which the group files a consolidated return, the group must compute the penalty on a consolidated basis.

(2) *Computation of penalty on consolidated basis.* (i) This paragraph (b)(2) gives the rules for computing the penalty under section 6655 on a consolidated basis.

(ii) The tax and facts shown on the return for the preceding taxable year referred to in section 6655(d) (1) and (2) are, if a consolidated return was filed for that preceding year, such items shown on the consolidated return for that preceding year or, if one was not filed for that preceding year, the aggregate taxes and the facts shown on the separate returns of the common parent and any other corporation that was a member of the same affiliated group as the common parent for that preceding year.

(iii) If estimated tax was not paid on a consolidated basis, then the amount of the group's payments of estimated tax for the taxable year is the aggregate of the payments made by all members for the year.

(iv) Section 6655(d)(1) applies only if the common parent's consolidated return, or each member's separate return, for the preceding taxable year (as the case may be) was a taxable year of 12 months.

(3) *Computation of penalty on separate member basis.* To compute any penalty under section 6655 on a separate member basis, for purposes of section 6655(b)(1), the "tax shown on the return for the taxable year" is the portion of the tax shown on the consolidated return allocable to the member under paragraph (b)(5) of this section. If the member was included in the consolidated return filed by the group for the preceding taxable year then—

(i) For purposes of section 6655(d)(1), the "tax shown on the return" for any member shall be the portion of the tax shown on the consolidated return for the preceding year allocable to the member under paragraph (b)(5) of this section.

(ii) For purposes of section 6655(d)(2), the "facts shown on the return" shall be the facts shown on the consolidated return for the preceding year and the tax computed under that section shall be allocated under the rules of paragraph (b)(5) of this section.

(4) *Consolidated payments if separate returns filed.* If the group does not file a consolidated return for the taxable year, but makes payments of estimated tax on a consolidated basis, for purposes of section 6655(b)(2), the "amount, if any of the installment paid" by any member is an amount apportioned to the member in a manner designated by the common parent that is satisfactory to the Commissioner. If the member was included in the consolidated return filed by the group for the preceding taxable year, the amount of a member's penalty under section 6655 is computed on the separate member basis described in paragraph (b)(3) (i) and (ii) of this section.

* * * * *

(c) *Examples.* * * *

Example (1). Corporations P and S–1 file a consolidated return for the first time for calendar year 1978. P and S–1 also file consolidated returns for 1979 and 1980. For 1978 and 1979, P and S–1 may make payments of estimated tax on either a separate or consolidated basis. For 1980, however, the group must pay its estimated tax on a consolidated basis. In determining whether P and S–1 come within the exception provided in section 6655(d)(1) for 1980, the "tax shown on the return" is the tax shown on the consolidated return for 1979.

Example (2). Assume the same facts as in example (1). Assume further that corporation S–2 is a member of the group during 1979, and joins in the filing of the consolidated return for such year but ceases to be a member of the group on September 15, 1980. In determining whether the group (which no longer includes S–2) comes within the exception provided in section 6655(d)(1) for 1980, the "tax shown on the return" is the tax shown on the consolidated return for 1979.

Example (3). Assume the same facts as in example (1). Assume further that corporation S–2 becomes a member of the group on July 1, 1980, and joins in the filing of the consolidated return for 1980. In determining whether the group (which now includes S–2) comes within the exception provided in section 6655(d)(1) for 1980, the "tax shown on the return" is the tax shown on the consolidated return for 1979. Any tax of S–2 for any separate return year is not included as a part of the "tax shown on the return" for purposes of applying section 6655(d)(1).

Example (4). Corporations X and Y filed consolidated returns for the calendar years 1977 and 1978 and separate returns for 1979. In determining whether X or Y comes within the exception provided in section 6655(d)(1) for 1979, the "tax shown on the return" is the amount of tax shown on the consolidated return for 1978 allocable to X and to Y in accordance with paragraph (b)(5) of this section.

* * * * *

Par. 3. Section 1.1502–32 as amended by paragraph 8 of the notice of proposed rulemaking is further amended, by deleting "or" at the end of paragraph (b)(2)(iii)(*a*), by revising paragraph (d)(6), and by adding a new paragraph (d)(11). The new and revised provisions read as follows:

§ 1.1502–32 Investment adjustment.

* * * * *

(d) *Operating rules.* * * *

(6) *Acquisition of nonmembers.* If a subsidiary acquires the assets of a nonmember, a negative adjustment is not required under paragraphs (b)(2)(iii) and (c)(2) of this section to the extent a distribution is made out of the earnings and profits carried over from the nonmember to the subsidiary under section 381(c)(2). However, if such a distribution occurs after August 6, 1979, since the distribution is made out of earnings and profits accumulated in a separate return limitation year of the subsidiary, a negative adjustment is required under paragraphs (b)(2)(iii)(*c*) and (c)(2)(iii) of this section.

* * * * *

(11) *Separate return limitation year.* Solely for purposes of this section, all taxable years of a subsidiary that precede a separate return limitation year of the subsidiary shall be treated as separate return limitation years.

* * * * *

Par. 4. Paragraph 10 of the notice of proposed rulemaking is revised to read as follows:

Par. 10. Section 1.1502–42 is revised to read as follows:

§ 1.1502–42 Mutual savings banks, etc.

(a) *In general.* This section applies to mutual savings banks and other institutions described in section 593(a).

(b) *Total deposits.* In computing for purposes of section 593(b)(1)(B)(ii) total deposits or withdrawable accounts at the close of the taxable year, the total deposits or withdrawable accounts of other members shall be excluded.

(c) *Taxable income; taxable years beginning before January 1, 1981.* For taxable years beginning before January 1, 1981, a member's taxable income for purposes of section 593(b)(2) is determined under § 1.1502–27(b) (computed without regard to any deduction under section 593(b)(2)). In addition, for taxable years beginning after July 11, 1969, taxable income as computed under the preceding sentence is subject to the adjustments provided in section 593(b)(2)(E). See § 1.593–6A(b)(5).

(d) *Taxable income; taxable years beginning after December 31, 1980*—(1) *In general.* For a taxable year beginning after December 31, 1980, a member's taxable income for purposes of section 593(b)(2) is the portion of consolidated taxable income attributable to the member. For purposes of this subparagraph, this portion is consolidated taxable income, multiplied by a fraction. For this purpose, consolidated taxable income is computed under § 1.1502–11, subject to the adjustments provided in section 593(b)(2)(E) for members that compute a deduction under section 593(b)(2). The numerator of the fraction is the member's tentative taxable income. The denominator is the sum of the tentative taxable income of all members of the group.

(2) *Tentative taxable income.* For purposes of this paragraph, a member's tentative taxable income is its separate taxable income determined under § 1502–12, subject to certain adjustments. For a member that computes a deduction under section 593(b)(2), separate taxable income is adjusted as provided in section 593(b)(2)(E). In addition, for all members, separate taxable income is adjusted for the following items taken into account in the computation of consolidated taxable income:

(i) The portions of the consolidated net operating loss deduction, the consolidated charitable contributions deduction, and the consolidated dividends received deduction attributable to the member;

(ii) The member's capital gain net income (determined without regard to any net capital loss carryover or carryback attributable to the member);

(iii) The member's net capital loss and section 1231 net loss, reduced by the portion of the consolidated net capital loss attributable to the member; and

(iv) The portion of any consolidated net capital loss carryover or carryback attributable to the member which is absorbed in the taxable year.

(3) *Special rule.* A member's tentative taxable income may not be less than zero.

(This Treasury decision is issued under the authority contained in sections 1502 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 637, 917; 26 U.S.C. 1502, 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: July 26, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 79–24576 Filed 8–6–79; 4:18 pm]
BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 214

[DoD Directive 6050.1] [1]

Environmental Effects in the United States of DOD Actions

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes Department of Defense (DoD) policies and procedures to supplement the Council on Environmental Quality (CEQ) Regulations For Implementing the Procedural Provisions of the National Environmental Policy Act, November 29, 1978 (40 CFR Parts 1500–1508). The CEQ regulations provide that Federal agencies shall adopt implementing procedures by July 30, 1979. This rule provides implementing procedures and guidance to the DoD components and assigns responsibilities as required by the CEQ regulation.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Colonel C. D. Sadler, USA, Office of the Deputy Assistant Secretary of Defense, (Energy, Environment, and Safety), OASD(MRA&L), The Pentagon, Room 3D 833, Washington, D.C. 20301, Telephone: 202–695–7820.

SUPPLEMENTARY INFORMATION: In FR 79–15089 appearing in the **Federal Register** on May 15, 1979 (44 FR 28388), the Department of Defense published a notice of proposed rulemaking concerning the reissuance of revised DoD Directive 6050.1.

Comments Received

In response to the notice of proposed rulemaking, DoD received comments from three organizations. Full and careful consideration was given to all written comments received and all substantive recommendations have been accommodated in the final rule.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

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Major changes from the proposed rulemaking are discussed below. In addition, alterations were made to promote clarity in grammar, vocabulary, and style and to ensure consistency with the CEQ regulations.

1. Enclosure 1, paragraph B.5., *Actions That Normally Require an Environmental Impact Statement*, has been revised to delete the listing of categories of actions that normally require an environmental impact statement. The DoD components are directed to identify those categories in their procedures implementing this Directive.

2. Enclosure 1, paragraph B.7., *Actions That Normally Require an Environmental Assessment*, has been revised in that DoD Components shall prepare an environmental assessment when a proposal is not one that normally requires an environmental impact statement and does not qualify for a categorical exclusion. This final rule deletes the list of categories of actions that normally require an environmental assessment.

3. Annex A, *DoD List of Categorical Exclusions*, has been reduced in length. Those categories that were objected to by public comment have been deleted.

Accordingly, 32 CFR Chapter I is amended by a revision of Part 214 reading as follows:

PART 214—ENVIRONMENTAL EFFECTS IN THE UNITED STATES OF DOD ACTIONS

Sec.

214.1 Reissuance and purpose.
214.2 Applicability and scope.
214.3 Definitions.
214.4 Policy.
214.5 Responsibilities.
214.6 Information requirements.

Enclosure 1—DoD Implementing Procedures.
Annex A—DoD List of Categorical Exclusions.

Authority: Pub. L. No. 91–190 (1970) 42 U.S.C. 4321, 4331–4335, 4341–4347, and E.O. 11514, as amended.

§ 214.1 Reissuance and purpose.

This part implements the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508), and provides policy and procedures to enable DoD officials to be informed of and take into account environmental considerations when considering the authorization or approval of major DoD actions in the United States. The CEQ regulations implement section 102(2) of the National Environmental Policy Act (NEPA) of 1969, Pub. L. No. 91–190 (1970), 42 U.S.C. 4321, 4331–4335, 4341–4347 (1976) (and Executive Order 11514, as amended.

§ 214.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components").

(b) This part is limited to DoD actions with environmental effects in the United States.

(c) The civil works activities under the jurisdiction of the Secretary of the Army and the Chief of Engineers are excluded from this Part.

§ 214.3 Definitions.

(a) *United States* means all states, the District of Columbia, territories and possessions of the United States, and all waters and airspace subject to the territorial jurisdiction of the United States. The territories and possessions of the United States include the Virgin Islands, American Samoa, Wake Island, Midway Island, Guam, Palmyra Island, Johnston Atoll, Navassa Island, and Kingman Reef. For the purpose of this Directive, United States also includes the commonwealth of Puerto Rico and the Commonwealth of the Northern Marianas.

(b) Other terms used in this part are defined in 40 CFR Part 1508 of the CEQ regulations.

§ 214.4 Policy.

(a) The Department of Defense must act with care to ensure to the maximum extent possible that, in carrying out its mission of providing for the national defense, it does so in a manner consistent with national environmental policies. Care must be taken to ensure that, consistent with other considerations of national policy and with national security requirements, practical means and measures are used to protect, restore, and enhance the quality of the environment, to avoid or minimize adverse environmental consequences, and to attain the objectives of:

(1) Achieving the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other consequences that are undesirable and unintended;

(2) Preserving important historic, cultural, and natural aspects of our national heritage, and maintaining, where possible, an environment that supports diversity and variety of individual choice;

(3) Achieving a balance between resource use and development within the sustained carrying capacity of the ecosystem involved; and

(4) Enhancing the quality of renewable resources and working toward the maximum attainable recycling of depletable resources.

(b) The Department of Defense shall:

(1) Assess environmental consequences of proposed DoD actions that could affect the quality of the environment in the United States in accordance with enclosure 1 and 40 CFR Parts 1500–1508.

(2) Use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and environmental considerations in planning and decisionmaking where there may be an impact on man's environment.

(3) Ensure that presently unmeasured environmental amenities are considered in the decisionmaking process;

(4) Consider reasonable alternatives to recommended actions in any proposal that would involve unresolved conflicts concerning alternative uses of available resources;

(5) Make available to states, counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment; and

(6) Utilize ecological information in planning and developing resource-oriented projects.

§ 214.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall:

(1) Serve as the responsible official for all DoD environmental matters;

(2) Modify or supplement enclosure 1 of this Part, when required, in a manner consistent with the policies set forth here;

(3) Provide assistance in the preparation of environmental assessments and statements, and assign, in consultation with appropriate Assistant Secretaries of Defense and heads of DoD Components, lead agency responsibility to prepare environmental documentation when more than one DoD Component is involved and agreement among the Components cannot be reached;

(4) Direct the preparation of environmental documents for specific proposed actions, when required;

(5) Provide, when appropriate, consolidated Department of Defense comments requested by other Federal agencies on draft and final environmental impact statements;

(6) Review proposed issuances of the Office of the Secretary of Defense that may have environmental implications; and

(7) Maintain liaison with the Council on Environmental Quality, the Environmental Protection Agency, the Office of Management and Budget, other Federal agencies, and state and local groups with respect to environmental analyses for proposed DoD actions affecting the quality of the environment in the United States.

(b) The *General Counsel, DoD*, shall provide advice and assistance concerning the requirements of this Part.

(c) The *Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, Directors of Defense Agencies*, and *Commanders of the Unified and Specified Commands*, for operations under their jurisdiction, shall:

(1) Assess environmental consequences of proposed programs and actions within their respective DoD Component;

(2) Prepare and process environmental documents as required by this Part;

(3) Integrate environmental considerations into their decisionmaking processes;

(4) Ensure that regulations and other major policy issuances are reviewed for consistency with the requirements of this Part;

(5) Provide comments on environmental impact statements for actions within their area of expertness of concern; and

(6) Designate a single point of contact for matters pertaining to this Part.

§ 214.6 Information requirements.

The environmental documents to be prepared under § 214.5, enclosure 1, and 40 CFR Parts 1500–1508 are assigned Report Control Symbol DD–M(AR)1327 (formerly DD–H&E(AR)1327).

Enclosure 1—DoD Implementing Procedures

A. General

1. Section 1507.3, Council on Environmental Quality regulations directs that Federal agencies shall as necessary adopt procedures to supplement the CEQ regulations. This enclosure provides those DoD implementing procedures.

2. This enclosure must be read together with the CEQ regulations and the Act when applying the NEPA process.

3. This enclosure is organized sequentially from early planning to final implementation of an action. Throughout this enclosure, references to the CEQ regulations identify the applicable section of those regulations; e.g., CEQ 1501.2.

B. Planning Consideration

1. *Early Planning.* DoD Components shall integrate the NEPA process during the initial planning stages of proposed DoD actions to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to preclude potential conflicts.

2. *Lead Agency.* a. To determine the lead agency for preparing environmental documentation for proposed actions in which more than one DoD Component is involved, and in which no other Federal agency is involved, DoD Components shall apply the criteria in CEQ 1501.5. The ASD(MRA&L) shall resolve disagreements.

b. When another Federal agency is involved and there is disagreement in lead agency determination, the ASD(MRA&L) shall attempt to resolve the differences. If unsuccessful, the ASD(MRA&L) shall file a request with CEQ for lead agency determination.

3. *Advising Applicants.* CEQ 1501.2(d) provides for advising private applicants or other non-Federal entities when DoD involvement is reasonably foreseeable. Actions involving applications by private applicants or other non-Federal entities are limited within the Department of Defense and pertain primarily to permits, leases, and related actions concerning the use of DoD lands and property.

a. The following are types of actions initiated by private persons, state or local agencies, and other non-Federal entities for which DoD involvement may be reasonably foreseeable:

(1) Requests for easements and rights-of-way on DoD lands,

(2) Grazing and agricultural leases, and

(3) Requests for permits, licenses, or other agreements for use of DoD real property by non-DoD entities.

b. When DoD involvement is reasonably foreseeable, DoD Components shall consult early with appropriate state and local agencies and Indian tribes and with interested private persons and organizations.

c. Public notices or other means used to inform or solicit applicants for permits, leases, or related actions shall describe the studies or information foreseeably required for later DoD Component action.

d. When considering leasing or otherwise providing real property to non-DoD entities, DoD Components shall initiate the NEPA process, when required, as early as possible.

4. *Determination of Requirement for an Environmental Impact Statement.* DoD Components shall determine as early as possible whether to prepare an environmental impact statement. Early determination ensures that necessary environmental documentation is prepared and integrated with the decisionmaking process. To determine whether to prepare an environmental impact statement, DoD Components shall determine whether the proposal is one that:

a. Normally requires an environmental impact statement,

b. Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion), or

c. Normally requires an environmental assessment but not necessarily an environmental impact statement.

5. *Actions That Normally Require an Environmental Impact Statement.* a. DoD Components shall determine if a proposal is one that normally requires an environmental impact statement. In some cases, it is readily apparent that a proposed action would have a significant impact on the environment. In that event, an environmental assessment is not required, and the DoD Component may begin the environmental impact statement phase. To determine those actions that normally do require the preparation of an environmental impact statement, the following considerations, which DoD Components may supplement, are provided:

(1) Potential for significant degradation of environmental quality,

(2) Potential for threat or hazard to the public,

(3) Potential for significant impact on protected natural or historic resources.

b. DoD component procedures will identify those typical classes of actions that normally require the preparation of environmental impact statements.

c. In any case involving a proposed action of the sort that normally does require an environmental impact statement, a DoD Component may still prepare an environmental assessment to determine if an environmental impact statement is required based on the particular facts. If a determination is made based on the assessment that no environmental impact statement is required on the particular facts, a finding of no significant impact will be prepared and made available to the public in accordance with paragraph C.4. of this enclosure.

6. *Categorical Exclusion.* The CEQ regulations provide for the establishment of categorical exclusions (CEQ 1507.3(b)) for those actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. Categorical exclusions will help DoD Components avoid unnecessary effort and concentrate resources on significant environmental issues.

a. *Criteria.* Considerations to assist in identifying categories of actions that normally do not require either an environmental impact statement or an environmental assessment include:

(1) Minimal or no significant effect on environmental quality,

(2) No significant change to existing environmental conditions,

(3) No significant cumulative environmental impact,

(4) Social and economic effects only,

(5) Similarly to actions previously assessed and found to have no significant environmental impact.

b. *List of Categorical Exclusions.* Categories of actions that the Department of Defense has determined to have no significant effect on the quality of the human

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environment and for which environmental impact statements and environmental assessments are not required are identified in Annex A to this enclosure.

c. *Changes to the List of Categorical Exclusions.* (1) The DoD list of categorical exclusions is reviewed and refined as additional categories are identified. DoD Components may recommend additions or changes to this list. Recommendations shall be submitted to the ASD (MRA&L).

(2) DOD Components are encouraged to include in their regulations to implement this Directive addition categorical exclusions that they identify. Categorical exclusions that one DOD Component idetifies that may be applicable to other DOD Coponents should be brought to the attention of the ASD(MRA&L).

d. *Extraordinary Circumstances.* If extraordinary circumstances exist indicating that a normally excluded action may have a significant environmental effect, an environmental assessment will be prepared for such otherwise categorically excluded action. Factors to consider in determining whether extraordinary circumstances exist include:

(1) Greater scope or size than normally experienced for a particular category of action,

(2) Potential for degradation, even though slight, of already existing poor environmental conditions,

(3) Presence of endangered species, archeological remains, or other cultural, historic, or protected resources, and

(4) Use of hazardous or toxic substances.

7. *Actions That Normally Require an Environmental Assessment.* When a proposal is not one that normally requires an environmental impact statement and does not qualify for categorical exclusion, the DoD Component shall prepare an environmental assessment.

C. Environmental Assessment Phase

1. *When to Prepare.* DoD Components shall begin preparation of an environmental assessment as early as possible after the determination that an assessment is to be prepared.

2. *Content and Format.* The environmental assessment is a concise public document to determine whether to prepare an environmental impact statement or whether to prepare a finding of no significant impact, to aid in compliance with NEPA when no environmental impact statement is necessary, and to facilitate preparation of a statement when one is necessary. Preparation of an environmental assessment generally does not require extensive research or lengthy documentation. The environmental assessment shall contain brief discussions of the following:

a. Need for the proposed action,

b. Alternatives considered when the proposed action involves unresolved conflicts concerning alternative uses of available resources,

c. Environmental impacts of the proposed action and alternatives,

d. Listing of agencies and persons consulted, and

e. Conclusion of whether to prepare an environmental impact statement or a finding of no significant impact.

3. *Public Participation.* DoD Components shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing environmental assessments. In determining "to the extent practicable," factors that may be considered include:

a. Magnitude of the proposal,

b. Likelihood of public interest,

c. Need to act quickly, and

d. National security classification issues.

4. *Finding of No Significant Impact.* If a DoD Component determines on the basis of the environmental assessment not to prepare an environmental impact statement, the DoD Component shall prepare a finding of no significant impact in accordance with CEQ 1501.4(e) and make the finding of no significant impact available to the affected public as specified in CEQ 1501.4(e) and CEQ 1506.6. A finding of no significant impact is not required when the decision not to prepare an environmental impact statement is based on a categorical exclusion.

D. Environmental Impact Statement Phase

1. *Notice of Intent.* When a DoD Component decides to prepare an environmental impact statement, it shall publish a notice of intent in the **Federal Register.** The notice of intent shall be published before initiation of the scoping process.

2. *Scoping.* After determininationthat an environmental impact statement should be prepared and publication of the notice of intent, the DoD Component shall initiate the scoping process in accordance with CEQ 1501.7.

3. *Preparation* Detailed procedures for preparation of the environmental impact statement are provided in CEQ 1502. The recommended format provided in CEQ 1502.10 is the standard format for DoD environmental impact statements. Requests for exception will be submitted to the ASD(MRA&L) for approval on a case-by-case basis.

4. *Supplemental Environmental Impact Statements.* DoD Components may at any time supplement a draft or final environmental impact statement. DoD Components shall prepare a supplement to either the draft or final environmental impact statement in accordance with CEQ 1502.9(c). DoD Components normally will prepare, circulate, and file a supplement to a statement in the same manner (exclusive of scoping) as a draft or final statement. The supplement shall be included as part of the formal administrative record to be considered in the decisionmaking process. Exceptions to these procedures shall be requested from the ASD(MRA&L), who may undertake the discussions with the CEQ.

5. *Tiering.* DoD Components should emphasize the use of tiering (CEQ 1502.20) of environmental impact statements to eliminate repetitive discussions of the same issues and to focus the issues.

6. *Combining Documents.* Any environmental document prepared in the NEPA process may be combined with any other agency document to reduce duplication (CEQ 1506.4). If an environmental impact statement for a particular action already exists, regardless of what Federal agency prepared it, no new statement is required by this Directive (CEQ 1506.3).

7. *Incorporation by Reference.* DoD Components shall incorporate material into the environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action (CEQ 1502.21).

8. *Information on the NEPA Process.* Information or status reports on environmental impact statements and other elements of the NEPA process shall be provided to interested persons upon request. This does not, however, encompass standing or blanket requests.

a. Each DoD Component shall designate in its regulation implementing this part where interested persons can obtain information.

b. For those actions relating to the Office of the Secretary of Defense, information is available by writing the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), Washington, D.C. 20301.

9. *Circulation of Environmental Impact Statements.* DoD Components shall circulate draft and final environmental impact statements as prescribed in CEQ 1502.19. In addition, DoD Components shall provide one copy of each draft and each final statement to the ASD(MRA&L).

10. *Classified Material.* It may be necessary for DoD Components to include classified material in environmental documentation. Classified information in environmental documents shall be safeguarded in accordance with Executive Order 12065 implemented by DoD 5200.1–R (32 CFR Part 159). The requirements for circulation (CEQ 1502.19) and public involvement (CEQ 1506.6) do not apply to classified environmental documents except where segregation of material and circulation and involvement can be accomplished consistently with the provisions of DoD 5200.1–R. When feasible, environmental documents may be organized in such a manner that classified portions can be included as annexes so that unclassified portions can be made available to the public in the normal manner. This normally will not be possible when the proposal itself is classified.

E. Preimplementation Actions

1. *Decisionmaking.* DoD Components shall ensure that the NEPA process is integrated into the decisionmaking process. Because of the size and diversity of the Department of Defense, it is not feasible to describe in this part the decisionmaking process for each of the various DoD programs. Proposals and actions may be initiated at any level. Similarly, review and approval authority may be exercised at various levels depending on the nature of the action, funding, and authority. It is necessary, therefore, that DoD Components provide further guidance, commensurate with their programs and organization, for integration of environmental considerations into the decisionmaking process. That guidance should include procedures to ensure that:

a. Major decision points are designated for principal programs and proposals likely to have a significant effect on the quality of the human environment, and steps are taken to ensure that the NEPA process coincides with these decision points.

b. Relevant environmental documents, comments, and responses accompany a proposal through existing DoD Component review processes so that they can be considered by DoD Component decisionmakers.

c. The alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in relevant environmental documents, and the decisionmaker considers all the alternatives described in the environmental impact statement.

2. *Record of Decision.* In those cases requiring environmental impact statements, DoD Components, at the time of the decision or, if appropriate, the proposal to Congress, shall prepare a concise public record of agency decision. The record of decision is not intended to be an extensive, detailed document. Rather, it is a concise document that sets forth the decision, identifies the alternatives considered in reaching the decision, specifies the environmentally preferable alternative or alternatives, indicates other factors that were balanced in the decisionmaking process, and states whether all practicable means to avoid or minimize environmental harm have been adopted, and if not, why not (CEQ 1505.2).

3. *Mitigation.* Throughout the NEPA process, DoD Components shall, where possible, give consideration to mitigation measures to avoid or minimize environmental harm. Mitigation measures or programs shall be identified, when appropriate, in the environmental documents and made available to decisionmakers. Mitigation and other conditions that have been established in the environmental impact statement or during its review, and that have been committed as part of the decision, shall be implemented.

4. *Monitoring.* If a DoD Component determines that monitoring is necessary to ensure that mitigation measures, to which a commitment has been made, are carried out, it shall adopt a monitoring program. DoD Components shall, upon request, provide monitoring information to the public and to cooperating and commenting agencies, as specified in CEQ 1505.3. This does not, however, include standing or blanket requests for periodic reporting.

5. *Emergencies.* In the event of an emergency, DoD Components may be required to take immediate action with significant environmental impact. This includes actions that must be taken to promote the national defense or security and that cannot be delayed, and actions necessary for the protection of life or property. DoD Components shall notify the ASD(MRA&L) of the emergency, who shall undertake the required consultation with the CEQ. In no event shall DoD Components delay an emergency action necessary to the national security, or for preservation of human life, for the purpose of complying with the provisions of this Directive or the CEQ regulations. If an emergency requires that an action be taken without delay, the ASD(MRA&L) shall be notified as promptly as is possible. The requirement for notification where action must be taken without delay is not a requirement for prior notification.

Annex A—DOD List of Categorical Exclusions

1. Preparation of regulations, directives, manuals, or other guidance documents that implement, without substantial change, the regulations, directives, manuals, or other guidance documents from higher headquarters or another Federal agency.

2. Preparation of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusion.

3. Routine installation maintenance and grounds-keeping activities.

4. Minor construction conducted in accordance with an approved installation master plan that does not significantly alter land use, provided that the operation of the completed project would not of itself have a significant environmental impact.

5. Studies that involve no commitment of resources other than manpower and funding.

6. Proposed actions that, based on sound judgment, are of such an environmentally insignificant nature as clearly not to meet the threshold for requiring an environmental assessment or environmental impact statement.

7. Other categories as identified by DoD Components in their regulations implementing this Part.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

August 6, 1979.

[FR Doc. 79–24543 Filed 8–8–79; 8:45 am]

BILLING CODE 3810–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1291–1A]

Approval of the Plan Revisions for South Dakota

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: The purpose of this action is to approve a revision to the South Dakota State Implementation Plan (SIP) submitted by the Governor of South Dakota and received by EPA on April 16, 1979. The revision grants a variance to the existing coal-fired steam-heat generating facility located on the South Dakota State University (SDSU) campus. This variance is not expected to have any severe impacts on the ambient air based on the report by Briant L. Davis, et al., from the Institute of Atmospheric Sciences, South Dakota School of Mines and Technology in Rapid City, South Dakota. On June 8, 1979 (44 FR 33116), EPA published a notice of proposed rulemaking which described the nature of the SIP revision and requested public comment. No comments were received.

ADDRESSES: Copies of the SIP revision and an EPA evaluation of the revision will be available at the offices of the EPA listed below.

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. David S. Kircher, Chief, Planning & Operations Section, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3711.

SUPPLEMENTARY INFORMATION: The State of South Dakota is required by Section 110 of the Federal Clean Air Act (CAA), to have a SIP for the control of air pollution within its boundaries. At present the city of Brookings does not violate the National Ambient Air Quality Standards and the report by Briant L. Davis, et al., entitled "Air Quality Measurements and Diffusion Modeling of the Heating Plan Plume at South Dakota State University, Brookings, South Dakota," concludes that the area will not be in violation in the future. As a result of this determination, the State granted to the South Dakota State University heating plant a variance to regulations ARSD 34:10:05:05, 34:10:03:01, and successor provisions setting a new emission limit at .8 lbs particulate/MBTU.

On June 8, 1979 (44 FR 33116), EPA published a notice of proposed rulemaking which described the nature of the SIP revision and requested public comment. No comments were received and no new issues were raised. Therefore, EPA approves the SIP revision concerning the variance for the heating plant at the South Dakota State University in Brookings, South Dakota.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I

have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 1857c-5))

Dated: August 3, 1979.

Douglas Costle,

Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In § 52.2170, paragraph (c)(6) is added as follows:

§ 52.2170 Identification of plan.

* * * * *

(c) * * *

(6) A new control strategy for Brookings, South Dakota was submitted on April 16, 1979.

[FR Doc. 79-24612 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 600

[FRL 1277-1]

Fuel Economy of Motor Vehicles; Technical Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this technical amendment is to delete from 40 CFR Part 600 four provisions on fuel economy of motor vehicles which are no longer applicable.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Andrew M. Wartenberg, Office of Mobile Source Air Pollution Control (ANR-455), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone: 202/755-0596.

SUPPLEMENTARY INFORMATION: In compliance with Executive Order 12044, EPA has been reviewing its existing regulations. As part of this review, the Office of Mobile Source Air Pollution Control has found the following provisions of 40 CFR 600 no longer to be applicable, and which may, therefore, be deleted from the Code of Federal Regulations:

(1) 40 CFR 600.207-77; Calculation and use of fuel economy values for a model type;

(2) 40 CFR 600.313-77; Timetable for data and information submittal and review;

(3) 40 CFR 600.315-77; Classes of comparable automobiles;

(4) 40 CFR Part 600 Subpart G; Fuel Economy Regulations for 1977 Model Year Automobiles—Test Procedures.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels the other regulations "specialized." I have reviewed this regulation and determined that it is specialized regulation not subject to the procedural requirements of Executive Order 12044.

By issuing the following amendment directly as a final rule, EPA is foregoing the prior issuance of a notice of proposed rulemaking (NPRM) and the opportunity for public comment on the proposal provided by the NPRM. Such a curtailed procedure is permitted by 5 U.S.C. § 553(b) when the issuance of a proposal and public comment on it would be unnecessary. EPA finds good cause to dispense with notice and public comment proceedings in this case because this amendment merely deletes obsolete provisions of the regulations in a manner that does not adversely affect any interested party. Because this amendment is to take effect in the 1979 model year, EPA has determined that the amendment should become effective upon publication.

Accordingly, Sections 207-77, 313-77, 315-77, and Subpart G (consisting of Sections 600.601-77 through 600.613-77) are removed from Title 40, Part 600, Chapter 1 of the Code of Federal Regulations.

Authority.—Title V of the Motor Vehicle Information and Cost Savings Act [15 U.S.C. 2001, et seq.].

Dated: August 3, 1979.

Douglas Costle,

Administrator.

[FR Doc. 79-24558 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 21

Commissioned Officers; Deletion of Obsolete Regulations

AGENCY: Public Health Service (PHS), HEW.

ACTION: Final Rule.

SUMMARY: This rule deletes certain regulations relating to officers in the Commissioned Corps of PHS, including those made obsolete by enactment of Pub. L. 94-412 which terminated certain national emergency authorities effective September 14, 1978. Regulations relating to PHS commissioned officers will henceforth be published in Part 4, "Regulations," of the Commissioned Corps Personnel Manual and will be distributed to each officer on active duty.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Winston Dean, Room 4A-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3067.

SUPPLEMENTARY INFORMATION: Regulations deleted by this Final Rule relate solely to the internal administration of the PHS Commissioned Corps personnel system. For this reason, it has been determined that it is not necessary for such regulations and future revisions thereto to be published in the **Federal Register**. Regulations deleted by this Final Rule will be published in Part 4, "Regulations," of the Commissioned Corps Personnel Manual and shall remain in full force and effect until revised or revoked. Since this regulation deals with matters relating to personnel, notice of proposed rule making is not required and the regulation is therefore issued as a Final Rule.

Dated: April 3, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 26, 1979.

Joseph A. Califano, Jr.,

Secretary.

Part 21—Commissioned Officers is amended by deleting the following Subparts:

Subpart B—Titles (21.11 through 21.13)
Subpart D—Increased Pay and Allowances (21.61)
Subpart E—Allotments (21.71 through 21.72)
Subpart F—Leave (21.81 through 21.95)
Subpart G—Promotion (21.101 through 21.142)
Subpart H—Separation of Certain Officers (21.151 through 21.155)
Subpart I—Medical Review Board (21.161 through 21.163)
Subpart J—Retirement (21.165 through 21.192)
Subpart K—Training (21.201 through 21.204)
Subpart L—Uniforms (21.211 through 21.242)
Subpart M—Decorations (21.251 through 21.253)
Subpart N—Discipline (21.261 through 21.322)
Subpart O—Burial Payments (21.331 through 21.333)
Subpart P—Quarters
Subpart Q—Travel and Transportation Allowances (21.351 through 21.352)
Subpart R—Determinations of Status of Dependent Parents for Purposes of Basic Allowance for Quarters (21.381 through 21.387)
Subpart S—Claims for Compensation Availability of Clinical Information (21.401)
Subpart T—Inactive Duty Training (21.451 through 21.452)

Part 21—Commissioned Officers is further amended by redesignating Subpart C—Appointment (21.21 through 21.58) as Subpart B.

[FR Doc. 79-24554 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-85-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte MC-96 (Sub-1)]

Passenger Broker Practices

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: (1) The Commission reaffirms the policy stated in Ex Parte No. MC-93, *Passenger Brokers Affiliated with Motor Carriers*, 1128 M.C.C. 354 (1977), to allow the dual holding of passenger broker licenses and certificates of public convenience and necessity to transport passengers. No problems have occurred because of dual holdings, and the Commission's enforcement powers are sufficient to handle any problems.

(2) The Commission will allow passenger broker license holders the flexibility of arranging intermodal tours whereby the bus may be used for any portion of the tour, as long as the tour starts and ends in the prescribed territories in the license.

(3) The Commission expressly overrules *Trails West, Inc.*, v. *Continental Trailways, Inc.*, 115 M.C.C. 269 (1972), to the extent that decision stated that parties must mutually sign the tour contract at the authorized place of business.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7292. Peter Metrinko, (202) 275-7885.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission, by notice published in the **Federal Register** March 27, 1979, at 44 FR 18458 and 44 FR 18459 reinstituted the rulemaking proceeding in Ex Parte No. MC-96, *Entry Control of Brokers.*

The Commission will separate Ex Parte No. MC-96 into four separate proceedings to handle the following subject matter: (1) Ex Parte No. MC-96 (Sub-No. 1), *Passenger Broker Practices*, (2) Ex Parte No. MC-96 (Sub-No. 2) *Passenger Broker Entry Control*, (3) Ex Parte No. MC-96 (Sub-No. 3), *Property Broker Practices*, and, (4) Ex Parte No. MC-96 (Sub-No. 4), *Property Broker Entry Control*. This has been done to facilitate handling of the complex subject matter.

This notice deals with Ex Parte No. MC-96 (Sub-No. 1), *Passenger Broker Practices.*

There were three areas raised in the March 27, 1979, notice concerning certain operational practices of tour brokers. The present notice announces Commission policy in those three areas.

I. Passenger Broker-Motor Carrier Affiliations

In Ex Parte No. MC-93, *Passenger Brokers Affiliated with Motor Carriers*, 128 M.C.C. 354 (1977), the Commission declined to adopt certain regulations which would have restricted the dual holding by the same person of a broker license and a certificate of public convenience and necessity to transport passengers. The Commission there determined that the dual holdings had not caused problems in the past. The proceeding was discontinued, but this was conditioned upon the effectiveness of the vacated rules adopted in Ex Parte No. MC-96 at 126 M.C.C. 476. Since that time the Commission has continued to grant authority which would result in these dual holdings. We asked the public if any problems resulted because the same or affiliated persons held both common carrier passenger authority and passenger broker authority.

There have been no specific instances cited in the public comments that problems have arisen because of the affiliation of passenger brokers and passenger carriers. The National Tour Brokers Association (NTBA) supports the position that the affiliated broker and carrier have provided beneficial tour services in the past to the public. If violations of common carrier obligations or the duties of a broker as an independent purveryor of transportation occur, there are persons with economic incentives (independent brokers and carriers) to bring this to the Commission's attention.

Policy Summary

Therefore, the proceeding in Ex Parte No. MC-93 will be discontinued. Restrictions in existing licenses that refer to the pendency of this proceeding will no longer have any effect, and it is the policy of this Commission not to restrict grants of passenger broker or motor carrier passenger authority merely on the basis that affiliations exist.

II. Intermodal Tours

The Commission asked in the March 27 notice whether license holders should be allowed the flexibility of using a bus for any portion of a tour, as long as the tour starts and ends in the prescribed origin and destination territory. We now adopt that policy.

In No. MC-C-7499, *Manhattan Transit Co., et al—Petition for Declaratory Order* (not printed), decided April 19, 1973, affirmed by the Commission, Division 1, by decision and order entered February 1, 1974, a restrictive interpretation was placed upon broker licenses. The decision stated that a passenger broker holding a license authorizing it to arrange for transportation by motor vehicle, for tours beginning and ending at points in a described origin territory, and extending to points in the United States, is not authorized to conduct tours which begin or end in the prescribed territory by another mode of transportation. The bus portion of the trip was required to begin and end in the authorized origin and destination territory.

Here is a hypothetical example. Under the *Manhattan* decision, if a passenger (tour) broker holds a license which authorizes operations "beginning and ending at New York, N.Y., and extending to points in the United States", current interpretation would forbid having the tour passengers flown to Denver, CO, from which point the bus portion of the tour would commence. We believe that this unnecessarily restricts the broker from offering flexible tours, combining differing modes of travel to provide the most attractive tour packages.

Persons joining and leaving a tour must still do so within the prescribed territorial scope of the license. In our example, the tour passenger must be initially picked up and finally discharged at New York, NY. It makes no difference to other marketing areas whether the New York originating tour passenger is passing through it while on tour.

We have observed may instances where brokers wish to arrange innovative tour operations, such as starting one tour group by bus, and returning them by plane. A second tour group could begin the same tour by plane, and meet the hired motorcoach where it dropped off the first tour. In this example, the motorcoach is used to fullest capacity. The possibilities of these combination are endless. Our policy will foster coordinated trips of this type.

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However, all stated restrictions in a broker's license must continue to be given effect. For example, if a license limits the tours to be offered to ski tours, then only ski tours may be offered. If round-trip service is the stated limitation, the passengers must be discharged where they were picked up. Restrictions requiring that there be a prior movement by another mode must still be observed. Some licenses contain prior and subsequent air movement requirements, since the license holder planned to offer bus tours in conjunction with foreign travel.

The NTBA supports this policy, believing it will stimulate intermodalism.

Policy Summary

We find, then, that existing passenger broker licenses should be interpreted to authorize the arranging of motor vehicle transportation in combination with any other mode, in any sequence, as long as the tour passenger is picked up and discharged within the defined territorial scope of the license. All stated restrictions in the broker's license must be observed.

III. Interpretation of Operating Authorities—Authorized Place of Business

In Ex Parte No. MC–87, *Interpretation of Operating Authorities—Passenger Brokers,* the Commission began a rulemaking proceeding to examine the issue of whether, effectively to execute a contract for a tour, the passenger broker must sell and arrange for transportation only at the point which it is authorized to serve and whether the parties must mutually sign the contract at that point. Later, the Commission dismissed the rulemaking proceeding. However, dismissal was conditioned upon the effectiveness of the now vacated rules in Ex Parte No. MC–86. Parties were asked to comment on this issue, which arose out of the decision in *Trails West, Inc.,* v. *Continental Trailways, Inc.,* 115 M.C.C. 269 (1972).

In *Trails West,* the Commission, Appellate Division 1, had held that in order effectively to execute a contract, the broker must sell and arrange for transportation only at the point which it is authorized to serve, and the parties must mutually sign the contract at that point. It affirmed earlier cases that stated that such matters as the handling of communications, the use of solicitors to publicize tours, advertising, the distribution of publications, and the handling of preliminary details, may be performed at other than authorized business points.

Passenger broker licenses issued by the Commission commonly have two territorial features. A typical issuance is as follows:

To engage in operation, in interstate or foreign commerce, as a broker at *Pittsburgh, PA,* to sell or offer to sell the transportation, by motor vehicle, of passengers and their baggage, *beginning and ending at points in Pennsylvania, and extending to points in the United States.*

This license authorizes the broker to arrange tours whereby the passengers are picked up and discharged in Pennsylvania.

The point it is authorized to serve is Pittsburgh, PA.

Trails West seemed to indicate that a tour patron must appear in person at a broker's authorized place of business and mutually sign the contract with the broker at that point.

We are of the opinion that the *Trails West* decision was incorrect. Prior case law explicitly allowed the handling of business by mail. Participants in the Ex Parte No. MC–87 proceeding pointed out that the broker industry had conformed its business practices to the widespread use of agents, and the handling of contracts by mail.

Here is a typical example of how a broker does business with a person who is not located in the authorized place-of-business city. A prospective client, after reviewing a broker's brochure, will either personally or through a travel agent telephone or write to the broker requesting a reservation on a particular tour. If space is available, the customer will be told to send in a deposit, and will be advised that final payment is due by a certain date. Upon receipt by the broker of final payment, a notification of tour participation is forwarded to the customer, either directly or through the travel agent. This entire transaction is handled by telephone or mail. The contract is considered final upon receipt of final payment.

Prior to *Trails West,* the law in this area was well established as to what the broker could do if it wished to employ agents to sell tours at points other than at the authorized place of business. Brokers may appoint agents to assist them in performing the operations authorized in the license. The agent may be a general travel agent with a place of business outside of the broker's authorized place-of-business area.

The broker must dominate, direct, and control the business. It must itself establish and develop tours, arrange and sell transportation, establish charges and collect and disburse them, keep the required records, and take the risk of profit or loss. A broker may not delegate these basic functions to an agent. *Manhattan Transit Co.* v. *Staats Herold Corp.,* 108 M.C.C. 168, 172 (1968).

An agent's advertising or representations must not give the impression that the agent is staging the trip rather than the broker. It must remain obvious that the agent is acting on behalf of the broker. Where an agent fails to reveal its true capacity, it is in violation of the Interstate Commerce Act. *Passenger Transportation in Special Operations,* 112 M.C.C. 160, 191 (1970). Advertising materials which imply that the agent has authority, and setting up the agent exclusively as the person with whom the customer should deal, are not permissible. Failure to state the name, license number, and place of business of the broker are indications that the agent is usurping the broker's position.

A broker may not set up branch offices where it is not authorized to do business, however. *Paragon Travel Agency, Inc., Ext.—Mass. and R.I.,* 100 M.C.C. 641, 643 (1968). This is because there is a distinct difference between the impact made upon the public and existing broker service by an agent, as opposed to a fully staffed broker's office.

This does not preclude the handling of business by mail or telephone, the sending of solicitors outside the authorized service points for the purpose of bringing the tours to the attention of the public, the advertising of service, the distribution of brochures, or the handling of details preliminary to the concluding of arrangements. *Kirkland Broker Application,* 61 M.C.C. 691 (1953).

The tour industry has established practices which would be seriously disrupted if we were to adopt the *Trails West* contract rationale. The policy of the Commission in the past as to the proper division between broker and agent has been sufficient to safeguard local marketing efforts by existing brokers and, most importantly, ensure that the traveling public would be protected by informing the public as to the actual identity of the arranging party.

Policy Summary

Therefore, we overrule the *Trails West* decision to the extent that it required the tour patron to physically appear at the broker's authorized place of operation to sign the contract.

None of these statements of policy in this notice is a major Federal action significantly affecting the quality of the human environment, nor a major

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regulatory action under the Energy Policy and Conservation Act of 1975.

Oral Argument

Several parties requested oral argument. At this time we do not believe oral argument is necessary, and the requests are denied.

Authority

The above described actions are taken under the authority contained in 49 U.S.C. 10101, 10321, 10921, 10924, and 10925.

Dated: July 25, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–24594 Filed 8–8–79; 8:45 a.m.]

BILLING CODE 7035–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 75–16; Notice 26]

Air Brake Systems; Interpretative Amendment

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends the language of Air Brake Standard 121 to reflect the U.S. Court of Appeals decision in *PACCAR* v. *National Highway Traffic Safety Administration and Department of Transportation.* This action is intended to clear up any confusion about the effect of the court's decision on portions of the standard.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Roger Tilton, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 202–426–9511.

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) regulates the braking system performance of airbraked trucks, buses, and trailers. The standard has been in effect since January 1975 for trailers and March 1975 for trucks and buses. Petitions for judicial review of the standard were filed and resulted in invalidation of three aspects of the air brake regulation (see *PACCAR* v. *NHTSA and DOT,* 573 F.2d 632, Cir. 1978, cert denied, October 2, 1978). The agency explained its interpretation of the court's action in three **Federal Register** notices (43 FR 39390, September 5, 1978; 43 FR 48646, October 19, 1978; 43 FR 58820, December 18, 1978) and in several meetings held with equipment and vehicle manufacturers and air-braked vehicle users.

It has become apparent that some confusion exists with regard to the agency's interpretation of the combined effect of two aspects of the court's decision. The first is the agency's view that the court invalidated the "no lockup" portions of S5.3.1 and S5.3.2 insofar as they apply to trucks and trailers, along with the related stopping distances of 293 feet for service brake capability and 613 feet for emergency brake capability (720 for truck-tractors in the unloaded condition) established for 60-mph loaded and unloaded stopping tests under S5.3.1 and S5.7 for trucks. The second is the agency's view that the court invalidated the "skid number" measurement technique of test surface frictional characteristics for use in measuring whether trucks meet the strict stopping distance requirements of the standard. The Court found that while the "skid number" of a surface is an objective measurement, it is not a practicable test method for manufacturers since normal fluctuations for a given road surface would require manufacturers to overcompensate by testing their vehicles on road surfaces substantially slicker than the regulation requires. The agency acted to correct the skid number variability problem and measurement technique but subsequently withdrew the correction as it related to skid number variability because of disagreement both over the meaning of the court's opinion and the consequences of the modification adopted (43 FR 58820; December 18, 1978).

Several references by the agency to the fact that the court did not invalidate stopping distance requirements other than the 60-mph stops for trucks have apparently been taken to mean that the agency is in a position to enforce compliance with all remaining stopping distances. The fact that the standard's stopping distances remain completely valid for buses may contribute to this view. In fact, the court's remand to the agency of the skid number specification and duration of time interval between repetitive road tests effectively precludes the agency from enforcing compliance with any road test requirement for trucks and trailers at any speed on wet or dry surfaces. It is apparent that amendment of the language of the standard to reflect the court's actions would be beneficial to end any confusion that may exist. The purpose of this notice is to make that amendment.

It is noted that this action has no effect on the requirements for buses, or on the application and release timing, dynamometer, or parking brake requirements for all vehicles. For this reason, the NHTSA is not amending the test procedures which are applicable to vehicles or requirements other than those addressed by the court.

The agency is amending the application section of the standard to state that trucks and trailers need not comply with certain paragraphs of the regulation. The regulation is being amended in this manner rather than deleting or revising the wording of each of the affected sections in order to disturb the actual text of the standard as little as possible. In that way, the affected sections can most easily be reinstated when suitable solutions to the requirements laid down by the Court are found. In addition, by retaining the standard's language in its existing form, manufacturers are made aware of what the agency still considers to be reasonable standards for minimum acceptable performance, and those manufacturers that wish to construct their vehicles in accordance with the non-mandatory sections of the standard will have the necessary guidance to do so. The agency also has taken this opportunity to delete from S3 references to temporary exclusions which have expired.

Effective date finding: The agency is issuing an interpretative amendment that merely conforms the standard's language to its meaning following the remand by the Ninth Circuit, and therefore the amendment does not change the standard in any respect. Accordingly, it is found for good cause shown that notice and opportunity for comment are unnecessary and that an effective date for the amendments sooner than 30 days from the date of publication in the **Federal Register** is justified.

§ 571.121 [Amended]

In consideration of the foregoing, Standard No. 121 (49 CFR 571.121) is amended by replacing the last paragraph of S3 with the following paragraph:

Notwithstanding any language to the contrary, sections S5.3.1, S5.3.1.1, S5.3.2, S5.3.2.1, S5.3.2.2, S5.7.1 and S5.7.3 of this standard are not applicable to trucks and trailers.

UMI

The program official and lawyer principally responsible for the development of this document are Duane Perrin and Roger Tilton, respectively.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on August 3, 1979.

Joan Claybrook,

Administrator.

[FR Doc. 79-24577 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 75-16; Notice 27]

Air Brake Systems; Parking Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends the air brake standard to expand the latitude which a vehicle manufacturer has in selecting means to comply with the parking brake requirements. The amendment makes final one of several changes to the parking and emergency brake requirements that had been proposed previously. The other proposed changes have been reexamined in light of comments to the proposal and to a separate proposal outlining plans for replacement of FMVSS 121 by a new standard. The NHTSA has decided to suspend rulemaking action on those items until research results and other further information is available.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Duane Perrin, Office of Crash Avoidance, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2153).

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) regulates the braking system performance of air-braked trucks, buses, and trailers. The standard has been in effect for trailers since January 1, 1975, and for trucks and buses since March 1, 1975. The standard contains requirements for service brake systems, emergency brake systems, and parking brake systems.

More than four years' experience with the standard on the part of manufacturers, users, the agency, and other interested parties indicate a possibility that some of the emergency and parking brake performance requirements could be more broadly stated to allow new design options that offer a level of safety equivalent to that offered by existing designs. On September 14, 1978, the NHTSA issued a notice of proposed rulemaking (43 FR 41056) that would have substantially revised the parking brake requirements for all vehicles and the emergency brake requirements for trailers. Subsequent to the issuance of that proposal, a mandate was issued by the U.S. Court of Appeals for the Ninth Circuit, invalidating certain aspects of FMVSS 121 (43 FR 48646, October 19, 1978). In light of the court decision, the NHTSA has tentatively decided to issue a new heavy duty vehicle brake standard, FMVSS 130, which will eventually replace FMVSS 121. An Advance Notice of Proposed Rulemaking (ANPRM) on Standard No. 130 was issued in February (44 FR 9783, February 15, 1979).

Responses to the ANPRM on Standard No. 130 underscored the need for stability in the industry. To achieve stability, commenters suggested avoiding unnecessary changes in Standard No. 121, which remains in effect until FMVSS 130 is issued. In addition, commenters on the September notice pointed out areas where some of the proposed changes need further research and consideration. For these reasons, most of the changes to the parking and emergency brake sections of Standard No. 121 that were proposed in September are being tentatively put aside. Some of the changes proposed in the September notice may be raised again in the new proposal for Standard No. 130, after further information is obtained by the agency.

The NHTSA has determined, however, that one of the proposed changes should not be delayed until rulemaking is completed on FMVSS 130. That change allows the application of parking brakes by means of service brake air, as long as the application can be made when a failure exists in the service brake system, and as long as the parking brake is held in the applied position by mechanical means. The standard previously required parking brakes to be applied by a separate energy source, and this change allows an alternative to the spring-applied parking brake systems now used. The alternative systems could be less costly and have essentially the same performance as current systems. In addition, the change allows more compact systems to be produced for vehicles such as auto transporters where space for mounting of components is at a premium.

The changes to the parking brake application requirements proposed in September (Docket No. 75-16; Notice 22) were opposed by the California Highway Patrol (CHP), on the assumption that a diaphragm inside a brake chamber is considered part of the brake chamber housing, and that the proposal would have allowed a reduction in safety over current systems. Previous interpretations, however, have clarified that a brake chamber housing is only the outer body of the chamber and does not include the diaphragm. Thus, the prescribed performance must be achieved with any type of failure in the service brake system, including a ruptured diaphragm. The NHTSA concludes, therefore, that this interpretation satisfies the concerns of the CHP. The CHP also suggested slight rewording to indicate that the required force is applied at the drawbar and not in the parking brake itself. The wording has been changed somewhat to clarify that point.

The American Trucking Associations (ATA) and Transquip Industries objected to the proposal because it would require a second reservoir on an air-applied parking brake system in order for the parking brakes to be applied in the event of a failure of the service reservoir. The NHTSA understands that the use of only one reservoir would reduce cost. However, it would also offer a significant reduction in performance as compared to present systems, because certain service brake system failures could occur for which there would be no secondary means of braking the vehicle. Accordingly, the NHTSA concludes the ATA and Transquip Industries' objections do not warrant any change in the amendment.

Traffic Transport Engineering, an auto transporter manufacturer, requested clarification of whether two relay valves would be required in an air-applied system, since the parking brakes would have to be capable of application with any single failure, and the relay valve could fail. Since relay valve failures are relatively common, the NHTSA considers it necessary to preserve the performance achieved by present systems. Currently, the failure of a relay valve would not prevent emergency application of the trailer brakes. Thus, if a manufacturer chooses to equip a trailer with air-applied parking brakes, he would have to devise a means of achieving a brake application in case of failure of the service brake relay valve. That could be accomplished by using a second relay valve and reservoir.

The Dolphin Brake Corporation asked for clarification of the proposed wording to determine whether or not their parking brake that applies by means of hydraulic fluid would meet the

requirements. The NHTSA believes that the wording is sufficiently clear to indicate that, like an air-applied system, such a brake would only meet the requirements if a mechanical means of holding the application in the event of loss of fluid pressure were incorporated.

In order to minimize changes to FMVSS 121, the amended wording for application and holding will remain in one paragraph, S5.6.3, as currently in the standard.

Since this amendment relieves a restriction it is being made effective immediately.

§ 571.121 [Amended]

In consideration of the foregoing, the first sentence of paragraph S5.6.3 of Standard No. 121 (49 CFR 571.121) is amended to read:

S5.6.3 *Application and holding.* The parking brake system shall be capable of achieving the minimum performance specified either in S5.6.1 or S5.6.2 with any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (except failure of a component of a brake chamber housing). * * *

The principal authors of this notice are Duane Perrin of the Office of Crash Avoidance and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 6, 1979.

Joan Claybrook,

Administrator.

[FR Doc. 79-24578 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-59-M

V 4 4 1 5 5

Proposed Rules

Federal Register
Vol. 44, No. 155
Thursday, August 9, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 927]

Handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau Varieties of Pears Grown in Oregon, Washington, and California; Proposed Extension of Effective Period for Minimum Quality Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would continue through November 1, 1979, certain quality requirements applicable to fresh shipments of Beurre D'Anjou pears which are shipped from designated areas of Oregon and Washington. This action is necessary to assure that pears shipped will be of suitable quality in the interest of consumers and producers.

DATES: Comments must be received on or before September 7, 1979. Proposed effective dates: October 1, 1979 through November 1, 1979.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* Pear Regulation 18 (§ 927.318; 44 FR 44469) sets forth certain minimum quality requirements on the handling of Beurre D'Anjou variety of winter pears through September 30, 1979. This proposal would continue these requirements through November 1, 1979.

This proposed amendment is issued under the marketings agreement, as amended, and Order No. 927, as amended (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Control Committee, and upon other available information.

The committee estimates that about 6.3 million boxes of Beurre D'Anjou pears will be produced this year as compared with 6.7 million in 1978. The quality regulation is designed to prevent the handling of any Beurre D'Anjou pears of lower quality than specified so as to provide satisfactory quality fruit in the interest of producers and consumers consistent with the declared policy of the act.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposed amendment is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that this action should not be classified "significant." A Draft Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

The proposal is that § 927.318 Pear Regulation 18 (44 FR 44469) be amended to read as follows:

§ 927.318 Pear Regulation 18.

During the period October 1, 1979, through November 1, 1979, no handler shall ship any Beurre D'Anjou variety of pears grown in Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts unless such pears have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees Fahrenheit or less, and any such pears for the domestic shipment shall have an average pressure test of 14 pounds or less.

Dated: August 6, 1979.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-24609 Filed 8-8-79; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

[7 CFR Ch. XVIII]

Proposed List of Existing Regulations for Review

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed List of existing regulations for review.

SUMMARY: As indicated in the May 15, 1979, issue of Federal Register the following Farmers Home Administration regulations are proposed for review under the procedures described in the report, "Improving USDA Regulations," 43 FR 50988 (November 1, 1978). They are listed with the appropriate citation, a brief description, and an agency contact person. Public comment is invited on whether these or other regulations should be reviewed at this time.

DATES: Comments are due on or before October 15, 1979. A list of regulations scheduled for review and reflective of public comment received will be published in the November issue of the USDA Decision Calendar.

FOR FURTHER INFORMATION CONTACT: For information on any of the regulations listed in the proposed list of existing regulations for review, contact the individual identified as the contact person in the list. Comments of inquiries of a general nature about the list should be directed to Mr. Joseph Linsley, Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346–s, Washington, D.C. 20250, Phone: (202) 447–4057.

Authority or CFR citation	Subject	Description	Contact
7 CFR 1805	Voluntary Debt Adjustment	Prescribes the policies, responsibilities, and procedures in the voluntary adjustment of debts of applicants for loans from the Farmers Home Administration, borrowers, and other persons who request such services.	Jim Lee, 202–447–4597.
Title V, Housing Act of 1949, As Amended.	Appraisal of Non-farm Tracts and Small Farms for Rural Housing.	Prescribes the Policies and procedures for the appraisal of real property serving as security for individual Rural Housing loans which are made on non-farm tracts and small farms and lease hold interests on non-farm tracts and small farms.	Wesley Harris, 202–447–3786.
7 CFR 1804	Planning and Performing Site Development Work	Prescribes the policies, methods and responsibilities with respect to planning and performing site development work in connection with all types of loans and grants authorized by Title V of the Housing Act of 1949.	Dan Sell, 202–447–3394.
7 CFR 1863	Real Estate Tax Servicing	Prescribes that each borrower with a Farm Ownership, Rural Housing, Rural Rental Housing, Rural Cooperative Housing, Labor Housing, Other Real Estate, Soil and Water, Recreation Loan or Operating Loan, Economic Opportunity, and Emergency Loan secured by real estate will be responsible for paying taxes on the real estate security to the proper taxing authorities.	Ronnie Thurmington, 202–447–3756.
7 CFR 1806	National Flood Insurance	Prescribes the policies and procedures to be followed in implementing the National Flood Insurance Act of 1968 as amended by the Flood Disaster Act of 1973.	Jennings Orr, 202–447–4295.
7 CFR 1807	Title Clearance and Loan Closing	Contains the real estate title clearance and loan, transfer, or credit sale, loaing authorities, policies, and procedures for all Farm Ownership, Non-farm Enterprise, Recreation, Rural Housing, Labor Housing, Rural Rental Housing, Other Real Estate, Loan Conservation and Development, and Individual Soil and Water Loans.	Eugene Carnette, 202–447–4295.
7 CFR 1924–B	Management Assistance to Individual Borrowers and Applicants.	Sets forth policies for providing management assistance to individual applicants and borrowers. It pertains to all insured loans that depend on farm income for loan repayment, and also provides for the necessary supervision and appropriate credit counseling for Rural Housing loans not dependent on farm income for loan repayment.	Jim Lee, 202–447–4597.
7 CFR 1823	Association Loans for Shift-in-Land	Outlines the policies and authorizations for making insured and direct loans or Shift-in-land Use projects and for facilities and soil and water conservation related thereto.	Jim Lee, 202–447–4597.
7 CFR 1823	Loans to Timber Development Organizations	Prescribes the policies, authorizations, and procedures for making loans to timber development organizations which are permitted by the Appalachian Regional Development Act of 1965.	Jim Lee, 202–447–4597.
7 CFR 1823	Association Loans for Irrigation and Drainage and Other Soil and Water Conservation Measures.	Outlines the policies and authorizations for making insured and direct loans to associations for irrigation, drainage, and other soil and water conservation and use projects.	Jim Lee, 202–447–4597.
7 CFR 1823	Processing Loans to Associations (Except for Domestic Water and Waste Disposal).	Sets forth the procedures for processing insured and direct loans for Shift-in-Land Use and for facilities and soil and water conservation practices related thereto; and association loans for irrigation and drainage and other soil and water conservation measures.	Jim Lee, 202–447–4597.
7 CFR 1861	Servicing Accounts of Borrowers Entering the Armed Forces.	Prescribes the authorities, policies and routines for servicing borrowers who have entered or who are entering military service.	Jim Lee, 202–447–4597.
7 CFR 1861	Servicing of Community Program Loans and Grants	Prescribes the policies, authorization, and procedures for servicing the following: Community Water and Waste Disposal System loans and grants, comprehensive water and sewer planning grants, loans for grazing and other shift-in-land-use projects, community recreation facility loans, community irrigation and drainage loans, watershed loans and advances, resource construction and development loans, economic opportunity cooperative loans, loans to Indian Tribes and Tribal Corporations, and loans to Timber Development Organizations.	Dwight Calhoun, 202–447–7237.
Title V, Housing Act of 1949, As Amended.	Servicing Monthly Payment—Single Family Housing Borrowers.	Outlines policies, procedures and authorizations for servicing accounts of active Single Family Housing borrowers who (1) have signed notes, rescheduled payment agreements or assumption agreements which specify monthly payments or (2) have agreed to pay annual installments in equal montly payments.	Ronnie Thurmington, 202–447–3756.
7 CFR 1872–A	Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases.	Delegates authority and prescribes policies and procedures for servicing and liquidation of real estate security for Farmers Home Administration loans to individuals including loans on leasehold interests, and certain note-only cases, except Rural Rental Housing and Labor Housing loans to individuals operating under a loan agreement, or to Business and Industry loans. It does not apply to loans subject to a Farmers Home Administration guarantee.	Jim Lee, 202–447–4597.
7 CFR 1980–A	Guaranteed loan Programs—General	Prescribes the forms that are applicable to the Farmers Home Administration guaranteed loan program.	Reed Peterson, 202–447–4295.
7 CFR 1980–D	Rural Housing Program Loans	Contains regulations for unsubsidized Single Family Rural Housing loans to above-moderate income families guaranteed by the Farmers Home Administration and applies to landers, holders, borrowers, and other parties involved in making, guaranteeing, servicing, holding, or liquidating such loans.	Reed Peterson, 202–447–4295.

Dated: July 31, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79-24551 Filed 8-8-79; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 214]

False Information and Criminal Activity by Nonimmigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: The Immigration and Natualization Service proposes new rules which would make obedience to United States laws prohibiting violent crimes which carry a potential sentence of more than one year, and the furnishing of complete and accurate information to the Service, conditions of a nonimmigrant alien's admission and continued stay in the United States. These proposed rules are needed and intended in order to insure that the public is protected from violent criminal acts committed by alien visitors to our country, and in order to insure that the Service is provided with the full and accurate disclosure of information required to perform its statutory function of regulating the admission and continued stay of nonimmigrants in the United States. These amendments are being proposed under authority given the Attorney General in the Immigration and Nationality Act to set conditions for admission for nonimmigrant aliens.

DATES: Representations must be received on or before October 9, 1979.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and

Naturalization, Room 7100, 425 Eye Street, NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633–3048 or Paul W. Schmidt, Deputy General Counsel, Immigration and Naturalization Service. Telephone: (202) 633–3195.

SUPPLEMENTARY INFORMATION: For the reasons indicated in the above summary, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as set forth below.

PART 214—NONIMMIGRANT CLASSES

In Part 214, it is proposed to amend § 214.1 by adding new paragraphs (f) and (g) to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

* * * * *

(f) *False information.* A condition of a nonimmigrants's admission and continued stay in the United States is the full and truthful disclosure of all information requested by the Service. Willful failure by a nonimmigrant to provide full and truthful information requested by the Service (regardless of whether or not the information requested was material) constitutes a failure to maintain nonimmigrant status under section 241(a)(9) of the Act.

(g) *Criminal activity.* A condition of a nonimmigrant's admission and continued stay in the United States is obedience to all laws of United States jurisdictions which prohibit the commission of crimes of violence and for which a sentence of more than one year imprisonment may be imposed. A nonimmigrant's conviction in a jurisdiction in the United States for a crime of violence for which a sentence of more than one year imprisonment may be imposed (regardless of whether such sentence is in fact imposed) constitutes a failure to maintain status under section 241(a)(9) of the Act.

(Sec. 103 and 214(a); (8 U.S.C. 1103 and 1184(a)))

Public Comments Invited

In accordance with 5 U.S.C. 553 the Service invites representations of interested parties on this proposed rule. All relevant data, views, or arguments submitted on or before October 9, 1979 will be considered. Representations should be submitted in writing, in duplicate, to the Commissioner of Immigration and Naturalization at the address shown at the beginning of this notice.

Dated: August 3, 1979.

Leonel J. Castillo,

Commissioner of Immigration and Naturalization.

[FR Doc. 79-24560 Filed 8-8-79; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 503 and 505]

[Docket No. ERA-R-78-19E]

Powerplant and Industrial Fuel Use Act of 1978: Summary of Costs of Capital and Rates of Return for Industrial Firms and Class A and B Electric Utilities

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Summary of "Costs of Capital and Rates of Return for Industrial Firms and Class A and B Electric Utility Firms" prepared for the Economic Regulatory Administration by Ernst & Ernst.

SUMMARY: The Economic Regulatory Administration (ERA) has issued interim rules to implement provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) which prohibit the use of petroleum and natural gas by certain electric powerplants and major fuel burning installations. These rules establish the criteria upon which owners and operators of new and existing powerplants and installations may petition for an exemption from the prohibitions of FUA. ERA has devised a cost test which includes the discount rate as one of its components. The cost test which was published in the Federal Register on May 17, 1979 for new facilities (44 FR 28979, and 28999), and July 23, 1979 for existing facilities (44 FR 43176), uses the costs of capital and rates of return study as a basis for setting the discount rates. ERA is now publishing a summary of the study as promised in the May 17, 1979 Federal Register notice (44 FR 28958).

Comments on this study are invited. In particular, we invite your comments on the methodology used to develop the cost of capital and the use of the cost of capital as the basis for setting the discount rate. Copies of the study are available for public inspection in the DOE Reading Room GS–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., in the DOE Public Information Office, Rm. B–110, 2000 M Street, N.W., Washington, D.C., and in the DOE regional offices.

DATES: The interim rules for new facilities became effective on May 8, 1979, and will become effective August 20, 1979 for existing facilities. The written comment period for the regulations and this study closes September 15, 1979. No additional public hearings will be held. However, before finalizing the interim rules, ERA will consider all written comments submitted during the comment period.

ADDRESSES: All comments should be addressed to Public Hearing Management, Docket ERA–R–78–19E, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461 (202) 634–2170.

John Detweiler (Regulations and Emergency Planning), Donald E. Kreps, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 2130C, Washington, D.C. 20461 (202) 254–3987.

Robert L. Davies (Fuels Regulations—Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461 (202) 254–3910.

James Heffernan (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, N.W., Room 7136, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION:

I. Purpose
II. Approach
III. Procedures
IV. Results

I. Purpose

The purpose of this study was to provide ERA with a set of procedures to estimate the real costs of capital and historical rates of return for industrial and utility firms. These procedures were applied to groups of industrial and utility firms.

II. Approach

The cost of capital was assumed to be the weighted average cost of new financing. The nominal costs of debt and preferred stock were estimated from current security market yields. The nominal costs of equity capital and retained earnings were estimated using the Capital Asset Pricing Model. Nominal costs were converted to real costs based on the rate of inflation. Historical rates of return, as measured by a number of conventional financial ratios, were computed for each group of industrial and utility firms.

III. Procedures Used in the Study

Firm Selection—The group of industrial firms was comprised of 54 firms in ten energy-intensive manufacturing sectors that are included in Standard & Poor's 500 Stock Index. The sectors were identified on the basis of embodied BTU's per dollar of output.[1] The group of utility firms was comprised of 118 Class A and Class B electric utilities for which data were publicly available.

Data—The primary sources of data were DOE's copies of Compustat [2] tapes of market and financial statistics. Additional data were obtained from FERC Form I's and the *Survey of Current Business* and through consultation with investment banking firms and government agencies.

Computation of Costs of Capital—Debt and Preferred Stock. Each firm's securities were assigned to a risk class based on the published rating for its most recent issue. Within each class, the nominal costs of debt and preferred stock were estimated as the current average yield on newly issued comparable securities. For debt, the results were adjusted to account for the tax shield from interest payments.

Equity Capital and Retained Earnings. The nominal cost of equity capital for each firm was computed using a risk-premium form of the Capital Asset Pricing Model (CAPM)[3] on monthly data from 1973 and 1977. The monthly risk-premium on each firm's common stock was computed as the percent return from capital appreciation plus dividends, less the prevailing risk-free rate of interest, estimated as the yield on three-month U.S. Treasury bills. This was regressed against the risk-premium on the equity capital market as a whole, estimated as the return on Standard & Poor's 500 stock index, less the risk-free rate. Each regression yielded an estimate of the CAPM beta coefficient for the equity capital of a firm. In the case of the utility firms, the beta coefficients were adjusted using a procedure based on Bayesian decision theory.[4] The nominal cost of equity capital was computed as the product of each firm's beta coefficient and an estimate of the long-run risk premium on the equity capital market,[5] plus the most recent (March 1979) risk-free rate. The nominal cost of retained earnings was assumed to be the same as the nominal cost of externally generated equity capital.

Conversion from Nominal to Real Costs. Each of the nominal costs of capital was converted to a real cost by subtracting an estimate of the economy-wide rate of inflation, computed as the percent change in the Gross National Product Implicit Price Deflator from 1977 to 1978.

Weighted Average Cost of Capital. Weights for the components of each firm's capital structure were computed from book values as reported in 1977 position statements. These weights were applied to the real cost of each component to arrive at an estimate of the firm's overall weighted average cost of capital.

Rates of Return—Three measures of historical rate of return were included among the financial ratios computed for each firm. *Pretax rate of return* (or gross profit margin) and *after tax rate of return* were computed on the basis of net sales. The latter excludes the effect or extraordinary items. *After tax return on invested capital* was computed as the ratio of tax-adjusted net income before interest to total capitalization.

IV. Results of the Study

The table below shows selected results for groups of industrial and utility firms.

	54 industrial firms	118 utility firms
Real Weighted Average Cost of Capital	7.731%	2.869%
Pretax Rate of Return, 1977 (Gross Margin)	8.6	17.7
After Tax Rate of Return, 1977 (Net Margin)	4.2	11.5
After Tax Return on Invested Capital 1977 (Debt and Equity)	7.9	6.9

[1] Clark Bullard, III *et al., Energy Flow Through the United States Economy* (table) (Washington, D.C.: U.S. Department of Commerce, 1975).

[2] A product of Standard & Poor's Compustat Services, Inc.

[3] France Modigliani and Gerald R. Pogue, "An Introduction to Risk and Return: Concepts and Evidence," *Financial Analysts Journal* 30 (May–June, 1974): 69–86.

[4] Oldrich A. Vasicek, "A Note on Using Cross-Sectional Information in Bayesian Estimation of Security Betas," *Journal of Finance* 28 (December 1973): 1233–1239.

[5] Roger G. Ibbotson and Rex A. Singuefield, *Stocks, Bonds, Bills, and Inflation: The Past (1926–1976) and the Future 1977–2000)* Chicago: Financial Analysts Research Foundation, 1977).

Authority: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 et seq); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 et seq.); E.O. 12009, 42 FR 46267.

Issued in Washington, D.C., July 31, 1979.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79-24513 Filed 8-8-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 79–NW–21–AD]

Airworthiness Directives; Boeing Model 727 and 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This proposed rulemaking would require that those operators of Boeing 727 and 737 series airplanes with the carry-all interior, replace all of the passenger service unit (PSU) manifold straight orifice fittings with redesigned barbed orifice fittings. This change will be necessary because some passenger oxygen mask supply tubes pull off the PSU valve and manifold assembly straight orifice fittings too easily, thereby creating the potential for loss of passenger oxygen when needed during an emergency.

DATES: Comments must be received on or before September 18, 1979.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 79–NW–21–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT: Mr. Mark I. Quam, Systems and Equipment Section, ANW–213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2500.

SUPPLEMENTARY INFORMATION: During a 727 acceptance inspection, one operator's inspector discovered that the oxygen mask supply hoses could be easily pulled from the latch valve and manifold assemblies of the passenger service units. Subsequent Boeing tests indicated that approximately 67% of the hoses could be disconnected by a force of less than the Boeing-specified 18 pounds pull, from the Puritan-Bennett latch valve and manifold assemblies. Boeing has established that these latch valve and manifold assemblies were only installed on those 727 and 737 airplanes with the carry-all interiors.

The manufacturers involved, recognized that oxygen may be required during decompression, have issued Boeing Alert Service Bulletin 727–35–A18, Boeing Alert Service Bulletin 737–35–A1014, and Puritan-Bennett Service Letter 210780–35–1. The Boeing alert service bulletins provide general

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instructions to replace the oxygen manifold orifice and O-ring with a new barbed orifice and O-ring. These service bulletins contain airplane applicability, effected passenger service unit Boeing part numbers and they reference the Puritan-Bennett Aero System Company letter 210780–35–1 for specific replacement instructions and flow test procedures.

The Puritan-Bennett service letter provides specific orifice/O-ring replacement instructions, Puritan part numbers and flow test instructions. The procedures in both the Boeing alert service bulletins and the Puritan-Bennett service letter will be required by this proposed rule.

Installation of the new barbed orifice will reduce the possibility that a passenger might pull an oxygen mask supply tube off the manifold assembly of the passenger service unit.

For the reasons discussed above, the FAA is proposing to require, by Airworthiness Directive, that the old orifice and O-ring be replaced within the next 1,200 hours time-in-service or six (6) months after the effective date of the proposed AD, whichever comes first. In the event an operator wishes more compliance time, the airplane operational altitude can be limited to 25,000 feet. Final compliance will be required by one year after the effective date of this AD.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 79–NW–21–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following Airworthiness Directive:

Boeing.—Applies to all Model 727 and 737 series airplane with the carry-all interior. Compliance required as indicated. Accomplish the following:

Within the next 1,200 hours time-in-service or six (6) months after the effective date of this AD, whichever comes first, unless already accomplished, replace the straight orifice fittings on the Boeing part number 10–60513–18, –19 and –20 latch valves and manifold assemblies of the PSU with the redesigned barbed orifice fitting and O-ring in accordance with Boeing Service Bulletin 727–35–A18 dated July 6, 1979, or Boeing Service Bulletin 737–35–A1014 dated July 6, 1979, as applicable, and Puritan-Bennett Service Letter 210780–35–1 dated May 25, 1979, or later FAA-approved revisions. These passenger oxygen service units manifolds are to be renumbered and functionally tested in accordance with the applicable service bulletin after the new barbed orifice fittings and O-ring have been installed. The compliance time prescribed above may be extended to 2,400 hours-in-service or one (1) year after the effective date of this AD, whichever comes first, by limiting the operational altitude of the airplane to 25,000 feet.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) and 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85).

(Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979)).

Issued in Seattle, Wash., on July 30, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79–24320 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 79–EA–87]

Proposed Designation of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: On December 28, 1978, the FAA proposed to designate an airway (V–373) from Gordonsville, Virginia, to IRONS intersection, south of Washington, D.C. via the SABBI intersection which is east of Brooke, Virginia (43 FR 60578). The electronic air navigation aids required for navigation on this route will not permit its use at the desired altitudes. For this reason the proposal to designate V–373 is hereby withdrawn.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER IMFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3715.

(Secs. 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note. The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24277 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Part 73]

[Airspace Docket No. 79–EA–30]

Alteration of Restricted Areas Time of Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the time of designation of Warren Grove, N.J. restricted areas R–5002A, R–5002B, R–5002C, R–5002D and R–5002E to permit additional time for training Sunday, Monday and from sunset to sunrise provided advance Notices to Airmen (NOTAMs) are given.

DATES: Comments must be received on or before September 10, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 79–EA–30, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

The official docket may be examined at the following location: FAA Office of the Chief Council, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before September 10, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to change the time of designation of Warren Grove restricted areas R–5002A, R–5002B, R–5002C, R–5002D and R–5002E from their present designation of "Sunrise to sunset, Tuesday through Saturday; other days by NOTAM 48 hours in advance." to "Sunrise to sunset daily, other times by NOTAM 48 hours in advance." This action would permit use of the areas for military training at night and on Sunday and Monday when necessary. The United States Air Force is the lead agency for the purpose of compliance with the National Environmental Policy Act as it pertains to this proposed action. Comments on environmental aspects relating to the proposed action should be addressed to: Headquarters Tactical Air Command/DEEV, Langley AFB, Virginia 23665, ATTN: Mr. Gilbert Burnet, telephone: (804) 764–4430/764–7844.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to further amend § 73.50 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 702) and amended (44 FR 34112) as follows:

Under time of designation, In R–5002A Warren Grove, N.J.; In R–5002B Warren Grove, N.J.; In R–5002C Warren Grove, N.J.; In R–5002D Warren Grove, N.J.; In R–5002E Warren Grove, N.J. "Sunrise to sunset, Tuesday through Saturday; other days by NOTAM 48 hours in advance." is deleted and "Sunrise to sunset, other times as activated by NOTAM issued at least 48 hours in advance." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 31, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–24278 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Part 71]

[Airspace Docket No. 79–SO–37]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area, Livingston, Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will designate the Livingston, Tennessee, Transition Area and will lower the base of controlled airspace in the vicinity of the Livingston Municipal Airport from 1200 to 700 feet AGL. A public use standard instrument approach procedure has been developed to the airport and additional controlled airspace is required to protect aircraft Instrument Flight Rule operations.

DATES: Comments must be received on or before: September 13, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before September 13, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the Livingston, Tennessee, 700-foot Transition Area. This action will provide controlled airspace protecton for IFR operations at the Livingston Municipal Airport. A standard instrument approach procedure, VOR/DME RWY 21, to the airport, utilizing the Livingston VORTAC, is proposed in conjunction with the designation of the Transition Area. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

The Proposed Amendment

Accordingly, the Federal Aviation Administraton proposes to amend Subpart G, § 71.181 (44 FR 442), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

Livingston, Tenn.

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of Livingston Municipal Airport (latitude 36°24'42"N., longitude 85°18'44"W.).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on August 1, 1979.

Lonnie D. Parrish,

Acting Director, Southern Region.

[FR Doc. 79–24553 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Part 152]

[Docket No. 19430; Notice No. 79–14]

Airport Aid Program; Revision of Part

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM). Withdrawal of Notice 74–4.

SUMMARY: This notice proposes revisions to the rules pertaining to the Airport Aid Program for airport development and planning grant projects. The proposed revisions would eliminate certain provisions that, based on the FAA's continuing review of the program, are considered unnecessary, and would update current requirements. This action is taken by the FAA in an effort to simplify the grant process.

DATE: Comments must be received on or before October 9, 1979.

ADDRESS: Send comments in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC–24), Docket No. 19430, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Paul Galis, Office of Airport Planning and Programing, (APP–2), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3050.

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested persons are invited to participate in the making of this proposed rule by submitting any written data, views, or arguments that they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C. 20591. All Communications received on or before October 9, 1979, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 19430". The postcard will be date/time stamped and returned to the commenter.

II. Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

III. Background

A. Statutory Authority

On May 21, 1970, Congress enacted the Airport and Airway Development Act of 1970 (AADA; 49 U.S.C. 1701–1741). The AADA provided for Federal grants for airport planning and development. The AADA was amended by Pub. L. 92–174; the Airport Development Acceleration Act of 1973 (Acceleration Act; Pub. L. 93–44); and the Airport and Airway Development Act Amendments of 1976 (1976 Amendments; Pub. L. 94–353).

B. Regulations

Part 152 of the Federal Aviation Regulations was published in the **Federal Register** on June 1, 1972 (37 FR 11014), and became effective on July 1, 1972. The part prescribes the policies and procedures for administering the Airport Aid Program for airport development and planning grant projects under the AADA.

C. Withdrawal of Notice

The FAA issued Notice 74–4 on January 24, 1974 (39 FR 5784) for the purpose of amending Part 152 to reflect the provisions of the Acceleration Act. Interested persons were afforded an opportunity to comment on that notice. However, because appropriate changes in Part 152 are being proposed in this notice, the FAA considers it appropriate to withdraw Notice 74–4. Accordingly, Notice 74–4 is hereby withdrawn. The comments received in response to that notice will be considered before adoption of an amendment based on this proposal.

IV. The Proposal

The purpose of this revision of Part 152 is to provide regulations that are easier to understand and less of a burden on the sponsor or planning agency seeking assistance. The FAA believes that the length and organization of the current part make comprehension and compliance difficult. Accordingly, this proposal would simplify requirements wherever possible, and delete redundant and unnecessary material. In addition it would revise Part 152 to reflect changes that have already been made in the Airport Aid Program as a result of the Acceleration Act and the 1976 Amendments.

This proposal would simplify and update Part 152 in the following ways:

1. *Policy and Procedures.* FAA policy and procedures that do not impose a requirement on the sponsor or planning agency, including those followed by the FAA in processing applications and preapplications, would be removed from Part 152 and published separately. Material in the following subject areas would be deleted: national defense needs (§ 152.5.(c)); stage development (§ 152.5(d)); remarking of runways and taxiways (§ 152.15); certain application procedures (§§ 152.25(a), and 152.29(a)); inadvertent or unknowing non-disclosure (§ 152.27(b)); postponement of submission of plans and specifications (§ 152.33(b)); appraisal of donated property interest (§ 152.33(c)); increase in the amount of an offer (§ 152.35(b)); application procedures for cosponsors (§§ 152.39 (a), (c), and (e) and 152.127 (a), (d), and (f)); project approval process (§ 152.45 (a) and (b)); partial grant payments (§ 152.69 (a) and (d)); review and evaluation of public hearings (§ 152.73(e)); and notice of completion (§ 152.145(a)).

2. *Explanatory Material.* Explanatory and descriptive material, including some definitions, would be omitted from revised Part 152. Where needed it will be made available in advisory publications. Material in the following subject areas would be deleted: meaning of land (§ 152.29(d)); grant agreement (§§ 152.37(a) and § 152.133(a)); contribution of funds to sponsors (§§ 152.39(b) and 152.127(b)); meaning of facilities (§ 152.41(b)); eligible kinds of airport development (§ 152.45(c)); donated land (§ 152.45(d)); project costs (§ 152.47); construction by sponsor force account (§ 152.57(a)); and eligible items for airport master planning and airport system planning (§§ 152.129(c) and 152.131(b)). Current Appendices A through G, containing typical eligible items for airport development, would also be eliminated.

3. *Technical Requirements.* Subpart C of Part 152 now contains standards related to project programming for airport development projects. It is proposed to publish these lengthy technical requirements separately. Since these standards impose requirements on the sponsor or planning agency, they would be incorporated by reference in Part 152 in accordance with proposed § 152.11.

Of concern to some sponsors has been the provision in § 152.101(b) that requires the sponsor of a project, which includes installing lighting facilities and related electrical work, to provide for installing an approved airport beacon and agree to operate the airport lighting installed throughout each night of the year or according to a satisfactory plan of operation. Under revised Part 152, while approved beacons would remain eligible for funding, they would no longer be required as a precondition for approval of a project involving lighting facilities. In addition, an agreement concerning the operation of airport lighting at night is no longer necessary in the light of the assurances made by the sponsor in the grant agreement.

4. *Outdated Provisions.* A number of sections in current Part 152 deal with compliance by the sponsor or planning agency with the requirements of statutes other than the AADA. In this proposal these provisions have been simplified to omit references to out-of-date provisions and revised to incorporate changed requirements. The current provisions that have been revised or deleted include: relocation expenses (§ 152.49(f)); requirements for grant payments for land acquisition (§ 152.67(b)); and mandatory amendment of the grant agreement (§ 152.37(d)).

5. *Reorganization.* Under current Part 152 the rules and procedures for airport development projects are set forth in Subpart B and those applicable to planning projects are contained in Subpart D. Under this proposal these subparts would be consolidated, and redundant provisions eliminated. In addition, it is proposed to reorganize the entire part on a chronological basis. The use of a chronological organization, (beginning with eligibility requirements and ending with the termination procedure) would enable sponsors and planning agencies to more readily locate pertinent requirements and procedures.

Some lengthy requirements in the body of the part would be placed in appendices. The labor requirements in current §§ 152.55 and 152.59 and the contract provisions required by the Secretary of Labor in current Appendix H would be included in new Appendix A. The contracting requirements now in §§ 152.51, 152.53, and 152.57 would be made a new Appendix C.

6. *Statutory Changes.* This proposal would revise Part 152 to reflect changes in the Airport Aid Program as a result of the Acceleration Act and the 1976 Amendments. Proposals are discussed in connection with the specific sections of the regulations which they affect.

7. *Sponsor Assurances.* A major addition to Part 152 would be the publication, in a new Appendix D, of the assurances made by the applicant for an airport development grant or an airport planning grant at the time of application. Since they are regulatory in nature, they should be published in Part 152, as are other requirements imposed on the sponsor.

The assurances contained in proposed Appendix D are those currently in use. Those assurances in sections I and III and paragraphs 1 through 16 of section II (including compliance with the Hatch Act) are required by Office of Management and Budget Circular (OMB) A–102, Uniform Administration Requirements for Grants in Aid to State and Local Governments (42 FR 45828). Comments are invited as to the form and content of the assurances in paragraphs 17 through 33 of section II, which specifically apply to airport development grants.

8. *Reduction in Requirements.* An effort has been made to relieve the sponsor or planning agency of the burden of the application process, to the extent that it is practicable and consistent with the FAA's responsibilities under the AADA. The changes include the elimination of these requirements: the submission of an agreement between cosponsors as to their obligations (§ 152.39(c)); the submission of an agency agreement (§ 152.39(d)); and prior FAA approval of each proposal for engineering and planning services of for force account work. Commenters on this notice are invited to submit specific suggestions on further reducing the burden of the application process.

9. *Deletion of Certain Appendices.* Current Appendix J sets out the requirements of Federal Management

Circular (FMC) 74–4, Cost Principles Applicable to Grants and Contracts with State and Local Governments (39 FR 27133; 43 FR 50977), formerly OMB Circular A–87. Appendices K (Standards for Grantee Financial Management Systems), L (Property Management Systems), and M (Procurement Standards) contain the requirements in Attachments G, N, and O of OMB Circular A–102.

Under this proposal these appendices would not be published in Part 152. Their requirements, as they set out in FMC 74–4 and OMB Circular A–102, are available to the public through the Federal Register system. The FAA will make these publications available to sponsors, planning agencies, and other interested persons through its Regional Offices and Airports District Offices.

V. General Requirements

A. Definitions

Proposed § 152.3 contains definitions of numerous terms used throughout Part 152. They have been placed in one section for convenient reference. Although many of these terms are defined in the AADA, they have also been included in § 152.3 because they are essential to the proper understanding of the part and its applicability. Some of these definitions have been updated. The words "supplemental air carrier" in the definition of air carrier airport would be replaced with "charter air carrier," in accordance with the name change made by the Airline Deregulation Act of 1978 (Pub. L. 95–504; 92 Stat. 1705). The Government of the Northern Marianas, which is now a separate entity from the Trust Territory of the Pacific Islands, would be inseparately referred to in the definition of public agency.

Some definitions such as "nonrevenue producing public-use areas" and "project formulation costs" have been derived from applicable provisions of the AADA. Other definitions have been added where clarification or economy of language is needed.

1. *"Airport Development".* The proposed definition of airport development includes changes made by the Acceleration Act and the 1976 Amendments. The Acceleration Act amended the AADA to include, within the meaning of "airport development," security equipment which the airport sponsor is required by rule or regulation to provide for the safety and security of persons and property on the airport. In addition, under the 1976 Amendments the following are included for the first time in the definition of airport development: snow removal equipment; the purchase of noise suppressing equipment, the construction of physical barriers and, landscaped to diminish the effect of aircraft noise; and the purchase of land (or an interest therein) to maintain or achieve compatibility with noise levels.

2. *"Airport Layout Plan".* The definition of airport layout plan in proposed § 152.3 does not include the minimum content requirements found in current § 152.5(a)(2) (i) and (iii). Of necessity, these would be included as elements of any plan that shows existing and proposed facilities, as required by § 152.5(a)(2)(ii). Discussion of the approval process for the plan has not been included in the revised part.

3. *"Satisfactory Property Interest".* Current § 152.29(d) specifies what property interest a sponsor must hold in the lands to be developed or used as part of, or in connection with, the airport as it will be when the project is completed. Under the current rule, one of the ways in which a sponsor may hold the required property is to have a lease of not less than 20 years, granted to the sponsor by another public agency or the United States that has title to the property, on terms that the Administrator considers satisfactory. The FAA believes that provision should be made for a grant of aid to a sponsor who holds a lease of less than 20 years when the circumstances support a finding by the Administrator that the sponsor has a satisfactory property interest. Accordingly, the definition of "satisfactory property interest" in proposed § 152.3 would provide this flexibility.

4. *"National Airport System Plan"* New § 152.3 would include a definition of the National Airport System Plan (NASP). The discussion of the NASP in current § 152.3 would be eliminated. The requirement in current § 152.3(b) that an airport be included in the NASP in order for it to be eligible for an airport development grant would be set out in proposed § 152.107(d).

B. Exemptions

Current Part 152 does not provide for the granting of exemptions from its requirements. Since local conditions may vary, making it difficult for a sponsor to comply with specific requirements, the FAA believes that petitions for exemption should be considered under appropriate circumstances. Accordingly, § 152.5 of this proposal would authorize the filing of petitions for exemptions with the Regional Director concerned. However, a request for an exemption would not be granted if the requirement from which the exemption is sought restates a statutory provision or if the exemption requested would be inconsistent with the purposes of the AADA, as amended, or any other applicable statute.

C. Certifications

Under section 16(h) of the AADA, the Secretary is authorized to accept a certification from a sponsor or planning agency that it has complied, or will comply, with all of the statutory and administrative requirements imposed on it under the AADA. This statutory provision would be implemented by § 152.7 of this proposal. The new section would not exempt a sponsor or planning agency from complying with any requirement in Part 152, it would merely eliminate the current requirement to submit certain documentation. Under proposed § 152.7(d) the sponsor or planning agency could be required to show compliance with any requirement for which a certification is accepted, if the Administrator determines that it is necessary to do so.

Section 152.7 would also implement section 20(b)(1) of the AADA, which authorizes the Secretary to approve, as allowable project costs of a project for airport development, certain terminal development, if the sponsor certifies that its airport has, or will have, all of the safety and security equipment required for certification under section 612 of the Federal Aviation Act of 1958 (Part 139 of the Federal Aviation Regulations).

D. Forms

Specific references to form numbers now in § 152.75 and elsewhere in Part 152 would be removed. New § 152.9 would indicate that appropriated forms are available at any FAA Regional Office or Airports District Office.

E. Incorporation by Reference

Current Subpart C requires compliance with programming, design and construction standards for airport development projects. Some of those standards are set forth in Subpart C and others are in the advisory circulars listed in current Appendix I. Under current § 152.83 the technical guidelines listed in those advisory circulars are incorporation by reference into Subpart C of Part 152 and made mandatory.

The provisions pertaining to incorporate by reference would be included in a new § 152.11 under this proposal, and the advisory circulars would be listed in new Appendix B. In accordance with the regulations of the Office of the Federal Register (1 CFR Part 51), Appendix B will be revised from time to time to reflect any subsequent revisions to advisory circulars incorporated by reference.

New § 152.11 would provide for the modification, for a particular project, of any standard set forth in Appendix B, when necessary to meet local conditions, and when the modification would provide an acceptable level of safety, economy, durability, and workmanship. The modification could be made by Director, Office of Airport Standards, or the Regional Director. In appropriate cases, the authority to make such a modification would be specifically reserved to the Director, Office of Airport Standards. They would include cases where there is a need to preserve uniformity in design or where comptability with FAA facilities is needed.

VI. Eligibility Requirements and Application Procedures

New subpart B of Part 152 would contain eligibility requirements and application procedures applicable to airport development and planning projects. It would combine material now contained in subparts B and D of current Part 152.

A. Eligibility: Sponsors and Planning Agencies

The eligibility requirements applicable to sponsors and planning agencies contained in proposed §§ 152.103 and 152.105 are derived from §§ 152.43 and 152.125.

1. *Agreements With United States.* Under current § 152.7(a) a sponsor or planning agency may not receive a grant unless it has met, or will meet, the requirements established by existing and proposed agreements with the United States with respect to any airport that it owns or controls. This requirement would be continued in proposed § 152.103(a). As in the present regulation, the proposal would provide for the making of a grant when a sponsor cannot comply with an agreement; however, the discussion of the procedures applicable to non-compliance in current § 152.7(a) (2) and (3) would not be included.

The reference to compliance determinations under Part 21 of the Regulations of the Secretary of Transportation now in § 152.7(a)(1) would also be eliminated as unnecessary.

2. *Sponsor's Ability To Perform.* Current §§ 152.43(b) and 152.125(b) impose certain general requirements as to the sponsor's legal, financial, and other ability to perform its obligations as an applicant and a grantee. It is unnecessary to include these broad requirements in the regulations because they are implied in numerous other requirements in the part, and the sponsor's ability will be demonstrated to the Administrator through the application process.

3. *Agency.* Current §§ 152.39(d) and 152.127(e) require a sponsor for whom a public agency or planning agency acts as an agent to submit a copy of an agency agreement with its project application. The FAA recognizes that the authority to act as agent may be established by a State or local law which does not require that an agreement be entered into. For this reason the requirement would be omitted.

B. Project Eligibility

The project eligibility requirements in proposed §§ 152.107 and 152.109 are derived from §§ 152.45, 152.129, and 152.131.

1. *Minimum Dollar Amount.* Under current § 152.7(b) an airport development project is not eligible for funding unless it involves more than $5,000 in United States funds. The purpose of such a minimum is to encourage sponsors to include all eligible airport development items within a single grant application, rather than filing separate applications for each eligible item. This is intended to reduce administrative costs which, could meet or exceed the amount of U.S. funds approved for a small project.

Increases over the years in the cost of administering grants have made it necessary to raise this minimum dollar amount. Accordingly, proposed § 152.107(b) would increase the minimum from $5,000 to $25,000, unless otherwise authorized by the Administrator. Almost all recent grant applications are for projects in excess of this amount. Smaller grants could be approved for such items as required safety and security equipment.

2. *Runway Clear Zones.* Sections 152.9 and 152.11 now require that the sponsor own, acquire, or agree to acquire runway clear zones whenever funds are allocated for: developing new runways or runway safety areas, improving or repairing existing runways, or making substantial airport improvements that do not benefit a specific runway or safety area. These requirements would be included as project eligibility requirements in new § 152.107(e). Paragraph (e) would require control over property interest in runway clear zones that the Administrator considers adequate.

The standards in current § 152.11 would be deleted. Standards for adequate clear zones and clearn zone interests would be published separately, and incorporated into Part 152 by reference in accordance with new § 152.11. Those standards would also specify the limits of the clear zone, and the definition of runway clear zone in proposed § 152.3 indicates this.

3. *Landing Aid Requirements.* Section 152.13 now requires each project to provide for certain landing aids which the Administrator determines are needed for safe and efficient use of the airport. This requirement will be included in proposed § 152.107(e). Standards and procedures for complying with it will be published separately and incorporated by reference into Part 152.

4. *Previously Obligated Work.* Current application and preapplication forms provide the FAA with information on previous, pending, or anticipated federal assistance related to the proposed project. This is sufficient to allow the FAA to discharge its responsibility, under paragraph (b)(2) of section 14 of the AADA, to not incur more than one obligation under that paragraph with respect to any single project for airport development. Accordingly, the requirement in current § 152.7(c) would be eliminated as unnecessary.

5. *Unified Work Program.* The DOT, through its operating administrations, is responsible for the management of three transportation planning programs established by three separate legislative acts: Title 23, U.S. Code (Highways); the Urban Mass Transportation Act of 1964, as amended; and the AADA. In accordance with these statutes, the planning programs for individual transportation modes are designed to be coordinated with planning for other transportation modes and with comprehensive planning for urban areas. To promote integration of transportation planning, unified work programs are required for all urbanized areas (as established by the U.S. Bureau of the Census) doing areawide urban transportation planning with the assistance of more than one DOT operating administration.

A unified work program, defined in proposed § 152.3, is a single document, prepared by the local areawide planning agency, which identifies all transportation and related planning activities that will be undertaken within the metropolitan area during a one- or two-year period. The program is a means of consolidating and formally coordinating all transportation planning activities at the metropolitan level whenever more than one modal

planning program is involved. It ensures that Federally supported local planning is not duplicative or at cross-purposes.

Currently, applications for certain master and system planning are not accepted unless the proposed project is included in a unified work program. Since this is an eligibility requirement imposed on the sponsor or planning agency, it is proposed to include it in new § 152.109.

Proposed § 152.109 would require that each project for airport system planning be included in a unified work program. Under proposed § 152.109, if a proposed project for airport master planning has been determined to have areawide significance by an appropriate areawide agency, the project must be included in an unified work program before FAA approval of the project. The appropriate areawide agency is the agency responsible for coordination of Federally assisted programs and projects in accordance with OMB circular A–95 (41 FR 2052).

C. Application Requirements

Proposed §§ 152.111 and 152.113 contain requirements for submitting preapplications and applications now found in §§ 152.23 through 152.33 and in § 152.123.

The proposed application requirements provide that the Administrator may authorize an applicant to not comply with certain provisions. This would provide for waiver of a requirement where an item to be submitted is already available to the Administrator or where a substitute should be accepted. A current example of the former is the property map requirement in current § 152.29(b), which allows incorporation by reference of a map submitted with a previous application; an example of the latter is in current § 152.31(b)(2) which authorizes substitution of a certification from the Administrator of the Environmental Protection Agency instead of the Governor of the state in which the project may be located, when state air and water quality standards have not been approved.

1. *OMB Circular A–95.* On November 17, 1977, the FAA published Special Federal Aviation Regulation No. 35 (42 FR 59476) which requires each applicant for Federal Assistance under Part 152 to comply with the FAA Notice of Policy, "FAA Interim Procedures Implementing OMB Circular A–95." Under those procedures each applicant is required to submit to the FAA certain comments and statements it obtains through the appropriate clearinghouse. Proposed § 152.111(c)(4) would require that these be submitted with the preapplication, together with a showing that they have been considered by the sponsor.

2. *New Provisions Required by Statute.* The 1976 Amendments, and other Congressional legislation, contain new requirements and provisions that are applicable to the airport development and planning grant programs. These requirements are set out in proposed § 152.111.

Under the Flood Disaster Protection Act of 1973, if certain proposed airport development is in an area of special flood hazard, the sponsor must participate in the National Flood Insurance Program. This requirement is reflected in § 152.111(c)(5) and (6) of this proposal.

In addition, section 18(b) of the AADA requires the sponsor to consult with air carriers, or fixed base operators, as appropriate, in making the decision to undertake a project for airport development. These requirements are reflected in § 152.111(c)(10) and (11) of this proposal.

New section 20(b)(1) of the AADA allows the funding of certain terminal development in nonrevenue public-use areas when the sponsor certifies that the air carrier airport involved has, on the date of submittal of the project application, all safety and security equipment required for airport certification under section 612 of the Federal Aviation Act of 1958. Proposed § 152.111(b)(12) would require submission of this certification.

3. *Displacement of Persons and Acquisition of Real Property.* The requirements of current § 152.23(a)(2), (3), and (4) relative to the displacement of persons and the acquisition of real property in connection with airport development would be simplified in this proposal by eliminating material that is repetitive of that contained in the referenced regulations of the Office of the Secretary of Transportation.

4. *Environmental Impact Assessment Report.* Incorporation by reference in current § 152.23(a)(6), of DOT Order 5610.1B and FAA Order 1050.1B into Part 152 is technically unnecessary since they are available in the Federal Register. Although the words of the incorporation would be removed, compliance will still be required and the orders will continue to be available at any FAA Regional Office and any Airports District Office.

5. *Information in Application.* A number of provisions in Part 152 prescribe information that the sponsor must include in its application, such as the source and nature of its funding and the property interests the sponsor holds in the lands to be developed. This information is necessary to determine that the sponsor meets the eligibility requirements of the part. However, it is not necessary to recite the information in the Part 152 and it has been omitted from the proposed revision. The application form indicates what information is necessary for the FAA to determine eligibility. Where amplification of the instructions in the application is needed, separate advisory material will be provided.

The provisions that have been deleted include: funding information (§ 162.25(b)); donated land, labor, materials, or equipment (§ 152.27(a)); statement of property interest (§ 152.29(a)); and statement on compatible land use (§ 152.31(a)).

6. *EPA List of Violating Facilities.* Part 15 of the Regulations of the Environmental Protection Agency (EPA; 40 CFR Part 15) provide for the establishment by the EPA of a List of Violating Facilities, which specifies those facilities which are guilty of continuing or recurring noncompliance with clear air and water standards. Under the authority of the Clean Air Act (42 U.S.C. 1857 *et seq.*); the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), and Executive Order 11738, the EPA prohibits any Federal agency from entering into a nonexempt grant where a facility listed would be utilized for the grant (40 CFR § 15.20(b)). To assist the FAA in complying with this EPA requirement, proposed § 152.111(f)(6) would require the sponsor to submit a statement with its application as to whether any building, installation, structure, location, or site of operations to be utilized in the performance of the grant or any contract made pursuant to the grant appears on this list of violating facilities.

7. *Sponsor Assurances.* New § 152.111(f)(9) would require that the sponsor submit with its application the assurances specified in proposed Appendix D. These assurances are now submitted as part of each application for airport development. Since these assurances impose numerous requirements on the sponsor they should be set out in the regulations. They would be published as an appendix, because of their length.

8. *Cosponsors.* Under current §§ 152.39(c) and 152.127(c), cosponsors who do not jointly and severally assume the obligations imposed on them by Part 152 must submit an agreement between them as to the responsibilities and obligations each assumes. The FAA believes that it is unnecessary to require cosponsors to enter into a formal agreement. Proposed §§ 152.111(f)(10) and 152.113(b)(6) merely require a statement of responsibilities and obligations, which will be incorporated into the grant agreement.

D. Grant Agreement

The current requirements applicable to the offer, acceptance, and amendment of grant agreements now found in §§ 152.35, 152.37, 152.133, and 152.135 would be consolidated into proposed § 152.115.

Part 152 now provides that an official or agent of the sponsor accepting an offer made by the Administrator must be authorized to sign the acceptance by a resolution or ordinance adopted by the sponsor's governing body. The FAA believes that this provision is too restrictive in that it does not take into account varying local practices. Accordingly, this requirement would be deleted. Proposed § 152.115(b) would provide that the acceptance must be authorized by law and that the acceptance be accompanied by an appropriate certification from the sponsor's attorney. Accordingly, a resolution or ordinance authorizing the signing official to accept the offer would be necessary only if required by law.

E. Public Hearings

Current § 152.73 requires the sponsor to give notice announcing that opportunity is afforded for a public hearing to consider factors including the economic, social, and environmental effects of the proposed development. Under paragraph (b) of that section, the notice must state that a copy of the sponsor's environmental impact assessment report is and will be available at its place of business for examination by the public for a minimum of 30 days, from the date of the notice, before any hearing held pursuant to the notice.

Since the sponsor often issues more than one notice under § 152.73, paragraph (b) of that section is unclear as to which notice the 30-day period begins. The proposal would clarify this provision by providing that the 30-day period begins to run on the date the first notice is published. Making the sponsor's environmental impact assessment report available for inspection early in the review process would also help to avoid delays in completing the required procedures.

F. Contract Requirements and Procurement Standards

Proposed § 152.119 provides that all grant agreements, contracts, and subcontracts involving airport development projects or airport planning must comply to the contract requirements and procurement standards in proposed Appendices A and C, as applicable, and the procurement standards in Attachment O of Office Management and Budget Circular A–102. Appendix A is derived from current Appendix H and §§ 152.55 and 152.59, and Appendix C is derived from current §§ 152.51, 152.53, and 152.57.

Part 152 does not now provide for a determination by the Administrator that a contractor should be barred from participation in contracts under the Airport Aid Program or the Planning Grant Program because of an unsatisfactory record of responsibility. The FAA is planning to issue a supplemental NPRM in the near future that will provide for the establishment of a list of debarred bidders and administrative procedures for adding contractors to, and removing them from, that list. Before making a determination that a contractor should be barred from participation in work under the Airport Aid Program or the Planning Grant Program, the contractor would be provided with en opportunity to present facts and circumstances showing cause why debarment should not be instituted.

Although Part 152 does not now have debarment procedures, sponsors and planning agencies, in complying with the procurement standards in OMB Circulars A–102, are required to contract only with "responsible contractors who possess the potential ability to perform successfuly under the terms and conditions of a proposed procurement." They are required to give consideration "to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources." OMB Circular A–102, Attachment O, section 3(c)(7).

VII. Funding of Approved Projects

A. Allowable Project Costs.

Proposed § 152.203, Allowable project costs, is derived from current §§ 152.47 and 152.137. Current § 152.47 (c)(6) and Appendix J (paragraph A.1. of Part I) provide that to be an allowable project cost for the purpose of computing the amount of an airport development grant, an item that is paid or incurred must be a direct cost. However, this limitation would be omitted in proposed § 152.203, permitting indirect costs to be recognized as allowable project costs. This revision is consistent with Federal Management Circular 74–4 which authorizes payment for certain indirect costs.

B. United States Share of Allowable Project Costs

The 1976 Amendments revised the funding provisions contained in the AADA, as amended by the Acceleration Act. These revisions are reflected in proposed § 152.205, United States share of project costs, and replace those in current §§ 152.49 and 152.139. The proposed regulation would set out the United States' share for 1976, 1977, and 1978 since amendments to grants for those years must conform to the applicable requirement.

1. *1976, 1977, and 1978.* In the case of grants for airport development and airport master planning from funds for fiscal years 1976, 1977 and 1978, the United States' share has been 90 percent for: (1) Air carrier airports enplaning less than one-quarter of one percent of the total annual passengers enplaned, (2) commuter service airports, and (3) general aviation airports. For all other airports and for airport system planning, the United States' share has been 75 percent of allowable project costs.

2. *1979, and 1980.* With regard to grants from funds for fiscal years 1979 and 1980, the United States' share of allowable costs is the same as described in the preceding paragraph, except that the 90 percent ceiling for the first three categories of airports specified in that paragraph is reduced to 80 percent.

3. *Public Land States.* Before the 1976 Amendments, section 17(b) of the AADA provided that, in the case of certain Public Land States, the United States' share of project costs was to be increased by 25 percent or by a percentage equal to one-half of the percentage that the area of public lands in the State is of its total area, whichever is smaller. While this formula was retained by the 1976 Amendments, a limitation was added. Under the limitation, the United States' contribution may not exceed the greater of the percentage share set forth in the new funding schedule or the percentage share applying June 30, 1975, for Public Land States.

4. *Airport Lighting.* Before the 1976 Amendments, under section 17(d) of the AADA, the United States' share of allowable costs was set at a maximum of 82 percent for: (1) Land required for the installation of approach light systems, (2) touchdown zone and centerline runway lighting, and (3) high intensity runway lighting. The 1976 Amendments changed this by providing, in essence, that the United States' share of the project costs for these items is the

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same percentage as is otherwise applicable to the project.

5. *Terminal Development.* If certain conditions are met, section 20(b) of the AADA permits the approval of terminal development in certain nonrevenue producing public-use areas. The U.S. share of project costs for approved terminal development is 50 percent.

6. *Donated Land.* Section 152.45(d) now provides a formula for ensuring that the United States does not pay more of the costs of a project than is authorized by the AADA when donated land is included in the project. Under the revised provisions of the AADA, this formula would have to be changed; however, it is not necessary to set out a formula in the regulations, since it would be derived from proposed § 152.205. Although it is proposed to eliminate § 152.45(d), donated land could still be applied toward the sponsor's share of project costs.

C. Proceeds from Disposition of Land

Proposed § 152.207, Proceeds from disposition of land, is derived from § 152.7(d), Limitation on participation.

D. Grant Payments

Proposed §§ 152.209 and 152.211 applicable to grant payments contain the provisions now in §§ 152.65, 152.67, 152.69, and 152.141.

1. *Advance Payments.* Under current Part 152, advance payments have not been made for land acquired as an item of airport development. However, proposed § 152.211 would authorize advance payments for land after acquisition is assured to the satisfaction of the Administrator.

2. *Letters of Credit.* Part 152 currently does not authorize payment by letter of credit for approved airport development. This method of distributing funds facilitates payment by eliminating payment applications. Accodingly, the FAA believes that payment by letter of credit for airport development should be authorized under appropriate circumstances. Proposed § 152.209 would authorize this method of payment.

3. *Contractor Certification.* The current provision in § 152.65(b) requiring contractor certification as to labor provisions would be eliminated since this certification is no longer required by the Department of Labor.

F. Grant Closeout Requirements

The requirements in proposed § 152.213 applicable to grant closeout are now in §§ 152.71 and 152.145.

The property accounting requirement in proposed § 152.213 (d) applies only to airport development projects. The property accounting requirement now in § 152.143 (f) applicable to planning project would be deleted as inappropriate.

Current §§ 152.71 (e) and 152.145 (d) provides that the Administrator determines the total amount of the allowable project costs based upon a final audit, and then makes settlement for any adjustments to the Federal share of costs. The FAA believes that a satisfactory determination can be made without a final audit. Proposed § 152.213 (e) would provide that the total amount of allowable project costs could be determined based on an audit or on other information considered sufficient in lieu of an audit.

VIII. Accounting and Reporting Requirements

A. Financial Management System

Proposed § 152.303 would require that each sponsor or planning agency establish and maintain a financial management system that meets the standards in Attachment G of OMB Circular A-102. Compliance with these standards, now in Appendix K, is currently required by §§ 152.63(a) and 152.143(e).

B. Records

Proposed §§ 152.305 through 152.311 are the accounting requirements now in §§ 152.63 and 152.143.

C. Property Management Standards

Proposed § 152.313 would require sponsors to establish and maintain property management standards in accordance with Attachment N of OMB Circular A-102, for the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part by the sponsor with Federal funds. These standards are now in Appendix L and compliance with them is required by §§ 152.63(g) and 152.143(f).

D. Reporting and Notice Requirements

The reporting requirements in current §§ 152.66 and 152.140 would be separated into separate sections to facilitate reference to them. They are proposed as new §§ 152.315 through 152.325.

IX. Nondiscrimination in Airport Aid Program

In Notice 77-1 (42 FR 2850; January 13, 1977) the FAA proposed to amend Part 152 to implement section 30 of the AADA (49 U.S.C. 1730) to ensure that no person is excluded on the grounds of race, creed, color, national origin, or sex from participating in any project for airport development, airport master planning, or airport system planning, conducted with funds received from a grant made under Part 152. Regulations adopted in accordance with that proposal will be incorporated into a new Subpart E, Nondiscrimination in Airport Aid Program.

X. Suspension and Termination of Grants

The provisions in proposed new Subpart F applicable to the suspension and termination of grants are the same as those now in §§ 152.64 and 152.142.

Proposed § 152.509 does not include the requirement, now in §§ 152.64(d) and 152.142(d), that requests for reconsideration be made within 45 days after receipt of a notice of suspension or termination. Although a specific time limitation is not appropriate, a petition should be submitted within a reasonable period of time to ensure adequate consideration.

XI. The Proposed Rule

Accordingly, it is proposed to revise Part 152 of the Federal Aviation Regulations (14 CFR Part 152) to read as follows:

PART 152—AIRPORT AID PROGRAM

Subpart A—General

Sec.
152.1 Applicability.
152.3 Definitions.
152.5 Exemptions.
152.7 Certifications.
152.9 Forms.
152.11 Incorporation by reference.

Subpart B—Eligibility Requirements and Application Procedures

152.101 Applicability.
152.103 Sponsors: Airport development.
152.105 Sponsors and planning agencies: Airport planning.
152.107 Project eligibility: Airport development.
152.109 Project eligibility: Airport planning.
152.111 Application requirements: Airport development.
152.113 Application requirements: Airport planning.
152.115 Grant agreement: Offer, acceptance and amendment.
152.117 Public hearings.
152.119 Contract requirements and procurement standards.

Subpart C—Funding of Approved Projects

152.201 Applicability.
152.203 Allowable project costs.
152.205 United States share of project costs.
152.207 Proceeds from disposition of land.
152.209 Grant payments: General.
152.211 Grant payments: Land acquisition.
152.213 Grant closeout requirements.

Subpart D—Accounting and Reporting Requirements

152.301 Applicability.
152.303 Financial management system.
152.305 Accounting records.
152.307 Retention of records.
152.309 Availability of sponsor's records.
152.311 Availability of contractor's records.
152.313 Property management standards.
152.315 Reporting on accrual basis.
152.317 Report of Federal cash transactions.
152.319 Monitoring and reporting of program performance.
152.321 Notice of delay or acceleration.
152.323 Budget revision: Airport development.
152.325 Financial status report: Airport planning.

Subpart E—Nondiscrimination in Airport Aid Program [Reserved]

Subpart F—Suspension and Termination of Grants

152.501 Applicability.
152.503 Suspension of grant.
152.505 Termination for cause.
152.507 Termination for convenience.
152.509 Request for reconsideration.
Appendix A—Contract Provisions and Labor Requirements
Appendix B—List of Advisory Circulars Incorporated by § 152.11
Appendix C—Contracting Requirements
Appendix D—Assurances

Authority: Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*); sec. 1.47 (f)(1) Regulations of the Office of the Secretary of Transportation (49 CFR 1.47 (f)(1))

Subpart A—General

§ 152.1 Applicability.

This part applies to airport planning and development under the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*).

§ 152.3 Definitions.

The following are definitions of terms used throughout this part:

"AADA" means the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*).

"Air carrier airport" means—

(1) An existing public airport regularly served, or a new public airport that the Administrator determines will be regularly served, by an air carrier, other than a charter air carrier, certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958; and

(2) A commuter service airport.

" Airport" means—

(1) Any area of land or water that is used, or intended for use, for the landing and takeoff of aircraft;

(2) Any appurtenant areas that are used, or intended for use, for airport buildings, other airport facilities, or rights-of-way; and

(3) All airport buildings and facilities located on the areas specified in this definition.

"Airport development" means—

(1) Any work involved in constructing, improving, or repairing a public airport or portion thereof, including the removal, lowering, relocation, and marking and lighting of airport hazards, and including navigation aids used by aircraft landing at, or taking off from, a public airport, and including safety equipment required by rule or regulation for certification of the airport under section 612 of the Federal Aviation Act of 1958, and security equipment required of the sponsor by the FAA by rule or regulation for the safety and security of persons or property on the airport, and including snow removal equipment, and including the purchase of noise suppressing equipment, the construction of physical barriers, and landscaping for the purpose of diminishing the effect of aircraft noise on any area adjacent to a public airport;

(2) Any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any such work or to remove or mitigate or prevent or limit the establishment of, airport hazards; and

(3) Any acquisition of land or of any interest therein necessry to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public airport.

"Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near a public airport, that—

(1) Obstructs the airspace required for the flight of aircraft landing or taking off at the airport; or

(2) Is otherwise hazardous to aircraft landing or taking off at the airport.

"Airport layout plan" means a plan for the layout of an airport, showing existing and proposed airport facilities.

"Airport master planning" means the development for planning purposes of information and guidance to determine the extent, type, and nature of development needed at a specific airport.

"Airport system planning" means the development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable and balanced system of public airports.

"Audit" means the examination and verification of part or all of the documentary evidence supporting an item of project cost.

"Commuter service airport" means an air carrier airport—

(1) That is not served by an air carrier certificated under section 401 of the Federal Aviation Act of 1958;

(2) That is regularly served by one or more air carriers operating under an exception granted by the Civil Aeronautics Board from section 401(a) of the Federal Aviation Act of 1958; and

(3) At which not less than 2,500 passengers were enplaned during the preceding calendar year by air carriers operating under an exemption from section 401(a).

"Force account" means—

(1) The sponsor's or planning agency's own labor force; or

(2) The labor force of another public agency acting as an agent of the sponsor or planning agency.

"General aviation airport" means a public airport other than an air carrier airport.

"Landing area" means an area used, or intended to be used, for the landing, takeoff, or surface maneuvering of aircraft.

"NASP" means the National Airport System Plan.

"National Airport System Plan" means the plan for the development of public airports in the United States formulated by the Administrator under section 12 of the AADA.

"Nonrevenue producing public-use areas" means areas that are directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport.

"Passengers enplaned" means—

(1) United States domestic, territorial, and international revenue passenger enplanements in scheduled and nonscheduled service of air carriers; and

(2) Revenue passenger enplanements by foreign air carriers in intrastate and interstate commerce.

"Planning agency" means a planning agency designated by the Administrator that is authorized by the laws of a State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam, or by the laws of a political subdivision of any of those entities, to engage in areawide planning for the areas in which assistance under this part is to be used.

"Project" means a project for the accomplishment of airport development, airport master planning, or airport system planning.

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"Project costs" means any costs involved in accomplishing a project.

"Project formulation costs" means, with respect to projects for airport development, any necessary costs of formulating a project including—

(1) The costs of field surveys and the preparation of plans and specifications;

(2) The acquisition of land or interests in land, or easement through or other interests in airspace; and

(3) Any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of a project for airport development, that would not have been incurred otherwise.

"Public agency" means—

(1) A state, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Government of the Northern Marianas, Guam, or any agency of those entities;

(2) A municipality or other political subdivision;

(3) A tax-supported organization; or

(4) An Indian tribe or pueblo.

"Public airport" means any airport that—

(1) Is used, or intended to be used, for public purposes;

(2) Is under the control of a public agency; and

(3) Has a property interest satisfactory to the Administrator in the landing area.

"Reliever airport" means a general aviation airport designated by the Administrator as having the primary function of relieving congestion at an air carrier airport by diverting from that airport general aviation traffic.

"Runway Clear Zone" means an area at ground level underlying a portion of the approach surface specified in the standards incorporated into this part by § 152.11.

"Satisfactory property interest" means—

(1) Title free and clear of any reversionary interest, lien, easement, lease, or other encumbrance that, in the opinion of the Administrator would—

(i) Create an undue risk that it might deprive the sponsor of possession or control;

(ii) Interfere with the use of the airport for public airport purposes; or

(iii) Make it impossible for the sponsor to carry out the agreements and convenants in its grant application;

(2) Unless a shorter term is authorized by the Administrator, a lease of not less than 20 years granted to the sponsor by another public agency, or the United States, that has title as described in paragraph (1) of this definition, on terms that the Administrator considers satisfactory;

(3) In the case of an off-airport area, title or an agreement, easement, leasehold or other right or property interest that, in the Administrator's opinion, provides reasonable assurance that the sponsor will not be deprived of its right to use the land for the intended purpose during the period necessary to meet the requirements of the grant agreement; or

(4) In the case of a runway clear zone, an easement or a covenant running with the land, giving the airport operator or owner enough control to rid the clear zone of all airport hazards and prevent the creation of future airport hazards.

"Sponsor" means any public agency that, whether individually or jointly with one or more other public agencies, submits to the Administrator, in accordance with this part, an application for financial assistance.

"Stage development" means airport development accomplished under stage construction over not less than two years where the sponsor assures that any development not funded under the initial grant agreement will be completed with or without Federal funds.

"State" means a State of the United States or the District of Columbia.

"Terminal development" means airport development in the nonrevenue producing public-use areas which are associated with the terminal and which are directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities and aircraft.

"Unified Work Program" means a single document prepared by a local areawide planning agency that identifies all transportation and related planning activities that will be undertaken within the metropolitan area during a one-year of two-year period.

§ 152.5 Exemptions.

(a) Except as provided in paragraph (b) of this section, any interested person may petition the Regional Director concerned for a temporary of permanent exemption from any requirement of this part.

(b) The Regional Director concerned does not issue an exemption from any rule of this part if the grant of exemption would be inconsistent with a specific provision of, or the purposes of, the AADA, or any other applicable Federal law.

(c) Each petition filed under this section must—

(1) Unless otherwise authorized by the Regional Director concerned, be submitted not less than 60 days before the proposed effective date of the exemption;

(2) Be submitted in duplicate to the FAA Regional Office or Airports District Office having jurisdiction over the area in which the airport is located;

(3) Contain the text or substance of the rule from which the exemption is sought;

(4) Explain the nature and extent of the relief sought; and

(5) Contain any information, views, or arguments in support of the exemption.

(d) The Regional Director concerned either grants or denies the exemption and notifies the petitioner of the decision.

(e) Official FAA records, including grants and denials of exemption, relating to petitions for exemption are maintained in current docket form in the Office of the Regional Counsel for the region concerned.

(f) Any interested person may—

(1) Examine any docketed material at the Office of the Regional Counsel, at any time after the docket is established, except material that is ordered withheld from the public under section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504); and

(2) Obtain a photostatic or similar copy of docketed material upon paying the same fee as that prescribed in 49 CFR Part 7.

§ 152.7 Certifications.

(a) Subject to such terms and conditions as the Administrator may prescribe, a sponsor or a planning agency may submit, with respect to any provision of this part implementing a statutory or administrative requirement imposed on the sponsor or planning agency under the AADA, a certification that the sponsor or planning agency has complied or will comply with the provision, instead of making the showing required.

(b) The Administrator exercises discretion in determining whether to accept a certification.

(c) Acceptance by the Administrator of a certification from a sponsor or planning agency may be rescinded by the Administrator at any time if, in the Administrator's opinion, it is necessary to do so.

(d) If the Administrator determines that it is necessary, the sponsor or planning agency, on request, shall show compliance with any requirement for which a certification was accepted.

§ 152.9 Forms.

Any form needed to comply with this part may be obtained at any FAA Regional Office or Airports District Office.

§ 152.11 Incorporation by reference.

(a) *Mandatory standards.* The technical guidelines in the advisory circulars listed in Appendix B to this part are incorporated into this part by reference. The Director, Office of Airports Standards, may add to, or delete from, Appendix B any advisory circular or part thereof. Except as provided in paragraph (c) of this section, these guidelines are mandatory standards.

(b) *Modification of standards.* When necessary to meet local conditions, any standard set forth in Appendix B may be modified for individual projects, if it is determined that the modifications will provide an acceptable level of safety, economy, durability, and workmanship. The determination and modification may be made by the Director, Office of Airport Standards, or the appropriate Regional Director, in instances where the authority has not been specifically reserved by the Director, Office of Airport Standards.

(c) *State standards.* Standards established by a state for airport development at general aviation airports in the state may be the standards applicable to those airports when they have been approved by the Director, Office of Airport Standards, or the appropriate Regional Director, in instances where approval authority has not been specifically reserved by the Director, Office of Airport Standards.

(d) *Availability of advisory circulars.* The advisory circulars listed in Appendix B may be inspected and copied at any FAA Regional Office or Airports District Office. Copies of the circulars that are available free of charge may be obtained from any of those offices or from the FAA Distribution Unit, M–443.1, Washington, D.C. 20590. Copies of the circulars that are for sale may be bought from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Subpart B–Eligibility Requirements and Application Procedures

§ 152.101 Applicability.

This subpart contains requirements and application procedures applicable to airport development and planning projects.

§ 152.103 Sponsors: Airport Development.

(a) To be eligible to apply for a project for airport development with respect to a particular airport the following requirements must be met:

(1) The sponsor, in the case of a single sponsor, or at least one cosponsor must be a public agency authorized by law to submit the project application;

(2) If a sponsor is the holder of an airport operating certificate issued for the airport under Part 139 of this chapter, it must be in compliance with the requirements of Part 139.

(3) Each sponsor must have complied, or show that it will or cannot comply, with the following agreements, when applicable to any airport which the sponsor owns or controls:

(i) Each grant agreement made with it under the Federal Airport Act (49 U.S.C. 1101 *et seq.*), or the AADA.

(ii) Each covenant in a conveyance to it under section 16 of the Federal Airport Act or section 23 of the AADA.

(iii) Each covenant in a conveyance to it of surplus airport property under section 13(a) of the Surplus Property Act (50 U.S.C. App. 1622(g)) or under Regulation 16 of the War Assets Administration.

(4) The sponsor, in the case of a single sponsor, or one or more of the cosponsors must have, or be able to obtain—

(i) Funds to pay all estimated costs of the project that are not to be born by the United States; and

(ii) Satisfactory property interests in the lands to be developed or used as part of, or in connection with, the airport as it will be after the project is completed.

(b) A public agency may act as agent of the public agency that is to own and operate the airport, for the purpose of channeling grant funds in accordance with state or local law, without becoming a sponsor.

§ 152.105 Sponsors and planning agencies: Airport planning.

(a) To be eligible to apply for a project for airport planning an applicant must—

(1) If the project is for airport master planning—

(i) Be a public agency;

(ii) Be legally able to implement the planning, within the existing or proposed airport boundaries, that results from the project study; and

(iii) Meet the requirements of § 152.103(a)(3); or

(2) If the project is for airport system planning, be a public agency.

(b) Cosponsors comply with paragraph (a) of this section if—

(1) Each applicable requirements of paragraph (a), except paragraph (a)(1)(iii), is met by one or more (but not necessarily the same) cosponsor; and

(2) Paragraph (a)(1)(iii) is met by each sponsor.

(c) A public agency or planning agency may act as agent of another public agency or planning agency, for the purpose of channeling grant funds in accordance with state or local law, without becoming a sponsor.

§ 152.107 Project eligibility: Airport development.

(a) Except in the case of approved stage development, each project for airport development must provide for—

(1) Development of an airport or unit of an airport that is safe, useful, and usable; or

(2) An additional facility that increases the safety, usefulness, and usability of an airport.

(b) Unless otherwise authorized by the Administrator, a project for airport development must involve more than $25,000 in United States funds.

(c) The development included in a project for airport development must—

(1) In the opinion of the Administrator, be "airport development" as defined in § 152.3;

(2) Be identified as airport development in the mandatory standards incorporated into this part by § 152.11; and

(3) Be described in an approved airport layout plan.

(d) The airport involved in a project for airport development must be included in the current NASP.

(e) In complying with paragraph (a) of this section, the sponsor must—

(1) Own, acquire, or agree to acquire control over, or a property interest in, runway clear zones that the Administrator considers adequate; and

(2) Provide for approach and runway lighting systems satisfactory to the Administrator.

§ 152.109 Project eligibility: Airport planning.

(a) *Airport master planning.* A proposed project for airport master planning is not approved unless—

(1) The location of the existing or proposed airport is included in the current NASP;

(2) In the opinion of the Administrator, the proposed planning would promote the effective location of public airports and the development of an adequate NASP;

(3) The project is airport master planning as defined in § 152.103;

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(4) If the project has been determined to have areawide significance by an appropriate areawide agency, it has been incorporated into a unified work program; and

(5) In the case of a proposed project for airport master planning in a large or medium air traffic hub, in the opinion of the Administrator—

(i) There is an appropriate system plan identifying the need for the airport;

(ii) The absence of a system plan is due to the failure of the responsible planning agency to proceed with its preparation; or

(iii) An existing system plan is not acceptable.

(b) *Airport system planning.* A proposed project for airport system planning is not approved unless—

(1) In the opinion of the Administrator, the project promotes the effective location of public airports;

(2) In the opinion of the Administrator, the project promotes the development of an adequate NASP;

(3) The project is airport system planning as defined in § 152.3; and

(4) When the project encompasses a metropolitan area that includes a large or medium hub airport, the project is incorporated in a unified work program.

§ 152.111 Application requirements: Airport development.

(a) An eligible sponsor that desires to obtain Federal aid for eligible airport development must apply to the FAA in accordance with this section. The sponsor must apply on a form and in a manner prescribed by the Administrator, through the FAA Airports District Office having jurisdiction over the area where the sponsor is located or, where there is no such office, the Regional Office having that jurisdiction.

(b) *Preapplication for Federal assistance.* A preapplication for Federal assistance must be submitted unless—

(1) The Federal fund request is for $100,000 or less; or,

(2) The project does not include construction, land acquisition, or land improvement.

(c) Unless otherwise authorized by the Administrator, the preapplication required by paragraph (b) of this section must be accompanied by the following:

(1) A list of the items of airport development requested for programming, together with an itemized estimated cost of the work involved.

(2) A sketch or sketches of the airport layout indicating the location for each item of work proposed, using the same item numbers used in the list required by paragraph (c)(1) of this section.

(3) If the proposed project involves the displacement of persons or the acquisition of real property, the assurances required by §§ 25.57 and 25.59, as applicable, of the Regulations of the Office of the Secretary of Transportation (49 CFR 25.57 and 25.59), whether or not reimbursement is being requested for the costs of displacement or real property acquisition.

(4) Any comments or statements required by Special Federal Aviation Regulation No. 35, FAA Interim Procedures Implementing OMB Circular A–95, with a showing that they have been considered by the sponsor.

(5) If the proposed development involves the construction of eligible airport buildings or the acquisition of eligible equipment to be contained in those buildings, a statement whether the proposed development will be in an area of the community concerned that has been identified by the Department of Housing and Urban Development as an area of special flood hazard, as defined in the Flood Disaster Protection Act of 1973 (42 U.S.C. 4002 *et seq.*).

(6) If the proposed development is in an area of special flood hazard, a statement whether the community is participating in the National Flood Insurance Program (42 U.S.C. 4011 *et seq.*).

(7) The sponsor's environmental impact assessment report prepared in conformance with Department of Transportation "Procedures for Considering Environmental Impacts" (DOT Order 5610.1B; 39 FR 35234, September 30, 1974), and Appendix 6 of Federal Aviation Administration "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1B, Appendix 6; 42 FR 32647, June 27, 1977).

(8) A showing that the sponsor has complied with the public hearing requirements in § 152.117.

(9) In the case of a proposed new airport serving any area that does not include a metropolitan area, a showing that each community in which the proposed airport is to be located has approved the proposed airport site through the body having general legislative jurisdiction over it.

(10) In the case of a proposed project at an air carrier airport, a statement that the sponsor, in making the decision to undertake the project, has consulted with air carriers using the airport.

(11) In the case of a proposed project at a general aviation airport, a statement that the sponsor, in making the decision to undertake the project, has consulted with fixed-base operators using the airport.

(12) In the case of terminal development, a certification that the airport has, or will have, all safety and security equipment required for certification of the airport under Part 139 and has provided, or will provide, for access to the passenger enplaning and deplaning area to passengers enplaning or deplaning from aircraft other than air carrier aircraft.

(d) *Allocation of funds.* If the sponsor complies with the applicable requirements of this subpart, the Administrator may select the proposed project for airport development for inclusion in a program. If the proposed project is selected by the Administrator, a tentative allocation of funds is made for the project and the sponsor is notified of the allocation. The tentative allocation may be withdrawn if the sponsor does not submit a project application in accordance with paragraph (f) of this section.

(e) *Application for Federal Assistance.* As soon as practicable after receiving notice of a tentative allocation or, if a preapplication is not required (as provided in paragraph (b) of this section), an application for Federal assistance must be submitted.

(f) Unless otherwise authorized by the Administrator, the application required by paragraph (e) of this section must be accompanied by the following:

(1) When a preapplication has not been previously submitted, the information required by paragraph (c) of this section.

(2) A property map of the airport showing—

(i) The property interests of each sponsor in all the lands to be developed or used as part of, or in connection with, the airport as it will be when the project is completed; and

(ii) All property interests acquired or to be acquired, for which U.S. aid is requested under the project.

(3) With respect to all lands to be developed or used as a part of, or in connection with, the airport (as it will be when the project is completed) in which a satisfactory property interest is not held by a sponsor, a covenant by the sponsor that it will obtain a satisfactory property interest before construction is begun or within a reasonable time if not needed for construction.

(4) If the proposed project involves the displacement of persons, the relocation plan required by § 25.55 of the Regulations of the Office of the Secretary of Transportation.

(5) When the project involves an airport location, a runway location, or a major runway extension, a written certification from the Governor of the state in which the project may be located (or a delegatee), providing reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

(6) A statement whether any building, installation, structure, location, or site of operations to be utilized in the performance of the grant or any contract made pursuant to the grant appears on the list of violating facilities distributed by the Environmental Protection Agency under the provisions of the Clean Air Act and Federal Water Pollution Control Act (40 CFR Part 15).

(7) The assurances on Civil Rights required by § 21.7 of the Regulations of the Office of the Secretary of Transportation (49 CFR 21.7).

(8) Plans and specifications for the proposed development in accordance with the design and construction standards listed in Appendix B to this part.

(9) The applicable assurances required by Appendix D to this part.

(10) If cosponsors are not willing to assume, jointly and severally, the obligations imposed on them by this part and the grant agreement, a statement satisfactory to the Administrator indicating—

(i) The responsibilities of each sponsor with respect to the accomplishment of the proposed project and the operation and maintenance of the airport;

(ii) The obligations each will assume to the United States; and

(iii) The name of the sponsor or sponsors who will accept, receipt for, and disburse grant payments.

(g) *Additional documentation.* The Administrator may request additional documentation as needed to support specific items of development or to comply with other Federal and local requirements as they pertain to the requested development.

§ 152.113 Application requirements: Airport planning.

(a) *Application for Federal assistance.* An eligible sponsor or planning agency that desires to obtain Federal aid for eligible airport master planning or airport system planning must submit an application for Federal assistance, on a form and in a manner prescribed by the Administrator, to the appropriate FAA Airports District Office having jurisdiction over the area where the sponsor or planning agency is located or, where there is no such office, the Regional Office having that jurisdiction.

(b) Unless otherwise authorized by the Administrator, the application must be accompanied by the following:

(1) Any comments or statements required by Special Federal Aviation Regulation No. 35, FAA Interim Procedures Implementing OMB Circular A–95.

(2) Budget (project costs) information subdivided into the following functions, as appropriate, and the basis for computation of these costs:

(i) Third party contracts.

(ii) Sponsor force account costs.

(iii) Administrative costs.

(3) A program narrative describing the proposed planning project including—

(i) The objective of study;

(ii) The results and benefits expected;

(iii) A Work Statement including—

(A) A detailed description of each work element;

(B) A list of each organization, consultant, and key individual who will work on the planning project, and the nature of the contribution of each; and

(C) A proposed schedule of work accomplishment; and

(iv) The geographic location of the airport or the boundaries of the planning area.

(4) If the sponsor proposes to accomplish the project with its own forces or those of another public or planning agency—

(i) An assurance that adequate, competent personnel are available to satisfactorily accomplish the proposed planning project, and

(ii) A description of the qualifications of the key personnel.

(5) If cosponsors are not willing to assume, jointly, and severally, the obligations imposed on them by this part and the grant agreement, a statement satisfactory to the Administrator indicating—

(i) The responsibilities of each sponsor with respect to the accomplishment of the proposed project;

(ii) The obligations each will assume to the United States; and

(iii) The name of the sponsor or sponsors who will accept, receipt for, and disburse grant payments.

(6) The assurances on Civil Rights required by § 21.7 of the Regulations of the Office of the Secretary of Transportation (49 CFR 21.7).

(7) The applicable assurances required by Appendix D of this part.

(c) *Additional documentation.* The Administrator may request additional documentation as needed to support a master plan or system plan, or to comply with other Federal and local requirements as they pertain to the requested plan.

§ 152.115 Grant agreement: Offer, acceptance, and amendment.

(a) *Offer.* Upon approving a project for airport development, airport master planning, or airport system planning, the Administrator issues a written offer that sets forth the terms, limitations, and requirements of the proposed agreement.

(b) *Acceptance.* The acceptance of an offer or an amendment to a grant agreement must be in writing. The sponsor's or planning agency's attorney must certify that the acceptance complies with all applicable law, and constitutes a legal and binding obligation of the sponsor or planning agency.

(c) *Amendment: Airport development grants.* The maximum obligation of the United States under a grant agreement for an airport development project may be increased by an amendment if—

(1) Except as otherwise provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the maximum obligation of the United States is not increased by more than 10 percent;

(2) Funds are available for the increase;

(3) The sponsor shows that the increase is justified; and

(4) The change does not prejudice the interest of the United States.

(d) *Amendment: Airport planning.* A grant agreement for airport planning may be changed if—

(1) The change does not increase the maximum obligation of the United States under the grant agreement; and

(2) The change does not prejudice the interest of the United States.

§ 152.117 Public hearings.

(a) Before submitting a preapplication for Federal assistance for an airport development project involving the location of an airport, an airport runway, or a runway extension, the sponsor must give notice of opportunity for a public hearing, in accordance with paragraph (b) of this section, for the purpose of—

(1) Considering the economic, social, and environmental effects of the location of the airport, the airport runway, or the runway extension; and

(2) Determining the consistency of the location with the goals and objectives of any urban planning that has been carried out by the community.

(b) The notice of opportunity for public hearing must—

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(1) Include a concise statement of the proposed development;

(2) Be published in a newspaper of general circulation in the communities in or near which the project may be located;

(3) Provide a minimum of 30 days from the date of the notice for submission of requests for a hearing by persons having an interest in the economic, social, or environmental effects of the project; and

(4) State that a copy of the sponsor's environmental analysis is available, and will remain available, at the sponsor's place of business for examination by the public for a minimum of 30 days, beginning with the date of the notice, before any hearing held under the notice.

(c) A public hearing must be provided if requested. If a public hearing is to be held, the sponsor must publish a notice of that fact, in the same newspaper in which the notice of opportunity for a hearing was published.

(d) The notice required by paragraph (c) of this section must—

(1) Be published not less than 15 days before the date set for the hearing;

(2) Specify the date, time, and place of the hearings;

(3) Contain a concise description of the proposed project; and

(4) Indicate where and at what time more detailed information may be obtained.

(e) If a public hearing is held, the sponsor must—

(1) Provide the Administrator a summary of the issues raised, the alternatives considered, the conclusion reached, and the reasons for that conclusion; and

(2) If requested by the Administrator before the hearing, prepare a verbatim transcript to the hearing for submission to the Administrator.

(f) If a hearing is not held the sponsor must submit with its preapplication a certification that notice of opportunity for a hearing has been provided in accordance with this section and that no request for a public hearing has been received.

§ 152.119 Contract requirements and procurement standards.

To the extent applicable, all grant agreements, contracts, and subcontracts involving airport development projects or airport planning must be in accordance with the contract requirements in Appendices A and C, as applicable, and the procurement standards in Attachment O of Office of Management and Budget Circular A–102 (42 FR 45828).

Subpart C—Funding of Approved Projects

§ 152.201 Applicability.

This subpart contains the requirements for funding projects for airport development, airport master planning, and airport system planning.

§ 152.203 Allowable project costs.

(a) *Airport development.* To be an allowable project cost, for the purposes of computing the amount of an airport development grant, an item that is paid or incurred must, in the opinion of the Administrator—

(1) Have been necessary to accomplish airport development in conformity with—

(i) The approved plans and specifications for an approved project; and

(ii) The terms of the grant agreement for the project;

(2) Be reasonable in amount (subject to partial disallowance to the extent the Administrator determines it is unreasonable);

(3) Have been incurred after the date the grant agreement was executed, except that project formulation costs may be allowed even though they were incurred before that date.

(4) Be supported by satisfactory evidence;

(5) Have not been included in an airport planning grant; and

(6) Be a cost determined in accordance with the cost principles for State and local governments in Federal Management Circular 74–4 (39 FR 27133; 43 FR 50977).

(b) *Airport Planning.* To be an allowable project cost, for the purposes of computing the amount of an airport planning grant, an item that is paid or incurred must, in the opinion of the Administrator—

(1) Have been necessary to accomplish airport planning in comformity with an approved project and the terms of the grant agreement for the project;

(2) Be reasonable in amount;

(3) Have been incurred after the date the grant agreement was entered into, except for substantiated and reasonable costs incurred in designing the study effort;

(4) Be supported by satisfactory evidence; and

(5) Be figured in accordance with Federal Management Circular 74–4 (39 FR 27133; 43 FR 50977).

§ 152.205 United States share of project costs.

(a) *Airport development.* Except as provided in paragraphs (b) and (c) of this section, the United States share of the allowable cost of an approved project for airport development shall be—

(1) 90 percent in the case of grants made from funds for fiscal years 1976, 1977, and 1978 for—

(i) Each air carrier airport, other than a commuter service airport, which enplanes less than one quarter of one percent of the total annual passengers enplaned as determined for purposes of making the latest annual apportionment under section 15(a)(3) of the AADA;

(ii) Each commuter service airport; and

(iii) Each general aviation or reliever airport;

(2) 80 percent in the case of grants from funds for fiscal years 1979 and 1980 for the airports specified in paragraph (a)(1) of this section; and

(3) 75 percent in the case of grants made from funds for fiscal years 1976 through 1980 for airports other than those specified in paragraph (a)(1) of this section.

(b) In a State in which the unappropriated and unreserved public lands and nontaxable Indian lands, both individual and tribal, are more than five percent of the total land in the State, the United States' share under paragraph (a) of this section—

(1) Except as provided in paragraph (b)(2) of this section, shall be increased by the smaller of—

(i) 25 percent; or

(ii) A percentage (rounded to the nearest one-tenth of a percent) equal to one-half of the percentage which the area of those lands is of the total land area of the state; and

(2) May not exceed the greater of—

(i) The percentage share determined under paragraph (a) of this section; or

(ii) The percentage share applying on June 30, 1975, as determined under paragraph (b)(1) of this section.

(c) In the case of terminal development, the United States share shall be 50 percent.

(d) *Airport planning.* The United States share of the allowable project costs of an airport planning project shall be—

(1) In the case of an airport master plan, that percent for which a project for airport development at that airport would be eligible;

(2) In the case of an airport system plan, 75 percent.

§ 152.207 Proceeds from disposition of land.

Unless otherwise authorized by the Administrator, when a release has been granted authorizing the sponsor to dispose of land acquired with assistance under Part 151 of this chapter or this part, or through conveyances under the Surplus Property Act, the proceeds realized from the disposal may not be used as matching funds for any airport development project or airport planning grant, but may be used for any other airport purpose.

§ 152.209 Grant payments: General.

(a) An application for a grant payment is made on a form and in a manner prescribed by the Administrator, and must be accompanied by any supporting information, that the FAA needs to determine the allowability of any costs for which payment is requested.

(b) *Methods of payment.* Grant payments to sponsors and planning agencies will be made by—

(1) Letter of credit;

(2) Advance by Treasury check; or

(3) Reimbursement by Treasury checks.

(c) *Letter of credit funding.* Letter of credit funding may not be used unless—

(1) There is or will be a continuing relationship between a sponsor or planning agency and the FAA for at least a 12-month period and the total amount of advances to be received within that period is $120,000 or more;

(2) The sponsor or planning agency has established or demonstrated to the FAA the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds and their disbursement by the grantee; and

(3) The sponsor's or planning agency's financial management system meets the standards for fund control and accountability prescribed in Attachment G of Office of Management and Budget Circular A–102 (42 FR 45828).

(d) *Advance by Treasury check.* Advance of funds by Treasury check may be made subject to the following conditions—

(1) The sponsor or planning agency meets the requirements of paragraphs (c) (2) and (3) of this section;

(2) The timing and amount of cash advances are as close as administratively feasible to actual disbursements by the sponsor or planning agency; and

(3) Except as provided in paragraph (e) of this section, in the case of an airport development project, advance payments do not exceed the estimated project costs of the airport development expected to be accomplished within 30 days after the date of the sponsor's application for the advance payment.

(e) No advance payment may be made in an amount that would bring the aggregate amount of all partial payments for the project to more than the lower of the following:

(i) 90 percent of the estimated United States' share of the total estimated cost of all airport development included in the project, but not including contingency items; or

(ii) 90 percent of the maximum obligation of the United States as stated in the grant agreement.

(f) *Reimbursement by Treasury check.* Reimbursement by Treasury check will be made if the sponsor or planning agency does not meet the requirements of paragraphs (c) (2) and (3) of this section.

(g) *Withholding of payments.* Payment to the sponsor or planning agency may be withheld at any time during the grant period if—

(1) The sponsor or planning agency has failed to comply with the program objectives, grant award conditions, or Federal reporting requirements; or

(2) The sponsor or planning agency is indebted to the United States and collection of the indebtedness will not impair accomplishment of the objectives of any grant program sponsored by the United States.

(h) *Labor violations.* If a contractor or a subcontractor fails or refuses to comply with the labor provisions of a contract under a grant agreement for an airport development project, further grant payments to the sponsor are suspended until—

(1) The violations are corrected;

(2) The Administrator determines the allowability of the project costs to which the violations relate; or

(3) If the violations consist of underpayments to labor, the sponsor furnishes satisfactory assurances to the FAA that restitution has been or will be made to the affected employees.

(i) *Excess payments.* Upon determination of the allowability of all project costs of a project, if it is found that the total of grant payments to the sponsor or planning agency was more than the total United States share of the allowable costs of the project, the sponsor or planning agency shall promptly return the excess to FAA.

§ 152.211 Grant payments: Land acquisition.

If an approved project for airport development includes land acquisition as an item for which payment is requested, the sponsor may apply to the FAA for payment of the United States share of the allowable project costs of the acquisition, after—

(a) The Administrator determines that the sponsor has acquired satisfactory title to the land; or

(b) In the case of a request for advance payment under § 152.209(d), the Administrator is assured that a satisfactory title will be acquired.

§ 152.213 Grant closeout requirements.

(a) *Program income.* Sponsors or planning agencies that are units of local government shall return all interest earned on advances of grant-in-aid funds to the Federal Government in accordance with a decision of the Comptroller General (42 Comp. Gen. 289). All other program income (gross income) earned by grant-supported activities during the grant period shall be retained by the sponsor and, if required by the grant agreement—

(1) Be added to funds committed to the project by the FAA and the sponsor and used to further eligible program objectives; or

(2) Be deducted from the total project cost for the purpose of determining the net costs on which the Federal share of costs will be based.

(b) *Financial reports.* The sponsor or planning agency shall furnish, within 90 days after completion of all items in a grant, all reports, including financial performance reports, required as a condition of the grant.

(c) *Project completion.* When the project for airport development or planning is completed in accordance with the grant agreement, the sponsor or planning agency may apply for payment for all incurred costs, as follows:

(1) *Airport development.* When allowability of costs can be determined under section 152.203, payment may be made to the sponsor if—

(i) A final inspection of all work at the airport site has been made jointly by the appropriate FAA office and representatives of the sponsor and the contractor, unless that office agrees to a different procedure for final inspection; and

(ii) The sponsor has furnished final "as constructed" plans, unless otherwise agreed to by the Administrator.

(2) *Airport planning.* When the final planning report has been received and accepted by the FAA.

(d) *Property accounting reports: Airport development projects.* The sponsor of an airport development project shall account for any property acquired with grant funds or received from the United States, in accordance with the provisions of Attachment N of

Office of Management and Budget Circular A-102 (42 FR 45828).

(e) *Final determination of U.S. share.* Based upon an audit or other information considered sufficient in lieu of an audit, the Administrator determines the total amount of the allowable project costs and makes settlement for any adjustments to the Federal share of costs.

Subpart D—Accounting and Reporting Requirements

§ 152.301 Applicability.

This subpart contains accounting and reporting requirements applicable to—

(a) Each sponsor of a project for airport development;

(b) Each sponsor of a project for airport master planning; and,

(c) Each planning agency conducting a project for airport system planning.

§ 152.303 Financial management system.

Each sponsor or planning agency shall establish and maintain a financial management system that meets the standards of Attachment G of Office of Management and Budget Circular A-102 (42 FR 45828).

§ 152.305 Accounting records.

(a) *Airport development.* Each sponsor of a project for airport development shall establish and maintain, for each individual project, an accounting record satisfactory to the Administrator which segregates cost information in the following cost classifications:

(1) Purchase price or value of land.

(2) Cost of relocation payment and assistance.

(3) Incidental costs of land acquisition.

(4) Costs of contract construction.

(5) Costs of force account construction.

(6) Engineering costs of plans and designs.

(7) Engineering costs of supervision and inspection.

(8) Other administrative costs.

(b) *Airport planning.* Each sponsor of a project for airport master planning and each planning agency conducting a project for airport system planning shall establish and maintain, for each planning project, an adequate accounting record that segregates and groups direct and indirect cost information in the following classifications:

(1) Third party contract costs.

(2) Force account costs.

(3) Administrative costs.

§ 152.307 Retention of records.

Each sponsor or planning agency shall retain, for a period of 3 years after the date of submission of the final expenditure report—

(a) Documentary evidence, such as invoices, cost estimates, and payrolls, supporting each item of project costs; and

(b) Evidence of all payments for items of projects costs, including vouchers, cancelled checks or warrants, and receipts for cash payments.

§ 152.309 Availability of sponsor's records.

(a) The sponsor or planning agency shall allow the Administrator and the Comptroller General of the United States, or an authorized representative of either of them, access to any of its books, documents, papers, and records that are pertinent to grants received under this part for the purposes of accounting and audit.

(b) The sponsor or planning agency shall allow appropriate FAA personnel to make progress audits at any time during the project, upon reasonable notice to the sponsor or planning agency.

(c) If audit findings have not been resolved, the applicable records shall be retained by the sponsor or planning agency until those findings have been resolved.

(d) Records for nonexpendable property that was acquired with Federal funds shall be retained for three years after final disposition of the property.

(e) Microfilm copies of original records may be substituted for original records with the approval of the FAA.

(f) If the FAA determines that certain records have long-term retention value, the FAA may require transfer of custody of those records to the FAA.

§ 152.311 Availability of contractor's records.

The sponsor or planning agency shall include in each contract of the cost reimbursable type a clause that allows the Administrator and the Comptroller General of the United States, or an authorized representative of either, access to the contractor's records pertinent to the contract for the purposes of accounting and audit.

§ 152.313 Property management standards.

(a) The sponsor shall establish and maintain property management standards in accordance with Attachment N of Office Management and Budget Circular A-102 (42 FR 45828) for the utilization and disposition of property furnished by the Federal government or acquired in whole or in part by the sponsor with Federal funds.

(b) A sponsor may use its own property management standards and procedures as long as the standards required by paragraph (a) of this section are included.

§ 152.315 Reporting on accrual basis.

(a) Except as provided in paragraph (b) of this section each sponsor or planning agency shall submit all financial reports on an accrual basis.

(b) If records are not maintained on an accrual basis by a sponsor or planning agency, reports may be based on an analysis of records or best estimates.

§ 152.317 Report of Federal cash transactions.

When funds are advanced to a sponsor or planning agency by Treasury check, the sponsor or planning agency shall submit the report form prescribed by the Administrator within 15 working days following the end of the quarter in which check was received.

§ 152.319 Monitoring and reporting of program performance.

(a) The sponsor or planning agency shall monitor performance under the project to ensure that—

(1) Time schedules are being met;

(2) Work units projected by time periods are being accomplished; and,

(3) Other performance goals are being achieved.

(b) Reviews shall be made for—

(1) Each item of development or work element included in the project; and

(2) All other work to be performed as a condition of the grant agreement.

(c) *Airport development.* Unless otherwise requested by the Administrator, the sponsor of a project for airport development shall submit a performance report, on an annual basis, that must include—

(1) A comparison of actual accomplishments to the goals established for the period, made, if applicable, on a quantitative basis related to cost data for computation of unit costs;

(2) The reasons for slippage in each case where an established goal was not met; and

(3) Other pertinent information including, when appropriate, an analysis and explanation of each cost overrun and high unit cost.

(d) *Airport planning.* The sponsor of a project for airport master planning or a planning agency conducting a project for airport system planning shall submit a performance report, on a quarterly basis, that must include:

(1) A comparison of actual accomplishments to the goals established for the period, made, if applicable, on a quantitative basis related to costs for computation of work element costs;

(2) Reasons for slippage in each case where an established goal was not met; and

(3) Other pertinent information including, when appropriate, an analysis and explanation of each cost overrun and high work element cost.

§ 152.321 Notice of delay or acceleration.

(a) The sponsor or planning agency shall promptly notify the FAA of each condition or event that may delay or accelerate accomplishment of the project.

(b) In the event that delay is anticipated, the notice required by paragraph (a) of this section must include—

(1) A statement of actions taken or contemplated; and

(2) Any Federal assistance needed.

§ 152.323 Budget revision: Airport development.

(a) If any performance review conducted by the sponsor discloses a need for change in the budget estimates, the sponsor shall submit a request for budget revision on a form prescribed by the Administrator.

(b) A request for prior approval for budget revision shall be made promptly by the sponsor whenever—

(1) The revision results from changes in the scope or objective of the project; or

(2) The revision increases the budgeted amounts of Federal funds needed to complete the project.

(c) The sponsor shall promptly notify the FAA whenever the amount of the grant is expected to exceed the needs of the sponsor by more than $5,000, or 5 percent of the grant amount, whichever is greater.

§ 152.325 Financial status report: Airport planning.

Each sponsor of a project for airport master planning and each planning agency conducting a project for airport system planning shall submit a financial status report on a form prescribed by the Administrator at the completion of the project.

Subpart E—Nondiscrimination in Airport Aid Program [Reserved]

Subpart F—Suspension and Termination of Grants

§ 152.501 Applicability.

This subpart contains procedures for suspending or terminating grants for airport development projects and airport planning.

§ 152.503 Suspension of grant.

(a) If the sponsor or planning agency fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor or planning agency, suspend the grant and withhold further payments pending—

(1) Corrective action by the sponsor or planning agency; or

(2) A decision to terminate the grant.

(b) Except as provided in paragraph (c) of this section, after receipt of notice of suspension, the sponsor or planning agency may not incur additional obligations of grant funds during the suspension.

(c) All necessary and proper costs that the sponsor or planning agency could not reasonably avoid during the period of suspension will be allowed, if those costs are in accordance with Appendix C of this part.

§ 152.505 Termination for cause.

(a) If the sponsor or planning agency fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor or planning agency, terminate the grant in whole, or in part.

(b) The notice of termination will contain—

(1) The reasons for the termination, and

(2) The effective date of termination.

(c) After receipt of the notice of termination, the sponsor or planning agency may not incur additional obligations of grant funds.

(d) Payments to be made to the sponsor or planning agency, or recoveries of payments by the FAA, under the grant shall be in accordance with the legal rights and liabilities of the parties.

§ 152.507 Termination for convenience.

(a) When the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds, the grant may be terminated in whole, or in part, upon mutual agreement of the FAA and the sponsor or planning agency.

(b) If an agreement to terminate is made, the sponsor or planning agency—

(1) May not incur new obligations for the terminated portion after the effective date; and

(2) Shall cancel as many obligations, relating to the terminated portion, as possible.

(c) The sponsor or planning agency is allowed full credit for the Federal share of the noncancellable obligations that were properly incurred by the sponsor before the termination.

§ 152.509 Request for reconsideration.

If a grant is suspended or terminated under this subpart, the sponsor or planning agency may request the Administrator to reconsider the suspension or termination.

Appendix A—Contract Provisions and labor Requirements

This appenix sets forth contracting requirements applicable to grants under the Airport and Airway Development Act of 1970.

This appendix does not apply to: (1) Any contract with the owner of airport hazards, buildings, pipelines, powerlines, or other structures or facilities, for installing, extending, changing, removing, or relocating that structure or facility, and (2) any written agreement or understanding between a sponsor and another public agency that is not a sponsor of the project, under which the public agency undertakes construction work for or as agent of the sponsor.

I. Contract provisions required by the Regulations of the Secretary of Labor

Each sponsor entering into a construction contract for an airport development project shall insert in the contract and any supplemental agreement:

(1) The provisions required by the Secretary of Labor, as set forth in paragraphs A through K;

(2) The provisions set forth in paragraph L, and

(3) Any other provisions necessary to ensure completion of the work in accordance with the grant agreement.

The provisions in paragraphs A through K and provision (5) in paragraph L need not be included in prime contracts of $2,000 or less.

A. *Minimum wages.* (1) All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act [29 CFR Part 3]), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision(s) of the Secretary of Labor which is (are) attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision(s) shall be posted by the contractor at the site of the work in a prominent place where it (they) can be easily

seen by the workers. For the purpose of this paragraph, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of subparagraph (4) below. Also for the purpose of this paragraph, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period (29 CFR 5.5(a)(1)(i)).

(2) Any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination(s) and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination(s), and a report of the action taken shall be sent by the [insert sponsor's name] to the FAA for approval and transmittal to the Secretary of Labor. In the event that the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for final determination (29 CFR 5.5(a)(1)(ii)).

(3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for determination (29 CFR 5.5(a)(1)(iii)).

(4) If the contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: *Provided, however*, the Secretary of Labor has found, upon written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program (29 CFR 5.5(a)(1)(iv)).

B. *Withholding: FAA from sponsor.* Pursuant to the terms of the grant agreement between the United States and [insert sponsor's name], relating to Airport Development Aid Project No.————, and Part 152 of the Federal Aviation Regulations (14 CFR Part 152), the FAA may withhold or cause to be withheld from the [insert sponsor's name] so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the contractor or any subcontractor on the work the full amount of wages required by this contract. In the event of failure to pay any laborer or mechanics, including any apprentice or trainee, employed or working on the site of the work all or part of the wages required by this contract, the FAA may, after written notice to the [insert sponsor's name], take such action as may be necessary to cause the suspension of any further payment or advance of funds until such violations have ceased (29 CFR 5.5(a)(2)).

C. *Payrolls and basic records.* (1) Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv) (see subparagraph (4) of paragraph A above), that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits (29 CFR 5.5(a)(3)(i)).

(2) The contractor will submit weekly a copy of all payrolls to the [insert sponsor's name] for availability to the FAA. The copy shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance" which is required under this contract and the Copeland regulations of the Secretary of Labor (29 CFR Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under 29 CFR 5.5(a)(1)(iv) (see subparagraph (4) of paragraph A above), shall satisfy this requirement. The prime contractor shall be responsible for submission of copies of payrolls of all subcontractors. The contractor will make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of the FAA and the Department of Labor, and will permit such representatives to interview employees during working hours on the job. Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the [insert sponsor's name] for availability to the FAA, that their employment is pursuant to an approved program and shall identify the program (29 CFR 5.5(a)(3)(ii)).

D. *Apprentices and trainees.* (1) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subparagraph (2) of this paragraph or is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish to the [insert sponsor's name] or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the area of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall not be less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination (29 CFR 5.5(a)(4)(i)).

(2) *Trainees.* Except as provided in 29 CFR 5.15 trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish the [insert sponsor's name] or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved (29 CFR 5.5(a)(4)(ii)).

(3) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this paragraph shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30 (29 CFR 5.5(a)(4)(iii)).

(4) *Application of 29 CFR 5.5(a)(4).* On contracts in excess of $2,000 the employment of all apprentices and trainees as defined in 29 CFR 5.2(c) shall be subject to the provisions of 29 CFR 5.5(a)(4) (see paragraph D (1), (2), and (3) above).

E. *Compliance with Copeland Regulations.* The contractor shall comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference (29 CFR 5.5(a)(5)).

F. *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek unless such laborer or mechanic received compensation at a rate not less than 1½ times his basic rate of pay for all hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, as the case may be (29 CFR 5.5(c)(1)).

G. *Violations; liability for unpaid wages; liquidated damages.* In the event of any violation of paragraph F of this provision, the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of said paragraph F of this provision, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by said paragraph F of this provision (29 CFR 5.5(c)(2)).

H. *Withholding for unpaid wages and liquidated damages.* The FAA may withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in paragraph G of this provision (29 CFR 5.5(c)(3)).

I. *Working conditions.* No contractor may require any laborer or mechanic employed in the performance of any contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to his health or safety as determined under construction safety and health standards (29 CFR Part 1926) and other occupational and health standards (29 CFR Part 1910) issued by the Department of Labor.

J. *Subcontracts.* The contractor will insert in each of his subcontracts the clauses contained in paragraphs A through K of this provision, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made (29 CFR 5.5(a)(6), 5.5(c)(4)).

K. *Contract termination debarment.* A breach of clause A, B, C, D, E, or J may be grounds for termination of the contract, and for debarment as provided in § 5.6 of the Regulations of the Secretary of Labor as codified in 29 CFR 5.6 (29 CFR 5.5(a)(7)).

L. *Additional contract provisions.* (1) *Airport Development Aid Program Project.* The work in this contract is included in Airport Development Aid Program Project No.————which is being undertaken and accomplished by the [insert sponsor's name] in accordance with the terms and conditions of a grant agreement between the [insert sponsor's name] and the United States, under the Airport and Airway Development Act of 1970 (84 Stat. 219) and Part 152 of the Federal Aviation Regulations (14 CFR Part 152), pursuant to which the United States has agreed to pay a certain percentage of the costs of the project that are determined to be allowable project costs under that Act. The United States is not a party to this contract and no reference in this contract to the FAA or any representative thereof, or to any rights granted to the FAA or any representative thereof, or the United States, by the contract, makes the United States a party to this contract.

(2) *Consent to assignment.* The contractor shall obtain the prior written consent of the [insert sponsor's name] to any proposed assignment of any interest in or part of this contract.

(3) *Convict labor.* No convict labor may be employed under this contract.

(4) *Veterans preference.* In the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to qualified individuals who have served in the military service of the United States (as defined in section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501) and have been honorably discharged from the service, except that preference may be given only where that labor is available locally and is qualified to perform the work to which the employment relates.

(5) *Withholding: sponsor from contractor.* Whether or not payments or advances to the [insert sponsor's name] are withheld or suspended by the FAA, the [insert sponsor's name] may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the contractor or any subcontractor on the work the full amount of wages required by this contract.

(6) *Nonpayment of wages.* If the contractor or subcontractor fails to pay any laborer or mechanic employed or working on the site of the work any of the wages required by this contract the [insert sponsor's name] may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment or advance of funds until the violations cease.

(7) *FAA inspection and review.* The contractor shall allow any authorized representative of the FAA to inspect and review any work or materials used in the performance of this contract.

(8) *Subcontracts.* The contractor shall insert in each of his subcontracts the provisions contained in paragraphs [insert designation of 8 paragraphs of contract corresponding to subparagraphs (1), (3), (4), (5), (6), and (7) of this paragraph], and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(9) *Contract termination.* A breach of paragraphs [insert designation of 3 paragraphs corresponding to subparagraphs (6), (7), and (8) of this paragraph] may be grounds for termination of the contract.

II. Adjustment in Liquidated Damages

A contractor or subcontractor who has become liable for liquidated damages under the provision set out in paragraph I.G of this appendix and who claims that the amount administratively determined as liquidate damages under section 104(a) of the Contract Work Hours and Safety Standards Act is incorrect or that he violated inadvertently the Contract Work Hours and Safety Standards Act; notwithstanding the exercise of due care, may—

(1) If the amount determined is more than $100, apply to the Administrator for a recommendation to the Secretary of Labor that an appropriate adjustment be made or that he be relieved of liability for the liquidated damages; or

(2) If the amount determined is $100 or less, apply to the Administrator for an appropriate adjustment in liquidated damages or for release from liability for the liquidated damages.

III. Corrected Wage Determinations

The Secretary of Labor corrects any wage determination included in any contract under this Appendix whenever the wage determination contains clerical errors. A correction may be made at the Administration's request or on the initiative of the Secretary of Labor.

IV. Applicability of Interpretations of the Secretary of Labor

When applicable by their terms, the regulations of the Secretary of Labor (29 CFR 5.20–5.32) interpreting the "fringe benefit provisions" of the Davis-Bacon Act apply to the contract provisions in this Appendix.

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V. Records

A sponsor who is required to include in a construction contract the labor provisions required by this appendix shall require the contractor to comply with those provisions and shall cooperate with the FAA in effecting that compliance. For this purpose the sponsor shall—

(1) Keep, and preserve, the records described in paragraph C for a 3-year period beginning on the date the contract is completed, each affidavit and payroll copy furnished by the contractor, and make those affidavits and copies available to the FAA, upon request, during that period;

(2) Have each of those affidavits and payrolls examined by its resident engineer (or any other of its employees or agents who is qualified to make the necessary determinations), as soon as possible after receiving it, to the extent necessary to determine whether the contractor is complying with the labor provisions required by this appendix and particularly with respect to whether the contractor's employees are correctly classified;

(3) Have investigations made during the preformance of work under the contract, to the extent necessary to determine whether the contractor is complying with those labor provisions, including the investigations, interviews with employees and examinations of payroll information at the work site by the sponsor's resident engineer (or any other of its employees or agents who is qualified to make the necessary determinations);

(4) Keep the appropriate FAA office fully advised of all examinations and investigations made under this appendix, all determinations made on the basis of those examinations and investigations, and all efforts made to obtain compliance with the labor provisions of the contract; and

(5) Give priority to complaints of alleged violations, and treat as confidential any written or oral statements made by any employee in connection with a complaint, and not disclose an employee's statement made in connection with a complaint to a contractor without the employee's consent.

Appendix B—List of Advisory Circulars Incorporated by § 152.11

(a) *Circulars available free of charge.*

Number and Subject

150/5100–12 Electronic Navigational Aids Approved for Funding Under the Airport Development Aid Program (ADAP).
150/5190–3A Model Airport Hazard Zoning Ordinance.
150/5210–7A Aircraft Fire and Rescue Communications.
150/5210–10 Airport Fire and Rescue Equipment Building Guide.
150/5300–2C Airport Design Standards—Site Requirements for Terminal Navigational Facilities.
150/5300–4B Utility Airports—Air Access to National Transportation.
150/5300–6 Airport Design Standards—General Aviation Airports—Basic and General Transport.
150/5300–8 Planning and Design Criteria for Metropolitan STOL Ports.
150/5320–6B Airport Pavement Design and Evaluation.
150/5320–10 Environmental Enhancement at Airports—Industrial Waste Treatment.
150/5320–12 Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces.
150/5325–2C Airport Design Standards—Airports Served by Air Carriers—Surface Gradient and Line-of-Sight.
150/5325–4 Runway Length Requirements for Airport Design.
150/5325–6A Airport Design Standards—Effect and Treatment of Jet Blast.
150/5325–8 Compass Calibration Pad.
150/5335–1A Airport Design Standards—Airports Served by Air Carriers—Taxiways.
150/5335–2 Airport Aprons.
150/5335–3 Airport Design Standards—Airports Served by Air Carriers—Bridges and Tunnels on Airports.
150/5335–4 Airport Design Standards—Airports Served by Air Carriers—Runway Geometrics.
150/5340–1D Marking of Paved Areas on Airports.
150/5340–4C Installation Details for Runway Centerline and Touchdown Zone Lighting Systems.
150/5340–5A Segmented Circle Airport Marker System.
150/5340–6 Airport 51-foot Tubular Beacon Tower.
150/5340–14B Economy Approach Lighting Aids.
150/5340–17A Standby Power for Non-FAA Airport Lighting System.
150/5340–18 Taxiway Guidance Sign System.
150/5340–19 Taxiway Centerline Lighting System.
150/5340–20 Installation Details and Maintenance Standards for Reflective Markers for Airport Runway and Taxiway Centerlines.
150/5340–21 Airport Miscellaneous Lighting Visual Aids.
AC/5340–22 Maintenance Guide for Determining Degradation and Cleaning of Centerline and Touchdown Zone Lights.
150/5340–23A Supplemental Wind Cones.
150/5340–24 Runway and Taxiway Edge Lighting System.
150/5340–25 Visual Approach Slope Indicator (VASI) Systems.
150/5345–1E Approved Airport Lighting Equipment.
150/5345–2 Specification for L–810 Obstruction Light.
150/5345–3C Specification for L–821 Panels for Remote Control of Airport Lighting.
150/5345–4 Specification for L–829 Internally Lighted Airport Taxi Guidance Sign.
150/5345–5 Specification for L–847 Circuit Selector Switch, 5,000 Volt 20 Ampere.
150/5345–7C Specification for L–824 Underground Electrical Cable for Airport Lighting Circuits.
150/5345–10C Specification for L–828 Constant Current Regulators.
150/5345–11 Specification for L–812 Static Indoor Type Constant Current Regulator Assembly; 4 KW and 7½ KW, With Brightness Control for Remote Operation.
150/5345–12A Specification for L–801 Beacon.
150/5345–13 Specification for L–841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits.
150/5345–18 Specification for L–811 Static Indoor Type Constant Current Regulator Assembly, 4 KW; With Brightness Control and Runway Selection for Direct Operation.
150/5345–21 Specification for L–813 Static Indoor Type Constant Current Regulator Assembly; 4 KW and 7½ KW; for Remote Operation of Taxiway Lights.
150/5345–26A Specification for L–823 Plug and Receptacle, Cable Connections.
150/5345–27A Specification for L–807 Eight-foot and Twelve-foot Unlighted or Externally Lighted Wind Cone Assemblies.
150/5345–28C Specification for L–851 Visual Approach Slope Indicators and Accessories.
150/5345–36 Specification for L–808 Lighted Wind Tee.
150/5345–39A FAA Specification for L–853, Runway and Taxiway Retroreflective Markers.
150/5345–42A FAA Specification L–857, Airport Light Bases, Transformer Housings, and Junction Boxes.
150/5345–43B FAA/DOD Specification L–856, High Intensity Obstruction Lighting Systems.
150/5345–44A Specification for L–858 Retroreflective Taxiway Guidance Sign.
150/5345–45 Lightweight Approach Light Structure.
150/5345–46 Specification for Semiflush Airport Lights.
150/5345–47 Isolation Transformers for Airport Lighting Systems.
150/5345–48 Specification for Runway and Taxiway Edge Lights.
150/5360–6 Airport Terminal Building Development with Federal Participation.
150/5360–7 Planning and Design Considerations for Airport Terminal Building Development.
150/5370–7 Airport Construction Controls to Prevent Air and Water Pollution.
150/5370–9 Slip-Form Paving—Portland Cement Concrete.
150/5370–11 Use of Nondestructive Testing Devices in the Evaluation of Airport Pavements.

(b) *Circulars for sale.*

Number and Subject

150/5320–5B Airport Drainage; $1.30.
150/5370–10 Standards for Specifying Construction of Airports; $7.25.
150/5390–1A Heliport Design Guide; $1.50.

Appendix C—Contracting Requirements

There is set forth below contracting requirements applicable to grants for airport development under the Airport and Airway Development Act of 1970.

1. *General.* Each contract under a project must meet the requirements of local law and the requirements and standards contained in this appendix. The sponsor shall establish procedures for procurement of supplies, equipment, construction, and other services funded under the project which meet the requirements of this appendix.

2. *Out-of-state labor.* No procedure or requirement shall be imposed by any grantee which will operate to discriminate against the employment of labor from any other State, possession, or territory of the United States in the construction of a project.

3. *Bid guarantee.* All bids for construction or facility improvement in excess of $100,000 shall be accompanied by a bid guarantee consisting of a firm commitment such as a bid bond, certified check or other negotiable instrument equivalent to five percent of the bid price as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

4. *Construction work.* All construction work under a project must be performed under contract, except in a case where the Administrator determines that the project, or a part of it, can be more effectively and economically accomplished on a force account basis by the sponsor or by another public agency acting for or as agent of the sponsor.

5. *Change order.* Unless otherwise authorized by the Administrator, no sponsor may issue any change order under any of its construction contracts or enter into a supplemental agreement unless three copies of that order or agreement have been sent to, and approved by, the FAA.

6. *Beginning work.* No sponsor may allow a contractor or subcontractor to begin work under a project until——

a. The sponsor has furnished three conformed copies of the contract to the appropriate FAA office;

b. The sponsor has, if applicable, submitted a statement that comparable replacement housing, as defined in § 25.15 of the Regulations of the Office of the Secretary of Transportation, will be available within a reasonable period of time before displacement.

c. The appropriate FAA office has agreed to the issuance of a notice to proceed with the work to the contractor.

7. *Supervision and inspection.* No work will be commenced until the sponsor has provided for adequate supervision and inspection of construction and advised the appropriate FAA office.

8. *Engineering and planning services.* Unless otherwise authorized by the Administrator, each proposal for engineering and planning services shall be reviewed by FAA before the commencement of the development of design plans and specifications.

9. *Advertisting general.* Unless the Administrator approves another method for use on a particular airport development project, each contract and supplemental agreement for construction work on a project in the amount of more than $10,000 must be awarded on the basis of public advertising and open competitive bidding under the local law applicable to the letting of public contracts.

10. *Advertising: Conditions and contents.* There may be no advertisement for bids on, or negotiation of, a construction contract or supplemental agreement until the Administrator has approved the plans and specifications. The advertisement shall inform the bidders of the equal employment opportunity requirements of Part 152. Unless the estimated contract price or construction cost is $2,000 or less, there may be no advertisement for bids or negotiations until the Administrator has given the sponsor a copy of a decision of the Secretary of Labor establishing the minimum wage rates for skilled and unskilled labor under the proposed contract. In each case, a copy of the wage determination decision, including fringe benefits, must be set forth in the intitial invitation for bids or proposed contracts, or incorporated therein by reference to a copy set forth in the advertised or negotiated specifications.

11. *Procedures for obtaining wage determinations.*

(a) *Specific request for wage determination.* At least 60 days before the intended date of advertising or negotiating of this section, the sponsor shall send to the appropriate FAA office, completed Department of Labor Form DB–11 or DB–11(a), as appropriate, with only the classifications needed in the performance of the work checked. General entries (such as "entire schedule" or "all applicable classifications") may not be used. Additional necessary classifications not on the form may be typed in the blank spaces or on an attached separate list. A classification that can be fitted into classifications on the form, or a classification that is not generally recognized in the area or in the industry, may not be used. Except in areas where the wage patterns are clearly established, the Form must be accompanied by an available pertinent wage payment or locally prevailing fringe benefit information.

(b) *General wage determination.* Wherever the wage patterns in a particular area for a particular type of construction are well settled and whenever it may be reasonably anticipated that there will be a large volume of procurement in that area for that type of construction, the Secretary of Labor, upon the request of a Federal agency or in his discretion, may issue a general wage determination when, after consideration of the facts and circumstances involved, he finds that the applicable statutory standards and those of Part 1, 29 CFR, Subtitle A, will be met. This general wage determination is used for all projects located in the area and for the type of construction covered by the general wage determination.

12. *Advertising: wage determinations.* (a) Wage determinations are effective only for 120 days from the date of the determinations. If it appears that a determination may expire between bid opening and award, the sponsor shall so advise the FAA as soon as possible. If it wishes a new request for wage determination to be made and if any pertinent circumstances have changed, it shall submit the appropriate form of the Department of Labor and accompanying information. If it claims that the determination expires before award and after bid opening due to unavoidable circumstances, it shall submit proof of the facts which it claims support a finding to that effect.

(b) The Secretary of Labor may modify any wage determination before the award of the contract or contracts for which it was sought. If the proposed contract is awarded on the basis of public advertisement and open competitive bidding, any modification that the FAA receives less than 10 days before the opening of bids is not effective, unless the Administrator finds that there is reasonable time to notify bidders. A modification may not continue in effect beyond the effective period of the wage determination to which it relates. The Administrator sends any modification to the sponsor as soon as possible. If the modification is effective, it must be incorporated in the invitation for bids, by issuing an addendum to the specifications or otherwise.

13. *Awarding contracts.* A sponsor may not award a construction contract without the written concurrence of the Administrator (through the appropriate FAA office) that the contract prices are reasonable. A sponsor that awards contracts on the basis of public advertising and open competitive bidding, shall, after the bids are opened, send a tabulation of the bids and its recommendations for award to the appropriate FAA office. The allowable project costs of the work, on which the Federal participation is computed, may not be more than the bid of the lowest responsible bidder. The sponsor may not accept a bid by a contractor whose name appears on the current list of ineligible contractors published by the Comptroller General of the United States under § 5.6(b) of the regulations of the Secretary of Labor (29 CFR Part 5), or a bid by any firm, corporation, partnership, or association in which the contractor has a substantial interest. A sponsor's proposed contract must have preaward review and approval of the FAA in any of the following circumstances:

(a) The sponsor has not complied with the standards of this appendix.

(b) The contract is proposed to be awarded on a sole-source basis and is expected to exceed $5,000.

(c) The proposed contract is expected to exceed $500,000.

(d) The sponsor has not previously received a grant from the Department of Transportation.

(e) The FAA requests that the proposed contract be submitted for preaward review and approval.

14. *Force account work.* Before undertaking any force account construction work, the sponsor (or any public agency acting as agent for the sponsor) must obtain the written consent of the Administrator through the appropriate FAA office. In requesting that consent, the sponsor must submit——

(a) Adequate plans and specifications showing the nature and extent of the construction work to be performed under that force account;

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(b) A schedule of the proposed construction and of the construction equipment that will be available for the project;

(c) Assurance that adequate labor, material, equipment, engineering personnel, as well as supervisory and inspection personnel as required by this appendix, will be provided; and

(d) A detailed estimate of the cost of the work, broken down for each class of costs involved, such as labor, materials, rental of equipment, and other pertinent items of cost.

15. *Exceptions.* (a) Paragraphs 1 through 5 and paragraphs 9 through 13 of this section do not apply to contracts with the owners of airport hazards, buildings, pipelines, powerlines, or other structures or facilities, for installing, extending, changing, removing, or relocating any of those structures or facilities. However, the sponsor must obtain the approval of the appropriate FAA office before entering into such a contract.

(b) Any oral or written agreement or understanding between a sponsor and another public agency that is not a sponsor of the project, under which that public agency undertakes construction work for or as agent of the sponsor, is not considered to be a construction contract for the purposes of this appendix.

Appendix D—Assurances

There is set forth below the assurances that the sponsor or planning agency must submit with its application in accordance with §§ 152.111 or 152.113, as applicable.

I. General Assurance

Each applicant for an airport development grant or in an airport planning grant shall submit the following assurance:

The applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines, and requirements, including Office of Management and Budget Circulars No. A–95 (41 FR 2052), A–102 (42 FR 45828), and FMC 74–4 (39 FR 27133; as amended by 43 FR 50977), as they relate to the application, acceptance, and use of Federal funds for this federally-assisted project.

II. Airport Development

Each applicant for an airport development grant shall submit the following assurances:

1. *Authority of applicant.* It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. *E.O. 11296 and E.O. 11288.* It will comply with the provisions of: Executive Order 11296, relating to evaluation of flood hazards, and Executive Order 11288, relating to the prevention, control, and abatement of water pollution.

3. *Sufficiency of funds.* It will have sufficient funds available to meet the non-Federal share of cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purposes constructed.

4. *Construction.* It will obtain approval by the appropriate Federal agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; that it will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specification; that it will submit to the appropriate Federal agency for prior approval changes that alter the costs of the project, use of space, or functional layout; that it will not enter into a construction contract(s) for the project or underake other activities until the conditions of the construction grant program(s) have been met.

5. *Supervision, inspection, and reporting.* It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the Federal grantor agency may require.

6. *Operation of facility.* It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State and local agencies for the maintenance and operation of such facilities.

7. *Access to records.* It will give the grantor agency and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers, or documents related to the grant.

8. *Access for handicapped.* It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically handicapped," Number A117.1–1961, as modified (41 CFR 101–17.703). The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

9. *Commencement and completion.* It will cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved and that the project will be prosecuted to completion with reasonable diligence.

10. *Disposition of interest.* It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is the longer.

11. *Civil Rights.* It will comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) and in accordance with Title VI of that Act, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

12. *Private gain.* It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

13. *Relocation assistance.* It will comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Pub. L. 91–646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.

14. *OMB Circular A–102.* It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with Office of Management and Budget Circular No. A–102.

15. *Hatch Act.* It will comply with the provisions of the Hatch Act which limit the political activity of employees.

16. *Federal Fair Labor Standards Act.* It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.

17. *Effective date and duration.* These covenants shall become effective upon acceptance by the sponsor of an offer of Federal aid for the Project or any portion thereof, made by the FAA and shall constitute a part of the Grant Agreement thus formed. These covenants shall remain in full force and effect throughout the useful life of the facilities developed under this Project, but in any event not to exceed twenty (20) years from the date of said acceptance of an offer of Federal aid for the Project. However, these limitations on the duration of the covenants do not apply to the covenant against exclusive rights. Any breach of these covenants on the part of the sponsor may result in the suspension or termination of, or refusal to grant Federal assistance under, FAA administered programs, or such other action which may be necessary to enforce the rights of the United States under this agreement.

18. *Conditions and limitations on airport use.* The Sponsor will operate the Airport as such for the use and benefit of the public. In furtherance of this covenant (but without limiting its general applicability and effect), the Sponsor specifically agrees that it will keep the Airport open to all types, kinds, and classes of aeronautical use of fair and reasonable terms without discrimination between such types, kinds, and classes.

Provided, that the sponsor may establish such fair, equal, and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the Airport; And Provided Further, That the Sponsor may prohibit or limit any given type, kind, or class of aeronautical use of the Airport if such action is necessary for the safe operation of the Airport or necessary to serve the civil aviation needs of the public.

19. *Exclusive right.* The Sponsor—

(a) Will not grant or permit any exclusive right forbidden by section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) at the Airport, or at any other airport now owned or controlled by it;

(b) Agrees that, in furtherance of the policy of the FAA under this covenant, unless authorized by the Administrator, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right at the Airport, or at any other airport now owned or controlled by it, to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity.

(c) Agrees that it will terminate any existing exclusive right to engage in the sale of gasoline or oil, or both, granted before July 17, 1962, at such an airport, at the earliest renewal, cancellation, or expiration date applicable to the agreement that established the exclusive right; and

(d) Agrees that it will terminate any other exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under the Airport and Airway Development Act.

20. *Public use and benefit.* The Sponsor agrees that it will operate the Airport for the use and benefit of the public, on fair and reasonable terms, and without unjust discrimination. In furtherance of the covenant (but without limiting its general applicability and effect), the Sponsor specifically covenants and agrees:

(a) That in its operation and the operation of all facilities on the Airport, neither it nor any person or organization occupying space or facilities thereon will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of any of the facilities provided for the public on the Airport.

(b) That in any agreement, contract, lease or other arrangement under which a right or privilege at the Airport is granted to any person, firm, or corporation to conduct or engage in any aeronautical activity for furnishing services to the public at the Airport, the sponsor will insert and enforce provisions requiring the contractor—

(1) To furnish said service on a fair, equal, and not unjustly discriminatory basis to all users thereof, and

(2) To charge fair, reasonable, and not unjustly discriminatory prices for each unit or service; Provided, That the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

(c) That it will not exercise or grant any right or privilege which would operate to prevent any person, firm or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance and repair) that it may choose to perform.

(d) In the event the Sponsor itself exercises any of the rights and privileges referred to in subsection b, the services involved will be provided on the same conditions as would apply to the furnishing of such services by contractors or concessionaires of the sponsor under the provisions of such subsection b.

21. *Nonaviation activities.* Nothing contained herein shall be construed to prohibit the granting or exercise of an excusive right for the furnishing of nonaviation products and supplies or any service of a nonaeronautical nature or to obligate the Sponsor to furnish any particular nonaeronautical service at the Airport.

22. *Operation and maintenance of the airport.* The Sponsor will operate and maintain in a safe and serviceable condition the Airport and all facilities thereon and connected therewith which are necessary to serve the aeronautical users of the Airport other than facilities owned or controlled by the United States, and will not permit any activity thereon which would interfere with its used for airport purposes: *Provided,* That nothing contained herein shall be construed to require that the Airport be operated for aeroanutical uses during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance: *And provided further,* That nothing herein shall be construed as requiring the maintenance, repair, restoration or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the Sponsor. In furtherance of this covenant the sponsor will have in effect at all times arrangements for—

(a) Operating the airport's aeronautical facilities whenever required;

(b) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

(c) Promptly notifying airmen of any condition affecting aeronautical use of the Airport.

23. *Airport hazards.* Insofar as it is within its power and reasonable, the Sponsor will, either by the acquisition and retention of easements or other interests in or rights for the use of land or airspace or by the adoption and enforcement of zoning regulations, prevent the construction erection, alteration, or growth of any structure, tree, or other object in the approach areas of the runways of the Airport, which would constitute an airport hazard. In addition, the Sponsor will not erect or permit the erection of any permanent structure or facility which would interfere materially with the use, operation, or future development of the Airport, in any portion of a runway approach area in which the Sponsor has acquired, or hereafter acquires, property interests permitting it to so control the use made of the surface of the land.

24. *Use of adjacent land.* Insofar as it is within its power and reasonable, the Sponsor will, either by the acquisition and retention of easements or other interests in or rights for the use of land or airspace or by the adoption and enforcement of zoning regulations, take action to restrict the use of land adjacent to or in the immediate vicinity of the Airport to activities and purposes compatible with normal airport operations including landing and takeoff of aircraft.

25. *Airport layout plan.* The Sponsor will keep up to date at all times an airport layoyt plan of the Airport showing (1) boundaries of the Airport and all proposed additions, thereto, together with the boundaires of all offsite areas owned or controlled by the Sponsor for airport purposes, and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plan and each amendment, revision, or modification thereof, shall be subject to the approval of the FAA, which approval shall be evidenced by the signature of a duly authorized representative of the FAA on the face of the airport layout plan. The Sponsor will not make or permit any of its facilities other than in conformity with the airport layout plan as so approved by the FAA, if such changes or alterations might adversely affect the safety, utility, or efficiency of the Airport.

26. *Federal use of facilities.* All facilities of the Airport developed with Federal aid and all those usable for the landing and taking off of aircraft, will be available to the United States at all times, without charge, for use by government aircraft in common with other aircraft, except that if the use by government aircraft is substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining facilities so used, may be charged. Unless otherwise determined by the FAA, or otherwise agreed to by the Sponsor and the using agency, substantial use of an airport by government

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aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the FAA, would unduly interfere with use of the landing area by other authorized aircraft, or during any calendar month that—

(a) Five (5) or more government aircraft are regularly based at the airport or on land adjacent thereto; or

(b) The total number of movements (counting each landing as a movement and each takeoff as a movement) of government aircraft is 300 or more, or the gross accumulative weight of government aircraft using the Airport (the total movements of government aircraft multiplied by gross certified weights of such aircraft) is in excess of five million pounds.

27. *Areas for FAA use.* Whenever so requested by the FAA, the Sponsor will furnish without cost to the Federal government, for construction, operation, and maintenance of facilities for air traffic control activities, or weather reporting activities and communication activities related to air traffic control, such areas of land or water, or estate therein, or rights in buildings of the Sponsor as the FAA may consider necessary or desirable for construction at Federal expense of space or facilities for such purposes. The approximate amounts of areas and the nature of the property interests and/or rights so required will be set forth in the Grant Agreement relating to the project. Such areas or any portion thereof will be made available as provided herein within 4 months after receipt of written requests from the FAA.

28. *Fee and rental structure.* The airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the Airport as self-sustaining as possible under the circumstances existing at the Airport, taking into account such factors as the volume of traffic and economy of collection.

29. *Reports to FAA.* The Sponsor will furnish the FAA with such annual or special airport financial and operational reports as may be reasonably requested. Such reports may be submitted on forms furnished by the FAA, or may be submitted in such manner as the Sponsor elects so long as the essential data are furnished. The Airport and all airport records and documents affecting the Airport, including deeds, leases, operation and use agreements, regulations, and other instruments, will be made available of inspection and audit by the Secretary and the Comptroller General of the United States, or their duly authorized representatives, upon reasonable request. The Sponsor will furnish to the FAA or to the General Accounting Office, upon request, a true copy of any such document.

30. *System of accounting.* All project accounts and records will be kept in accordance with a standard system of accounting if so prescribed by the Secretary.

31. *Interfering right.* If at any time it is determined by the FAA that there is any outstanding right or claim of right in or to the Airport property, other than those set forth in Part II of the Application for Federal Assistance, the existence of which creates an undue risk of interference with the operation of the Airport or the performance of the covenants of this Part, the sponsor will acquire, extinguish, or modify such right or claim of right in a manner acceptable to the FAA.

32. *Performance obligation.* The Sponsor will not enter into any transaction which would operate to deprive it of any of the rights and powers necessary to perform any or all of the covenants made herein, unless by such transaction the obligation to perform all such covenants is assumed by another public agency found by the FAA to be eligible under the Act and Regulations to assume such obligations and having the power, authority, and financial resources to carry out all such obligations. If an arrangement is made for management or operation of the Airport by any agency or person other than the Sponsor or an employee of the Sponsor, the Sponsor will reserve sufficient rights and authority to insure that the Airport will be operated and maintained in accordance with the Act, the Regulations, and these covenants.

33. *Meaning of terms.* Unless the context otherwise requires, all terms used in these covenants which are defined in the Act and the Regulations shall have the meanings assigned to them therein.

III. Airport Planning

Each applicant for an airport planning grant shall submit the assurances numbered 1, 7, 11 (except for the last sentence), and 12 through 16 of Part I of this appendix, and the following assurance:

It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044. However, in accordance with Department of Transportation Regulatory Policies and Procedures for Improving Government Regulations (44 FR 11034; February 26, 1979), a Regulatory Evaluation has been prepared, analyzing the economic consequences of this proposal. A copy of the Regulatory Evaluation has been placed on file in the Rules Docket and is available for examination by interested persons. Comments are invited on the economic impact of this proposal, and commenters may submit such written data, views or arguments as they may desire.

Issued in Washington, D.C., on August 2, 1979.

Robert J. Aaronson,

Acting Associate Administrator for Airports.

[FR Doc. 79-24437 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

[14 CFR Part 204]

[EDR-385; Docket No. 36176; Dated: July 19, 1979]

Data To Be Submitted With Applications for Passenger Route Authority Filed With the Board and by Commuter Carriers Serving an Eligible Point; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Erratum to Notice of Proposed Rulemaking.

SUMMARY: Information concerning requests for the service list in this rulemaking was not included in the original notice. The notice proposes new rules setting forth fitness data which must be filed by applicants for passenger route authority. [44 FR 44106; July 26, 1979].

DATES: Comments by September 24, 1979. Reply comments by October 15, 1979. Comments and relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be part of the service list by August 17, 1979, the Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Comments should be sent to Docket 36176, Docket Section; Civil Aeronautics Board; 1825 Connecticut Avenue, N.W.; Washington, D.C. 20428. Comments may be examined in Room 711 at the address above as they are received.

FOR FURTHER INFORMATION CONTACT: Paul L. Gretch, Deputy Director of the Bureau of Domestic Aviation, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5373.

Dated: August 3, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-24555 Filed 8-8-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 6]

International Airports of Entry; Withdrawal of Proposed Revocation of International Airport Status of Akron Municipal Airport, Akron, Ohio

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposal to amend section 6.13, Customs Regulations, to revoke the international airport status of Akron Municipal Airport in Akron, Ohio. After reviewing comments received in response to the proposal and further consideration of the matter, Customs has determined that implementation of the proposed change at this time would not be in the public interest.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Robert Schenarts, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8151).

SUPPLEMENTARY INFORMATION:

Background

To improve service to the public and to provide more effective enforcement of the Customs laws and regulations on October 12, 1978, Customs published a notice in the **Federal Register** (43 FR 46981) proposing to revoke the international airport status of Akron Municipal Airport in Akron, Ohio. The change was proposed because air traffic in the area appeared to have shifted from the Akron Municipal Airport to the newer and larger Akron-Canton Airport, located between Akron and Canton in Summit County, Ohio, and was based upon information which indicated that an average of only 146 aircraft required Customs clearance at Akron Municipal Airport during each of the preceding three years.

Interested parties were given until December 11, 1978, to submit written comments concerning the proposal. Three comments were received and all opposed the proposal.

Discussion of Comments

All of the commenters expressed the opinion that the proposed amendment would not achieve the intended objective of improved service to the public and more effective enforcement of the Customs laws and regulations. They noted that Customs personnel and equipment currently are not stationed at Akron Municipal Airport, but are located in downtown Akron, closer to Akron Municipal Airport than to Akron-Canton Airport, where traffic would be diverted. Consequently, they suggested that no real saving of time or money would result from the proposed change.

The commenters also noted that since Customs initiated the proposal, more aircraft on international flights have begun to use the Akron Municipal Airport, and the number of aircraft requiring Customs clearance at that facility in Fiscal Year 1978 increased to 162.

Two commenters expressed concern that revocation would diminish the level of service now available to members of the traveling public. One noted that the diversion of aircraft from Akron Municipal Airport to Akron-Canton Airport would inconvenience both travelers and Customs personnel because Akron-Canton Airport is futher from downtown Akron (and major corporate headquarters located there) than is Akron Municipal Airport. The other noted that Akron Municipal Airport currently provides Customs services with 1 hour advance notice, as well as Federal Aviation Administration (F.A.A.) Flight Plan Notification, but that Akron-Canton Airport requires 2 hours advance notice, charges the user for mileage, and does not provide F.A.A. flight plan notification.

This commenter also noted that because Akron Municipal Airport originally was designed to relieve congestion at the Akron-Canton Airport, the curtailment of service at Akron Municipal Airport and the diversion of international flights to Akron-Canton Airport would negate its basic function.

One commenter also suggested that the revocation of the international airport status of the Akron Municipal Airport may impact adversely upon the economic growth potential of existing businesses at the airport.

Related Development

Customs has initiated a project to study the feasibility of eliminating the present designation of airports as international and landing rights airports and substituting a new system for categorizing airports of arrival based on their capacity to handle international flights.

Withdrawal of Proposal

For the foregoing reasons, Customs has determined that adoption of the proposal at this time would not be in the public interest. Accordingly, the notice published in the **Federal Register** on October 12, 1978 (43 FR 46981), proposing to amend § 6.13, Customs Regulations, to revoke the international airport status of Akron Municipal Airport is withdrawn.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

R.E. Chasen,

Commissioner of Customs.

Approved: July 13, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-24580 Filed 8-8-79; 8:45 am]

BILLING CODE 4810-22-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

[20 CFR Part 901]

Proposed User Fee for Examinations Given by the Joint Board for the Enrollment of Actuaries

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Proposed rule.

SUMMARY: The proposed rule amends the regulations governing eligibility for enrollment to perform actuarial services under the Employee Retirement Income Security Act of 1974. It authorizes the Joint Board for the Enrollment of Actuaries to charge an applicant a fee to participate in examinations administered under its regulations. The fee charged would be for the purpose of meeting the costs of administering the examinations.

DATE: Comments must be in writing and must be received on or before September 10, 1979.

The effective date will be the date of publication of the anticipated final rule in the **Federal Register.** No hearing is contemplated, but one may be held at a time and place set in a later notice in the **Federal Register** if requested by an interested person desiring an opportunity to comment orally and raising a genuine issue.

ADDRESS: Comments should be addressed to the Executive Director, Joint Board for the Enrollment of Actuaries, c/o Department of the Treasury, Washington, D.C. 20220.

FOR FURTHER INFORMATION, CONTACT: Mr. Leslie S. Shapiro, Executive Director, 202-376-0767.

SUPPLEMENTARY INFORMATION: An enrolled actuary, as defined in the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1002 et seq., is an individual who is enrolled under authority of Section 3042 of ERISA to perform actuarial services under the Act. Those individuals are enrolled by the Joint Board for the Enrollment of Actuaries (Joint Board) established under Section 3041 of

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ERISA. Eligibility for enrollment includes demonstrating at least a minimum level of knowledge in actuarial matters and fulfilling a period of responsible pension actuarial experience.

Successful completion of examinations in actuarial mathematics and methodology offered by the Joint Board is a means by which an applicant may meet the knowledge requirement. In accordance with this requirement, the Joint Board administers an examination in basic actuarial mathematics and methodology and a separate examination in actuarial mathematics and methodology relating to pension plans. These examinations have been given in September of each year throughout the United States. There heretofore has been no charge to the persons taking them. The cost of developing the examinations, their examination, grading and disseminating the results has been borne entirely by the Departments of the Treasury and Labor. To the extent feasible, government facilities and personnel not part of the Joint Board have been used for the examinations' administration.

The Joint Board has continually re-evaluated its procedures in an attempt to provide more efficient service to applicants for enrollment and to reduce the costs to the government. As a result of this process, the Joint Board has determined that some functions related to the examinations should be provided jointly by the Joint Board and organizations not part of the Joint Board. The fee for examinations given by the Joint Board is being proposed to obtain funds to reduce or meet the costs of the administration of the examinations.

The statutory basis for the proposed fee is found in the Act of August 31, 1951, ch. 376, Title V, Section 501, 65 Stat. 290, 31 U.S.C. 483a. This statute authorizes a Federal agency to charge a fee for a service provided by that agency taking into consideration, *inter alia*, the cost to the government and value to the recipient. OMB Circular No. A–25, which implements the statute, states that where a service provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large, a charge should be imposed to recover the full cost to the Federal government of rendering that services. The Joint Board examinations are this type of service. Because only enrolled actuaries are permitted to perform certain services required by ERISA, attaining that status ordinarily results in financial benefit that is unavailable to an individual who is not enrolled.

The cost of administering the examinations will vary with changing circumstances. Thus, the proposal does not establish a fixed fee. The fee will be determined by the varying expenses of each examination and revised as necessary. Included in the expenses which the fee is intended to cover are the costs of printing the examination and answer sheets, computer costs for grading the examinations, postage, salaries of personnel responsible for developing, administering, and grading the examinations, and rental expenses for examination centers. It is anticipated that such expense could differ between examinations, requiring flexibility in setting the fee. The Joint Board anticipates the fee for each of the initial examinations will be $30.00.

Drafting Information

The principal author of this amendment is Mr. Leslie S. Shapiro, Executive Director, Joint Board for the Enrollment of Actuaries and members of his staff.

Authority

These amendments are proposed under the authority of: Sec. 3042, Subtitle C, Title 3, Employee Retirement Income Security Act of 1974 (88 Stat. 1002, 29 U.S.C. 1241, 1242), and the Act of August 31, 1951, ch. 376, Title V, Section 501, 65 Stat. 290, 31 U.S.C. 483a.

Proposed Amendments to the Regulations

In consideration of the foregoing, it is proposed to amend 20 CFR Part 901 by revising § 901.13 to read as follows:

(a) by redesignating present paragraph (e) as paragraph (f); and

(b) by adding a new paragraph (e), as follows:

§ 901.13 Eligibility for enrollment of individuals applying for enrollment on or after January 1, 1976.

* * * * *

(e) *Form; fee.* An applicant who wishes to take an examination administered by the Joint Board under paragraphs (c)(1) or (d)(1) of this section shall file an application on a form prescribed by the Joint Board. Such application shall be accompanied by a check or money order in the amount set forth on the application form, payable to the Treasury of the United States. The amount represents a fee charged to each applicant for examination and is designed to cover the costs assessed the Joint Board for the administration of the examination. The fee shall be retained by the United States whether or not the applicant successfully completes the examination or is enrolled.

Note.—The Joint Board for the Enrollment of Actuaries has determined that the proposal contained in this document does not meet the criteria for significant regulations within the meaning of Executive Order 12044.

Dated: August 6, 1979.

Rowland E. Cross,

Chairman, Joint Board for the Enrollment of Actuaries.

Approved: August 3, 1979.

Ray Marshall,

Secretary of Labor.

Robert Carswell,

Acting Secretary of the Treasury.

[FR Doc. 79–24574 Filed 8–8–79; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 635]

[FHWA Docket No. 78–43, Notice 2]

Interstate Maintenance Guidelines

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) issues this proposed regulation covering Interstate Maintenance Guidelines as required by section 116(d) of the Surface Transportation Assistance Act of 1978. The regulation is in furtherance of the State's basic responsibility for Federal-aid highway maintenance as set forth in 23 U.S.C. 116. The guidelines, which do not impose detailed maintenance procedures but rather impose overall maintenance objectives, will be the basis on which States will be required to develop a maintenance program to ensure that the condition of the Interstate (Highway) System is maintained at the level required by the purpose for which it was designed. Failure by a State to develop such a program and to certify that it has such a program, and that the Interstate is being maintained in accordance with the State's program will result in reduction of apportioned Interstate funds. The regulation would further permit the FHWA to reduce a State's apportioned Interstate funds if the FHWA determines that the State is not adequately maintaining the Interstate in accordance with the maintenance program. The regulation would, however, permit a State to recover the reduced apportionment upon a showing that corrective action has been taken.

DATE: Comments must be received on or before October 9, 1979.

ADDRESS: Written comments should be sent to Federal Highway Administration, Docket No. 78–43, Notice 2, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All written comments and suggestions will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. P. E. Cunningham, 202–426–0436, Office of Highway Operations; or Mr. Wilbert Baccus 202–426–0786, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are Monday through Friday from 7:45 to 4:15 p.m. ET.

SUPPLEMENTARY INFORMATION:

Discussion of Comments Received

On December 27, 1978, the FHWA issued an advance notice of proposed rulemaking (ANPRM) requesting suggestions for the development of the Interstate Maintenance Guidelines, 44 FR 69 (January 2, 1979). In particular, the GHWA requested responses to certain questions. Comments were received from 41 interested parties, of which 35 were States and the ramaining 6 were received from the National Crushed Stone Association (NCSA); Highway Users Federation and Safety Mobility (HUFSM); National Traffic Safety Board (NTSB); New York State Thruway Authority; American Association of State Highway and Transportation Officials (AASHTO); and Cushman, Darby, and Cushman, Attorney at Law, Washington, D.C. The following major concerns address the issues expressed by all parties that responded to the ANPRM.

The comments pertaining to the general format and scope of the guidelines predominantly favored a general written description of the completed maintenance activity. While many States and interest groups preferred that the guidelines established a minimum threshold level of maintenance to obtain a consistent level of maintenance nationwide, about an equal number preferred that no effort be made to obtain any consistency.

Comments indicated that local conditions and budgetary limitations would definitely impact the desired level set by the guidelines; however, a significant agreement of all was that the guidelines should be enforced regardless of restrictions of resources, such as labor, money, equipment, and materials. While the comments supported that the guidelines should by general in nature, many States expressed the feeling that the guidelines should be specific enough to establish a minimum level, especially on the critical maintenance items that impact highway safety, the preservation of the capital investment, operational capabilities, and aesthetics. Other responses, such as NTSB and HUFSM, agreed that some maintenance aspects should be specific and consistent nationally and not governed by local conditions.

The reactions were about evenly divided on whether the guidelines should be different for rural and urban highways. Those indicating that the guidelines should be different felt that rural traffic, geometric and climatic conditions warranted different levels of highways maintenance work.

The ANPRM requested suggestions on how critical maintenance elements should be defined. No conclusive response was evident although about half of the responses, which included States, NTSB, and HUFSM, felt critical elements should be defined by traffic services and physical maintenance. Two States suggested that only traffic services be used. Ten States though critical elements should not be defined because determining whether an element is critical varies among the States.

It was generally felt that maintenance critical elements should be rated and prioritized based on factors such as safety, rideability, protection of investment, and aesthetics. Six States suggested that the AASHTO maintenance subcommittee should be utilized to develop the critical elements.

When asked if the States should be allowed to develop independent guidelines subject to FHWA approval, all but two States' responses were affirmative. Most States and HUFSM assumed that there would be a minimum level established by the FHWA which the States' programs would have to meet or exceed. Four responses suggested that the FHWA use the AASHTO Maintenance[1] as a base. The NTSB suggested that the State and FHWA develop the guidelines jointly. The two States opposing State set guidelines were concerned that different maintenance conditions would create a lack of national uniformity.

Over 50 percent of the replies recommended that conformance be measured by evaluating the accomplishment of objectives set forth in the guidelines. The remainder of the responses recommended continuing current State and FHWA inspection procedures for evaluating the overall condition of the Interstate System.

The majority of the responses indicated that a method should be developed to determine when routine maintenance is no longer sufficient to keep the pavement at desired level. Other responses noted that either research was already underway to develop a rating method or that established procedures, primarily maintenance management evaluation systems, are presently used. The HUFSM replied that such a determination is desirable but not appropriate to these regulations.

All but seven replies expressed concern over the legal implications of establishing a specific minimum level of service. The majority felt that the guidelines would be another tool for plaintiffs bringing tort (liability) suits against the States. Some comments reflected that the Federal Government would become liable by promulgating minimum level maintenance guidelines and should be prepared to share in the costs of legal suits. It is important to note that case law clearly reflects that the FHWA does not incur any tort liability by imposing Federal-aid highway requirements on States or by approving the State highway program. Four States reported that their current legal problems would possibly be diminished through improved maintenance attained through adherence to the guidelines. The HUFSM and NTSB responses foresaw increased awareness on the part of the States of their duty to conform to a minimum level of service.

Request for Additional Comments

In order to develop a more complete regulatory analysis, we would be interested in receiving comments from States and other interested parties to strengthen or more specifically report the economic and administrative implication of these guidelines. In addition, we would also welcome the submission of comments on maintenance criteria and system monitoring and evaluation.

Maintenance Criteria

As discussed earlier there is an issue as to whether or not the guidelines should establish a miniumum threshold level of maintenance to obtain nationwide consistency. The proposed regulation allows the States flexibility in developing their programs and operating

[1] The AASHTO Maintenance Manual, 1976, is available for inspection as prescribed in 49 CFR 7, Appendix D.

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procedures in order to satisfy the maintenance guidelines.

Given the current state-of-the-art pertaining to quantitative measurements for highways, the FHWA has determined that very little useful objective data is available for specific application of guidelines employing such measurements. We plan to intitate new research efforts as well as support current programs that develop more systematic procedures for establishing maintenance guidelines (quantitative where feasible).

One such standard of measurement is the Pavement Serviceability Rating (PSR), a subjective rating of a surface ride. It is basically a measurement of how the pavement surface feels to a person on a scale of 0–5 with 5 being excellent. Several types of mechanical methods have been designed to try and compare the ride with mechanical measurement. The industry has developed various instruments and methods (i.e. PCA road rater, Mays Meter, CHLOE longitudinal profolometer, longitudinal profolometer, etc.). Since one is not comparable to the other, the National Cooperative Highway Research Program has research efforts underway to correlate the instrument readings and methods from the various meters and measuring devices presently available. Setting a national standard at this time is not feasible. However, as additional information and procedures are developed through our program, we will examine and amend the regulations as appropriate. We would be interested in receiving any comment to expedite our efforts in this area.

System Monitoring and Evaluations

The Highway Performance Monitoring System (HPMS), utilized by some States is one example of a system which can be used to monitor and evaluate the effectiveness of State plans and programs regarding maintenance procedures. Other methods may also provide a process of systems monitoring and evaluations. The development of tools for measuring maintenance capabilities is certainly encouraged. As various guidelines are developed and refined for monitoring systems their applications will aid in achieving maintenance goals. We welcome the submission of systems and measurements which may assist in the attainment of these goals.

This proposed regulation will impact upon the policies and procedures contained in the Federal-Aid Highway Program Manual, Volume 6, Chapter 4, Section 3, Subsection 1.[2]

Note.—The Federal Highway Administration has determined that this document contains a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044. A regulatory analysis of this proposal is available for inspection in the public docket and may be obtained by contacting the program office person specified above.

This notice of proposed rulemaking is issued under the authority of 23 U.S.C. §§ 109(m), 116, and 315 and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b).

Issued on: August 6, 1979.

John S. Hassell, Jr.,
Deputy Administrator.

It is, therefore, proposed to amend Chapter I of Title 23, Code of Federal Regulations by adding a new Subpart E to part 635 to read as follows:

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart E—Interstate Maintenance Guidelines

Sec.
635.501 Purpose.
635.503 Policy.
635.505 Maintenance Guidelines.
635.507 Implementation.
635.509 Deficient or Unsatisfactory Maintenance.

Authority: 23 U.S.C. 109(m), 116, and 315; and 49 CFR 1.48(b).

§ 635.501 Purpose.

To prescribe Interstate maintenance guidelines and establish the policy and procedures to ensure that the condition of Interstate routes is maintained at the level required by the purposes for which they were designed.

§ 635.503 Policy.

The policy of the FHWA is to ensure that each State highway agency develops and implements an Interstate maintenance program conforming to the guidelines developed herein, as required in 23 U.S.C. 109(m). The maintenance program, which reflects local conditions and budgeting limitations shall be consistent with practices deemed necessary to adequately provide for motorist safety, preservation of the highways, rideability, and aesthetics.

§ 635.505 Maintenance guidelines.

(a) The States shall prepare an annual Interstate maintenance program which shall include a discussion of (1) the condition of the Interstate System and deficiencies, (2) State maintenance priorities and (3) maintenance budget.

(b) The States Interstate maintenance program shall describe the level of resources and activity the State intends to devote to attain the objectives stated under each of the following critical items.

(1) *Roadway surfaces.* Preservation of the structural integrity of the roadway, safety, and comfort of the user. This includes a safe, smooth, skid-resistant surface, as close as practical to the original grade and cross section.

(2) *Shoulders.* Preservation of a safe and smooth surface which is free of obstruction, even with the adjacent roadway surface, and which is as close as practical to the original grade and cross section.

(3) *Roadside.* Preservation of the roadside in a safe, pleasant, and forgiving manner through vegetation management, erosion control, and litter pick-up.

(4) *Drainage.* Preservation of hydraulic capacity for which originally designed.

(5) *Structures over 20 feet.* Preservation of the structural and operational characteristics for which originally designed. These include safe and smooth skid-resistant surfaces, proper surface drainage, and adequate functioning bearing devices and substructural elements. Replacement or repair of structural railing and approach guardrail should be done without unreasonable delay. Tunnels should be cleaned, properly lighted, and adequately ventilated.

(6) *Snow and ice control.* Preservation of a safe and efficient hazard-free winter driving environment, when feasible.

(7) *Traffic control devices.* Preservation of clean, legible, visible, and properly functioning traffic control devices at all times. This includes pavement markings, signing, delineators, signals, etc.

(8) *Safety appurtenances.* Replacement of damaged, defective, and/or inoperable devices without unreasonable delay. This includes guardrails impact attenuators, breakaway supports, barriers, etc.

(9) *Safety rest areas.* Preservation and operations of facilities reasonably necessary for the convenience, relaxation, and informational needs of the user.

(10) *Access control.* Preservation of the originally designed access control, elimination of unauthorized traffic movement, and preservation of improper or unauthorized use of the highway rights-of-way.

(11) *Traffic safety in maintenance and utility zones.* Procedures that will aid the safety of motorists and maintenance workers. The procedures shall be consistent with the provisions of the Manual on Uniform Traffic Control Devices (MUTCD),[3] Part VI.

(b) All replacement and repairs should conform to the current design standards for all critical elements listed in paragraph (a) of this section.

(c) These guidelines will be interpreted to expect that repairs and maintenance will be done as soon as is practical, that variations from the requirements of the guidelines will be allowed in situations involving emergency or unforeseeability, and that the State will seek to attain the highest level of maintenance that is feasibly possible.

§ 635.507 Implementation.

An initial State program, as required by Section 635.505, shall be submitted to the FHWA by April 15, 1980. The State shall certify to the FHWA on October 1, 1980, and on October 1 of each subsequent year, that it is in compliance with its program. The FHWA will review and approve or disapprove the State highway agency's program using readily available items such as maintenance reports, records, measurements of performance, traffic wear, past performance, availability of funds, State legislative requirements, public concern for ecology and aesthetic aspects of highways, energy shortages, safety requirements, effects of weather, available manpower, equipment, and materials, age of the system, State policies and procedures, and other management documents. If difference between the State and the FHWA cannot be resolved concerning the adequacy of the Interstate maintenance program's level of resources and activity, the sanctions described in Section 635.509 will be invoked.

The FHWA will monitor the implementation in accordance with the review procedures described in the FHWA Maintenance Review Manual,[4] and the Federal-Aid Highway Program Manual, Volume 6, Chapter 4, Section 3, Subsection 1. Copies of the State's program are to be submitted to the FHWA regional office and the Washington Headquarters for review and comment prior to approval.

§ 635.509 Deficient or unsatisfactory maintenance.

(a) *Effect of failure to certify.* Each State shall certify on October 1 of each year (beginning on October 1, 1980) that it has a program as required by this subpart and that the Interstate System is maintained in accordance with that program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate System in accordance with such program then the Federal-aid highway funds apportioned to the State for the next fiscal year (after the date the State must certify) shall be reduced by amounts equal to 10 percentum of the amount which would otherwise be apportioned to the State under 23 U.S.C. 104. In addition, future project approvals may be withheld by the Secretary under Section 116 of Title 23, United States Code.

(b) *Procedure for reduction of funds.* (1) If it appears to the FHWA that a State has not submitted a certification conforming to the requirements of this section, or that the State is not adequately maintaining its Interstate highways, the FHWA shall make this determination in writing, and shall notify the Chief Administrator of the State of the determination and inform the State that it may, within 30 days, respond with proposed corrective action or rebuttal to the Administrator's findings. If the State informs the Administrator before the end of this 30-day period that it wishes to attempt to resolve the matter informally, the Administrator may extend the time for response by an additional 30 days. In the event of a request for informal resolution, the State and the Administrator or his designee shall promptly schedule a meeting to resolve the matter.

(2) If the State does not respond in a timely fashion as provided in paragraph (1), the Federal Highway Administrator shall forward the determination to the Secretary. Upon approval of the determination by the Secretary, the funds reduction specified by paragraph (a) of this section shall be affected.

(3) If the State requests a hearing, the Secretary shall expeditiously convene a hearing on the record, which shall be conducted according to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* Based on the record of the proceeding, the Secretary shall determine whether the State is in nonconformity with this section. If the Secretary determines that the State is in nonconformity, the fund reduction specified by paragraph (a) shall be effected.

(4) The Secretary may reduce 10 percent of a State's apportionment of funds under 23 U.S.C. 104 prior to the administrative determination under this section in order to prevent the apportionment to the State of funds which would be affected by a determination of nonconformity.

(5) Funds withheld pursuant to a final administrative determination under this section shall be reapportioned to all other eligible States 1 year from the date of this determination, unless before this time the Secretary determines, on the basis of information submitted by the State and the FHWA, that the State has come into conformity with this section. If the Secretary determines that the State has come into conformity, the withheld funds shall be released to the State.

(6) The reapportionment of funds under paragraph (b)(5) of this section shall be stayed during the pendency of any proceeding for judicial review of a final administrative determination of nonconformity made by the Secretary.

[FR Doc. 79-24603 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-22-M

[2] The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

[3] The Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), FHWA 1978, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (GPO Stock Number 5001-00021). It is available for inspection as prescribed at 49 CFR 7, Appendix D.

[4] The FHWA Maintenance Review Manual, January 1979, is available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 203]

[Docket No. R-79-691]

Mutual Mortgage Insurance and Insured Home Improvement Loans

AGENCY: Office of Single Family Housing, HUD.

ACTION: Proposed Rule.

SUMMARY: The regulation change will permit government agencies to secure repayment of funds expended on behalf of low and moderate income families in order to assist them in securing housing. The change will permit a government agency to take a second lien or other obligation which is subordinate to the mortgage which is offered for insurance.

DATES: Comment due date: October 9, 1979.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each

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person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may be changed in the light of comments received.

FOR FURTHER INFORMATION CONTACT:
Mr. William L. Halpern, Director, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–6720.

SUPPLEMENTARY INFORMATION:
Historically, it has been the Department's position that a purchaser seeking insured mortgage financing is not permitted to use the property as security to borrow funds with which to meet the required statutory investment or to borrow funds for this purpose on an unsecured basis. Rather, if the prospective mortgagor owned some other property or collateral in which he/she had equity, he/she would be permitted to borrow against that property or collateral. However, the obligation undertaken would have to be secured by that property or collateral and not the property that was to be purchased. The existing § 203.32 reflects this position.

In this regard, the regulation prevents the use of insured mortgage financing if a government agency provides assistance that would reduce the purchase price, the mortgagor's monthly housing expense, or provides the mortgagor with funds to meet the statutory investment requirement, if the agency requires the mortgagor to obligate himself/herself to repay the assistance at some later date. This is regardless of whether the obligation is unsecured or creates a subordinated lien on the mortgaged property.

BACKGROUND: Section 323 of the Housing and Community Development Amendments of 1978 added a new Section 528 to Title V of the National Housing Act which authorizes the Secretary to permit under certain circumstances secondary mortgages and liens on one-to-four family dwellings. The proposed changes to Section 203.32 reflect this new authority and will enable the Department to make insured mortgage financing available when a government agency's program to further homeownership is involved even though a second mortgage obligation or lien is required.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

Accordingly, the Department proposes to amend Section 203.32 of Subpart A of Part 203, Chapter II, 24 CFR, to read as follows:

§ 203.32 Mortgage lien.

(a) Except as provided in paragraph (b) of this section, a mortgagor must establish that after the mortgage offered for insurance has been recorded, the mortgaged property will be free and clear of all liens other than such mortgage and that there will not be outstanding any other unpaid obligation contracted in connection with the mortgage transaction or the purchase of the mortgaged property, except obligations which are secured by property or collateral owned by the mortgagor independently of the mortgaged property.

(b) With the prior approval of the Commissioner, the mortgaged property may be subject to a secondary mortgage or loan made or insured, or other secondary lien, held by a Federal, State, or local governmental agency or instrumentality provided that:

(1) The required monthly payments under the insured mortgage and the secondary mortgage or lien shall not exceed the mortgagor's reasonable ability to pay as determined by the Commissioner.

(2) The principal obligation of the mortgage offered for insurance and the obligation of a mortgage or other lien to secure the reduction in purchase price or to assist in meeting downpayment requirement shall not exceed the Commissioner's estimate of value of the property, except that the principal obligations of such mortgages may exceed the Commissioner's estimate of value of the property if the transaction represents an acceptable underwriting risk to the Department giving consideration to the economic potential of the area in which the dwelling is located.

(3) The principal obligation of a mortgage or other lien to secure the advance of funds to reduce interest charges or monthly payments shall not exceed the amount advanced.

(Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C. on July 19, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-24527 Filed 8-8-79; 8:45 am]
BILLING CODE 4210-01-M

[24 CFR Parts 203, 204, 213, 220 and 240]

[Docket No. R-79-687]

Mutual Mortgage Insurance and Insured Home Improvement Loans

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed Rule.

SUMMARY: This change will provide for greater HUD–FHA participation in home improvement and rehabilitation programs through the insurance of advances during the rehabilitation period. Loans may be used to: (1) Rehabilitate an existing one-to-four unit structure; (2) purchase and rehabilitate such a structure; and (3) refinance and rehabilitate such a structure.

We are particularly interested in comments which deal with the proposed six months maximum period which would be allowed for the completion of the improvement or rehabilitation work.

DATES: Comment due date: October 9, 1979.

ADDRESS: Interested persons should file written comments on or before due date with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:
William L. Halpern, Director, Single Family Development Division, Room 9270, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6720. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The 203(k) loan program has been changed by legislation from simply an insured home improvement loan to a broader insured rehabilitation loan which may also include refinancing or acquisition of the property to be rehabilitated. The allowable loan amounts have been increased to equal the current 203(b) loan to value limits. These loans will be available for one-to-four family properties. The loan amount will be based on the FHA estimate of value. Value is determined by either (a) the value of the property before rehabilitation plus the costs of the rehabilitation, or (b) the appraised value of the property after rehabilitation, whichever is less.

The interest rate will be the same as Section 203(b), except that the interest rate can be two percentage points higher during the rehabilitation. In order to compensate the lender for the additional cost of partial loan disbursements and inspections of completed work, the lender may charge a two and one-half percent loan origination fee or $250, whichever is greater, for the portion of the loan which is allocated to rehabilitation. The $250 floor is a change from the previous regulation limit of $50. Also, the lender may charge the buyer fees in the nature of discounts under this program, whereas this is not allowed in most other cases. The primary reason for this change is because in many cases, there will be no seller to absorb the charges.

The regulations have been consolidated by deleting the formed 203(k) regulations (§ 203.51 through § 203.102) and changing other parts of Section 203 to reflect the new 203(k) program requirements.

Several format changes were required in Section 213, Section 220, and Section 240 to reflect the deletion of the former 203(k) regulations since these programs have many of the same requirements as the former 203(k). The regulations for these Sections have thus been rewritten to reflect appropriate cross references in Section 203. Several provisions formerly located in Section 203 have been moved since they are no longer appropriate to that program, but continue to be required by Section 220 or 240. However, no substantive changes in these programs are being proposed.

Section 235.15 is changed to permit insurance of a mortgage under the Section 235 program if it involves a property which was rehabilitated under the Section 203(k) program, although the property was not newly constructed.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, it is proposed that Chapter II be amended as follows:

1. The title of Part 203 is amended to read as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

2. Section 203.27 is amended by revising (a)(2)(ii) and (a)(4)(ii) to read as follows:

§ 203.27 Maximum charges, fees or discounts.

(a) * * *

(2) * * *

(ii) $250 or 2½ percent of the original principal amount of the mortgage, whichever is the greater, with respect to mortgages on property under construction or to be contsructed where the mortgagee makes partial disbursements and inspections of the property during the progress of construction.

* * * * *

(4) * * *

(ii) Constructing, repairing or rehabilitating a dwelling for his own occupancy; or

3. Section 203.28 is amended by revising (f) to read as follows:

§ 203.28 Economic soundness of projects.

* * * * *

(f) To a rehabilitation loan of the character described in § 203.50 and with respect to such a rehabilitation loan, the Commissioner shall determine that the rehabilitation loan is an acceptable risk.

4. Delete center caption "Open End Advances" appearing before § 203.44.

5. Delete center caption "Insured Home Improvement Loans" appearing before § 203.

6. Section 203.50 is amended by revising (a) thru (i) to read as follows:

§ 203.50 Eligibility of rehabilitation loans.

A rehabilitation loan which meets the requirements of this subpart, except as modified by this section, shall be eligible for insurance under § 203(k) of the National Housing Act.

(a) For the purpose of this section—

(1) the term 'rehabilitation loan' means a loan, advance of credit, or purchase of an obligation representing a loan or advancement of credit, made for the purpose of financing—

(i) the rehabilitation of an existing one-to-four unit structure which will be used primarily for residential purposes;

(ii) the rehabilitation of such a structure and refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(2) the term 'rehabilitation' means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilties in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project.

(b) The provisions of §§ 203.14, 204.18, 203.28, 203.43b, 203.43c and 203.43 shall not apply to loans insured under this section.

(c) The loan shall cover a dwelling which was completed more than one year preceding the date of the application for mortgage insurance and which was approved for mortgage insurance prior to rehabilitation.

(d)(1) The buildings on the mortgaged property must, upon completion of rehabilitation, conform with standards prescribed by the Secretary.

(2) Improvements or repairs made under this section must be designed to meet cost-effective energy conservation standards prescribed by the Secretary.

(e) The loan transaction shall be an acceptable risk as determined by the Commissioner.

(f) The loan shall not exceed an amount which, when added to any outstanding indebtedness of the borrower which is secured by the property, creates an outstanding indebtedness in excess of the lesser of:

(1) The limits prescribed in §§ 203.18(a)(1) and (2), and 203.18(c).

(2) The limits prescribed in §§ 203.18(a) (1) and (2) and 203.18(c), based on the sum of the estimated cost of rehabilitation and the Commissioner's estimate of the value of the property before rehabilitation.

(g) The Commissioner may issue a commitment for the insurance of advances made during rehabilitation or for insurance upon completion of rehabilitation.

(h) Rehabilitation loans which do not involve the insurance of advances, the refinancing of ourstanding indebtedness or the purchase of the property need not be a first lien on the property but shall not be junior to any lien other than a first mortgage. The provisions of §§ 203.15, 203.19, 203.23, 203.24, and 203.26 shall not be applicable to such loans.

(i) The Commissioner may insure advances made by the mortgagee during rehabilitation if the following conditions are satisfied:

(1) The mortgage shall be a first lien on the property.

(2) The mortgagor and the mortgagee shall execute a rehabilitation loan agreement, approved by the Commissioner, setting forth the terms and conditions under which advances will be made.

(3) The advances shall be made as provided in the commitment.

(4) The loan shall bear interest at the rate prescribed in § 203.20 but the interest rate may be two per centum per annum above such prescribed rate for the period beginning with the making of the loan and ending with the completion of rehabilitation; but not later than six months after the date of initial endorsement for insurance.

(5) The mortgage may provide that amortization of the principal amount of the loan will begin on the first day of the month following completion of rehabilitation but not later than six months after the date of initial endorsement for insurance.

* * * * *

7. Sections 203.51 through 203.102 are deleted.

§§ 203.51–203.102 [Removed]

8. Amend the center caption, "Insured Home Improvement Loans" appearing before § 203.440 to read "Rehabilitation Loans."

9. Section 203.441 is amended to read as follows:

§ 203.441 Insurance of loan.

(a) *Endorsement without insured advances.* Upon compliance with a commitment that does not include insurance of advances, the Commissioner shall insure the loan by endorsing a Mortgage Insurance Certificate. The certificate shall identify the date of insurance and the regulations under which the loan is insured.

(b) *Endorsement with insured advances.* If the commitment includes insurance of advances, the Commissioner shall initially endorse a Mortgage Insurance Certificate after the first advance of funds by the mortgagee. The certificate shall identify the date of initial endorsement and the regulations under which the advances are insured. Upon compliance with a commitment and disbursement of all advances, the Commissioner shall finally endorse the Mortgage Insurance Certificate and indicate on such instrument the date of final endorsement and the total of all advances approved for insurance.

10. Section 203.477 is amended by adding a new paragraph (c) as follows:

§ 203.477 Certificate by lender when loan assigned.

* * * * *

(c)(1) The mortgage is prior to all mechanics' and materialmen's liens filed of record, regardless of when such liens attach, and prior to all liens and encumbrances, or defects which may arise except such liens or other matters as may have been approved by the Commissioner; or

(2) The mortgage transaction did not involve the insurance of advances, the refinancing of outstanding indebtedness or the purchase of the property and the mortgage is prior to all mechanics' and materialmen's liens filed of record, regardless of when such liens attach, and prior to all liens and encumbrances other than a first mortgage, or defects which may arise except such liens or other matters as may have been approved by the Commissioner.

* * * * *

PART 204—COINSURANCE

11. Part 204 is amended by revising the list of excepted provisions appearing in § 204.1 to read as follows:

§ 204.1 Incorporation by reference

* * * * *

Sec.
203.12 Application and commitment extension fees.
203.18(c), (d), (e) and (f) Maximum mortgage amounts.
203.43 Eligibility of miscellaneous-type mortgages.
203.43a Eligibility of mortgages covering housing in certain neighborhoods.
203.43b Eligibility of mortgages covering housing intended for seasonal occupancy.
203.44 Eligibility of open-end advances.
203.50 Eligibility of rehabilitation loans.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

12. Section 213.1 is amended by revising (n) to read as follows:

§ 213.1 Definitions.

* * * * *

(n) "Lender" means a financial institution meeting the requirements of §§ 203.1–203.4 and 203.6–203.8.

* * * * *

13. Section 213.39 is amended to read as follows:

§ 213.39 Qualifications.

The provisions of §§ 203.1–203.4 and 203.6–203.9 shall apply and govern the eligibility, qualifications and requirements of mortgagees and lenders under this subpart.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

14. Part 220 is amended by deleting §§ 220.100 through 220.125 and substituting therefor, the following:

§ 220.100 Incorporation by reference.

(a) All of the provisions of Subpart A, Part 203 of this chapter covering mortgages insured under § 203 of the National Housing Act shall apply to insured home improvement loans on one-to-eleven-family dwellings under § 220(h) of the Act except the following:

Sec.
203.12 Application and commitment extension fees.
203.14 Builders warranty.
203.15 Certification of appraisal amount.
203.17 Mortgage provisions.
203.18 Maximum mortgage amounts.
203.19 Mortgagor's minimum investment.
203.23 Mortgagor's payments to include other charges.
203.24 Application of payments.
203.26 Mortgagor's payments when mortgage is executed.
203.28 Economic soundness of projects.
203.32 Mortgage lien.
203.37 Nature of title to reality.
203.38 Locatoin of dwelling.
203.40 Location of property.
203.42 Rental properties.
203.43b Eligibility of mortgages covering housing intended for seasonal occupancy.
203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.
203.45 Eligibility of graduated payment mortgages.
203.50 Eligibility of rehabilitation loans.

(b) References to "mortgage" in Part 203 shall be construed to refer to "loan" in §§ 220.100 et seq.

(c) For purposes of §§ 220.100 et seq., "outstanding indebtedness relating to the property" means the total outstanding amount of unsecured obligations of the borrower incurred in connection with improving, repairing or maintaining the property and outstanding mortgages or obligations consituting liens on the title to the property to be improved.

§ 220.101 Application and commitment extension fees.

(a) *Application fee.* The lender shall pay an application fee of $20 to cover the cost of processing.

(b) *Commitment extension fee.* The lender shall pay a commitment extension fee of $20 for extending an outstanding commitment or for reopening and extending an expired commitment within two months after such expiration.

(c) *Time of fee payment.* The fee shall be due and payable by the lender upon receipt from the FHA of a monthly statement covering the related transactions.

(d) *Credit for fee previously charged.* A credit may be allowed the lender for a fee previously charged under such conditions as the Commissioner prescribes.

(e) *Application fee not required.* A lender shall not be required to pay an application fee where the application is not accepted for processing.

(f) *Mortgagee's late charge.* Application fees and commitment extension fees which are paid to the Commissioner more than 15 days after the billing date shall include a late charge of 4% of the amount of the payment, except that no late charge shall be required with respect to any case for which HUD fails to render a proper billing to the mortgagee.

§ 220.102 Mortgage provisions.

(a) The lender shall present for insurance a note and security instrument on forms approved by the Commissioner for use in the jurisdiction in which the property covered by the security instrument is situated. Prior to endorsement, the entire principal amount of the loan shall have been disbursed to the borrower or to his creditors for his account and with his consent.

(b) The loan shall:

(1) come due on the first of the month.

(2) involve a principal obligation in multiples of $50.

(3) have an amortization of either 5, 7, 10, 12, 15, 17 or 20 years by providing for either 60, 84, 120, 144, 180, 204 or 240 monthly amortization payments.

(4) provide for payments to interest and principal to begin not later than the first day of the month following 60 days from the date the lender's certificate on the commitment was executed.

(c) The loan shall have a maturity satisfactory to the Commissioner not less than 5 nor more than 20 years from the date of the beginning of amortization or three-quarters of the Commissioner's estimate of the remaining economic life of the structure, whichever is the lesser.

§ 220.103 Maximum amount.

(a) The principal amount of the loan shall not exceed:

(1) The commissioner's estimate of the cost of improvements, $40,000 or $12,000 per family unit, whichever is the lesser; or

(2) An amount which, when added to any outstanding indebtedness related to the property, creates a total outstanding indebtedness which does not exceed the limits prescribed in §§ 220.25 and 220.30 for mortgages on properties other than new construction; or

(3) Where the proceeds are to be used for the purpose indicated in § 220.106(a)(2), an amount which when added to the aggregate principal balance of any outstanding insured home improvement loans which were obtained for the purposes indicated in § 220.106(a)(2), creates an aggregate indebtedness for such purposes of not to exceed $12,000.

(b) In any geographical area where the Commissioner finds the cost levels so required, he may increase by not to exceed 45 percent the $12,000 per family unit limitation set forth in paragraphs (a)(1) and (3) of this section.

§ 220.104 Type and location of property.

The property to be improved shall:

(a) Constitute real property located within the United States, its territories, or possessions;

(b) Contain an existing structure or structures;

(c) Be located in one of the urban renewal areas specified in § 220.5.

§ 220.105 Cost certification requirements.

A loan for the improvement of a structure which is used, or upon completion of the improvements will be used, as a dwelling for five-to-eleven families shall be subject to the provisions of paragraphs (a) through (c) of this section as follows:

(a) The lender shall submit with the application for commitment an agreement on a form prescribed by the Commissioner, executed by the borrower and the lender, in which:

(1) The borrower agrees to execute upon completion of the improvements a certificate of the actual cost of the improvements.

(2) The borrower and the lender agree that if the actual cost of the improvements is less than the amount authorized in the commitment, the amount of the loan shall not exceed the actual cost of the improvements, and that the amount of the loan shall be further adjusted to the lowest $50 multiple where the amount is not in excess of $12,000, or adjusted to the lowest $100 multiple where the amount exceeds $12,000.

(b) No loan shall be insured unless in accordance with the agreement between the borrower and the lender.

(1) The required certification of actual cost is made by the borrower; and

(2) The amount of the loan is adjusted to reflect the actual cost of the improvements.

(c) The term "actual cost of the improvements" shall mean the cost to the borrower of the improvements after deducting the amount of any kickbacks, rebates, or trade discount received in connection with the improvements, and including:

(1) The amounts paid under any contract for the improvements, labor, materials, and for any other items of expense approved by the Commissioner; and

(2) A reasonable allowance for contractor's profit, in an amount approved by the Commissioner, where the Commissioner determines that there is an identity of interest between the borrower and the contractor.

(d) Any agreement, undertaking, statement or certification required in connection with cost certification shall specifically state that it has been made, presented and delivered for the purpose of influencing an official action of the Commissioner and may be relied upon as a true statement of the facts contained therein.

(e) Upon the Commissioner's approval of the borrower's certification, such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the borrower.

(f) The borrower shall keep and maintain adequate records of all costs of any construction improvements or other cost items not representing work under the general contract and shall require the builder to keep similar records and, upon request by the Commissioner, shall make available for examination such records, including any collateral agreements.

§ 220.106 Use of proceeds.

(a) The proceeds of the loan shall be used only for the following purposes:

(1) To finance improvements that result in or are in connection with the conservation, repair, restoration or refurbishing of the basic livability or utility of an existing structure, including the property on which the structure is located, or in the conversion, alteration, enlargement, remodeling, or expansion of such structure, including a change in the living accommodations or the number of family dwelling units located therein.

(2) To pay that part of the cost of the construction or installation of sidewalks, curbs, gutters, street paving, street lights, sewers, or other public improvements, adjacent to or in the vicinity of the borrower's property,

which is assessed against the borrower or for which he is otherwise legally liable as the property owner.

(b) No loan proceeds shall be used to finance individual equipment items except those relating to heating, ventilating or plumbing or those items determined by the Commissioner to be necessary and incident to improvements as outlined in paragraph (a) of this section.

(c) The structure in connection with which the improvements are to be made shall:

(1) Constitute a structure which is used or will be used upon completion of the improvements, primarily for residential purposes by not more than eleven families; and

(2) Have been constructed not less than ten years prior to the date of the application for commitment unless, as determined by the Commissioner, the proceeds of the loan are or will be used primarily for major structural improvements, or to correct defects which are not known at the time of the completion of the structure or which were caused by fire, flood, windstorm or other casualty.

§ 220.107 Nature of borrower's ownership.

To be eligible for insurance, the property to be improved shall be owned by the borrower, or be leased by the borrower under a lease for not less than 99 years which is renewable, or be under a lease with an expiration date in excess of 10 years later than the maturity date of the loan.

§ 220.108 Certification as to outstanding indebtedness relating to the property.

The loan application shall be accompanied by a certificate by the borrower on a form prescribed by the Commissioner setting forth the total amount of outstanding indebtedness relating to the property.

§ 220.109 Acceptable risk.

The loan transaction shall, in the opinion of the Commissioner, constitute an acceptable risk.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

5. Part 235 is amended by revising (b), (c) and (d) as follows:

§ 235.15 Eligible types of dwellings.

* * * * * * * *

(b) A single family dwelling that is security for a mortgage which was finally endorsed for mortgage insurance under § 203.50 not more than three months prior to the application for a firm commitment under this part.

(c) With respect to mortgages approved for insurance under this Part on and after January 5, 1976, the mortgage shall involve only the types of dwellings identified in paragraphs (a)(1), (a)(3) or (b) of this section, the construction or rehabilitation of which shall have begun after October 17, 1975.

(d) The marketability of all lots or units to be developed or rehabilitated must be established.

PART 240—MORTGAGE INSURANCE ON LOANS FOR FEE TITLE PURCHASE

16. Section 240.1 is amended to read as follows:

§ 240.1 Incorporation by reference.

A mortgage for the purchase of fee simple title which meets the requirements of this subpart and Subpart A of Part 203, except as modified by § 240.1 et seq., shall be eligible for insurance under § 240 of the National Housing Act, except the following provisions:

Sec.
203.12 Application and commitment extension fees.
203.14 Builders warranty.
203.15 Certification of appreisal amount.
203.16a Mortgagor and mortagee requirement for maintaining flood insurance coverage.
203.17 Mortgage provisions.
203.18 Maximum mortgage amounts.
203.19 Mortgagor's minimum investment.
203.23 Mortgagor's payments to include other charges.
203.24 Application of payments.
203.26 Mortgagor's payments to include other charges.
203.28 Economic soundness of projects.
203.32 Mortgage lien.
203.37 Nature of title to realty.
203.38 Location of dwelling.
203.39 Standards for buildings.
203.43b Eligibility of mortgages covering housing intended for seasonal occupancy.
203.43c Eligibility of mortgages involving a dwelling unit in a cooperative development.
203.45 Eligibility of graduated payment mortgages.
203.50 Eligibility of rehabilitation loans.

* * * * *

17. A section 240.16 is added to read as follows:

§ 240.16 Application and commitment extension fees.

(a) *Application fee.* The lender shall pay an application fee of $20 to cover the cost of processing.

(b) *Commitment extension fee.* The lender shall pay a commitment extension fee of $20 for extending an outstanding commitment or for reopening and extending an expired commitment within two months after such expiration.

(c) *Time of fee payment.* The fee shall be due and payable by the lender upon receipt from the FHA of a monthly statement covering the related transactions.

(d) *Credit for fee previously charged.* A credit may be allowed the lender for a fee previously charged under such conditions as the Commissioner prescribes.

(e) *Application fee not required.* A lender shall not be required to pay an application fee where the application is not accepted for processing.

(f) *Mortgagee's late charge.* Application fees and commitment extension fees which are paid to the Commissioner more than 15 days after the billing date shall include a late charge of 4% of the amount of the payment, except that no late charge shall be required with respect to any case for which HUD fails to render a proper billing to the mortgagee.

18. A new section 240.18 is added to read as follows:

§ 240.18 Mortgage provisions.

(a) Mortgage form—The mortgage shall be executed upon a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated. The mortgage shall be a first lien upon the fee simple title and a second lien on the leasehold. The entire principal amount of the mortgage must have been disbursed to the mortgagor or to his creditors for his account and with his consent.

(b) The mortgage shall:

(1) Come due on the first of the month.

(2) Involve a principal obligation in multiples of $50.

(3) Have an amortization of either 5, 7, 10, 12, 15, 17 or 20 years by providing for either 60, 84, 120, 144, 180, 204 or 240 monthly amortization payments.

(4) Provide for payments to interest and principal to begin not later than the first day of the month following 60 days from the date the lender's certificate on the commitment was executed.

(c) Maturity of mortgage—The mortgage shall have a maturity satisfactory to the Commissioner but not less than five years nor more than 20 years from the date of the beginning of amortization of three-quarters of the Commissioner's estimate of the remaining economic life of the structure, whichever is the lesser.

19. Section 240.251 is amended to read as follows:

§ 240.251 Incorporation by reference.

All of the provisions of §§ 203.440 et seq. of the chapter covering rehabilitation loans under section 203(k) of the National Housing Act shall apply to mortgages for the purchase of the fee simple title to property which are insured under § 240 of the Act.

* * * * *

(Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715).)

Issued at Washington, D.C., July 18, 1979.

Morton Baruch,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-24528 filed 8-8-79; 8:45 am]

BILLING CODE 4210-01-M

Government National Mortgage Association

[24 CFR Part 390]

Docket No. R-79-689]

Guaranty of Mortgage-Backed Securities; Amendment To Permit Combination Mobile Home and Mobile Home Lot Loans To Be Included in GNMA Mortgage-Backed Securities Program.

AGENCY: Government National Mortgage Association, HUD.

ACTION: Proposed Rule.

SUMMARY: The amendment would permit "combination loans," which finance the purchase of mobile homes and developed lots in a single transaction, to be included in pools of mobile home loans under the existing GNMA program for mobile home loan securities.

COMMENT DUE DATE: October 9, 1979.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may be changed in the light of comments received.

FOR FURTHER INFORMATION CONTACT: Warren Lasko, Office of Mortgage-Backed Securities, Government National Mortgage Association, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-8772.

SUPPLEMENTARY INFORMATION: At present, the GNMA securities program for mobile home loans includes only FHA insured or VA guaranteed loans for mobile home units. Recently, FHA inaugurated a program for insuring loans on both lots and units. This proposed amendment would permit such loans, when they are made as a "combination loan" to purchase a mobile home unit and developed lot in a single transaction, to be included in pools of loans which back GNMA-guaranteed securities. The amendment would be made by explaining that, for the purpose at hand, mortgages on mobile homes include the combination loans. The amendment would substantially increase the availability of funds for the "combination loans," and thereby help increase the supply of moderately priced housing, in a suitable living environment. A Finding of Inapplicability of the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. It is available for public inspection and copying in the office of the Rules Docket Clerk.

It is proposed to amend Part 390, by revising § 390.3(c)(3) introductory paragraph to read as follows:

§ 390.3 Eligible issuers of securities.

(c) ***

(3) For the issuance of modified pass-through securities based on and backed by mortgages on mobile homes (which for the purpose of this Part means either a loan for the purchase of a mobile home unit or a combination loan for the purchase of a mobile home and a developed mobile home lot in a single transaction)

* * * * *

Issued at Washington, D.C., July 18, 1979.

R. Frederick Taylor,

Executive Vice President, Government National Mortgage Association.

[FR Doc. 79-24523 Filed 8-8-79; 8:45 am]

BILLING CODE 4210-01-M

VETERANS ADMINISTRATION

[38 CFR Part 3]

Veterans Benefits; Character of Discharge

AGENCY: Veterans Administration.

ACTION: Proposed Regulation Change.

SUMMARY: The Veterans administration is proposing to amend its character of discharge regulation to provide that only in certain cases shall an other-than-honorable discharge issued for homosexual acts be considered to have been issued under dishonorable conditions. The effect of this proposed change is to confer basic eligibility for Veterans Administration benefits on most persons discharged for homosexual acts.

DATES: Comments must be received on or before September 10, 1979. It is proposed to make this change effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until September 18, 1979.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle (202-389-3005).

SUPPLEMENTAL INFORMATION: Under § 3.12(d)(5) an other-than-honorable discharge issued for homosexual acts is considered to have been issued under dishonorable conditions. An other-than-honorable discharge held to have been issued under dishonorable conditions is, subject to the exception contained in § 3.360, a bar to the receipt of Veterans administration noncontractual benefits.

The service departments are now generally issuing honorable or general discharges to persons discharged for homosexual acts. The only exception to this policy is when the homosexual act or acts which formed the basis for the discharge involved aggravating circumstances or other factors affecting the performance of duty. Consequently, we are proposing to amend § 3.12(d)(5) to conform to this change in service department policy.

When a person receives an other-than-honorable discharge based on homosexual acts involving aggravating circumstances or other factors affecting the performance of duty, the discharge shall be held under the proposed amendment of § 3.12(d)(5), to have been issued under dishonorable conditions. Examples of homosexual acts involving aggravating circumstances or other factors affecting the performance of duty are child molestation, homosexual prostitution, homosexual acts or conduct accompanied by assault or coercion.

and homosexual acts or conduct taking place between service members of disparate rank, grade or status when a service member has taken advantage of his or her superior rank, grade or status.

Other-than-honorable discharges based on homosexual acts not involving aggravating circumstances or other factors affecting the performance of duty shall be held not to have been issued under dishonorable conditions, assuming no other bar to entitlement exists.

The Veterans Administration does not consider this to be a significant proposal since only a small segment of the veteran population is affected and no complaints, burdens or costs are imposed.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objection regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until September 18, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: August 1, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

In § 3.12, paragraph (d)(5) is revised to read as follows:

§ 3.12 Character of discharge.

* * * * *

(d) A discharge or release because of one of the offenses specified in this paragraph is considered to have been issued under dishonorable conditions.

* * * * *

(5) Homosexual acts involving aggravating circumstances or other factors affecting the performance of duty.

* * * * *

[FR Doc. 79-24571 Filed 8-8-79; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1293-4]

District of Columbia State Implementation Plan; Proposed Revision

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The District of Columbia has submitted amendments to the District's air pollution control regulations and has requested that they be reviewed and processed as a revision of the District of Columbia State Implementation Plan (SIP). The amendments propose to retain permanently the requirement of a maximum 1% sulfur content in fuel oil and coal sold and burned in the District and to delete the 0.5% sulfur increment which was to take effect October 1, 1978.

DATE: Comments must be submitted on or before September 10, 1979.

ADDRESSES: Copies of the proposed SIP revision and accompanying support documentation are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Mr. Bernard E. Turlinski.

District of Columbia Department of Environmental Services, Bureau of Air and Water Quality, 5010 Overlook Avenue, S.W., Washington, D.C. 20032, ATTN: Mr. John V. Brink.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be directed to:

Mr. Howard R. Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Philadelphia, Pennsylvania 19106, ATTN: AH012DC.

FOR FURTHER INFORMATION CONTACT:
Mr. Bernard E. Turlinski, Regional Energy Coordinator (3AH13), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106; phone 215/597-9944.

SUPPLEMENTARY INFORMATION: On December 27, 1978, the District of Columbia submitted to the Regional Administrator, EPA, Region III, amendments to the District's Air Quality Control Regulations and requested that they be reviewed and processed as a revision of the District of Columbia's State Implementation Plan (SIP) for the attainment and maintenance of National Ambient Air Quality Standards (NAAQS). The amendments consist of changes to Sections 8-2:704 (Allowable Sulfur Content in Fuel Oil) and 8-2:705 (Allowable Sulfur Content in Coal). The proposed revision amends both regulations by deleting the provision which states that the use and sale in the District of Columbia of fuel oils and coal containing up to 1% sulfur are permitted only until October 1, 1978.

On two previous dates, the District of Columbia requested one-year postponements of the date that the 0.5% sulfur in fuel increment was to take effect. The regulations as originally approved by City Council on July 7, 1972, permitted the sale and use of all fuels containing up to 1% sulfur by weight until June 1, 1975. On November 18, 1975, the Council approved an extension for one year after the enactment date of March 12, 1976, to allow continued use of 1% sulfur fuels. This extension was submitted to the EPA as a revision and approved by the EPA on December 6, 1976 (41 FR 53325 (1976)). After March 12, 1977, all fuels sold or burned in the District were to contain no more than 0.5% sulfur. However, on December 7, 1976, the City Council further extended the sale and use of 1% sulfur fuels until October 1, 1978. The second postponement was subsequently submitted on March 3, 1977, and later approved by the EPA as a revision to the implementation plan on July 10, 1978 (43 FR 29559 (1978)). As a result of the second extension, all fuels were to contain no more than 0.5% sulfur after October 1, 1978.

By virtue of the most recent action on the part of the District, the 1% sulfur content in fuel oil and coal would be permanently retained and the 0.5% sulfur increment deleted. Some of the arguments presented by the District to support its proposed revision are as follows:

1. The District is presently meeting the Federal ambient air quality standards for sulfur dioxide and it expects to maintain the standards through 1985;

2. The 0.5% sulfur content level would substantially increase the cost of fuel and electricity to the consumer;

3. There is a shortage of the higher grade (lower sulfur content) coal in the East; and

4. Maryland and Virigina maintain a 1% sulfur limit.

EPA is proposing to approve the revision, in part, by allowing 1% sulfur fuels to be sold and burned in the District until December 31, 1980. This partial approval is based on the District's demonstration in which growth projections applied to an air quality baseline indicate that no violations are expected to occur before December 31, 1980. During the intervening period selected for approval, the District has the opportunity to reevalute the impact on ambient air quality and demonstrate that the 0.5% sulfur increment will not be needed after December 31, 1980 to maintain the sulfur dioxide standards. If a reevaluation effort is undertaken and the results support permanent deletion of the 0.5% sulfur increment, the EPA could then propose such action.

EPA is requesting this further evaluation because the demonstration presented by the District is based on extrapolations from air quality data collected only at a single site. A study entitled "Air Quality Maintenance Planning, Technical Analysis" (October 1977) conducted by the Metropolitan Washington Council of Governments indicates that the site used by the District is probably not near the locations of maximum SO_2 concentrations. The further evaluation requested by EPA would estimate air quality over the entire District, and would utilize dispersion modeling techniques consistent with current EPA Guidelines on Air Quality Models.

The District of Columbia certified that a public hearing with respect to the revision was held on May 23, 1978, in accordance with the requirements of 40 CFR 51.4.

The public is inivted to submit to the address stated above, comments on whether the amendments to Sections 8-2:704 and 8-2:705 of the District's air pollution control regulations governing the sulfur content in fuels should be approved as a revision of the District of Columbia State Implementation Plan.

The Administrator's decision to act on the proposed revision will be based on the comments received, and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Authority: 42 U.S.C. 7401-7642.

Dated: August 3, 1979.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 79-24602 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1293-7]

Approval and Promulgation of Ohio Implementation Plans

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve a revision to the Ohio State Implementation Plan (SIP) for sulfur dioxide (SO_2) for Republic Steel Corporation, Cleveland District. This revision is requested because the control strategy proposed by Republic Steel Corporation differs significantly form the one proposed by USEPA in the Ohio SO_2 plan. The Republic Steel control strategy formulation utilized the bubble concept. The bubble concept considers Cleveland District's emissions in the aggregate as if its facilities were encapsulated in a bubble. This strategy results in an overall reduction of SO_2 emissions in the bubble which is equal to or less than the EPA strategy but is more cost effective. It is the opinion of Region V that the revision to the Ohio SIP should be approved. The purpose of this notice is to invite public comment on EPA proposed revision to Ohio State Implementation Plan.

DATE: Comments must be received on or before September 10, 1979. Requests for a public hearing on this revision must be received no later than August 24, 1979.

ADDRESSES: Comments and requests for a hearing should be submitted to Steve Rothblatt, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The Technical Support Document and the docket 5A-79-3 for this revision are on file at the above address and at: Central Docket Section, Room 2903B, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. They may be inspected and copied during normal business hours.

FOR FURTHER INFORMATION CONTACT:
Patricia Powell, Assistant Regional Counsel, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2205.

SUPPLEMENTARY INFORMATION: On August 27, 1976, the U.S. Environmental Protection Agency (USEPA) promulgated regulations establishing the SIP for the control of sulfur dioxide for the State of Ohio. On January 24, 1978, Republic Steel Corporation requested a revision of the Ohio SIP for SO_2 for the Cleveland District which is located in Cuyahoga County. The request was made in order to propose a control strategy different from that used by EPA in the development of the Ohio SO_2 Plan. The EPA control strategy addressed partial desulfurization of coke oven gas at coke oven plants No. 1 and No. 2. The strategy proposed by Republic Steel addresses full desulfurization at the No. 1 coke plant and maintenance of 415 grains H_2S/100 dscf without desulfurization at the No. 2 coke plant.

The Republic Steel control strategy formulation utilized the bubble concept. The bubble concept considers the Cleveland District's emissions in the aggregate as if its facilities were encapsuated in a bubble. Such a strategy would allow for an overall reduction of SO_2 emissions in the bubble which would be at a level equal to or less than that dictated by the EPA strategy but which would prove more cost effective. Republic Steel has performed an air quality impact analysis because it is required to assess the effect of the emission trade-offs. Republic Steel used the EPA RAM dispersion model to assess the air quality of the Cleveland District sources.

As part of its modeling methodology, Republic Steel identified an additional ten critical days, which were analyzed with the ten critical days used by EPA. The 20 critical days studied demonstrated that the Republic Steel control strategy is effective in achieving air quality levels which are better than or not significantly degraded from those of the EPA strategy. The regulations for the control of sulfur dioxide in the State of Ohio and their proposed revisions are included and have been found acceptable by EPA. The supporting data is contained in the Technical Support Document. The SIP revision is applicable to the refinery located in Cuyahoga County in the City of Cleveland. Final promulgation of this revision will follow analysis of the comments and will depend on consistency with section 110 of the Clean Air Act. Comments are being solicited. A 30-day comment period will

be observed because the emission limitation is not significantly changed.

Note.—The Environmental Protection Agency has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—Ohio

1. Section 52.1881 is amended by revising paragraph (b) as follows:

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(23) In Cuyahoga County:

* * * * *

(iii)(A) The Republic Steel Corporation or any subsequent owner or operator of Republic Steel facilities located in Cuyahoga County, Ohio, shall not cause or permit the combustion of by-product coke oven gas or mixed gas (by-product coke oven gas mixed with other gases) containing a total sulfur content expressed as hydrogen sulfide, or the emission of sulfur dioxide in the exhaust gas from any stack, that exceeds the following limits:

Facility	H_2S limit [1]	SO_2 limit [2]
BOF Shop misc	240	1.22
Open Hearth misc	240	1.22
Blast Fces. 1 and 4 misc	240	1.22
No. 1 coke plt. car thaw	240	1.22
Foundry	240	1.22
P anneals	240	1.22
Blast fce 5 and 6 misc	415	2.10
No. 2 coke plt. car thaw	415	2.10
10" bar mill reheat fce	90	0.46
12" bar mill reheat fce	80	0.40
44" mill soaking pits	165	0.84
45" mill soaking pits	165	0.84
No. 1 coke battery	24	0.12
No. 2 coke battery	24	0.12
No. 3 coke battery	24	0.12
No. 4 coke battery	24	0.12
No. 6 coke battery	415	2.10
No. 7 coke battery	415	2.10
84" anneal furnaces	415	2.10
84" slab reheat fces. 1, 2 and 3	415	2.10

[1] In fuel gas (gr. H_2S equivalent per 100 dscf).
[2] In exhaust gas (lb SO_2 per million Btu acutal heat input).

(iii)(B) The Republic Steel Corporation or any subsequent owner or operator of the Republic Steel facilities located in Cuyahoga County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack attached to the Open Hearth precipitator units 111 and 112, 98-inch slab furance units 1, 2, 3, 4, and 5, 84-inch slab furnace units 1 and 2, and the sinter plant at this facility in excess of 0.00 pounds of sulfur dioxide per million BTU actual heat input.

(iii)(C) The Republic Steel Corporation or any subsequent owner or operator of Republic Steel's No. 1 Coke Plant desulfurization plant located at Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from the stack of the Claus incinerator of the desulfurization plant to exceed 1871 pounds per day, or 2200 ppm.

Dated: August 1, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-24601 filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1293-6]

Availability of Implementation Plan Revisions for the Control of Particulate Emissions from Steel Mills

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt and Availability

SUMMARY: This Notice announces the receipt of revised Illinois Air Pollution Control Regulation 203(d) submitted to the U.S. Environmental Protection Agency (U.S. EPA) as a proposed revision to the State Implementation Plan (SIP). This revised regulation addresses the control of particulate emissions from steel mills and is available for public review and comment at the offices listed below.

On June 22, 1979, the Illinois Air Pollution Control Board preliminarily adopted this revised regulation with final adoption scheduled after completion of the remaining necessary State administrative procedures. The State submitted this revised regulation to U.S. EPA on July 19, 1979, in order to satisfy the requirements of Part D of the Clean Air Act.

The purpose of this revision, as required by the Act, is to implement new measures for controlling air pollution and to demonstrate that these measures will provide for attainment of the primary National Ambient Air Quality Standards for total suspended particulates as expeditiously as practicable, but no later than December 31, 1982. A notice of Proposed Rulemaking describing the revision and U.S. EPA's intended approval or disapproval action will be published in the **Federal Register** at a later date.

DATES: See supplementary Information.

ADDRESSES: The Illinois submittal may be examined during normal business hours at the following U.S. EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

In addition the revisions may be examined at the offices of the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

WRITTEN COMMENTS SHOULD BE SENT TO: Ms. Maxine Borcherding, State Implementation Plan Coordinator, U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Borcherding, State Implementation Plan Coordinator, U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6052.

SUPPLEMENTARY INFORMATION: On April 3, 1979, pursuant to the requirements of Part D of the Clean Air Act, the State of Illinois submitted draft revisions to the SIP. After reviewing the revisions, U.S. EPA published its proposed rulemaking action in the July 2, 1979, **Federal Register.** In this **Federal Register** it was noted that the U.S. EPA would propose rulemaking on the proposed Illinois Regulations for controlling particulate emissions from iron and steel mills at a later date.

On July 19, 1979, Illinois submitted to U.S. EPA copies of the proposed revisions to Rule 203(d) of Chapter 2 (particulate emissions from steel mills). U.S. EPA is reviewing this latest submittal and upon completion of the review will publish a Notice of Proposed Rulemaking in the **Federal Register.**

All interested persons are advised that the proposed revisions are available for review at the locations listed above. The Proposed Rulemaking Notice referred to above will announce the last day for public comment. This public comment period will extend for not less than 30 days from the date of publication in the **Federal Register** of U.S. EPA's proposed rulemaking action.

Dated: August 1, 1979.

John McGuire,

Regional administrator.

[FR Doc. 79-24611 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL #1281-1]

Approval and Promulgation of Implementation Plans; New Mexico Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes approval/disapproval of various revisions to the New Mexico State Implementation Plan (SIP). The revisions were submitted by the Governor to fulfill the requirements of the Clean Air Act, as amended in August 1977 (the Act), for attainment and maintenance of National Ambient Air Quality Standards (NAAQS). The revisions being acted on today are those relating to the plan requirements for nonattainment areas (Part D of the Act) and include control requirements for particulate matter, sulfur dioxide, hydrocarbons, and carbon monoxide. In reviewing the State submittal, EPA assessed the ability of the plan to meet the requirements of Part D. While the plan meets the Part D requirements in many respects, there are a number of deficiencies in the plan that the State and local agencies need to address before full SIP approval can be granted by the Administrator of EPA.

DATES: Interested persons are invited to submit comments on this proposed action on or before September 10, 1979.

ADDRESSES: Written comments should be submitted to the address below. Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, SW., Washington, D.C. 20460.

New Mexico Environmental Improvement Division, Health and Environment Department, P.O. Box 968, Crown Building, Santa Fe, New Mexico 87503.

Middle Rio Grande Council of Governments, Suite 1320, 505 Marquette Avenue, Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTARY INFORMATION: Provisions of the 1977 Clean Air Act Amendments (the Act) require States to revise their State Implementation Plans (SIP) for all areas that have been designated as not attaining the National Ambient Air Quality Standards (NAAQS). The Act requires that States submit the necessary plan revisions to the Environmental Protection Agency (EPA) by January 1, 1979. The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, **Federal Register** (44 FR 20372), and will not be restated in this notice. A supplement to the April 4 notice was published on July 2, 1979 (44 FR 38583) involving among other things, conditional approval.

EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurance that it will submit corrections by a specified deadline. This notice solicits comment on what items should be conditionally approved, and it solicits comment on the deadlines where specified in this notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State falls to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

The Governor of New Mexico, after adequate notice and public hearing, submitted revisions to New Mexico's SIP on January 23, 1979. These revisions address Part D (Plan Requirements for Nonattainment Areas) of the Act in regard to the attainment and maintenance of the NAAQS for particulate matter, sulfur dioxide, carbon monoxide and photochemical oxidants in the designated nonattainment areas. In addition, the State submittal includes provisions relating to other parts of the Act. The action being taken today by EPA is only with respect to Part D requirements. Those SIP provisions relating to requirements of the Act other than Part D will be addressed in a later **Federal Register.** An evaluation report,[1] which reviews the SIP in detail, is available for inspection by interested parties during normal business hours at the EPA Region 6 Office or the Public Information Reference Unit (see addresses above).

The overall plan was developed by the New Mexico Environmental Improvement Division except for portions applicable to the Albuquerque area. The portion of the SIP which addresses attainment of standards for the metropolitan Albuquerque area was developed under the direction of the Albuquerque-Bernalillo County Air Quality Control Board. The Middle Rio Grande Council of Governments was designated as the local lead planning agency by the Governor, and as a result, was responsible for developing the transportation related provisions (carbon monoxide and ozone) for the metropolitan Albuquerque area. The Albuquerque Department of Environmental Health was responsible for developing that portion of the plan addressing the attainment of standards for particulate matter, in the Albuquerque area.

A notice of availability of the New Mexico SIP revisions was published in the **Federal Register** on March 12, 1979, and interested persons were invited to comment. Two comments on the Albuquerque portion of the SIP were received. These and all other comments received under this notice will be addressed at the time of final rulemaking.

Part D—SIP Requirements

Total Suspended Particulates. There are several areas in New Mexico which are designated nonattainment for total suspended particulate matter (TSP). These areas are either in the vicinity of major point sources, or they are small areas in the vicinity of monitoring sites which have recorded violations of standards. The exact boundaries of these designated areas are described in the SIP and discussed in the evaluation report.[1] The control strategies for these areas are discussed below.

1. Albuquerque: There are five monitoring sites (out of 11 total sites) within the city limits of Albuquerque where violations of the annual primary standard for TSP have been recorded. While several violations of the 24-hour standard have been recorded, attainment of the annual standard requires the most stringent control strategy in each case because attainment of the annual standard requires the greatest percent reduction in emissions.

Each of the nonattainment areas is defined as a circle of one mile radius around each monitoring site. Inventories representing 1977 emissions indicate that fugitive dust from unpaved roads and parking lots, and reentrained dust from paved roads (non-traditional sources) contribute to over fifty percent of the emissions inventories and account for a major portion of the air quality problem at each site. Consequently, control measures for these non-traditional sources of TSP need to be a

[1] EPA Review of New Mexico State Implementation Plan Revision, June 1979.

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major part of the control strategies. The SIP contains legally enforceable provisions for stationary sources and an adequate assessment of the impact of non-traditional sources. The SIP also contains a detailed discussion of alternative non-traditional source control measures, including costs and emission reduction effectiveness. However, the plan does not contain a commitment or schedule for adoption of these measures, nor is there a demonstration of attainment of primary standards. Regarding attainment of the secondary standards, the plan neither includes a demonstration of attainment nor requests an extension for plan submittal. An extension of up to 18 months may be granted under certain conditions. These plan deficiencies have been discussed with the State and local agencies. As a result of these discussions, EPA expects an additional submittal to address these dificiencies. EPA will, upon receipt of this information publish a notice of availability in the Federal Register. Therefore, the plan is currently being proposed for approval on the basis that the State and local agencies will provide the additional information on or before September 10, 1979.

2. Grant County: the nonattainment area in Grant County consists of a 4.5 mile radius circle around the Kennecott Copper Smelter which is located near the town of Hurley. The State's control strategy is based on attainment of the annual primary standard since attainment of this standard requires the most stringent controls, as demonstrated by air quality dispersion modeling.

Air quality violations result from a combination of emissions from the smelter stacks, fugitive emissions, and fugitive dust from storage piles and unpaved roads on the smelter property and within the town of Hurley. The SIP shows required emission reductions at three receptor sites through application of the Air Quality Display Model (AQDM). The AQDM predicts that at the maximum receptor point a reduction of 59 percent is required and at receptor points located in South Hurley and the Hurley Shops reductions of 8 percent and 45 percent respectively are necessary to attain the primary annual standard. The SIP demonstrates, through modeling, that the application of traditional source controls (State Regulations (State Regulations 506, 509) and non-traditional source controls (State Regulations 510, 511) will result in particulate reductions of 65 percent at the maximum receptor point and 31 percent and 45 percent at the South Hurley and Hurley Shops receptors, respectively. These reductions are sufficient to attain the annual primary standard at all three sites. The plan does Not address attainment of the secondary standard nor does it request an extension for plan submittal. Plan approval is being proposed on the basis that the State will address the issue of secondary standard attainment within 30 days after publication of this notice.

Although the new plan contains a demonstration of attainment of the primary standard for TSP, EPA is carefully scruitinizing the attainment demonstration for the Kennecott Hurley site to ensure that the control of non-traditional sources will reduce emissions to the extent estimated and to the degree necessary for ultimate attainment of the TSP standards.

The new (1979) SIP control requirements will not supersede or replace the old requirements until the source comes into compliance with the new requirements. Instead, as stated in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20372 (April 4, 1979), the old requirements will remain an enforceable provision of the SIP, co-existing with the new requirements in the SIP.

a. Regulation 506: This regulation specifies mass emission limits for new and existing nonferrous smelters. In Sections A, B.2, and B.3, the emission limits are specified in grains per dry cubic foot of discharge gas measured at standard conditions. Compliance with these limits cannot be determined, as a practical matter, since measurement of gases at standard conditions (68° F and 29.92 inches of Hg) would not be possible in the affected stacks. Consequently, replacement measurement conditions are being proposed by EPA. The magnitude of the mass emission limits specified in the regulation are considered to be adequate and will not be changed.

In Section B.4, separate emission limits are specified for various smelter operations, and Section A specifies an emission limit for new smelters. Compliance with the emission limits for both new and existing smelters is to be determined by test methods and procedures in 40 CFR Part 60, Appendix A, Methods 1 through 5. It is not clear in the regulation that appropriate testing criteria will be required. To be acceptable, tests must consist of a minimum of three one-hour samples. Therefore, testing according to the provisions of 40 CFR 60.8(f) is being proposed by EPA for Section A and each operation of Section B.4. The proposed replacement measurement conditions would apply to Section A, B.2 and B.3 of Regulation 506. The magnitude of the mass emission limit will not change but will be expressed in terms of grains per dry standard cubic foot of discharge gas as defined in 40 CFR Part 60. Testing for purposes of demonstrating compliance is to be conducted in accordance with the requirements of § 60.8(f) and these requirements shall also be extended to each operation defined under Section B.4 of Regulation 506.

b. Regulations 509, 510, 511. Regulation 509 specifies emission limits for new and existing lime manufacturing plants. Regulation 510 specifies control requirements for fugitive emissions from existing nonferrous smelters. Regulation 511 requires the control of fugitive dust from roads within Hurley. These three regulations are considered approvable.

3. Eddy and Lea Counties: The nonattainment areas in Eddy and Lea Counties are areas in the vicinity of several potash plants. Nonattainment designations were made on the basis of predicted violations of the primary annual and 24-hour standards by the PTMTP model. The predicted air quality levels indicate that attainment of the 24-hour standard requires the most strigent controls.

Control requirements for potash plants are specified in Regulation 508. By applying the emission limits in this regulations, and using worst case meteorological data, the dispersion model results indicate that the primary 24-hour standard will be attained by 1982 and that the secondary 24-hour standard will be attained no later than 1984. These results apply to the nonattainment areas around each plant. Consequently, Regulation 508 and the TSP control strategy for Eddy and Lea Counties are considered approvable.

Sulfur Dioxide Nonattainment Areas

There are two counties containing nonattainment areas for sulfur dioxide (SO_2) in New Mexico. These include three areas in the vicinity of the Four Corners and San Juan power plants in San Juan County, and an area around the Kennecott Copper Smelter in Grant County. The control strategies and regulations for the various areas are discussed in detail below.

1. San Juan County (Four Corners): The nonattainment areas in San Juan County consist of a 2.5 mile radius circle around the Four Corners Generating Station and two nearby high altitude areas, Mesa Verde Plateau and The Hogback. Based upon State dispersion modeling, sulfur dioxide emissions from the Four Corners Generating Station (operated by Arizona Public Service)

and the San Juan Generating Station (operated by Public Service Company of New Mexico) are the only known causes of nonattainment in these areas. The State used a gaussian plume model, with a terrain adjustment, to estimate high terrain SO_2 concentrations and the PTMTP model to estimate SO_2 concentrations near the Four Corners Generating Station.

The emission limits used in the modeling are set by Regulation 602, Coal Burning Equipment-Sulfur Dioxide. Section A of the Regulation (for new equipment) sets an emission limit of 0.34 pounds SO_2 per million British Thermal Units (BTU) of heat input and applies to Units 1, 3, and 4 of the San Juan Station. Section B of the Regulation sets an emission limit of 0.53 pounds SO_2 per million BTU heat input and applies to Unit 2 of the San Juan Station. All five units of the Four Corners Station have a total allowable emission limit, specified in Section C of the Regulation, of 0.53 pounds SO_2 per million BTU heat input, applicable when all units are operating at maximum capacity. Sections B and C of Regulation 602 are new SIP submittals and are considered by EPA to represent reasonably available control technology (RACT) for the applicable units.

Based upon these specified emission rates, the State has demonstrated, using EPA approved methods, that both the primary and secondary standards for SO_2 will be attained in San Juan County by December 31, 1982.

2. Grant County (Kennecott): The SO_2 nonattainment area in Grant County consists of a 3.5 mile radius circle around the Kennecott Copper Smelter. Emissions from the smelter are the only known cause of nonattainment, and control of these smelter emissions is the basis for the State's control strategy.

The State used three separate dispersion models. The AQDM model was used to determine annual concentrations, the PTMTP model was used to determine 24-hour SO_2 concentrations, and a gaussian point source model was used to determine high terrain, 24-hour concentrations. Based on application of the emission limits in Regulation 652 (governing sulfur emissions from nonferrous smelters), the analyses adequately demonstrate attainment of both the annual primary and 24-hour standards.

State Regulation 652, applies to the Kennecott Smelter in Grant County. The Regulation requires compliance by December 31, 1982 with the following provisions: (1) Total sulfur emissions from the entire smelter shall not exceed 3550 pounds per hour, 24-hour running average, (2) best engineering practices for capture of fugitive sulfur emissions, and (3) venting of captured fugitive emissions through the tallest stack serving the smelter.

The State claims to demonstrate attainment of the 3-hour secondary standard based on a sulfur emission limit (Section A.1 of Regulation 652) of 3,550 pounds per hour for a 24-hour running average period. Because this emission limit is specified for a 24-hour period, it is possible that fluctuations in the smelter operation, and resulting emissions, could cause violations of the 3-hour standard. Since no information has been submitted demonstrating that the use of a 24-hour emission limit averaging time will attain the 3-hour standard, EPA considers the demonstration for attainment of the secondary standard to be inadequate and is proposing to disapprove the sulfur emission limiting regulation with regard to attainment of the secondary standard.

Therefore, EPA is proposing to approve the control strategy and Regulation 652 for attainment of the primary standards. For attainment of the 3-hour secondary standard, EPA will propose, at a later date, an additional emission limitation for the Kennecott copper smelter in Grant County which will demonstrate attainment of the secondary standard.

Carbon Monoxide Nonattainment Areas

1. Bernalillo County (Albuquerque): All of Bernalillo County is designated as nonattainment for carbon monoxide (CO). The problem is caused primarily by motor vehicle emissions which make up approximately 96 percent of the total 1977 CO emissions. All four monitoring sites within the county have recorded violations of the 8-hour standards.

In the SIP, a justification is presented for determining the design value by averaging the second highest values from all monitoring sites. A control strategy based on such an average would not be sufficiently stringent to demonstrate attainment at all sites since the average value would be lower than the highest second high value recorded. Since standards must be attained at all sites, this approach is clearly unacceptable. The EPA evaluation is based on a design value of 22 ppm, which is the highest second high 8-hour average of all sites and occurs at Indian School Road and Indiana Street. Based on this design value, an emission reduction of 59 percent is required to demonstrate attainment. It is this reduction which must be used in the development of control measures for an approvable SIP.

Since 96 percent of the CO emissions are estimated to come from mobile sources, the control strategy concentrates on these sources. The SIP demonstrates that implementation of control measures available between 1977 and 1982 will not sufficiently reduce CO emissions for attainment of standards by December 31, 1982. As a result, an extension of the attainment date to 1987 has been requested. A plan with an extension date must satisfy the following requirements:

a. Establish a specific schedule for implementation of an inspection/maintenance (I/M) program;

b. Identify and commit to the expeditious implementation of currently planned reasonable available transportation control measures.

c. Identify other measures necessary to provide for attainment no later than December 31, 1987. These other measures are described in the Criteria for Proposing Approval of Revision to Plans for Nonattainment Areas published in the May 1, 1978 Federal Register (44 FR 21675);

d. Establish a new source review program which requires an analysis of alternative sites, sizes, production processes, and control techniques prior to the issuance of a permit to a proposed source.

A draft schedule for implementation of an I/M program is included in the SIP. A centralized, contractor operated program has been selected for implementation. Mandatory vehicle inspection and maintenance are scheduled to begin on January 1, 1982. This start date is consistent with the time period considered reasonable by EPA for a centralized program. The SIP reflects the required minimum 25 percent emission reduction from I/M in 1987. The City and County must submit a final implementation schedule, including specific dates for the key milestone events described in EPA's July 17, 1978 policy letter and must submit commitments by responsible officials to implement and enforce the I/M program in order for this portion of the SIP to be approved.

In its 1979 session, the State Legislature did not consider enabling legislation for an I/M program. As a result, implementation and enforcement of the I/M program is being authorized by local ordinance. The City Council adopted an I/M ordinance on May 21, 1979. The County Commission is in the process of considering an I/M ordinance for the County.

Where an I/M program is to be carried out at the local level, State certification of adequate authority to

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enact the necessary ordinances is required. The State Attorney General has been requested by EPA to provide an opinion on this matter. In order to meet the requirements for an approvable SIP submittal of both the City and County ordinances, and a positive opinion from the State Attorney General is needed.

The SIP does not identify (or include any commitment to implement) any currently planned transportation control measures having beneficial air quality impacts. EPA purposes to approve the SIP on the condition that within 90 days of the publication of this notice, the State identify and commit to expeditious implementation of currently planned TCM's which may be included in the Transportation Improvement Plan (TIP).

The SIP addresses each of the nineteen transportation control measures (TCMs) considered by EPA to be reasonable, and a discussion is presented on the degree of consideration each measure has received to date. Analysis of the TCM alternatives is scheduled for completion by June 30, 1980, with implementation of selected measures to begin December 31, 1982. The actual commitments for analysis and implementation of TCMs are, at present, vague and general, however, the local agencies have demonstrated a willingness to develop and implement those control measures necessary to provide for attainment. As a result, the SIP is considered adequate with respect to the requirement for analyzing additional TCM's.

In the Albuquerque-Bernalillo County Area the new source review program is carried out under the requirements of Section 20 of the Albuquerque-Bernalillo County regulations. This Section does not require analysis of alternative sites, sizes, production processes, and control techniques for a proposed major source prior to issuance of a permit. This deficiency has been discussed with respresentatives of the local agency, and approval of the attainment date extension is being proposed based on the submission of the necessary new source review provisions, as required in Section 172 (b)(11)(A) of the Act, within 60 days after publication of this notice.

2. Santa Fe: The CO nonattainment area consists of a road segment in the City of Santa Fe. Violations of the CO standard along this road segment is attributed, by the State, to mobile sources. As a result, the control strategy relies only on the reduction of motor vehicle emissions, to be accomplished through the Federal Motor Vehicle Control Program (FMVCP).

Violations of only the 8-hour standard have been recorded. Based on a 1976 air quality design value of 12.3 ppm, an emission reduction of 27 percent is required to demonstrate attainment. The reduction in CO emissions resulting from the FMVCP is estimated to be 25 percent by the end of 1982. Consequently, the control stategy is not considered adequate for demonstrating attainment.

The State has indicated that additional information will be submitted to support either a redesignation of the Santa Fe area to attainment, or a demonstration of attainment by December 31, 1982 based on current air quality data. Upon submittal of such information, EPA will evaluate its impact on the approvability of the SIP.

3. Las Cruces: There are two road segments and an area around a street intersection designated as nonattainment for CO. Violations of only the 8-hour standard have been recorded, and these violations are attributed to emissions from mobile sources. The control strategy consists of the FMVCP and demonstrates, using EPA approved methods, sufficient emission reductions to demonstrate attainment of standards by 1982.

4. Farmington: The CO nonattainment area in Farmington consists of one road segment. Violations of only the 8-hour standard have been recorded along this segment, and these violations are attributed to mobile source emissions. The FMVCP is shown, using EPA approved methods, to provide sufficient emission reductions to demonstrate attainment of standards by 1982.

Photochemical Oxidant Nonattainment Area

The Albuquerque urban area is the only area in New Mexico designated nonattainment for photochemical oxidants (ozone). The designation was based on violations of the previous 0.08 ppm oxidant standard, and the SIP revision is based on attainment of this standard.

The air quality design value is 0.11 ppm, which was recorded in 1976. Based on this value, an emission reduction of 27 percent is required to demonstrate attainment. Since mobile source emissions account for approximately 88 percent of total 1977 emissions, the control strategy is dependent primarily on reducing motor vehicle emissions through the FMVCP and an I/M program. Since Stage I vapor recovery has already been implemented in Albuquerque, no additional benefits from this measure will be realized. Some emission reduction will occur from implementation of a regulation to control the use of cutback asphalt. Implementation of all measures is predicted to result in a reduction of hydrocarbon emissions of 28 percent by 1982. Consequently, the control strategy is considered adequate to demonstrate attainment of standards. EPA is proposing approval of this portion of the plan since a demonstration of attainment of the old photochemical oxidant standard (0.08 ppm) also results in a demonstration of attainment of the new standard (0.12 ppm).

Other Part D Requirements

1. Reasonable Further Progress-Section 172(b)(3) and (b)(11)(C):* The plan generally lacks a discussion of how reasonable further progress (RFP) is to be achieved. In the case of attainment of the CO standard in Bernalillo County, the plan must show that there will be sufficient reductions such that the total CO emissions in 1982 will be at or below the intersection of a straight line projection of emission reductions between the 1977 emissions and the emission level for attainment in 1987. Since a 59 percent reduction is needed by the end of 1987, RFP must show at least a 29 percent reduction by the end of 1982. In addition, total CO emissions after 1982 must remain below the projected RFP curve as constructed by the above method.

For CO in Santa Fe, Farmington, and Las Cruces, the State has indicated that new data either shows attainment or that the Federal Motor Vehicle Control Program (FMVCP) alone will demonstrate attainment of the CO standard. The State has committed to submitting new information for these areas in the near future which should address both the attainment problem and RFP. Final SIP approval in these areas is contingent on receipt of this additional information from the State.

In the case of RFP for San Juan County, Grant County, and Eddy and Lea Counties an alternate approach may be used. Within all three areas, nonattainment is the result of specific stationary source emissions. In EPA's judgment the establishment of compliance schedules defining dates by which certain specific requirements must be met by the individual sources will be sufficient to demonstrate RFP. The State needs to address the compliance schedule requirements for these specific sources.

The plan is being proposed for approval with respect to RFP on the basis that the RFP demonstrations will

* Sections of the Act.

be submitted within 30 days after publication of this notice.

2. Emission Inventories—Section 172(b)(4): Section III of the SIP contains emission data for all nonattainment areas. Emission data, in most cases, are provided only for the specific areas designated nonattainment. All data represent 1977 emission levels. The SIP is considered adequate to satisfy the minimum requirements of Section 172(b)(4) of the Act regarding baseline emission inventories. However, the State has not addressed how they will satisfy the annual emissions reporting requirements.

3. Permit Requirements—Sections 172(b)(6) and 173: As currently submitted, the SIP does not contain the specific requirements of § 173 of the Act for: (a) restrictions for the permitting agencies on issuing permits consistent with reasonable further progress, (b) application of lowest achievable emission rate, and (c) a finding that all sources in the state owned or operated by the applicant are in compliance or on a schedule for compliance.

The State has indicated to EPA that the New Mexico Air Quality Control Act under which the currently approved plan is operating, prohibits the State and local agency from issuing permits in nonattainment areas. The language in the New Mexico Air Quality Control Act is discretionary and although the agencies have not issued any such permits there are no assurances, contained in the SIP, that this policy would continue. Recent amendments to the Act give the permitting agencies authority to meet the requirements of § 173 but the amended statute has not yet been submitted as part of the SIP. An additional submittal from the State addressing the matter should remove this deficiency in the plan. This portion of the plan is presently being proposed for approval with regard to this issue, since EPA expects the new submittal to remove the deficiency before final promulgation of plan approval.

4. Resources—Section 172(b)(7): In Section IX of the SIP it is stated that both the State and local agencies have determined that their present resources are sufficient to carry out most of the program in the 1979 SIP. However, the plan goes on to say that the State does not intend to make any fixed commitments to new positions and that State resources cannot be committed without Federal matching funds. This last statement is in conflict with § 172(b)(7) of the Act and raises questions concerning the adequacy of their resources.

The Middle Rio Grande Council of Governments, which has responsibility for the CO portion of the Bernalillo County SIP, has made the necessary commitments of resources.

5. Social and Economic Analysis—Section 172(b)(9): The socio-economic analyses are provided in Section IB of the SIP. Descriptions of the Air Quality Control Regions (AQCRs), current and projected population statistics, topographical features, and industrial activities are discussed.

6. Summary of Public Comments—The State included a listing of persons making comment and a summary of their comments.

This notice is issued under the authority of Sections 110 and 171 to 178 of the Clean Air Act, as amended (42 U.S.C. §§ 7410, 7501 to 7508).

Dated: June 7, 1979.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 79-24614 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 440]

Medical Assistance Programs; Family Planning Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed Rule.

SUMMARY: This proposed regulation specifies Federal requirements under Medicaid (title XIX of the Social Security Act) for the provision of family planning services. It would implement section 1905(a)(4)(C) of the Act, which provides that family planning services must be furnished to categorically needy recipients under the State plan. This regulation specifies what services must be included under family planning, and indicates the range of services that States may choose to include.

DATES: Consideration will be given to written comments or suggestions received on or before October 9, 1979.

ADDRESSES: Send comments to: Administrator, Health Care Financing Administration, Department of Health Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. When commenting, please refer to MMB-134. Comments will be available for public inspection beginning approximately 2 weeks from today in room 5231 of the Department's offices at 330 C Street, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone 202-245-0950.

FOR FURTHER INFORMTION CONTACT: Margaret O. Schnoor, 202-245-0722.

SUPPLEMENTARY INFORMATION: Section 299E of Public Law 92-603, the Social Security Amendments of 1972, amended Sections 1903(a)(5) and 1905(a)(4) of the Act, making family planning services a mandatory Medicaid service for the categorically needy who desire such services and providing increased Federal funding (90%) for these services. We have already published in the **Federal Register** two Notices of Proposed Rulemaking in our effort to implement this statutory mandate. The first Notice, published on June 13, 1973 (38 FR 15580), defined family planning services for purposes of Medicaid as "any medically approved means, including diagnosis, treatment, drugs, supplies, devices, and related counseling which are furnished or prescribed by or under the supervision of a physician, for individuals of childbearing age (including minors who can be considered to be sexually active) for purposes of enabling such individuals freely to determine the number and spacing of their children." A second Notice of Proposed Rulemaking was published in the **Federal Register** on December 9, 1974 (39 FR 42919). This second notice repeated the earlier definition of family planning services, but also specified that certain services, including sterlization, must be provided and that abortions could not be considered family planning services.

These two notices generated over 3,000 comments, most of them concerning the questions of whether sterilizations and abortions should be Federally funded. The comments on abortion were particularly intense, arguing on the one hand, that abortion is a back-up method of family planning, a necessary alternative to unwanted pregnancy, and that its exclusion would discriminate against the poor, and on the other hand, that abortion is the destruction of innocent, unborn human life and tax dollars should not be used to pay for it. Neither the previous Proposed Rule nor this one deals with the entire subject of federal funding of abortions and sterilizations. Instead, they address the much narrower question of whether these procedures should be considered family planning services and thus be funded at 90%. Because the issues raised by the commenters had to be resolved, we did not publish a final rule in the intervening years since the first NPRM. Recently,

however, we have published detailed final rules on the subjects of sterilizations and abortions and we now believe that, relying in part on these rules, we can consider the narrower question of sterilizations and abortions as family planning services.

1. With regard to sterilization, we published final rules on November 8, 1978 (43 FR 52171). These regulations establish elaborate procedural safeguards to ensure that the accessibility of sterilization does not lead to abuse. They provide that Federal funding is available for sterilizations only if the individual to be sterilized has given informed, written consent in accordance with the specific requirements detailed in the regulations. Except for two specified situations, the consent must be obtained on an approved consent form at least 30 days before the date of sterilization. The individual to be sterilized must be at least 21 years old at the time consent is obtained and must be mentally competent.

In determining whether sterilization was properly included within the term "family planning services," for purposes of this regulation, we were confronted with two opposing policies. On the one hand, we wish to implement the Congressional intent that family planning services be made freely available and the explicit Congressional mandate that family planning services be a mandatory service to categorically needy Medicaid recipients who desire them. According to recently completed studies, sterilization is the second most popular form of family planning overall and the primary method for women over 30. *See* National Center for Health Statistics, Advanced Data, Nos. 36 and 40 (Aug. 18, 1978; Sept. 22, 1978). On the other hand, we are aware that to require states to fund sterilizations creates possibilities for abuse. For example, an individual might agree to undergo a sterilization without adequate information about the consequences of the procedure, because of a lack mental capacity, or out of fear that should he or she refuse, benefits will be terminated.

Because we are confident that the safeguards in our current sterilization regulations (42 CFR 441.250–441.259) will prevent abuse, and because sterilization is a safe, effective method of family planning, we propose to include sterilization as one of the family planning services which a state must provide.

2. With regard to abortion, we published final rules on February 3, 1978, (43 FR 4832). Those rules implemented the Hyde Admendment restrictions on federal funding of abortions. P.L. 95–205, § 101; P.L. 95–480, § 210. They provide that FFP is not available in expenditures for an abortion except under limited circumstances: where the life of the mother would be endangered, where severe and long lasting physical health damage to the mother would result if the pregnancy were carried to term, or where the pregnancy resulted from rape or incest, and the rape or incest is reported promptly to a law enforcement agency or public health service. *See* 42 CFR 441.201 through 42 CFR 441.208. The regulation also prescribed procedural safeguards in connection with Federally funded abortions.

Since those abortions which can now be funded with HEW appropriations will be for reasons other than family planning, we have specifically excluded abortions as a family planning service. Thus, no abortions would be funded at the 90 percent matching rate. We note that, although this final rule states that no abortions will be considered family planning services, we do not believe that drugs or devices to prevent implantation of a fertilized ovum should be considered abortions, and thus, these may be considered family planning services.

3. This proposal is essentially the same as the second NPRM, although it has been rephrased for clarity. It provides that, to enable individuals to freely determine the number and spacing of their children, as a minimum, States must include the following family planning services: consultation (including counseling and patient education), examination, and treatment, furnished by or under the supervision of a physician or prescribed by a physician; laboratory examinatons and tests; medically approved methods, procedures, pharmaceutical supplies and devices to prevent conception; natural family planning methods; diagnosis and treatment for infertility; and procedures for voluntary sterilization.

Family planning consultation by or under the supervision of a physician includes counseling and patient education. These services are critical in the individual's decisionmaking process concerning which method is best suited to him or her as well as the individual's effective use of the method selected. Such counseling must include information on natural family planning methods since they are the only contraceptive methods acceptable to some individuals for personal and health reasons.

Infertility services have been included in the mandatory services because without such services which assist couples who want to have children but cannot, the services are not truly family planning. Infertility services include sterilization reversal.

Beyond the mandatory services, States may choose to provide any medically approved means, other than abortions, for family planning purposes, furnished by or under the supervision of a physician or prescribed by a physician. States are prohibited from considering any abortions as being family planning services.

42 CFR 440.40 is amended by adding a new paragraph (c) to read as follows:

§ 440.40 Skilled nursing facility services for individuals age 21 or older (other than services in an institution for tuberculosis or mental diseases), EPSDT, and family planning services and supplies.

* * * * *

(c) *Family planning services and supplies.* Family planning is the means of enabling individuals of childbearing age, including minors who can be considered to be sexually active, to determine freely the number and spacing of their children. Family planning service and supplies must include at least the following: consultation (including counseling and patient education), examination, and treatment, furnished by or under the supervision of a physician or prescribed by a physician; laboratory examinations and tests; medically approved methods, procedures, pharmaceutical supplies and devices to prevent conception through chemical, mechanical, or other means; natural family planning methods; diagnosis and treatment for infertility; and voluntary sterilization in accordance with the procedures specified in §§ 441.250 through 441.259 of this chapter. In addition, States may choose to include any medically approved means, other than abortions, for family planning purposes, if furnished by or under the supervision of a physician or if prescribed by a physician. No abortions will be considered family planning services.

(Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program)

(Sec. 1102, 1905(a)(4)(c) of the Social Security Act, 42 U.S.C. 1302, 1396d(a)(4)(c)).

Dated: June 1, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: August 2, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24547 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-35-M

NATIONAL SCIENCE FOUNDATION

[45 CFR Part 640]

National Environmental Policy Act Regulations

AGENCY: National Science Foundation (NSF).

ACTION: Proposed regulations.

SUMMARY: These regulations are intended to supplement the regulations of the Council on Environmental Quality at 40 CFR Parts 1500–1508 by establishing responsibilities and other supplemental procedures in conformance to the uniform procedures established by the CEQ. Types of NSF-supported activities that normally do not require an environmental assessment or impact statement are described, as are the types of activities that normally require at least an environmental assessment. These proposed regulations will replace current NSF regulations at 45 CFR Part 640.

DATE: Comments must be received on or before October 9, 1979.

ADDRESS: Comments should be addressed to the Assistant Director for Astronomical, Atmospheric, Earth, Ocean Sciences, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550, Attention: Ms. Adair F. Montgomery.

FOR FURTHER INFORMATION CONTACT: Ms. Adair F. Montgomery at the above address or by telephone at 202/632–7360.

SUPPLEMENTAL INFORMATION: The proposed regulations are generally procedural in nature. As proposed, however, these regulations implement 40 CFR 1507.3(b)(2), which requires that agencies establish criteria for and identify typical classes of actions that may or may not require environmental assessments or environmental impact statements. At proposed 45 CFR 640.3, such classes are described. The proposed regulations provide that most research projects supported by NSF do not require an assessment since the likely environmental impact of the results of the research is highly speculative, and the NSF is prohibited from supporting developmental work, except quite limitedly in science education [NSF Act, Sec. 3(a)4]. The proposed regulations require at least an assessment of those projects, other than curriculum development, that are part of an overall plan to promote commercialization. [See SIPI v. AEC 481 F. 2d 1079 (D.C. Cir. 1973)]. Section 640.3 describes classes of research that involve research methods (as opposed to possible research results) that require at least an environmental assessment.

These proposed regulations do not address the applicability of NEPA to environmental effects in foreign countries or in the global commons. National Science Foundation regulations implementing Executive Order 12114 of January 4, 1979, regarding Environmental Effects Abroad of Major Federal Actions will be issued separately as a supplement to the regulations proposed here.

Draft Regulations for Compliance With CEQ Regulations

It is proposed to revise part 640 of title 40 of the Code of Federal Regulations to read as follows:

PART 640—PURPOSE, POLICY, AND PROCEDURES FOR COMPLIANCE WITH NEPA AND CEQ REGULATIONS

Sec.

640.1 Purpose.
640.2 Committee on Environmental Matters.
640.3 Actions requiring an environmental assessment, and categorical exclusions.
640.4 Responsibilities and procedures for preparation of an environmental assessment.
640.5 Responsibilities and procedures for preparation of an environmental impact statement.

Authority: NEPA; the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.); Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609); Executive Order 11514, "Protection and Enhancement of Environmental Quality" (March 5, 1970, as amended by Executive Order 11991, May 24, 1977); and CEQ regulations at 40 CFR Part 1500–1508.

§ 640.1 Purpose.

The purpose of this regulation is to adopt NSF procedures to supplement regulations at 40 CFR Parts 1500–1508 (hereafter referred to as "CEQ regulations").

§ 640.2 Committee on Environmental Matters.

(a) There is established an NSF Committee on Environmental Matters (hereafter referred to as the Committee) to consist of one representative from each directorate, the Office of General Counsel, the Office of Government and Public Programs, and the Office of Planning and Resources Management. The Assistant Director for Astronomical, Atmospheric, Earth, and Ocean Sciences, or his or her designee, shall serve as Chairman. At the discretion of the Chairman and with the concurrence of the Committee, additional members may be appointed.

(b) All incoming correspondence from CEQ and other agencies concerning matters related to NEPA, including draft and final environmental impact statements, shall be brought to the attention of the Chairman. The Chairman will prepare or, at his or her discretion, coordinate replies to such correspondence.

(c) The Committee shall meet regularly to discuss NSF policies and practices regarding NEPA, and make recommendations on the need for or adequacy of environmental impact assessments or statements.

(d) With respect to actions of NSF, the Committee will:

(1) Maintain a list of actions for which environmental impact statements are being prepared.

(2) Revise this list at regular intervals, based on input from the directorates and send revisions to CEQ.

(3) Make the list available for public inspection on request.

(4) Maintain a list of environmental impact assessments.

(5) Maintain a file of draft and final environmental impact statements.

(e) The Committee and/or the Chairman will perform such additional functions as are set forth elsewhere in this Part and in other NSF issuances.

§ 640.3 Actions requiring an environmental assessment and categorical exclusions.

(a) The types of actions to be classified as "major Federal actions" subject to NEPA procedures are discussed generally in the CEQ regulations. Paragraph (b) of this section describes various classes of NSF actions that normally require the preparation of an environmental assessment or an EIS, and those classes that are categorically excluded. The word "normally" is stressed; there may be individual cases in that specific factors require contrary action. NSF directorates and offices should be on the alert for situations in which an environmental assessment or an EIS should be prepared even if not normally required by paragraph (b).

(b) Most NSF grants support individual scientific research projects and are not "major Federal actions significantly affecting the quality of the

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human environment" except in the sense that the long term effect of the accumulation of human knowledge is likely to affect the quality of the human environment. However, such long term effects are basically speculative and unknowable in advance; thus they normally do not provide a sufficient basis for classifying research as subject to NEPA (See 40 CFR 1508.8) and are categorically excluded from an environmental assessment.

Nevertheless, in some cases the actual procedures used in carrying out the research may have potential environmental effects, particularly where the project requires construction of facilities or major disturbance of the local environment brought about by blasting, drilling, excavating, or other means. Accordingly, except as provided in paragraph (c) of this section, the following types of activities require at least an environmental assessment:

(1) Cases where developmental efforts are supported, if the project supports the transition of a particular technology from the development stage to large-scale commercial utilization.

(2) Any project supporting construction, other than interior remodelling.

(3) Cases where field work affecting the natural environment will be conducted.

(4) Any project that will involve drilling of the earth, excavation, explosives, weather modification, or other techniques that may alter a local environment.

(5) Any project that provides for the testing and release of biological-control agents for purposes of ecosystem manipulation and assessment of short- and long-term effects of major ecosystem perturbation.

(c) Directorates having divisions or programs with a substantial number of projects that fall within categories (3) and (4) in (b) above, are authorized to issue supplemental guidelines to Division Directors and Program Officers establishing subcategories of research methodologies or techniques for which environmental assessments need not be prepared. For example, if a program regularly supports research that involves noninvasive techniques or nonharmful invasive techniques (such as taking water or soil samples, or collecting non-protected species of flora and fauna) the directorate may determine that field projects otherwise coming under (b)(3) which involve only the use of such techniques do not require an environmental assessment. However, any such supplemental guidelines must be submitted to the Chairman for approval after consideration by the Committee.

(d) In some cases within the categories listed in paragraph (b), it will be evident at the outset or after the assessment process is begun that an EIS should be prepared. In such cases an assessment need not be completed, but the process of preparing an EIS (See § 640.5, below) should be started.

§ 640.4 Responsibilities and procedures for preparation of an environmental assessment.

(a) Program Officers, as the first point of decision in the review process, shall determine into which category incoming proposals fall, according to the criteria set forth in Section 640.3 of this Part. Notwithstanding this responsibility of the Program Officer, the appropriate Division Director, Assistant Director, and other reviewing policy officials must assure that adequate analysis is being made.

(b) Where appropriate, programs, divisions, or directorates will advise prospective applicants in program announcements, requests for proposals, and other NSF-prepared brochures of the requirement to furnish information regarding any environmental impact that the applicant's proposed study may have.

(c) Should an environmental assessment be required, the directorate supporting the activity shall be responsible for its preparation. Though no specific format for an environmental assessment is prescribed, it shall be a separate document suitable for public review and shall serve the purpose described in 40 CFR 1508.9, which is quoted in full as follows:

§ 1508.9 Environmental Assessment.

"Environmental Assessment":

(a) Means a concise public document for which a Federal Agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by Section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

(d) A copy of the assessment or drafts shall accompnay the appropriate proposal throughout the NSF internal review and approval process. At the option of the directorate preparing the assessment, a draft may be submitted to the Committee for its review and comments. Prior to an award decision, one copy of all completed assessments shall be sent to the Chairman for review and updating of the Committee listing of assessments.

§ 640.5 Responsibilities and procedures for Preparation of an environmental impact statement.

(a) If initially or after an environmental assessment has been completed, it is determined that an environmental impact statement should be prepared, it and other related documentation will be prepared by the directorate responsible for the action in accordance with Section 102(2)(c) of the Act, this Part, and the CEQ regulations. However, once a document is prepared it shall be submitted to the Chairman who, after such review by the Committee as is deemed necessary by the Chairman shall transmit the document as required by CEQ regulations and this Part. If the Chairman considers a document unsatisfactory, he or she shall return it to the responsible directorate for revision prior to an award decision.

Specifically, the following steps, as discussed in the CEQ regulations, will be followed in preparing an EIS:

(1) A notice of intent to prepare a draft EIS will be published as described in 40 CFR 1501.7.

(2) Scoping, as described in 40 CFR 1501.7, will be conducted.

(3) The format and contents of the draft and final EIS shall be as discussed in 40 CFR Part 1502.

(4) Comments on the draft EIS shall be invited as set forth in 40 CFR 1503.1. The minimum period to be afforded for comments on a draft EIS shall be 45 days, unless a lesser period is necessary to comply with other specific statutory requirements or in case of emergency circumstances, as described in 40 CFR 1506.11.

(5) The requirements of 40 CFR 1506.9 for filing of documents with the Environmental Protection Agency shall be followed.

(6) The responsible directorate shall examine carefully the basis on which supportive studies have been conducted to assure that such studies are objective and comprehensive in scope and in depth.

(7) The Act requires that the decisionmaking involved "utilize a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental design arts." If such disciplines are not present on the NSF staff, appropriate use should be made of personnel of Federal, State, and local agencies, universities, non-profit organizations, or private industry.

(8) A copy of the draft EIS or the final EIS (or a summary, if the size of the EIS does not make this practical) shall be included in and accompany the appropriate proposal throughout the NSF internal review and approval process.

(b)(1) 40 CFR 1506.1 describes the types of actions that should not be taken during the NEPA process. Such actions shall be avoided by NSF personnel during the process of preparation of an EIS and for a period of thirty days after the final EIS is filed with EPA, unless such actions are necessary to comply with other specific statutory requirements.

(2) 40 CFR 1506.10 also places certain limitations on the timing of agency decisions on taking "major Federal actions". In some cases the actual "decision point" may be more clearcut than others. If the "action" that necessitated the preparation of an EIS is one that would be carried out under grant, contract, or cooperative agreement, then the award shall not be made before the times set forth in 40 CFR 1506.10, unless such action is necessary to comply with other specific statutory requirements, or as exceptions are needed as provided in 40 CFR 1506.10, 1506.11, or 1507.3. However, an award for preliminary planning proposals may be made before such times if it is so structured as to require further NSF approvals for funding the actual actions that might adversely affect the quality of the human environment. In such cases, the subsequent approvals for funding these actions will be considered the "decision". This is consistent with the requirement that environmental considerations undergo concurrent review with all other project planning considerations.

(c) In appropriate cases, if the action involves other agencies, the Chairman may agree to designate another agency as "lead agency" and to cooperate as discussed in 40 CFR 1501.5 and 1501.6. In such cases, the Chairman has authority to alter the procedures described in (a) to the extent they are inconsistent with functions assigned to NSF under the "cooperating agency" arrangements.

Dated: August 2, 1979.

Richard C. Atkinson,

Director.

[FR Doc. 79-24524 Filed 8-8-79; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 216]

Scoping-Planning Meeting for the Development of Regulations for the Taking of Marine Mammals Incidental to Commercial Fishing Operations for 1981 and Beyond

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Announcement of public scoping meeting.

SUMMARY: Notice is hereby given that the National Marine Fisheries Service has determined that preparation of a draft environmental impact statement is necessary on regulations for the taking of marine mammals incidental to commercial fishing operations for 1981 and beyond. The National Marine Fisheries Service will hold two informal public meetings to scope and plan the range of issues, alternatives, and impacts that should be considered in a draft environmental impact statement.

DATES: NOAA has scheduled public meetings at 10:00 a.m., August 29, 1979, in San Diego, Calif., and Washington, D.C.

ADDRESSES: The public meetings will be held at the following locations: Federal Building, Room 6S19, 800 Front St., San Diego, California: National Marine Fisheries Service Headquarters, Penthouse, 2001 Wisconsin Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: J. Gary Smith, Chief, Fisheries Management Division, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, (213) 548-2518; or Richard B. Roe, Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, NOAA, Department of Commerce, Washington, D.C. 20235, (202) 634-7461.

SUPPLEMENTARY INFORMATION: The existing regulations, quotas and permits governing the taking of marine mammals (porpoises) incidental to commercial fishing operations in the eastern tropical Pacific Ocean will remain in effect through December 31, 1980. Because the required rulemaking process is lengthy and complex, it is imperative to begin that process immediately so that regulations will be in place for the 1981 fishing season. The informal public meetings are designed to solicit public participation in planning the rulemaking process and scoping the range of issues, alternatives, and impacts that should be considered in a draft environmental impact statement. A tentative timetable for the rulemaking process will be presented at the meeting.

for purposes of the informal scoping-planning meetings the proposed action is to begin preparation of a draft environmental impact statement on regulations for the taking of marine mammals incidental to commercial fishing operations for 1981 and beyond, and to review regulations governing the importation of tuna. The following alternatives have been identified:

1. Extend 1980 regulations and quotas;

2. Promulgate revised regulations and quota(s) for one or more years; and

3. Promulgate 1980 regulations and new quota(s) for one or more years.

(Title 1 of the Marine Mammal Protection Act of 1972, 86 Stat. 1027; 16 U.S.C. 1361-1407; Pub. L. 92-522)

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Dated: August 6, 1979.

[FR Doc. 79-24495 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

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[50 CFR Part 611]

Groundfish of the Gulf of Alaska, Fishery Management Plan Amendment; Proposed Implementing Regulations

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of approval of fishery management plan amendment; proposed regulations.

SUMMARY: An amendment (amendment number 6) to the fishery management plan (FMP) for the Gulf of Alaska Groundfish fishery, submitted by the North Pacific Fishery Management Council, is approved. This amendment lowers the estimates of domestic annual harvest (DAH) and commensurately increases the total allowable level of foreign fishing (TALFF). Revised regulations to implement the amendment are proposed.

DATE: Comments are invited until September 22, 1979.

ADDRESS: Comments should be addressed to: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Telephone: (907) 586–7221.

SUPPLEMENTARY INFORMATION: At its June 28–29 meeting, the North Pacific Fishery Management Council (Council) submitted amendment 6 to the FMP for the Gulf of Alaska Groundfish fishery. The amendment lowers the estimates of DAH and commensurately increases the TALFF by 27,700 m.t. for all species of groundfish combined. (For specifications by species, see revised Table 61 of the FMP.) The Assistant Administrator for Fisheries approved the amendment on July 26, 1979.

The lowering of DAH, by species and individual regulatory areas in the Gulf of Alaska, is based upon data gathered by the National Marine Fisheries Service and reviewed by the Council on (1) total domestic harvest thorough April 1979, and (2) processors' intentions to process during the remainder of the fishing year. The purpose of the amendment is to make available for foreign fishing, fish which will not be harvested by domestic vessels.

For clarity, the proposed revised TALFFs and DAHs are specified for each of the three regulatory areas which have been approved as amendment 4 to the FMP and for which proposed regulations have been published (see 44 FR 40099, July 9, 1979). The revised tables in the proposed implementing regulations also incorporate: (1) Amendment 5 to the FMP which has been approved by the Secretary and published for public comment (see 44 FR 42738, July 20, 1979); and (2) the July 2, 1979 release of reserves to TALFF (see 44 FR 44853, July 31, 1979.) A final reserve release is also anticipated on approximately August 15, 1979. The amounts of fish made available to TALFF as a result of this release will also be incorporated in the final regulations implementing this amendment 6.

If either amendment 4 or 5 is modified as a result of public comments, the final regulations implementing this amendment 6 will be revised appropriately.

The Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has determined that this amendment to the FMP (1) is necessary and appropriate to the conservation and management of Gulf of Alaska Groundfish resources; (2) is consistent with the National Standards and other provisions of the Act; (3) does not constitute a major Federal action requiring the preparation of an environmental impact statement; and (4) does not constitute a significant action requiring the preparation of a regulatory analysis under Executive Order 12044.

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The FMP for Gulf of Alaska Groundfish as published on April 21, 1978 (43 FR 17242) is amended as follows:

Page	Section	Place	Change
17313	5.2.2.1	Line 11	Change "is" to "was".
17313	5.2.2.2	Table 61	Before Table 61, add new paragraph as follows: "The DAH was reviewed in April, 1979. Questionnaires were sent to 40 processors who were asked to respond concerning their performance to date and projections for the remainder of the fishing year. Thirty-three responses were received and a revised DAH was determined. Revisions are shown in Table 61.
17313	5.2.2.2	Table 61	Change Table 61 to add an additional column as follows:

Table 61.—*Expected Domestic Annual Harvest (DAH) of Groundfish From the Gulf of Alaska in Metric Tons*

Species	Initial estimate	Revision
Pollock	14,200	6,100
Cod	15,500	4,000
Flounders	7,200	1,300
Pacific Ocean perch	1,100	400
Other rockfishes	2,000	700
Sablefish	4,000	4,000
Atka mackerel	0	0
Squid	0	0
Other species	500	300
Total	44,500	16,800

Page	Section	Place	Change
17313	5.2.2.2	Table 61	Following Table 61 add Table 61A as follows:

Table 61A.—*Revised DAH By Species By Area (Metric Tons)*

Species	Area			
	Western	Central	Eastern	Total
Pollock	25	5,380	695	6,100
Cod	240	3,480	280	4,000
Flounder	100	300	900	1,300
Pacific Ocean perch	25	295	80	400
Rockfish	45	200	455	700
Sablefish	100	100	3,800	4,000
Others	100	100	100	300
Total	635	9,855	6,310	16,800

Page	Section	Place	Change
17315	7.0	Table 62	Change Table 62 to read as follows:

Gulf of Alaska Groundfish TALFF

[1,000's mt]

Species	OY	Reserve	DAH	TALFF[1]
Pollock	168.8	133.8	6.1	28.9
Cod	34.8	16.0	4.0	20.8
Flounders	39.5	9.7	1.3	22.5
Pacific Ocean perch	25.0	7.9	0.4	16.6
Rockfish	7.6	3.5	0.7	3.4
Sablefish	13.0	4.1	4.0	4.9
Atka mackerel	26.8	5.9	0	20.9
Squid	5.0	1.5	0	3.5
Rattail	13.2	0	1.3	11.868
Other	16.2	4.7	0.3	11.2
Total	343.9	181.1	18.1	144.6

[1] Initial TALFF; may be increased as reserve is apportioned during the fishing year

Page	Section	Place	Change
17316	7.0	Table 64	Change figures in Table 64 to read as follows:

Table 64.—*OY[1]/Reserve[2]/DAH/TALFF[3] Schedule, by Area (1,000's mt)*

Species		Western	Central	Eastern	Total
Pollock	OY	57.0	95.2	16.6	168.8
	Reserve	45.2	75.5	13.1	133.8
	DAH	.025	5.38	.695	6.1
	TALFF	11.775	14.32	2.805	28.9
Cod	OY	9.8	19.4	5.6	34.8
	Reserve	2.73	5.57	1.7	10.0
	DAH	.24	3.48	.28	4.0
	TALFF	6.63	10.35	3.82	20.8
Flounders	OY	10.4	14.7	8.4	33.5
	Reserve	3.0	4.3	2.4	9.7
	DAH	.1	.3	.9	1.3
	TALFF	7.3	10.1	5.1	22.5
Pacific Ocean perch	OY	2.7	7.9	14.4	25.0
	Reserve	.9	2.5	4.5	7.9
	DAH	.025	.295	.08	.4
	TALFF	1.775	5.105	9.82	16.7
Other rockfish	OY	.3	.8	6.5	7.6
	Reserve	.1	.4	3.0	3.5
	DAH	.045	.2	.455	.7
	TALFF	.155	.2	3.045	3.4
Sablefish	OY	2.1	3.8	7.1	13.0
	Reserve	.7	1.5	1.9	4.1
	DAH	.1	.1	3.8	4.0
	TALFF	1.3	2.2	1.4	4.9
Rattail	OY	3.3	7.1	2.8	13.2
	Reserve	0	0	0	0
	DAH	.033	.033	1.266	1.332
	TALFF	3.267	7.067	1.534	11.868
Atka mackerel	OY	4.4	19.4	3.0	26.8
	Reserve	1.0	4.3	.6	5.9
	DAH	0	0	0	0
	TALFF	3.4	15.1	1.4	20.9
Squid	OY	1.0	2.0	2.0	5.0
	Reserve	.3	.6	.6	1.5
	DAH	0	0	0	0
	TALFF	.7	1.4	1.4	3.5
Other species	OY	4.4	8.5	3.2	16.2
Reserve		1.3	2.5	.9	4.7
	DAH	.1	.1	.1	.3
	TALFF	3.0	6.0	2.2	11.2

[1] Based on percentages shown in Table 63.
[2] Initial TALFF may be larger as reserve is apportioned during year.
[3] Includes additional reserve for possible use in joint ventures.

Signed at Washington, D.C. this 6th day of August, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

It is proposed to amend 50 CFR 611 as follows:

1. Section 611.20(c), Table I, change the TALFFs for species in the Gulf of Alaska Groundfish fishery to the following:

§ 611.20 Total allowable level of foreign fishing.

* * * * * * * * *

(c) * * *

Fishery	Species	Species code	TALFF (metric tons)
Gulf of Alaska groundfish	Cod, Pacific	702	[4][5]28,112
Do	Flounders, including yellowfin sole	129	[4][5]31,950
Do	Mackerel, Atka	207	[4][5]25,640
Do	Perch, Pacific Ocean (POP)	780	[4][5]22,275
Do	Pollock	701	[4][5]144,650
Do	Rockfishes, other than POP	849	[4][5]6,575
Do	Rattails	315	[4]11,868
Do	Sablefish	703	[4][5]7,100
Do	Squid	509	[4][5]4,465
Do	Other species	499	[4][5]15,570

2. Section 611.92(b)(1), remove Table I and replace it with the following Table I:

§ 611.92 Gulf of Alaska trawl fishery.

* * * * * * * * *

(b) * * *
(1) * * *

Table I.—*Gulf of Alaska Groundfish Fishery: TALFF and Reserve[1] by Species and Regulatory Area for 1978/1979*

[Metric Tons]

Species		Regulatory areas[2] Western	Central	Eastern	Total
Pollock	TALFF	56,925	72,820	14,905	144,650
	Reserve	50	17,000	1,000	18,050
Pacific Cod	TALFF	7,996	14,746	5,370	28,112
	Reserve	1,364	1,174	150	2,688
Flounders	TALFF	10,250	14,300	7,400	31,950
	Reserve	50	100	100	250
Pacific Ocean perch (POP)	TALFF	2,225	6,355	13,695	22,275
Reserve		450	1,250	625	2,325
Other rockfishes[3]	TALFF	230	500	5,845	6,575
	Reserve	25	100	200	325
Sablefish	TALFF	1,815	2,795	2,490	7,100
	Reserve	185	905	810	1,900
Atka Mackerel	TALFF	4,350	16,700	2,590	25,640
	Reserve	50	700	410	1,160
Squid	TALFF	895	1,780	1,790	4,465
	Reserve	105	220	210	535
Rattails	TALFF	3,267	7,067	1,534	11,868
	Reserve	0	0	0	0
Other species[4]	TALFF	4,200	8,300	3,070	15,570
	Reserve	100	200	30	330

[1] The TALFF's specified in this table may be modified during the year if reserves are apportioned to TALFF.
[2] See Figure 1 of this § 611.92(b) for description of regulatory areas.
[3] The category "other rockfishes" includes all rockfishes other than Pacific Ocean perch.
[4] The category "other species" includes all species of fish except: (A) The other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources.

[FR Doc. 79-24486 Filed 8-8-79; 8:45 am]
BILLING CODE 3510-23-M

Notices

Federal Register

Vol. 44, No. 155

Thursday, August 9, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Finding of No Significant Impact, Vegetation Management Along Thompson Creek Road; Rogue River National Forest

An Environmental Assessment that discusses proposed road side vegetation management by the Josephine County Road Department for the U.S. Forest Service portion of the Thompson Creek Road #3900 in Sections 1 & 12, T.40S., R. 5W., W.M., in Josephine County, Oregon for not more than 7.7 acres along a 1½ mile section of the road, is available for public review at the Star Ranger Station, 6941 Upper Applegate Road, Jacksonville, Oregon 97530.

The Environmental Assessment does not indicate that there is a major federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) that the treatment of 1.2 acres of basal stump treatment with 2,4–D and 2,4–DP herbicide with follow-up treatments of Krenite and the treatment of 1.7 acres of road shoulder for soil sterilization with Simazine and Bromacil, with a possible later follow-up with Roundup and/or Dalapon, with an additional 4.8 acres of hand brush cutting and mechanical chipping on a yearly maintenance basis, as needed, over the next five years will have only a slight effect on the ecosystem adjacent to the road within the project area; (b) there are no irreversible resource commitments; (c) there are no apparent adverse cumulative or secondary effects; (d) the physical and biological effects are limited to the area of planned development and use; and (e) there are no known threatened or endangered plants or animal resources that will be adversely affected within the project area.

No public concern has been expressed about possible effects of the project.

No action will be taken prior to September 10, 1979.

The responsible official is Donald H. Smith, Forest Supervisor, Rogue River National Forest, P.O. Box 520, Medford, OR 97501.

Dated: July 16, 1979.

Donald H. Smith,

Forest Supervisor.

[FR Doc. 79–24497 Filed 8–8–79; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Upper Bay River Watershed, N.C.; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Upper Bay River Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Upper Bay River Watershed, Pamlico County, North Carolina.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 552, Federal Office Building, Raleigh, North Carolina 27611, telephone number 919–755–4165. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 9, 1979.

Dated: August 2, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

[FR Doc. 79–24499 Filed 8–8–79; 8:45 am]

BILLING CODE 3410–16–M

Upper Chester River Watershed Project, Maryland-Delaware; Intent to Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Upper Chester River Watershed project, Kent and New Castle Counties, Delaware; Kent and Queen Annes Counties, Maryland.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local impacts on the environment. As a result of these findings, Mr. Gerald R. Calhoun, State Conservationist, Maryland, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection, flood damage reduction, and adequate agricultural drainage. The planned works of improvement include approximately 100 miles of channel modification.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740, telephone number (301) 344–4180.

Dated: August 2, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Joseph W. Haas,

Assistant Administrotor for Water Resources, Soil Conservation Service.

[FR Doc. 79–24498 Filed 8–8–79; 8:45 am]

BILLING CODE 3410–16–M

Science and Education Administration

Animal Health Science Research Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92–463, the Science and Education Administration announces the following meeting:

Name: Animal Health Science Research Advisory Board.
Date: September 13–14, 1979.
Time: 10:00 a.m.
Place: Room 3109, South Building, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C. 20250.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: The Board will consult with and advise the Secretary of Agriculture on implementing animal health and disease research programs. Recommendations will be made also on priorities of research in these programs.
Board Names and Agenda: Available from contact person below.
Contact Person: Dr. Anson R. Bertrand, Director of Science and Education, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–5923.

Done at Washington, D.C., this 3rd day of August 1979.

Anson R. Bertrand,

Director, Science and Education.

[FR Doc. 79–24587 Filed 8–8–79; 8:45 am]

BILLING CODE 3410–22–M

COMMISSION ON CIVIL RIGHTS

Hawaii Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provision of the rules and regulations of the U.S. Commission on Civil Rights, that a planning and briefing session of the Hawaii Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 9:00 pm, on August 26, 1979, at the Ala Moana Hotel, Board Room, 410 Atkinson Drive, Honolulu, Hawaii 96806.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for a briefing session in preparation for August 27, consultation on equal opportunities for Native Hawaiians.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 6, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79–24514 Filed 8–8–79; 8:45 am]

BILLING CODE 6335–01–M

Hawaii Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a Native Hawaiian Conference of the Hawaii Advisory Committee (SAC) of the Commission will convene at 8:00 a.m. and will end at 5:00 p.m., on August 27, 1979, at the Prince Kuhio Federal Building, Room C–270, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for a one-day consultation on equal opportunities for Native Hawaiians.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 6, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79–24515 filed 8–8–79; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 10(a)(2) (1976), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, August 28, 1979, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, October 21, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Nomination and election of new chairman.

(4) Committee program planning for 1979–80.

(5) Presentation by Alan Minthorne on Automatic Test Equipment (ATE).

Executive Session

(6) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

With respect to agenda item (6), the Assistant Secretary for Administration with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings

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and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the **Federal Register** on December 27, 1978 (43 FR 60328).

Copies of the minutes of the open portions of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202–377–2583.

For further information, contact Mrs. Cornejo, either in writing or by phone at the address or number shown above.

Dated: August 6, 1979.

Kent N. Knowles,

Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-24600 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council's Atlantic Mackerel Resources Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established an Atlantic Mackerel Resources Subpanel which will meet to discuss Amendment 1 to the Mackerel Fishery Management Plan.

DATES: The meeting will convene on Monday, August 27, 1979, at 10 a.m., and will adjourn at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 6, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24598 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council's Surf Clam/Ocean Quahog Resources Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established a Surf Clam/Ocean Quahog Resources Subpanel which will meet to discuss the Surf Clam/Ocean Quahog Fishery Management Plan and regulations.

DATES: The meeting will convene on Friday, August 31, 1979, at 10:00 a.m., and will adjourn at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Sheraton, Route 13, Dover, Delaware.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 6, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24599 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established the Scientific and Statistical Committee which will meet to discuss work plans for future species, election of a vice-chairman and other fishery management matters.

DATES: The meeting will convene on Monday, September 10, 1979, at 10 a.m., and will adjourn at approximately 3 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Motel, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 6, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24596 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Squid Fishery Resources/Butterfish Subpanels; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established Squid Fishery Resources/Butterfish Subpanels which will meet to discuss the first amendments to the Squid Fishery Management Plan and the Butterfish Fishery Management Plan.

DATES: The meeting will convene on Wednesday, August 29, 1979, at 10 a.m., and will adjourn at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 6, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24597 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council, Scientific and Statistical Committee, and Advisory Panel; Amended Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established a Scientific and Statistical Committee (SSC) which will meet on August 21 & 22, 1979.

DATES: The SSC meeting will convene on Tuesday, August 21, 1979, at 10 a.m.; Wednesday, August 22, 1979, at 10 a.m.; adjourning both days at 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in the Council Conference Room, 333 West Fourth Avenue, Post Office Mall Building, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, Post Office Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: August 6, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24593 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Electromagnetic Radiation Management Advisory Council; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, notice is hereby given that the Electromagnetic Radiation Management Advisory Council will meet from 9:00 a.m. to 5:00 p.m. on September 5 and from 9:00 a.m. to 5:00 p.m. on September 6 in Room 540, 1800 G Street, N.W., Washington, D.C.

The Council advises the Secretary of Commerce on the biological effects of radiowaves and other forms of electromagnetic radiation. It was originally established in 1968 in the Executive Office of the President. The Council reports to the Secretary through NTIA's administrator, the Assistant Secretary for Communications and Information.

Principal agenda items will include a review of the NTIA Task Force Second Draft, *Preliminary Research Plan on Biological Effects of Nonionizing Electromagnetic Radiation* and discussion of the status and plans for the ERMAC's next Program Recommendation Report. There will also be a brief discussion of future ERMAC activities. The second day will consist primarily of a working session to draft comments on the Task Force Report.

The meeting will be open to the public. Oral questions and comments will be allowed, time permitting. Written questions and comments may be submitted before or after the meeting. Public seating will be available on a first-come, first-served basis. Copies of the minutes will be provided upon request when available.

Inquiries may be addressed to the Committee Control Officer, Mr. Robert Frazier, NTIA, 1800 G Street, N.W., Washington, D.C. 20504, telephone (202) 377–1850.

Dated: August 3, 1979.

Cloyd C. Dodson,

Committee Liaison Officer, National Telecommunications and Information Administration.

[FR Doc. 79-24517 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-60-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in Officials of the Government of Hong Kong Authorized To Endorse Export Visas for Certain Apparel Products from Hong Kong

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing a new list of officials of the Government of Hong Kong who are authorized to endorse export visas for cotton, wool and man-made fiber apparel from Hong Kong.

SUMMARY: The Government of Hong Kong has notified the Government of the United States that 14 officials are currently authorized to endorse export visas for apparel products exported from Hong Kong to the United States. Six officials previously designated are no longer so authorized. A complete list of authorized officials accompanies this notice.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On May 9, 1979 a letter dated May 3, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (44 FR 27232), which announced the use by the Hong Kong Government of a new endorsement stamp showing both quantity and textile category on export visas accompanying certain cotton, wool and man-made fiber apparel products, produced or manufactured in Hong Kong and exported to the United States, effective on June 1, 1979. It further specified that the visas must be endorsed by officials authorized by the Government of Hong Kong. The Government of Hong Kong has requested that 14 officials be recognized as authorized to endorse export visas for certain apparel products exported from Hong Kong to the United States. The list that follows this notice includes the names of all Hong Kong officials currently authorized to issue such endorsements.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Hong Kong Government Officials Currently Authorized To Endorse Export Visas for Apparel Products Exported to the United States

Chin Lai-ming
Fung Chan Yan-mui
Ho Siu-lan
Hon Leung Mi-kin
Lau Ho Wan-chee, Norah
Law Shuk-ngor, Anita
Law Yin-hing
Sin Fung-pik
So Chan Kit-ping, Alice
To Dao-wah
Tsang Miu-wah
Wong Yau Suk-fun
Yu Mak Kin-yee
Yuen Chung-lai

[FR Doc. 79-24782 Filed 8-8-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board, Aeronautical Systems Division; Meeting

July 30, 1979.

The USAF Scientific Advisory Board Division Advisory Group, Aeronautical Systems Division, will hold meetings on August 27, 1979 from 8:30 a.m. to 5:00 p.m. and August 28, 1979 from 8:30 a.m. to 5:00 p.m. at Wright-Patterson Air Force Base, Ohio, in Room 222, Building 14, Area B.

The Group will receive classified briefings and hold classified discussions on selected programs and projects relating to the missions of the Aeronautical Systems Division and the Air Force Wright Aeronautical Laboratories.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–24500 Filed 8–8–79; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board Electronic Systems Division Advisory Group; Meeting

August 1, 1979.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group will hold meetings on October 4, 1979 from 8:30 a.m. to 5:00 p.m. and October 5, 1979 from 8:30 a.m. to 12:00 p.m. at Hanscom Air Force Base, Massachusetts in the Command Management Center, Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control, and Communications Programs.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–24501 Filed 8–8–79; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers

Intent To Prepare a Revised Draft Environmental Impact Statement (RDEIS) For An Aquatic Plant Control Program in South Carolina

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Revised Draft Environmental Impact Statement (RDEIS).

SUMMARY:

1. Description of proposed action:

The proposed program provides for a comprehensive plan to control aquatic plants within the state waters of South Carolina in the interest of navigation, flood control, agriculture, fish and wildlife, public health, and other related purposes. Target species include alligatorweed *(Alternanthera philoxeroides)*, Brazilian elodea *(Egeria densa)*, and water primrose *(Ludwigia uruguayensis)*. Control may be directed at other species if any should significantly interfere with the use of public waters. Alligatorweed would be controlled by an integrated program involving insects and herbicides. Brazilean elodea and water primrose would be controlled by herbicides alone.

2. Description of alternatives:

a. *Biological Control:* The absence of natural enemies is one of the reasons for the abundance and rapid spread of exotic plants in South Carolina. Biological control of aquatic plants is an environmentally attractive alternative. Various types of organisms are being sought and tested for use in control work. Attempts have been made to control exotic plants by seeking out and importing their enemies from the native area of the plants. Organisms considered and used thus far are insects, plant pathogens and fish.

b. *Chemical Control:* The primary method of aquatic weed control is chemical control by the use of herbicides. Many alternative types of aquatic herbicides have been used and tested with varying degrees of success. However, the herbicide 2,4-D is considered the safest and least expensive chemical for control of alligatorweed and water primrose. Herbicides proposed for use on elodea include Diquat and Fenac if field tests on the latter herbicide are favorable.

c. *Mechanical Control:* High cost and the unsuitability of mechanical harvesters for use where trees, stumps and logs abound practically preclude the use of mechanical control in most areas. At present, mechanical control is used only where chemical control cannot be used and is not considered a suitable alternative.

d. *No Action:* The last alternative considered for the program is the no-action alternative. Adoption of this alternative would permit aquatic plant growths to continue to interfere with the use of public waters. Excessive aquatic plant growth would interfere with navigation, increase flooding, endanger public health, and interfere with native fish and wildlife resources.

3. a. *Public and Private Participation in the RDEIS Process:* Full participation by interested Federal, state and local agencies as well as other interested private organizations and parties will be invited. Coordination as needed will be accomplished with aforementioned agencies and parties during the preparation of the RDEIS.

b. *Significant Issues to be Discussed in the RDEIS Include:*

(1) Project Description

(2) Environmental Setting Without the Project

(3) Relationship of the Proposed Action to Land Use Plans

(4) Adverse Environmental Effects Which Cannot be Avoided Should the Proposed Project be Implemented

(5) alternatives to the Proposed Action

(6) Any Irreversible and Irretrievable Commitments of Resources which would be Involved in the Proposed Action should it be Implemented.

(7) Coordination and Comment and Response

c. *Environmental Review:* Environmental review of the RDEIS and EIS as well as consultations will be made with the U.S. Fish and Wildlife Service, Environmental Protection Agency, National Marine Fisheries Service, South Carolina Coastal Council, South Carolina Department of Health and Environmental Control, and South Carolina Wildlife and Marine Resources Department.

4. A scoping meeting will not be held as a result of near completion of the RDEIS.

5. The Revised Draft Environmental Impact Statement *"An Aquatic Plant Control Program in South Carolina"* will be made available to the public about September 1, 1979.

6. Questions about the proposed action and RDEIS can be answered by: John Carothers, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, Charleston District, Box 919, Charleston, South Carolina 29402.

Dated: August 1, 1979.

William W. Brown,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 79–24502 Filed 8–8–79; 8:45 am]

BILLING CODE 3710–CH–M

Department of the Navy

Amendments to Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Notice of amendments to systems of records.

SUMMARY: The Department of the Navy proposes to amend 5 existing systems of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below, followed by the systems published in their entirety, as amended.

DATES: These systems shall be amended as proposed without further notice September 10, 1979, unless comments are received on or before September 10, 1979, which would result in a contrary determination.

ADDRESS: Send comments to the systems manager identified in the particular record system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B1P), Department of the Navy, The Pentagon, Washington, D.C. 20350, telephone 202–694–2004.

SUPPLEMENTARY INFORMATION: The Navy systems of records notices are prescribed by the Privacy Act of 1974, 5 U.S.C. 552a (Public Law 93–579) have been published in the Federal Register as follows:

FR DOC 77–28255 (42 FR 51229) September 28, 1977.
FR DOC 78–23953 (43 FR 42379 and 42497) September 20, 1978.
FR DOC 78–32596 (43 FR 54124) November 20, 1978.
FR DOC 79–20457 (44 FR 38961) July 3, 1979.

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552(o) of the Act which require the submission of a new or altered system report. Specific changes to the systems being amended are set forth below. Followed by the systems published in their entirety as amended.

August 6, 1979.

H. E. Lofdahl,

Director Correspondence and Directives Washington Headquarters Services Department of Defense.

N00018–03

System name

Medical Treatment Record System (42 FR 51252) 28 Sep 77.

Changes

System name

Delete entire entry and substitute: "Health Care Treatment Record System."

System location

Delete entire entry and substitute: "Service Medical (Health and Dental) Records for active duty and Reserve, Navy and Marine Corps Personnel. Retained at the individual's duty station or reserve unit. (Mailing addresses are listed in the Navy directory in the appendix in the Component System Notice), Bureau of Naval Personnel, Navy Department, Washington, D.C.; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana 70149; Headquarters Marine Corps, Navy Department, Washington, D.C. 20380; Marine Corps Reserve Forces Administrative Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri 64131; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Inpatient treatment records for active duty military, dependents, retired military and dependents, civilian employees, VA beneficiaries and humanitarian. Naval regional medical centers and naval hospitals; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Outpatient treatment records for dependents of active duty military, retired military and their dependents, civilian employees, VA beneficiaries and humanitarian. Naval regional medical centers and naval hospitals, and clinics (dispensaries); National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Subsidiary record files of the Health Care Treatment Record System are located at Naval Medical Data Services Center, Bethesda, Maryland; Regional Data Service Centers; Naval Environmental Health Center, Norfolk, Virginia; and other approved locations for conducting research studies."

Categories of records in the system

In second paragraph (line 6), delete phrase ". . . reports of exposure to ionizing radiation . . ." and substitute phrase; ". . . reports of exposure to environmental and radiation hazards . . ."

In second paragraph, last sentence, delete in its entirety and substitute: "In addition to, and based on individual medical record files, there are subsidiary records such as registers of patients; patient health care, medical board and death statistics; environmental health data; operating room schedules, tumor registers; appointment registers; sick call and treatment logs; X-ray files; laboratory files and logs; pharmacy records; EKG's; EEG's; neuropsychiatric evaluations; physical therapy records; other patient evaluation records, etc."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute:

Officials and employees of the Department of the Navy (and Members of the American National Red Cross in Navy health care facilities) in the performance of their official dutes relating to the health and medical treatment of those categories of individuals covered by this record system; determining physical qualifications and suitability of candidates for various programs; personnel assignment; adjudicating claims and appeals before the Council of Personnel Boards, and the Board for Correction of Naval Records; rendering opinions regarding members' physical fitness for continued naval service; litigation involving medical care provided those categories of individuals covered by this record system; performance of research studies and compilation of statistical data; implementing preventive medicine, dentistry, and communicable disease control programs. Officials and employees of other components of the Department of Defense in the performance of their official duties relating to determining the physical qualifications of applicants; in providing medical care to those categories of individuals covered by this record system; and in the conduct of analyses and research studies.

Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of Veterans claims and in providing medical care to members and former members of the Naval Service. The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties related to review of the physical qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies. Private organizations (including educational institutions) and individuals for authorized research studies in the interest of the Federal Government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies. Parent activities releasing such records shall maintain a list of all such research organizations and records released thereto.

Officials and employees of the National Research Council in cooperative studies of the National history of disease, of prognosis and of epidemiology. Each study in which the records of individuals covered by this record system are used must be approved by the Surgeon General of the Navy.

Officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing the local control of communicable diseases, preventive

V 4 4 / 1 5 5

medicine and safety programs, child abuse and other public health and welfare programs. Authorized surveying bodies for professional certification and accreditations.

When required by federal statute, by executive order, or by treaty, medical record information will be disclosed to the individual organization or governmental agency as necessary. Drug/alcohol and family advocacy information maintained in connection with abuse prevention programs shall be disclosed only in accordance with the applicable statutes, 21 U.S.C. 1175, 42 U.S.C. 4582, and 5 U.S.C. 552.

Records will not be further released by routine users without prior approval of the SYSMANAGER.

Retrievability:

Delete the entire first subparagraph and substitute:

"Records retired to the National Personnel Records Center, St. Louis, Missouri, prior to 1971 are retrieved by name and service or file number. After that date, records are retrieved by name and social security number."

Safeguards:

Add the words "of" to the next to last sentence as follows:

"Access is restricted to personnel having a need for the record in providing further medical care or in support of administrative/clerical functions."

Retention and Disposal:

Delete the entire paragraph and substitute:

"Health care treatment records are retained, retired, and disposed of in accordance with SECNAVINST 5212.5 series, Disposal of Navy and Marine Corps Records."

Notification procedures:

Delete the entire entry and substitute:

"Service Medical (Health and Dental) Records for active duty and reserve; Navy and Marine Corps members;

Requests for information from active duty Navy and Marine Corps personnel and drilling members of the Navy and Marine Corps Reserves should be addressed to the individual's commanding officer. Official mailing addresses are in the Department of Defense directory in the appendix to the Component's System Notice. Inactive naval reservists should address requests for information to the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana 70149. Marine Reservist's should address requests for information to Marine Corps Reserve Forces Administrative Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri 64131.

Former members who have no further reserve or active duty obligation should address requests for information to Director, National Personnel Records Center (Navy Reference Branch), 9700 Page Boulevard, St. Louis, Missouri 63132.

All written requests should contain the full name and social security account number of the individual, his signature, and in those cases where his period of service ended before 1971, his service or file number. In requesting records for personnel who served before 1964, information provided to the National Personnel Records Center should also include date and place of birth and dates of periods of active naval service. Active duty Navy and Marine Corps personnel including drilling members of the reserves may visit the Medical Department of the activity to which attached. Inactive Naval Reservists whose tour of active duty ended after 1 July 1972 may visit the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana. Marine Reservists whose tour of active duty ended after 1 July 1972 and who have a continual reserve obligation may visit the Marine Corps Reserve Forces Administration Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri. Former members with no further obligation and reservists whose tour of active duty ended prior to 1 July 1972 may visit the National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri. Proof of identification in the case of active duty, retired and reserve personnel will consist of the Armed Forces of the U.S. Identification Card or by other types of identification bearing picture and signature. Former members may provide drivers license or other types of identification bearing picture and signature.

Inpatient and outpatient treatment records:

(Care/treatment—within 2 years) Commanding officer of the naval regional medical center or hospital where the individual was treated.

(More than 2 years) Director, National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118 or Director, National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132.

Provide the following data: Full name, service number, status, or SSN of sponsor, date(s) of treatment or period of hospitalization, address at time of medical treatment, if known.

Office where requester may visit to obtain information of records pertaining to the individual.

Regional medical center or hospital
Chief, Patient Affairs Service
Chief, Outpatient Service
Officer-in-charge other Navy medical facility

Full name, date and place of birth, ID card or drivers license, or other identification to sufficiently identify the individual with the medical records held by the treatment facility."

Record access procedures:

Delete the entire entry and substitute:

Sysmanager—Service Medical (Health and Dental) Records for active duty and reserve, Navy and Marine Corps; requests from individuals should be addressed to Chief, Bureau of Medicine and Surgery, (Code 3111), Navy Department, Washington, DC 20372.

Record source categories:

Change the word "is" to "or" in the next to last line.

N00022 PERSRECSYS

System name:

Navy Personnel Records System (42 FR 51266) 28 Sep 77

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add a new paragraph after the seventh paragraph as follows: "Duly appointed Family Ombudsmen in the performance of their duties related to the assistance of the members and their families."

Notification procedure:

In line 2, delete the words ". . . Chief of Naval Personnel . . ." and substitute as follows: ". . . Commander, Naval Military Personnel Command . . ."

In the second paragraph, line 1, delete the words ". . . Chief of Naval Personnel . . ."and substitute as follows: ". . . Commander, Naval Military Personnel Command. . ."

Systems exempted from certain provisions of the act:

Delete the entire entry and substitute: "Parts of this system may be exempt under 5 U.S.C. 552a(k) (1) and (5), as applicable. For additional information contact the System Manager."

N00600-1NAVTIS

System name:

Naval Schools/Training Information System (42 FR 51290) 28 Sep 77

Changes:

System name:

Delete the entire entry and substitute "Naval Schools/Training Information System, Marine Corps Aviation Training Support Systems."

System location:

Delete entire entry and substitue: "Schools and other training activities or similar organizational elements of the Department of the Navy and Marine Corps as listed in the directory of Department of Navy activities."

Categories of individuals covered by the system:

Delete the phrase "Naval schools" in the second line, and substitute: ". . . Navy/Marine Corps schools. . ."

Categories of records in the system:

Add the following phrase to the second sentence in this category: ". . . professional records, i.e., Navy enlisted classification, military occupational specialty for Marines, subspecialty codes. . ."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add the following phrase to the third sentence in this category ". . . Chief of Naval Personnel, Naval education and training command activities staff personnel and the Commandant of the Marine Corps and his designated officials in the performance of their duties relating to aviation training/assignments. . ."

System manager(s) and address:

Delete the second sentence and substitute with the following: ". . . See the directory of Navy and Marine Corps activities mailing addresses."

Record source categories:

Add the following phrase to the third line after the words "and other activities," ". . . and the Commandant of the Marine Corps;"

System name:

DODCI Student Biography System (42 FR 51310) 28 Sep 77

Changes:

System name:

Delete the entire entry and substitute as follows: "DODCI Faculty/Senior Staff/Student Biography System"

Categories of individuals covered by the system:

Add the following paragraph at the beginning of the existing entry: "All faculty members, senior staff members, and guest lecturers currently instructing or managing at the DODCI."

Categories of records in the system:

At the end of line 2, add the following phrase before the word "student": ". . . faculty member, senior staff member, guest lecturer, or . . ."

At the beginning of line 3, add the word "Students . . ."

At the end of entry, add a new entry as follows: "Faculty/senior staff record consists of name, rank or rate, current and previous job titles and positions, former major duties, formal education completed, computer-related and other technical training and experience."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add a new paragraph at the end of the existing entry: "Information on faculty/senior staff members contained in the biographical summaries is provided to students as an attachment to their student notebooks. Records are used by students to identify faculty and senior staff members, areas of data processing and information management experience for consultation purposes and as an expertise preamble to the next scheduled lecturer."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retrievability:

Delete the entire entry and substitute: "By name for faculty/senior staff members. Course title and name for students."

Safeguards:

In line 1 add the following phrase after the words "scheduling office": ". . . (for students) and in the Reproduction Shop (for faculty/senior staff members) . . ."

Retention and disposal:

Add the following entry at the end of the existing paragraph: "All individual faculty and senior staff biographical summaries are retained in a master file folder until no longer providing services to DODCI. Master file is revised periodically to maintain currency. Students receiving a course notebook can retain the included biographical records as well as the notebook."

Notification procedure:

Add the word "Students" at the beginning of the second sentence.

Record source categories:

Add the following paragraph at the end of the existing one: "Biographies are authorized by each faculty and senior staff member soon after arrival at DODCI. Guest lecturers are requested to voluntarily submit biographies for use in course notebooks; content is never changed, but in some cases selectively reduced in length so as not to exceed one page. Format and content are generated solely by DODCI member and are subjected only to editorial review.

N65196 DODCI 03

System name:

DODCI Course Evaluation System (42 FR 51311) 28 Sep 77

Changes:

Routine uses of records maintained in the system, including categories of users and the proposes of such uses:

In line 7, after the sentence ending with the word "revisions", add the following new sentence: "Copy is provided to unite education offices upon request."

N00018-03

SYSTEM NAME:

Health Care Treatment Record System

SYSTEM LOCATION:

Service Medical (Health and Dental) Records for active duty and Reserve, Navy and Marine Corps Personnel. Retained at the individual's duty station or reserve unit (Mailing addresses are listed in the Navy directory in the appendix in the Component System Notice). Bureau of Naval Personnel, Navy Department, Washington, DC; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana 70149; Headquarters Marine Corps, Navy Department, Washington, DC 20380; Marine Corps Reserve Forces Administrative Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri 64131; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Inpatient treatment records for active duty military, dependents, retired military and dependents, civilian employees, VA beneficiaries and humanitarian. Naval regional Medical centers and naval hospitals; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Outpatient treatment

records for dependents of active duty military, retired military and their dependents, civilian employees, VA beneficiaries and humanitarian. Naval regional medical centers and naval hospitals, and clinics (dispensaries); National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118; National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Subsidiary record files of the Health Care Treatment Record System are located at Naval Medical Data Services Center, Bethesda, Maryland; Regional Data Service Centers; Naval Environmental Health Center, Norfolk, Virginia; and other approved locations for conducting research studies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy, Marine Corps, other military personnel, dependents, retired military personnel and dependents, civilian employees, VA beneficiaries and humanitarian.

CATEGORIES OF RECORDS IN THE SYSTEM:

Service Medical (Health and Dental) Records for active duty and reserve, Navy and Marine Corps: System is made up of records pertaining to the member's or former member's medical history; physical, dental and mental examinations; consultation; inoculations; outpatient treatment, including laboratory and x-ray reports; report of medical boards; summaries of periods of hospitalization; dental evaluation and treatment; reports of exposure to ionizing radiation; results of special diagnostic and clinical studies; recommendations regarding requests for waivers of established physical standards.

Inpatient and Outpatient treatment records: File contains a multiplicity of prescribed forms documenting health evaluations, medical/dental care and treatment for any health or medical condition or problem provided an eligible individual on an outpatient and/or inpatient status. The records contain history and physical examinations or health evaluations, reports of exposure to environmental and radiation hazards, consultation reports and medical care and treatment provided, including procedures utilized such as surgery, drugs, dietary, x-ray, laboratory, nursing notes, physical therapy, and other specialty care applicable to the medical diagnosis or conditions found. The records also contain patient's demographic data, family health history data, length of inpatient stay, disease nomenclature, and a discharge summary of inpatient care. Documentation of health history, diagnosis, care, and treatment provided, and the recording thereof conforms with the standards prescribed by the Joint Commission on Accreditation of Hospitals. In addition to, and based on individual medical record files, there are subsidiary records such as registers of patients; patient health care, medical board and death statistics; environmental health data; operating room schedules; tumor registers; appointment registers; sick call and treatment logs; x-ray files; laboratory files and logs; pharmacy records; EKG's; EEG's; neuropsychiatric evaluations; physical therapy records; other patient evaluation records; etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5131 (as amended), 10 U.S.C. 5132, 44 U.S.C. 3101, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Officials and employees of the Department of the Navy (and members of the American National Red Cross in Navy Health Care Facilities) in the performance of their official duties relating to the health and medical treatment of those categories of individuals covered by this record system; determining physical qualifications and suitability of candidates for various programs; personnel assignment; adjudicating claims and appeals before the Council of Personnel Boards, and the Board for Correction of Naval Records; rendering opinions regarding members' physical fitness for continued naval service; litigation involving medical care provided those categories of individuals covered by this record system; performance of research studies and compilation of statistical data; implementing preventive medicine, dentistry, and communicable disease control programs. Officials and employees of other components of the Department of Defense in the performance of their official duties relating to determining the physical qualifications of applicants; in providing medical care to those categories of individuals covered by this record system; and in the conduct of analyses and research studies.

Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of Veterans claims and in providing medical care to members and former members of the Naval Service. The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties related to review of the physical qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies. Private organizations (including educational institutions) and individuals for authorized research studies in the interest of the Federal Government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies. Parent activities releasing such records shall maintain a list of all such research organizations and records released thereto.

Officals and employees of the National Research Council in cooperative studies of the National history of disease, of prognosis, and of epidemiology. Each study in which the records of individuals covered by this record system are used must be approved by the Surgeon General of the Navy.

Officals and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing the local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs. Authorized surveying bodies for professional certification and accreditations.

When required by federal statute, by executive order, or by treaty, medical record information will be disclosed to the individual organization or governmental agency as necessary. Drug Alcohol and Family Advocacy Information Maintained in Connection With Abuse Prevention Programs Shall be Disclosed Only in Accordance With the Applicable Statutes, 21 U.S.C. 1175, 42 U.S.C. 4582, and 5 U.S.C. 552.

Records will not be further released by routine users without prior approval of the SYSMANAGER.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Service Medical (Health and Dental) Records for active duty and reserve, Navy and Marine Corps members:

Records are stored in file folders, microform, magnetic tape, punched cards, machine listings, discs, and other computerized or machine readable media.

Inpatient and Outpatient treatment records. These records originate at any Navy medical treatment facility where the individual comes for medical care and treatment. The inpatient treatment records are retained for 2 years from date of last treatment at the activity and then sent to the National Personnel Records Center, St. Louis, Missouri. Outpatient treatment records are transferred for continuity of care and treatment to other medical activities upon change of station by the service member. Outpatient files, 2 years after the date of last treatment, are transferred to the National Personnel Records Center.

Inpatient and outpatient treatment records are maintained in mechanized lists, file folders, microform, magnetic tape, discs, punched cards and other computerized or machine readable media. Inpatient treatment records are filed numerically by hospital register numbers. The alphabetical patient register serves as the locator media. Outpatient treatment records are filed by the military member's SSN with an alphabetical card or mechanized list or other record as the locator media. Medical x-rays are filed by a sequential numbering system in manual or mechanized format with an alphabetical name locator.

RETRIEVABILITY:

Service Medical (Health and Dental) Records for active duty and reserve, Navy and Marine Corps members: Records retired to the National Personnel Records Center, St. Louis, Missouri, prior to 1971 are retrieved by name and service or file number. After that date records are retrieved by name and social security number.

Inpatient and Outpatient treatment records. Records are retrieved by manual or automated locator media (alpha name cards logs, listings, tapes, etc.).

SAFEGUARDS:

Records are maintained in various kinds of filing equipment in specific monitored or controlled access rooms or areas; public access is not permitted. Computer terminals are located in supervised areas; access is controlled by password or other user code system; utilization reviews ensure that the system is not violated. Access is restricted to personnel having a need for the record in providing further medical care or in support of administrative/clerical functions. Records are controlled by a charge-out system to clinical and other authorized personnel.

RETENTION AND DISPOSAL:

Health care treatment records are retained, retired, and disposed of in accordance with SECNAVINST 5212.5 series, Disposal of Navy and Marine Corps Records.

SYSTEM MANAGER(S) AND ADDRESS:

Service Medical (Health and Dental) records for active duty and reserve, Navy and Marine Corps: Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372; commanding officers, naval activities, ships and stations; Director, National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132.

Inpatient and outpatient treatment records: Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372; commanding officers, Naval regional medical centers and hospitals or activities having clinics; Director, National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118.

NOTIFICATION PROCEDURE:

Service Medical (Health and Dental) Records for active duty and reserve Navy and Marine Corps members;

Requests for information from active duty Navy and Marine Corps personnel and drilling members of the Navy and Marine Corps Reserves should be addressed to the individual's commanding officer, official mailing addresses are in the Department of Defense directory in the appendix to the Component's System Notice. Inactive naval reservists should address requests for information to the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana 70149. Marine Reservists should address requests for information to Marine Corps Reserve Forces Administrative Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri 64131.

Former members who have no further reserve or active duty obligation should address requests for information to Director, National Personnel Records Center (Navy Reference Branch), 9700 Page Boulevard, St. Louis, Missouri 63132.

All written requests should contain the full name and social security account number of the individual, his signature, and in those cases where his period of service ended before 1971, his service or file number. In requesting records for personnel who served before 1964, information provided to the National Personnel Records Center should also include date and place of birth and dates of periods of active naval service. Active duty Navy and Marine Corps personnel including drilling members of the reserves may visit the Medical Department of the activity to which attached. Inactive Naval Reservists whose tour of active duty ended after July 1, 1972 may visit the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, Louisiana. Marine Reservists whose tour of active duty ended after July 1, 1972 and who have a continual reserve obligation may visit the Marine Corps Reserve Forces Administration Activity, Class III, 1500 E. Bannister Road, Kansas City, Missouri. Former members with no further obligation and reservists whose tour of active duty ended prior to July 1, 1972 may visit the National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri. Proof of identification in the case of active duty, retired, and reserve personnel will consist of the Armed Forces of the U.S. Identification Card or by other types of identification bearing picture and signature. Former members may provide drivers license or other types of identification bearing picture and signature.

Inpatient and outpatient treatment records:

(Care/treatment—within 2 years) Commanding officer of the naval regional medical center or hospital where the individual was treated.

(More than 2 years) Director, National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118 or Director, National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132.

Provide the following data: Full name, service number, status, or SSN of sponsor, date(s) of treatment or period of hospitalization, address at time of medical treatment, if known.

Office where requester may visit to obtain information of records pertaining to the individual:

Regional medical center or hospital
Chief, Patient Affairs Service
Chief, Outpatient Service
Office-in-charge other Navy medical facility

Full name, date and place of birth, ID card or drivers license, or other identification to sufficiently identify the

individual with the medical records held by the treatment facility must be presented.

RECORD ACCESS PROCEDURES:

Sysmanager

Service Medical (Health and Dental) Records for active duty and reserve, Navy and Marine Corps; Requests from individuals should be addressed to Chief, Bureau of Medicine and Surgery, (Code-3111), Navy Department, Washington, DC 20372.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determination may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Reports from attending and previous physicians and other medical personnel regarding the results of physical, dental and mental examinations, treatment, evaluation, consultation, laboratory, x-ray, and special studies conducted to provide health care to the individual or to determine the individual's physical and dental qualification.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N00022PERSRECSYS

SYSTEM NAME:

Navy Personnel Records System

SYSTEM LOCATION:

Primary System-Bureau of Naval Personnel, Navy Department, Washington, D.C. 20370; Naval Reserve Personnel Center, Naval Support Activity (East Bank), Bldg. 603, New Orleans, LA 70159; and local activity to which individual is assigned (see Directory of the Department of the Navy Mailing Addresses).

Secondary System—Department of the Navy Activities in chain of command between the local activity and the Headquarters level (see Directory of the Department of the Navy Mailing addresses); Federal Records Storage Centers; National Archives.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Navy military personnel: officers, enlisted, active, inactive, reserve, fleet reserve, retired, midshipmen, officer candidates, and Naval Reserve Officer Training Corps personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Service Jackets and Service Records, correspondence and records in both automated and non-automated form concerning classification, assignment, distribution, promotion, advancement, performance, recruiting, retention, reenlistment, separation, training, education, morale, personal affairs, benefits, entitlements, discipline and administration of Navy military personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301 Departmental Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Officials and employees of the Department of the Navy in the performance of their official duties related to the management, supervision, and administration of Navy military personnel and the operation of personnel affairs and functions; the design, development, maintenance and operation of the manual and automated system of records.

The Comptroller General or any of his authorized representatives, upon request, in the course of the performance of duties of the General Accounting Office relating to the Navy's military manpower management program.

The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies. State, local, and foreign (within Status of Forces agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

Officials and employees of other components of the Department of Defense in the performance of their official duties related to the management, supervision and administration of military personnel and the operation of personnel affairs and functions.

Officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of military personnel and the operation of personnel affairs and functions.

Officials and employees of the National Research Council in Cooperative Studies of the National History of Disease; of Prognosis and of Epidemology. Each study in which the records of members and former members of the Naval Service are used must be approved by the Chief of Naval Personnel.

Officials and employees of the Department of Health, Education, and Welfare, Veterans' Administration, and Selective Service Administration in the performance of their official duties related to eligibility, notification and assistance in obtaining benefits by members and former members of the Navy. The Senate or the House of Representatives of the United States or any Committee or subcommittee thereof, any joint committee of Congress or any subcommittee of joint committees on matters within their jurisdiction requiring disclosure of the files or records of Navy military personnel. Officials and employees of Navy Relief and the American Red Cross in the performance of their duties related to assistance of the members and their dependents and relatives.

Duly appointed Family Ombudsmen in the performance of their duties related to the assistance of the members and their families.

State and local agencies in performance of their official duties related to verification of status for determination of eligibility for veterans' bonuses and other benefits and entitlements.

Such civilian contractors and their employees as are or may be operating in accordance with an approved, official contract with the U.S. Government. When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be stored on magnetic tapes, disc, drums and on punched cards.

Manual records may be stored in paper file folders, microfiche or microfilm.

RETRIEVABILITY:

Automated records may be retrieved by social security account number and/or name.

Manual records may be retrieved by name, social security account number, enlisted service number, or officer file number.

SAFEGUARDS:

Computer and punched card processing facilities and terminals are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained.

Manual records and computer printouts are available only to authorized personnel having a need to know.

RETENTION AND DISPOSAL:

Records are retained or disposed of in accordance with SECNAVINST P5212.5, subj: Disposal of Navy and Marine Corps Records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Naval Personnel, Washington, D.C. 20370; Commanding Officers, Officers in Charge, and Heads of Department of the Navy activities as listed in the Directory of the Department of the Navy Mailing Addresses.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or, in accordance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number (and/or enlisted service number/officer file number), rank/rate, designator, military status, address, and signature of the requestor.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

RECORD ACCESS PROCEDURES:

The Agency's rules for access to records may be obtained from SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from SYSMANAGER.

RECORD SOURCE CATEGORIES:

Officials and employees of the Department of the Navy, Department of Defense, and components thereof, in performance of their official duties and as specified by current instructions and regulations promulgated by competent authority; educational institutions; federal, state, and local court documents; civilian and military investigatory reports; general correspondence concerning the individual; official records of professional qualifications; Navy Relief and American Red Cross requests for verification of status.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k) (1) and (5) as applicable. For additional information contact the System Manager.

N00600-1NAVTIS

SYSTEM NAME:

Naval Schools/Training Information System, Marine Corps Aviation Training Support Systems.

SYSTEM LOCATION:

Schools and other training activities or similar organizational elements of the Department of the Navy and Marine Corps as listed in the directory of Department of Navy activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records of present, former, and prospective students at Navy and Marine Corps schools and other training activities or associated educational institution of Navy sponsored programs; instructors, staff and support personnel; participants associated with activities of the Naval Education and Training Command, including the Navy Campus for Achievement and other training programs; tutorial and tutorial volunteer programs; dependents' schooling.

CATEGORIES OF RECORDS IN THE SYSTEM:

Schools and personnel training programs administration and evaluation records. Such records as basic identification record i.e., social secutity number, name, sex, date of birth, personnel records i.e., rank/rate/grade, branch of service, billet, expiration of active obligated service, professional records i.e., Navy enlisted classification, military occupational specialty for Marines, subspecialty codes, test scores, basic test battery scores, and Navy advancement test scores. Educational records i.e., education levels, service and civilian schools attended, degrees, majors, personnel assignment data, course achievement data, class grades, class standing, and attrition categories. Academic/training records, manual and mechanized, and other records of educational and professional accomplishment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Schools and training programs administration and evaluation. Student performance, progression and prediction; instructors performance; organizational and administrative control. Internal Navy users are Chief of Navy Personnel, Naval education and training command activities staff personnel, and the Commandant of the Marine Corps and his designated officials in the performance of their duties relating to aviation training/assignments. Type commanders; Health/Science Education Training Center; Chief, Bureau of Medicine and Surgery; Commander, Naval Recruiting Command, and to other Department of the Navy officials in the performance of personnel training functions. Information may be used to determine course and training demands, requirement, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; guidance and counseling of students; preparation of required reports, and for other training administration and planning purposes. Internal users are staff and faculty. Information is provided to officials of the Department of Defense on "need-to-know" basis in the performance of their official duties; and for reporting to other government agencies, such as HEW. It may be provided to such civilian contractors and their employees as are or may be operating in accordance with an approved official contract with the U.S. Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in microform or in file folders, card files, file drawers, cabinets, or other filing equipment. Automated records may be stored on magnetic tape, discs, punched cards, etc.

RETRIEVABILITY:

Social security number and name.

SAFEGUARDS:

Access is provided on a "need-to-know" basis and to authorized personnel only. Records are maintained

in controlled access rooms or areas. Data is limited to personnel training associated information. Computer terminal access is controlled by terminal identification and the password or similar system. Terminal identification is positive and maintained by control points. Physical access to terminals is restricted to specifically authorized individuals. Password authorization, assignment and monitoring are the responsibility of the functional managers. Information provided via batch processing is of a predetermined and rigidly formatted nature. Output is controlled by the functional managers who also control the distribution of output.

RETENTION AND DISPOSAL:

Records disposal manual.

SYSTEM MANAGER(S) AND ADDRESS:

The commanding officer of the activity in question. See the directory of Department of the Navy and Marine Corps activities mailing addresses.

NOTIFICATION PROCEDURE:

Apply to system manager. Requestor should provide his full name, social security number, military or civilian duty status, if applicable, and other data when appropriate, such as graduation date. Visitors should present drivers license, military or Navy civilian employment identification card, or other similar identification.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals, schools and educational institutions, Chief of Naval Personnel, staff of Naval Education and Training Command and other activities and the Commandant of the Marine Corps; instructor personnel; and Commander, Naval Recruiting Command.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N65196 DODCI.02

SYSTEM NAME:

DODCI Faculty/Senior Staff/Student Biography System.

SYSTEM LOCATION:

Department of Defense Computer Institute, Washington Navy Yard, Washington, D.C. 20374.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All faculty members, senior staff members, and guest lecturers currently instructing or managing at the DODCI.

All students who are attending or who have completed a course of instruction presented by DODCI; primarily DOD military and civilian personnel as regular students; personnel from other federal, state and local government agencies who have attended courses on a space available basis; military and civilian personnel from foreign governments who requested and were granted authority to attend courses; and personnel from private industry who are under direct contract to a DOD activity who sponsor their attendance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical summary forms individually submitted upon request by each DODCI faculty member, senior staff member, guest lecturer, or student. Student's record consists of name, rank or rate, civilian grade, organization and division, office phone number, current and previous job titles and positions, number of months with present job title, major duties of present job, formal education completed, objectives for attending DODCI course, computer-related and other technical training and experience, information on usage of computers in present position, influence and authority student has over design of computer-based systems including security and privacy aspects, extent involved in planning and design of teleprocessing systems.

Faculty/senior staff record consists of name, rate or rank, current and previous job titles and positions, former major duties, formal education completed, computer-related and other technical training and experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in the student biographical summaries is restricted to internal use within DODCI. Used by Course Managers and functional Department Head to evaluate education level, computer related work experience, and general computer background of DODCI students. Establishes student qualifications to attend a requested course and if course objectives have satisfied personal objectives of students for attending course. Statistical summarization of information contained therein provides basis for modification and revision to course content. Also serves as vehicle to place student into appropriate laboratory and seminar group in courses requiring such a breakout.

Information on faculty/senior staff members contained in the biographical summaries is provided to students as an attachment to their student notebooks. Records are used by students to identify faculty and senior staff members, areas of data processing and information managment expertise for consultation purposes and as an expertise preamble to the next scheduled lecturer.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in file cabinet.

RETRIEVABILITY:

By name for faculty/senior staff members. Course title and name for students.

SAFEGUARDS:

Maintained in Scheduling Office (for students) and in the Reproduction shop (for faculty/senior staff members) which is locked after normal working hours, access controlled by systems manager and accessible only to authorized faculty members, Director of Administration, and Director or delegate on demand.

RETENTION AND DISPOSAL:

All completed individual student biographical summaries attending a specific course are retained in a file folder marked by course title and course date. Individual student biographical summaries are retained by course for two fiscal years preceeding the fiscal year in progress.

All individual faculty and senior staff biographical summaries are retained in a master file folder until no longer providing services to DODCI. Master file is reviewed periodically to maintain currency. Students reviewing a course notebook can retain the included biographical records as well as the notebook.

SYSTEM MANAGER(S) AND ADDRESS:

Scheduling Officer, DOD Computer Institute, Building 175, Washington Navy Yard, Washington, D.C. 20374.

NOTIFICATION PROCEDURE:

By individual request upon presentation of identification. Students must provide course title and year of attendance.

RECORD ACCESS PROCEDURES:

The Agency's rules for access to records can be obtained from the Systems Manager.

CONTESTING RECORD PROCEDURES:

The Institute's rules for contesting contents and appealing initial determinations by the DODCI member concerned can be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Student Biography Forms are of DODCI origin and completed by each individual student. Forms are completed either the first day of the course or, in the case of certain specific courses, are mailed to the prospective student requesting return prior to commencement of the course.

Biographies are authorized by each faculty/senior staff member soon after arrival at DODCI. Guest lecturers are requested to voluntarily submit biographies for use in course notebooks; content is never changed, but in some cases selectively reduced in length so as not to exceed one page. Format and content are generated solely by DODCI member and are subject only to editorial review.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N65196 DODCI. 03

SYSTEM NAME:

DODCI Course Evaluation System

SYSTEM LOCATION:

Department of Defense Computer Institute, Washington Navy Yard, Washington, D.C. 20374.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students who have completed a course of instruction presented by the Department of Defense Computer Institute: primarily DOD military and civilian personnel as regular students; personnel from other federal, state and local government agencies who have attended courses on a space available basis; military and civilian personnel from foreign governments who requested and were granted authority to attend courses; and personnel from private industry who are under direct contract to a DOD activity who sponsor their attendance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual student evaluation of entire course and random sampling of specific lecture presentations. Includes objectives for attending course; statement concerning realization of personal objectives, numerical or qualitative rating of overall course, lab sessions and/or specific lectures; list of strengths and weaknesses of course; list of lecture subjects of particular benefit or of little use to student; list of lecture subjects which should be expanded or reduced in coverage; and list of topics not covered in course but should be included. Comments concerning course content, sequence, lecture presentation, teaching techniques, audio visual aids, physical facilities and administrative support are solicited and recorded. Categories are posed as questions with ample space to encourage written response of student opinion in a structured but nonrestrictive format. These Course Evaluation Forms also contain hard core factual information, i.e., course title, course dates, student name, rank/rate/grade, branch of service, duty station or agency, and present job title.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use of the student evaluation forms and the information contained therein is restricted to internal use within DODCI. Used to evaluate course, lecture, teaching techniques and individual instructor effectiveness. Provides basis for modification and revision to course content, and sequence and lecture content. Provides input to long range plan for course update, additions and revisions. Copy is provided to unit education offices upon request. Student evaluations of all attendees to a particular course are reviewed as a composite group by DODCI faculty members to determine problem areas, trends, and provides a continuous evaluation of course effectiveness.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in file cabinet.

RETRIEVABILITY:

Course Title and Student Name.

SAFEGUARDS:

Maintained in Scheduling Office which is locked after normal working hours, access controlled by Systems Manager and accessible only to authorized faculty members, Director of Administration, and Director or delegate on demand.

RETENTION AND DISPOSAL:

All completed individual evaluations of students attending a specific course are retained in a file folder marked by Course Title and Course Date. Individual student evaluation forms are retained by course, for two fiscal years preceding the fiscal year in progress.

SYSTEM MANAGER(S) AND ADDRESS:

Scheduling Officer, Department of Defense Computer Institute, Building 175, Washington Navy Yard, Washington, D.C. 20374.

NOTIFICATION PROCEDURE:

By individual request upon presentation of letter or identification. Must provide course title and year of attendance.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtined from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Student Course Evaluation Forms are of DODCI origin and are distributed in class and completed by each individual student.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-24619 Filed 8-8-79; 8:45 am]
BILLING CODE 3810-71-M

DELAWARE RIVER BASIN COMMISSION

Lehigh Scenic River System; Environmental Assessment; Negative Declaration

The Delaware River Basin Commission has prepared an environmental assessment based on an environmental report prepared by the Pennsylvania Department of Environmental Resources (PaDER) in relation to a proposal by PaDER to adopt certain portions of the Lehigh

River and its tributaries into the Commission's Comprehensive Plan as components of Pennsylvania's Scenic River System.

The analysis indicates that the proposed action will be beneficial to the quality of the human environment in the area involved. There would be few, essentially unavoidable, adverse impacts which would be limited in area and scope. The environmental assessment concludes that an environmental impact statement is not required.

Notice is hereby given that the Executive Director intends to issue a negative declaration, i.e., a finding of no significant adverse impact, based upon the environmental assessment, in accordance with Section 2–4.5 of the Commission's Rules of Practice and Procedure, as amended.

Objection to the issuance of a negative declaration may be submitted by any interested person or agency in a written statement showing cause why an environmental impact statement should be prepared. To be considered, such written statement must be submitted to the Executive Director of the Commission no later than 5 p.m., August 31, 1979.

Copies of the environmental assessment, dated August 1, 1979, are available from the Commission upon request. A copy of PaDER's Environmental Report is available for examination in the Commission's library.

Those interested in receiving a copy of the Commission's environmental assessment for this proposed action should advise Mr. J. W. Thursby, Head, Environmental Unit. (609) 883–9500.

August 9, 1979.

W. Brinton Whitall,

Secretary.

[FR Doc. 79–24714 Filed 8–8–79; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Cases Filed With the Office of Hearings and Appeals; Week of June 1 Through June 8, 1979

Notice is hereby given that during the week of June 1, 1979 through June 8, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

July 30, 1979.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of June 1, through June 8, 1979]

Date	Name and location of applicant	Case No.	Type of submission
June 1, 1979	Citadel Corporation, Washington, D.C.	DEX–0181	Supplemental Decision (Ref. DES–3670). If granted: The relief granted to Citadel Corporation in the Stay decision issued May 2, 1979, would be extended.
June 1, 1979	Cities Service Company, Tulsa, Oklahoma	DEA–0440, DES–0440 and DST–0440.	Request for Stay; Request for Temporary Stay; Appeal of ERA Decision and Order. If granted: The Economic Regulatory Administration's May 9, 1979, Decision and Order regarding Cities Service Company's supply obligations to A & A Oil Company, Inc., would be rescinded. Cities Service Company would receive a temporary stay and stay of the Decision and Order pending a final determination on its Appeal.
June 1, 1979	Pennzoil Producing Company, Houston, Texas	DEE–4200	Exception to the reporting requirements. If granted: Pennzoil Producing Company would not be required to file Form EIA Form 23, Part II.
June 1, 1979	Young Refining Corporation, Washington, D.C.	DES–0055 and DSG–0215.	Request for Stay; Petition for Special Redress. If granted: The Office of Hearings and Appeals would review the denial of the Assistant Administrator for Enforcement to review the decision denying the Application to Quash Subpoenas submitted by Young Refining Corporation. A Stay of the Subpoenas would be granted pending a determination on the Petition for Special Redress.
June 4, 1979	Amerada Hess Corporation, New York, New York	DEA–0445	Appeal of DOE Temporary Assignment Order. If granted: The DOE April 20, 1979, Temporary Assignement Order issued to Amerada Hess Corporation regarding its supply obligations to Award Petroleum, Inc., would be rescinded.
June 4, 1979	Cities Service Company, Tulsa, Oklahoma	DEA–0444, DES–0444 and DST–0444.	Appeal of ERA Decision and Order; Request for Stay; Request for Temporary Stay. If granted: The Economic Regulatory Administration's May 15, 1979, Decision and Order regarding Cities Service Company's supply obligations to Bell Oil Company would be rescinded. Cities Service Company would receive a temporary stay and stay of the Decision and Order pending a final determination on its Appeal.
June 4, 1979	Cities Service Company, Tulsa, Okahoma	DEA–0443, DES–0443 and DST–0443.	Appeal of ERA Decision and Order; Request for Stay; Request for Temporary Stay. If granted: The Economic Regulatory Administration's May 16, 1979 Decision and Order regarding Cities Service Company's supply obligations to Hoover Oil Company would be rescinded. Cities Service Company would receive a temporary stay of the Decision and Order pending a final determination on its Appeal.
June 4, 1979	Edgington Oil Co., Inc., et. al., Washington, D.C	DEX–0170 through DEX–0179.	Supplemental Order. If granted: Each firm's obligations to purchase entitlements during the period June 1, 1979 through November 30, 1979, would be stayed pending the DOE's final determination on the respective Proposed Decision issued to the firm.
June 4, 1979	Hartford Electric Light Company et al., Hartford, Connecticut.	DEA–0446 and DEA–0447.	Appeal of Recission Orders. If granted: The DOE's May 4, 1979, Recission Orders withdrawing the ESECA Prohibition Orders to Hartford Electric Light Company and Connecticut Light and Power Company with respect to the Middletown and Norwalk Harbor Powerplants would be vacated and reissued.
June 4, 1979	Pacific Interstate Transmission Company, Los Angeles, California.	DFA–0442	Appeal of an Information Request Denial. If granted: The DOE's April 26, 1979, Information Request Denial would be rescinded and the Pacific Interstate Transmission Company would receive access to certain DOE data regarding DOE Forms EIA–14 filed for several fuel oil refiners.
June 5, 1979	American Agri-Fuels Corporation, Kansas City, Missouri.	DEN–2179	Interim Order. If granted: DOE would grant American Agri-Fuels Corporation an Interim Order pending the finalization of the Proposed Decision and Order issued May 9, 1979.
June 5, 1979	Don Thompson Shell, Bakersfield, California	DEE–4316	Price Exception (Section 212.93). If granted: Don Thompson Shell would receive an increase in its maximum allowing selling price to reflect non-product cost increases.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of June 1, through June 8, 1979]

Date	Name and location of applicant	Case No.	Type of submission
June 5, 1979	Gulf Oil Corporation, Houston, Texas	DEE–6314	Price Exception. If granted: Gulf Oil Corporation would receive an exception from the provisions of 10 CFR 212.83(c)(2)(iii)(E).
June 5, 1979	Industrial Fuel & Asphalt of Indiana, Inc., Hammond, Indiana.	DEE–6312, DES–6312 and DST–6312.	Application for Exception, Stay and Temporary Stay (Buy/Sell Program). If granted: Industrial Fuel & Asphalt of Indiana, Inc. would receive an exception from the provisions of 10 CFR 211.65(c)(2) (The Buy/Sell Program) with respect to adjusting January through October 1978 base period runs. Industrial Fuel & Asphalt of Indiana would receive a stay and temporary stay pending a determination on its request for exception.
June 5, 1979	Mallard Resources, Inc., Houston, Texas	DEE–6318 and DES–6318.	Exception to (Buy/Sell Program) Request for Stay. If granted: Mallard Resources, Inc., would receive an exception and stay from the provisions of 10 CFR 211.63, permitting it to participate in the Emergency Crude Oil Allocation (Buy/Sell) Program.
June 5, 1979	Rutgers, the State University, New Brunswick, New Jersey.	DFA–0450	Appeal of an Information Request Denial. If granted: The DOE's May 18, 1979, Information Request Denial would be rescinded and Rutgers, the State University, would receive access to the "Reply to Notice of Proposed Disallowance on Behalf of Gulf Oil Corporation."
June 5, 1979	Vorys, Sater, Seymour & Pease, Washington, D.C.	DFA–0448	Appeal of an Information Request Denial. If granted: The DOE's April 18, 1979, Information Request Denial would be rescinded and Vorys, Sater, Seymour & Pease would receive access to certain DOE data regarding the audit involved in the Notice of Probable Violation issued to Ashland Oil on May 12, 1978.
June 5, 1979	Wind Energy, Rockville Centre, New York	DFA–0449	Appeal of an Information Request Denial. If granted: The DOE's May 21, 1979, Information Request Denial would be rescinded and Wind Energy would receive access to certain reports contracted for by DOE.
June 7, 1979	Tipperary Corporation, West Illinois Midland, Texas	DEE–6347	Exception to the Entitlements Program. If granted: Tipperary Corporation would receive an exception to the Entitlements Program which would permit the firm to include in May 1979 receipts and runs to stills on form ERA 49 the number of barrels granted by the allocation for May 1979, but actually received and processed in subsequent months.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Date	Name and Location of Applicant	Case No.
June 1, 1979	Larry's Orangevale Tire #2, Orangevale, Calif.	DEE–6195
June 4, 1979	Ken's Soc Station, Greenville, S.C.	DEE–6182
June 4, 1979	Bristol Service Center, Inc., Bristol, R.I.	DEE–6184
June 4, 1979	Hadley Service Center, Hadley, Mass.	DEE–6183
June 4, 1979	Bennett Hamre, Erskine, Minn.	DEE–6190
June 4, 1979	Amoco Travel Center, Billings, Mont.	DEE–6191
June 27, 1979	Rockwell Skelly, Oklahoma City, Okla.	DEE–6189
June 4, 1979	E–Z Stop Food Store, Richmond, Va.	DEE–6197
June 16, 1979	Kenneth Luff, Inc., Denver, Colo.	DXE–6214
June 1, 1979	Musolino & Sons, Inc., Alexandria, Va.	DEE–6198
June 5, 1979	Gene's Standard, New York Mills, Minn.	DEE–6236
June 5, 1979	Boikanyo, Benjamin V., Compton, Calif.	DEE–6219
June 5, 1979	Hadley Car Wash, Whittier, Calif.	DEE–6225
June 5, 1979	Alpha Cab Company, San Jose, Calif.	DEE–6230
June 5, 1979	Colton, David W., Jr., San Antonio, Tx.	DEE–6240
June 5, 1979	Mylo Oil, Birmingham, Ala.	DEE–6241
June 5, 1979	Sissie Carwash, Inc., Glendale, Ariz.	DXE–6242
June 5, 1979	Don Harris Mobil Service, Austin, Tex.	DEE–5809
June 5, 1979	Bowers & Burrows, Inc., Henderson, N.C.	DXE–5012
June 5, 1979	Indian Rock "66", Largo, Fla.	DEE–5935
June 5, 1979	Cibolo Self Service, Cibolo, Tex.	DEE–6251
June 5, 1979	Don's Conoco Gas Station, Bandera, Tex.	DEE–6247
June 5, 1979	Maxwell Enterprises, Ltd., Placerville, Calif.	DEE–6246
June 5, 1979	C. J.'s Standard, Yankton, S. Dak.	DEE–6245
June 5, 1979	Ravensworth Texaco, Annandale, Va.	DEE–6274
June 5, 1979	Carcraft Ltd. Service Station , Sausalito, Calif.	DEE, DES–6275
June 5, 1979	Russian River Chamber of Commerce, Guerneville, Calif.	DEE, DES–6276
June 5, 1979	Asaneouski, Drago, Costa Mesa, Calif.	DXE–6271
June 5, 1979	Hollow Tree Grocery, Annapolis, Calif.	DEE–6302
June 5, 1979	Ray's Standard Service, Watford City, N. Dak.	DEE–6303
June 5, 1979	Ryder Truck Rental, Inc., San Francisco, Calif.	DEE–6304
June 5, 1979	Con Edison, New York, N.Y.	DEE–6311
June 5, 1979	Podoll's 281 Standard, Aberdeen, S. Dak.	DEE–6293
June 5, 1979	Quick Six Shoppe, Boulder, Colo.	DEE–6292
June 5, 1979	Dudley & Associates, Inc., Corning, Calif.	DEE–6290
June 5, 1979	Fegley's Mini Mart, Inc., Tamaqua, Pa.	DEE–6289
June 7, 1979	Dumfries, Texaco, Dumfries, Va.	DEE–6331
June 7, 1979	Murphys Ranch, Murphys, Calif.	DEE–6077
June 7, 1979	Ray Modrell Trucking, Vallecito, Calif.	DEE–5761
June 7, 1979	A. J. Harris, Inc., Jackson, Calif.	DEE–5754
June 7, 1979	Decker, Ron L., Powell, Wyo.	DEE–5881
May 3, 1979	"" Allied Oil Company, Kalamazoo, Mich.	DXE–5784
June 7, 1979	Kerr McGee Station #6762, Tahlequah, Okla.	DEE–6334
June 6, 1979	Viger's Shell Service, Lincoln Park, Mich.	DEE–6332
June 6, 1979	Derrick's, Inc., Columbia, S.C.	DEE–6343
June 6, 1979	B. B. Oil, Inc., Richfield, S.C.	DEE–6340
June 7, 1979	Parkview Exxon Service Station, New Iberia, La.	DEE, DES–6348
June 6, 1979	Dillon Amoco, Dillon, S.C.	DEE–6350
June 8, 1979	Thomco #11, Tulsa, Okla.	DEE–6377
June 4, 1979	Starkey's Service Center, Dallas, Tex.	DEE–6203
June 4, 1979	United States Gypsum Company, Santa Fe Springs, Calif.	DEE–6212
June 4, 1979	Bob Alton Shell, Granada Hills, Calif.	DEE–6211
June 4, 1979	Bayer's Exxon Servicenter, Havelock, N.C.	DEE–6208
June 4, 1979	Woodbrook Cities Service, Baltimore, Md.	DEE–6202
June 4, 1979	Romine Oil Company, DeQueen, Ark.	DEE–6223
June 4, 1979	Lien Oil Company, Inc., Grand Forks, N. Dak.	DEE–6216

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Continued

Date	Name and Location of Applicant	Case No.
June 1, 1979	Long Island Tourism Comm., inc., Long Island, N.Y	DEE-3927
June 4, 1979	Chesapeake Car Wash Systems, Inc., Baltimore, Md	DEE-6215
June 4, 1979	Blodgett Oil Co., Inc., Mount Pleasant, Mich	DEE-6229
June 5, 1979	Hollimans Full Service, Jacksonville, Fla	DEE-6221
June 5, 1979	Town of East Hampton, N.Y., East Hampton, N.Y	DEE-6220
June 5, 1979	Kenny's Food Markets, Richfield, Minn	DXE-5734
June 5, 1979	Dale Oteon Oil Co., Sioux Falls, S. Dak	DEE-6263
June 5, 1979	Rainbow Willowridge Service, Amhearst, N.Y	DEE-6261
June 5, 1979	Modern Oil Co., Inc., Shawnee, Okla	DEE-6265
June 5, 1979	W. Broward Phillips "66" Service, Fort Lauderdale, Fla	DXE-6257
June 5, 1979	Beard Oil Co., Camden, S.C	DEE-6281
May 30, 1979	** Teledyne Laars (No submission list)	DEE-3950
March 16, 1979	** Trans Oil Co., Inc., Statesboro, Ga	DEE-6309
June 8, 1979	Reilly's Coin-op Car Wash, Stockton, Calif	DEE, DST, DES-6356
June 8, 1979	Interstate Gulf, Fort Smith, Ark	DEE-6375
June 5, 1979	Lloyd R. Crais Oil Co., New Orleans, La	DXE-6380
May 9, 1979	** Solvang, Calif. (No submission list)	DEZ-5121
June 1, 1979	Thrasher Arco Service, Lancaster, Mass	DEE-6167
June 1, 1979	City of Industry Disposal Co., Inc., City of Industry, Calif	DEE-6166
June 1, 1979	Johnnie's Arco, Meriden, Conn	DEE-6174
June 1, 1979	Johnson Roofing Inc., Waco, Tex	DEE-6176
June 1, 1979	Central N.Y.S. Park & Recreation Comm., Cooperstown, N.Y	DEE-6163
June 1, 1979	Knox Street Mobil, Dallas, Tex	DEE-6168
June 1, 1979	Interstate United, Gary, Ind	DEE-6173
June 1, 1979	Plaza Gulf, Inc., Sunrise, Fla	DEE-6164
June 1, 1979	Tigre Island Fuel Service, Inc., Morgan City, La	DEE, DES-6169
June 1, 1979	McNeese Exxon Service Station, Lake Charles, La	DEE-6170
June 1, 1979	Hebert's Gulfpride Service Station, Opelousas, La	DEE-6171
June 1, 1979	Dick Valley Texaco, Pittsburgh, Pa	DEE-6175
June 1, 1979	Lakeview Marina, Inc., Avinger, Tex	DEE-6180
June 4, 1979	Tri-County Marina, Inc., Mismarck, Ark	DEE-6165
June 4, 1979	Yarbrough Oil Co., Searcy, Ark	DEE-6162
June 4, 1979	Stuckey, Carl F., Richmond, Calif	DEE, DES-6181
June 4, 1979	Ken's Exxon, Carlsbad, Calif	DEE-6196
June 4, 1979	Pacific Soils Engineering Inc., Harbor City, Calif	DEE-6195
June 4, 1979	Hub of America, Rugby, N. Dak	DEE-6194
June 4, 1979	J. C. Corp., Bel Air, Md	DEE-6186
June 4, 1979	Cox's Amoco & Car Wash, Baltimore, Md	DEE-6187
June 4, 1979	Orchard Lake Car Care, Orchard Lake, Mich	DEE-6206
June 4, 1979	Ameroil Corp., Victoria, Tex	DEE-6204
June 4, 1979	Container Supply Co., Inc., Garden Grove, Calif	DEE-6210
June 4, 1979	Autohaus, V.I.C., Petaluma, Calif	DEE-6209
June 4, 1979	Kountry Korner Grocery, Bryan, Tex	DEE-6207
June 4, 1979	Bieber Lighting Corp., Inglewood, Calif	DEE-6222
June 4, 1979	Highway Host Standard, Grand Forks, N. Dak	DEE-6217
June 4, 1979	Palm & McKinley Shell Auto Centre, Fresno, Calif	DEE-6205
June 4, 1979	Hull's Exxon, Nashville, Tenn	DEE-6226
June 4, 1979	Langley, Burton, Elizabethtown, Ky	DEE-6224
June 4, 1979	Herb Weiner's Shell, Sausulito, Calif	DEE-6234
June 4, 1979	S. Lane Sunoco, Miamitown, Ohio	DEE-6233
June 1, 1979	Greenwood Oil Co., Inc., Waynesburg, Pa	DEE-6232
June 5, 1979	Holiday Foods, Inc., Seattle, Wash	DXE-6237
June 5, 1979	Terrace Shell I, Bethpage, N.Y	DEE-6255
June 5, 1979	Hamiter, Mary Frances, Waskom, Tex	DEE, DST-6254
June 5, 1979	Petroleum Marketing Co., Tulsa, Okla	DEE-6253
June 5, 1979	Harry W. Ruffner & Sons Texaco, Pittsburgh, Pa	DEE-6252
June 5, 1979	Clayton's Standard, Grand Forks, N. Dak	DEE-6251
June 5, 1979	Eller, Thomas S., Ivanhoe,Tex	DEE-6250
June 5, 1979	Griffin, John P., No. Hollywood, Calif	DEE-6249
June 5, 1979	Starkey's Service Center, Dallas, Tex	DEE-6248
June 5, 1979	Alan's Interstate Standard, Miles City, Mont	DEE-6243
June 5, 1979	Van's Grocery, Bismarck, Ark	DEE-6256
June 5, 1979	L. E. Blain Co., Paramount, Calif	DEE-6269
June 5, 1979	McNaughton's Grocery, Jay, Fla	DEE-6268
June 5, 1979	Hatfield Pontiac-Cadillac, Fayettesville, Ark	DEE-6266
June 5, 1979	Tuckerton Exxon, Tuckerton, N.J	DEE-6260
June 5, 1979	Bubble Machine Car Wash, Rancho Cordova, Calif	DEE-6264
June 5, 1979	Jack Vaughn Oil Co., Inc., Pampa, Tex	DEE-6262
June 5, 1979	Mim's Oil Co., Paonia, Colo	DEE-6259
June 5, 1979	Fleenor's Supermarket, Mount Airy, N.C	DEE-6258
June 5, 1979	Canyon Creek Shell, Richardson, Tex	DEE-6270
June 5, 1979	Gay's Arco & Mini-Mart, Marysville, Wash	DES, DEE-6273
June 5, 1979	Plastic Industries, Garden Grove, Calif	DES-6272
June 5, 1979	Stone & Drachman Texaco, Tucson, Ariz	DEE-6271
June 5, 1979	Morales, Jesse, Uvalde, Tex	DEE-6270
June 5, 1979	Brook Plaza Exxon, Brooksville, Fla	DEE, DES, DST-6305
June 5, 1979	Unsworth Sunoco Sevice Station, District Heights, Md	DEE-6391
June 5, 1979	Central Distributing Co., San Antonio, Tex	DEE-6299
June 5, 1979	Shortstop, Oakland, Calif	DEE, DES, DST-6298

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Continued

Date	Name and Location of Applicant	Case No.
June 5, 1979	Excelsior Super Shell, San Francisco, Calif	DEE-6267
June 5, 1979	Allen, Larry, Westwego, La	DEE-5918
June 5, 1979	Fort Oglethorpe Tire & Service Center, Inc., Rossville, Ga	DEE-6300
June 5, 1979	Hampton Road Fina Station, Desoto, Tex	DEE-6297
June 5, 1979	Mini-Mart, Casper, Wy	DEE-6296
June 5, 1979	Dean-O of Georgia, Inc., Moultrie, Ga	DEE-6295
June 5, 1979	George's Mobil, Los Angeles, Calif	DEE-6294
June 5, 1979	Travlers Petroleum, Inc., Anderson, S.C	DXE-6287
June 5, 1979	Harr's Grocery, Big Cove Tannery, Pa	DEE-6286
June 5, 1979	Dillon, John, Philadelphia, Pa	DEE-6285
June 5, 1979	Ed Marteusz Arco, Valleso, Calif	DEE-6284
June 5, 1979	Ali, Shiraz, G., Houston, Tex	DEE, DES-6315
June 5, 1979	JJ's Exxon, Horseshoe Bend, Ark	DEE-6283
June 5, 1979	Robins Marina, Inc., Port Bolivar, Tex	DEE-6282
June 5, 1979	Hurst Chevron Service, Plant City, Fla	DEE-6280
June 6, 1979	Bruder's Exxon, Baltimore, Md	DXE-6319
June 4, 1979	Scotland Oil Co., Inc., Alma, Mich	DEE-6313
June 5, 1979	Pensa's Shell Servicenter, Buellton, Calif	DEE-6288
June 5, 1979	Lincoln Mini-Mall, Ogdon, Utah	DEE-6291
June 5, 1979	Bud Wolfe's Arco Mini Market, Redlands, Calif	DXE, DES-6310
June 5, 1979	Husky Oil Co., Denver, Colo	DXE-6321-6327
April 13, 1979	Anoka International Sales & Service, Anoka, Mich	DEE-6326
June 6, 1979	Energy Development Corp., Catlettburg, Ky	DEE-6349
April 24, 1979	***Covington Shell Service Station, Covington, La	DEE-6330
June 7, 1979	Charlestowne Exxon, Charleston, S.C	DEE-5441
June 7, 1979	Cen-Cal Engineering Inc., San Anreas, Calif	DEE-5737
June 7, 1979	Ranch, Raskin R., Linden, Calif	DEE-5736
June 7, 1979	Wallen Bros. & Habelt Inc., Grand View, Wis	DEE-6277
June 7, 1979	Auto Care Center, Inc., Farmington Hills, Mich	DEE-5112
June 7, 1979	Sears Roebuck & Co., Wilmington, Del	DEE-5805
June 6, 1979	Hampton Park Exxon, Camden, S.C	DXE-6336
June 6, 1979	Max Oil Co., Inc., Greenville, Ala	DEE-6335
June 7, 1979	Mahoning Farm Bureau Cooperative, Canfield, Ohio	DEE-6333
June 6, 1979	Fort & Emmons Shell, Lincoln Park, Mich	DEE-6338
June 7, 1979	Southern Tours, New Orleans, La	DEE-6337
June 7, 1979	Busbee Service Station, Byfornville, Ga	DEE-5103
June 6, 1979	D. & F. Food Store #1, Taylorsville, Ga	DEE-6344
June 6, 1979	Ellsworth Oil Co., Spearman, Tex	DEE-6342
June 6, 1979	Tony's Texaco, Inc., Miami, Fla	DEE-6341
June 7, 1979	Smith Service Oil Co., Inc., Savannah, Ga	DEE-6345
June 7, 1979	Mayo's Standard Service, Fergus Falls, Minn	DEE-6203
June 6, 1979	Broom's Service, Pleasanton, Tex	DEE-6339
June 7, 1979	H-30, Inc., Kans	DEE-5735
June 7, 1979	Crowder Blvd. Service Station Shell, New Orleans, La	DEE-6390
June 6, 1979	Putnam's R. V. Center, Inc., Klamath, Oreg	DEE-6383
June 4, 1979	Livingston-Thebaut Oil Co., Inc., Jacksonville, Fla	DEE-6384
June 6, 1979	Echo Bay Resort, Overton, Nev	DEE-6395
June 4, 1979	Ruth L. Thomason, Sherman, Tex	DEE-6193
June 4, 1979	Bob's 27th Street Standard, Fargo, N. Dak	DEE-6192
June 4, 1979	Quarterfield Amoco Service, Glen Burnie, Md	DEE-6190
June 4, 1979	Jack's Arco, Belmont, Mass	DEE-6185
June 4, 1979	Ferndale Amoco Station, Glen Burnie, Md	DEE-6188
May 7, 1979	Teague Oil Company, Henderson, Tenn. (No submission list)	DEE-6159
June 8, 1979	Publix Oil Company, Washington, D.C	DEE-5492
May 9, 1979	Raypak, Inc. (No submission list)	DEE-6231
June 5, 1979	Franklin Oil Co., Houston, Mo	DEE-6346
June 1, 1979	Edgewater Standard Service Station, Orlando, Fla	DEE-6172
June 1, 1979	Israle DeLeon Service Center, Coachella, Calif	DEE-6179
June 5, 1979	Cibolo Self Service, Cibolo, Tex	DEE-6351
June 5, 1979	Aianboucki, Drago	DXE-6352

Notices of Objection Received

June 4, 1979	D & D Mobil Service Center, Cupertino, Calif	DEE-2668
June 5, 1979	James Oil Co., Inc., Golden, Colo	DEE-2912
June 8, 1979	Beaver Lake Camp Ground, Orlando, Fla	DEE-3272

Proposed Remedial Orders Notices of Objections Received

June 5, 1979	King City Truck Stop, Pasco, Wis	DRO-0224
June 5, 1979	Addie Fuel and Drum Co., Gloverville, S.C	DRO-0227
June 5, 1979	Tenneco Oil Comany, Houston, Tex	DRO-0026
June 5, 1979	Wilshire Oil Company of Texas, North Harvey, Tex	DRO-0225
June 8, 1979	Atlantic Richfield Company, Los Angeles, Calif	DRO-0029
June 8, 1979	Lavender, George, Silverdale, Wash	DRO-0228

[FR Doc. 79-24488 Filed 8-8-79; 8:45 am]

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Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; June 18 through June 22, 1979

Notice is hereby given that during the period June 18 through June 22, 1979 the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form.

Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

August 2, 1979.

Edgington Oil Company, Inc.; Washington, D.C., DXE-3442, crude oil.

Edgington Oil Company, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Programs). The exception, if granted, would relieve Edgington of its obligations to purchase entitlements beginning in the month of June 1979. On June 19, 1979 the DOE issued a Proposed Decision and Order which determined that Edgington's monthly obligations to purchase entitlements should each be reduced by $627,218 during the period June through November 1979 to account for crude oil receipts and runs to stills during the period April through September 1979.

Mohawk Petroleum Corporation, Inc.; Los Angeles, California; DEE-2105, crude oil.

Mohawk Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception, if granted, would relieve Mohawk of its obligations to purchase entitlements beginning in the month of June 1979. On June 19, 1979 the DOE issued a Proposed Decision and Order which determined that Mohawk's monthly obligations to purchase entitlements should each be reduced by $1,289,056 during the period June through November 1979 to account for crude oil receipts and runs to stills during the period April through September 1979.

Moran Pipe and Supply Company, Inc.; Seminole, Oklahoma; DXE-4212, crude oil.

Moran Pipe and Supply Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Cozar Lease for the benefit of the working interest owners at upper tier ceiling prices. On June 22, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Cozar Lease.

Propane Gas and Appliance Company; New Brockton, Alabama; DEE-1060, propane.

The Propane Gas and Appliance Company filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would result in the issuance of an order relieving Propane of its obligation to refund to its customers certain revenues which it obtained by charging prices for propane in excess of the maximum levels permitted by Section 212.93. On June 19, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Southland Oil Company/VGS Corporation; Washington, D.C., DXE-3449, crude oil.

Southland Oil Company/VGS Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception, if granted, would relieve Southland of its obligations to purchase entitlements beginning in the month of June 1979. On June 19, 1979 the DOE issued a Proposed Decision and Order which determined that Southland's monthly obligations to purchase entitlements should each be reduced by $708,195 during the period June through November 1979 to account for crude oil receipts and runs to stills during the period April through September 1979.

Eldon Walker; Fortuna, California; DEE-4106, crude oil.

Eldon Walker filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Eldon Walker to sell the crude oil produced for the benefit of the working interest owners at the Hutson 1-A lease at upper tier ceiling prices. On June 20, 1979 the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Warrior Asphalt Company of Alabama, Inc.; Washington, D.C.; DXE-3715, crude oil.

Warrior Asphalt Company of Alabama, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception, if granted, would relieve Warrior of its obligations to purchase entitlements beginning in the month of June 1979. On June 19, 1979 the DOE issued a Proposed Decision and Order which determined that Warrior's monthly obligations to purchase entitlements should each be reduced by $146,798 during the period June through November 1979 to account for crude oil receipts and runs to stills during the period April through September 1979.

Young Refining Corporation; Washington, D.C.; DXE-3445, crude oil.

Young Refining Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception, if granted, would relieve Young of its obligations to purchase entitlements beginning in the month June 1979. On June 19, 1979 the DOE issued a Proposed Decision and Order which determined that Young's monthly obligations to purchase entitlements should each be reduced by $286,754 during the period June through November 1979 to account for crude oil receipts and runs to stills during the period April through September 1979.

List Of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of June 18 through June 22, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Order which determined that the exception requests be granted.

Corner Pantry Food Marts, Inc.; DEE-2408; Greensboro, GA.

"J" Oil, Inc.; DEE-2594, Colorado Springs, Colorado.

Peter H. Clark, Inc.; DEE-5927; Powtucket, RI.

Priebe Bros. Oil Company; DEE-2266; St. Joseph, MS.

List of Cases Involving the Standby Petroleum Product Allocation Regulation for Motor Gasoline

Week of June 18 through June 22, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline.

The DOE issued Proposed Decision and Order which determined that the exception requests be denied.

Bird Road Exxon; DEE-3289; Miami, Florida.

C&C Garage and Towing; DEE-3362; Slatersville, RI.

Colony West Gulf; DEE-4579; Little Rock, Ark.

George Adamian Texaco; DEE-5421; Los Angles, CA.

J. D. Streett & Co.; DEE-3255; Washington, D.C.

Magnolia Exxon; DEE-2861; Charleston, SC.

Pea Soup Anderson's; DEE-3251; Buellton, CA.

[FR Doc. 79-24486 Filed 8-8-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; June 25 through June 29, 1979

Notice is hereby given that during the period June 25 through June 29, 1979 the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N. W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

August 2, 1979.

City of Long Beach, California; Long Beach, California; DXE-5820, crude oil.

The City of Long Beach, California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Fault Block II Unit for the benefit of the working interest owners at upper tier ceiling prices. On June 29, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Fault Block II Unit.

Equipment, Inc.; Lafayette, Louisiana; DXE-4107, crude oil.

Equipment, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell the crude oil which it produces from the Hayes No. 1 and Hayes A-1 Wells for the benefit of the working interest owners at market price levels. On June 29, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Hayes No. 1 Well and Hayes A-1 Well.

M. J. Mitchell; Dallas, Texas; DXE-5534, crude oil.

M. J. Mitchell filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell the crude oil which it produces from the Mitchell State Minnelusa Sand Unit for the benefit of the working interest owners at market price levels. On June 28, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Mitchell State Minnelsua Sand Unit.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of June 25 through June 29, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Big K Oil Co.; DEE-2494; Hattiesburg, MS.

Greenwood Petroleum; DEE-6718; Greenwood, SC.

Jersey Crown Dairy; DEE-4549; Manteca, CA.

Mason Valley Petroleum; DEE-5144; Yerington, NV.

McDaniel's Grocery & Meat Market; DEE-5933; Port Bolivar, TX.

Pine Grove Exxon; DEE-5051; Pine Grove, CA.

Town & Country Food Markets, Inc.; DEE-2863; Washington, D.C.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of June 25 through June 29, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Deacon's Corner; DEE-2278; Tampa, FL.

Hull Oil Company; DEE-4200; Washington, D.C.

Ron's Shell Service; DEE-5912; San Francisco, CA.

Zarda Bros. Dairy, Inc.; DEE-5747; Shaunee, KS.

[FR Doc. 79-24387 Filed 8-8-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Kenneth H. White Co., Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Kenneth H. White Co., Inc. This Proposed Remedial Order charges White with pricing violations in the amount of $447,431.21 in sales of 2 fuel oil and residual fuel oils during the time period November 1, 1973, through December 31, 1974, in the State of Michigan.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from William D. Miller, Acting District Manager of

Enforcement, 324 East 11th Street, Kansas City, Missouri 64106. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri, on the 30th day of July 1979.

William D. Miller,

Acting District Manager, Central Enforcement District.

[FR Doc. 79-24488 Filed 8-8-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-145; FRL 1293-5]

Pesticide Programs; Filing of Pesticide/Food/Feed Additive Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 8F2122. Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166. Proposes that 40 CFR 180.364 be amended by establishing a tolerance for the combined residues of the herbicide glyphosate [*N*-(phosphonomethyl)glycine] and its metabolite aminomethyl-phosphonic acid resulting from the application of the sodium salt of glyphosate in the growing of sugarcane with a tolerance limitation of 2.0 parts per million (ppm) in or on the raw agricultural commodity sugarcane. The proposed analytical method for determining residues is by gas liquid chromatography using a phosphorus-specific flame photometric detector.

FAP 9H5196. Monsanto Co. Proposes that 21 CFR 193.235 and 561.253 be amended by permitting the combined residues of the herbicide glyphosate and its metabolite aminomethylphosphonic acid resulting from application of the sodium salt of glyphosate in the growing of sugarcane with a tolerance limitation of 2.0 ppm in or on raw sugar.

Interested persons are invited to submit written comments on these petitions. Comments may be submitted, and inquires directed, to Product Manager (PM) 25, Room 359, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755/2196. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: August 3, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-24585 Filed 8-8-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 9]

Possible Rebates and Similar Malpractices in the United States Foreign Commerce; Extension of Investigation

By Order of August 2, 1978, the Federal Maritime Commission extended for a term of one year Fact Finding Investigation No. 9. This nonadjudicatory proceeding was instituted by Order of the Commission on July 9, 1976 (Federal Register Vol. 41, No. 141, July 21, 1976), into the practices of rebates, absorptions, allowances in excess of those set forth in the tariff, and any other method of obtaining or allowing other persons to obtain transportation of property at less than the rates or charges which would otherwise be applicable in the United States foreign commerce.

Since its institution, Fact Finding Investigation No. 9 has been utilized as an integral part of the Commission's program into rebates and other malpractices in the foreign commerce of the United States. While Fact Finding Investigation No. 9 was initially extended for a one year period, the Commission's continuing investigation into these matters raises the possibility that the compulsory processes authorized by Fact Finding Investigation No. 9 may have to be utilized to fully develop cases still pending final resolution.

Therefore, it is ordered, That pursuant to sections 22 and 27 of the Shipping Act, 1916 (46 U.S.C. 821 and 826) and section 214(a) of the Merchant Marine Act of 1936 [46 U.S.C. 1124(a)], Fact Finding Investigation No. 9 is extended for one year after publication of this Order in the Federal Register.

It is further ordered, That Notice of this Order be published in the Federal Register.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-24482 Filed 8-8-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Nutrition Education Conference: Directions for the 1980's

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice presenting background papers and inviting public comment for the HEW sponsored "National Conference on Nutrition Education: Directions for the 1980's."

SUMMARY: This notice sets forth four Task Force papers that will be used as background documents for a Department of Health, Education, and Welfare sponsored national conference on nutrition education, to be held next September 27 and 28 in Bethesda, Maryland. Each paper addresses recommendations for meeting the nutrition education needs and desires of various U.S. population groups during the next decade: pregnant women, children, and adolescents; the general public; low income populations and the elderly; and persons with diet-related diseases.

Interested individuals and organizations are invited to submit comments on the recommendations and justification statements appearing in each of the four Task Force reports. The respective chairpersons on each Task Force will consider the comments as they refine the documents during and following the September Conference.

Please note that these are draft documents.

DATES: The Assistant Secretary for Health invites comments on these special Task Force Reports. The comment period closes on Friday, August 31, 1979.

ADDRESS: Please send written comments to: Deputy, HEW Nutrition Coordinator, room 708B Hubert H. Humphrey building, 200 Independence Avenue, SW, Washington, D.C. 20201.

All comments received in timely response to this notice will be considered and will be available for public inspection weekdays between the hours of 9 a.m. and 5 p.m.

Additional information may be obtained from Dr. Lenora Moragne, Deputy HEW Nutrition Coordinator (202-472-5308).

Dated: August 1, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Report on Task Force on Nutrition Education for the General Public

Co-Chairpersons: Ms. Karen Brown, Food Marketing Institute; and Mr. Tom Cooke, Manoff International

This is a draft document. This paper should not be interpreted as official policy of DHEW, any other Federal department or agency, or organization.

Task Force II—the General Public

I. Summary and Recommendations

A. Goals. In the coming decade, nutrition policy makers will be challenged by new education goals for the general public. Long term changes in dietary practices can result in substantial reduction of risks for chronic diseases prevalent in our country. Expert scientific groups in the US and abroad advise that the typical American eating patterns can be improved by:

(1) Increasing consumption of fruits, vegetables and grains, especially whole grains;

(2) Cutting down consumption of fats, oils and fatty foods;

(3) reducing consumption of animal products rich in cholesterol;

(4) Limiting the amount of highly sugared foods in the diet;

(5) Reducing consumption of highly salted foods;

(6) Eating just enough calories to keep body weight at desirable levels;

(7) Limiting amounts of alcoholic beverages in the diet.

In addition to dietary guidance, there will be increasing concern among the public about food safety and quality as more fabricated and modified food products are marketed, as different packaging and preserving methods are used, and new retailing methods are employed. These topics merit more attention in nutrition information plans.

B. Methods. More effective techniques must be used of bringing about behavior change or of merely offering new, credible information to the public. These methods will draw upon a variety of disciplines not usually associated with traditional nutrition education: social psychology, psychiatry, anthropology, sociology, economics, industrial design, architecture, marketing, and advertising. The need for new approaches to nutrition education is based on a better understanding of the close links between our food habits and our life-styles. Food choices are not merely the result of the information each of us has, but they are caused by a life time of social, cultural and economic influences. Changes will not be made without the long term application of carefully designed programs.

Successful behavior change efforts of the past and on-going experimental programs suggest that careful segmentation of the target group is important in designing relevant programs. Just as injunctions to vague ideals such as "eat a balanced diet" are ineffective and irrelevant, so are programs aimed at the general public. The public, apart from special groups considered by other task forces, is too diverse to be the subject of a single program. The specific segmentation will depend upon the communication and education task.

Other specific approaches include the following:

- learning about self-image, concepts of well-being, self-control;
- aiming at clusters of behaviors related to diet, exercise, self-awareness, assertiveness;
- using a wide variety of sites for learning and transmitting information—not just schools, clinics, and mothers' clubs, but stores, the street, the mass media;
- designing the programs to last over long periods of time—months, years instead of the common blitz or campaign approach;
- providing consistent information but explaining the areas of uncertainty;
- directing the program, not merely at the specific target individual—the over-weight teen or the misinformed housewife, but at others in their lives who will influence their behavior.

Several important ethical-political issues must be addressed if the government is going to take nutrition behavior change more seriously in the coming decade. For example, how much of the responsibility for dietary improvement should rest with the individual and how much should be engineered into the food supply, kitchen design, or city planning? How certain must be the scientific evidence before dietary changes are recommended to the public? How invasive in personal life-style is it justifiable to be for publically sponsored programs?

II. Discussion and Rationale

A. Goals. There is evidence that long-term changes in the dietary practices of our population can result in substantial reduction of risks for chronic diseases prevalent in our country. These changes are consistent with the recommendations of expert scientific groups in many parts of the world including the United States.

The dietary guides represent a profound change in dietary recommendations for the American public. In the past, when prevention of deficiency diseases required our attention, food guidance focused on eating enough of a variety of foods to assure that adequate levels of essential nutrients would be consumed by the public. However, the long-range effects of a national diet abundant in protein, vitamins, and minerals was not known. Today, severe deficiency disorders are extremely rare in our country. Improvements in food production, manufacturing and distribution, as well as a better informed public have resulted in the eradication of classical malnutrition in all but a few sub-groups in our society. To continue to advise the public to consume a traditional abundant diet can contribute to over-consumption of dietary components associated with our principal public health problems.

The rationale for food safety education is equally compelling. Government and private surveys in recent years have documented growing consumer concern and confusion about food safety and the nutritional adequacy of the present food supply. Many consumers fear the harmful effects from the proliferation of ingredients in processed foods. Others are uncertain about the nutritional and other properties of processed foods and foods that substitute for traditional foods, such as those containing new sources of protein.

Current methods permit the reduction of edible protein from cottonseeds and the separation of edible protein from whey. Solvent extraction and texturizing yield a variety of soy protein products. Processes using enzymes produce high-fructose corn syrups and other corn sweeteners. Single-cell organisms produce protein for a variety of processing wastes and other sources. Economically, processes could produce useful products from wastes such as fruit and vegetable pulp, peelings and animal by-products, thereby reducing food losses and costs.

More than half of the foods eaten today are processed, and more processed foods are likely to be used in the future as a factor in maintaining an urban society. Advancing food technology undoubtedly will continue to make new foods and new forms of foods available in the marketplace. Thus in the 1980's and beyond, the complexity of the food supply may continue to

confound the public unless serious educational efforts are made.

Several major areas of food safety and quality will merit attention:

Traditionally, education in food safety has related primarily to the prevention of microbiological contamination and, because it is the issue of greatest public health significance, the safe handling of food in the home and in food service establishments needs continuing major emphasis. In view of the expected continuing shortage and the high cost of energy, the safe and efficient use of energy-conserving measures of food handling in the food system and in the consumer's home will probably be an area for increased emphasis in the future.

In addition, education needs to expand to encompass the issues about food safety and quality that have developed in relation to a more sophisticated food supply, such as food additives and the nutritional qualities of new foods. Evidence indicates that many Americans are using food labeling information to avoid what are perceived as "harmful substances" in foods, and the purpose of many fad diets is the avoidance of certain substances. The ingredient list on food labels presently is of greater importance to many people than the nutritional label. Hence a priority is to help the public understand the ingredient information and how to use it in a valid way in making dietary selections.

New packaging techniques are particularly important in the coming decade as consumers are more cost and energy conscious. Currently packaging is second only to labor as a contributor to food costs. Some new methods promise to reduce costs, allow for fewer preservatives, and permits shorter preparation time.

New packaging materials may be developed in conjunction with new processing technology or may be a new way of packaging a traditional product. The oxygen scavenger packaging process can reduce the need for food additives or preservatives by trapping oxygen and forming water in the outer layer of the package. The retortable pouch, still in the development stage, is a multilayer plastic laminate with a middle layer of aluminum foil, with an adhesively bonded bag that will withstand thermoprocessing. This pouch combines the advantages of the metal can and the plastic boil-in-the-bag. The tray pack uses a metal tray in which complete meals are processed, transported, stored, reheated, and served from the container itself. Data on energy savings of these new packaging technologies are being gathered.

B. Characteristics of the Population. Nutrition education will be particularly challenging in the next decade because of the changing characteristics of the general public. Several important trends are worth noting.

First, more and more women are entering the work force. In 1977, 47.4 percent of all mothers were working outside the home. Surveys indicate that something more than economics is motivating mothers to work. Today's image of the achieving woman will include a family and a career. However, for many women, employment is a necessity. The number of families headed by women, with no husband present, is growing at 4.4 percent annually. Approximately 5.5 million children under 18 years are in homes of this category.

As more mothers enter the work force less time is spent in shopping and food preparation, at a time when, as the previous section indicated the food supply is becoming more complex (with approximately 50,000 items listed in the Universal Product Code), processed, and hard to recognize. Moreover, consumers are as likely to be men as women, children as adults, food wise as well as food naive.

A second major trend is that individualized eating has become a national pastime. Working parents eat lunch out of the home. Their children fix breakfasts for themselves, eat lunch out and help to get dinners on the table. Dinnertime for many means "fast fooding" the family or a go-go affair at home between evening recreations and completing workday chores. "No time for" . . . it's the theme repeatedly heard in relation to household shopping, cooking, and clean-up.

Another significant trend is the increase in away-from-home eating which is frequently done on an individual basis. Currently the away-from-home eating industry is growing at four times the rate of the retail food-industry. In the fast food industry alone, sales of $74 billion in 1975 are expected to swell to $113 billion by 1980.

This trend away from family meals does just not affect working adults. Today with more employed mothers, children are out of the home at an earlier age. As a consequence, children eat many meals with persons outside the family. In 1965, about 27 percent of all three to five year-olds were enrolled in pre-school. By 1970, the figure rose to 37 percent; it continues to rise as more mothers enter the labor force.

So it is that today's children are at an earlier age exposed to many people of varying social strata and different ethnic origins. According to behavioral scientists, this is significant because 50 percent of a child's personality . . . attitudes, motivations, expectations . . . is formed before the age of six years.

The increasing number of single person households is the third major trend. During the 1980's U.S. Census projections predict that the population in the age groups 18–24, 25–34, and 65 years and older will increase measurably over preceding decades. Young adults are delaying marriage until late in their 20's and there are increasing numbers of the elderly living alone.

These individuals give less attention to their diet, are willing to spend less time cooking, and are likely to spend more per serving than those in larger households.

The net result of these factors is an increase in products that facilitate convenient individualized eating . . . soup for one, single serving canned and frozen entrees, delicatessen fare, vending machine foods, fast food take-out or eat-in items, individually packaged steaks, and small-size packages of fruits and vegetables.

Statistics supporting these trends report that the frozen food section grew from a $1.5 billion business in 1956 to $6.5 billion in 1976. Delecatessens are among the four fastest growing sections in the supermarket today. Surveys show that about 70 percent of all female consumers today shop at a deli, and about half that number shop there each week.

C. Methods. 1. Building a Natural Strategy. The dietary guidelines provide general goals upon which to develop a national strategy. Each does not apply with equal relevance to each element of the general public.

A major emphasis of nutrition education should be research into the target groups' food habits, broader food culture, media habits, and self-perceptions. Much of this information has been gathered by food marketers, but is not available to the public.

An adequate strategy will require multi-sectoral planning involving the food industry, government, press and broadcast media, universities, schools, consumers and public interest groups. The formulation of the strategy must be a conscious act, requiring considerably more effort and money than has been invested in this conference.

Before a strategy can be formulated many different value issues must be resolved.

First, it must be wondered how much reliance can be placed upon individual-change-focused educational programs as opposed to environmental manipulations that require health behaviors and take them beyond individual control. As a parallel, banning cigarette sales in certain buildings probably is a better way of reducing smoking in those areas than educating people not to smoke; and limiting gasoline sales may be a better way of ensuring slow driving than merely posting 55-mph speed limits and occasionally prosecuting violators. Once it is decided that the expenditure of resources for education is justified—and in a free society one can strongly argue that the first approach must always be appeal to the individual—a number of secondary value questions arise: For example: How strongly must recommended changes be based upon research leading to relatively unchallenged conclusions: How invasive in personal life-style is it justifiable for publicly sponsored programs to be? To what extent must cultural values of learners by respected even though they may conflict with the principles that lie at the base of the health-behavior-promotion programs? To what extent is it justifiable to ask learners to modify thoughts and feelings, social interactions, and related contributors to the urge to overeat in programs aimed at promoting obesity control.

The answers to these questions can only be found through discussion among health behavior professionals and representatives of the consumers and service communities. It is strongly urged that one of the outputs of this conference will be the stimulation of just such a dialogue.

2. Segmentation of the Target Group. Segmentation permits the design of programs: selection of specific objectives, instructional methods, media selection, appeals, etc. to suit the characteristics of each segment. However market segments are not rigid divisions and the characteristics of each segment changes continually.

The following list of socio-demographic segments is one taxonomy.

Parents of children birth to 18 months
Parents of children 19 months to 4 years
Parents of children 5 to 15 years old
Children, kindergarten to 16 years of age
Parents of teenagers still living at home
Teenagers
Pregnant teenagers
Single young adults, male and female, who are in college or living on their own for the first time
Pregnant women 20 years and older
Adults 25 to 65
Adults 65 and over
Male and female working single heads of household with children

Another set of categories might be organized around the extent to which individuals understood and cared about the relationship between diet and health. On one extreme of this set of market segments would be the food faddists and on the other, the middle of the road, well informed home maker. Another segment might be those who tend toward moderate to heavy exercise.

Socio-demographic segments may also be sub-divided by ethnic groups: Black, Spanish, Asian, Caucasian, and Middle Eastern.

3. Education and Communication Methods. We should be challenged by the immense task of nutrition education in the next decade and somewhat humbled in our expectations since little seems to have been accomplished in the preceding decades of effort.

When the Task Force considers general dietary changes, it is not suggesting fewer steaks, or more vegetables and whole grain bread. It is asking people to change how they live and to take risks with their personal self esteem and aspirations, parenting mores, leisure habits and peer status. It's asking people to tamper with an important source of relaxation and pleasure. These changes are pervasive for families—for the country, they are nothing short of societal, or cultural change. Attempts to influence the general public's dietary practices will fall short of their mark if they do not take into account the relationship between our eating habits and every other aspect of our life.

Dietary change is not independent of, but allied with, transitions in our living styles. The subject of change itself, its nature, rate, and extent may be a relevant initial charge of this group. The Task Force's charge may be aided by an examination of commonalities in the overall interplay of many events characterizing each past societal problem and subsequent change. Getting a "feel" for what is required to orchestrate a prolonged nutrition education program may be a more important task than considering the validity and effectiveness of the components of a nutrition education program. The challenge is more management, motivation and maintenance, than a search for powerful and key components.

In one essay a Task Force member discussed approaches to changing eating habits for weight control. Since this is one of the most difficult behavioral issues, yet one about which more adults are concerned, the insights from this experience will help us with understanding how to approach nutrition education in general.

"Several important choices confront those interested in developing programs aimed at both preventing and controlling overweight. The first and most critical choice must be made between using a direct versus an indirect programming approach. By analogy, a direct approach to the problem of depression involves the giving of antidepressants intended to elevate mood, while an indirect approach would offer training in assertive restructuring of the individual's environment so as to eliminate depression-eliciting cues. For obesity a direct approach would provide much more broad-spectrum training in behavioral self-management, which should be coupled with some community and/or environmental changes that would facilitate a life-style change. Over the two decades of research on clinical applications of these strategies seems to indicate that while direct methods may lead to more immediate successes, maintainable changes seem to depend upon the successful application of indirect methods. By extension from these clinical studies, it can be strongly argued that indirect methods followed by application of direct techniques would seem to present the best opportunity for effective preventive efforts."

The direct versus the indirect choice determines the general *thrust* of the program; the next choice relates to the *scope* of the program that is offered. Direct nutrition education programs could be as *narrow* as offering only recommendations for specific menus or as *broad* as providing training in the principles of good nutrition or discussing the origin of food and the role of food in the maintenance of healthful living. Education programs taking an indirect approach can be viewed as points along a similar continuum: At the more narrow end of the continuum is training limited to building better eating patterns by improving habits of food intake and the management of food availability in living, work, and play environments. At the broader end of this continuum are programs that help learners to understand the sources and influence of their philosophies and values of life, their concepts of self and health, and the role of these notions as arbiters of their own fate, and to develop skills not just in nutritional planning but in far-

reaching aspects of their daily health-related behaviors."

Less research evidence is relevant to this choice than to that between direct and indirect approaches. Such data as do exist, however, suggest that the broad-spectrum approach may be more effective for two important reasons: First, the learner may be more willing to take initial action in some areas than in others, and offering alternatives is often helpful in inducing learners to begin participating in health-behavior-promoting programs. For example, chronic overeaters may be more willing to embark on a stress-managment program aimed at reducing their urge to eat or on physical activity programs aimed at increasing caloric utilization than to attempt programs that immediately impose reduction in food intake. Indeed, it is often the case that those who are put off by eating focus are lost to weight control programs, while those who begin on related programs are strong potential candidates for later participation in eating-management programs. Second, currently available data support the notion that individuals who change several behaviors concurrently may be more successful than those who concentrate upon a single behavior, because they are more attentive to opportunities for behavior change in general and because success in one area often helps to reinforce efforts made in related areas. Therefore, the broad-spectrum approach is more likely to tap into the learner's willingness to change and is better adapted to meeting the challenge of providing the reinforcement needed to maintain participation in the program."

Consistent with the indirect, broad-spectrum programming thus far recommended are a series of operational choices. The location of the programs may affect compliance with their recommedations: programs offered at schools or in clinics are less likely to generalize than those offered in the home or at nonclinical sites in the community. Teaching will be most effective if it is offered in varied settings despite the added cost and inconvenience of decentralization of the programs. Teaching that is continuous over time is more likely to be effective than a "one-shot" approach for at least two reasons: First, the goal of the program contemplated by this conference is long-term change in behaviors that have been acquired throughout the life experience of the learners, whether of three, thirty, or seventy-three years' duration. It is unrealistic to expect to change these patterns with a single effort, just as it is unwise to think there is one universal "critical" time at which the information is relevant and the individual ready to receive it. The interruption of daily habits of even short duration often requires repeated inputs, and individuals are ready to receive and to utilize these inputs at varied times in their lives. Moreover, as life configurations change for individuals, so, too, do their needs for specific health behavior programs. Therefore, repetition of these programs throughout the developmental cycle from early childhood to old age offers an opportunity to vary content and presentation in a manner that increases the likelihood that the message will be understood and utilized. For example, if the core message is the wisdom of prudently planning diet, several stages of development-related adaptations can be visualized: Young children who are learning to categorize life experience generally may be most receptive to the "basic four" approach; adolescents who are struggling with autonomy might respond most favorably to training in making decisions independently of the urging of food packagers and marketers; the prevalence of obesity becomes more marked among men who reach their early 20s, probably due to a change in the level of their physical acitivity, so this group may respond best to (and need most) instigations to sustain activity levels; while many women are interested in nurturing their young children during their twenties and early thirties and therefore may respond most favorably to a "nutrition fact" approach, their obesity is most likely to escalate during the period of their middle thirties when they, too, may respond most favorably to an exercise and/or youthful-appearance-sustaining approach. Thus *repetition* of the program permits utilization of a stronger pedagogical approach while also affording the change to utilize the principles of social marketing in adapting programs to the needs and interests of the learner."

Beyond timing, it is also important to consider the *targets* of nutrition programs aimed at combating obesity. In general, programs aimed simply at individuals cannot be expected to pay rich dividends. There is mounting evidence to support the views that eating and activity patterns are well predicted by those of parents, siblings, and peers; that such paterns of married adults are well predicted by those of their mates; and that cultural, institutional, and small-group influences leave a heavy stamp upon the health behaviors of those exposed to their influence. Therefore, nutrition education programs aimed at controlling obesity should be conceived as coordinated efforts to deliver relevant aspects of instigations to change behavior by all of those whose influence is likely to affect the individual's choices. These multiple inputs might be delivered to the child in the context of his or her family, to couples, to naturally occurring social groups, to religious organizations that seek to influence the health behaviors of their members, and obviously to all levels of work organizations. Finally, it is also critically important to offer education to community planners whose decisions profuoundly affect the provision of stress-minimizing versus stress-inducing environments, environments that facilitate or impede physical activity, and environments that discourage rather than encourage problem eating by planfull consideration of the location of food availability. Without including this group as a target of educational efforts, little success can be expected from the more individual-focused activities."

"The format of the programs will also bear significantly upon their effectiveness in promoting the control of behaviors that result in obesity. Programs that involve active participation by learners are often more effective than those in which learners are passive recipients of new information. A few reports of successful programs aimed at weight control appear to include roles for clients in which each serves as a mentor for others: Promotion of active learner participation by involving learners as teachers of others therefore offers the potential of greater program effectiveness in health behavior-promoting programs."

4. Evaluation. No essay or report on nutrition education is complete without a reference to evaluation. One of the Task Force members addressed this issue in a thought provoking statement.

"New and socially pertinent evaluation technologies such as cost effectiveness and cost benefit analyses are viewed with the reverence usually reserved for godheads and sports celebrities. We are led to believe that we will heedlessly waste our resources if we do not incorporate complicated and expensive evaluation strategies—given an increasing number of societal needs and decreasing societal resources to meet these needs. One hears much talk about their relevance to nutrition education."

"The underlying rationale for their use is relatively simple: identify the procedure to change dietary patterns and assess cost in relation to yield. Compare to other means, costs and yields and, then make a decision. These procedures only are valid if the conditions and requirements for their appropriate application are present. If these criteria are applied to the area of nutrition change, the utility of sophisticated evaluation models diminishes rapidly. First, it has always been difficult, if not impossible, to acceptably quantify behavioral interventions. Second, even if it were possible to quantify interventions, no empirical data on outcome or effectiveness exists for any change techniques because we have no previous record of successful use. We don't know how long any given intervention should take—1, 3, 5, 10, or 20 years? Third, it is unrealistic to consider comparing alternative approaches. Nutrition change will take everything we have for the longest possible time we can afford it—and it still will not be enough."

"In such circumstances, there is no common, nor economic sense in dividing our limited resources to tackle nutrition change. Any comparisons generated would be superficial, and contradict empirical experience regarding the enormity of the undertaking required to make headway. At best, we will be able to take one broad, sustained comprehensive crack at it. We do not know what, where, how much, nor how long to do it. These are not the optimum conditions the designers of such sophisticated evaluation techniques had in mind. They require quantifiable, finite and valid events and a problem conceptually consonant with their capabilities. As with all technologies, relevance depends upon their intelligent use, sometimes intelligent non-use."

Successful nutrition education programs will depend upon accurate, defensible message; the identification of appropriate population segments at which the message is to be targeted; realistic attitudes regarding what actually can be accomplished within certain time frames; the enthusiatic cooperation of industry, consumers, government and academia; and, perhaps most importantly, our ability to *motivate* changes in dietary behavior on the part of the public.

Report of Task Force on Nutrition Education for Pregnant Women, Children, and Adolescents

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Abstract Report of Task Force on Nutrition Education for Pregnant Women, Children and Adolescents

In order to promote and maintain the health of pregnant women, infants and children, today's nutrition education messages *and* their methods of delivery must be substantially changed. The following recommendations made by the task force grow out of the group's perception both of current problems with existing programs as well as the emerging needs of the 1980's:

1. *Nutrition education needs a new orientation, both for the message as well as its delivery:*

(a) Message—Nutritionists and others who design nutrition education must define and continually update a base of nutrition information upon which to build their programs. The message must grow out of a recognition of nutrition's role in total health and lifestyle and must reflect the need for individual and social responsibility in carrying out this role.

(b) Delivery—Nutrition education should promote attitudinal and behavioral change rather than merely disseminate information. It should "get people to want to know" about nutrition.

2. *Nutrition messages must be consistent, clear, useful and matched with the information desires and specific developmental characteristics as well as the cultural, social and ethnic orientations of the target groups.*

3. *All nutrition education curricula for preschool through secondary school must be redesigned and refocused around the target group's level of understanding. Curricula users must be trained in their use, and the use of related materials. Evaluation mechanisms must be built into curricula and the results used to improve future programs.*

4. *Nutrition education should be organized around specific objectives that:*

—maintain an overall structure and sequence that demonstrates a logical progression of subject matter and learning experience;

—allow for individual differences in learning styles as well as physiological needs;

—emphasize the role of nutrition in achieving maximum health and prevention of health disorders;

—promote learning that is practical and directly useful;

—emphasize self-involvement in learning;

—enhance sensory-motor developmental skills;

—take into consideration different cultural or ethnic orientations and lifestyles;

(d) Mass media programmers should be informed about the important relationship of nutrition to health. They should be encouraged to develop programs to support general nutrition education efforts and know where to obtain technical assistance in nutrition.

6. *New ways to reach out and provide nutrition education in different settings should be explored.*

7. *The mass media should be used more effectively to improve the image of nutrition and to initiate large-scale change in attitudes about healthy eating.*

8. *More adequate monitoring of the quality and safety of our foods, especially those used by pregnant and lactating women and children, should take place.*

9. *Evaluation of nutrition education should receive more emphasis.*

10. *Research in nutrition education must continue.*

Report Task Force on Nutrition Education for Pregnant Women, Children and Adolescents

Introduction

For pregnant women, lactating mothers, infants and children through adolescence, adequate nutrition is vital for attaining growth, promoting development and maintaining maximal health and well-being at a particularly important time of life.

Projected trends support the continuing nutrition needs of these target group.

Because of the "baby boom" following World War II, the female population in prime childbearing age, which has increased rapidly since 1970, will continue to increase from 48 million to between 55–57 million women by 1990. As a result, births for the 1980's would be above the current level of nearly 3.2 million and could easily reach 4 million.

Between 1976 and 1990, the following changes are expected among the child

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population: the 1–4 year-olds are expected to increase from 12.3 million to somewhere between 13–19 million; the 5–13 year-olds may decrease from 32.9 million to about 29 million or, depending on fertility rates, could escalate to nearly 38 million; while the 14–17 year-olds will experience a significant decrease from 16.8 million to between 12–13 million.

In addition, women appear to be having their first babies at a later age; birth rates for teenagers, 15–17 years of age, are decreasing; and more women are receiving prenatal care earlier in pregnancy. Although infant mortality rates have declined, there are still significant differences among racial groups, e.g., the proportion of low-birth-weight infants born to black women is nearly twice as high as the proportion born to white women. Low-birth-weight babies have higher mortality rates and are more likely to suffer from handicapping conditions. There is ample evidence that higher weight gain was related to higher birth weight. Dental problems still affect large numbers of children, as does obesity and other nutrition-related problems, such as iron-deficiency anemia.

Nutrition Education Today (The Experts' Perspective)

Within the target groups considered here, there is much activity in nutrition education, most of it geared to low-income persons served in public programs. Evidence that it is effective in influencing behavior is limited. This task force identified these major reasons:

—There is no comprehensive philosophy or approach shared by those who plan and implement nutrition education programs, nor is there agreement on the message. Responsibility for nutrition education is scattered throughout a number of Government and voluntary agencies, as well as the private sector. The results of this piecemeal philosophy and approach are conflicting and competing messages, overlap and duplication among programs, creating confusion and apathy.

The "message" often is not tailored to the information needs *felt* by the target group. Too often nutrition specialists are more concerned about what they want people to know and too little concerned with what people are intellectually able and motivationally ready to learn. For example, adolescents are interested in health primarily for self-indulgent reasons—for them the benefits of nutrition must be tangible and immediate to the greatest extent possible, e.g., don't talk about delayed gratification, but tell what you can offer now.

Unless the potential recipient can see how the information is useful to her or him, it is not useful at all. More recognition of the diversity of ways in which food and eating is used in a given society is important.

Delivery of the message often doesn't "take." Poorly designed curricula and nutrition education materials are not always geared to children's developmental levels and needs. Teachers and other providers are not adequately trained to convey nutrition information effectively; further, it may be unrealistic to depend totally on teachers to do so. Heavy reliance on print media ignores the greater effects of visual, especially mass media. Perceived experts such as doctors and nurses are ill prepared. However, recent trends such as the following are encouraging (a) more attention being given to nutrition in medical school curricula, (b) focus on nutrition in continuing education programs developed by professional organizations such as American College of Obstetricians and Gynecologists (ACOG), American Academy of Pediatrics (AAP), and voluntary agencies such as March of Dimes (MOD). Role models and learning enforcers such as parents and caretakers either don't see nutrition education as part of their jobs or are not knowledgeable enough to reinforce what their charges have learned elsewhere. Consideration needs to be given to attaching a value to nutrition education rather than treating it as a give-away; to providing more specific information on a local or regional basis; with attention to "reach and frequency" (how many people reached, how often); and to more effective use of mass media to initiate large scale change in eating habits.

Nutrition education has not kept place with changes in food technology and changing attitudes toward our food system, as well as such factors as the escalating number of working women, increase in group care of children and the increase in meals eaten away from home, etc. The fact that nutrition education has become somewhat standardized to a food-grouping system has meant that contributions of cultural/regional food often become obscure. A traditional approach to healthly eating, traditionally delivered, does not meet contemporary needs. Efforts should be made to present nutrition as a part of popular lifestyle and culture and to create a public demand for nutrition information.

Aspects of each of these complex difficulties apply to all the target groups:

Prenatal nutrition education is focused almost exclusively on clients enrolled in public programs; although in recent years, obstetricians and their professional organizations have given more emphasis to nutrition as an important component of maternity care. Varying in intensity and comprehensiveness, nutrition education is offered in various public and private settings by a diversity of providers with varying backgrounds in nutrition. Evaluation is sporadic and inconsistent, thus unproductive nutrition education may continue to be offered. Client perception of nutrition education as an important part of supplemental food programs is limited. More thought needs to be given to improving one-to-one nutrition counseling, more innovative use of the home evironment, e.g., telephone followup, mass media, community aides, etc., and increased client involvement.

The unique needs of pregnant adolescents, both in terms of the nutrition message as well as its delivery, need special consideration.

Nutrition education for *infants* and *preschool children* also focuses on low-income groups and tends to omit middle and upper income persons. The need for training of nutrition education providers, especially day care personnel, is a critical problem. Many who offer nutrition information for child caretakers use invalid sources and perpetuate misinformation. Training efforts for these teachers and caretakers have been inadequate and, in some cases, ineffective. Much nutrition education does not recognize the developmental level of the population to be served.

While nutrition education programs for *school-age youth* have become more comprehensive and systematic, several major flaws persist: the programs do not consider the changing nature of our food supply; curricula are not comprehensive or individualized, rarely evaluated and frequently do not consider and support overall educational goals. Less knowledge about nutrients and more about developing healthy lifestyles would be closer to the information needs of this group.

The task force concluded that, in order to meet the contemporary needs of the target groups considered, today's nutrition education messages *and* their methods of delivery must be substantially changed. The following recommendations made by the task force grow out of the group's perception both of current problems with exising programs as well as the emerging needs of the 1980's.

Recommendations

1. *Nutrition education needs a new orientation, both for the message as well as its delivery:* (a) *Message*—Nutritionists and others who design nutrition education must define and continuously update a base of nutrition information upon which to build their programs.

The message must grow out of a recognition of nutrition's role in total health and lifestyle and must reflect the need for an individual social responsibility in carrying out this role.

(b) *Delivery*—Nutrition education should promote attitudinal and behavioral change rather than merely disseminate information. It should get people to want to know "about nutrition."

The lack of a comprehensive philosophy of nutrition education and agreement of the message is responsible for much of the confusion and duplication that plague today's programs. Nutritionists must agree on some basics, and at least agree to disagree on lesser points.

Any emerging philosophy of nutrition education must take into account the changing role of food in our society as well as the effect food has on health. Food and eating are ethnic and social forces as well as economic and political ones and, as such, serve many purposes in a society. Nutrition concerns the critical linkage between food and health and well-being. Nutrition touches young women and children everywhere—at home, in their schools, their communities, and their world, and influences the present generation as well as future generations. Recognizing the complex multifactorial role of nutrition is a first step toward providing the kind of relevant nutrition education that promotes behavioral change.

2. *Nutrition messages must be consistent, clear, useful, and matched with the information desires and special developmental characteristics as well as the cultural, social, and ethnic orientations of the target groups.* Priority should be given to providing nutritionally important information that is wanted by the target group. Information with no practical relevance the recipient can see will not be assimilated and may even discourage or annoy the recipient. Ideally, this approach of matching message to felt need would provide actual, fairly immediate benefits to recipients and their families. These positive experiences with nutrition education would then ensure continuing interest in the issue of good nutrition.

Pregnancy

Because pregnant women generally seek information about their changing bodies and their unborn children, pregnancy is considered a particularly important "teachable moment."

The prospective mother, especially during her first pregnancy, is for example, receptive to information about optimizing her diet, breastfeeding, weaning, and the diet of her expected baby.

Nutrition education for the pregnant women should include discussion of the physiological changes expected in pregnancy, including the desirability of a weight gain of 22–27 pounds, the extra nutritional needs of mother and fetus and how to obtain them respecting socio-economic and cultural differences; the importance of avoiding fad diets, reducing diets, alcohol, non-prescription drugs; and anticipatory guidance relative to breastfeeding, etc.

A counseling format, which can be adapted to the women's specific needs, works best.

Once again, pregnant adolescents require a special approach. They may be less interested in their babies than in their own appearance and body image, for example. It is important to ascertain their special needs and attitudes first before beginning nutrition counseling.

Lactating Mothers

The consideration of breastfeeding provides another "teachable moment" when nutrition education can be maximized. Prospective nursing mothers need to know about the process and course of lactation, its many advantages and possible problems, in order to make an informed choice about whether or not to nurse their babies. They need to be informed about the effect of the mother's diet on milk supply, kinds and amounts of foods and nutritional supplements needed to support lactation, nursing procedures, non-nutritional factors affecting breastfeeding, e.g., rest, stress, drugs, etc.

Women who may choose, or already have chosen, to nurse also should receive need support from care providers, family, and friends, and guidance about sources of accurate information on nursing.

Again, it is essential to want to know the desires of the recipient. She may not want to nurse because she had to work or go to school or her mother didn't. While nutrition information should emphasize the health advantages of nursing, it also should introduce and explain bottle-feeding as an alternative in a way that will not engender any guilt and will optimize bottle-feeding.

Infants

The same careful balance between information that is both needed and desired applies to mothers of infants as well, and on the same subject—breastfeeding—as well as other aspects of infant feeding.

While breastfeeding is the method of nutritional preference, care providers working with new mothers must recognize the limitations of individual situations. A nursing mother needs support from the hospital staff, her family, her community, perhaps her employer. In today's world, these supports are not consistently there, perhaps through apathy or ignorance.

Infancy's "teachable moment" comes from the mother or infant caretaker's interest and concern in the growth and development of his or her child. The principles of growth and development can be successfully related to nutrition concepts and the process of feeding. Actual growth of the infant can itself serve as a valuable and powerful tool in demonstrating the effects of nutritional care. Nutrition educators do not make enough use of this connection. Nutrition educators also must recognize the significant role of cultural and family background in the caretaker's role as a food provider.

Child caretakers need to understand the nutritional needs of infants and how to meet them within their cultural, social, and economic environment; to recognize individual differences between infants and influence on feeding; to be alert to signs of inappropriate feeding or signs which signal need for intervention; to appreciate the extra-nutritional role of food and feeding in both cognitive and social-emotional development, and to know where to obtain accurate information.

Preschool

Many of the points discussed under infant feeding also apply to pre-school children.

It is helpful for nutrition educators to know that parents and caretakers of infants and pre-school children may be more interested in nutrition than parents of older children. By working with this interest—preparing parents early for their roles as nutrition educators—positive lifelong habits can be built.

In their early years, children should begin to develop a concept of food and eating as part of family and community life. They may be assisting with food purchasing, preparation, and clean-up.

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Through their family and community, they also should begin to perceive food as a symbol of history, ethnicity, politics and culture. Learning experiences of young children shape food habits and attitudes towards food for years to come.

School-age

School-age children should begin to relate food to health in terms of their own growth and development. Learning about food—where it comes from, its physical attributes, how we use it, its relationship to culture—is a first step toward understanding how food contributes to total body needs. As is true for the pre-school child, school-age children should also have some responsibility for contributing to food purchasing, preparation, service, and cleanup.

Adolescents

In order to connect with the adolescents' absorption with body and self, nutrition education must be continually incorporated into human biological and life cycle studies. Unless it can be linked to teenagers' concerns with self-development, nutrition education will fall on deaf ears.

Nutrition education should meet the practical, everyday needs of youngsters in terms of weight loss and gain, obesity, exercise, fitness, alcohol and drugs. More abstract, precise information can be tied into personal needs, body functions, and appearance.

In addition to the link of their physical well-being, teenagers should see, through nutrition education, a growing awareness of the world around them: how food relates to the community politically, economically and energy-wise. Through a broader sense of community, adolescents should also learn how to get help in the community—how to fill specific needs relating to food resources, such as applying for food stamps.

3. *All nutrition education curricula for preschool through secondary school must be redesigned and refocused around the target group's level of understanding. Curricula users must be trained in their use, and the use of related materials. Evaluation mechanisms must be built into curriaula and the results used to improve future programs.* Multiple problems with existing curricula include: the lack of clearly stated educational objectives, lack of comprehension, lack of capability for individualizing, confusion of content with performance, misinformation, and contradicting information. Comprehensive nutrition education programs should be provided for children and youth at all age levels. Rather than content defined almost solely by nutrition experts who view nutrition as a discipline first, nutrition education programs should be based on the specific developmental characteristics of each target group and should build gradually on children's understanding of food and health. A sequence in nutrition education that demonstrates a logical progression of subject matter and learning experience is important.

A brief comparison of the developmental characteristics of pre-school and school-age children demonstrates the importance of gearing curricula to level of understanding.

Preschool

Nutrition education within this age group should take place around sensory-motor skills, for example: pre-school children can actually prepare and serve food. They can enjoy stories and songs about food. They can feel and taste foods and recognize and sort colors and shapes. Since children do much spontaneous classification, foods offer good possibilities for sharpening this skill.

Nutrition education for pre-schoolers also must address the physical surroundings and emotional climate of mealtimes and feeding situations. These children are very imitative, so factors other than food must be considered in their nutritional education.

School-age

In contrast, school-age children are developmentally ready for more focus on body growth and development. They can understand nutrition as a part of social studies, that could include, for example, studies of community food ways, regional ecology, and family food history through several generations. Reading, science, and math offer further opportunities for the study of food, including food vocabulary, weighing, and measuring.

Adolescents

At a teenage level, it is even more important that nutrition be taught across disciplines to reinforce learning and to help students get a more realistic view of nutrition as an integral part of all aspects of life. Adolescents can handle more abstract and precise information related to personal needs, body functioning, etc.

4. *Nutrition education programs should be organized around specific objectives that:*

—maintain an overall structure and sequence that demonstrates a logical progression of subject matter and learning experience;
—allow for individual differences in learning styles as well as physiological needs and biochemical make-up;
—emphasize the role of nutrition in achieving maximum health and prevention of health disorders;
—are practical and directly useful;
—emphasize self-involvement in learning;
—enhancing sensory and motor developmental skills;
—take into consideration different cultural or ethnic orientations and lifestyles;
—are integrated into the aims of general education and can thereby be related to other curricula;
—consider the learning environment in which the program is conducted;
—demonstrate the critical linkage between food and energy, both in relationship to personal diet and in the context of the world food supply and ecology;
—include the use of all resources of the agencies currently involved in nutrition education.

Support should be provided for developing a wide variety of materials required for training programs on all levels. These materials should be developmentally organized and geared to the population served. They should be pre-tested. Trainers should be taught how to use them.

5. *The nutrition education role must be recognized and all education providers—experts and nonexperts—must be better trained.* To date, much of the emphasis in nutrition education has been on the recipient. It is imperative to critically evaluate providers of nutrition education and to determine whether or not the counselor/educator is equipped to be an effective "agent of change." To this end:

(a) The teaching role of parents and caretakers, who serve as role models, structure children's environment and can mediate and reinforce what children have learned elsewhere.

(b) Paraprofessionals involved in nutrition learning experiences, such as food service workers for children and hospital aides for lactating mothers, should receive training in nutrition education.

(c) Perceived experts, such as health care, education and other professionals, should receive training in the science of nutrition health, and its application to life-style and health.

(d) Mass media programmers should be informed about the important relationship of nutrition to health. They should be encouraged to develop programs to support general nutrition education efforts and know where to obtain good technical assistance in nutrition.

A wide range of persons from many walks of life, because they interact with children around food and health, are in a position to act as nutrition educators or reinforcers of nutrition education received elsewhere. Sound, practical educational programs should be developed and implemented for these persons, including:

—parents and prospective parents. They serve as role models, structure children's physical environment and mediate what children have learned in other places.
—teachers and day care personnel. They are important purveyors of educational information and can reinforce nutrition education that takes place at home and elsewhere.
—health care professionals, including physicians, psychiatrists, dentists, nurses and other public health workers. Usually perceived as the most credible authorities, these health personnel often are the least knowledgeable and effective in transmitting meaningful nutrition advice. Those who advise women during pregnancy should be alert to and better informed about women of high nutritional risks—how to identify, diagnose and manage them. Efforts to work with lead professional organizations in medicine, nursing, dentistry, etc., should be increased relative to nutrition education.
—food service personnel. Their interaction with children during meal time affects the children's attitude toward the meal.
—paraprofessionals related to all of the above.
—any others who are in a position to influence children.

6. *Ways to reach out and provide nutrition education in different settings should be explored.* Training of parents and caretakers should take place in both formal and informal settings, including day care centers, Lamaze classes, doctors' waiting rooms, beauty salons, laundromats, church events and other creative outlets. More attention needs to be given to innovative use of the work place for parent education, with support from both labor and management. Very little use is currently being made of these places where parents and caretakers spend a great deal of time. The climate of an informal setting may facilitate a more receptive attitude toward nutrition education and offer the reinforcement of peers.

7. *The mass media should be used more effectively to improve the image of nutrition and initiate large-scale change in attitudes about healthy eating.* Our society as a whole appears to be in need of a general restructuring of its dietary practices. Federal nutrition education programs, no matter how effective, are not likely to alter the eating patterns of a society. Any alteration in eating habits implies a substantial alteration in some of our most basic cultural and social values—indeed, a redefinition of lifestyle. Mass change requires a massive effort. A change in attitude could pave the way for more effective use of specific programs aimed at specific target groups. Various media organizations (PBS, CTV, BCTV, etc.) should be encouraged to develop programs to support general nutrition education efforts.

8. *More adequate monitoring of the quality and safety of our foods, especially those used by pregnant and lactating women and children, should take place.* It is important to know about and inform each target group, or the caretakers involved with each group, about the risks and benefits of food additives and contaminants present in various foods so they can make informed decisions about their diets. Industry should make a positive contribution to this monitoring effort.

Consideration also should be given to the development of a mechanism, including consumers as well as representatives of many other disciplines, which could examine various fad diets and nutrition "movements" and formulate advice and recommendations to guide customers.

9. *Evaluation of nutrition education should receive more emphasis.* Evaluation of nutrition education programs should be used to refine and upgrade as well as to assess their effectiveness. Support should be provided to develop appropriate evaluation methodologies for both these formative and summative evaluations. Evaluators should be trained in these methodologies.

10. *Research in nutrition education must continue.* Nutrition education is complicated by the fact that there is much which is still unknown about nutrients in food and the interrelationship with each other and with body processes. Nutrition education must necessarily raise questions even as it attempts to answer them.

Research is needed to determine the characteristics of target populations so that curriculum materials can be developed to "fit" them. Of special importance is assessing developmental levels of young children so that the nutrition education program will be maximally effective (i.e., how food, nutrition and their relation to health is understood so starting points and sequencing can be determined).

Report of Task Force on Nutrition Education for Low Income Populations and the Elderly

Co-Chairpersons: Judy Brun, Ph.D., National Dairy Council; and Kate Clancy, Ph.D., Federal Trade Commission.

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Task Force III—Low Income and Elderly Populations

Recommendation 1: *There must be a national commitment to job and income supplements to insure a level of income that allows for the purchase of a nutritionally adequate diet for all Americans. In conjunction with this, there should be an active continual nutrition education program for the entire population.*

One of the primary goals of government is to promote an optimum nutritional status for the population. In order to achieve this objective a two-pronged approach is necessary. First, sufficient income must be available to purchase a nutritious diet. Second, this must be complemented by nutrition education programs. An emphasis on both an optimum level of income and nutrition education is necessary because the nutrition problems of low-income people are only sometimes related to lack of knowledge, and the nutrition problems of middle and high income people are not prevented by money. Although nutrition education can at times be helpful in assisting consumers to use food resources effectively, many nutrition problems are directly related to insufficient food in the household. Unfortunately, the level of benefits now in the Food Stamp Program based on the Thrifty Food Plan is too low to allow the purchase of a nutritionally adequate diet even though, as other studies have shown, low income households make a more efficient use of their food dollars than do households in higher income categories. It is apparent that even the most effective nutrition education program cannot be used as a surrogate

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for food dollars and that, unless this situation is remedied, nutrition education will prove ineffective.

Recommendation 2: *A new national nutrition education program must be established and a wide variety of possible funding sources for this program must be explored. The nutrition education components of the federal feeding programs should be integrated into this broader based effort, with funding for these programs kept distinct from funding for any food assistance programs.*

Nutrition problems are not restricted to individuals in low-income settings. For example, existing survey data indicate that common nutrition-related problems such as obesity, anemia and hypertension are found at some level in all income groups. Yet past nutrition education programs have been aimed primarily at the low-income consumer. A broader-based approach needs to be taken in order for the government (federal, State, and local) to be effective in addressing the nutrition needs of the entire population and funding should be provided to begin this task.

This national nutrition education program might be implemented in a variety of ways. The funding and coordination of the program could be undertaken primarily by the federal government. Alternatively, funding could emanate from the federal government, as well as public organizations at the State, city and community levels, private foundations, non-profit corporations, health care organizations and others.

The nutrition education component of the federal feeding programs should be one aspect of this nationwide project. Funding for nutrition education in these settings, if not separate from food assistance funds, will continue to encounter the problem of the past where nutrition education was mandated but funded inadequately to insure a cohesive program.

Recommendation 3: *Specific provisions must be made to direct nutrition education activities to nutritionally vulnerable individuals who, because of unique circumstances, require nutrition education on special topics and with special approaches.*

Although we believe that nutrition education is necessary for all segments of the American population, we also believe that specific nutrition education funds should be allocated to activities with low-income groups and the elderly. Further, within this group programs should be specifically targeted for high risk, nutritionally vulnerable individuals.

No matter who you are, how old you are or how much money you have, many factors affect what you decide to eat. Money, food accessability, transportation, literacy, family structures and traditions are only some of the elements that must be taken into account in the design and implementation of effective nutrition education programs. These factors are somewhat similar for all groups and must be addressed in the design of any program, but we emphasize strongly the need for a special approach to the poor and the elderly. The poor, given society's economic structure and the adverse marketplace conditions to which they are often subjected, are at greater risk of nutritional deprivation, illness and a general lack of well-being than is the general population. It is particularly important to focus on the needs of the elderly because this population historically is too often forgotten, because nutrition educators are less sensitive to their needs, and because the society as a whole places little value on old age.

Recommendation 4: *Nutrition education activities must be developed in collaboration with the low-income and elderly consumer audience so as to reflect needs and interests as perceived by the community.*

Nutrition education programs have been criticized for being ineffective, not only in terms of approach but of content. In other words, programs have sent "the wrong message to the wrong audience using the wrong medium." Rather than proceeding with the notion that there is a definite body of knowledge that a person "needs," nutrition educators should be sensitive to the needs of consumers who comprise the target audience, work to understand what they want to know, and initiate programs on that basis. All aspects of program planning, including content, should be client-oriented, reflecting the needs of the community. In essence, nutrition education efforts should be a sharing of problems, information and resources between client and educator because, without "grassroots" planning, programs will fail.

Recommendation 5: *Nutrition education for low income and elderly populations, as well as the general public, must be conducted from a holistic, multi-disciplinary perspective to include consumerism, food management and preparation, and human relations. The changing lifestyles and food consumption patterns of the American public must be recognized in developing programs which are integrated with these related home economics skills.*

Knowledge of nutrition principles is the foundation for any nutrition education program. However, the ability and motivation to use these principles to improve food choice behaviors depends upon more than basic knowledge. One must also be able to select, buy and prepare the foods which provide the necessary nutrition and serve them in a setting which encourages their consumption. It is perhaps because many nutrition education programs fail to focus on this holistic, multi-disciplinary perspective that we find so few indications of programs that lead to behavior and diet-related health improvements in the research literature. This concept of integration has important implications for what is taught in nutrition education, where it is taught, and by whom.

Recommendation 6: *Evaluation of nutrition education programs for low income and elderly populations must receive improved attention at local, state and federal levels. Priority concerns for improvement must be:*

a. *Research to develop methodologies.*

b. *Evaluation designs which focus on the appropriate goals and objectives.*

c. *Evaluation designs which focus on both the continuous study of the educational process and the educational product.*

d. *Programs for upgrading the evaluation skills of nutrition educators and program administrators.*

e. *Recognition in program planning and execution of evaluation as a necessary component needing time and funding.*

f. *Understanding of the political aspects of evaluation of nutrition education programs.*

Research related to evaluation of nutrition education is in its infancy. This is primarily due to the developing nature of educational evaluation and the complex nature of the outcomes of nutrition edcuation programs. While administrators are constantly asked to be accountable—to document the effectiveness of their programs—there are few methodologies available for making this accountability effort a vaild one. At the present time, therefore, inappropriate evaluation approaches are often used.

Further complicating the issue of appropriate methodologies is the lack of consensus concerning what kinds of program outcomes are desired. Knowledge, behavior, and physiological criteria are all contenders; each requires a unique set of evaluative methodologies. Lack of consensus and

of knowledge in nutrition science and in the relation of nutrition to health also complicates the establishment of agreement on desired educational outcomes.

Many evaluations focus on factors of client changes and cost of programs. However, if we are to improve our knowledge of effective methods or processes for nutrition education, we must design the program evaluations to include study of these methods and processes.

Ideally, the evaluation process would be apolitical but usually this is not possible. Therefore, the political and related social aspects of evaluation must be identified because they need to be reflected in evaluation designs and communicated to all involved. Failure to face these realities leads to misunderstandings and apprenhensions which hinder the quality, and therefore the validity, of the evaluation process.

Recommendation 7: *Nutrition education for low income and elderly populations must be included as a component of health care programs. The cost of these services needs to be reimbursable by Medicaid, Medicare and private health insurances and/or deductible from gross income for income tax purposes.*

Nutrition and diet are important aspects of preventive and curative health care. Some programs now include nutrition educatin and therapy; however, those persons providing the services are often not well-prepared either in nutritional science or in education and psychology. Increased inclusion of the nutrition education component conducted by well-prepared nutrition educators can lead to better health of the clients of the programs and, in come cases, lower medical bills. Unless these nutrition education services are respected as an insurable and deductible component of health care their integration into the overall program will not occur to the extent that is needed for effective contribution to good health. This approach is also needed to provide momentum to the process of upgrading the knowledge and skills of the professionals providing the nutrition education services.

Recommendation 8: *Mass media must be incorporated into many of the nutrition education programs designed for low income and elderly populations. This incorporation must reflect the cultural and physical environment of the audience trying to be reached by a particular program, and the ways in which the target populations use television, radio, and print media.*

In the past, nutrition educators have relied primarily on printed materials, small group lectures, discussions and individual counseling. However, any message is most effectively communicated when reinforced by several modes of communication. Older people and people with limited incomes are specially likely to seek out electronic media—television and radio—as a common mode of communication for their information and entertainment. Because of this and the persuasive and effective influence of the mass media, one cannot adequately design and implement nutrition education programs for these target groups without their use.

Recommendation 9: *Nutrition educators who work with low income and elderly populations must be prepared in the principles of:*

a. *Community development.*

b. *Program development (content and methodologies) and use to promote behavior change of learners.*

c. *Nutrition and its related sociological and physiological aspects.*

d. *Evaluation to determine program effectiveness.*

e. *Mass communications.*

Many past community nutrition education programs have been conducted by nutritionists not prepared in education, educators not prepared in nutrition, or other health professionals not prepared in either nutrition or education. These programs have often tended to present nutrition facts and information without consideration for the needs, characteristics and learning styles of the clients receiving the information.

Providing information is only one aspect of and educational program. Professionals prepared in a combination of the physical sciences—nutrition—and the social sciences—education—will be best able to teach in programs that are truly educative in nature.

Most programs in nutrition education for low income and elderly populations occur in the community outside of a formal educational institution. There is a growing body of knowledge related to community diagnosis and development. This knowledge, developed as part of a nutrition educator's classroom education and further expanded through supervised field experiences, is necessary to the development of effective community nutrition education programs.

Report of Task Force on Nutrition Education for Persons With Diet Related Diseases

Co-Chairpersons: Kristen McNutt, Ph.D. National Nutrition Consortium; and Louis Steinberg, Ed.D., DHEW-Health Resources Administration.

This is a draft document. This paper should not be interpreted as official policy of DHEW, any other Federal department or agency, or organization.

Introduction

Task Force IV has developed a background paper on nutrition education efforts for persons with diagnosed diet related diseases (DRD). This report focuses on the role that nutrition education plays in the management of persons with DRD.

In reviewing this area, the Task Force reached several conclusions:

1. Nutrition education efforts for persons with DRD differ from other target populations addressed at this conference. The underlying focus for this report is patient compliance with a prescribed diet. This is a step beyond improving the probability that persons with DRD will be able to make intelligent and informed diet decisions.

2. The presence of disease, *per se*, requires clinical management. In turn, this requires involvement by health care professionals.

3. One can consider all DRD on a continuum. Diseases at one end of this continuum demand immediate dietary interventions. At the opposite end are disease states with less immediate dietary intervention needs.

4. All DRD affect individual patients differently. While similar considerations may intervene between the health care professional and the DRD patient, each disease—and ultimately each patient—must be considered and managed separately.

5. Health care professionals who diagnose and treat persons with DRD approach the management of disease states from their specific orientation. They may often overlook the role of diet and nutrition in clinical management.

6. At this point in time, to facilitate the aforementioned conclusions, priority should be placed on incorporating nutrition education into health care professionals training. This is the preferred mechanism for ensuring the best possible nutrition education for the general public with DRD.

7. Nutrition education directed at health care professionals will be most effective when this training is incorporated into the context of teaching

clinical management of individual disease states.

The Task Force has incorporated multiple disciplines into key considerations, commentary, and research initiatives in four areas: 1. factors influencing food choices; 2. professional nutrition education systems; 3. patient nutrition education systems; and 4. health care delivery systems.

The discussion of factors influencing food choices identifies environmental considerations which must be incorporated into each of the succeeding sections. In sections 2–4, commentary is followed by the raising of critical questions and possible answers in addition to identifying research initatives.

The question/answer format was selected largely a a means to stimulate discussion at the September National Nutrition Education Conference. Reviewers and conferees have a vital role in sharpening the focus of the following recommendations, in answering the critical questions posed and in assigning priorities to research initiatives.

Recommendations

1. The ultimate objective for nutrition education of persons with DRD should be in compliance with a prescribed diet.

2. Nutrition education for persons with DRD must be tailored to each disease state and variables unique to each patient.

3. Nutrition education for persons with DRD must be in the context of the total clinical management of the patient.

4. Various nutrition education systems must be considered depending upon the availability of support health care personnel.

5. Future nutrition education for persons with DRD should explore and evaluate advances in technology related to education and communication research.

6. A system should be developed to ensure that health care professionals acquire both knowledge of nutrition and ability to use existing nutrition education resources (other personnel, education materials, and community services).

7. Academic training programs for health professionals, specialty societies, review committees, and licensure boards should develop standards that will ultimately enhance the quality of nutrition education for persons with DRD.

8. Efforts to improve the quality of nutrition education for persons with DRD must take into consideration current sources and channels of nutrition information for this population group.

9. The patient and the patient caretaker should be involved in planning and implementing the nutrition education program based on the prescribed diet.

10. A network or clearinghouse for nutrition education materials should be established for use by health care professionals and its availability should be widely publicized.

11. A three-level model for integrating the expertise of various persons on the health team should be considered in future nutrition education planning.

12. Additional recommendations should be considered based on discussion by conferees of the critical questions that follow in this report.

Diet Related Diseases

Diet related diseases are conditions in which control of nutrient intake by whatever route (enterally or parenterally) is an important element in treatment and/or maintenance. A prescribed diet may range from being the sole or critical component of total treatment to being supplementary to a broader therapeutic regimen. Another important variable is that the patient may be an active participant in taking on the responsibility for compliance with diet prescriptions or the patient may have a passive role because someone else decides what diet is offered to the patient or which nutrients are given parenterally.

Many diet related diseases are well-defined entities (e.g., PKU, uremia, cirrhosis, insulin-dependent diabetes). Others (e.g., hyperlipidemias, non-insulin dependent diabetes, hypertension, obesity) fall within a continuous range where the relationship of diet to disease is less well defined. See Figure 1.(1). Our report focuses on DRD at the upper end of this continuum where the role of diet is a major causal (or risk) factor in the disease. Other important considerations related to defining DRDs include prevalence, the seriousness of outcome if left untreated, intensity of the disease, and length of time nutritional management is required.

In terms of the content of nutrition education for various target audiences, it is somewhat difficult to separate persons with such DRDs from persons in the general population who are at high risk for such diseases.

Chart 1 is presented for discussion purposes. Quantitative standards have not been established for qualitative terminology used herein. It has been developed to exemplify the scope of some diseases which fall into the diet related category.

Section I—Factors Influencing Food Choices

Numerous factors have been identified which influence types and quantities of foods chosen by the individual throughout life. These factors may be divided into broad categories of physiological, psychological and cultural factors, and immediate environmental factors. The significance of each factor must be taken into consideration when developing nutrition education programs for persons with DRD. (See Chart 2). (2, 3)

Marketing techniques and methods of disseminating information influence food choices. Future nutrition education programs should explore and evaluate advances in technology related to nutrition education and communication research. The following are examples of potential means for incorporating innovative techniques in communicating food and nutrition information to persons with DRD:

—nutritional labeling;
—advertising;
—bedside or waiting room teaching methodologies;
—shoppers' guides;
—computer banks and other uses of computer data;
—special diets for travelers;
—videotapes;
—closed loop tapes (audio and video) in waiting rooms of clinics, health services, food service areas, hospital television, and local cable television;
—special DRD programs made for local cable television;
—computer programs which could be accessed to obtain nutrition information on DRD; and
—Dial-A-Dietitian programs whereby professionals working with and persons with DRD can readily get their questions answered
—directories of nutrition education materials (4), and resources and community health services related to nutrition.

Research Initiatives

—To investigate and document the relationship between the level of compliance and: physiological factors; psychological and cultural factors; and factors in the immediate environment.
—To validate and disseminate advances in technology related to nutrition science, education, and communication research which might influence the most appropriate ways of providing nutrition education to various groups of patients during the 1980s.
—To investigate how to ensure that existing materials and programs incorporate the environmental considerations outlined in this section.
—To investigate communication models based on the behavior of persons with DRD.

Section II—Professional Nutrition Education Systems

The nutrition management of the patient with a DRD is an integral part of the total management of that person's health care. Therefore, the individual in charge of the health care of the patient must direct the nutrition component of the therapeutic regimen. Most often an M.D. or D.O. is in this pivitol role of directing and coordinating efforts of health care professionals involved with the patient. It is critical that the physician be aware of and utilize the expertise of registered dietitians (R.D.s) and other trained individuals (e.g., nurse practitioners and nutritionists) in the management and nutrition education of their patients (5, 6).

The appropriate involvement of the doctor in actual delivery of nutrition education to the patient depends upon the availability of support professionals trained in nutrition. In densely populated areas, the health care team approach is preferable. However, in underserved areas, the doctor often lacks adequate professional nutrition support personnel and must therefore be more personally involved in nutritional management of the patient.

At present, the science of nutrition is taught in a piecemeal fashion in the basic science courses of most medical schools (7). This Task Force recommends that a system be developed which permits, encourages, and demands that physicians:

1. Are presented a knowledge base in applied clinical nutrition during their medical education (emphasis on residency training);

2. Are offered continuing education in clinical nutrition;

3. Are acquainted with a method for obtaining additional knowledge and professional support (e.g., other health professionals trained in nutrition, relevant references, community health services, and information clearinghouses); and

4. Are trained to use a system and/or set up a system (if none exists in their locality) to effectively and efficiently incorporate patient nutrition education into their practice.

Applied clinical nutrition knowledge must be integrated or reinforced in the residencies and postgraduate programs of M.D.s and D.O.s. This is the point in their educations where future clinical practices are molded.

The Task Force further recommends that more R.D.s and related health care professionals be trained to effectively disseminate nutrition information for persons with DRD. At present, approximately 1,500 R.D.s are graduated annually. This creates a tremendous limitation in assuring that nutrition education is available to persons with DRD, thus impeding compliance with diet prescriptions. Training for such personnel should emphasize skills necessary for both communicating with patients and for complementing the therapeutic management of the patient by the doctor.

Critical Questions

1. How can the above recommendations be implemented?

A. Working with and through specialty societies (e.g., American College of Surgeons, American Academy of Family Physicians, American Dietetic Association, etc.) to encourage emphasis on nutrition education via organizational presentations, activities, publications, and continuing education programs.

B. Work with certifying boards of specialty societies to incorporate appropriate nutrition questions on board qualifying examinations and on Federal and state medical board examinations.

C. Work with residency review committees for each specialty.

D. Ensure that qualifying examinations and continuing education of registered dietitians include assessment of education and communication skills as well as the biomedical aspects of nutrition.

E. Educate patients to distinguish between health professionals with credentials in nutrition versus individuals who deliver nutrition information but lack such specialized training and expertise.

In each of the above cases, selected representatives from the group, society, or committee should be invited and encouraged to attend the Nutrition Education Conference in September.

2. What are the factors which presently impede professionals from being adequately trained?

A. Medical school training.

1. Cost and time in existing curriculum versus other training priorities.

2. Perception that the status quo is adequate.

3. Lack of assurance that nutrition education can alter disease outcome.

4. Lack of training in working effectively in health care teams.

B. M.D.s/D.O.s professional training.

1. No documentation on the need for systems of nutrition education for patients with DRD.

2. No recognized authorities for establishing systems of nutrition education.

3. No orientation to paramedical professionals that are available for referral.

C. Dietitian training.

1. Insufficient time spent on developing communication skills to use with physicians and other paramedical professionals.

2. Lack of integration of education and communication techniques to use in counseling (8).

3. Background in technical and scientific information necessary to communicate condfidently with other professionals.

Research Initiatives

—Investigate outcome of early nutrition education intervention (i.e., any changes in lifestyle, behavior and the resultant change in DRD).
—Document cost effectiveness of training programs on future medical practices which integrate applied clinical nutrition education.
—Develop a model system for nutrition education at a variety of levels (in physician's offices, hospitals, community clinics, etc.).
—Document cost/benefit of counseling in relation to various disease states (9).
—Identify and validate methods to access relevant existing community services and to establish necesary services which do not exist.

Section III—Patient Nutrition Education Systems

People with DRD currently obtain nutrition information from a variety of sources other than trained health professionals. These include:

—family members and caretakers of persons with DRD;
—persons who have been cured or learned how to manage their diseases;
—traditional advice givers (e.g., herbal doctors, medicine men);
—authors of books or articles related to disease states;
—radio, television, newspaper, journals, magazine, and newsletter writers;
—"natural or health food" store managers or salespersons, drugstore managers or salespersons;

—door-to-door salespersons of nutrient supplements and nonprescription drugs; and
—other person with similar related disorders.

Although these types of information delivery may not be in the best interest of the patient, they must be acknowledged and dealt with by patient educators and health planners.

The health professional has a critical role in enhancing the delivery of nutrition information to patients. This role may be as simple as an initial introduction of the dietitian to the patient by the physician, thus strengthening the patient's perception of the importance of dietary counseling and compliance. Whatever mode, it should be a recognized responsibility of the primary health provider to assure the patient that adherence to the diet plan is an important part of their treatment.

The persons providing the diet instruction and the practical techniques for following the diet plan need to be particularly sensitive to the factors affecting food choices of the patient. In addition, the information presented must be consistent with sound medical management. When appropriate, the patient and/or family should be active participants in formulating and implementing the diet plan. Finally, the diet related program should be continually evaluated and modified to meet changing patient and patient caretaker needs.

Critical Questions

1. How might existing materials (print and audiovisual) be utilized more effectively?
—Establish resource centers across the country where professionals can easily locate materials they need for themselves and for their patients.
—Integrate the materials into existing health care delivery programs with adequate support and follow-up.
—Increase publicity and dissemination of such materials.
—Evaluate more critically whether new materials are developed to meet information gaps versus duplication of existing materials.
—Reevaluate and modify existing materials when necesary.
—Involve patients in the presentation and evaluation of material.
—Adapt presentation and content of general materials to the specific environmental, cultural and economic factors of each patient.
—Train persons to disseminate diet related information using the most effective communication concepts and skills.

2. What factors affect the success of nutrition education efforts?
—Involvement of the patient in the planning and presentation.
—Presentation of material by deliverer.
—Clarity and relevance of educational material to economic, cultural, psychological and physical factors of the patient at the particular time.
—Cost (time/money/comfort) of compliance versus cost of noncompliance.
—Assessibility of obtaining diet recommendations.
—Practicality of compliance (financial means for acquiring foods for diet recommended, intellectual ability to follow dietary instructions for complex multiple disease management, etc.).

3. What are the major impediments in patient education?
—Educator's level of understanding of the sociocultural and economic factors affecting patients' ability to comply.
—Lack of understanding of motivational factors behind food habits.
—Psychological barriers that contrast with intellectual comprehension of factors affecting disease states.
—The educator's lack of perception of the client's selfperceived needs.
—Lack of appropriately trained personnel.
—Lack of coordination of information delivered from various sources.
—Timeliness of presentation and the amount of information presented per session.
—Lack of appropriate follow-up, evaluation and modification.
—Lack of appropriate cost/benefit documentation for justification of funding for diet counseling in health care programs.

Research Initiatives

—To develop or access existing innovative ways to disseminate valid information to persons with diet related diseases (e.g., cable television and bedside and waiting room techniques).
—To develop and implement practical methodologies to: evaluate effectiveness of existing programs; disseminate validated procedures; and document cost/benefit of nutritional counseling.
—To investigate the possibility of having a national clearinghouse for diet related educational materials.
—To study the feasibility of a national Dial-A-Doctor/Dietitian service.

Section IV—Health Care Delivery System

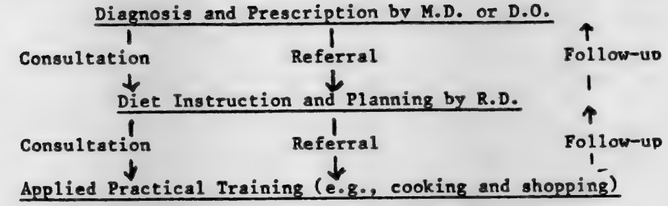
Coordination of existing resources is a crucial factor in upgrading the nutrition education of persons with DRD. This is important because of the extreme diversities in health manpower training in nutrition within our current health care delivery system. Improved channels for utilizing existing human and material resources should be stressed. A clearinghouse system or network for nutrition information and education materials is needed (10).

The clearinghouse should contain two types of materials: 1. Technical and biomedical information; and 2. Materials to be used by health professionals in patient counseling.

Health care professionals must be made aware that this resource is available and easy to use. The second category of materials within the network should be accessible to persons with DRD under the supervision or introduction by the primary health professional and/or a person trained in nutrition who is supervising the clinical management of the patient.

Existing legislation and regulations should be reviewed and if necessary modified to incorporate incentives for improving delivery of health care to persons with DRD. For example, policies could include reimbursement mechanisms for physicians or primary health care deliverers who expand their staff to include a trained nutrition health professional who provides diet instruction, nutrition education, and follow-up.

Although nutrition education of persons with DRD must be closely integrated with clinical management by health professionals, persons with nonclinical training may have an appropriate role in the total nutrition education process. The following three-level integrated model is proposed:



The consultation, referral and follow-up system varies with each level of delivery.

Pilot projects and evaluations should be conducted on such a three-level health care delivery system for persons with DRD.

Critical Questions

1. What existing (or potential) statutory and regulatory mandates should be examined as means for improving delivery of health care to persons with DRD?
—Staffing patterns in health care delivery systems.
—Health manpower training (funding, geographical distribution, etc.).
—Licensure of health care professionals.
—Accreditation of hospitals and extended care facilities.
—Reimbursement mechanisms for increased staffing or referrals to health care personnel trained in nutrition.
—Authorization for insurance coverage for nutrition education for person with DRD (Medicar, Blue Cross, etc.)
—Continuing education requirements for health care professionals.
—Mandates for evaluations and assessments of nutrition education and services.

2. How will changes in the health care delivery system "in the eighties" influence the need for and opportunities to educate persons with DRD in nutrition?
—Advances in screening and diagnostic technology.
—Increasing role of "physician extenders".
—National Health Insurance coverage.
—Increasing use of interdisciplinary training and functioning of health professionals.
—Use of public air-waves for health education.
—Expansion of rural health care delivery programs.
—Use of satellite training.
—Health maintenance organizations.
—Increased consumer participation in health planning.

3. How can the impact of nutrition education on the overall cost of health care delivery be quantified?
—Greater reliance on methodologies developed by education research professional.
—More futuristic and pragmatic routine surveillance and data collection.
—Emphasis on prospective rather than retrospective studies.
—Increased funding for research in nutrition education.

Research Initiatives

—Set up a clearinghouse system or network for nutrition information and education materials; evaluate various means for easily retrieving materials and promoting usage of the system under various circumstances.
—Investigate adequate or appropriate reimbursement mechanisms for nutrition education for persons with DRD.
—Develop measurable standards for assessing effectiveness of nutrition education programs for persons with DRD.
—Examine local and regional needs and resources to develop coordination and continuing education efforts for health care professionals providing nutrition education to persons with DRD.
—Initiate pilot projects and appropriate assessments on a three-level health care delivery system (as identified in text of this section).

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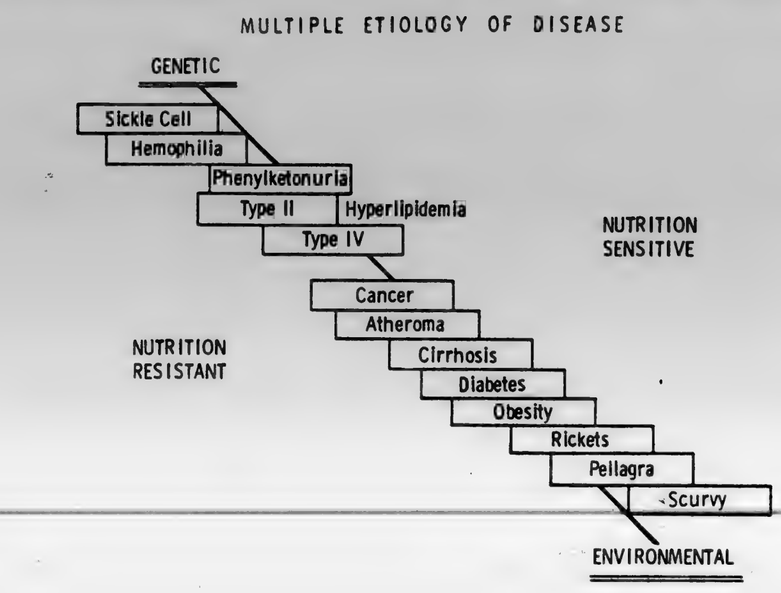


Figure 1. Multiple etiology of disease. Reciprocal genetic and environmental determinants of 13 diseases are shown on a linear scale. The extent to which nutritional intervention can modify the diseases is indicated by the degree of displacement of each bar to the right of the line.

Chart 1

DIET RELATED DISEASE - PREVALENCE - OUTCOME

	Prevalence	Fatal	Non-Fatal	Duration
High Catabolic Response	Low	X		Short-term
Diabetes	Moderate	X or	X	Long
Non-Insulin Dependent Diabetes (Obese Subtype)	High	X or	X	Long
Cancer	High	X		Variable
Cirrhosis	Moderate	X		Long
Uremia	Low	X		Long
Malabsorptions	Low		X	Long
Cystic Fibrosis	Low		X	Long
Hyperlipidemia	High		X	Long
Physically Handicapped	Low		X	Long
Iron-Deficiency Anemia	High		X	Variable
Drug-Induced Nutrient Deficiencies	High		X	Short/Long Variable
Vitamin Deficiencies	Low		X	Variable
Chemo-Radiation	Common	X		Short
Periodontal Disease	High		X	Short
PKU	Low	X		Long
Food Allergies	?		X	Var. or Long

FOR DISCUSSION PURPOSES - SEE TEXT

Chart 2

EXAMPLES OF FACTORS INFLUENCING FOOD CHOICES

Physiological Factors	Psychological and Cultural Factors	Factors in the Immediate Environment
-Basic health problems (degree and type)	-Demographics	-Geographic area (access to health care personnel and facilities)
-Other health problems and handicaps	-Economic Status	
-How symptomatic are the patients?	-Social Status	-Lifestyle in general
-Chewing and swallowing ability	-Personal goals, values and attitudes of patients	-Cost of food
-Taste perception	-Education level	-Cost of counseling
-Physical activity	-Language skills	-Rapport with provider
	-Previous instruction and general information (conflicting information and misinformation)	-Food supply - location and type of accessibility (e.g. utilization of restaurants or convenience foods, gardening ability, etc.)
	-Ethnic influences	-Time constraints
	-Food preferences or taboos	-Household environment
	-Repetitive habits (e.g. smoking)	-Number of persons in household
	-Clients perceptions of:	-Cooking facilities and capabilities
	-threat (e.g. of the disease, the educational program)	-Person who shops and cooks
	-barriers of action (e.g. physical, monetary)	-Skills and attitudes of other persons in household
	-benefits from action (e.g. likelihood that improvement in state of health will occur)	-Other problems (e.g. elderly patient living at home, other person on special diet)
	-personal susceptibility of disease	-Peer and group pressure
	-likelihood of financial reimbursement for care	-Advertising (saturation and susceptibility)
	-Clients preferred method of learning (e.g. T.V., cassette, posters, printed matter, large group talk sessions)	

BILLING CODE 4110-85-C

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[FR Doc. 79-24516 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-85-M

Office of Education

Emergency School Aid Act; Closing Date for Transmittal of Applications for the Special Projects Program for Fiscal Year 1979

Applications are invited under the Emergency School Aid Special Projects program. In particular, the Commissioner invites applications from local educational agencies (LEAs) that adopted desegregation plans (or other plans described in section 706(a) of the statute) for initial implementation in the 1979–80 school year on or after May 11, 1979, and therefore too late to apply for ESAA assistance relating to those plans in the most recent Special Projects funding cycle.

The Commissioner has determined that projects to meet needs arising from the implementation of those plans will make substantial progress toward achieving the purposes of the statute.

Authority for this program is contained in section 708(a)(2) of the Emergency School Aid Act ("ESAA"; Title VII of Pub. L. 92–318, as amended (20 U.S.C. 1601–1619)).

This program provides financial assistance to public agencies for activities related to school desegregation.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by September 14, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application, Control Center, Attention: 13.532B, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education. Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: The Commissioner anticipates that approximately $10 million will be available to support projects submitted in response to this notice.

Application forms: Application forms and program information packages may be obtained by writing to the Special Projects Branch, Equal Educational Opportunity Programs, Office of Education, 400 Maryland avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 40 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Project period: Grant awards made under this notice will be for projects beginning no earlier than October 1, 1979 and ending no later than September 30, 1980.

Resubmitted applications: As required by section 710(d)(2) of the Emergency School Aid Act (20 U.S.C. 1609(d)(2)), applications from local educational agencies which are not approvable in whole or in part will be returned to applicants for modification and resubmission, within a reasonable period of time, at the applicants' option.

Applicable regulations: The regulations applicable to this program are:

(a) Regulations relating generally to programs under the Emergency School Aid Act (45 CFR Part 185) and in particular 45 CFR 185.94 through 185.94–4, relating to Other Special Projects; and

(b) The Office of Education general provisions regulations (45 CFR Parts 100 and 100a and appendices), except to the extent that those regulations are inconsistent with 45 CFR Part 185.

Further information: For further information contact David Lerch, Branch Chief, Special Projects Branch, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202, Telephone: (202) 245–2465 or 245–0931.

(20 U.S.C. 1601–1619)

[Catalog Number: Catalog of Federal Domestic Assistance Number 13.532; Emergency School Aid—Special Projects.]

Dated: August 2, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

[FR Doc. 79-24535 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-02-M

Emergency School Aid Act; Announcement of (ESAA)–TV Programming Categories for Fiscal Year 1979

AGENCY: Office of Education, DHEW.

ACTION: Announcement of Emergency School Aid Act (ESAA)–TV

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programming categories for Fiscal Year 1979

SUMMARY: The Commissioner of Education announces the Fiscal Year 1979 programming categories for production of integrated children's television series.

Solicitation of proposals for all categories is through a single Request For Proposals (RFP) that was published in the *Commerce Business Daily* on May 7, 1979. This will be the only RFP for ESAA–TV series production to be issued this fiscal year.

ADDRESSES: A copy of the RFP can be obtained by contacting Geraldine McCormick, Grant and Procurement Management Division, U.S. Office of Education, Room 5917, ROB–3, Seventh and D Streets, SW, Washington, D.C. 20202. Phone (202) 245–1766.

FOR FURTHER INFORMATION CONTACT: Geraldine McCormick, (202) 245–1766.

SUPPLEMENTARY INFORMATION: In accordance with the requirement in 45 CFR 185.72(a), the Commissioner of Education announces, that proposals for television series authorized under the Emergency School Aid Act (ESAA) Are being solicited for 1979 in the following categories:

(1) A new, non-bilingual national series to foster interracial and inter-ethnic understanding among elementary school age children (45 CFR 185.72 (a) (4));

(2) A national children's bilingual series of cognitive and/or affective education value (45 CFR 185.72(a)(6));

(3) Up to three new "regional" series meeting the special needs of subgroups of minority groups as defined in 45 CFR 185.02(f) which may be unique to a particular geographic region (45 CFR 185.72(a)(7));

(4) Additional programs from up to two "regional" series previously funded under ESAA meeting those needs (45 CFR 185.72(a)(8)).

(Catalog of Federal Domestic Assistance No. 13.530, Emergency School Aid Act—Educational Television)

Dated: August 2, 1979

Mary F. Berry,

Acting U.S. Commissioner of Education.

[FR Doc. 79–24536 Filed 8–8–79; 8:45 am]

BILLING CODE 4110–02–M

Guaranteed Student Loan Program; Special Allowance for Quarter Ending June 30, 1979

The Commissioner announces that for the three-month period ending June 30, 1979, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at an *annual rate* of four percent will be paid to holders of eligible loans in the Guaranteed Student Loan Program.

Using the statutory formula, the special allowance for this *three-month* period would normally have been computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (9.78 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (6.28) upward to the nearest one-eighth of one percent (6.375), and by dividing the resultant percent by four (1.59375).

However, the statutory formula also provides that the annual rate of the special allowance for a three month period shall be reduced to the highest one-eighth of one percent which would not result in a rate in excess of 5 percent for any twelve month period. For the three previous quarters the special allowance at the annual rate has been as follows: 4⅛ percent for the quarter ending September 30, 1978; 5⅝ percent for the quarter ending December 31, 1978; and 6¼ percent for the quarter ending March 31, 1979. Therefore, in order not to exceed the rate of 5 percent for the twelve month period ending June 30, 1979, the special allowance for the quarter ending June 30, 1979 will be at an annual rate of four percent. The special allowance to be paid for this 3 month period will be 1.00 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

The public is advised that the Administration has proposed a statutory change to increase the present special allowance limit of 5 percent for any twelve month period. Congress is considering legislation which would alter the special allowance ceiling. If any statutory changes are enacted, the interested public will be promptly notified.

(20 U.S.C. 1087–1(b))

(Catalog of Federal Domestic Assistance No. 13.460, Guaranteed Student Loan Program.)

Dated: August 2, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

[FR Doc. 79–24537 Filed 8–8–79; 8:45 am]

BILLING CODE 4110–02–M

Health Education Assistance Loan Program; Variable Interest Rate for Quarter Ending September 30, 1979

The Commissioner announces that for the three month period ending September 30, 1979, the variable interest rate on loans in the Health Education Assistance Loan (HEAL) Program shall be at the annual rate of 11 percent.

Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), the Commissioner normally would compute the variable rate for this three month period by adding the fixed annual rate (7 percent) plus a variable component which is calculated by determining the average of the bond equivalent rates of the 91-day Treasury bills for the preceding calendar quarter (9.78 percent), by subtracting 3.5 percent from that average, and by rounding the resultant percent (6.28) upward to the nearest one-eighth of one percent (6.375).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a three month period shall be reduced to the highest one-eighth of one percent which would result in a rate not in excess of 12 percent for any twelve month period. For the three previous quarters the variable interest at the annual rate has been as follows: 11⅛ percent for the quarter ending December 31, 1978; 12⅝ percent for the quarter ending March 31, 1979; and 13¼ percent for the quarter ending June 30, 1979. Therefore, in order not to exceed the rate of 12 percent for the twelve month period ending September 30, 1979, the variable interest rate for the quarter ending September 30, 1979, will be at an annual rate of eleven percent.

(Catalog of Federal Domestic Assistance No. 13.574, Health Professions Educational Assistance Act Insured Loans)

Dated: August 2, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

[FR Doc. 79–24538 Filed 8–8–79; 8:45 am]

BILLING CODE 4110–02–M

Health Resources Administration

Application Announcement for Grants for Graduate Training in Family Medicine

August 3, 1979.

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1980 Grants for Graduate Training in Family Medicine are now being accepted under the authority of section 786(a) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484).

Section 786(a) authorizes the award of grants to public or non-profit private hospitals, schools of medicine or osteopathy, and other public or private non-profit entities located in a State to assist in meeting the cost of planning, developing and operating or participating in approved graduate training programs in the field of family medicine.

To receive support, programs must meet the requirements of the Interim-Final regulations, published in the **Federal Register** on October 16, 1978 (42 FR 47694).

In the funding of approved applications, preference will be given to projects in which:

(1) Substantial training experience is in settings which exemplify interdependent utilization of physicians and physician assistants and/or nurse practitioners; and/or

(2) Substantial portions of a project are conducted in a health manpower shortage area(s) designated under section 332 of the PHS Act, or in an Area Health Education Center, funded at least in part, under section 781 of the Act.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–15), Bureau of Health Manpower, HRA, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436–6564.

Questions regarding the programmatic aspects of these grants should be directed to: Primary Care Education Branch, Division of Medicine, Bureau of Health Manpower, HRA, Center Building, Room 4–50, 3700 East-West Highway, Hyattsville, Maryland 20782, (301) 436–6427.

To be considered for Fiscal Year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, HRA, at the above address no later than September 4, 1979. Approximately $16 million is expected to be available in FY 1980 for competitive awards.

Dated: August 3, 1979.

Henry A. Foley,

Administrator, Health Resources Administration.

FR Doc. 79–24573 Filed 8–8–79; 8:45 am]

BILLING CODE 4110–83–M

Application Announcement for Health Careers Opportunity Program

August 3, 1979.

The Office of Health Resources Opportunity, Health Resources Administration, announces that applications for fiscal year 1980 Health Careers Opportunity Program grants are now being accepted under the authority of Section 787 of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484). Based on projected requirements for currently active projects requiring continued support, an estimated $2,400,000 will be available for competitive awards in fiscal year 1980.

Section 787 authorizes the Secretary to make grants to public or nonprofit private health or educational entities for the purpose of assisting individuals from disadvantaged backgrounds to undertake education to enter a health profession. The proposed fiscal year 1980 program funding preference for the Health Careers Opportunity Program will be for admissions/retention projects in medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health and other health professions, e.g., health care administration, and health planning.

Questions regarding the programmatic aspects of these grants should be directed to: Director, Division of Program Coordination, Office of Health Resources Opportunity, Health Resources Administration, Center Building, Room 10–50, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–7230.

All fiscal year 1980 applications must be submitted to the Grants Management Officer, Bureau of Health Manpower, *postmarked on or before January 4, 1980.* In addition, requests for application packets and questions regarding grants management policy should be directed to: Grants Management Officer (D–18), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–7418.

Dated: August 3, 1979.

Henry A. Foley,

Administrator.

[FR Doc. 79–24572 Filed 8–8–79; 8:45 am]

BILLING CODE 4110–83–M

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Inpatient General Routine Operating Costs for Cost Reporting Periods Beginning on or After July 1, 1979

AGENCY: Health Care Financing Administration, (HCFA), HEW.

ACTION: Request for Additional Comment.

SUMMARY: This notice requests additional comment on one part of the methodology used to set limits on the hospital inpatient general routine operating costs that may be reimbursed under Medicare. Specifically, we are requesting comments about whether these limits should be set at the 80th percentile of costs of each comparison group, at 115 percent of the mean of these costs, or by some other method.

We are also publishing a revised schedule of limits which replaces the schedule published in the **Federal Register** on June 1, 1979. This schedule differs from the June 1, 1979 schedule only in that it provides limits set at the 80th percentile rather than at 115 percent of the mean. This new schedule will be an interim one, effective for cost reporting periods beginning on or after July 1, 1979.

DATES: Closing date for receipt of comments: September 10, 1979.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013.

Please refer to file code MAB–122–NC. Agencies and organizations are requested to submit comments in duplicate.

Beginning two weeks from today, the public may review the comments on Monday through Friday of each week, from 8:30 a.m. to 5:00 p.m. Comments will be available in Room 5231 of the Department's offices at 330 C Street SW., Washington, D.C., (202) 245–0950.

FOR FURTHER INFORMATION CONTACT: Carl Slutter, (301) 594–9344.

SUPPLEMENTARY INFORMATION: On March 1, 1979, we published a proposed schedule of limits on hospital inpatient general routine operating cost in the **Federal Register** for public comment (44 FR 11612). As a result of the comments received, we made several changes in the proposed schedule and published a final schedule in the **Federal Register** on June 1, 1979 (44 FR 31806). The changes included: (1) Basing the wage index on hospital wages, rather than service industry wages; (2) adding an upward adjustment for presumed higher intensity resulting from lower utilization; (3) adding a cost of living adjustment for Alaska and Hawaii; (4) using a per diem cost inflation rather than the market basket index to project increases for the years 1976 through June, 1979; and (5) setting the group limits at 115 per cent of the mean rather than at the 80th percentile.

In our view, publication of the final notice was valid under the Administrative Procedure Act because they were consistent with and grew out

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of the basic structure in the proposed notice and were intended to respond to comments we received on that notice.

However, we have received several comments on the June 1 publication, expressing concern about the impact on certain hospitals of the change in the limits from the 80th percentile to 115 per cent of the mean of the comparison group. Our primary reason for making this change was to respond to comments that setting the rate at the 80th percentile necessarily implied that 20 per cent of the hospitals would be judged inefficient, even where actual variations of costs in the group are insignificant. Changing the methodology to use a percentage of the mean results in a limit which 100 per cent of the hospitals could meet if the variations in costs were small enough.

The change to 115 per cent of the mean resulted in cost limits roughly equivalent to those in the proposed notice with respect to six of the seven categories. Only for the category of large urban hospitals did the net result of all the changes differ substantially from the proposed notice.

In order to obtain the benefit of all useful comments and analysis on this issue, we have decided to have a further period of public comment on whether the limits should be set at the 80th percentile, at 115 per cent of the group mean, or by some other methodology. We are providing 30 days for additional comment, rather than the 60 days we normally use for notices of proposed rulemaking, because we think that will be adequate for all interested parties to give us views on this single issue and because we wish to reach a resolution, announce it in the **Federal Register**, and implement it with respect to hospital cost reporting periods beginning on or after October 1, 1979.

For hospitals with cost reporting periods starting on or after July 1, 1979, but before the effective date of our final decision on this issue, we will use the schedule of cost limits for inpatient general routine operating costs listed below. This schedule of limits (higher in all cases than those announced on June 1,) was derived by using the 80th percentile, rather than 115 per cent of the mean, but otherwise incorporating all of the other changes made between the proposed notice and the final notice, as explained in the final notice (44 FR 31806).

Hospitals Located in Urban Areas

Bed Size:	Limit
Less than 100	$126.88
100–404	127.54
405–684	125.39
685 and above	156.11

Hospitals Located in Non-Urban Areas

Bed Size:	Limit
Less than 100	$103.79
100–169	104.61
170 and above	100.83

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13,773, Medicare—Hospital Insurance.)

Dated: July 25, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

July 31, 1979.

Approved:

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-24521 Filed 8-8-79; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Lower Cook Inlet/Shelikof Strait Outer Continental Shelf Oil and Gas; Intent To Prepare an Environmental Impact Statement for OCS Sale No. 60

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management's Alaska Outer Continental Shelf Office intends to prepare an environmental impact statement (EIS) on the offshore oil and gas leasing proposal known as OCS Sale No. 60, scheduled for September 1981. A list of 153 lease blocks on the OCS, totalling 345,858 hectares (864,646 acres), has been selected for futher environmental study in this environmental impact statement.

Alternatives to be considered in the environmental statement will include options to delay, modify, or withdraw the proposed lease offering.

A scoping meeting for affected Federal agencies was held May 14, 1979, at the Alaska OCS Office. A second scoping meeting for the State of Alaska agencies was held on May 18, 1979, at the State Office Building, Juneau, Alaska. A third scoping meeting for interested persons was held May 23, 1979, at the Fine Arts Museum, Anchorage, Alaska.

Additional meetings have been scheduled to promote public participation in defining significant issues that relate to the proposed leasing action. These meetings will generally adhere to the following agenda:

1. Introduction. Purpose of meeting. Brief history of OCS Oil and Gas leasing and the EIS process. Information products the Alaska OCS Office makes available to the public to facilitate the leasing process. Previously defined issues to be considered in the EIS.

2. Presentation of public comment and recommendations on other issues of major concern.

3. Alternatives to the sale, as presently considered in the EIS process.

Interested persons are encouraged to attend and present their views at the following locations: August 14, 1979, 7:00 p.m. at the Borough Assembly Chambers, Kodiak, Alaska; August 16, 1979, 7:00 p.m. at the Elk's Lodge Conference Room, Olsen Lane, Homer, Alaska.

Supplemental information or additional comments not presented at the meetings should be sent to the Alaska OCS Office no later than August 31, 1979.

For futher information regarding the public meetings on the Sale No. 60 leasing proposal, contact Ward Hastings, Sale No. 60 EIS Coordinator, Environmental Assessment Division, Alaska OCS Office, 800 A Street (P.O. Box 1159), Anchorage, Alaska 99510, telephone (907) 276–2955.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: August 6, 1979.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79-24580 Filed 8-8-79; 8:45]

BILLING CODE 4310-84-M

Bureau of Reclamation

Public Notice of Off-Road Vehicle (ORV) Use at American Falls Reservoir, Minidoka Project, Idaho

In accordance with authorities and requirements of Title 43, Part 420 of the Code of Federal Regulations, Executive Order Nos. 11644 and 11989 and the Department of the Interior's Final Environmental Impact Statement (FES) 78–5 of April 21, 1978, and following intensive study of the potentials and impacts of ORV use at American Falls Reservoir, a decision has been made to open most of the lands around this reservoir, including the exposed lakebed, to ORV use. Three areas at the northwest end of the reservoir will remain closed to ORV use for the protection of wildlife.

Copies of the proposal and environmental assessment for ORV use at American Falls Reservoir, drawing numbers 17–100–225 and 17–100–226, which show the areas to be opened and closed may be inspected at:

Bureau of Reclamation, Pacific Northwest Regional Office, Box 043, 550 West Fort Street, Boise, ID 83724
Bureau of Reclamation, Box 549, 1359 Hansen Avenue, Burley, ID 83318
American Falls City Hall, American Falls, ID
Pocatello City Hall, Pocatello, ID

For further information contact: Mr. Mike Misner, Outdoor Recreation Planner, Division of Water and Land Operations, Pacific Northwest Region, Bureau of Reclamation, P.O. Box 043, 550 West Fort Street, Boise, ID 83724, Phone (208) 384–1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24533 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

Public Notice of Off-Road Vehicle (ORV) Use at Black Canyon Reservoir, Boise Project, Idaho

In accordance with Title 43, Part 420 of the Code of Federal Regulations, Executive Order Nos. 11644 and 11989, the Department of the Interior's Final Environmental Impact Statement of April 21, 1978 (FES) 78–5 on ORV use, and following intensive study of potential specific environmental impacts of the proposed ORV use at Black Canyon Reservoir, the Bureau of Reclamation has decided to open the reservoir area to ORV use only on designated and existing roads and trails on lands within the boundaries of Black Canyon Reservoir. All roads and trails opened to ORV use will be so designated on the ground.

The ORV proposal and environmental impact assessment along with a map, drawing number 3–OZ–100–308, which shows the areas opened and closed to ORV use are on file and may be inspected at:

Bureau of Reclamation, Pacific Northwest Regional Office, Box 043, 550 West Fort Street, Boise, ID 83724.
Central Snake Projects Office, 214 Broadway Avenue, Boise, ID 83702.

For further information contact: Mr. Mike Misner, Outdoor Recreation Planner, Pacific Northwest Region, Bureau of Reclamation, P.O. Box 043, 550 West Fort Street, Boise, ID 83724, Phone (208) 384–1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24531 filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

Public Notice of Off-Road Vehicle (ORV) Use at Little Wood Reservoir, Little Wood River Project, Idaho

In accordance with provisions of Title 43, Part 420, Code of Federal Regulations, Executive Order Nos. 11644 and 11989, the final Department of the Interior's Environmental Impact Statement on ORV use (FES) 78–5 of April 21, 1978, and following intensive evaluation of the specific environmental impacts of the proposed ORV usage, the Bureau of Reclamation has decided to open all lands at Little Wood River Reservoir except those in the recreation area to use by ORV's. ORV's may only use existing roads in the recreation area for ingress and egress to the remaining lands.

Copies of the ORV use proposal and environmental assessment along with a map (drawing number 81–100–6) showing the lands opened and closed to ORV use are available and may be examined at:

Bureau of Reclamation, Pacific Northwest Regional Office, Box 043, 550 West Fort Street, Boise, ID 83724; Blaine County Courthouse, Bellevue, ID.
Bureau of Reclamation, Box 549, 1359 Hansen Avenue, Burley, ID 83318; Carey City Hall, Carey, ID.

For further information contact: Mr. Mike Misner, Outdoor Recreation Planner, Pacific Northwest Region, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, ID 83724, Phone (208) 384–1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24530 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M]

Public Notice of Off-Road Vehicle (ORV) Use at Mann Creek Reservoir, Mann Creek Project, Boise, Idaho

In accordance with provisions of Title 43, Part 420 of the Code of Federal Regulations, Executive Order Nos. 11644 and 11989, the Department of the Interior's Final Environmental Impact Statement (FES) 78–5 of April 21, 1978, on ORV use and following an intensive study of potential environmental impacts of the proposed ORV use, the Bureau of Reclamation has decided to open designated roads and trails at Mann Creek Reservoir to ORV use, as well as lands in the area between elevation 2,889 and 2,825 which are exposed during reservoir drawdown, except those adjacent to and forming the dam.

A copy of the ORV use proposal and environmental impact assessment, along with a map, drawing number 354–100–58, which shows the areas opened and closed to ORV use are on file and available for inspection at:

Bureau of Reclamation, Pacific Northwest Regional Office, Box 043, 550 West Fort Street, Boise, ID 83724.
Central Snake Projects Office, 214 Broadway Avenue, Boise, ID 83702.

For further information contact: Mr. Mike Misner, Outdoor Recreation Planner, Pacific Northwest Region, Bureau of Reclamation, P.O. Box 043, 550 West Fort Street, Boise, ID 83724, Phone (208) 384–1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24529 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

Public Notice of Off-Road Vehicle (ORV) Use at Owyhee Reservoir, Owhyee Project, Boise, Idaho

The Bureau of Reclamation, in accordance with provisions of Title 43, Part 420 of the Code of Federal Regulations, Executive Order Nos. 11644 and 11989 and the Department of the Interior's Final Environmental Impact Statement (FES) 78–5 of April 21, 1978, and following an intensive evaluation of potential environmental impact has decided to open designated established roadways only at Owhyee Reservoir to ORV use. All nondesignated areas will remain closed.

Copies of the environmental assessment, evaluation document, and maps of the reservoir area showing the specific areas designated for ORV use, drawing numbers 48–100–34 and 48–100–35, are on file and available for inspection at:

Bureau of Reclamation, Pacific Northwest Regional Office, Box 043, 550 West Fort Street, Boise, ID 83724.
Bureau of Reclamation, Central Snake Projects Office, 214 Broadway Avenue, Boise, ID 83702.
Malheur County Courthouse, Vale, OR 97918.

For further information contact: Mr. Mike Misner, Outdoor Recreation Planner, Division of Water and Land Operations, Pacific Northwest Region, Bureau of Reclamation, P.O. Box 043, 550 West Fort Street, Boise, ID 83724, Phone (203) 384–1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24532 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

Public Notice of Off-Road Vehicle (ORV) Use at Warm Springs Reservoir, Vale Project, Oreg.

In accordance with provisions of Title 43, Part 420 of the Code of Federal Regulations, Executive Order Nos. 11644 and 11989, and the Department of the Interior's Final Environmental Impact Statement (FES) 78-5 of April 21, 1978, on ORV use, and after an intensive study of specific impacts at Warm Springs Reservoir of proposed ORV use, the Bureau of Reclamation opened designated roads and trails above the high water line at Warm Springs Reservoir to ORV use (FR, Vol. 43, No. 173, page 36910 for Wednesday, September 6, 1978).

Additional studies have been conducted by the Bureau of Reclamation which indicate that the area of the reservoir exposed between the high water mark and low water during drawdown could be utilized by ORV's with no significant adverse environmental impact. As a result of this study and under the provision cited above, the Bureau of Reclamation has decided to open Warm Springs Reservoir to ORV use on designated roads and trails as well as those lands in the lakebed which are exposed during drawdown except for those adjacent to and used for the dam.

Copies of the proposal and environmental impact assessment for the ORV use, along with a map showing the areas of reservoir lands open and closed to ORV use are on file and may be examined at:

Bureau of Reclamation, Pacific Northwest Regional Office, 550 West Fort Street, Boise, ID 83724.
Bureau of Reclamation, Central Snake Projects Office, 214 Broadway Avenue, Boise, ID 83702.
Malheur County Courthouse, Vale, OR 97918.
State of Oregon, Department of Fish and Wildlife, Southeast Regional Office, Hines, OR 97783.

For further information contact: Mr. Mike Misner, Chief, Recreation Branch, Division of Water, Power, and Land, Pacific Northwest Region, Bureau of Reclamation, P.O. Box 043, 550 West Fort Street, Boise, ID 83724, Phone (203) 383-1177.

Dated: August 2, 1979.

David R. Schuster,

Acting Commissioner of Reclamation.

[FR Doc. 79-24534 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

Bureau of Indian Affairs

Big Lagoon Rancheria, Calif.; Revocation of Plan for the Distribution of Assets and of Continuance of Federal Trust Relationship

August 1, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 and by the Commissioner to the area Director by 10 BIAM 3.1 and special memorandum of July 6, 1977. Notice is hereby given that at the request of all persons who were determined to hold rights, claims or interests in the Big Lagoon Rancheria, Humboldt County, California, under a Plan for the Distribution of Assets drafted pursuant to the Act of August 18, 1958 (72 Stat. 619), as amended by the Act of August 11, 1964 (78 Stat. 390), and approved January 3, 1968, by the Commissioner, Bureau of Indian Affairs, and on November 4, 1977, the Joint Distributees constituting the general membership of the Big Lagoon Rancheria adopted a petition rescinding its approval for the removal of Federal supervision over the affairs and property of the rancheria, said Plan for Distribution of Assets of the Big Lagoon Rancheria is hereby revoked.

All individuals affected by the revocation of the Plan for Distribution of Assets are eligible for all services performed by the Federal Government for Indians because of their status as Indians and are subject to all statutes which affect Indians because of their status as Indians. Those individuals include the following persons and the dependent members of their immediate families:

Thomas Williams, Star Route, Trinidad, California 95570.
Lila Williams, Star Route, Trinidad, California 95570.
Thomas Williams, Jr., Star Route, Trinidad, California 95570.
Franklin Lara, Star Route, Trinidad, California 95570.
Dale Lara, Star Route, Trinidad, California 95570.
Ted Moorehead, Star Route, Trinidad, California 95570.
Beverly Moorehead, Star Route, Trinidad, California 95570.
Peter Lara, Star Route, Trinidad, California 95570.
Roger Moorhead, Star Route, Trinidad, California 95570.
Virgil Moorehead, Star Route, Trinidad, California 95570.
Holly Moorehead, Star Route, Trinidad, California 95570.

William E. Finale,

Area Director.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-24503 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Statement for OCS Sale No. 56]

South Atlantic Outer Continental Shelf Oil and Gas; Intent To Prepare an Environmental Impact

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management's New Orleans Outer Continental Shelf Office intends to prepare an environmental impact statement (EIS) on the offshore oil and gas leasing proposal known as OCS Sale No. 56. This proposed sale is tentatively scheduled for August 1981, and may include OCS lease blocks offshore North Carolina, South Carolina, Georgia and Florida. A list of 286 lease blocks (approximately 658,944 hectares; 1,628,251 acres) has been tentatively selected for leasing consideration and further environmental study.

Alternatives to be considered in the environmental statement will include options to modify, delay, or cancel the proposed lease offering.

A series of meetings has been scheduled to promote public participation in defining the significant issues that relate to the proposed leasing action. These meetings will generally adhere to the following agenda:

1. Introduction—

Purpose of meeting.

Brief history of OCS oil and gas leasing and the EIS process.

Information products the New Orleans OCS Office makes available to the public to facilitate the leasing process.

Previously defined issues to be considered in the EIS.

2. Presentation of public comment and recommendations on other issues of major concern.

3. Alternatives to the sale, as presently considered in the EIS process.

Interested persons are encouraged to attend and present their views at one of the following locations:

Date, Time and Location

August 14, 1979; 8:00 p.m.: Charleston County Library, Lecture Room, Charleston, South Carolina.

August 15, 1979; 8:00 p.m.: Brunswick Junior College Science Lecture Room, Brunswick, Georgia.

August 16, 1979; 8:00 p.m.: Daytona Beach, City Commission Chambers, City Hall, Daytona Beach, Florida.

August 21, 1979; 7:00 p.m.: North Carolina, Marine Resources Center/ Roanoke Island located on Airport Road on Roanoke Island off Highway 64, Manteo, North Carolina.

August 22, 1979; 7:00 p.m.: North Carolina, Marine Resources Center/ Bogue Banks located 6 miles west of Atlantic Beach on Bogue Banks near the Iron Steamer Fishing Pier. Atlantic Beach, North Carolina.

August 23, 1979; 7:00 p.m.: New Hanover County Courthouse located at the corner of 3rd. and Princess Street, Wilmington, North Carolina.

Individuals wishing to comment orally at the meetings are asked to provide written copies of their remarks. Supplemental information or additional comments not presented at the meetings should be sent to the New Orleans OCS Office no later than August 31, 1979.

For further information regarding the public meetings or the Sale No. 56 leasing proposal, contact Douglas J. Elvers, Chief, Environmental Assessment Division, New Orleans OCS Office, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130, Telephone (504) 589-6541 (FTS 682-6541).

Dated: August 1, 1979.

H. P. Sieverding,

Acting Manager, New Orleans Outer Continental Shelf Office.

[FR Doc. 79-24508 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-84-M

Canon City District Grazing Advisory Board; Postponement of Meeting

Notice is hereby given that the meeting of the Canon City District Grazing Advisory Board originally scheduled for August 17, 1979, notice of which was published in the **Federal Register,** Thursday, July 12, 1979, is postponed until Wednesday, October 3, 1979, due to conflicting schedules of Bureau of Land Management personnel and conflicting public meetings.

The rescheduled meeting will begin at 10:00 a.m. at the Four-Mile Community Hall adjacent to the BLM District Office in Canon City, Colorado.

The agenda for the meeting will include: (1) Expenditure of range betterment funds for range improvements; (2) Discussion of Allotment Management Plans implementation in the San Luis Valley; (3) Proposed Allotment Management Plan development in the Royal Gorge Resource Area; (4) Discussion of the rechartering process and elections.

The meeting is open to the public. Interested persons may make oral statements to the board between 10:00 a.m. and 12:00 noon on October 3, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3080 East Main Street, Canon City, Colorado 81212, by September 28, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction during regular business hours (Monday through Firday, 7:45 a.m.-4:30 p.m.) within 30 days following the meeting.

Melvin D. Clausen,

District Manager.

FR Doc. 79-24504 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 28056]

Invitation for Coal Exploration License; Kerr Coal Co.

July 31, 1979.

Members of the public are hereby invited to participate with Kerr Coal Company, a Colorado corporation, in a program for the exploration of coal deposits owned by the United States of America, in the following described lands located in Jackson County, Colorado:

T. 9 N., R. 78 W., 6th P.M.
Sec. 15: W½SE¼, SE¼SE¼
Sec. 22: NE¼, E½NW¼, N½SE¼, SE¼SE¼
Sec. 23: W½NW¼, SE¼NW¼, S½
Sec. 25: NW¼, NE¼SW¼
Sec. 26: N½, E½SW¼, NW¼SE¼
Containing 1,560.00 Acres.

Any party electing to participate in this exploration program must send written notice of that election to the Bureau of Land Management and to Kerr Coal Company, directed to the following persons at the addresses shown:

Leader, Craig Team, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202

and

James A. Larson, President, Kerr Coal Company, Three Park Central, Suite 900, 1515 Arapahoe Street Denver, CO 80202

Such written notice must be received by the above named persons at the addresses shown not later than thirty calendar days after the publication of this Notice in the **Federal Register** or ten calendar days after the last publication of the counterpart of this notice in a newspaper or newspapers of general circulation in the area where the above described lands are located, whichever is the later date.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan, as it is approved by the U.S. Geological Survey and the Bureau of Land Management, agencies of the Department of the Interior. Copies of the Exploration Plan, as submitted by Kerr Coal Company, are available during normal business hours in the following offices for public review.

Bureau of Land Management, 455 Emerson, Craig, CO 81625.

Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

The foregoing notice is published in the **Federal Register** pursuant to 43 Code of Federal Regulations, Section 3410.2-1 (d)(1), as published in 44 FR 42584 at 42614 (No. 140, July 19, 1979). A counterpart of this notice will be published by Kerr Coal Company in a newspaper(s) circulating in the area where the lands described above are located.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-24505 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-84-M

[M 21209(ND)]

Stanton, N. Dak.; Coal Lease Offering by Sealed Bid

August 21, 1979.

U.S. Department of the Interior, Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107. Notice is hereby given that 2 p.m., Friday, August 31, 1979, in the Conference Room on the 6th Floor of the Granite Tower Building, the coal resources in the tract described below will be offered for competitive lease by sealed bid to the qualified bidder of the highest cash amount per acre or fraction thereof. No bid will be

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considered which is less than $25/acre. This offering is being made as a result of an application filed by Consolidation Coal Company in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101).

Bids received after 2 p.m. on the day of the sale will not be considered. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received at the above address before 2 p.m., August 31, 1979. The successful bidder is obligated to pay for the newspaper publication of this Notice.

Coal Offered. The tract is located in Mercer County south of Stanton, North Dakota.

T. 144 N., R. 84 W., 5th P.M.
Sec. 18: Lot 4
Sec. 20: SW¼SE¼
Sec. 30: Lots 3, 4, E½SW¼, SE ¼
Sec. 32: N½N½
T. 144 N., R. 85 W., 5th P.M.
Sec. 14: S½N½, S½
Sec. 22: N½NE¼
Sec. 24: N½, SW¼, N½SE¼
Containing 1,668.08 acres.

The coal resources offered are limited to all strippable reserves of the Stanton and any overlying coal beds. The Conservation Division, Geological Survey, has reported that the tract contains 17.7 million tons of coal recoverable by surface mining methods under a maximum overburden depth of 110 feet at 85 percent recovery. Multiple coal beds exist over the proposed leasehold. Coal beds being mined include, in ascending order, the Stanton which averages 8 feet thick, the Hagel which averages 7 feet thick, and the Upper Hagel which averages about 4 feet in thickness. The heating value of the noncoking coal is about 6700 BTU's per pound with a sulfur content of about .7 percent. The coal resources are within the Knife River Known Recoverable Coal Resource Area.

Rental and Royalty. The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States at the rate of 12.5 percent of the value of coal mined by strip mining methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Public Comments. The public is invited to submit written comments concerning the fair market value of the offered coal reserves to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be reviewed and taken into consideration in the determination of fair market value for the offered lands. Comments should address specific factors related to fair market value including: the quantity and quality of the coal resource, the estimated market value of the coal, the estimated cost of producing the coal, the expected rate of industry return, the appropriate discount rate for use in calculating present value along with probable timing and rate of production, the value of the surface estate, and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions may also be submitted at this time.

These comments will be considered in the final determination of fair market value. Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to the State Director, Montana State Office, Bureau of Land Management, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than August 24, 1979.

Detailed Statement of Sale. A detailed statement of the sale, including bidding instructions and the terms of the lease, is available at the office listed above. All case file documents and written comments submitted by the public on fair market value or royalty rates, except those portions identified as proprietary which meet the exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management Office at the address given above.

Edgar D. Stark,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-24507 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-84-M

Intent To Apply Coal Unsuitability Criteria in the Alton, Kaiparowits, and Eastern Kolob Field, Utah

The Cedar City District, Bureau of Land Management intends to apply the final approved criteria for assessing lands unsuitable for all or certain stipulated methods of coal mining (coal unsuitability criteria) for coal lands under its jurisdiction pursuant to 43 CFR Subpart 3461 (**Federal Register** Vol. 44, No. 140, July 19, 1979). The standards are discussed in the Final Environmental Statement on the Federal Coal Management Program dated April 1979. The criteria and exceptions are to be part of the comprehensive land use plans for the Escalante, Paria, and Zion Planning Units.

Draft coal unsuitability criteria have previously been applied as part of Escalante, Paria, and Zion land use plans. However, because the final, approved criteria differ from the draft criteria and because studies are now under way to gather more information concerning certain criteria, these land use plans will be updated and revised as to coal unsuitability criteria.

Anyone who has data which can be used in determining coal unsuitability criteria in the Alton, Kaiparowits, and Eastern Kolob Fields should send it to District Manager, Cedar City District Office, P.O. Box 724, Cedar City, Utah 84720.

After the criteria are applied, a notice will be published in the **Federal Register** pursuant to 43 CFR 3461.3-1(a)(2) announcing the results of the application of each of the unsuitability criteria and the availability of maps displaying the criteria.

Dated: August 3, 1979.

Morgan S. Jensen,

District Manager.

[FR Doc. 79-24508 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Contract Negotiations With the El Dorado Irrigation District; Availability of the Proposed Amendatory Contract for Public Review and Comment

The Department of the Interior, through the Bureau of Reclamation, has completed the negotiation of the proposed amendment to contract No. 14-06-200-1357A, between the United States and the El Dorado Irrigation District, Placerville, California. The proposed amendatory contract was prepared pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187) and the American River Basin Development Act (63 Stat. 852).

The existing contract provides municipal and industrial water service from Folsom Reservoir, Central Valley Project, California, to El Dorado Hills, a residential subdivision located within the El Dorado Irrigation District in the lower foothills of the Sierra Nevada mountains. El Dorado Hills did not experience the population growth originally anticipated in the existing contract, however, the population of El Dorado Hills is beginning to increase dramatically. The population is currently 4,356 and is expected to reach 52,000 (high) to 21,000 (low) by the year 2000.

Pursuant to the existing contract, the district must purchase projected average annual use quantities during specified periods in order to retain its maximum annual entitlement of 6,166 acre-feet. The projected average annual use for the period 1975–1979 is 4,100 acre-feet; however, total water purchases during the first 4 years of this period have been 7,754 acre-feet. The district must purchase 12,467 acre-feet of water for calendar year 1979 in order to meet the 1975–1979 projected annual average.

The proposed amendatory contract deletes the payment buildup period from 1979 to 1984 and requires payment of the maximum annual quantity beginning immediately in 1979 for the remaining contract term. The maximum annual quantity of water the district is entitled to purchase and use under the proposed amendatory contract is 6,500 acre-feet. The water rate in the proposed amendatory contract is $9.00 per acre-foot with provisions for adjustment beginning in 1981 and every 5 years thereafter. The proposed amendatory contract will not change the service area established in the existing contract.

For further information and copies of the proposed contract, please contact Mrs. Betty Riley, Division of Water and Power Resources Management, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, telephone No. (916) 484-4620.

Comments on the proposed contract will be received up to 15 days from the date of this notice. All written correspondence concerning the proposed contract is available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: August 1, 1979.

David R. Schuster,

Acting Assistant Commissioner of Reclamation.

[FR Doc. 79-24292 Filed 8-8-79; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[TA-201-40]

Leather Wearing Apparel; Investigation and Hearing

Investigation instituted. Following receipt of a petition on July 24, 1979, filed on behalf of The National Outerwear and Sportswear Association, Amalgamated Clothing and Textile Workers Union, International Ladies' Garment Workers' Union, United Food and Commercial Workers' Union, and Tanners' Council of America, Inc., the United States International Trade Commission on August 3, 1979, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether wearing apparel not specially provided for, of leather (described in item 791.76 of the Tariff Schedules of the United States (TSUS)), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Public hearing ordered. A public hearing in connection with this investigation will be held in New York, N.Y., beginning on Tuesday, November 6, 1979. The time and place of the hearing will be announced later. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington not later than noon, Thursday, November 1, 1979.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City office of the U.S. International Trade Commission, located at 6 World Trade Center.

By order of the Commission.

Issued: August 6, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-24607 Filed 8-8-79; 8:45 am]

BILLING CODE 7020-02-M

[TA-201-39]

Nonelectric Cooking Ware; Postponement of Public Hearing

Notice is hereby given that the United States International Trade Commission has postponed its public hearing in connection with investigation No. TA-201-39, nonelectric cooking ware, scheduled for Tuesday, August 14, 1979. The public hearing will be held Thursday, September 6, 1979, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, N.W., Washington, D.C., at 10:00 a.m., e.d.t. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington not later than noon, Friday, August 31, 1979.

By order of the Commission.

Issued: July 31, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-24608 Filed 8-8-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment in United States v. Medusa Aggregates Company, et al., and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b) through (h), that a proposed Final Judgment and a Competitive Impact Statement as set out below have been filed with the United States District Court for the Western District of Kentucky in *United States* v. *Medusa Aggregates Company, et al.*, Civil No. 77-0109-0-(C). The Complaint in this case alleges that four corporations (Medusa Aggregates Company; Owensboro River Sand & Gravel Co., Inc.; Kapco, Inc.; and Fort Hartford Stone Company, Inc.) and one partnership (Daviess County Sand & Gravel Co.) violated the Sherman Act by conspiring to fix, raise, stabilize, and maintain prices of stone and sand in Daviess County, Kentucky, and to allocate the sales of stone, sand, asphalt mixture and asphalt paving services in Daviess County, Kentucky.

The proposed Judgment enjoins the defendants from engaging in the alleged conspiracy and prohibits them from communicating certain pricing information to any producer, distributor, or seller of stone, sand, asphalt mixture or asphalt paving services.

Public comment is invited on or before October 9, 1979. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Dated: August 3, 1979.

Charles F. B. McAleer,

Special Assistant for Judgment Negotiations.

United States District Court for the Western District of Kentucky

Civil Action No. 77-0109-0

United States of America, Plaintiff, v. *Medusa Agggregates Company; Owensboro River Sand & Gravel Co., Inc.; Kapco, Inc.; Fort Hartford Stone Company, Inc.; and*

Daviess County Sand & Gravel Co.,
Defendants; stipulation; filed: July 30, 1979.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgement in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgement is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to Plaintiff and Defendants in this and any other proceeding.

For the Plaintiff:

United States of America.

Donald L. Flexner,

Acting Assistant Attorney General.

William E. Swope,

Charles F. B. McAleer,

John A. Weedon,

Attorneys, Department of Justice.

J. Albert Jones,

United States Attorney.

Donald S. Scherzer,

Paul L. Binder,

Robert M. Dixon,

Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199. Telephone: 216–522–4082.

For the Defendants:

Medusa Aggregates Company.

Green, Connor & Carroll.

Jack A. Connor,

700 Frederica Street, Owensboro, Kentucky 42301.

Dated: May 3, 1979.

Owensboro River Sand & Gravel Co., Inc.

Burke, Haber & Berick.

Myron N. Krotinger,

1500 Central National Bank Bldg., Cleveland, Ohio 44114.

Dated: May 14, 1979.

Wilson, Wilson & Plain.

William L. Wilson, Sr.,

414 Masonic Building, Owensboro, Kentucky 42301.

Dated: May 14, 1979.

Kapco, Inc., and Fort Hartford Stone Company, Inc.

Sandidge, Holbrook & Craig, P.S.C.

William E. Gary, III,

100 St. Ann Building, Owensboro, Kentucky 42301.

Dated: May 1, 1979.

Daviess County Sand & Gravel Co.

Rummage, Kamuf, Yewell & Pace.

Charles J. Kamuf,

Lincoln Federal Building, 322 Frederica Street, Owensboro, Kentucky 42301.

Dated: May 10, 1979.

United States District Court for the Western District of Kentucky

Civil Action No. 77–0109–0–(G)

United States of America, Plaintiff, v. *Medusa Aggregates Co.; Owensboro River Sand & Gravel Co., Inc.; Kapco, Inc.; Fort Hartford Stone Co., Inc.; and Daviess County Sand & Gravel Co.,* Defendants; Final Judgment.

Plaintiff, United States of America, having filed its Complaint herein on July 22, 1977, and defendants, having appeared and responded to the Complaint, and the plaintiff and defendants by their respective attorneys having consented to the making and entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party with respect to any issue of fact or law herein:

Now, therefore, before any testimony or evidence has been taken herein and upon said consent of the parties hereto, it is hereby

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The Complaint states claims against the defendants upon which relief may be granted under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "person" means any indidividual, corporation, partnership, firm, association or other business or legal entity;

(B) "asphalt mixture" means paving material composed of a combination of derivatives of crude petroleum and various mineral aggregates, especially limestone;

(C) "asphalt paving services" means those services using asphalt mixtures which are used in the construction and maintenance of paved surfaces, including, but not limited to, highways, playgrounds, sidewalks, parking lots, and driveways;

(D) "stone" means untreated crushed aggregate material, generally limestone, used in the construction and maintenance of paved surfaces;

(E) "sand" means naturally occurring sand used in the construction and maintenance of paved surfaces; and

(F) "product" means asphalt mixture, asphalt paving services, stone or sand;

(G) "common ownership" means at least 50 percent of the ownership is in the same person or persons.

III

The provisions of this Final Judgment applicable to each of the defendants shall also apply to each of its officers, directors, agents, employees, while acting in such capacity and its subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any person to:

(A) Determine, fix, raise, stabilize or maintain prices or other terms or conditions for the sale of any product to any third person in the Commonwealth of Kentucky;

(B) Submit collusive or rigged bids or quotations for the sale of any product in the Commonwealth of Kentucky;

(C) Allocate any sales of any product in the Commonwealth of Kentucky.

V

Each defendant is enjoined and restrained from, directly or indirectly:

(A) Communicating to any producer, distributor, or seller of any product prices at which, or terms or conditions upon which, such product is then being sold or offered for sale by said defendant;

(B) Communicating to any producer, distributor, or seller of any product information concerning:

(1) Future prices at which, or terms or conditions upon which, any product will be sold or offered for sale by said defendant;

(2) Consideration by said defendant of changes or revisions in the prices at which, or the terms or conditions upon which, said defendant sells or offers to sell any product;

(C) Requesting from any producer, distributor, or seller of any product any information which said defendant could not communicate without violating subparagraphs (A) and (B) of this Section V.

VI

Nothing in this Final Judgment shall prohibit any defendant from:

(A) Formulating or submitting with any producer, distributor, or seller of any product a bona fide joint bid or quotation, when the submission of such joint bid or quotation has been requested by or is known to the purchaser;

(B) Communicating information to another producer, distributor, or seller of any product in the course of, and related to, negotiation for, or entering into, or carrying out a bona fide purchase or sale transaction with such other producer, distributor, or seller of any product.

(C) Dealing or communicating with a parent or subsidiary corporation or a corporation under common ownership with such defendant;

(D) Advertising to the public or trade generally present or future prices at which, or terms or conditions upon which any product is then being, or will be sold or offered for sale.

VII

Each defendant is ordered and directed for a period of five (5) years from the date of entry of this Final Judgment to affix to every written bid or quotation submitted in the Commonwealth of Kentucky by said defendant for any product or any combination thereof a written certification, in substantially the form set forth in Appendix A attached hereto, signed by an officer or employee of such defendant having authority to determine the price or prices bid or quoted and responsible for the preparation of bids or quotations, that said bid or quotation was not the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such defendant and any other person, which is prohibited by the provisions of this Final Judgment.

VIII

Each defendant is ordered and directed to:

(A) Within thirty (30) days after the date of entry of this Final Judgment, furnish a copy thereof to each of its officers and directors, and also to any employee having pricing authority or responsibility in connection with the sale of any product in the Commonwealth of Kentucky;

(B) Furnish a copy of this Final Judgment to each new officer, director, and also to any employee having pricing authority or responsibility in connection with the sale of any product in the Commonwealth of Kentucky within thirty (30) days after employment;

(C) Attach to each copy of this Final Judgment furnished pursuant to subsections (A) and (B) of this Section VIII a statement, in substantially the form set forth in Appendix B attached hereto, advising each person of his obligations and of such defendant's obligations under this Final Judgment, and of the penalties which may be imposed upon him and/or upon such defendant for violation of this Final Judgment; and

(D) To file with this Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsections (A) and (C) of this Section VIII.

IX

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any of the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview officers, employees, directors, partners or agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under the Federal Rules of Civil Procedure", then ten (10) days' notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

X

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, or for the enforcement of compliance therewith, and punishment of violations thereof.

XI

This Final Judgment shall terminate and cease to be effective ten (10) years from the date of its entry.

Entry of this Final Judgment is in the public interest.

Entered:————————

United States District Judge.

Appendix A

The undersigned hereby certifies that, to his best knowledge and belief, that, except as specifically permitted by Section VI of this Final Judgment, the attached bid has not been prepared in collusion with any other producer, distributor, or seller of any product, and that the prices and other terms and conditions thereof have not been communicated by or on behalf of the bidder to any such producer, distributor, or seller of any product other than the recipient of this bid and will not be communicated to any such producer, distributor, or seller of any product prior to the official opening of said bid.

Dated: ————————

Signature of Official Having Authority To Determine the Price or Prices Bid or Quoted.

Appendix B

Notice

Re: *United States* v. *Medusa Aggregates Company, et al.*

Attached hereto is a copy of a Final Judgment entered ————————, 1979, in the captioned case. We are required to provide this to you, and you should read it carefully. The provisions of the Final Judgment contained in paragraphs IV, V and VII apply to you, and violation of these provisions by you may subject both you and the Company to fines and/or imprisonment.

United States District Court for the Western District of Kentucky

Civil Action No. 77–0109–0–(G)

United States of America, Plaintiff, v. Medusa Aggregates Co.; Owensboro River Sand & Gravel Co., Inc.; Kapco, Inc.; Fort Hartford Stone Co., Inc.; and Daviess County Sand & Gravel Co., *Defendants;* Filed: 7–30–79.

Competitive Impact Statement

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), the United States filed this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On July 22, 1977, the United States filed a civil antitrust Complaint alleging that four corporations and one partnership conspired to fix prices in violations of Section 1 of the Sherman Act, 15 U.S.C. § 1.

The Complaint alleges that beginning some time in about 1973 and continuing thereafter at least until May 1976, the defendants engaged in a combination and conspiracy: (a) to fix, raise, stabilize, and maintain the prices of stone and to allocate the sales of stone in Daviess County, Kentucky; (b) to fix, raise, stabilize, and maintain the prices of sand and to allocate the sales of sand sold for use in asphalt paving mixture in Daviess County, Kentucky; (c) to allocate the sales of asphalt mixture in Daviess County, Kentucky; and (d) to allocate the sales of asphalt paving services in Daviess County, Kentucky.

The Complaint seeks a judgment by the Court declaring that defendants engaged in an unlawful combination and conspiracy in

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restraint of trade in violation of the Sherman Act. It also seeks an order by the Court to enjoin and restrain the defendants from such activities in the future.

The four corporations named in the Complaint are: Medusa Aggregates Company; Owensboro River Sand & Gravel Co., Inc.; Kapco, Inc.; and Fort Hartford Stone Company, Inc. The partnership defendant is Daviess County Sand & Gravel Co.

All of the defendants to this action have previously pleaded *nolo contendere* to criminal felony charges with respect to this alleged conspiracy. A fine of $303,000 was levied against Medusa Aggregates Company; a fine of $50,000 was levied against Owensboro River Sand & Gravel Co., Inc.; a fine of $22,500 was levied against Kapco, Inc.; a fine of $22,500 was levied against Fort Hartford Stone Company, Inc.; and a fine of $15,000 was levied against Daviess County Sand & Gravel Co. This civil action has been held in abeyance until the criminal felony charge was resolved.

II

Description of the Practices Giving Rise to the Alleged Violations of the Antitrust Laws

For the purpose of this case, the Complaint defines "asphalt mixture" as paving material composed of a combination of derivatives of crude petroleum and various mineral aggregates, especially limestone. The Complaint defines "asphalt paving services" as those services using asphalt mixtures which are necessary for the construction and maintenance of paved surfaces, including, but not limited to, highways, playgrounds, sidewalks, parking lots, and driveways.

During the period covered by the Complaint the following defendants sold stone in Daviess County, Kentucky: Medusa Aggregates Company; Owensboro River Sand & Gravel Co., Inc.; and Fort Hartford Stone Company, Inc. During the period covered by the Complaint the following defendants sold sand: Owensboro River Sand & Gravel Co., Inc.; Fort Hartford Stone Company, Inc.; and Daviess County Sand & Gravel Co. During the period covered by the Complaint the following defendants sold asphalt mixture: Medusa Aggregates Company; Owensboro River Sand & Gravel Co.; Kapco, Inc.; and Daviess County Sand & Gravel Co. During the period covered by the Complaint the following defendants provided asphalt paving services: Medusa Aggregates Company; Owensboro River Sand & Gravel Co., Inc.; and Daviess County Sand & Gravel Co. Significant amounts of the stone, sand, and asphalt mixture sold by the defendants during the period covered by the Complaint were used on public construction projects. Significant amounts of the asphalt paving services provided by the defendants involved public highway construction projects.

The Complaint alleges that the defendants engaged in a combination and conspiracy beginning some time in about 1973 and continuing thereafter at least until May 1976 that consisted of a continuing agreement, understanding, and concert of action among themselves and co-conspirators, the substantial terms of which were:

(A) To fix, raise, stabilize, and maintain the prices of stone and to allocate the sales of stone in Daviess County, Kentucky;

(B) To fix, raise, stabilize, and maintain the prices of sand and to allocate the sales of sand sold for use in asphalt mixture in Daviess County, Kentucky;

(C) To allocate the sales of asphalt mixture in Daviess County, Kentucky; and

(D) To allocate the sales of asphalt paving services in Daviess County, Kentucky.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

(A) Prices of stone, sand, asphalt mixture, and asphalt paving services in Daviess County, Kentucky, were fixed, raised, stabilized, and maintained at artificial and non-competitive levels;

(B) Competition in the sale of stone, sand, asphalt mixture, and asphalt paving services in Daviess County, Kentucky, was restrained; and

(C) Customers were deprived of the benefits of free and open competition in the markets for stone, sand, asphalt mixture, and asphalt paving services in Daviess County, Kentucky.

III

Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment states that it constitutes no admission by any party with respect to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest. (See Section XII of the proposed Final Judgment.)

For the purpose of this case, the Final Judgment defines "product" as asphalt mixture, asphalt paving services, stone or sand.

The proposed Final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint. Specifically, Section IV provides that the defendants are enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any person to:

(A) Determine, fix, raise, stabilize or maintain prices or other terms or conditions for the sale of any product to any third person in the Commonwealth of Kentucky;

(B) Submit collusive or rigged bids or quotations for the sale of any product in the Commonwealth of Kentucky;

(C) Allocate any sales of any product in the Commonwealth of Kentucky.

Section V further enjoins each defendant from communicating the defendant's present or future prices, terms or conditions for any product to any producer, distributor, or seller of any product.

Section VII requires that, for a period of five (5) years from the date of entry of the Final Judgment, each defendant affix to every written bid or quotation submitted in the Commonwealth of Kentucky by said defendant for any product or any combination thereof a written certification signed by an officer or employee of such defendant having authority to determine the price or prices bid or quoted and responsible for the preparation of bids or quotations, that said bid or quotation was not the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such defendant and any other person, which is prohibited by the provisions of the Final Judgment.

Section VIII of the proposed Final Judgment orders and directs each defendant to:

(A) Furnish a copy of the Judgment, within thirty (30) days after the entry of the Judgment, to each of its officers and directors, and also to any employee having pricing authority or responsibility in connection with the sale of any product in the Commonwealth of Kentucky;

(B) Furnish a copy of the Judgment to each new officer, director, and also to any employee having pricing authority or responsibility in connection with the sale of any product in the Commonwealth of Kentucky within thirty (30) days after employment;

(C) Attach to each copy of the Judgment furnished pursuant to subsections (A) and (B) of Section VIII of the Judgment a statement advising each person of his obligations and of such defendant's obligations under the Judgment, and of the penalties which may be imposed upon him and/or upon such defendant for violation of the Judgment;

(D) To file with the Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Judgment, an affidavit as to the fact and manner of its compliance with subsections (A) and (C) of Section VIII.

There are several limited exceptions to the prohibitions against exchange of information set forth in Section V of the Judgment. These exceptions, found in Section VI of the Judgment, relate to possible bona fide joint bids or quotations, bona fide purchases and sales, communications with a parent or subsidiary corporation or corporations under common ownership, and advertisements.

Section XI of the proposed Final Judgment sets the effective period of the Judgment as ten years from the date of its entry.

The proposed Final Judgment is applicable to each defendant and to the subsidiaries, successors, assigns, officers, directors, agents and employees of each defendant, and to all other persons in active concert or participation with any of them who shall have received actual notice of the Judgment. (See Section III of the proposed Judgment.)

Standard provisions similar to those found in other antitrust consent judgments are contained in Section I, concerning jurisdiction of the Court, Section IX, concerning investigation and reporting requirements, and Section X, concerning retention of jurisdiction by the Court over this action.

IV

Remedies Available to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which he may have had if the Judgment had not been entered. The proposed Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

V

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216–522–4070), within the 60-day period provided by the Act. These comments and the Department's responses to them will be filed with the Court and published in the **Federal Register.** All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of it is necessary. Section X of the proposed Judgment provides that the Court retains jurisdiction over this action and that the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

VI

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the proposed Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief against the violations charged in the Complaint.

In reaching an agreement on the proposed Final Judgment, three matters were the principal subjects of negotiation. These matters were the following questions:

1. Whether the scope of Section IV of the Judgment should be nationwide or local;

2. Whether the period during which the Judgment should be effective would be in perpetuity;

3. Whether the injunctive provisions of Section V of the Judgment should apply to defendants' communications with all "persons" as defined in Section II of the Judgment, or only to each defendant's communications with its competitors.

The first matter, concerning the geographic scope of the Judgment, arose because defendants had proposed limiting the Judgment to only those sales occurring in the Owensboro, Kentucky area. The government had originally proposed coverage of all sales regardless of location. A compromise was reached whereby the coverage of the Section includes all sales occurring in the Commonwealth of Kentucky.

The second matter, relating to the effective period of the Judgment, was raised because the defendants proposed limiting the injunctive provisions of the Judgment to five (5) years. The government rejected the defendants' proposal. Subsequently, however, the government proposed, and the defendants agreed, to limit the effective period of the entire Judgment to ten (10) years. This proposal by the government was a reflection of a change in policy by the Antitrust Division. Previously, the Antitrust Division had insisted in cases of this type that negotiated judgments to which it was a party would last in perpetuity. During the time when the proposed Judgment was being negotiated in this case, however, this policy was changed. The present policy is to use an effective period of ten (10) years for judgments in civil cases, like this one, that are filed as companions to criminal indictments, unless there is a particular reason to extend the effective period beyond ten (10) years.

The third matter, relating to whether the injunctive provisions of Section V should apply to each defendant's dealings with all "persons" as defined in Section II of the Judgment or to its dealings with a smaller group, arose because defendants proposed limiting Sections IV and V to only those dealings with competitors. The government proposed a compromise which the defendants accepted. Paragraph IV of the Judgment remains as proposed by the government whereby each defendant is enjoined from engaging in the stated activity with any person. The provisions of Section V, however, were limited to the defendants' dealings with producers, sellers, or distributors of any product as defined in Section II of the Judgment.

VII

Determinative Materials and Documents

No other material or document of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) was considered in formulating this proposed Judgment. Consequently, none is submitted pursuant to that Section.

David F. Hils,

Attorney, Department of Justice.

Donald S. Scherzer,

Paul L. Binder,

Attorneys, Department of Justice Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, Telephone: (216) 522–4082.

[FR Doc. 79–24509 Filed 8–8–79; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79–69]

NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The *Ad Hoc* Informal Advisory Subcommittee on Agriculture, Land Cover and Hydrology of the NAC–STAAC will meet on August 28 and 29, 1979, at NASA Headquarters, Room 226A, Federal Office Building 10B, 600 Independence Avenue SW., Washington, DC 20546. The meeting is open to the public. Members of the public will be admitted to the meeting on both days on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

This Subcommittee, chaired by Dr. Robert M. Ragan, is comprised of ten members of the NAC–STAAC and will review and discuss the research activities in the renewable resources area.

The approved agenda for the meeting is as follows:

August 28, 1979

Time and Topic

9:00 am—Chairperson's Remarks
9:30 am—NASA Response to Subcommittee Recommendations on: land resources plan update, integrated soil moisture plan and hydrology plan update
1:30 pm—Review FY 80 Proposed Research Activities (AGRISTARS implementation plan)
5:00 pm—Adjourn

August 29, 1979

8:30 am—Review proposed SR&T program for renewable resources (including hydrology, water resources, coastal zone, interpretative techniques, sensors, land use and applications pilot test)
1:00 pm—Conclusions and Recommendations
3:00 pm—Adjourn

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, DC at (202) 755–7450.

Frank J. Siniokaitis,

Acting Deputy Associate Administrator for External Relations.

August 3, 1979.

[FR Doc. 79–24493 Filed 8–8–79; 8:45 am]

BILLING CODE 7510–01–M

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NATIONAL SCIENCE FOUNDATION

Subcommittee for Ocean Sciences Research; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Ocean Sciences Research of the Advisory Committee for Ocean Sciences.
Date and time: August 27–30, 1979, 9 a.m. to 5 p.m. each day.
Place: Room 628, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. M. Grant Gross, International Decade of Ocean Exploration Section, Room 606, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–7356.
Purpose of subcommittee: To provide the IDOE with additional expertise in the review and evaluation of proposals relating to oceanographic research related to the Coastal Dynamics Experiment and the Vertical Transport and Exchange of Materials in the Upper Waters of the Ocean (VERTEX) Projects.
Agenda: August 27–28: Coastal Dynamics Experiment, Room 628. August 29–30: Vertical Transport and Exchange of Materials in the Upper Waters of the Ocean (VERTEX), Room 628.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce F. Laplante,
Acting Committee Management Coordinator.

[FR Doc. 79–24539 Filed 8–8–79; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Availability of Supplement 1 to the Final Environmental Statement on Routine Use of Plutonium-Powered Cardiac Pacemakers

Noticer is hereby given that Supplement 1 to the Final Generic Environmental Statement (NUREG–0060, issued in July 1976) on the routine use of plutonium-powered cardiac pacemakers has been prepared by the Commission's Office of Standards Development.

Supplement 1, prepared in 1978, updates the Final Generic Environmental Statement (FES) with respect to power sources for pacemakers. Particular attention is given to non-nuclear lithium batteries as alternatives to Pu-238 power sources in cardiac pacemakers. Supplement 1 also considers the current extent of pacemaker use and the makeup of the patient population. The Supplement's conclusion is that the conclusion of the Final Generic Environmental Statement is still valid, that is, that the distribution of plutonium-powered pacemakers for routine use should be authorized subject to specific conditions, which are listed in the Summary and Conclusions of the FES, NUREG–0060.

The Supplement and the Final Generic Environmental Statement are available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Requests for single copies of Supplement 1 and the FES should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated.

Interested persons may submit comments on the FES and Supplement 1 for the Commission's consideration. Comments received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. The comments submitted will be considered by the Commission in its deliberations concerning a final rulemaking proceeding on the regulation of plutonium-powered cardiac pacemakers. Comments are due by October 10, 1979.

Comments on the FES and Supplement 1 from interested members of the public should be sent to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Mr. Ralph J. Jones, Chief, Transportation and Product Standards Branch, Office of Standards Development.

Dated at Rockville, Maryland, this 1st day of August 1979.

For the Nuclear Regulatory Commission.
Robert B. Minogue,
Director, Office of Standards Development.

[FR Doc. 79–24562 Filed 8–8–79; 8:45 am]
BILLING CODE 7590–01–M

[Dockets Nos. 50–317 and 50–318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 40 and 22 to Facility Operation Licenses Nos. DPR–53 and DPR–69 issued to Baltimore Gas & Electric Company, which revised Technical Specifications for operation of the Calvet Cliffs Nuclear Power Plant, Units Nos. 1 and 2 (the facility) located in Calvert County, Maryland. The amendments are effective as of the date of issuance.

The amendments revise the Appendix A Technical Specifications of both Calvert Cliffs Nuclear Power Plant units to (1) implement the degraded grid voltage condition requirements and (2) allow battery capacity testing during operation of the facilities.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated June 17, 1977 (as supplemented March 12, 1979) and August 5, 1977, (2) Amendments Nos. 40 and 22 Licenses Nos. DPR–53 and DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 31st day of July 1979.

For the Nuclear Regulatory Commission.
Robert W. Reid,
Chief, Operating Reactors, Branch #4, Division of Operating Reactors.

[FR Doc. 79–24564 Filed 8–8–79; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 40–8452]

Bear Creek Uranium Co.; Negative Declaration Regarding Issuance of an Amendment to License SUA–1310 for Operation of the Bear Creek Uranium Mill in Converse County, Wyo.

The U.S. Nuclear Regulatory Commission (the Commission) is issuing a license amendment authorizing a uranium mill expansion by Bear Creek Uranium Company at their Bear Creek Uranium Mill in Converse County, Wyoming.

The Commission's Division of Waste Management has prepared an environmental impact appraisal for the proposed action. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted for there will be no significant environmental impact attributable to the action. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Silver Spring, Maryland, this 27th day of July, 1979.

For the Nuclear Regulatory Commission.
Ross A. Scarano,
Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 79–24565 Filed 8–8–79; 8:45 am]
BILLING CODE 7590–01–M

[Docket Nos. 50–3, 50–247, and 50–386]

Consolidated Edison Co. of New York, Inc., Power Authority of the State of New York; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 26 and 57 to Provisional Operating License No. DPR–5 and Facility Operating License No. DPR–26, respectively, issued to Consolidated Edison Company of New York, Inc. and Amendment No. 27 to Facility Operating License No. DPR–64, issued to Power Authority of the State of New York (the licensees), which revised Technical Specifications for operation of the Indian Point Station, Unit No. 1 and Indian Point Nuclear Generating Unit Nos. 2 and 3 (the facilities) located in Buchanan, Westchester County, New York. These amendments are effective as of the date of issuance.

These amendments revised the Technical Specifications to consolidate all references to thermal plume mapping into Section 4.1.1.a which, in turn, refers to the conditions of the New York State Certification issued by the Department of Environmental Conservation pursuant to Section 401 of the Clean Water Act.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated April 12, 1979; (2) Amendment Nos. 26, 57, and 27 to DPR–5, DPR–26, and DPR–64, respectively; and (3) the Commission's letter dated July 11, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of July, 1979.

For the Nuclear Regulatory Commission.
A. Schwencer,
Chief, Operating Reactors Branch 1, Division of Operating Reactors.

[FR Doc. 79–24566 Filed 8–8–79; 8:45 am]
BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, MP 711–4, is entitled "Standard Format and Content for a Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance" and is intended for Division 5, "Materials and Plant Protection." It identifies the information required in the physical security plan submitted as part of an application to possess, use, or transport special nuclear material (SNM) of moderate strategic significance or 10 kg or more of low strategic significance and recommends a standard format for presenting the information. Further, this guide explains the intent of various provisions of regulations governing these categories of SNM adopted on June 21, 1979.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention:

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Docketing and Service Branch, by September 21, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 30th day of July 1979.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Siting, Health and Safeguards Standards, Office of Standards Development.

[FR Doc. 79-24563 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 68 to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

The amendment consists of changes to the Fire Protection Systems to reflect the addition of newly installed systems as required by Amendment No. 60 dated October 4, 1978.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 29, 1979, (2) Amendment No. 68 to License No. DPR-57, and (3) the Commission's letter dated July 31, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Library, Parker Street, Baxley, Georgia 31513. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 31st day of July 1979.

For The Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-24567 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-S9, "Site Survey for Nuclear Power Plants," has been developed. The Working Group, consisting of Mr. Y. Belot of France; Messrs. H. F. Eggert and H. J. Lade of the Federal Republic of Germany; Mr. L. Venkatesh of India and Mr. J. A. Halpern (Dames & Moore) of the United States of America, developed the initial draft of this Safety Guide from an IAEA collation during meetings on Janaury 8-19 and April 2-6, 1979. The initial Working Group draft was modified by the IAEA Technical Review Committee in a meeting on May 21-25, 1979. We are soliciting comments on revision 1 of this Safety Guide dated June 6, 1979. Comments on this draft received by September 24, 1979, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md., this 30th date of July 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 79-24561 Filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Operating License No. DPR-59, issued to the Power Authority of the State of New York, which revised the license for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment will become effective twenty days after issuance, unless a hearing has been requested.

The amendment adds a license condition pertaining to the completion of facility modifications to improve the fire protection program.

The licensee's submittals comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated October 23, October 27, and December 21, 1978, and February 8, March 7, and May 7, 1979, (2) Amendment No. 47 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 1st day of August 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-24566 filed 8-8-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 50 and 49 to Facility Operating License Nos. DPR-32 and DPR-37 issued to Virginia Electric and Power Company, which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2 (the facilities) located in Surry County, Virginia. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to allow removal of all part-length control rods from both reactors.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated February 21, 1978 (2) Amendment Nos. 50 and 49 to License Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 25th day of July.

For the Nuclear Regulatory Commission.

Marshall M. Grotenhuis,

Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-24569 Filed 8-8-79; 8:45 am]

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NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-32]

Safety Recommendations and Responses; Availability

Aviation Safety Recommendation Letter

A-79-61.—During the National Transportation Safety Board's investigation of the Allegheny Airlines BAC 1-11 accident which occurred at Rochester, N.Y., July 9, 1978, postcrash medical examinations became necessary when a review of the available medical information revealed that the captain had a history of recent, marked changes in visual acuity as well as neurological problems. Because the conduct of the approach was so unusual for an experienced captain and because of this captain's medical history, the Board requested that the captain submit to complete ophthalmologic and neuro-ophthalmologic examinations. The examinations were not completed until 5 months after the accident.

Other recent airline transport accidents in which appropriate medical examinations would have been invaluable to the investigation include: Alaska Airlines at Ketchikan, Alaska, April 5, 1976, when the review of the captain's recent medical history revealed a glucose metabolism disturbance; and National Airlines at Pensacola, Fla., May 8, 1978, when there was an apparent communication problem between the flightcrew and a questionable misinterpretation of the altimeter. Air taxi and air charter accidents in which the need existed to medically evaluate surviving pilots are too numerous to mention.

In response to earlier Safety Board recommendations A-77-24 and 25 relating to need for "implied consent" testing of blood specimens after an accident, the Federal Aviation Administration has begun a regulatory project aimed at "promulgating rules for implied consent to alcohol tests by airmen." In view of these recent accidents, the Safety Board now believes that alcohol tests are only part of the solution and that other medical tests are essential to rule out the possibilities of physiological causes of performance decrements. Currently, the

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Board cannot require medical examinations after a survivable accident. Dependence on the willingness and discretion of the crewmember often results in no medical examination or in findings that are untimely or useless.

In view of the above, the Safety Board on July 30 recommended that the Federal Aviation Administration:

Amend 14 CFR 61.3 to include an implied consent clause which would be a condition for the issuance of Class I and Class II airman medical certificates. The implied consent clause should require the holder to submit to any nonpsychiatric medical evaluation included in 14 CFR Part 67 if deemed necessary by the National Transportation Safety Board following any accident/incident and to such biochemical testing essential to establish the absence of alcohol, drugs, or suspected metabolic disorders. The medical examination should be performed by a Regional Flight Surgeon or by an Aviation Medical Examiner designated by a Regional Flight Surgeon. (Class II, Priority Action) (A–79–61)

Railroad Safety Recommendation Letters

R–79–42 through 52, R–79–53, R–79–54 and 55.—About 6:06 p.m. last January 17, the fifth and sixth cars of the seven-car westbound train No. 117 of the Bay Area Rapid Transit District (BART) caught fire while moving through the tunnel under the San Francisco Bay between Oakland and San Francisco, Calif. Forty passengers and two BART employees were evacuated from the burning train through emergency doors into a gallery walkway located between the two single-track tunnels and then into a waiting train in the adjacent tunnel. One fireman died when the gallery suddenly filled with heavy black toxic smoke. Twenty-four firemen, 17 passengers, 3 emergency personnel, and 12 BART employees were treated for smoke inhalation. Property damage was estimated to be $2,450,000.

Investigation disclosed that a poorly fastened undercar equipment cover fell from train No. 363 causing damage and fire to following train No. 117. The investigation also disclosed inadequate inspection procedures, vehicle materials with low flame resistance that produce toxic fumes when burning, and emergency procedures that did not properly coordinate the rescue and firefighting efforts of BART and the Oakland and San Francisco Fire Departments.

Accordingly, on August 2 the Safety Board by three separate letters directed the following safety recommendations to:

Bay Area Rapid Transit Authority

Revise emergency procedures to clarify the necessity of unloading passengers immediately from a stopped burning train in the Transbay Tube and other long tunnel locations. (R–79–42)

Revise emergency procedures to prevent sending rescue trains with other than emergency personnel into tunnel fire and/or accident areas. (R–79–43)

Revise Transbay Tube emergency fan and damper procedures to prevent smoke from engulfing an entire train and/or entry into the gallery. (R–79–44)

Revise emergency procedures to require notifiation of both the San Francisco and Oakland Fire Departments in the event of smoke and/or fire in the Transbay Tube. (R–79–45)

Determine and designate the most effective department or personnel to act as coordinator of rescue efforts involving train fires and/or emergency evacuations. (R–79–46)

Provide a means for fire departments to use their own radio equipment in the Transbay Tube and other long tunnel location. (R–79–47)

Train and equip employees who may be involved in tunnel rescue efforts to manage a smoke and/or fire environment. (R–79–48)

Provide an additional Central Train radio frequency for emergency communications. (R–79–49)

Upgrade the flame resistance of vehicle seat assemblies and other plastic components. (R–79–50)

Provide means of preventing entry of fire through the vehicle floor in areas susceptible to fire. (R–79–51)

Redesign and modify car uncoupling from within the cars in the event of an electrical short or malfunction. (R–79–52)

American Public Transit Association

Review and revise as necessary vehicle inspection procedures and emergency evacuation guidelines for Association members to correct deficiencies noted in this investigation. (R–79–53)

Urban Mass Transportation Administration

Promulgate regulations establishing minimum fire safety standards for the design and construction of Rapid Transit Vehicles. (R–79–54)

Establish overview of Bay Area Rapid Transit District procedures to ensure that the emergency deficiencies noted in this investigation received appropriate remedial action. (R–79–55)

All of the above recommendations are designated "Class II, Priority Action," with the exception of No. R–79–55 which is designated "Class I, Urgent Action." Printed copies of the Safety Board's formal investigation report on this accident are being prepared for distribution and copies will be available in the near future.

Responses to Safety Recommendations

Aviation

A–74–114.—On July 26 the Federal Aviation Administration advised the Safety Board that action with respect to this recommendation (one of ten recommendations issued January 5, 1975, in connection with the Board's special study "Safety Aspect of Emergency Evacuation of Aircraft") has been completed. The recommendation asked FAA to amend 14 CFR 121.417(c)(4) to eliminate the provision which permits carriers to use demonstrations alone to train crewmembers for certain emergency situations, thus requiring performance of drills in the operation and use of emergency exits.

FAA now advises that Amendment 121–148, effective September 29, 1978, revised § 121.417(c) of the Federal Aviation Regulations to require that each crewmember actually operate certain emergency equipment, including emergency exits, during initial training and once each 24 calendar months during recurrent training on each type of aircraft in which they are to serve. FAA provides a copy of revised § 121.417(c) and Operations Review Program Amendment No. 6.

A–75–31 and 32.—FAA's letter of July 26 concerns recommendations issued following investigation of the Air East, Inc., Beechcraft 99A, accident at Johnstown, Pa., January 6, 1974, and supplements FAA's response dated August 5, 1975.

Recommendation A–75–31 asked FAA, when certificating or recertifying a replacement operator, to apply standards equivalent to those applied in authorizing Part 121 operators to use small airplanes in scheduled service as provided by 14 CFR 121.9. In response, FAA stated that the revisions to 14 CFR Part 135, effective December 1, 1978, are compatible with 14 CFR 121.9 and ensure an equivalent level of safety.

Recommendation A–75–32 asked FAA to increase the effectiveness of procedures for surveillance of commuter airline operations by adopting procedures now employed in surveillance of scheduled air carriers, including assignment of responsibility to the appropriate air carrier district offices. FAA notes that with implementation of revised Part 135, the responsibility for all air taxis has also changed. At Washington Headquarters, the air taxi function was transferred from the General Aviation Division, AFS–800, to the Air Carrier Division, AFS–200. Regional responsibility for the air taxi program in those regions which

have both a General Aviation Branch and an Air Carrier Branch was assigned to the Air Carrier Branch. The regions have been advised to assign the air taxi operator to the field office that can best serve the operator and fulfill FAA responsibilities when considering the type of equipment operated. These changes were made in recognition of the impact of the Deregulation Act and the increasing size and complexity of aircraft operated under Part 135. FAA also notes that revisions of 14 CFR Part 135 substantially revised and upgraded requirements for air taxi operations. As a result, Notice N8000.176, "Increased Surveillance for Operators Under New Part 135," was issued April 25, and FAA believes that this will result in an appropriate level of surveillance.

A–77–10.—FAA's letter of July 26 updates status of actions taken to implement this recommendation, issued after investigation of a midair collision between a Cessna 414 and a USAF F4E, near Brighton, Fla., September 13, 1976. FAA reports that in accordance with the recommendation each FAA region that does not have UHF guard-transmitting and receiving capabilities at all control positions where air traffic control services are provided routinely to military tactical flights has been asked to comply with the recommendation and to advise FAA as to the expected implementation date. FAA notes that while all facilities that routinely control military tactical flights do have the capability to transmit and receive on UHF guard frequency, 243.0 MHz, the installation of additional transceiver equipment at *all* control positions, as recommended, has not been fully implemented in total due to other operational priorities and/or budgetary restraints.

FAA reports that, as of July 1, the status of implementation is as follows:

The New England, Eastern, Southern, Western and Pacific Regions are fully implemented.

The Northwest Region is exploring the possibility of acquiring additional equipment through local, FY–79, project funds.

The Alaskan Region expects to be fully implemented by July 1, 1980.

The Central Region's FY–81 budget submission includes funds to complete the project.

The Rocky Mountain Region requested additional remote control air-to-ground channels in the FY–81 F & E budget.

The Southwest Region expects to be fully implemented by March 1982.

The Great Lakes Region's FY–81 and FY–82 F & E budget submission includes requests for funds to complete the project.

A–79–11.—On July 26 FAA responded to this recommendation, issued as a result of investigation into the crash of an Antilles Air Boats, Inc., Grumman G–21A last September 2 near St. Thomas, V.I. Recommended action was that FAA require that all aircraft maintenance logbook sheets be numbered consecutively. (See 44 FR 27509, May 10, 1979.)

FAA notes that Title IX, section 902(e) of the Federal Aviation Act of 1958 concerns the falsification of records and lists certain penalties. FAA recently amended 14 CFR Part 43 by adding a new § 43.12 which prohibits alteration and falsification of maintenance records. Section 121.701, FAR, requires each certificate holder to have an approved procedure in its manual for keeping adequate copies of aircraft maintenance log entries, and § 121.709 requires that an airworthiness release or an aircraft log entry be signed by an authorized certificated mechanic or repairman. The requirements of §§ 135.439 and 135.443 are similar.

FAA has recently surveyed 18 air carrier and air taxi operators to review their maintenance logbook procedures. Fourteen operators have numbering systems for logbook pages. All have procedures which require logbook accountability. A search by FAA's Safety Data Branch for the period January 1977 to May 1979 revealed one violation filed for falsification of an aircraft maintenance logbook record. FAA does not consider this a problem area. FAA does not believe that consecutively numbered logbook pages will deter persons from altering or falsifying records if they have an intent to do so. FAA is preparing and expects to issue within the next 30 days a maintenance bulletin which will request principal airworthiness inspectors to review their assigned operators' manuals to ensure maintenance logbook page accountability.

A–79–12 through 15.—FAA's letter of July 27 responds to recommendations issued following investigation of the February 19, 1978, Columbia Pacific Airlines Beechcraft model B–99 accident at Richland (Wash.) Airport. (See 44 FR 27509, May 10, 1979.)

Recommendation A–79–12 asked FAA to issue an Airworthiness Directive to require compliance with Beechcraft Service Instruction Notice No. 0956, and A–79–13 called for evaluation of the safety of removing door safety chains from other aircraft so equipped and used in passenger revenue operations with a view toward simplified exit of passengers and entry by crash/fire/rescue personnel. FAA reports that it will evaluate the safety of removing door safety chains from all aircraft concerned that are engaged in passenger operations. The evaluation, expected to be completed by mid-November 1979, will include passenger egress and crash/rescue/fire entry aspects.

Recommendation A–79–14 called for amendment of 14 CFR 135.169 by incorporating the general provisions of 14 CFR 121.310(g)(1), (2), and (3) with regard to exit conspicuity and operability on air taxi aircraft with a capacity of 10 or more passengers, and A–79–15 asked FAA to amend 14 CFR Part 135 Appendix A (paragraph 32) by incorporating the general provisions of 14 CFR Part 25.811(f)(1), (2), and (3) with regard to exit conspicuity and operability. FAA reports on a survey made during the latter part of 1978 to determine if there is a need to open emergency exits from outside the aircraft and if there is any difficulty in finding the exits. FAA analyzed 561 accidents occurring in 1977 and 1978 and found no mention of any difficulty in egress or in finding exits. FAA is, however, continuing to investigate and expects to make a decision relative to the rulemaking effort by December 1 this year.

A–79–16 through 20.—Another letter dated July 27 provides FAA's response to recommendations issued as a result of Safety Board investigation of the Continental Airlines DC–10 which on March 1, 1978, overran the departure end of a runway at Los Angeles International Airport. (See 44 FR 27510, May 10, 1979.)

In response to recommendation A–79–16, which asked FAA to fund and give highest priority to an evacuation slide fabric test project to develop and certificate fire-resistant materials for these devices, FAA reports that a research and development (R&D) project has been initiated to assess the performance of slide materials which can provide significant improvement in fire protection. FAA expects the R&D project to be completed by July 1, 1980, and regulatory action will be contingent on the R&D findings.

With respect to A–79–17, calling for an Airworthiness Directive requiring the strengthening of the girt fabric of the PICO 26-foot slide/raft to insure its reliability when the unit is deployed at its most critical angle, FAA states that the PICO slide/raft is not considered unique with respect to girt designs of other approved slide/rafts. FAA plans to begin reviewing, by the end of September 1979, the need for upgraded loading requirements applicable to all slide/raft devices. Regulatory action will be contingent on the findings of the review.

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FAA reports that it is preparing a revision to Technical Standard Order TSO–C69 to include requirements for dual-lane evacuation slides and critical length performance testing, as recommended by A–79–18. A notice of proposed rulemaking will be issued as soon as possible. Also, standards for slide/raft devices, called for by A–79–19, will be included in the revision of TSO–C69.

Recommendation A–79–20 asked FAA to amend 14 CFR 25.809 to require a secondary means of escape at all floor-level cabin exits currently requiring emergency escape slides; the secondary escape means could be ropes or other means demonstrated to be suitable for evacuation pruposes. FAA notes that TSO–C69 now requires that inflatable slides be constructed to permit their use as noninflatable hand-held slides in the event of puncture or other cause which may render the slide incapable of inflation. Also, certification of the aircraft emergency evacuation system requires that the aircraft be evacuated within 90 seconds with the use of only 50 percent of the emergency exits and slides. This provides latitude for use of an alternate exit if a slide fails to inflate. While escape aids, such as ropes and inertia reel devices, are currently approved for use by trained flight crewmembers, FAA does not believe that these devices are suitable for use by evacuating passengers. FAA says that use of these devices, in lieu of inflatable or hand-held slides, could result in a significant reduction in evacuation rate and could be extremely hazardous to persons not trained to use a rope or similar device. Further, it would be difficult, if not impossible, for certain persons such as elderly persons, children, or handicapped individual to safely use these devices. FAA has no evidence at present to support rulemaking as recommended.

Highway

H–78–10.—The Federal Highway Administration on July 24 forwarded to the Safety Board copies of the executive summary and the full report entitled "Safety-Related Information Needs," as referenced in FHWA's formal response of January 12, 1979, to this recommendation. (See 44 FR 5216, January 25, 1979.) The recommendation was issued in conjunction with the Safety Board's 1978 report, "Safety Effectiveness Evaluation of the National Highway Traffic Safety Administration's National Accident Sampling System" (NASS). FHWA reports that since January 1979, the basic material in this report has been used by the joint FHWA/NHTSA committee concerned with revision of NASS to address — FHWA needs. The Board on February 1 acknowledged FHWA's January 12 letter and said that recommendation H–78–10 would be held in open acceptable-action status until the task force completed its work.

H–79–8.—The Governor of the State of Michigan on July 19 responded to a recommendation issued last March 22 following investigation of the schoolbus-type bus accident which occurred near Tifton, Ga., April 11, 1978. The bus, operated by the Ypsilanti (Mich.) Boys Club, was en route to Disney World, Fla., at the time of the accident. The recommendation asked the State of Michigan to provide at least an annual motor vehicle inspection program for vehicles that seat 10 or more persons and buses that are not presently required to be inspected. (See 44 FR 18748, March 29, 1979.)

In response, the Governor stated that he signed into law on December 28, 1978, Act No. 547 of the Public Acts of 1978 which makes it mandatory for every bus or vehicle of 12 passengers or more to be inspected by the Michigan State Police annually, or more frequently when violations are found. This will help ensure the safety of all persons in Michigan who are transported in vehicles owned by or leased by a school, religious organization, nonprofit youth organization, nonprofit rehabilitation facility, or senior citizen center. The Governor also said that the mechanical condition of a bus on the highway is still the sole responsibility of the owner, organization, driver or designated person in charge of the vehicle. It is not the responsibility of the inspecting authority. Further the Governor stated:

> In our program, the Department of State Police will, in addition to inspection, provide expertise and guidance to establish preventive maintenance programs and record keeping. This will assist in the maintenance of vehicles and serve as a major step toward preventing recurrence of such incidents. I am also concerned regarding the driver qualifications for operating a bus. I have asked the Michigan State Safety Commission to review this issue and provide recommendations.

Marine

M–79–8.—On July 19 the National Oceanic and Atmospheric Administration (NOAA) responded to the Safety Board's May 29 letter which commented on NOAA's response of May 3 (44 FR 31333, May 31, 1979). The recommendation was developed as a result of Board investigation of the capsizing of the charter fishing boat DIXIE LEE II on June 6, 1977, and suggested that the National Weather Service (NWS) include more detailed information as to the severe weather condition for which a severe thunderstorm warning is issued.

The Board agreed that the issue at hand is awareness of the meaning of a severe thunderstorm warning. The Board is convinced that many NWS information users are not aware that a severe thunderstorm designation means wind speeds of 50 kns. or greater, which is why the Board recommended including wind speed in the warning. The Board noted that NOAA will encourage its forecasters to mention wind speed thresholds where possible and asked to be provided with a copy of any directive or notice to NOAA forecasters which comments on the use of wind speed factors. The Board also asked for a detailed description of NOAA's program of public awareness to aid in evaluating the proposed solution to the problem of misinterpretation of the NWS severe thunderstorm warnings.

In response, NOAA provided a copy of NWS instructions for the preparation of marine forecasters and warnings which are contained in the Weather Service Operations Manual Chapter D–51. NOAA said that additional instructions, to mention wind speed in severe thunderstorm warnings when possible, will be included in the next printing of D–51. Meanwhile, NOAA relayed this instruction to its regions by means of a copy of its May 3, 1979, response. NOAA also provided a copy of a warning message issued by the Weather Service Forecast Office at New Orleans which indicates that this instruction is being applied. NOAA plans to publicize the meaning of severe thunderstorm warnings by having a definition of this warning published in Coast Guard's Local Notice to Mariners and taped spot announcements to be aired over NOAA Weather Radio (NWR). In addition to Local Notice to Mariners and NWR, opportunities to promote public awareness of NOAA's programs are afforded by NWS participation in National Boat Shows, Safe Boating Week activities, National Boating Organizations and Fisherman's Cooperatives.

M–79–55.—The Crescent River Port Pilots Association on July 13 responded to a recommendation issued on May 3 following investigation into the collision between the U.S. Navy submarine tender L. Y. SPEAR and Liberian tanker ZEPHYROS in the lower Mississippi River, February 22, 1978. The recommendation asked the Association to reassess its practices and those of

member pilots to establish or reaffirm a policy that emphasizes the necessity for pilots to exercise extreme care and extraordinary caution, including the use of conservative moderate speeds, to preclude accidents involving vessels laden with crude oil or other hazardous bulk cargoes. (See 44 FR 27511, May 10, 1979.)

The Association notes its acute awareness of the need for extreme care and extraordinary cuation in the movement of vessels laden with crude oil or other hazardous bulk cargoes. The problem is under study and consideration is being given to the need for a comprehensive program dealing with such cargoes in the Port of New Orleans. The Association is examining the Federal regulations, particularly Title 46, which define such hazardous cargoes and give some guidance as to their care and shipment. The Association will work closely with the Board of Commissioners for the Port of New Orleans and with the New orleans Steamship Association, both in promulgating and effectuating necessary precautionary procedures. The Association asked for copies of any Safety Board publications relative to the transportation of dangerous cargoes in congested waters, such as those of the Port of New Orleans.

Pipeline

P–79–14 and 15.—The U.S. Department of the Interior on July 27 acknowledged receipt of recommendations issued July 13 during investigation of the June 10 and June 15 oil leaks resulting from wrinkles in the Alyeska Service Company's 48-inch crude oil pipeline in Alaska. (See 44 FR 43825, July 26, 1979.) Interior advises that the recommendation letter has been forwarded to the authorized officer of the Alaska Pipeline Office for review, with the request that the continued necessity be kept in mind to implement effective measures to prevent oil leaks and other accidents whenever possible.

Railroad

R–79–1 and 2.—The New York City Transit Authority (NYCTA) on June 28 provided additional comments in response to recommendations issued last January 19 during the Safety Board's investigation of the derailment of an eight-car subway train in New York City last December 12. The recommendations urged NYCTA to immediately inspect all their rapid transit cars to determine if wheels had been subjected to above normal heat and to remove from service any wheel that shows evidence of thermal damage (R–79–1) and to immediately equip handbrakes on NYCTA rapid transit cars with a positive indicator so that an operator can determine if the brake is applied or fully released (R–79–2). (See 44 FR 6537, February 1, 1979.) NYCTA's initial response was provided under date of March 8 (44 FR 24659, April 26, 1979).

NYCTA now reports that it has acted to materially reduce the risk of broken rail derailments on the subway and that the most recent monthly inspection of wheels revealed only one wheel with a flaw in it. NYCTA says that enforcement of prescribed checking by motormen for proper handbrake release and other preservice inspections has contributed to the major reduction of thermal damage to wheels. Installation of handbrake application indicator lights is planned to begin in March 1980 and the program is expected to be completed in February 1981. Refining of design and parts procurement have set back NYCTA's schedule. Also, NYCTA reports that a consultant is reviewing its practices and procedures in detail.

After reviewing NYCTA's response letters and considering facts developed in the public hearing of May 10–11, 1979, the Safety Board on July 25 advised NYCTA that recommendation R–79–1 was being closed out, "acceptable action." The Board noted with reference to R–79–1 that the initial inspection of all wheels of the NYCTA fleet fulfilled the primary objective of the recommendation and that the validity of the recommendation has been established in that the initial inspection and subsequent inspections have disclosed flawed wheels. The Board stated that it has been conclusively demonstrated that a partially applied handbrake can cause rapid thermal damage to a wheel. The Board is pleased to note that the requirement for motormen to inspect for proper handbrake release is being enforced. This procedure, as well as preservice inspections, has sharply reduced the thermal-damaged wheel problem.

The Board stated on July 25 with reference to recommendation R–79–2 that although the first schedule of retrofitting has been set back one year, the measures being taken by NYCTA are in accord with the intent of this recommendation. The Safety Board wishes to be informed of other schedule changes, if any, and advised when the handbrake indicator program has been completed. Until the entire fleet has been modified, the Board will continue to classify recommendation R–79–2 in an open status.

Note.—Copies of recommendation letters issued by the Safety Board, response letters, and related correspondence are available free of charge. All requests for copies must be in writing, identified by recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

Dated: August 6, 1979.

Margaret L. Fisher,

Federal Register Liaison Officer.

[FR Doc. 79–24591 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–58–M

[Docket Nos. SA–469 (Downeast) and SA–470 (Air New England)]

Aviation Accident Investigation Hearing: Boston, Massachusetts

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9 a.m. (local time) September 11 through September 14, 1979, in the first floor conference room of the Transportation Systems Center, Kendall Square, Cambridge, Massachusetts.

The public hearing will be held in connection with the Safety Board's investigation of the Downeast Airlines, Inc., deHavilland DHC–6, N68DE accident which occurred at Rockland, Maine, on May 31, 1979, and the Air New England, Inc., deHavilland DHC–6, N363EX accident which occurred at Hyannis, Massachusetts, on June 19, 1979.

Dated: August 3, 1979.

James W. Kuehl,

Senior Hearing Officer.

[FR Doc. 79–24592 Filed 8–8–79; 8:45 am]

BILLING CODE 4910–58–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and

recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6202

Revisions

Economics, Statistics, and Cooperatives Service
Pesticide survey—Vegetables
Annually
Vegetable growers; 5,000 responses, 3,750 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Economics, Statistics, and Cooperatives Service
Cost of production survey
Annually
Selected dairy and crop producers; 1,980 responses, 4,482 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Economics, Statistics, and Cooperatives Service
*Papaya acreage survey
Monthly
Papaya growers; 1,596 responses, 213 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245–7488

Extensions

Social Security Administration
*Request for withdrawal or application
SSA–521
On occasion
Disinterested person withdrawing application; 100,000 responses, 8,333 hours
Barbara F. Young, 395–6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755–5190

Revisions

Housing production and mortgage credit
Development program of public housing agency
Development cost budget/cost statement
HUD 52483 & HUD 52484
On occasion
Public housing agencies; 500 responses, 1,000 hours
Budget Review Division, 395–4775

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Alyce Harding—377–6025

Revisions

Lender's schedule of housing opportunity allowances
FHLBE–647
Monthly
Banking institutions; 1,440 responses, 1,440 hours
Susan B. Geiger, 395–5867

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2282

New Forms

Service connected priority program
Single time
603 vets in an outpatient clinic
David P. Caywood, 395–6140

Service connected priority program
Single time
603 vets in an outpatient clinic
David P. Caywood, 395–6140

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-24584 Filed 8-8-79; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM–8/210]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The working Group on International Multimodal Transport and Containers of the Subcommittee on Safety of Life at Sea (SOLAS) will hold an open meeting at 9:30 A.M. on August 28, 1979 in Room 4234 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purposes of the meeting is to discuss matters germane to multimodal transport and containers. The following specific issues will be addressed during the meeting:

1. Debriefing of the meeting of the 20th session of the IMCO Subcommittee on Containers and Cargoes held in London, March 5–9, 1979;

2. Discussion of the U.S. position for the meeting of the Group of Experts on Combined Transport (GECT), formerly the Group of Rapporteurs on Container Transport, to be held September 10–14, 1979, in Geneva, including the following items:

a. *Convention on International Multimodal Transport:* Preparation for the UN Conference on a Convention on International Multimodal Transport.

b. *Taxation of Containers:* Report on the U.S. Supreme Court decision that the County of Los Angeles may not tax foreign-owned containers used in foreign commerce.

c. *Refreigerated Containers:* discussion of ATP Convention which came into force in 1976 and an exchange of information and views on the transportation of refrigerated containers.

d. *Piggy-back Transportation:* discussion of studies on movement of truck trailers by rail in light of shortages and steep price increases for diesel fuel and of the competitive impact on truck transport.

e. *Container Standards:* discussion of container standards based on report of UNCTAD ad hoc Intergovernmental Group on Container Standards for International Multimodal Transport.

f. *Convention for Safe Containers:* discussion of implementation procedures and other problems.

g. *Ocean Bills of Lading:* Report on the Hamburg Rules and its ratification and implementation.

h. *Carriage of Dangerous Goods in Containers:* discussion of possible international regulation for the carriage of dangerous goods in containers.

i. *Combined Transport Freight Terminals:* description of U.S. Government work on terminal and interphase factors in modal and combined freight transport operations.

j. *Domestic Intermodal Containerization:* discussion of U.S. Government work on initiation of a domestic intermodal container programs.

3. Other Business.

Requests for further information should be directed to Mr. John Lloyd, Department of State, telephone (202–632–0703) or Mr. Charles Hochman, U.S. Coast Guard, telephone (202–426–1577).

The Chairman will entertain comments from the public as time permits.

Dated: August 1, 1979.

John Lloyd, III,

Acting Director, Office of Maritime Affairs, Department of State.

[FR Doc. 79-24510 Filed 8-8-79; 8:45 am]

BILLING CODE 4710-07-M

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Cases Pending Under Section 301 of the Trade Act of 1974; Initiation of Investigations

This notice is to advise the public of the status of cases pending under Section 301 of the Trade Act of 1974 (Pub. L. 93–618) on the date of enactment of the Trade Agreements Act of 1979. Pursuant to Section 903 of the Trade Agreements Act of 1979, (Pub. L. 96–39) such cases are to be treated as initiated under section 301 of the Trade Act of 1974, as amended by the Trade Agreements Act.

The petitions covered by this notice were publised in the Federal Register as follows:

Doc. No. 301–3, Seymour Foods, Inc., 40 FR 34649, August 18, 1975.
Doc. No. 301–5, Great Western Malting Co., 40 FR 54311, November 21, 1975.
Doc. No. 301–6, Millers National Federation, 40 FR 57249, December 8, 1975.
Doc. No. 301–7, National Canners Association, 41 FR 15385, April 12, 1976.
Doc. No. 301–11, Florida Citrus Commission, California-Arizona Citrus League, Texas Citrus Mutual, Texas Citrus Exchange, 41 FR 52567, November 30, 1976.
Doc. No. 301–13, Tanners Council of America, 42 FR 42413, August 23, 1977.
Doc. No. 301–15, Certain U.S. Television Licenses, 43 FR 39617, September 6, 1978.
Doc. No. 301–16, Great Plains Wheat, 43 59935, December 22, 1978.
Doc. No. 301–17, Cigar Association of America, Inc., 44 FR 19083, March 30, 1979.
Doc. No. 301–18, American Institute of Marine Underwriters, 44 FR 32057, June 4, 1979.

These petitions will be treated as investigations initiated on July 26, 1979, the date of enactment of the Trade Agreements Act of 1979, under Section 302(b)(2) of the Trade Act of 1974 and any information developed by, or submitted to, the Special Representative before such date under the review shall be treated as part of the information developed during such investigation.

With respect to the issues raised in each of these complaints, the Special Representative has requested consultations with the foreign country or instrumentality concerned. Accordingly, the requirements of Section 303 of the Trade Act of 1974, as amended, have been fulfilled.

The semiannual report on the status of pending Section 301 petitions may be obtained on request from the Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations, Room 715, 1800 G Street, N.W., Washington, D.C. 20506.

Michael Gadbaw,

Chairman, Section 301 Committee.

[FR Doc. 79-24575 Filed 8-8-79; 8:45 am]

BILLING CODE 3190-01-M

Special Tariff Treatment for Least Developed Developing Countries; Notice of Proposed Action

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Notice of Proposed Action.

SUMMARY: This notice is issued in accordance with Section 503 of the Trade Agreements Act of 1979 (Pub. L. 96–39), to advise the public of, and to request public comment regarding, proposed action under Section 503(a)(2) of the Trade Agreements Act of 1979 to implement on the effective date of the first reduction (in most cases January 1, 1980) the full tariff reduction agreed to in the Multilateral Trade Negotiations (MTN) for products which the President determines are not import sensitive and which are the product of a least developed developing country.

DATE: Comments must be received in writing on or before September 5, 1979.

ADDRESS: Comments should be provided in 20 copies and should be addressed to: Secretary, Trade Policy Staff Committee, Office of the Special Representative for Trade Negotiations, Room 729, 1800 G Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Doral Cooper, Office of the Special Trade Representative, Room 711, 1800 G Street, N.W., Washington, D.C. 20506. 202–395–6971.

SUPPLEMENTARY INFORMATION: Section 503(a)(2)(A) authorizes the President to exceed the limitations in section 109 (a) of the Trade Act of 1974 (19 U.S.C. 2119(a)) to the extent necessary to give least developed developing countries the benefit of the total tariff reduction agreed to in the MTN immediately as soon as any part of the concession becomes effective, although in most cases other supplying countries of the same article would benefit from tariff reductions only in stages.

The tariff reductions agreed to in the MTN are recorded in Schedule XX of the United States to the General Agreement on Tariff and Trade annexed to the June 30, 1979 (Geneva) Protocol. Copies of Schedule XX are available for inspection in reading rooms at the Office of the Special Trade Representatives, Room 721, 1800 G Street, N.W., Washington, D.C. and the U.S.

International Trade Commission, 701 E St, N.W., Washington, D.C.

Least developed developing countries are defined in Section 503 (a)(2)(A) as those countries in the United Nations General Assembly list of "Least Developed Countries" and which are beneficiary developing countries of the Generalized System of Preferences under Section 502 of the Trade Act of 1974 (19 U.S.C. 2462). The following countries currently meet this criteria:

Afghanistan, Bangladesh, Benin, Bhutan, Botswana, Burundi, Cape Verde, Central African Empire, Chad, Comoros, Ethiopia, Gambia, Guinea, Haiti, Lesotho, Malawi, Maldives, Mali, Nepal, Niger, Rwanda, Somalia, Sudan, Western Samoa, United Republic of Tanzania, Upper Volta, Democratic Yemen.

It is proposed that the following TSUS items not be subject to designation under this proposed action pursuant to Section 503(a)(2)(A).

370.04 through 383.95.

700.75, 702.06, 702.12, 702.54, 702.56, 702.60, 702.65, 702.70, 702.75, 702.80, 703.05, 703.10, 703.15, 704.05, 704.10, 704.15, 704.20, 704.25, 704.30, 704.32, 704.55, 704.56, 704.60, 704.65, 704.70, 704.85, 704.90, 706.20, 706.22, 727.82.

William B. Kelly,

Chairman, Trade Policy Staff Committee.

[FR Doc. 79-24588 Filed 8-8-79; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-79-15]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: August 29, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 3, 1979.

Carl B. Schellenberg,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19420	Huntington Beach Police Dept. (HBPD)	14 CFR Part 45	To allow petitioner to delete bottom registration marks from three (3) HBPD Bell 47 helicopters.
19332	Soaring Society of America	14 CFR 91.42(a)(1)	To allow petitioner to operate aircraft that have an experimental certificate, for other than the purpose for which the certificate was issued.
19428	Metro Airlines	14 CFR 135.171	To allow petitioner to operate their aircraft without the shoulder harnesses required by section 135.171.
19426	Robert Kevin Flom	14 CFR 135.243(a)	To permit petitioner to serve as pilot-in-command for Commuter Airlines without holding an airline transport pilot certificate (ATPC).
19425	Garret E. Taylor	14CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19427	Kai Aero, Inc	14 CFR 135.149(c)	To permit petitioner to operate its Cessna Citation without a third attitude gyroscopic indicator for a period of 180 days.
19432	Edwin F. Herr, Jr	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19433	Edward R. Watson, Jr	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19434	William B. Moody	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19435	Wayne E. Cook	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19436	Edward E. Wood	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19150	Mr. Jack Valenti	14 CFR § 135.149(c)(1)	To permit operation of its Citation aircraft N 50WM without a third attitude gyroscopic indicator. *Denied 7/26/79.*
18109	Midwest Air Charter	14 CFR §§ 121.371(a) and 121.378.	To allow petitioner to extend Exemption No. 2581 which expires on July 31, 1979, to permit it to use foreign certificated repair stations to contract for inspecton, repair and overhaul of Caravelle SE-210 aircraft components. *Granted 7/18/79.*
16743	Charles F. Willis III	14 CFR Pt. 121	To allow the petitioner an amendment of Exemption No. 2683, as amended, to add one leased DC-8-33 aircraft N903CL and to delete B-707-320B aircraft N-402PA. *Granted 7/20/79.*

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
16137	Viking Intl. Airlines	14 CFR 121.59(a)	To permit petitioner to employ Mr. Douglas Mattson as its Chief Inspector without meeting the full-time employment requirements. *Granted 7/18/79.*
19163	Shawano Flying Service, Inc	14 CFR § 135.243(a)	To provide relief from the requirement that Pilots-in-Command possess an Airline Transport Pilot Certificate in "Commuter Air Carrier" operations. *Denied 7/18/79.*
19306	Philippine Airlines	14 CFR Pts. 61, 63, and 91	To permit petitioner to use its flight crewmembers to operate B-727 aircraft N725RW and N726RW using the master minimum equipment list for its scheduled service on 8/1/79. *Granted 7/30/79.*
19243	Allegheny Airlines	14 CFR § 121.291(a)(1) and Part 121 App. D.	To allow petitioner to place in passenger-carrying service a B-727-200 with 142 passengers without first conducting a full seating capacity emergency evacuation demonstration. *Granted 7/27/79.*
19171	Air New England	14 CFR 135. 243	To allow James J. Karukas to serve as pilot in command on air New England multi-engine aircraft without being the holder of an Airline Transport Pilot Certificate and not being able to obtain such a certificate for approximately three years because he is under age. *Denied 7/27/79.*
17922	Air Midwest, Inc	14 CFR § 135.136(b)	For an extension of Exemption No. 2582 which permits Air Midwest to assign a flight crew member for duty without his having had at least 10 hours of rest during the preceding 24 hours. *Granted 7/31/79.*

[FR Doc. 79-24622 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

[Notice No. 79-15]

Advance Notice of Proposed Policy on Citizen Participation in Transportation Planning

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Request for Public Comment on Advance Notice of Proposed Policy.

SUMMARY: The purpose of this advance notice is to solicit comments and opinions on citizen participation in transportation planning. Comments will be reviewed and considered by the Department in developing an overall policy statement. Subsequent proposals on this subject will be preceded by a similar opportunity for comment.

DATES: In order to be considered, comments must be received on or before October 9, 1979.

ADDRESS: U.S. Department of Transportation, Office of Consumer Affairs, Room 9402, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR MORE INFORMATION CONTACT: Lee Gray, Office of Consumer Affairs, Room 9402, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-4520.

SUPPLEMENTARY INFORMATION: State and local agencies using U.S. Department of Transportation (DOT) funds to provide transportation facilities or services are required by laws and regulations to provide for public involvement in the transportation planning and project development process. The Department plans to review and evaluate citizen participation in transportation planning and is soliciting comments and suggestions for improvements.

It is Departmental policy to encourage effective citizen participation early in and throughout the transportation planning and project development process.

This policy has the following objectives:

1. To assure citizens timely access to the process;
2. To assure citizens adequate opportunity to be informed about transportation issues and to become involved in the process;
3. To assure citizens that their comments receive consideration.

The DOT is particularly interested in comments on the following aspects of the transportation planning process related to citizen participation.

1. What opportunities do citizens in your area have to become involved in transportation planning? Are they adequate? How can they be improved?
2. How are citizens informed about transportation systems and facilities that are being planned in your area? Is this process adequate? How can it be improved?
3. What resources are provided to facilitate citizen participation in your area? Are they adequate? How can they be improved?
4. What methods are used to recognize and incorporate citizens' views into your area's decisionmaking process? How can these methods be improved?
5. What should be the DOT role in fostering public participation at the state and local level?

Comments should be submitted on or before October 9, 1979, to the address above. All comments received will be available for review at that address. Based on the Department's review, a draft citizen participation policy will be proposed and offered for public comment. (49 U.S.C. 1651 et seq.)

Issued in Washington, D.C. on August 1, 1979.

Susan J. Williams,

Acting Assistant Secretary for Governmental and Public Affairs.

[FR Doc. 79-24606 Filed 8-8-79; 8:45 am]

BILLING CODE 4910-62-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions Applications; Decision-Notice

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the

method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 106

Decided: July 5, 1979.
By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.
Member Joyce not participating in part.
Member Jones not participating in part.

MC 119741 (Sub-145F), filed February 13, 1979, previously notice in the **Federal Register** issue of May 11, 1979. Applicant GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Omaha, NE, to points in CO, IL, IN, IA, KS, MI, MN, MO, ND, OH, SD, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Omaha, NE.)

Note.—This republication states the correct restruction.

Volume No. 121

Decided: July 18, 1979.
By the Commission, Review Board Number 2, Members Boyle, Eaton and Liberman.

MC 106603 (Sub-183F), filed August 29, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles and construction materials* (except commodities in bulk), (a) between Kokomo and Fort Wayne, IN, Joliet and Blue Island, IL, Columbus and Toledo, OH, and Grand Rapids and Lansing, MI, and (b) from Kokomo and Fort Wayne, IN, Joliet and Blue Island, IL, Columbus and Toledo, OH, and Grand Rapids and Lansing, MI, to points in AL, IL, IN, IA, KY, MI, MS, MO, OH, PA, TN, and WI, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from points in AL, IL, IN, IA, KY, MI, MS, MO, OH, PA, TN, and WI to Kokomo and Fort Wayne, IN, Joliet and Blue Island, IL, Columbus and Toledo, OH, and Grand Rapids and Lansing, MI, restricted in (1) and (2) above, to the transportation of traffic originating at or destined to the facilities of Penn Dixie Steel Corporation. (Hearing site: Washington, DC or Chicago, IL.)

Note.—The sole purpose of this application is to eliminate the performance reports condition and the limited term of the duplicating authority currently held by applicant in MC 106603 Sub 133. Issuance of a certificate is subject to the coincidental cancellation, at applicant's written request, of the outstanding certificate in No. MC 106603 Sub 133, issued August 11, 1977.

MC 112713 (Sub-244F), (correction), filed January 31, 1979, published in the **Federal Register**, issue of May 31, 1979, and republished, as corrected, this issue. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general comodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders under 49 U.S.C. 10102(8), (formerly section 402(a)(5) of the Interstate Commerce Act), (1) Between Marietta, GA, and Miami, FL: From Marietta over Interstate Hwy 75 to junction U.S. Hwy 319, then over U.S. Hwy 319 to junction U.S. Hwys 19 and 27, then over U.S. Hwys 19 and 27 to junction U.S. Hwy 19, then over U.S. Hwy 19 to junction U.S. Hwy 41, then over U.S. Hwy 41, to Miami, and return over the same route, serving all intermediate points in FL; (2) Between Marietta, GA and Key West, FL: From Marietta over Interstate Hwy 75 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction U.S. Hwy 1 at Coral Gables, FL, then over U.S. Hwy 1 to Key West, and return over the same route, serving all intermediate points in FL; (3) Between Lake City and Miami, FL: From Lake City over Interstate Hwy 75 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Miami, and return over the same route, serving all intermediate points: (4) Between Fort Myers and West Palm Beach, FL: From Fort Myers over FL Hwy 80 to junction U.S. Hwy 441, then over U.S. Hwy 441 to West Palm Beach, and return over the same route, serving all intermediate points; (5) Between Tampa and Daytona Beach; FL over Interstate Hwy 4, serving all intermediate points; (6) Between Tallahassee, FL, and the junction of Interstate Hwys 10 and 75; From Tallahassee over Interstate Hwy 10 to junction Interstate Hwy 75, and return over the same route, serving all intermediate points; (7) Between Marietta, GA, and Pensacola, FL: From Marietta over Interstate Hwy 75 to junction Interstate Hwy 85, then over Interstate Hwy 85 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction U.S. Hwy 31, then over U.S. Hwy 31 to junction U.S. Hwy 29, then over U.S. Hwy 29 to Pensacola, and return over the same route, serving all intermediate points in FL; (8) Between Mobile, AL, and Tallahassee, FL, over Interstate Hwy 10, serving all intermediate points in FL; (9) Between Pensacola, FL, and the junction of U.S. Hwy 231 and Interstate Hwy 10; From Pensacola over U.S. Hwy 98 to junction U.S. Hwy 231, then over U.S. 231 to junction Interstate Hwy 10, and return over the same route, serving all intermediate points; (10) Between Marietta, GA and Jacksonville, FL: From Marietta over Interstate Hwy 75 to junction Interstate Hwy 16, then over Interstate Hwy 16 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Jacksonville, and return over the same route, serving Savannah, GA, as an intermediate point and serving all intermediate points in FL; (11) Between Richmond, VA, and Savannah, GA, over Interstate Hwy 95, serving no intermediate points. (Hearing site: Kansas City, MO, or Chicago, IL) The purpose of this republication is to add the freight forwarder bill of lading restriction previously omitted.

Notes.—Common control may be involved. The person or persons who appear to be engaged in control of applicant and other regulated carriers must either file an application under 49 U.S.C. 11343(a) (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

Volume No. 122

Decided: July 18, 1979. By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 142352 (Sub-5F), (correction) filed February 26, 1979, published in the **Federal Register**, issue of May 8, 1979, and republished, as corrected, this issue. Applicant: HAUSMAN TRUCKING, INC., 607 D Avenue, Vinton, IA 52349. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houes*, as describerd in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Cedar Rapids, IA, to points in AL, AR, GA, IL (except Chicago, IL, and its commercial zone), TN, and MO, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Oklahoma City, Ok, or Washington, DC) The purpose of this republicatin is to add the destination state of TN, previously omitted.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-24545 Filed 8-8-79; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions Applications; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules Of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Permanent Authority Decisions

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to

timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, and applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (September 10, 1979) (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 106

Decided: July 5, 1979

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jone. Member Joyce not participating in part. Member Jones no participating in part.

MC 200 (Sub-342F), filed March 22, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Proctor & Gamble, at Lima, OH, as an off-route point in connection with applicant's otherwise authorized regular-route operations on U.S. Hwys 68, 40, and 30. (Hearing site: Kansas City, MO.)

MC 200 (Sub-343F), filed March 22, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from St. Joseph, MO, to points in IN and TX. (Hearing site: Kansas City, MO.)

MC 531 (Sub-381F), filed March 26, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *adhesives, adhesive products, and adhesive plasticizers*, in bulk, in tank vehicles, from Hayward, CA, to points in KS. (Hearing site: San Francisco, CA)

MC 531 (Sub-383F), filed March 26, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Belle, WV, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, and WA. (Hearing site: Washington, DC.)

MC 531 (Sub-384F), filed March 27, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products and chemicals*, in bulk, in tank vehicles, from Robinson, IL, to points in AR, LA, and TX. (Hearing site: New Orleans, LA, or Houston, TX.)

MC 1041 (Sub-1F), filed March 19, 1979. Applicant: B. N. CORKUM TRANSPORTATION COMPANY, a Corporation, 326 Ballardvale St., Wilmington, MA 01887. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, and retail and discount department stores, (except commodities in bulk), from Andover, Lawrence, and Wilmington, MA, to points in VT. (Hearing site: Boston, MA.)

MC 2900 (Sub-365F), filed March 27, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the Honda of America Mfg., Inc., at or near Pottersburg, OH, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 2960 (Sub-28F), filed March 22, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, a Corporation, 2301 McKinney St., Houston, TX 77023. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Oklahoma City, OK, and Houston, TX, from Oklahoma City over Interstate Hwy 35 to Dallas, TX, and then over Interstate Hwy 45 to Houston, and return over the same route, serving Pauls Valley and Ardmore, OK, and Dallas, TX, as intermediate points and serving Gainesville, TX, for the purpose of joinder only, (2) between Gainesville, TX, and Shreveport, LA, from Gainesville, over U.S. Hwy 82 to Texarkana, AR, and then over U.S. Hwy 71 to Shreveport, LA, and return over the same route, serving Texarkana, AR, as an intermediate point, and serving Gainesvile, TX, for purpose of joinder only, and (3) between Dallas, TX, and Texarkana, AR, over Interstate Hwy 30. (Hearing site: Oklahoma City, OK, or Houston, TX.)

MC 2960 (Sub-29F), filed March 28, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, a Corporation, 2301 McKinney St., Houston, TX 77023. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic rubber*, from the facilities of Firestone Synthetic Rubber and Latex Company, at or near Lake Charles, LA, to Houston, TX. (Hearing site: Houston or Dallas, TX.)

MC 29990 (Sub-14F), filed March 22, 1979. Applicant: BADGER LINES, INC., 3109 West Lisbon Ave., Milwaukee, WI 53208. Representative: William C. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, in transporting *malt beverages*, from the facilities of C. Schmidt & Sons, Inc., at Cleveland, OH, to points in IL, and those points in IN located in the Chicago, IL, commercial zone as defined by the Commission. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 35320 (Sub-249F), filed March 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrer*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Nu-Cushion Products Company, at or near Keene, TX, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Ft. Worth, TX, or Washington, DC.)

MC 35320 (Sub-250F), filed March 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilties of Dreamline Manufacturing Co., at or near Cabot, AR, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing Site: Little Rock, AR, or Washington, DC.)

MC 35320 (Sub-251F), filed March 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Lasko Metals, at or near Franklin, TN, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing Site: Nashville, TN, or Washington, DC.)

MC 35320 (Sub-252F), filed March 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Diversitech Corporation, at or near Conyers, GA, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing Site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-253F), filed March 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Nash Engineering Company, at or near St. Peters, MO, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing Site: St. Louis, MO, or Washington, DC.)

MC 59680 (Sub-226F), filed March 27, 1979. Applicant: STRICKLAND TRANSPORTATION CO., INC., 11353 Reed Hartman Hwy, Cincinnati, OH 45241. Representative: Edward G. Bazelon, 39 South LaSalie Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Amarillo, TX, and the facilities of Wilson Freight Company, at or near Oklahoma City, OK, over Interstate Hwy 40, serving no intermediate points, restricted against the transportation of traffic originating at or destined to points in OK. (Hearing Site: Cincinnati, OH, or Washington, DC.)

Note.—Applicant intends to interline at Amarillo, TX, and Oklahoma City, OK and intends to tack the authority sought herein with other authority held by applicant.

MC 84450 (Sub-2F), filed March 29, 1979. Applicant: S.R.T. MOTOR FREIGHT, INC., 1801 South Pennsylvania Ave., Morrisville, PA 19067. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of United States Steel

Corporation, at Falls Township, Bucks County, PA, to points in MA and RI, restricted to the transportation of traffic originating at the named origin. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 94350 (Sub-427F), filed March 22, 1979. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell Kings, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers*, designed to be drawn by passenger automobiles, in initial movements, and (2) *buildings*, in sections, mounted on wheeled undercarriages, from Grand Island, NE, to points in CO, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, UT, and WY. (Hearing site: Omaha, NE.)

MC 95540 (Sub-109F), filed March 26, 1979. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, 1144 West Griffin Road, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *textiles and textile products*, from points in AL, GA, NC, and SC, to Wilmington, DE, and points in MD, PA, NY, NJ, CT, RI, and MA. (Hearing site: New York, NY, or Washington, DC.)

MC 104430 (Sub-54F), filed March 29, 1979. Applicant: CAPITAL TRANSPORT CO., INC., P.O. Box 408, Highway 24 West, McComb, MS 39648. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products, vehicle body sealer, sound deadener compounds, and acoustical control items*, in bulk, in tank vehicles, from points in Warren County, MS, to points in AL, AR, FL, GA, IN, KY, LA, MO, OH, NC, SC, and TN, restricted to the transportation of traffic originating at the facilities of Quaker State Oil Refining Corp., at Warren County, MS. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 113651 (Sub-299F), filed March 29, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *buffing and polishing compounds, cleaning, washing and scouring compounds, softeners and disinfectants* (except medicinal) from Greenville and Mauldin, SC, to points in FL. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 115001 (Sub-8F), filed March 6, 1979. Applicant: WESTERN OIL TRANSPORTATION COMPANY, INC., 2000 South Post Oak, Houston, TX 77001. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *water and oils* used in the completion or repair of gas wells and oil wells, in bulk, in tank vehicles, between points in Chaves, Eddy, and Lea Counties, NM, on the one hand, and, on the other, thos points in TX on and west of U.S. Hwy 281. (Hearing site: Dallas or Houston, TX.)

MC 115311 (Sub-347F), filed March 29, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, 1200 Gas Light Tower, 235 Peachtree Street, NE., Atlanta, Ga 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *limestone*, in bulk, in tank vehicles, from points in FL and GA, to points in AL, AR, FL, GA, KY, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WV. (Hearing site: Atlanta, GA, or Jacksonville, FL.)

MC 115931 (Sub-83F), filed March 22, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, and wood products*, from points in ID, MT, OR, and WA, to points in ND. (Hearing site: Billings, MT.)

MC 116710 (Sub-37F), filed March 27, 1979. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., 2001 East Texas Street, P.O. Box 6176, Bossier City, LA 71010. Representative: Joe T. Lanham, 801 Vaughn Building, 807 Brazos Street, Austin, TX 78701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid molten polypropylene*, in bulk, from the facilities of N. L. Kimes Associates, Inc., at or near Cedar Bayou and Arlington, TX, to points in the United States (except AK and HI), under continuing contract(s) with N. L. Kimes Associates, Inc., of Allison Park, PA. (Hearing Site: Houston, TX, or Washington, DC.)

MC 117730 (Sub-47F), filed March 29, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flux compounds* (except in bulk), from Cleveland, OH, to points in IL, IN, and WI. (Hearing site: Chicago, IL.)

MC 117940 (Sub-316F), filed March 21, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of containers (except commodities in bulk, in tank vehicles), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Amoco Chemicals Corporation. (Hearing site: Chicago, IL.)

MC 119741 (Sub-150F), filed March 26, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, and hardware and discount stores, from the facilities of A. E. Staley Manufacturing Company, at Chicago, IL, to points in IA, KS, MN, MO, NE, ND, and SD, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: Chicago, IL.)

MC 119741 (Sub-154F), filed March 29, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave. NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), between the facilities of Mid-Country Meats, Inc., at Fort Dodge, IA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Fort Dodge, IA.)

MC 127840 (Sub-92F), filed March 29, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: WILLIAM H. TOWLE, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal fats, animal oils, vegetable oils;* and (2) *products* of animal fats, animal oils, and vegetable oils, in bulk, in tank vehicles, from Denison, TX, to points in CA, WA, and OR. (Hearing Site: Dallas TX.)

MC 135611 (Sub-9F), filed March 29, 1979. Applicant: WALKER & WHITTED TRANSPORTATION CO., INC., 320 North Eighth St. Brawley, CA 92227. Representative: Thomas M. Loughran, 100 Bush St., 21st Floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in bulk, in tank vehicles, from points in Los Angeles and Orange Counties, CA, to points in Yuma County, AZ. (Hearing site: Los Angeles, CA.)

MC 136720 (Sub-6F), filed March 22, 1979. Applicant: APEX BULK COMMODITIES, a Corporation, P.O. Box 872, Whittier, CA 90608. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soda ash*, in bulk, from points in WY to the facilities of Thatcher Glass Manufacturing Co., Division of Dart Industries, at Saugus, CA. (Hearing site: Los Angeles, CA.)

MC 139821 (Sub-5F), filed March 26, 1979. Applicant: HAUGEN TRANSIT, INC., Rural Route 2A, Madelia, MN 56062. Representative: William L. Libby, 8214 West 34½ Street, St. Louis Park, MN 55426. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *soybean protein* (except liquid commodities in bulk, in tank vehicles), from Mankato, MN, to points in Plymouth and Woodbury Counties, IA, those in IA south of Interstate Hwy 80, those in SD west of U.S. Hwy 83, and points in IL and ND; and (2) *soybean meal, sunflower seed meal, linseed meal and flax screenings meal*, from Fridley, MN, to points in IA, ND, and SD, under continuing contract(s) with Honeymead Products Co., division of Farmers Union Grain Terminal Association, of Mankato, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 142831 (Sub-14F), filed March 23, 1979. Applicant: HAMRIC TRANSPORTATION, INC., 3318 E. Jefferson, Grand Prairie, TX 75051. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *standard steel tubing* handled in bundles, from Chicago, IL, Milwaukee, WI, Beaver Falls and Pittsburgh, PA, and Lorain, OH, to points in OK and TX. (Hearing site: Dallas, TX.)

MC 142891 (Sub-6F), filed March 26, 1979. Applicant: A & H, INC., P.O. Box 346, Footbille, WI 53537. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese and cheese products*, from Juda, Linden, and Monroe, WI, to points in NH, VT, CT, MI OH, MA, RI, DE, MD, NJ, NY, PA, ME, and DC. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 143691 (Sub-20F), filed March 26, 1979. Applicant: PONY EXPRESS COURIER COPRORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commercial papers, documents and written instruments* as are used in the business of banks and banking institutions (except currency and negotiable securities), (1) between Cincinnati, OH, on the one hand, and, on the other, points in KY, and (2) between Cincinnati, OH on the one hand, and, on the other, points in OH, under continuing contract(s) with banks banking institutions and data processing centers. (Hearing site: Cincinnati, OH.)

Note.—Dual operations may be involved.

MC 144140 (Sub–26F), filed March 29, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from the facilities of J. H. Filbert, Inc., at (a) points in Cobb, Fulton, DeKalb, and Clayton Counties, GA, to points in AL, FL, IN, KY, LA, MD, MS, NC, OH, SC, TN, TX, VA, WV, and DC, and (b) Batimore, MD, and points in Prince Georges, Anne Arnudel, Howard, and Balitimore Counties, MD, to points in CT, DE, GA, IL, IN, MA, ME, MI, NH, NY, OH, PA, RI, VA, VT, WV, and DC. (Hearing site: Baltimore, MD, or Washington, DC.)

Note:—Dual operations may be involved.

MC 144330 (Sub-52F), filed March 27, 1979. Applicant: UTAH CARRIERS, INCORPORATED, P.O. Box 1216, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of North Star Steel Co., at or near Newport and St. Paul, MN, to points in AR, CO, OK, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul or Minneapolis, MN.)

MC 144330 (Sub-58F), filed March 26, 1979. Applicant: UTAH CARRIERS, INCORPORATED, P.O. Box 1216, Freeport Center, Clearfield, UT 84106. Representative: Charles D. Midkiff (same address as applicant.) To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products* (except commodities in bulk), from points in AZ, NM, and UT, to points in AR, IL, KY, MI, OH, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated points. (Hearing site: Phoenix, AZ, or Albuquerque, NM.)

MC 144630 (Sub-15F), filed March 29, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corrugated paper products*, from the facilities of Akers Packaging Service, Inc., at Chicago, IL, to Muncie, IN and Dayton, Cincinnati, and Middletown, OH. (Hearing site: Washington, DC.)

Note:—Dual operations may be involved.

MC 145441 (Sub-27F), filed March 29, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages*,

(except in bulk), from points in CA, to points in CO, CT, DE, IL, IN, KY, MA, MD, MI, MN, NJ, NY, OH, PA, RI, VA, WI, and WV. (Hearing site: San Francisco, CA, or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 145441 (Sub-31F), filed March 26, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except in bulk), from Frankfort, IN, and Hazelton and York, PA, to points in CA (except Salinas). (Hearing site: Little Rock, AR, or New York, NY.)

Note.—Dual operations may be involved.

MC 145441 (Sub-32F), filed March 27, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe and fittings*, from Cleveland, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Little Rock, AR, or Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 145481 (Sub-7F), filed March 28, 1979. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, 302 Cedar Lodge Road, Thomasville, NC 27360. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *playground and park equipment*; (2) *mall furniture*; (3) *park buildings and shelters*; and (4) *athletic and recreation equipment* (except those commodities described in (1) above), from the facilities of Game Time, Inc., at or near Litchfield, MI, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY. (Hearing site: Chicago, IL, or Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 145950 (Sub-14F), filed March 27, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of M & M Mars, East Coast Division, at or near Elizabeth, NJ, to Denver, CO, Arlington and Waco, TX, Salt Lake City, UT, Vernon and Milpitas, CA, Chicago, IL, Detroit, MI, Foxboro, MA, Morrow and Albany, GA. (Hearing site: Atlanta, Ga.)

Note.—Dual operations may be involved.

MC 145950 (Sub-15F), filed March 27, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of M & M/Mars, Snack Master Division, at or near Albany, GA, to Elizabeth, NJ, Detroit, MI, Chicago, IL, Arlington and Waco, TX, Salt Lake City, UT, Foxboro, MA, Milpitas and Vernon, CA, and Denver, CO. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 146001 (Sub-2F), filed March 27, 1979. Applicant: BOB MARGOSIAN, doing business as BOB MARGOSIAN TRUCKING, 6885 Avenue 416, P.O. Box 395, Dinuba, CA 93618. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages*, from points in CA, to Reno and Las Vegas, NV. (Hearing site: Los Angeles, CA.)

Passenger Authority

MC 116140 (Sub-9F), filed March 23, 1979. Applicant: CAPITAL TRANSIT, INC., doing business as CONCORD COACH LINES, S. Main St., Concord, NH 03301. Representative: J. G. Dail, Jr., Post Office Box LL, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Glen, NH, and Boston, MA. From Glen, NH over NH Hwy 16 to junction NH Hwy 25 at West Ossipee, NH, then over NH Hwy 25 to Meredith, NH, then over US. Hwy 3 to junction NH Hwy 104 near Meridith, NH, then over NH Hwy 104 to junction Interstate Hwy 93 near New Hampton, NH, then over Interstate Hwy 93 to Boston, MA, and return over the same route, serving all intermediate points north of Manchester, NH. (Hearing site: Concord, NH.)

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Decided: July 10, 1979.

By the Commission, Review Board Number 2, Members Liberman, Boyle and Eaton.

MC 2253 (Sub-91F), filed April 17, 1979. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electrical switch gears*, from Sanford, FL to points in AL, GA, IL, IN, KY, LA, MI, MS, MO, NJ, NY, PA, and TX. (Hearing site: Orlando, FL.)

MC 4963 (Sub-63F), filed March 28, 1979. Applicant: JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, PA 19475. Representative: Roland Rice, Esq., 501 Perpetual Building, 1111 E Street, N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *automobile parts, and* (2) *equipment and supplies* used in the manufacture of motor vehicles, between Adrian, MI and Keokuk, IA. (Hearing site: Chicago, IL or Washington, DC.)

MC 14252 (Sub-56F), filed April 23, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) (a) *buffing pads, cleaning cloths, polishing compounds, cleaning compounds, tools, putty, and paint* (except commodities in bulk), and (b) *parts and accessories for polishing and cleaning machinery*, from Canton, OH, to points in VA, WV, PA, KY, IN, IL, MO, and IA; and (3) *materials and supplies used in the manufacture or distribution of the commodities named in (1)* (except commodities in bulk), in the reverse direction. (Hearing site: Columbus, OH, or Washington, DC.)

MC 25562 (Sub-34F), filed April 17, 1979. Applicant: A. R. GUNDRY, INC., 85 Stanton Street, Rochester, NY 14611. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid asphalt*, in bulk, in tank vehicles, from Philadelphia, PA, to points in NY. Hearing site: Washington, D.C.

Note.—Dual operations may be involved.

MC 61592 (Sub-450F), filed April 17, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *treated poles, crossarms, cross ties, switch ties, lumber, and piling*, from the facilities of American Creosote Works, Inc., at or near (a) Jackson, TN, and (b) Louisville, MS, to points in IA, IL, IN, KS, KY, ME, MI, MO, NE, OH, and WI; (2) *lumber and lumber products* (except commodities in bulk), from points in Weston and Crook Counties, WY, to points in AR, IL, IN, IA, MI, MN, MO, NE, and WI; and (3) *cross ties, switch ties, lumber, piling, and posts* (a) from points in IN, KY, MI, MO, and TN, to Terre Haute, IN, and (b) from Terre Haute, IN, to points in IL, IA, MI, MO, OH, and WI. (Hearing site: Louisville, KY.)

MC 71593 (Sub-26F), filed April 23, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MI and OH, on the one, and, on the other, points in AZ, CA, LA, OK, and TX, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) (formerly section 402 (5) of the Interstate Commerce Act). (Hearing site: New York, NY.)

MC 71593 (Sub-27F), filed April 23, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MI and OH, on the one, and, on the other, Chicago, IL, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) (formerly section 402 (5) of the Interstate Commerce Act). (Hearing site: New York, NY.)

MC 71642 (Sub-33F), filed April 16, 1979. Applicant: CONTRACTUAL CARRIERS, INC., Harmony Industrial Park, Newark, DE 19711. Representative: Samuel W. Earnshaw, 833 Washington Building, Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products* (except commodities in bulk), between Newark, DE, on the one hand, and, on the other, Milford, CT, Montgomery, IL, Leominster, MA, Des Moines, Mt. Pleasant, and Iowa City, IA, and Pittsburgh, PA, under continuing contract(s) with Westvaco Corporation, of New York, NY. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 103993 (Sub-961F), filed April 20, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Gregory Galvanizing and Metal Processing, Inc., at or near Canton, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Cleveland, OH.)

MC 107012 (Sub-355F), filed April 18, 1979. Applicant: NORTH AMERICAN VAN LINES, INC. 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *water heaters, house heating boilers, and glass-lined tanks*, and (2) *parts* for the commodities named in (1) above, from the facilities of A.O. Smith Corporation, at or near Newark, CA, to points in MN, AR, LA, ND, SD, KS, OK, TX, MT, WY, CO, NM, ID, UT, AZ, WA, OR, and NV. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107012 (Sub-357F), filed April 18, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *heating and air conditioning ducts and fittings*, from the facilities of Gary Steel Products Corporation, at or near Gary, IN, to points in MN, WI, IA, IL, MO, KY, OH, MI, PA, NE, and SD. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107012 (Sub-359F), filed April 18, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tires, tire tubes, and wheels*, from the facilities of Carlisle Tire and Rubber Company, at or near Carlisle, PA, to Indianapolis, IN. (Hearing site: Baltimore, MD or Washington, DC.)

MC 107012 (Sub-360F), filed April 20, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk and those which because of size or weight require the use of special equipment), from North Bergen, NJ, to Indianapolis, IN. (Hearing site: Newark, NJ, or Washington, DC.)

MC 107012 (Sub-362F), filed April 20, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *artificial Christmas trees*, and (2) *lights and decorations* for artifical Christmas trees, from the facilities of Liberty Bell Christmas, Inc., at or near Hicksville, NY, to points in the United States (except AK, HI, and NY). (Hearing site: New York, NY, or Washington, DC.)

MC 107403 (Sub-1192F), filed April 17, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, between Nashua, NH, and Acton and Cambridge, MA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, OK, and TX. (Hearing site: Washington, DC.)

MC 107162 (Sub-51F), filed March 6, 1979. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route No. 1, Brimley, MI 49715. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the port of entry on the international boundary line between the United States and Canada, at or near Sault Ste. Marie, MI, to points in the United States (except AK and HI); (2) *steel casings and pipe*, from the facilities of Algoma Tube Corporation, at or near Dafter, MI, to points in the United States (except AK and HI); and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) and (2) above, from points in the United States (except AK and HI), to the origins in (1) and (2) above. (Hearing site: Chicago, IL, or Grand Rapids, MI.)

Note.—Dual operations may be involved.

MC 108382 (Sub-37F), filed April 18, 1979. Applicant: SHORT FREIGHT LINES, INC., 459 S. River Rd., Bay City, MI 48706. Representative: Richard L. Poirier (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper, paper products and cellulose products*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities named in (1) (except commodities in bulk), between Cheboygan and Sault Ste. Marie, MI, and Fond du Lac, Green Bay, Marinette, and Oconto Falls, WI, on the one hand, and, on the other, points in IL, IN, MI, MN, OH, WI, and ND. (Hearing site: Detroit, MI.)

MC 109533 (Sub-111F), filed April 20, 1979. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1000 Semmes Avenue, Richmond, VA 23209. Representative: Eugene T. Liipfert, Suite 1000, 1660 L Street, NW, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Louisville, KY, and Chicago, IL: from Louisville over Interstate Hwy 65 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Chicago, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Louisville, KY, or Washington, DC.)

MC 111812 (Sub-625F), filed April 18, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Lawn and garden equipment, and snow removal equipment*, and (2) *parts* for the commodities named in (1) above, from the facilities of Ariens Co., at or near Brillion, WI, to Sioux Falls, SD. (Hearing site: Sioux Falls, SD, or Washington, DC.)

MC 112713 (Sub-266F), filed April 17, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Las Vegas, NV as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Los Angeles, CA, or Kansas City, MO.)

Note.—The person or persons who it appears may be engaged in common control between applicant and other regulated carriers must either file an application under 49 U.S.C. 11343 (Formerly of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 114273 (Sub-590F), filed April 18, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural implements and parts* for agricultural implements, from Grinnell, IA, to Chesapeake, VA, Louisville, KY, points in NY, PA, IN, OH, WI, the Lower Peninsula of MI, and those in IL on and north of U.S. Hwy 36. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114552 (Sub-210F), filed April 23, 1979. Applicant: SENN TRUCK COMPANY, a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, SC 29201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *modular mausoleum crypt systems*, from Bluffton, OH, Dade City, FL, and Laurel, MD, to those points in the United States in and east of WI, IL, MO, OK, and TX (except WI). (Hearing site: Columbia, SC, or Charlotte, NC.)

MC 114632 (Sub-214F), filed April 20, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from the facilities of Fearn International, Inc., at Franklin Park, IL, to points in MO and OK. (Hearing site: Chicago, IL, or Milwaukee, WI.)

Note.—Dual operations may be involved.

MC 114632 (Sub-218F), filed April 23, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery and machinery parts*, from Watertown, SD, to those points in the United States in and east of MT, WY, CO, and NM; and (2) *materials, equipment, and supplies used in the manufacture or distribution of machinery*, from those points in the United States in and east of MT, WY, CO, and NM, to Huron and Watertown, SD. (Hearing site: Sioux Falls, SD, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 115162 (Sub-478F), filed April 23, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *charcoal, charcoal briquets, vermiculite, active carbon, hickory chips, charcoal lighter fluid, and charcoal grills*, between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Husky Industries, Inc. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 117303 (Sub-17F), filed April 17, 1979. Applicant: HUDSON VALLEY CEMENT LINES, INC., Route 23B, Claverack, NY 12513. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement* from Allston, East Cambridge, and Framingham, MA, to points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT. (Hearing site: New York, NY.)

MC 118202 (Sub-111F), filed April 19, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, NM 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *capacitors*, (2) *parts and components* for capacitors, and (3) *materials, equipment, and supplies* used in the manufacture of capacitors, (a) between Ogallala and McCook, NE, on the one hand, and, on the other, Laredo, TX, and (b) from Denver, CO, to McCook, NE. (Hearing site: Denver, CO, or Minneapolis, MN.)

MC 118202 (Sub-112F), filed April 19, 1979. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods* from the facilities of Stouffer Foods, at or near Cleveland and Solon, OH, to points in CT, IL, IN, MA, MN, NJ, NY, PA, and WI. (Hearing site: New York, NY.)

MC 11802 (Sub-113F), filed April 23, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, crated, from Arcadia, WI, to points in AR, CT, DE, LA, ME, MA, MS, NH, OK, RI, TN, TX, VT, and WV. (Hearing site: Minnespolis, MN.)

MC 119493 (Sub-281F), filed April 19, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles*, and *materials and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), between points in Geneva County, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham, AL, or Little Rock, AR.)

MC 119632 (Sub-99F), filed April 23, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers, container ends, and closures*, (2) *such commodities as are dealt in by manufacturers or distributors of containers* (except container ends and closures), in mixed loads with containers, and (3) *materials, equipment, and supplies used in the manufacture of distribution of the commodities named in (1)* (except commodities in bulk), between those points in the United States in and east MN, IA, MO, AR, and LA. (Hearing site: Columbus, OH.)

MC 123272 (Sub-29F), filed April 17, 1979. Applicant: FAST FREIGHT, INC., 9651 Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar, in packages*, from Louisville, KY and Cincinnati, OH, to points in IL, IN, OH, MI, KY, TN, MO, IA, MN, NY, WI, PA and WV. (Hearing site: Chicago, IL.)

MC 125352 (Sub-2F), filed April 20, 1979. Applicant: JAN TRANSPORT, INC., 16 Central Avenue, Tenafly, NJ 07670. Representative: Donald E. Cross, 918 16th Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New Haven, CT, and Avon, MA: from New Haven over Interstate Hwy 95 to junction MA Hwy 128, then over MA Hwy 128 to junction MA Hwy 28, then over MA Hwy 28 to Avon (also over MA Hwy 128 to junction MA Hwy 24, then over MA Hwy 24 to Avon), and return over the same route, serving the intermediate point of Providence, RI, New Haven, CT, for the purpose of joinder only with service at Avon, MA, and Providence, RI, restricted to the transportation of traffic moving to or from the facilities of Knickerbocker Despatch, Inc., and with all of the above authority restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. Section 10102(8) (formerly Section 402(a)(5) of the Interstate Commerce Act). (Hearing site: Washington, DC, or New York, NY.)

MC 125433 (Sub-242F), filed April 19, 1979. Applicant: F–B TRUCK LINE COMPANY, a Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *new furniture, household goods, and appliances*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1)(a) above, and (2) *such commodities* as are dealt in or used by manufacturers of recreational vehicles (except self-propelled vehicles and commodities in bulk), between the facilities of Gladney Bros., Inc., and the Light Works, at or near Costa Mesa, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 125433 (Sub-244F), filed April 19, 1979. Applicant: F–B TRUCK LINE COMPANY, a Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air pollution control equipment*, (2) *bulk storage systems*, (3) *baghouse collectors, and bags and cages for baghouse collection*, (4) *parts, attachments, and accessories* for the commodities in (1), (2), and (3) above, and (5) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), (2), (3), and (4) above, between Glasgow and Slater, MO, Leavenworth, KS, Memphis, TN, and Lansing, MI, on the one hand, and, on the other, points in the United States (except AK and HI), restricted in (1) through (5) above against the transportation of commodities in bulk. (Hearing site: Kansas City, MO.)

MC 126243 (Sub-29F), filed April 17, 1979. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, Poteau, OK 74953. Representative: Prentiss Shelley, P.O. Drawer G, Poteau, OK 74953. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, from the facilities of Midland Glass Co., at or near Henryetta, OK, to Eden, NC, and Martinsville, VA. (Hearing site: Washington, DC or Oklahoma City, OK.)

Note.—Dual operations may be involved.

MC 126822 (Sub-56F), filed April 17, 1979. Applicant: WESTPORT

TRUCKING COMPANY, a Corporation, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith (same address as applicant). To operate as a *common carrier*, by motor carrier, in interstate or foreign commerce, over irregular routes, transporting (1) *air conditioning and heating ducts and registers*, and (2) *equipment, materials, and supplies* used in the installation of the commodities in (1) above, from the facilities of Goodman Manufacturing Corporation, at or near Houston, TX, to points in the United States, (except AK and HI). (Hearing site: Houston, TX.)

MC 127042 (Sub-263F), filed April 23, 1979. Applicant: HAGEN, INC., P.O. Box 98-Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), (1) from Sioux City, IA, to points in CA, NV, OR, and WA, (2) from Albert Lea, MN, to points in CA, OR, and UT, (3) from Omaha, NE, to points in CA, OR, and WA, (4) from Cherokee and Council Bluffs, IA, Hopkins, St. Paul, and Worthington, MN, West Point, NE, Sioux Falls, SD, and Chippewa Falls, Cudahy, Green Bay, Kenosha, Madison, Milwaukee, New London, and Seymour, WI, to points in CA.

Note.—The purpose of this application is to substitute a single-line service for existing joint-line operations.

MC 127303 (Sub-59F), filed April 24, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, from Lincoln, IL, to points in MI, OH, IN, and KY. (Hearing site: Chicago, IL.)

MC 128273 (Sub-345F), filed April 20, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *refrigerant gas*, in containers, from the facilities of Kaiser Aluminum and Chemical Corporation, at Gramercy, LA, to points in the United States (except AK, AZ, CA, HI, LA, OR, and WA), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: San Francisco, CA, or Washington, DC.)

MC 128302 (Sub-11F), filed April 19, 1979. Applicant: THE MANFREDI MOTOR TRANSIT CO., A Corporation, 11250 Kinsman Road, Newbury, OH 44065. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *can-coating compounds, paint, and paint products*, in bulk, in tank vehicles, from the facilities of SCM Corporation, at or near Chicago, IL, to points in GA, IN, IA, MN, MO, OH, PA, TN, TX, and WI. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 128302 (Sub-12F), filed April 19, 1979. Applicant: THE MANFREDI MOTOR TRANSIT CO., A Corporation, 11250 Kinsman Road, Newbury, OH 44065. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid concrete admixtures*, in bulk, in tank vehicles, from Gurnee, IL, to points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 129282 (Sub-45F), filed April 16, 1979. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75601. Representative: Fred S. Berry (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, (except commodities in bulk, in tank vehicles), from points in Warren County, MS, to points in AR, LA, OK, and TX; (2) (a) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, (except commodities in bulk, in tank vehicles), and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from points in OK to points in Warren County, MS, restricted in (1) and (2) above, to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS. (Hearing site: Pittsburgh, PA or Washington, D.C.)

MC 129563 (Sub-7F), filed April 19, 1979. Applicant: ONONDAGA BEVERAGE TRANSPORT, INC., 345 Spencer Street, Syracuse, NY 13204. Representative: Freeda Harvey (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, (1) in foreign commerce only, transporting *malt beverages*, in containers, from the port of entry on the international boundary line between the United States and Canada at Buffalo, NY, to Baltimore, MD, under continuing contract(s) with Carling National Breweries, of Baltimore, MD, and (2) in interstate and foreign commerce, transporting *malt beverages*, in containers, (a) from Baltimore, MD, to Syracuses, NY, under continuing contract(s) with Onondaga Beer Imports, Inc., of Syracuse, NY, and (b) from Baltimore, MD, to Buffalo, NY, under continuing contract(s) with Buffalo Beverage Corp., of Buffalo, NY. (Hearing site: Syracuse or Albany, NY.)

MC 138882 (Sub-239F), filed April 19, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing materials and supplies*, and *accessories* for roofing materials, (1) from the facilities of Warrier Sales and Distributions of Alabama, Inc., in Gwinnett County, GA, to points in FL, NC, SC, and TN, and (2) from points in Tuscaloosa County, AL, to points in GA, FL, TN, MS, and KY. (Hearing site: Montgomery or Birmingham, AL.)

MC 138902 (Sub-13F), filed April 16, 1979. Applicant: ERB TRANSPORTATION COMPANY, INC., P.O. Box 65, Crozet, VA 22932. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic film*, in vehicles equipped with mechanical refrigeration, from the facilities of Reynolds Metals Company, at or near Grottoes, VA, to points in AL, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NC, NJ, NY, OH, OK, PA, RI, SC, TN, TX, and WI. (Hearing site: Richmond, VA, or Washington, DC.)

MC 139973 (Sub-76F), filed March 15, 1979, and previously published in the **Federal Register** on July 3, 1979 as Sub-66F. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical appliances, electrical equipment, and poleline hardware*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Centralia, MO, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: St. Louis, MO.)

Note.—The purpose of this republication is to correctly identify the application as Sub-76F.

MC 139982 (Sub-3F), filed April 19, 1979. Applicant: WILLIAMSON DELIVERY SERVICE, INC., Box 22032 AMF, Tampa, FL 33622. Representative: Travis W. Williamson, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Tampa International Airport, at or near Tampa, FL, on the one hand, and, on the other, points in Charlotte, DeSoto, Hardee, Highlands, Lee, Manatee, Pinellas, and Sarasota Counties, FL, restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (Hearing site: Tampa, FL.)

MC 140612 (Sub-60F), filed March 19, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, in tank vehicles, and those requiring special equipment), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities used by Ralston Purina Company. (Hearing site: St. Louis, MO.)

MC 141733 (Sub-4F), filed April 18, 1979. Applicant: UNION TRANSIT COMPANY, INC., 276 Pasco Rd., Springfield, MA 01151. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper articles, and materials and supplies* used in the manufacture or distribution of paper and paper articles, (except commodities in bulk), between the facilities of American Pad & Paper Company, at or near (a) Holyoke, MA, (b) Mattoon, IL, (c) Salt Lake City, UT, and (d) Grapevine, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with American Pad & Paper Company, of Holyoke, MA. (Hearing site: Boston, MA, or Washington, DC.)

MC 144442 (Sub-3F), filed April 9, 1979. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Road, Pompano Beach, FL 33060. Representative: Don A. Allen, 2550 M Street, NW, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *residential heating units and air conditioners*, in containers, and (2) parts for the commodities in (1) above in containers, from the facilities of General Electric Company, at Trenton, NJ, to the facilities used by General Electric Company, at Jacksonville, Miami, Orlando, Bradenton, Chattahoochee, Daytona Beach, De Land, Eustis, Fort Myers, Fort Pierce, Fort Walton Beach, Naples, Micanopy, Palm Beach, Pensacola, Plantation Key, Port Charlotte, Sarasota, Stuart, Tallahassee, Tampa, Venice, and Vero Beach, FL, under continuing contract(s) with General Electric Company, of Trenton, NJ. (Hearing site: Washington, DC, or Miami FL.)

Note.—Dual operations may be involved.

MC 144642 (Sub-1F), filed April 17, 1979. Applicant: LEOPOLD CHATIGNY, St. Isidore, Dorchester County, Quebec, Canada JOS 2SO, Representative: William H. Shawn, Esq., 1730 M St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *soy meal*, in bulk, in dump vehicles, from Rouses Point, NY, and Swanton, VT, to the ports of entry on the international boundary line between the United States and Canada located at or near Rouses Point, NY, and Highgate, VT. (Hearing site: Boston, MA, or New York, NY.)

MC 144622 (Sub-67F), filed April 24, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products, vehicle body sealers, and sound deadener compounds* (except commodities in bulk), from New Kensington, North Warren, Emlenton, and Farmers Valley, PA, and Congo and St. Marys, WV, to points in AR, MO, MS, LA, and TX. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144713 (Sub-4F), filed April 23, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities as are dealt in or used by drug, variety, and food stores*, (except commodities in bulk), between Chicago, IL, Hammond, IN, Baltimore, MD, Lakewood and Secaucus, NJ, and St. Louis, MO, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA, under continuing contract(s) with Lever Brothers Company, of New York, NY. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 144743 (Sub-1F), filed April 2, 1979. Applicant: CHARLES M. SWINFORD, d.b.a. SWINFORD TRUCKING, 108½ South Main, Cynthiana, KY 41031. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Lexington, and Owingsville, KY, (a) over U.S. Hwy 60, and (b) over Interstate Hwy 64, serving all intermediate points in (1)(a) and (1)(b); (2) between Cynthiana, KY, and Cincinnati, OH, over U.S. Hwy 27, serving all intermediate points between Falmouth and Cynthiana, KY, including Falmouth; (3) between Lexington, KY, and Cincinnati, OH, (a) over U.S. Hwy 25, (b) over Interstate Hwy 75, serving junction KY Hwy 620 and U.S. Hwy 25, and junction KY Hwy 620 and Interstate Hwy 75, and all intermediate points between said junctions and Lexington, KY; (4) between junction Interstate Hwy

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75 and U.S. Hwy 62 and Cynthiana, KY, over U.S. Hwy 62, serving all intermediate points; (5) between junction KY Hwy 620 and Interstate Hwy 75 and junction KY Hwy 620 and U.S. Hwy 62, over KY Hwy 620, serving all intermediate points; (6) between Paris and Winchester, KY, over KY Hwy 627, serving all intermediate points; (7) between Paris and Georgetown, KY, over U.S. Hwy 460, serving all intermediate points; (8) between Cynthiana KY, and juction KY Hwy 1284 and U.S. Hwy 27, from Cynthiana over U.S. Hwy 62 to junction KY Hwy 1284, then over KY Hwy 1284 to junction U.S. Hwy 27, and return over the same route, serving all intermediate points. (Hearing site: Lexington, KY.)

MC 145102 (Sub-23F), filed April 18, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Green Bay, WI, to points in AZ, CA, NV, OR, UT, and WA. (Hearing site: Madison or Milwaukee, WI.)

Note.—Dual operations may be involved.

MC 145102 (Sub-26F), filed April 23, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, P.O. Box 56387, Atlanta, GA 30343. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities used by Armour & Company, at or near St. Paul and Worthington, MN, to points in CA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul, MN, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 145102 (Sub-27F), filed April 18, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, P.O. 1200 Gas Light Tower, 235 Peachtree St., NE, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Dubuque Packing Co., at or near (a) Denison, Vinton, and Dubuque, IA, and (b) Omaha, NE, to points in AZ, CA, CO, CT, DE, IL, IN, MA, MD, ME, MI, MN, NE, NH, NJ, NV, NY, OH, OK, OR, PA, RI, TX, UT, VA, WA, WI, and DC. (Hearing site: St. Paul, MN, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 145252 (Sub-6F), filed April 19, 1979. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities used by John Morrell & Co., at or near (a) Sioux Falls, SD, (b) Estherville and Sioux City, IA, and (c) Worthington, MN, to points in AL, AZ, CA, CT, FL, GA, LA, ME, MA, MD, MS, MO, NC, NH, NJ, NM, NY, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins facilities. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 146173 (Sub-2F), filed April 9, 1979. Applicant: PROFESSIONAL CARGO SERVICES, INC., 1611 South Eisenhower, Suite 213, Wichita, KS 67209. Representative: Bruce L. Dusenberry, 177 North Church Avenue, Suite 1008, Tucson, AZ 85701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aircraft components, parts, and systems*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above between the facilities of Gates Learjet Corporation, at or near Wichita, KS, and the facilities of Gates Learjet Corporation, at or near Tucson, AZ, under continuing contract(s) with Gates Learjet Corporation, of Wichita, KS. (Hearing site: Tucson, AZ, or Wichita, KS.)

MC 146293 (Sub-17F), filed April 18, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meat, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides, and commodities in bulk, in tank vehicles), from Roswell, NM, and Memphis, TN, to points in KY, OH, OK, PA, NY, MA, NJ, VA, CT, ME, and RI. (Hearing site: Atlanta, GA.)

MC 146732 (Sub-2F), filed April 10, 1979. Applicant: JOHN LAUBENTHAL, d.b.a. LAUBENTHAL REFRIGERATED TRANSPORT, 1421 Garford Ave., Elyria, OH 44035. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* (except in bulk), from Chicago, IL, to points in OH and KY; and (2) *iron and steel fluxing compound* (except in bulk), from Cleveland, OH, to Chicago, IL. (Hearing site: Chicago, IL.)

MC 146733F, filed April 24, 1979. Applicant: CLAYCAMP, INC., 2904 E. North St., Tampa, FL 33610. Representative: Felix A. Johnston, Jr., 1030 E. Lafayette St., Suite 112, Tallahassee, FL 32301. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting animal feed, poultry feed, fish feed, insecticides, fungicides, and animal medicines, between the facilities of Ralston Purina Company, at Tampa, FL, and points in FL, IN, KY, TN, MS, AL, GA, NC, SC, WI, MN, MO, LA, OH, and IL, under continuing contract(s) with Ralston Purina Company, of Tampa, FL. (Hearing site: Tampa or Tallahassee, FL.)

Volume No. 127

Decided: July 10, 1979.

By the Commission, Review Board Number 3, Members Parker, Hill, and Board Member Fortier not participating.

MC 59583 (Sub-171F), filed April 19, 1979. Applicant: THE MASON AND DIXON LINES, INC., East Stone Drive, P.O. Box 969, Kingsport, TN 37662. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dayton and Toledo, OH, over Interstate Hwy 75; (2) between Erie, PA, and Chicago, IL, over Interstate Hwy 90; (3) between Portsmouth and Findlay, OH: from Portsmouth over U.S. Hwy 23 to junction OH Hwy 15, then over OH Hwy 15 to Findlay, and return over the same route; (4) between Cambridge, OH, and junction Interstate Hwy 77 and OH Hwy 7 over Interstate Hwy 77; (5) between Wooster, OH, and Fort Wayne, IN, over U.S. Hwy 30; (6) between Greensburg, PA, and Terre Haute, IN: from Greensburg over U.S. Hwy 119 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Terre Haute, and return over the same route; (7) between Steubenville, OH, and Indianapolis, IN: from Steubenville over U.S. Hwy 22 to Cincinnati, then over U.S. Hwy 52 to Indianapolis, and return over the same route; (8) between St. Marys, OH, and Muncie, IN: from St. Marys over OH Hwy 29 to junction IN Hwy 67, then over IN Hwy 67 to Muncie, and return over the same route; (9) between Conneaut, OH, and Vincennes, IN: from Conneaut over OH Hwy 7 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Cincinnati, then over U.S. Hwy 50 to Vincennes, and return over the same routes; (10) between Toledo, OH, and Kentland, IN, over U.S. Hwy 24; (11) between Athens, OH, and Schererville, IN: from Athens over U.S. Hwy 33 to Fort Wayne, IN, then over U.S. Hwy 30 to Schererville, and return over the same route; (12) between Cincinnati, OH, and Angola, IN, over U.S. Hwy 27; (13) between New Albany, IN, and junction Interstate Hwy 64 and U.S. Hwy 41, over Interstate Hwy 64; (14) between Evansville, IN, and junction U.S. Hwy 41 and U.S. Hwy 52, over U.S. Hwy 41; (15) between Indianapolis and South Bend, IN, over U.S. Hwy 31, serving all intermediate points on routes (1) through (15) above, and serving all points in OH and IN as off-route points. (Hearing site: Washington, DC, or Cincinnati, OH.)

MC 61592 (Sub-441F), filed March 30, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *grates, screens, accessories, and parts* for fireplaces (except commodities in bulk), from Nashville, TN, Decatur, AL, and Bloomington, IL, to points in the United States (except AK and HI); and (2)(a) *safes, vaults, and insulated files*, and (b) *parts, accessories, and components* of safes, vaults, and insulated files, (except commodities in bulk), from Lafayette, IN, to points in WA and OR. (Hearing site: Louisville, KY.)

MC 107012 (Sub-361F), filed April 23, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Ft. Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *floral foam and floral supplies*, from the facilities of S. S. Pennock Company, at or near Finderne, NJ, to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA or Washington, DC.)

MC 124692 (Sub-278F), filed April 23, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *building materials, and fireplace systems*, and (b) *parts* for the commodities in (1) above, from Los Angeles, CA to Greeley and Ft. Morgan, CO, and (2) *building materials* from Greeley, CO, to points in MT. (Hearing site: Denver, CO.)

MC 127042 (Sub-262F), filed April 16, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs, and such commodities* as are dealt in by wholesale and retail food chains, drugstores, hospitals, discount and variety stores, and grocery houses (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Bristol Myers, Inc., at or near Bedford Park, IL, to points in IN, IA, KS, MN, MO, NE, ND, SD, and WI. (Hearing site: Chicago, IL.)

MC 127283 (Sub-19F), filed April 6, 1979. Applicant: SILICA SAND TRANSPORT, INC., Box 208, Routes 47 & 71, Yorkville, IL 60560. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in La Salle County, IL, and Berrien County, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 128383 (Sub-81F), filed April 20, 1979. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Representative: Leonard C. Zucker (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electronic calculators, cash registers*, and *parts* for electronic calculators and cash registers, between the facilities of Victor Business Products, a subsidiary of Walter Kidde, Inc., at El Paso, TX, on the one hand, and, on the other, Houston and Dallas, TX, Denver, CO, Los Angeles and San Francisco, CA, Seattle, WA, Chicago, IL, Cleveland, OH, St. Paul, MN, Philadelphia, PA, New York, NY, Little Rock, AR, Birmingham, AL, Memphis, TN, Miami, Orlando, and Jacksonville, FL, Atlanta, GA, and Portland, OR, restricted to the transportation of traffic originating at or destined to the facilities of Victor Business Products, a subsidiary of Walter Kidde, Inc., at El Paso, TX, and further restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Chicago, IL, or El Paso, TX.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. section 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit within 20 days from date of publication indicating why such approval is unnecessary.

MC 128383 (Sub-84F), filed April 27, 1979. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Representative: Leonard C. Zucker (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Charlotte, NC, Greenville, SC,

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and Atlanta, GA, restricted to the transportation of traffic having a prior or subsequent movement by air. Condition: The person or persons who appear to be engaged in common control of applicant and another viable carrier must either file an application under 49 U.S.C. Section 11343(a) (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit within 20 days from date of publication indicating why such approval is unnecessary . (Hearing site: Washington, DC, or New York, NY.)

MC 133993 (Sub-3F), filed April 23, 1979. Applicant: SAND MOUNTAIN AUTO AUCTION, INC., P.O. Box 638, Goaz, AL 35957. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicles*, between points in the United States (except AK and HI), restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: Birmingham, AL or Atlanta, GA.)

MC 134592 (Sub-18F), filed April 20, 1979. Applicant: HERB MOORE AND HAZEL MOORE, d.b.a. H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, OR 97211. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asphalt roofing materials*, from Los Angeles, CA, to Portland, OR; and (2) *lumber*, from points in OR and WA to points in CA. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit within 20 days from the date of publication indicating why such approval is unnecessary. (Hearing site: Portland, OR.)

MC 135762 (Sub-1F), filed April 20, 1979. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, 6004 Hwy. 271 South, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *home or office appliances and home entertainment products*, from points in GA, IA, MN, MI, NC, NJ, TN, and TX, to points in AR, under continuing contract(s) with Burney-Neal Distributors, Incorporated, of North Little Rock, AR. (Hearing site: Washington, DC.)

MC 136123 (Sub-5F), filed April 20, 1979. Applicant: MEAT DISPATCH, INC., 2103 Seventeenth Street East, Palmetto, FL 33561. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Logansport, IN, to points in OK and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 139482 (Sub-117F), filed April 20, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, Division of Mars, Inc., at (a) Hackettstown and Elizabeth, NJ, and (b) Elizabethtown, PA, to points in IL, MN, WI, MO, OH, MI, and IN. (Hearing site: Washington, DC.)

MC 139482 (Sub-122F), filed April 20, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery and bakery goods*, between Milwaukee, WI, Chicago, IL, Philadelphia, PA, Boston, MA, Atlanta, GA, Dallas, TX, New Orleans, LA, and Los Angeles, CA. (Hearing site: Minneapolis or St. Paul, MN.)

MC 140033 (Sub-84F), filed April 16, 1979. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar*, in bags, from New Orleans, LA to Marietta, OK. (Hearing site: Dallas, TX or New Orleans, LA.)

MC 140612 (Sub-67F), filed April 23, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles, expanded cellular plastic products*, and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Polycell Industries, Inc., at or near Marion, IA, on the one hand, and, on the other, points in the United States in and west of MI, OH, KY, TN, and NC. (Hearing site: Cedar Rapids, IA or Lincoln, NE.)

MC 140612 (Sub-68F), filed April 23, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail stores (except foodstuffs, alcoholic beverages, and commodities in bulk, in tank vehicles), from points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, and WI, to Northridge, CA. (Hearing site: Northridge, CA.)

MC 142232 (Sub-4F), filed April 20, 1979. Applicant: BARRETT TEXTILE TRANSPORT, INC., P.O. Box 6, Industrial Park, Kings Mountain, NC 28086. Representative: Peter T. Barrett, 2757 Loch Lane, Charlotte, NC 28211. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic fiber yarn* (except commodities in bulk), from the facilities of Fiber Industries, Inc., at Pearl, NC, to points in SC, under continuing contract(s) with Fiber Industries, Inc., of Charlotte, NC. (Hearing site: Charlotte, NC.)

MC 144622 (Sub-44F), filed March 23, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in or used by stores (except

commodities in bulk, in tank vehicles), between the facilities of American Olean Tile Company, at Fayette, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 144622 (Sub-75F), filed April 1, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., Suite 301, McLean, VA 22101. Top operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by discount stores (except commodities in bulk) from points in OH to points in AR. (Hearing site: Washington, D.C.)

Note.—Dual operations may be involved.

MC 145603 (Sub-1F), filed April 9, 1979. Applicant: B & H TRUCKING CO., INC., 570 West 17th Street, Indianapolis, IN 46202. Representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages, in containers*, and *materials* and *supplies* used in the sale and distribution of malt beverages, (1) between Newport, KY, and points in IN, and those in the Lower Peninsula of MI, and (2) between Evansville, IN, on the one hand, and, on the other, points in the Lower Peninsula of MI. (Hearing site: Indianapolis, IN.)

MC 145753 (Sub-1F), filed April 4, 1979. Applicant: C & K BROKERAGE, INC., d.b.a. NORTHERN TRANSPORTATION, R.D. #1, Gouverneur, NY 13642. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printing paper*, from Potsdam and Newton Falls, NY, to those points in the United States in and east of MN, IA, MO, AR, and LA; and (2) *materials and supplies* used in the manufacture and distribution of printing paper (except commodities in bulk) in the reverse direction, under a continuing contract(s) in (1) and (2) above with Potsdam Paper Corporation, of Potsdam, NY, and Newton Falls Paper Company, of Newton Falls, NY. (Hearing site: Potsdam, NY.)

MC 146403 (Sub-2F), filed April 20, 1979. Applicant: ROGER LOVE, d.b.a. ROGER LOVE TRUCKING, Route 3, East Grand Forks, MN 56721. Representative: William J. Gambucci, 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal*, from Duluth, MN, to points in ND. Conditions: (1) Applicant shall conduct separately its for-hire carriage and other business operations. (2) It shall maintain separate accounts and records for each operation. (3) It shall not transport property as both a private and for-hire carrier in the same vehicle at the same time. (Hearing site: Grand Forks, ND.)

MC 146973F, filed April 23, 1979. Applicant: SOUTHERN MOTOR FREIGHT, INC., 575 Great Southwest Parkway, Atlanta, GA 30336. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulating materials and insulating equipment, storm windows and storm doors*, from the facilities of Southern Cellulose, Inc., at or near Atlanta, GA, on the one hand, and, on the other, points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Atlanta, GA.)

MC 147133F, filed April 17, 1979. Applicant TAMPA BAY MOVING SYSTEMS, INC., 5100 Tampa West Blvd., Tampa, FL 33614. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods*, as defined by this Commission, between points in FL, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, and TX. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit within 20 days from the date of publication indicating why such approval is unnecessary. (Hearing site: Tampa, FL.)

MC 147143F, filed April 20, 1979. Applicant: COOPER TRUCKING, INC., 3624 State Route 303, Ravenna, OH 44266. Representative: E.H. Van Deusen, P.O. Box 97, 220 West Bridge Street, Columbus, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting (1) *scrap metals and cullet*, in bulk, in dump vehicles, between points in IN, KY, MI, NJ, NY, OH, PA, and WV; and (2) *kilned shale*, in bulk, in dump vehicles, from Independence, OH, to points in KY, MI, NY, PA, and WV. (Hearing site: Columbus, OH.)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-24546 Filed 8-8-79; 8:45 am]
BILLING CODE 7035-01-M

[MC 112801 (Sub-203)F]

Transport Service Co., Extension—Corn Syrup (Hinsdale, IL)

Decided: July 19, 1979.

Applicant, a corporation, seeks a certificate of public convenience and necessity authorizing operations substantially as described in the appendix. The evidence has been considered under the modified procedure. The amended application is opposed by motor common carriers Kreider Truck Service, Inc., Liquid Transport Corp., and The Maxwell Co. Applicant filed a rebuttal presentation.

Preliminary Matters

By a motion filed contemporaneously with its opening statements in this proceeding, applicant seeks to amend its application by adding the State of Kentucky to its proposed destination territory. We have accepted a previously filed restrictive amendment which eliminated the interests of some protestants. We will additionally grant this motion. However, as can be seen from the statement of pertinent facts below, even when amended as requested, applicant's operating proposal still is not totally consistent with the supporting firm's avowed transportation requirements. Specifically, the supporting firm also asserts a need for interstate service to points in Ohio, but applicant has not proposed to serve points in that State. We will grant such authority as is proven to be required in this proceeding, and we will order republication in the **Federal Register** because of a finding of a need for broader service than that which was originally proposed. Applicant is admonished in the future more thoroughly to familiarize itself with its supporting shippers' transportation requirements before filing its application.

Following the filing of applicant's rebuttal, protestant Maxwell filed a motion seeking (1) the striking of the supporting firm's verified statement, or,

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in the alternative, (2) an oral hearing for the purpose of cross-examination of the shipper witness. Applicant replied to the pleading. Maxwell's pleading will be rejected. Rule 21 of the Commission's General Rules of Practice (49 CFR § 1100.21) provides that, "except that a reply to a reply is not permitted . . . an adverse party may file and serve a reply or motion addressed to any pleading permitted . . . within 20 days after the filing of such pleading with the Commission." Under the Commission's rules, protestant's motion was due January 4, 1979. The pleading was filed March 1, 1979, approximately 2 months late. Further, in large part, the motion is actually an impermissible reply to a reply. In any event, we see no good reason for striking the supporting shipper's statement, and we believe that the material issues involved here can be satisfactorily resolved on the basis of the record before us.

Pertinent Facts

The application is supported by Southdown Sugars, Inc., a purchaser and marketer of sugar. Southdown, which maintains the center of its operations at New Orleans, LA, markets its products on a regional basis and maintains a number of distribution facilities including, as pertinent, a facility at Cincinnati, OH. Southdown receives liquid and dry sugars and corn syrup at its Cincinnati facility, and distributes those commodities, as well as a variety of blended sugar and syrup mixtures from that point. Southdown receives and distributes approximately 35,000 tons of product a year, approximately 70 percent of which moves to points in Ohio, 15 percent to points in Indiana, and 10 percent to points in Kentucky. The remaining traffic moves to points in the other proposed destination States on an irregular basis when, due to seasonal surges, mechanical problems, or other reasons, Southdown is unable to serve such points from its other distribution facilities. The supporting firm names representative destination points in each of the proposed destination States, as well as the point of St. Louis, MO. Southdown points out that there are occasions on which it may have interstate traffic moving to points in Ohio. Such occasions may arise when a shipment is reconsigned or diverted prior to delivery or when a shipment passes through its facility in a movement which is actually interstate in character. Southdown requires the availability of sanitary and clean tank truck trailers in the service of hauling edible commodities. It requires experienced drivers, equipment having the necessary accessorial devices, and expeditious service. The supporting firm emphasizes the latter point, asserting that the key to its Cincinnati operation is the ability expeditiously to move traffic and that timely pickups and deliveries are very important. The time factor is particularly important when transportation is required to points in States not normally served from Cincinnati.

Regarding the services available from existing carriers, Southdown indicates that protestant Maxwell is its principal carrier and that it intends to continue tendering the overwhelming majority of traffic to that carrier. Southdown complains, however, that there are some minor gaps in Maxwell's authority. More important, Southdown believes it is in a precarious position in being completely dependent upon one carrier. Southdown believes that the availability of a second carrier vastly increases its ability to deliver to its customers in accordance with their requirements. Regarding protestant Liquid, the supporting firm asserts that that carrier traditionally has provided substantial service for a competitor, has never solicited Southdown's traffic, and has only reluctantly provided service on request. It is asserted, further, that Liquid has some limitations in its authority. Protestant Kreider was not authorized to provide Southdown service at the time initial statements were filed in the proceeding. In the event of a grant of authority, Southdown proposes to tender to applicant 10 percent of its overall traffic. Shipper maintains that as applicant now makes deliveries of corn syrup at its Cincinnati facility, a grant would place applicant in a good position to provide a coordinated inbound and outbound transportation service.

Kreider has recently been issued permanent authority to transport sugar and corn products, in bulk, in tank vehicles, from the facilities of a named firm (Archer-Daniels) at Cincinnati to points in all of the proposed destination States except Ohio and North Carolina, subject to "originating at and destined to" restrictions. Protestant does not hold authority to serve the supporting firm here, but it fears that, in the event of a grant of unrestricted authority, applicant would be in a position to divert Archer-Daniels' traffic from it. Kreider asserts that Archer-Daniels is one of its prime customers, that it has been serving this shipper pursuant to temporary authority, and that it is already competing with other carriers for this shipper's traffic.

Liquid holds pertinent authority to transport corn syrup to Indianapolis, IN, and sugar to points in Indiana, Kentucky, and West Virginia. It assertedly holds additional authority enabling it to transport liquid sugar and blends thereof and dry sugar to points in Illinois, but protestant does not show that it has complied with appropriate gateway elimination rules or that the 300 mile exception applies so that it might actually be able to provide the described service to points in Illinois. Liquid also recently has been issued authority to transport sugar and corn products from the facilities of a named firm (Archer-Daniels) at Cincinnati to points in all of the proposed destination States, except Ohio, North Carolina, and Missouri. Liquid maintains terminals at Indianapolis and Terre Haute, IN, and at a point near Cincinnati. It operates 79 tractors and 140 trailers, including 117 insulated, stainless steel trailers. Protestant regularly transports commodities of the type involved here, and asserts that it regularly does so within the scope of this application. Protestant serves the supporting firm from the involved Cincinnati origin; it names six points served during a recent 7 month period. Protestant believes that a grant of authority would put applicant in a position to divert traffic it has handled for Southdown and traffic it recently has been authorized to transport for Archer-Daniels. Protestant, like applicant, holds authority to transport corn products, dry sugar, and other related commodities to points in Ohio, and it desires the availability two-way movements.

Maxwell holds various grants of authority which enable it to provide all of the proposed transportation except that it is unable to transport corn syrup to Indianapolis and blends of corn syrup and sugar to points in Indiana and Kentucky. Protestant maintains at Cincinnati a terminal which is open around-the-clock and at which there is a large cleaning facility. Maxwell operates 110 tractors and 177 trailers for the transportation of bulk commodities, and it has 12 units of trailer equipment dedicated to the service of the supporting firm, with an additional 5 trailers on order. Protestant asserts that this equipment represents a substantial investment. Maxwell has been serving the supporting firm at Cincinnati for more than 5 years, and believes that, because of its location, facilities, equipment, and experience, it is able to provide Southdown the timely, direct, and expeditious service it requires. Maxwell asserts that there is available to the supporting firm the services of two additional carriers which have not been used, and protestant avows that a diversion of the traffic Southdown proposes to tender to applicant would jeopardize the financial stability of protestant's entire operation.

Discussion and Conclusions

The application will be granted as set forth in the appendix. Although protestant Maxwell holds extensive authority to serve Southdown and apparently has provided substantial service for that firm, protestant has presented no specific evidence regarding the number of shipments, volume, or revenues which might be subject to diversion. In any event, Southdown has indicated that the availability of this protestant's service is of much value to it and that it would not act in such a manner as to impair that service. We will give credence to Southdown's statement in this regard as well as to its statements that it competes for equipment with other shippers of the involved commodities and that the stability of its operations require the availability of an additional carrier. While protestant Liquid holds authority which enables it to meet a large portion of the supporting firm's transportation requirements, that carrier has provided little service for Southdown, has not adduced specific evidence regarding revenues derived from such transportation, and has not shown how it would be adversely affected by a grant of authority. Liquid holds additional authority to serve another firm shipping from Cincinnati, as does protestant Kreider, but neither protestant has presented specific evidence regarding transportation provided for that firm, whether under temporary authority or otherwise. The restriction sought by these two protestants has thus not been shown to be warranted. In sum, the benefits which would accrue to the supporting firm as a result of the grant of authority made here will outweigh any detriment which might befall the opposing carriers.

Consistent with the supporting firm's demonstrated transportation requirements, we have granted authority beyond that originally published in the **Federal Register.**[1] Accordingly, since it is possible that parties who have relied upon the notice of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the authority granted, a notice of the authority actually granted will be published, and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of publication, during which time any proper party in interest may file an appropriate petition for leave to intervene, setting forth in detail the precise manner in which it has been prejudiced by lack of proper notice.

We find: The present and future public convenience and necessity require operation by applicant, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. An appropriate certificate should be granted. This decision does not significantly affect the quality of the human environment.

It is ordered: The motion to amend the application, filed by applicant, is granted.

The motion to strike the supporting firm's statement or, in the alternative, for oral hearing, filed by protestant The Maxwell Co., is rejected.

The application is granted to the extent set forth in the appendix.

Operations may begin only following the service of a *certificate* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310).

Compliance with these requirements must be accomplished within 90 days after the date of service of this decision or the grant of authority shall be void.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman (Board Member Boyle not participating).

Agatha L. Mergenovich,

Secretary.

Appendix

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn syrup, sugar, and blends of corn syrup and sugar,* in bulk, in tank vehicles, from Cincinnati, OH, to St. Louis, MO, and points in Illinois, Indiana, Kentucky, Mississippi, North Carolina, Ohio, Tennessee, Virginia, and West Virginia.

Condition: Issuance of the certificate authorized here shall be withheld for a period of 30 days from the date of publication in the **Federal Register** of a notice of the authority actually granted by this decision.

[FR Doc. 79-24544 Filed 8-8-79; 8:45 am]

BILLING CODE 7035-01-M

[1] Specifically, we have granted applicant authority to serve points in Kentucky and Ohio.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Intercity Passenger Railroad System, Providence, R.I.; Intent To Prepare a Draft Environmental Impact Statement

The Federal Railroad Administration (FRA), U.S. Department of Transportation, hereby notifies all interested parties of its intent to prepare a draft environmental impact statement (EIS) for the proposed relocation of the intercity passenger railroad system in Providence, Rhode Island. This proposed relocation project constitutes a major Federal action with potential impacts on the quality of the human environment, and therefore, must satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 et seq.).

This proposed railroad improvement includes an 800-foot northerly shift of the existing railroad alignment toward the State Capitol and the at-grade construction of the railroad, the construction of a new railroad station over the tracks, relocation of local roadway systems to provide access to the new station and improve circulation in the central business district, and the removal of the existing railroad viaduct. Associated with these railroad improvements is the proposed construction of an Interstate 95/Route 6 (Civic Center) Interchange and the extension of Route 6 along the abandoned railroad right-of-way. Possible alternatives to the proposed action range from a no-build option for possible railroad and highway improvements to various combinations of improvements to the railroad and highway systems either in their present locations or on new alignments.

The proposed highway improvements, which will be administered by the Federal Highway Administration (FHWA) through its Federal-aid highway program, are facilitated by the proposed relocation of the railroad. Therefore, the FRA will be the lead Federal agency in the preparation of this EIS. General scoping sessions with interested Federal, State and local agencies to discuss various concerns and potential impacts will be conducted on August 15 and 16, 1979, in Providence, Rhode Island. A series of public informational meetings will be conducted during the preparation of the

EIS to obtain additional input into the EIS process. The first public meeting will be held at 7:30 p.m., August 23, 1979, at the Old State House, 150 Benefit Street, Providence, Rhode Island.

Additional information regarding the proposed action or the EIS may be obtained by contacting Mr. Donald C. Smith, Environmental Specialist, Northeast Corridor Project, FRA, 400 Seventh Street, S.W., Washington, D.C.; (202) 472–5890.

Submitted this 8th day of August, 1979.

Louis S. Thompson,

Director, Northeast Corridor Project.

[FR Doc. 79-24795 Filed 8-8-79; 11:04 am]

BILLING CODE 4910-06-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 155

Thursday, August 9, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Friday, August 10, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Assignment and Transfer—1—Title: Request for an exception to the Top Fifty Market Policy in connection with an application for the transfer of control of the licensee of WDCA–TV, Washington, D.C., to Taft Broadcasting Company; Petition to deny filed by Washington Association for Television and Children (WATCH). Summary: Taft presently controls the licenses of one UHF and five VHF television stations in the nation's top fifty markets. It is requesting an exception to the Top Fifty Market Policy to enable it to acquire its seventh television station and its second independent UHF station.

The prompt and orderly conduct of Commission business requires that less than 7 days notice be given consideration of this matter.

Additional information concerning this matter may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: August 7, 1979.

[S-1588-79 Filed 8-7-79; 3:43 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 1:30 p.m., Thursday, August 2, 1979.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Additional item considered.

After the conclusion of its Closed Meeting on August 2, 1979, the Commission discussed in Open Meeting the rescheduling of Request for an Exception to the Top Fifty Market Policy in connection with an application for the transfer of control of the licensee of WDCA–TV, Washington, D.C., to Taft Broadcasting Company; Petition to deny filed by Washington Association for Television and Children (WATCH). An electronic recording of the discussion will be available for review in Room 222.

The prompt and orderly conduct of Commission business did not permit prior notice of the August 2nd Open Meeting.

Additional information concerning this matter may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: August 7, 1979.

[S-1587-79 Filed 8-7-79; 3:43 pm]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m. on Monday, August 13, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 350—17th Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factor involved in the proposed merger of The Merchants National Bank of Fort Smith, Fort Smith, Arkansas, and Continental Bank and Trust Company, Barling, Arkansas.

Recommedations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Morgan, Lewis & Bockius, Philadelphia, Pennsylvania, in connection with the liquidation of assets acquired by the Corporation from Farmers Bank of the State of Delaware, Dover, Delaware.

Chapman & Cutler, Chicago, Illinois, in connection with the liquidation of North Point State Bank, Arlington Heights, Illinois.

Chapman & Cutler, Chicago, Illinois, in connection with the liquidation of State Bank of Clearing, Chicago, Illinois.

Hughes, Hubbard & Reed, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York (two memoranda).

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Ira L. Hyams, P.C., Jericho, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Sahn, Shapiro & Epstein, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Sweeting, Pons, Gonzalez & Rodriguez, San Juan, Puerto Rico, in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

J. Randolph Pelzer, P.A., North Charleston, South Carolina, in connection with the liquidation of American Bank & Trust, Orangeburg, South Carolina.

Sutherland, Asbill & Brennan, Atlanta, Georgia, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Strasburger & Price, Dallas, Texas, in connection with the receivership of Franklin Bank, Houston, Texas.

Ross & Stevens, S.C., Madison, Wisconsin, in connection with the liquidation of Algoma Bank, Algoma, Wisconsin.

Memorandum proposing the revision of the Delegations of Authority Relating to the Staffing Table.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389–4425.

[S-1580-79 Filed 8-7-79; 10:05 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m. on Monday, August 13, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550—17th Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Merchants and Farmers State Bank, a proposed new bank to be located at 111 Hobson Way, Blythe, California, for Federal deposit insurance.

America Bank in Louisiana, a proposed new bank to be located at 1200 Brashear Avenue, Morgan City, Louisiana, for federal deposit insurance.

Global Union Bank, a proposed new bank to be located at Wall Street Plaza, New York (Manhattan), New York, for Federal deposit insurance.

Community Bank and Trust, a proposed new bank to be located at 505 West Cameron, Rockdale, Texas, for Federal doposit insurance.

First Wyoming Bank—Douglas, a proposed new bank to be located at the corner of Fourth Street and Elm street, Douglas, Wyoming, for Federal deposit insurance.

Application for consent to establish a branch:

Umatilla State Bank, Umatilla, Florida, for consent to establish a branch on Butler Street (State Road 40) near its intersection with Alco Street, Unincorporated Lake County (P.O. Astor), Florida.

Application for consent to establish a banking facility:

Pioneer Bank & Trust Company, Chicago, Illinois, for consent to establish a facility at 1645 North Pulaski Street, Chicago, Illinois.

Application for consent to exercise full trust powers:

Guaranty Bond State Bank, Mount Pleasant, Texas.

Application for consent to merge and establish branches:

Waccamaw Bank and Trust Company, Whiteville, North Carolina, an insured state nonmember bank, for consent to merge with Cape Fear Bank & Trust Company, Fayetteville, North Carolina, also an insured State nonmember bank, and with Capitol National Bank, Raleigh, North Carolina, under the charter of Waccamaw Bank and Trust Company and with the title "United Carolina Bank, Whiteville", and for consent to establish the ten offices of the two banks being acquired as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,988–L—Franklin National Bank, New York, New York.

Case No. 43,998–L—Franklin National Bank, New York, New York.

Case No. 44,002–L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Case No. 44,004–NR—United States National Bank, San Diego, California.

Memorandum re: The Peoples Bank, Willcox, Arizona.

Memorandum re: United States National Bank, San Diego, California.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier partial denial of a request for records.

Reports of committees and officers:

Audit Report: United States National Bank, San Diego, California.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389–4425.

[S–1581–79 Filed 8–7–79; 10:05 am]

BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, August 14, 1979, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel.

DATE AND TIME: Wednesday, August 15, 1979, at 10 a.m.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Any matters not concluded on August 14, 1979.

DATE AND TIME: Thursday, August 16, 1979, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory Opinions: AO 1979–35, Robert F. Bauer, General Counsel, Democratic Senatorial Campaign Committee. AO 1979–39, Marion Edwyn Harrison, Crane for President Committee. AO 1979–40, Paul D. Friedman, Treasurer, Florida for Kennedy Committee.
1980 election and related matters:
Convention Financing Regulations.
Clearinghouse: Bilingual Election Study.
Third Quarter Management Report.
Budget Execution Report.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

Portions Closed to the Public

Any matters not concluded on August 14 and August 15, 1979.

PERSONS TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone, 202–523–4065.

[S–1586–79 Filed 8–7–79; 3:16 pm]

BILLING CODE 6715–01–M

6

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: August 3, 1979, 44 FR 45818.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: August 7, 1979, 10 a.m.

CHANGE IN THE MEETING:

Addition of the following item to the closed session:

3. Appeal of denial of access to grand jury documents.

[S–1582–79 Filed 8–7–79; 10:05 am]

BILLING CODE 6730–01–M

7

August 6, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., August 13, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission will consider and act upon the following:

1. Magma Copper Company, DENV 78–5/4–PM (Petition for Discretionary Review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–1585–79 Filed 8–7–79; 3:16 pm]

BILLING CODE 6820–12–M

8

FEDERAL RESERVE SYSTEM: Committee on Employee Benefits of the Board of Governors of the Federal Reserve System.

TIME AND DATE: 9:00 a.m., Wednesday, August 15, 1979.

PLACE: Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals relating to the internal personnel procedures of the System and dealing with the Federal Reserve Banks' employee benefits program:

(a) consideration of providing spousal benefits in the event of a member employee's death;

(b) review of the revised 1979 and proposed 1980 budgets for the Office of Employee Benefits;

(c) proposed interpretation of sections of the Retirement Plan to include coverage of prior service with the Board of Governors for Reserve Bank employees; and

(d) consideration of which of several actuarial firms should be named Actuary of the Retirement Plan.

2. Proposed settlement of claim under the Federal Reserve Long Term Disability Income Plan.

CONTACT PERSON FOR MORE INFORMATION: Mr. Theodore E Allison, Secretary of the Board; 202–452–3257.

[S–1584–79 Filed 8–7–79 2:14 pm]

BILLING CODE 6210–01–M

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, August 16, 1979. [NM–79–26]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first six items will be open to the public; the seventh item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONDIDERED:

1. *Aircraft Accident Report*—Swift Aire Lines, Inc., Nord 262, N418SA, Marina Del Rey, Calif., March 10, 1979.

2. *Aircraft Accident Report*—Allegheny Airlines, Inc., Nord 262, Mohawk/Frakes 298, N2984, Benedum Airport, Clarksburg, W. Va., February 12, 1979.

3. *Railroad Accident Report*—Rear-end collision of Union Pacific freight trains at Ramsey, Wyo., March 29, 1979.

4. *Marine Accident Report*—U.S. motor tankship SEALIFT CHINA SEA ramming of the Italian motor cargo vessel LARENZO D'AMICO, Los Angeles Harbor, Calif., January 15, 1978.

5. *Recommendation* to University of Hawaii and University National Oceanographic Laboratory Systems re disappearance of the HOLOHOLO in the Pacific Ocean.

6. *Pipeline Accident Report*—Gas Services Co., Inc., explosion and fire, London, Ky., January 16, 1979.

7. *Opinion and Order*—Administrator v. O'Donnell, Dkt. SE–4089; disposition of respondent's interlocutory appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

August 6, 1979.

[S–1579–79 Filed 8–6–79; 3:46 pm]

BILLING CODE 4910–58–M

10

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 45546 August 2, 1979 and 44 FR 46097 August 6, 1979].

STATUS: Open Meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, July 30, 1979. Wednesday, August 1, 1979.

CHANGES IN THE MEETING: Additional item.

The following additional item will be considered at an open meeting scheduled for Tuesday, August 7, 1979 at 9:30 a.m.:

Consideration of a request made by the Offices of the Chief Accountant and General Counsel and the Division of Corporation Finance that the Commission authorize the issuance of a release proposing for comment two alternative rules either of which, if adopted, would confirm that accountants will not be subject to liability under Section 11 of the Securities Act of 1933 for SAS No. 24 reports. For information, please contact James J. Doyle at (202) 472–3782, Rick Kirby at (202) 376–8057 and Paula L. Chester at (202) 755–1290.

Chairman Williams and Commissioners Evans and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 755–1639.

August 6, 1979.

[S–1589–79 Filed 8–7–79; 4:00 pm]

BILLING CODE 8010–01–M

11

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES.

Information Community Advisory Committee

TIME: 9 a.m.

DATE: August 16, 1979.

PLACE: Marriott Key Bridge Hotel, Rosslyn, Virginia, Windjammer Room (rooftop).

STATUS: Open.

MATTERS TO BE DISCUSSED: Status Report on White House Conference Planning.

Subcommittee meetings:

(a) Program.
(b) Public Relations.
(c) Exhibits.

Assignment of followthrough tasks.

CONTACT PERSON FOR MORE INFORMATION: Barry Jagoda, Coordinator, (202) 342–9300.

Marilyn K. Gell,

Director.

August 1, 1979.

[S–1583–79 Filed 8–7–79; 11:10 am]

BILLING CODE 7527–01–M

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federal register

Thursday
August 9, 1979

Part II

Department of Housing and Urban Development

Federal Housing Commissioner, Office of Assistant Secretary for Housing

Public Housing Development; Revision of Requirements

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Commissioner—Office of Assistant Secretary for Housing

24 CFR Part 841

[Docket No. R-79-690]

Public House Development; Revision of Requirements

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim Rule and request for comments.

SUMMARY: This Rule revises the requirements for the development of public housing. Simplification and streamlining of the regulation is urgently needed to facilitate the development of public housing units authorized by Congress. The revisions are intended to achieve savings in both time and cost by eliminating processing delays.

EFFECTIVE DATE: November 7, 1979.

COMMENTS DUE: October 9, 1979.

ADDRESS: Interested persons should file written comments on or before the due date with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Office of the Deputy Assistant Secretary for Public Housing and Indian Programs, Department of Housing and Urban Development, Washington, D.C. 20410 (202-755-5846). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The public housing development regulation (24 CFR Part 841) was effective in February 1977. Interim amendments effective May 1979 were based on questions that arose in the early stages of implementing this regulation. The Department received a number of comments as a result of publishing these amendments and they have been considered in preparing this general revision to the regulation.

The revised regulation will simplify the development process by eliminating certain processing steps and duplicative reviews, conforming processing procedures to those of other housing programs administered by the Department and creating maximum flexibility in administering the program.

The following is a brief summary of the significant features of the revised regulation. HUD will prepare the development packet instructing PHAs and developers and other interested parties of program requirements. The notice of fund availablility (NOFA) will invite public housing agencies (PHAs) to submit proposals. The elements of the former application for a public housing project have been combined with the development program into a proposal so that only one approval action will be necessary. The PHA will be given responsibility for determining the development method and selecting an architect or developer. The field office will select the best proposals from among those submitted by different PHAs in an allocation area. The proposal, the site, and the site appraisal will be approved in a single step. The field office will be authorized to maintain a pipeline of proposals and to select from among such proposals if additional contract authority becomes available.

Under outstanding procedures, funds are reserved at the application approval (program reservation) stage, when the site and scope of the proposed housing are unknown, on the basis of a formula. Subsequently, when the site has been selected and the scope of the housing has been determined (development program stage), it is typically necessary to provide additional funds. If additional funds are not available, the project must be redesigned and further delayed. This process has contributed to the long delay typically experienced between application approval and the actual start of construction or rehabilitation of public housing projects.

The following is a discussion of the major changes:

(1) The program reservation and preliminary loan have been eliminated. Funds will be reserved and made available to the PHA after proposal approval, when the annual contributions contract (ACC) is executed. At that stage, there will be a reasonable expectation of the scope, design, and nature of the proposed housing. Funds will be reserved for those projects that are most likely to start construction in a reasonable period and, since estimated cost can be more realistically projected, in the amount actually needed for the project.

(2) Under the new procedures, the initial proposal will identify a specific site (two exceptions are discussed in (7) below) as is the procedure under the section 8 program. Funds will not be reserved until the proposal is processed and approved by HUD. Although no front-end (preliminary loan) funds would be provided for planning purposes or for preparation of the proposal under the revised regulation, a number of provisions have been incorporated to minimize the initial expenses of PHA proposal preparation. The field office will prepare the PHA packet stating program requirements which turnkey developers and other interested parties will use in submitting their proposals to the PHA; evidence of site availability may be accepted at the proposal stage in lieu of site ownership or an option to purchase; the initial advance of ACC funds will be made to the PHA for administration and planning; under the conventional or acquisition development methods, advances also will be provided for site control immediately after execution of the ACC; and the proposal design requirements for the different development methods have been kept to a minimum.

(3) Comments are invited as to whether there is a need for front-end funds to prepare proposals and suggestions as to the amounts and criteria for determining when such assistance should be made available to a particular PHA. Funds previously provided to a PHA under a preliminary loan contract or public housing ACC shall not be used for the purpose of preparing a proposal pursuant to this Part; other funds available to a PHA that are not subject to this restriction may be used.

(4) The PHA will determine which of the three development methods is appropriate for developing a project. If a PHA elects to use the turnkey method and more than one developer submits proposals to the PHA, the PHA will select the best proposal for submission to HUD for approval.

(5) To promote a balanced processing workload, field offices will be authorized to maintain a pipeline of proposals that could be processed if additional funds become available, without publication of additional NOFAs. The criteria for review and approval of such proposals will be the same as for proposals approved at initial submission. Under this procedure, PHAs that were unable to submit proposals by the invitation deadline would not have to wait for a subsequent NOFA.

(6) The revised regulation adopts the current site and neighborhood standards applicable to Section 8 projects in lieu of the Project Selection Criteria (a conforming amendment to 24 CFR Part 200, Subpart N will be published). The site related items of Project Selection

Criteria are similar to the section 8 site and neighborhood standards and application of the same standards to both public housing and section 8 will reduce processing time and avoid confusion. Revisions to the section 8 standards were published for public comment; when revised standards are published for effect, they will also replace the standards contained in this regulation.

(7) The PHA will be required to identify a specific site when submitting a proposal, with two exceptions: (a) proposals for substantial rehabilitation of projects consisting of one to four dwelling units per structure in a neighborhood revitalization area could be submitted under the conventional method without specific identification of properties; (b) proposals for acquisition projects consisting of one to four dwelling units per structure also could be submitted without specific identification of properties. Cost estimates for such non-site specific proposals would be based on typical properties in the neighborhoods; the PHAs would be expected to identify sites within six months. These exceptions are included to facilitate acquisition or rehabilitation of low-density, scattered site properties and promote neighborhood revitalization efforts.

The Department has determined that the revised regulation is urgently needed and must be adopted 90 days after publication. The regulation will simplify and streamline the public housing development process and any further delay in the effective date would be impracticable and contrary to the public interest since it is imperative that the revised regulation be effective at the beginning of the Fiscal Year 1980 funding cycle.

If, as a result of the public comments received, the Department determines that changes are appropriate, the effective date will be deferred by publication of a notice in the Federal Register. Unless deferred by such publication, the revised regulation will become effective without notification by the Department 30 days after the close of the period allowed for public comment; that is, 90 days after publication of this document.

This regulation will be applicable to all proposals received in response to a NOFA issued after the effective date of this regulation.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding will be available for public inspection during regular business hours at the above cited address.

The Assistant Secretary has determined that regulatory analysis is not needed since no major economic consequences will accrue as a result of this revised regulation which is for the purpose of streamlining and simplifying the development process established in the existing regulation.

The legislative review provisions of Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o) have been met.

Accordingly, 24 CFR Part 841 is amended as follows:

Part 841, is revised in its entirety, including the title of the Part and of the Subparts, to read as follows:

PART 841—PUBLIC HOUSING DEVELOPMENT

Subpart A—General

Sec.
841.101 Purpose and Development Method
841.102 Definitions
841.103 Prototype Cost Limits
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841.105 Notification of Fund Availability

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841.201 General
841.202 Eligibility of the PHA
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Subpart C—Proposal Selection and Project Development

841.301 Proposal Review and Selection
841.302 ACC Execution and Advances
841.303 Preparation of Construction Documents and Execution of Contracts
841.304 Construction Requirements
841.305 Completion of Development

Authority: Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d); U.S. Housing Act of 1937, 42 U.S.C. 1437.

Subpart A—General

§ 841.101 Purpose and Development Method.

(a) *Purpose.* The United States Housing Act of 1937 (Act) authorizes HUD to provide financial and technical assistance to public housing agencies (PHAs) for the development and operation of public housing projects financed by loans and annual contributions provided by HUD under Sections 4 and 5 of the Act. This Part states the regulation under which public housing projects are developed. The regulations for development of other types of housing assisted under the Act, including Section 8 and Indian Housing are contained in other Parts of 24 CFR Chapter VIII. The requirements for the administration of a PHA and for the operation and management of public housing projects also are stated in 24 CFR Chapter VIII and in the annual contributions contact (ACC). Some of the regulations in 24 CFR Chapter VIII that should be referred to are:

(1) Part 804—Turnkey III homeownership opportunities;

(2) Part 812—Definition of family and occupancy by single persons;

(3) Part 860—Income limits;

(4) Part 861—Rents;

(5) Part 865—Project management;

(6) Part 866—Lease and grievance procedure;

(7) Part 867—Personnel policies and compensation;

(8) Part 868—Modernization;

(9) Part 890—Operating subsidy; and

(10) Part 891—Application review and fund allocations.

(b) *Development methods.* There are three different methods a PHA may use to develop public housing projects. The following are brief summaries of each development method.

(1) *Conventional method.* The PHA contracts with a contractor to build or rehabilitate a project on a site provided by the PHA. The PHA proposal shall identify a specific site. However, a PHA may propose to purchase a project requiring substantial rehabilitation that consists of one to four dwelling units and is located in a neighborhood revitalization area without specific identification of the properties to be purchased: such a proposal shall identify the neighborhoods and general locations in which properties are expected to be available; shall contain a plan for identification of properties and submission of construction documents within six months of execution of the ACC; and shall include estimated costs for purchase and rehabilitation based on typical costs in the neighborhood. After field office approval of a PHA proposal and execution of the ACC, the PHA purchases the site and contracts with an architect to prepare the construction documents for the project. Following field office approval, the PHA advertises for bids from contractors to build or rehabilitate the project and awards the Construction Contract to the lowest responsible bidder. The contractor is required to provide assurance of completion in the form of a 100 percent performance and payment bond or other security approved by the field office. The contractor receives progress payments from the PHA during construction and a final payment upon

project completion in accordance with the Construction Contract.

(2) *Turnkey method.* The PHA contracts with a developer to sell the PHA a completed project. The turnkey method may be used for either new construction or substantial rehabilitation. The PHA selects a developer prior to submitting a proposal. After field office approval of the proposal, the ACC is executed and the developer prepares the construction documents for construction or rehabilitation. Following field office approval, the developer and the PHA enter into a Contract of Sale. The developer is fully responsible for all development and construction or rehabilitation activities, including the provision of construction financing. The PHA purchases the project from the developer after satisfactory completion of the project in accordance with the Contract of Sale.

(3) *Acquisition method.* The PHA purchases a property that requires little of no repair work. The PHA's proposal shall identify a suitable property and demonstrate that it meets all requirements with only minor repairs to be done after purchase. However, a PHA may propose to purchase a project consisting of one to four dwelling units per structure without specific identification of properties to be purchased: such a proposal shall identify the neighborhoods and general locations in which properties are expected to be available; shall contain a plan for purchase of the properties within six months from execution of the ACC; and shall provide estimated costs for purchase and repair based on typical properties in the neighborhoods. If the cost of repairs exceeds 10 percent of the estimated total development cost of the project, the proposal will be considered as substantial rehabilitation and the project must be developed using either the conventional or turnkey method. The PHA's proposal shall state the extent of repair work to be done after acquisition. Following field office approval of the proposal and execution of the ACC, the PHA obtains field office approval to purchase individual properties. Repair work is done after acquisition either by the PHA contracting to have the work done or having the staff of the PHA perform the work.

§ 841.102 Definitions.

Act. The United States Housing act of 1937 (42 U.S.C. 1437).

Allocation Area. A municipality, county, or group of contiguous municipalities or counties or Indian areas identified by the field office or in an approved Areawide Housing Opportunity Plan for the purpose of allocating housing assitance to support economically feasible housing projects.

Annual Contributions Contract (ACC). A contract (in the form prescribed by HUD) for loans and annual contributions, the execution of which created legal obligations between HUD and a PHA, whereby HUD agrees to provide financial assistance and the PHA agrees to comply with HUD requirements for the development and operation of a public housing project.

Construction Documents. The specifications, drawings or work write-ups that set forth the work to be done for the construction, rehabilitation or repairs to a project.

Contract Authority. The maximum amount authorized for annual payments under the ACC. This amount multiplied by the ACC term (number of years) is the budget authority.

Cooperation Agreement. An agreement (in the form prescribed by HUD) between a PHA and the local governing body which assures tax exemption, provides for local support and services for the development and operation of a public housing project, and provides for payments in lieu of taxes.

Housing Assistance Plan (HAP). A plan approved by HUD as meeting the requirements of 24 CFR Section 570.306.

Household Type. The three household types are (1) elderly and handicapped, (2) family and (3) large family (24 CFR Part 891; 24 CFR Part 812 defines family and related terms).

Housing Type. The three housing types are new construction, rehabilitation and existing housing (24 CFR Part 891).

HUD. The Department of Housing and Urban Development, including the Regional Office and the Area or Service Office (herein called field office) which has been delegated authority to perform functions pertaining to this Part.

Prototype Cost Limit. The ceiling on dwelling construction and equipment costs established by HUD for a specific area and published in the **Federal Register** (Section 6(b) of the Act).

Public Housing Agency (PHA). Any state, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development and operation of low-income housing and is determined by HUD to be eligible to under take projects under this Part.

Total Development Cost. The sum of all HUD-approved costs for planning, administration (including proposal preparation), land acquisition, relocation, demolition, construction and equipment, necessary financing (including interest and carrying charges, if any), on-site streets and driveways, on-site utilities, non-dwelling facilities, a contingency allowance (not to exceed 1 percent for turnkey and acquisition, and 5 percent for conventional), insurance premiums for the first three years, off-site facilities (to the extent includable in development cost), and any other costs necessary in carrying out the development of the project. The estimated total development cost in the PHA's proposal when reviewed and approved by HUD becomes the maximum total development cost stated in the ACC. Upon completion of the project, actual costs are determined and become the approved actual development cost of the project stated in the ACC.

§ 841.103 Prototype Cost Limits.

(a) *Authority.* Section 6(b) of the Act limits the cost of dwelling construction and equipment to 110 percent of the prototype cost limits established by HUD for the area.

(b) *Establishment of areas and limits.* The field office shall recommend prototype cost areas by determining the geographic boundaries within which trade conditions and economic influences tend to make construction costs substantially the same. For each area, the field office shall, after consulting local housing producers, estimate the construction costs of new dwelling units of various sizes and types based on the HUD Minimum Property Standards, additional housing program standards defined by the field office in accordance with Section 6(b) of the Act, and local building practices for privately developed housing. The field office recommendations as to areas and prototype cost limits shall be submitted to the Assistant Secretary for Housing for review and approval. The limits for the different areas are published at least annually in the **Federal Register** as an Appendix to this Part.

§ 841.104 Fund Allocation.

Contract authority for public housing projects is allocated to each field office. The field office suballocates this authority to allocation areas and makes public the amount of contract authority available for each allocation area within its jurisdiction in accordance with 24 CFR Part 891, Subpart D.

§ 841.105 Notification Of Fund Availability (NOFA).

(a) *Pipeline Processing.* (1) The pipeline of proposals will be reviewed to determine whether to resume processing of any or all of them. In making the decision as to whether to resume processing, the field office will consider whether the pipeline proposals are of high quality relative to the standards and requirements of this Part, whether publication of a NOFA will improve the quality of proposals available for selection, and whether pipeline proposals comply with the field office allocation plan and the most recently approved HAPs.

(2) The PHAs whose proposals qualify for resumed processing will be sent a letter requesting them to advise the field office within 10 calendar days as to whether or not they request processing to be resumed on their proposals and, if the decision is in the affirmative, to submit within an additional 10 calendar days (for a total of 20 days) any information required to update their proposals. The letter should also state the prototype cost limits that will be applicable to pipeline proposals.

(3) Upon receipt of notification from a PHA requesting that processing be resumed and any updated information, the field office will resume processing the proposal in accordance with § 841.301.

(4) The field office shall determine the amount of contract authority to be used for pipeline proposals.

(5) The PHAs whose pipeline proposals are not to be placed in processing will be notified in writing that their proposals will not be processed further with a statement of the reasons for this decision. One file copy of each proposal will be retained by the field office.

(b) *PHA Packet.* If there is contract authority remaining after pipeline processing has been considered, the field office shall prepare a PHA packet for each allocation area. The packet shall address each of the items described in Subpart B, supplemented to the extent the field office determines to be necessary to assist PHAs in submitting approvable proposals.

(c) *Notification of fund availability.* The field office shall announce the availability of contract authority (excluding the amount to be used for pipeline processing) and invite PHA's by publishing a NOFA to submit proposals. A NOFA shall be published for each allocation area in accordance with the schedule established by the field office. The NOFA shall identify each allocation area for which contract authority is available and shall include the following information:

(1) The amount of contract authority available and the number of units by housing type and by household type that the contract authority is expected to support.

(2) The deadline date by which proposals must be received to be reviewed and selected in competition with all other proposals. Any proposals received after the deadline date will be considered for selection only if contract authority remains after the initial selection or may be held by the field office for later pipeline processing when additional contract authority becomes available.

(3) A statement that proposal requirements and review procedures are explained in the PHA packet which is available at the field office, that information and assistance will be available from the field office, and that public housing funds will not be made available to pay the cost of preparing a proposal unless the proposal is selected and the ACC executed. Developers or other interested parties will be advised that they can obtain PHA packets at the field office and that they should contact the appropriate PHAs for further information.

(d) *Conditional NOFA.* Field offices may issue NOFAs subject to the availability of contract authority at a later date. Proposals received in response to such NOFAs will be processed in accordance with the provisions of § 841.301, but notification of selection will not be sent unless contract authority becomes available.

(e) *Distribution.* Copies of the NOFA will be sent to each PHA, to minority and fair housing organizations and media in the allocation area and to applicable Areawide Planning Organizations.

Subpart B—Instructions for Preparation of PHA Proposal

§ 841.201 General.

The field office shall prepare a PHA packet that includes each of the items stated in this Subpart and any supplementary requirements the field office determines to be necessary to assist PHAs in preparing approvable proposals. A proposal to develop a public housing project shall comply with the requirements of the PHA packet to be considered for approval. A PHA may submit more than one proposal, provided that the total number of units in all proposals submitted by a PHA does not exceed the number of units stated in the NOFA.

§ 841.202 Eligibility Of The PHA.

(a) *Legal authority.* The proposal shall include evidence that demonstrates the PHA has the required legal authority to develop and operate the proposed public housing project.

(b) *PHA resolution.* The proposal shall include a PHA board resolution which authorizes submission of the proposal. The resolution shall state that the PHA has reviewed and will develop and operate the project in accordance with the applicable regulations and the ACC.

§ 841.203 PHA Administration.

(a) *Administrative plan.* The PHA's plan for the development and operation of the project shall include:

(1) A demonstration of the PHA's capability to provide adequate administration for the development and operation of the proposed project, and any other HUD-assisted projects, in compliance with all applicable HUD requirements.

(2) A proposed schedule for each important step in developing the project from proposal selection to completion of development, including the procedures to be used for contract administration during construction or rehabilitation of the project.

(3) A demonstration of the financial feasibility of the project by a showing that the Allowable Expense Level, computed in accordance with 24 CFR Section 890.101 et seq. will be equal to or greater than the estimated average operating expenses (less the cost of utilities and audit costs) for a reasonable operating period as determined by HUD.

(b) *Contracts entered into by the PHA.*

(1) The PHA shall not enter into any contract in connection with the development of a project without the prior written consent of the field office. Any such contract shall expressly state that the parties understand that HUD is under no obligation to provide funds for payments under such contract and that any development funds subsequently approved by HUD will be limited to purposes and amounts specifically approved by HUD as necessary for the development of the project.

(2) The PHA shall not, without the prior written approval of the field office, enter into any contract for services where the term (including renewals) exceeds two years or for any legal or other services in connection with litigation or into any contract for an amount in excess of the amount included for each purpose in the development cost budget or the operating budget for the project.

(3) Any contracts for design and inspection of a project, Construction Contracts or Contracts of Sale to be entered into by the PHA shall be in the form prescribed by HUD and shall receive the written approval of the field office prior to the execution by the PHA.

(4) Contracts entered into by the PHA shall provide that:

(A) Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276), shall be paid to all laborers and mechanics employed in the development of the project.

(B) Not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable state or local law) by HUD, shall be paid to all architects, technical engineers, draftsmen and technicians employed in the development of the project.

(c) *Civil rights and equal opportunity.* The development and operation of a projet shall comply with:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Executive Order 11063, and Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601);

(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(3) Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303), and applicable implementing regulations (24 CFR Part 130; 41 CFR, Chapter 60), rules and orders of HUD and the Office of Federal Contract Compliance Programs of the Department of Labor;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u);

(5) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101); and

(6) All HUD requirements with respect to discrimination in employment by the PHA or by contractors of the PHA.

§ 841.204 Local government support.

(a) *Cooperation agreement.* The proposal shall include an executed Cooperation Agreement or evidence that there is an outstanding Cooperation Agreement covering the number of units proposed.

(b) *Joint funding.* If applicable, the proposal shall include a commitment from the local governing body or other public or private entity to donate a site or to provide funding or other support to the project from community development block grant funds or other sources.

§ 841.205 Site (or property).

(a) *Location.* The proposal shall identify the location, including a map; describe the site's physical characteristics, size, any unusual features and zoning; describe the current racial and economic composition of the residents of the neighborhood; provide either evidence of present control of the site by the PHA (or turnkey developer) or evidence that the site is available and can be acquired.

(b) *Properties assisted under the Act.* Proposals involving properties already assisted under the Act may not be selected without the prior written approval of the Assistant Secretary for Housing.

(c) *Site and neighborhood standards.* Proposed sites shall comply with the following standards and the proposal shall explain how each site complies with the applicable standard.

(1) *Economy and Efficiency.* Each site shall be adequate in size, exposure and contour to accommodate the number and type of units proposed. Adequate utilities (water, sewer, gas and electricity) and streets must be available at each site prior to commencement of construction. The physical characteristics and cost of the site and the availability of utilities and access roads shall promote economical construction and operation of the project.

(2) *Low-density housing for families with children.* Projects approved under this Part for families with children, including large families (families requiring three or more bedrooms), shall to the maximum extent practicable consist of low-density housing (e.g., non-elevator structures, scattered sites or other types of low-density developments appropriate in the locality.)

(3) *Use of high-rise elevator structures.* High-rise elevator structures shall not be provided for families with children regardless of density unless the PHA demonstrates and the field office determines that there is no practical alternative. High-rise buildings for the elderly may be used if the PHA demonstrates and the field office determines that such construction is appropriate taking into consideration land costs, the safety and security of the prospective occupants, and the availability of community services.

(4) *Equal opportunity and fair housing requirements.*

(A) The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Excecutive Order 11063, and HUD regulations issued pursuant thereto.

(B) The site shall promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(C) For new construction projects only, the site shall not be located in an area of minority concentration unless (i) sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration, or (ii) the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. (An "overriding need" may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimnation on the basis of race, color, religion, creed, sex, or national origin renders sites outside areas of minority concentration unavailable.)

(D) For new construction projects only, the site shall not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

5. *Facilities and services.* The site shall be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services required by the tenants. Travel time and cost via public transportation or private automobile from the site to places of employment providing a range of jobs for lower-income workers must not be excessive.

(6) *Housing Assistance Plan (HAP) requirements.* The site must be consistent with the HAP.

(7) *Environmental requirements.* The site shall be consistent with the requirements of the National Envrionmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the National Historic Preservation Act (Pub. L. 89-665), the Archeological and Historic Preservation Act of 1974 (Pub. L. 93-291), Executive Order 11593 on Protection and Enhancement of the Cultural Environment (including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800), the Clean Air Act (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.) and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

§ 841.206 Relocation.

(a) *Uniform Act.* The proposal shall include a statement of the PHA's intent to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) (42 U.S.C. 4601) and related HUD policies and requirements thereunder (24 CFR Part 42).

(b) *Issuance of notices.* For the purposes of 24 CFR 42.65(b), the date of initiation of negotiations shall be:

(1) For the conventional or acquisition method, the date of the PHA's written offer to the owner for the amount determined to be just compensation for the property. The offer shall not be made prior to execution of the ACC.

(2) For the turnkey method, the date of HUD execution of the ACC.

(c) *Relocation requirements.* If relocation is involved, the proposal shall identify the site occupants and shall state the PHA's proposed distribution of notices of displacement and of right to continue in occupancy and the anticipated relocation costs.

(d) *Uniform Act costs.* The cost of compliance with the Uniform Act, as well as the actual reasonable moving expenses of families which are temporarily moved from a project site during construction and returned to the site after completion, may be included in development cost.

§ 841.207 Projects design and development.

(a) *Development method.*

(1) The proposal shall state the development method and housing type (a proposal may not combine new construction, substantial rehabilitation and existing housing). Unless the field office has determined the development method to be used, the proposal shall state the reasons why the PHA has selected the turnkey or conventional method as appropriate for the project, including consideration of such factors as total development cost, sites, construction financing, control over design and construction, size of project, emphasis on use of local contractors and PHA administrative capability.

(2) The qualifications and previous experience of the PHA, the developer, the design and inspecting architects and other known participants shall be stated.

(b) *Project description.*

(1) The proposal shall state the number of units by household type and provide evidence that these are consistent with any applicable HAP.

(2) The proposal shall state the number and types of structures, the number of stories, structural system, exterior finish, utilities, heating system, number of units by bedroom size, living areas and composition for each size unit and any special features. Any non-dwelling facilities or special services to be provided shall be described.

(3) Depending on the development method, the proposal shall incude: (A) For turnkey projects, outline specifications and drawings of the site, buildings and units. (B) For acquisition of existing properties, a statement of the extent of repair work to be done after purchase of the properties. (C) For conventional projects involving substantial rehabilitation, preliminary work write-ups.

(4) The proposal shall describe the equipment to be included, such as ranges and refrigerators, and state whether the equipment will be provided by the PHA.

(c) *Construction and rehabilitation standards.* The proposed design shall comply with the HUD Minimum Property Standards (24 CFR Part 200, Subpart S), HUD Minimum Design Standards for Rehabilitation for Residential Properties, as applicable, any additional housing program standards defined by the field office as prescribed by Section 6(b) of the Act, and applicable state and local requirements.

§ 841.208 Development cost.

(a) *Development cost estimate.*

(1) The proposal shall include an estimate of total development cost in accordance with HUD requirements.

(A) For conventional projects involving substantial rehabilitation, the proposal shall include detailed cost estimates based on the preliminary work write-ups.

(B) For turnkey projects, the developer's proposed price shall be separately stated to include site acquisition and improvements, construction and equipment, construction financing, legal, architectural and engineering fees, and other project work to be included in the Contract of Sale.

(2) The cost of off-site facilities shall be determined as follows: (A) Where the project would be required to bear a part or all of the cost of off-site facilities as if it were a private development, the cost of such facilities may be included in the total development cost; provided that the field office determines that the off-site facilities are a necessary appurtenance to the project and the amount included is limited to the lower of: (i) the HUD-approved estimate of the cost of such facilities, or (ii) the increase in value of the project site because of such facilities. (B) Where the cost of off-site facilities is required to be borne by the local government without cost to the project, whether because of normal practice or because of the Cooperation Agreement, the cost of such facilities may not be included in total development cost, but the field office may arrange for a HUD loan evidenced by an off-site facilities note; provided that the field office determines that the off-site facilities are a necessary appurtenance to the project and the amount is limited to the lower of: (i) the HUD-approved estimate of the cost of such facilities, or (ii) the increase in value of the project site because of such facilities; and provided, that the PHA submits legally enforceable commitments, acceptable to HUD, to repay the cost of such facilities from sources other than annual contributions or project income.

(b) *Cost limits.*

(1) The field office shall include in the PHA packet a statement of maximum dwelling construction and equipment cost that may be included in a proposal. The statement shall be determined as follows:

(A) The prototype cost limit in effect at the date of publication of the NOFA (or at the date pipeline processing is resumed);

(B) Multiplied by a trending factor (designated by the Assistant Secretary for Housing) to reflect cost increases anticipated between publication of the NOFA (or between resumption of pipeline processing) and the date by which the field office anticipates the Construction Contract or the Contract of Sale is to be executed.

(2) A proposal stating estimated dwelling construction and equipment cost that exceeds the stated maximum will not be considered responsive and will be rejected.

(3) At the date of execution of the Construction Contract or the Contract of Sale the dwelling construction and equipment cost of the project may not exceed the prototype cost limits in effect at that date, except that the field office may approve costs that are no more than 110 percent of the prototype cost limits.

Subpart C—Proposal Selection and Project Development

§ 841.301 Proposal review and selection.

(a) *Initial screening.*

(1) The field office shall perform an initial screening of each proposal received prior to the deadline to determine the eligibility of the PHA and whether the proposal is complete and

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responsive to the PHA packet. The contents of a proposal shall remain confidential until sent by the field office to the A–95 clearinghouse or local government for review.

(2) The field office shall advise the PHA in writing of any deficiencies in the proposal and that additions or changes will be accepted if they are received on or before a specified date (generally 10 calendar days from the date of the request for additional information). If the deficiencies are not corrected within the specified time, the field office shall notify the PHA that the proposal is rejected.

(b) *Technical processing.*

(1) The field office shall send a copy of each proposal subject to A–95 clearance to the appropriate clearinghouse for review, inviting a response within 30 calendar days from the date of the transmittal letter.

(2) The field office, in compliance with section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301), shall forward a notification to the Chief Executive Officer (or designee) of the unit of general local government and shall invite a response within 30 calendar days from the date of the notification letter.

(3) The field office shall evaluate the proposal to determine compliance with all requirements of the PHA packet, and the comments, if any, received from the appropriate A–95 clearinghouse and the unit of general local government.

(c) *Tentative Selection.* Where there are not sufficient funds in an allocation area to select all proposals determined to be approvable after technical processing, the field office shall select the best proposals (comparing elderly and non-elderly proposals separately) on the basis of the following factors:

(1) Site and location;

(2) Project design;

(3) Ability of the PHA, and the architect or developer to perform;

(4) A–95 and Section 213 comments;

(5) Project cost;

(6) Extent of displacement;

(7) Scattered site family housing;

(8) Housing to be developed in part with local funds;

(9) Proposal for localities which have previously been underfunded relative to their needs; and

(10) If necessary, the adjustments required to reasonably approximate the maximum number of units that can be approved with the available contract authority.

(d) *NEPA and appraisal.* Prior to final selection and notification to PHAs, the field office shall complete an environmental review in accordance with the requirements of the National Environmental Policy Act of 1969 and shall obtain a site or property appraisal for all proposals identified for selection. The review and appraisal may result in a change in the identification of the proposals that were tentatively selected.

(e) *Selection of proposals.*

(1) The field office shall consider the applicable requirements of 24 CFR Part 891 before selecting proposals.

(2) The field office shall send a notification letter to the PHA stating that the proposal has been selected and indicating the approved total development cost and appraised value of the site or property. The letter shall state that the ACC is being prepared for execution and identify actions required to be completed by the PHA prior to execution of the ACC. The PHA also will be advised that funds will not be advanced by HUD prior to execution of the ACC.

(f) *Proposals not selected.*

(1) The field office shall send a notification letter to each PHA whose proposal was not selected with a statement of the reasons for non-selection.

(2) For approvable proposals considered suitable for inclusion in the pipeline, the letter shall state that the PHA may request that the field office hold the proposal in the pipeline for possible future processing in accordance with Section 841.105.

§ 841.302 ACC execution and advances.

(a) *Execution of ACC.* An ACC based on the HUD-approved proposal shall be prepared by the field office and shall be executed by the PHA and HUD. No modifications may be made in the HUD-approved proposal except in accordance with the procedures prescribed by HUD.

(b) *Increase in development cost.* The ACC shall state the estimated total development cost of the project. No increase in the total development cost stated in the ACC may be made at any subsequent stage unless additional funds are allocated to the project in accordance with HUD procedures. The PHA shall not make any commitment to pay costs in excess of the development cost budget prior to amendment of the ACC.

(c) *Development advances.*

(1) No funds are to be advanced prior to execution of the ACC.

(2) For projects being developed under the conventional or acquisition methods, advances for administrative, planning and site control shall be limited to $400 per unit until purchase of the site by the PHA. Where substantial rehabilitation is involved, an additional $600 per unit may be advanced for these costs and for preparation of construction documents.

(3) For projects developed under the turnkey method, advances for administrative and planning purposes shall be limited to $200 per unit until purchase of the project by the PHA.

(4) Subsequent advances will be made in accordance with the HUD procedures as development proceeds.

(d) *Termination of advances.* The HUD-approved proposal shall include a schedule of dates by which the PHA proposes to develop the project and the ACC shall provide that in the event there is a failure to meet this schedule, HUD may terminate advances.

(e) *Repayment.* In the event the PHA defaults on its obligations stated in the ACC with regard to development of the project, the amount of advances made to the PHA shall be repaid by the PHA from any funds or assets available for this purpose.

§ 841.303 Preparation of construction documents and execution of contracts.

(a) *Conventional method.* The PHA shall purchase the site for new construction; for substantial rehabilitation, the purchase of the property shall not occur until field office approval of the construction documents. The PHA's architect shall prepare the construction documents in accordance with HUD criteria for approval by the PHA and the field office. The PHA and the field office shall reach agreement on the estimated total developed cost. The PHA shall advertise for bids and select the lowest responsible bidder, subject to field office approval. The Construction Contract (on a HUD form) shall be executed between the PHA and the contractor. The PHA shall issue a notice to proceed with construction in accordance with the Construction Contract and the construction documents.

(b) *Turnkey method.* The developer shall prepare the construction documents in accordance with HUD criteria for approval by the PHA and the field office. The developer's final price, as negotiated on the basis of the construction documents and appraisal of the site or property, shall not exceed the lesser of the developer's proposed price or the HUD estimates of construction costs. The PHA and the field office shall reach agreement on the estimated total development cost. The Contract of Sale (on a HUD form) shall be prepared and executed between the PHA and the developer. The developer shall proceed to construct or rehabilitate the project in accordance with the Contract of Sale and construction documents.

(c) *Acquisition method.* Where the property was not identified in the PHA proposal, the PHA shall select the individual property and obtain field office approvals of the property prior to purchase. The PHA shall purchase the property, complete the construction documents in accordance with HUD criteria for approval by the field office and reach agreement with the field office as to the method of completing required work. The PHA and the field office shall reach agreement on the estimated total development cost. The PHA shall obtain field office approval prior to execution of contracts for work in excess of $10,000.

§ 841.304 Construction requirements.

(a) *Economy.* The PHA shall complete development of the project at the lowest possible cost consistent with standards for design and construction, not to exceed the total development cost approved by the field office, in accordance with the approved proposal and development schedule.

(b) *Changes in contracts.* The PHA shall not agree to any changes or additions to the work required under the Construction Contract or Contract of Sale or as agreed to under the acquisition method, except as authorized by the provisions of these contracts or with prior field office approval.

(c) *Contract administration.* The PHA shall be responsible for contract administration and shall contract for the services of an architect, or other person licensed under state law, to perform services to assist and advise the PHA in contract administration to assure that the work is being done in accordance with the procedures and schedule in the HUD-approved proposal. The PHA shall forward copies of construction reports on the work to the field office with comments on actions taken to remedy any deficiencies. A field office representative shall periodically visit the site to monitor the PHA's contract administration.

(d) *Acceptance of work and contract settlement.*

(1) The contractor or developer shall notify the PHA in writing when the contract work, including any approved off-site work, will be completed and ready for inspection. No work shall be accepted by the PHA without HUD approval. The final inspection shall be made jointly by representatives of the PHA, the field office and the contractor or developer.

(2) If upon inspection, the PHA and the field office determine that the work is fully complete and satisfactory, except for work that is appropriate for delayed completion, the work shall be accepted. The PHA shall determine any hold-back for items of delayed completion, the amount due and payable for the work that has been accepted and compliance with any conditions precedent to payment that are stated in the Construction Contract or Contract of Sale. The field office shall review and, if acceptable, approve the PHA's determination that the work may be accepted and the amount to be paid to the contractor or developer.

(3) The contractor or developer will be paid for items of delayed completion only after inspection and acceptance of this work by the PHA and the field office.

(e) *Guarantees and warranties.* The Construction Contract or Contract of Sale shall specify the project guaranty period and shall provide for assignment to the PHA of all warranties required by the construction documents. The PHA shall inspect each dwelling unit and the project in general approximately three months after the beginning of the project guaranty period and three months before its expiration and also as may be necessary to exercise rights before expiration of any warranties. The PHA shall require repair or replacement, prior to the expiration of the guaranty or warranty periods, on any defective items.

§ 841.305 Completion of development.

(a) *Initial operating period.* Total development cost shall include an amount for PHA expenses of operation during an initial operating period commencing with the date of execution of the ACC and ending on the date established by the field office.

(b) *Actual development cost.* When all development has been completed and paid for, but not later than 12 months after the end of the initial operating period unless a longer period is approved by the field office, the PHA shall submit a statement of the actual development cost. The Field Office shall review the statement and determine the actual development cost of the project.

Issued at Washington, D.C., July 18, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 79-24525 Filed 8-8-79; 8:45 am]

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Thursday
August 9, 1979

Part III

Department of Housing and Urban Development

Office of the Secretary

Procedure for Floodplain Management and the Protection of Wetlands; Implementation of Executive Orders 11988 and 11990

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 55]

[Docket No. R-79-692]

Procedure for Floodplain Management and the Protection of Wetlands—Implementation of Executive Orders 11988 and 11990

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed Rule—Notice of Draft Procedure.

SUMMARY: This proposed rule prescribes policies and procedures to be used by the Department of Housing and Urban Development for implementing Executive Order 11988 on Floodplain Management and Executive Order 11990 for the Proctection of Wetlands. The Department will consider comments from the public and other governmental agencies in preparing a final rule. The proposal described in the notice may be changed in the light of comments received.

DATE: Comments must be received on or before November 10, 1979.

ADDRESS: All comments should be sent to Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendations. Copies of all written comments received wil be available for examination by interested persons at the above address from 8:45 a.m. to 5:15 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Prybla, Office of Environmental Quality, 202/755-3409.

SUPPLEMENTARY INFORMATION: The U.S. Water Resources Council's Floodplain Management Guidelines for Implemonting Executive Order 11988 (43 FR 6063, February 10, 1978).

Background

Executive Order 11988, Floodplain Management

That Order, signed May 24, 1977, revoked and replaced Executive Order 11296 issued August 10, 1966. The new order requires all executive agencies to protect the values and benefits of floodplains and to reduce risks of flood losses by not conducting, supporting or allowing action located in floodplains unless it is the only practicable alternative. Agencies are to use available floodplain maps of the Federal Insurance and Hazard Mitigation Agency (formerly Federal Insurance Administration) or other available floodplain information in order to make these judgments. If the agency determines that its actions must be located in the floodplain then it must minimize potential harm to the floodplain. It must notify state and local governments of its action, state how the action is compatible with state and local floodplain protection laws, and identify the alternatives that were considered. Floodplains must also be taken into account in agency requests for authorization for Federal programs. The Order requires Federal agnecies to manage their property and to floodproof their facilities in accordance with the same standards and criteria that have been adopted under the National Flood Insurance Program.

Executve Order 11990, Protection of Wetlands

That Order, signed May 24, 1977, requires all executive agencies to refrain from supporting construction in wetlands wherever there is a practicable alternative. The Order established a Federal policy for the conservation and protection of wetlands, and directs Federal agencies to take certain steps to avoid to the extent possible the long and short term impacts associated with the destruction or modification of wetlands. If the head of a Federal agency finds that there is no practicable alternative to the use of wetlands for a project, the agency must act to reduce the adverse impacts on the wetlands. Each agency is also required to provide opportunity for early public review of any plans or proposals to alter wetlands. The order applies to direct Federal construction in wetlands, to federally financed or assisted construction in wetlands, and to the uses of wetlands on Federally-owned property.

24 CFR Part 55

HUD proposes to add a new Part 55 to Title 24 of the CFR by this notice of proposed rulemaking. This notice provides the Department's proposed procedure to implement Executive Order 11988 on Floodplain Management and Executive Order 11990 for the Protection of Wetlands, hereinafter referred to as Orders. The Department's previous issuances (44 FR 12857, March 8, 1979; 44 FR 30273, May 24, 1979) made reference to the Orders. Existing regulations, policies, standards, issuances and operating instructions including program handbooks, application and agreement forms of the various HUD programs will be amended to conform with this Part.

Under this procedure, the Department or CDBG recipient will review each proposed action to which this Part applies to determine if it is to be located in or appreciably affects a floodplain or wetland. If it is, the reviewer will notify and involve the public, identify alternatives, identify adverse impacts, develop strategies for minimizing potential impacts, re-evaluate the action in light of information gathered, and notify the public of the decision concerning the project, if approved. The reviewer will consider criteria developed by the Water Resources Council in making a decision. Examples of actions to which these procedures are not applicable include most insurance actions involving single family housing, existing housing assistance payment programs, training, technical assistance and most planning grants, and other primarily procedural or administrative requirements of the Department. The coverage of inapplicable activities shall be accomplished to the extent practicable, through the incorporation of appropriate criteria and standards in the program regulations affecting such activities.

Under this procedure, all actions that are undertaken are to be in accordance with the previously mentioned Orders and with the general principles of the following: (a) Unified National Program for Floodplain Management, Water Resources Council, 1976; (b) Executive Order 11514, Protection and Enhancement of Environmental Quality; and (c) Office of Management and Budget Circular A-95.

The Department has determined that an environmental impact statement and a regulatory analysis are not required with this rule. A copy of these findings is available for inspection in the Office of the Rules Docket Clerk at the address provided above.

Accordingly, it is proposed to add a new Part 55 to Title 24 of the CFR to read as follows:

PART 55—HUD PROCEDURE FOR FLOODPLAIN MANAGEMENT AND THE PROTECTION OF WETLANDS

Sec.

55.1 Purpose and authority.
55.2 Policy and applicability.
55.3 Procedures.
55.4 Responsibilities.
55.5 [Reserved]
55.6 Definitions.

§ 55.1 Purpose and authority.

This part describes the specific means by which the Department of Housing and Urban Development will conduct its programs so as to meet the objectives of Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. These Orders were issued May 24, 1977 and direct each agency to prescribe procedures to implement the policies and requirements of these Orders.

§ 55.2 Policy and applicability.

It is the policy of HUD programs to apply requirements of the two Executive Orders to all HUD programs and projects in the following manner:

(a) For all projects subject to an environmental review in accordance with "Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality" (38 FR 19182, July 18, 1973, as amended) (see 24 CFR Part 50), compliance with procedures and other requirements of the Executive Orders shall be accomplished as part of the environmental review and shall be completed prior to the decision points specified in Appendices A-1 and A-2 of the environmental policy.

(b) For all projects subject to the "Environmental Review Procedures: Community Development Block Grant Program" (CDBG) (24 CFR Part 58), compliance with the procedures and other requirements of the Executive Orders shall be accomplished by the applicant as part of the environmental review in accordance with the specifics stated in 24 CFR 58.23, Floodplains and Wetlands.

(c) Coverage of the activities listed below shall be accomplished, to the extent practicable, through the incorporation of appropriate criteria and standards in the program regulations affecting such activities, and this Part shall not apply to them. These include: (1) Section 5.a.(1) (see Footnote No. 1); (2) Section 5.c.(2) (see Footnote No. 2) of the Departmental environmental procedures; (3) multifamily property disposition actions described in Section 5.d.(6)(i) excepting compliance with Section 3(d) of Executive Order 11988; and (iv) types of projects identified in 24 CFR 58.21 (see Footnote No. 3) of CDBG environmental procedures.

(d) New programs not covered by paragraphs (a), (b), or (c) of this section shall be referred to the Assistant Secretary for Community Planning and Development (CPD) for a decision on the appropriate methods of applying the executive orders, until this part can be amended, to take such new programs into account.

(e) Major amendatories to previously-approved projects are subject to the executive orders. Otherwise, projects which have passed the decision points contained in Appendices A-1 and A-2 of "Departmental Policies, Responsibilites and Procedures for Protection and Enhancement of Environmental Quality (38 FR 19188 July 18, 1973, as amended) (see 24 CFR Part 50) and CDBG projects for which HUD has approved the release of funds (24 CFR 58.31) shall not be subject to retroactive review.

(f) Under this procedure, all actions that are undertaken are to be in accordance with the general principles of the following: (1) Unified National Program for Floodplain Management, Water Resources Council, 1976; (2) Executive Order 11514, Protection and Enhancement of Environment Quality; and (3) Office of Management and Budget Circular A-95.

§ 55.3 Procedures.

To the maximum extent feasible, compliance with the executive orders shall be carried out as an integral part of the environmental review procedures identified in § 55.2; separate and duplicative processing shall be avoided wherever possible.

(a) Prior to taking any action which is subject to this Part, HUD or the CDBG applicant shall undertake a decisionmaking process which includes the following:

(1) Determine whether the proposed action is located in a wetland and/or the 100-year floodplain (or a larger floodplain for critical actions); or whether it has the potential to appreciably affect or be appreciably affected by a floodplain or wetland;

(2) In accordance with public notice instructions contained below, notify the public at the earliest possible time of the intent to carry out an action appreciably affecting or appreciably affected by a floodplain or wetland, and involve the broadest affected and interested public in the decisionmaking process;

(3) Identify and evaluate practicable alternatives to locating in a floodplain or wetland (including alternative sites outside the floodplain or wetland; alternative actions which serve essentially the same purpose as the proposed action, but which have less potential to affect the floodplain or wetland adversely; and the "no action" option);

(4) Identify the full range of potentially appreciably direct or indirect adverse impacts associated with the occupancy or modification of floodplains and wetlands and the direct and indirect support of floodplain and wetland development that could reasonably be expected to result from the proposed action, and consider factors relevant to the proposal's effect on wetlands in accordance with Section 5 of the Executive Order 11990. In determining the practicability of alternatives, analyze the following factors: (1) Natural environment (topography, habitat, hazards, etc.); (2) Social concerns (aesthetics, historical and cultural values, land use patterns, etc.); (3) Economic aspects (costs of space, construction, transportation services and relocation); and (iv) Legal constraints (deeds, leases, etc.).

(5) Minimize the potential impacts affecting floodplains and wetlands that are identified under paragraph (a)(4) of this section, restore and preserve the natural and beneficial values served by floodplains, and preserve and enhance the natural and beneficial values served by wetlands; mitigate in accord with the standards and criteria set forth in Section 3(a) of Executive order 11988;

(6) Re-evaluate the proposed action to determine first, if it is still practicable in light of its exposure to flood hazards and its potential to disrupt floodplain and wetland values and, second, if alternatives rejected at paragraph (a)(3) of this section are practicable in light of the information gained in paragraph (a)(4) and (5) of this section. If, after compliance with the requirements of this Part, new construction of structures or facilities are to be located in a floodplain or wetland, accepted floodproofing and other measures shall be applied to new construction or rehabilitation. To achieve flood protection, wherever practicable structures shall be elevated above the flood level rather than filling in land in compliance with Section 3(b) of Executive Order 11988;

(7) Prepare, and provide the public with, a finding and public explanation of any final decision that there is no practicable alternative to locating an action in or appreciably affecting the floodplain or wetland; and

(8) Review the implementation and post-implementation phase of the proposed action to ensure that mitigation requirements are fully implemented.

(b) In addition to project specific reviews, program managers shall have the option to apply sectoral, areawide, or community reviews in applying the executive orders. These efforts shall be

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coupled with areawide environmental impact statements.

(c) In making determinations under paragraphs (a) and (b), of this section, the reviewer shall consider the Floodplain Management Guidelines prepared by the Water Resources Council and published February 10, 1973, at 43 FR 6030.

(d) Program managers shall incorporate these procedures, or suitable variations thereof, in their program processing handbooks and regulations, subject to the review and approval of the Assistant Secretary for CPD.

(e) HUD need not carry out the procedure specified in this Part where another Federal agency has complied with the special procedures required under the Executive Orders on an areawide or project basis, where previous compliance covered the type, character and location of the action proposed by HUD or for HUD approval. Specifically, the HUD proposal must be substantially consistent with the number of units, densities, and uses contemplated as the previous review. Floodplain conditions and data must not have changed appreciably. This paragraph (e) will be effective only where processing has been carried out pursuant to another agency's procedures which have been published as a final rule.

(f) At the earliest possible time HUD and CDBG applicants shall provide adequate information to give the public an opportunity to comment on action appreciably affecting or affected by floodplains or wetlands. Notices for earlier public review pursuant to Section 2(a)(4) of Executive Order 11988 and Section 2(b) of Executive Order 11990 as well as notices of findings and explanation to public of the final decision pursuant to Section 2(a)(ii) and 2(a)(3) of Executive Order 11988 shall be published in a local newspaper of general circulation serving the project area. These notices shall be combined with environmental, A–95, and other notice requirements as much as practicable. For actions having national significance, which should be very infrequent in HUD programs, the Federal Register shall be the minimum means for notice. For actions described in § 55.2(c) and having primarily local importance, notices may entail, as appropriate and practicable, A–95 notification or a range of media notifications, postings, and direct mailings. The A–95 notification process is described in HUD Regulations on the "Implementation of OMB Circular No. A–95 (44 FR 18868 on March 29, 1979).

(g) Prior to the decision point in Appendices A–1 or A–2 of "Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality (38 FR 19188, July 18, 1973, as amended) (see 24 CFR Part 50) or prior to execution of the certification required by 24 CFR 58.30(c) of the "Environmental Review Procedures for the Community Development Block Grant Program (CDBG), HUD or the CDBG applicant pursuant to Section 4 of Executive Order 11988 shall inform any private party participating in the transaction (such as a homebuyer or redeveloper) of the hazards of locating structures in the floodplain.

(h) Compliance with Section 3(d) of Executive Order 11988 shall be required for disposition of HUD acquired properties and for the disposition of property acquired by CDBG applicants with Federal funds.

§ 55.4 Responsibilities.

(a) The Assistant Secretary for CPD shall have overall responsibility for the application of the executive orders to HUD programs. He shall maintain liaison on these matters with Water Resources Council, the Federal Insurance and Hazard Mitigation Agency of FEMA, and the Council on Environmental Quality. He shall monitor the implementation activities of the HUD program managers. He is responsible for monitoring and compliance activities under the CDBG program and shall provide appropriate technical assistance and advice to CDBG applicants. He shall also have the authority to review and approve any implementing regulations and procedures issued by other units of the Department.

(b) All other program managers shall carry out their programs in a manner consistent with these regulations.

§ 55.5 Definitions.

The following terms and definitions shall apply, as appropriate, to this part and to all program implementing procedures and regulations.

"Base Flood" means the flood that has a one percent or greater statistical chance of being equalled or exceeded in any given year.

"Base Floodplain" means the floodplain area that would be inundated by the selected base flood, typically by the one percent recurrence probability flood.

"CDBG" (Community Development Block Grant Program) means all programs authorized under Title I of the Housing and Community Development Act of 1974 as amended. For example, this includes the Urban Development Action Grant (UDAG) Program.

"Critical Action" means any activity involving structure or facility use or function for which there would be an unacceptable potential for catastrophic loss or risk to human safety.

"Emergency Actions" means emergency work essential to save lives and protect property and public health and safety performed under Sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146).

"Enhance" means to increase, heighten or improve the natural and beneficial values associated with wetlands.

"Executive Orders" means Executive Orders 11988, *Floodplain Management*, and 11990, *Protection of Wetlands* (Signed May 24, 1977).

"Facility" means any man-made or man-placed item other than a structure as defined in this section.

"Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Fringe" means that portion of the floodplain outside of the floodway (often referred to as "floodway fringe").

"Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands. A floodplain, at a minimum, includes that area subject to a one percent or greater statistical chance of flooding in any given year. Based upon the degree of risk present, floodplains involving critical actions may be defined as having a change of flooding that is less than one percent in any given year.

"Floodproofing" means the modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out, or to reduce adverse effects in the event of water entry.

"Floodway" means that portion of the geologic floodplain defined optimally by consideration of all of the following factors: (1) Needs to convey floodwaters without excessive backwater effects; (2) possibility for excessive flood risk, especially potentially catastrophic risk; (3) unacceptable impedance of potential flood discharges; (4) potential legal liability for induced backwater effects of encroachments onto the floodplain; (5) potential adverse environmental consequences of modifications or encroachments onto the floodplain; (6)

local public needs for open space that might best be fulfilled within the floodplain; (7) existing public and private rights within the floodplain; and (8) the comparative significance of channel and floodplain storage of floodwaters. Locally defined and locally regulated floodways, whether or not optimally defined, must be observed by all site-specific HUD programs.

"Functionally-dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

"Minimize" means to reduce to the greatest extent practicable.

"Natural Values of Floodplains and Wetlands" means the qualities of or functions served by floodplains and wetlands which include but are not limited to: (1) Water resource values (natural moderation of floods, water quality maintenance, groundwater recharge); (2) living resource values (fish, wildlife, plant resources and habitats); (3) cultural resource values (open space, natural beauty, scientific study, outdoor education, recreation); and (4) cultivated resource values (agriculture, aquaculture, forestry).

"Practicable" means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of all pertinent factors, including environment, cost, benefit, social acceptability and available technology.

"Preserve" means to prevent modification of wetlands or natural floodplain environments, or to maintain them as closely as practicable to their natural or current states.

"Regulatory Floodway" means the area regulated by Federal, State or local requirements to provide for the discharge of the base flood. A regulatory floodway should be defined in accordance with the foregoing definition of Floodway.

"Restore" means to reestablish to the extent practicable a setting or environment in which natural functions of the floodplain can operate.

"Structures" means walled or roofed buildings, including auxiliary buildings, mobile homes and gas or liquid storage tanks.

"Support" means to encourage, allow, serve or otherwise facilitate floodplain or wetland development. Direct support results from actions within a floodplain or wetland, and indirect support results from actions outside of floodplains or wetlands.

"Wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support, and that under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs and similar areas such as sloughs, kettles, prairie potholes, wetmeadows, river overflows, mud flats, and natural ponds.

Issued at Washington, D.C., on July 18, 1979.

Patricia Roberts Harris,

Secretary of Housing and Urban Development.

Footnotes

Footnote #1

Relevant lines of § 5.a.(1) of Chapter 2 of the "Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality" (38 FR 19185, July 18, 1973, as amended) (see 24 CFR Part 50) read as follows: (1) *Exemptions.* Although HUD's general policy on environmental considerations applies to all HUD actions, the procedural requirements for environmental clearances set forth in this paragraph shall not apply to those HUD actions which have been determined not to be "major Federal actions significantly affecting the quality of the human environment. These shall include an individual action on a one-to-four family dwelling, training grants and, under some conditions, rehabilitation and/or modernization projects. Rehabilitation or modernization projects are exempt from these procedures unless they result in any of the following effects: (1) Increase the number of dwelling units per acre by more than 20%; or (2) change land uses from residential to nonresidential or from nonresidential to residential; or (3) change one class or residential land use to another class or residential land use; or (4) involve a cost of rehabilitation or modernization which exceeds 75% of the replacement cost of the property after rehabilitation or modernization * * * Planning assistance projects (701 Comprehensive Planning Assistance grants and other planning loans and grants) are exempted from the procedural requirements, but in lieu thereof an environmental assessment of the final planning product shall be required as part of the proposed planning program * * * With respect to disaster relief and emergency activities of the Department, procedures for environmental clearance shall not apply to actions designed to meet the temporary housing needs of the affected population. Disaster activities which provide permanent housing and other recovery efforts will follow the environmental clearance procedures. However, where required by the serious nature of the situation and upon the approval of the Assistant Secretary for CPD, activities such as disaster related early land acquisition, clearance of damaged structures and relocation efforts may take place prior to the completion of the environmental review * * * Except for these exemptions, all HUD actions must undergo one or more environmental clearances.

Footnote #2

Relevant lines from Section 5.c.(2) of Chapter 2 of the "Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality" (38 FR 19186, July 18, 1973, as amended) (see 24 CFR Part 50) read as follows: (2) *Policy actions (legislation, regulations, policy and guidance documents).* Special Environmental Clearance for legislative proposals, proposed regulations, policy issuances such as handbooks, circulars, standards, and proposed revisions to existing program policies, procedures, standards, criteria and other guidance consists of determining whether or not an Environmental Impact Statement shall be required. Certain categories of policy and guidance documents and regulations which are clearly unrelated to environmental concerns need not undergo environmental clearance. These include internal administrative procedures, accounting and fiscal allocation instruction, brochures and pamphlets for public information, internal personnel policies and procedures, and other actions which, in the determination of the program Environmental Clearance Officer designated by the appropriate Assistant Secretary or Administrator, have no potential for significantly affecting the quality of the environment.

Footnote #3

Proposed 24 CFR 58.21 entitled "Exempted Activities and Categorical Exclusions" of "Environmental Review Procedures: Community Development Block Grant Program (CDBG)" (24 CFR Part 58) reads as follows: (a) *Activities exempt by statute.* The following activities, to the extent eligible for assistance under Title I, are exempt from the requirements of this part: (1) Environmental studies or assessments; (2) Activities authorized by Section 105(a)(12) of Title I and 24 CFR 570.205; (b) *Categorical exclusions.* Activities and projects (see definition § 58.3) and aggregation requirements of § 58.5(d) which consist solely of the following kinds of activities shall be categorically excluded (see definition § 58.3(b)) from the requirements of this Part: (1) Administrative costs as provided by 24 CFR 570.206 and 571.206. (2) The payment, under authority to Section 105(a)(10) of Title I, of principal and interest on outstanding urban renewal project loans as defined in 24 CFR 570.800(b) where such payment is not covered by § 58.20 or where such payment is not associated with a change in the related urban renewal project. (3) The payment, under authority of Section 108(c) of Title I, of principal and interest due on notes or other obligations guaranteed pursuant to Section 108; and the repayment, under authority of Section 108, and the repayment, under authority of Section 108(e), due the United States as a result of guarantees made pursuant to Section 108. (4) The payment of Engineering and design costs associated with an activity eligible under 24 CFR 570.201 through 570.204. (5) Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements eligible under §§ 570.201(c) and 571.201(c) and economic development activities authorized

pursuant to §§ 570.203 and 571.203, subject to the following limitations: (i) Acquisition for continued use. The article to be acquired is in place and will be retained in the same use that existed at the time of acquisition, without change in size, capacity or character. (ii) Acquisition, construction, reconstruction or installation for replacement or upgrading. The article will replace or upgrade a substantially identical original article, without more than a minimal change in its use, size, capacity, or location (e.g. replacement of water or sewer lines reconstruction of curbs and sidewalks repaving streets, and modification of buildings to provide access for elderly and handicapped persons).

[FR Doc. 79-24549 Filed 8-8-79; 8:45 am]
BILLING CODE 4210-01-M

federal register

Thursday
August 9, 1979

Part IV

Department of Housing and Urban Development

Office of Assistant Secretary for Fair Housing and Equal Opportunity

Compliance Procedures for Affirmative Fair Housing Marketing

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 108

[Docket No. R-79-701]

Compliance Procedures for Affirmative Fair Housing Marketing

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This Final Rule establishes a comprehensive review procedure for determining applicant compliance with Affirmative Fair Housing Marketing Plans submitted to HUD, and assuring compliance with the Department's Affirmative Fair Housing Marketing requirements. It makes final, with certain changes, a proposed rule published at 42 FR 5097 on January 27, 1977.

EFFECTIVE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Marianne Freeman, Special Assistant, Assistant Secretary for Fair Housing and Equal Opportunity, room 5240, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone: 202-755-7007.

SUPPLEMENTARY INFORMATION: The purpose of these regulations is to establish a process to implement the Department's Affirmative Fair Housing Marketing (AFHM) Regulations (24 CFR 200.600 et seq.) by establishing a comprehensive compliance procedure which would provide all applicants subject to AFHM requirements advance information as to Departmental procedure to assure compliance with AFHM Regulations. Notice of a proposed amendment to Title 24 to include a new Part 108 was published in the **Federal Register** on January 7, 1977 (42 FR 5097) and comments were received from interested persons and organizations. Consideration has been given to each comment.

In response to a comment received, appropriate revisions in this regulation were made to reflect clearly the amendment of Title VIII to prohibit discrimination based on sex (Housing and Community Development Act of 1974, Public Law 99-383) and the AFHM Regulations as amended on May 8, 1975 (40 FR 20080).

A group of fair housing organizations that filed their comments jointly suggested that the process of evaluating applicants' AFHM plans (Section 108.4 of the proposed regulations) should be initiated earlier, and requested that the regulations be rewritten to require that applicants file a "Notification of Intent to Begin Marketing" and submit evidence at that time of compliance with the plans as approved. These organizations also requested that the show cause procedure to determine compliance be eliminated, and that a full compliance review be conducted when evidence submitted at this time, or in any reports required, would appear to indicate noncompliance.

Although the comments of this group of fair housing organizations were not totally adopted as submitted, most of the comments have been incorporated in the regulation. Notification of the intent to begin marketing units, which is currently required in most Section 8 Housing Assistance Payments Programs, will now, under this regulation, be required from all applicants submitting an AFHM Plan.

The regulation further establishes a regular procedure for reviewing compliance with previously approved Affirmative Fair Housing Marketing plans and for updating such plans when necessary. Additionally, preoccupancy conferences, which have been used in some HUD housing programs, can now be held to review an applicant's AFHM plan prior to the initiation of marketing activities.

The entire proposed compliance procedures have been compressed into: (1) A pre-occupancy conference; (2) a compliance meeting; (3) a compliance review; and (4) initiation of sanctions. The show cause procedure involving the formal presentation of evidence prior to the initiation of a compliance review has been eliminated as being cumbersome, time consuming, and duplicative. Less formal procedures have been developed. These procedures are intended to establish a cumulative process which provides a setting for timely informal resolution of matters prior to the imposition of sanctions. The mechanisms for such informal resolution are the pre-occupancy conference and the compliance meeting. A pre-occupancy conference will be called, as necessary, by the Area Office for resolution of matters prior to initiation of marketing. A compliance meeting is a more formal proceeding to be scheduled by the Director of the Office of Regional FH&EO whenever a complaint, a sales or rental report, a pre-occupancy conference or other information indicates possible noncompliance with the AFHM regulation or this Part or the need to modify the AFHM plan or the implementation of the Plan.

The stages of the AFHM procedures provided in this Part are summarized below:

(1) *Pre-occupancy Conference.* The regulation requires each applicant to submit a Notification of Intent to Begin Marketing to the appropriate Area Office 90 days prior to initiation of marketing. Upon receipt of such notice, the Fair Housing and Equal Opportunity (FH&EO) Division of the Area Office will review the applicant's plan and, if necessary, schedule a pre-occupancy conference. Such a conference will be held prior to initiation of any marketing activities by the applicant.

At the conference the previously approved AFHM plan is reviewed to determine if the plan and/or proposed implementation require modification. The purpose of such modification is to assure, prior to implementation of marketing, that the goals of the AFHM regulations and the plan will be achieved.

(2) *Compliance Meeting.* A compliance meeting is scheduled when a complaint, a sales or occupancy report or other information indicates that the goals of the AFHM plan may not be achieved or that the implementation of the plan should be modified. Compliance meetings also may be scheduled where an applicant has failed to comply with a procedural requirement of this part, such as submission of required reports. The procedures for the meeting have been set forth in a new Section 108.25.

An applicant is requested to bring to the meeting documentation to show how the AFHM plan is being implemented, and other appropriate evidence. If it is determined as a result of the meeting that corrections are needed in the AFHM plan and the applicant refuses to make such necessary corrections, the Department may conduct a comprehensive compliance review or, where appropriate, refer the matter to the Assistant Secretary for Fair Housing and Equal Opportunity for consideration of actions, including the imposition of sanctions.

(3) *Compliance Review.* Procedures for the compliance review are set forth in a new Section 108.40. The purpose of a compliance review is to determine whether or not the applicant is in compliance with the Department's AFHM requirements, the applicant's approved AFHM plan and, when applicable, the provisions of Executive Order 11063 and Title VIII. Compliance reviews may be scheduled routinely or in response to specific complaints or other information indicating non-compliance.

Applicants are to be given at least five days notice of the time and place set for the compliance review. A review will be made of:

(1) Applicant's sales and rental practices;

(2) Programs to attract minority and majority buyers and renters, of both sexes.

(3) Data on the size and location of units, services provided, prices and rental ranges, and the race and sex of buyers, tenants, and rental and sales staff.

(4) Other matters relating to marketing, sales and rentals of dwellings under HUD affirmative marketing requirements, the AFHM Plan, or this part.

Following a compliance review, a report will be prepared indicating whether a finding of compliance or noncompliance has been made. If it is found that the applicant is in compliance, all parties concerned shall be notified. Where a finding of noncompliance is made, the specific violation(s) will be set forth and a statement made that the Department may consider initiating actions to impose sanctions.

(4) *Initiation of Sanctions*

Whenever a finding of noncompliance is made, the specific violation(s) will be set forth and a statement made that, unless matters raised are resolved, the Assistant Secretary for Fair Housing and Equal Opportunity will make a determination as to whether to initiate actions to impose sanctions. Notice of the referral to the Assistant Secretary will be given to the applicant. The appropriate program officials will also be informed of any compliance actions initiated pursuant to this regulation.

In response to one comment received, a new Section 108.35 has been incorporated to show clearly that individuals and private or public agencies may file complaints alleging violations of an approved AFHM plan.

A recommendation that a complainant be a party to all proceedings was rejected since the complainant who files a complaint of a violation of an AFHM plan is not an aggrieved individual entitled to individual relief under HUD's AFHM regulations. However, where a complaint includes allegations of violations of Title VIII of the Civil Rights Act of 1968, the complainant is an aggrieved person within the terms of Section 810(a) of Title VIII and is a party to all proceedings for enforcement of complaints against discriminatory housing practices.

Other comments were of a general nature and could not be addressed in the regulation. However, various editorial and technical corrections have been made pursuant to the recommendations of commentators and staff.

The Department has determined that this Regulation will not have an environmental impact, as defined in the "Procedures for Protection and Enhancement of Environmental Quality. A copy of this finding is available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

Accordingly, Subchapter A of Chapter I of Title 24 of the Code of Federal Regulations is amended by including a new Part 108 to read as follows:

PART 108—COMPLIANCE PROCEDURES FOR AFFIRMATIVE FAIR HOUSING MARKETING

Sec.

108.1 Purpose and Application.
108.5 Authority.
108.15 Pre-occupancy conference.
108.20 Area Office Responsibility for Monitoring Plans and Reports.
108.21 Regional Office Compliance Responsibility.
108.25 Compliance Meeting.
108.35 Complaints.
108.40 Compliance Reviews.
108.45 Compliance Report.
108.50 Sanctions.

Authority.—Section 7(d) of the Department of Housing and Urban Development Act of 1965, 42 U.S.C. Section 3535(d).

§ 108.1 Purpose and Application.

(a) The primary purpose of this regulation is to establish procedures for determining whether or not an applicant's actions are in compliance with its approved Affirmative Fair Housing Marketing (AFHM) plan, AFHM Regulation (24 CFR 200.600), and AFHM requirements in Departmental programs.

(b) These regulations apply to all applicants for participation in subsidized and unsubsidized housing programs administered by the Department of Housing and Urban Development and to all other persons subject to Affirmative Fair Housing Marketing requirements in Department programs.

(c) The term "Applicant" includes:

(1) All persons whose applications are approved for development or rehabilitation of: subdivisions; multifamily projects; mobile home parks of five or more lots, units or spaces; or dwelling units, when the applicant's participation in FHA housing programs has exceeded, or would thereby exceed, development of five or more such dwelling units during the year preceding the application, except that there shall not be included in a determination of the number of dwelling units developed or rehabilitated by an applicant, those in which a single family dwelling is constructed or rehabilitated for occupancy by a mortgagor on property owned by the mortgagor and in which the applicant had no interest prior to entering into the contract for construction or rehabilitation. For the purposes of this definition, a person remains an "applicant" from the date of submission of an application through duration of receipt of assistance pursuant to such application.

(2) All other persons subject to AFHM requirements in Departmental programs.

(d) The term "person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives or agents, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries and public entities.

§ 108.5 Authority.

The regulations in this part are issued pursuant to the authority to issue regulations granted to the Secretary by Section 7(d) of the Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535(d). They implement the functions, powers, and duties imposed on the Secretary by Executive Order 11063, 27 FR 11527 and Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608.

§ 108.15 Pre-occupancy conference.

Applicants shall submit a Notification of Intent to Begin Marketing to the HUD Area Office having jurisdiction over the area in which the housing is located no later than 90 days prior to engaging in sales or rental marketing activities. Upon receipt of the Notification of Intent to Begin Marketing from the applicant, the FH&EO Division of the Area Office Division shall review any previously approved plan and may schedule a pre-occupancy conference. Such pre-occupancy conference shall be held prior to initiation of sales or rental marketing activities.

At this conference, the previously approved AFHM plan shall be reviewed with the applicant to determine if the plan, and/or its proposed implementation, requires modification previous to initiation of marketing in order to achieve the objectives of the AFHM regulation and the plan.

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§ 108.20 Area office Responsibility for monitoring plans and reports.

(a) *Submission of Documentation.* Pursuant to initiation of marketing, the applicant shall submit to the Area Office reports documenting of the implementation of the AFHM plan, including sales or rental reports, as required by the Department. Copies of such documentation shall be forwarded to the Director of the Office of Regional Fair Housing and Equal Opportunity by the FH&EO Division of the Area Office as requested.

(b) *Monitoring of AFHM Plan.* The FH&EO Division of the Area Office is responsible for monitoring AFHM plans and providing technical assistance to the applicant in preparation or modification of such plans during the period of development and initial implementation.

(c) *Review of Applicant's Reports.* Each sales or rental report shall be reviewed by the FH&EO Division of the Area Office as it is received. When sales or rental reports show that 20% of the units covered by the AFHM plan have been sold or rented, or whenever it appears that the plan may not accomplish its intended objective, the Area Office FH&EO Division shall notify the Director of the Office of Regional FH&EO.

(d) *Failure of Applicant to File Documentation.* If the applicant fails to file required documentation, the applicant shall be sent a written notice indicating that if the delinquent documentation is not submitted to the Area Office within 10 days from date of receipt of the notice, the matter will be referred to the Director of the Regional FH&EO for action which may lead to the imposition of sanctions.

§ 108.21 Regional Office Compliance Responsibility.

The Director of the Office of Regional FH&EO shall be responsible for determining whether an applicant's actions are in apparent compliance with its approved AFHM plan, the AFHM regulations, and this Part and for determining changes or modifications necessary in the Plan after initiation of marketing.

§ 108.25 Compliance Meeting.

(a) *Scheduling Meeting.* If an applicant fails to comply with requirements under Sections 108.15 or 108.20 or it appears that the goals of the AFHM plan may not be achieved, or that the implementation of the Plan should be modified, the Director of the Office of Regional FH&EO shall schedule a meeting with the applicant. The meeting shall be held at least ten days before the next sales or rental report is due. The purpose of the compliance meeting is to review the applicant's compliance with AFHM requirements and the implementation of the AFHM Plan and to indicate any changes or modifications which may be required in its Plan.

(b) *Notice of Compliance Meeting.* A Notice of Compliance Meeting shall be sent to the last known address of the applicant, by certified mail or through personal service. The Notice will advise the applicant of the right to respond within seven (7) days to the matters identified as subjects of the meeting and to submit information and relevant data evidencing compliance with the AFHM regulations, the AFHM Plan, Executive Order 11063 and Title VIII of the Civil Rights Act of 1968, when appropriate.

(c) *Applicant Data Required.* The applicant will be requested in writing to provide, prior to or at the compliance meeting, specific documents, records, and other information relevant to compliance, including but not limited to:

(1) Copies or scripts of all advertising in the Standard Metropolitan Statistical Area (SMSA) or housing market area, as appropriate, including newspaper, radio and television advertising, and a photograph of any sale or rental sign at the site of construction;

(2) Copies of brochures and other printed material used in connection with sales or rentals;

(3) Evidence of outreach to community organizations;

(4) Any other evidence of affirmative outreach to groups which are not likely to apply for the subject housing;

(5) Evidence of instructions to employees with respect to company policy of nondiscrimination in housing;

(6) Description of training conducted with sales/rental staff;

(7) Evidence of nondiscriminatory hiring and recruiting policies for staff engaged in the sale or rental of properties, and data by race and sex of the composition of the staff;

(8) Copies of applications and waiting lists of prospective buyers or renters maintained by applicant;

(9) Copies of Sign-in Lists maintained on site for prospective buyers and renters who are shown the facility;

(10) Copies of the selection and screeing criteria;

(11) Copies of relevant lease or sales agreements;

(12) Any other information which documents efforts to comply with an approved plan.

(d) *Preparation for the Compliance Meeting.* The Area Office Housing Division will provide information concerning the status of the project or housing involved to be presented to the applicant at the meeting. The Area Manager shall be notified of the meeting and may attend.

(e) *Resolution of Matters.* Where matters raised in the compliance meetings are resolved through revision to the plan or its implementation, the terms of the resolution shall be reduced to writing and submitted to the Regional Office within 10 days of the date of the compliance meeting.

(f) *Determination of Compliance.* If the evidence shows no violation of the AFHM regulations and that the applicant is complying with its approved AFHM plan and this Part, the Director of the Office of Regional FH&EO shall so notify the applicant within 10 days of the meeting.

(g) *Determination of Possible Noncompliance.* If the evidence indicates an apparent failure to comply with the AFHM plan or the AFHM regulation, or if the matters raised cannot be resolved, the Director of the Office of Regional FH&EO shall so notify the applicant no later than ten (10) days after the date of the compliance meeting is held, in writing by certified mail, return receipt requested, and shall advise the applicant that the Department will conduct a comprehensive compliance reyiew or refer the matter to the Assistant Secretary for Fair Housing and Equal Opportunity for consideration of action including the imposition of sanctions. The purpose of a compliance review is to determine whether the applicant has complied with the provisions of Executive Order 11063, Title VIII of the Civil Rights Act of 1968, and the AFHM regulations in conjunction with the applicant's specific AFHM plan previously approved by HUD.

(h) *Failure of Applicant to Attend the Meeting.* If the applicant fails to attend the meeting scheduled pursuant to this section, the Director of the Office of Regional FH&EO shall so notify the applicant no later than ten (10) days after the date of the scheduled meeting, in writing by certified mail, return receipt requested, and shall advise the applicant as to whether the Director will conduct a comprehensive compliance review or refer the matter to the Assistant Secretary for Fair Housing and Equal Opportunity for consideration of action including the imposition of sanctions.

§ 108.35 Complaints.

Individuals and private and public entities may file complaints alleging violations of the AFHM regulations or an approved AFHM plan with any HUD Area Office, HUD Regional Office, or with the Assistant Secretary for FH&EO. Complaints will be referred to the Director of the Office of Regional FH&EO. Where there is an allegation of a violation of Title VIII the complaint also will be processed under Part 105.

§ 108.40 Compliance reviews.

(a) *General.* All compliance reviews shall be conducted by the Director of the Office of Regional FH&EO or designee. Complaints alleging a violation(s) of the AFHM regulations, or information ascertained in the absence of a complaint indicating an applicant's failure to comply with an AFHM plan, shall be referred immediately to the Director of the Office of Regional FH&EO. The Regional Director for Housing and the Area Manager shall be notified as appropriate of all alleged violations of the AFHM regulations or alleged failure to comply with an AFHM plan.

(b) *Initiation of Compliance Reviews.* Even in the absence of a complaint or other information indicating noncompliance pursuant to subsection (a), the Director of the Office of Regional FH&EO may conduct periodic compliance reviews throughout the life of the mortgage in the case of multi-family projects and throughout the duration of the Housing Assistance Payments Contract with the Department in the case of housing assisted under Section 8 of the United States Housing Act of 1937, as amended, 42 U.S.C. S1437.

(c) *Nature of Compliance Reviews.* The purpose of a compliance review is to determine whether the applicant is in compliance with the Department's AFHM requirements and the applicant's approved AFHM plan. Where allegations under this part may also constitute a violation of the provisions of Executive Order 11063 or Title VIII, the review will also determine compliance with the requirements thereof. The applicant shall be given at least five (5) days notice of the time set for any compliance review and the place or places for such review. The compliance review will cover the following areas:

(1) Applicant's sales and rental practices, including practices in soliciting buyers and tenants, determining eligibility, selecting and rejecting buyers and renters, and in concluding sales and rental transactions.

(2) Programs to attract minority and majority buyers and renters regardless of sex, including:

(A) use of advertising media, brochures, and pamphlets;

(B) conformance with both the Department's Fair Housing Poster Regulation (24 CFR 110) and the Advertising Guidelines for Fair Housing (37 FR 6700) and any revisions thereto.

(3) Data relating to:

(A) the size and location of units;

(B) services provided;

(C) sales and/or rental price ranges;

(D) the race and sex of buyers and/or renters;

(E) race and sex of staff engaged in sale or rental of dwellings.

(4) Other matters relating to the marketing or sales of dwellings under HUD affirmative marketing requirements, the AFMH Plan and this Part.

§ 108.45 Compliance report.

Following a compliance review, a report shall be prepared promptly and the Assistant Secretary for FH&EO shall make a finding of compliance or noncompliance. If it is found that the applicant is in compliance, all parties concerned shall be notified of the findings. Whenever a finding of noncompliance is made pursuant to this Part, the report shall list specifically the violations found. The applicant shall be sent a copy of the report by certified mail, return receipt requested, together with a notice that, if the matter cannot be resolved within ten days of receipt of the Notice, the matter will be referred to the Assistant Secretary for FH&EO to make a determination as to whether actions will be initiated for the imposition of sanctions. The Director of the Office of Regional Housing and the Area Director of the Housing Division shall also receive a copy of the report and the notice of intention to refer the matter to the Assistant Secretary for FH&EO for a determination as to whether actions will be initiated to impose sanctions.

§ 108.50 Sanctions.

Applicants failing to comply with the requirements of these regulations, the AFHM regulations, or an AFHM plan will make themselves liable to sanctions authorized by law, regulations, agreements, rules, or policies governing the program pursuant to which the application was made, including, but not limited to, denial of further participation in Departmental programs and referral to the Department of Justice for suit by the United States for injunctive or other appropriate relief.

Issued at Washington, D.C., July 30, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-24550 Filed 8-8-79; 8:45 am]

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federal register

Thursday
August 9, 1979

Part V

Department of the Interior

Heritage Conservation and Recreation Service

Grant Procedure Regulations for Administration of the Urban Park and Recreation Recovery Act of 1978; Interim Rule

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DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1228

Urban Park and Recreation Recovery

AGENCY: Heritage Conservation and Recreation Service, U.S. Department of the Interior.

ACTION: Interim rule.

SUMMARY: These rules prepared by the Heritage Conservation and Recreation Service, are published to provide Grant Procedure Regulations for the Urban Park and Recreation Recovery Act of 1978. The Heritage Conservation and Recreation Service is publishing these guidelines on grant procedures so that the interested general purpose local governments can begin applying for grants.

DATES: These regulations are effective August 9, 1979. Comments on this interim rule will be accepted and considered. Comments must be received in writing on or before October 9, 1979.

ADDRESSES: Written comments should be addressed to the Chief, Urban Programs Task Force, Heritage Conservation and Recreation Service, 440 G Street, N.W., Box G, Washington, D.C. 20243, 202/343–5971,

FOR FURTHER INFORMATION CONTACT: Mr. Powell Allen or Mrs. Carol Jacobson, Urban Programs Task Force, Heritage Conservation and Recreation Service, 440 G Street, N.W., Box G, Washington, D.C. 20243, 202/343–5971

SUPPLEMENTARY INFORMATION: In his policy message of March 27 1978, President Carter proposed a new federal grant program for urban communities to compete for funds to revive and rebuild parks and recreation facilities. On October 13, 1978, the National Parks and Recreation Act of 1978, P.L. 95–625, was passed by the Congress; and on November 10, 1978, the President signed the bill into law. Title X, the Urban Park and Recreation Recovery (UPARR) Act of 1978, authorized the Secretary of the Interior to establish a five year program to provide Federal grants to economically hard-pressed communities, specifically for the rehabilitation of critically needed recreation areas and facilities, and the development of improved recreation programs. The Secretary of the Interior has delegated the responsibility for developing the Urban Park and Recreation Recovery Program to the Director, Heritage Conservation and Recreation Service. The Heritage Conservation and Recreation Service will provide technical and supervisory grant assistance to applicants.

Recognizing the importance placed on the physical rehabilitation and revitalization of critically needed urban park and recreation areas, both Congress and the Administration had expressed commitment to rapid implementation of the Urban Park and Recreation Recovery Program. Public Law 96–38, enacted on July 25, 1979, provides 20 million dollars for this program; therefore, the Heritage Conservation and Recreation Service must be in a position to obligate these funds through the issuance of Recovery Action Program, Rehabilitation and Innovation Grants as soon as possible, to qualified general purpose local governments. To do so the Heritage Conservation and Recreation Service must publish these guidelines on grant procedures so that interested general purpose local governments can begin applying for grants. If these guidelines are published as proposed rules, interested governments could not begin the application process until publication of the rules as final, which could not occur earlier than November 7, 1979. For these reasons, it has been determined that the emergency character of the responsibility to issue the grants as soon as possible makes it impracticable and contrary to the public interest to publish these guidelines as a notice of proposed rulemaking, or to delay the effective date for these guidelines beyond the date of this publication.

Therefore, in accordance with the exceptions provided for in the Administrative Procedure Act in 5 U.S.C. Sec. 553 (b)(B) and d(3) and the Departmental regulations on rulemaking in 43 CFR 14.3(f), these Grant Procedure requirements are published as interim rules effective immediately. It has been determined that it is in the public interest to allow interested persons to submit written comments pertaining to these regulations. All relevant materials received on or before October 9, 1979 will be considered. Following the close of the comment period, the regulations will be revised, as warranted by public comments received. It is intended that any revision of the regulations arising from these comments will be published again as a final rule 30 days after the close of the comment period, if warranted.

Program Information

The objectives of the Urban Park and Recreation Recovery (UPARR) Program are to assist physically and economically distressed urban jurisdictions revitalize their recreation systems, and to enhance overall recreation opportunities through the use of existing and potential recreation resources. The program is targeted to distressed jurisdictions based upon criteria established by the Secretary, and published in the **Federal Register**, Wednesday, March 14, 1979 (44 FR, 15486–91), as Appendices A and B of this Part.

The intent of the UPARR program is to stimulate ongoing local commitments to system revitalization and operation, in line with overall urban revitalization objectives of the President's urban policy. The program aims to develop linkages between cities and States, between urban recreation, physical resource and human services programs, between the Federal Government and the States, and between the Department of the Interior and other Federal agencies, that will help ensure the long-term success of overall urban revitalization efforts.

To meet the objectives of this program, there are three types of grants available which are discussed in Subparts C & D of this Part.

(a) *Recovery Action Program Grants.* Section 1007(c) of the Act allows the provision of up to 50 percent matching grants to eligible local applicants, as listed in Appendix B to this Part, or to those discretionary applicants within Standard Metropolitan Statistical Areas (SMSAs), for the development of Recovery Action Programs, as described in Subpart B (**Federal Register**, July 5, 1979 [44 FR, 39341–46]).

(1) One of the primary aims of the UPARR program is to encourage systematic planning at the local level. This program should involve building of local capacity for recreation planning in the total context of community-wide development and revitalization. Recovery Action Program grants will contribute to this capacity-building effort by helping to ensure ongoing planning and coordination, involving both park/recreation and community comprehensive planning departments. For this reason, "contracting-out" of Recovery Action Program development will be discouraged, except for elements requiring special expertise, such as citizen surveys or studies of special resource opportunities.

(2) The Recovery Action Program is the paramount document for evaluation of requests for UPARR assistance for matching Rehabilitation and Innovation grants, as provided for in Section 1006 of the Act. An applicant must prepare a Recovery Action Program for its total local park and recreation system, prior to submission of applications for Rehabilitation or Innovation grants. Until October 1, 1980, this requirement is waived, and may be satisfied by preparation of a Preliminary Action Program which must be reviewed and approved by HCRS. Acceptance of a UPARR grant then obligates the local unit of government to prepare a complete five year Recovery Action Program for its jurisdiction within one year of the approval date of the grant. After October 1, 1980, a full five year Recovery Action Program is required, and no proposals may be approved without an acceptable plan being on file with HCRS.

(b) *Rehabilitation and Innovation grants (combined requirements).* Subject to appropriate requirements as established by OMB Circulars A–102 and A–95, Federal Management Circular 74–4, Executive Orders, and regulations mandated by law, financial assistance is available to eligible general purpose local governments (**Federal Register**, March 14, 1979 [44 FR 51, 15486–91]) for the purpose of rehabilitation and innovation of recreation systems. These grants will be targeted to aid in the rehabilitation of urban recreation facilities which have fallen into disuse or disrepair; to encourage innovations in the delivery of urban recreation services; to stimulate and support local commitments to recreation system recovery and maintenance; and to improve the management and delivery of recreation services to urban residents. The targeting of UPARR assistance will focus on persons and places most in need.

(1) Rehabilitation and Innovation proposals must be designed to provide recreation services for residents within the applicant's identified service area. Proposals, or elements of proposals, which are primarily intended to attract or to provide recreation for visitors from outside of the system's service area, or proposals whose primary objective is the enhancement of the area's economy through the attraction of visitors to the service area, will not be considered high priority. Innovation proposals which may take local residents from their neighborhood to recreation areas or services outside the local system's service area, may be considered eligible for funding.

(2) Proposals which foster the conservative use of energy and natural resources are encouraged; e.g. improvements in accessibility which reduce the need for automobile transportation, efficient use of electrical or other power sources, and water conservation.

(3) A Rehabilitation or Innovation proposal may cover the entire recreation system of a local government, several properties within the system, or a single property. An Innovation proposal may also include non-site elements as listed in the categories for innovation proposals, § (d) below.

(c) *Innovation grants.* The intent of Innovation grants is to test new ideas, concepts and approaches aimed at improving facility design, operations or programming in the delivery of recreation services. They should also contribute to a systems approach to recreation by linking recreation services with other critical community programs; such as transportation, housing, health, water quality programs, etc. Innovation proposals should have demonstration value for the larger community, in addition to their benefits in individual neighborhoods or project sites.

It will be the policy of this program to choose the best quality Innovation proposals which have demonstrative potential and which serve the people who are most in need of the recreation service. Proposal ideas which emanate from people in their respective neighborhoods will be given special consideration in the selection process. Ideas for proposals need not be entirely new to be considered innovative, but must reflect some quality of uniqueness which will increase chances of being selected in a national competition. A community proposal which was considered in the past but was not initiated due to lack of funds or support and coordination, may still be a viable innovation, and thus considered for UPARR assistance. Ideas from successful innovative proposals will be disseminated nationwide through annual progress reports to Congress, as required in Section 1015(b) of the Act, and through the ongoing technical assistance efforts of HCRS. Information seminars, workshops and other techniques may also be used to provide the greatest possible exposure of these ideas for use in other communities.

Innovation grant awards will be concentrated on a larger number of low cost, service and cost-effective proposals, rather than a few higher cost proposals. Some proposals requiring greater funding may be considered if they are high quality, efficient and well-coordinated innovative approaches which relate to the intent of the UPARR program.

(d) *Basic categories of Innovation proposals.* Types of Innovation proposals which can be funded are suggested by, but not limited to, the following categories:

(1) Integration of recreation with other community services; such as transportation, public housing and public safety; either to expand or update current services, or to link programs within the social service structure of a community, or between communities.

(2) New management and cost-saving or service-efficient approaches for improving the delivery of recreation services should be inherent in all the Innovative proposals, but may also be the prime focus of a proposal. Extending hours of operation, increasing the variety of recreation programs, contracting with commercial or private non-profit agencies to supply specific recreation services, or assisting citizens in designing and operating their own programs, are examples of management approaches.

(3) New approaches to facility design which emphasize user needs and preferences, and promote efficient operation and energy conservation.

(4) New fiscal techniques to generate revenue for continuing operation and maintenance, such as tax credits.

(5) Techniques for improving transportation and access to recreation opportunities.

(6) Techniques to facilitate private, private non-profit, and community organization involvement in providing recreation opportunities.

(7) Improved use of land resources; such as utilizing abandoned railroads and highway rights-of-way, waterfronts, street spaces, or derelict land for recreation.

(8) Adaptive re-use or multiple use of public or private facilities and areas. (Private areas must be opened to the public.)

(9) Techniques to prevent or reduce crime, abuse and vandalism; such as better design, non-destructible building materials, or use of community volunteers to supervise areas.

(10) Communications and public awareness of recreation opportunities, including education in leisure services; but excluding research.

Who Is Eligible

(a) *Eligible cities and counties.* Eligible applicants for the UPARR program include those designated cities and counties listed in Subpart B, and as amended. The insular areas are eligible under separate authorized funds (16 U.S.C. 2512).

(b) *Discretionary Eligibility and General Requirements.* Section 1006(b) of the Act states that at the Secretary's (Director's) discretion, up to 15 percent

of the program funds appropriated annually may be granted to general purpose local governments which are located in Standard Metropolitan Statistical Areas, provided that these grants are in accord with the intent of the program. These governments may compete for grants under the program regardless of whether or not they are included on the list of eligible jurisdictions.

(1) Applicants interested in discretionary funding must comply with the same requirements as the listed eligible jurisdictions. An approved Preliminary and/or final Recovery Action Program must be on file with the respective HCRS Regional Office prior to consideration of a grant for funding. Discretionary grants are also competitive; and proposals which meet the intent and criteria of the program will be judged with other proposals on a nationwide competitive basis.

(2) For the Director's review information, discretionary applicants must also submit a narrative statement, signed by the chief community executive, which explains and quantifies the state of physical and economic distress of the applicant's jurisdiction. Statistics and discussion on distress must relate, but are not limited to, the same criteria used to select the listed eligible jurisdictions (Appendix B of this Part).

(3) Rehabilitation, Innovation and Recovery Action Program proposals from discretionary applicants must comply with the respective selection criteria for each type of grant (Subpart D of this Part).

(c) *Pass-Through Eligibility.* Section 1006(a)(1) of the Act states that, at the discretion of the eligible general purpose local governments, and if consistent with an approved application, Rehabilitation and Innovation grants may be transferred in whole or in part to independent general or special purpose local governments, private non-profit agencies (including incorporated community or neighborhood groups), or county or regional park authorities; provided that they offer recreation opportunities to the general public within the jurisdictional boundaries of an eligible applicant. Recovery Action Program grants are for the use of an eligible applicant jurisdiction and, therefore, are not subject to pass-through provisions (Subpart B of this Part).

Fund Levels

(a) *Funding.* A total of $730 million is authorized for five years: $151 million for FY 1979 through 1982 and $126 million for 1983. Grants for all projects in any one State shall not exceed 15 percent of the total funds authorized to be appropriated in any fiscal year.

(1) Insular areas are each authorized the sum of $250,000 for each of the fiscal years 1979 through 1983. These sums will not be subject to the matching provisions of the other grants, and may only be subject to such conditions, reports, plans and agreements, if any, as determined by the Director.

(2) Up to 10 percent of the total funds authorized in any fiscal year may be used for Innovation grants, and up to 3 percent of the total funds authorized in any fiscal year may be used for Recovery Action Program grants.

(3) If no funds are used for Innovation and Recovery Action Program grants within any fiscal year, then the total funds authorized in any fiscal year may be used for Rehabilitation grants.

(4) Grants to discretionary applicants must not exceed, in the aggregate, 15 percent of the funds appropriated in any fiscal year for Rehabilitation, Innovation and Recovery Action Program grants.

(b) *Matching and State Incentive.* As an incentive for State involvement in the recovery of urban recreation systems, the Federal government will match, dollar for dollar, State contributions to the local share of an Innovation or Rehabilitation grant; up to 15 percent of the approved grant. The Federal share will not exceed 85 percent of the approved grant.

(1) The Director shall also encourage States and private interests (businesses, non-profit associations and industries) to contribute to the non-Federal share of project costs. State and local government shares may be derived from any State or local source.

(2) No money from the Land and Water Conservation Fund or any other Federal grant program, other than general revenue sharing and the Community Development Block Grant (CDBG) programs, may be used to match grants under this program.

Delegation of Secretarial Authority

The Director, Heritage Conservation and Recreation Service, has been delegated the program authority by the Secretary of the Interior to develop and implement the Urban Park and Recreation Recovery Program (Part 248 Departmental Manuals 1 and 2, June 8, 1979, and limitations therein, as established by Secretarial Order 3017, January 25, 1978).

Statement of Significance

The Department of the Interior has determined that this document is a significant rule and requires a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. A Draft Regulatory Analysis has been prepared and is available for review. A final regulatory analysis will be prepared after the comment period of this interim rule, and will be available for review upon publication of the final Grant Procedure Regulations. A Grant Manual detailing program guidelines and policies for the administration of the Urban Park and Recreation Recovery Program will be available at a later date.

Authorship Statement

The primary authors of these regulations were Mr. Powell Allen and Mrs. Carol Jacobson of the Heritage Conservation and Recreation Service, 202/343–5971.

Dated: August 6, 1979.

Robert L. Herbst,

Assistant Secretary for Fish and Wildlife and Parks.

In consideration of the foregoing, new Subparts A, C and D, and Reserved Sections of Subpart B are added to 36 CFR Chapter XII Part 1228 to read as follows:

PART 1228—URBAN PARK AND RECREATION RECOVERY ACT OF 1978

Subpart A—General

Sec.
1228.1 Purpose of regulations.
1228.2 Legislative authority.
1228.3 Definitions.
1228.4–1228.9 [Reserved]

Subpart B—Local Recovery Action Programs

* * * * *
1228.18–.29 [Reserved]

Subpart C—Grants for Recovery Action Program Development, Rehabilitation and Innovation

1228.30 General requirements.
1228.31 [Reserved]
1228.32 Funding and matching share.
1228.33 Timing and duration of projects.
1228.34–1228.35 [Reserved]
1228.36 Land ownership, control, and conversion.
1228.37 Pass-through funding.
1228.38–1228.40 [Reserved]
1228.41 Demolition and replacement of existing recreation properties.
1228.42 Expansion and new development.
1228.43 [Reserved]
1228.44 Fundable elements.
1228.45 [Reserved]
1228.46 Citizen participation requirements
1228.47 [Reserved]
1228.48 Federal coordination.
1228.49 [Reserved]

Subpart D—Grant Selection, Approval, and Administration

1228.50 Grant selection criteria.
1228.51 Notice of intent to apply and A–95 clearinghouse requirements.
1228.52 Recovery action program grant applications.
1228.53 Preapplication process for rehabilitation and innovation grants.
1228.54 Rehabilitation and innovation grants—Full application process.
1228.55 [Reserved]
1228.56 Grant program compliance requirements.
1228.57–1228.59 [Reserved]
1228.60 Grant administrative procedures.
1228.61 [Reserved]
1228.62 Amendments to approved grants.
1228.63 Grant payments.
1228.64 [Reserved]
1228.65 Other requirements.
1228.66 [Reserved]
* * * * *

Authority: Title X, National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 2501–2514.

PART 1228—URBAN PARK AND RECREATION RECOVERY ACT OF 1978

Subpart A—General

§ 1228.1 Purpose of regulations.

The purpose of this rule is to set forth guidelines for awarding and administering the three types of grants and the discretionary funding available through the UPARR program. The three types of grants available are: Rehabilitation, Innovation and Recovery Action Program. The objectives of this rule are to: (1) explain the policies to be followed for awarding grants; (2) list the requirements and criteria to be met for each type of grant and the discretionary funding; (3) discuss fundable uses and limitations; (4) explain how proposals will be selected and funded; and (5) describe the application process and administrative procedures for awarding grants.

§ 1228.2 Legislative authority.

The policies and procedures of this rule are created to implement the Urban Park and Recreation Recovery Act of 1978, Title X of the National Parks and Recreation Act of 1978, Public Law 95–625, 16 U.S.C. 2501–2514. The Act provides Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas and facilities, and for the development of improved recreation services for a period of five years.

§ 1228.3 Definitions.

As used in this Part:

Appropriation: The yearly funding level made available by Congress to implement the UPARR Act.

Assistance: Funds made available by the Service to a grantee in support of a public recreation project.

Direct Expenditures or Direct Costs: Those expenditures or costs that can be associated with a specific project.

Director: The Director of the Heritage Conservation and Recreation Service or any other officer or employee of the Service to whom he delegates the authority involved.

Discretionary Applicants: General purpose local governments in Standard Metropolitan Statistical Areas as defined by the Census but not included in the list of eligible applicants developed and published in accord with Sec. 1005 of the UPARR Act.

Federal Management Circular 74–4 (FMC 74–4): FMC 74–4 establishes principles and standards for determining (administrative) costs applicable to grants and contracts with State and local governments.

General Purpose Local Government: Any city, county, town, township, parish, village, or other general purpose political subdivision of a State, including the District of Columbia, and insular areas.

Grant: The act of providing a specific sum of money for the development of a specific project, consistent with the terms of a signed agreement; also the amount of money requested or awarded.

Grantee: The general purpose local government receiving a UPARR grant for its given use, or for authorized pass-through to another appropriate public or private non-profit agency.

HCRS: Heritage Conservation and Recreation Service.

Indirect Costs: Those costs related to the operation of the grantee's grants program, but which, because of their incurrence for common or joint objectives, are not specifically identified with individual projects (see FMC 74–4).

In-Kind Contributions: In-Kind contributions represent the value of non-cash contributions provided by: (1) the grantee, (2) other public agencies and institutions, and (3) private organizations and individuals. In-Kind contributions may consist of the value of, or use of equipment, supplies or services directly benefiting and specifically identifiable to the project, and can be used as part of the grantee's non-Federal matching share.

Innovation Grants: Matching grants to local governments to cover costs of personnel, facilities, equipment, supplies, or services designed to demonstrate innovative, and cost-effective or service-effective ways to augment park and recreation opportunities at the neighborhood level; and to address common problems related to facility operations and improved delivery of recreation service, excluding routine operation and maintenance activities.

Insular Areas: Guam, the Virgin Islands, American Samoa and the Northern Mariana Islands.

Maintenance: All commonly accepted practices necessary to keep recreation areas and facilities operating in a state of good repair, and to protect them from deterioration resulting from normal wear and tear.

OMB Circular A–95 (A–95): Establishes procedures for the evaluation, review and coordination of Federal and federally assisted programs and projects. This circular defines project notification and review procedures governing Federal grant agencies, State, metropolitan and areawide clearinghouses.

OMB Circular A–102 (A–102): Circular A–102 provides the standard for establishing consistency and uniformity among Federal agencies in the administration of grants to States, localities and federally recognized Indian tribes. The standards covered by the Circular which are applicable to the UPARR program are specified in § 1228.60.

Participant: The grantee, or other agency or organization requesting and/or receiving assistance.

Pass-through: The transfer of funds at the discretion of the applicant jurisdiction, to independent, general or special purpose local government, private non-profit agencies (including incorporated community or neighborhood groups), or county or regional park authorities, who offer recreation opportunities to the general population within the jurisdictional boundaries of an eligible applicant.

Private Non-profit Agency: A community-based, non-profit organization, corporation, or association organized for purposes of providing recreational, conservation and/or educational services directly to urban residents; either on a neighborhood or communitywide basis, through voluntary donations, voluntary labor, or public or private grants.

Project: A single site-specific area or service-specific program proposed or approved for funding.

Project Costs: All necessary charges made by a grantee in accomplishing the objectives of a project, during the project period.

Proposal: An application for UPARR assistance which may contain one or more projects.

Recovery Action Program: A local park and recreation Recovery Action Program (plan) required under Sec. 1007 of the UPARR Act, which contains expressions of continuing local commitment to objectives, priorities and implementation strategies for overall park and recreation system planning, rehabilitation, service, operation and maintenance.

Recreation Areas and Facilities: Parks, buildings, sites, or other indoor or outdoor facilities which are dedicated to recreation purposes and administered by public or private non-profit agencies to serve the recreation needs of community residents. These facilities must be open to the public and readily accessible to residential neighborhoods; they may include multiple-use community centers which have recreation as one of their primary purposes; but major sports arenas, exhibition areas, and conference halls used primarily for commerical sports, spectator, or display activities are excluded.

Rehabilitation Grants: Matching capital grants to local governments for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities; including improvements in park landscapes, buildings, and support facilities; excluding routine maintenance and upkeep activities.

Secretary: The Secretary of the Interior.

SMSA: Standard Metropolitan Statistical Area as defined by the Bureau of the Census.

Special Purpose Local Government: Any local or regional special district, public-purpose corporation or other limited political subdivision of a State: including but not limited to, park authorities; park, conservation, water or sanitary districts; and school districts.

Sponsor: See Participant.

State: Any State of the United States, or any instrumentality of a State approved by the Governor; the Commonwealth of Puerto Rico, and insular areas.

State Recreation Plan: The Statewide Comprehensive Outdoor Recreation Plan (SCORP) required by the Land and Water Conservation Fund Act.

UPARR: Urban Park and Recreation Recovery Act of 1978 or Program.

§§ 1228.4–1228.9 [Reserved]

Subpart B—Local Recovery Action Programs

* * * * *

§§ 1228.18–1228.29 [Reserved]

Subpart C—Grants for Recovery Action Program Development, Rehabilitation and Innovation

§ 1228.30 General requirements.

Applicants must submit a Preliminary or full Recovery Action Program in advance of any proposal or application for Rehabilitation or Innovation grants. Once HCRS has indicated that a Rehabilitation or Innovation proposal is fundable, the applicant must meet all documentation requirements imposed by OMB Circulars A–102, A–95 and A–87 and FMC 74–4. Regional offices of HCRS will provide technical assistance to grantees in complying with these requirements.

§ 1228.31 [Reserved]

§ 1228.32 Funding and matching share.

(a) *Recovery Action Program grant matching.* Up to 50 percent matching grants are authorized for the preparation of Recovery Action Programs (RAP). Local in-kind donations of assistance (salaries, supplies, printing, etc.) for the preparation of a RAP may be used as part of the 50 percent local match. State in-kind donations for the preparation of a RAP may also be used as part of a local match (part of the 50 percent). In addition, Section 1009 of the Act provides that reasonable local costs of Recovery Action Program development may be used as part of a local match for Innovation or Rehabilitation grants only when the applicant has not received a Recovery Action Program grant. Reasonable costs means costs for supplies, salaries, etc., which are not excessive in relation to the normal market value within a geographic area. Any costs for which a Federal match is sought must be well documented to provide adequate accountablity for audit purposes.

(b) *Rehabilitation and innovation grant matching.* The program provides for a 70 percent Federal match for rehabilitating existing recreation facilities and areas. Seventy percent matching funds are also authorized to local governments for innovation grants which will address widespread coordination, management and access problems through innovative and cost-effective approaches; such as, joint use of facilities; contracting for services with other public or private recreation providers; and mobile recreation to serve neighborhoods lacking adequate facilities.

(c) *Sources of matching share.* (1) *Cash.* State, local and private funds may be used as the non-Federal share of project costs. In addition, two types of Federal funds may be used as part of a local match: General Revenue Sharing (Treasury Department) and Community Development Block Grant (CDBG) program funds (Department of Housing and Urban Development). Section 1009 of the UPARR Act prohibits use of any other type of Federal grant to match UPARR grants.

(2) *Non-Cash.* (i) *Material goods.* HCRS encourages in-kind contributions including real property, buildings or building materials, and equipment to applicants by the State, other public agencies, private organizations or individuals. The value of the contributions may be used as all or part of the matching share of project costs, but must be appraised and approved by the Service prior to grant approval. Details regarding these types of donations are covered in OMB Circular A–102.

(ii) *Services.* Any type of service or assistance which relates directly to a project and the provision of a recreation opportunity, can be used as a matching share; e.g., technical and planning services; construction labor; playground supervision or management services for an innovation project.

§ 1228.33 Timing and duration of projects.

Construction activities in either Rehabilitation or Innovation proposals will be limited to three years or three full construction seasons, whichever is greater. UPARR assistance, for staged projects, must be requested in a single application or proposal. Staged or phased projects must be structured in such a manner that each funded stage will increase the recreation utility of the property independently of subsequent stages. Such projects will be funded, along with any others, from the appropriation of the fiscal year in which the entire proposal is approved. If a project selected for funding consists of only one phase or a stage of a larger project, funding of that phase in no way implies that a subsequent phase, not part of the funded project will also be funded. Innovation proposals which consist of service or program stages (e.g., hiring or training personnel, an action/element before actually providing the recreation service) must be initiated within one year from grant approval.

§§ 1228.34–1228.35 [Reserved]

§ 1228.36 Land ownership, control and conservation.

Section 1010 of the Act stipulates that no property improved or developed with assistance through the program shall, without the approval of the Secretary, be converted to other than public recreation use. To minimize such conversions, an applicant must demonstrate that it has adequate tenure and control of the land or facilities for which rehabilitation or innovation is proposed, either through outright ownership or lease.

(a) The rehabilitation of lands or facilities not in public ownership or under other adequate public control will not be considered for funding. If rehabilitation or innovation is to occur on land not publicly owned, a non-revocable lease of at least 25 years must be in effect at the time of application. The lease cannot be revocable at will by the lessor.

(b) The conversion of any UPARR assisted property to non-recreation use must have approval of the Secretary before it occurs. Such conversions must be in accord with the current local park and recreation Recovery Action Program and must assure the provision of recreation properties and opportunities of reasonably equivalent location and usefulness. For leased property which is developed or improved with UPARR funds, the grantee as a condition of the receipt of these funds, must specify in a manner agreed to by the Director, in advance, how the converted property will be replaced once the lease expires.

§ 1228.37 Pass-through funding.

Section 1006(a)(1) of the Act states that at the discretion of the eligible general purpose local governments, and if consistent with an approved application, Rehabilitation and Innovation grants may be transferred in whole or in part to independent general or special purpose local governments, private non-profit agencies (including incorporated community or neighborhood groups), or county or regional park authorities; provided that they offer recreation opportunities to the general public within the jurisdictional boundaries of an eligible applicant. These grants will be made at the discretion of the general purpose local government. The pass-through funding decision is that of the local government's chief executive, not of HCRS. HCRS, under the grant agreement will look to the general purpose local government to assure compliance with the terms and conditions of the regulations, law and grant agreement.

(a) *Pass-through sponsor requirements.* The applicant will bear the primary responsibility for the administration and success of any pass-through grant. The sponsor of a pass-through grant will be responsible for preparation and submission of the application, administration of the grant, and monitoring of grant implementation.

(1) Pass-through applications must include documentation, from the public agency or agencies providing recreation services within the jurisdiction to be serviced, indicating to what extent the proposal is part of an integrated program in the delivery of recreation services within its system, and certifying that the proposal is fully coordinated and compatible with the Recovery Action Program. In the case of default on the part of the pass-through recipient, the pass-through sponsor must certify, in its application, and as part of the grant agreement that it will assume all responsibility for property assisted under UPARR, for the continued delivery of recreation services as intended by the grant, or for full compliance with provisions of the grant agreement.

(2) It is essential that sponsors take precautions to pass-through grants only to reliable and capable agencies or organizations that can reasonably be expected to comply with grant and project requirements.

(b) *Recommended pass-through recipient requirements.* Although the sponsor has primary responsibility for the pass-through grant, it is suggested that pass-through recipients should:

(1) *Demonstrate a history of providing recreation services to the distressed community.* The history of providing recreation services must be commensurate with the amount of UPARR assistance requested. An eligible Innovation grant applicant may be a non-profit or neighborhood organization group which has provided other social services to the community, or a newly formed, but reliable and capable group which can reasonably be expected to comply with grant and project requirements.

(2) *Demonstrate that the existing recreation property which it operates is accessible to residents of distressed areas.* (If an Innovation proposal consists of utilizing recreation facilities or services outside the boundaries of the local jurisdiction, the population served must reside primarily in a distressed area.)

(3) *Be properly incorporated as a non-profit organization with an elected and autonomous board which meets regularly.*

(4) *Be empowered to contract or otherwise conduct the activities to be supported as a result of the grant (in accordance with the organization's governing charter).*

(5) *Demonstrate adequate tenure and control of the site or facility to be rehabilitated or used for innovation, through lease or ownership, in order to justify the costs.*

(6) *Establish a contractural agreement with the general purpose local government which is binding and enforceable to assure that the local government can adequately meet its contractural obligations under the grant.*

(c) *Pass-through property and fee limitations.* Rehabilitation or Innovation assistance on property not in public ownership, operated by a private non-profit organization through a pass-through grant, will be limited to that portion of the property which directly provides recreation services. Such recreation services must be available to the public on a non-membership, non-fee, or reasonable fee basis, and during reasonable prime time. If a fee is charged or is required for the services resulting through the Rehabilitation or Innovation grant, the fee should be comparable to prevailing local rates for similar services. Charges for recreation services will only be permitted if they do not unfairly jeopardize participation in the recreation service by the disadvantaged population.

(d) *Discrimination on basis of residence.* Discrimination on the basis of residence is prohibited except in the extent that reasonable differences in fees may be maintained on the basis of residence.

§§ 1228.38–1228.40 [Reserved]

§ 1228.41 Demolition and replacement of existing recreation properties.

(a) Demolition will only be supported to the extent that rehabilitation is not feasible or prudent. In the case of demolition, the demolition costs should not exceed 75% of the proposed cost for replacement. The applicant must present a cost analysis (well documented case) for demolition and replacement versus rehabilitation. When assistance for demolition is requested, the sponsor must also indicate how the replacement will increase the site's recreation utility, and if the useable life of the property will be increased.

(b) Buildings, structures, and sites which are deemed to be of historic or cultural significance must be treated in accordance with "The Secretary of the

Interior's Standards for a Historic Preservation Project" (§ 1228.50).

(c) Applicants must certify that any property acquired after January 2, 1971, and to be improved or enhanced by UPARR assistance, was acquired in conformance with P.L. 91-646, the Uniform Relocation and Land Acquisition Policies Act (*See* 41 CFR, Parts 114-50).

§ 1228.42 Expansion and new development.

New developments or expansions as part of the rehabilitation or innovation of existing recreation properties will be limited to additional items which should not substantially increase overall personnel and maintenance costs within the system. Such new developments must increase the useability of a property for recreation by users in the target area. The proposed new developments may include the addition of any items which are compatible with the rehabilitation of the existing recreation property or innovation efforts. Expansions may include enlarging an existing recreation building or facility, if such expansion will increase its recreation utility. An applicant must demonstrate that its long range commitment of resources for operation and maintenance of such expanded developments is adequate.

§ 1228.43 [Reserved]

§ 1228.44 Fundable elements.

(a) *Fundable elements of a Recovery Action Program.* Reasonable and documented costs necessary for preparing a Recovery Action Program may be reimbursed by UPARR funds either from a 50 percent matching grant, or by being used as part of a match for a Rehabilitation or Innovation proposal (16 U.S.C. 2508). These costs may include expenses for professional services; public meetings; data collection and analysis; preparation, editing and printing of appropriate reports, plans, maps, charts and other documents forming a part of the plan; and supporting costs, supplies and approved indirect costs. Costs incurred prior to the approval of a Recovery Action Program grant will not be eligible for cost sharing as part of a local match for the Recovery Action Program grant.

(b) *Fundable elements of rehabilitation and innovation grants.*—(1) *Common fundable and matching elements.* An Applicant may apply for UPARR assistance in only an amount which, together with other public and private resources that will be available, is adequate to complete the proposal. The applicant must document the availability and sources of these resources at the time of application for UPARR assistance. Once a proposal is approved, no increases in the amount of UPARR funding specified in the original proposal will be considered. Fundable elements in both Rehabilitation and Innovation proposals may include, in addition to the actual rehabilitation or construction work; materials and labor, site planning, architectural and engineering fees, and those direct and indirect costs and similar activities necessary to properly conduct the approved project. Reasonable architectural and engineering fees essential to the preparation of a proposal, are reimbursable. Fees to contractors for the direct provision of an innovative recreation service are reimbursable. However, other costs incurred prior to approval of the grant, and fees to consultants for application preparation are not allowable or reimbursable under the UPARR program.

(2) *Elements which may be assisted—rehabilitation grants.* Rehabilitation grants will cover costs of remodeling, expanding or developing existing outdoor or indoor recreation areas and facilities, including improvements in park landscapes, buildings and support facilities. Assistance for the rehabilitation of multi-service facilities will be limited to the costs for rehabilitation of eligible support elements within the proposal on a prorated basis.

(3) *Elements which may be assisted—innovation grants.* Innovation grants will cover costs related to facility operations, and improved delivery of recreation services (including; personnel, training, facilities, equipment and supplies), except those which pertain to routine operation and maintenance.

(i) *Program services.* Innovation grant costs may include those costs which relate to: demonstrations of the improved multiple-use of public buildings (e.g., schools, community centers, libraries and other resources); program expansions (e.g., adding soccer to a football program, increasing services for the elderly or handicapped); purchase of recreation services on a contractual basis; increased access to recreation areas; and cost-effective facility operation and maintenance techniques.

(ii) *Adaptive reuse.* In addition to providing services at areas or facilities already in recreation use, Innovation grants may fund the use of areas not currently in recreation use, or those where mixed community use occurs. Physical rehabilitation of facilities not currently in recreation use (whether public or private) may be funded as part of an innovation proposal, and would be classified as adaptive reuse. An example would be conversion of an abandoned building to a community recreation center. When only a portion of the area or facility will be used for recreation, only that portion will be eligible for funding.

(iii) *Supplies.* Funds may be used to purchase expendable supplies and equipment which relate directly to an Innovation proposal, such as sports equipment, arts and crafts supplies, chairs and tables if needed for an activity, and medical or safety equipment. General office supplies and furniture not used exclusively to provide recreation services as a part of the proposal, or not an inherent component of the proposal, will not be reimbursable.

(iv) *Coordination.* Costs incurred for coordinating proposal activities and programs with other public or private community services will be reimbursable. This will include local coordination with other Federal programs [e.g., Comprehensive Employment and Training Act (CETA)].

(v) *Personnel.* Eligible personnel costs will be limted to salaries of those employees directly engaged in the provision of recreation services. Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Each hour of committed volunteer service may also be counted toward the local matching share of funds, if the service provided is an integral part of an approved proposal. (Rates for volunteers will be consistent with those regular rates paid for similar work in the local jurisdiction, or private labor market). Employee facilities, including residences, appliances, office equipment, furniture and/or utensils are not eligible for funding.

(vi) *Special populations.* A proposal which will provide recreation opportunities primarily for a specific demographic group, such as the elderly, youth or handicapped, may be funded. However, the recreation provided must be open to the public, and address needs as identified in the systemwide Recovery Action Program. Special services for the special populations, such as transportation to recreation facilities, may also be funded.

(4) *Support facilities.* The rehabilitation of support facilities (e.g. heating, plumbing) will only be eligible if such facilities are well defined and contribute primarily to the recreation

utility of the facility's service area. Support facilities designed to assure health, safety, and comfort of users and workers and to enhance the delivery of recreation services, are eligible for assistance. However, support facilities which do not directly contribute to recreation usefulness, such as those providing living accommodations for employees, are not eligible for UPARR assistance.

(5) *Elements excluded from funding.* Section 1004(a) of the Act excludes UPARR assistance for major sport arenas, exhibition areas and conference halls used primarily for commercial sports, spectator, or display activities. Section 1004(b) excludes UPARR assistance for routine maintenance and upkeep activities. Section 1014 states that no funds available under this title shall be used for the acquisition of land or interests in land.

§ 1228.45 [Reserved]

§ 1228.46 Citizen participation requirements.

(a) *Recovery Action Program Grants.* Citizen participation is a required element for implementing a Recovery Action Program (Subpart B), but is not required to obtain a grant to prepare a Recovery Action Program.

(b) *Rehabilitation and innovation grants.* The applicant shall provide citizens with an adequate opportunity to participate in the development of the application, and in implementation, monitoring and evaluation of the activities supported through the grant. The applicant shall also encourage the submission of views and proposals, particularly by residents of blighted neighborhoods and citizens of low and moderate income. The applicant is encouraged to utilize different approaches to ensure public involvement. Nothing in these requirements, however, shall be construed to restrict the legal responsibility and authority of the applicant for the development of its UPARR applications, and the execution of its Recovery Action Program.

§ 1228.47 [Reserved]

§ 1228.48 Federal coordination.

Applicants requesting UPARR assistance under one of the three grant categories shall investigate the possibilities of administrative and/or funding coordination with other Federal programs. (For example, CETA funds could be used to support the training of recreation personnel for an innovative proposal. CETA funds, however, may not be used as a matching share for a UPARR grant.) Proposals should also relate to a comprehensive neighborhood revitalization strategy, which may include programs such as the Department of Housing and Urban Development's (HUD) Livable Cities or Neighborhood Self-Help programs.

§ 1228.49 [Reserved]

Subpart D—Grant Selection, Approval and Administration

§ 1228.50 Grant selection criteria.

(a) *Recovery Action Program Grants.* In the preparation of a Recovery Action Program grant application, applicants are encouraged to discuss with HCRS regional personnel, or State personnel when an agreement between HCRS and the State covers such action, the adequacy of the proposal in meeting the requirements for a Recovery Action Program. Prior to formal submission, the Recovery Action Program proposal should be reviewed with the appropriate HCRS Regional Office which has final authority for approval of Recovery Action Program grants.

(b) *Recovery Action Program Grant selection criteria.* The following criteria will be used in evaluating Recovery Action Program grant applications and in deciding priorities for funding:

(1) Degree of need for funds to develop a Recovery Action Program and an ongoing planning process, including the size and complexity of the community's problems, deficiencies in existing planning, and in the capability of the community to initiate and sustain continuing planning efforts.

(2) Degree of the community's commitment to systematic planning, including financial, personnel and time resources already devoted to planning or committed for the future.

(3) Extent to which current park and recreation planning is integrated with overall community planning or would be better integrated as a result of the grant, including use of other Federal or State funds for related planning purposes.

(4) Appropriateness and efficiency of the planning program's work elements (scope, timing, methodology, staffing and costs) in relation to the basic requirements for Recovery Action Programs contained in § 1228.10-18.

(c) *Rehabilitation grant selection criteria.* The following criteria will be used to evaluate and rank Rehabilitation proposals:

(1) The Federal UPARR investment per person served by the entire system; relationship between the size of the community and the amount of grant funds requested. Highest priority will be given to proposals with the lowest per capita costs in relation to recreation benefits provided.

(2) Providing neighborhood recreation needs. Higher priority will be given to proposals serving close-to-home recreation needs, lower priority to those serving area or jurisdiction-wide needs.

(3) Condition of existing recreation properties to be rehabilitated, including the urgency of rehabilitation and the need to maintain existing services.

(4) Improvement in the quality and quantity of recreation services as a result of rehabilitation, including improvements at specific sites and overall enhancement of the recreation system.

(5) Improvement of recreation service to minority and low to moderate income residents, special populations, and distressed neighborhoods.

(6) Proposal's consistency with local government objectives and priorities for overall community revitalization.

(7) Neighborhood employment opportunities created and involvement of local citizen organizations in voluntary rehabilitation, operation or maintenance of the improved areas and facilities.

(8) State participation in the proposal, including financial and technical assistance.

(9) Private sector participation in the proposal, including contributions of financial assistance.

(10) Jurisdiction's commitment to implementing its overall Recovery Action Program.

(d) *Innovation grant selection criteria.* The following criteria will be used to evaluate and rank Innovation proposals:

(1) Degree to which the proposal provides a new, unique or more effective means of delivering a recreation service that can serve as a model for other communities.

(2) Degree of citizen involvement in proposal conceptualization and implementation.

(3) Degree to which the proposal may lead to a positive, systemic change in how park and recreation services are provided. Extent to which the proposal creates opportunities for new partnerships between the people affected, private interests within the community, and public agencies (e.g., Mayor's Office, Recreation Department, Board of Education, Planning Department, social service agencies).

(4) Degree of commitment of community and proposal participants to continue the long term program objectives, including commitments to continue funding after Federal grant money is no longer available. Extent of

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be evaluated and ranked in the regional offices. The highest priority proposals within established funding limits will be submitted to the HCRS, Washington, D.C. office where they will be judged by panels whose members are knowledgeable in recreation and urban revitalization. Innovation and Rehabilitation proposals will be ranked separately.

(4) An applicant may have no more than one Innovation and one Rehabilitation proposal under consideration in any one funding cycle. However, each proposal may contain more than one project, each of which should be individually addressed within the proposal. Should a project simultaneously include both rehabilitation and innovation aspects, the two components must be addressed separately, and they must stand on their own. Each proposal must be capable of implementation if funding is not available for the other.

(5) Some proposals may require modifications to improve their competitiveness. Sponsors of such proposals will be advised by HCRS of suggested modifications, if any, to increase their chances for funding in future grant rounds.

(6) If an applicant wishes a proposal to remain in the competition, it may be considered for two additional funding cycles with or without modifications before it is returned to the applicant. Applicants who already have a proposal in competition must submit a request for withdrawal of the previous proposal before submitting a new proposal in the same category.

(7) Following review and ranking by the panels, the Director will approve tentative grant offers for those proposals which may be funded. Successful applicants will be notified by the HCRS Regional Offices, and completion of the formal application process will take place. The formal application process must be completed within 120 days of notification of the tentative grant offer, or the tentative grant offer may be withdrawn. Final approval of the grant and obligation of funds will occur when all application requirements have been met and the appropriate documents are on file. No costs may be incurred or reimbursed until final HCRS approval and signing of the grant contract by HCRS officials.

§ 1228.54 Rehabilitation and innovation grants—Full application process.

Once a rehabilitation or innovation proposal has received a tentative grant offer, applicants will be responsible for compliance with all applicable Federal laws and regulations listed in Part V, OMB Circular A–102, including those specific Acts and Executive Orders listed in § 1228.56 of these regulations. The applicant must also complete all documentation and other requirements specified by OMB Circulars A–102, A–95, and FMC 74–4 within 120 days. Regional offices of HCRS will provide technical assistance to grantees in complying with these requirements. A grant will not be approved until the applicant is in compliance with the above requirements.

§ 1228.55 [Reserved]

§ 1228.56 Grant program compliance requirements.

Once a proposal has received a grant offer, applicants will be responsible for compliance with all applicable Federal laws and regulations, including but not limited to:

Title VI of the Civil Rights Act of 1964, Executive Order 11764
Department of the Interior Regulations 43 CFR 17
National Environmental Policy Act of 1969 (Pub. L. 91–190)
Architectural Barriers Act of 1968 (Pub. L. 90–480)
Uniform Relocation Assistance & Land Acquisition Policies Act of 1970 (Pub. L. 91–646)
Executive Order 11288, concerning prevention, control and abatement of water pollution
Executive Order 11296, concerning evaluation of flood hazard
Flood Disaster Protection Act of 1973 (Pub. L. 93–234)
Endangered Species Act of 1973 (Pub. L. 93–205)
Executive Order 11988, Floodplains Management
Executive Order 11990, Protection of Wetlands
National Historic Preservation Act (Pub. L. 89–665)
Archaeological and Historic Preservation Act of 1974
Executive Order 11593, Protection and Enchancement of the Cultural Environment
Clean Air Act and Federal Water Pollution Control Act
Section 504 of the Rehabilitation Action Act of 1973
Executive Order 11246, Equal Employment Opportunity
Executive Order 11625, Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise
Labor Standards in the following Acts:
Davis-Bacon Act
Contract Work Hours and Safety Standard Act
Copeland Anti-kickback Act

§ 1228.57–.59 [Reserved]

§ 1228.60 Grant administrative procedures.

(a) *Administrative requirements for recipients of UPARR assistance.*

For grants under this Program, the requirements are the following attachments listed in the Office of Management and Budget (OMB) Circular A–102 (revised as of August 24, 1977):

Parts
A—Cash Depositions
B—Bonding and Insurance
C—Retention and Custodial Requirements for Records
E—Program Income
F—Matching Share
G—Standards for Grantee Financial Management Systems
H—Financial Reporting Program in Performances
I—Monitoring and Reporting Program in Performances
K—Budget Revision Procedures
L—Grant Close-Out Procedures
M—Standard Forms for Applying for Federal Assistance
N—Property Managment Standards
O—Procurement Standards

(b) *Accounts, audit, inspection.* Adequate financial records must be maintained by the applicant to support all expenditures or costs covered by a Recovery Action Program, Rehabilitation or Innovation project, as specified in Federal Management Circular (FMC) 74–4.

(1) Grant accounts must be maintained by the applicant, even when the project is passed through to a private non-profit group.

(2) A pass-through recipient may be requested to record accounts. Auditing will be conducted by HCRS or its representative.

(3) Any application for a grant under this Part shall constitute the consent of the applicant to inspections of the facilities, and other resources of the applicant, at reasonable times, by the Director and the Comptroller General of the United States or any of their duly authorized representatives. In addition, the acceptance of any grant awarded under this Part shall constitute the consent of the grantee to inspections and fiscal audits, by these persons, of the supported activity and of progress and fiscal records relating to the use of grant funds.

(c) *Records and reports.* (1) Each grant awarded under this program shall be subject to the condition that the grantee shall maintain financial records identifiable by grant number and, file with the Director, financial reports relating to the use of grant funds, which the Director may find necessary to carry

private resources committed to providing funds or in-kind services for continuing operation and maintenance of projects.

(5) Degree to which proposal managers use the Federal funds to leverage greater public or private investments (in the form of services and materials, as well as dollars).

(6) Degree to which the proposal provides potential coordination with other community, State and Federal programs of community development and those providing recreation to the target population (e.g., public and private non-profit, education programs, CETA for employment, HUD programs).

(7) Extent of improvement in the quality and quantity of recreation services as a result of the Innovation project.

(8) Degree to which the proposal ties in with goals, priorities and implementation strategies expressed in the local park and recreation Recovery Action Program.

(9) Degree to which the proposal leads to a transfer of a recreation role traditionally performed by a public entity, to quasi-public or private non-profit interests.

(10) Degree to which a proposal benefits disadvantaged community populations and/or those areas within a distressed community which have the greatest recreation deficiencies.

Note.—Ranking of innovation proposals for the adaptive reuse of non-recreation areas or structures, through rehabilitation for recreation, may also consider rehabilitation selection criteria, particularly the criteria covering Federal investment per person served and the degree to which the proposal would serve close to home recreation needs.

§ 1228.51 Notice of intent to apply and A–95 clearinghouse requirements.

Notices of intention to submit any proposal or application for UPARR funding must be forwarded at the earliest possible time to the State clearinghouse and appropriate metropolitan or areawide clearinghouses, in accordance with OMB Circular A–95 and Interior Department Manual Part 511. In the case of Rehabilitation and Innovation grants, appropriate A–95 notifications must be submitted at both preapplication and full application stages. Standard Form 424 is to be used for these notices unless otherwise specified by the clearinghouse. Comments from clearinghouses, if available, should be included with the preapplication. All A–95 comments will become part of the required application and proposal file which will be retained. A–95 clearances are required for subsequent modifications to approved grants.

§ 1228.52 Recovery action program grant applications.

The application procedure for Recovery Action Program grants differs from the procedure for Rehabilitation and Innovation grants. Ranking and selection for funding of Recovery Action Program grants will be initiated on the basis of a full application, preparation of which will be assisted through meetings with HCRS regional staff.

(a) *Preapplication conference.* In the preparation of a Recovery Action Program grant application, applicants are encouraged to discuss with HCRS regional personnel, or State personnel, when an agreement between HCRS and the State covers such action, the adequacy of the proposal in meeting the requirements for a Recovery Action Program. Prior to formal submission, the Recovery Action Program grant application should be reviewed with the appropriate HCRS Regional Office.

(b) *Submission of applications.* In addition to Standard Form 424 on Federal Assistance notification, applicants for Recovery Action Program grants shall submit the following documents and required attachments to HCRS Regional Offices:

(1) OMB Form 80–RO184, completed as prescribed by OMB Circular A–102. (Application for Federal assistance, for construction programs.)

(2) Grant agreement form.

(3) State, metropolitan and areawide clearinghouse comments, if any.

(4) Narrative statements which will be used in evaluating grant applications in relationship to the selection criteria as defined in § 1228.50(b), including:

(i) The need for the planning grant.

(ii) The jurisdiction's existing or proposed commitments to developing a full Recovery Action Program and an ongoing planning process.

(iii) The relationship of the planning program to overall community plans and programs.

(iv) The proposed planning program's scope, timing and methodology in relation to a community's priority planning needs, and the basic requirements of the UPARR Act as covered in § 1228.10–.18.

(v) Dollars and work years to be devoted to development of each element in the proposed Recovery Action Program, including some indications of the qualifications of staff members who will work on the program.

(vi) If appropriate, a discussion of work elements to be contracted out to other government agencies, private consultants or private non-profit agencies, including the reasons for contracting work elements instead of doing the work within the community's own planning agencies.

§ 1228.53 Preapplication process for rehabilitation and innovation grants.

In order to reduce the amount of time and documentation needed for a formal application, and to foster the competitive aspects of the UPARR program, a preapplication procedure will be used.

(a) The preapplication should provide information adequate to guide proposal selection. Grants will be awarded in accordance with the availability of funds. Funding for an approved grant will not be increased from subsequent yearly appropriations.

(b) Applicants are encouraged to discuss their proposals with their HCRS Regional Office to determine basic eligibility and appropriateness prior to submitting a preapplication. If a State is assisting the applicant in preapplication preparation, providing a source of matching share, or giving technical assistance, the State may wish to assist in submission of the preapplication to the appropriate HCRS Regional Office.

(c) The following procedural guidelines shall apply to submission and approval of Rehabilitation and Innovation proposals.

(1) Preapplications shall be submitted to the appropriate HCRS Regional Office by the chief executive officer of the applicant jurisdiction. Only basic information should be submitted at this time. The preapplication must include those items as set forth in the *Preapplication Handbook*, available from any HCRS Regional Office.

(2) Discretionary applicants must also submit a narrative statement, signed by the chief executive of the applicant's government, which explains and quantifies the degree of physical and economic distress in the community. Statistics and discussion on distress should relate to, but need not be limited to, the criteria used to select eligible jurisdictions contained in Appendix A of this Part.

(3) All grant proposals will first be reviewed by the regional office to assure that they meet all minimum legal standards. When this review has been completed, and if a proposal meets the minimum legal standards, it will be certified as eligible for funding. Proposals not meeting minimum legal standards will be returned to the applicant. Periodically (three times a year once the program is fully operational), all certified proposals will

out the purposes of Sections 1006(a) and 1007(c) of the Act and the regulations of this Part.

(2) Financial records, supporting documents, statistical records and other records pertinent to a grant shall be retained for a period of three years after final payment. The records shall be retained beyond the three year period if audit findings have not been resolved. Periodic reports on progress toward completion or implementation of projects may be required; the frequency of progress reports will be related to the scope, complexity, duration and type of grant.

(d) *Additional conditions.* The Director may, with respect to any grant, impose additional conditions prior to, or at the time of, the award when in his or her judgment these conditions are necessary to assure or protect advancement of the grant purposes, the interests of public health or safety, or the conservation of grant funds.

(e) *Remedies for noncompliance.* In appropriate circumstances, the Director may suspend the financial assistance provided under UPARR, upon the formal finding that the Grantee is in violation of the terms of the grant or the provisions of these regulations.

(f) *Limitation on use of funds.* No more than 5 percent of the total grant cost may be used by the grantee or pass-through recipient for administrative costs. The remaining funds shall be made available for projects. Costs for preparation of an application for UPARR assistance will not be shared.

§ 1228.61 [Reserved]

§ 1228.62 Amendments to approved grants.

Changes which alter the scope of any approved UPARR grant must be submitted to and approved by the Service before they occur. No changes involving increases in UPARR funds will be approved; such changes may, however, be the basis of a new proposal or application.

§ 1228.63 Grant payments.

The Director shall from time to time make payments to a grantee of all, or a portion of any grant award, either in advance or by way of reimbursement. The advance payment on approved rehabilitation or innovation grants will be in an amount not to exceed 20 percent of the total grant cost [Section 1006(2)].

§ 1228.64 [Reserved]

§ 1228.65 Other requirements.

(a) *Requirements for operation and maintenance.* Grantees are required to keep all UPARR assisted properties in reasonable repair to prevent undue deterioration, and to encourage public use during reasonable hours and times of the year, according to the type of facility and intended uses.

(b) *Sunset reports.* In compliance with the sunset and reporting provision of the Act, Section 1015(b), an annual report will be prepared on the achievements of the Innovation grant program, with emphasis on the nationwide implications of successful innovation projects. A final report on the overall impact of the program will be prepared within 90 days of an expiration of the authority. Additional project information may be requested from applicants to facilitate the preparation of such reports.

§ 1228.66 [Reserved]

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[FR Doc. 79-24613 Filed 8-8-79; 8:45 am]
BILLING CODE 4310-03-M

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Thursday, August 9, 1979

INFORMATION AND ASSISTANCE

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
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DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

TRANSPORTATION DEPARTMENT

Federal Aviation Agency—

30679 5–29–79 / Alteration of transition area, Fort Rucker, Ala.

30679 5–29–79 / Alteration of VOR Federal Airway

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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